

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

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

Albert Lai, M.D.

**Physician's and Surgeon's
Certificate No. A 86192**

Case No.: 800-2020-063344

Respondent.

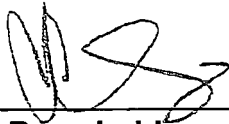
DECISION

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 January 5, 2024.

IT IS SO ORDERED: December 7, 2023.

MEDICAL BOARD OF CALIFORNIA



**Laurie Rose Lubiano, J.D. , Chair
Panel A**

1 ROB BONTA
Attorney General of California
2 JUDITH T. ALVARADO
Supervising Deputy Attorney General
3 REBECCA L. SMITH
Deputy Attorney General
4 State Bar No. 179733
300 South Spring Street, Suite 1702
5 Los Angeles, CA 90013
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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:

13 ALBERT LAI, M.D.
72780 Country Club Drive, # C300
14 Rancho Mirage, CA 92270
15 Physician's and Surgeon's Certificate
No. A 86192,

16 Respondent.
17

Case No. 800-2020-063344

OAH No. 2023010789

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

18
19 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
20 entitled proceedings that the following matters are true:

21 **PARTIES**

22 1. Reji Varghese (Complainant) is the Executive Director of the Medical Board of
23 California (Board). He brought this action solely in his official capacity and is represented in this
24 matter by Rob Bonta, Attorney General of the State of California, by Rebecca L. Smith, Deputy
25 Attorney General.

26 2. Albert Lai, M.D. (Respondent) is represented in this proceeding by attorney Raymond
27 J. McMahon, whose address is 5440 Trabuco Road, Irvine, California 92620.

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3. On or about March 3, 2004, the Board issued Physician's and Surgeon's Certificate No. A 86192 to Respondent. That license was in full force and effect at all times relevant to the charges brought in Accusation No. 800-2020-063344, and will expire on March 31, 2024, unless renewed.

JURISDICTION

4. Accusation No. 800-2020-063344 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 December 20, 2022. Respondent timely filed his Notice of Defense contesting the Accusation.

5. A copy of Accusation No. 800-2020-063344 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. 800-2020-063344. Respondent has also carefully read, fully discussed with his counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

7. Respondent is fully aware of his 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 him; the right to present evidence and to testify on his 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. 800-2020-063344, if proven at a hearing, constitute cause for imposing discipline upon his Physician's and Surgeon's Certificate.

10. 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. 800-2020-063344, a true and correct copy of which is attached hereto as Exhibit A, and that he has thereby subjected his Physician's and Surgeon's Certificate, No. A 86192 to disciplinary action.

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

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 his counsel. By signing the stipulation, Respondent understands and agrees that he may not withdraw his 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 he ever petitions for early termination or modification of probation, or if an accusation and/or petition to revoke probation is filed against him before the Board, all of the charges and allegations contained in Accusation No. 800-2020-063344 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.

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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 Respondent, issue and enter the following Disciplinary Order:

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. A 86192 issued to Respondent Albert Lai, M.D. is revoked. However, the revocation is stayed and Respondent is placed on probation for thirty-five (35) months on the following terms and conditions:

1. EDUCATION COURSE. Within sixty (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 forty (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 sixty-five (65) hours of CME of which forty (40) hours were in satisfaction of this condition.

2. MEDICAL RECORD KEEPING COURSE. Within sixty (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 Medical Education (CME) requirements for renewal of licensure.

A medical record keeping course taken after the acts that gave rise to the charges in the Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board

1 or its designee, be accepted towards the fulfillment of this condition if the course would have
2 been approved by the Board or its designee had the course been taken after the effective date of
3 this Decision.

4 Respondent shall submit a certification of successful completion to the Board or its
5 designee not later than fifteen (15) calendar days after successfully completing the course, or not
6 later than fifteen (15) calendar days after the effective date of the Decision, whichever is later.

