

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

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

Lester Lawrence Lee, M.D.

**Physician's and Surgeon's
Certificate No. A 40840**

Case No.: 800-2018-039999

Respondent.

DECISION

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

This Decision shall become effective at 5:00 p.m. on November 17, 2022.

IT IS SO ORDERED: October 18, 2022.

MEDICAL BOARD OF CALIFORNIA



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

1 ROB BONTA
Attorney General of California
2 EDWARD KIM
Supervising Deputy Attorney General
3 CHRISTINA SEIN GOOT
Deputy Attorney General
4 State Bar No. 229094
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
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Attorneys for Complainant
7

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

12 In the Matter of the Accusation Against:

13 **LESTER LAWRENCE LEE, M.D.**
14 **18800 Main Street, Suite 106**
15 **Huntington Beach, CA 92648**

16 **Physician's and Surgeon's Certificate**
17 **No. A 40840,**

18 Respondent.

Case No. 800-2018-039999

OAH No. 2021080690

19 **STIPULATED SETTLEMENT AND**
20 **DISCIPLINARY ORDER**

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

23 **PARTIES**

24 1. William Prasifka (Complainant) is the Executive Director of the Medical Board of
25 California (Board). He brought this action solely in his official capacity and is represented in this
26 matter by Rob Bonta, Attorney General of the State of California, by Christina Sein Goot, Deputy
27 Attorney General.

28 2. Respondent Lester Lawrence Lee, M.D. (Respondent) is represented in this
proceeding by attorneys Peter R. Osinoff, whose address is 355 South Grand Avenue, Suite 1750,
Los Angeles, CA 90071-1562, and Arthur H. Barends, whose address is 10209 Santa Monica
Boulevard, Los Angeles, California 90067.

3. On or about May 17, 1984, the Board issued Physician's and Surgeon's Certificate No. A 40840 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. 800-2018-039999, and will expire on February 28, 2024, unless renewed.

JURISDICTION

4. Accusation No. 800-2018-039999 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 November 5, 2020. Respondent timely filed his Notice of Defense contesting the Accusation.

5. A copy of Accusation No. 800-2018-039999 is attached as exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

6. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 800-2018-039999. 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 Accusation No. 800-2018-039999, 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 contained in Accusation No. 800-2018-039999, that he has thereby subjected his license to disciplinary action and 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 Medical Board of California. Respondent understands and agrees that counsel for Complainant and the staff of the Medical Board of California may communicate directly with the Board regarding this stipulation and settlement, without notice to or participation by Respondent or his counsel. By signing the stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

13. Respondent agrees that if he ever petitions for early termination or modification of probation, or if an accusation and/or petition to revoke probation is filed against him before the Board, all of the charges and allegations contained in Accusation No. 800-2018-039999 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

1 enter the following Disciplinary Order:

2 **DISCIPLINARY ORDER**

3 IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. A 40840 issued
4 to Respondent Lester Lawrence Lee, M.D. is revoked. However, the revocation is stayed and
5 Respondent is placed on probation for three (3) years on the following terms and conditions:

6 1. **CONTROLLED SUBSTANCES - PARTIAL RESTRICTION.** Respondent shall not
7 order, prescribe, dispense, administer, furnish, or possess any Schedule II controlled substances as
8 defined by the California Uniform Controlled Substances Act. This prohibition against
9 possession does not apply to medications lawfully prescribed to Respondent by another
10 practitioner for a bona fide illness or condition. Within 15 calendar days of receiving any
11 lawfully prescribed medications, Respondent shall notify the Board or its designee of the: issuing
12 practitioner's name, address, and telephone number; medication name, strength, and quantity; and
13 issuing pharmacy name, address, and telephone number.

