

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

**In the Matter of the Accusation  
Against:**

**Swapna Merupula, M.D.**

**Physician's and Surgeon's  
Certificate No. A 139338**

**Case No.: 800-2019-059080**

**Respondent.**

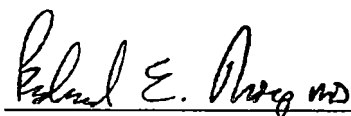
**DECISION**

**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 December 15, 2023.**

**IT IS SO ORDERED: November 16, 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 State Bar No. 237509  
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6 *Attorneys for Complainant*

7  
8 **BEFORE THE**  
**MEDICAL BOARD OF CALIFORNIA**  
9 **DEPARTMENT OF CONSUMER AFFAIRS**  
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. 800-2019-059080

12 **SWAPNA MERUPULA, M.D.**  
13 **P.O. Box 3552**  
14 **San Ramon, CA 94583-8552**

**STIPULATED SETTLEMENT AND  
DISCIPLINARY ORDER**

15 **Physician's and Surgeon's Certificate**  
16 **No. A 139338**

Respondent.

17  
18 In the interest of a prompt and speedy settlement of this matter, consistent with the public  
19 interest and the responsibility of the Medical Board of California of the Department of Consumer  
20 Affairs, the parties hereby agree to the following Stipulated Settlement and Disciplinary Order  
21 which will be submitted to the Board for approval and adoption as the final disposition of the  
22 Accusation.

23 **PARTIES**

24 1. Reji Varghese (Complainant) is the Executive Director of the Medical Board of  
25 California (Board). He brought this action solely in his official capacity and is represented in this  
26 matter by Rob Bonta, Attorney General of the State of California, by Greg W. Chambers,  
27 Supervising Deputy Attorney General.  
28

2. Respondent Swapna Merupula, M.D. (Respondent) is represented in this proceeding by attorney Ann H. Larson, Esq., whose address is: 12677 Alcosta Blvd, Suite 375, San Ramon, CA 94583-4202

3. On November 17, 2015, the Board issued Physician's and Surgeon's Certificate No. A 139338 to Respondent. The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought in Accusation No. 800-2019-059080, and will expire on September 30, 2023, unless renewed.

#### **JURISDICTION**

4. Accusation No. 800-2019-059080 was filed before the Board, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on March 1, 2022. Respondent timely filed her Notice of Defense contesting the Accusation.

5. A copy of Accusation No. 800-2019-059080 is attached as Exhibit A and incorporated herein by reference.

#### **ADVISEMENT AND WAIVERS**

6. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 800-2019-059080. Respondent has also carefully read, fully discussed with her counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

7. Respondent is fully aware of her legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to confront and cross-examine the witnesses against her; the right to present evidence and to testify on her own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

8. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

**CULPABILITY**

9. Respondent understands and agrees that the charges and allegations in Accusation No. 800-2019-059080, if proven at a hearing, constitute cause for imposing discipline upon Respondent's Physician's and Surgeon's Certificate.

10. Respondent agrees that her Physician's and Surgeon's Certificate, No. A 139338, is subject to discipline and she agrees to be bound by the Board's probationary terms as set forth in the Disciplinary Order below.

11. Respondent does not contest that, at an administrative hearing, complainant could establish a prima facie case with respect to the charges and allegations in Accusation No. 800-2019-059080, a true and correct copy of which is attached hereto as Exhibit A. Respondent hereby gives up her right to contest those charges and does not contest that she has thereby subjected her Physician's and Surgeon's Certificate, No. A 139338, to disciplinary action.

**CONTINGENCY**

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

13. Respondent agrees that if she ever petitions for early termination or modification of probation, or if an accusation and/or petition to revoke probation is filed against Respondent before the Board, all of the charges and allegations contained in Accusation No. 800-2019-059080 shall be deemed true, correct and fully admitted by respondent for purposes of any such proceeding or any other licensing proceeding involving Respondent in the State of California.

