

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

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

Joseph Emile Cummings, II, M.D.

**Physician's and Surgeon's
Certificate No. C 160943,**

Respondent.

Case No.: 800-2022-087322

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 November 15, 2024.

IT IS SO ORDERED: October 16, 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 ALEXANDRA M. ALVAREZ
Supervising Deputy Attorney General
3 ROSEMARY F. LUZON
Deputy Attorney General
4 State Bar No. 221544
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6 San Diego, CA 92186-5266
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8 *Attorneys for Complainant*

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

13 In the Matter of the Accusation Against:

Case No. 800-2022-087322

14 **Joseph Emile Cummings, II, M.D.**
15 **6755 Mira Mesa Blvd., Ste. 123-256**
San Diego, CA 92121-4392

OAH No. 2024030407

16 **Physician's and Surgeon's Certificate**
17 **No. C 160943,**

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

18 Respondent.

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

22 **PARTIES**

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

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2. Respondent Joseph Emile Cummings, II, M.D. (Respondent) is represented in this proceeding by attorney Robert K. Weinberg, Esq., whose address is: Law Office of Robert K. Weinberg, 19200 Von Karman Ave., Suite 380, Irvine, CA 92612.

3. On or about February 22, 2019, the Board issued Physician's and Surgeon's Certificate No. C 160943 to Respondent. The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought in Accusation No. 800-2022-087322, and will expire on February 28, 2025, unless renewed.

JURISDICTION

4. On or about February 16, 2024, Accusation No. 800-2022-087322 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 or about February 16, 2024, at his address of record. Respondent timely filed his Notice of Defense contesting the Accusation.

5. A true and correct copy of Accusation No. 800-2022-087322 is attached as Exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

6. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 800-2022-087322. Respondent has also carefully read, fully discussed with his counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

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

8. Having the benefit of counsel, Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

1 **CULPABILITY**

2 9. Respondent admits the truth of each and every charge and allegation in Accusation
3 No. 800-2022-087322.

4 10. Respondent acknowledges the Disciplinary Order below, requiring the disclosure of
5 probation pursuant to Business and Professions Code section 2228.1, serves to protect the public
6 interest.

7 11. Respondent agrees that his Physician's and Surgeon's Certificate No. C 160943 is
8 subject to discipline and he agrees to be bound by the Board's imposition of discipline as set forth
9 in the Disciplinary Order below.

10 **CONTINGENCY**

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

21 **ADDITIONAL PROVISIONS**

22 13. This Stipulated Settlement and Disciplinary Order is intended by the parties herein to
23 be an integrated writing representing the complete, final, and exclusive embodiment of the
24 agreement of the parties in this above-entitled matter.

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

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

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. C 160943 issued to Respondent Joseph Emile Cummings, II, M.D., is revoked. However, the revocation is stayed and Respondent is placed on probation for seven (7) years from the effective date of the Decision on the following terms and conditions:

1. PATIENT DISCLOSURE. Before a patient's first visit following the effective date of this order and while Respondent is on probation, Respondent must provide all patients, or patient's guardian or health care surrogate, with a separate disclosure that includes Respondent's probation status, the length of the probation, the probation end date, all practice restrictions placed on Respondent by the Board, the Board's telephone number, and an explanation of how the patient can find further information on Respondent's probation on Respondent's profile page on the Board's website. Respondent shall obtain from the patient, or the patient's guardian or health care surrogate, a separate, signed copy of that disclosure. Respondent shall not be required to provide a disclosure if any of the following applies: (1) the patient is unconscious or otherwise unable to comprehend the disclosure and sign the copy of the disclosure and a guardian or health care surrogate is unavailable to comprehend the disclosure and sign the copy; (2) the visit occurs in an emergency room or an urgent care facility or the visit is unscheduled, including consultations in inpatient facilities; (3) Respondent is not known to the patient until immediately prior to the start of the visit; (4) Respondent does not have a direct treatment relationship with the patient.

