

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

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

Robert Lowry Neilan, M.D.

**Physician's and Surgeon's
Certificate No. A 70376**

Respondent.

Case No.: 800-2019-059727

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 May 19, 2023.

IT IS SO ORDERED: April 20, 2023.

MEDICAL BOARD OF CALIFORNIA



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

1 ROB BONTA
Attorney General of California
2 ALEXANDRA M. ALVAREZ
Supervising Deputy Attorney General
3 ROBERT W. LINCOLN
Deputy Attorney General
4 State Bar No. 316290
California Department of Justice
5 600 West Broadway, Suite 1800
San Diego, CA 92101
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San Diego, CA 92186-5266
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8 *Attorneys for Complainant*

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

13 In the Matter of the Accusation Against:

Case No. 800-2019-059727

14 **ROBERT LOWRY NEILAN, M.D.**
15 **MCMF-Credentialing Dept.**
16 **17360 Brookhurst St.**
Fountain Valley, CA 92708-3720

OAH No. 2022090730

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

17 **Physician's and Surgeon's Certificate No.**
18 **A 70376**

Respondent.

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

22 **PARTIES**

23 1. Reji Varghese (Complainant)¹ is the Interim Executive Director of the Medical Board
24 of California (Board). William Prasifka previously brought this action solely in his official
25 capacity. Complainant is represented in this matter by Rob Bonta, Attorney General of the State
26 of California, by Robert W. Lincoln, Deputy Attorney General.

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28 ¹ The original Complainant was former Executive Director, William Prasifka.

2. Respondent Robert Lowry Neilan, M.D. (Respondent) is represented in this proceeding by attorney Pari H. Granum, Esq., whose address is: 101 W. Broadway, Suite 1400 San Diego, CA 92101-8122.

3. On or about November 24, 1999, the Board issued Physician's and Surgeon's Certificate No. A 70376 to Robert Lowry Neilan, 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. 800-2019-059727, and will expire on October 31, 2023, unless renewed.

JURISDICTION

4. Accusation No. 800-2019-059727 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 10, 2022. Respondent timely filed his Notice of Defense contesting the Accusation.

5. A copy of Accusation No. 800-2019-059727 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. 800-2019-059727. 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.

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1 **CULPABILITY**

2 9. Respondent does not contest that, at an administrative hearing, Complainant could
3 establish a prime facie case with respect to the charges and allegations contained in Accusation
4 No. 800-2019-059727, and that he has thereby subjected his Physician's and Surgeon's License
5 No. A 70376 to disciplinary action.

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

9 **CONTINGENCY**

10 11. This stipulation shall be subject to approval by the Medical Board of California.
11 Respondent understands and agrees that counsel for Complainant and the staff of the Medical
12 Board of California may communicate directly with the Board regarding this stipulation and
13 settlement, without notice to or participation by Respondent or his counsel. By signing the
14 stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek
15 to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails
16 to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary
17 Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal
18 action between the parties, and the Board shall not be disqualified from further action by having
19 considered this matter.

20 12. Respondent agrees that if he ever petitions for early termination or modification of
21 probation, or if an accusation and/or petition to revoke probation is filed against him before the
22 Board, all of the charges and allegations contained in Accusation No. 800-2019-059727 shall be
23 deemed true, correct and fully admitted by respondent for purposes of any such proceeding or any
24 other licensing proceeding involving Respondent in the State of California.

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

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14. 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 70376 issued to Respondent ROBERT LOWRY NEILAN, M.D., is revoked. However, the revocation is stayed and Respondent is placed on probation for five (5) years from the effective date of the decision on the following terms and conditions:

1. **CONTROLLED SUBSTANCES - ABSTAIN FROM USE.** Respondent shall abstain completely from the personal use or possession of controlled substances as defined in the California Uniform Controlled Substances Act, dangerous drugs as defined by Business and Professions Code section 4022, and any drugs requiring a prescription. This prohibition does not apply to medications lawfully prescribed to Respondent by another practitioner for a bona fide illness or condition.

