

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

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

Warden Hamlin Emory, M.D.

**Physician's and Surgeon's
Certificate No. C 31807**

Respondent.

Case No.: 800-2017-039397

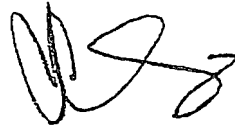
DECISION

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

This Decision shall become effective at 5:00 p.m. on September 30, 2022.

IT IS SO ORDERED: September 2, 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
Department of Justice
5 300 So. Spring Street, Suite 1702
Los Angeles, CA 90013
6 Telephone: (213) 269-6481
Facsimile: (916) 731-2117
7 *Attorneys for Complainant*

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

11 In the Matter of the Accusation Against:
12 **WARDEN HAMLIN EMORY, M.D.**
13 **2080 Century Park East, Suite 1409**
Los Angeles, CA 90067
14 **Physician's and Surgeon's**
15 **Certificate No. C 31807,**
16 **Respondent.**

Case No. 800-2017-039397
OAH No. 2021050238
**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

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

25 2. Respondent Warden Hamlin Emory, M.D. (Respondent) is represented in this
26 proceeding by attorney Raymond J. McMahon, whose address is: 5440 Trabuco Road, Irvine,
27 CA 92620.

28 ///

1 3. On or about November 5, 1969, the Board issued Physician's and Surgeon's
2 Certificate No. C 31807 to Respondent. The Physician's and Surgeon's Certificate was in full
3 force and effect at all times relevant to the charges brought in Accusation No. 800-2017-039397,
4 and will expire on January 31, 2023, unless renewed.

5 **JURISDICTION**

6 4. Accusation No. 800-2017-039397 was filed before the Board, and is currently
7 pending against Respondent. The Accusation and all other statutorily required documents were
8 properly served on Respondent on December 11, 2020. Respondent timely filed his Notice of
9 Defense contesting the Accusation.

10 5. A copy of Accusation No. 800-2017-039397 is attached as exhibit A and incorporated
11 herein by reference.

12 **ADVISEMENT AND WAIVERS**

13 6. Respondent has carefully read, fully discussed with counsel, and understands the
14 charges and allegations in Accusation No. 800-2017-039397. Respondent has also carefully read,
15 fully discussed with his counsel, and understands the effects of this Stipulated Settlement and
16 Disciplinary Order.

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

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

25 **CULPABILITY**

26 9. Respondent understands and agrees that the charges and allegations in Accusation
27 No. 800-2017-039397, if proven at a hearing, constitute cause for imposing discipline upon his
28 Physician's and Surgeon's Certificate.

1 10. Respondent does not contest that, at an administrative hearing, Complainant could
2 establish a *prima facie* case with respect to the charges and allegations contained in Accusation
3 No. 800-2017-039397, that he has thereby subjected his license to disciplinary action and hereby
4 gives up his right to contest those charges.

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

8 **CONTINGENCY**

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

19 13. Respondent agrees that if he ever petitions for early termination or modification of
20 probation, or if an accusation and/or petition to revoke probation is filed against him before the
21 Board, all of the charges and allegations contained in Accusation No. 800-2017-039397 shall be
22 deemed true, correct and fully admitted by respondent for purposes of any such proceeding or any
23 other licensing proceeding involving Respondent in the State of California.

24 14. This Stipulated Settlement and Disciplinary Order is intended by the parties herein to
25 be an integrated writing representing the complete, final and exclusive embodiment of the
26 agreement of the parties in this above entitled matter.

27 15. The parties understand and agree that Portable Document Format (PDF) and facsimile
28 copies of this Stipulated Settlement and Disciplinary Order, including PDF and facsimile

1 signatures thereto, shall have the same force and effect as the originals.

