

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

In the Matter of the Accusation
Against:

Bryan Keith Lee, M.D.

Physician's and Surgeon's
Certificate No. A 105716

Respondent

Case No. 800-2018-042684

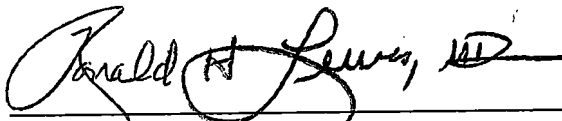
DECISION

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 July 30, 2021.

IT IS SO ORDERED: July 1, 2021.

MEDICAL BOARD OF CALIFORNIA



Ronald H. Lewis, M.D., Chair
Panel A

1 ROB BONTA
Attorney General of California
2 STEVEN D. MUNI
Supervising Deputy Attorney General
3 RYAN J. YATES
Deputy Attorney General
4 State Bar No. 279257
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Attorneys for Complainant

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

12 In the Matter of the Accusation Against:

Case No. 800-2018-042684

13 **BRYAN KEITH LEE, M.D.**
14 **2933 Chauncy Circle**
Stockton, CA 95209-1616

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

15 **Physician's and Surgeon's**
16 **Certificate No. A 105716**

17 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. William Prasifka (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
25 in this matter by Xavier Becerra, Attorney General of the State of California, by Ryan J. Yates,
26 Deputy Attorney General.

27 2. Respondent Bryan Keith Lee, M.D. (Respondent) is represented in this proceeding by
28

1 attorney Lucy S. McAllister, whose address is: 255 North Market Street, Suite 100 San Jose, CA
2 95110-2471. On or about October 3, 2008, the Board issued Physician's and Surgeon's Certificate
3 No. A 105716 to Bryan Keith Lee, M.D. (Respondent). The Physician's and Surgeon's
4 Certificate was in full force and effect at all times relevant to the charges brought in Accusation
5 No. 800-2018-042684, and will expire on October 31, 2022, unless renewed.

6 **JURISDICTION**

7 3. Accusation No. 800-2018-042684 was filed before the Board, and is currently
8 pending against Respondent. The Accusation and all other statutorily required documents were
9 properly served on Respondent on July 30, 2020. Respondent timely filed his Notice of Defense
10 contesting the Accusation.

11 4. A copy of Accusation No. 800-2018-042684 is attached as exhibit A and incorporated
12 herein by reference.

13 **ADVISEMENT AND WAIVERS**

14 5. Respondent has carefully read, fully discussed with counsel, and understands the
15 charges and allegations in Accusation No. 800-2018-042684. Respondent has also
16 carefully read, fully discussed with his counsel, and understands the effects of this Stipulated
17 Settlement and Disciplinary Order.

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

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

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1 CULPABILITY

2 8. Respondent understands and agrees that the charges and allegations in Accusation
3 No. 800-2018-042684, if proven at a hearing, constitute cause for imposing discipline upon his
4 Physician's and Surgeon's Certificate.

5 9. Respondent agrees that, at a hearing, Complainant could establish a prima facie case
6 or factual basis for the charges in the Accusation, and that Respondent hereby gives up his right to
7 contest those charges.

8 10. Respondent does not contest that, at an administrative hearing, complainant could
9 establish a prima facie case with respect to the charges and allegations in Accusation No. 800-
10 2018-042684, a true and correct copy of which is attached hereto as Exhibit A, and that he has
11 thereby subjected his Physician's and Surgeon's Certificate, No. A 105716 to disciplinary action.

12 11. ACKNOWLEDGMENT. Respondent acknowledges the Disciplinary Order below,
13 requiring the disclosure of probation pursuant to Business and Professions Code section 2228.1,
14 serves to protect the public interest.

15 12. Respondent agrees that his Physician's and Surgeon's Certificate is subject to
16 discipline and he agrees to be bound by the Board's probationary terms as set forth in the
17 Disciplinary Order below.

18 CONTINGENCY

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

1 patient until immediately prior to the start of the visit; (4) Respondent does not have a direct
2 treatment relationship with the patient.

3 2. MEDICAL RECORD KEEPING COURSE. Within 60 calendar days of the effective
4 date of this Decision, Respondent shall enroll in a course in medical record keeping approved in
5 advance by the Board or its designee. Respondent shall provide the approved course provider with
6 any information and documents that the approved course provider may deem pertinent.

