

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

In the Matter of the Accusation Against:)
)
)
MADLINE ANDREW, M.D.)
)
Physician's and Surgeon's)
Certificate No. A 51143)
)
Respondent)
_____)

Case No. 800-2015-017125

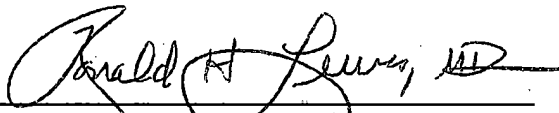
DECISION AND ORDER

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 July 18, 2018.

IT IS SO ORDERED: June 18, 2018.

MEDICAL BOARD OF CALIFORNIA



Ronald H. Lewis, M.D., Chair
Panel A

1 XAVIER BECERRA
Attorney General of California
2 JANE ZACK SIMON
Supervising Deputy Attorney General
3 KEITH C. SHAW
Deputy Attorney General
4 State Bar No. 227029
455 Golden Gate Avenue, Suite 11000
5 San Francisco, CA 94102-7004
Telephone: (415) 510-3519
6 Facsimile: (415) 703-5480
Attorneys for Complainant

7
8 **BEFORE THE**
MEDICAL BOARD OF CALIFORNIA
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the Accusation Against:

Case No. 800-2015-017125

11 **MADELINE ANDREW, M.D.**

OAH No. 2017120948

12 4715 Mangels Blvd.
13 Fairfield, CA 94534

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

14 **Physician's and Surgeon's Certificate No. A**
15 **51143**

16 Respondent.

17
18 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
19 entitled proceedings that the following matters are true:

20 PARTIES

21 1. Kimberly Kirchmeyer (Complainant) is the Executive Director of the Medical Board
22 of California (Board). She brought this action solely in her official capacity and is represented in
23 this matter by Xavier Becerra, Attorney General of the State of California, by Keith C. Shaw,
24 Deputy Attorney General.

25 2. Respondent Madeline Andrew, M.D. (Respondent) is represented in this proceeding
26 by attorney Robert W. Hodges, Esq., whose address is: 3480 Buskirk Ave., #250,
27 Pleasant Hill, CA 94523.
28

1 3. On or about September 1, 1992, the Board issued Physician's and Surgeon's
2 Certificate No. A 51143 to Madeline Andrew, M.D. The Physician's and Surgeon's Certificate
3 was in full force and effect at all times relevant to the charges brought in Accusation No. 800-
4 2015-017125, and will expire on August 31, 2018, unless renewed.

5 JURISDICTION

6 4. Accusation No. 800-2015-017125 was filed before the Medical Board of California,
7 Department of Consumer Affairs, and is currently pending against Respondent. The Accusation
8 and all other statutorily required documents were properly served on Respondent on November 2,
9 2017. Respondent filed her Notice of Defense contesting the Accusation. A copy of Accusation
10 No. 800-2015-017125 is attached as exhibit A and incorporated herein by reference.

11 ADVISEMENT AND WAIVERS

12 5. Respondent has carefully read, fully discussed with counsel, and understands the
13 charges and allegations in Accusation No. 800-2015-017125. Respondent has also carefully read,
14 fully discussed with counsel, and understands the effects of this Stipulated Settlement and
15 Disciplinary Order.

16 6. Respondent is fully aware of her legal rights in this matter, including the right to a
17 hearing on the charges and allegations in the Accusation; the right to confront and cross-examine
18 the witnesses against her; the right to present evidence and to testify on her own behalf; the right
19 to the issuance of subpoenas to compel the attendance of witnesses and the production of
20 documents; the right to reconsideration and court review of an adverse decision; and all other
21 rights accorded by the California Administrative Procedure Act and other applicable laws.

22 7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and
23 every right set forth above.

24 CULPABILITY

25 8. Respondent understands and agrees that the charges and allegations in Accusation
26 No. 800-2015-017125, if proven at a hearing, constitute cause for imposing discipline upon her
27 Physician's and Surgeon's Certificate.

