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

In the Matter of the First Amended Accusation Against: Michael K. Obeng, M.D. Physician's and Surgeon's Certificate No. A 107087 Respondent.	Case No.: 800-2018-043459

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 September 23, 2022.

IT IS SO ORDERED: August 25, 2022.

MEDICAL BOARD OF CALIFORNIA

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

ROB BONTA
Attorney General of California
ROBERT MCKIM BELL
Supervising Deputy Attorney General
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BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the First Amended Accusation Against: MICHAEL K. OBENG, M.D. 435 North Roxbury Drive, Suite 205 Beverly Hills, CA 90210 Physician's and Surgeon's Certificate No. A 107087, Respondent.	Case No. 800-2018-043459 OAH No. 2021100728 **STIPULATED SETTLEMENT 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 Claudia Morehead, Deputy Attorney General.

2. Respondent Michael K. Obeng, M.D. (Respondent) is represented in this proceeding by attorney Raymond J. McMahon of Doyle Schafer McMahon, LLP, 5440 Trabuco Road,

Irvine, California, 92620.

3. On March 27, 2009, the Board issued Physician's and Surgeon's Certificate No. A 107087 to Michael K. Obeng, M.D. (Respondent). That Certificate was in full force and effect at all times relevant to the charges brought in First Amended Accusation No. 800-2018-043459, and will expire on March 31, 2023, unless renewed.

JURISDICTION

4. First Amended Accusation No. 800-2018-043459 was filed before the Board, and is currently pending against Respondent. The First Amended Accusation and all other statutorily required documents were properly served on Respondent on February 15, 2022. Respondent timely filed his Notice of Defense contesting the First Amended Accusation.

5. A copy of First Amended Accusation No. 800-2018-043459 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 First Amended Accusation No. 800-2018-043459. 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 First Amended 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.

CULPABILITY

9. Respondent understands and agrees that the charges and allegations in First Amended

Accusation No. 800-2018-043459, if proven at a hearing, constitute cause for imposing discipline upon his Physician's and Surgeon's Certificate.

10. Respondent does not contest that, at an administrative hearing, Complainant could establish a prima facie case with respect to the charges and allegations in First Amended Accusation No. 800-2018-043459, a true and correct copy of which is attached hereto as Exhibit A, and that he has thereby subjected his Physician's and Surgeon's Certificate, No. A 107087 to disciplinary action. Respondent hereby gives up his right to contest the charges and allegations in First Amended Accusation No. 800-2018-043459.

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 probationary terms 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. Respondent agrees that if he ever petitions for early termination or modification of probation, or if an accusation and/or petition to revoke probation is filed against him before the Board, all of the charges and allegations contained in First Amended Accusation No. 800-2018-043459 shall be deemed true, correct and fully admitted by Respondent for purposes of any such proceeding or any other licensing proceeding involving Respondent in the State of California.

14. 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.

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. A 107087 issued to Respondent Michael K. Obeng, M.D. is revoked. However, the revocation is stayed and Respondent is placed on probation for five (5) years on the following terms and conditions:

1. 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.

2. PROFESSIONALISM PROGRAM (ETHICS COURSE). Within 60 calendar days of the effective date of this Decision, Respondent shall enroll in a professionalism program, that

meets the requirements of Title 16, California Code of Regulations (CCR) section 1358.1. Respondent shall participate in and successfully complete that program. Respondent shall provide any information and documents that the program may deem pertinent. Respondent shall successfully complete the classroom component of the program not later than six (6) months after Respondent's initial enrollment, and the longitudinal component of the program not later than the time specified by the program, but no later than one (1) year after attending the classroom component. The professionalism program shall be at Respondent's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

A professionalism program 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 program would have been approved by the Board or its designee had the program 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 program or not later than 15 calendar days after the effective date of the Decision, whichever is later.

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

The Board or its designee shall provide the approved monitor with copies of the Decision(s) and Accusation(s), and a proposed monitoring plan. Within 15 calendar days of receipt of the Decision(s), Accusation(s), and proposed monitoring plan, the monitor shall submit a signed

statement that the monitor has read the Decision(s) and Accusation(s), fully understands the role of a monitor, and agrees or disagrees with the proposed monitoring plan. If the monitor disagrees with the proposed monitoring plan, the monitor shall submit a revised monitoring plan with the signed statement for approval by the Board or its designee.

