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

11 In the Matter of the Accusation Against:

Case No. 800-2022-092725

12 **MYRON COLIN MARIANO, M.D.**  
13 **23451 Madison Street, Suite 340**  
**Torrance, CA 90505-4763**

**A C C U S A T I O N**

14 **Physician's and Surgeon's Certificate**  
15 **No. G 79760,**

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, Department of Consumer Affairs  
21 (Board).

22 2. On or about August 31, 1994, the Medical Board issued Physician's and Surgeon's  
23 Certificate Number G 79760 to Myron Colin Mariano, M.D. (Respondent). The Physician's and  
24 Surgeon's Certificate was in full force and effect at all times relevant to the charges brought  
25 herein and will expire on May 31, 2026, 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 2004 of the Code states:

The board shall have the responsibility for the following:

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

(b) The administration and hearing of disciplinary actions.

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

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

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

(f) Approving undergraduate and graduate medical education programs.

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

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

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

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.

1 (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.

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

## 6 STATUTORY PROVISIONS

7 6. Section 2234 of the Code states:

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

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

12 (b) Gross negligence.

13 (c) Repeated negligent acts. To be repeated, there must be two or more  
14 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.

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

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

20 (d) Incompetence.

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

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

24 (g) The failure by a certificate holder, in the absence of good cause, to attend  
25 and participate in an interview by the board no later than 30 calendar days after being  
26 notified by the board. This subdivision shall only apply to a certificate holder who is  
the subject of an investigation by the board.

27 (h) Any action of the licensee, or another person acting on behalf of the  
28 licensee, intended to cause their patient or their patient's authorized representative to  
rescind consent to release the patient's medical records to the board or the  
Department of Consumer Affairs, Health Quality Investigation Unit.

(i) Dissuading, intimidating, or tampering with a patient, witness, or any person in an attempt to prevent them from reporting or testifying about a licensee.

7. Section 2266 of the Code states:

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

### **COST RECOVERY**

8. Section 125.3 of the Code states:

(a) Except as otherwise provided by law, in any order issued in resolution of a disciplinary proceeding before any board within the department or before the Osteopathic Medical Board, upon request of the entity bringing the proceeding, the administrative law judge may 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.

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

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

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

(e) If an order for recovery of costs is made and timely payment is not made as directed in the board's decision, the board may enforce the order for repayment in any appropriate court. This right of enforcement shall be in addition to any other rights the board may have as to any licensee to pay costs.

(f) In any action for recovery of costs, proof of the board's decision shall be conclusive proof of the validity of the order of payment and the terms for payment.

(g) (1) Except as provided in paragraph (2), the board shall not renew or reinstate the license of any licensee who has failed to pay all of the costs ordered under this section.

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

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

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

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

#### 9 **DEFINITIONS**

10 9. The sigmoid colon is the part of the large intestine (colon) closest to the rectum. It  
11 absorbs water from stool and pushes the stool to the rectum and anus until it is ready to be  
12 expelled.

13 10. A sigmoid colectomy, also known as a sigmoid resection, is a surgical procedure to  
14 remove all or part of the sigmoid colon. A laparoscopic colectomy involves the use of several  
15 small incisions instead of one large incision, making it minimally invasive.

16 11. An enterectomy is a surgical procedure used to remove a portion of the intestine. The  
17 procedure is performed to treat various conditions affecting the small intestine, such as cancer.

18 12. A colostomy is surgery to create an opening for the colon through the belly.

19 13. An anastomosis is a surgical connection between two structures, usually tubular, such  
20 as blood vessels or loops of intestine. An anastomotic leak occurs when a surgical anastomosis  
21 fails and contents of a reconnected body channel leak from the surgical connection.

#### 22 **FACTUAL ALLEGATIONS**

23 14. Respondent is a board-certified surgeon, who works for the Association of South Bay  
24 Surgeons in Torrance, California.

25 15. In or about April 2019, Patient A,<sup>1</sup> a then seventy-eight-year-old man, presented to  
26 his gastroenterologist complaining of sporadic diarrhea and intermittent incontinence. Patient A  
27 had a history of Parkinson's disease and hypertension, among other maladies.

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<sup>1</sup> The patient is designated as "Patient A" to protect his privacy.