7 Respondent shall participate in and successfully complete the classroom component of the course
8 not later than six (6) months after Respondent's initial enrollment. Respondent shall successfully
9 complete any other component of the course within one (1) year of enrollment. The medical
10 record keeping course shall be at Respondent's expense and shall be in addition to the Continuing
11 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 3. PROFESSIONALISM PROGRAM (ETHICS COURSE). Within 60 calendar days of
21 the effective date of this Decision, Respondent shall enroll in a professionalism program, that
22 meets the requirements of Title 16, California Code of Regulations (CCR) section 1358.1.
23 Respondent shall participate in and successfully complete that program. Respondent shall
24 provide any information and documents that the program may deem pertinent. Respondent shall
25 successfully complete the classroom component of the program not later than six (6) months after
26 Respondent's initial enrollment, and the longitudinal component of the program not later than the
27 time specified by the program, but no later than one (1) year after attending the classroom
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1 component. The professionalism program shall be at Respondent's expense and shall be in
2 addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

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

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

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

21 Failure to complete the entire program not later than six (6) months after Respondent's
22 initial enrollment shall constitute a violation of probation unless the Board or its designee agrees
23 in writing to a later time for completion. Based on Respondent's performance in and evaluations
24 from the assessment, education, and training, the program shall advise the Board or its designee of
25 its recommendation(s) for additional education, training, psychotherapy and other measures
26 necessary to ensure that Respondent can practice medicine safely. Respondent shall comply with
27 program recommendations. At the completion of the program, Respondent shall submit to a final
28 evaluation. The program shall provide the results of the evaluation to the Board or its designee.

1 The professional boundaries program shall be at Respondent's expense and shall be in addition to
2 the Continuing Medical Education (CME) requirements for renewal of licensure.

3 The program has the authority to determine whether or not Respondent successfully
4 completed the program.

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

10 If Respondent fails to complete the program within the designated time period, Respondent
11 shall cease the practice of medicine within three (3) calendar days after being notified by the
12 Board or its designee that Respondent failed to complete the program.

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

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

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

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

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

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

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

1 6. SOLO PRACTICE PROHIBITION. Respondent is prohibited from engaging in the
2 solo practice of medicine. Prohibited solo practice includes, but is not limited to, a practice
3 where: 1) Respondent merely shares office space with another physician but is not affiliated for
4 purposes of providing patient care, or 2) Respondent is the sole physician practitioner at that
5 location.

6 If Respondent fails to establish a practice with another physician or secure employment in
7 an appropriate practice setting within 60 calendar days of the effective date of this Decision,
8 Respondent shall receive a notification from the Board or its designee to cease the practice of
9 medicine within three (3) calendar days after being so notified. The Respondent shall not resume
10 practice until an appropriate practice setting is established.

11 If, during the course of the probation, the Respondent's practice setting changes and the
12 Respondent is no longer practicing in a setting in compliance with this Decision, the Respondent
13 shall notify the Board or its designee within five (5) calendar days of the practice setting change.
14 If Respondent fails to establish a practice with another physician or secure employment in an
15 appropriate practice setting within 60 calendar days of the practice setting change, Respondent
16 shall receive a notification from the Board or its designee to cease the practice of medicine within
17 three (3) calendar days after being so notified. The Respondent shall not resume practice until an
18 appropriate practice setting is established.

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

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

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

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

11 Respondent is prohibited from terminating employment of a Board-approved third party
12 chaperone solely because that person provided information as required to the Board or its
13 designee. If the third party chaperone resigns or is no longer available, Respondent shall, within
14 five (5) calendar days of such resignation or unavailability, submit to the Board or its designee,
15 for prior approval, the name of the person(s) who will act as the third party chaperone. If
16 Respondent fails to obtain approval of a replacement chaperone within 30 calendar days of the
17 resignation or unavailability of the chaperone, Respondent shall receive a notification from the
18 Board or its designee to cease the practice of medicine within three (3) calendar days after being
19 so notified. Respondent shall cease the practice of medicine until a replacement chaperone is
20 approved and assumes monitoring responsibility.

21 Respondent shall provide written notification to Respondent's patients that a third party
22 chaperone shall be present during all consultations, examination, or treatment with [insert: male,
23 female or minor] patients. Respondent shall maintain in the patient's file a copy of the written
24 notification, shall make the notification available for immediate inspection and copying on the
25 premises at all times during business hours by the Board or its designee, and shall retain the
26 notification for the entire term of probation.

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

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

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

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

16 11. QUARTERLY DECLARATIONS. Respondent shall submit quarterly declarations
17 under penalty of perjury on forms provided by the Board, stating whether there has been
18 compliance with all the conditions of probation.