14 Respondent shall not issue an oral or written recommendation or approval to a patient or a
15 patient's primary caregiver for the possession or cultivation of marijuana for the personal medical
16 purposes of the patient within the meaning of Health and Safety Code section 11362.5. If
17 Respondent forms the medical opinion, after an appropriate prior examination and medical
18 indication, that a patient's medical condition may benefit from the use of marijuana, Respondent
19 shall so inform the patient and shall refer the patient to another physician who, following an
20 appropriate prior examination and medical indication, may independently issue a medically
21 appropriate recommendation or approval for the possession or cultivation of marijuana for the
22 personal medical purposes of the patient within the meaning of Health and Safety Code section
23 11362.5. In addition, Respondent shall inform the patient or the patient's primary caregiver that
24 Respondent is prohibited from issuing a recommendation or approval for the possession or
25 cultivation of marijuana for the personal medical purposes of the patient and that the patient or
26 the patient's primary caregiver may not rely on Respondent's statements to legally possess or
27 cultivate marijuana for the personal medical purposes of the patient. Respondent shall fully
28 document in the patient's chart that the patient or the patient's primary caregiver was so

1 informed. Nothing in this condition prohibits Respondent from providing the patient or the
2 patient's primary caregiver information about the possible medical benefits resulting from the use
3 of marijuana.

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

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

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

26 4. PRESCRIBING PRACTICES COURSE. Within 60 calendar days of the effective
27 date of this Decision, Respondent shall enroll in a course in prescribing practices approved in
28 advance by the Board or its designee. Respondent shall provide the approved course provider

1 with any information and documents that the approved course provider may deem pertinent.
2 Respondent shall participate in and successfully complete the classroom component of the course
3 not later than six (6) months after Respondent's initial enrollment. Respondent shall successfully
4 complete any other component of the course within one (1) year of enrollment. The prescribing
5 practices course shall be at Respondent's expense and shall be in addition to the Continuing
6 Medical Education (CME) requirements for renewal of licensure.

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

12 Respondent shall submit a certification of successful completion to the Board or its
13 designee not later than 15 calendar days after successfully completing the course, or not later than
14 15 calendar days after the effective date of the Decision, whichever is later.

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

24 A medical record keeping course taken after the acts that gave rise to the charges in the
25 Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board
26 or its designee, be accepted towards the fulfillment of this condition if the course would have
27 been approved by the Board or its designee had the course been taken after the effective date of
28 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.

6. MONITORING - PRACTICE. 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.

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

7 If the monitor resigns or is no longer available, Respondent shall, within 5 calendar days of
8 such resignation or unavailability, submit to the Board or its designee, for prior approval, the
9 name and qualifications of a replacement monitor who will be assuming that responsibility within
10 15 calendar days. If Respondent fails to obtain approval of a replacement monitor within 60
11 calendar days of the resignation or unavailability of the monitor, Respondent shall receive a
12 notification from the Board or its designee to cease the practice of medicine within three (3)
13 calendar days after being so notified. Respondent shall cease the practice of medicine until a
14 replacement monitor is approved and assumes monitoring responsibility.

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

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

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

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

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

7 10. INVESTIGATION/ENFORCEMENT COST RECOVERY. Respondent is hereby
8 ordered to reimburse the Board its costs of investigation and enforcement in the amount of
9 \$5,496.25. Costs shall be payable to the Medical Board of California. Failure to pay such costs
10 shall be considered a violation of probation.

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

13 The filing of bankruptcy by Respondent shall not relieve Respondent of the responsibility
14 to repay investigation and enforcement costs.

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

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

20 12. GENERAL PROBATION REQUIREMENTS.

21 Compliance with Probation Unit

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

23 Address Changes

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

1 Place of Practice

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

5 License Renewal

6 Respondent shall maintain a current and renewed California Physician's and Surgeon's
7 license.

8 Travel or Residence Outside California

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

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

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

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

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

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

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

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

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

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

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

27 17. LICENSE SURRENDER. Following the effective date of this Decision, if
28 Respondent ceases practicing due to retirement or health reasons or is otherwise unable to satisfy

1 the terms and conditions of probation, Respondent may request to surrender his or her license.
2 The Board reserves the right to evaluate Respondent's request and to exercise its discretion in
3 determining whether or not to grant the request, or to take any other action deemed appropriate
4 and reasonable under the circumstances. Upon formal acceptance of the surrender, Respondent
5 shall within 15 calendar days deliver Respondent's wallet and wall certificate to the Board or its
6 designee and Respondent shall no longer practice medicine. Respondent will no longer be subject
7 to the terms and conditions of probation. If Respondent re-applies for a medical license, the
8 application shall be treated as a petition for reinstatement of a revoked certificate.