1 9. For the purpose of resolving the Accusation without the expense and uncertainty of
2 further proceedings, Respondent agrees that, at a hearing, Complainant could establish a factual
3 basis for the charges in the Accusation, and that Respondent hereby gives up her right to contest
4 those charges.

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

8 CONTINGENCY

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

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

21 13. In consideration of the foregoing admissions and stipulations, the parties agree that
22 the Board may, without further notice or formal proceeding, issue and enter the following
23 Disciplinary Order:

24 DISCIPLINARY ORDER

25 IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. A 51143 issued
26 to Respondent MADELINE ANDREW, M.D. is revoked. However, the revocation is stayed and
27 Respondent is placed on probation for three (3) years on the following terms and conditions.
28

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

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

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

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

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

27 Respondent shall submit a certification of successful completion to the Board or its
28 designee not later than 15 calendar days after successfully completing the course, or not later than

1 15 calendar days after the effective date of the Decision, whichever is later.

2 4. PROFESSIONALISM PROGRAM (ETHICS COURSE). Within 60 calendar days of
3 the effective date of this Decision, Respondent shall enroll in a professionalism program, that
4 meets the requirements of Title 16, California Code of Regulations (CCR) section 1358.1.
5 Respondent shall participate in and successfully complete that program. Respondent shall
6 provide any information and documents that the program may deem pertinent. Respondent shall
7 successfully complete the classroom component of the program not later than six (6) months after
8 Respondent's initial enrollment, and the longitudinal component of the program not later than the
9 time specified by the program, but no later than one (1) year after attending the classroom
10 component. The professionalism program shall be at Respondent's expense and shall be in
11 addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

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

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

20 5. PSYCHOTHERAPY. Within 60 calendar days of the effective date of this Decision,
21 Respondent shall submit to the Board or its designee for prior approval the name and
22 qualifications of a California-licensed board certified psychiatrist or a licensed psychologist who
23 has a doctoral degree in psychology and at least five years of postgraduate experience in the
24 diagnosis and treatment of emotional and mental disorders. Upon approval, Respondent shall
25 undergo and continue psychotherapy treatment, including drug/prescription management and any
26 modifications to the frequency of psychotherapy, until the Board or its designee deems that no
27 further psychotherapy is necessary.

28 The psychotherapist shall consider any information provided by the Board or its designee

1 and any other information the psychotherapist deems relevant and shall furnish a written
2 evaluation report to the Board or its designee. Respondent shall cooperate in providing the
3 psychotherapist with any information and documents that the psychotherapist may deem
4 pertinent.

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

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

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

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

24 If Respondent fails to cooperate in a random biological fluid testing program within the
25 specified time frame, Respondent shall receive a notification from the Board or its designee to
26 immediately cease the practice of medicine. The Respondent shall not resume the practice of
27 medicine until the final decision on an accusation and/or a petition to revoke probation is
28 effective. An accusation and/or petition to revoke probation shall be filed by the Board within 30

1 days of the notification to cease practice. If the Respondent requests a hearing on the accusation
2 and/or petition to revoke probation, the Board shall provide the Respondent with a hearing within
3 30 days of the request, unless the Respondent stipulates to a later hearing. If the case is heard by
4 an Administrative Law Judge alone, he or she shall forward a Proposed Decision to the Board
5 within 15 days of submission of the matter. Within 15 days of receipt by the Board of the
6 Administrative Law Judge's proposed decision, the Board shall issue its Decision, unless good
7 cause can be shown for the delay. If the case is heard by the Board, the Board shall issue its
8 decision within 15 days of submission of the case, unless good cause can be shown for the delay.
9 Good cause includes, but is not limited to, non-adoption of the proposed decision, requests for
10 reconsideration, remands and other interlocutory orders issued by the Board. The cessation of
11 practice shall not apply to the reduction of the probationary time period.

