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

In the Matter of the Accusation Against: **Sean Michael Owen, M.D.** **Physician's & Surgeon's Certificate No. A 123587** **Respondent.**	**Case No. 800-2019-054639**

DECISION

The attached Stipulated Settlement for Public Reprimand 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 May 19, 2022.

IT IS SO ORDERED: April 19, 2022.

MEDICAL BOARD OF CALIFORNIA

Richard E. Thorp, M.D., Chair
Panel B

ROB BONTA
Attorney General of California
JANE ZACK SIMON
Supervising Deputy Attorney General
LYNNE K. DOMBROWSKI
Deputy Attorney General
State Bar No. 128080
455 Golden Gate Avenue, Suite 11000
San Francisco, CA 94102-7004
Telephone: (415) 510-3439
Facsimile: (415) 703-5480
E-mail: Lynne.Dombrowski@doj.ca.gov
Attorneys for Complainant

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

In the Matter of the Accusation Against: **SEAN MICHAEL OWEN, M.D.** **3798 Janes Road, Ste. 6** **Arcata, CA 95521-4745** **Physician's and Surgeon's Certificate No. A 123587** Respondent.	Case No. 800-2019-054639 OAH No. 2021110087 **STIPULATED SETTLEMENT FOR PUBLIC REPRIMAND AND DISCIPLINARY ORDER**

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

PARTIES

1. William Prasifka (Complainant) is the Executive Director of the Medical Board of California (Board). He brought this action solely in his official capacity and is represented in this matter by Rob Bonta, Attorney General of the State of California, by Lynne K. Dombrowski, Deputy Attorney General.

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2. Respondent Sean Michael Owen, M.D. (Respondent) is represented in this proceeding by attorney Amelia F. Burroughs, whose address is: Janssen Malloy LLP, 730 Fifth Street, Eureka, CA 95501; Email: aburroughs@janssenlaw.com.

3. On or about November 9, 2012, the Board issued Physician's and Surgeon's Certificate No. A 123587 to Sean Michael Owen, M.D. (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. 800-2019-054639, and will expire on February 28, 2022, unless renewed.

JURISDICTION

4. Accusation No. 800-2019-054639 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 March 1, 2021. Respondent timely filed his Notice of Defense contesting the Accusation.

5. A true and correct copy of Accusation No. 800-2019-054639 is attached as Exhibit A and is incorporated herein by reference.

ADVISEMENT AND WAIVERS

6. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 800-2019-054639. 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.

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

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CULPABILITY

9. Respondent understands and agrees that the charges and allegations in Accusation No. 800-2019-054639, if proven at a hearing, constitute cause for imposing discipline upon his Physician's and Surgeon's Certificate.

10. For the purpose of resolving the Accusation without the expense and uncertainty of further proceedings, Respondent agrees that, at a hearing, Complainant could establish a factual basis for the charges in the Accusation of unprofessional conduct pursuant to Business and Professions Code section 2266 and that Respondent hereby gives up his right to contest those charges.

11. Respondent agrees that his Physician's and Surgeon's Certificate is subject to discipline and he agrees to be bound by the Board's imposition of discipline as set forth in the Disciplinary Order below.

CONTINGENCY

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

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

14. 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

1. PUBLIC REPRIMAND

IT IS HEREBY ORDERED that Respondent Sean Michael Owen, M.D., Physician's and Surgeon's Certificate No. A 123587 shall be and hereby is publicly reprimanded pursuant to California Business and Professions Code section 2227, subdivision (a)(4). This public reprimand, which is issued in connection with Respondent's conduct as set forth in Accusation No. 800-2019-054639, is as follows:

> You demonstrated unprofessional conduct by failing to maintain adequate and accurate medical records related to the care and treatment provided to Patient A, pursuant to Business and Professions Code section 2266.

IT IS FURTHER ORDERED that:

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

A medical record keeping 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.

3. INVESTIGATION/ENFORCEMENT COST RECOVERY.

Respondent is hereby ordered to reimburse the Board its costs of investigation and enforcement in the amount of $2,500 (two thousand five hundred dollars). Costs shall be payable to the Medical Board of California. Failure to pay such costs shall be considered a violation of probation. Any and all requests for a payment plan shall be submitted in writing by Respondent to the Board. The filing of bankruptcy by Respondent shall not relieve Respondent of the responsibility to repay investigation and enforcement costs.

4. 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. 800-2019-054639 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.

ACCEPTANCE

I have carefully read the above Stipulated Settlement for Public Reprimand and Disciplinary Order and have fully discussed it with my attorney, Amelia F. Burroughs. I understand the stipulation and the effect it will have on my Physician's and Surgeon's Certificate. I enter into this Stipulated Settlement for Public Reprimand and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Medical Board of California. I fully understand that any failure to comply with the terms and conditions of the Disciplinary Order set forth above shall constitute unprofessional conduct and that my Physician's and Surgeon's Certificate will be subject to further disciplinary action.

DATED: 2/10/22

SEAN MICHAEL OWEN, M.D.
Respondent

I have read and fully discussed with Respondent Sean Michael Owen, M.D. the terms and conditions and other matters contained in the Stipulated Settlement for Public Reprimand and Disciplinary Order. I approve its form and content.

DATED: 02.11.2022

AMELIA F. BURROUGHS
JANSSEN MOLLOY, LLP
Attorney for Respondent

ENDORSEMENT

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

DATED: 2/11/2022

Respectfully submitted,

ROB BONTA
Attorney General of California
JANE ZACK SIMON
Supervising Deputy Attorney General

Lynne K. Dombrowski

LYNNE K. DOMBROWSKI
Deputy Attorney General
Attorneys for Complainant

SF2020401459

Exhibit A

XAVIER BECERRA
Attorney General of California
JANE ZACK SIMON
Supervising Deputy Attorney General
LYNNE K. DOMBROWSKI
Deputy Attorney General
State Bar No. 128080
455 Golden Gate Avenue, Suite 11000
San Francisco, CA 94102-7004
Telephone: (415) 510-3439
Facsimile: (415) 703-5480
E-mail: Lynne.Dombrowski@doj.ca.gov
Attorneys for Complainant

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

In the Matter of the Accusation Against:	Case No. 800-2019-054639
Sean Michael Owen, M.D. **3798 Janes Road, Ste 6** **Arcata, CA 95521-4745** **Physician's and Surgeon's Certificate No. A 123587,** Respondent.	**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 November 9, 2012, the Medical Board issued Physician's and Surgeon's Certificate Number A 123587 to Sean Michael Owen, 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 February 28, 2022, 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 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.

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

5. Section 2228 of the Code states:

The authority of the board or the California Board of Podiatric Medicine to discipline a licensee by placing him or her on probation includes, but is not limited to, the following:

(a) Requiring the licensee to obtain additional professional training and to pass an examination upon the completion of the training. The examination may be written or oral, or both, and may be a practical or clinical examination, or both, at the option of the board or the administrative law judge.

(b) Requiring the licensee to submit to a complete diagnostic examination by one or more physicians and surgeons appointed by the board. If an examination is ordered, the board shall receive and consider any other report of a complete diagnostic examination given by one or more physicians and surgeons of the licensee's choice.

(c) Restricting or limiting the extent, scope, or type of practice of the licensee, including requiring notice to applicable patients that the licensee is unable to perform the indicated treatment, where appropriate.

(d) Providing the option of alternative community service in cases other than violations relating to quality of care.

6. Section 2234 of the Code, states:

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

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

(b) Gross negligence.

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

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

(2) When the standard of care requires a change in the diagnosis, act, or omission that constitutes the negligent act described in paragraph (1), including, but 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.

(d) Incompetence.

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

(f) Any action or conduct that 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.

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."

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FIRST CAUSE FOR DISCIPLINE

(Unprofessional Conduct re Patient A[1]: Gross Negligence and/or Repeated Negligent Acts)

8. Respondent Sean Michael Owen, M.D. is subject to disciplinary action for unprofessional conduct regarding his acts and/or omissions with regard to his treatment and care of Patient A, pursuant to Business and Professions Code section 2234, subdivision (b) [gross negligence] and/or subdivision (c) [repeated negligent acts]. The circumstances are as follows:

9. On or about March 20, 2019, Patient A, a female born in 1929, was admitted through the emergency room to Mad River Community Hospital (MRCH), presenting with a complaint of swelling and pain in her right wrist and with erythema[2] in her wrist and mid-forearm area. The patient reported experiencing chills. She had been bitten on her right wrist by a cat two or three days prior. As the on-call physician for orthopedic consultation, Respondent saw and evaluated Patient A and recommended that she be admitted to the hospital. Respondent's diagnosis was acute cellulitis of the right wrist and arm, with a possible abscess in the right wrist. Soft tissue swelling was noted. Respondent recommended and ordered an MRI, which was performed on March 21, 2019 on the left wrist, which results were inconclusive. Respondent also recommended a CAT scan, which apparently was not done.

10. On or about March 22, 2019, Respondent, through her daughter, spoke by telephone with Patient A about his plan to perform surgery on March 23, 2019 and to discharge her later that day. Respondent did not document in the patient's records his reasoning for deciding to perform surgery.

11. When Patient A arrived at the hospital on March 23, 2019 for the recommended surgical procedure, the surgery was not performed and she was advised to return to the hospital on the following day, which was Sunday, March 24, 2019.