Within 15 calendar days of receiving any lawfully prescribed medications, Respondent shall notify the Board or its designee of the: issuing practitioner's name, address, and telephone number; medication name, strength, and quantity; and issuing pharmacy name, address, and telephone number.

2. **ALCOHOL - ABSTAIN FROM USE.** Respondent shall abstain completely from the use of products or beverages containing alcohol.

3. **BIOLOGICAL FLUID TESTING.** Respondent shall immediately submit to biological fluid testing, at Respondent's expense, upon request of the Board or its designee. "Biological fluid testing" may include, but is not limited to, urine, blood, breathalyzer, hair follicle testing, or similar drug screening approved by the Board or its designee. Prior to practicing medicine, Respondent shall contract with a laboratory or service approved in advance by the Board or its designee that will conduct random, unannounced, observed, biological fluid testing. The contract shall require results of the tests to be transmitted by the laboratory or service directly to the Board or its designee within four hours of the results becoming available.

1 Respondent shall maintain this laboratory or service contract during the period of probation.

2 A certified copy of any laboratory test result may be received in evidence in any
3 proceedings between the Board and Respondent.

4 If Respondent fails to cooperate in a random biological fluid testing program within the
5 specified time frame, Respondent shall receive a notification from the Board or its designee to
6 immediately cease the practice of medicine. The Respondent shall not resume the practice of
7 medicine until the final decision on an accusation and/or a petition to revoke probation is
8 effective. An accusation and/or petition to revoke probation shall be filed by the Board within 30
9 days of the notification to cease practice. If the Respondent requests a hearing on the accusation
10 and/or petition to revoke probation, the Board shall provide the Respondent with a hearing within
11 30 days of the request, unless the Respondent stipulates to a later hearing. If the case is heard by
12 an Administrative Law Judge alone, he or she shall forward a Proposed Decision to the Board
13 within 15 days of submission of the matter. Within 15 days of receipt by the Board of the
14 Administrative Law Judge's proposed decision, the Board shall issue its Decision, unless good
15 cause can be shown for the delay. If the case is heard by the Board, the Board shall issue its
16 decision within 15 days of submission of the case, unless good cause can be shown for the delay.
17 Good cause includes, but is not limited to, non-adoption of the proposed decision, requests for
18 reconsideration, remands and other interlocutory orders issued by the Board. The cessation of
19 practice shall not apply to the reduction of the probationary time period.

20 If the Board does not file an accusation or petition to revoke probation within 15 days of the
21 issuance of the notification to cease practice or does not provide Respondent with a hearing
22 within 30 days of such a request, the notification of cease practice shall be dissolved.

23 4. PROFESSIONALISM PROGRAM (ETHICS COURSE). Within 60 calendar days of
24 the effective date of this Decision, Respondent shall enroll in a professionalism program, that
25 meets the requirements of Title 16, California Code of Regulations (CCR) section 1358.1.
26 Respondent shall participate in and successfully complete that program. Respondent shall
27 provide any information and documents that the program may deem pertinent. Respondent shall
28 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. PSYCHIATRIC EVALUATION. Within 30 calendar days of the effective date of this Decision, and on whatever periodic basis thereafter may be required by the Board or its designee, Respondent shall undergo and complete a psychiatric evaluation (and psychological testing, if deemed necessary) by a Board-appointed board certified psychiatrist, who shall consider any information provided by the Board or designee and any other information the psychiatrist deems relevant, and shall furnish a written evaluation report to the Board or its designee. Psychiatric evaluations conducted prior to the effective date of the Decision shall not be accepted towards the fulfillment of this requirement. Respondent shall pay the cost of all psychiatric evaluations and psychological testing.

Respondent shall comply with all restrictions or conditions recommended by the evaluating psychiatrist within 15 calendar days after being notified by the Board or its designee.

6. PSYCHOTHERAPY. Within 60 calendar days of the effective date of this Decision, Respondent shall submit to the Board or its designee for prior approval the name and qualifications of a California-licensed board certified psychiatrist or a licensed psychologist who has a doctoral degree in psychology and at least five years of postgraduate experience in the diagnosis and treatment of emotional and mental disorders. Upon approval, Respondent shall

1 undergo and continue psychotherapy treatment, including any modifications to the frequency of
2 psychotherapy, until the Board or its designee deems that no further psychotherapy is necessary.