2. EDUCATION COURSE. Within 60 calendar days of the effective date of this Decision, and on an annual basis thereafter, Respondent shall submit to the Board or its designee for its prior approval educational program(s) or course(s) which shall not be less than 40 hours per year, for each year of probation. The educational program(s) or course(s) shall be aimed at correcting any areas of deficient practice or knowledge and shall be Category I certified. The

educational program(s) or course(s) shall be at Respondent's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure. Following the completion of each course, the Board or its designee may administer an examination to test Respondent's knowledge of the course. Respondent shall provide proof of attendance for 65 hours of CME of which 40 hours were in satisfaction of this condition.

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

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

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

4. MEDICAL RECORD KEEPING COURSE. Within 60 calendar days of the effective date of this Decision, Respondent shall enroll in a course in medical record keeping approved in advance by the Board or its designee. Respondent shall provide the approved course provider with any information and documents that the approved course provider may deem pertinent. Respondent shall participate in and successfully complete the classroom component of the course not later than six (6) months after Respondent's initial enrollment. Respondent shall successfully

1 complete any other component of the course within one (1) year of enrollment. The medical
2 record keeping course shall be at Respondent's expense and shall be in addition to the Continuing
3 Medical Education (CME) requirements for renewal of licensure.

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

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

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

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

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

4 6. PROFESSIONAL BOUNDARIES PROGRAM. Within 60 calendar days from the
5 effective date of this Decision, Respondent shall enroll in a professional boundaries program
6 approved in advance by the Board or its designee. Respondent, at the program's discretion, shall
7 undergo and complete the program's assessment of Respondent's competency, mental health
8 and/or neuropsychological performance, and at minimum, a 24 hour program of interactive
9 education and training in the area of boundaries, which takes into account data obtained from the
10 assessment and from the Decision(s), Accusation(s) and any other information that the Board or
11 its designee deems relevant. The program shall evaluate Respondent at the end of the training
12 and the program shall provide any data from the assessment and training as well as the results of
13 the evaluation to the Board or its designee.

14 Failure to complete the entire program not later than six (6) months after Respondent's
15 initial enrollment shall constitute a violation of probation unless the Board or its designee agrees
16 in writing to a later time for completion. Based on Respondent's performance in and evaluations
17 from the assessment, education, and training, the program shall advise the Board or its designee
18 of its recommendation(s) for additional education, training, psychotherapy and other measures
19 necessary to ensure that Respondent can practice medicine safely. Respondent shall comply with
20 program recommendations. At the completion of the program, Respondent shall submit to a final
21 evaluation. The program shall provide the results of the evaluation to the Board or its designee.
22 The professional boundaries program shall be at Respondent's expense and shall be in addition to
23 the Continuing Medical Education (CME) requirements for renewal of licensure.

24 The program has the authority to determine whether or not Respondent successfully
25 completed the program.

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1 A professional boundaries 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 If Respondent fails to complete the program within the designated time period, Respondent
7 shall cease the practice of medicine within three (3) calendar days after being notified by the
8 Board or its designee that Respondent failed to complete the program.

9 7. PSYCHIATRIC EVALUATION. Within 30 calendar days of the effective date of
10 this Decision, and on whatever periodic basis thereafter may be required by the Board or its
11 designee, Respondent shall undergo and complete a psychiatric evaluation (and psychological
12 testing, if deemed necessary) by a Board-appointed board certified psychiatrist, who shall
13 consider any information provided by the Board or designee and any other information the
14 psychiatrist deems relevant, and shall furnish a written evaluation report to the Board or its
15 designee. Psychiatric evaluations conducted prior to the effective date of the Decision shall not
16 be accepted towards the fulfillment of this requirement. Respondent shall pay the cost of all
17 psychiatric evaluations and psychological testing.

18 Respondent shall comply with all restrictions or conditions recommended by the evaluating
19 psychiatrist within 15 calendar days after being notified by the Board or its designee.

