

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

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

Joselito Ponce Babaran, M.D.

**Physician's and Surgeon's
Certificate No. A 51480**

Case No.: 800-2018-047488

Respondent.

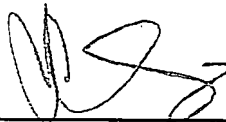
DECISION

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 January 12, 2023.

IT IS SO ORDERED: December 13, 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 TAN N. TRAN
Deputy Attorney General
4 State Bar No. 197775
300 South Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 269-6535
6 Facsimile: (916) 731-2117
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 Accusation Against:

13 **JOSELITO PONCE BABARAN, M.D.**
14 **12160 Crystal Ridge Way**
Porter Ranch, CA 91326-3800

15 **Physician's and Surgeon's Certificate**
16 **No. A 51480,**

17 Respondent.

Case No. 800-2018-047488

OAH No. 2022020062

STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER

18
19 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
20 entitled proceedings that the following matters are true:

21 **PARTIES**

22 1. William Prasifka (Complainant) is the Executive Director of the Medical Board of
23 California (Board). He brought this action solely in his official capacity and is represented in this
24 matter by Rob Bonta, Attorney General of the State of California, by Tan N. Tran, Deputy
25 Attorney General.

26 2. Respondent Joselito Ponce Babaran, M.D. (Respondent) is represented in this
27 proceeding by attorney Johnita C. Ejercito, Esq., whose address is: 6700 Fallbrook Avenue, Suite
28 100, West Hills, California 91307.

3. On or about December 7, 1992, the Board issued Physician's and Surgeon's Certificate No. A 51480 to Joselito Ponce Babaran, M.D. (Respondent). The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought in Accusation No. 800-2018-047488, and will expire on July 31, 2024, unless renewed.

JURISDICTION

4. Accusation No. 800-2018-047488 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 11, 2021. Respondent timely filed his Notice of Defense contesting the Accusation.

5. A copy of Accusation No. 800-2018-047488 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 Accusation No. 800-2018-047488. Respondent has also carefully read, fully discussed with his counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

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

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

CULPABILITY

9. Respondent understands that the charges and allegations in Accusation No. 800-2018-047488, if proven at a hearing, constitute cause for imposing discipline upon his Physician's and Surgeon's Certificate.

10. For the purpose of resolving the Accusation without the expense and uncertainty of further proceedings, Respondent admits that at a hearing, Complainant could set forth a prima facie case for the charges and allegations in Accusation No. 800-2018-047488, and Respondent declines to defend same.

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 Accusation No. 800-2018-047488 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.

///

III.

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 51480 issued to Respondent Joselito Ponce Babaran, 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. CONTROLLED SUBSTANCES - TOTAL RESTRICTION. For the first year of probation or until Respondent successfully completes a Clinical Competence Assessment Program, as described in term #7 below, whichever occurs first, Respondent shall not order, prescribe, dispense, administer, furnish, or possess any controlled substances as defined in the California Uniform Controlled Substances Act.

Respondent shall not issue an oral or written recommendation or approval to a patient or a patient's primary caregiver for the possession or cultivation of marijuana for the personal medical purposes of the patient within the meaning of Health and Safety Code section 11362.5.

If Respondent forms the medical opinion, after an appropriate prior examination and a medical indication, that a patient's medical condition may benefit from the use of marijuana, Respondent shall so inform the patient and shall refer the patient to another physician who, following an appropriate prior examination and a medical indication, may independently issue a medically appropriate recommendation or approval for the possession or cultivation of marijuana for the personal medical purposes of the patient within the meaning of Health and Safety Code section 11362.5. In addition, Respondent shall inform the patient or the patient's primary caregiver that Respondent is prohibited from issuing a recommendation or approval for the possession or cultivation of marijuana for the personal medical purposes of the patient and that the patient or the patient's primary caregiver may not rely on Respondent's statements to legally possess or cultivate marijuana for the personal medical purposes of the patient. Respondent shall fully document in the patient's chart that the patient or the patient's primary caregiver was so informed. Nothing in this condition prohibits Respondent from providing the patient or the

1 patient's primary caregiver information about the possible medical benefits resulting from the use
2 of marijuana.