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

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

## DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. A 139338 issued to Respondent SWAPNA MERUPULA, M.D. is revoked. However, the revocation is stayed and Respondent is placed on probation for three (3) years on the following terms and conditions:

1. EDUCATION COURSE. Within 60 calendar days of the effective date of this Decision, and on an annual basis thereafter, Respondent shall submit to the Board or its designee for its prior approval educational program(s) or course(s) which shall not be less than 40 hours per year, for each year of probation. The educational program(s) or course(s) shall be aimed at correcting any areas of deficient practice or knowledge and shall be Category I certified. The educational program(s) or course(s) shall be at Respondent's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure. Following the completion of each course, the Board or its designee may administer an examination to test Respondent's knowledge of the course. Respondent shall provide proof of attendance for 65 hours of CME of which 40 hours were in satisfaction of this condition.

2. MEDICAL RECORD KEEPING COURSE. Within 60 calendar days of the effective date of this Decision, Respondent shall enroll in a course in medical record keeping approved in advance by the Board or its designee. Respondent shall provide the approved course provider with any information and documents that the approved course provider may deem pertinent. Respondent shall participate in and successfully complete the classroom component of the course not later than six (6) months after Respondent's initial enrollment. Respondent shall successfully complete any other component of the course within one (1) year of enrollment. The medical record keeping course shall be at Respondent's expense and shall be in addition to the Continuing

1 Medical Education (CME) requirements for renewal of licensure.

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

7 Respondent shall submit a certification of successful completion to the Board or its  
8 designee not later than 15 calendar days after successfully completing the course, or not later than  
9 15 calendar days after the effective date of the Decision, whichever is later.

10 3. MONITORING - PRACTICE. Within 30 calendar days of the effective date of this  
11 Decision, Respondent shall submit to the Board or its designee for prior approval as a practice  
12 monitor(s), the name and qualifications of one or more licensed physicians and surgeons whose  
13 licenses are valid and in good standing, and who are preferably American Board of Medical  
14 Specialties (ABMS) certified. A monitor shall have no prior or current business or personal  
15 relationship with Respondent, or other relationship that could reasonably be expected to  
16 compromise the ability of the monitor to render fair and unbiased reports to the Board, including  
17 but not limited to any form of bartering, shall be in Respondent's field of practice, and must agree  
18 to serve as Respondent's monitor. Respondent shall pay all monitoring costs.

19 The Board or its designee shall provide the approved monitor with copies of the Decision(s)  
20 and Accusation(s), and a proposed monitoring plan. Within 15 calendar days of receipt of the  
21 Decision(s), Accusation(s), and proposed monitoring plan, the monitor shall submit a signed  
22 statement that the monitor has read the Decision(s) and Accusation(s), fully understands the role  
23 of a monitor, and agrees or disagrees with the proposed monitoring plan. If the monitor disagrees  
24 with the proposed monitoring plan, the monitor shall submit a revised monitoring plan with the  
25 signed statement for approval by the Board or its designee.

26 Within 60 calendar days of the effective date of this Decision, and continuing throughout  
27 probation, Respondent's practice shall be monitored by the approved monitor. Respondent shall  
28 make all records available for immediate inspection and copying on the premises by the monitor

1 at all times during business hours and shall retain the records for the entire term of probation.

2 If Respondent fails to obtain approval of a monitor within 60 calendar days of the effective  
3 date of this Decision, Respondent shall receive a notification from the Board or its designee to  
4 cease the practice of medicine within three (3) calendar days after being so notified. Respondent  
5 shall cease the practice of medicine until a monitor is approved to provide monitoring  
6 responsibility.

7 The monitor(s) shall submit a quarterly written report to the Board or its designee which  
8 includes an evaluation of Respondent's performance, indicating whether Respondent's practices  
9 are within the standards of practice of medicine, whether Respondent is practicing medicine  
10 safely, billing appropriately or both. It shall be the sole responsibility of Respondent to ensure  
11 that the monitor submits the quarterly written reports to the Board or its designee within 10  
12 calendar days after the end of the preceding quarter.