20 8. PSYCHOTHERAPY. If ongoing psychotherapy is recommended by the evaluating
21 psychiatrist, Respondent shall, within 15 calendar days after being notified by the Board or its
22 designee, submit to the Board or its designee for prior approval the name and qualifications of a
23 California-licensed board certified psychiatrist or a licensed psychologist who has a doctoral
24 degree in psychology and at least five years of postgraduate experience in the diagnosis and
25 treatment of emotional and mental disorders. Upon approval, Respondent shall undergo and
26 continue psychotherapy treatment, including any modifications to the frequency of
27 psychotherapy, until the Board or its designee deems that no further psychotherapy is necessary.

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1 The psychotherapist shall consider any information provided by the Board or its designee
2 and any other information the psychotherapist deems relevant and shall furnish a written
3 evaluation report to the Board or its designee. Respondent shall cooperate in providing the
4 psychotherapist with any information and documents that the psychotherapist may deem
5 pertinent.

6 Respondent shall have the treating psychotherapist submit quarterly status reports to the
7 Board or its designee. The Board or its designee may require Respondent to undergo psychiatric
8 evaluations by a Board-appointed board certified psychiatrist. If, prior to the completion of
9 probation, Respondent is found to be mentally unfit to resume the practice of medicine without
10 restrictions, the Board shall retain continuing jurisdiction over Respondent's license and the
11 period of probation shall be extended until the Board determines that Respondent is mentally fit
12 to resume the practice of medicine without restrictions.

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

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

23 The Board or its designee shall provide the approved monitor with copies of the Decision(s)
24 and Accusation(s), and a proposed monitoring plan. Within 15 calendar days of receipt of the
25 Decision(s), Accusation(s), and proposed monitoring plan, the monitor shall submit a signed
26 statement that the monitor has read the Decision(s) and Accusation(s), fully understands the role
27 of a monitor, and agrees or disagrees with the proposed monitoring plan. If the monitor disagrees

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1 with the proposed monitoring plan, the monitor shall submit a revised monitoring plan with the
2 signed statement for approval by the Board or its designee.

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

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

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

18 If the monitor resigns or is no longer available, Respondent shall, within 5 calendar days of
19 such resignation or unavailability, submit to the Board or its designee, for prior approval, the
20 name and qualifications of a replacement monitor who will be assuming that responsibility within
21 15 calendar days. If Respondent fails to obtain approval of a replacement monitor within 60
22 calendar days of the resignation or unavailability of the monitor, Respondent shall receive a
23 notification from the Board or its designee to cease the practice of medicine within three (3)
24 calendar days after being so notified. Respondent shall cease the practice of medicine until a
25 replacement monitor is approved and assumes monitoring responsibility.

26 In lieu of a monitor, Respondent may participate in a professional enhancement program
27 approved in advance by the Board or its designee that includes, at minimum, quarterly chart
28 review, semi-annual practice assessment, and semi-annual review of professional growth and

1 education. Respondent shall participate in the professional enhancement program at
2 Respondent's expense during the term of probation.

3 10. THIRD PARTY CHAPERONE. During probation, Respondent shall have a third
4 party chaperone present while consulting, examining or treating female patients. Respondent
5 shall, within 30 calendar days of the effective date of the Decision, submit to the Board or its
6 designee for prior approval name(s) of persons who will act as the third party chaperone.

7 If Respondent fails to obtain approval of a third party chaperone within 60 calendar days of
8 the effective date of this Decision, Respondent shall receive a notification from the Board or its
9 designee to cease the practice of medicine within three (3) calendar days after being so notified.
10 Respondent shall cease the practice of medicine until a chaperone is approved to provide
11 monitoring responsibility.

12 Each third party chaperone shall sign (in ink or electronically) and date each patient
13 medical record at the time the chaperone's services are provided. Each third party chaperone
14 shall read the Decision(s) and the Accusation(s), and fully understand the role of the third party
15 chaperone.

16 Respondent shall maintain a log of all patients seen for whom a third party chaperone is
17 required. The log shall contain the: 1) patient initials, address and telephone number; 2) medical
18 record number; and 3) date of service. Respondent shall keep this log in a separate file or ledger,
19 in chronological order, shall make the log available for immediate inspection and copying on the
20 premises at all times during business hours by the Board or its designee, and shall retain the log
21 for the entire term of probation.

