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FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO Feb 21 20 19
BY [Signature] ANALYST

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

12 In the Matter of the Petition to Revoke
13 Probation Against:

Case No. 800-2018-046995

14 **EDWARD J. CASTNER, M.D.**
15 **501 South First Ave., Ste. #G**
Arcadia, CA 91006

PETITION TO REVOKE PROBATION

16 **Physician's and Surgeon's Certificate No. G**
17 **12103,**

Respondent.

19 Complainant alleges:

21 PARTIES

22 1. Kimberly Kirchmeyer (Complainant) brings this Petition to Revoke Probation solely
23 in her official capacity as the Executive Director of the Medical Board of California, Department
24 of Consumer Affairs.

25 2. On or about July 27, 1966, the Medical Board of California issued Physician's and
26 Surgeon's Certificate Number G 12103 to EDWARD J. CASTNER, M.D. (Respondent). The
27 Physician's and Surgeon's Certificate was in effect at all times relevant to the charges brought
28 herein and expired on August 31, 2018.

1 3. In a disciplinary action entitled "*In the Matter of Accusation Against Edward J.*
2 *Castner, M.D.*," Case No. 800-2016-027737, the Medical Board of California, issued a decision,
3 effective March 16, 2018, in which Respondent's Physician's and Surgeon's Certificate was
4 revoked. However, the revocation was stayed and Respondent's Physician's and Surgeon's
5 Certificate was placed on probation for a period of five (5) years with certain terms and
6 conditions. A copy of that decision is attached as Exhibit A and is incorporated by reference.

7 JURISDICTION

8 4. This Petition to Revoke Probation is brought before the Medical Board of California
9 (Board), Department of Consumer Affairs, under the authority of the following laws. All section
10 references are to the Business and Professions Code unless otherwise indicated.

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

15 6. Section 2234 of the Code, states:

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

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

21 "(b) Gross negligence.

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

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

27 "(2) When the standard of care requires a change in the diagnosis, act, or omission that
28 constitutes the negligent act described in paragraph (1), including, but not limited to, a

1 reevaluation of the diagnosis or a change in treatment, and the licensee's conduct departs from the
2 applicable standard of care, each departure constitutes a separate and distinct breach of the
3 standard of care.

4 "(d) Incompetence.

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

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

8 "(g) The practice of medicine from this state into another state or country without meeting
9 the legal requirements of that state or country for the practice of medicine. Section 2314 shall not
10 apply to this subdivision. This subdivision shall become operative upon the implementation of the
11 proposed registration program described in Section 2052.5.

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

15 FIRST CAUSE TO REVOKE PROBATION

16 (Psychotherapy)

17 7. At all times after the effective date of Respondent's probation, Condition 4 stated in
18 pertinent part:

19 Within 60 days from the effective date of the Decision, Respondent shall submit to the
20 Board for prior approval the name of a California-licensed board certified psychiatrist or a
21 licensed psychologist.

22 8. Respondent's probation is subject to revocation because he failed to comply with
23 Probation Condition 4, referenced above. The facts and circumstances regarding this violation
24 are as follows:

25 9. Respondent submitted Patricia M., Ph.D., but Dr. G., the physician who did the
26 Clinical Diagnostic Evaluation, had recommended that his treatment not be provided by any of
27 his colleagues in Pasadena or Arcadia. Since Dr. M. was in the Pasadena area, she was not
28 approved. Respondent failed to submit a second nomination.

1 SECOND CAUSE TO REVOKE PROBATION

2 (Clinical Diagnostic Evaluation)

3 10. At all times after the effective date of Respondent's probation, Condition 5 stated in
4 pertinent part:

5 Within 30 days of the effective date of the Decision, Respondent shall undergo and
6 complete a clinical diagnostic evaluation (CDE). The report shall set forth whether Respondent
7 has a substance abuse problem, whether he is a threat to himself or others, and recommendations
8 for substance abuse treatment, practice restrictions. Respondent shall not engage in the practice
9 of medicine until notified by the Board that he is fit to practice medicine safely. Respondent shall
10 comply with all restrictions or conditions recommended by the examiner conducting the CDE.

11 11. Respondent's probation is subject to revocation because he failed to comply with
12 Probation Condition 5, referenced above. The facts and circumstances regarding this violation
13 are as follows:

14 12. Dr. G. did the evaluation and found that Respondent has an alcohol use disorder, that
15 he is a danger to himself and others, and recommended that he enroll in a 90-day inpatient
16 program designed specifically for impaired physicians. The program that fits this criteria is the
17 Betty Ford Center. On April 16, 2018, Respondent was sent a letter informing him that he
18 completed 30 days of negative biological fluid testing but that his CDE resulted in the following
19 recommendations: enroll in a physician specific 90-day inpatient program; thereafter enroll in a
20 physician specific outpatient program; and no treatment may be provided by colleagues in
21 Pasadena or Arcadia.