3 2. CONTROLLED SUBSTANCES - SURRENDER OF DEA PERMIT. Respondent is
4 prohibited from practicing medicine until Respondent provides documentary proof to the Board
5 or its designee that Respondent's DEA permit has been surrendered to the Drug Enforcement
6 Administration for cancellation, together with any state prescription forms and all controlled
7 substances order forms. Thereafter, Respondent shall not reapply for a new DEA permit without
8 the prior written consent of the Board or its designee.

9 3. CONTROLLED SUBSTANCES - MAINTAIN RECORDS AND ACCESS TO
10 RECORDS AND INVENTORIES. Respondent shall maintain a record of all controlled
11 substances ordered, prescribed, dispensed, administered, or possessed by Respondent, and any
12 recommendation or approval which enables a patient or patient's primary caregiver to possess or
13 cultivate marijuana for the personal medical purposes of the patient within the meaning of Health
14 and Safety Code section 11362.5, during probation, showing all of the following: 1) the name and
15 address of the patient; 2) the date; 3) the character and quantity of controlled substances involved;
16 and 4) the indications and diagnosis for which the controlled substances were furnished.

17 Respondent shall keep these records in a separate file or ledger, in chronological order. All
18 records and any inventories of controlled substances shall be available for immediate inspection
19 and copying on the premises by the Board or its designee at all times during business hours and
20 shall be retained for the entire term of probation.

21 4. EDUCATION COURSE. Within 60 calendar days of the effective date of this
22 Decision, and on an annual basis thereafter, Respondent shall submit to the Board or its designee
23 for its prior approval educational program(s) or course(s) which shall not be less than 40 hours
24 per year, for each year of probation. The educational program(s) or course(s) shall be aimed at
25 correcting any areas of deficient practice or knowledge and shall be Category I certified. The
26 educational program(s) or course(s) shall be at Respondent's expense and shall be in addition to
27 the Continuing Medical Education (CME) requirements for renewal of licensure. Following the
28 completion of each course, the Board or its designee may administer an examination to test

1 Respondent's knowledge of the course. Respondent shall provide proof of attendance for 65
2 hours of CME of which 40 hours were in satisfaction of this condition.

3 5. PREScribing PRACTICES COURSE. Within 60 calendar days of the effective
4 date of this Decision, Respondent shall enroll in a course in prescribing practices approved in
5 advance by the Board or its designee. Respondent shall provide the approved course provider
6 with any information and documents that the approved course provider may deem pertinent.
7 Respondent shall participate in and successfully complete the classroom component of the course
8 not later than six (6) months after Respondent's initial enrollment. Respondent shall successfully
9 complete any other component of the course within one (1) year of enrollment. The prescribing
10 practices course shall be at Respondent's expense and shall be in addition to the Continuing
11 Medical Education (CME) requirements for renewal of licensure.

12 A prescribing practices course taken after the acts that gave rise to the charges in the
13 Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board
14 or its designee, be accepted towards the fulfillment of this condition if the course would have
15 been approved by the Board or its designee had the course been taken after the effective date of
16 this Decision.

17 Respondent shall submit a certification of successful completion to the Board or its
18 designee not later than 15 calendar days after successfully completing the course, or not later than
19 15 calendar days after the effective date of the Decision, whichever is later.

20 6. MEDICAL RECORD KEEPING COURSE. Within 60 calendar days of the effective
21 date of this Decision, Respondent shall enroll in a course in medical record keeping approved in
22 advance by the Board or its designee. Respondent shall provide the approved course provider
23 with any information and documents that the approved course provider may deem pertinent.
24 Respondent shall participate in and successfully complete the classroom component of the course
25 not later than six (6) months after Respondent's initial enrollment. Respondent shall successfully
26 complete any other component of the course within one (1) year of enrollment. The medical
27 record keeping course shall be at Respondent's expense and shall be in addition to the Continuing
28 Medical Education (CME) requirements for renewal of licensure.

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

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

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

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

24 At the end of the evaluation, the program will submit a report to the Board or its designee
25 which unequivocally states whether the Respondent has demonstrated the ability to practice
26 safely and independently. Based on Respondent's performance on the clinical competence
27 assessment, the program will advise the Board or its designee of its recommendation(s) for the
28 scope and length of any additional educational or clinical training, evaluation or treatment for any

1 medical condition or psychological condition, or anything else affecting Respondent's practice of
2 medicine. Respondent shall comply with the program's recommendations.

