

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

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

Ellis Norman Beesley, Jr, M.D.

**Physician's and Surgeon's
Certificate No. A 41548**

Respondent.

Case No.: 800-2019-054281

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 30, 2022.

IT IS SO ORDERED: August 31, 2022.

MEDICAL BOARD OF CALIFORNIA



**Laurie Rose Lubiano, J.D. , Chair
Panel A**

1 ROB BONTA
Attorney General of California
2 JUDITH T. ALVARADO
Supervising Deputy Attorney General
3 REBECCA L. SMITH
Deputy Attorney General
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Attorneys for Complainant
7

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

12 In the Matter of the Second Amended
Accusation Against:

13 **ELLIS NORMAN BEESLEY JR., M.D.**
14 **1127 Wilshire Boulevard, Suite 707**
Los Angeles, CA 90017

15 **Physician's and Surgeon's Certificate**
16 **No. A 41548,**

17 Respondent.

Case No. 800-2019-054281

OAH No. 2021100134

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

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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 in this
25 matter by Rob Bonta, Attorney General of the State of California, by Rebecca L. Smith, Deputy
26 Attorney General.

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2. Respondent Ellis Norman Beesley Jr., M.D. is represented in this proceeding by attorneys Christopher P. Wend and Mark B. Guterman, whose address is 701 North Brand Boulevard, Suite 600, Glendale, California 91203.

3. On or about March 11, 1985, the Board issued Physician's and Surgeon's Certificate No. A 41548 to Respondent. That license was in full force and effect at all times relevant to the charges brought in Second Amended Accusation No. 800-2019-054281, and will expire on May 31, 2024, unless renewed.

JURISDICTION

4. Second Amended Accusation No. 800-2019-054281 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 August 4, 2021. Respondent timely filed his Notice of Defense contesting the Accusation.

5. A copy of Second Amended Accusation No. 800-2019-054281 is attached as Exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

6. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Second Amended Accusation No. 800-2019-054281. 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 Second 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.

1 **CULPABILITY**

2 9. Respondent understands and agrees that the charges and allegations in Second
3 Amended Accusation No. 800-2019-054281, if proven at a hearing, constitute cause for imposing
4 discipline upon his Physician's and Surgeon's Certificate.

5 10. Respondent does not contest that, at an administrative hearing, Complainant could
6 establish a prima facie case with respect to the charges and allegations in Second Amended
7 Accusation No. 800-2019-054281, a true and correct copy of which is attached hereto as Exhibit
8 A, and that he has thereby subjected his Physician's and Surgeon's Certificate, No. A 41548 to
9 disciplinary action.

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

13 **CONTINGENCY**

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

24 13. Respondent agrees that if he ever petitions for early termination or modification of
25 probation, or if an accusation and/or petition to revoke probation is filed against him before the
26 Board, all of the charges and allegations contained in Second Amended Accusation No. 800-
27 2019-054281 shall be deemed true, correct and fully admitted by respondent for purposes of any

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1 such proceeding or any other licensing proceeding involving Respondent in the State of
2 California.

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

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

9 **DISCIPLINARY ORDER**

10 IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. A 41548 issued
11 to Respondent Ellis Norman Beesley, Jr., M.D. is revoked. However, the revocation is stayed and
12 Respondent is placed on probation for three (3) years on the following terms and conditions:

13 1. **EDUCATION COURSE.** Within sixty (60) calendar days of the effective date of this
14 Decision, and on an annual basis thereafter, Respondent shall submit to the Board or its designee
15 for its prior approval educational program(s) or course(s) which shall not be less than forty (40)
16 hours per year, for each year of probation. The educational program(s) or course(s) shall be
17 aimed at correcting any areas of deficient practice or knowledge and shall be Category I certified.
18 The educational program(s) or course(s) shall be at Respondent's expense and shall be in addition
19 to the Continuing Medical Education (CME) requirements for renewal of licensure. Following
20 the completion of each course, the Board or its designee may administer an examination to test
21 Respondent's knowledge of the course. Respondent shall provide proof of attendance for sixty-
22 five (65) hours of CME of which forty (40) hours were in satisfaction of this condition.

