

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

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

Allen P. Lu, M.D.

**Physician's and Surgeon's
Certificate No. A 82726**

Case No.: 800-2021-074562

Respondent.

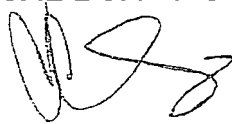
DECISION

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

This Decision shall become effective at 5:00 p.m. on June 7, 2024.

IT IS SO ORDERED: May 8, 2024.

MEDICAL BOARD OF CALIFORNIA



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

1 ROB BONTA
Attorney General of California
2 JUDITH T. ALVARADO
Supervising Deputy Attorney General
3 REBECCA L. SMITH
Deputy Attorney General
4 State Bar No. 179733
300 South Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 269-6475
6 Facsimile: (916) 731-2117
Attorneys for Complainant
7

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

12 In the Matter of the Accusation Against:
13 **ALLEN P. LU, M.D.**
14 **18575 Gale Avenue, Suite 278**
City of Industry, CA 91748-1385
15 **Physician's and Surgeon's Certificate**
16 **No. A 82726,**
17 Respondent.

Case No. 800-2021-074562

OAH No. 2023090568

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

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

21 **PARTIES**

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

26 2. Respondent Allen P. Lu, M.D. (Respondent) is represented in this proceeding by
27 attorneys Aaron C. Lachant and Zachary Rothenberg, whose address is 1100 Glendon Avenue,
28 14th Floor, Los Angeles, California 90024.

1 revoke probation shall be filed by the Board within thirty (30) days of the notification to cease
2 practice. If Respondent requests a hearing on the accusation and/or petition to revoke probation,
3 the Board shall provide Respondent with a hearing within thirty (30) days of the request, unless
4 Respondent stipulates to a later hearing. If the case is heard by an Administrative Law Judge
5 alone, he or she shall forward a Proposed Decision to the Board within fifteen (15) days of
6 submission of the matter. Within fifteen (15) days of receipt by the Board of the Administrative
7 Law Judge's proposed decision, the Board shall issue its Decision, unless good cause can be
8 shown for the delay. If the case is heard by the Board, the Board shall issue its decision within
9 fifteen (15) days of submission of the case, unless good cause can be shown for the delay. Good
10 cause includes, but is not limited to, non-adoption of the proposed decision, requests for
11 reconsideration, remands and other interlocutory orders issued by the Board. The cessation of
12 practice shall not apply to the reduction of the probationary time period.

13 If the Board does not file an accusation or petition to revoke probation within thirty (30)
14 days of the issuance of the notification to cease practice or does not provide Respondent with a
15 hearing within thirty (30) days of such a request, the notification of cease practice shall be
16 dissolved.

17 2. BIOLOGICAL FLUID TESTING. Respondent shall immediately submit to
18 biological fluid testing, at Respondent's expense, upon request of the Board or its designee.
19 "Biological fluid testing" may include, but is not limited to, urine, blood, breathalyzer, hair
20 follicle testing, or similar drug screening approved by the Board or its designee. Prior to
21 practicing medicine, Respondent shall contract with a laboratory or service approved in advance
22 by the Board or its designee that will conduct random, unannounced, observed, biological fluid
23 testing. The contract shall require results of the tests to be transmitted by the laboratory or
24 service directly to the Board or its designee within four hours of the results becoming available.
25 Respondent shall maintain this laboratory or service contract during the period of probation.

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

28 If Respondent fails to cooperate in a random biological fluid testing program within the

1 specified time frame, Respondent shall receive a notification from the Board or its designee to
2 immediately cease the practice of medicine. Respondent shall not resume the practice of
3 medicine until the final decision on an accusation and/or a petition to revoke probation is
4 effective. An accusation and/or petition to revoke probation shall be filed by the Board within
5 thirty (30) days of the notification to cease practice. If Respondent requests a hearing on the
6 accusation and/or petition to revoke probation, the Board shall provide Respondent with a hearing
7 within thirty (30) days of the request, unless Respondent stipulates to a later hearing. If the case
8 is heard by an Administrative Law Judge alone, he or she shall forward a Proposed Decision to
9 the Board within fifteen (15) days of submission of the matter. Within fifteen (15) days of receipt
10 by the Board of the Administrative Law Judge's proposed decision, the Board shall issue its
11 Decision, unless good cause can be shown for the delay. If the case is heard by the Board, the
12 Board shall issue its decision within fifteen (15) days of submission of the case, unless good
13 cause can be shown for the delay. Good cause includes, but is not limited to, non-adoption of the
14 proposed decision, requests for reconsideration, remands and other interlocutory orders issued by
15 the Board. The cessation of practice shall not apply to the reduction of the probationary time
16 period.

