

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

In the Matter of the Accusation Against:

Priti Nimeshkumar Desai, M.D.

**Physician's and Surgeon's
Certificate No. A 80894**

Case No.: 800-2023-101989

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 October 10, 2024 .

IT IS SO ORDERED: September 10, 2024 .

MEDICAL BOARD OF CALIFORNIA

Michelle A. Bholat, MD

**Michelle A. Bholat, M.D., Interim Chair
Panel A**

1 ROB BONTA
Attorney General of California
2 ROBERT MCKIM BELL
Supervising Deputy Attorney General
3 VLADIMIR SHALKEVICH
Deputy Attorney General
4 State Bar No. 173955
300 South Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 269-6538
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:

Case No. 800-2023-101989

13 **PRITI NIMESHKUMAR DESAI, M.D.**

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

14 Emanate Health
315 North Third Avenue, Suite 205
15 Covina, California 91723

16 Physician's and Surgeon's Certificate No. A 80894,

17 Respondent.
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 Vladimir Shalkevich,
25 Deputy Attorney General.

26 2. Respondent Priti Nimeshkumar Desai, M.D. (Respondent) is represented in this
27 proceeding by attorneys Kent Thomas Brandmeyer and Jeannette Van Horst, 385 East Colorado
28 Boulevard, Suite 200 Pasadena, California 91101-1988.

3. On October 25, 2002, the Board issued Physician's and Surgeon's Certificate No. A 80894 to Priti Nimeshkumar Desai, M.D. (Respondent). That license was in full force and effect at all times relevant to the charges brought in Accusation No. 800-2023-101989, and will expire on September 30, 2024, unless renewed.

JURISDICTION

4. Accusation No. 800-2023-101989 was filed before the Board and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on May 15, 2024. Respondent timely filed a Notice of Defense contesting the Accusation.

5. A copy of Accusation No. 800-2023-101989 is attached as Exhibit A and is incorporated herein by reference.

ADVISEMENT AND WAIVERS

6. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 800-2023-101989. Respondent has also carefully read, fully discussed with her counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

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

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

CULPABILITY

9. Respondent understands and agrees that the charges and allegations in Accusation No. 800-2023-101989, if proven at a hearing, constitute cause for imposing discipline upon her Physician's and Surgeon's Certificate.

10. Respondent does not contest that, at an administrative hearing, complainant could establish a prima facie case with respect to the charges and allegations in Accusation No. 800-2023-101989, a copy of which is attached hereto as Exhibit A, and that she has thereby subjected her Physician's and Surgeon's Certificate No. A 80894 to disciplinary action.

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

RESERVATION

12. The admissions made by Respondent herein are only for the purposes of this proceeding, or any other proceedings in which the Medical Board of California or other professional licensing agency is involved, and shall not be admissible in any other criminal or civil proceeding.

CONTINGENCY

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

14. Respondent agrees that if she ever petitions for early termination or modification of the Decision, or if an accusation is filed against her before the Board, all of the charges and allegations contained in Accusation No. 800-2023-101989 shall be deemed true, correct and fully admitted by respondent for purposes of any such proceeding or any other licensing proceeding involving Respondent in the State of California.

1 conduct in violation of Business and Professions Code section 2234.

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

12 A medical record keeping 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 15 calendar days after successfully completing the course, or not later than
19 15 calendar days after the effective date of the Decision, whichever is later.

20 Failure to timely complete the Record Keeping Course shall be deemed unprofessional
21 conduct in violation of Business and Professions Code section 2234.

22 3. PROFESSIONALISM PROGRAM (ETHICS COURSE). Respondent is ordered to
23 complete a Professionalism Program (Ethics Course) within one year of the effective date of this
24 Decision. Within 60 calendar days of the effective date of this Decision, Respondent shall enroll
25 in a professionalism program, that meets the requirements of Title 16, California Code of
26 Regulations (CCR) section 1358.1. Respondent shall participate in and successfully complete that
27 program. Respondent shall provide any information and documents that the program may deem
28 pertinent. Respondent shall successfully complete the classroom component of the program not

1 later than six (6) months after Respondent's initial enrollment, and the longitudinal component of
2 the program not later than the time specified by the program, but no later than one (1) year after
3 attending the classroom component. The professionalism program shall be at Respondent's
4 expense and shall be in addition to the Continuing Medical Education (CME) requirements for
5 renewal of licensure.

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

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

14 Failure to timely complete the Professionalism Program shall constitute unprofessional
15 conduct in violation of Business and Professions Code section 2234.