13 If the monitor resigns or is no longer available, Respondent shall, within 5 calendar days of  
14 such resignation or unavailability, submit to the Board or its designee, for prior approval, the  
15 name and qualifications of a replacement monitor who will be assuming that responsibility within  
16 15 calendar days. If Respondent fails to obtain approval of a replacement monitor within 60  
17 calendar days of the resignation or unavailability of the monitor, Respondent shall receive a  
18 notification from the Board or its designee to cease the practice of medicine within three (3)  
19 calendar days after being so notified. Respondent shall cease the practice of medicine until a  
20 replacement monitor is approved and assumes monitoring responsibility.

21 In lieu of a monitor, Respondent may participate in a professional enhancement program  
22 approved in advance by the Board or its designee that includes, at minimum, quarterly chart  
23 review, semi-annual practice assessment, and semi-annual review of professional growth and  
24 education. Respondent shall participate in the professional enhancement program at Respondent's  
25 expense during the term of probation.

26 4. NOTIFICATION. Within seven (7) days of the effective date of this Decision, the  
27 Respondent shall provide a true copy of this Decision and Accusation to the Chief of Staff or the  
28 Chief Executive Officer at every hospital where privileges or membership are extended to

Respondent, at any other facility where Respondent engages in the practice of medicine, including all physician and locum tenens registries or other similar agencies, and to the Chief Executive Officer at every insurance carrier which extends malpractice insurance coverage to Respondent. Respondent shall submit proof of compliance to the Board or its designee within 15 calendar days.

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

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

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

7. INVESTIGATION/ENFORCEMENT COST RECOVERY. Respondent is hereby ordered to reimburse the Board its costs of investigation and enforcement, including, but not limited to, expert review, and investigation(s), as applicable, in the amount of \$10,757.50 (ten thousand seven hundred fifty-seven dollars and fifty cents). Costs shall be payable to the Medical Board of California. Failure to pay such costs shall be considered a violation of probation.

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

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

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

Respondent shall submit quarterly declarations not later than 10 calendar days after the end



1 of the preceding quarter.

2 9. GENERAL PROBATION REQUIREMENTS.

3 Compliance with Probation Unit

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

5 Address Changes

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

11 Place of Practice

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

15 License Renewal

16 Respondent shall maintain a current and renewed California physician's and surgeon's  
17 license.

18 Travel or Residence Outside California

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

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

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

28 11. NON-PRACTICE WHILE ON PROBATION. Respondent shall notify the Board or

1 its designee in writing within 15 calendar days of any periods of non-practice lasting more than  
2 30 calendar days and within 15 calendar days of Respondent's return to practice. Non-practice is  
3 defined as any period of time Respondent is not practicing medicine as defined in Business and  
4 Professions Code sections 2051 and 2052 for at least 40 hours in a calendar month in direct  
5 patient care, clinical activity or teaching, or other activity as approved by the Board. If  
6 Respondent resides in California and is considered to be in non-practice, Respondent shall  
7 comply with all terms and conditions of probation. All time spent in an intensive training  
8 program which has been approved by the Board or its designee shall not be considered non-  
9 practice and does not relieve Respondent from complying with all the terms and conditions of  
10 probation. Practicing medicine in another state of the United States or Federal jurisdiction while  
11 on probation with the medical licensing authority of that state or jurisdiction shall not be  
12 considered non-practice. A Board-ordered suspension of practice shall not be considered as a  
13 period of non-practice.

14 In the event Respondent's period of non-practice while on probation exceeds 18 calendar  
15 months, Respondent shall successfully complete the Federation of State Medical Boards' Special  
16 Purpose Examination, or, at the Board's discretion, a clinical competence assessment program  
17 that meets the criteria of Condition 18 of the current version of the Board's "Manual of Model  
18 Disciplinary Orders and Disciplinary Guidelines" prior to resuming the practice of medicine.

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

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

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

26 12. COMPLETION OF PROBATION. Respondent shall comply with all financial  
27 obligations (e.g., restitution, probation costs) not later than 120 calendar days prior to the  
28 completion of probation. This term does not include cost recovery, which is due within 30

1 calendar days of the effective date of the Order, or by a payment plan approved by the Medical  
2 Board and timely satisfied. Upon successful completion of probation, Respondent's certificate  
3 shall be fully restored.