3 The psychotherapist shall consider any information provided by the Board or its designee
4 and any other information the psychotherapist deems relevant and shall furnish a written
5 evaluation report to the Board or its designee. Respondent shall cooperate in providing the
6 psychotherapist with any information and documents that the psychotherapist may deem
7 pertinent.

8 Respondent shall have the treating psychotherapist submit quarterly status reports to the
9 Board or its designee. The Board or its designee may require Respondent to undergo psychiatric
10 evaluations by a Board-appointed board certified psychiatrist. If, prior to the completion of
11 probation, Respondent is found to be mentally unfit to resume the practice of medicine without
12 restrictions, the Board shall retain continuing jurisdiction over Respondent's license and the
13 period of probation shall be extended until the Board determines that Respondent is mentally fit
14 to resume the practice of medicine without restrictions.

15 Respondent shall pay the cost of all psychotherapy and psychiatric evaluations.

16 7. MEDICAL EVALUATION AND TREATMENT. Within 30 calendar days of the
17 effective date of this Decision, and on a periodic basis thereafter as may be required by the Board
18 or its designee, Respondent shall undergo a medical evaluation by a Board-appointed physician
19 who shall consider any information provided by the Board or designee and any other information
20 the evaluating physician deems relevant and shall furnish a medical report to the Board or its
21 designee. Respondent shall provide the evaluating physician with any information and
22 documentation that the evaluating physician may deem pertinent.

23 Following the evaluation, Respondent shall comply with all restrictions or conditions
24 recommended by the evaluating physician within 15 calendar days after being notified by the
25 Board or its designee. If Respondent is required by the Board or its designee to undergo medical
26 treatment, Respondent shall within 30 calendar days of the requirement notice, submit to the
27 Board or its designee for prior approval the name and qualifications of a California licensed
28 treating physician of Respondent's choice. Upon approval of the treating physician, Respondent

1 shall within 15 calendar days undertake medical treatment and shall continue such treatment until
2 further notice from the Board or its designee.

3 The treating physician shall consider any information provided by the Board or its designee
4 or any other information the treating physician may deem pertinent prior to commencement of
5 treatment. Respondent shall have the treating physician submit quarterly reports to the Board or
6 its designee indicating whether or not the Respondent is capable of practicing medicine safely.
7 Respondent shall provide the Board or its designee with any and all medical records pertaining to
8 treatment that the Board or its designee deems necessary.

9 If, prior to the completion of probation, Respondent is found to be physically incapable of
10 resuming the practice of medicine without restrictions, the Board shall retain continuing
11 jurisdiction over Respondent's license and the period of probation shall be extended until the
12 Board determines that Respondent is physically capable of resuming the practice of medicine
13 without restrictions. Respondent shall pay the cost of the medical evaluation(s) and treatment.

14 8. CLINICAL DIAGNOSTIC EVALUATIONS AND REPORTS: Within thirty (30)
15 calendar days of the effective date of this Decision, and on whatever periodic basis thereafter as
16 may be required by the Board or its designee, Respondent shall undergo and complete a clinical
17 diagnostic evaluation, including any and all testing deemed necessary, by a Board-appointed
18 board certified physician and surgeon. The examiner shall consider any information provided by
19 the Board or its designee and any other information he or she deems relevant, and shall furnish a
20 written evaluation report to the Board or its designee.

21 The clinical diagnostic evaluation shall be conducted by a licensed physician and surgeon
22 who holds a valid, unrestricted license, has three (3) years' experience in providing evaluations of
23 physicians and surgeons with substance abuse disorders, and is approved by the Board or its
24 designee. The clinical diagnostic evaluation shall be conducted in accordance with acceptable
25 professional standards for conducting substance abuse clinical diagnostic evaluations. The
26 evaluator shall not have a current or former financial, personal, or business relationship with
27 Respondent within the last five (5) years. The evaluator shall provide an objective, unbiased, and
28 independent evaluation. The clinical diagnostic evaluation report shall set forth, in the

1 evaluator's opinion, whether Respondent has a substance abuse problem, whether Respondent is a
2 threat to himself or herself or others, and recommendations for substance abuse treatment,
3 practice restrictions, or other recommendations related to Respondent's rehabilitation and ability
4 to practice safely. If the evaluator determines during the evaluation process that Respondent is a
5 threat to himself or herself or others, the evaluator shall notify the Board within twenty-four (24)
6 hours of such a determination.