22 13. The letter also indicated he needed to pay \$870.00 for the costs associated with the
23 CDE. Dr. G. had to do an amended report so the costs went up to \$945.00, however, Respondent
24 has made no payment. As of August 7, 2018, Respondent has not enrolled in a 90-day inpatient
25 program.

26 ///

27 ///

28 ///

1 THIRD CAUSE TO REVOKE PROBATION

2 (Biological Fluid Testing)

3 14. At all times after the effective date of Respondent's probation, Condition 7 stated in
4 pertinent part:

5 Respondent shall immediately submit to biological fluid testing.

6 15. Respondent's probation is subject to revocation because he failed to comply with
7 Probation Condition 7, referenced above. The facts and circumstances regarding this violation
8 are as follows:

9 16. Respondent is required to check in with First Source Solutions daily to see if he was
10 randomly selected for biological fluid testing. He failed to do so.

11 FOURTH CAUSE TO REVOKE PROBATION

12 (Substance Abuse Support Group Meetings)

13 17. At all times after the effective date of Respondent's probation, Condition 8 stated in
14 pertinent part:

15 Within 30 days of the effective date of this decision, Respondent shall submit to the Board
16 for its prior approval, the name of a substance abuse support group which he shall attend for the
17 duration of probation.

18 18. Respondent's probation is subject to revocation because he failed to comply with
19 Probation Condition 8, referenced above. The facts and circumstances regarding this violation
20 are as follows:

21 19. Respondent submitted Pasadena Council on Alcoholism and Drug Dependence, but it
22 was not approved because Dr. G. recommended no treaters in Pasadena or Arcadia. Respondent
23 failed to submit a second nomination.

24 DISCIPLINE CONSIDERATIONS

25 20. To determine the degree of discipline, if any, to be imposed on Respondent,
26 Complainant alleges that on or about March 16, 2018, in a prior disciplinary action entitled *In the*
27 *Matter of the Accusation Against Edward J. Castner, M.D.* before the Medical Board of
28 California, in Case No. 800-2016-027737, Respondent's license was revoked but the revocation

1 was stayed and placed on five years probation with several terms and conditions. That decision is
2 now final and is incorporated by reference as if fully set forth.

3
4 PRAYER

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

7 1. Revoking the probation that was granted by the Medical Board of California in Case
8 No. 800-2016-027737 and imposing the disciplinary order that was stayed thereby revoking
9 Physician's and Surgeon's Certificate No. G 12103 issued to EDWARD J. CASTNER, M.D.;

10 2. Revoking or suspending Physician's and Surgeon's Certificate No. G 12103, issued to
11 Respondent;

12 3. Revoking, suspending or denying approval of Respondent's authority to supervise
13 physician assistants and advanced practice nurses;

14 4. Ordering Respondent to pay the Medical Board of California, if placed on probation,
15 the costs of probation monitoring; and

16 5. Taking such other and further action as deemed necessary and proper.

17
18
19 DATED: February 21, 2019


KIMBERLY KIRCHMEYER
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant

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Exhibit A

Decision and Order

Medical Board of California Case No. 800-2016-027737

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

In the Matter of the First Amended)
Accusation Against:)
)
)
EDWARD J. CASTNER, M.D.)
)
Physician's and Surgeon's)
Certificate No. G12103)
)
Respondent)
_____)

Case No. 8002016027737

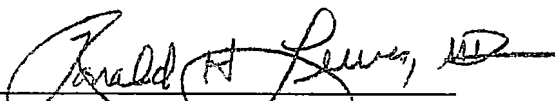
DECISION

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 March 16, 2018.

IT IS SO ORDERED: February 14, 2018.

MEDICAL BOARD OF CALIFORNIA



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

1 XAVIER BECERRA
Attorney General of California
2 E. A. JONES III
Supervising Deputy Attorney General
3 CINDY M. LOPEZ
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4 State Bar No. 119988
California Department of Justice
5 300 So. Spring Street, Suite 1702
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Facsimile: (213) 897-9395
7 *Attorneys for Complainant*

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

12 In the Matter of the Accusation Against:

13 **EDWARD J. CASTNER, M.D.**
14 **501 South First Ave., Ste. #G**
15 **Aracadia, CA 91006**

16 **Physician's and Surgeon's Certificate No. G**
17 **12103**

18 Respondent.

Case No. 800-2016-027737

OAH No. 2017070644

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

21 PARTIES

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

26 2. Respondent EDWARD J. CASTNER, M.D. (Respondent) is represented in this
27 proceeding by attorney Alexander W. Kirkpatrick, Esq., whose address is: 1990 S. Bundy Drive,
28 Suite 777, Los Angeles, CA 90025.