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

5 **DISCIPLINARY ORDER**

6 IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. C 31807 issued
7 to Respondent Warden Hamlin Emory, M.D. is revoked. However, the revocation is stayed and
8 Respondent is placed on probation for five (5) years upon the following terms and conditions:

9 1. **CONTROLLED SUBSTANCES - PARTIAL RESTRICTION.** Respondent shall not
10 order, prescribe, dispense, administer, furnish, or possess the following controlled substances, as
11 defined by the California Uniform Controlled Substances Act: Schedule II controlled substances
12 identified in California Health and Safety Code section 11055, subdivisions (b), (c), (d), (e), and
13 (f).

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 All
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.

1 Respondent shall submit a certification of successful completion to the Board or its
2 designee not later than 15 calendar days after successfully completing the course, or not later than
3 15 calendar days after the effective date of the Decision, whichever is later.

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

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

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

24 If Respondent fails to obtain approval of a monitor within 60 calendar days of the effective
25 date of this Decision, Respondent shall receive a notification from the Board or its designee to
26 cease the practice of medicine within three (3) calendar days after being so notified. Respondent
27 shall cease the practice of medicine until a monitor is approved to provide monitoring
28 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 Respondent's
19 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.

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

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

10. INVESTIGATION/ENFORCEMENT COST RECOVERY. Respondent is hereby ordered to reimburse the Board its costs of investigation and enforcement in the amount of Two thousand three hundred sixty-five dollars and zero cents (\$2,365.00). Costs shall be payable to the Medical Board of California. Failure to pay such costs shall be considered a violation of probation.

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

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

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

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

12. GENERAL PROBATION REQUIREMENTS.

Compliance with Probation Unit

Respondent shall comply with the Board's probation unit.

Address Changes

Respondent shall, at all times, keep the Board informed of Respondent's business and residence addresses, email address (if available), and telephone number. Changes of such addresses shall be immediately communicated in writing to the Board or its designee. Under no

1 circumstances shall a post office box serve as an address of record, except as allowed by Business
2 and Professions Code section 2021, subdivision (b).

3 Place of Practice

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

7 License Renewal

8 Respondent shall maintain a current and renewed California physician's and surgeon's
9 license.

10 Travel or Residence Outside California

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

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

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

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

1 practice and does not relieve Respondent from complying with all the terms and conditions of
2 probation. Practicing medicine in another state of the United States or Federal jurisdiction while
3 on probation with the medical licensing authority of that state or jurisdiction shall not be
4 considered non-practice. A Board-ordered suspension of practice shall not be considered as a
5 period of non-practice.

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

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

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

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

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

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

1 17. LICENSE SURRENDER. Following the effective date of this Decision, if
2 Respondent ceases practicing due to retirement or health reasons or is otherwise unable to satisfy
3 the terms and conditions of probation, Respondent may request to surrender his or her license.
4 The Board reserves the right to evaluate Respondent's request and to exercise its discretion in on
5 determining whether or not to grant the request, or to take any other action deemed appropriate
6 and reasonable under the circumstances. Upon formal acceptance of the surrender, Respondent
7 shall within 15 calendar days deliver Respondent's wallet and wall certificate to the Board or its
8 designee and Respondent shall no longer practice medicine. Respondent will no longer be subject
9 to the terms and conditions of probation. If Respondent re-applies for a medical license, the
10 application shall be treated as a petition for reinstatement of a revoked certificate.

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

16 19. FUTURE ADMISSIONS CLAUSE. If Respondent should ever apply or reapply for
17 a new license or certification, or petition for reinstatement of a license, by any other health care
18 licensing action agency in the State of California, all of the charges and allegations contained in
19 Accusation No. 800-2017-039397 shall be deemed to be true, correct, and admitted by
20 Respondent for the purpose of any Statement of Issues or any other proceeding seeking to deny or
21 restrict license.