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

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

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

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

12 3. CLINICAL COMPETENCE ASSESSMENT PROGRAM. Within sixty (60)
13 calendar days of the effective date of this Decision, Respondent shall enroll in a clinical
14 competence assessment program approved in advance by the Board or its designee. Respondent
15 shall successfully complete the program not later than six (6) months after Respondent's initial
16 enrollment unless the Board or its designee agrees in writing to an extension of that time.

17 The program shall consist of a comprehensive assessment of Respondent's physical and
18 mental health and the six general domains of clinical competence as defined by the Accreditation
19 Council on Graduate Medical Education and American Board of Medical Specialties pertaining to
20 Respondent's current or intended area of practice. The program shall take into account data
21 obtained from the pre-assessment, self-report forms and interview, and the Decision(s),
22 Accusation(s), and any other information that the Board or its designee deems relevant. The
23 program shall require Respondent's on-site participation for a minimum of three (3) and no more
24 than five (5) days as determined by the program for the assessment and clinical education
25 evaluation. Respondent shall pay all expenses associated with the clinical competence
26 assessment program.

27 At the end of the evaluation, the program will submit a report to the Board or its designee
28 which unequivocally states whether the Respondent has demonstrated the ability to practice

1 safely and independently. Based on Respondent's performance on the clinical competence
2 assessment, the program will advise the Board or its designee of its recommendation(s) for the
3 scope and length of any additional educational or clinical training, evaluation or treatment for any
4 medical condition or psychological condition, or anything else affecting Respondent's practice of
5 medicine. Respondent shall comply with the program's recommendations.

6 Should the program recommend that Respondent participate in a professional enhancement
7 program or maintain a practice monitor, Respondent shall comply with the program's
8 recommendations.

9 Determination as to whether Respondent successfully completed the clinical competence
10 assessment program is solely within the program's jurisdiction.

11 If Respondent fails to enroll, participate in, or successfully complete the clinical
12 competence assessment program within the designated time period, Respondent shall receive a
13 notification from the Board or its designee to cease the practice of medicine within three (3)
14 calendar days after being so notified. Respondent shall not resume the practice of medicine until
15 enrollment or participation in the outstanding portions of the clinical competence assessment
16 program have been completed. If Respondent did not successfully complete the clinical
17 competence assessment program, Respondent shall not resume the practice of medicine until a
18 final decision has been rendered on the accusation and/or a petition to revoke probation. The
19 cessation of practice shall not apply to the reduction of the probationary time period.

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

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

1 5. SUPERVISION OF PHYSICIAN ASSISTANTS AND ADVANCED PRACTICE
2 NURSES. During probation, Respondent is prohibited from supervising physician assistants and
3 advanced practice nurses.

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

7 7. INVESTIGATION/ENFORCEMENT COST RECOVERY. Respondent is hereby
8 ordered to reimburse the Board its costs of investigation and enforcement, including, but not
9 limited to, expert review, amended accusations, legal reviews, joint investigations, and subpoena
10 enforcement, as applicable, in the amount of \$2,795.00 (Two Thousand Seven Hundred Ninety
11 Five Dollars and No Cents). Costs shall be payable to the Medical Board of California. Failure
12 to pay such costs shall be considered a violation of probation.

13 Any and all requests for a payment plan shall be submitted in writing by respondent to the
14 Board.

15 The filing of bankruptcy by Respondent shall not relieve respondent of the responsibility to
16 repay investigation and enforcement costs.

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

20 Respondent shall submit quarterly declarations not later than ten (10) calendar days after
21 the end of the preceding quarter.

22 9. GENERAL PROBATION REQUIREMENTS.

23 Compliance with Probation Unit

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

25 Address Changes

26 Respondent shall, at all times, keep the Board informed of Respondent's business and
27 residence addresses, email address (if available), and telephone number. Changes of such
28 addresses shall be immediately communicated in writing to the Board or its designee. Under no

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

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

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

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

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

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

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

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

1 be extended until the matter is final.

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

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

17 16. FUTURE ADMISSIONS CLAUSE. If Respondent should ever apply or reapply for
18 a new license or certification, or petition for reinstatement of a license, by any other health care
19 licensing action agency in the State of California, all of the charges and allegations contained in
20 Second Amended Accusation No. 800-2019-054281 shall be deemed to be true, correct, and
21 admitted by Respondent for the purpose of any Statement of Issues or any other proceeding
22 seeking to deny or restrict license.

