

BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation
Against:

Juan Esteban Posada, M.D.

Physician's and Surgeon's
Certificate No. A 54533

Respondent.

Case No.: 800-2019-059520

DECISION

The attached Stipulated Settlement and Disciplinary Order is hereby adopted as the Decision and Order of the Medical Board of California, Department of Consumer Affairs, State of California.

This Decision shall become effective at 5:00 p.m. on November 22, 2023.

IT IS SO ORDERED: October 26, 2023.

MEDICAL BOARD OF CALIFORNIA



Richard E. Thorp, M.D., Chair
Panel B

1 ROB BONTA
Attorney General of California
2 GREG W. CHAMBERS
Supervising Deputy Attorney General
3 HARRIET NEWMAN
Deputy Attorney General
4 State Bar No. 189784
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5 San Francisco, CA 94102-7004
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Attorneys for Complainant
7

8 **BEFORE THE**
9 **MEDICAL BOARD OF CALIFORNIA**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 800-2019-059520

13 **JUAN ESTEBAN POSADA, M.D.**
14 **2480 Mission Street, Suite 221**
San Francisco, CA 94110

STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER

15 **200 Jose Figueres Ave. Ste 485**
16 **San Jose, CA 95116**

17 **Physician's and Surgeon's Certificate**

18 **No. A 54533**

19 Respondent

20
21 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
22 entitled proceedings that the following matters are true:

23 **PARTIES**

24 1. Reji Varghese (Complainant) is the Interim Executive Director of the Medical Board
25 of California (Board). He brought this action solely in his official capacity and is represented in
26 this matter by Rob Bonta, Attorney General of the State of California, by Harriet Newman,
27 Deputy Attorney General.

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1 CULPABILITY

2 8. Respondent admits the truth of each and every charge and allegation in Accusation
3 No. 800-2019-059520.

4 9. Respondent agrees that his Physician's and Surgeon's Certificate is subject to
5 discipline and he agrees to be bound by the Board's probationary terms as set forth in the
6 Disciplinary Order below.

7 CONTINGENCY

8 10. This stipulation shall be subject to approval by the Medical Board of California.
9 Respondent understands and agrees that counsel for Complainant and the staff of the Medical
10 Board of California may communicate directly with the Board regarding this stipulation and
11 settlement, without notice to or participation by Respondent or his counsel. By signing the
12 stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek
13 to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails
14 to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary
15 Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal
16 action between the parties, and the Board shall not be disqualified from further action by having
17 considered this matter.

18 11. Respondent agrees that if he ever petitions for early termination or modification of
19 probation, or if an accusation and/or petition to revoke probation is filed against him before the
20 Board, all of the charges and allegations contained in Accusation No. 800-2019-059520 shall be
21 deemed true, correct and fully admitted by respondent for purposes of any such proceeding or any
22 other licensing proceeding involving Respondent in the State of California.

23 12. The parties understand and agree that Portable Document Format (PDF) and facsimile
24 copies of this Stipulated Settlement and Disciplinary Order, including PDF and facsimile
25 signatures thereto, shall have the same force and effect as the originals.

26 13. In consideration of the foregoing admissions and stipulations, the parties agree that
27 the Board may, without further notice or opportunity to be heard by the Respondent, issue and
28 enter the following Disciplinary Order:

1 DISCIPLINARY ORDER

2 IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. A 54533 issued
3 to Respondent JUAN ESTEBAN POSADA, M.D. is revoked. However, the revocation is stayed
4 and Respondent is placed on probation for five (5) years on the following terms and conditions:

5 1. COMMUNITY SERVICE - FREE SERVICES. Within 60 calendar days of the
6 effective date of this Decision, Respondent shall submit to the Board or its designee for prior
7 approval a community service plan in which Respondent shall, within the first 2 years of
8 probation, provide 30 hours of free services (e.g., medical or nonmedical) to a community or non-
9 profit organization. If the term of probation is designated for 2 years or less, the community
10 service hours must be completed not later than 6 months prior to the completion of probation.

11 Prior to engaging in any community service, Respondent shall provide a true copy of the
12 Decision(s) to the chief of staff, director, office manager, program manager, officer, or the chief
13 executive officer at every community or non-profit organization where Respondent provides
14 community service and shall submit proof of compliance to the Board or its designee within 15
15 calendar days. This condition shall also apply to any change(s) in community service.

16 Community service performed prior to the effective date of the Decision shall not be
17 accepted in fulfillment of this condition.