7 In formulating his or her opinion as to whether Respondent is safe to return to either part-
8 time or full-time practice and what restrictions or recommendations should be imposed, including
9 participation in an inpatient or outpatient treatment program, the evaluator shall consider the
10 following factors: Respondent's license type; Respondent's history; Respondent's documented
11 length of sobriety (i.e., length of time that has elapsed since Respondent's last substance use);
12 Respondent's scope and pattern of substance abuse; Respondent's treatment history, medical
13 history and current medical condition; the nature, duration and severity of Respondent's
14 substance abuse problem or problems; and whether Respondent is a threat to himself or herself or
15 the public.

16 For all clinical diagnostic evaluations, a final written report shall be provided to the Board
17 no later than ten (10) days from the date the evaluator is assigned the matter. If the evaluator
18 requests additional information or time to complete the evaluation and report, an extension may
19 be granted, but shall not exceed thirty (30) days from the date the evaluator was originally
20 assigned the matter.

21 The Board shall review the clinical diagnostic evaluation report within five (5) business
22 days of receipt to determine whether Respondent is safe to return to either part-time or full-time
23 practice and what restrictions or recommendations shall be imposed on Respondent based on the
24 recommendations made by the evaluator. Respondent shall not be returned to practice until he or
25 she has at least thirty (30) days of negative biological fluid tests or biological fluid tests indicating
26 that he or she has not used, consumed, ingested, or administered to himself or herself a prohibited
27 substance, as defined in section 1361.51, subdivision (e), of Title 16 of the California Code of
28 Regulations.

1 Clinical diagnostic evaluations conducted prior to the effective date of this Decision shall
2 not be accepted towards the fulfillment of this requirement. The cost of the clinical diagnostic
3 evaluation, including any and all testing deemed necessary by the examiner, the Board or its
4 designee, shall be borne by the licensee.

5 Respondent shall not engage in the practice of medicine until notified by the Board or its
6 designee that he or she is fit to practice medicine safely. The period of time that Respondent is
7 not practicing medicine shall not be counted toward completion of the term of probation.

8 Respondent shall undergo biological fluid testing as required in this Decision at least two (2)
9 times per week while awaiting the notification from the Board if he or she is fit to practice
10 medicine safely.

11 Respondent shall comply with all restrictions or conditions recommended by the examiner
12 conducting the clinical diagnostic evaluation within fifteen (15) calendar days after being notified
13 by the Board or its designee.

14 9. NOTICE OF EMPLOYER OR SUPERVISOR INFORMATION. Within seven (7)
15 days of the effective date of this Decision, Respondent shall provide to the Board the names,
16 physical addresses, mailing addresses, and telephone numbers of any and all employers and
17 supervisors. Respondent shall also provide specific, written consent for the Board, Respondent's
18 worksite monitor, and Respondent's employers and supervisors to communicate regarding
19 Respondent's work status, performance, and monitoring.

20 For purposes of this section, "supervisors" shall include the Chief of Staff and Health or
21 Well Being Committee Chair, or equivalent, if applicable, when the Respondent has medical staff
22 privileges.

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1 10. VIOLATION OF PROBATION CONDITION FOR SUBSTANCE ABUSING
2 LICENSEES . Failure to fully comply with any term or condition of probation is a violation of
3 probation.