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

21 12. GENERAL PROBATION REQUIREMENTS.

22 Compliance with Probation Unit

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

24 Address Changes

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

3 Place of Practice

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

7 License Renewal

8 Respondent shall maintain a current and renewed California physician's and surgeon's
9 license.

10 Travel or Residence Outside California

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

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

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

20 14. NON-PRACTICE WHILE ON PROBATION. Respondent shall notify the Board or
21 its designee in writing within 15 calendar days of any periods of non-practice lasting more than 30
22 calendar days and within 15 calendar days of Respondent's return to practice. Non-practice is
23 defined as any period of time Respondent is not practicing medicine as defined in Business and
24 Professions Code sections 2051 and 2052 for at least 40 hours in a calendar month in direct
25 patient care, clinical activity or teaching, or other activity as approved by the Board. If
26 Respondent resides in California and is considered to be in non-practice, Respondent shall
27 comply with all terms and conditions of probation. All time spent in an intensive training
28 program which has been approved by the Board or its designee shall not be considered non-

1 practice and does not relieve Respondent from complying with all the terms and conditions of
2 probation. Practicing medicine in another state of the United States or Federal jurisdiction while
3 on probation with the medical licensing authority of that state or jurisdiction shall not be
4 considered non-practice. A Board-ordered suspension of practice shall not be considered as a
5 period of non-practice.

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

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

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

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

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

18 15. COMPLETION OF PROBATION. Respondent shall comply with all financial
19 obligations (e.g., restitution, probation costs) not later than 120 calendar days prior to the
20 completion of probation. Upon successful completion of probation, Respondent's certificate shall
21 be fully restored.

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

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

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

16 19. FUTURE ADMISSIONS CLAUSE. If Respondent should ever apply or reapply for a
17 new license or certification, or petition for reinstatement of a license, by any other health care
18 licensing action agency in the State of California, all of the charges and allegations contained in
19 Accusation No. 800-2018-042684 shall be deemed to be true, correct, and admitted by
20 Respondent for the purpose of any Statement of Issues or any other proceeding seeking to deny or
21 restrict license.

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ACCEPTANCE

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

DATED: 6/1/2021 Bryan Lee
BRYAN KEITH LEE, M.D.
Respondent

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

DATED: 6/1/2021 Lucy McAllister
LUCY S. MCALLISTER
Attorney for Respondent

ENDORSEMENT

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

DATED: 6/2/21

Respectfully Submitted,
ROB BONTA
Attorney General of California
STEVEN D. MUNI
Supervising Deputy Attorney General



RYAN J. YATES
Deputy Attorney General
*Attorneys for Complainant
Medical Board of California*

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Lee Stipulated Settlement 2 (003).docx

Exhibit A

Accusation No. 800-2018-042684

1 XAVIER BECERRA
Attorney General of California
2 STEVEN D. MUNI
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8 *Attorneys for Complainant*

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

In the Matter of the Accusation Against:

Bryan Keith Lee, M.D.
2933 Chauncy Circle
Stockton, CA 95209-1616

Physician's and Surgeon's Certificate
No. A 105716,

Respondent.

Case No. 800-2018-042684

ACCUSATION

PARTIES

1. William Prasifka (Complainant) brings this Accusation solely in his official capacity as the Executive Director of the Medical Board of California, Department of Consumer Affairs (Board).
2. On or about October 3, 2008, the Medical Board issued Physician's and Surgeon's Certificate Number A 105716 to Bryan Keith Lee, M.D. (Respondent). The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought herein and will expire on October 31, 2020, unless renewed.

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JURISDICTION

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

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

9 5. Section 2234 of the Code states:

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

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

15 “(b) Gross negligence.

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

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

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

26 “(d) Incompetence.

27 “(e) The commission of any act involving dishonesty or corruption which is substantially
28 related to the qualifications, functions, or duties of a physician and surgeon.

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

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

FIRST CAUSE FOR DISCIPLINE
(Gross Negligence)

6. Respondent Bryan Keith Lee, M.D., is subject to disciplinary action under section 2234; subdivision (b) of the Code, in that he was grossly negligent in his care and treatment of Patient A. The circumstances are as follows:

7. Patient A, a then 21-year-old female, became Respondent’s patient following a suicide attempt and a month long commitment at a psychiatric hospital. Respondent is a primary care physician, who was working with the Kaiser Permanente Medical Group at the South Sacramento Medical Center (Kaiser). On or about November 15, 2017, shortly after Patient A’s release from the psychiatric hospital, Respondent conducted a post-hospital follow-up visit with Patient A. During the visit, which was the first meeting between Respondent and Patient A, Respondent performed a physical examination, ordered blood work, and discussed her earlier suicide attempt with her. Following the examination, Respondent offered to follow up with Patient A regarding her mental health and Patient A provided Respondent with her personal telephone number.