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

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

14 Within 60 days after Respondent has successfully completed the clinical competence
15 assessment program, Respondent shall participate in a professional enhancement program
16 approved in advance by the Board or its designee, which shall include quarterly chart review,
17 semi-annual practice assessment, and semi-annual review of professional growth and education.
18 Respondent shall participate in the professional enhancement program at Respondent's expense
19 during the term of probation, or until the Board or its designee determines that further
20 participation is no longer necessary.

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

1 to serve as Respondent's monitor. Respondent shall pay all monitoring costs.

2 The Board or its designee shall provide the approved monitor with copies of the Decision(s)
3 and Accusation(s), and a proposed monitoring plan. Within 15 calendar days of receipt of the
4 Decision(s), Accusation(s), and proposed monitoring plan, the monitor shall submit a signed
5 statement that the monitor has read the Decision(s) and Accusation(s), fully understands the role
6 of a monitor, and agrees or disagrees with the proposed monitoring plan. If the monitor disagrees
7 with the proposed monitoring plan, the monitor shall submit a revised monitoring plan with the
8 signed statement for approval by the Board or its designee.

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

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

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

24 If the monitor resigns or is no longer available, Respondent shall, within 5 calendar days of
25 such resignation or unavailability, submit to the Board or its designee, for prior approval, the
26 name and qualifications of a replacement monitor who will be assuming that responsibility within
27 15 calendar days. If Respondent fails to obtain approval of a replacement monitor within 60
28 calendar days of the resignation or unavailability of the monitor, Respondent shall receive a

1 notification from the Board or its designee to cease the practice of medicine within three (3)
2 calendar days after being so notified. Respondent shall cease the practice of medicine until a
3 replacement monitor is approved and assumes monitoring responsibility.

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

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

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

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

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

24 12. INVESTIGATION/ENFORCEMENT COST RECOVERY. Respondent is hereby
25 ordered to reimburse the Board its costs of investigation and enforcement, including, but not
26 limited to, expert review, amended accusations, legal reviews, investigation(s), and subpoena
27 enforcement, as applicable, in the amount of \$20,071.25 (twenty thousand seventy-one dollars
28 and twenty-five cents). Costs shall be payable to the Medical Board of California. Failure to pay

1 such costs shall be considered a violation of probation.

2 Payment must be made in full within 30 calendar days of the effective date of the Order, or
3 by a payment plan approved by the Medical Board of California. Any and all requests for a
4 payment plan shall be submitted in writing by Respondent to the Board. Failure to comply with
5 the payment plan shall be considered a violation of probation.

6 The filing of bankruptcy by Respondent shall not relieve Respondent of the responsibility
7 to repay investigation and enforcement costs, including expert review costs (if applicable).

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

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

13 14. GENERAL PROBATION REQUIREMENTS.

14 Compliance with Probation Unit

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

16 Address Changes

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

22 Place of Practice

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

26 License Renewal

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

1 Travel or Residence Outside California

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

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

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

11 16. NON-PRACTICE WHILE ON PROBATION. Respondent shall notify the Board or
12 its designee in writing within 15 calendar days of any periods of non-practice lasting more than
13 30 calendar days and within 15 calendar days of Respondent's return to practice. Non-practice is
14 defined as any period of time Respondent is not practicing medicine as defined in Business and
15 Professions Code sections 2051 and 2052 for at least 40 hours in a calendar month in direct
16 patient care, clinical activity or teaching, or other activity as approved by the Board. If
17 Respondent resides in California and is considered to be in non-practice, Respondent shall
18 comply with all terms and conditions of probation. All time spent in an intensive training
19 program which has been approved by the Board or its designee shall not be considered non-
20 practice and does not relieve Respondent from complying with all the terms and conditions of
21 probation. Practicing medicine in another state of the United States or Federal jurisdiction while
22 on probation with the medical licensing authority of that state or jurisdiction shall not be
23 considered non-practice. A Board-ordered suspension of practice shall not be considered as a
24 period of non-practice.

25 In the event Respondent's period of non-practice while on probation exceeds 18 calendar
26 months, Respondent shall successfully complete the Federation of State Medical Boards's Special
27 Purpose Examination, or, at the Board's discretion, a clinical competence assessment program
28 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; Quarterly Declarations; Abstain from the Use of Alcohol and/or Controlled Substances; and Biological Fluid Testing..