4 13. VIOLATION OF PROBATION. Failure to fully comply with any term or condition  
5 of probation is a violation of probation. If Respondent violates probation in any respect, the  
6 Board, after giving Respondent notice and the opportunity to be heard, may revoke probation and  
7 carry out the disciplinary order that was stayed. If an Accusation, or Petition to Revoke Probation,  
8 or an Interim Suspension Order is filed against Respondent during probation, the Board shall have  
9 continuing jurisdiction until the matter is final, and the period of probation shall be extended until  
10 the matter is final.

11 14. LICENSE SURRENDER. Following the effective date of this Decision, if  
12 Respondent ceases practicing due to retirement or health reasons or is otherwise unable to satisfy  
13 the terms and conditions of probation, Respondent may request to surrender her license. The  
14 Board reserves the right to evaluate Respondent's request and to exercise its discretion in  
15 determining whether or not to grant the request, or to take any other action deemed appropriate  
16 and reasonable under the circumstances. Upon formal acceptance of the surrender, Respondent  
17 shall within 15 calendar days deliver Respondent's wallet and wall certificate to the Board or its  
18 designee and Respondent shall no longer practice medicine. Respondent will no longer be subject  
19 to the terms and conditions of probation. If Respondent re-applies for a medical license, the  
20 application shall be treated as a petition for reinstatement of a revoked certificate.

21 15. PROBATION MONITORING COSTS. Respondent shall pay the costs associated  
22 with probation monitoring each and every year of probation, as designated by the Board, which  
23 may be adjusted on an annual basis. Such costs shall be payable to the Medical Board of  
24 California and delivered to the Board or its designee no later than January 31 of each calendar  
25 year.

26 16. FUTURE ADMISSIONS CLAUSE. If Respondent should ever apply or reapply for  
27 a new license or certification, or petition for reinstatement of a license, by any other health care  
28 licensing action agency in the State of California, all of the charges and allegations contained in

1 Accusation No. 800-2019-059080 shall be deemed to be true, correct, and admitted by  
2 Respondent for the purpose of any Statement of Issues or any other proceeding seeking to deny or  
3 restrict license.

4 **ACCEPTANCE**

5 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully  
6 discussed it with my attorney, Ann H. Larson, Esq. I understand the stipulation and the effect it  
7 will have on my Physician's and Surgeon's Certificate. I enter into this Stipulated Settlement and  
8 Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the  
9 Decision and Order of the Medical Board of California.

10  
11 DATED: 8/20/23

  
12 SWAPNA MERUPULA, M.D.  
13 Respondent

14 I have read and fully discussed with Respondent Swapna Merupula, M.D. the terms and  
15 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.  
16 I approve its form and content.

17  
18 DATED: 8/22/23

  
19 ANN H. LARSON, ESQ.  
20 Attorney for Respondent

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1 **ENDORSEMENT**

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

4 DATED: 9/8/2023  
5

Respectfully submitted,

6 ROB BONTA  
Attorney General of California

7 *Greg W. Chambers*

8 GREG W. CHAMBERS  
9 Supervising Deputy Attorney General  
10 *Attorneys for Complainant*  
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6 *Attorneys for Complainant*

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8 **BEFORE THE**  
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11 In the Matter of the Accusation Against:

Case No. 800-2019-059080

12 **Swapna Merupula, M.D.**  
13 **#350**  
14 **30<sup>th</sup> Street Suite 100**  
**Oakland, CA 94609**

**A C C U S A T I O N**

15 **Physician's and Surgeon's Certificate**  
16 **No. A 139338,**

17 Respondent.

18 **PARTIES**

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

22 2. On November 17, 2015, the Medical Board issued Physician's and Surgeon's  
23 Certificate Number A 139338 to Swapna Merupula, M.D. (Respondent). The Physician's and  
24 Surgeon's Certificate was in full force and effect at all times relevant to the charges brought  
25 herein and will expire on September 30, 2023, unless renewed.