16 **4. FUTURE ADMISSIONS CLAUSE.**

17 If Respondent should ever apply or reapply for a new license or certification, or petition for
18 reinstatement of a license, by any other health care licensing action agency in the State of
19 California, all of the charges and allegations contained in Accusation No. 800-2023-101989 shall
20 be deemed to be true, correct, and admitted by Respondent for the purpose of any Statement of
21 Issues or any other proceeding seeking to deny or restrict license.

22 **C: COST RECOVERY**

23 **5.** Respondent is hereby ordered to reimburse the Board its costs of investigation and
24 enforcement in the amount of \$ 12,080.00. Costs shall be payable to the Medical Board of
25 California. Failure to pay such costs shall be considered unprofessional conduct in violation of
26 Business and Professions Code section 2234.

27 ///

28 ///

1 ACCEPTANCE

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

7
8 DATED: 7/17/2024


PRITI NIMESHKUMAR DESAI, M.D.
Respondent

10 I have read and fully discussed with Respondent Priti Nimeshkumar Desai, M.D. the terms
11 and conditions and other matters contained in the above Stipulated Settlement and Disciplinary
12 Order. I approve its form and content.

13 DATED: July 24, 2024


KENT THOMAS BRANDMEYER
Attorney for Respondent


15
16 ENDORSEMENT

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

19
20 DATED: July 24, 2024

Respectfully submitted,

21 ROB BONTA
Attorney General of California
22 ROBERT MCKIM BELL
Supervising Deputy Attorney General

23 
24 VLADIMIR SHALKEVICH
25 Deputy Attorney General
26 Attorneys for Complainant

27 LA2024601032
28 66929188.docx

Exhibit A
Accusation No. 800-2023-101989

1 ROB BONTA
Attorney General of California
2 ROBERT MCKIM BELL
Supervising Deputy Attorney General
3 VLADIMIR SHALKEVICH
Deputy Attorney General
4 State Bar No. 173955
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 269-6538
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:

Case No. 800-2023-101989

13 PRITI NIMESHKUMAR DESAI, M.D.

A C C U S A T I O N

14 Emanate Health
315 North Third Avenue, Suite 205
Covina, California 91723

15 Physician's and Surgeon's Certificate No.
A 80894,

16 Respondent.
17

18 **PARTIES**

19 1. Reji Varghese (Complainant) brings this Accusation solely in his official capacity as
20 the Executive Director of the Medical Board of California (Board).

21 2. On October 25, 2002, the Board issued Physician's and Surgeon's Certificate Number
22 A 80894 to Priti Nimeshkumar Desai, M.D. (Respondent). That license was in full force and
23 effect at all times relevant to the charges brought herein and will expire on September 30, 2024,
24 unless renewed.

25 **JURISDICTION**

26 3. This Accusation is brought before the Board under the authority of the following
27 laws. All section references are to the Business and Professions Code (Code) unless otherwise
28

1 indicated.

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

6 5. Section 2220 of the Code states:

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

13 (a) Investigating complaints from the public, from other licensees, from health
14 care facilities, or from the board that a physician and surgeon may be guilty of
15 unprofessional conduct. The board shall investigate the circumstances underlying a
16 report received pursuant to Section 805 or 805.01 within 30 days to determine if an
17 interim suspension order or temporary restraining order should be issued. The board
18 shall otherwise provide timely disposition of the reports received pursuant to Section
19 805 and Section 805.01.

20 (b) Investigating the circumstances of practice of any physician and surgeon
21 where there have been any judgments, settlements, or arbitration awards requiring the
22 physician and surgeon or his or her professional liability insurer to pay an amount in
23 damages in excess of a cumulative total of thirty thousand dollars (\$30,000) with
24 respect to any claim that injury or damage was proximately caused by the physician's
25 and surgeon's error, negligence, or omission.

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

20 STATUTORY PROVISIONS

21 6. 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
24 conduct includes, but is not limited to, the following:

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

27 (b) Gross negligence.

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

1 (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 7. Section 2266 of the Code states: The failure of a physician and surgeon to maintain
18 adequate and accurate records relating to the provision of services to their patients constitutes
19 unprofessional conduct.

20 8. Section 120325 of the Health and Safety Code states:

21 In enacting this chapter, but excluding Section 120380, and in enacting Sections
22 120400, 120405, 120410, and 120415, it is the intent of the Legislature to provide:

23 (a) A means for the eventual achievement of total immunization of appropriate
24 age groups against the following childhood diseases:

25 (1) Diphtheria.

26 (2) Hepatitis B.