1           16. On or about April 2, 2019, Patient A underwent a colonoscopy and colon biopsy.  
2 Subsequently, Patient A was diagnosed with malignant neoplasm of the colon,<sup>2</sup> and was referred  
3 to Respondent for a possible colectomy and enterectomy.

4           17. On or about April 17, 2019, Patient A presented to Respondent. Respondent  
5 evaluated Patient A and reviewed the records provided to him after the referral. Respondent  
6 recommended Patient A to undergo a robotic-assisted laparoscopic colectomy. The surgery was  
7 scheduled for May 17, 2019.

8           18. On or about May 17, 2019, Patient A was admitted to Foothill Presbyterian Hospital  
9 (Foothill), in Glendora, California, to undergo surgery with Respondent.

10           19. During the laparoscopic phase of the surgery, Respondent found that Patient A had a  
11 large redundant sigmoid colon and the mesenteric vessels<sup>3</sup> were unable to be seen safely. As a  
12 result, Respondent determined that he could not safely proceed with laparoscopy and needed to  
13 convert the procedure from robotic-assisted to an open procedure.

14           20. Respondent proceeded with the open procedure. Upon completion, Respondent noted  
15 that Patient A tolerated the procedure well.

16           21. Over the next few days, Respondent evaluated Patient A, who indicated that he was  
17 feeling better, but still had some pain. On or about May 21, 2019, Patient A was found to be  
18 short of breath, slightly confused, and agitated. It was also noted that Patient A had a distended  
19 abdomen. Patient A was assessed by a cardiologist and a pulmonologist, who found that Patient  
20 A suffered from ileus.<sup>4</sup>

21           22. On or about May 23, 2019, a computed tomography (CT) scan was ordered, which  
22 demonstrated a bowel perforation and free air and fluid in the peritoneal cavity.

23           23. On or about May 24, 2019, in his immediate post-operative notes, Respondent  
24 indicated that Patient A was suffering from an anastomotic leak and free intraperitoneal air.

25  
26 <sup>2</sup> Malignant neoplasm of the colon, also known as colorectal carcinoma, is a cancer, or  
malignant tumor, of the large intestine, which may affect the colon or rectum.

27 <sup>3</sup> Mesenteric vessels are the arteries that supply blood from the aorta and distribute it to a  
large portion of the gastrointestinal tract.

28 <sup>4</sup> Ileus is a condition in which the bowel does not work correctly, but there is no structural  
problem causing the obstruction.

1 Consequently, on or about May 24, 2019, Respondent performed an exploratory laparotomy on  
2 Patient A. Respondent also performed a partial bowel resection, a colostomy, a peritoneal  
3 lavage<sup>5</sup> and drainage of abscess. Respondent repaired the leak in the abdomen and placed  
4 Jackson-Pratt drains<sup>6</sup> in Patient A. Following the procedures, Patient A was left intubated and  
5 was taken to the postoperative care unit. Patient A was later transferred to the intensive care unit.

6 24. Following the procedures, Respondent continued to exam and assess Patient A's  
7 condition. It was found that Patient A developed sepsis, which caused an acute kidney injury and  
8 would require dialysis. Consequently, on or about May 31, 2019, Respondent performed another  
9 procedure on Patient A, placing a central venous catheter for dialysis.

10 25. Patient A continued to have a plethora of medical issues, including infections,  
11 pneumonia, and respiratory failure, among other things.

12 26. On or about June 11, 2019, Patient A underwent another exploratory laparotomy, and  
13 a copious amount of fluid was drained. Patient A developed an infection and was given  
14 antibiotics. Additionally, on or about June 11, 2019, Patient A underwent a tracheostomy due to  
15 the continued respiratory failure.

16 27. On or about July 1, 2019, Patient A was noted to have wound dehiscence, and he  
17 underwent a wound irrigation and closure.

18 28. On or about July 3, 2019, Patient A was transferred to a long-term care facility.

19 29. On or about July 31, 2022, Patient A expired due to end stage renal disease.

20 **FIRST CAUSE FOR DISCIPLINE**

21 **(Repeated Negligent Acts)**

22 30. Respondent Myron Colin Mariano, M.D. is subject to disciplinary action under Code  
23 section 2234, subdivision (c), in that he was negligent in the care and treatment of Patient A. The  
24 circumstances are as follows:

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27 <sup>5</sup> Peritoneal lavage is a surgical diagnostic procedure to determine if there is free floating  
fluid in the abdominal cavity.

28 <sup>6</sup> Jackson-Pratt drains are surgical suction drains that gently draw fluid from a wound to  
help an individual recover after surgery.

1           31. The facts and allegations set forth in paragraphs 14 through 29 are incorporated  
2 herein by reference as if fully set forth.

3           32. Anastomotic leaks and bowel perforation are inherited risks of a sigmoid colectomy.  
4 Appropriate surgical techniques and evaluation of the bowel, after completion of an anastomosis,  
5 is paramount to avoiding such complications.

6           33. Respondent's operative report of the May 17, 2019, surgery, which was signed on  
7 August 10, 2019, indicated that a stapled side-to-side colonic anastomosis was performed as the  
8 descending colon was brought down to the front of the distal rectum. Respondent does not note  
9 any evaluation of the viability of the bowel ends or their blood supply. Respondent also failed to  
10 include an evaluation of the anastomosis with air insufflation to detect a possible leak. As such,  
11 Patient A's eventual complications were not unexpected. During an interview with the Board,  
12 Respondent stated that he did inspect the anastomosis, although there is no documentation that  
13 this was done. Respondent's acts and omissions constitute a simple departure from the standard  
14 of care.

15           34. On or about May 21, 2019, Patient A became ill and confused. This should have  
16 alerted Respondent that Patient A was possibly suffering from an intra-abdominal infection. On  
17 or about May 23, 2019, a CT scan was ordered and performed on Patient A, which led to  
18 Respondent performing an additional surgery on or about May 24, 2019. The surgery was  
19 delayed at least four days, despite Patient A exhibiting signs of a complication. Delaying the  
20 surgery with the perforated colon and fecal contamination was a contributing factor to the major  
21 complications Patient A endured, including sepsis, multi-organ failure, and abdominal abscesses.

22           35. Following the May 24, 2019, surgery, Respondent closed the abdomen after the last  
23 irrigation and suction of the peritoneal cavity. While closing the abdomen can be an option when  
24 dealing with major intra-abdominal contamination, wound infection and dehiscence of the wound  
25 should have been expected with such massive contamination. Respondent's delay in performing  
26 an additional surgery and his decision to close the abdomen constitute a simple departure from the  
27 standard of care.

28           36. Respondent failed to document a preoperative evaluation of labs for Patient A.



37. Respondent's operative report for the May 17, 2019, surgery was dictated on July 10, 2019, and signed by Respondent on August 10, 2019, months after the actual procedure. The operative report does not include a full and accurate recording of the procedure, as explained by Respondent during his interview with the Board. Respondent's failures to document constitute simple departures from the standard of care.

## SECOND CAUSE FOR DISCIPLINE

**(Failure to Maintain Adequate Medical Records)**

38. Respondent Myron Colin Mariano, M.D. is subject to disciplinary action under Code section 2266 in that he failed to maintain adequate and accurate medical records for Patient A. The circumstances are as follows:

39. Complainant hereby re-alleges the facts and allegations in the First Cause for Discipline, which are incorporated herein by reference as if fully set forth.

40. Respondent's failures to properly document his care and treatment of Patient A, as noted in the First Cause for Discipline, above, constitute the failure to maintain adequate and accurate medical records and unprofessional conduct, pursuant to Code section 2266.

### THIRD CAUSE FOR DISCIPLINE

**(Unprofessional Conduct)**

41. Respondent Myron Colin Mariano, M.D. is subject to disciplinary action under Code section 2234 in that he engaged in unprofessional conduct in his care and treatment of Patient A. The circumstances are as follows:

42. The facts and allegations set forth in the First and Second Causes for Discipline are incorporated herein by reference as if fully set forth.

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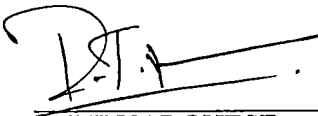
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**PRAYER**

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

1. Revoking or suspending Physician's and Surgeon's Certificate Number G 79760, issued to Respondent Myron Colin Mariano, M.D.;
2. Revoking, suspending or denying approval of Respondent Myron Colin Mariano, M.D.'s authority to supervise physician assistants and advanced practice nurses;
3. Ordering Respondent Myron Colin Mariano, M.D., to pay the Board the costs of the investigation and enforcement of this case, and if placed on probation, the costs of probation monitoring; and
4. Taking such other and further action as deemed necessary and proper.

DATED: JAN 27 2025

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

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