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## JURISDICTION

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

4. Section 2227 of the Code provides that a licensee who is found guilty under the Medical Practice Act may have his or her license revoked, suspended for a period not to exceed one year, placed on probation and required to pay the costs of probation monitoring, or such other action taken in relation to discipline as the Board deems proper.

5. Section 2234 of the Code states, in pertinent part:

The board shall take action against any licensee who is charged with unprofessional conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not limited to, the following:

(a) Violating or attempting to violate, directly or indirectly, assisting in or abetting the violation of, or conspiring to violate any provision of this chapter.

...

(c) Repeated negligent acts. To be repeated, there must be two or more negligent acts or omissions. An initial negligent act or omission followed by a separate and distinct departure from the applicable standard of care shall constitute repeated negligent acts.

“(1) An initial negligent diagnosis followed by an act or omission medically appropriate for that negligent diagnosis of the patient shall constitute a single negligent act.

“(2) When the standard of care requires a change in the diagnosis, act, or omission that constitutes the negligent act described in paragraph (1), including, but not limited to, a reevaluation of the diagnosis or a change in treatment, and the licensee's conduct departs from the applicable standard of care, each departure constitutes a separate and distinct breach of the standard of care.

6. Section 2266 of the Code provides that the failure to maintain adequate and accurate records relating to the provision of services to a patient constitutes unprofessional conduct.

## **COST RECOVERY**

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

## **FIRST CAUSE FOR DISCIPLINE**

### **(Repeated Negligent Acts/Inaccurate or Inadequate Records)**

8. Respondent practices internal medicine at a primary care clinic. On February 1, 2017, 56 year-old Patient 1 contacted the clinic call center reporting chest discomfort and shortness of breath that had persisted for several days. He also reported a cough and chest discomfort with cough, and that over-the-counter medications provided some relief. Patient 1 stated that he had to stop in the middle of the stairs, or after 20 steps, due to shortness of breath. He was booked for an appointment later the same day.

9. On the afternoon of February 1, 2017, Respondent saw Patient 1 in the clinic. Patient 1 informed Respondent that he had a cough, shortness of breath, chest pain, fever, and off-and-on diarrhea. He was tired and complained of low energy. The patient's chest exam was documented as clear to auscultation without wheezes, rales or rhonchi, and his heart exam was noted to be normal. Respondent assessed the patient as alert, well-appearing and in no apparent distress. His right ear tympanic membrane was noted to be cloudy and he had nasal congestion. The record does not reflect that Respondent asked specific questions regarding the patient's reported chest pain or shortness of breath, such as the location of the chest pain, how long it lasted, if it was getting better or worse, or if radiated to the arms or jaw. Respondent did not document that she assessed whether the chest pain or shortness of breath were worse with lying down, if the patient woke up feeling short of breath, and did not reflect that she obtained details about the patient's report that he had to stop in the middle of stairs. No assessment of the complaint of intermittent diarrhea was recorded. Respondent's diagnosed Patient 1 with an acute sinus infection, right



1 middle ear infection and a throat infection, prescribed an antibiotic and cough medication, and  
2 instructed him to return to the clinic if his symptoms worsened or failed to improve.

3 10. On the evening of February 12, 2017, Patient 1 messaged Respondent that although  
4 his flu symptoms were gone, he was still very weak and easily winded. He stated that the least  
5 amount of physical activity left him gasping for air. He found that his wife's Albuterol inhaler  
6 helped with his breathing and asked if he could have a prescription, or should he come to the  
7 clinic. Respondent asked her assistant to schedule Patient 1 for a telephone visit, which took  
8 place on February 13, 2017. Respondent documented that Patient 1 complained of shortness of  
9 breath and wheezing, and noted the symptoms were worse with physical activity and were new  
10 since the infection. She concluded the shortness of breath was likely secondary to acute bronchitis  
11 and prescribed an Albuterol inhaler. Respondent did not obtain a complete history of the patient's  
12 complaints of weakness and being easily winded, did not determine or note whether the patient  
13 had fever, and did not recommend an in-person evaluation. Respondent's record does not state  
14 whether she advised the patient to obtain an in-person evaluation, and she was unable to recall if  
15 she advised Patient 1 to be seen.