3. On or about July 27, 1966, the Board issued Physician's and Surgeon's Certificate No.
G 12103 to EDWARD J. CASTNER, M.D. (Respondent). The Physician's and Surgeon's

1 Certificate was in full force and effect at all times relevant to the charges brought in Accusation
2 No. 800-2016-027737, and will expire on August 31, 2018, unless renewed.

3 JURISDICTION

4 4. Accusation No. 800-2016-027737 was filed before the Board, and is currently
5 pending against Respondent. The Accusation and all other statutorily required documents were
6 properly served on Respondent on November 21, 2017. Respondent timely filed his Notice of
7 Defense contesting the Accusation.

8 5. A copy of Accusation No. 800-2016-027737 is attached as exhibit A and incorporated
9 herein by reference.

10 ADVISEMENT AND WAIVERS

11 6. Respondent has carefully read, fully discussed with counsel, and understands the
12 charges and allegations in Accusation No. 800-2016-027737. Respondent has also carefully read,
13 fully discussed with counsel, and understands the effects of this Stipulated Settlement and
14 Disciplinary Order.

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

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

23 CULPABILITY

24 9. Respondent understands and agrees that the charges and allegations in Accusation
25 No. 800-2016-027737, if proven at a hearing, constitute cause for imposing discipline upon his
26 Physician's and Surgeon's Certificate.

27 10. For the purpose of resolving the Accusation without the expense and uncertainty of
28 further proceedings, Respondent agrees that, at a hearing, Complainant could establish a factual

1 basis for the charges in the Accusation, and that Respondent hereby gives up his right to contest
2 those charges.

3
4 11. Respondent agrees that his Physician's and Surgeon's Certificate is subject to
5 discipline and he agrees to be bound by the Board's probationary terms as set forth in the
6 Disciplinary Order below.

7 CONTINGENCY

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

18 13. 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 14. 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. G 12103 issued
26 to Respondent EDWARD J. CASTNER, M.D. is revoked. However, the revocation is stayed and
27 Respondent is placed on probation for five (5) years on the following terms and conditions.

28 1. STANDARD STAY ORDER. However, revocation stayed and Respondent is placed

1 on probation for five years upon the following terms and conditions.

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

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

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

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

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

25 The psychotherapist shall consider any information provided by the Board or its designee
26 and any other information the psychotherapist deems relevant and shall furnish a written
27 evaluation report to the Board or its designee. Respondent shall cooperate in providing the
28 psychotherapist with any information and documents that the psychotherapist may deem

1 pertinent.

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

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

10
11 5. CLINICAL DIAGNOSTIC EVALUATIONS AND REPORTS: Within thirty (30)
12 calendar days of the effective date of this Decision, and on whatever periodic basis thereafter as
13 may be required by the Board or its designee, Respondent shall undergo and complete a clinical
14 diagnostic evaluation, including any and all testing deemed necessary, by a Board-appointed
15 board certified physician and surgeon. The examiner shall consider any information provided by
16 the Board or its designee and any other information he or she deems relevant, and shall furnish a
17 written evaluation report to the Board or its designee.

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

1 to practice safely. If the evaluator determines during the evaluation process that Respondent is a
2 threat to himself or herself or others, the evaluator shall notify the Board within twenty-four (24)
3 hours of such a determination.

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

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

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

26 Clinical diagnostic evaluations conducted prior to the effective date of this Decision shall
27 not be accepted towards the fulfillment of this requirement. The cost of the clinical diagnostic
28 evaluation, including any and all testing deemed necessary by the examiner, the Board or its

1 designee, shall be borne by the licensee.

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

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

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

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

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

20 7. BIOLOGICAL FLUID TESTING. Respondent shall immediately submit to
21 biological fluid testing, at Respondent's expense, upon request of the Board or its designee.
22 "Biological fluid testing" may include, but is not limited to, urine, blood, breathalyzer, hair
23 follicle testing, or similar drug screening approved by the Board or its designee. Respondent shall
24 make daily contact with the Board or its designee to determine whether biological fluid testing is
25 required. Respondent shall be tested on the date of the notification as directed by the Board or its
26 designee. The Board may order a Respondent to undergo a biological fluid test on any day, at
27 any time, including weekends and holidays. Except when testing on a specific date as ordered by
28 the Board or its designee, the scheduling of biological fluid testing shall be done on a random

1 basis. The cost of biological fluid testing shall be borne by the Respondent.