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

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

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

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

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

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

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

5. SUPERVISION OF PHYSICIAN ASSISTANTS AND ADVANCED PRACTICE NURSES. During probation, Respondent is permitted to supervise physician assistants and advanced practice nurses.

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

7. INVESTIGATION/ENFORCEMENT COST RECOVERY. Respondent is hereby ordered to reimburse the Board its costs of investigation and enforcement in the amount of $3,178.75 (Three thousand, one hundred seventy-eight dollars and seventy-five cents). 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.

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

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

9. GENERAL PROBATION REQUIREMENTS.

Compliance with Probation Unit

Respondent shall comply with the Board's probation unit.

Address Changes

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

Place of Practice

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

License Renewal

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

Travel or Residence Outside California

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

In the event Respondent should leave the State of California to reside or to practice Respondent shall notify the Board or its designee in writing 30 calendar days prior to the dates of

departure and return.

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

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

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

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

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

Periods of non-practice for a Respondent residing outside of California will relieve Respondent of the responsibility to comply with the probationary terms and conditions with the exception of this condition and the following terms and conditions of probation: Obey All Laws;

General Probation Requirements; and Quarterly Declarations.

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

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

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

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

16. 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 First Amended Accusation No. 800-2018-043459 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 a license.

ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Raymond J. McMahon. 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: May 20, 2022

MICHAEL K. OBENG, M.D.
Respondent

I have read and fully discussed with Respondent Michael K. Obeng, 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: May 20, 2022

RAYMOND J. McMAHON
Attorney for Respondent

ENDORSEMENT

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

DATED: 5/26/22

Respectfully submitted,

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

Claudia Morehead

CLAUDIA MOREHEAD
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

First Amended Accusation No. 800-2018-043459

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

In the Matter of the First Amended Accusation Against: **MICHAEL K. OBENG, M.D.** **435 North Roxbury Drive, Suite 205** **Beverly Hills, CA 90210** **Physician's and Surgeon's Certificate No. A 107087,** Respondent.	Case No. 800-2018-043459 **FIRST AMENDED ACCUSATION**

PARTIES

1. William Prasifka (Complainant) brings this First Amended Accusation solely in his official capacity as the Executive Director of the Medical Board of California, Department of Consumer Affairs (Board).

2. On March 27, 2009, the Board issued Physician's and Surgeon's Certificate Number A 107087 to Michael K. Obeng, M.D. (Respondent). That license was in full force and effect at all times relevant to the charges brought herein and will expire on March 31, 2023, unless renewed.

3. Respondent owns MIKO Plastic Surgery, MIKO Surgery Center, and MIKO

Anesthesia Group.

JURISDICTION

4. This First Amended 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.

5. 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.

6. 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. The board shall enforce and administer this article as to physician and surgeon certificate holders, including those who hold certificates that do not permit them to practice medicine, such as, but not limited to, retired, inactive, or disabled status certificate holders, and the board shall have all the powers granted in this chapter for these purposes including, but not limited to:

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

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

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

7. 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.

8. 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.

STATUTORY PROVISIONS

9. Section 810 of the Code states:

(a) It shall constitute unprofessional conduct and grounds for disciplinary action, including suspension or revocation of a license or certificate, for a health care professional to do any of the following in connection with his or her professional activities:

(1) Knowingly present or cause to be presented any false or fraudulent claim for the payment of a loss under a contract of insurance.

(2) Knowingly prepare, make, or subscribe any writing, with intent to present or use the same, or to allow it to be presented or used in support of any false or fraudulent claim.

(b) It shall constitute cause for revocation or suspension of a license or certificate for a health care professional to engage in any conduct prohibited under Section 1871.4 of the Insurance Code or Section 549 or 550 of the Penal Code.