22 Respondent is prohibited from terminating employment of a Board-approved third party
23 chaperone solely because that person provided information as required to the Board or its
24 designee.

25 If the third party chaperone resigns or is no longer available, Respondent shall, within five
26 (5) calendar days of such resignation or unavailability, submit to the Board or its designee, for
27 prior approval, the name of the person(s) who will act as the third party chaperone. If Respondent
28 fails to obtain approval of a replacement chaperone within 30 calendar days of the resignation or

1 unavailability of the chaperone, Respondent shall receive a notification from the Board or its
2 designee to cease the practice of medicine within three (3) calendar days after being so notified.
3 Respondent shall cease the practice of medicine until a replacement chaperone is approved and
4 assumes monitoring responsibility.

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

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

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

17 13. 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 14. INVESTIGATION/ENFORCEMENT COST RECOVERY. Respondent is hereby
21 ordered to reimburse the Board its costs of investigation and enforcement in the amount of
22 \$35,933.60 (thirty-five thousand nine hundred thirty-three dollars and sixty cents). Costs shall be
23 payable to the Medical Board of California. Failure to pay such costs shall be considered a
24 violation of probation.

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

3 15. 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 10 calendar days after the end
7 of the preceding quarter.

8 16. 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.

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1 In the event Respondent should leave the State of California to reside or to practice
2 Respondent shall notify the Board or its designee in writing 30 calendar days prior to the dates of
3 departure and return.

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

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

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

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

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

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

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

23. FUTURE ADMISSIONS CLAUSE. If Respondent should ever apply or reapply for a new license or certification, or petition for reinstatement of a license, by any other health care licensing action agency in the State of California, all of the charges and allegations contained in Accusation No. 800-2022-087322 shall be deemed to be true, correct, and admitted by Respondent for the purpose of any Statement of Issues or any other proceeding seeking to deny or restrict license.

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Robert K. Weinberg, Esq. I understand the stipulation and the effect it will have on my Physician's and Surgeon's Certificate No. C 160943. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Medical Board of California.

JOSEPH EMILE CUMMINGS, II, M.D.
Respondent

ROBERT K. WEINBERG, ESQ.
Attorney for Respondent

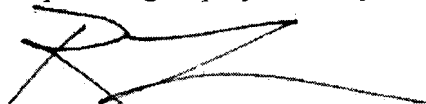
ENDORSEMENT

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

DATED: 8/29/24

Respectfully submitted,

ROB BONTA
Attorney General of California
ALEXANDRA M. ALVAREZ
Supervising Deputy Attorney General



ROSEMARY F. LUZON
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 800-2022-087322

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

14 In the Matter of the Accusation Against:

Case No. 800-2022-087322

15 **Joseph Emile Cummings, II, M.D.**
16 **6755 Mira Mesa Blvd., Ste. 123-256**
17 **San Diego, CA 92121-4392**

A C C U S A T I O N

18 **Physician's and Surgeon's Certificate**
19 **No. C 160943,**

20 **Respondent.**

21 **PARTIES**

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

24 2. On or about February 22, 2019, the Board issued Physician's and Surgeon's
25 Certificate No. C 160943 to Joseph Emile Cummings, II, M.D. (Respondent). The Physician's
26 and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought
27 herein and will expire on February 28, 2025, unless renewed.

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JURISDICTION

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

4. Section 2220 of the Code states:

Except as otherwise provided by law, the board may take action against all persons guilty of violating this chapter. . .

5. Section 2227 of the Code states:

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

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

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

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

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

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

...

6. Section 726 of the Code states:

(a) The commission of any act of sexual abuse, misconduct, or relations with a patient, client, or customer constitutes unprofessional conduct and grounds for disciplinary action for any person licensed under this or under any initiative act referred to in this division.

...

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1 7. Section 729 of the Code states:

2 (a) Any physician and surgeon . . . who engages in an act of sexual intercourse,
3 sodomy, oral copulation, or sexual contact with a patient or client . . . is guilty of
4 sexual exploitation by a physician and surgeon. . .

5 ...