2 During the first year of probation, Respondent shall be subject to 52 to 104 random tests.
3 During the second year of probation and for the duration of the probationary term, up to five (5)
4 years, Respondent shall be subject to 36 to 104 random tests per year. Only if there has been no
5 positive biological fluid tests in the previous five (5) consecutive years of probation, may testing
6 be reduced to one (1) time per month. Nothing precludes the Board from increasing the number
7 of random tests to the first-year level of frequency for any reason.

8 Prior to practicing medicine, Respondent shall contract with a laboratory or service,
9 approved in advance by the Board or its designee, that will conduct random, unannounced,
10 observed, biological fluid testing and meets all of the following standards:

11 (a) Its specimen collectors are either certified by the Drug and Alcohol Testing Industry
12 Association or have completed the training required to serve as a collector for the United
13 States Department of Transportation.

14 (b) Its specimen collectors conform to the current United States Department of
15 Transportation Specimen Collection Guidelines.

16 (c) Its testing locations comply with the Urine Specimen Collection Guidelines published
17 by the United States Department of Transportation without regard to the type of test
18 administered.

19 (d) Its specimen collectors observe the collection of testing specimens.

20 (e) Its laboratories are certified and accredited by the United States Department of Health
21 and Human Services.

22 (f) Its testing locations shall submit a specimen to a laboratory within one (1) business day
23 of receipt and all specimens collected shall be handled pursuant to chain of custody
24 procedures. The laboratory shall process and analyze the specimens and provide legally
25 defensible test results to the Board within seven (7) business days of receipt of the
26 specimen. The Board will be notified of non-negative results within one (1) business day
27 and will be notified of negative test results within seven (7) business days.

28 (g) Its testing locations possess all the materials, equipment, and technical expertise

1 necessary in order to test Respondent on any day of the week.

2 (h) Its testing locations are able to scientifically test for urine, blood, and hair specimens
3 for the detection of alcohol and illegal and controlled substances.

4 (i) It maintains testing sites located throughout California.

5 (j) It maintains an automated 24-hour toll-free telephone system and/or a secure on-line
6 computer database that allows the Respondent to check in daily for testing.

7 (k) It maintains a secure, HIPAA-compliant website or computer system that allows staff
8 access to drug test results and compliance reporting information that is available 24 hours a
9 day.

10 (l) It employs or contracts with toxicologists that are licensed physicians and have
11 knowledge of substance abuse disorders and the appropriate medical training to interpret
12 and evaluate laboratory biological fluid test results, medical histories, and any other
13 information relevant to biomedical information.

14 (m) It will not consider a toxicology screen to be negative if a positive result is obtained
15 while practicing, even if the Respondent holds a valid prescription for the substance.

16 Prior to changing testing locations for any reason, including during vacation or other travel,
17 alternative testing locations must be approved by the Board and meet the requirements above.

18 The contract shall require that the laboratory directly notify the Board or its designee of
19 non-negative results within one (1) business day and negative test results within seven (7)
20 business days of the results becoming available. Respondent shall maintain this laboratory or
21 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 a biological fluid test result indicates Respondent has used, consumed, ingested, or
25 administered to himself or herself a prohibited substance, the Board shall order Respondent to
26 cease practice and instruct Respondent to leave any place of work where Respondent is practicing
27 medicine or providing medical services. The Board shall immediately notify all of Respondent's
28 employers, supervisors and work monitors, if any, that Respondent may not practice medicine or

1 provide medical services while the cease-practice order is in effect.

2 A biological fluid test will not be considered negative if a positive result is obtained while
3 practicing, even if the practitioner holds a valid prescription for the substance. If no prohibited
4 substance use exists, the Board shall lift the cease-practice order within one (1) business day.

5 After the issuance of a cease-practice order, the Board shall determine whether the positive
6 biological fluid test is in fact evidence of prohibited substance use by consulting with the
7 specimen collector and the laboratory, communicating with the licensee, his or her treating
8 physician(s), other health care provider, or group facilitator, as applicable.

9 For purposes of this condition, the terms "biological fluid testing" and "testing" mean the
10 acquisition and chemical analysis of a Respondent's urine, blood, breath, or hair.

