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

In the Matter of the Accusation Against: Timothy Rupert Dooley, M.D. Physician's and Surgeon's Certificate No. G 69284 Respondent.	Case No.: 800-2019-053936

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 March 6, 2023.

IT IS SO ORDERED: February 2, 2023.

MEDICAL BOARD OF CALIFORNIA

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

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

In the Matter of the Accusation Against: **TIMOTHY RUPERT DOOLEY, M.D.** **2333 Camino del Rio South, Suite 130** **San Diego, CA 92108-3607** **Physician's and Surgeon's Certificate No. G 69284** Respondent.	Case No. 800-2019-053936 OAH No. 2022040263 **STIPULATED SETTLEMENT AND DISCIPLINARY ORDER**

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

PARTIES

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

2. Respondent Timothy Rupert Dooley, M.D. (Respondent) is represented in this proceeding by attorney Raymond J. McMahon, Esq., whose address is: 5440 Trabuco Road, Irvine, CA 92620.

3. On or about July 26, 1990, the Board issued Physician's and Surgeon's Certificate No. G 69284 to Respondent. The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought in Accusation No. 800-2019-053936 and will expire on October 31, 2023, unless renewed.

JURISDICTION

4. On March 10, 2022, Accusation No. 800-2019-053936 was filed before the Board and is currently pending against Respondent. A true and correct copy of the Accusation and all other statutorily required documents were properly served on Respondent on March 10, 2022. Respondent timely filed his Notice of Defense contesting the Accusation. A true and correct copy of Accusation No. 800-2019-053936 is attached as Exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, fully discussed with counsel, and fully understands the charges and allegations in Accusation No. 800-2019-053936. Respondent has also carefully read, fully discussed with his counsel, and fully understands the effects of this Stipulated Settlement and Disciplinary Order.

6. 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.

7. Having the benefit of counsel, Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

CULPABILITY

8. Respondent agrees that his Physician's and Surgeon's Certificate No. G 69284 is subject to discipline, and he agrees to be bound by the Board's imposition of discipline as set forth in the Disciplinary Order below.

9. Respondent does not contest that, at an administrative hearing, Complainant could establish a *prima facie* case with respect to the charges and allegations contained in Accusation No. 800-2019-053936 and that his Physician's and Surgeon's Certificate No. G 69284 is therefore subject to discipline.

10. 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. 800-2019-053936 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 or elsewhere.

CONTINGENCY

11. This Stipulated Settlement and Disciplinary Order shall be subject to approval of the Board. The parties agree that this Stipulated Settlement and Disciplinary Order shall be submitted to the Board for its consideration in the above-entitled matter and, further, that the Board shall have a reasonable period of time in which to consider and act on this Stipulated Settlement and Disciplinary Order after receiving it. By signing this stipulation, Respondent fully understands and agrees that he may not withdraw his agreement or seek to rescind this stipulation prior to the time the Board considers and acts upon it.

12. The parties agree that this Stipulated Settlement and Disciplinary Order shall be null and void and not binding upon the parties unless approved and adopted by the Board, except for this paragraph, which shall remain in full force and effect. Respondent fully understands and agrees that in deciding whether or not to approve and adopt this Stipulated Settlement and Disciplinary Order, the Board may receive oral and written communications from its staff and/or the Attorney General's Office. Communications pursuant to this paragraph shall not disqualify the Board, any member thereof, and/or any other person from future participation in this or any other matter affecting or involving Respondent. In the event that the Board does not, in its discretion, approve and adopt this Stipulated Settlement and Disciplinary Order, with the exception of this paragraph, it shall not become effective, shall be of no evidentiary value whatsoever, and shall not be relied upon or introduced in any disciplinary action by either party

hereto. Respondent further agrees that should this Stipulated Settlement and Disciplinary Order be rejected for any reason by the Board, Respondent will assert no claim that the Board, or any member thereof, was prejudiced by its/his/her review, discussion and/or consideration of this Stipulated Settlement and Disciplinary Order or of any matter or matters related hereto.

ADDITIONAL PROVISIONS

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

14. This Stipulated Settlement and Disciplinary Order is intended by the parties herein to be an integrated writing representing the complete, final and exclusive embodiment of the agreements of the parties in the above-entitled matter.

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

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. G 69284 issued to Respondent Timothy Rupert Dooley, M.D., is revoked. However, the revocation is stayed and Respondent is placed on probation for three (3) years from the effective date of the Decision and Order on the following terms and conditions:

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

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

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

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

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

3. PROHIBITED PRACTICE. Respondent is prohibited from making or issuing any written exemption from immunization, or any other written statements providing that any child is exempt from the requirements of Chapter 1 (commencing with Section 120325, but excluding Section 120380) and Sections 120400, 120405, 120410, and 120415 of the Health and Safety Code. After the effective date of this Decision and Order, all patients being treated by Respondent shall be notified of this prohibition. Any new patients must be provided this notification at the time of their initial appointment.