7 3. PROFESSIONALISM PROGRAM (ETHICS COURSE). Within sixty (60) calendar
8 days of the effective date of this Decision, Respondent shall enroll in a professionalism program,
9 that meets the requirements of Title 16, California Code of Regulations (CCR) section 1358.1.
10 Respondent shall participate in and successfully complete that program. Respondent shall
11 provide any information and documents that the program may deem pertinent. Respondent shall
12 successfully complete the classroom component of the program not later than six (6) months after
13 Respondent's initial enrollment, and the longitudinal component of the program not later than the
14 time specified by the program, but no later than one (1) year after attending the classroom
15 component. The professionalism program shall be at Respondent's expense and shall be in
16 addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

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

22 Respondent shall submit a certification of successful completion to the Board or its
23 designee not later than fifteen (15) calendar days after successfully completing the program or not
24 later than fifteen (15) calendar days after the effective date of the Decision, whichever is later.

25 4. MONITORING - PRACTICE. Within thirty (30) calendar days of the effective date
26 of this Decision, Respondent shall submit to the Board or its designee for prior approval as a
27 practice monitor, the name and qualifications of one or more licensed physicians and surgeons
28 whose licenses are valid and in good standing, and who are preferably American Board of

1 Medical Specialties (ABMS) certified. A monitor shall have no prior or current business or
2 personal relationship with Respondent, or other relationship that could reasonably be expected to
3 compromise the ability of the monitor to render fair and unbiased reports to the Board, including
4 but not limited to any form of bartering, shall be in Respondent's field of practice, and must agree
5 to serve as Respondent's monitor. Respondent shall pay all monitoring costs.

6 The Board or its designee shall provide the approved monitor with copies of the Decision(s)
7 and Accusation(s), and a proposed monitoring plan. Within fifteen (15) calendar days of receipt
8 of the Decision(s), Accusation(s), and proposed monitoring plan, the monitor shall submit a
9 signed statement that the monitor has read the Decision(s) and Accusation(s), fully understands
10 the role of a monitor, and agrees or disagrees with the proposed monitoring plan. If the monitor
11 disagrees with the proposed monitoring plan, the monitor shall submit a revised monitoring plan
12 with the signed statement for approval by the Board or its designee.

13 Within sixty (60) calendar days of the effective date of this Decision, and continuing
14 throughout probation, Respondent's practice shall be monitored by the approved monitor.
15 Respondent shall make all records available for immediate inspection and copying on the
16 premises by the monitor at all times during business hours and shall retain the records for the
17 entire term of probation.

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

23 The monitor(s) shall submit a quarterly written report to the Board or its designee which
24 includes an evaluation of Respondent's performance, indicating whether Respondent's practices
25 are within the standards of practice of medicine, and whether Respondent is practicing medicine
26 safely. It shall be the sole responsibility of Respondent to ensure that the monitor submits the
27 quarterly written reports to the Board or its designee within ten (10) calendar days after the end of
28 the preceding quarter.

1 If the monitor resigns or is no longer available, Respondent shall, within five (5) calendar
2 days of such resignation or unavailability, submit to the Board or its designee, for prior approval,
3 the name and qualifications of a replacement monitor who will be assuming that responsibility
4 within fifteen (15) calendar days. If Respondent fails to obtain approval of a replacement monitor
5 within sixty (60) calendar days of the resignation or unavailability of the monitor, Respondent
6 shall receive a notification from the Board or its designee to cease the practice of medicine within
7 three (3) calendar days after being so notified. Respondent shall cease the practice of medicine
8 until a replacement monitor is approved and assumes monitoring responsibility.

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

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

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

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

26 7. INVESTIGATION/ENFORCEMENT COST RECOVERY. Respondent is hereby
27 ordered to reimburse the Board its costs of investigation and enforcement, in the amount of
28 \$17,343.00 (seventeen thousand three hundred forty-three dollars and no cents). Costs shall be

1 payable to the Medical Board of California. Failure to pay such costs shall be considered a
2 violation of probation.

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

7 The filing of bankruptcy by Respondent shall not relieve Respondent of the responsibility
8 to repay investigation and enforcement costs.

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

12 Respondent shall submit quarterly declarations not later than ten (10) calendar days after
13 the end of the preceding quarter.

14 9. GENERAL PROBATION REQUIREMENTS.

15 Compliance with Probation Unit

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

17 Address Changes

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

23 Place of Practice

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

27 License Renewal

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

1 license.