11 For purposes of this condition, the term "prohibited substance" means an illegal drug, a
12 lawful drug not prescribed or ordered by an appropriately licensed health care provider for use by
13 Respondent and approved by the Board, alcohol, or any other substance the Respondent has been
14 instructed by the Board not to use, consume, ingest, or administer to himself or herself.

15 If the Board confirms that a positive biological fluid test is evidence of use of a prohibited
16 substance, Respondent has committed a major violation, as defined in section 1361.52(a), and the
17 Board shall impose any or all of the consequences set forth in section 1361.52(b), in addition to
18 any other terms or conditions the Board determines are necessary for public protection or to
19 enhance Respondent's rehabilitation.

20 8. SUBSTANCE ABUSE SUPPORT GROUP MEETINGS. Within thirty (30) days of
21 the effective date of this Decision, Respondent shall submit to the Board or its designee, for its
22 prior approval, the name of a substance abuse support group which he or she shall attend for the
23 duration of probation. Respondent shall attend substance abuse support group meetings at least
24 once per week, or as ordered by the Board or its designee. Respondent shall pay all substance
25 abuse support group meeting costs.

26 The facilitator of the substance abuse support group meeting shall have a minimum of three
27 (3) years experience in the treatment and rehabilitation of substance abuse, and shall be licensed
28 or certified by the state or nationally certified organizations. The facilitator shall not have a

1 current or former financial, personal, or business relationship with Respondent within the last five
2 (5) years. Respondent's previous participation in a substance abuse group support meeting led by
3 the same facilitator does not constitute a prohibited current or former financial, personal, or
4 business relationship.

5 The facilitator shall provide a signed document to the Board or its designee showing
6 Respondent's name, the group name, the date and location of the meeting, Respondent's
7 attendance, and Respondent's level of participation and progress. The facilitator shall report any
8 unexcused absence by Respondent from any substance abuse support group meeting to the Board,
9 or its designee, within twenty-four (24) hours of the unexcused absence.

10 9. WORKSITE MONITOR FOR SUBSTANCE-ABUSING LICENSEE. Within thirty
11 (30) calendar days of the effective date of this Decision, Respondent shall submit to the Board or
12 its designee for prior approval as a worksite monitor, the name and qualifications of one or more
13 licensed physician and surgeon, other licensed health care professional if no physician and
14 surgeon is available, or, as approved by the Board or its designee, a person in a position of
15 authority who is capable of monitoring the Respondent at work.

16 The worksite monitor shall not have a current or former financial, personal, or familial
17 relationship with Respondent, or any other relationship that could reasonably be expected to
18 compromise the ability of the monitor to render impartial and unbiased reports to the Board or its
19 designee. If it is impractical for anyone but Respondent's employer to serve as the worksite
20 monitor, this requirement may be waived by the Board or its designee, however, under no
21 circumstances shall Respondent's worksite monitor be an employee or supervisee of the licensee.

22 The worksite monitor shall have an active unrestricted license with no disciplinary action
23 within the last five (5) years, and shall sign an affirmation that he or she has reviewed the terms
24 and conditions of Respondent's disciplinary order and agrees to monitor Respondent as set forth
25 by the Board or its designee.

26 Respondent shall pay all worksite monitoring costs.

27 The worksite monitor shall have face-to-face contact with Respondent in the work
28 environment on as frequent a basis as determined by the Board or its designee, but not less than

1 once per week; interview other staff in the office regarding Respondent's behavior, if requested
2 by the Board or its designee; and review Respondent's work attendance.

3 The worksite monitor shall verbally report any suspected substance abuse to the Board and
4 Respondent's employer or supervisor within one (1) business day of occurrence. If the suspected
5 substance abuse does not occur during the Board's normal business hours, the verbal report shall
6 be made to the Board or its designee within one (1) hour of the next business day. A written
7 report that includes the date, time, and location of the suspected abuse; Respondent's actions; and
8 any other information deemed important by the worksite monitor shall be submitted to the Board
9 or its designee within 48 hours of the occurrence.

10 The worksite monitor shall complete and submit a written report monthly or as directed by
11 the Board or its designee which shall include the following: (1) Respondent's name and
12 Physician's and Surgeon's Certificate number; (2) the worksite monitor's name and signature; (3)
13 the worksite monitor's license number, if applicable; (4) the location or location(s) of the
14 worksite; (5) the dates Respondent had face-to-face contact with the worksite monitor; (6) the
15 names of worksite staff interviewed, if applicable; (7) a report of Respondent's work attendance;
16 (8) any change in Respondent's behavior and/or personal habits; and (9) any indicators that can
17 lead to suspected substance abuse by Respondent. Respondent shall complete any required
18 consent forms and execute agreements with the approved worksite monitor and the Board, or its
19 designee, authorizing the Board, or its designee, and worksite monitor to exchange information.