22
23
24 [Signatures on following page]
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27
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for
a

1 **ACCEPTANCE**

2 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
3 discussed it with my attorney, Raymond J. McMahon. I understand the stipulation and the effect
4 it will have on my Physician's and Surgeon's Certificate. I enter into this Stipulated Settlement
5 and 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: 2.8.22


WARDEN HAMLIN EMORY, M.D.
Respondent

10 I have read and fully discussed with Respondent Warden Hamlin Emory, M.D. the terms
11 and conditions and other matters contained in the above Stipulated Settlement and Disciplinary
12 Order. I approve its form and content.

13 DATED: Feb 8, 2022


RAYMOND J. MCMAHON
Attorney for Respondent

16 **ENDORSEMENT**

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

19 DATED: _____

Respectfully submitted,

20
21 ROB BONTA
Attorney General of California
22 EDWARD KIM
Supervising Deputy Attorney General

23
24 CHRISTINA SEIN GOOT
25 Deputy Attorney General
26 Attorneys for Complainant

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ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Raymond J. McMahon. 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: _____
WARDEN HAMLIN EMORY, M.D.
Respondent

I have read and fully discussed with Respondent Warden Hamlin Emory, 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: _____
RAYMOND J. MCMAHON
Attorney for Respondent

ENDORSEMENT

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

DATED: 2/8/22

Respectfully submitted,
ROB BONTA
Attorney General of California
EDWARD KIM
Supervising Deputy Attorney General


CHRISTINA SEIN GOOT
Deputy Attorney General
Attorneys for Complainant

s
ary

ary

Exhibit A

Accusation No. 800-2017-039397

ary

1 XAVIER BECERRA
Attorney General of California
2 ROBERT MCKIM BELL
Supervising Deputy Attorney General
3 CHRISTINA SEIN GOOT
Deputy Attorney General
4 State Bar No. 229094
California Department of Justice
5 300 South Spring Street, Suite 1702
Los Angeles, CA 90013
6 Telephone: (213) 269-6481
Facsimile: (916) 731-2117
7 *Attorneys for Complainant*

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

12 In the Matter of the Accusation Against:

Case No. 800-2017-039397

13 WARDEN HAMLIN EMORY, M.D.

A C C U S A T I O N

14 2080 Century Park East, Suite 1409
Los Angeles, CA 90067

15 Physician's and Surgeon's Certificate
16 No. C 31807,

17 Respondent.

18
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 November 5, 1969, the Board issued Physician's and Surgeon's Certificate
24 Number C 31807 to Warden Hamlin Emory, M.D. (Respondent). That Certificate was in full
25 force and effect at all times relevant to the charges brought herein and will expire on January 31,
26 2023, unless renewed.

27 **JURISDICTION**

28 3. This Accusation is brought before the Board, under the authority of the following

1 laws. All section references are to the Business and Professions Code (Code) unless otherwise
2 indicated.

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

7 5. Section 2234 of the Code, states:

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

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

12 (b) Gross negligence.

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

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

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

20 (d) Incompetence.

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

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

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

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

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1 **FACTUAL ALLEGATIONS**

2 7. At all times relevant to the allegations herein, Respondent practiced psychiatry in Los
3 Angeles, California. Respondent also provided treatment for physical and chronic pain.

4 **Patient 1**

5 8. Respondent treated Patient 1, a male in his 40's, from approximately 2003 until 2008.
6 Thereafter, Patient 1 treated with another physician. Patient 1 then returned to Respondent and
7 treated with him from 2012 until 2018. Respondent diagnosed Patient 1 with anxiety, depression,
8 and attention deficit hyperactivity disorder (ADHD). Respondent also treated Patient 1 for
9 chronic pain.

10 9. Respondent regularly prescribed Patient 1 high doses of opioids and benzodiazepines;
11 however, there was no discussion of an opioid agreement or the potential risks of combining
12 opioids and benzodiazepines documented in the medical record. In addition, there was no risk
13 stratification, urine testing, or regular review of the Controlled Substance Utilization, Review and
14 Evaluation System (CURES). Respondent's evaluation of respiratory depression risk related to
15 the combination of an opioid and benzodiazepine by solely evaluating electroencephalogram
16 (EEG) data is not consistent with the standard of care. On several occasions, Patient 1 was seen
17 many days after he had run out of his medication early. Respondent failed to explore in-depth the
18 reasons why this occurred. In addition, Patient 1 was an out-of-state patient paying Respondent
19 by cash. This presented potential concerns that he could obtain controlled substances from out-
20 of-state physicians that would not show up on CURES, even if Respondent had regularly
21 reviewed CURES reports (which he did not). This was an extreme departure from the standard of
22 care.