2 Travel or Residence Outside California

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

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

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

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

26 In the event Respondent's period of non-practice while on probation exceeds eighteen (18)
27 calendar months, Respondent shall successfully complete the Federation of State Medical Boards'
28 Special Purpose Examination, or, at the Board's discretion, a clinical competence assessment

1 program that meets the criteria of Condition 18 of the current version of the Board's "Manual of
2 Model Disciplinary Orders and Disciplinary Guidelines" prior to resuming the practice of
3 medicine.

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

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

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

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

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

24 14. LICENSE SURRENDER. Following the effective date of this Decision, if
25 Respondent ceases practicing due to retirement or health reasons or is otherwise unable to satisfy
26 the terms and conditions of probation, Respondent may request to surrender his license. The
27 Board reserves the right to evaluate Respondent's request and to exercise its discretion in
28 determining whether or not to grant the request, or to take any other action deemed appropriate

1 and reasonable under the circumstances. Upon formal acceptance of the surrender, Respondent
2 shall within fifteen (15) calendar days deliver Respondent's wallet and wall certificate to the
3 Board or its designee and Respondent shall no longer practice medicine. Respondent will no
4 longer be subject to the terms and conditions of probation. If Respondent re-applies for a medical
5 license, the application shall be treated as a petition for reinstatement of a revoked certificate.

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

11 16. FUTURE ADMISSIONS CLAUSE. If Respondent should ever apply or reapply for
12 a new license or certification, or petition for reinstatement of a license, by any other health care
13 licensing action agency in the State of California, all of the charges and allegations contained in
14 Accusation No. 800-2020-063344 shall be deemed to be true, correct, and admitted by
15 Respondent for the purpose of any Statement of Issues or any other proceeding seeking to deny or
16 restrict license.

17
18 ACCEPTANCE


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

24
25 DATED: 07/19/2022

26 
ALBERT LAI, M.D.
Respondent

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

4 DATED: July 20, 2023


RAYMOND J. MCMAHON
Attorney for Respondent


6
7 **ENDORSEMENT**

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

10 DATED: July 21, 2023

Respectfully submitted,

12 ROB BONTA
Attorney General of California
13 JUDITH T. ALVARADO
Supervising Deputy Attorney General

14 
15 REBECCA L. SMITH
16 Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 800-2020-063344

1 ROB BONTA
Attorney General of California
2 JUDITH T. ALVARADO
Supervising Deputy Attorney General
3 REBECCA L. SMITH
Deputy Attorney General
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8 **BEFORE THE**
9 **MEDICAL BOARD OF CALIFORNIA**
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12 In the Matter of the Accusation Against:

Case No. 800-2020-063344

13 **ALBERT LAI, M.D.**
72780 Country Club Drive, # C300
14 Rancho Mirage, CA 92270

A C C U S A T I O N

15 Physician's and Surgeon's Certificate
No. A 86192,

16 Respondent.
17

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 or about March 3, 2004, the Medical Board issued Physician's and Surgeon's
23 Certificate Number A 86192 to Albert Lai, M.D. (Respondent). That license was in full force and
24 effect at all times relevant to the charges brought herein and will expire on March 31, 2024,
25 unless renewed.

26 ///

27 ///

28 ///

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 2004 of the Code states:

The board shall have the responsibility for the following:

(a) The enforcement of the disciplinary and criminal provisions of the Medical Practice Act.

(b) The administration and hearing of disciplinary actions.

(c) Carrying out disciplinary actions appropriate to findings made by a panel or an administrative law judge.

(d) Suspending, revoking, or otherwise limiting certificates after the conclusion of disciplinary actions.

(e) Reviewing the quality of medical practice carried out by physician and surgeon certificate holders under the jurisdiction of the board.

(f) Approving undergraduate and graduate medical education programs.

(g) Approving clinical clerkship and special programs and hospitals for the programs in subdivision (f).

(h) Issuing licenses and certificates under the board's jurisdiction.

(i) Administering the board's continuing medical education program.

5. Section 2227 of the Code states:

(a) A licensee whose matter has been heard by an administrative law judge of the Medical Quality Hearing Panel as designated in Section 11371 of the Government Code, or 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:

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

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

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

(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.