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

15 7. MONITORING - PRACTICE. Within 30 calendar days of the effective date of this
16 Decision, Respondent shall submit to the Board or its designee for prior approval as a practice
17 monitor(s), the name and qualifications of one or more licensed physicians and surgeons whose
18 licenses are valid and in good standing, and who are preferably American Board of Medical
19 Specialties (ABMS) certified. A monitor shall have no prior or current business or personal
20 relationship with Respondent, or other relationship that could reasonably be expected to
21 compromise the ability of the monitor to render fair and unbiased reports to the Board, including
22 but not limited to any form of bartering, shall be in Respondent's field of practice, and must agree
23 to serve as Respondent's monitor. Respondent shall pay all monitoring costs. Respondent shall
24 have a practice monitor for a period of one (1) year from the effective date of the Order.

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

1 of a monitor, and agrees or disagrees with the proposed monitoring plan. If the monitor disagrees
2 with the proposed monitoring plan, the monitor shall submit a revised monitoring plan with the
3 signed statement for approval by the Board or its designee.

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

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

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

19 If the monitor resigns or is no longer available, Respondent shall, within 5 calendar days of
20 such resignation or unavailability, submit to the Board or its designee, for prior approval, the
21 name and qualifications of a replacement monitor who will be assuming that responsibility within
22 15 calendar days. If Respondent fails to obtain approval of a replacement monitor within 60
23 calendar days of the resignation or unavailability of the monitor, Respondent shall receive a
24 notification from the Board or its designee to cease the practice of medicine within three (3)
25 calendar days after being so notified. Respondent shall cease the practice of medicine until a
26 replacement monitor is approved and assumes monitoring responsibility.

27 8. NOTIFICATION. Within seven (7) days of the effective date of this Decision, the
28 Respondent shall provide a true copy of this Decision and Accusation to the Chief of Staff or the

1 Chief Executive Officer at every hospital where privileges or membership are extended to
2 Respondent, at any other facility where Respondent engages in the practice of medicine,
3 including all physician and locum tenens registries or other similar agencies, and to the Chief
4 Executive Officer at every insurance carrier which extends malpractice insurance coverage to
5 Respondent. Respondent shall submit proof of compliance to the Board or its designee within 15
6 calendar days.

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

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

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

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

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

19 12. GENERAL PROBATION REQUIREMENTS.

20 Compliance with Probation Unit

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

22 Address Changes

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

28 Place of Practice

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

4 License Renewal

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

7 Travel or Residence Outside California

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

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

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

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

1 considered non-practice. A Board-ordered suspension of practice shall not be considered as a
2 period of non-practice.

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

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

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

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

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

19 16. 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 17. 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.↵

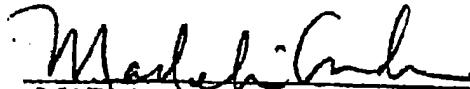
1 The Board reserves the right to evaluate Respondent's request and to exercise its discretion in
 2 determining whether or not to grant the request, or to take any other action deemed appropriate
 3 and reasonable under the circumstances. Upon formal acceptance of the surrender, Respondent
 4 shall 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 **18. 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 **ACCEPTANCE**

14 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
 15 discussed it with my attorney, Robert W. Hodges, Esq. I understand the stipulation and the effect
 16 it will have on my Physician's and Surgeon's Certificate. I enter into this Stipulated Settlement
 17 and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the
 18 Decision and Order of the Board.

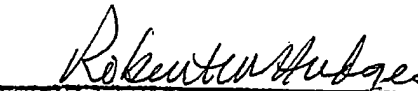
19 DATED: 5/11/18


 20 MADELINE ANDREW, M.D.
 Respondent

21 I have read and fully discussed with Respondent Madeline Andrew, M.D. the terms and
 22 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.

23 I approve its form and content.

24 DATED: 5/11/2018


 25 ROBERT W. HODGES ESQ.
 26 Attorney for Respondent

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ENDORSEMENT

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

Dated: May 11, 2018

Respectfully submitted,

XAVIER BECERRA
Attorney General of California
JANE ZACK SIMON
Supervising Deputy Attorney General



KEITH C. SHAW
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Amended Accusation No. 800-2015-017125

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO May 11 20 18
BY K. Vook ANALYST

1 XAVIER BECERRA
Attorney General of California
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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:

Case No. 800-2015-017125

13 **Madeline Andrew, M.D.**

AMENDED ACCUSATION

14 4715 Mangels Blvd
15 Fairfield, CA 94534

16 **Physician's and Surgeon's Certificate**
17 **No. A51143,**

Respondent.