18 2. PROFESSIONALISM PROGRAM (ETHICS COURSE). Within 60 calendar days of
19 the effective date of this Decision, Respondent shall enroll in a professionalism program, that
20 meets the requirements of Title 16, California Code of Regulations (CCR) section 1358.1.
21 Respondent shall participate in and successfully complete that program. Respondent shall provide
22 any information and documents that the program may deem pertinent. Respondent shall
23 successfully complete the classroom component of the program not later than six (6) months after
24 Respondent's initial enrollment, and the longitudinal component of the program not later than the
25 time specified by the program, but no later than one (1) year after attending the classroom
26 component. The professionalism program shall be at Respondent's expense and shall be in
27 addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

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1 A professionalism program taken after the acts that gave rise to the charges in the
2 Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board
3 or its designee, be accepted towards the fulfillment of this condition if the program would have
4 been approved by the Board or its designee had the program been taken after the effective date of
5 this Decision.

6 Respondent shall submit a certification of successful completion to the Board or its
7 designee not later than 15 calendar days after successfully completing the program or not later
8 than 15 calendar days after the effective date of the Decision, whichever is later.

9 3. NOTIFICATION. Within seven (7) days of the effective date of this Decision, the
10 Respondent shall provide a true copy of this Decision and Accusation to the Chief of Staff or the
11 Chief Executive Officer at every hospital where privileges or membership are extended to
12 Respondent, at any other facility where Respondent engages in the practice of medicine,
13 including all physician and locum tenens registries or other similar agencies, and to the Chief
14 Executive Officer at every insurance carrier which extends malpractice insurance coverage to
15 Respondent. Respondent shall submit proof of compliance to the Board or its designee within 15
16 calendar days.

17 This condition shall apply to any change(s) in hospitals, other facilities or insurance carrier.

18 4. SUPERVISION OF PHYSICIAN ASSISTANTS AND ADVANCED PRACTICE
19 NURSES. During probation, Respondent is prohibited from supervising physician assistants and
20 advanced practice nurses.

21 5. OBEY ALL LAWS. Respondent shall obey all federal, state and local laws, all rules
22 governing the practice of medicine in California and remain in full compliance with any court
23 ordered criminal probation, payments, and other orders.

24 6. INVESTIGATION/ENFORCEMENT COST RECOVERY. Respondent is hereby
25 ordered to reimburse the Board its costs of investigation and enforcement, including, but not
26 limited to, expert review, amended accusations, legal reviews, investigation(s), and subpoena
27 enforcement, as applicable, in the amount of \$3,662.50 (three thousand six hundred sixty two
28 dollars and fifty cents). Costs shall be payable to the Medical Board of California. Failure to pay

1 such costs shall be considered a violation of probation.

2 Payment must be made in full within 30 calendar days of the effective date of the Order, or
3 by a payment plan approved by the Medical Board of California. Any and all requests for a
4 payment plan shall be submitted in writing by respondent to the Board. Failure to comply with
5 the payment plan shall be considered a violation of probation.

6 The filing of bankruptcy by respondent shall not relieve respondent of the responsibility to
7 repay investigation and enforcement costs, including expert review costs (if applicable).

8 7. QUARTERLY DECLARATIONS. Respondent shall submit quarterly declarations
9 under penalty of perjury on forms provided by the Board, stating whether there has been
10 compliance with all the conditions of probation.

11 Respondent shall submit quarterly declarations not later than 10 calendar days after the end
12 of the preceding quarter.

13 8. GENERAL PROBATION REQUIREMENTS.

14 Compliance with Probation Unit

15 Respondent shall comply with the Board's probation unit.

16 Address Changes

17 Respondent shall, at all times, keep the Board informed of Respondent's business and
18 residence addresses, email address (if available), and telephone number. Changes of such
19 addresses shall be immediately communicated in writing to the Board or its designee. Under no
20 circumstances shall a post office box serve as an address of record, except as allowed by Business
21 and Professions Code section 2021, subdivision (b).

22 Place of Practice

23 Respondent shall not engage in the practice of medicine in Respondent's or patient's place
24 of residence, unless the patient resides in a skilled nursing facility or other similar licensed
25 facility.

26 License Renewal

27 Respondent shall maintain a current and renewed California physician's and surgeon's
28 license.

1 Travel or Residence Outside California

2 Respondent shall immediately inform the Board or its designee, in writing, of travel to any
3 areas outside the jurisdiction of California which lasts, or is contemplated to last, more than thirty
4 (30) calendar days.