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

2 (b) Any matter heard pursuant to subdivision (a), except for warning letters,
3 medical review or advisory conferences, professional competency examinations,
4 continuing education activities, and cost reimbursement associated therewith that are
5 agreed to with the board and successfully completed by the licensee, or other matters
6 made confidential or privileged by existing law, is deemed public, and shall be made
available to the public by the board pursuant to Section 803.1.

6 STATUTORY PROVISIONS

7 6. Section 2234 of the Code, states:

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

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

12 (b) Gross negligence.

13 (c) Repeated negligent acts. To be repeated, there must be two or more
14 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.

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

17 (2) When the standard of care requires a change in the diagnosis, act, or
18 omission that constitutes the negligent act described in paragraph (1), including, but
19 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.

20 (d) Incompetence.

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

23 (f) Any action or conduct that would have warranted the denial of a certificate.

24 (g) The failure by a certificate holder, in the absence of good cause, to attend
25 and participate in an interview by the board. This subdivision shall only apply to a
certificate holder who is the subject of an investigation by the board.

26 7. Section 684 of the Code states:

27 (a) For the purpose of this section:

28 (1) "FDA" means the United States Food and Drug Administration.

1 (2) "HCT/Ps" means human cells, tissues, or cellular or tissue-based
2 products, as defined in Section 1271.3 of Title 21 of the Code of Federal
3 Regulations, as amended August 31, 2016, as published in the Federal Register (81
4 Fed. Reg. 60223).

5 (3) "Stem cell therapy" means a therapy involving the use of HCT/Ps, but
6 shall not include a therapy involving HCT/Ps that meets the criteria set out in
7 Section 1271.10 of Title 21 of the Code of Federal Regulations, as amended May
8 25, 2004, as published in the Federal Register (69 Fed. Reg. 29829), or that qualifies
9 for any of the exceptions described in Section 1271.15 of Title 21 of the Code of
10 Federal Regulations, as amended May 25, 2004, as published in the Federal Register
11 (69 Fed. Reg. 29829).

12 (b)(1) A health care practitioner licensed under this division who performs a stem
13 cell therapy that is subject to FDA regulation, but is not FDA-approved, shall
14 communicate to a patient seeking stem cell therapy the following information in
15 English:

16 "THIS NOTICE MUST BE PROVIDED TO YOU UNDER CALIFORNIA LAW.
17 This health care practitioner performs one or more stem cell therapies that have not
18 been approved by the United States Food and Drug Administration. You are
19 encouraged to consult with your primary care physician prior to undergoing a stem
20 cell therapy."

21 (2) The information in paragraph (1) shall be communicated to the patient in
22 all of the following ways:

23 (A) In a prominent display in an area visible to patients in the health care
24 practitioner's office and posted conspicuously in the entrance of the health care
25 practitioner's office. These notices shall be at least eight and one-half inches by 11
26 inches and written in no less than 40-point type.

27 (B) Prior to providing the initial stem cell therapy, a health care practitioner
28 shall provide the patient with the notice described in paragraph (1) in writing. The
notice shall be at least eight and one-half inches by 11 inches and written in no less
than 40-point type.

(c) This section does not apply to a health care practitioner licensed under this
division who has obtained approval or clearance for an investigational new drug, or
an investigational device exemption, from the FDA for the use of HCT/Ps.

(d)(1) The licensing board having jurisdiction of the health care practitioner may
cite and fine the health care practitioner, not to exceed one thousand dollars
(\$1,000) per violation of this section.

(2) No citation shall be issued and no fine shall be assessed upon the first
complaint against a health care practitioner who violates this section.

(3) Upon a second or subsequent violation of this section, a citation and
administrative fine not to exceed one thousand dollars (\$1,000) per violation may be
assessed.

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1 8. Section 2266 of the Code states:

2 The failure of a physician and surgeon to maintain adequate and accurate records
3 relating to the provision of services to their patients constitutes unprofessional conduct.

4 **COST RECOVERY**

5 9. Section 125.3 of the Code states:

6 (a) Except as otherwise provided by law, in any order issued in resolution of a
7 disciplinary proceeding before any board within the department or before the
8 Osteopathic Medical Board, upon request of the entity bringing the proceeding, the
9 administrative law judge may direct a licensee found to have committed a violation or
10 violations of the licensing act to pay a sum not to exceed the reasonable costs of the
11 investigation and enforcement of the case.

