

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

In the Matter of the Accusation
Against:

Charles Thomas Ochello, Jr., M.D.

Physician's and Surgeon's
Certificate No. C 166709

Respondent.

Case No.: 800-2021-078260

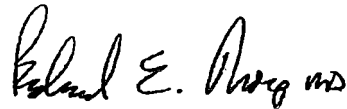
DECISION

The attached Stipulated Settlement and Disciplinary 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 26, 2024.

IT IS SO ORDERED: December 28, 2023.

MEDICAL BOARD OF CALIFORNIA



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

1 ROB BONTA
Attorney General of California
2 JUDITH T. ALVARADO
Supervising Deputy Attorney General
3 PEGGIE BRADFORD TARWATER
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9 **BEFORE THE**
10 **MEDICAL BOARD OF CALIFORNIA**
11 **DEPARTMENT OF CONSUMER AFFAIRS**
12 **STATE OF CALIFORNIA**

13 In the Matter of the Accusation Against:
14 **CHARLES THOMAS OCHELLO, JR.,**
15 **M.D.**
16 **1423 General Pershing Street**
17 **New Orleans, LA 70115C**
18
19 **Physician's and Surgeon's Certificate**
20 **No. C 166709,**
21
22 Respondent.

Case No. 800-2021-078260

OAH No. 2023050632

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

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

25 **PARTIES**

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

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1 2. Respondent Charles Thomas Ochello, Jr., M.D. (Respondent) is represented in this
2 proceeding by attorney Lindsay M. Johnson, whose address is: 4100 Newport Place, Suite 670
3 Newport Beach, CA 92660-2463.

4 3. On or about November 19, 2019, the Board issued Physician’s and Surgeon’s
5 Certificate No. C 166709 to Charles Thomas Ochello, Jr., M.D.. The Physician’s and Surgeon’s
6 Certificate was in full force and effect at all times relevant to the charges brought in Accusation
7 No. 800-2021-078260, and will expire on November 30, 2023, unless renewed.

8 **JURISDICTION**

9 4. Accusation No. 800-2021-078260 was filed before the Board, and is currently
10 pending against Respondent. The Accusation and all other statutorily required documents were
11 properly served on Respondent on March 28, 2023. Respondent timely filed his Notice of
12 Defense contesting the Accusation.

13 5. A copy of Accusation No. 800-2021-078260 is attached as Exhibit A and
14 incorporated herein by reference.

15 **ADVISEMENT AND WAIVERS**

16 6. Respondent has carefully read, fully discussed with counsel, and understands the
17 charges and allegations in Accusation No. 800-2021-078260. Respondent has also carefully read,
18 fully discussed with his counsel, and understands the effects of this Stipulated Settlement and
19 Disciplinary Order.

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

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

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1 CULPABILITY

2 9. Respondent understands and agrees that the charges and allegations in Accusation
3 No. 800-2021-078260, if proven at a hearing, constitute cause for imposing discipline upon his
4 Physician's and Surgeon's Certificate.

5 10. Respondent agrees that, at a hearing, Complainant could establish a prima facie case
6 or factual basis for the charges in the Accusation, and that Respondent hereby gives up his right
7 to contest those charges.

8 11. Respondent does not contest that, at an administrative hearing, complainant could
9 establish a prima facie case with respect to the charges and allegations in Accusation No. 800-
10 2021-078260, a true and correct copy of which is attached hereto as Exhibit A, and that he has
11 thereby subjected his Physician's and Surgeon's Certificate, No. C 166709 to disciplinary action.

12 12. ACKNOWLEDGMENT. Respondent acknowledges the Disciplinary Order below,
13 requiring the disclosure of probation pursuant to Business and Professions Code section 2228.1,
14 serves to protect the public interest.

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

18 CONTINGENCY

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

1 15. Respondent agrees that if he ever petitions for early termination or modification of
2 probation, or if an accusation and/or petition to revoke probation is filed against him before the
3 Board, all of the charges and allegations contained in Accusation No. 800-2021-078260 shall be
4 deemed true, correct and fully admitted by Respondent for purposes of any such proceeding or
5 any other licensing proceeding involving Respondent in the State of California.