5 In the event Respondent should leave the State of California to reside or to practice
6 Respondent shall notify the Board or its designee in writing 30 calendar days prior to the dates of
7 departure and return.

8 9. INTERVIEW WITH THE BOARD OR ITS DESIGNEE. Respondent shall be
9 available in person upon request for interviews either at Respondent's place of business or at the
10 probation unit office, with or without prior notice throughout the term of probation.

11 10. NON-PRACTICE WHILE ON PROBATION. Respondent shall notify the Board or
12 its designee in writing within 15 calendar days of any periods of non-practice lasting more than
13 30 calendar days and within 15 calendar days of Respondent's return to practice. Non-practice is
14 defined as any period of time Respondent is not practicing medicine as defined in Business and
15 Professions Code sections 2051 and 2052 for at least 40 hours in a calendar month in direct
16 patient care, clinical activity or teaching, or other activity as approved by the Board. If
17 Respondent resides in California and is considered to be in non-practice, Respondent shall
18 comply with all terms and conditions of probation. All time spent in an intensive training program
19 which has been approved by the Board or its designee shall not be considered non-practice and
20 does not relieve Respondent from complying with all the terms and conditions of probation.
21 Practicing medicine in another state of the United States or Federal jurisdiction while on
22 probation with the medical licensing authority of that state or jurisdiction shall not be considered
23 non-practice. A Board-ordered suspension of practice shall not be considered as a period of non-
24 practice.

25 In the event Respondent's period of non-practice while on probation exceeds 18 calendar
26 months, Respondent shall successfully complete the Federation of State Medical Boards's Special
27 Purpose Examination, or, at the Board's discretion, a clinical competence assessment program
28 that meets the criteria of Condition 18 of the current version of the Board's "Manual of Model

1 Disciplinary Orders and Disciplinary Guidelines” prior to resuming the practice of medicine.

2 Respondent’s period of non-practice while on probation shall not exceed two (2) years.

3 Periods of non-practice will not apply to the reduction of the probationary term.

4 Periods of non-practice for a Respondent residing outside of California will relieve
5 Respondent of the responsibility to comply with the probationary terms and conditions with the
6 exception of this condition and the following terms and conditions of probation: Obey All Laws;
7 General Probation Requirements; Quarterly Declarations; Abstain from the Use of Alcohol and/or
8 Controlled Substances; and Biological Fluid Testing..

9 11. COMPLETION OF PROBATION. Respondent shall comply with all financial
10 obligations (e.g., restitution, probation costs) not later than 120 calendar days prior to the
11 completion of probation. This term does not include cost recovery, which is due within 30
12 calendar days of the effective date of the Order, or by a payment plan approved by the Medical
13 Board and timely satisfied. Upon successful completion of probation, Respondent’s certificate
14 shall be fully restored.

15 12. VIOLATION OF PROBATION. Failure to fully comply with any term or condition
16 of probation is a violation of probation. If Respondent violates probation in any respect, the
17 Board, after giving Respondent notice and the opportunity to be heard, may revoke probation and
18 carry out the disciplinary order that was stayed. If an Accusation, or Petition to Revoke Probation,
19 or an Interim Suspension Order is filed against Respondent during probation, the Board shall have
20 continuing jurisdiction until the matter is final, and the period of probation shall be extended until
21 the matter is final.

22 13. LICENSE SURRENDER. Following the effective date of this Decision, if
23 Respondent ceases practicing due to retirement or health reasons or is otherwise unable to satisfy
24 the terms and conditions of probation, Respondent may request to surrender his license. The
25 Board reserves the right to evaluate Respondent’s request and to exercise its discretion in
26 determining whether or not to grant the request, or to take any other action deemed appropriate
27 and reasonable under the circumstances. Upon formal acceptance of the surrender, Respondent
28 shall within 15 calendar days deliver Respondent’s wallet and wall certificate to the Board or its

1 designee and Respondent shall no longer practice medicine. Respondent will no longer be subject
2 to the terms and conditions of probation. If Respondent re-applies for a medical license, the
3 application shall be treated as a petition for reinstatement of a revoked certificate.


4 14. PROBATION MONITORING COSTS. Respondent shall pay the costs associated
5 with probation monitoring each and every year of probation, as designated by the Board, which
6 may be adjusted on an annual basis. Such costs shall be payable to the Medical Board of
7 California and delivered to the Board or its designee no later than January 31 of each calendar
8 year.