18 Complainant alleges:

19 **PARTIES**

20 1. Kimberly Kirchmeyer (Complainant) brings this Amended Accusation solely in her
21 official capacity as the Executive Director of the Medical Board of California, Department of
22 Consumer Affairs.

23 2. On or about September 1, 1992, the Medical Board issued Physician's and Surgeon's
24 Certificate Number A51143 to Madeline Andrew, 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 August 31, 2018, unless renewed.
27
28

JURISDICTION

1
2 3. This Accusation is brought before the Medical Board of California (Board), under the
3 authority of the following laws. All section references are to the Business and Professions Code
4 unless otherwise indicated.

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

9 5. Section 2234 of the Code requires the Board to take action against any licensee who
10 is charged with unprofessional conduct, defined to include “[v]iolating or attempting to violate,
11 directly or indirectly, assisting in or abetting the violation of, or conspiring to violate any
12 provision of this chapter.”

13 6. Section 2236 of the Code states:

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

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

21 7. Section 2239 of the Code states:

22 “(a) The useof alcoholic beverages, to the extent, or in such a manner as to be
23 dangerous or injurious to the licensee, or to any other person or to the public, or to the
24 extent that such use impairs the ability of the licensee to practice medicine safely or more
25 than one misdemeanor or any felony involving the use, consumption, or self-administration
26 of any of the substances referred to in this section, or any combination thereof, constitutes
27 unprofessional conduct. The record of the conviction is conclusive evidence of such
28 unprofessional conduct.

1 “(b) A plea or verdict of guilty or a conviction following a plea of nolo contendere is
2 deemed to be a conviction within the meaning of this section. The Division of Medical
3 Quality¹ may order discipline of the licensee in accordance with Section 2227 or the
4 Division of Licensing may order the denial of the license when the time for appeal has
5 elapsed or the judgment of conviction has been affirmed on appeal or when an order
6 granting probation is made suspending imposition of sentence, irrespective of a subsequent
7 order under the provisions of Section 1203.4 of the Penal Code allowing such person to
8 withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the
9 verdict of guilty, or dismissing the accusation, complaint, information, or indictment.”

10 8. Section 822 of the Code provides that if the Board determines that a licensee’s ability
11 to practice his or her profession safely is impaired because the licensee is mentally ill, or
12 physically ill affecting competency, the Board may take action by revoking or suspending the
13 license, placing the licensee on probation, or taking such other action as the Board in its
14 discretion deems proper.

15 **FIRST CAUSE FOR DISCIPLINE**

16 **(Unprofessional Conduct: Conviction of a Crime/Dangerous Use of Alcohol)**

17 9. Respondent is subject to disciplinary action under sections 2234, and/or 2236, and/or
18 2239 in that Respondent has engaged in unprofessional conduct, was convicted of a crime, and
19 used alcohol in a dangerous manner. The circumstances are as follows:

20 10. On or about January 10, 2016, at approximately 2:40 a.m., a California Highway
21 Patrol observed Respondent’s vehicle cross over the double yellow lines into the opposing lane of
22 traffic while traveling eastbound on Highway 12 in Napa County. The officer’s vehicle pulled to
23 the rear of Respondent’s vehicle. Respondent’s vehicle then rapidly accelerated in excess of 80
24 mph in a posted 55 mph zone and pulled away from the officer’s vehicle. The officer caught up
25 to Respondent’s vehicle, which finally came to a stop. Upon approaching Respondent, the driver,
26 the officer noticed that she had the odor of alcohol coming from her breath and her eyes appeared

27 ¹ The “Division of Medical Quality” refers to the Board pursuant to Business and Profession Code section
28 2002.