Respondent shall maintain a log of all patients to whom the required oral notification was made. The log shall contain the: 1) patient's name, address and phone number; 2) patient's

medical record number, if available; 3) the full name of the person making the notification; 4) the date the notification was made; and 5) a description of the notification given. Respondent shall keep this log in a separate file or ledger, in chronological order, shall make the log available for immediate inspection and copying on the premises at all times during business hours by the Board or its designee, and shall retain the log for a period of three (3) years from the effective date of the Decision.

As used in this section, "patient(s)" refers to minor patients and their parents, custodians and other legal guardians.

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

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

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

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

7. INVESTIGATION/ENFORCEMENT COST RECOVERY. Respondent is hereby ordered to reimburse the Board its costs of investigation and enforcement, including but not limited to, expert review, amended accusations, legal reviews, investigation(s), and subpoena enforcement, as applicable, in the amount of $17,790 (seventeen thousand seven hundred ninety dollars and eighty-seven cents). Costs shall be payable to the Medical Board of California.

Failure to pay such costs shall be considered a violation of probation.

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

The filing of bankruptcy by respondent shall not relieve respondent of the responsibility to repay investigation and enforcement costs, including expert review costs.

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

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

9. GENERAL PROBATION REQUIREMENTS.

Compliance with Probation Unit

Respondent shall comply with the Board's probation unit.

Address Changes

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

Place of Practice

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

License Renewal

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

Travel or Residence Outside California

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

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

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

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

In the event Respondent's period of non-practice while on probation exceeds 18 calendar months, Respondent shall successfully complete the Federation of State Medical Boards' Special Purpose Examination, or, at the Board's discretion, a clinical competence assessment program

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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..

12. COMPLETION OF PROBATION. Respondent shall comply with all financial obligations (e.g., restitution, probation costs) not later than 120 calendar days prior to the completion of probation. 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.

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

14. LICENSE SURRENDER. Following the effective date of this Decision, if Respondent ceases practicing due to retirement or health reasons or is otherwise unable to satisfy the terms and conditions of probation, Respondent may request to surrender his or her license. The Board reserves the right to evaluate Respondent's request and to exercise its discretion in determining whether or not to grant the request, or to take any other action deemed appropriate and reasonable under the circumstances. Upon formal acceptance of the surrender, Respondent

shall within 15 calendar days deliver Respondent's wallet and wall certificate to the Board or its designee and Respondent shall no longer practice medicine. Respondent will no longer be subject to the terms and conditions of probation. If Respondent re-applies for a medical license, the application shall be treated as a petition for reinstatement of a revoked certificate.

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

16. FUTURE ADMISSIONS CLAUSE. If Respondent should ever apply or reapply for a new license or certification, or petition for reinstatement of a license, by any other health care licensing action agency in the State of California, all of the charges and allegations contained in Accusation No. 800-2019-053936 shall be deemed to be true, correct, and admitted by Respondent for the purpose of any Statement of Issues or any other proceeding seeking to deny or restrict license.

ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Raymond J. McMahon, Esq. I fully understand the stipulation and the effect it will have on my Physician's and Surgeon's Certificate No. G 69284. Having the benefit of counsel, I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Medical Board of California.

DATED: 8/1/22

TIMOTHY RUPERT DOOLEY, M.D.
Respondent

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

DATED: August 1, 2022

RAYMOND J. MCMAHON, ESQ.
Attorney for Respondent

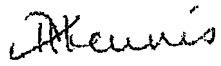
ENDORSEMENT

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

DATED: August 1, 2022

Respectfully submitted,

ROB BONTA
Attorney General of California
MATTHEW M. DAVIS
Supervising Deputy Attorney General



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

In the Matter of the Accusation Against: **TIMOTHY RUPERT DOOLEY, M.D.** **2333 Camino del Rio South, Suite 130** **San Diego, CA 92108-3607** **Physician's and Surgeon's Certificate No. G 69284,** Respondent.	Case No. 800-2019-053936 **ACCUSATION**

PARTIES

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

2. On or about July 26, 1990, the Medical Board issued Physician's and Surgeon's Certificate Number G 69284 to Timothy Rupert Dooley, M.D. (Respondent). The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought herein and will expire on October 31, 2023, unless renewed.

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JURISDICTION

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

4. Section 2220 of the Code states:

> Except as otherwise provided by law, the board may take action against all persons guilty of violating this chapter. The board shall enforce and administer this article as to physician and surgeon certificate holders, including those who hold certificates that do not permit them to practice medicine, such as, but not limited to, retired, inactive, or disabled status certificate holders, and the board shall have all the powers granted in this chapter for these purposes ...

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.
>
> (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.
>
> ...

STATUTORY PROVISIONS

6. Section 2234 of the Code, states:

> The board shall take action against any licensee who is charged with unprofessional conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not limited to, the following:
>
> (a) Violating or attempting to violate, directly or indirectly, assisting in or abetting the violation of, or conspiring to violate any provision of this chapter.

(b) Gross negligence.

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

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

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

...

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.

8. Section 120335 of the Health and Safety Code states:

(a) As used in this chapter, "governing authority" means the governing board of each school district or the authority of each other private or public institution responsible for the operation and control of the institution or the principal or administrator of each school or institution.

(b) The governing authority shall not unconditionally admit any person as a pupil of any private or public elementary or secondary school, child care center, day nursery, nursery school, family day care home, or development center, unless, prior to his or her first admission to that institution, he or she has been fully immunized. The following are the diseases for which immunizations shall be documented:

(1) Diphtheria.

(2) *Haemophilus influenzae* type b.

(3) Measles.

(4) Mumps.

(5) Pertussis (whooping cough).

(6) Poliomyelitis.

(7) Rubella.

(8) Tetanus.

(9) Hepatitis B.

(10) Varicella (chickenpox).

(11) Any other disease deemed appropriate by the department, taking into consideration the recommendations of the Advisory Committee on Immunization Practices of the United States Department of Health and Human Services, the American Academy of Pediatrics, and the American Academy of Family Physicians.

(c) Notwithstanding subdivision (b), full immunization against hepatitis B shall not be a condition by which the governing authority shall admit or advance any pupil to the 7th grade level of any private or public elementary or secondary school.

(d) The governing authority shall not unconditionally admit or advance any pupil to the 7th grade level of any private or public elementary or secondary school unless the pupil has been fully immunized against pertussis, including all pertussis boosters appropriate for the pupil's age.

(e) The department may specify the immunizing agents that may be utilized and the manner in which immunizations are administered.

...

(g) (1) A pupil who, prior to January 1, 2016, submitted a letter or affidavit on file at a private or public elementary or secondary school, child day care center, day nursery, nursery school, family day care home, or development center stating beliefs opposed to immunization shall be allowed enrollment to any private or public elementary or secondary school, child day care center, day nursery, nursery school, family day care home, or development center within the state until the pupil enrolls in the next grade span.

(2) For purposes of this subdivision, "grade span" means each of the following:
(A) Birth to preschool.
(B) Kindergarten and grades 1 to 6, inclusive, including transitional kindergarten.
(C) Grades 7 to 12, inclusive.

(3) Except as provided in this subdivision, on and after July 1, 2016, the governing authority shall not unconditionally admit to any of those institutions specified in this subdivision for the first time, or admit or advance any pupil to 7th grade level, unless the pupil has been immunized for his or her age as required by this section.

...

9. Section 120370 of the Health and Safety Code states:[1]

[1] Effective January 1, 2016, through December 31, 2019, Health and Safety Code section 120370, subdivision (a), stated: "If the parent or guardian files with the governing authority a written statement by a licensed physician to the effect that the physical condition of the child is such, or medical circumstances relating to the child are such, that immunization is not considered safe, indicating the specific nature and probable duration of the medical condition or circumstances, including, but not limited to, family medical history, for which the physician does not recommend immunization, that child shall be exempt from the requirements of Chapter 1 (commencing with Section 120325, but excluding Section 120380) and Sections 120400, 120405, 120410, and 120415 to the extent indicated by the physician's statement."

(a) (1) Prior to January 1, 2021, if the parent or guardian files with the governing authority a written statement by a licensed physician and surgeon to the effect that the physical condition of the child is such, or medical circumstances relating to the child are such, that immunization is not considered safe, indicating the specific nature and probable duration of the medical condition or circumstances, including, but not limited to, family medical history, for which the physician and surgeon does not recommend immunization, that child shall be exempt from the requirements of this chapter, except for Section 120380, and exempt from Sections 120400, 120405, 120410, and 120415 to the extent indicated by the physician and surgeon's statement.

(2) Commencing January 1, 2020, a child who has a medical exemption issued before January 1, 2020, shall be allowed continued enrollment to any public or private elementary or secondary school, child care center, day nursery, nursery school, family day care home, or developmental center within the state until the child enrolls in the next grade span.

For purposes of this subdivision, "grade span" means each of the following:
(A) Birth to preschool, inclusive.
(B) Kindergarten and grades 1 to 6, inclusive, including transitional kindergarten.
(C) Grades 7 to 12, inclusive.

(3) Except as provided in this subdivision, on and after July 1, 2021, the governing authority shall not unconditionally admit or readmit to any of those institutions specified in this subdivision, or admit or advance any pupil to 7th grade level, unless the pupil has been immunized pursuant to Section 120335 or the parent or guardian files a medical exemption form that complies with Section 120372.

(b) If there is good cause to believe that a child has been exposed to a disease listed in subdivision (b) of Section 120335 and the child's documentary proof of immunization status does not show proof of immunization against that disease, that child may be temporarily excluded from the school or institution until the local health officer is satisfied that the child is no longer at risk of developing or transmitting the disease.

COST RECOVERY

10. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to 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, with failure of the licensee to comply subjecting the license to not being renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be included in a stipulated settlement.

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DEFINITIONS

11. Unprofessional conduct under Business and Professions Code section 2234 is conduct which breaches the rules or ethical code of the medical profession, or conduct which is unbecoming of a member of good standing of the medical profession, and which demonstrates an unfitness to practice medicine. (*Shea v. Board of Medical Examiners* (1978) 81 Cal.App.3d 564, 575.)

12. Contraindications are conditions in a recipient that increase the risk for a serious adverse reaction.

13. Contraindications and precautions (which may be relative) are conditions under which medical exemptions are appropriate.

14. Polio, or poliomyelitis, is a disabling and life-threatening disease caused by the poliovirus. The virus spreads from person to person and can infect a person's spinal cord, causing paralysis. Paralysis, in turn, can lead to permanent disability and death.

15. The MMR vaccine protects against measles, mumps and rubella. Measles is highly contagious and especially dangerous for babies and young children. It can lead to pneumonia, lifelong brain damage, deafness and death.

16. The DTaP vaccine protects against diphtheria, tetanus, and pertussis (whooping cough). Diphtheria is a serious infection of the throat that can block the airway and cause severe breathing problems. Pertussis is a respiratory illness with cold-like symptoms that lead to severe coughing (the "whooping" sound happens when a child breathes in deeply after a severe coughing fit). Serious complications can affect children under 1 year old, and those younger than 6 months old are especially at risk. Teens and adults with a lasting cough might have pertussis and not realize it, and could pass it to vulnerable infants.

17. The Tdap vaccine is a booster immunization given at age 11 that offers continued protection from diphtheria, tetanus, and pertussis for adolescents and adults.

18. Meningitis is an inflammation (swelling) of the protective membranes covering the brain and spinal cord. Bacterial meningitis can be deadly and requires immediate medical attention.

19. Varicella, also known as chickenpox, is a very contagious disease caused by the varicella-zoster virus (VZV). It causes a blister-like rash, itching, tiredness, and fever. Chickenpox used to be very common in the United States. Serious complications of chickenpox can lead to hospitalization and death.

20. Hepatitis A is a serious liver disease. In rare cases, hepatitis A can cause liver failure and death. Hepatitis B is a liver disease that can cause mild illness lasting a few weeks, or it can lead to a serious, lifelong illness.

21. The Hib vaccine protects against *haemophilus influenzae* type b, a disease that can cause serious illness and death in babies and children younger than 5 years old. Hib can cause severe infections of both the lining of the brain and spinal cord (meningitis) and the bloodstream.

22. Influenza (flu) is a contagious respiratory illness caused by influenza viruses that can cause mild to severe illness. Serious outcomes of flu infection can result in hospitalization or death, particularly in older people, young children, and people with certain health conditions.

23. The pneumococcal vaccine ("PCV") helps prevent pneumococcal disease, which is any type of illness caused by *Streptococcus pneumoniae* bacteria. Pneumococcal disease is contagious and can lead to various health problems, including serious infections in the lungs, lining of the brain and spinal cord, and blood. Pneumococcal disease is especially dangerous for babies, older adults, and people with certain health conditions.

24. The HPV vaccine protects against the human papillomavirus, a very common virus that can lead to cancer.

FACTUAL ALLEGATIONS

25. Respondent is a licensed physician and surgeon who practices homeopathy in solo practice.

26. The standard of care is to provide all children immunizations for vaccine preventable diseases in accordance with the Advisory Committee on Immunization (ACIP) guidelines.

27. Vaccine exemptions are provided for serious adverse reactions (including anaphylaxis) to previously administered vaccines.

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28. An adverse reaction to an immunization in a first degree relative is not an indicated reason for vaccine exemption.

29. When there is a report of an adverse reaction by a patient to a particular vaccine, it is standard of care to obtain a detailed history to transcribe into the patient's medical records. Additionally, an attempt should be made to identify the agent responsible for the reaction and refer the patient to an allergist. An anaphylactic reaction would likely lead to a contraindication for the causative vaccine and to other vaccines in which the same causative agent has been identified and is present.

30. There is no single component that is common to all vaccines.

31. There is no precaution or contraindication that would apply to all vaccines, permanently.

32. Allergic rhinitis, allergies, attention deficit hyperactivity disorder (ADHD), eczema, autism spectrum disorder, learning disabilities, and/or neurodevelopmental disorders are not indications by the Center for Disease Control (CDC) for vaccine exemptions, including the Polio, DTaP, vaccine, MMR, HiB, Hepatitis B, Varicella, Tdap, and all other vaccines.

33. When vaccine exemptions are requested, the standard of care is for the provider to have a discussion with the caretaker regarding risks versus benefits for the immunization.

34. During the period February 27, 2016, to August 27, 2019, Respondent issued vaccine exemptions to at least twenty-five (25) students within the San Dieguito Unified School District, of which twenty-two (22) were global, covering all vaccines, and permanent. Included among these twenty-five students who received global, permanent vaccine exemptions are Patient A, Patient B, Patient C, and Patient D. [2]

35. Respondent's records of Patient A, Patient B, Patient C, and Patient D contain multiple handwritten, mostly illegible, progress notes.

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[2] The identity of the patients is known to all parties but not disclosed herein for privacy reasons.

Patient A:

36. Patient A is a male, born in 2013. Respondent's chart for Patient A includes progress notes for four (4) visits and three permanent and global vaccination exemptions.

37. On or about April 13, 2016, Patient A, then aged 3 years old, presented to Respondent with his parents. Respondent's progress note for the visit indicates that Patient A's parents were very concerned about immunizations and that Patient A had a history of poor speech development.

38. An immunization chart apparently dated April 23, 2016, shows that Patient A was up to date on his immunizations at that time, only missing his yearly influenza vaccine, one MMR vaccine and one varicella vaccine. His most recent vaccinations had been on or about September 17, 2014.

39. A medical history for Patient A, apparently completed by his parent(s), lists Patient A's current health problems as eczema and cow's milk protein intolerance. The section for immunizations and reactions thereto is left blank.

40. Patient A returned to Respondent on or about August 23, 2016, for an exemption evaluation. Respondent reviewed Patient A's immunization record and recorded his diagnosis as "history of severe vaccine reaction, injury." Respondent's brief progress note for this visit does not identify the vaccine(s) which caused the injury, which is described as "[.....] injury x 2d; developmental regression, [decreased] speech/[....]." No further details of the injury are provided. Respondent's plan states "exemption written."

41. On or about August 23, 2016, Respondent issued the following vaccine exemption ("the 2016 exemption") to Patient A, then aged three (3) years old:

> [Patient A] ... is a patient of mine. The physical condition and medical circumstances of this patient are such that he is exempt from all immunizations including, but not limited to, the following:
>
> Polio, Diphtheria, Tetanus, Pertussis, Measles, Rubella, Mumps, HIB, Hepatitis, B, and Varicella.
>
> [Patient A] has a permanent medical exemption from all immunizations required for school, as listed above, as well as any other immunizations not listed.

42. On or about December 5, 2017, Patient A again presented to Respondent. Respondent's brief progress note for this visit states "history of severe reaction to 12 month shot, fever/[.....]. A few additional, short, cryptic but illegible, notes are also on the progress note. Respondent completes the school physical examination form and provides Patient A (then four years old) with a vaccine exemption, permanently exempting him from all vaccines ("the 2017 exemption").

43. Patient A again presented to Respondent on or about September 20, 2019. The medical reason for this visit is not clearly documented on Respondent's progress note for this visit, or is illegible if documented. Other largely illegible items on the progress note include Patient A's birth history, medications, and family history. Patient A's physical exams appear to all be normal. At the end of the progress note, Respondent writes "CDC vaccine information shared." Respondent's diagnosis is a history of neurodevelopmental regression with vaccination.

44. A separate document in Patient A's chart, also dated September 20, 2019, is headed "Family History Summary." According to this document, Patient A's acute adverse vaccine reaction(s) include "poss. encephalitis, started falling when walking, [.....] unresponsiveness." The signs and symptoms of neurodevelopmental regression are not clearly documented in the patient's medical records.

45. The Family History Summary also lists Patient A's relatives "with predisposing condition." These are his mother and aunt, who both have eczema, and his maternal cousin who has ADHD.

46. On or about September 20, 2019, Respondent issued a vaccine exemption to Patient A, then aged approximately six (6) years old, permanently exempting him from all vaccines ("the 2019 exemption"). Respondent noted the medical circumstances for which the exemption was issued as: History of neurodevelopmental regression after vaccination.

47. It is unclear from Patient A's chart which vaccine was attributed by Respondent as the cause of Patient A's alleged neurodevelopmental regression.

48. No discussion of the risks and benefits of vaccine administration is documented prior to granting the 2016, 2017, or 2019 exemptions.

Patient B:

49. Patient B is a male, born in 2004. It appears from Respondent's chart for Patient B that he has never been vaccinated.

50. Patient B's chart contains multiple handwritten progress notes that are mostly illegible.

51. A medical history completed by Patient B's parent(s) is also found in the chart, apparently completed when Patient B was aged 7 months old.

52. Patient B's chart also contains email correspondence between the Respondent and Patient B's mother. On or about February 19, 2014, Patient B's mother sent the following email to the Respondent:

> Hi Dr. Dooley,
>
> I wanted to ask your advice. Apparently there is an outbreak of the Measles, and unvaccinated children are being sent home from school for two to three weeks. This hasn't affected my kids yet, but I'm wondering if this is going to become an issue since they are not vaccinated.
>
> Do you have any suggestions or concerns I should keep in mind right now, considering they are not vaccinated and could become exposed?

53. On the same date, Respondent emailed his response to Patient B's mother, saying:

> There has been so little measles that I have little personal experience. However, the old-timers all said to give Pulsatilla as homeoprophylaxis. This means to give a dose (of perhaps 30c) every week or so during an outbreak to prevent illness.
>
> So that is what I would do.
>
> Best, Dr. Dooley

54. Diagnosing Pulsatilla as prophylaxis during a measles outbreak is not standard of care.

55. An email from Patient B's mother dated March 24, 2016, states:

> Hello, Dr. Dooley,
>
> It has been a while since we have last been in your office. I hope this e-mail finds you well. I was hoping to get your take on this new immunization requirement for San Diego city schools. I am very concerned, as [Patient B] has already hit the "checkpoint" in which he would now be required to get vaccinations to continue on with school. I was wondering if you could lend me some advice or information, as I am being told he will not be allowed to attend school next year and they will not

allow me to renew his Personal Beliefs Exemption. Any feedback or referrals to resources would be appreciated.

56. Respondent replied by email dated March 25, 2016, as follows:

Hi [Patient B's mother],

I have no problem giving him a medical exemption since his risk of bad effects from the shots are higher than his risk of the diseases.

Just make an appointment as needed and we will square it away.

57. A very short note dated July 2, 2016, briefly documents a physical exam and includes only two additional lines of writing. The diagnosis is "immunization risk" and Respondent's plan is to provide an immunization exemption.

58. On or about July 2, 2016, Respondent issued the following vaccine exemption ("the 2016 exemption") to Patient B, then aged eleven (11) years old:

[Patient B] ... is a patient of mine. The physical condition and medical circumstances of this patient are such that all of the following immunizations are not indicated:

Polio, Diphtheria, Tetanus, Pertussis, Measles, Rubella, Mumps, HIB, Hepatitis, B, and Varicella.

[Patient B] has a permanent exemption from all immunizations required for school, as listed above, as well as any other immunizations not listed.

59. Patient B next presented to Respondent on November 6, 2019. Respondent's progress note for this visit is largely illegible but includes the comment "good health; eczema as baby." Respondent's diagnosis is "family history of autoimmune disease, neurodevelopmental disorder with vaccines." Respondent's plan is to "update exemption."

60. The Family History Summary (also dated November 6, 2019) in Patient B's chart lists six relatives who each have a "predisposing condition," including a half-brother with ADHD and learning disabilities, paternal cousin with autism spectrum disorder, cousin with ADHD, maternal grandfather with allergies, paternal uncle with learning disabilities, and a paternal aunt with allergic rhinitis.

61. On or about November 6, 2019, Respondent issued a vaccine exemption ("the 2019 exemption") to Patient B, then aged approximately fifteen (15) years old, permanently exempting him from all vaccines. Respondent noted the medical circumstances for which the exemption was

issued as: "Family history of autoimmune disease, neurodevelopmental disorders after vaccination."

62. It is not clear from Respondent's chart for Patient B which vaccine is thought to have caused the sequelae in Patient B's family member(s).

63. It appears from Patient B's chart that, as of March 2, 2022 (aged 18 years old) he had not received any vaccinations nor experienced any adverse reaction(s) to any vaccine.

Patient C:

64. Patient C is a female, born in 2014.

65. A medical history provided by Patient C's mother, dated October 18, 2018, indicates Patient C was vaccinated on January 19, 2015, after which she "broke out in [...] itchy red bumps all over body, high fever, sore all over, crying alot [*stet*], trouble feeding, just a really bad reaction after recieving [*stet*] vaccine." The form indicates that Patient C suffers from no health problems "other then [*stet*] that really bad reaction after her vaccinations[.]" (Editorial comments not in original.)

66. According to Respondent's chart for Patient C, she presented to him only at a single visit, namely, December 5, 2018, when she was 4 years old.

67. Patient C's chart contains two temporary, global vaccination exemptions issued by the Respondent that predate the single office visit in December 2018. The first of these is dated (what appears to be) August 31, 2018, and is "temporary pending medical evaluation on March 16, 2019." Patient C's chart provides no justification or explanation for this global, temporary exemption or any indication as to how it came to be issued. The second temporary exemption is dated October 27, 2018, and is apparently based on a "history of severe vaccine reaction, family history of vaccine injury." Patient C's chart provides no explanation for the expiration date of December 6, 2018, and no indication of how this exemption came to be issued.

68. A Family History Summary (dated December 5, 2018) in Patient C's chart indicates that she had an adverse vaccine reaction, namely, a rash for two to three weeks with "severe breakout" and her father had previously experienced "seizure with vaccination." The vaccine(s) that are believed to have caused these alleged reactions are not identified.

69. The rash alone does not qualify as anaphylaxis or a severe reaction to an immunization. The fevers and soreness that are described by Patient C's mother are not life-threatening or an indication for vaccine exemption.

70. The Family History Summary indicates Patient C has a single relative with a "predisposing condition," namely, a paternal cousin who has ADHD.

71. Respondent's progress note for December 5, 2018, is largely illegible. It appears to contain some limited family medical history and a brief physical examination. A single line states "CDC vaccine information [....]." Respondent's diagnosis is "history of severe vaccine reaction; family [history?] vaccine injury/autoimmune disease. His plan is "vaccine exemption."

72. On or about November 5, 2018,[3] Respondent issued a vaccine exemption to Patient C, then aged approximately four (4) years old, permanently exempting her from all vaccines. Respondent noted the following medical circumstances for which the exemption was issued:

> History of severe vaccine reaction, family history of vaccine injury, neurodevelopmental disorders

73. Patient C's chart contains no indication of which vaccine(s) is/are alleged to have caused which particular reaction in which of Patient C's family members, nor any precise description of the alleged vaccine injury and/or signs and symptoms of the alleged neuro-developmental disorders.

74. No discussion of the risks and benefits of vaccine administration is clearly documented prior to granting the two temporary exemptions to all vaccines, or the permanent, global exemption in 2018.

Patient D:

75. Patient D is a female, born in 2011.

76. On or about March 29, 2016, then aged 4 ½ years, Patient D presented to Respondent with her mother, for the first time.

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[3] Based on other information in the chart, the handwritten date of this vaccine exemption could possibly be (or intended to be) December 5, 2018.

77. Patient D's medical history (as completed by her mother) is found in Patient D's chart and indicates that Patient D had the pneumococcal vaccine four years earlier, on February 29, 2012, after which she experienced "wheezing and itching." According to the medical history provided by Patient D's mother, Patient D was "lethargic [*stet*] that week complaining her bones were aching and hurting (stiff walking) fever, all over body rash." (Editorial comment added.) This document also notes that Patient D's father experienced "learning delays after vaccinations."

78. Patient D's chart also contains a Family History Summary on which her adverse vaccine reaction (to an unnamed vaccine) is described as: "airway restriction/lethargy/stopped walking x 2 months, no [...] In addition, Patient D's maternal uncle reportedly experienced a "2 month loss of writing [....], crossed eyes, [....] The Family History includes that Patient D's father has the "predisposing condition" of learning disabilities, while a cousin of Patient D has a neurodevelopmental disorder.

79. The progress note for the visit on or about March 29, 2016, is largely illegible. Respondent does not provide a definitive diagnosis of Patient D's reported reaction to the vaccine. He does not identify the component that may have caused the reported reaction, nor does he refer Patient D to an allergist. Respondent's diagnosis is "family history of bad immunization reaction," and GERD. His plan includes issuing a vaccine exemption.

80. On or about March 29, 2016, Respondent issued the following vaccine exemption to Patient D, then aged four (4) years old:

> [Patient D's] ... physical condition and medical circumstances are such that all immunizations including the following required immunizations are not indicated: Polio, Diphtheria, Tetanus, Pertussis, Measles, Rubella, Mumps, HIB, Hepatitis B, and Varicella.
>
> [Patient D] has a permanent exemption from all immunizations including those required for school (listed above) and any other immunization.

81. No discussion of the risks and benefits of vaccine administration is documented prior to granting the permanent, global exemption in March 2016.

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FIRST CAUSE FOR DISCIPLINE

(Gross Negligence)

82. Respondent is subject to disciplinary action under sections 2227 and 2234, as defined by section 2234, subdivision (b), of the Code, in that he committed gross negligence in his care and treatment of Patient A, Patient B, Patient C, and/or Patient D, which includes, but is not limited to, the following:

Patient A:

83. Paragraphs 25 through 48, above, are hereby realleged and incorporated by this reference as if fully set forth herein.

84. In exempting Patient A from all vaccines, permanently, with the 2016 exemption, Respondent failed to follow the ACIP recommendations for childhood immunizations and/or failed to document a precise description of the signs and symptoms of a qualifying post-vaccination reaction and/or identify the causative vaccine and/or component.

85. In exempting Patient A from all vaccines, permanently, with the 2017 exemption, Respondent failed to follow the ACIP recommendations for childhood immunizations and/or failed to document a precise description of the signs and symptoms of a qualifying post-vaccination reaction and/or identify the causative vaccine and/or component.

86. In exempting Patient A from all vaccines, permanently, with the 2019 exemption, Respondent failed to follow the ACIP recommendations for childhood immunizations and/or failed to document a precise description of the signs and symptoms of a qualifying post-vaccination reaction and/or identify the causative vaccine and/or component.

87. Respondent failed to maintain adequate and accurate records of his care and treatment of Patient A.

Patient B:

88. Paragraphs 25 through 35, and 49 through 63, above, are hereby realleged and incorporated by this reference as if fully set forth herein.

89. In exempting Patient B from all vaccines, permanently, with the 2016 exemption, Respondent failed to follow the ACIP recommendations for childhood immunizations and/or

failed to document a precise description of the signs and symptoms of a qualifying post-vaccination reaction and/or identify the causative vaccine and/or component.

90. In exempting Patient B from all vaccines, permanently, with the 2019 exemption, Respondent failed to follow the ACIP recommendations for childhood immunizations and/or failed to document a precise description of the signs and symptoms of a qualifying post-vaccination reaction and/or identify the causative vaccine and/or component.

91. Respondent failed to maintain adequate and accurate records of his care and treatment of Patient B.

Patient C:

92. Paragraphs 25 through 35, and 64 through 74, above, are hereby realleged and incorporated by this reference as if fully set forth herein.

93. In exempting Patient C from all vaccines, permanently, Respondent failed to follow the ACIP recommendations for childhood immunizations and/or failed to document a precise description of the signs and symptoms of a qualifying post-vaccination reaction and/or identify the causative vaccine and/or component.

94. Respondent failed to maintain adequate and accurate records of his care and treatment of Patient C.

Patient D:

95. Paragraphs 25 through 35, and 75 through 81, above, are hereby realleged and incorporated by this reference as if fully set forth herein.

96. In exempting Patient D from all vaccines, permanently, Respondent failed to follow the ACIP recommendations for childhood immunizations and/or failed to document a precise description of the signs and symptoms of a qualifying post-vaccination reaction and/or formally diagnose the reaction and/or identify the causative agent.

97. Respondent failed to maintain adequate and accurate records of his care and treatment of Patient D.

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SECOND CAUSE FOR DISCIPLINE

(Repeated Negligent Acts)

98. Respondent is further subject to disciplinary action under sections 2227 and 2234, as defined by section 2234, subdivision (c), of the Code, in that he committed repeated negligent acts in his care and treatment of Patient A, Patient B, Patient C, and/or Patient D, which includes, but is not limited to, the following.

99. Paragraphs 25 through 97, above, hereby realleged and incorporated by this reference as if fully set forth herein.

100. Respondent failed to document in Patient A's chart a clear discussion with Patient A's caregiver(s) of the risks and benefits of the immunizations.

101. Respondent failed to recommend or advocate for Patient B to receive the measles immunization when informed of a measles outbreak and/or Respondent recommended Pulsatilla as prophylaxis for measles when informed of a measles outbreak.

102. Respondent failed to document Patient C's reported adverse reaction in detail in his medical record for Patient C.

103. Respondent failed to document in Patient C's chart a clear discussion with Patient C's caregiver(s) of the risks and benefits of the immunizations.

104. Respondent failed to identify the causative vaccine and the component of that vaccine that may have caused the reported adverse reaction in Patient D.

105. Respondent failed to document Patient D's reported adverse reaction in detail in his medical record for Patient D.

106. Respondent failed to document in Patient D's chart a clear discussion with Patient D's caregiver(s) of the risks and benefits of the immunizations.

THIRD CAUSE FOR DISCIPLINE

(Failure to Maintain Adequate and Accurate Records)

107. Respondent is further subject to disciplinary action under sections 2227 and 2234, as defined by section 2266 of the Code, in that he failed to maintain adequate and accurate records of his care and treatment of Patient A, Patient B, Patient C, and/or Patient D, as more particularly

alleged in paragraphs 25 through 106, above, which are hereby realleged and incorporated by this reference as if fully set forth herein.

FOURTH CAUSE FOR DISCIPLINE

(General Unprofessional Conduct)

108. Respondent is further subject to disciplinary action under section 2234 of the Code in that he has engaged in conduct which breaches the rules or ethical code of the medical profession, or conduct that is unbecoming to a member in good standing of the medical profession, and which demonstrates an unfitness to practice medicine, as more particularly alleged in paragraphs 25 through 107, above, which are hereby realleged and incorporated by this reference as if fully set forth herein.

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 G 69284, issued to Respondent Timothy Rupert Dooley, M.D.;

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

3. Ordering Respondent Timothy Rupert Dooley, 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: MAR 10 2022

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