27 (3) Haemophilus influenzae type b.

28 (4) Measles.

(5) Mumps.

(6) Pertussis (whooping cough).

(7) Poliomyelitis.

(8) Rubella.

(9) Tetanus.

(10) Varicella (chickenpox).

1 (11) Any other disease deemed appropriate by the department, taking into
2 consideration the recommendations of the Advisory Committee on Immunization
Practices of the United States Department of Health and Human Services, the
American Academy of Pediatrics, and the American Academy of Family Physicians.

3 (b) That the persons required to be immunized be allowed to obtain
4 immunizations from whatever medical source they so desire, subject only to the
5 condition that the immunization be performed in accordance with the regulations of
the department and that a record of the immunization is made in accordance with the
regulations.

6 (c) Exemptions from immunization for medical reasons.

7 (d) For the keeping of adequate records of immunization so that health
8 departments, schools, and other institutions, parents or guardians, and the persons
immunized will be able to ascertain that a child is fully or only partially immunized,
9 and so that appropriate public agencies will be able to ascertain the immunization
needs of groups of children in schools or other institutions.

10 (e) Incentives to public health authorities to design innovative and creative
11 programs that will promote and achieve full and timely immunization of children.

12 9. Section 120370 of the Health and Safety Code states:

13 (a) (1) Prior to January 1, 2021, if the parent or guardian files with the
14 governing authority a written statement by a licensed physician and surgeon to the
15 effect that the physical condition of the child is such, or medical circumstances
16 relating to the child are such, that immunization is not considered safe, indicating the
17 specific nature and probable duration of the medical condition or circumstances,
including, but not limited to, family medical history, for which the physician and
18 surgeon does not recommend immunization, that child shall be exempt from the
requirements of this chapter, except for Section 120380, and exempt from Sections
120400, 120405, 120410, and 120415 to the extent indicated by the physician and
surgeon's statement.

19 (2) Commencing January 1, 2020, a child who has a medical exemption issued
20 before January 1, 2020, shall be allowed continued enrollment to any public or
21 private elementary or secondary school, child care center, day nursery, nursery
school, family day care home, or developmental center within the state until the child
enrolls in the next grade span.

22 For purposes of this subdivision, "grade span" means each of the following:

23 (A) Birth to preschool, inclusive.

24 (B) Kindergarten and grades 1 to 6, inclusive, including transitional
kindergarten.

25 (C) Grades 7 to 12, inclusive.

26 (3) Except as provided in this subdivision, on and after July 1, 2021, the
27 governing authority shall not unconditionally admit or readmit to any of those
28 institutions specified in this subdivision, or admit or advance any pupil to 7th grade
level, unless the pupil has been immunized pursuant to Section 120335 or the parent
or guardian files a medical exemption form that complies with Section 120372.

1 (b) If there is good cause to believe that a child has been exposed to a disease
2 listed in subdivision (b) of Section 120335 and the child's documentary proof of
3 immunization status does not show proof of immunization against that disease, that
4 child may be temporarily excluded from the school or institution until the local health
5 officer is satisfied that the child is no longer at risk of developing or transmitting the
6 disease.

7 10. Section 120372 of the Health and Safety Code states:

8 (a) (1) By January 1, 2021, the department shall develop and make available for
9 use by licensed physicians and surgeons an electronic, standardized, statewide
10 medical exemption certification form that shall be transmitted directly to the
11 department's California Immunization Registry (CAIR) established pursuant to
12 Section 120440. Pursuant to Section 120375, the form shall be printed, signed, and
13 submitted directly to the school or institution at which the child will attend, submitted
14 directly to the governing authority of the school or institution, or submitted to that
15 governing authority through the CAIR where applicable. Notwithstanding Section
16 120370, commencing January 1, 2021, the standardized form shall be the only
17 documentation of a medical exemption that the governing authority may accept.

18 (2) At a minimum, the form shall require all of the following information:

19 (A) The name, California medical license number, business address, and
20 telephone number of the physician and surgeon who issued the medical exemption,
21 and of the primary care physician of the child, if different from the physician and
22 surgeon who issued the medical exemption.

23 (B) The name of the child for whom the exemption is sought, the name and
24 address of the child's parent or guardian, and the name and address of the child's
25 school or other institution.

26 (C) A statement certifying that the physician and surgeon has conducted a
27 physical examination and evaluation of the child consistent with the relevant standard
28 of care and complied with all applicable requirements of this section.