12. On March 24, 2019, Patient A returned to the hospital and Respondent performed an irrigation and debridement (including muscle) procedure. Respondent's operative report

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[1] To protect the privacy rights of the patient, she will be referred to as "Patient A." The patient's name will be provided to Respondent through discovery.

[2] Erythema is a superficial reddening of the skin as a result of injury or irritation, which often appears in patches.

incorrectly lists that the preoperative and postoperative diagnoses were "Abscess, left wrist." According to Respondent's operative report, the post-operative plan was: "Oral antibiotics 2 weeks follow-up with wound care." The patient was provided with outpatient discharge instructions that advised her to call Respondent's office the following day to schedule a post-operative appointment. The discharge instructions sheet also advised that home health care would call the patient to arrange their first visit.

13. When Patient A's daughter called Respondent's office on March 25, 2019, she was told by Respondent's medical staff that they were not given instructions that she was to be seen and therefore they could not schedule an appointment. She called again the next day and was given the same response by Respondent's medical office staff except that she was told that the staff person would speak with Respondent and call her back after speaking with him. According to Patient A's daughter, the staff person eventually advised her that Respondent did not need to see Patient A because she did not have an orthopedic problem.

14. Patient A's family also learned that the social services/home health care had received her name and treatment diagnosis but without further postoperative instructions or orders from Respondent. In fact, they never received Respondent's post-operative plan or wound care orders, despite multiple attempts to obtain them. Patient A's primary care physician was contacted on March 25, 2019 and, although he was apparently not aware of Respondent's treatment plan or surgical findings, he assumed responsibility and signed orders for home health care for Patient A.

15. On or about March 28, 2019, Patient A was seen by a family nurse practitioner who documented an examination showing "a gaping 1 cm wound with purulent discharge 2-cm deep with a slight amount of erythema around the opening with packing in it and some purulence." It was noted that the wound was better and smaller than when it was first seen.

16. Respondent's overall conduct, acts and/or omissions, with regard to Patient A as set forth in paragraphs 8 through 15 herein, constitutes unprofessional conduct through gross negligence and/or repeated negligent acts pursuant to Business and Professions Code Section 2234, subdivisions (b) and/or (c), and is therefore subject to disciplinary action. More specifically, Respondent is guilty of unprofessional conduct as follows:

a. Respondent's operative report is inaccurate and indicates that surgery was performed on the patient's left wrist. It also appears that Respondent incorrectly ordered an MRI on the left wrist when the injury was to the patient's right wrist.

b. Respondent has no documentation to explain the delay in performing surgery and why he waited to recommend and schedule surgery related to an infection in an elderly patient. There is also no documentation to explain why the surgery scheduled for March 23, 2019 was canceled after the patient arrived at the hospital and was not performed until March 24, 2019.

c. During the surgery, Respondent did not obtain cultures and sensitivities from the infected wound to document the type of organism and determine whether antibiotic therapy was appropriate for treating the infecting organism.

d. Respondent failed to provide post-operative care to Patient A. Respondent also failed to monitor and/or to properly instruct the home health care provider as to what post-operative care was required and failed to document and provide his post-operative orders, which conduct constitutes gross negligence, an extreme departure from the standard of care.

SECOND CAUSE FOR DISCIPLINE

(Unprofessional Conduct re Patient A: Failure to Maintain Adequate and Accurate Records)

17. Respondent Sean Michael Owen, M.D. is subject to disciplinary action for unprofessional conduct regarding his failure to maintain adequate and accurate records with regard to his treatment and care of Patient A, pursuant to Business and Professions Code section 2266. The allegations in Paragraphs 8 through 16 are incorporated herein as if fully set forth.

PRIOR DISCIPLINARY DECISION

18. To determine the degree of discipline, if any, to be imposed on Respondent Sean Michael Owen, M.D., Complainant alleges that on December 26, 2014, the Board issued a Decision and Order, in a prior disciplinary action titled *In the Matter of the Accusation Against Sean Michael Owen, M.D.*, Case Number 800-2014-002368, whereby Respondent's license was revoked, with the revocation stayed, and the license was placed on probation for five years with an effective starting date of January 23, 2015. That Decision is now final and is incorporated by

reference as if fully set forth. Respondent's license was subject to the Board's probation at the time of the conduct alleged herein regarding Patient A.

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 A 123587 issued to Sean Michael Owen, M.D.;

2. Revoking, suspending or denying approval of Sean Michael Owen, M.D. 's authority to supervise physician assistants and advanced practice nurses;

3. Ordering Sean Michael Owen, M.D., if placed on probation, to pay the Board the costs of probation monitoring; and

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

DATED: MAR 01 2021

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

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