17 If the Board does not file an accusation or petition to revoke probation within fifteen (15)
18 days of the issuance of the notification to cease practice or does not provide Respondent with a
19 hearing within thirty (30) days of such a request, the notification of cease practice shall be
20 dissolved.

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

1 Respondent's knowledge of the course. Respondent shall provide proof of attendance for sixty-
2 five (65) hours of CME of which forty (40) hours were in satisfaction of this condition.

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

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

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

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

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

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

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

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

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

27 7. PSYCHIATRIC EVALUATION. Within thirty (30) calendar days of the effective
28 date of this Decision, and on whatever periodic basis thereafter may be required by the Board or

1 its designee, Respondent shall undergo and complete a psychiatric evaluation (and psychological
2 testing, if deemed necessary) by a Board-appointed board certified psychiatrist, who shall
3 consider any information provided by the Board or designee and any other information the
4 psychiatrist deems relevant, and shall furnish a written evaluation report to the Board or its
5 designee. Psychiatric evaluations conducted prior to the effective date of the Decision shall not
6 be accepted towards the fulfillment of this requirement. Respondent shall pay the cost of all
7 psychiatric evaluations and psychological testing.

8 Respondent shall comply with all restrictions or conditions recommended by the evaluating
9 psychiatrist within fifteen (15) calendar days after being notified by the Board or its designee.

10 8. MEDICAL EVALUATION AND TREATMENT. Within thirty (30) calendar days
11 of the effective date of this Decision, and on a periodic basis thereafter as may be required by the
12 Board or its designee, Respondent shall undergo a medical evaluation by a Board-appointed
13 physician who shall consider any information provided by the Board or designee and any other
14 information the evaluating physician deems relevant and shall furnish a medical report to the
15 Board or its designee. Respondent shall provide the evaluating physician with any information
16 and documentation that the evaluating physician may deem pertinent.

17 Following the evaluation, Respondent shall comply with all restrictions or conditions
18 recommended by the evaluating physician within fifteen (15) calendar days after being notified
19 by the Board or its designee. If Respondent is required by the Board or its designee to undergo
20 medical treatment, Respondent shall within thirty (30) calendar days of the requirement notice,
21 submit to the Board or its designee for prior approval the name and qualifications of a California
22 licensed treating physician of Respondent's choice. Upon approval of the treating physician,
23 Respondent shall within fifteen (15) calendar days undertake medical treatment and shall
24 continue such treatment until further notice from the Board or its designee.

25 The treating physician shall consider any information provided by the Board or its designee
26 or any other information the treating physician may deem pertinent prior to commencement of
27 treatment. Respondent shall have the treating physician submit quarterly reports to the Board or
28 its designee indicating whether or not Respondent is capable of practicing medicine safely.

1 Respondent shall provide the Board or its designee with any and all medical records pertaining to
2 treatment that the Board or its designee deems necessary.

3 If, prior to the completion of probation, Respondent is found to be physically incapable of
4 resuming the practice of medicine without restrictions, the Board shall retain continuing
5 jurisdiction over Respondent's license and the period of probation shall be extended until the
6 Board determines that Respondent is physically capable of resuming the practice of medicine
7 without restrictions. Respondent shall pay the cost of the medical evaluation(s) and treatment.

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

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

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

20 11. INVESTIGATION/ENFORCEMENT COST RECOVERY. Respondent is hereby
21 ordered to reimburse the Board its costs of investigation and enforcement, in the amount of
22 \$43,275.25 (Forty-Three Thousand Two Hundred Seventy-Five Dollars and Twenty-Five Cents).
23 Costs shall be payable to the Medical Board of California. Failure to pay such costs shall be
24 considered a violation of probation.

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

1 The filing of bankruptcy by Respondent shall not relieve Respondent of the responsibility
2 to repay investigation and enforcement costs, including expert review costs.