4 A. If Respondent commits a major violation of probation as defined by section
5 1361.52, subdivision (a), of Title 16 of the California Code of Regulations, the Board shall take
6 one or more of the following actions:

7 (1) Issue an immediate cease-practice order and order Respondent to undergo a clinical
8 diagnostic evaluation to be conducted in accordance with section 1361.5, subdivision (c)(1), of
9 Title 16 of the California Code of Regulations, at Respondent's expense. The cease-practice
10 order issued by the Board or its designee shall state that Respondent must test negative for at least
11 a month of continuous biological fluid testing before being allowed to resume practice. For
12 purposes of determining the length of time a Respondent must test negative while undergoing
13 continuous biological fluid testing following issuance of a cease-practice order, a month is
14 defined as thirty calendar (30) days. Respondent may not resume the practice of medicine until
15 notified in writing by the Board or its designee that he or she may do so.

16 (2) Increase the frequency of biological fluid testing.

17 (3) Refer Respondent for further disciplinary action, such as suspension, revocation, or
18 other action as determined by the Board or its designee.

19 B. If Respondent commits a minor violation of probation as defined by section
20 1361.52, subdivision (c), of Title 16 of the California Code of Regulations, the Board shall take
21 one or more of the following actions:

22 (1) Issue a cease-practice order;

23 (2) Order practice limitations;

24 (3) Order or increase supervision of Respondent;

25 (4) Order increased documentation;

26 (5) Issue a citation and fine, or a warning letter;

27 (6) Order Respondent to undergo a clinical diagnostic evaluation to be conducted in
28 accordance with section 1361.5, subdivision (c)(1), of Title 16 of the California Code of

1 Regulations, at Respondent's expense;

2 (7) Take any other action as determined by the Board or its designee.

3 C. Nothing in this Decision shall be considered a limitation on the Board's authority
4 to revoke Respondent's probation if he or she has violated any term or condition of probation. If
5 Respondent violates probation in any respect, the Board, after giving Respondent notice and the
6 opportunity to be heard, may revoke probation and carry out the disciplinary order that was
7 stayed. If an Accusation, or Petition to Revoke Probation, or an Interim Suspension Order is filed
8 against Respondent during probation, the Board shall have continuing jurisdiction until the matter
9 is final, and the period of probation shall be extended until the matter is final.

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

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

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

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

25 14. INVESTIGATION/ENFORCEMENT COST RECOVERY. Respondent is hereby
26 ordered to reimburse the Board its costs of investigation and enforcement, including, but not
27 limited to, expert review, amended accusations, legal reviews, investigation(s), and subpoena
28 enforcement, as applicable, in the amount of \$13,800.00 (thirteen thousand eight hundred eighty-

1 dollars). Costs shall be payable to the Medical Board of California. Failure to pay such costs
2 shall be considered a violation of probation.

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

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

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

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

14 16. GENERAL PROBATION REQUIREMENTS.

15 Compliance with Probation Unit

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

17 Address Changes

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

23 Place of Practice

24 Respondent shall not engage in the practice of medicine in Respondent's or patient's place
25 of residence, unless the patient resides in a skilled nursing facility or other similar licensed
26 facility. This does not preclude Respondent from visiting hospice patients at their homes while
27 serving as the Director of Hospice.

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1 License Renewal

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

4 Travel or Residence Outside California

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

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

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

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

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

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

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

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

13 19. COMPLETION OF PROBATION. Respondent shall comply with all financial
14 obligations (e.g., restitution, probation costs) not later than 120 calendar days prior to the
15 completion of probation. This term does not include cost recovery, which is due within 30
16 calendar days of the effective date of the Order, or by a payment plan approved by the Medical
17 Board and timely satisfied. Upon successful completion of probation, Respondent's certificate
18 shall be fully restored.

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

26 21. LICENSE SURRENDER. Following the effective date of this Decision, if
27 Respondent ceases practicing due to retirement or health reasons or is otherwise unable to satisfy
28 the terms and conditions of probation, Respondent may request to surrender his or her license.

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

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

13 23. FUTURE ADMISSIONS CLAUSE. If Respondent should ever apply or reapply for
14 a new license or certification, or petition for reinstatement of a license, by any other health care
15 licensing action agency in the State of California, all of the charges and allegations contained in
16 Accusation No. 800-2019-059727 shall be deemed to be true, correct, and admitted by
17 Respondent for the purpose of any Statement of Issues or any other proceeding seeking to deny or
18 restrict license.