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

14 19. FUTURE ADMISSIONS CLAUSE. If Respondent should ever apply or reapply for
15 a new license or certification, or petition for reinstatement of a license, by any other health care
16 licensing action agency in the State of California, all of the charges and allegations contained in
17 Accusation No. 800-2018-039999 shall be deemed to be true, correct, and admitted by
18 Respondent for the purpose of any Statement of Issues or any other proceeding seeking to deny or
19 restrict license.

20 ACCEPTANCE

21 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
22 discussed it with my attorneys, Peter R. Osinoff and Arthur H. Barends. I understand the
23 stipulation and the effect it will have on my Physician's and Surgeon's Certificate. I enter into this
24 Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree
25 to be bound by the Decision and Order of the Medical Board of California.

26
27 DATED: 3-24-2022


28 LESTER LAWRENCE LEE, M.D.
Respondent

1 I have read and fully discussed with Respondent Lester Lawrence Lee, M.D. the terms and
2 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.

3 I approve its form and content.

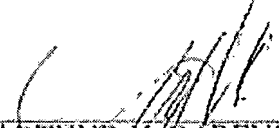
4 DATED: 3/24/2022


PETER R. OSINOFF
Attorney for Respondent

6 I have read and fully discussed with Respondent Lester Lawrence Lee, M.D. the terms and
7 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.

8 I approve its form and content.

9 DATED: March 24, 2022


ARTHUR H. BARENS
Attorney for Respondent

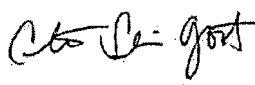
11
12 **ENDORSEMENT**

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

15 DATED: March 25, 2022

16 Respectfully submitted,

17 ROB BONTA
Attorney General of California
18 EDWARD KIM
Supervising Deputy Attorney General

19 
20 CHRISTINA SEIN GOOT
21 Deputy Attorney General
22 Attorneys for Complainant
23
24

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Exhibit A
Accusation No. 800-2018-039999

1 XAVIER BECERRA
Attorney General of California
2 JUDITH T. ALVARADO
Supervising Deputy Attorney General
3 TANN. TRAN
Deputy Attorney General
4 State Bar No. 197775
California Department of Justice
5 300 South Spring Street, Suite 1702
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6 Telephone: (213) 269-6535
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7 *Attorneys for Complainant*

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

11 In the Matter of the Accusation Against:

Case No. 800-2018-039999

12 **Lester Lawrence Lee, M.D.**
13 **18800 Main Street, Suite 106**
Huntington Beach, CA 92648

ACCUSATION

14 **Physician's and Surgeon's Certificate**
15 **No. A 40840,**

16 Respondent.

17
18 Complainant alleges:

19 **PARTIES**

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

23 2. On or about May 17, 1984, the Medical Board issued Physician's and Surgeon's
24 Certificate Number A 40840 to Lester Lawrence Lee, M.D. (Respondent). The Physician's and
25 Surgeon's Certificate was in full force and effect at all times relevant to the charges brought
26 herein and will expire on February 28, 2022, unless renewed.

27 ///

28 ///

JURISDICTION

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

4. Section 2004 of the Code states:

"The board shall have the responsibility for the following:

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

"(b) The administration and hearing of disciplinary actions.

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

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

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

"(f) Approving undergraduate and graduate medical education programs.

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

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

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

5. Section 2227 of the Code provides that a licensee who is found guilty under the Medical Practice Act may have his or her license revoked, suspended for a period not to exceed one year, placed on probation and required to pay the costs of probation monitoring, or such other action taken in relation to discipline as the board deems proper.