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

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

8 13. GENERAL PROBATION REQUIREMENTS.

9 Compliance with Probation Unit

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

11 Address Changes

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

17 Place of Practice

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

21 License Renewal

22 Respondent shall maintain a current and renewed California physician's and surgeon's
23 license.

24 Travel or Residence Outside California

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

28 In the event Respondent should leave the State of California to reside or to practice

1 Respondent shall notify the Board or its designee in writing thirty (30) calendar days prior to the
2 dates of departure and return.

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

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

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

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

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

28 Periods of non-practice for a Respondent residing outside of California will relieve

1 Respondent of the responsibility to comply with the probationary terms and conditions with the
2 exception of this condition and the following terms and conditions of probation: Obey All Laws;
3 General Probation Requirements; Quarterly Declarations; Abstain from the Use of Alcohol and/or
4 Controlled Substances; and Biological Fluid Testing.

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

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

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

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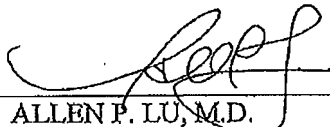
1 19. PROBATION MONITORING COSTS. Respondent shall pay the costs associated
2 with probation monitoring each and every year of probation, as designated by the Board, which
3 may be adjusted on an annual basis. Such costs shall be payable to the Medical Board of
4 California and delivered to the Board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

6 20. FUTURE ADMISSIONS CLAUSE. If Respondent should ever apply or reapply for
7 a new license or certification, or petition for reinstatement of a license, by any other health care
8 licensing action agency in the State of California, all of the charges and allegations contained in
9 Accusation No. 800-2021-074562 shall be deemed to be true, correct, and admitted by
10 Respondent for the purpose of any Statement of Issues or any other proceeding seeking to deny or
11 restrict license.

12 ACCEPTANCE

13 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
14 discussed it with my attorneys, Aaron C. Lachant and Zachary Rothenberg. I understand the
15 stipulation and the effect it will have on my Physician's and Surgeon's Certificate. I enter into this
16 Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree
17 to be bound by the Decision and Order of the Medical Board of California.

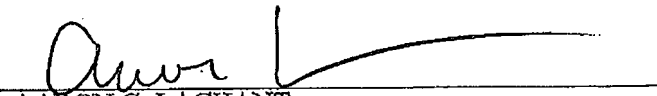
18
19 DATED: 3/8/2024



ALLEN P. LU, M.D.
Respondent

21 I have read and fully discussed with Respondent Allen P. Lu, M.D. the terms and
22 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.
23 I approve its form and content.

24 DATED: 3/8/2024



AARON C. LACHANT
ZACHARY ROTHENBERG
Attorneys for Respondent

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ENDORSEMENT

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

DATED: March 8, 2024

Respectfully submitted,

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



REBECCA L. SMITH
Deputy Attorney General
Attorneys for Complainant

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EXHIBIT A

Accusation Case No. 800-2021-074562

1 ROB BONTA
Attorney General of California
2 JUDITH T. ALVARADO
Supervising Deputy Attorney General
3 REBECCA L. SMITH
Deputy Attorney General
4 State Bar No. 179733
300 South Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 269-6475
6 Facsimile: (916) 731-2117
Attorneys for Complainant
7

8 **BEFORE THE**
9 **MEDICAL BOARD OF CALIFORNIA**
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11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:	Case No. 800-2021-074562
13 ALLEN P. LU, M.D.	ACCUSATION
14 18575 Gale Avenue, Suite 278	
15 City of Industry, CA 91748-1385	
16 Physician's and Surgeon's Certificate	
17 No. A 82726,	
Respondent.	

18
19 **PARTIES**

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

23 2. On or about April 16, 2003, the Board issued Physician's and Surgeon's Certificate
24 Number A 82726 to Allen P. Lu, M.D. (Respondent). That license was in full force and effect at
25 all times relevant to the charges brought herein and will expire on January 31, 2025, unless
26 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 2004 of the Code states:

6 The board shall have the responsibility for the following:

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

9 (b) The administration and hearing of disciplinary actions.

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

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

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

14 (f) Approving undergraduate and graduate medical education programs.