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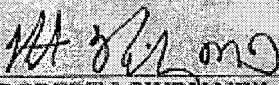
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ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Pari H. Granum, Esq. 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: 2/10/23


ROBERT LOWRY NEILAN, M.D.
Respondent

I have read and fully discussed with Respondent Robert Lowry Neilan, 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: _____

PARI H. GRANUM, ESQ.
Attorney for Respondent

ENDORSEMENT

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

DATED: _____

Respectfully submitted,

ROB BONTA
Attorney General of California
ALEXANDRA M. ALVAREZ
Supervising Deputy Attorney General

ROBERT W. LINCOLN
Deputy Attorney General
Attorneys for Complainant

1 ACCEPTANCE

2 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
3 discussed it with my attorney, Pari H. Granum, Esq. I understand the stipulation and the effect it
4 will have on my Physician's and Surgeon's Certificate. I enter into this Stipulated Settlement and
5 Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the
6 Decision and Order of the Medical Board of California.

7
8 DATED: _____

9 ROBERT LOWRY NEILAN, M.D.
10 *Respondent*

11 I have read and fully discussed with Respondent Robert Lowry Neilan, M.D., the terms and
12 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.
13 I approve its form and content.

14
15 DATED: 2023/02/10

1st Pari Granum

16 PARI H. GRANUM, ESQ.
17 *Attorney for Respondent*

18 ENDORSEMENT

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

21 DATED: 3/28/2023

Respectfully submitted,

22 ROB BONTA
23 Attorney General of California
24 ALEXANDRA M. ALVAREZ
25 Supervising Deputy Attorney General

26 *R.W. Lincoln*
27 ROBERT W. LINCOLN
28 Deputy Attorney General
Attorneys for Complainant

Exhibit A

Accusation No. 800-2019-059727

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Attorney General of California
2 ALEXANDRA M. ALVAREZ
Supervising Deputy Attorney General
3 ROBERT W. LINCOLN
Deputy Attorney General
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8 *Attorneys for Complainant*

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

13 In the Matter of the Accusation Against:

Case No. 800-2019-059727

14 **Robert Lowry Neilan, M.D.**
15 **MCMF – Credentialing Dept.**
16 **17360 Brookhurst St.**
Fountain Valley, CA 92708-3720

A C C U S A T I O N

17 **Physician's and Surgeon's Certificate**
18 **No. A 70376,**

19 Respondent.

20
21 Complaint alleges:
22

23 **PARTIES**

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

27 2. On or about November 24, 1999, the Medical Board issued Physician's and
28 Surgeon's Certificate No. A 70376 to Robert Lowry Neilan, M.D. (Respondent). The Physician's

1 and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought
2 herein and will expire on October 31, 2023, unless renewed.

3 **JURISDICTION**

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

7 4. Section 2227 of the Code states:

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

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

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

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

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

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

22 5. Section 2228.1 of the Code states:

23 ...

24 (1) The final adjudication by the board following an administrative hearing or
25 admitted findings or prima facie showing in a stipulated settlement establishing any of the
26 following:

27 ...

28 (B) Drug or alcohol abuse directly resulting in harm to patients or the extent that such
use impairs the ability of the licensee to practice safely.

1 6. Section 2234 of the Code states:

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

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

7 ...

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

13 8. Section 2236 of the Code states:

14 (a) The conviction of any offense substantially related to the qualifications, functions
15 or duties of a physician and surgeon constitutes unprofessional conduct within the meaning
16 of this chapter [Chapter 5, the Medical Practice Act]. The record of conviction shall be
17 conclusive evidence only of the fact that the conviction occurred.

18 ...

19 (d) A plea or verdict of guilty or conviction after a plea of nolo contendere is deemed
20 to be a conviction within the meaning of this section and Section 2236.1. the record of
21 conviction shall be conclusive evidence of the fact that the conviction occurred.

