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

In the Matter of the Accusation Against: Jean L. Talleyrand, M.D. Physician's and Surgeon's Certificate No. A 61572 Respondent.	Case No.: 800-2017-036586

DECISION

The attached Stipulated Settlement and Disciplinary Order is hereby adopted as the Decision and Order of the Medical Board of California, Department of Consumer Affairs, State of California.

This Decision shall become effective at 5:00 p.m. on September 9, 2022.

IT IS SO ORDERED: August 10, 2022.

MEDICAL BOARD OF CALIFORNIA

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

ROB BONTA
Attorney General of California
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BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against: **JEAN L. TALLEYRAND, M.D.** **1336 Willard, Apt. C** **San Francisco, CA 94117** **Physician's and Surgeon's Certificate No. A 61572** Respondent.	Case No. 800-2017-036586 OAH No. 2022030022 **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 Lawrence Mercer, Deputy Attorney General.

2. Respondent Jean L. Talleyrand, M.D. (Respondent) is representing himself in this proceeding and has chosen not to exercise his right to be represented by counsel.

3. On or about January 31, 1997, the Board issued Physician's and Surgeon's Certificate No. A 61572 to Jean L. Talleyrand, 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. 800-2017-036586, and will expire on August 31, 2022, unless renewed.

JURISDICTION

4. Accusation No. 800-2017-036586 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 21, 2020. Respondent timely filed his Notice of Defense contesting the Accusation.

5. A copy of Accusation No. 800-2017-036586 is attached as exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

6. Respondent has carefully read, and understands the charges and allegations in Accusation No. 800-2017-036586. Respondent has also carefully read, 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 be represented by counsel at his own expense; 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 Accusation No. 800-2017-036586, if proven at a hearing, constitute cause for imposing discipline upon his Physician's and Surgeon's Certificate.

10. Respondent does not contest that, at an administrative hearing, complainant could establish a prima facie case with respect to the charges and allegations in Accusation No. 800-2017-036586, a true and correct copy of which is attached hereto as Exhibit A, and that he has thereby subjected his Physician's and Surgeon's Certificate, No. A 61572 to disciplinary action.

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. 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. 800-2017-036586 shall be deemed true, correct and fully admitted by respondent for purposes of any such proceeding or any other licensing proceeding involving Respondent in the State of California.

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

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

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. A 61572 issued to Respondent Jean L. Talleyrand, 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: them.

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 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. PRESCRIBING PRACTICES COURSE. Within 60 calendar days of the effective date of this Decision, Respondent shall enroll in a course in prescribing practices 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 prescribing practices course shall be at Respondent's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

A prescribing practices 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. 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.

4. PROFESSIONALISM PROGRAM (ETHICS COURSE). Within 60 calendar days of the effective date of this Decision, Respondent shall enroll in a professionalism program, that meets the requirements of Title 16, California Code of Regulations (CCR) section 1358.1. Respondent shall participate in and successfully complete that program. Respondent shall

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

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

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

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

The Board or its designee shall provide the approved monitor with copies of the Decision(s) and Accusation(s), and a proposed monitoring plan. Within 15 calendar days of receipt of the Decision(s), Accusation(s), and proposed monitoring plan, the monitor shall submit a signed statement that the monitor has read the Decision(s) and Accusation(s), fully understands the role of a monitor, and agrees or disagrees with the proposed monitoring plan. If the monitor disagrees

with the proposed monitoring plan, the monitor shall submit a revised monitoring plan with the signed statement for approval by the Board or its designee.

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

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

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

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

In lieu of a monitor, Respondent may participate in a professional enhancement program approved in advance by the Board or its designee that includes, at minimum, quarterly chart review, semi-annual practice assessment, and semi-annual review of professional growth and

education. Respondent shall participate in the professional enhancement program at Respondent's expense during the term of probation.

6. PROHIBITED PRACTICE. During probation, Respondent is prohibited from After the effective date of this Decision, all patients being treated by the Respondent shall be notified that the Respondent is prohibited from writing, issuing or otherwise aiding and abetting the writing or issuance of exemptions from any vaccine for any patient or other persons. After the effective date of this Decision, all patients being treated by the Respondent shall be notified that the Respondent is prohibited from writing, issuing or otherwise aiding and abetting the writing or issuance of exemptions from any vaccine. 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 the entire term of probation.

7. 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.

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

advanced practice nurses.

9. 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.