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

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

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

19 5. Section 2220 of the Code states:

20 Except as otherwise provided by law, the board may take action against all
21 persons guilty of violating this chapter. The board shall enforce and administer this
22 article as to physician and surgeon certificate holders, including those who hold
certificates that do not permit them to practice medicine, such as, but not limited to,
23 retired, inactive, or disabled status certificate holders, and the board shall have all the
powers granted in this chapter for these purposes including, but not limited to:

24 (a) Investigating complaints from the public, from other licensees, from health
care facilities, or from the board that a physician and surgeon may be guilty of
unprofessional conduct. The board shall investigate the circumstances underlying a
25 report received pursuant to Section 805 or 805.01 within 30 days to determine if an
interim suspension order or temporary restraining order should be issued. The board
26 shall otherwise provide timely disposition of the reports received pursuant to Section
805 and Section 805.01.

27 (b) Investigating the circumstances of practice of any physician and surgeon
28 where there have been any judgments, settlements, or arbitration awards requiring the

1 physician and surgeon or his or her professional liability insurer to pay an amount in
2 damages in excess of a cumulative total of thirty thousand dollars (\$30,000) with
respect to any claim that injury or damage was proximately caused by the physician's
and surgeon's error, negligence, or omission.

3 (c) Investigating the nature and causes of injuries from cases which shall be
4 reported of a high number of judgments, settlements, or arbitration awards against a
physician and surgeon.

5 6. 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
into a stipulation for disciplinary action with the board, may, in accordance with the
provisions of this chapter:

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

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

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

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

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

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

20 STATUTORY PROVISIONS

21 7. Section 2234 of the Code, states:

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

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

26 (b) Gross negligence.

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

1 (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 (d) Incompetence.

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

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

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

17 8. Section 2242 of the Code states:

18 (a) Prescribing, dispensing, or furnishing dangerous drugs as defined in Section
19 4022 without an appropriate prior examination and a medical indication, constitutes
20 unprofessional conduct. An appropriate prior examination does not require a
21 synchronous interaction between the patient and the licensee and can be achieved
22 through the use of telehealth, including, but not limited to, a self-screening tool or a
23 questionnaire, provided that the licensee complies with the appropriate standard of
24 care.

25 (b) No licensee shall be found to have committed unprofessional conduct within
26 the meaning of this section if, at the time the drugs were prescribed, dispensed, or
27 furnished, any of the following applies:

28 (1) The licensee was a designated physician and surgeon or podiatrist serving in
the absence of the patient's physician and surgeon or podiatrist, as the case may be,
and if the drugs were prescribed, dispensed, or furnished only as necessary to
maintain the patient until the return of the patient's practitioner, but in any case no
longer than 72 hours.

(2) The licensee transmitted the order for the drugs to a registered nurse or to a
licensed vocational nurse in an inpatient facility, and if both of the following
conditions exist:

(A) The practitioner had consulted with the registered nurse or licensed
vocational nurse who had reviewed the patient's records.

(B) The practitioner was designated as the practitioner to serve in the absence
of the patient's physician and surgeon or podiatrist, as the case may be.

(3) The licensee was a designated practitioner serving in the absence of the
patient's physician and surgeon or podiatrist, as the case may be, and was in
possession of or had utilized the patient's records and ordered the renewal of a

1 medically indicated prescription for an amount not exceeding the original prescription
2 in strength or amount or for more than one refill.

3 (4) The licensee was acting in accordance with Section 120582 of the Health
4 and Safety Code.

5 9. Section 725 of the Code states:

6 (a) Repeated acts of clearly excessive prescribing, furnishing, dispensing, or
7 administering of drugs or treatment, repeated acts of clearly excessive use of
8 diagnostic procedures, or repeated acts of clearly excessive use of diagnostic or
9 treatment facilities as determined by the standard of the community of licensees is
unprofessional conduct for a physician and surgeon, dentist, podiatrist, psychologist,
physical therapist, chiropractor, optometrist, speech-language pathologist, or
audiologist.

10 (b) Any person who engages in repeated acts of clearly excessive prescribing or
11 administering of drugs or treatment is guilty of a misdemeanor and shall be punished
12 by a fine of not less than one hundred dollars (\$100) nor more than six hundred
dollars (\$600), or by imprisonment for a term of not less than 60 days nor more than
180 days, or by both that fine and imprisonment.