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:

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

3 "(b) Gross negligence.

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

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

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

14 "(d) Incompetence.

15 "...."

16 7. Section 2266 of the Code states: "The failure of a physician and surgeon to maintain
17 adequate and accurate records relating to the provision of services to their patients constitutes
18 unprofessional conduct."

19 FIRST CAUSE FOR DISCIPLINE

20 (Gross Negligence – Patient 1)

21 8. Respondent is subject to disciplinary action under section 2234, subdivision (b), of
22 the Code for the commission of acts or omissions involving gross negligence in the care and
23 treatment of Patient 1¹ in that Respondent failed to document an adequate treatment plan or set
24 clear objectives and failed to perform an adequate periodic review in his treatment of Patient 1.

25 The circumstances are as follows:

26 ///

27 _____
28 ¹ The patients are identified by numbers to protect their privacy.

1 Patient 1

2 9. Patient 1 (or "patient") is a 45-year-old male who treated with Respondent from about
3 July 2007 through February 2018.² The patient had a history of chronic back pain/herniated disc,
4 knee pain/patellar dislocations, degenerative arthritis, hypo-gonadal issues, and migraines.
5 Records from this period indicated that Respondent prescribed to Patient 1 medications including
6 hydrocodone (Norco), Wellbutrin, Ambien, carisoprodol, Xanax, and Fioricet.³

7 10. Respondent stated to Board investigators that his practice focused on "Functional
8 Medicine," which is a form of alternative medicine. Although Respondent was prescribing
9 dangerous and addictive medications to Patient 1 for a long period of time, Respondent did not
10 perform any urine drug screenings on Patient 1 to ensure that the patient was not abusing the
11 medications.⁴ There is no evidence of regular documentation of pain levels, sleep, muscle spasms
12 or anxiety, issues for which treatment (i.e. medications) were being prescribed to Patient 1.
13 Respondent was also performing injections for the patient's pain, but there was no regular
14 documentation at subsequent visits that Respondent discussed the outcome of those procedures.
15 The chart does not include clear documentation of the response to the medications being
16 prescribed to Patient 1, and refills appear to be given at relatively regular intervals without clear
17 documentation of pain benefits and tolerability or clear screening for misuse or abuse.

18 11. These acts and omissions in the treatment of Patient 1, as described above, constitute
19 an extreme departure from the standard of care.

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24 ² These are approximate dates based on the records reviewed by the Board.

25 ³ All dangerous drugs with potentially addictive traits and side effects, if used improperly
26 and/or overused.

27 ⁴ Records indicated that as far back as 2008, Respondent documented that he may have to
28 discharge and refer Patient 1 to pain management because the patient may be excessively taking
Norco. Also, records in 2014 and 2015 showed signs or "red flags" of potential drug abuse (e.g.
the patient reported losing medications, etc.) by Patient 1. Yet many subsequent visits appear to
show the same refills of controlled substances to the patient without any further documentation
(e.g. whether non-opiate treatment was discussed with the patient).

1 SECOND CAUSE FOR DISCIPLINE

2 (Repeated Negligent Acts – 2 Patients)

3 12. Respondent is subject to disciplinary action under section 2234, subdivision (c), of
4 the Code in that he committed repeated negligent acts in his care of Patient 1 above, and Patient

5 2. The circumstances are as follows:

6 13. The facts and circumstances in paragraphs 9 through 11, above, are incorporated by
7 reference as if set forth in full herein.

8 14. Respondent committed the additional repeated negligent acts in his care of Patient 1
9 above. The circumstances are as follows:

10 Patient 1

11 15. Respondent departed from the standard of care in his treatment of Patient 1 by not
12 adequately documenting a history and physical examination, not adequately documenting risk
13 stratification, not performing periodic screenings for this patient, who was apparently being
14 treated for pain management. The documentation detailing Respondent's treatment of Patient 1
15 for years was sparse, and many of the visits merely documented a refill of medications.