(D) Whether the physician and surgeon who issued the medical exemption is
the child's primary care physician. If the issuing physician and surgeon is not the
child's primary care physician, the issuing physician and surgeon shall also provide
an explanation as to why the issuing physician and not the primary care physician is
filling out the medical exemption form.

(E) How long the physician and surgeon has been treating the child.

(F) A description of the medical basis for which the exemption for each
individual immunization is sought. Each specific immunization shall be listed
separately and space on the form shall be provided to allow for the inclusion of
descriptive information for each immunization for which the exemption is sought.

(G) Whether the medical exemption is permanent or temporary, including the
date upon which a temporary medical exemption will expire. A temporary exemption
shall not exceed one year. All medical exemptions shall not extend beyond the grade
span, as defined in Section 120370.

(H) An authorization for the department to contact the issuing physician and
surgeon for purposes of this section and for the release of records related to the
medical exemption to the department, the Medical Board of California, and the

Osteopathic Medical Board of California.

(I) A certification by the issuing physician and surgeon that the statements and information contained in the form are true, accurate, and complete.

(3) An issuing physician and surgeon shall not charge for either of the following:

(A) Filling out a medical exemption form pursuant to this section.

(B) A physical examination related to the renewal of a temporary medical exemption.

(b) Commencing January 1, 2021, if a parent or guardian requests a licensed physician and surgeon to submit a medical exemption for the parent's or guardian's child, the physician and surgeon shall inform the parent or guardian of the requirements of this section. If the parent or guardian consents, the physician and surgeon shall examine the child and submit a completed medical exemption certification form to the department. A medical exemption certification form may be submitted to the department at any time.

(c) By January 1, 2021, the department shall create a standardized system to monitor immunization levels in schools and institutions as specified in Sections 120375 and 120440, and to monitor patterns of unusually high exemption form submissions by a particular physician and surgeon.

(d) (1) The department, at a minimum, shall annually review immunization reports from all schools and institutions in order to identify medical exemption forms submitted to the department and under this section that will be subject to paragraph (2).

(2) A clinically trained immunization department staff member, who is either a physician and surgeon or a registered nurse, shall review all medical exemptions from any of the following:

(A) Schools or institutions subject to Section 120375 with an overall immunization rate of less than 95 percent.

(B) Physicians and surgeons who have submitted five or more medical exemptions in a calendar year beginning January 1, 2020.

(C) Schools or institutions subject to Section 120375 that do not provide reports of vaccination rates to the department.

(3) (A) The department shall identify those medical exemption forms that do not meet applicable CDC, ACIP, or AAP criteria for appropriate medical exemptions. The department may contact the primary care physician and surgeon or issuing physician and surgeon to request additional information to support the medical exemption.

(B) Notwithstanding subparagraph (A), the department, based on the medical discretion of the clinically trained immunization staff member, may accept a medical exemption that is based on other contraindications or precautions, including consideration of family medical history, if the issuing physician and surgeon provides written documentation to support the medical exemption that is consistent with the relevant standard of care.

1 (C) A medical exemption that the reviewing immunization department staff
2 member determines to be inappropriate or otherwise invalid under subparagraphs (A)
3 and (B) shall also be reviewed by the State Public Health Officer or a physician and
4 surgeon from the department's immunization program designated by the State Public
5 Health Officer. Pursuant to this review, the State Public Health Officer or physician
6 and surgeon designee may revoke the medical exemption.

7 (4) Medical exemptions issued prior to January 1, 2020, shall not be revoked
8 unless the exemption was issued by a physician or surgeon that has been subject to
9 disciplinary action by the Medical Board of California or the Osteopathic Medical
10 Board of California.

11 (5) The department shall notify the parent or guardian, issuing physician and
12 surgeon, the school or institution, and the local public health officer with jurisdiction
13 over the school or institution of a denial or revocation under this subdivision.

14 (6) If a medical exemption is revoked pursuant to this subdivision, the child
15 shall continue in attendance. However, within 30 calendar days of the revocation, the
16 child shall commence the immunization schedule required for conditional admittance
17 under Chapter 4 (commencing with Section 6000) of Division 1 of Title 17 of the
18 California Code of Regulations in order to remain in attendance, unless an appeal is
19 filed pursuant to Section 120372.05 within that 30-day time period, in which case the
20 child shall continue in attendance and shall not be required to otherwise comply with
21 immunization requirements unless and until the revocation is upheld on appeal.