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

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

12 **DISCIPLINARY ORDER**

13 IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. C 166709
14 issued to Respondent Charles Thomas Ochello, M.D. is revoked. However, the revocation is
15 stayed and Respondent is placed on probation for five (5) years on the following terms and
16 conditions:

17 1. **PATIENT DISCLOSURE.** While treating patients pursuant to licensure in
18 the State of California, before a patient's first visit following the effective date of this order and
19 while Respondent is on probation, Respondent must provide all patients, or patient's guardian or
20 health care surrogate, with a separate disclosure that includes Respondent's probation status, the
21 length of the probation, the probation end date, all practice restrictions placed on Respondent by
22 the board, the board's telephone number, and an explanation of how the patient can find further
23 information on Respondent's probation on Respondent's profile page on the board's website.
24 Respondent shall obtain from the patient, or the patient's guardian or health care surrogate, a
25 separate, signed copy of that disclosure. Respondent shall not be required to provide a disclosure
26 if any of the following applies: (1) The patient is unconscious or otherwise unable to comprehend
27 the disclosure and sign the copy of the disclosure and a guardian or health care surrogate is
28 unavailable to comprehend the disclosure and sign the copy; (2) The visit occurs in an emergency

1 room or an urgent care facility or the visit is unscheduled, including consultations in inpatient
2 facilities; (3) Respondent is not known to the patient until immediately prior to the start of the
3 visit; (4) Respondent does not have a direct treatment relationship with the patient.

4 2. CONTROLLED SUBSTANCES - ABSTAIN FROM USE. Respondent
5 shall abstain completely from the personal use or possession of controlled substances as defined
6 in the California Uniform Controlled Substances Act, dangerous drugs as defined by Business
7 and Professions Code section 4022, and any drugs requiring a prescription. This prohibition does
8 not apply to medications lawfully prescribed to Respondent by another practitioner for a bona
9 fide illness or condition.

10 Within 15 calendar days of receiving any lawfully prescribed medications, Respondent
11 shall notify the Board or its designee of the: issuing practitioner's name, address, and telephone
12 number; medication name, strength, and quantity; and issuing pharmacy name, address, and
13 telephone number.

14 3. ALCOHOL - ABSTAIN FROM USE. Respondent shall abstain
15 completely from the use of products or beverages containing alcohol.

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

26 5. PROFESSIONALISM PROGRAM (ETHICS COURSE). Within 60
27 calendar days of the effective date of this Decision, Respondent shall enroll in a professionalism
28 program, that meets the requirements of Title 16, California Code of Regulations (CCR) section

1 1358.1. Respondent shall participate in and successfully complete that program. Respondent
2 shall provide any information and documents that the program may deem pertinent. Respondent
3 shall successfully complete the classroom component of the program not later than six months
4 after Respondent's initial enrollment, and the longitudinal component of the program not later
5 than the time specified by the program, but no later than one year after attending the classroom
6 component. The professionalism program shall be at Respondent's expense and shall be in
7 addition to the CME requirements for renewal of licensure.

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

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

16 6. PSYCHOTHERAPY. Within 60 calendar days of the effective date of this
17 Decision, Respondent shall submit to the Board or its designee for prior approval the name and
18 qualifications of a licensed board certified psychiatrist or a licensed psychologist who has a
19 doctoral degree in psychology and at least five years of postgraduate experience in the diagnosis
20 and treatment of emotional and mental disorders. Upon approval, Respondent shall undergo and
21 continue psychotherapy treatment, including any modifications to the frequency of
22 psychotherapy, until the Board or its designee deems that no further psychotherapy is necessary.

23 The psychotherapist shall consider any information provided by the Board or its designee
24 and any other information the psychotherapist deems relevant and shall furnish a written
25 evaluation report to the Board or its designee. Respondent shall cooperate in providing the
26 psychotherapist with any information and documents that the psychotherapist may deem
27 pertinent.

28 Respondent shall have the treating psychotherapist submit quarterly status reports to the

1 Board or its designee. The Board or its designee may require Respondent to undergo psychiatric
2 evaluations by a Board-appointed board certified psychiatrist. If, prior to the completion of
3 probation, Respondent is found to be mentally unfit to resume the practice of medicine without
4 restrictions, the Board shall retain continuing jurisdiction over Respondent's license and the
5 period of probation shall be extended until the Board determines that Respondent is mentally fit
6 to resume the practice of medicine without restrictions.

7 Respondent shall pay the cost of all psychotherapy and psychiatric evaluations.

8 7. SOLO PRACTICE PROHIBITION. Respondent is prohibited from
9 engaging in the solo practice of medicine. Prohibited solo practice includes, but is not limited to,
10 a practice where: (1) Respondent merely shares office space with another physician but is not
11 affiliated for purposes of providing patient care, or (2) Respondent is the sole physician
12 practitioner at that location.

13 If Respondent fails to establish a practice with another physician or secure employment in
14 an appropriate practice setting within 60 calendar days of the effective date of this Decision,
15 Respondent shall receive a notification from the Board or its designee to cease the practice of
16 medicine within three calendar days after being so notified. Respondent shall not resume practice
17 until an appropriate practice setting is established.