22 9. Section 2239 of the Code states:

23 (a) The use of prescribing for or administering to himself or herself, of any controlled
24 substance; or the use of any of the dangerous drugs specified in Section 4022, or alcoholic
25 beverages, to the extent, or in such a manner as to be dangerous or injurious to the licensee,
26 or to any other person or to the public, or to the extent that such use impairs the ability of
27 the licensee to practice medicine safely or more than one misdemeanor or any felony
28 involving the use, consumption, or self-administration of any of the substances referred to
29 in this section, or any combination thereof, constitutes unprofessional conduct. The record
30 of the conviction is conclusive evidence of such unprofessional conduct.

31 ...

32 10. California Code of Regulations, title 16, section 1360, states:

33 For the purposes of denial, suspension or revocation of a license, certificate or permit
34 pursuant to Division 1.5 (commencing with Section 475) of the code, a crime or act shall be
35 considered to be substantially related to the qualifications, functions or duties of a person
36 holding a license, certificate or permit under the Medical Practice Act if to a substantial
37 degree it evidences present or potential unfitness of a person holding a license, certificate or

1 permit to perform the functions authorized by the license, certificate or permit in a manner
2 consistent with the public health, safety or welfare. Such crimes or acts shall include but
3 not be limited to the following: Violating or attempting to violate, directly or indirectly, or
4 assisting in or abetting the violation of, or conspiring to violate any provision of the
5 Medical Practice Act.

6 **COST RECOVERY**

7 11. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
8 administrative law judge to direct a licensee found to have committed a violation or violations of
9 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
10 enforcement of the case, with failure of the licensee to comply subjecting the license to not being
11 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be
12 included in a stipulated settlement.

13 **FIRST CAUSE FOR DISCIPLINE**

14 **(Conviction of an Offense Substantially Related to the Qualifications, Functions, or 15 Duties of a Physician and Surgeon)**

16 12. Respondent has subjected his Physician's and Surgeon's Certificate No. A 70376 to
17 disciplinary action under sections 2227 and 2234, as defined by section 2236, of the Code , and
18 California Code of Regulations, title 16 section 13670, in that he has been convicted of an offense
19 substantially related to the qualifications, functions, or duties of a physician and surgeon, as more
20 particularly alleged hereafter:

21 13. On or about June 24, 2019, at approximately 9:35 p.m., in Orange County, California,
22 officers observed Respondent's vehicle make an unsafe lane change and improper left turn.
23 Officers performed a traffic stop upon Respondent's vehicle. Officers noticed that Respondent
24 appeared to be under the influence of alcohol, but Respondent denied having any alcoholic
25 beverages. Officers noticed an open beer can that was half full inside Respondent's vehicle.
26 Officers later found a second beer can in the vehicle. Respondent refused Field Sobriety Tests
27 (FSTs) and told Officers he would not take any tests. Respondent was subsequently arrested for
28 DUI.

14. At approximately 11:00 p.m., Respondent agreed to a chemical breath test, which
showed his BAC was .125%. The second attempt to record Respondent's BAC was unsuccessful.

1 At approximately 11:10 p.m., Respondent provided another breath sample and his BAC was
2 .121%. Respondent became agitated and told Officers he would not provide any more breath
3 samples. Eventually, Officers obtained a warrant at approximately 1:20 a.m., a blood sample was
4 taken and the results showed a BAC of .11%.

5 15. On or about September 26, 2019, the Orange County District Attorney's Office filed
6 a criminal complaint in the matter of *The People of the State of California v. Robert .L. Neilan*,
7 Superior Court of the state of California, County of Orange, Case No. 19HM11152. Respondent
8 was charged with two misdemeanors including: (1) Driving Under the Influence of Alcohol, in
9 violation of Vehicle Code section 23152(a); and (2) Driving Under the Influence of Alcohol with
10 a 0.08% or Greater Blood Alcohol Content, in violation of Vehicle Code section 23152(b).

11 16. On or about November 19, 2021, Respondent pled guilty to Count 2, Driving Under
12 the Influence of Alcohol with a 0.08% or Greater Blood Alcohol Content, in violation of Vehicle
13 Code section 23152(b). Respondent was sentenced to 5 years' probation, serve thirty (30) days in
14 jail, 18 month Multiple Offender DUI Program, and pay fines and fees.