22 (7) (A) If the department determines that a physician's and surgeon's practice is
23 contributing to a public health risk in one or more communities, the department shall
24 report the physician and surgeon to the Medical Board of California or the
25 Osteopathic Medical Board of California, as appropriate. The department shall not
26 accept a medical exemption form from the physician and surgeon until the physician
27 and surgeon demonstrates to the department that the public health risk no longer
28 exists, but in no event shall the physician and surgeon be barred from submitting
these forms for less than two years.

(B) If there is a pending accusation against a physician and surgeon with the
Medical Board of California or the Osteopathic Medical Board of California relating
to immunization standards of care, the department shall not accept a medical
exemption form from the physician and surgeon unless and until the accusation is
resolved in favor of the physician and surgeon.

(C) If a physician and surgeon licensed with the Medical Board of California or
the Osteopathic Medical Board of California is on probation for action relating to
immunization standards of care, the department and governing authority shall not
accept a medical exemption form from the physician and surgeon unless and until the
probation has been terminated.

(8) The department shall notify the Medical Board of California or the
Osteopathic Medical Board of California, as appropriate, of any physician and
surgeon who has five or more medical exemption forms in a calendar year that are
revoked pursuant to this subdivision.

(9) Notwithstanding any other provision of this section, a clinically trained
immunization program staff member who is a physician and surgeon or a registered
nurse may review any exemption in the CAIR or other state database as necessary to
protect public health.

1 (e) The department, the Medical Board of California, and the Osteopathic
2 Medical Board of California shall enter into a memorandum of understanding or
3 similar agreement to ensure compliance with the requirements of this section.

4 (f) In administering this section, the department and the independent expert
5 review panel created pursuant to Section 120372.05 shall comply with all applicable
6 state and federal privacy and confidentiality laws. The department may disclose
7 information submitted in the medical exemption form in accordance with Section
8 120440, and may disclose information submitted pursuant to this chapter to the
9 independent expert review panel for the purpose of evaluating appeals.

10 (g) The department shall establish the process and guidelines for review of
11 medical exemptions pursuant to this section. The department shall communicate the
12 process to providers and post this information on the department's website.

13 (h) If the department or the California Health and Human Services Agency
14 determines that contracts are required to implement or administer this section, the
15 department may award these contracts on a single-source or sole-source basis. The
16 contracts are not subject to Part 2 (commencing with Section 10100) of Division 2 of
17 the Public Contract Code, Article 4 (commencing with Section 19130) of Chapter 5
18 of Part 2 of Division 5 of Title 2 of the Government Code, or Sections 4800 to 5180,
19 inclusive, of the State Administrative Manual as they relate to approval of
20 information technology projects or approval of increases in the duration or costs of
21 information technology projects.

22 (i) Notwithstanding the rulemaking provisions of the Administrative Procedure
23 Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2
24 of the Government Code), the department may implement and administer this section
25 through provider bulletins, or similar instructions, without taking regulatory action.

26 (j) For purposes of administering this section, the department and the California
27 Health and Human Services Agency appeals process shall be exempt from the
28 rulemaking and administrative adjudication provisions in the Administrative
Procedure Act (Chapter 3.5 (commencing with Section 11340), Chapter 4
(commencing with Section 11370), Chapter 4.5 (commencing with 11400), and
Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the
Government Code).

COST RECOVERY

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

FACTUAL ALLEGATIONS

12. California law generally requires immunizations for children attending schools and

1 licensed day care facilities. At a child's initial enrollment, and at certain milestones thereafter,
2 school or day care personnel must obtain confirmation that the child has received specified
3 immunizations or that there is a valid medical exemption from the vaccine requirement. The
4 mandatory immunization statutes list 10 diseases or disease-causing organisms against which a
5 child must receive immunization: diphtheria, hepatitis B, haemophilus influenzae type b, measles,
6 mumps, pertussis (whooping cough), poliomyelitis (polio), rubella (German measles), tetanus,
7 and varicella (chickenpox).

8 13. In 2015, the California Legislature amended Health and Safety Code section 120325
9 to eliminate personal beliefs as a basis for exemption from required immunizations for school-
10 aged children. As a consequence, school-aged children not subject to any other exception were
11 required to have immunizations for 10 vaccine-preventable childhood illnesses as a condition of
12 public school attendance.

13 14. Medical exemptions for vaccinations fall into two categories referred to as
14 "precautions" and "contraindications."¹ A "precaution" is a condition in a recipient that might
15 increase the risk for a serious adverse reaction, might cause diagnostic confusion, or might
16 compromise the ability of the vaccine to produce immunity. A "contraindication" increases the
17 risk for a serious adverse reaction. There are specific contraindications and precautions that apply
18 to individual vaccines. Some precautions are common to all vaccines, such as delaying
19 vaccination due to a moderate or severe illness in the child; in which case such a precaution
20 would be temporary. The presence of a contraindication means that a vaccine should not be
21 administered.