10. 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, joint investigations, and subpoena enforcement, as applicable, in the amount of $5,595.00. Costs shall be payable to the Medical Board of California. Failure to pay such costs shall be considered a violation of probation.

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

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

11. 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.

12. 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.

13. 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.

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

on probation with the medical licensing authority of that state or jurisdiction shall not be considered non-practice. A Board-ordered suspension of practice shall not be considered as a period of non-practice.

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

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

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

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

15. 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.

16. 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.

17. 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.

18. 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.

19. 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. 800-2017-036586 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 Stipulated Settlement and Disciplinary Order. I understand the stipulation and the effect it will have on my Physician's and Surgeon's Certificate. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Medical Board of California.

DATED: May 23, 2022

JEAN L. TALLEYRAND, M.D.
Respondent

ENDORSEMENT

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

DATED: May 23, 2022

Respectfully submitted,

ROB BONTA
Attorney General of California
JANE ZACK SIMON
Supervising Deputy Attorney General

LAWRENCE MERCER
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 800-2017-036586

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

In the Matter of the First Amended Accusation Against: **Jean L. Talleyrand, M.D.** **3990 Walnut Drive** **Eureka, CA 95503-6257** **Physician's and Surgeon's Certificate No. A 61572,** Respondent.	Case No. 800-2017-036586 **FIRST AMENDED ACCUSATION**

PARTIES

1. William Prasifka (Complainant) brings this First Amended Accusation (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 January 31, 1997, the Medical Board issued Physician's and Surgeon's Certificate Number A 61572 to Jean L. Talleyrand, 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 August 31, 2022, unless renewed.

JURISDICTION

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

4. Section 2227 of the Code states:

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

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

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

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

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

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

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

5. Section 2234 of the Code, states:

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

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

(b) Gross negligence.

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

(1) An initial negligent diagnosis followed by an act or omission medically

appropriate for that negligent diagnosis of the patient shall constitute a single negligent act.

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

(d) Incompetence.

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

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

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

6. Section 2266 provides that failure to maintain adequate and accurate records relating to the provision of services to patients is unprofessional conduct.

COST RECOVERY

7. 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.

GENERAL STATUTES OR REGULATIONS

8. Health and Safety Code section 120325 provides:

In enacting this chapter, but excluding Section 120380, and in enacting Sections 120400, 120405, 120410, and 120415, it is the intent of the Legislature to provide:

(a) A means for the eventual achievement of total immunization of appropriate age groups against the following childhood diseases:

(1) Diphtheria.

(2) Hepatitis B.

(3) Haemophilus influenza type b.

(4) Measles.

(5) Mumps.

(6) Pertussis (whooping cough).

(7) Poliomyelitis.

(8) Rubella.

(9) Tetanus.

(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.

(b) That the persons required to be immunized be allowed to obtain immunizations from whatever medical source they so desire, subject only to the condition that the immunization be performed in accordance with the regulations of the department and that a record of the immunization is made in accordance with the regulations.

(c) Exemptions from immunization for medical reasons.

(d) For the keeping of adequate records of immunization so that health departments, schools, and other institutions, parents or guardians, and the persons immunized will be able to ascertain that a child is fully or only partially immunized, and so that appropriate public agencies will be able to ascertain the immunization needs of groups of children in schools or other institutions.

(e) Incentives to public health authorities to design innovative and creative programs that will promote and achieve full and timely immunization of children.

9. At all relevant times, former Health and Safety Code section 120370 provided, in pertinent part:

(a) 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.

FACTUAL ALLEGATIONS

10. At all relevant times, Respondent Jean L. Talleyrand , M.D., was a physician and surgeon providing medical care at his Motion Health clinic in Eureka, California. Respondent is not a pediatrician and at all relevant times he was not the primary care physician for the children discussed herein.

11. In 2015, the California Legislature amended Health and Safety Code section 120325 to eliminate personal beliefs as a basis for exemption from required immunizations for school-aged children. Consequently, school-aged children not subject to any other exception were required to have immunizations for 10 vaccine-preventable childhood illnesses as a condition of public school attendance. After the statutory amendment became effective, the Medical Board began receiving complaints from schools, primary care providers and parents that physicians were issuing medical exemptions from required vaccinations that did not appear to have a bona fide medical basis.

12. On September 5, 2017, the Board received a complaint from the Chief Medical Officer and Associate Medical Officers at Open Door Community Health Center (Open Door) in Humboldt County, California. The complaint stated that Motion Health, a clinic operated by Respondent Jean L. Talleyrand, M.D., was providing medical exemptions to required vaccinations without medical justification.