13 (c) A practitioner who has a medical basis for prescribing, furnishing,
14 dispensing, or administering dangerous drugs or prescription controlled substances
shall not be subject to disciplinary action or prosecution under this section.

15 (d) No physician and surgeon shall be subject to disciplinary action pursuant to
16 this section for treating intractable pain in compliance with Section 2241.5.

17 10. Section 2266 of the Code, states:

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

21 **CONTROLLED SUBSTANCES/DANGEROUS DRUGS**

22 11. Code section 4021 states:

23 "Controlled substance" means any substance listed in Chapter 2 (commencing
24 with Section 11053) of Division 10 of the Health and Safety Code.

25 12. Code section 4022 provides:

26 "Dangerous drug" or "dangerous device" means any drug or device unsafe for
27 self-use in humans or animals, and includes the following:

1 (a) Any drug that bears the legend: "Caution: federal law prohibits dispensing
without prescription," "Rx only," or words of similar import.

2 (b) Any device that bears the statement: "Caution: federal law restricts this
3 device to sale by or on the order of a _____," "Rx only," or words of similar
4 import, the blank to be filled in with the designation of the practitioner licensed to use
or order use of the device.

5 (c) Any other drug or device that by federal or state law can be lawfully
6 dispensed only on prescription or furnished pursuant to Section 4006.

7 DRUG DEFINITIONS

8 13. As used herein, the terms below will have the following meanings:

9 "Alprazolam," also known by the brand name Xanax, is a benzodiazepine
10 drug used to treat anxiety disorders, panic disorders, and anxiety caused by
depression. Alprazolam has a central nervous system depressant effect and patients
11 should be cautioned about the simultaneous ingestions of alcohol and other central
nervous system depressant drugs during treatment with it. Addiction prone
12 individuals should be under careful surveillance when receiving alprazolam because
of the predisposition of such patients to habituation and dependence. It is a
13 Schedule IV controlled substance pursuant to Health and Safety Code section
11057(d)(1), and a dangerous drug as defined in Code section 4022.

14 "CURES" means the Department of Justice, Bureau of Narcotics
Enforcement's California Utilization, Review and Evaluation System (CURES) for
15 the electronic monitoring of the prescribing and dispensing of Schedule II, III, IV
and V controlled substances dispensed to patients in California pursuant to Health
16 and Safety Code section 11165. The CURES database captures data from
controlled substance prescriptions filled as submitted by pharmacies, hospitals, and
17 dispensing physicians. Law enforcement and regulatory agencies use the data to
assist in their efforts to control the diversion and resultant abuse of controlled
18 substances. Prescribers and pharmacists may request a patient's history of
controlled substances dispensed in accordance with guidelines developed by the
19 Department of Justice.

20 "Codeine" is an opioid pain medication used to help relieve mild to
moderately severe pain. It is a Schedule II Controlled Substance pursuant to Health
21 and Safety Code section 11055, subdivision (b)(1)(G), and a dangerous drug
pursuant to Business and Professions Code section 4022.

22 "Fentanyl" is a potent, synthetic narcotic analgesic with a rapid onset and
23 short duration of action. It is a Schedule II controlled substance pursuant to Health
and Safety Code section 11055, subdivision (c)(8), and a dangerous drug pursuant to
24 Code section 4022.

25 "Hydrocodone acetaminophen," also known by the brand name Norco, is an
opioid pain reliever. It has a high potential for abuse. In 2013, hydrocodone-
26 acetaminophen was a Schedule III Controlled Substance. Commencing on October
6, 2014, hydrocodone-acetaminophen became classified as a Schedule II controlled
27 substance pursuant to Health and Safety Code section 11055, subdivision (b)(1)(I),
and a dangerous drug pursuant to Business and Professions Code section 4022.

1 "Oxycodone," also known by the brand name Percocet, is an opioid
2 analgesic medication that has a high potential for abuse. Oxycodone is commonly
3 prescribed for moderate to severe chronic pain. It is a Schedule II controlled
4 substance pursuant to Health and Safety Code section 11055, subdivision (b)(1)(M),
5 and a dangerous drug as defined in Code section 4022.