22 15. Immunization exemptions in California are provided by a licensed physician in a
23 written statement that includes 1) that the patient has a physical condition or medical
24 circumstance such that the required immunization is not indicated, 2) which vaccines are
25 exempted, 3) whether the exemption is permanent or temporary, and 4) the expiration date for the
26 exemption, if temporary.

27 ¹ <https://www.cdc.gov/vaccines/hcp/acip-recs/general-recs/contraindications.html>
28

1 16. As of January 1, 2021, all new medical exemptions for school and child care entry
2 must be issued through CAIR-ME, a website maintained by the California Department of Public
3 Health.² CAIR-ME is a secure site for physicians to issue and manage standardized medical
4 exemptions for children in school or child care. Parents use the same site to request medical
5 exemptions from vaccination for their children. Schools and child care facilities can monitor and
6 get updates for medical exemptions issued for children in attendance.

7 17. Patients 1, 2 and 3³ are all minors and related by birth to one another. During the time
8 period pertinent to this Accusation, Patients 1, 2, and 3 were under the medical care of
9 Respondent.

10 **Patient 1**

11 18. On or about June 2, 2022, Respondent, a pediatrician, saw Patient 1, a male child with
12 a date of birth (DOB) of 4/20/2021, with the following chief complaint: "13 mon Follow up; C/O
13 Pt. was taken to ER on 4/20 for fever of 104.4 and febrile seizure, mother does not want to
14 vaccinate pt. anymore. Watery stringy stool, fussy on/off." Under the chart note, in response to
15 "History of Present Illness," the following was written: "here for flu febrile seizure post 12 mo
16 vaccinations; hx of fever x 1 day post 2 mo shots as well. since then mom does only few shots at
17 a time; c/o loose watery stools with mucus without blood x 1 mo ever since milk switched to
18 whole milk." This chart note was included with the CAIR-ME medical exemption form to
19 Patient 1 described below.

20 19. On or about January 12, 2023, Respondent issued a one-year CAIR-ME medical
21 exemption to Patient 1 for the following vaccines and based on the following reasons:

22 **Medical Basis for Exemption: Other Condition**

23 **Other Condition Specified: FEBRILE SEIZURE POST VACCINES**

24 **Description of Condition:** "pt had high fever of 103 after primary series of vaccination and
25 had febrile seizure"

26
27 ² CAIR-ME stands for the California Immunization Registry Medical Exemption web site
<https://cair.cdph.ca.gov/exemptions/home>

28 ³ Letters are used in lieu of patient names to address privacy concerns.

1 Patient Medically Exempt for: DTaP, HepB, Hib, IPV, MMR, Tdap, VAR/VZV

2 Onset Date: 01/11/2023

3 Exemption Expiration Date: Temporary, expiring 1/10/2024

4 20. During her interview with the Board investigators, Respondent explained that high
5 fever is an indication for medical exemption for immunization per the American Academy of
6 Pediatrics for the DTaP-IPV-HepB vaccine.

7 21. For pertussis vaccines, a progressive or unstable neurologic disorder, including
8 infantile spasms, uncontrolled seizures or progressive encephalopathy is considered a precaution.
9 Patient 1 suffered a simple febrile seizure, for which no further work up was performed.
10 Consequently, Patient 1's neurologic status was stable and not progressive.

11 22. For an MMRV vaccine, personal or family history of seizures of any etiology is
12 considered a precaution. Personal or a family history of seizures of any etiology are not
13 precautions or contraindications for MMR or VAR vaccines.

14 23. The CDC [Contraindications and Precautions: General Best Practice Guidelines for
15 Immunization, TABLE 4-2 lists "Conditions incorrectly perceived as contraindications or
16 precautions to vaccination" (i.e., vaccines may be given under these conditions)] specifically
17 states for DTaP vaccines, that these are conditions commonly misperceived as contraindications
18 or precautions:

- 19 • Fever within 48 hours after vaccination with a previous dose of DTP or DTaP
- 20 • Seizure: S:3 days after receiving a previous dose of DTP/DTaP

21 24. The American Academy of Pediatrics does not list high fever after a previous dose of
22 DTaP-IPV- HepB as a contraindication or an indication for medical exemption for immunization
23 for the DTaP-IPV-HepB vaccine or its components.