18 If, during the course of the probation, Respondent's practice setting changes and
19 Respondent is no longer practicing in a setting in compliance with this Decision, Respondent
20 shall notify the Board or its designee within five calendar days of the practice setting change. If
21 Respondent fails to establish a practice with another physician or secure employment in an
22 appropriate practice setting within 60 calendar days of the practice setting change, Respondent
23 shall receive a notification from the Board or its designee to cease the practice of medicine within
24 three calendar days after being so notified. Respondent shall not resume practice until an
25 appropriate practice setting is established.

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8. CLINICAL DIAGNOSTIC EVALUATIONS AND REPORTS:

Respondent will not be required to undergo a Clinical Diagnostic Evaluation at this time. However, if Respondent resumes the active practice of medicine in the State of California he shall immediately undergo a Clinical Diagnostic Evaluation that complies with the Uniform Standards for Substance-Abusing Licensees in effect at that time. Additionally, at the Board’s discretion, and on whatever periodic basis that may be required by the Board or its designee, Respondent shall undergo and complete a psychiatric and/or substance abuse evaluation (and psychological testing, if deemed necessary) by a Board-appointed evaluator, who shall consider any information provided by the Board or its designee and any other information the evaluator deems relevant, and shall furnish a written evaluation report to the Board or its designee. Respondent shall cooperate fully with any evaluation, and shall pay the cost of all psychiatric evaluations and psychological testing. Respondent shall comply with all restrictions or conditions recommended by the evaluator within 15 calendar days after being notified by the Board or its designee.

9. NOTICE OF EMPLOYER OR SUPERVISOR INFORMATION. Within

seven days of the effective date of this Decision, Respondent shall provide to the Board the names, physical addresses, mailing addresses, and telephone numbers of any and all employers and supervisors. Respondent shall also provide specific, written consent for the Board, Respondent’s worksite monitor, and Respondent’s employers and supervisors to communicate regarding Respondent’s work status, performance, and monitoring.

For purposes of this section, “supervisors” shall include the Chief of Staff and Health or Well Being Committee Chair, or equivalent, if applicable, where Respondent has medical staff privileges.

10. BIOLOGICAL FLUID TESTING. Respondent is practicing medicine in

the State of Louisiana under a Healthcare Professionals’ Foundation of Louisiana (HPFL) Monitoring Contract, currently effective April 14, 2021 through April 14, 2026, the terms of which require complete and total abstinence from mood altering drugs, including alcohol, unless prescribed in an appropriate manner for an illness with full agreement of the HPFL and Respondent’s primary care physician. Under the HPFL Monitoring Contract, Respondent is

1 required to undergo random, observed breath, blood, urine, saliva, and/or hair sample testing at
2 the request of HPFL or his treating professionals. Respondent shall comply with the terms of the
3 HPFL Monitoring Contract. Respondent shall submit quarterly status reports to the Board or its
4 designee demonstrating compliance with the HPFL Monitoring Contract.

5 If Respondent is no longer subject to the HPFL Monitoring Contract or if Respondent
6 resumes the practice of medicine in the State of California, he shall immediately submit to
7 biological fluid testing, at Respondent's expense, upon request of the Board or its designee.
8 "Biological fluid testing" may include, but is not limited to, urine, blood, breathalyzer, hair
9 follicle testing, or similar drug screening approved by the Board or its designee. Respondent shall
10 make daily contact with the Board or its designee to determine whether biological fluid testing is
11 required. Respondent shall be tested on the date of the notification as directed by the Board or its
12 designee. The Board may order a Respondent to undergo a biological fluid test on any day, at
13 any time, including weekends and holidays. Except when testing on a specific date as ordered by
14 the Board or its designee, the scheduling of biological fluid testing shall be done on a random
15 basis. The cost of biological fluid testing shall be borne by Respondent.

16 During probation and for the duration of the probationary term, up to five years,
17 Respondent shall be subject to 36 to 104 random tests per year. Only if there has been no positive
18 biological fluid tests in the previous five consecutive years of probation, may testing be reduced
19 to one time per month. Nothing precludes the Board from increasing the number of random tests
20 to the first-year level of frequency for any reason.

21 Prior to practicing medicine, Respondent shall contract with a laboratory or service,
22 approved in advance by the Board or its designee, that will conduct random, unannounced,
23 observed, biological fluid testing and meets all of the following standards:

24 (a) Its specimen collectors are either certified by the Drug and Alcohol Testing Industry
25 Association or have completed the training required to serve as a collector for the United
26 States Department of Transportation.

27 (b) Its specimen collectors conform to the current United States Department of
28 Transportation Specimen Collection Guidelines.

- 1 (c) Its testing locations comply with the Urine Specimen Collection Guidelines published
2 by the United States Department of Transportation without regard to the type of test
3 administered.
- 4 (d) Its specimen collectors observe the collection of testing specimens.
- 5 (e) Its laboratories are certified and accredited by the United States Department of Health
6 and Human Services.
- 7 (f) Its testing locations shall submit a specimen to a laboratory within one business day of
8 receipt and all specimens collected shall be handled pursuant to chain of custody
9 procedures. The laboratory shall process and analyze the specimens and provide legally
10 defensible test results to the Board within seven business days of receipt of the specimen.
11 The Board will be notified of non-negative results within one business day and will be
12 notified of negative test results within seven business days.
- 13 (g) Its testing locations possess all the materials, equipment, and technical expertise
14 necessary in order to test Respondent on any day of the week.
- 15 (h) Its testing locations are able to scientifically test for urine, blood, and hair specimens
16 for the detection of alcohol and illegal and controlled substances.
- 17 (i) It maintains testing sites located throughout California.
- 18 (j) It maintains an automated 24-hour toll-free telephone system and/or a secure on-line
19 computer database that allows Respondent to check in daily for testing.
- 20 (k) It maintains a secure, HIPAA-compliant website or computer system that allows staff
21 access to drug test results and compliance reporting information that is available 24 hours a
22 day.
- 23 (l) It employs or contracts with toxicologists that are licensed physicians and have
24 knowledge of substance abuse disorders and the appropriate medical training to interpret
25 and evaluate laboratory biological fluid test results, medical histories, and any other
26 information relevant to biomedical information.
- 27 (m) It will not consider a toxicology screen to be negative if a positive result is obtained
28 while practicing, even if Respondent holds a valid prescription for the substance.

1 Prior to changing testing locations for any reason, including during vacation or other travel,
2 alternative testing locations must be approved by the Board and meet the requirements above.

3 The contract shall require that the laboratory directly notify the Board or its designee of
4 non-negative results within one business day and negative test results within seven business days
5 of the results becoming available. Respondent shall maintain this laboratory or service contract
6 during the period of probation.

7 A certified copy of any laboratory test result may be received in evidence in any
8 proceedings between the Board and Respondent.

9 If a biological fluid test result indicates Respondent has used, consumed, ingested, or
10 administered to himself a prohibited substance, the Board shall order Respondent to cease
11 practice and instruct Respondent to leave any place of work where Respondent is practicing
12 medicine or providing medical services. The Board shall immediately notify all of Respondent's
13 employers, supervisors and work monitors, if any, that Respondent may not practice medicine or
14 provide medical services while the cease-practice order is in effect.

15 A biological fluid test will not be considered negative if a positive result is obtained while
16 practicing, even if the practitioner holds a valid prescription for the substance. If no prohibited
17 substance use exists, the Board shall lift the cease-practice order within one business day.

18 After the issuance of a cease-practice order, the Board shall determine whether the positive
19 biological fluid test is in fact evidence of prohibited substance use by consulting with the
20 specimen collector and the laboratory, communicating with the licensee, his treating physician(s),
21 other health care provider, or group facilitator, as applicable.

22 For purposes of this condition, the terms "biological fluid testing" and "testing" mean the
23 acquisition and chemical analysis of a Respondent's urine, blood, breath, or hair.

24 For purposes of this condition, the term "prohibited substance" means an illegal drug, a
25 lawful drug not prescribed or ordered by an appropriately licensed health care provider for use by
26 Respondent and approved by the Board, alcohol, or any other substance Respondent has been
27 instructed by the Board not to use, consume, ingest, or administer to himself.

28 If the Board confirms that a positive biological fluid test is evidence of use of a prohibited

1 substance, Respondent has committed a major violation, as defined in CCR section 1361.52,
2 subdivision (a), and the Board shall impose any or all of the consequences set forth in section
3 CCR section 1361.52, subdivision (b), in addition to any other terms or conditions the Board
4 determines are necessary for public protection or to enhance Respondent's rehabilitation.

5 11. SUBSTANCE ABUSE SUPPORT GROUP MEETINGS. Respondent is
6 practicing medicine in the State of Louisiana under a HPFL Monitoring Contract, currently
7 effective April 14, 2021 through April 14, 2026, the terms of which require that Respondent
8 attend Caduceus groups on a weekly basis for the duration of the Monitoring Contract and that he
9 attend Alcoholics Anonymous/Narcotics Anonymous meetings two times per week for the first
10 two years of the Monitoring Contract and at least weekly thereafter. Respondent shall comply
11 with the terms of the HPFL Monitoring Agreement. Respondent shall submit quarterly status
12 reports to the Board or its designee demonstrating compliance with the HPFL Monitoring
13 Contract.

14 If Respondent is no longer subject to the HPFL Monitoring Contract or if Respondent
15 resumes the practice of medicine in the State of California, Respondent shall, within 30 days of
16 either event, submit to the Board or its designee, for its prior approval, the name of a substance
17 abuse support group which he shall attend for the duration of probation. Respondent shall attend
18 substance abuse support group meetings at least once per week, or as ordered by the Board or its
19 designee. Respondent shall pay all substance abuse support group meeting costs.

20 The facilitator of the substance abuse support group meeting shall have a minimum of three
21 years of experience in the treatment and rehabilitation of substance abuse, and shall be licensed or
22 certified by the state or nationally certified organizations. The facilitator shall not have a current
23 or former financial, personal, or business relationship with Respondent within the last five years.
24 Respondent's previous participation in a substance abuse group support meeting led by the same
25 facilitator does not constitute a prohibited current or former financial, personal, or business
26 relationship.

27 The facilitator shall provide a signed document to the Board or its designee showing
28 Respondent's name, the group name, the date and location of the meeting, Respondent's

1 attendance, and Respondent's level of participation and progress. The facilitator shall report any
2 unexcused absence by Respondent from any substance abuse support group meeting to the Board,
3 or its designee, within twenty-four (24) hours of the unexcused absence.

4 12. VIOLATION OF PROBATION CONDITION FOR SUBSTANCE
5 ABUSING LICENSEES. Failure to fully comply with any term or condition of probation is a
6 violation of probation.

7 A. If Respondent commits a major violation of probation as defined by CCR section
8 1361.52, subdivision (a), the Board shall take one or more of the following actions:

9 (1) Issue an immediate cease-practice order and order Respondent to undergo a clinical
10 diagnostic evaluation to be conducted in accordance with CCR section 1361.5, subdivision (c)(1),
11 at Respondent's expense. The cease-practice order issued by the Board or its designee shall state
12 that Respondent must test negative for at least a month of continuous biological fluid testing
13 before being allowed to resume practice. For purposes of determining the length of time a
14 Respondent must test negative while undergoing continuous biological fluid testing following
15 issuance of a cease-practice order, a month is defined as 30 calendar days. Respondent may not
16 resume the practice of medicine until notified in writing by the Board or its designee that he may
17 do so.

18 (2) Increase the frequency of biological fluid testing.

19 (3) Refer Respondent for further disciplinary action, such as suspension, revocation, or
20 other action as determined by the Board or its designee.

21 B. If Respondent commits a minor violation of probation as defined by CCR section
22 1361.52, subdivision (c), the Board shall take one or more of the following actions:

23 (1) Issue a cease-practice order;

24 (2) Order practice limitations;

25 (3) Order or increase supervision of Respondent;

26 (4) Order increased documentation;

27 (5) Issue a citation and fine, or a warning letter;

28 (6) Order Respondent to undergo a clinical diagnostic evaluation to be conducted in

1 accordance with CCR section 1361.5, subdivision (c)(1), at Respondent's expense;

2 (7) Take any other action as determined by the Board or its designee.

3 C. Nothing in this Decision shall be considered a limitation on the Board's authority
4 to revoke Respondent's probation if he has violated any term or condition of probation. If
5 Respondent violates probation in any respect, the Board, after giving Respondent notice and the
6 opportunity to be heard, may revoke probation and carry out the disciplinary order that was
7 stayed. If an Accusation, or Petition to Revoke Probation, or an Interim Suspension Order is filed
8 against Respondent during probation, the Board shall have continuing jurisdiction until the matter
9 is final, and the period of probation shall be extended until the matter is final.

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

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

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

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

25 16. INVESTIGATION/ENFORCEMENT COST RECOVERY. Respondent is
26 hereby ordered to reimburse the Board its costs of investigation and enforcement, including, but
27 not limited to, expert review, amended accusations, legal reviews, investigation, and subpoena
28 enforcement, as applicable, in the amount of \$13,972. Costs shall be payable to the Medical

1 Board of California. Failure to pay 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.

8 17. QUARTERLY DECLARATIONS. Respondent shall submit quarterly
9 declarations under penalty of perjury on forms provided by the Board, stating whether there has
10 been 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 18. 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 30
4 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 19. INTERVIEW WITH THE BOARD OR ITS DESIGNEE. Respondent
9 shall be available in person upon request for interviews either at Respondent's place of business
10 or at the probation unit office, with or without prior notice throughout the term of probation.

11 20. NON-PRACTICE WHILE ON PROBATION. Respondent shall notify the
12 Board or its designee in writing within 15 calendar days of any periods of non-practice lasting
13 more than 30 calendar days and within 15 calendar days of Respondent's return to practice. Non-
14 practice is defined as any period of time Respondent is not practicing medicine as defined in
15 Business and Professions Code sections 2051 and 2052 for at least 40 hours in a calendar month
16 in direct 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
19 program which has been approved by the Board or its designee shall not be considered non-
20 practice and does not relieve Respondent from complying with all the terms and conditions of
21 probation. Practicing medicine in another state of the United States or Federal jurisdiction while
22 on probation with the medical licensing authority of that state or jurisdiction shall not be
23 considered non-practice. Practice in compliance with the Healthcare Professionals' Foundation
24 of Louisiana (HPFL) Monitoring Contract, currently effective April 14, 2021 through April 14,
25 2026, shall not be considered non-practice. Respondent shall submit quarterly status reports to
26 the Board or its designee demonstrating compliance with the HPFL Monitoring Contract. A
27 Board-ordered suspension of practice shall not be considered as a period of non-practice.

28 In the event Respondent's period of non-practice while on probation exceeds 18 calendar

1 months, Respondent shall successfully complete the Federation of State Medical Boards's Special
2 Purpose Examination, or, at the Board's discretion, a clinical competence assessment program
3 that meets the criteria of Condition 18 of the current version of the Board's "Manual of Model
4 Disciplinary Orders and Disciplinary Guidelines" prior to resuming the practice of medicine.

5 Respondent's period of non-practice while on probation shall not exceed two years.

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

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

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

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

25 23. LICENSE SURRENDER. Following the effective date of this Decision, if
26 Respondent ceases practicing due to retirement or health reasons or is otherwise unable to satisfy
27 the terms and conditions of probation, Respondent may request to surrender his or her license.
28 The Board reserves the right to evaluate Respondent's request and to exercise its discretion in

determining whether or not to grant the request, or to take any other action deemed appropriate and, if necessary, under the circumstances. Upon formal acceptance of the surrender, Respondent shall within 15 calendar days deliver Respondent's wallet and wallet certificate to the Board or its designee and Respondent shall no longer practice medicine. Respondent will no longer be subject to the terms and conditions of probation. If Respondent re-applies for a medical license, the application shall be treated as a petition for reinstatement of a revoked certificate.

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

25. FUTURE ADMISSIONS CLAUSE. If Respondent should ever apply or reapply for a new license or certification, or petition for reinstatement of a license, by any other health care licensing action agency in the State of California, all of the charges and allegations contained in Accusation No. 800-2021-078260 shall be deemed to be true, correct, and admitted by Respondent for the purpose of any Statement of Issues or any other proceeding seeking to deny or restrict license.

ACCEPTANCE


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

DATED: 10.13.23


CHARLES THOMAS OCHELLO, JR, M.D.
Respondent

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

4
5 DATED: 10/13/2023


LINDSAY M. JOHNSON
Attorney for Respondent

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9 **ENDORSEMENT**

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

12 DATED: _____

Respectfully submitted,

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

16 **Peggie Bradford** Digitally signed by Peggie
Bradford Tarwater
17 **Tarwater** Date: 2023.10.16 15:48:14
-0700'

18 PEGGIE BRADFORD TARWATER
Deputy Attorney General
Attorneys for Complainant

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22 LA2022602914

1 **ROBBONTA**
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Supervising Deputy Attorney General
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6 Facsimile: (916) 731-2117
E-mail: Peggie.Tarwater@doj.ca.gov
7 *Attorneys for Complainant*

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

12 In the Matter of the Accusation Against:

Case No. 800-2021-078260

13 **Charles Thomas Ochello, Jr., M.D.**
14 **.1423 General Pershing Street**
New Orleans, LA 70115

ACCUSATION

15 **Physician's and Surgeon's Certificate**
16 **No. C 166709,**

17 Respondent.

18
19 **PARTIES**

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

23 2. On November 19, 2019, the Board issued Physician's and Surgeon's Certificate
24 Number C 166709 to Charles Thomas Ochello, Jr., 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 November 30, 2023, unless renewed.

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JURISDICTION

1
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 provides that a licensee who is found guilty under the
6 Medical Practice Act may have his or her license revoked, suspended for a period not to exceed
7 one year, placed on probation and required to pay the costs of probation monitoring, or such other
8 action taken in relation to discipline as the Board deems proper.

9 5. Section 2228 of the Code states:

10 The authority of the board or the California Board of Podiatric Medicine to
11 discipline a licensee by placing him or her on probation includes, but is not limited to,
the following:

12 (a) Requiring the licensee to obtain additional professional training and to pass
13 an examination upon the completion of the training. The examination may be written
or oral, or both, and may be a practical or clinical examination, or both, at the option
14 of the board or the administrative law judge.

15 (b) Requiring the licensee to submit to a complete diagnostic examination by
16 one or more physicians and surgeons appointed by the board. If an examination is
ordered, the board shall receive and consider any other report of a complete
17 diagnostic examination given by one or more physicians and surgeons of the
licensee's choice. •

18 (c) Restricting or limiting the extent, scope, or type of practice of the licensee,
including requiring notice to applicable patients that the licensee is unable to perform
19 the indicated treatment, where appropriate.

20 (d) Providing the option of alternative community service in cases other than
violations relating to quality of care.

21 6. Section 2228.1 of the Code states:

22 On and after July 1, 2019, except as otherwise provided in subdivision (c), the
23 board and the Podiatric Medical Board of California shall require a licensee to
provide a separate disclosure that includes the licensee's probation status, the length
24 of the probation, the probation end date, all practice restrictions placed on the licensee
by the board, the board's telephone number, and an explanation of how the patient
25 can find further information on the licensee's probation on the licensee's profile page
on the board's online license information internet website, to a patient or the patient's
26 guardian or health care surrogate before the patient's first visit following the
probationary order while the licensee is on probation pursuant to a probationary order
made on and after July 1, 2019, in any of the following circumstances:
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1 (1) A final adjudication by the board following an administrative hearing or
admitted findings or prima facie showing in a stipulated settlement establishing any
2 of the following:

3 (B) Drug or alcohol abuse ... to the extent that such use impairs the ability of
4 the licensee to practice safely.

5
6 (2) An accusation or statement of issues alleged that the licensee committed any
of the acts described in subparagraphs (A) to (D), inclusive, of paragraph (1), and a
7 stipulated settlement based upon a nolo contendere or other similar compromise that
does not include any prima facie showing or admission of guilt or fact but does
8 include an express acknowledgment that the disclosure requirements of this section
would serve to protect the public interest.

9 (b) A licensee required to provide a disclosure pursuant to subdivision (a) shall
10 obtain from the patient, or the patient's guardian or health care surrogate, a separate,
signed copy of that disclosure.

11 (c) A licensee shall not be required to provide a disclosure pursuant to
12 subdivision (a) if any of the following applies:

13 (1) The patient is unconscious or otherwise unable to comprehend the
disclosure and sign the copy of the disclosure pursuant to subdivision (b) and a
14 guardian or health care surrogate is unavailable to comprehend the disclosure and
sign the copy.

15 (2) The visit occurs in an emergency room or an urgent care facility or the visit
16 is unscheduled, including consultations in inpatient facilities.

17 (3) The licensee who will be treating the patient during the visit is not known
to the patient until immediately prior to the start of the visit.

18 (4) The licensee does not have a direct treatment relationship with the patient.

19 (d) On and after July 1, 2019, the board shall provide the following
20 information, with respect to licensees on probation and licensees practicing under
probationary licenses, in plain view on the licensee's profile page on the board's
21 online license information internet website.

22 (1) For probation imposed pursuant to a stipulated settlement, the causes
alleged in the operative accusation along with a designation identifying those causes
23 by which the licensee has expressly admitted guilt and a statement that acceptance of
the settlement is not an admission of guilt.

24 (2) For probation imposed by an adjudicated decision of the board, the causes
25 for probation stated in the final probationary order.

26 (3) For a licensee granted a probationary license, the causes by which the
27 probationary license was imposed.

28 (4) The length of the probation and end date.

1 (5) All practice restrictions placed on the license by the board.

2 (e) Section 2314 shall not apply to this section.

3 **STATUTORY PROVISIONS**

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

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

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

9 8. Section 822 of the Code states:

10 If a licensing agency determines that its licentiate's ability to practice his or her
11 profession safely is impaired because the licentiate is mentally ill, or physically ill
affecting competency, the licensing agency may take action by any one of the
12 following methods:

13 (a) Revoking the licentiate's certificate or license.

14 (b) Suspending the licentiate's right to practice.

15 (c) Placing the licentiate on probation.

16 (d) Taking such other action in relation to the licentiate as the licensing agency
in its discretion deems proper.

17 The licensing section shall not reinstate a revoked or suspended certificate or
18 license until it has received competent evidence of the absence or control of the
condition which caused its action and until it is satisfied that with due regard for the
19 public health and safety the person's right to practice his or her profession may be
safely reinstated.

20 9. Section 2239 of the Code states:

21 (a) The use or prescribing for or administering to hi'mself or herself, of any
22 controlled substance; or the use of any of the dangerous drugs specified in Section
4022, or of alcoholic beverages, to the extent, or in such a manner as to be dangerous
23 or injurious to the licensee, or to any other person or to the public, or to the extent that
such use impairs the ability of the licensee to practice medicine safely or more than
24 one misdemeanor or any felony involving the use, consumption, or
self-administration of any of the substances referred to in this section, or any
25 combination thereof, constitutes unprofessional conduct. The record of the
conviction is conclusive evidence of such unprofessional conduct.

26 (b) A plea or verdict of guilty or a conviction following a plea of nolo
27 contendere is deemed to be a conviction within the meaning of this section. The
Medical Board may order discipline of the licensee in accordance with Section 2227
28 or the Medical Board may order the denial of the license when the time for appeal has
elapsed or the judgment of conviction has been affirmed on appeal or when an order

1 granting probation is made suspending imposition of sentence, irrespective of a
2 subsequent order under the provisions of Section 1203.4 of the Penal Code allowing
3 such person to withdraw his or her plea of guilty and to enter a plea of not guilty, or
4 setting aside the verdict of guilty, or dismissing the accusation, complaint,
5 information, or indictment.

6 **COST RECOVERY**

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

13 **FIRST CAUSE FOR DISCIPLINE**

14 **.(Illness Affecting Competency)**

15 11. Respondent Charles Thomas Ochello, Jr., M.D. is subject to disciplinary action under
16 section 822 of the Code in that he suffers from a mental or physical illness affecting his ability to
17 practice medicine safely. The circumstances are as follows:

18 12. Respondent is Board certified in emergency medicine. He has been practicing as a
19 physician in a community hospital since approximately June 2020 in the State of Louisiana.

20 13. Prior to his employment at the community hospital, Respondent was employed as a
21 physician for approximately one year at the Department of Veteran's Affairs Hospital in San
22 Diego, California.

23 14. In March 2020, Respondent was hospitalized and received treatment in California as
24 a result of alcohol abuse.

25 15. On or about February 9, 2021, Respondent, while under the influence of alcohol,
26 committed acts of domestic violence and/or committed acts of domestic violence in the presence
27 of a child in the State of Utah, where Respondent maintained a residence.

28 16. On or about April 19, 2021, Respondent plead guilty to two misdemeanor charges
resulting from a February 9, 2021 arrest involving the acts of domestic violence. Respondent
plead guilty to assault in violation of Utah Code section 76-5-102, and commission of domestic

1 violence in the presence of a child in violation of Utah Code section 76-5-109.1(2).
2 Respondent's plea was held in abeyance for a period of 18 months with terms and conditions,
3 including compliance with the requirements of the Louisiana State Board of Medical Examiners
4 and signing a release allowing the Health Care Professionals Foundation of Louisiana to provide
5 quarterly reports to the State of Utah, Summit County Attorney's Office, paying court costs, and
6 maintaining good behavior with no violations of laws.

7 17. After the events of February 9, 2021, Respondent was diagnosed with an alcohol use
8 disorder for which he received approximately two months of in-patient treatment. Respondent
9 returned to work in approximately May 2021 and continues to participate in treatment for his
10 alcohol use disorder.

11 18. On October 19, 2022, the charges against Respondent were dismissed after successful
12 completion of the plea in abeyance conditions.

13 19. Respondent suffers from an illness, substance abuse disorder, affecting competency to
14 practice medicine pursuant to section 822 of the Code.

15 **SECOND CAUSE FOR DISCIPLINE**

16 **(Excessive Use of Alcohol)**

17 20. Respondent Charles Thomas Ochello, Jr., M.D. is subject to disciplinary action under
18 section 2239 of the Code- that he engaged in the excessive use of alcohol to the extent or in
19 such a manner as to be dangerous or injurious to himself, to any other person, or to the public.

20 The circumstances are as follows:

21 21. The allegations of the First Cause for Discipline are incorporated as if fully set forth.

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PRAYER

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

1. Revoking or suspending Physician's and Surgeon's Certificate Number C 166709, issued to Respondent Charles Thomas Ochello, Jr., M.D.;
2. Revoking, suspending or denying approval of Respondent Charles Thomas Ochello, Jr., M.D.'s authority to supervise physician assistants and advanced practice nurses;
3. Ordering Respondent Charles Thomas Ochello, Jr., M.D., to pay the Board the costs of the investigation and enforcement of this case, and if placed on probation, the costs of probation monitoring;
4. Ordering Respondent Charles Thomas Ochello, Jr., M.D., if placed on probation, to provide patient notification in accordance with Business and Professions Code section 2228.1; and
5. Taking such other and further action as deemed necessary and proper.

DATED: MAR 28 2023

JENNA JONES FOR
 REJI VARGHESE
 Interim Executive Director
 Medical Board of California
 Department of Consumer Affairs
 State of California
Complainant

LA2022602914