6 "Promethazine with codeine" or codeine phosphate/promethazine
7 hydrochloride is an antihistamine and opioid antitussive combination drug. The
8 combination of an opiate agonist with antitussive activity (codeine) and a
9 phenothiazine-structure antihistamine (promethazine) when used together can be
10 prescribed to relieve cough and upper respiratory symptoms due to conditions such
11 as the common cold. Promethazine is sold in its various forms under the brand
12 names Phenadoz, Promethegan, and Phenergan. It is a Schedule V controlled
13 substance pursuant to Health and Safety Code section 11058, subdivision (c)(1), and
14 a dangerous drug as defined in Code section 4022.

15 "Soma" is a brand name for carisoprodol. It is a muscle-relaxant and
16 sedative. It is a Schedule IV controlled substance pursuant to federal Controlled
17 Substances Act, and a dangerous drug pursuant to Code section 4022.

18 COST RECOVERY

19 14. Section 125.3 of the Code states:

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

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

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

(d) The administrative law judge shall make a proposed finding of the amount
of reasonable costs of investigation and prosecution of the case when requested
pursuant to subdivision (a). The finding of the administrative law judge with regard
to 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 with the board to reimburse the board within that one-year period for the unpaid costs.

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

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

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

FIRST CAUSE FOR DISCIPLINE

(Repeated Negligent Acts)

15. Respondent is subject to disciplinary action under section 2234, subdivision (c), of the Code, in that he engaged in repeated acts of negligence in the care and treatment of Patients 1 and 2.¹ The circumstances are as follows:

Patient 1:

16. On or about January 15, 2021, the Medical Board of California received a complaint from the Los Angeles County Coroner's Office stating that Patient 1, a 25-year-old male, was declared deceased on June 4, 2019, due to the ingestion and overdose of fentanyl and codeine pills.

17. Respondent did not provide care or treatment to Patient 1. He maintains no medical records or billing records for Patient 1.

18. A review of Patient 1's CURES Report reflects that prescriptions for 120 tablets of Hydrocodone Bitartrate-Acetaminophen (10/325 mg) prescribed by Respondent were filled on March 6, 2019, April 4, 2019, and May 2, 2019.

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¹ For privacy purposes, the patients in this Accusation are referred to as Patients 1 and 2.

1 19. The following prescriptions were issued to Patient 1 on Respondent's Prescription
2 pad:

3 a. Script number 576, dated February 20, 2019, for Promethazine-Codeine Syrup.

4 b. Script number 598, dated March 6, 2019, for 120 tablets of Norco (10/325 mg)
5 and Promethazine-Codeine Syrup.

6 c. Script number 1225, dated April 4, 2019, for 120 tablets of Norco (10/325 mg)
7 and Promethazine-Codeine Syrup.

8 d. Script number 1271, dated April 24, 2019, for Promethazine-Codeine Syrup.

9 e. Script number 1281, dated May 2, 2019, for 120 tablets of Norco (10/325 mg)
10 and Promethazine-Codeine Syrup.

11 20. Respondent reviewed the prescriptions issued to Patient 1. Respondent admits that it
12 is his signature on the prescriptions issued to Patient 1, but denies filling out the remainder of the
13 scripts (the date, the patient information, and the controlled substances being prescribed). At or
14 about the time the prescriptions were written, Respondent kept his prescription pads in a closet in
15 his office. During that time-frame, he may have had pre-signed prescriptions.

16 21. Respondent's office manager, F.L., admitted that she wrote prescriptions to Patient 1
17 using pre-signed blank prescriptions from Respondent's prescription pads.

18 22. In an interview with Board investigators on September 15, 2021, F.L. stated that a
19 person named "Mike" threatened her to fill prescriptions in Patient 1's name, pick up the
20 prescriptions at the pharmacy, and hand over the prescriptions to "Mike."

21 23. When prescribing narcotics, the standard of care requires that the prescribing
22 physician fully review the medical records of any patient being provided a narcotic prescription
23 or refill. Prescription pads should never be pre-signed. There is a risk of pre-signed prescriptions
24 being mishandled, filled out and used by anyone who has access to them. Respondent pre-signed
25 prescriptions that were then filled out by F.L. for controlled substances for Patient 1, who was
26 never seen or evaluated by Respondent. This represents a simple departure from the standard of
27 care.