1 to be red and watery. Respondent indicated that she had consumed one glass of wine earlier in
2 the night. The officer initiated a DUI investigation where Respondent performed several field
3 sobriety tests indicating that she was under the influence of alcohol. Respondent submitted to a
4 blood alcohol test which resulted in a 0.163% blood alcohol content, over twice the legal limit.

5 11. Respondent was arrested and charged in the Napa County Superior Court with two
6 misdemeanor charges: 1) Vehicle Code (VC) section 23152(a) – Driving Under the Influence of
7 Alcohol and; 2) VC section 23152(b) – Driving with a Blood Alcohol Level of 0.08% or More.
8 The Complaint included a special allegation for Excessive Blood Alcohol pursuant to VC section
9 23578, in that Respondent drove with a blood alcohol content of 0.15% or more. On August 25,
10 2016, Respondent pled no contest to VC section 23152(a). She was sentenced to the following:
11 three (3) years of court probation, four (4) days in jail, forty (40) hours of community service,
12 installation of an Ignition Interlock Device for a period of six (6) months, submit to random
13 chemical testing, attend the DUI offender’s nine (9) month driving program, do not operate a
14 motor vehicle with any measurable amount of alcohol, and obey all laws.

15 12. Respondent’s August 25, 2016 criminal conviction for driving under the influence of
16 alcohol is substantially related to the qualifications, functions and duties of a physician and
17 surgeon. Further, her conduct in driving recklessly while excessively intoxicated amounts to the
18 use of alcohol in a manner dangerous to both Respondent and the public. As such, her conviction
19 and conduct constitutes unprofessional conduct under section 2234, and a violation under section
20 2236 (criminal conviction), and section 2239 (dangerous use of alcohol).

21 **SECOND CAUSE FOR DISCIPLINE**

22 **(Mental or Physical Impairment)**

23 13. Respondent underwent a voluntary psychiatric evaluation in June 2017 with a Board-
24 appointed psychiatrist. The psychiatrist provided her report, dated August 2, 2017, which
25 contains her findings, opinions and conclusions regarding Respondent’s fitness to practice
26 medicine. During the evaluation, Respondent admitted that she has a long history of depression
27 dating back to her early twenties. Respondent also admitted to prescribing to herself anti-
28 depressants and other medications for many years, and ordering her own blood work. The

1 evaluator noted that Respondent was somewhat casual about the fact that she was prescribing
2 herself medication and acting as her own psychiatrist and primary care provider. Respondent
3 indicated that she found nothing wrong with prescribing her own medication and believed it to be
4 the norm in her "culture." The evaluator expressed concern that Respondent's psychiatric
5 symptoms may be flaring up due to family and marital stress, which may accelerate her drinking
6 of alcohol.

7 14. Respondent was diagnosed with a longstanding Major Depressive Disorder with a
8 possible history of psychosis, or even mania. It was noted that Respondent's condition is
9 undertreated. The evaluator concluded that Respondent is "not able to practice medicine safely
10 without any restrictions" and that she requires sustained monitoring, psychotherapeutic treatment,
11 and oversight in order to ensure that she can safely practice. It was also recommended that
12 Respondent should be under the care of a primary care physician or specialist to prescribe all her
13 medications.

14 15. Respondent's license is subject to Board action pursuant to Sections 822 and 2227 of
15 the Code in that Respondent is impaired in her ability to safely practice medicine by virtue of
16 mental illness.

17 **PRAYER**

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

20 1. Revoking or suspending Physician's and Surgeon's Certificate Number A51143,
21 issued to Madeline Andrew, M.D.;

22 2. Revoking, suspending or denying approval of Madeline Andrew, M.D.'s authority to
23 supervise physician assistants and advanced practice nurses;

24 3. Ordering Madeline Andrew, M.D., if placed on probation, to pay the Board the costs
25 of probation monitoring; and

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

DATED: May 11, 2018


KIMBERLY KIRCHMEYER
Executive Director
Medical Board of California
State of California
Complainant

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