23 10. When Patient 1 first returned to Respondent's care, Respondent failed to document
24 any attempts to obtain records from Patient 1's prior treating physician. This was a simple
25 departure from the standard of care.

26 11. Throughout his treatment of Patient 1, Respondent regularly prescribed controlled
27 substances for pain. Discussions of the risks and benefits of these controlled substances were
28 poorly documented (or not documented at all), and there was no opioid agreement with the

1 patient. This was a simple departure from the standard of care.

2 12. Respondent did not make any significant effort to assure that the controlled
3 substances he prescribed were not being diverted by the patient. There was no discussion with
4 the patient of the issue of potential diversion and no periodic urine toxicology screening (not only
5 to look for illicit or unprescribed substances, but also to make sure the prescribed medications
6 were actually being taken). This was a simple departure from the standard of care.

7 13. Respondent terminated the physician-patient relationship with Patient 1; however, his
8 letter terminating the relationship did not (a) contain any reference to providing at least 15 days of
9 emergency treatment and prescriptions before discontinuing Respondent's availability; (b) include
10 alternative sources of medical care, or (c) contain the information necessary for Patient 1 to
11 obtain his medical records, as is required by the standard of care. This was a simple departure
12 from the standard of care.

13 **Patient 2**

14 14. Respondent treated Patient 2, at the time a 35-year-old male, from approximately
15 January 2015 through October 2018. Respondent diagnosed Patient 2 with anxiety, depression,
16 avoidant traits, hypothyroidism, hypotestosteronemia¹, and cryptogenic insomnia, that is,
17 insomnia of an unknown cause. Respondent also treated Patient 2 for chronic pain.

18 15. Respondent regularly prescribed Patient 2 opioids, benzodiazepines, and muscle
19 relaxants. There was no discussion with this patient of an opioid agreement or the risks of
20 combining opioids, benzodiazepines, and ketamine. In addition, there was no risk stratification,
21 urine testing, or regular review of CURES. Patient 2 also reported that he would have likely
22 committed suicide without Respondent's help; however, there was no further documentation
23 about a discussion of suicidality with this patient nor was there any discussion of how the patient
24 should dispose of the ketamine he was no longer using. This was an extreme departure from the
25 standard of care.

26 16. At the January 8, 2015 visit, Respondent noted that Patient 2 had been acquiring

27 ¹ This terms refers to abnormally low testosterone production; possibly due to testicular
28 dysfunction (primary hypogonadism) or hypothalamic-pituitary dysfunction (secondary
hypogonadism). It may be congenital or acquired.

1 Norco 7.5/325 from a local physician but that he had to wait in her office waiting room monthly
2 for the refill. Respondent then prescribed Patient 2 a 6-month supply of Norco. Respondent's
3 records do not indicate that he contacted the patient's other physician to advise that he would be
4 taking over management of the opioids or to inquire if there were specific concerns/reasons to
5 require monthly visits from Patient 2. This was a simple departure from the standard of care.

6 17. Throughout his treatment of Patient 2, Respondent regularly prescribed controlled
7 substances for pain. Discussions of the risks and benefits of these controlled substances were
8 poorly documented (or not at all), and there was no opioid agreement with the patient. This was a
9 simple departure from the standard of care.

10 18. Respondent did not make any significant effort to assure that the controlled
11 substances prescribed were not being diverted by the patient. There was no discussion with the
12 patient of the issue of potential diversion and no periodic urine toxicology screening (not only to
13 look for illicit or unprescribed substances, but also to make sure the prescribed medications were
14 actually being taken). This was a simple departure from the standard of care.

15 **Patient 3**

16 19. Respondent treated Patient 3, a 68-year-old female at the time, from May 2015 until
17 August 2018. Respondent diagnosed Patient 3 with unspecified anxiety, unspecified depression,
18 and unspecified sleep stage disorder. Respondent also treated Patient 3 for chronic pain.

19 20. Patient 3 owned a jet and would travel back and forth between Arizona, Michigan,
20 and Los Angeles. Her living arrangements posed a potential risk of medication misuse or
21 diversion. She had both the financial and physical means to readily and regularly travel out of
22 state and pay cash (which was how she paid Respondent) for essentially untraceable visits with
23 physicians whose out-of-state prescriptions would not show up on a CURES report, even if
24 Respondent had checked them regularly (which he did not). In such a patient, drug toxicology
25 screening and a clear medication contract/agreement would be a cornerstone of responsible
26 management if that management involved the prescription of controlled substances. Respondent
27 prescribed Patient 3 opioids and benzodiazepines, among other medications. In addition to a lack
28

1 of toxicology screening, regular review of CURES reports,² and an opioid agreement, there was
2 no clear assessment of the risk of substance abuse, misuse, or addiction. This was an extreme
3 departure from the standard of care.

4 21. Patient 3 had knee surgery during the time she treated with Respondent. Ten weeks
5 post-surgery, Patient 3 reported feeling worse after her dose of Vicodin had been decreased.
6 Respondent increased Patient 3's dose of Vicodin without consulting with the patient's knee
7 surgeon. Respondent acknowledged that it would have been prudent to have Patient 3 return to
8 see her surgeon. This was a simple departure from the standard of care.

9 22. Throughout his treatment of Patient 3, Respondent regularly prescribed controlled
10 substances for pain. Discussions of the risks and benefits of these controlled substances were
11 poorly documented (or not at all), and there was no opioid agreement with the patient. This was a
12 simple departure from the standard of care.

13 23. Respondent did not make any significant effort to assure that the patient was not
14 diverting the controlled substances prescribed. There was no discussion with the patient of the
15 issue of potential diversion and no periodic urine toxicology screening (not only to look for illicit
16 or unprescribed substances but also to make sure the prescribed medications were actually being
17 taken). This was a simple departure from the standard of care.

18 **Patient 4**

19 24. Respondent treated Patient 4, a 23-year-old male at the time, from May 2015 through
20 October 2018. Respondent diagnosed him with anxiety, depressed mood, attention deficit
21 "secondary to NP variance," thyroiditis, chronic pain, "[n]eurodevelopmental tachycardia," and
22 insomnia.

23 25. During his course of treatment, Respondent regularly prescribed Patient 4
24 amphetamines and opioids. There was no discussion with the patient of an opioid agreement or
25 the risks of combining opioids and ketamine. In addition, there was no risk stratification, urine
26 testing, or regular review of CURES. This was an extreme departure from the standard of care.

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28 ² As mentioned previously, in the case of Patient 3, CURES alone would be insufficient to track the patient's prescription refills that occurred out of state.

1 26. Throughout his treatment of Patient 4, Respondent failed to consult with a
2 cardiologist or any other physician regarding the patient's tachycardia. Respondent performed an
3 EEG that included a single channel of electrocardiogram (EKG); however, its diagnostic utility is
4 limited and is not intended as a replacement for a 12-lead EKG. Respondent's failure to consult
5 with a cardiologist or other specialist was a simple departure from the standard of care.

6 27. Throughout his treatment of Patient 4, Respondent regularly prescribed controlled
7 substances for pain. Discussions of the risks and benefits of these controlled substances were
8 poorly documented (or not at all), and there was no opioid agreement with the patient. This was a
9 simple departure from the standard of care.

10 28. Respondent did not make any significant effort to assure that the patient was not
11 diverting the controlled substances prescribed. There was no discussion with the patient of the
12 issue of potential diversion and no periodic urine toxicology screening (not only to look for illicit
13 or unprescribed substances but also to make sure the prescribed medications were actually being
14 taken). This was a simple departure from the standard of care.

15 **FIRST CAUSE FOR DISCIPLINE**

16 (Gross Negligence – Patients 1, 2, 3, and 4)

17 29. Respondent's license is subject to disciplinary action under section 2234, subdivision
18 (b), of the Code in that he committed gross negligence in his care and treatment of Patients 1, 2,
19 3, and 4. The circumstances are as follows:

20 30. Complainant refers to and, by this reference, incorporates paragraphs 7 through 28,
21 above, as though set forth fully herein.

22 31. Respondent failed to adequately perform risk stratification during his course of
23 treatment of Patients 1, 2, 3, and 4, which constitutes gross negligence.

24 **SECOND CAUSE FOR DISCIPLINE**

25 (Repeated Negligent Acts – Patients 1, 2, 3, and 4)

26 32. Respondent is further subject to disciplinary action under section 2234, subdivision
27 (c), of the Code in that he committed repeated negligent acts in his care and treatment of Patients
28 1, 2, 3, and 4. The circumstances are as follows:

1 33. Complainant refers to and, by this reference, incorporates paragraphs 7 through 28,
2 above, as though set forth fully herein.

3 34. Respondent's treatment of Patients 1, 2, 3, and 4 include the following acts and/or
4 omissions which constitute repeated negligent acts:

5 a. The allegations of the First Cause for Discipline are incorporated by reference
6 as if fully set forth herein.

7 b. Respondent failed to document any attempts to obtain appropriate
8 documentation from other health care providers of Patients 1, 2, and 4;

9 c. Respondent inadequately documented (or did not document at all) discussions
10 of the risks and benefits of controlled substances and/or did not obtain opioid agreements with
11 Patients 1, 2, 3, and 4;

12 d. Respondent failed to document any attempts to refer Patients 2, 3, and 4 to
13 relevant specialists and/or a pain management specialist;

14 e. Respondent failed to make any significant effort to assure that the controlled
15 substances prescribed were not being diverted by Patients 1, 2, 3, and 4; and

16 f. Respondent's letter terminating the physician-patient relationship with Patient 1
17 did not (1) contain any reference to providing at least 15 days of emergency treatment and
18 prescriptions before discontinuing Respondent's availability; (2) include alternative sources of
19 medical care; or (3) contain the information necessary for Patient 1 to obtain his medical records.

20 **THIRD CAUSE FOR DISCIPLINE**

21 (Inadequate Record-Keeping – Patients 1, 2, 3, and 4)

22 35. Respondent's license is subject to disciplinary action under section 2266 of the Code
23 in that he failed to maintain adequate records concerning the care and treatment of Patients 1, 2,
24 3, and 4. The circumstances are as follows:

25 36. Complainant refers to and, by this reference, incorporates paragraphs 7 through 28,
26 above, as though set forth fully herein.

27 37. The allegations of the Second Cause for Discipline are incorporated by reference as if
28 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:

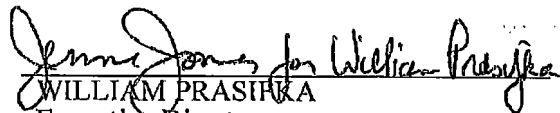
1. Revoking or suspending Physician's and Surgeon's Certificate Number C 31807, issued to Warden Hamlin Emory, M.D.;

2. Revoking, suspending or denying approval of Warden Hamlin Emory, M.D.'s authority to supervise physician assistants and advanced practice nurses;

3. If placed on probation, ordering Warden Hamlin Emory, M.D. to pay the Board the costs of probation monitoring; and

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

DATED: 12/11/2020



WILLIAM PRASITKA
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California

Complainant

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