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1 **Patient 2:**

2 24. On February 28, 2019, Patient 2, a 38-year-old female, presented to Respondent with
3 complaints of long-time low back pain. She was noted to have a history of epidural steroid
4 injections and transforaminal ablation in 2009, 2010, and 2011, with worsening symptoms. She
5 stated that her pain is currently a 7 out of 10, she takes Norco or Oxycodone for pain relief and
6 that she has tried physical therapy, acupuncture, and chiropractic care. It was also noted that the
7 patient recently had a pelvic ultrasound that showed multiple fibroids. Respondent assessed her
8 with intravertebral disc disorder with radiculopathy of the lumbar region. He noted that he
9 discussed ongoing management of the condition at length, including advising the patient to
10 continue stretching and use over the counter medication to lower overall narcotic medication. He
11 wrote a prescription for 90 tablets of Oxycodone (30 mg) with refills as needed. The patient was
12 instructed to follow up in 3-4 months to check progress.

13 25. On April 11, 2019, Respondent documented a telephone encounter wherein he
14 refilled 90 tablets of Soma (350 mg) for Patient 2. There is no documentation of Respondent
15 prescribing Soma at the February 28, 2019 visit.

16 26. On June 26, 2019, Respondent documented seeing Patient 2 for follow up on her low
17 back pain. Respondent's assessment was intervertebral disc disorders with radiculopathy in the
18 lumbar region and neoplasm of the left ovary. He noted that he re-discussed the patient's current
19 condition and symptoms. He recommended that surgical options be discussed with her
20 obstetrician-gynecologist. He continued to manage the patient's pain and refilled oxycodone. He
21 noted that it was okay for her to call in for refills as needed. She was instructed to follow up in
22 four months or sooner if needed.

23 27. Patient 2's next documented visit with Respondent is dated June 25, 2020.
24 Respondent noted that the patient was being seen for back right leg pain and follow up on lower
25 back pain. Respondent's assessment was intervertebral disc disorders with radiculopathy in the
26 lumbar region and neoplasm of the left ovary. He noted that he re-discussed the patient's current
27 condition and symptoms. He recommended that surgical options be discussed with her
28 obstetrician-gynecologist. He continued to manage the patient's pain and refilled Percocet and

1 alprazolam. He noted that it was okay for her to call in for refills as needed. She was instructed
2 to follow up in four months or sooner if needed.

3 28. Patient 2's next documented visit with Respondent is dated December 16, 2020.
4 Respondent noted that the patient was being seen for back right leg pain and follow up on lower
5 back pain. Respondent's assessment was intervertebral disc disorders with radiculopathy in the
6 lumbar region and neoplasm of the left ovary. He noted that he re-discussed the patient's current
7 condition and symptoms. He recommended that surgical options be discussed with her
8 obstetrician-gynecologist. He continued to manage the patient's pain and refilled Percocet and
9 alprazolam. He noted that it was okay for her to call in for refills as needed. She was instructed
10 to follow up in four months or sooner if needed.

11 29. On July 28, 2021, Patient 2 was seen by Respondent for follow up on her lower back
12 pain. Respondent's assessment was intervertebral disc disorders with radiculopathy in the lumbar
13 region and cervical disc disorder with radiculopathy in the cervicothoracic region. He noted that
14 he re-discussed the patient's current condition and symptoms. He noted that she had undergone a
15 hysterectomy and that the surgeon stated that her uterus muscle was adhering to her lumbar
16 muscles causing a rare odd bleeding and pain pattern. The bleeding was noted to have resolved
17 but the pain would continue to be managed by Respondent. He refilled Percocet and alprazolam
18 and noted that it was okay for her to call in refills for as needed. She was instructed to follow up
19 in four months or sooner if needed.

20 30. On approximately a monthly basis from 2019 through August 2021, Respondent
21 prescribed oxycodone and alprazolam to Patient 2. Respondent diagnosed Patient 2 with cervical
22 and lumbar disc disease with radiculopathy and treated her by prescribing her narcotics on a
23 chronic basis. There was no discussion or consideration to refer Patient 2 to a pain management
24 specialist to monitor and evaluate for chronic narcotic use and or any referral to a psychologist or
25 psychiatrist for any history of abuse.

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3. Ordering Respondent Allen P. Lu, 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; and

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

DATED: AUG 14 2023

Jenna Jones FOR
REJI VARGHESE
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant

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