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

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

28 Respondent shall submit quarterly declarations not later than 10 calendar days after the end

1 of the preceding quarter.

2 15. GENERAL PROBATION REQUIREMENTS.

3 Compliance with Probation Unit

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

5 Address Changes

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

11 Place of Practice

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

15 License Renewal

16 Respondent shall maintain a current and renewed California physician's and surgeon's
17 license.

18 Travel or Residence Outside California

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

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

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

28 17. NON-PRACTICE WHILE ON PROBATION. Respondent shall notify the Board or

1 its designee in writing within 15 calendar days of any periods of non-practice lasting more than
2 30 calendar days and within 15 calendar days of Respondent's return to practice. Non-practice is
3 defined as any period of time Respondent is not practicing medicine as defined in Business and
4 Professions Code sections 2051 and 2052 for at least 40 hours in a calendar month in direct
5 patient care, clinical activity or teaching, or other activity as approved by the Board. If
6 Respondent resides in California and is considered to be in non-practice, Respondent shall
7 comply with all terms and conditions of probation. All time spent in an intensive training
8 program which has been approved by the Board or its designee shall not be considered non-
9 practice and does not relieve Respondent from complying with all the terms and conditions of
10 probation. Practicing medicine in another state of the United States or Federal jurisdiction while
11 on probation with the medical licensing authority of that state or jurisdiction shall not be
12 considered non-practice. A Board-ordered suspension of practice shall not be considered as a
13 period of non-practice.

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

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

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

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

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

1 be fully restored.

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

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

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


24
25 ACCEPTANCE

26 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
27 discussed it with my attorney, Alexander W. Kirkpatrick, Esq. I understand the stipulation and
28 the effect it will have on my Physician's and Surgeon's Certificate. I enter into this Stipulated

1 Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be
2 bound by the Decision and Order of the Medical Board of California.

3
4 DATED:

12/21/17


EDWARD J. CASTNER, M.D.
Respondent

6 I have read and fully discussed with Respondent EDWARD J. CASTNER, M.D. the terms
7 and conditions and other matters contained in the above Stipulated Settlement and Disciplinary
8 Order. I approve its form and content.

9 DATED:

12/18/17


ALEXANDER W. KIRKPATRICK, ESQ.
Attorney for Respondent

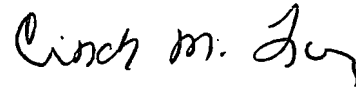
11
12 ENDORSEMENT

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

15 Dated: 1.3.18

Respectfully submitted,

16 XAVIER BECERRA
Attorney General of California
17 E. A. JONES III
Supervising Deputy Attorney General



18 CINDY M. LOPEZ
19 Deputy Attorney General
20 Attorneys for Complainant

21
22
23 LA2017504560
24 Stipulation.rtf

Exhibit A

Accusation No. 800-2016-027737

1 XAVIER BECERRA
Attorney General of California
2 E. A. JONES III
Supervising Deputy Attorney General
3 CINDY M. LOPEZ
Deputy Attorney General
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California Department of Justice
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7 *Attorneys for Complainant*

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO Nov. 21 2017
BY [Signature] ANALYST

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

11 In the Matter of the First Amended Accusation
12 Against:

Case No. 800-2016-027737

13 **EDWARD J. CASTNER, M.D.**
14 501 South First Avenue, Suite G
Arcadia, CA 91006

FIRST AMENDED ACCUSATION

15 Physician's and Surgeon's Certificate
16 No. G 12103,

17 Respondent.

18
19 Complainant alleges:

20 **PARTIES**

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

24 2. On or about July 27, 1966, the Medical Board issued Physician's and Surgeon's
25 Certificate Number G 12103 to Edward J. Castner, M.D. (Respondent). The Physician's and
26 Surgeon's Certificate was in full force and effect at all times relevant to the charges brought
27 herein and will expire on August 31, 2018, unless renewed. On or about May 3, 2017, an interim
28 order was issued pursuant to Government Code section 11529 that required Respondent to abstain

1 from alcohol and required random biological fluid testing. On May 25, 2017, a cease practice
2 order was issued and is currently in effect.

3 **JURISDICTION**

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

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

11 5. Section 2234 of the Code provides, in pertinent part, that "The board shall take action
12 against any licensee who is charged with unprofessional conduct."