12 (b) In the case of a disciplined licensee that is a corporation or a partnership, the
13 order may be made against the licensed corporate entity or licensed partnership.

14 (c) A certified copy of the actual costs, or a good faith estimate of costs where
15 actual costs are not available, signed by the entity bringing the proceeding or its
16 designated representative shall be prima facie evidence of reasonable costs of
17 investigation and prosecution of the case. The costs shall include the amount of
18 investigative and enforcement costs up to the date of the hearing, including, but not
19 limited to, charges imposed by the Attorney General.

20 (d) The administrative law judge shall make a proposed finding of the amount
21 of reasonable costs of investigation and prosecution of the case when requested
22 pursuant to subdivision (a). The finding of the administrative law judge with regard
23 to costs shall not be reviewable by the board to increase the cost award. The board
24 may reduce or eliminate the cost award, or remand to the administrative law judge if
25 the proposed decision fails to make a finding on costs requested pursuant to
26 subdivision (a).

27 (e) If an order for recovery of costs is made and timely payment is not made as
28 directed in the board's decision, the board may enforce the order for repayment in any
appropriate court. This right of enforcement shall be in addition to any other rights
the board may have as to any licensee to pay costs.

(f) In any action for recovery of costs, proof of the board's decision shall be
conclusive proof of the validity of the order of payment and the terms for payment.

(g) (1) Except as provided in paragraph (2), the board shall not renew or
reinstate the license of any licensee who has failed to pay all of the costs ordered
under this section.

(2) Notwithstanding paragraph (1), the board may, in its discretion,
conditionally renew or reinstate for a maximum of one year the license of any
licensee who demonstrates financial hardship and who enters into a formal agreement
with the board to reimburse the board within that one-year period for the unpaid
costs.

(h) All costs recovered under this section shall be considered a reimbursement
for costs incurred and shall be deposited in the fund of the board recovering the costs

to be available upon appropriation by the Legislature.

(i) Nothing in this section shall preclude a board from including the recovery of the costs of investigation and enforcement of a case in any stipulated settlement.

(j) This section does not apply to any board if a specific statutory provision in that board's licensing act provides for recovery of costs in an administrative disciplinary proceeding.

FIRST CAUSE FOR DISCIPLINE

(Gross Negligence)

10. Respondent is subject to disciplinary action under Code section 2234, subdivision (b), in that he engaged in gross negligence in the care and treatment of Patient 1.¹ The circumstances are as follows:

11. Respondent is a physical medicine and rehabilitation specialist with Desert Pain Specialists, located at 72780 Country Club Drive, Suite C300, Rancho Mirage, California 92270. Respondent has an ownership interest in River's Edge Surgery Center, an outpatient surgery center located at 71-780 San Jacinto Drive, Building D, Rancho Mirage, California 92270.

12. On March 13, 2019, Patient 1, a then 81 year-old-male, presented to Respondent's medical office with a chief complaint of left and right knee pain. Patient 1 was referred to Respondent by chiropractor, Dr. M.C. at the Spinal Injury Center, for consideration of stem cell therapy.² Respondent evaluated the patient and recommended a right knee joint injection with Restor.³ In both his Visit Note and Procedure Note, Respondent made the following informed

¹ For privacy purposes, the patient in this Accusation is referred to as Patient 1.

² In a Request for Medical Procedure for Regenerative Treatment dated March 11, 2019, Dr. M.C. requested that Respondent consider stem cell implant ("Restore Product"), 2 mLs to the knee, bilaterally. The request sets forth "[t]he above mentioned patient is being referred to your office for a Stem Cell (Restore Product) procedure for the above diagnosis. The patient has been screened and evaluated for the procedure without contra-indications. Please evaluate and treat."