24 25. The febrile seizure occurred following HepA and PCV vaccines, rather than DTaP-
25 IPV-HepB. Therefore, with the above considerations for Patient A, teething, history of febrile
26 seizure following vaccination, history of fever up to 103 following vaccination, hemangioma, and
27 lactose intolerance are not considered contraindications or precautions for routine immunizations
28 by the Centers for Disease Control and Prevention or the American Academy of Pediatrics.

Patient 2

26. On or about August 4, 2022, Respondent saw Patient 2, a female child with a DOB of 12/27/2017, with a documented complaint as follows: "[w]ants more information on Medical Exemption form for vaccines. Also requesting derm ref." Under the chart note in response to "History of Present Illness," the following was written "LABS WNL. pt c/o on and off rashes on cheek from last 2 years. had 3 or 4 flares up till now and always consistent with vaccines timing; have tried multiple times oral abx and topical abx and steroids cream." This chart note was included with the CAIR-ME medical exemption form to Patient 2 described below.

27. On or about August 3, 2023, Respondent issued a CAIR-ME medical exemption form to Patient 2 for the following vaccines and based on the following reasons:

Medical Basis for Exemption: Other Condition

Other Condition Specified: FEBRILE ILLNESS AND RASH

Description of Condition: PT DEVELOPS WORSENING OF HER EXISTING RASH AND FEVER POST VACCINATION

Patient Medically Exempt for: DTaP, HepB, Hib, IPV, MMR, Tdap, VAR/VZV

Onset Date: 01/01/2022

Exemption Expiration Date: Temporary, expiring 8/3/2024

28. During her interview with the Board investigators Respondent explained that febrile illness and rash is an indication for medical exemption for immunization per the American Academy of Pediatrics.

29. There is no concern stated that the patient had a rash that would be indication of an anaphylactic reaction to vaccines.

30. An acute febrile illness may be considered a general precaution to immunization. However the American Academy of Pediatrics does not list febrile illness and rash as an indication for medical exemption for immunization.

31. History of thrush, colic, teething, seborrhea, impetigo, staph scalded skin syndrome, vasculitis vs ecchymosis, papular dermatitis, autism vs sensory issues, URI, eczema, dermatitis vs

1 discoid lupus are not considered contraindications or precautions for routine immunizations by
2 the Centers for Disease Control and Prevention or the American Academy of Pediatrics.

3 **Patient 3**

4 32. On or about March 2, 2016, Respondent saw Patient 3, a female child with a DOB of
5 4/20/2011, who had been coughing for a week. Patient 3 had been diagnosed as autistic at 2 years
6 of age. Patient 3 was noted to be well nourished and developed. Additionally, Patient 3 was
7 noted to have received the following: "DTaP #5 given. IPV #4 given. MMR #2 given. Varicella
8 #2 given. TB risk assessment done and PPD placed." This chart note was included with the
9 CAIR-ME medical exemption form to Patient 3 described below.

10 33. On or about May 15, 2023, Respondent issued a CAIR-ME medical exemption form
11 to Patient 3 for the following vaccines and based on the following reasons:

12 **Medical Basis for Exemption: Other Condition**

13 **Other Condition Specified: Autism**

14 **Description of Condition: Patient has autism**

15 **Patient Medically Exempt for: DTaP, HepB, Hib, IPV, MMR, Tdap, VAR/VZV**

16 **Onset Date: 05/15/2023**

17 **Exemption Expiration Date: Permanent, expiring at the end of the selected grade span**

18 34. During her [subject interview], Respondent explained that autism is a
19 contraindication for administration of MMR vaccine per her peer review and journals.

20 35. The American Academy of Pediatrics states that it is false to claim that vaccines
21 cause autism. A history of autism, nose bleeds, papular dermatitis, obesity, acne, mother wanting
22 to refrain from vaccination are not considered contraindications or precautions for routine
23 immunizations by the Centers for Disease Control and Prevention or the American Academy of
24 Pediatrics.

25 **FIRST CAUSE FOR DISCIPLINE**

26 (Gross Negligence)

27 36. Respondent Priti Nimeshkumar Desai, M.D. is subject to disciplinary action under
28 section 2234, subdivision (b), of the Code, in that Respondent committed gross negligence in her

1 care and treatment of Patient 1, Patient 2 and Patient 3, as alleged in paragraphs 12 through 35,
2 above, which are hereby incorporated by reference as if fully set forth herein. The
3 circumstances are as follows:

4 37. Allegations of Paragraphs 12 through 35 are incorporated herein by reference.