16 11. On February 20, 2017, Patient 1 messaged Respondent that he was having difficulty  
17 breathing, the Albuterol helped for just an hour, he was not getting better, and could not move  
18 from one room to the next without stopping to catch his breath. Patient 1 asked Respondent  
19 whether he needed to come in for an evaluation or whether Prednisone would be helpful.  
20 Respondent telephoned Patient 1 and ordered a steroid inhaler. Respondent's only documentation  
21 of the conversation was that she explained the limitations of a telephone appointment, and that  
22 "nobody smokes." Respondent failed to document any details of her conversation with Patient 1,  
23 or that she advised him to seek emergency treatment or an in-person evaluation. When  
24 interviewed, Respondent was unable to recall any details of the February 20, 2017 conversation.

25 12. On February 26, 2017, Patient 1 suffered a cardiopulmonary arrest at home. He was  
26 taken to the hospital, found to be in septic shock due to pneumonia, and died.

27 13. Respondent is guilty of unprofessional conduct, repeated negligent acts, and the  
28 failure to maintain accurate and adequate medical records, and Respondent's certificate is subject

1 to discipline pursuant to Sections 2234, 2234(c) and 2266 of the Code, including but not limited  
2 to the following:

- 3 A. Respondent's February 1, 2017 initial assessment of Patient 1 did not rule out  
4 potentially serious conditions, in that Respondent failed to sufficiently explore or  
5 address all of the patient's complaints, including shortness of breath and chest pain, his  
6 activity level, why he had to stop in the middle of the stairs or after twenty steps, and  
7 his complaint of diarrhea.
- 8 B. Respondent's February 1, 2017 assessment did not explore a broader differential  
9 diagnosis for the patient's complaints, which may have provided information that  
10 warranted additional evaluation.
- 11 C. Respondent's medical record of the February 1, 2017 assessment does not include a full  
12 or adequate description of her assessment, and she was unable to recall the details of her  
13 discussion with the patient or the extent of the history she obtained from the patient.
- 14 D. Respondent's February 13, 2017 telephone assessment failed to adequately explore or  
15 assess the patient's complaints of weakness, getting winded easily and gasping for air  
16 with limited activity, or to consider differential diagnoses including pneumonia, asthma  
17 and pulmonary embolism. Respondent failed to inquire about symptoms such as  
18 wheezing or fever, and did not recommend that the patient come in for an in-person  
19 evaluation.
- 20 E. Respondent did not document a complete history or assessment of the patient's  
21 complaints, or whether she discussed with Patient 1 the possibility he should be seen in-  
22 person.
- 23 F. Respondent's assessment of Patient 1's February 20, 2017 encounter was limited and  
24 did not adequately assess or evaluate his reported condition.
- 25 G. Respondent's medical record for the February 20, 2017 patient encounter is almost  
26 devoid of any assessment or evaluation, and contains virtually no information regarding  
27 the patient's condition, or whether Respondent advised him to seek in-person medical  
28

1 attention, and Respondent is unable to recall the content of her conversation with  
2 Patient 1.


3 H. Respondent failed over the course of treatment to fully and adequately evaluate, assess  
4 and document Patient 1's evolving complaints, which if properly done, may have  
5 resulted in a chest x-ray, referral for emergent and/or in-person evaluation.  
6

7 **PRAYER**

8 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
9 and 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 139338,  
11 issued to Respondent Swapna Merupula, M.D.;
- 12 2. Revoking, suspending or denying approval of Respondent Swapna Merupula, M.D.'s  
13 authority to supervise physician assistants and advanced practice nurses;
- 14 3. Ordering Respondent Swapna Merupula, M.D., to pay the costs of the investigation  
15 and enforcement of this case, and if placed on probation, to pay the Board the costs of probation  
16 monitoring; and
- 17 4. Taking such other and further action as deemed necessary and proper.

18  
19 DATED: MAR 01 2022

20   
21 WILLIAM PRASITKA  
22 Executive Director  
23 Medical Board of California  
24 Department of Consumer Affairs  
25 State of California  
26 Complainant

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