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1 ACCEPTANCE

2 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
3 discussed it with my attorneys, Christopher P. Wend and Mark B. Guterman. I understand the
4 stipulation and the effect it will have on my Physician's and Surgeon's Certificate. I enter into this
5 Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree
6 to be bound by the Decision and Order of the Medical Board of California.

7
8 DATED: 3-1-2022 Ellis N. Beesley Jr.

9 ELLIS NORMAN BEESLEY JR., M.D.
10 Respondent.

11 I have read and fully discussed with Respondent Ellis Norman Beesley Jr., M.D. the terms
12 and conditions and other matters contained in the above Stipulated Settlement and Disciplinary
13 Order. I approve its form and content.

14 DATED: 3/1/22 CPW MB

15 CHRISTOPHER P. WEND
16 MARK B. GUTERMAN
17 Attorneys for Respondent

18 ENDORSEMENT

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

21 DATED: 3/1/2022

22 Respectfully submitted,

23 ROB BONTA
24 Attorney General of California
25 JUDITH T. ALVARADO
26 Supervising Deputy Attorney General

27 Rebecca L. Smith
28 REBECCA L. SMITH
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Second Amended Accusation No. 800-2019-054281

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9 **BEFORE THE**
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12 In the Matter of the Second Amended
13 Accusation Against:

Case No. 800-2019-054281

14 **ELLIS NORMAN BEESLEY, JR., M.D.**
1127 Wilshire Boulevard, Suite 707
15 Los Angeles, CA 90017

SECOND AMENDED ACCUSATION

16 **Physician's and Surgeon's Certificate**
17 **No. A 41548,**

Respondent.
18

19
20 **PARTIES**

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

24 2. On or about March 11, 1985, the Board issued Physician's and Surgeon's Certificate
25 Number A 41548 to Ellis Norman Beesley, Jr., M.D. (Respondent). That license was in full force
26 and effect at all times relevant to the charges brought herein and will expire on May 31, 2022,
27 unless renewed.

28 ///

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

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

9 6. Section 2234 of the Code, states:

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

13 (a) Violating or attempting to violate, directly or indirectly, assisting in or
14 abetting the 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
17 negligent acts or omissions. An initial negligent act or omission followed by a
18 separate and distinct departure from the applicable standard of care shall constitute
19 repeated negligent acts.

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

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

28 (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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COST RECOVERY

8. Business and Professions Code section 125.3 states that:

(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 licentiate 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

1 that board's licensing act provides for recovery of costs in an administrative
2 disciplinary proceeding.

3 FACTUAL ALLEGATIONS

4 9. Patient 1,¹ a then 6-year-old male, was taken to the emergency department at
5 California Hospital Medical Center by his mother on March 5, 2015 at 3:13 a.m., with a
6 complaint of asthma with expiratory and inspiratory wheezes. Patient 1's mother noted that her
7 son had a cough and wheezing since the day prior and had not improved with home treatment. In
8 the emergency department, Patient 1 was noted to be hypoxic with an oxygen saturation of 88%
9 on room air, upon arrival. His breathing was labored, and retractions were observed. Patient 1
10 was seen by emergency room physician, Dr. M.K., who, upon examination, noted that the patient
11 was tachypneic with diffuse wheezing, and his oxygen saturation was 94%. A chest x-ray was
12 negative. He was treated with an albuterol nebulizer and Atrovent² to relax his airway muscles to
13 make breathing easier. He was also given steroids (Decadron), antibiotics (azithromycin) and a
14 bronchodilator (magnesium sulfate). Dr. M.K., noted that while the precipitating cause of the
15 cough and wheezing was unknown, Patient 1 may have been developing an upper respiratory
16 infection. Dr. M.K. diagnosed Patient 1 with moderate asthma exacerbation and possible
17 pneumonia. She discussed Patient 1 with Respondent, the on-call pediatrician, who agreed to
18 admit the patient to the hospital for observation.

19 10. That same morning, at 8:00 a.m., Patient 1 was admitted to the hospital. He was seen
20 by Respondent and pediatric resident, Dr. R.R. at approximately 10:20 a.m. An admission history
21 and physical was prepared by Dr. R.R. and endorsed by Respondent. It was noted that the patient
22 presented with complaints of chest pain and difficulty breathing. It was also noted that he had
23 been hospitalized twice before for asthma exacerbations for approximately 4 days in 2013, and
24 that the patient's father had asthma. Neither Respondent nor the resident documented the

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27 ¹ The Patient is identified herein by number for privacy concerns.