6 (c) For purposes of this section:

7 ...

8 (3) "Sexual contact" means sexual intercourse or the touching of an intimate
9 part of a patient for the purpose of sexual arousal, gratification, or abuse.

10 ...

11 8. Section 2234 of the Code states:

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

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

17 (b) Gross negligence.

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

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

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

30 ...

31 9. Section 2228.1 of the Code states:

32 (a) On and after July 1, 2019, except as otherwise provided in subdivision (c),
33 the board and the Podiatric Medical Board of California shall require a licensee to
34 provide a separate disclosure that includes the licensee's probation status, the length
35 of the probation, the probation end date, all practice restrictions placed on the licensee
36 by the board, the board's telephone number, and an explanation of how the patient
37 can find further information on the licensee's probation on the licensee's profile page
38 on the board's online license information internet web site, to a patient or the

1 patient's guardian or health care surrogate before the patient's first visit following the
2 probationary order while the licensee is on probation pursuant to a probationary order
3 made on and after July 1, 2019, in any of the following circumstances:

4 (1) A final adjudication by the board following an administrative hearing or
5 admitted findings or prima facie showing in a stipulated settlement establishing any
6 of the following:

7 (A) The commission of any act of sexual abuse, misconduct, or relations with a
8 patient or client as defined in Section 726 or 729.

9 ...

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

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

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

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

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

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

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

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

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

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

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

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

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

3 . . .

4 10. Unprofessional conduct under section 2234 of the Code is conduct which breaches the
5 rules or ethical code of the medical profession, or conduct which is unbecoming a member in
6 good standing of the medical profession, and which demonstrates an unfitness to practice
7 medicine. (*Shea v. Board of Medical Examiners* (1978) 81 Cal.App.3d 564, 575.)

8 **COST RECOVERY**

9 11. Section 125.3 of the Code states:

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

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

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

24 (d) The administrative law judge shall make a proposed finding of the amount
25 of reasonable costs of investigation and prosecution of the case when requested
26 pursuant to subdivision (a). The finding of the administrative law judge with regard
27 to costs shall not be reviewable by the board to increase the cost award. The board
28 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.

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

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

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

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

14 FIRST CAUSE FOR DISCIPLINE

15 (Gross Negligence)

16 12. Respondent has subjected his Physician's and Surgeon's Certificate No. C 160943 to
17 disciplinary action under sections 2227 and 2234, as defined by section 2234, subdivision (b), of
18 the Code, in that he committed gross negligence in his care and treatment of Patient A, as more
19 particularly alleged hereinafter:¹

20 13. At all times relevant to the allegations and charges herein, Respondent was an
21 obstetrics/gynecology physician at the Naval Medical Center in San Diego, California (NMCSO).

22 14. On or about May 2, 2017, Respondent established a physician-patient relationship
23 with Patient A. Approximately six days earlier, on or about April 26, 2017, Patient A had gone to
24 the emergency room for extreme pelvic pain. Patient A was found to have multiple large fibroids
25 and given a prescription for Percocet.²

26 15. As a follow-up to her emergency room visit, Patient A saw Respondent for the first
27 time at the NMCSO Obstetrics/Gynecology Clinic on or about May 2, 2017. During this
28 encounter, Respondent noted that Patient A presented with abdominal pain and was experiencing
significant anxiety about her fibroids and fear of early menopause after a hysterectomy, which
was scheduled to take place on or about May 30, 2017. Respondent also noted Patient A's past

¹ References to "Patient A" herein are used to protect patient privacy.

² Percocet (oxycodone-acetaminophen) is a Schedule II controlled substance pursuant to
Health and Safety Code section 11055, subdivision (b), and a dangerous drug pursuant to
Business and Professions Code section 4022.

1 medical history of anxiety, weight gain since November, worsening right lower quadrant pain
2 over the last month, and urinary frequency without dysuria. Respondent diagnosed Patient A
3 with leiomyoma of the uterus (uterine fibroids) and administered a cocktail of toradol, reglan, and
4 phenergan for abdominal pain. Respondent prescribed Percocet (#40) and tramadol (#60) as
5 needed, as well as naproxen. Respondent advised Patient A to follow up as needed or for a pre-
6 operative appointment.

7 16. On or about May 30, 2017, Patient A underwent a hysterectomy.

8 17. Following Patient A's hysterectomy, Respondent and Patient A began communicating
9 by phone and text. Initially, the calls were mostly professional, with Respondent checking in on
10 Patient A and her recovery. However, during one of their phone calls, Respondent told Patient A
11 that she could resume normal sexual activity even though Patient A had not asked about the
12 subject. Respondent subsequently told Patient A, "If I had the opportunity, I would make love to
13 you all day." From this point on, the nature of their relationship evolved into more of a personal
14 relationship and they began talking and texting more frequently.

15 18. Respondent used two cell phones in his personal communications with Patient A.
16 One phone was his Navy-issued work cell phone. The other phone was his personal cell phone.

17 19. On or about August 18, 2017, Respondent and Patient A met at a hotel for their first
18 sexual encounter. Respondent used his work cell phone to make the arrangements with Patient A.
19 Thereafter, Respondent and Patient A saw each other frequently for sex, dinner, movies, and
20 companionship.

21 20. On or about August 31, 2017, Patient A had a second visit with Respondent at the
22 NMCSO Obstetrics/Gynecology Clinic. Patient A complained of anxiety, chest pressure,
23 tachycardia, and palpitations for the last week, as well as hot flashes. Patient A also reported a
24 history of sexual assault as a teenager and that she was recently called by the assailant, which
25 brought up many old feelings. Patient A reported seeing a mental health provider in the past.
26 Patient A stated that her post-traumatic stress disorder (PTSD), anxiety, and insomnia were

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1 previously treated with Valium³ and Ambien⁴ with good results. Patient A reported having hot
2 flashes and night sweats that caused her to have difficulty sleeping. Lastly, Patient A told
3 Respondent that she called her patient care manager to refill her medications, but they were out of
4 town for the week. Respondent noted that Patient A's past medical history included PTSD,
5 anxiety, insomnia, and anorexia, among other conditions. Respondent diagnosed Patient A with
6 menopausal and female climacteric states, insomnia, anxiety, and PTSD. Respondent prescribed
7 Valium (#60), Ambien (#30), and clonidine as needed for anxiety, insomnia, and hot flashes,
8 respectively.

9 21. Notwithstanding Respondent's physician-patient relationship with Patient A,
10 Respondent continued to have a personal relationship with Patient A, including a sexual
11 relationship. Respondent met for personal encounters with Patient A multiple times at various
12 locations, including hotels, restaurants, his home, his clinical office, and the hospital while he was
13 on duty.

14 22. Respondent consistently communicated with Patient A for personal reasons using his
15 work and personal cell phones, including while he was on duty at the hospital and before, after,
16 and in between performing C-section deliveries.

17 23. On or about November 7, 2017, Patient A had a third visit with Respondent at the
18 NMCSO Obstetrics/Gynecology Clinic. Patient A presented for a follow-up after an emergency
19 room visit due to acute exacerbation of chronic pelvic pain. Patient A reported being discharged
20 from the emergency room with "9/10" pain and continuing to have pain that was "normally fairly
21 tolerable and is 4-5/10, intermittent and sharp[.]" but worse when sitting up. Respondent noted
22 that Patient A was given Percocet in the emergency room and, at a prior visit, was given a limited
23 number of narcotics and phenergan. Respondent further noted that Patient A was advised to
24 make a follow-up appointment with the clinic and an appointment for physical therapy, but

25 ³ Valium (diazepam) is a Schedule IV controlled substance pursuant to Health and Safety
26 Code section 11057, subdivision (d), and a dangerous drug pursuant to Business and Professions
Code section 4022.

27 ⁴ Ambien (zolpidem tartrate) is a Schedule IV controlled substance pursuant to Health and
28 Safety Code section 11057, subdivision (d), and a dangerous drug pursuant to Business and
Professions Code section 4022.

1 Patient A stated that she was unable to make both appointments. In his Assessment and Plan,
2 Respondent counseled Patient A on the treatment of pelvic pain, continued her NSAIDs, started
3 oral contraceptives, administered a pelvic pain cocktail, and prescribed Percocet (#40) as needed.
4 Respondent also referred Patient A for a pelvic ultrasound and physical therapy.

5 24. On or about November 13, 2017, Patient A had a telephone consult with Respondent,
6 their fourth physician-patient encounter. According to the consult notes, Patient A reported
7 having acute exacerbation of pelvic and perineal pain. Patient A had a pending consult with
8 physical therapy and the plan was to also send her to pain management. In addition, Respondent
9 noted that Patient A had a pelvic pain cocktail prescription in the clinic. Respondent prescribed
10 hydrocodone-acetaminophen⁵ (#30) as needed. Respondent noted that Patient A was taking
11 Percocet, "but it makes her too sick."

12 25. On or about November 21, 2017, Respondent and Patient A met at Respondent's
13 home and had sex. The next day, on or about November 22, 2017, Patient A texted Respondent
14 asking him to put in an order for her medications, to which he responded as follows: "Meds are
15 in at Balboa. Also put a pain mgmt consult in." Respondent used his personal cell phone in
16 connection with this text exchange.

17 26. On or about November 22, 2017, Respondent memorialized this text exchange as a
18 telephone consult with Patient A, their fifth physician-patient encounter. According to the consult
19 notes, Patient A called needing a refill on her pain medications. Respondent noted that he
20 planned to dispense the medications today, but that the patient needed to see physical therapy and
21 pain management. Respondent referred Patient A to pain management and prescribed
22 hydrocodone-acetaminophen (#30) as needed.

23 27. On or about January 7, 2018, Patient A had a telephone consult with Respondent,
24 their sixth physician-patient encounter. According to the consult notes, Patient A was called and
25 she reported chronic insomnia and anxiety. Patient A requested a refill of her medications.

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27 ⁵ Hydrocodone-acetaminophen (Norco) is a Schedule II controlled substance pursuant to
28 Health and Safety Code section 11055, subdivision (b), and a dangerous drug pursuant to
Business and Professions Code section 4022.

1 Respondent's diagnoses included insomnia, PTSD, and anxiety. Respondent prescribed Valium
2 (#90) and Ambien (#60) as needed.

3 28. Respondent's and Patient A's sexual relationship ended in or about January 2018, but
4 they continued to have a personal relationship through at least in or about November 2019.

5 29. On or about August 5, 2018, Respondent and Patient A had a text exchange about
6 pain that she was experiencing, which was not resolved by taking Advil PM. Patient A told
7 Respondent that she found a new psychiatrist, however, he was not accepting new patients for a
8 while. Patient A asked Respondent if he could refill her anxiety and sleep medications. In
9 addition, Patient A requested a one-time prescription for her pain. Respondent replied as follows:
10 "I will take care of it this morning after church[.]" Respondent used his personal cell phone in
11 connection with this text exchange.

12 30. According to Respondent, he memorialized this text exchange as a telephone consult
13 with Patient A, their seventh physician-patient encounter. According to Respondent, Patient A
14 had an acute exacerbation of her pelvic pain and her comorbid conditions were contributing
15 factors. Respondent stated that Patient A was in the process of finding a psychiatrist, but was not
16 able to see anyone yet. Patient A requested a refill of her anxiety, depression, insomnia, and
17 pelvic pain medications. Respondent stated that he prescribed the medications and told Patient A
18 that she needed to see a doctor as soon as possible.

19 31. Respondent committed gross negligence in his care and treatment of Patient A, which
20 included, but was not limited to, the following:

- 21 A. Respondent engaged in a sexual relationship with Patient A;
- 22 B. Respondent expressed sexual feelings and desire for Patient A;
- 23 C. Respondent initiated contact with Patient A, and continued such contact,
24 for the purpose of engaging in a romantic and sexual relationship with Patient A; and
- 25 D. Respondent met with Patient A for romantic and sexual encounters on
26 multiple occasions at the hospital, including while he was on duty.

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1 **SECOND CAUSE FOR DISCIPLINE**

2 **(Repeated Negligent Acts)**

3 32. Respondent has subjected his Physician's and Surgeon's Certificate No. C 160943 to
4 disciplinary action under sections 2227 and 2234, as defined by section 2234, subdivision (c), of
5 the Code, in that he committed repeated negligent acts in his care and treatment of Patient A, as
6 more particularly alleged hereinafter:

7 33. Paragraphs 13 through 30, above, are hereby incorporated by reference and re-alleged
8 as if fully set forth herein

9 34. Respondent committed repeated negligent acts in his care and treatment of Patient A,
10 which included, but were not limited to, the following:

11 A. Respondent engaged in a sexual relationship with Patient A;

12 B. Respondent expressed sexual feelings and desire for Patient A;

13 C. Respondent initiated contact with Patient A, and continued such contact,
14 for the purpose of engaging in a romantic and sexual relationship with Patient A; and

15 D. Respondent met with Patient A for romantic and sexual encounters on
16 multiple occasions at the hospital, including while he was on duty.

17 **THIRD CAUSE FOR DISCIPLINE**

18 **(Sexual Misconduct)**

19 35. Respondent has subjected his Physician's and Surgeon's Certificate No. C 160943 to
20 disciplinary action under sections 2227 and 2234, as defined by section 726, of the Code, in that
21 he engaged in sexual misconduct with Patient A, as more particularly alleged in paragraphs 13
22 through 30, above, which are hereby incorporated by reference and re-alleged as if fully set forth
23 herein.

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1 **FOURTH CAUSE FOR DISCIPLINE**

2 **(Sexual Exploitation of a Patient)**

3 36. Respondent has subjected his Physician's and Surgeon's Certificate No. C 160943 to
4 disciplinary action under sections 2227 and 2234, as defined by section 729, of the Code, in that
5 he sexually exploited Patient A, as more particularly alleged in paragraphs 13 through 30, above,
6 which are hereby incorporated by reference and re-alleged as if fully set forth herein.

7 **FIFTH CAUSE FOR DISCIPLINE**

8 **(Violating or Attempting to Violate Any Provision of the Medical Practice Act)**

9 37. Respondent has subjected his Physician's and Surgeon's Certificate No. C 160943 to
10 disciplinary action under sections 2227 and 2234, subdivision (a), of the Code, in that he has
11 violated or attempted to violate, directly or indirectly, provisions or terms of the Medical Practice
12 Act, as more particularly alleged in paragraphs 13 through 36, above, which are hereby
13 incorporated by reference and realleged as if fully set forth herein.

14 **SIXTH CAUSE FOR DISCIPLINE**

15 **(General Unprofessional Conduct)**

16 38. Respondent has subjected his Physician's and Surgeon's Certificate No. C 160943 to
17 disciplinary action under sections 2227 and 2234 of the Code, in that he has engaged in conduct
18 which breaches the rules or ethical code of the medical profession, or conduct which is
19 unbecoming to a member in good standing of the medical profession, and which demonstrates an
20 unfitness to practice medicine, as more particularly alleged in paragraphs 13 through 37, above,
21 which are hereby incorporated by reference and realleged as if fully set forth herein.

22 **PRAYER**

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

- 25 1. Revoking or suspending Physician's and Surgeon's Certificate No. C 160943, issued
26 to Respondent Joseph Emile Cummings, II, M.D.;
- 27 2. Revoking, suspending or denying approval of Respondent Joseph Emile Cummings,
28 II, M.D.'s authority to supervise physician assistants and advanced practice nurses;

1 3. Ordering Respondent Joseph Emile Cummings, II, M.D., to pay the Board the costs
2 of the investigation and enforcement of this case, and if placed on probation, the costs of
3 probation monitoring;

4 4. Ordering Respondent Joseph Emile Cummings, II, M.D., if placed on probation, to
5 provide patient notification in accordance with Business and Professions Code section 2228.1;
6 and

7 5. Taking such other and further action as deemed necessary and proper.

8
9 DATED: FEB 16 2024



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

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