17. 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. This term does not include cost recovery, which is due within 30 calendar days of the effective date of the Order, or by a payment plan approved by the Medical Board and timely satisfied. Upon successful completion of probation, Respondent’s certificate shall be fully restored.

18. 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.

19. 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

1 designee and Respondent shall no longer practice medicine. Respondent will no longer be subject
2 to the terms and conditions of probation. If Respondent re-applies for a medical license, the
3 application shall be treated as a petition for reinstatement of a revoked certificate.

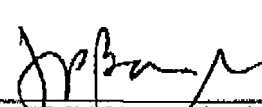
4 20. PROBATION MONITORING COSTS. Respondent shall pay the costs associated
5 with probation monitoring each and every year of probation, as designated by the Board, which
6 may be adjusted on an annual basis. Such costs shall be payable to the Medical Board of
7 California and delivered to the Board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

9 21. FUTURE ADMISSIONS CLAUSE. If Respondent should ever apply or reapply for
10 a new license or certification, or petition for reinstatement of a license, by any other health care
11 licensing action agency in the State of California, all of the charges and allegations contained in
12 Accusation No. 800-2018-047488 shall be deemed to be true, correct, and admitted by
13 Respondent for the purpose of any Statement of Issues or any other proceeding seeking to deny or
14 restrict license.

15 ACCEPTANCE

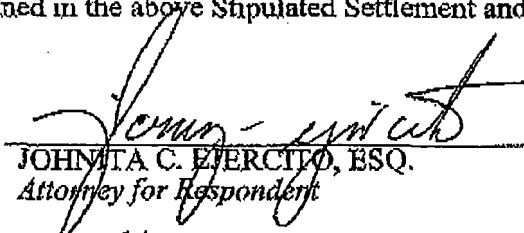
16 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
17 discussed it with my attorney, Johnita C. Ejercito, Esq. I understand the stipulation and the effect
18 it will have on my Physician's and Surgeon's Certificate. I enter into this Stipulated Settlement
19 and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the
20 Decision and Order of the Medical Board of California.

21
22 DATED: 8/26/22

23 
JOSELITO PONCE BABARAN, M.D.
Respondent

24 I have read and fully discussed with Respondent Joselito Ponce Babaran, M.D. the terms
25 and conditions and other matters contained in the above Stipulated Settlement and Disciplinary
26 Order. I approve its form and content.

27 DATED: 8/28/22

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JOHNITA C. EJERCITO, ESQ.
Attorney for Respondent

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DATED: 8/31/22

ROB BONTA
Attorney General of California
JUDITH T. ALVARADO
Supervising Deputy Attorney General

TAN N. TRAN
Deputy Attorney General
Attorneys for Complainant

Exhibit A

Accusation No. 800-2018-047488

1 ROB BONTA
Attorney General of California
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7 *Attorneys for Complainant*

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

Case No. 800-2018-047488

13 **JOSELITO PONCE BABARAN, M.D.**
14 **12160 Crystal Ridge Way**
Porter Ranch, CA 91326-3800

A C C U S A T I O N

15 **Physician's and Surgeon's Certificate**
16 **No. A 51480,**

17 Respondent.

18
19 **PARTIES**

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

23 2. On or about December 7, 1992, the Medical Board issued Physician's and Surgeon's
24 Certificate Number A 51480 to Joselito Ponce Babaran, M.D. (Respondent). The Physician's and
25 Surgeon's Certificate was in full force and effect at all times relevant to the charges brought
26 herein and will expire on July 31, 2022, unless renewed.

27 ///

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JURISDICTION

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

4. Section 2004 of the Code states:

The board shall have the responsibility for the following:

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

(b) The administration and hearing of disciplinary actions.

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

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

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

(f) Approving undergraduate and graduate medical education programs.

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

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

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

5. Section 2227 of the Code states:

(a) A licensee whose matter has been heard by an administrative law judge of the Medical Quality Hearing Panel as designated in Section 11371 of the Government Code, or whose default has been entered, and who is found guilty, or who has entered into a stipulation for disciplinary action with the board, may, in accordance with the provisions of this chapter:

(1) Have his or her license revoked upon order of the board.

(2) Have his or her right to practice suspended for a period not to exceed one year upon order of the board.

(3) Be placed on probation and be required to pay the costs of probation monitoring upon order of the board.

(4) Be publicly reprimanded by the board. The public reprimand may include a requirement that the licensee complete relevant educational courses approved by the board.

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

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

6 STATUTORY PROVISIONS

7 6. Section 2234 of the Code, states:

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

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

12 (b) Gross negligence.

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

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

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

20 (d) Incompetence.

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

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

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

26 7. Section 2241 of the Code states:

27 (a) A physician and surgeon may prescribe, dispense, or administer prescription
28 drugs, including prescription controlled substances, to an addict under his or her
treatment for a purpose other than maintenance on, or detoxification from,

1 prescription drugs or controlled substances.

2 (b) A physician and surgeon may prescribe, dispense, or administer prescription
3 drugs or prescription controlled substances to an addict for purposes of maintenance
4 on, or detoxification from, prescription drugs or controlled substances only as set
5 forth in subdivision (c) or in Sections 11215, 11217, 11217.5, 11218, 11219, and
6 11220 of the Health and Safety Code. Nothing in this subdivision shall authorize a
7 physician and surgeon to prescribe, dispense, or administer dangerous drugs or
8 controlled substances to a person he or she knows or reasonably believes is using or
9 will use the drugs or substances for a nonmedical purpose.

10 (c) Notwithstanding subdivision (a), prescription drugs or controlled substances
11 may also be administered or applied by a physician and surgeon, or by a registered
12 nurse acting under his or her instruction and supervision, under the following
13 circumstances:

14 (1) Emergency treatment of a patient whose addiction is complicated by the
15 presence of incurable disease, acute accident, illness, or injury, or the infirmities
16 attendant upon age.

17 (2) Treatment of addicts in state-licensed institutions where the patient is kept
18 under restraint and control, or in city or county jails or state prisons.

19 (3) Treatment of addicts as provided for by Section 11217.5 of the Health and
20 Safety Code.

21 (d)(1) For purposes of this section and Section 2241.5, addict means a person
22 whose actions are characterized by craving in combination with one or more of the
23 following:

24 (A) Impaired control over drug use.

25 (B) Compulsive use.

26 (C) Continued use despite harm.

27 (2) Notwithstanding paragraph (1), a person whose drug-seeking behavior is
28 primarily due to the inadequate control of pain is not an addict within the meaning of
this section or Section 2241.5.

8. Section 2242 of the Code states:

(a) Prescribing, dispensing, or furnishing dangerous drugs as defined in Section
4022 without an appropriate prior examination and a medical indication, constitutes
unprofessional conduct. An appropriate prior examination does not require a
synchronous interaction between the patient and the licensee and can be achieved
through the use of telehealth, including, but not limited to, a self-screening tool or a
questionnaire, provided that the licensee complies with the appropriate standard of
care.

(b) No licensee shall be found to have committed unprofessional conduct within
the meaning of this section if, at the time the drugs were prescribed, dispensed, or
furnished, any of the following applies:

1 (1) The licensee was a designated physician and surgeon or podiatrist serving in
2 the absence of the patient's physician and surgeon or podiatrist, as the case may be,
3 and if the drugs were prescribed, dispensed, or furnished only as necessary to
4 maintain the patient until the return of the patient's practitioner, but in any case no
5 longer than 72 hours.

6 (2) The licensee transmitted the order for the drugs to a registered nurse or to a
7 licensed vocational nurse in an inpatient facility, and if both of the following
8 conditions exist:

9 (A) The practitioner had consulted with the registered nurse or licensed
10 vocational nurse who had reviewed the patient's records.

11 (B) The practitioner was designated as the practitioner to serve in the absence
12 of the patient's physician and surgeon or podiatrist, as the case may be.

13 (3) The licensee was a designated practitioner serving in the absence of the
14 patient's physician and surgeon or podiatrist, as the case may be, and was in
15 possession of or had utilized the patient's records and ordered the renewal of a
16 medically indicated prescription for an amount not exceeding the original prescription
17 in strength or amount or for more than one refill.

18 (4) The licensee was acting in accordance with Section 120582 of the Health
19 and Safety Code.

20 9. Section 2266 of the Code states:

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

24 10. Section 725 of the Code states:

25 (a) Repeated acts of clearly excessive prescribing, furnishing, dispensing, or
26 administering of drugs or treatment, repeated acts of clearly excessive use of
27 diagnostic procedures, or repeated acts of clearly excessive use of diagnostic or
28 treatment facilities as determined by the standard of the community of licensees is
unprofessional conduct for a physician and surgeon, dentist, podiatrist, psychologist,
physical therapist, chiropractor, optometrist, speech-language pathologist, or
audiologist.

(b) Any person who engages in repeated acts of clearly excessive prescribing or
administering of drugs or treatment is guilty of a misdemeanor and shall be punished
by a fine of not less than one hundred dollars (\$100) nor more than six hundred
dollars (\$600), or by imprisonment for a term of not less than 60 days nor more than
180 days, or by both that fine and imprisonment.

(c) A practitioner who has a medical basis for prescribing, furnishing,
dispensing, or administering dangerous drugs or prescription controlled substances
shall not be subject to disciplinary action or prosecution under this section.

(d) No physician and surgeon shall be subject to disciplinary action pursuant to
this section for treating intractable pain in compliance with Section 2241.5.

1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Gross Negligence/Repeated Negligent Acts – 3 Patients)**

3 11. Respondent Joselito Ponce Babaran, M.D. is subject to disciplinary action under
4 section 2234, subdivisions (b) and (c), of the Code for the commission of acts or omissions
5 involving gross negligence/repeated negligent acts in the care and treatment of Patients 1, 2, and
6 3.¹ The circumstances are as follows:

7 **Patient 1**

8 12. Patient 1 (or “patient”) is a 37-year-old female, who treated with Respondent from
9 approximately 2013 through 2020,² for various conditions including chronic pain, anxiety, panic
10 attacks, depression, multiple genitourinary complaints, dental abscess, painful urination, white
11 vaginal discharge, and a painful breast lump. During his treatment of Patient 1, Respondent
12 prescribed to the patient Xanax (a benzodiazepine), as well as Vicodin (an opiate). Prescription
13 records also indicate that Patient 1 was also being prescribed other controlled substances such as
14 Depakote (antipsychotic drug) and Effexor (antidepressant) by another physician.³

15 13. During his treatment of Patient 1, Respondent escalated and excessively prescribed
16 high doses of a benzodiazepine and high doses of Vicodin concurrently to Patient 1. There was
17 no documentation that Respondent consulted Controlled Substance Utilization Review and
18 Evaluation System (CURES) when prescribing for Patient 1. Respondent also failed to perform
19 random urine drug screens on Patient 1, and failed to refer Patient 1 to a pain management
20 specialist or psychiatrist.

21 ///

22 ¹ The patients are identified by number to protect their privacy.

23 ² These are approximate dates based on the medical records which were available to the
24 Board. Patient 1 may have treated with Respondent before or after these dates.

25 ³ These medications are controlled substances, and have serious side effects and risk for
26 addiction. They are also dangerous drugs pursuant to section 4022 of the Code. Although
27 Respondent claimed that he checked CURES (Controlled Substance Utilization Review and
28 Evaluation System, a drug monitoring database for Schedule II through V controlled substances
dispensed in California), Respondent, either did not notice, or failed to adequately address the fact
that Patient 1 was using multiple physicians as sources for scheduled medications (opioid and
benzodiazepine medications) concurrently.

1 14. Also, there is no documentation that Respondent performed a genitourinary exam on
2 Patient 1, nor was there any documentation that a vaginal or urine culture was taken for Patient 1,
3 in order to assess the patient's symptoms. There is also no record that Respondent discussed with
4 Patient 1 issues regarding sexual practices, diseases, and the like, which are crucial to women's
5 health. There is no documentation that Respondent performed a breast exam on Patient 1, who
6 complained of a painful breast lump, nor was there any documentation that Respondent
7 adequately took a gynecological history or performed adequate gynecological exams on Patient 1.
8 Although Respondent diagnosed Patient 1 with having a dental abscess, there was no
9 documentation that Respondent adequately followed up on the patient's dental care.

10 15. Overall, Respondent's care and treatment of Patient 1, as outlined above, represents
11 an extreme departure from the standard of care for excessively prescribing concomitant
12 benzodiazepines with opioids to Patient 1, who had signs of addiction or illicit behavior, as well
13 as repeated acts of negligence.

14 **Patient 2**

15 16. Patient 2 (or "patient") is a 61-year-old male, who was treated by Respondent from
16 approximately 2014 through 2020.⁴ Patient 2 had a history of hypertension (high blood pressure).
17 Records show that Patient 2 had regular near monthly visits between 2016-2019, but Respondent
18 failed to adequately address Patient 2's blood pressure readings (some of which showed an
19 extremely elevated blood pressure) on his monthly visits. There is no documentation that
20 Respondent had an adequate plan of treatment for Patient 2's hypertension (e.g., performing lab
21 work once or twice a year to monitor the patient's blood pressure). Moreover, Respondent
22 prescribed to Patient 2 a high dose of Ibuprofen without documentation of education or
23 consideration of side effects.⁵

24 17. Overall, Respondent's care and treatment of Patient 2, as outlined above, represents
25 an extreme departure from the standard of care for Respondent's lack of recognition, evaluation,
26

27 ⁴ Again, these are approximate dates based on the medical records which were available to
the Board. Patient 2 may have treated with Respondent before or after these dates.

28 ⁵ The records were not clear as to the reason why Patient 2 was being prescribed
Ibuprofen, but it was likely to assist in the patient's pain control.

1 and treatment of Patient 2's chronic severe hypertension, and an extreme departure from the
2 standard of care for Respondent's continued prescribing of Ibuprofen at a high dose and for a
3 prolonged period of time, as well as repeated acts of negligence.

4 **Patient 3**

5 18. Patient 3 (or "patient") is a 61-year-old male, who was treated by Respondent from
6 approximately 2014 to 2019,⁶ for various maladies including hypertension and diabetes. Patient 3
7 had many visits with Respondent from 2016 through 2019, and the patient's blood pressure
8 readings during this time period were always in stage I⁷ and occasionally stage II.⁸ Despite the
9 patient's high blood pressure readings during this time period, Respondent failed to adequately
10 recognize, evaluate, and treat Patient 3's hypertension.

11 19. Respondent failed to adequately treat or evaluate Patient 3's history of
12 diabetes/obesity (e.g., periodic assessment of the patient's blood sugar through hemoglobin A1C
13 measurements, fasting blood glucose measurements, eye exams, and kidney function tests).
14 There was no documentation that Respondent regularly assessed Patient 3's chronic obesity, nor
15 was there any documentation that Respondent referred Patient 3 to a specialist. Respondent was
16 not able to provide records documenting urine drug screens for Patient 3, and there was no
17 notation regarding subjective or objective assessment of multiple medical problems of Patient 3,
18 nor was there any documentation that Respondent referred to CURES when prescribing for
19 Patient 3.

20 20. Overall, Respondent's care and treatment of Patient 3, as outlined above, represents
21 an extreme departure from the standard of care for Respondent's lack of recognition, evaluation,
22 and treatment of Patient 3's chronic severe hypertension, and extreme departure from the standard
23 of care for Respondent's treatment or evaluation of Patient 3's history of diabetes/obesity, as well
24 as repeated acts of negligence.

25 ⁶ Again, these are approximate dates based on the medical records which were available to
26 the Board. Patient 3 may have treated with Respondent before or after these dates.

27 ⁷ Stage I hypertension is a systolic pressure reading from 130 to 139mm Hg or a diastolic
28 pressure reading of 80 to 89mm Hg.

⁸ Stage II hypertension is a systolic pressure reading of 140mm Hg or higher or a diastolic
pressure reading of 90mm Hg or higher.

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1 PRAYER

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

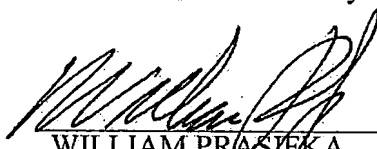
4 1. Revoking or suspending Physician's and Surgeon's Certificate Number A 51480,
5 issued to Joselito Ponce Babaran, M.D.;

6 2. Revoking, suspending or denying approval of Joselito Ponce Babaran, M.D.'s
7 authority to supervise physician assistants and advanced practice nurses;

8 3. Ordering Joselito Ponce Babaran, M.D., if placed on probation, to pay the Board the
9 costs of probation monitoring; and

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

11
12 DATED: AUG 11 2021

13 
14 WILLIAM PRASIFKA
15 Executive Director
16 Medical Board of California
17 Department of Consumer Affairs
18 State of California
19 Complainant
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