13. The Board's investigation uncovered medical records of seven children for whom Respondent issued exemptions from vaccinations. For each child, the exemption was based upon a brief examination and family history, after which Respondent wrote an exemption that was global, applying to all vaccines, and permanent.

14. Patient 1,[1] a 6-month old male, was seen by Respondent on February 23, 2018, for a well child examination. Respondent's chart note states that the child's mother requested an evaluation for an immunization exemption. A brief note of the examination found no abnormalities. A "Contraindication[2] Screening" was negative for any contraindications to any vaccines. Respondent recommended a "letter of vaccine exemption based on family history of ADD/ADHD (dad, paternal GM), Rheumatoid Arthritis (maternal GM), lupus (paternal aunt), Crohn's disease (paternal aunt), psoriasis (dad), egg allergies (dad), schizophrenia (maternal GGM), Sclerosis (maternal great uncle), seasonal allergies (dad, paternal GM) asthma (dad)." Respondent's record states that he "presented exemption letter for immunizations" at his single patient encounter with Patient 1. Albeit Respondent was not the child's primary care provider, Respondent did not obtain prior medical records or consult the child's treating pediatrician. He did not document corroborating evidence of the family history of medical indications. Respondent did not document a discussion with the child's parent about the risks of not receiving vaccinations, nor did he discuss alternatives to a global and permanent exemption from all vaccines, such as a delayed vaccination schedule. Respondent did not document any physical findings to support the exemption. In a subsequent interview with the Board, Respondent was unable to identify a specific condition that warranted the vaccine exemption.

15. Patient 2, a five year old female, was seen by Respondent on January 12, 2018, for a well child examination. Respondent's record states that the child presented with her mother "requesting an evaluation for immunization exemption after researching the pros & cons of immunizations." No informed consent discussion regarding risks of not being vaccinated or

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[1] Patients' names are redacted to protect privacy rights.

[2] Contraindications are conditions in a recipient that increases the risk for a serious adverse reaction to a vaccine. National standards for pediatric vaccination practices have been established and include descriptions of valid contraindications and precautions to vaccination.

alternatives to a global and permanent exemption from all vaccines is documented. A "Contraindication Screening" was negative for any contraindications to any vaccines. Respondent noted that the child had no ongoing medical issues and his physical examination found none. Although the child was below the 10th percentile for weight and stature, Respondent did not document an evaluation of the abnormality. Respondent recommended a "letter of vaccine exemption based on family history of "animal allergies (MGM, pt,) diabetes type I (cousins), diabetes type 2 (PGR), psoriasis (mom), fibromyalgia (maternal aunt) . . . eggs allergy (pt)." Respondent's record states that he "presented exemption letter for immunizations" at his single patient encounter with Patient 2. Albeit Respondent was not the child's primary care provider, Respondent did not obtain prior medical records or consult the child's treating pediatrician. He did not document corroborating evidence of the family history of medical indications.

16. Patient 3, a 13 year old female, was seen by Respondent on March 2, 2018, for a well child examination. Respondent's record of the encounter states: "Patient's mother is requesting consideration for vaccine exemption." The child's medical history was unremarkable other than the mention of "chronic earaches." The child had received no previous immunizations. A "Contraindication Screening" was negative for any contraindications to any vaccines. Respondent's record states that he recommended a letter of vaccine exemption based on "family hx of medicine allergy – penicillin (mom), eczema, Rheumatoid Arthritis (maternal GM, maternal aunt), Guillian-Barre [sic] (maternal GF), mental health disorders [protected by court order] (dad), kidney stones (maternal uncle), migraines (sister[3]), chronic ear aches (self[4]), autism (cousin), bipolar/personality disorder (dad)." Had Respondent obtained the medical records from the child's treating physicians, he would have been aware that the family history he was given was contradicted in significant part by the information in those records. Respondent provided a letter of vaccine exemption, which stated:

> "To Whom it May Concern: I have examined [name and date of birth redacted] and assessed that she has a specific medical circumstance and the required vaccinations are not indicated. All required vaccinations are exempted including Polio, DPT or TDaP, Hepatitis B, MMR, Varicella, Flu, HIB and HPV. The medical

[3] Patient 3's sister's name is redacted.
[4] Patient 3's name is redacted.

exemption is permanent."