15 17. On or about August 8, 2019, in Orange County, California, Officers responded to a
16 report of a Hit and Run vehicle collision. Witnesses told Officers that their vehicle was struck by
17 a male driver of a GMC truck. Witnesses contacted Respondent and took photos of his truck.
18 Respondent fled the scene.

19 18. Respondent was listed as the owner for the GMC truck and Officers arrived at his
20 home, where the truck was parked in Respondent's driveway with visible damage. Respondent
21 told officers he hit the rear bumper of another vehicle and gave the owners his insurance
22 information. Officers noticed that Respondent appeared intoxicated. Respondent admitted to
23 having one beer that evening. Officers attempted to administer Field Sobriety Tests (FSTs), but
24 Respondent declined. He said "I don't want to do anything like that...I didn't do anything
25 wrong." Respondent also refused a Preliminary Alcohol Screening (PAS).

26 19. Respondent was arrested for DUI and agreed to a chemical breath test. At
27 approximately 9:28 p.m., breath tests showed Respondent's BAC was .073% and .071%.
28 Officers also concluded Respondent caused the collision by driving under the influence.

1 20. On or about September 26, 2019, the Orange County District Attorney's Office filed
2 a criminal complaint in the matter of *The People of the State of California v. Robert L. Neilan*,
3 Superior Court of the State of California, Country of Orange, Case No., 19HM10993.
4 Respondent was charged with two misdemeanors including: (1) Driving Under the Influence of
5 Alcohol, in violation of Vehicle Code section 23152(a); and Hit and Run with Property Damage,
6 in violation of Vehicle Code section 20002(a).

7 21. On or about November 11, 2021, the criminal charges were amended to add an
8 additional misdemeanor for Wet Reckless Driving, in violation of Vehicle Code section
9 23103(a)/23103.5.

10 22. On or about November 19, 2021, Respondent was convicted upon his plea of guilty to
11 Count 3, Wet Reckless Driving, a misdemeanor. Respondent was sentenced to 1 year probation,
12 12 hour Alcohol and Drug Program, and pay various fines and fees. The remaining charges were
13 dismissed.

14 **SECOND CAUSE FOR DISCIPLINE**

15 **(Use of Alcoholic Beverages to the Extent, or in Such a Manner, as to be Dangerous or** 16 **Injurious to Himself, Another Person, or the Public)**

17 23. Respondent has further subjected his Physician's and Surgeon's Certificate No. A
18 70376 to disciplinary action under sections 2227 and 2234, as defined by section 2239,
19 subdivision (a), of the Code, in that he has used alcoholic beverages to the extent, or in such a
20 manner, as to be dangerous or injurious to himself, another person, or the public as more
21 particularly alleged in paragraphs 13 through 22, above, which are hereby incorporated by
22 reference and realleged as if fully set forth herein.

23 **THIRD CAUSE FOR DISCIPLINE**

24 **(General Unprofessional Conduct)**

25 24. Respondent has further subjected his Physician's and Surgeon's Certificate No.
26 A 70376 to disciplinary action under sections 2227 and 2234 of the Code, in that he has engaged
27 in conduct which breaches the rules or ethical code of the medical profession, or conduct which is
28 unbecoming a member in good standing of the medical profession, and which demonstrates an

unfitness to practice medicine, as more particularly alleged in paragraphs 13 through 23, above, which are hereby incorporated by reference and realleged as if fully set forth herein.

PRAYER

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

1. Revoking or suspending Physician's and Surgeon's Certificate No. A 70376, issued to Robert Lowry Neilan, M.D.;
2. Revoking, suspending or denying approval of Robert Lowry Neilan, M.D.'s authority to supervise physician assistants and advanced practice nurses;
3. Ordering Robert Lowry Neilan, M.D., to pay the Board the costs of the investigation and enforcement of this case, and if placed on probation, the costs of probation monitoring;
4. Ordering Respondent Robert Lowry Neilan, M.D., if placed on probation, to provide patient notification in accordance with Business and Professions Code section 2228.1; and
5. Taking such other and further action as deemed necessary and proper.

DATED: **AUG 10 2022**

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

SD2022302732