8. Shortly thereafter, Respondent and Patient A began text messaging each other, in which several messages were exchanged, approximately every two (2) to three (3) days. Respondent discussed meeting with Patient A and socializing, as well as discussing the issues surrounding her self-harm. Respondent additionally offered to meet with Patient A, in person, on several occasions.

9. At some point during their text message conversations, in January of 2018, Patient A accepted an invitation from Respondent to go to his home. Shortly after Patient A’s arrival, Respondent and Patient A smoked marijuana together in his guest bedroom. During the interaction, Respondent sat close to Patient A on the bed. Respondent then touched Patient A’s

1 leg and/or shoulder, and/or behind her ear, and/or breast. Following the interaction, Respondent
2 hugged Patient A and she left.

3 10. Respondent and Patient A continued exchanging text messages with each other.
4 Respondent apologized, and Patient A replied that Respondent had lost her trust, or words to that
5 effect.

6 11. A few weeks to a month after their first social interaction, Respondent met with
7 Patient A for a second time. Respondent drove to Patient A's residence and picked her up in his
8 car. They smoked marijuana together in his vehicle, and Respondent drove Patient A back to her
9 home.

10 12. Following each of these interactions, Respondent failed to produce and/or maintain
11 medical records regarding each meeting with Patient A.

12 13. Respondent continued to engage Patient A in text conversations until approximately
13 February of 2018. On or about March 9, 2018, Patient A was re-admitted to Kaiser, following
14 another suicide attempt. While at Kaiser, Patient A disclosed her interactions with Respondent to
15 a nurse and a therapist.

16 14. Following an internal investigation by Kaiser into Respondent's misconduct, on or
17 about March 26, 2018, Respondent resigned from his position with Kaiser. Following
18 Respondent's resignation, Kaiser submitted a Business and Professions Code, section 805 report
19 with the Board.

20 **SECOND CAUSE FOR DISCIPLINE**

21 **(Repeated Negligent Acts)**

22 15. Respondent's license is subject to disciplinary action under section 2234, subdivision
23 (c), of the Code, in that he committed repeated negligent acts during his interactions with Patient
24 A, as more fully described in paragraphs 6 through 14, above, and those paragraphs are
25 incorporated by reference as if fully set forth herein.

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1 **THIRD CAUSE FOR DISCIPLINE**

2 **(Failure to Maintain Adequate and Accurate Records)**

3 16. Respondent's license is subject to disciplinary action under section 2266 of the Code,
4 in that he failed to maintain adequate and accurate medical records relating to his care and
5 treatment of Patient A, as more fully described in paragraphs 6 through 15 above, and those
6 paragraphs are incorporated by reference as if fully set forth herein.

7 **FOURTH CAUSE FOR DISCIPLINE**

8 **(General Unprofessional Conduct)**

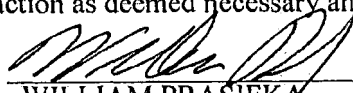
9 17. Respondent is further subject to disciplinary action under sections 2227 and 2234, as
10 defined by section 2234, of the Code, in that he has engaged in conduct which breaches the rules
11 or ethical code of the medical profession, or conduct which is unbecoming of a member in good
12 standing of the medical profession, and which demonstrates an unfitness to practice medicine, as
13 more particularly alleged in paragraphs 6 through 16 above, which are hereby realleged and
14 incorporated by reference as if fully set forth herein.

15 **PRAYER**

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

- 18 1. Revoking or suspending Physician's and Surgeon's Certificate Number A 105716,
19 issued to Bryan Keith Lee, M.D.;
- 20 2. Revoking, suspending or denying approval of Bryan Keith Lee, M.D.'s authority to
21 supervise physician assistants and advanced practice nurses;
- 22 3. Ordering Bryan Keith Lee, M.D., if placed on probation, to pay the Board the costs of
23 probation monitoring; and
- 24 4. Taking such other and further action as deemed necessary and proper.

25 DATED: JUL 30 2020

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27 WILLIAM PRASIFKA
28 Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant