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

In the Matter of the Accusation Against: K N Solomon Mbagwu, M.D. Physician's and Surgeons Certificate No. G 42217 Respondent.	Case No. 800-2017-034054

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 22, 2021.

IT IS SO ORDERED: December 24, 2020.

MEDICAL BOARD OF CALIFORNIA

Kristina Lawson

Kristina D. Lawson, J.D., Chair
Panel B

XAVIER BECERRA
Attorney General of California
E. A. JONES III
Supervising Deputy Attorney General
JOSHUA M. TEMPLET
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Attorneys for Complainant

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

In the Matter of the Accusation Against: **K N SOLOMON MBAGWU, M.D.** **1218 S. Inglewood Avenue** **Inglewood, CA 90301** **Physician's and Surgeon's Certificate** **No. G 42217** Respondent.	Case No. 800-2017-034054 OAH No. 2020030738 **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 Xavier Becerra, Attorney General of the State of California, via Joshua M. Templet, Deputy Attorney General.

2. Respondent K N Solomon Mbagwu, M.D. (Respondent) is represented in this proceeding by attorney Michael D. Gonzalez, Law Offices of Michael D. Gonzalez, 101 N. Brand Boulevard, Suite 1880, Glendale, CA 91203.

3. On July 1, 1980, the Board issued Physician's and Surgeon's Certificate No. G 42217 to K N Solomon Mbagwu, 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. 800-2017-034054, and will expire on October 31, 2021, unless renewed.

JURISDICTION

4. Accusation No. 800-2017-034054 (Accusation) was filed before the Board and is currently pending against Respondent. The Board served the Accusation and all other statutorily required documents on Respondent, on February 4, 2020. Respondent timely filed his Notice of Defense contesting the Accusation.

5. A copy of the Accusation 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 the Accusation. 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 and agrees that the charges and allegations in the Accusation, if proven at a hearing, constitute cause for imposing discipline on his Physician's and Surgeon's Certificate.

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10. Respondent does not contest that, at an administrative hearing, Complainant could establish a prima facie case with respect to the charges and allegations in the Accusation, and that Respondent has thereby subjected his Physician's and Surgeon's Certificate to disciplinary action. Respondent hereby gives up his right to contest those charges.

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

CONTINGENCY

12. This stipulation shall be subject to approval by the Board. Respondent understands and agrees that counsel for Complainant and the staff of the 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 the Accusation shall be deemed true, correct and fully admitted by Respondent for purposes of any such proceeding or any other licensing proceeding involving Respondent in the State of California.

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

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

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. G 42217 issued to Respondent K N Solomon Mbagwu, M.D. is revoked. However, the revocation is stayed and Respondent is placed on probation for 35 months with 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, including but not limited to the use of antibiotics in obstetrics, 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 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. PROFESSIONALISM PROGRAM (ETHICS COURSE). Within 60 calendar days of the effective date of this Decision, Respondent shall enroll in a professionalism program that meets the requirements of California Code of Regulations, title 16, section 1358.1. Respondent shall participate in and successfully complete that program. Respondent shall provide any information and documents that the program may deem pertinent. Respondent shall successfully complete the classroom component of the program not later than six months after Respondent's initial enrollment, and the longitudinal component of the program not later than the time specified by the program, but no later than one year after attending the classroom component. The professionalism program shall be at Respondent's expense and shall be in addition to the CME requirements for renewal of licensure.

A professionalism program taken after the acts that gave rise to the charges in the Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board or its designee, be accepted towards the fulfillment of this condition if the program would have

been approved by the Board or its designee had the program been taken after the effective date of this Decision.

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

3. NOTIFICATION. Within seven 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.

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

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

6. QUARTERLY DECLARATIONS. Respondent shall submit quarterly declarations under penalty of perjury on forms provided by the Board, stating whether he has complied with all conditions of probation.

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

7. 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 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.

8. 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.

9. 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 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 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.

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

11. 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.

12. 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 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.

13. 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.

14. 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 agency in the State of California, all of the charges and allegations contained in the Accusation 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 such license or certification.

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ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Michael D. Gonzalez. I understand the stipulation and the effect it will have on my Physician's and Surgeon's Certificate. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Medical Board of California.

DATED: 7/21/20

K N SOLOMON MBAGWU, M.D.
Respondent

I have read and fully discussed with Respondent K N Solomon Mbagwu, 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: 7/21/20

MICHAEL D. GONZALEZ
Law Offices of Michael D. Gonzalez
Attorney for Respondent

ENDORSEMENT

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

DATED: July 22, 2020

Respectfully submitted,

XAVIER BECERRA
Attorney General of California
E. A. JONES III
Supervising Deputy Attorney General

Joshua M. Templet

JOSHUA M. TEMPLET
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 800-2017-034054

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FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO Feb. 4 2020
BY M. Hanna ANALYST

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

In the Matter of the Accusation Against:	Case No. 800-2017-034054
K N Solomon Mbagwu, M.D. **1218 S. Inglewood Avenue** **Inglewood, CA 90301** **Physician's and Surgeon's Certificate No. G 42217,** Respondent.	**A C C U S A T I O N**

PARTIES

1. Christine J. Lally (Complainant) brings this Accusation solely in her official capacity as the Interim Executive Director of the Medical Board of California, Department of Consumer Affairs (Board).

2. On or about July 1, 1980, the Medical Board issued Physician's and Surgeon's Certificate Number G 42217 to K N Solomon Mbagwu, M.D. (Respondent). The certificate was in full force and effect at all times relevant to the charges brought herein and will expire on October 31, 2021, 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 2004 of the Code provides that the Board shall have the responsibility for the enforcement of the disciplinary and criminal provisions of the Medical Practice Act.

5. Section 2227 of the Code authorizes the Board to take action against a licensee who has been found guilty under the Medical Practice Act by revoking his or her license, suspending the license for a period not to exceed one year, placing the license on probation and requiring payment of costs of probation monitoring, or taking such other action as the Board deems 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:
>
> . . .
>
> (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.
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> (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.
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FACTUAL ALLEGATIONS

7. Respondent is an obstetrician. On February 5, 2013, Respondent received a call about patient P-1[1] from the obstetrics triage nurse, while he was on call in the emergency room. The 25-year-old patient was 31 weeks pregnant. She complained of back pain and cramping and said that she had lost her mucous plug. The next day, on February 6, 2013, at 2:30 p.m., Respondent admitted P-1 to the hospital with preterm premature rupture of the membranes (PPROM). PPROM is a pregnancy complication in which the amniotic membrane surrounding the baby ruptures before week 37 of pregnancy. Once the membrane ruptures, the mother has an increased risk for infection and a higher chance of early delivery.

8. As the admitting obstetrician, Respondent performed a history and physical and ordered an admitting prenatal panel of tests. He also ordered, among other things, a consultation with a perinatologist; a loading, intravenous dose of ampicillin, an antibiotic; and a maintenance dose of ampicillin every six hours thereafter.

9. The perinatologist also saw the patient on the day of her admission, on February 6, 2013, at 11:38 p.m. The perinatologist's assessment was consistent with Respondent's: PPROM and not in labor. Her plan included intravenous antibiotics.

10. The standard of care for the administration of antibiotics to a patient less than 34 weeks pregnant with PPROM, during latency (before labor), was to provide a course of intravenous antibiotics for 48 hours, including a combination of both ampicillin and erythromycin, followed by oral amoxicillin and erythromycin. This broad spectrum of antibiotics not only reduces fetal and maternal infections but also helps to prolong the pregnancy and reduce gestational age-dependent morbidity.

11. While the patient regularly received ampicillin, per Respondent's order, including on February 6, 2013, at 5:06 p.m., February 7, 2013, at 7:30 a.m., February 7, 2013, at noon, February 7, 2013, at 6:00 p.m., and February 7, 2013, at 11:58 p.m., she did not receive any erythromycin until February 8, 2019, at 12:15 p.m., nearly two days after her admission.

[1] The patient is designated in this document as patient P-1 to protect her and her family's privacy. Respondent knows the name of the patient and can confirm her identity through discovery.

12. Respondent saw the patient on February 7, 2013, at 6:15 a.m. As of this time she had not yet received any erythromycin. Respondent noted no changes in his examination of P-1 or his plan for her care, and he did not order her any erythromycin. It was not until February 8, 2013, that Respondent realized that erythromycin had not been ordered for the patient. By this time, she was already in labor. Shortly after she received her first dose of erythromycin, the patient delivered her baby, on February 8, 2013, at 2:20 p.m.

13. As the admitting obstetrician for P-1, Respondent's failure to ensure that the patient timely received scheduled intravenous doses of erythromycin, an essential component of the broad spectrum of antibiotics required by the standard of care, was a simple departure from the standard of care.

14. During the course of Respondent's treatment of P-1, the patient exhibited signs of an intraamniotic infection,[2] including development of significant temperature elevations during her labor and elevated maternal and fetal heart rates. These signs in combination with the patient's PPROM supported Respondent's diagnosis of the patient with an intraamniotic infection.

15. The standard of care to treat an intraamniotic infection during labor was to administer broad spectrum antibiotics, including regular intravenous doses of a combination of both gentamycin and another broad spectrum antibiotic, such as ampicillin or clindamycin. Such treatment prevents and reduces significant morbidity and mortality in the fetus/newborn child and mother. While under Respondent's care, P-1 received the wrong antibiotic while in labor. Respondent ordered erythromycin for her, rather than gentamycin. Further, P-1's medical records do not reflect that she received any ampicillin or other broad spectrum antibiotic, after February 7, 2013, at 11:58 p.m.

16. Respondent's failure to ensure that P-1 received intravenous doses of both gentamycin and another broad spectrum antibiotic, such as ampicillin or clindamycin, for the treatment of intraamniotic infection was a simple departure from the standard of care.

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[2] An intraamniotic infection, also known as chorioamnionitis, is an infection with resultant inflammation of any combination of the placenta, fetus, fetal membranes, amniotic fluid, or decidua.

CAUSE FOR DISCIPLINE

(Unprofessional Conduct: Repeated Negligence)

17. Respondent is subject to disciplinary action under Code section 2234, subdivision (c) (repeated negligent acts), in that Respondent committed repeated negligent acts in his care of P-1 as described above, including (i) by failing to ensure that the patient received scheduled intravenous doses of erythromycin during the latency period of her pregnancy (before labor); and (ii) by failing to ensure that the patient received intravenous doses of both gentamycin and another broad spectrum antibiotic, such as ampicillin or clindamycin, for the treatment of intraamniotic infection during labor.

DISCIPLINARY CONSIDERATIONS

18. To determine the degree of discipline, if any, to be imposed on Respondent, Complainant alleges that, on or about March 1, 2016, in a prior disciplinary action titled *In the Matter of the Reprimand Against K N Solomon Mbagwu, M.D.*, before the Medical Board of California, in Case Number 800-2014-004271, the Board issued a Public Letter of Reprimand against Respondent. The Public Letter of Reprimand was based on a Medical Board investigation of Respondent's care of a pregnant, preterm patient who presented to the emergency room with vaginal bleeding. Respondent was called telephonically, and he ordered an ultrasound. Respondent then discharged the patient telephonically. Eight hours later the patient began delivering the baby at home and was transported back to the emergency room, where the baby was delivered stillborn. The Medical Board determined that Respondent failed to obtain the cervical ultrasound findings, or if received, he failed to react to the situation with aggressive antepartum management. In addition, the Medical Board determined that Respondent failed to personally see and evaluate the patient. The Medical Board determined that Respondent's actions constituted a violation of Code section 2234, subdivision (c) (repeated negligent acts).

19. The Public Letter of Reprimand is incorporated by reference as if fully set forth herein.

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PRAYER

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

1. Revoking or suspending Physician's and Surgeon's Certificate Number G 42217, issued to K N Solomon Mbagwu, M.D.;

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

3. Ordering K N Solomon Mbagwu, M.D., if placed on probation, to pay the Board the costs of probation monitoring; and

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

DATED: FEB 04 2020

CHRISTINE J. LALLY
Interim Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant

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