³ At the time of his interview with the Board on June 1, 2022, Respondent stated that he obtained Restor from New Life Medical Services. The website for New Life Medical Services (www.newliferegen.com) states that "Restore+ is sourced from the Wharton's Jelly of the umbilical cord, Restor+ contains numerous components needed to help regenerate tissue. Restor+ has anti-inflammatory, anti-fibrotic, and analgesic properties that help to heal the injured tissue and reduce pain." The New Life Medical Services website sets forth the following Disclaimer statement: "Our Human Cell, Purified Amniotic Fluid, and Tissue products are **not FDA approved or licensed for the prevention, treatment, diagnosis, mitigation and/or cure of any disease or condition**, including COVID-19. All statements and opinions provided are for educational and informational purposes only and we do not diagnose or give medical nor legal advice. Individuals interest in natural biologics therapy are urged to review all pertinent

1 consent notation: "The risks and benefits of the procedure were explained which include but are
2 not limited to bleeding, infection, allergic reaction to medication or contrast dye, nerve damage
3 leading to weakness or paralysis, increase in pain, failure of relief from the procedure, coma,
4 stroke, and death. Consent was obtained by the patient and was in placed in the patient's chart."
5 That same day, Patient 1 executed an authorization and consent for surgery/informed consent for
6 anesthesia form for Respondent to perform a right knee joint injection with Restor at River's
7 Edge Surgery Center. In addition, the patient executed a Patient's Rights Form that set forth that
8 the patient has a right to be fully informed about a treatment or procedure and the expected
9 outcome before it is performed, as well as, receive as much information about any proposed
10 treatment or procedure as he may need in order to give informed consent to refuse this course of
11 medical treatment. There is no documentation of any discussion with the patient or disclosure to
12 the patient that the stem cell procedure (knee joint injection with Restor) is not approved by the
13 United States Food and Drug Administration (FDA). Respondent's office has no notification
14 posted in his office regarding the use of non-FDA approved stem cell therapy.

15 13. The preoperative assessment for the stem cell procedure notes that Patient 1
16 previously had a left knee joint replacement. Respondent noted that once the right knee joint
17 space was identified, a total of 1 milliliter (mL) of Restor was injected. The patient was noted to
18 have tolerated the procedure well and was discharged in stable condition and instructed to return
19 in one week.

20 14. On March 20, 2019, Patient 1 presented to Respondent with a chief complaint of left
21 knee pain. Respondent evaluated the patient and recommended a left knee joint injection with
22 Restor. In both his Visit Note and Procedure Note, Respondent made the following informed
23 consent notation: "The risks and benefits of the procedure were explained which include but are
24 not limited to bleeding, infection, allergic reaction to medication or contrast dye, nerve damage
25 leading to weakness or paralysis, increase in pain, failure of relief from the procedure, coma,
26 stroke, and death. Consent was obtained by the patient and was in placed in the patient's chart."

27
28 information and do their own research before choosing to participate in treatments utilizing natural
biologics products." [Emphasis added.]

1 That same day, Patient 1 executed an authorization and consent for surgery/informed consent for
2 anesthesia form for Respondent to perform a left knee joint injection with Restor at River's Edge
3 Surgery Center as well as a Patient's Rights Form. There is no documentation of any discussion
4 with the patient or any disclosure to the patient that the stem cell procedure (knee joint injection
5 with Restor) is not FDA approved.

6 15. In both his Visit Note and Procedure Note for the stem cell procedure, Respondent
7 documented that once the left knee joint space was identified, a total of 1 mL of Restor was
8 injected.⁴ The patient was noted to have tolerated the procedure well and was discharged in
9 stable condition and instructed to return "based upon the patient's follow up call."

10 16. On April 30, 2019, Patient 1 presented to Respondent with complaints of bilateral
11 knee pain. Respondent recommended bilateral knee joint injections. In both his Visit Note and
12 Procedure Note, Respondent made the following informed consent notation: "The risks and
13 benefits of the procedure were explained which include but are not limited to bleeding, infection,
14 allergic reaction to medication or contrast dye, nerve damage leading to weakness or paralysis,
15 increase in pain, failure of relief from the procedure, coma, stroke, and death. Consent was
16 obtained by the patient and was in placed in the patient's chart." That same day, Patient 1
17 executed an authorization and consent for surgery/informed consent for anesthesia form for
18 Respondent to perform bilateral knee joint injections with Restor at River's Edge Surgery Center
19 as well as a Patient Rights Form. There is no documentation of any discussion with the patient or
20 any disclosure to the patient that the stem cell procedure (knee joint injection with Restor) is not
21 FDA approved nor is it disclosed on the consent or Patient Rights Form.