9 15. FUTURE ADMISSIONS CLAUSE. If Respondent should ever apply or reapply for
10 a new license or certification, or petition for reinstatement of a license, by any other health care
11 licensing action agency in the State of California, all of the charges and allegations contained in
12 Accusation No. 800-2019-059520 shall be deemed to be true, correct, and admitted by
13 Respondent for the purpose of any Statement of Issues or any other proceeding seeking to deny or
14 restrict license.

15 ACCEPTANCE


16 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
17 discussed it with my attorney, Paul Chan. I understand the stipulation and the effect it will have
18 on my Physician's and Surgeon's Certificate. I enter into this Stipulated Settlement and
19 Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the
20 Decision and Order of the Medical Board of California.

21
22
23
24 DATED: 5/4/2023



JUAN ESTEBAN POSADA, M.D.
Respondent

1 I have read and fully discussed with Respondent Juan Esteban Posada, M.D. the terms and
2 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.
3 I approve its form and content.

4
5 DATED: 7/15/23 
6 PAUL CHAN
7 Attorney for Respondent

8
9
10 **ENDORSEMENT**

11
12 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully
13 submitted for consideration by the Medical Board of California.

14
15 DATED: 5/3/23

16 Respectfully submitted,
17 ROB BONTA
18 Attorney General of California
19 GREG W. CHAMBERS
20 Supervising Deputy Attorney General

21 *Harriet Newman*
22 HARRIET NEWMAN
23 Deputy Attorney General
24 Attorneys for Complainant

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Attorneys for Complainant

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9 **MEDICAL BOARD OF CALIFORNIA**
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12 In the Matter of the Accusation Against:
13 **JUAN ESTEBAN POSADA, M.D.**
2480 Mission Street, Suite 221
14 San Francisco, CA 94110
15 **Physician's and Surgeon's Certificate**
16 **No. A 54533**
17 Respondent.

Case No. 800-2019-059520

ACCUSATION

18
19 **PARTIES**

20 1. William Prasifka (Complainant) brings this Accusation solely in his official capacity
21 as the Executive Director of the Medical Board of California, Department of Consumer Affairs
22 (Board).

23 2. On or about August 23, 1995, the Medical Board issued Physician's and Surgeon's
24 Certificate Number A 54533 to Juan Esteban Posada, M.D. (Respondent). The Physician's and
25 Surgeon's Certificate was in full force and effect at all times relevant to the charges brought
26 herein and will expire on June 30, 2023, unless renewed.

27 //
28 //

1 JURISDICTION

2 3. This Accusation is brought before the Board, under the authority of the following
3 laws. All section references are to the Business and Professions Code (Code) unless otherwise
4 indicated.

5 4. Section 2227 of the Code states, in pertinent part:

6 (a) A licensee whose matter has been heard by an administrative law judge of the
7 Medical Quality Hearing Panel as designated in Section 11371 of the Government Code, or
8 whose default has been entered, and who is found guilty, or who has entered into a
stipulation for disciplinary action with the board, may, in accordance with the provisions of
this chapter:

9 (1) Have his or her license revoked upon order of the board

10 (2) Have his or her right to practice suspended for a period not to exceed one year
upon order of the board.

11 (3) Be placed on probation and be required to pay the costs of probation monitoring
12 upon order of the board.

13 (4) Be publicly reprimanded by the board. The public reprimand may include a
requirement that the licensee complete relevant educational courses approved by the board.

14 (5) Have any other action taken in relation to discipline as part of an order of
15 probation, as the board or an administrative law judge may deem proper.

16 5. Section 2234 of the Code provides, in pertinent part, that a board shall take action
17 against any licensee who is charged with unprofessional conduct. In addition to other provisions
18 of this article, unprofessional conduct includes, but is not limited to, the following:

19 (a) The commission of any act involving dishonesty or corruption that is substantially
20 related to the qualifications, functions, or duties of a physician and surgeon.

21 6. Section 2236 of the Code states;

22 (a) The conviction of any offense substantially related to the qualifications, functions,
23 or duties of a physician and surgeon constitutes unprofessional conduct within the meaning
24 of this chapter. The record of conviction shall be conclusive evidence only of the fact that
the conviction occurred

25 ...

26 (d) A plea or verdict of guilty or a conviction after a plea of nolo contendere is
27 deemed to be a conviction within the meaning of this section and Section 2236.1. The
record of conviction shall be conclusive evidence of the fact that the conviction occurred.