13 6. Section 2236 of the Code provides, in pertinent part, that conviction of any offense
14 substantially related to the qualifications, function or duties of a physician constitute
15 unprofessional conduct.

16 7. Section 2239 of the Code states, in pertinent part:

17 "(a) The use or prescribing for or administering to himself or herself, of any controlled
18 substance; or the use of any of the dangerous drugs specified in Section 4022, or of alcoholic
19 beverages, to the extent, or in such a manner as to be dangerous or injurious to the licensee, or to
20 any other person or to the public, or to the extent that such use impairs the ability of the licensee
21 to practice medicine safely or more than one misdemeanor or any felony involving the use,
22 consumption, or self administration of any of the substances referred to in this section, or any
23 combination thereof, constitutes unprofessional conduct. The record of the conviction is
24 conclusive evidence of such unprofessional conduct."
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1 CAUSES FOR DISCIPLINE

2 I

3 (Conviction and Use of Alcohol In a Manner Dangerous To the Licensee or Others)

4 8. Respondent is subject to disciplinary action under sections 2236 and 2239,
5 subdivision (a), in that he was convicted of driving under the influence, and appeared at his office
6 to be under the influence of alcohol. The circumstances are as follows:

7 A. On December 28, 2016, Respondent was arrested for driving under the influence
8 (DUI). The circumstances are as follows: A witness named Mr. D., who lives in the same
9 complex as does Respondent, saw Respondent in his car in the parking area. Mr. D. watched him
10 strike a gate, and then Respondent backed up, reversed into a wall and hit several poles and rain
11 gutters, then he reversed and hit another pole. Respondent almost hit Mr. D. and his vehicle.
12 When police officers were called to the scene and looked at Respondent's car, they observed a lot
13 of damage. This was at about 1:30 in the afternoon.

14 B. An officer from Arcadia Police Department contacted Respondent at his apartment.
15 Respondent admitted he was driving his car and hit the gate. The officer could smell a strong
16 odor of alcohol, Respondent had slurred speech and was unstable on his feet. Respondent told
17 the officer that he started drinking at 8:00 that morning and allegedly stopped at 9:30; he had two
18 glasses of wine.

19 C. Respondent was asked to perform field sobriety tests. Respondent did a breath test at
20 the scene and the results were a .192 and .187. Based on the totality of the circumstances, the
21 officer arrested Respondent for a DUI.

22 D. In the case of *The People of the State of California v. Edward John Castner*, Case No.
23 7PD25902, the District Attorney of the County of Los Angeles charged Respondent with a
24 violation of Vehicle code section 23152, subdivision (a) and (b), driving under the influence of
25 alcohol.

26 E. On August 4, 2017, Respondent pled nolo contendere to a violation of Vehicle code
27 section 23152, subdivision (b). He was placed on summary probation for three years, and ordered
28 to participate in a 3-month first offender alcohol and drug education course.

1 F. V.C. began working for a doctor named Dr. D. in about November 2015 as her office
2 manager and they shared office space with Respondent. V.C. started to notice that Respondent
3 would fail to show up at the office, and when he did he smelled like alcohol, and had slurred
4 speech. When V.C. asked the people who worked for Respondent what was wrong, she was told
5 that Respondent was drinking.

6 G. Around the summer of 2015, L.P., one of Respondent's employees, noticed that
7 Respondent would come into the office stumbling, smelling like alcohol, and red in the face. She
8 would oftentimes have to reschedule patient appointments.

9 H. L.P. recalls an incident when a patient flew in from another city to get a prescription
10 refill. Respondent was not at the office so they drove to his apartment. Once at the apartment,
11 L.P. saw about 10 empty wine bottles on the floor, and Respondent smelled like alcohol and was
12 very unkempt.

13 I. A Medical Board expert reviewed the case and opined that based on the above
14 evidence, it appears Respondent may have an alcohol use disorder. The expert opined that
15 Respondent is not able to safely engage in the practice of medicine and he poses an imminent
16 danger to public safety.

17 J. In September 2017, the Board received a patient complaint from J.O.S. She began
18 treatment with Respondent in March 2016. In September 2016, the patient was going through
19 some difficulties at work so she wanted to apply for short-term disability. J.O.S. wanted to
20 pursue the application process and tried setting up an appointment with Respondent several times.
21 In October 2016, the patient was laid off. She left several voicemail messages for Respondent
22 with no response and even went to his office but no one was there.

23 K. On May 10, 2017, J.O.S. had an appointment with Respondent at 2:00 p.m. She
24 noticed he was not behaving normally. He was slurring his words, he was slouched, and his head
25 was dropping. Respondent wrote her a prescription but she did not fill it and has not been back
26 since then. J.O.S. saw Respondent from April 2016 until May 2017, for a total of eight times.