22 17. With respect to the stem cell procedure, Respondent noted that once the knee joint
23 spaces were identified, a total of 2 mL of Restor was injected between both knees. The patient
24 was noted to have tolerated the procedure well and was discharged in stable condition and
25 instructed to follow up with Respondent as needed.

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28 ⁴ The Pain Management Record and the Allograft Tissue Utilization Report reflect that 2 mL of
Restor was used during the March 20, 2019 procedure.

1 18. On May 2, 2019, Respondent's office documented that a call was received from
2 Spinal Injury Center stating that Patient 1's left knee was swollen and warm to the touch and
3 requesting follow up with the patient. That same day, Respondent's nurse called Patient 1, who
4 confirmed that his left knee was swollen and warm to touch. He stated that he had been using ice
5 packs but had not taken any pain medication. The nurse told Patient 1 that he could take
6 ibuprofen and that if he experiences any fever or chills, he should go to the emergency
7 department.

8 19. On May 3, 2019, chiropractor, Dr. M.C. made a house visit to see Patient 1 for his
9 complaint of left knee pain. Dr. M.C. noted that the patient's left knee was warm and swollen.
10 Dr. M.C. prescribed Cipro, an antibiotic. That same day, Respondent's nurse called Patient 1 at
11 which time the patient stated that his pain was less but that his leg was still swollen. Patient 1
12 stated that his chiropractor saw him at home and gave him antibiotics to take orally.

13 20. On May 7, 2019, Patient 1 presented to Respondent with left knee edema and pain.
14 Respondent performed a left knee joint aspiration. A total of 30 mL of pale, yellow serous fluid
15 was aspirated from the knee joint and sent to the laboratory for testing. Respondent prescribed
16 Cipro and Tramadol for pain.

17 21. On May 9, 2019, Respondent's nurse spoke with Patient 1's daughter, who reported
18 that the patient was doing better, ambulating with no difficulty. Patient 1's daughter was notified
19 that the preliminary results of the left knee joint aspiration was negative for growth or organisms.

20 22. Patient 1 returned to Respondent's office on May 13, 2019. Respondent noted that
21 the patient had left lower leg edema. Respondent attempted a left knee joint aspiration but no
22 fluid was aspirated. Respondent gave the patient a dexamethasone⁵ injection. He instructed the
23 patient to stay off his leg and to return in one week.

24 23. On May 20, 2019, Patient 1 returned to Respondent's office with complaints of
25 continued left knee pain. He stated that he had weakness in the left leg and pain on prolonged
26 walking and standing. Respondent noted that the laboratory results from the May 7, 2019 left
27 knee joint aspiration had no organism growth. Respondent ordered laboratory testing and an MRI

28 ⁵ Dexamethasone is a corticosteroid used to treat inflammation.

1 of the left knee. He prescribed a Medrol Dosepak.⁶ Respondent recommended a repeat left knee
2 joint aspiration and instructed the patient to return in one week.

3 24. On May 28, 2019, Patient 1 returned to Respondent's office for a follow-up visit.
4 The patient was noted to have pain, increase diffuse swelling and tenderness on palpation,
5 diffusely. Respondent noted that the laboratory studies were within normal range and that the
6 MRI of the left knee showed no significant changes. Respondent recommended a left knee joint
7 aspiration and the patient declined. Respondent prescribed a Medrol Dosepak. Respondent
8 recommended a repeat left knee joint aspiration and instructed the patient to return in one week.

9 25. On June 3, 2019, Patient 1 presented to the emergency department at Eisenhower
10 Medical Center with severe knee pain. His left knee joint was aspirated and was positive for
11 Streptococcus agalactiae (Group B Strep). A blood culture was positive for Micrococcus. Patient
12 1 was admitted to the hospital with a diagnosis of septic arthritis secondary to stem cell therapy.
13 It was noted that he had left knee edema and the knee was warm to the touch. On June 5, 2019,
14 Patient 1 underwent surgical removal of the left patellofemoral prosthetic component and
15 placement of antibiotic laden calcium phosphate dissolvable cement. Intraoperative cultures
16 showed no growth to date and repeat blood cultures showed no growth to date. He was placed on
17 long-term intravenous antibiotics. Patient 1 was placed on fifty percent (50%) weight bearing of
18 his left lower extremity and underwent physical and occupational therapy at the hospital.