5 38. Each of the following was an extreme departure from the standard of care, as well as
6 an instance of a demonstrated lack of knowledge or ability:

7 Respondent Issued Vaccine Exemptions for Inappropriate Medical Reasons:

8 A) Respondent issued to Patient 1 a temporary one-year exemption from
9 vaccinations DTaP, HepB, Hib, IPV, MMR, Tdap, and VAR/VZV for inappropriate medical
10 reasons.

11 B) Respondent issued to Patient 2 a temporary one-year exemption from DTaP,
12 HepB, Hib, IPV, MMR, Tdap, and VAR/VZV vaccinations for inappropriate medical reasons.

13 C) Respondent issued to Patient 3 a permanent exemption from DTaP, HepB, Hib,
14 IPV, MMR, Tdap, and VAR/VZV for inappropriate medical reasons.

15 Respondent Improperly Issued All-Encompassing Vaccine Exemptions:

16 D) Respondent issued to Patient 1 a temporary one-year exemption from DTaP,
17 HepB, Hib, IPV, MMR, Tdap, and VAR/VZV vaccinations even though those vaccines do not
18 have common ingredients that would serve as a contraindication to all of the vaccines Respondent
19 exempted Patient 1.

20 E) Respondent issued to Patient 2 a temporary one-year exemption from DTaP,
21 HepB, Hib, IPV, MMR, Tdap, and VAR/VZV vaccinations even though those vaccines do not
22 have common ingredients that would serve as a contraindication to all of the vaccines Respondent
23 exempted Patient 2.

24 F) Respondent issued to Patient 3 a permanent exemption from DTaP, HepB, Hib,
25 IPV, MMR, Tdap, and VAR/VZV vaccinations even though those vaccines do not have common
26 ingredients that would serve as a contraindication to all of the vaccines Respondent exempted
27 Patient 3.

28 //

1 Respondent Issued a Permanent Vaccine Exemption Inappropriately:

2 G) Respondent issued to Patient 3 a permanent exemption from DTaP, HepB, Hib,
3 IPV, MMR, Tdap, and VAR/VZV, when a permanent exemption was not appropriate based on
4 Respondent's diagnoses of Patient C.

5 **SECOND CAUSE FOR DISCIPLINE**

6 (Repeated Negligent Acts)

7 39. Respondent Priti Nimeshkumar Desai, M.D. is subject to disciplinary action under
8 section 2234, subdivision (c), of the Code, in that she committed repeated acts of negligence in
9 her care and treatment of Patients 1, 2 and 3. The circumstances are as follows:

10 40. The allegations of the First Cause for Discipline are incorporated by reference as if
11 fully set forth herein.

12 41. The facts and allegations set forth in the First Cause for Discipline, above, whether
13 proven individually, jointly, or in any combination thereof, represent repeated acts of negligence.

14 **THIRD CAUSE FOR DISCIPLINE**

15 (Incompetence)

16 42. Respondent Priti Nimeshkumar Desai, M.D. is subject to disciplinary action under
17 section 2234, subdivision (d), of the Code, in that she demonstrated incompetence in connection
18 with her care and treatment of Patients 1, 2 and 3. The circumstances are as follows:

19 43. The allegations of the First Cause for Discipline are incorporated by reference as if
20 fully set forth herein.

21 44. The facts and allegations set forth in the First Cause for Discipline, above, whether
22 proven individually, jointly, or in any combination thereof, represent incompetence. As such,
23 cause for discipline exists.

24 **FOURTH CAUSE FOR DISCIPLINE**

25 (Failure to Maintain Adequate and Accurate Records)

26 45. Respondent Priti Nimeshkumar Desai, M.D. is subject to disciplinary action under
27 section 2266 of the Code, in that she failed to maintain adequate and accurate records. As set
28

1 forth above, Respondent's medical records fail to adequately and accurately document her care
2 and treatment of Patients 1, 2 and 3. The circumstances are as follows:

3 46. The allegations of the First Cause for Discipline are incorporated by reference as if
4 fully set forth herein.

5 47. The facts and allegations set forth in the First Cause for Discipline, above, whether
6 proven individually, jointly, or in any combination thereof, represent incompetence. As such,
7 cause for discipline exists.

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 Number A 80894,
12 issued to Priti Nimeshkumar Desai, M.D.;

13 2. Revoking, suspending or denying approval of Priti Nimeshkumar Desai, M.D.'s
14 authority to supervise physician assistants and advanced practice nurses;

15 3. Ordering Priti Nimeshkumar Desai, 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 probation
17 monitoring;

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

19
20 DATED: MAY 16 2024

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

27 *Complainant*

28
LA2024601032
66765941.docx