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II

(UNPROFESSIONAL CONDUCT)

9. Respondent is subject to disciplinary action under section 2234 for unprofessional conduct when he violated the conditions of his interim suspension order. The circumstances are as follows:

~~A. Based on Respondent's DUI arrest, the allegations from ex-employees, and the results of a psychiatric review of documents, the Board filed a petition for interim suspension ("ISO"). On May 3, 2017, the ISO was issued against Respondent. The order restricted Respondent's license by ordering that he abstain from controlled substances; abstain from alcohol and products or beverages containing alcohol; and submit to random biological fluid testing.~~

B. As of May 3, the ISO went into effect. On May 9, 2017, Respondent signed a Participant Disclosure Form, where he agreed to limit his exposure to products containing alcohol, including mouthwash, over the counter medications, certain foods, and sanitizing gels.

C. On May 12 and May 17, 2017, Respondent tested positive for metabolites of alcohol, therefore, a Cease Practice Order was issued, and it is currently in effect.

D. On May 22, 2017, Respondent wrote a letter explaining that the positive results were from his use of mouthwash and after shave lotion despite signing the May 9 agreement.

E. From May 12 through October 29, 2017, Respondent was randomly tested for the presence of alcohol, and he was required to submit to urine tests. The urine is tested for Ethyl glucuronide (ETG) and Ethyl sulfate (ETS). The cut-off is 250 ETG and 50 ETS ng/mL. The result of the test was as follows: May 12, 2017, were ETG 6215/ETS 1456; positive for alcohol metabolites.

May 17, Respondent's urine results were ETG 21227/ ETS 4523; he also tested positive for Xanax;

May 23, ETG 51548/ ETS 7905, positive for alcohol metabolites, and positive for Xanax;¹

¹ Xanax is a brand name for Alpraxolam, a Schedule IV controlled substance as designated by Health and Safety Code section 11057, subdivision (c)(1), and dangerous drug as defined in Business and Professions Code section 4022. It is used to treat anxiety and panic disorder.

1 May 26, ETG 5956/ ETS 1581, positive for alcohol metabolites, and positive for Xanax;
2 May 30, ETG 22273/ ETS 3985, positive for alcohol metabolites, and positive for Xanax;
3 May 31, ETG 40422 /ETS 6548, positive for alcohol metabolites, and positive for Xanax;
4 July 12, ETG 30707/ ETS 5720, positive for alcohol metabolites, and positive for Xanax;
5 July 18, ETG 751/ ETS 296, positive for alcohol metabolites.

6 August 4, positive for Xanax;
7 August 8, positive for Xanax;
8 August 12, ETG 8446/ETS 134, positive for alcohol metabolites, and positive for Xanax;
9 August 30, positive for Xanax;
10 September 20, positive for Xanax;
11 September 22, positive for Xanax;
12 September 23, ETG 1191/ ETS 223, positive for alcohol metabolites.
13 September 26, positive for Xanax;
14 October 8, ETG 4599/ ETS 916, positive for alcohol metabolites, and positive for Xanax
15 October 9, ETG 1250/ ETS 304, positive for alcohol metabolites , and positive for Xanax
16 October 29, ETG 3194/ ETS 800, positive for alcohol metabolites.

17 F. On June 9, 2017, Respondent underwent a Phosphatidylethanol (PEth test) for
18 detection of alcohol in the blood. PEth is a direct biomarker of ethyl alcohol which forms only in
19 the presence of ethyl alcohol after the ingestion of alcohol. PEth is confirmed and reported
20 positive if the result is 20ng/mL or above. The presence of PEth is consistent with the ingestion
21 of ethyl alcohol in the 2-3 week period before the blood was drawn. Respondent's test result on
22 June 9 was 144ng/mL.

23 G. On June 21, 2017, Respondent underwent a PEth test. The result was 119ng/mL.

24 H. On September 6, 2017, Respondent underwent a PEth test in the blood. The result
25 was 41ng/ML.

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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 G 12103, issued to Edward J. Castner, M.D.;
2. Revoking, suspending or denying approval of Edward J. Castner, M.D.'s authority to supervise physician assistants and advanced practice nurses;
3. Ordering Edward J. Castner, M.D., if placed on probation, to pay the Board the costs of probation monitoring; and
4. Taking such other and further action as deemed necessary and proper.

DATED: November 21, 2017


KIMBERLY KIRCHMEYER
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant

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