28 ² Atrovent is a bronchodilator that relaxes muscles in the airways and increases air flow to the
lungs.

1 patient's prior history of intubation.³ The patient's Respiratory Syncytial Virus (RSV) and
2 influenza test results were negative. Respondent's admitting diagnosis was asthma exacerbation.
3 Respondent prescribed nebulized albuterol and Atrovent every 6 hours, and ten milligrams of
4 Solu-Medrol⁴ intravenously every 12 hours. The patient weighed 20.5 kilograms (kg).

5 11. Respondent did not document that he performed asthma education and training with
6 Patient 1 and his caregiver. Respondent did not document an asthma action plan tailored to
7 Patient 1.

8 12. Patient 1 was also seen by child life specialist, T.Y., on March 5, 2015. T.Y. noted
9 that she provided basic asthma education to the patient's mother inclusive of (1) the role of
10 keeping logs; (2) the signs and symptoms of an asthma attack; (3) asthma triggers and prevention;
11 (4) peak flow meter zones; (5) an asthma action plan; and (6) school issues regarding asthma.
12 The patient's mother stated that the patient did not have a peak flow meter, asthma action plan, or
13 asthma medications at school. The patient's mother also reported that the patient's maternal
14 grandmother smokes around the patient and that she would speak with her again about smoking.
15 T.Y. provided the patient's mother with a handout regarding second hand smoke and made a
16 referral to the Healthy Breathing Program for smoking cessation. T.Y. documented that the
17 patient was able to verbalize understanding that when he has a hard time breathing, he needs to
18 (1) stop, (2) tell a grown up, and (3) take asthma medications.

19 13. Per the patient's medication reconciliation form, he had been prescribed Xopenex⁵
20 and QVar⁶ in the past, but his mother did not use them anymore.

21
22 ³ The emergency department records document that the patient had not been intubated in the past.
23 Respondent testified in deposition that he was told by the emergency room physician, as well as by the
24 patient's mother, that the patient had not been intubated in the past. He did not document these
discussions. Respondent did not review Patient 1's medical records from his prior admissions at
California Hospital Medical Center, which would have revealed that he had been intubated in the past.

25 ⁴ Solu-Medrol is a systemic corticosteroid and is used in patients suffering from acute asthma
26 exacerbations to decrease airway inflammation or for patients who fail to respond promptly and
completely to conventional therapy.

27 ⁵ Xopenex is a brand name of levalbuterol. It is used to treat the symptoms of asthma.

28 ⁶ QVar is a brand name of beclomethasone dipropionate. It is used to prevent and control
symptoms caused by asthma.

1 14. On March 6, 2015, Respondent noted that Patient 1 was feeling well and saturating
2 well on room air. He had no shortness of breath or wheezing and had clear lungs on examination.
3 Respondent noted that Patient 1's condition had improved and he was stable for discharge. In his
4 discharge summary, Respondent instructed Patient 1 to follow up with his primary care physician
5 in one week. Respondent noted that a nebulizer was ordered for the patient's home and that the
6 patient's mother was instructed to use an albuterol inhaler (2 puffs every 4 hours as needed for
7 shortness of breath/wheezing) and albuterol nebulizer solution (every four hours as needed for
8 shortness of breath/wheezing). Respondent did not instruct Patient 1 on the use of the inhaler or
9 the peak flow meter and failed to ensure that Patient 1 was able to use the inhaler and peak flow
10 meter.

11 15. The Interdisciplinary Patient Education Record for Pediatric Asthma documents that
12 the caregiver was given verbal and written instructions, as well as a demonstration on the use of
13 the peak flow meter,⁷ inhalers, and the nebulizer machine. Nursing records document that when
14 the home nebulizer was delivered, the patient's mom stated that she knew how to use it and did
15 not need any instruction. In addition, Patient 1's medical record contains a document identifying
16 six asthma related documents that were to be given to the patient's mother. The hospital educator
17 signed the form; however, the acknowledgment that Patient 1's mother "received the documents
18 and verbalized understanding" was not checked off and the signature line for the patient's mother
19 was blank. Patient 1 was discharged at 11:50 a.m., less than 33 hours after he had presented to the
20 hospital with oxygen dependent hypoxia, and had required three nebulizer respiratory treatments
21 with albuterol over the course of one hour, to stabilize his breathing.