Respondent did not document a discussion with the child's parent about the risks of not receiving vaccinations, nor did he discuss alternatives to a global and permanent exemption from all vaccines. Respondent did not document any physical findings to support the exemption. In a subsequent interview with the Board, Respondent was unable to identify a specific condition that warranted the vaccine exemption.

17. Patient 4, a three year old female, was seen on September 7, 2018, for a well child examination. As with the other children, the subjective complaint is "requesting an evaluation for immunization exemption after researching the pros & cons of immunizations." The child's ongoing medical issue was reported to be "severe anxiety." Respondent did not obtain or review any past medical records. Physical examination revealed a three year old female toddler with no remarkable findings. The child's history was negative for contraindications to any vaccines. Respondent recorded that the patient was "[a]ppropriate for letter of vaccine exemption based on family hx of severe anxiety (pt), seasonal allergies (mom, maternal aunt), parathyroid cancer (maternal GM), lymphatic cancer (maternal GF), HBP (maternal GF, maternal uncle), ADD (maternal GF), depression (mom, maternal GM), hx of domestic abuse toward mom (dad), chronic fatigue (maternal aunt), Hashimoto's (maternal aunt, maternal GM)." Patient 4 received an exemption similar to that issued to Patient 3. Respondent did not document a discussion with the child's parent about the risks of not receiving vaccinations, nor did he discuss alternatives to a global and permanent exemption from all vaccines. Respondent did not document any physical findings to support the exemption. In a subsequent interview with the Board, Respondent was unable to identify a specific condition that warranted the vaccine exemption.

18. Patient 5, a four year old male, was seen by a nurse in Respondent's office on March 26, 2017. The record states that the child's parent was requesting an "update/revision" to a previously issued vaccine exemption "under the guidelines of SB 277." The child's mother reported what she believed were allergic reactions to the MMR and varicella vaccines. The patient was given a global and permanent exemption to all vaccines.

19. Patient 6, a two year old male, was seen by a nurse in Respondent's office on October 26, 2017. The purpose of the visit was stated to be an evaluation for "childhood immunizations exemption." The record noted: "Father is concerned about injecting heavy metals & other harmful toxins" due to family history of "allergies and eczema." A history of one immunization for "Dtap with low fever and cranky for one day" was reported. A letter of exemption for childhood immunizations was provided "with information on Prophylaxis as Alternative" and "Risks and Responsibilities of Not Immunizing" sheet also given & reviewed with father."

20. Patient 7, a 16 year old female, was seen by Respondent on March 2, 2108 – at the same time as her sister (Patient 3). In addition to the family history described for her sister, Patient 7 reported migraine headaches. As with her sister, Patient 7 had not received any immunizations. A "Contraindication Screening" was negative for any contraindications to any vaccines. Patient 7 was provided with an exemption identical to her sibling's at her single patient encounter with Respondent.

CAUSE FOR DISCIPLINE

(Gross Negligence/Repeated Negligent Acts/Inadequate Records)

21. Respondent Jean L. Talleyrand, M.D. is subject to disciplinary action under section 2234 and/or 2234(b) and/or 2234(c) and/or 2266 in that Respondent engaged in unprofessional conduct and/or gross negligence and/or repeated negligent acts in his care and treatment of Patients 1 through 7, including but not limited to:

A. Respondent issued global and permanent vaccine exemptions, albeit there is no component common to all vaccines;

B. Respondent issued vaccine exemptions based upon family histories, which were not corroborated by external records, and which were not consistent with contraindications recognized by or consistent with immunization guidelines issued by the CDC, ACIP or AAP, which are the standard of care;

C. Respondent issued vaccine exemptions without discussing alternatives and/or obtaining and/or documenting informed consent and informed refusal;

D. Respondent issued vaccine exemptions without identifying a specific medical condition or medical indication;

E. Respondent failed to evaluate Patient 2 for development below the 10th percentile for weight and stature;

F. Respondent failed to maintain adequate and accurate records.

PRAYER

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

1. Revoking or suspending Physician's and Surgeon's Certificate Number A 61572, issued to Jean L. Talleyrand, M.D.;

2. Revoking, suspending or denying approval of Jean L. Talleyrand, M.D.'s authority to supervise physician assistants and advanced practice nurses;

3. Ordering Jean L. Talleyrand, M.D., to reimburse the Board for its costs of investigation and prosecution and, 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: MAR 15 2022

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

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