16 16. Although outside medical records showed that Patient 1 had serious knee issues (e.g.
17 20 years of patellar dislocations, and multiple surgeries), Respondent's notes were not very
18 detailed regarding this issue, and some notes did not even mention Patient 1's knee issues. Also,
19 as stated above, medical monitoring such as urine drug screens were not utilized to ensure that the
20 patient was not abusing controlled substances and/or not diverting his medication.

21 17. The failure by Respondent to document even the minimum amount of information to
22 determine if continuation of treatment (or adjustments to the plan) would be appropriate for
23 Patient 1, as described above, constituted departures from the standard of care.

24 Patient 2

25 18. Patient 2 (or patient) is a female who treated with Respondent from about November
26 2009 to December 2017.⁵ Per the records, Respondent treated Patient 2 for knee pain, neck pain,

27 ⁵ Again, these are approximate dates available for review. Patient 2's age is unknown
28 because Respondent's notes during said time period did not document Patient 2's date of birth.

1 and shoulder pain. During this time period, records show that Respondent was prescribing to
2 Patient 2 medications such as Norco and Soma, which are potentially addictive controlled
3 substances used to treat pain.

4 19. Respondent's documentation detailing his treatment of Patient 2 was very sparse, and
5 most of the records merely documented refills of medications. With the exception of a few rare
6 instances, the documentation of the treatment of Patient 2 was meager and failed to note even the
7 minimum amount of information (e.g. describing pain levels and other issues for which certain
8 medications were being prescribed, etc.) needed to determine if continuation of treatment (or
9 adjustments to the plan) would be appropriate.⁶

10 20. For example, Respondent failed to document an adequate history and physical for
11 Patient 2. There is no regular documentation of pain levels, side effects of medications, or
12 screening for misuse or abuse. Respondent also did not adequately document a treatment plan
13 and his documentation of his objectives for Patient 2 was inconsistent. The chart does not include
14 clear documentation of the response to the medications prescribed at each visit/refill. Refills
15 appear to be given at relatively regular intervals without clear documentation of pain benefits and
16 tolerability or clear screening for misuse and abuse. Respondent did not appear to have formally
17 documented risk stratification for Patient 2, and he performed no urine drug screening on this
18 patient, which are standard in pain management where a patient is being prescribed chronic
19 opioid therapy.

20 21. The failure to perform and document an adequate history for Patient 2, despite
21 prescribing potentially addictive controlled substances over an extended period of time, and the
22 acts and omissions (e.g. lack of adequate medical monitoring with periodic urine screens,
23 inadequate progress note documentation), as outlined above, departed from the standard of care.

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27 ⁶ Respondent's records for Patient 1 and Patient 2 were so inadequate and illegible that
28 Respondent had to read his records verbatim so that the records could be transcribed for others to read.

1 THIRD CAUSE FOR DISCIPLINE

2 (Inadequate Records)


3 22. By reason of the facts and allegations set forth in the First and Second Causes for
4 Discipline above, Respondent is subject to disciplinary action under section 2266 of the Code, in
5 that Respondent failed to maintain adequate and accurate records of his care and treatment of
6 Patient 1 and Patient 2.

7 PRAYER

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

- 10 1. Revoking or suspending Physician's and Surgeon's Certificate Number A 40840,
11 issued to Lester Lawrence Lee, M.D.;
- 12 2. Revoking, suspending or denying approval of Lester Lawrence Lee, M.D.'s authority
13 to supervise physician assistants, pursuant to section 3527 of the Code;
- 14 3. Ordering Lester Lawrence Lee, M.D., if placed on probation, to pay the Board the
15 costs of probation monitoring; and
- 16 4. Taking such other and further action as deemed necessary and proper.

17
18 DATED: NOV 05 2020


19 WILLIAM PRASIFKA
20 Executive Director
21 Medical Board of California
22 Department of Consumer Affairs
23 State of California
24 Complainant

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