19 26. On June 7, 2019, Patient 1 was transferred to Vibra Rehabilitation Center. He was
20 continued IV antibiotics and underwent rehabilitative care. He was discharged on June 18, 2019.
21 He was noted to have decreased activities of daily living and mobility impairment. He was
22 instructed to continue with physical and occupational therapy. Patient 1 continued to be followed
23 by an infectious disease specialist and IV antibiotics were continued to July 16, 2019. Patient 1
24 underwent a second left total knee replacement on August 21, 2019 and a left patellar
25 replacement on September 11, 2019.

26 27. The standard of care requires that the patient be informed of any proposed treatment
27 that is not FDA approved and that the physician document the discussion in the patient's medical
28

⁶ Medrol Dosepak is a steroid used to treat inflammation.

1 record. The patient must be provided with information regarding the proposed treatment in order
2 to make an informed decision regarding the proposed medical intervention. The physician should
3 assess the patient's ability to understand relevant medical information, present relevant
4 information accurately and sensitively, and document the informed consent conversation in the
5 medical record.

6 28. Respondent failed to inform Patient 1 that the knee joint injections with Restor were
7 not FDA approved and failed to provide Patient 1 with information regarding the nature, risks and
8 alternatives of knee joint injections with Restor. This is an extreme departure from the standard
9 of care.

10 **SECOND CAUSE FOR DISCIPLINE**

11 **(Failure to Provide Notification of Non-FDA Approved Stem Cell Therapy)**

12 29. Respondent is subject to disciplinary action under sections 2234, subdivision (a), and
13 684, subdivision (b), of the Code in that he failed to provide Patient 1 with notification of non-
14 FDA approved stem cell therapy. The circumstances are as follows:

15 30. The allegations as set forth in the First Cause for Discipline, above, are incorporated
16 herein by reference.

17 **THIRD CAUSE FOR DISCIPLINE**

18 **(Unprofessional Conduct)**

19 31. Respondent's license is subject to disciplinary action under section 2234, subdivision
20 (a), of the Code in that he has engaged in unprofessional conduct which breaches the rules or
21 ethical code of the medical profession, or conduct which is unbecoming to a member in good
22 standing of the medical profession, and which demonstrates an unfitness to practice medicine.

23 The circumstances are as follows:

24 32. The allegations set forth in the First and Second Causes for Discipline are
25 incorporated herein as if fully set forth.

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1 **FOURTH CAUSE FOR DISCIPLINE**

2 **(Failure to Maintain Adequate and Accurate Medical Records)**

3 33. Respondent is subject to disciplinary action under section 2266 of the Code in that he
4 failed to maintain adequate and accurate medical records for Patient 1. The circumstances are as
5 follows:

6 34. The allegations as set forth in the First Cause for Discipline, above, are incorporated
7 herein by reference.

8 **DISCIPLINARY CONSIDERATIONS**

9 35. To determine the degree of discipline, if any, to be imposed on Respondent,
10 Complainant alleges that on or about January 23, 2019, the Medical Board of California issued a
11 public reprimand in Case No. 800-2015-013709 for Respondent's failure to perform toxicology
12 screening and review CURES reports while managing a patient's intrathecal pump in 2014 and
13 increasing the patient's morphine concentration to greater than 30 mg/ml on one occasion, in
14 violation of section 2234 of Business and Professions Code. In addition to the public reprimand,
15 Respondent was ordered to complete a prescribing practices course, the record of which is
16 incorporated as if fully set forth herein.

17 **PRAYER**

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

20 1. Revoking or suspending Physician's and Surgeon's Certificate Number A 86192,
21 issued to Albert Lai, M.D.;

22 2. Revoking, suspending or denying approval of Albert Lai, M.D.'s authority to
23 supervise physician assistants and advanced practice nurses;

24 3. Ordering Albert Lai, M.D., to pay the Board the costs of the investigation and
25 enforcement of this case, and if placed on probation, the costs of probation monitoring; and

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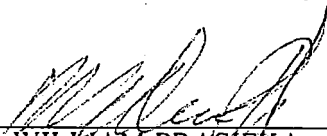
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4. Taking such other and further action as deemed necessary and proper.

DATED: DEC 20 2022



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

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