28

1 7. California Code of Regulations, title 16, section 1360, states:

2 (a) For the purposes of denial, suspension or revocation of a license, certificate or
3 permit pursuant to Division 1.5 (commencing with Section 475) of the code, a crime or act
4 shall be considered to be substantially related to the qualifications, functions or duties of a
5 person holding a license, certificate or permit under the Medical Practice Act if to a
6 substantial degree it evidences present or potential unfitness of a person holding a license,
7 certificate or permit to perform the functions authorized by the license, certificate or permit
8 in a manner consistent with the public health, safety or welfare. Such crimes or acts shall
9 include but not be limited to the following: Violating or attempting to violate, directly or
10 indirectly, or assisting in or abetting the violation of, or conspiring to violate any provision
11 of the Medical Practice Act.

12 (b) In making the substantial relationship determination required under subdivision
13 (a) for a crime, the Board shall consider the following criteria:

14 (1) The nature and gravity of the offense

15 (2) The number of years that have elapsed since the date of the offense

16 (3) How the offense relates to the nature and duties of a physician and surgeon

17 (c) For purposes of subdivision (a), substantially related crimes, professional
18 misconduct, or acts shall include, but are not limited to, the following:

19 (1) Any violation of Article 6, Chapter 1, Division 2 of the Code;

20 (2) Any violation of the provision of the Osteopathic Act or the Medical Practice Act

21 ETHICAL PRINCIPLES

22 8. The American Medical Association's Code of Medical Ethics adopted standards of
23 conduct that define the essentials of honorable behavior for the physician, including:

24 ...

25 II. A physician shall uphold the standards of professionalism, be honest in all
26 professional interactions, and strive to report physicians deficient in character or competence, or
27 engaging in fraud or deception, to appropriate entities.

28 III. A physician shall respect the law and also recognize a responsibility to seek
changes in those requirements which are contrary to the best interests of the patient.

...

VIII. A physician shall, while caring for a patient, regard responsibility to the patient
as paramount.

1 COST RECOVERY

2 9. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
3 administrative law judge to direct a licensee found to have committed a violation or violations of
4 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
5 enforcement of the case, with failure of the licensee to comply subjecting the license to not being
6 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be
7 included in a stipulated settlement.

8 FIRST CAUSE FOR DISCIPLINE

9 (Unprofessional Conduct: Criminal Conviction)

10 10. Respondent subjected his Physician's and Surgeon's Certificate No. A 54533 to
11 disciplinary action under sections 2234 and 2236 of the Code, and California Code of
12 Regulations, title 16, section 1360, in that he was convicted of an offense substantially related to
13 the qualifications, functions, or duties of a physician and surgeon, as more particularly alleged
14 hereinafter:

15 11. On or about September 4, 2019 the United States government filed a complaint in the
16 matter of the *United States of America v. Juan Posada*, Case No. 20-CR-00420-RS, in the United
17 States District Court, Northern District of California. Respondent was charged with violating
18 Title 42 United States Code Section 1329a-7b(b)—the Anti-Kickback statute, a felony.

19 12. On November 6, 2020, Respondent entered into a plea agreement, in which he
20 admitted to knowingly and willfully soliciting and receiving kickback payments under a federal
21 healthcare program, with the intent to be induced to refer an individual to a person or entity for
22 the purpose of furnishing any item or service for which payment may be made.

23 13. On or about November 30, 2021, in the United States District Court, Northern
24 District of California, in the matter of the *United States of America v. Juan Posada*, Case No. 20-
25 CR-00420-RS, Respondent was convicted of violating Title 42 United States Code Section
26 1329a-7b(b).

1 SECOND CAUSE FOR DISCIPLINE

2 (Unprofessional Conduct—Breach of Ethics; Dishonesty)

3 14. Paragraphs 9 through 12 are incorporated herein.


4 15. Respondent's license is subject to disciplinary action under Code section 2234(e) in
5 that he engaged in dishonest conduct substantially related to the qualifications, functions, or
6 duties of a physician and surgeon.

7 PRAYER

8 WHEREFORE, Complainant requests a hearing be held on the matters herein alleged, and
9 that following the hearing, the Medical Board of California issue a decision:

- 10 1. Revoking or suspending Physician's and Surgeon's Certificate Number A 54533;
11 issued to Juan Esteban Posada, M.D.;
- 12 2. Revoking, suspending or denying approval of Juan Esteban Posada, M.D.'s authority
13 to supervise physician assistants and advanced practice nurses;
- 14 3. Ordering Juan Esteban Posada, M.D., to pay the Board the costs of the investigation
15 and enforcement of this case, and if placed on probation, the costs of probation monitoring;
- 16 4. Taking such other and further action as deemed necessary and proper.

17
18 DATED: NOV 22 2022



WILLIAM PRASIFKA
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant