

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

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

Daniel Kenn Calaguas, M.D.

**Physician's and Surgeon's
Certificate No. A 132288**

Respondent.

Case No.: 800-2022-091295

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 March 13, 2024.

IT IS SO ORDERED: February 12, 2024.

MEDICAL BOARD OF CALIFORNIA



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

1 ROB BONTA
Attorney General of California
2 MATTHEW M. DAVIS
Supervising Deputy Attorney General
3 LEANNA E. SHIELDS
Deputy Attorney General
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8 *Attorneys for Complainant.*

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

13 In the Matter of the Accusation Against:

14 **DANIEL KENN CALAGUAS, M.D.**
15 **11175 Campus Street**
Loma Linda, CA 92350-1700

16 **Physician's and Surgeon's Certificate No. A**
17 **132288**

18 Respondent.

Case No. 800-2022-091295

OAH No. 2023080614

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

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

23 **PARTIES**

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

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1 CULPABILITY

2 8. Respondent agrees that, at an administrative hearing, Complainant could establish a
3 *prima facie* case with respect to the charges and allegations contained in Accusation No. 800-
4 2022-091295, and agrees that he has thereby subjected his Physician's and Surgeon's Certificate
5 No. A 132288 to discipline.

6 9. Respondent further agrees that if he ever petitions for early termination or
7 modification of probation, or if an accusation and/or petition to revoke probation is filed against
8 him before the Board, all of the charges and allegations contained in Accusation No. 800-2022-
9 091295 shall be deemed true, correct, and fully admitted by Respondent for purposes of any such
10 proceeding.

11 10. Respondent agrees that his Physician's and Surgeon's Certificate No. A 132288 is
12 subject to discipline and he agrees to be bound by the Board's probationary terms as set forth in
13 the Disciplinary Order below.

14 CONTINGENCY

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

25 12. Respondent agrees that if he ever petitions for early termination or modification of
26 probation, or if an accusation and/or petition to revoke probation is filed against him before the
27 Board, all of the charges and allegations contained in Accusation No. 800-2022-091295 shall be

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1 deemed true, correct and fully admitted by Respondent for purposes of any such proceeding or
2 any other licensing proceeding involving Respondent in the State of California.

3 **ADDITIONAL PROVISIONS**

4 13. This Stipulated Settlement and Disciplinary Order is intended by the parties herein to
5 be an integrated writing representing the complete, final and exclusive embodiment of the
6 agreements of the parties in the above-entitled matter.

7 14. The parties agree that copies of this Stipulated Settlement and Disciplinary Order,
8 including copies of the signatures of the parties, may be used in lieu of original documents and
9 signatures and, further, that such copies shall have the same force and effect as originals.

10 15. In consideration of the foregoing admissions and stipulations, the parties agree the
11 Executive Director of the Board may, without further notice to or opportunity to be heard by
12 Respondent, issue and enter the following Disciplinary Order on behalf of the Board:

13 **DISCIPLINARY ORDER**

14 IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. A 132288
15 issued to Respondent Daniel Kenn Calaguas, M.D., is hereby revoked. However, the revocation
16 is stayed and Respondent is placed on probation for thirty-five (35) months on the following
17 terms and conditions:

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

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

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

15 Respondent shall submit a certification of successful completion to the Board or its
16 designee not later than 15 calendar days after successfully completing the course, or not later than
17 15 calendar days after the effective date of the Decision, whichever is later.

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

27 The Board or its designee shall provide the approved monitor with copies of the Decision
28 and Accusation, and a proposed monitoring plan. Within fifteen (15) calendar days of receipt of

1 the Decision, Accusation, and proposed monitoring plan, the monitor shall submit a signed
2 statement that the monitor has read the Decision and Accusation, fully understands the role of a
3 monitor, and agrees or disagrees with the proposed monitoring plan. If the monitor disagrees
4 with the proposed monitoring plan, the monitor shall submit a revised monitoring plan with the
5 signed statement for approval by the Board or its designee.

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

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

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

22 If the monitor resigns or is no longer available, Respondent shall, within five (5) calendar
23 days of such resignation or unavailability, submit to the Board or its designee, for prior approval,
24 the name and qualifications of a replacement monitor who will be assuming that responsibility
25 within fifteen (15) calendar days. If Respondent fails to obtain approval of a replacement monitor
26 within sixty (60) calendar days of the resignation or unavailability of the monitor, Respondent
27 shall receive a notification from the Board or its designee to cease the practice of medicine within

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1 three (3) calendar days after being so notified. Respondent shall cease the practice of medicine
2 until a replacement monitor is approved and assumes monitoring responsibility.

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

8 Respondent shall maintain a practice monitor for a period of one (1) year from the effective
9 date of the decision, or until Respondent submits written proof of completion of the Record
10 Keeping Course and Education Coursework to the Board or its designee, whichever occurs first.

11 4. PROHIBITED PRACTICE. During probation, Respondent is prohibited from issuing
12 vaccine exemptions. After the effective date of this Decision, all patients being treated by the
13 Respondent, with the exception of patients being treated by Respondent in a hospital setting, shall
14 be notified that the Respondent is prohibited from issuing vaccine exemptions. Any new patients
15 must be provided this notification at the time of their initial appointment.

16 Respondent shall maintain a log of all patients to whom the required notification was made.
17 The log shall contain the: 1) patient's name, address and phone number; 2) patient's medical
18 record number, if available; 3) the full name of the person making the notification; 4) the date the
19 notification was made; and 5) a description of the notification given. Respondent shall keep this
20 log in a separate file or ledger, in chronological order, shall make the log available for immediate
21 inspection and copying on the premises at all times during business hours by the Board or its
22 designee, and shall retain the log for the entire term of probation.

23 5. NOTIFICATION. Within seven (7) days of the effective date of this Decision,
24 Respondent shall provide a true copy of this Decision and Accusation to the Chief of Staff or the
25 Chief Executive Officer at every hospital where privileges or membership are extended to
26 Respondent, at any other facility where Respondent engages in the practice of medicine,
27 including all physician and locum tenens registries or other similar agencies, and to the Chief
28 Executive Officer at every insurance carrier which extends malpractice insurance coverage to

1 Respondent. Respondent shall submit proof of compliance to the Board or its designee within
2 fifteen (15) calendar days.

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

4 6. SUPERVISION OF PHYSICIAN ASSISTANTS AND ADVANCED PRACTICE
5 NURSES. During probation, Respondent is prohibited from supervising physician assistants.
6 Except in a hospital setting, Respondent is prohibited from supervising advanced practice nurses.

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

10 8. INVESTIGATION/ENFORCEMENT COST RECOVERY. Respondent is hereby
11 ordered to reimburse the Board its costs of investigation and enforcement, including, but not
12 limited to, expert review, legal reviews, and investigation, as applicable, in the amount of
13 \$17,000. Costs shall be payable to the Medical Board of California. Failure to pay such costs
14 shall be considered a violation of probation.

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

19 The filing of bankruptcy by respondent shall not relieve respondent of the responsibility to
20 repay investigation and enforcement costs, including expert review costs.

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

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

26 10. GENERAL PROBATION REQUIREMENTS.

27 Compliance with Probation Unit

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

1 Address Changes

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

7 Place of Practice

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

11 License Renewal

12 Respondent shall maintain a current and renewed California physician's and surgeon's
13 license.

14 Travel or Residence Outside California

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

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

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

24 12. NON-PRACTICE WHILE ON PROBATION. Respondent shall notify the Board or
25 its designee in writing within fifteen (15) calendar days of any periods of non-practice lasting
26 more than thirty (30) calendar days and within fifteen (15) calendar days of Respondent's return
27 to practice. Non-practice is defined as any period of time Respondent is not practicing medicine
28 as defined in Business and Professions Code sections 2051 and 2052 for at least 40 hours in a

1 calendar month in direct patient care, clinical activity or teaching, or other activity as approved by
2 the Board. If Respondent resides in California and is considered to be in non-practice,
3 Respondent shall comply with all terms and conditions of probation. All time spent in an
4 intensive training program which has been approved by the Board or its designee shall not be
5 considered non-practice and does not relieve Respondent from complying with all the terms and
6 conditions of probation. Practicing medicine in another state of the United States or Federal
7 jurisdiction while on probation with the medical licensing authority of that state or jurisdiction
8 shall not be considered non-practice. A Board-ordered suspension of practice shall not be
9 considered as a period of non-practice.

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

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

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

17 Periods of non-practice for a Respondent residing outside of California will relieve
18 Respondent of the responsibility to comply with the probationary terms and conditions with the
19 exception of this condition and the following terms and conditions of probation: Obey All Laws;
20 General Probation Requirements; and Quarterly Declarations.

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

27 14. VIOLATION OF PROBATION. Failure to fully comply with any term or condition
28 of probation is a violation of probation. If Respondent violates probation in any respect, the

1 Board, after giving Respondent notice and the opportunity to be heard, may revoke probation and
2 carry out the disciplinary order that was stayed. If an Accusation, or Petition to Revoke Probation,
3 or an Interim Suspension Order is filed against Respondent during probation, the Board shall have
4 continuing jurisdiction until the matter is final, and the period of probation shall be extended until
5 the matter is final.

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

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

21 17. FUTURE ADMISSIONS CLAUSE. If Respondent should ever apply or reapply for
22 a new license or certification, or petition for reinstatement of a license, by any other health care
23 licensing action agency in the State of California, all of the charges and allegations contained in
24 Accusation No. 800-2022-091295 shall be deemed to be true, correct, and fully admitted by
25 Respondent for the purpose of any Statement of Issues or any other proceeding seeking to deny or
26 restrict license.


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ACCEPTANCE


I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorneys, Dennis Ames, Esq. and Poge Henderson, Esq. I fully understand the stipulation and the effect it will have on my Physician's and Surgeon's Certificate No. A 132288. 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: 12/21/23


DANIEL KENN CALAGUAS, M.D.
Respondent

I have read and fully discussed with Respondent Daniel Kenn Calaguas, M.D. the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: 12/21/23



DENNIS AMES, ESQ.
POGEY HENDERSON, ESQ.
Attorneys for Respondent

ENDORSEMENT

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

DATED: 12/21/2023

Respectfully submitted,
ROB BONTA
Attorney General of California
MATTHEW M. DAVIS
Supervising Deputy Attorney General


LEANNA E. SHIELDS
Deputy Attorney General
Attorneys for Complainant

SD2023800252/84279626

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8 *Attorneys for Complainant*

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

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13

In the Matter of the Accusation Against:

Case No. 800-2022-091295

14

**DANIEL KENN CALAGUAS, M.D.
11175 Campus Street
Loma Linda, CA 92350-1700**

A C C U S A T I O N

15

16

**Physician's and Surgeon's Certificate
No. A 132288,**

17

Respondent.

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Complainant alleges:

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PARTIES

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

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2. On or about August 26, 2014, the Board issued Physician's and Surgeon's Certificate No. A 132288 to Daniel Kenn Calaguas, M.D. (Respondent). The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought herein and will expire on May 31, 2024, unless renewed.

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 states:

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

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

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

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

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

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

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

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

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

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

 ...

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

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

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

9 ...

10 COST RECOVERY

11 6. Section 125.3 of the Code states, in pertinent part:

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

18 ...

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

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

(e) If an order for recovery of costs is made and timely payment is not made as
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

1 with the board to reimburse the board within that one-year period for the unpaid
2 costs.

3 (h) All costs recovered under this section shall be considered a reimbursement
4 for costs incurred and shall be deposited in the fund of the board recovering the costs
5 to be available upon appropriation by the Legislature.

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

8 ...

9 **DEFINITIONS**

10 7. **DTaP**, also known as Pediarix, is the abbreviation for diphtheria and tetanus toxoids
11 and acellular pertussis vaccine, commonly administered in five (5) separate doses before a child is
12 six (6) years old.

13 8. **Hep B** is the abbreviation for hepatitis B vaccine, commonly administered in three (3)
14 separate doses before a child is eighteen (18) months old.

15 9. **Hib** is the abbreviation for *haemophilus influenzae* type B vaccine, commonly
16 administered in four (4) separate doses before a child is fifteen (15) months old.

17 10. **IPV** is the abbreviation for inactivated poliovirus vaccine, commonly administered in
18 four (4) separate doses before a child is six (6) years old.

19 11. **MMR** is the abbreviation for measles, mumps, and rubella vaccine, commonly
20 administered in two (2) separate doses before a child is six (6) years old.

21 12. **Tdap** is the abbreviation for tetanus toxoid, reduced diphtheria toxoid, and acellular
22 pertussis vaccine, commonly administered as a booster when a child is eleven (11) years old.

23 13. **Var/VZV** is the abbreviation for varicella-zoster virus vaccine commonly
24 administered in two (2) separate doses before a child is six (6) years old.

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FACTUAL ALLEGATIONS

Patient A¹

14. On or about July 21, 2022, Patient A, a then 4-year-old male, was presented by his mother for his first visit with Respondent for an annual child wellness exam. According to records, Respondent was informed Patient A experienced seizures approximately one (1) month after receiving his DTaP vaccination at the age of six (6) months and fifteen (15) months and a request had been submitted by Patient A's mother through the California Immunization Registry - Medical Exemption website (CAIR-ME) for vaccine exemptions.

15. On or about July 21, 2022, according to records, Respondent performed a full assessment of Patient A and made no abnormal findings. According to records, Respondent cancelled Patient A's DTaP, PV and MMR vaccinations and indicated a plan to not order vaccines and for Patient A to return in one (1) year for Patient A's next child wellness exam. According to records, there was no discussion by Respondent with Patient A's mother regarding vaccine education or to explain the insufficient medical basis for the requested exemption.

16. On or about August 17, 2022, Respondent issued a vaccination exemption for Patient A through CAIR-ME. Specifically, Respondent issued an exemption for Patient A's DTaP vaccination. According to CAIR-ME, Respondent's medical basis for issuing the exemption was based upon Patient A's history of seizures which took place one (1) month after receiving the DTaP vaccine at the age of six (6) months and fifteen (15) months.

17. On or about August 29, 2022, according to CAIR-ME, the vaccination exemption issued by Respondent for Patient A was revoked by a reviewer with the California Department of Public Health (CDPH).

18. On or about December 12, 2022, Respondent participated in an interview with investigators from the Health Quality Investigation Unit (HQIU) of the Department of Consumer Affairs (DCA). During the interview, Respondent agreed seizure activity one (1) month after

¹ For patient privacy purposes, patients' true names are not used in the instant Accusation and Petition to Revoke Probation to maintain patient confidentiality. The patients' identities are known to Respondent or will be disclosed to Respondent upon receipt of a duly issued request for discovery in accordance with Government Code section 11507.6.

1 receiving the DTaP vaccination at the age of six (6) months and fifteen (15) months was not a
2 contraindication for the DTaP vaccine and not a recognized medical basis for the vaccine
3 exemption.

4 **Patient B**

5 19. On or about August 14, 2017, Patient B, a then 15-month-old female, was presented
6 by her mother for her first visit with Respondent for a child wellness exam. According to records,
7 Patient B's immunizations were not up to date and her mother was refusing certain vaccinations,
8 requesting only those required for daycare admission. According to records, Patient B was
9 scheduled to return in two (2) months in order to catch up on her necessary immunizations.

10 20. On or about October 16, 2018, Patient B was presented by her mother for a visit with
11 Respondent. According to records, the purpose of this visit was to address recent fainting spells
12 experienced by Patient B. According to records, there was no administration of, or discussion of,
13 Patient B's immunizations during this visit. According to records, there was no discussion by
14 Respondent with Patient B's mother regarding vaccine education or plan to update Patient B's
15 vaccinations.

16 21. On or about May 19, 2020, Patient B was presented by her mother for a visit with
17 Respondent for a child wellness exam. According to records, Patient B's immunizations were not
18 up to date and no vaccines were ordered for Patient B during this visit. According to records,
19 Respondent performed a full assessment of Patient B and made no abnormal findings other than a
20 diagnosis of being behind on her immunizations. According to records, Respondent's plan for
21 Patient B was to return in one (1) year for Patient B's next child wellness exam. According to
22 records, there was no discussion by Respondent with Patient B's mother regarding vaccine
23 education or plan to update Patient B's vaccinations.

24 22. On or about October 8, 2021, Patient B was presented by her mother for a visit with
25 Respondent for a child wellness exam. According to records, Patient B's immunizations were not
26 up to date and Respondent did not order any vaccines for Patient B during this visit. According to
27 records, Respondent performed a full assessment of Patient A and made no abnormal findings
28 other than a diagnosis of being behind on her immunizations. According to records,

1 Respondent's plan for Patient B was to return in one (1) year for Patient B's next child wellness
2 exam. According to records, there was no discussion by Respondent with Patient B's mother
3 regarding vaccine education or plan to update Patient B's vaccinations.

4 23. On or about March 24, 2022, Patient B was presented by her mother for a virtual visit
5 with Respondent. According to records, the purpose of this visit was to request an exemption
6 from vaccinations for Patient B. According to records, Respondent was informed Patient B's
7 family was requesting an exemption from vaccinations based upon religious belief and Patient B
8 being born prematurely at 32-weeks' gestation. Respondent was informed Patient B's family had
9 submitted a request for exemption through CAIR-ME. According to records, there was no
10 discussion by Respondent with Patient B's mother regarding vaccine education or to explain the
11 insufficient medical basis for the requested exemption.

12 24. On or about March 28, 2022, according to CAIR-ME, Respondent issued a
13 vaccination exemption for Patient B. Specifically, Respondent issued an exemption for several
14 vaccines, including, but not limited to, DTaP, Hep B, Hib, IPV, MMR, Tdap, and Var/VZV.
15 According to CAIR-ME, Respondent's medical basis for issuing the exemption was religious
16 belief and Patient B's premature birth.

17 25. On or about April 20, 2022, according to CAIR-ME, the vaccination exemption
18 issued by Respondent for Patient B was revoked by a reviewer with the CDPH.

19 26. On or about June 6, 2022, Patient B was presented by her mother for a virtual visit
20 with Respondent. According to records, the purpose of this visit was to address the family's
21 vaccine concerns. According to records, Respondent was informed that Patient B developed a
22 fever after the administration of her six (6) month old vaccinations, which continued for
23 approximately five (5) days with associated colic. According to records, Respondent issued
24 Patient B a diagnosis for having a history of vaccine allergy. According to records, there was no
25 discussion by Respondent with Patient B's mother regarding vaccine education or to explain the
26 insufficient medical basis for the requested exemption.

27 27. On or about June 7, 2022, according to CAIR-ME, Respondent issued a vaccination
28 exemption for Patient B. Specifically, Respondent issued an exemption for several vaccines,

1 including, but not limited to, DTaP, Hep B, Hib, IPV, MMR, Tdap, and Var/VZV. According to
2 CAIR-ME, Respondent's medical basis for issuing the exemption was Patient B's premature birth
3 and suspected allergic reaction to the DTaP vaccine administered to Patient B when she was six
4 (6) months old, resulting in a fever which continued for approximately five (5) days with
5 associated colic.

6 28. On or about August 29, 2022, according to CAIR-ME, the vaccination exemption
7 issued by Respondent for Patient B was revoked by a reviewer with the CDPH.

8 29. On or about December 12, 2022, during Respondent's interview with HQIU
9 investigators, Respondent agreed premature birth was not a contraindication for receiving
10 vaccines and not a recognized medical basis for the vaccine exemptions.

11 **Patient C**

12 30. On or about August 14, 2017, Patient C, a then 15-month-old female, was presented
13 by her mother for her first visit with Respondent for a child wellness exam. According to records,
14 Patient C's immunizations were not up to date and her mother was refusing certain vaccinations,
15 requesting only those required for daycare admission. According to records, Patient C was
16 scheduled to return in two (2) months in order to catch up on her necessary immunizations.

17 31. On or about May 19, 2020, Patient C was presented by her mother for a visit with
18 Respondent. According to records, the purpose of this visit was to address Patient C's possible
19 allergy to masks. According to records, there was no administration of, or discussion of, Patient
20 C's immunizations during this visit. According to records, Respondent performed a full
21 assessment of Patient C and made no abnormal findings other than a diagnosis of being behind on
22 her immunizations. According to records, there was no discussion by Respondent with Patient
23 C's mother regarding vaccine education or plan to update Patient C's vaccinations.

24 32. On or about October 8, 2021, Patient C was presented by her mother for a visit with
25 Respondent for a child wellness exam. According to records, Patient C's immunizations were not
26 up to date and Respondent did not order any vaccines for Patient C during this visit. According to
27 records, there was no discussion by Respondent with Patient C's mother regarding vaccine
28 education or plan to update Patient C's vaccinations.

1 33. On or about March 24, 2022, Patient C was presented by her mother for a virtual visit
2 with Respondent. According to records, the purpose of this visit was to request an exemption
3 from vaccinations for Patient C. According to records, Respondent was informed Patient C's
4 family was requesting an exemption from vaccinations based upon religious belief and Patient C
5 being born prematurely at 32-weeks' gestation. Respondent was informed Patient C's family had
6 submitted a request for exemption through CAIR-ME. According to records, there was no
7 discussion by Respondent with Patient C's mother regarding vaccine education or to explain the
8 insufficient medical basis for the requested exemption.

9 34. On or about March 28, 2022, according to CAIR-ME, Respondent issued a
10 vaccination exemption for Patient C. Specifically, Respondent issued an exemption for several
11 vaccines, including, but not limited to, DTaP, Hep B, Hib, IPV, MMR, Tdap, and Var/VZV.
12 According to CAIR-ME, Respondent's medical basis for issuing the exemption was religious
13 belief and Patient C's premature birth.

14 35. On or about April 20, 2022, according to CAIR-ME, the vaccination exemption
15 issued by Respondent for Patient C was revoked by a reviewer with the CDPH.

16 36. On or about June 6, 2022, Patient C was presented by her mother for a virtual visit
17 with Respondent. According to records, the purpose of the visit was to request an exemption
18 from vaccinations for Patient C. According to records, Respondent was informed that Patient C
19 developed a fever after the administration of her six (6) month old vaccinations, which continued
20 for approximately ten (10) days with associated colic. According to records, Respondent issued
21 Patient C a diagnosis for having a history of vaccine allergy. According to records, there was no
22 discussion by Respondent with Patient B's mother regarding vaccine education or to explain the
23 insufficient medical basis for the requested exemption.

24 37. On or about June 7, 2022, according to CAIR-ME, Respondent issued a vaccination
25 exemption for Patient C. Specifically, Respondent issued an exemption for several vaccines,
26 including, but not limited to, DTaP, Hep B, Hib, IPV, MMR, Tdap, and Var/VZV. According to
27 CAIR-ME, Respondent's medical basis for issuing the exemption was Patient C's premature birth

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1 and suspected allergic reaction to vaccines administered to Patient C when she was six (6) months
2 old, resulting in a fever which continued for approximately ten (10) days with associated colic.

3 38. On or about August 29, 2022, according to CAIR-ME, the vaccination exemption
4 issued by Respondent for Patient C was revoked by a reviewer with the CDPH.

5 39. On or about December 12, 2022, during Respondent's interview with HQUI
6 investigators, Respondent agreed premature birth was not a contraindication for receiving
7 vaccines and not a recognized medical basis for the vaccine exemptions.

8 **Patient D**

9 40. On or about August 31, 2020, Patient D, a then 11-year-old male, was presented by
10 his mother for his first visit with Respondent for an annual child wellness exam. According to
11 records, Respondent performed a full assessment of Patient D and made no abnormal findings.
12 According to records, Patient D was diagnosed with a skin rash and vaccination delay. According
13 to records, there was no discussion by Respondent with Patient D's mother regarding vaccine
14 education or plan to update Patient D's vaccinations.

15 41. On or about October 25, 2021, Patient D's mother contacted Respondent with a
16 request to issue a vaccination exemption for Patient D. According to records, Patient D's mother
17 informed Respondent that Patient D suffered an allergic reaction to his vaccines when he was
18 eighteen (18) months old. According to records, there was no discussion by Respondent with
19 Patient D's mother regarding vaccine education or attempt to determine which specific vaccine
20 administered to Patient D caused the reported allergic reaction.

21 42. On or about November 11, 2021, Patient D was presented by his mother for a visit
22 with Respondent to address Patient D's long-term effects after suffering from COVID.
23 According to records, Respondent performed a full assessment of Patient D and made no
24 abnormal findings. According to records, Patient D was diagnosed with, among other things,
25 vaccination delay. According to records, there was no discussion by Respondent with Patient D's
26 mother regarding vaccine education or plan to update Patient D's vaccinations.

27 43. On or about December 5, 2021, according to CAIR-ME, Respondent issued a
28 vaccination exemption for Patient D. Specifically, Respondent issued an exemption for several

1 vaccines, including, but not limited to, DTaP, Hep B, Hib, IPV, MMR, Tdap, and Var/VZV.
2 According to CAIR-ME, Respondent's medical basis for issuing the exemption was Patient D's
3 suspected allergic reaction to vaccines administered to Patient D when he was eighteen (18)
4 months old, resulting in anaphylaxis.

5 44. On or about March 22, 2022, according to CAIR-ME, the vaccination exemption
6 issued by Respondent for Patient D was revoked by a reviewer with the CDPH.

7 45. On or about December 12, 2022, during Respondent's interview with HQIU
8 investigators, Respondent admitted the only evidence of Patient D's allergic reaction was the
9 information as provided by Patient D's mother and that he did not have any medical records
10 substantiating the incident.

11 **FIRST CAUSE FOR DISCIPLINE**

12 **(Repeated Negligent Acts)**

13 46. Respondent has subjected his Physician's and Surgeon's Certificate No. A 132288 to
14 disciplinary action under sections 2227 and 2234, as defined by section 2234, subdivision (c) of
15 the Code, in that he committed repeated negligent acts in his care and treatment of Patients A, B,
16 C, and D, as more particularly alleged hereinafter.

17 **Patient A**

18 47. Paragraphs 14 through 18, above, are hereby incorporated by reference and realleged
19 as if fully set forth herein.

20 48. Respondent issued a vaccine exemption for Patient A through CAIR-ME on August
21 17, 2022, despite the lack of a recognized medical basis to issue the exemption.

22 49. Respondent failed to educate and/or recommend to Patient A's parents of the need to
23 vaccinate Patient A, the lack of contraindication for the exemption, and/or establish a treatment
24 plan to administer appropriate vaccines to Patient A.

25 **Patient B**

26 50. Paragraphs 19 through 29, above, are hereby incorporated by reference and realleged
27 as if fully set forth herein.

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1 51. Respondent issued a vaccine exemption for Patient B through CAIR-ME on March
2 28, 2022, despite the lack of a recognized medical basis to issue the exemption.

3 52. Respondent issued a vaccine exemption for Patient B through CAIR-ME on June 7,
4 2022, despite the lack of a recognized medical basis to issue the exemption.

5 53. Respondent failed to educate and/or recommend to Patient B's parents of the need to
6 vaccinate Patient B, the lack of contraindication for the exemption, and/or establish a treatment
7 plan to administer appropriate vaccines to Patient B.

8 **Patient C**

9 54. Paragraphs 30 through 39, above, are hereby incorporated by reference and realleged
10 as if fully set forth herein.

11 55. Respondent issued a vaccine exemption for Patient C through CAIR-ME on March
12 28, 2022, despite the lack of a recognized medical basis to issue the exemption.

13 56. Respondent issued a vaccine exemption for Patient C through CAIR-ME on June 7,
14 2022, despite the lack of a recognized medical basis to issue the exemption.

15 57. Respondent failed to educate and/or recommend to Patient C's parents of the need to
16 vaccinate Patient C, the lack of contraindication for the exemption, and/or establish a treatment
17 plan to administer appropriate vaccines to Patient C.

18 **Patient D**

19 58. Paragraphs 40 through 45, above, are hereby incorporated by reference and realleged
20 as if fully set forth herein.

21 59. Respondent issued a vaccine exemption for Patient D through CAIR-ME on
22 December 5, 2021, despite the lack of a recognized medical basis to issue the exemption.

23 60. Respondent failed to educate and/or recommend to Patient D's parents of the need to
24 vaccinate Patient D, the lack of contraindication for the exemption, and/or establish a treatment
25 plan to administer appropriate vaccines to Patient D.

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1 SECOND CAUSE FOR DISCIPLINE

2 (Violations of Provisions of the Medical Practice Act)

3 61. Respondent has further subjected his Physician's and Surgeon's Certificate No. A
4 132288 to disciplinary action under sections 2227 and 2234, as defined by section 2234,
5 subdivision (a), in that he committed violations of provisions of the Medical Practice Act as more
6 particularly alleged in paragraphs 14 through 60, above, which are hereby incorporated by
7 reference and realleged as if fully set forth herein.

8 PRAYER

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

- 11 1. Revoking or suspending Physician's and Surgeon's Certificate No. A 132288, issued
12 to Respondent Daniel Kenn Calaguas, M.D.;
- 13 2. Revoking, suspending or denying approval of Respondent Daniel Kenn Calaguas,
14 M.D.'s authority to supervise physician assistants and advanced practice nurses;
- 15 3. Ordering Respondent Daniel Kenn Calaguas, M.D., to pay the Board the costs of the
16 investigation and enforcement of this case, and if placed on probation, the costs of
17 probation monitoring; and
- 18 4. Taking such other and further action as deemed necessary and proper.

19
20 DATED: JUN 16 2023


21 REJI VARGHESE
22 Interim Executive Director
23 Medical Board of California
24 Department of Consumer Affairs
25 State of California
26 Complainant

25 SD2023800252
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