(c) (1) It shall constitute cause for automatic suspension of a license or certificate issued pursuant to Chapter 4 (commencing with Section 1600), Chapter 5 (commencing with Section 2000), Chapter 6.6 (commencing with Section 2900), Chapter 7 (commencing with Section 3000), or Chapter 9 (commencing with Section 4000), or pursuant to the Chiropractic Act or the Osteopathic Act, if a licensee or certificate holder has been convicted of any felony involving fraud committed by the licensee or certificate holder in conjunction with providing benefits covered by worker's compensation insurance, or has been convicted of any felony involving Medi-Cal fraud committed by the licensee or certificate holder in conjunction with the Medi-Cal program, including the Denti-Cal element of the Medi-Cal program, pursuant to Chapter 7 (commencing with Section 14000), or Chapter 8 (commencing with Section 14200), of Part 3 of Division 9 of the Welfare and Institutions Code. The board shall convene a disciplinary hearing to determine whether or not the license or certificate shall be suspended, revoked, or some other disposition shall be considered, including, but not limited to, revocation with the opportunity to petition for reinstatement, suspension, or other limitations on the license or certificate as the board deems appropriate.

(2) It shall constitute cause for automatic suspension and for revocation of a license or certificate issued pursuant to Chapter 4 (commencing with Section 1600), Chapter 5 (commencing with Section 2000), Chapter 6.6 (commencing with Section 2900), Chapter 7 (commencing with Section 3000), or Chapter 9 (commencing with Section 4000), or pursuant to the Chiropractic Act or the Osteopathic Act, if a licensee or certificate holder has more than one conviction of any felony arising out of separate prosecutions involving fraud committed by the licensee or certificate

holder in conjunction with providing benefits covered by worker's compensation insurance, or in conjunction with the Medi-Cal program, including the Denti-Cal element of the Medi-Cal program pursuant to Chapter 7 (commencing with Section 14000), or Chapter 8 (commencing with Section 14200), of Part 3 of Division 9 of the Welfare and Institutions Code. The board shall convene a disciplinary hearing to revoke the license or certificate and an order of revocation shall be issued unless the board finds mitigating circumstances to order some other disposition.

(3) It is the intent of the Legislature that paragraph (2) apply to a licensee or certificate holder who has one or more convictions prior to January 1, 2004, as provided in this subdivision.

(4) Nothing in this subdivision shall preclude a board from suspending or revoking a license or certificate pursuant to any other provision of law.

(5) "Board," as used in this subdivision, means the Dental Board of California, the Medical Board of California, the California Board of Podiatric Medicine, the Board of Psychology, the State Board of Optometry, the California State Board of Pharmacy, the Osteopathic Medical Board of California, and the State Board of Chiropractic Examiners.

(6) "More than one conviction," as used in this subdivision, means that the licensee or certificate holder has one or more convictions prior to January 1, 2004, and at least one conviction on or after that date, or the licensee or certificate holder has two or more convictions on or after January 1, 2004. However, a licensee or certificate holder who has one or more convictions prior to January 1, 2004, but who has no convictions and is currently licensed or holds a certificate after that date, does not have "more than one conviction" for the purposes of this subdivision.

(d) As used in this section, health care professional means any person licensed or certified pursuant to this division, or licensed pursuant to the Osteopathic Initiative Act, or the Chiropractic Initiative Act.

10. 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.

11. Section 2261 of the Code states:

Knowingly making or signing any certificate or other document directly or indirectly related to the practice of medicine or podiatry which falsely represents the existence or nonexistence of a state of facts, constitutes unprofessional conduct.

12. 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.

13. Section 2285 of the Code states:

The use of any fictitious, false, or assumed name, or any name other than his or her own by a licensee either alone, in conjunction with a partnership or group, or as the name of a professional corporation, in any public communication, advertisement, sign, or announcement of his or her practice without a fictitious-name permit obtained pursuant to Section 2415 constitutes unprofessional conduct. This section shall not apply to the following:

(a) Licensees who are employed by a partnership, a group, or a professional corporation that holds a fictitious name permit.

(b) Licensees who contract with, are employed by, or are on the staff of, any clinic licensed by the State Department of Health Services under Chapter 1 (commencing with Section 1200) of Division 2 of the Health and Safety Code.

(c) An outpatient surgery setting granted a certificate of accreditation from an accreditation agency approved by the medical board.

(d) Any medical school approved by the division or a faculty practice plan connected with the medical school.