22 16. The following day, March 7, 2015, Patient 1 had an asthma attack with associated
23 chest pain. He collapsed in the car. Cardiopulmonary resuscitation (CPR) was administered en
24 route to the hospital. He was unable to be revived with CPR and arrived at the hospital deceased.
25 An autopsy was performed, revealing bilateral pneumothoraces, a pneumomediastinum, and
26

27 ⁷ A peak flow meter is a portable, easy-to-use, hand-held device used to measure how well the
28 lungs are able to expel air. Regular use of a peak flow meter can help track asthma control by detecting
airway narrowing before symptoms are felt, allowing time for medication adjustment or other steps before
the symptoms worsen.

1 subcutaneous emphysema. The cause of Patient 1's death was determined to be spontaneous
2 pneumothorax as a consequence of asthma.

3 **FIRST CAUSE FOR DISCIPLINE**

4 **(Gross Negligence)**

5 17. Respondent is subject to disciplinary action under Code section 2234, subdivision (b),
6 in that he committed gross negligence in his care and treatment of Patient 1. Complainant refers
7 to and, by this reference, incorporates herein, paragraphs 9 through 16, above, as though fully set
8 forth herein. The circumstances are as follows:

9 **Failure to Obtain Complete Asthma History.**

10 18. The standard of care requires that a pediatrician obtain a full medical history when
11 admitting a pediatric patient to the hospital. For an asthmatic patient, this includes a detailed
12 history of the patient's asthma, such as prior admissions, prior treatments, prior intubations,
13 asthma triggers, and asthma symptomatology. Obtaining such a history can help classify the
14 patient's asthma, help anticipate medical needs while an inpatient, guide proper treatment at time
15 of discharge, and guide education prior to discharge.

16 19. Respondent failed to obtain and document a comprehensive history of the patient's
17 asthma symptoms, asthma triggers, and the presence, if any, of any prior asthma action plans.
18 Patient 1 had a significant history of asthma and a family history of asthma. A review of Patient
19 1's prior medical records would have revealed his prior intubation related to asthma. A history of
20 a prior intubation related to asthma elevates the severity of the patient's asthma history
21 significantly, and can portend equally severe asthma exacerbations in the future. Obtaining
22 Patient 1's asthma history would assist in classifying the patient's asthma. In addition, the
23 information assists in guiding patient education prior to discharge and proper treatment at the
24 time of discharge. This is an extreme departure from the standard of care.

25 **Inappropriate Inpatient Treatment of Status Asthmaticus.**

26 20. Steroid treatment is critical for the management of status asthmaticus. When a patient
27 is admitted to the hospital with status asthmaticus, the standard of care requires that the patient be
28 treated with inhaled or nebulized albuterol as well as a steroid.

21. Respondent failed to treat Patient 1 with an appropriate course of steroid treatment during his admission for status asthmaticus. When administering intravenous Solu-Medrol, the standard of care requires a dosing of 0.5 to 1 milligram of steroid, per kilogram of the child's weight, every six hours. Patient 1 should have received 10-20 milligrams of Solu-Medrol intravenously every 6 hours. Respondent ordered that Patient 1 receive 10 mg of Solu-Medrol intravenously every 12 hours. The underdosing of Patient 1's steroid treatment was an extreme departure from the standard of care.

Failure to Ensure and Document Proper Asthma Education and Training of Patient 1 and his Caregiver.

22. When treating an asthmatic pediatric patient, the standard of care requires that the pediatrician establish and document a specific asthma action plan, tailored to the patient, including the use of a peak flow meter. The asthma action plan must be documented and given to the patient and the patient's parent (or primary caregiver) in writing. A copy of the asthma action plan should be maintained in the patient's medical record.

23. During Patient 1's hospitalization, Respondent failed to develop or approve, as well as document, a specific asthma action plan tailored to the patient. This was an extreme departure from the standard of care.

Failure to Ensure and Document a Specific Asthma Action Plan with the Use of a Peak Flow Meter at the Time of Patient 1's Discharge.

24. Prior to discharging an asthmatic pediatric patient from the hospital, the standard of care requires that the physician render and document proper asthma education and training to the patient and the patient's parent or primary care giver, including the use of a peak flow meter (if successful) and a spacer for a metered dose inhaler.

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1 25. Respondent failed to ensure and document proper asthma education and training of
2 Patient 1 and his mother, including the use of a peak flow meter and a spacer for a metered dose
3 inhaler,⁸ prior to discharge from the hospital. This is an extreme departure from the standard of
4 care.

5 Failure to Prescribe Proper Asthma Medications and Equipment at Time of Discharge.

6 26. When a pediatric patient is discharged following an admission for status asthmaticus
7 and returns to the same pre-hospitalization environment less than 48 hours after admission, the
8 standard of care requires that the physician maintain the patient on scheduled albuterol and
9 steroid (either inhaled or oral) treatments until the patient follows up with his primary care
10 physician in 2-3 days.

11 27. Patient 1 was discharged from the hospital less than 48 hours after his initial
12 presentation to the emergency department. Respondent failed to recognize that Patient 1 was
13 returning to an environment that could trigger an asthma attack. Respondent failed to make
14 arrangements for Patient 1 to undergo scheduled albuterol treatments until he could be seen by his
15 primary care physician and provide Patient 1 with an inhaled corticosteroid or an oral steroid to
16 replace the intravenous Solu-Medrol. This is an extreme departure from the standard of care.

17 Failure to Ensure Timely Follow-Up with a Primary Care Physician.

18 28. The standard of care required upon discharge is for the patient to be evaluated by his
19 pediatrician in 2-3 days so that the primary care physician can review the hospitalization course,
20 ensure retention of asthma and medication education, review and modify the asthma action plan,
21 as needed, review the medications prescribed and being taken, and plan appropriate follow-up
22 and/or consultation, if needed. Respondent failed to recognize that Patient 1 was at risk for a
23 fatal asthma attack at the time of discharge on March 6, 2015, and failed to timely make
24 arrangements for the patient to be seen by his primary care physician. This was an extreme
25 departure from the standard of care.

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28 ⁸ A spacer is a device that attaches to the metered-dose inhaler. It helps deliver medicine to the
airways of the lungs instead of the mouth.

1 29. Respondent's acts and/or omissions as set forth in paragraphs 9 through 28, above,
2 whether proven individually, jointly, or in any combination thereof, constitute gross negligence
3 pursuant to section 2234, subdivision (b), of the Code. Therefore, cause for discipline exists.

4 **SECOND CAUSE FOR DISCIPLINE**

5 **(Repeated Negligent Acts)**

6 30. Respondent is subject to disciplinary action under section 2234, subdivision (c), of
7 the Code in that he was negligent in the care and treatment of Patient 1. Complainant refers to
8 and, by this reference, incorporates herein, paragraphs 9 through 29, above, as though fully set
9 forth herein.

10 31. Respondent's acts and/or omissions as set forth in paragraphs 9 through 30, above,
11 whether proven individually, jointly, or in any combination thereof, constitute repeated acts of
12 negligence pursuant to section 2234, subdivision (c), of the Code. Therefore, cause for discipline
13 exists.

14 **THIRD CAUSE FOR DISCIPLINE**

15 **(Failure to Maintain Adequate and Accurate Medical Records)**

16 32. Respondent is subject to disciplinary action under section 2266 of the Code in that he
17 failed to maintain adequate and accurate medical records for Patient 1. The circumstances are as
18 follows:

19 33. The allegations of Paragraphs 10, 11, and 14, as set forth above, are incorporated
20 herein by reference.

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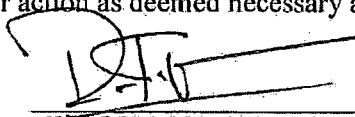
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PRAYER

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

1. Revoking or suspending Physician's and Surgeon's Certificate Number A 41548, issued to Respondent Ellis Norman Beesley, Jr., M.D.;
2. Revoking, suspending or denying approval of Respondent Ellis Norman Beesley, Jr., M.D.'s authority to supervise physician assistants and advanced practice nurses;
3. Ordering Respondent Ellis Norman Beesley, Jr., M.D., to pay the Board the costs of the investigation and enforcement of this case, and if placed on probation, the costs of probation monitoring; and
4. Taking such other and further action as deemed necessary and proper.

DATED: **DEC 24 2021**


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

Reji Varghese
Deputy Director

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