REGULATORY PROVISIONS

14. California Code of Regulations, Title 16, section 1344 states as follows:

(a) Unless a fictitious name permit is obtained pursuant to Section 2415 of the

code, the name of a professional corporation shall be restricted to the name or surname of one or more of the present prospective or former shareholders who are physicians or podiatrists, as the case may be, for a medical or podiatry corporation.

(b) When the applicant uses any fictitious, false or assumed name or any name other than the name or surname of one or more of the present, prospective or former shareholders, or any other words or names in addition to those of the shareholders, it shall obtain a permit pursuant to Section 2415 of the code. The fee required in Section 1352 shall accompany the fictitious name permit application.

(c) A professional corporation with a majority of physicians and surgeons as shareholders, officers and directors shall not use the designations "Podiatry Corporation" or "Podiatry Corp." A corporation with a majority of podiatrists as shareholders, officers and directors shall not use the designation "Medical Corporation" or "Medical Corp.."

15. California Code of Regulations, Title 16, section 1350.2 states in pertinent part:

...

(c) No licensed person shall render professional services using a fictitious, false or assumed name or any name other than his or her own unless and until a fictitious name permit has been issued by the division.

COST RECOVERY

16. Effective on January 1, 2022, section 125.3 of the Code was amended to provide as follows:

(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.

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

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

(j) This section does not apply to any board if a specific statutory provision in that board's licensing act provides for recovery of costs in an administrative disciplinary proceeding.[1]

DEFINITIONS

17. Abdominoplasty refers to a procedure that flattens your abdomen by removing extra fat and skin and tightening muscles in your abdominal wall. This surgical procedure is also known as a "tummy tuck."

18. A dimpleplasty refers to cosmetic surgery used to create dimples on the cheeks or chin. Sutures are stitched inside of the mouth, ideally leaving no external scars and a natural-looking dimple after the healing process is completed.

19. Scar revision is plastic surgery performed to improve the condition or appearance of a scar.

20. A ventral hernia is a bulge of tissues through an opening or weakness within the abdominal wall muscles.

[1] Effective January 1, 2022, subdivision (k) of Section 125.3, which exempted physicians and surgeons from paying recovery of the costs of investigation and prosecution by the Board, was repealed.

FACTUAL ALLEGATIONS

Initial Encounter and First Surgery

21. Patient No. 1[2] (also "Patient) was a 35-year-old female who was seen by Respondent for a consultation on October 21, 2016. According to the "Consultation and Medical Questionnaire" contained in the medical chart (also "chart"), the Patient sought "Lipo abdominal, belly button repair, scar revision abdominal." The Patient's prior surgeries were documented as "hernia repair, lipo, tummy tuck, gallbladder removal, bladder lift, tubes tied, [illegible]." The surgical procedures/plan was documented as "Abdominal/CT scan abdominal with contrast needed."

22. A subsequent chart note contains a handwritten notation that states, "Please check for ventral hernia" and "scar revision," along with the corresponding diagnosis and procedure codes, and the Patient's insurance information. A verification of benefits form was completed for both procedures.

23. On December 16, 2016, a physician not affiliated with Respondent conducted a pre-surgical CT scan of the Patient. The scan uncovered "no evidence of anterior abdominal wall hernia."

24. On December 21, 2016, the Patient was seen by a second non-affiliated physician for a pre-operative examination. The physician did not document any evidence of a ventral hernia. However, the physician documented the pre-operative status as "No contraindications to [Patient], an immediate risk candidate proceeding with the *anticipated elective procedure*..." (Emphasis added.)

25. The chart also included the following:

a. A signed, specific informed consent form[3] for "fat transfer procedures fat grafts and injections," dated December 20, 2016. The form consisted of nine pages and contained detailed information, including:

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[2] Numbers are used in place of names to protect patient privacy.

[3] The specific informed consent forms appear to be pre-printed forms produced by the American Society of Plastic Surgeons in 2009. The name of the procedure is printed in bold lettering.

i. A description of the procedure,

ii. Alternative treatments,

iii. Specific risks of fat transfer surgery,

iv. General surgical risks,

v. An advisement that "most health insurance companies exclude coverage for cosmetic surgical operations or any resulting complications," and

vi. An advisement that the Patient is solely responsible for all fees related to the cosmetic surgery.

b. A signed, specific informed consent for "abdominoplasty surgery," dated December 16, 2016. The form consisted of seven pages and contained detailed information, including:

i. A description of the procedure,

ii. Alternative treatments,

iii. Specific risks of abdominoplasty surgery,

iv. General surgical risks, and

v. An advisement that "most health insurance companies exclude coverage for cosmetic surgical operations or any resulting complications," and

vi. An advisement that the Patient is solely responsible for all fees related to the cosmetic surgery.

c. A signed, single page "shorter version"[4] informed consent form for a "ventral hernia," dated December 16, 2016. The form was a single page and devoid of details regarding the surgery, alternative treatments, and specific or general risks.

d. A signed "Plastic Surgery Revision Policy" that documents possible need for additional procedures, dated December 16, 2016. The form places the patient on notice that

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[4] The "shorter version" informed consent form appears to be pre-printed forms produced by the American Society of Plastic Surgeons in 2009. This generic form requires the provider to handwrite the procedure.

"there are limitations as to what cosmetic surgery can achieve."

e. A medical bill for costs incurred at the MIKO Surgery Center directed to the Patient's insurance company. The total surgical center fees attributed to the hernia surgery were $45,586.00.

f. A second medical bill for the MIKO Anesthesia Group for $5,491.80 for anesthesiologist charges attributed to the hernia surgery.

26. The chart, however, contained no document that provided the medical indication to perform either a ventral hernia surgery or the scar revision procedure.

27. The chart is internally inconsistent with respect to the procedure that Respondent actually performed.

Second Surgery

28. The Patient was next seen by Respondent in March 2017. The chart documents that a dimpleplasty was scheduled for March 30, 2017, at 10:00 a.m.

29. A pre-surgical checklist indicates that the Patient executed the necessary consent form for the dimpleplasty. However, the chart did not contain a specific dimpleplasty informed consent form.

30. A MIKO Surgery Center form, dated March 31, 2017, documents the chief complaint and present illness as "bilateral cheek lipoma," a diagnosis of "facial mass," and a treatment plan of "excision of facial mass [illegible] complex closure."

31. The surgical report, dated March 31, 2017, documents the pre-operative and post-operative diagnosis as "facial mass," and the procedure performed as "excision of facial mass with complex closure." The surgical report only documented a unilateral procedure. According to the report, the mass was a "large cyst/mass on the cheek that has been present for 2 years. It is firm and mobile and feels like a lipoma." According to the surgical report, the mass was removed that through a 1.5 cm incision.

32. On April 5, 2017, and April 10, 2017, the Patient did not appear at scheduled follow-up visits. According to the progress note dated April 10, 2017, the follow-up was for a "dimpleplasty" performed on "03/30/3017." The Patient reportedly had post-surgical

complications and was treated by subsequent providers.

33. The medical chart also contained:

a. A signed, "shorter version" informed consent form for a "facial lipoma," dated March 30, 2017. The form was a single page and devoid of details regarding the surgery, alternative treatments, and specific or general risks.

b. A billing form for the costs associated with the MIKO Surgery Center. The bill documented charges of $14,445.00 attributed to the excision, and $2,293.00 attributed to the wound repair. The total due for the surgical center costs was $16,738.00.

c. A second bill for Respondent's charges for the procedure was also contained in the chart. Respondent's charges were $8,667.00 attributed to the excision, and $1,376.00 attributed to the wound repair, for a total of $10,043.00.

d. Pre-surgical pictures of the Patient taken front-facing and left and right profile. The pictures included both a resting face and a wide smile. The pre-surgical pictures do not show a mass on either side of the face.

e. Post-surgical pictures of the Patient taken front-facing and left and right profile. The pictures included both a resting face and a wide smile. The post-surgical pictures show that bilateral, angled creases were made on the Patient's cheek, extending from approximately the cheekbone to the middle of the chin. The creases were partially covered with surgical tape and appear to be longer than the 1.5 cm incision attributed to the excision that is documented in the surgical report.

34. On or about April 25, 2018, the Board received a report from Respondent's malpractice insurer pursuant to California Business and Professions Code section 801.01, subdivision (b), subsection (1). The report documented that a medical malpractice suit filed by the Patient against Respondent was settled. The report states, "On 3/30/2017, the insured performed a dimpleplasty on a 36-year-old female patient. The patient subsequently developed facial cellulitis and was treated by others."

35. During an interview with an investigator for the Board, held on August 20, 2020, Respondent admitted that he performed a dimpleplasty on the Patient.

36. The chart is internally inconsistent with respect to the procedure that Respondent actually performed.

Respondent's Corporate Practice of Medicine

37. On or about August 19, 2013, Respondent filed Articles of Incorporation of a General Stock Corporation with the California Secretary of State on behalf of MIKO Surgery Center. Respondent appears to be the sole shareholder of this corporation. As of the date of filing of the initial Accusation, the Board had not issued a fictitious name permit to MIKO Surgery Center.

38. Respondent appears to practice under the corporate name MIKO Plastic Surgery. As of the date of filing of the initial Accusation, the Board had not issued a fictitious name permit to MIKO Plastic Surgery.

39. On or about October 19, 2015, Respondent filed Articles of Incorporation of a General Stock Corporation with the California Secretary of State on behalf of MIKO Anesthesia Group. Respondent appears to be the sole shareholder of this corporation. As of the date of filing of the initial Accusation, the Board had not issued a fictitious name permit to MIKO Anesthesia Group.

FIRST CAUSE FOR DISCIPLINE

(Making False Representations)

40. By reason of the facts alleged above in paragraphs 21 through 39, Respondent is subject to disciplinary action under Code sections 2234 subdivision (a), and 2261, by making false representations in the Patient's medical records and making false representations to the Patient's health insurance company. The circumstances are as follows:

a. Respondent's initial consultation with the Patient was for an abdominoplasty.

b. Respondent subsequently created medical records for a ventral hernia surgery and scar revision procedure.

c. A pre-surgical CT scan uncovered no evidence of a hernia.

d. A pre-surgical examination uncovered no evidence of a hernia. The

record of the pre-surgical examination indicates that the impending procedure was "elective."

e. Prior to surgery, Respondent provided the Patient with detailed informed consent forms for the abdominoplasty and fat transfer procedures. The Patient executed the detailed informed consent forms.

f. Prior to surgery, Respondent provided the Patient with a single page informed consent form for the ventral hernia surgery. This informed consent form was devoid of information necessary for a patient to consent to the procedure knowingly.

g. Respondent documented in a surgical report that he performed a ventral hernia and scar revision surgery on December 26, 2016.

h. Respondent submitted or caused to be submitted, bills for services attributed to the ventral hernia and scar revision surgery provided by MIKO Surgery Center, MIKO Plastic Surgery, and MIKO Anesthesia.

i. Respondent consulted with the Patient on March 30, 2017, regarding a dimpleplasty.

j. A pre-surgical checklist indicates that the Patient executed the necessary consent form for the dimpleplasty.

k. A MIKO Surgery Center form, dated March 31, 2017, documents the chief complaint and present illness as "bilateral cheek lipoma."

l. Respondent documented that he performed an "excision of facial mass with complex closure."

m. The follow-up appointment was for a dimpleplasty procedure.

n. The pre-surgical photos do not exhibit bilateral or unilateral mass.

o. The post-surgical photos do not evidence that a bilateral or unilateral mass was removed from the Patient's face. Rather, the photos indicate that a dimpleplasty procedure was performed.

p. Respondent submitted or caused to be submitted, bills for services attributed to "excision of facial mass with complex closure" provided by MIKO Surgery Center, MIKO Plastic Surgery, and MIKO Anesthesia.

q. The Patient filed a medical malpractice suit against Respondent for complications relating to the dimpleplasty procedure. The Board was advised that the suit was ultimately settled.

r. During an interview with an investigator for the Board, held on August 20, 2020, Respondent admitted that he performed a dimpleplasty on the Patient.

s. Respondent knows that insurance companies generally do not cover costs related to an insured's elective cosmetic procedures.

t. Respondent charged the Patient's insurance company exorbitant fees for the stated surgeries.

SECOND CAUSE FOR DISCIPLINE

(Corporate Practice of Medicine Without a Fictitious Name Permit)

41. By reason of the facts alleged above in paragraphs 21 through 39, Respondent is subject to disciplinary action under Code sections 2334, subdivision (a); 2285, and California Code of Regulations, Title 16, sections 1344, subdivisions (a) and (b); and 1350.2, subdivision (c); in that Respondent practiced medicine without a fictitious name permit by performing surgeries on the Patient under the name MIKO Plastic Surgery, by performing the surgeries at MIKO Surgery Center, and by providing anesthesiology services through MIKO Anesthesia Group.

THIRD CAUSE FOR DISCIPLINE

(Using an Unapproved Fictitious Name in the Advertising of the Practice of Medicine)

42. By reason of the facts alleged above in paragraphs 21 through 39, Respondent is subject to disciplinary action under Code sections 2234, subdivision (a), 2285, and California Code of Regulations, Title 16, sections 1344, subdivisions (a) and (b), in that Respondent used unapproved fictitious names in signage and/or advertising materials for MIKO Plastic Surgery, MIKO Surgery Center, and MIKO Anesthesia Group.

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FOURTH CAUSE FOR DISCIPLINE

(Commission of Dishonest or Corrupt Acts)

43. By reason of the facts alleged above in paragraphs 21 through 36, and 40, Respondent is subject to disciplinary action under Code section 2234, subdivision (e), in that Respondent created fraudulent medical records and submitted bills to the Patient's insurance company based upon the information in the records, and the charges billed for the procedures were exorbitant.

FIFTH CAUSE FOR DISCIPLINE

(Failure to Maintain Accurate Medical Records)

44. By reason of the facts alleged above in paragraphs 21 through 36, and 40, Respondent is subject to disciplinary action under Code section 2266, in that Respondent created fraudulent medical records and submitted bills to the Patient's insurance company based upon the information in the records. Additionally, the chart contained no document that provided the medical indication to perform a ventral hernia surgery, a scar revision procedure, or excision. The chart is internally inconsistent with respect to the procedures that Respondent actually performed.

SIXTH CAUSE FOR DISCIPLINE

(Gross Negligence)

45. By reason of the facts alleged above in paragraphs 21 through 36, 40, and 44, Respondent is subject to disciplinary action under Code section 2234, subdivision (b), by creating and maintaining medical records of the Patient's care and treatment that fail to establish the necessity for the stated surgeries and are internally inconsistent as to the type and date of the procedures performed.

SEVENTH CAUSE FOR DISCIPLINE

(Repeated Negligent Acts)

46. By reason of the facts alleged above in Paragraphs 21 through 40, and 44, Respondent is subject to disciplinary action under Code section 2234, subdivision (c), in that:

a. Respondent created and maintained medical records of the Patient's care and treatment that failed to establish the necessity for the stated surgeries and were internally inconsistent as to the type and date of the procedures performed, and

b. Respondent practiced, and continues to practice, under a corporate name without obtaining a fictitious name permit for MIKO Surgery Center, Miko Plastic Surgery, and MIKO Anesthesia Group.

DISCIPLINE CONSIDERATIONS

47. To determine the degree of discipline, if any, to be imposed on Respondent, Complainant alleges as follows:

a. On or about October 7, 2019, in a prior action, the Medical Board of California issued Citation No. 8002017036690, as, during the care and treatment of a patient (D.A.), Respondent's medical documentation lacked the following information:

i. "Which party ordered the patient's compression garment and which size was recommended."

ii. "What type of tumescent fluid was infiltrated."

iii. "Whether ultrasound or laser-assisted liposuction were performed."

iv. "Which size cannulas were used and where incisions were made."

v. "Where the fat was injected into the buttocks."

vi. "Lack of documentation that consent was obtained and there were not any procedure notes for the molé which was excised."

b. On or about October 7, 2019, in a prior action, the Medical Board of California issued Citation No. 8002018047093, stating, "During the care and treatment of patient (T.T.), medical documentation lacked information in regards to the amount of tumescent fluid that was infiltrated or, what the solution was comprised of, and how much fat was aspirated."

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 107087,

issued to Respondent Michael K. Obeng, M.D.;

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

3. Ordering Respondent Michael K. Obeng, M.D. to pay the Board reasonable costs of investigation and prosecution incurred after January 1, 2022.

4. If placed on probation, ordering Respondent Michael K. Obeng, M.D. to pay the Board the costs of probation monitoring; and

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

DATED: FEB 15 2022

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

Complainant

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