

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

**In the Matter of the First)
Amended Accusation Against:)
)
)
Annamalai Ashokan, M.D.)
)
Physician's and Surgeon's)
Certificate No. A 43142)
)
Respondent)
_____)**

Case No. 800-2017-032152

DECISION

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

This Decision shall become effective at 5:00 p.m. on November 27, 2019.

IT IS SO ORDERED November 20, 2019.

MEDICAL BOARD OF CALIFORNIA

By: 
Christine J. Lally
Interim Executive Director

1 XAVIER BECERRA
Attorney General of California
2 JANE ZACK SIMON
Supervising Deputy Attorney General
3 LAWRENCE MERCER
Deputy Attorney General
4 State Bar No. 111898
455 Golden Gate Avenue, Suite 11000
5 San Francisco, CA 94102-7004
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Attorneys for Complainant

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

11 In the Matter of the First Amended Accusation
Against:

Case No. 800-2017-032152

12 **ANNAMALAI ASHOKAN, M.D.**
13 **581 McCray Street, Ste. E**
14 **Hollister, CA 95023**

**STIPULATED SURRENDER OF
LICENSE AND ORDER**

15 **Physician's and Surgeon's Certificate No. A 43142**

16 Respondent.

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

19 **PARTIES**

20 1. Christine J. Lally (Complainant) is the Interim Executive Director of the Medical
21 Board of California (Board). She brought this action solely in her official capacity and is
22 represented in this matter by Xavier Becerra, Attorney General of the State of California, by
23 Lawrence Mercer, Deputy Attorney General.

24 2. Annamalai Ashokan, M.D. (Respondent) is represented in this proceeding by his
25 attorney, Philip Heithecker, 1560 Humboldt Road, Suite 1, Chico, California 95928.

26 3. On or about September 29, 1986, the Board issued Physician's and Surgeon's
27 Certificate No. A 43142 to Annamalai Ashokan, M.D. (Respondent). The certificate was in full
28 force and effect at all times relevant to the charges brought in Accusation No. 800-2017-032152

1 and will expire on June 30, 2020, unless renewed. On June 5, 2019, an Interim Suspension Order
2 was entered, prohibiting Respondent from practicing medicine pending a final decision in this
3 disciplinary action.

4 JURISDICTION

5 4. First Amended Accusation No. 800-2017-032152 (“Accusation”) was filed before the
6 Board, and is currently pending against Respondent. The Accusation and all other statutorily
7 required documents were properly served on Respondent on July 1, 2019. Respondent timely
8 filed his Notice of Defense contesting the Accusation. A copy of Accusation No. 800-2017-
9 032152 is attached as Exhibit A and incorporated by reference.

10 ADVISEMENT AND WAIVERS

11 5. Respondent has carefully read, fully discussed with counsel, and understands the
12 charges and allegations in Accusation No. 800-2017-032152. Respondent also has carefully read,
13 fully discussed with counsel, and understands the effects of this Stipulated Surrender of License
14 and Order.

15 6. 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 7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and
22 every right set forth above.

23 CULPABILITY

24 8. Respondent understands that the charges and allegations in Accusation No. 800-2017-
25 032152, if proven at a hearing, constitute cause for imposing discipline upon his Physician’s and
26 Surgeon’s Certificate.

27 9. 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 those charges constitute cause for discipline.
2 Respondent hereby gives up his right to contest that cause for discipline exists based on those
3 charges.

4 10. Respondent understands that by signing this stipulation he enables the Board to issue
5 an order accepting the surrender of his Physician's and Surgeon's Certificate without further
6 process.

7 CONTINGENCY

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

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

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

22 ORDER

23 IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. A 43142, issued
24 to Respondent Annamalai Ashokan, M.D., is surrendered and accepted by the Board.

25 1. The surrender of Respondent's Physician's and Surgeon's Certificate and the
26 acceptance of the surrendered license by the Board shall constitute the imposition of discipline
27 against Respondent. This stipulation constitutes a record of the discipline and shall become a part
28 of Respondent's license history with the Board.

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2. Respondent shall lose all rights and privileges as a physician and surgeon in California as of the effective date of the Board's Decision and Order.

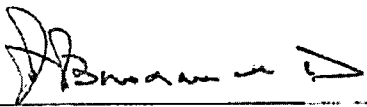
3. Respondent shall cause to be delivered to the Board his pocket license and, if one was issued, his wall certificate on or before the effective date of the Decision and Order.

4. If Respondent ever files an application for licensure or a petition for reinstatement in the State of California, the Board shall treat it as a petition for reinstatement. Respondent must comply with all the laws, regulations and procedures for reinstatement of a revoked or surrendered license in effect at the time the petition is filed, and all of the charges and allegations contained in Accusation No. 800-2017-032152 shall be deemed to be true, correct and admitted by Respondent when the Board determines whether to grant or deny the petition.

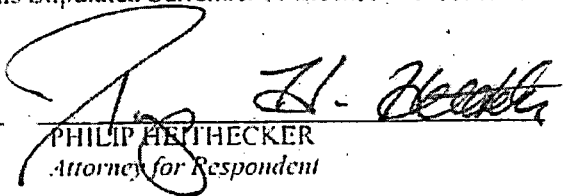
5. If Respondent should ever apply or reapply for a new license or certification, or petition for reinstatement of a license, by any other health care licensing agency in the State of California, all of the charges and allegations contained in Accusation, No. 800-2017-032152 shall be deemed to be true, correct, and admitted by Respondent for the purpose of any Statement of Issues or any other proceeding seeking to deny or restrict licensure.

ACCEPTANCE

I have carefully read the above Stipulated Surrender of License and Order and have fully discussed it with my attorney. I understand the stipulation and the effect it will have on my Physician's and Surgeon's Certificate. I enter into this Stipulated Surrender of License and Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Medical Board of California.

DATED: 11/8/19 
ANNAMALAI ASHOKAN, M.D.
Respondent

I have read and fully discussed with Respondent Annamalai Ashokan, M.D. the terms and conditions and other matters contained in this Stipulated Surrender of License and Order. I approve its form and content.

DATED: 11/11/19 
PHILIP HETTECKER
Attorney for Respondent

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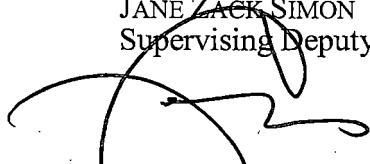
ENDORSEMENT

The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted for consideration by the Medical Board of California of the Department of Consumer Affairs.

DATED: Nov 12 2019

Respectfully submitted,

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



LAWRENCE MERCER
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 800-2017-032152

1 XAVIER BECERRA
Attorney General of California
2 JANE ZACK SIMON
Supervising Deputy Attorney General
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Deputy Attorney General
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8 **BEFORE THE**
9 **MEDICAL BOARD OF CALIFORNIA**
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11 **STATE OF CALIFORNIA**

12 In the Matter of the First Amended Accusation
Against:

13 **Annamalai Ashokan, M.D.**
14 581 McCray Street, Ste. E
Hollister, CA 95023

15
16 Physician's and Surgeon's Certificate No. A 43142,
17 Respondent.

Case No. 800-2017-032152
(Consolidated with Case
No. 800-2018-045205)

FIRST AMENDED ACCUSATION

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 September 29, 1986, the Medical Board issued Physician's and
25 Surgeon's Certificate No. A 43142 to Annamalai Ashokan, M.D. (Respondent). Effective
26 September 24, 2001, said certificate was revoked, the revocation stayed, and Respondent was
27 placed on probation for five years, with terms and conditions. Respondent completed the
28 probation and his certificate was restored to clear status, effective September 24, 2006. The

1 certificate was in full force and effect at all times relevant to the charges brought herein and will
2 expire on June 30, 2020, unless renewed. On June 5, 2019, an Administrative Law Judge issued
3 an Interim Suspension Order, suspending the certificate until the Board enters a decision on the
4 charges in this Accusation.

5 JURISDICTION

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

9 4. Section 2227 of the Code states:

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

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

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

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

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

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

23 “(b) Any matter heard pursuant to subdivision (a), except for warning letters, medical
24 review or advisory conferences, professional competency examinations, continuing education
25 activities, and cost reimbursement associated therewith that are agreed to with the board and
26 successfully completed by the licensee, or other matters made confidential or privileged by
27 existing law, is deemed public, and shall be made available to the public by the board pursuant to
28 Section 803.1.”

1 5. Section 2234 of the Code, states:

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

5 "(b) Gross negligence.

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

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

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

16 6. Section 726 of the Code states, in pertinent part:

17 "(a) The commission of any act of sexual abuse, misconduct, or relations with a patient,
18 client, or customer constitutes unprofessional conduct and grounds for disciplinary action for any
19 person licensed under this or under any initiative act referred to in this division."

20 7. Section 2242 of the Code states, in pertinent part:

21 "(a) Prescribing, dispensing, or furnishing dangerous drugs as defined in Section 4022
22 without an appropriate prior examination and a medical indication, constitutes unprofessional
23 conduct."

24 **FIRST CAUSE FOR DISCIPLINE**

25 **(Unprofessional Conduct/Repeated Negligent Acts)**

26 8. Respondent Annamalai Ashokan, M.D. is subject to disciplinary action under section
27 2234 and/or 2234(c) and/or 2242(a) in that he engaged in repeated acts or omissions constituting
28 negligence and/or unprofessional conduct. The circumstances are as follows:

1 9. At all relevant times, Respondent was board-certified in pain management.

2 10. On or about October 17, 2011, Patient 1¹, a 31 year old male, came under
3 Respondent's care and treatment for chronic pain. The patient's presenting complaint was back
4 pain that radiated into his left leg, was aggravated by bending and ascending/descending stairs,
5 and had associated symptoms, which included nocturnal awakening, nocturnal pain, spasms and
6 tingling in the legs.

7 11. Respondent obtained a brief medical, family and social history from the patient, but
8 did not review prior treatment records or refer to CURES reports² regarding his past medications.
9 Patient 1 told Respondent that he had been treated by multiple providers, who had prescribed
10 oxycodone, 30 mg, QID.³

11 12. Respondent performed a physical examination which included the back and
12 shoulders, but did not constitute the comprehensive examination that should precede initiation of
13 potent opioid therapy. Respondent noted that the patient was morbidly obese, weighing 331 lbs.

14 13. Respondent diagnosed the patient with an unspecified disorder of the lumbar region,
15 hip arthritis and morbid obesity. He stated that ideally the patient's condition could be improved
16 with weight loss, epidurals, steroid and facet injections; however, Respondent prescribed the
17 opioid medication oxycodone, 30 mg, QID, #120 for pain relief, and Medrol, 4 mg, a steroid anti-
18 inflammatory.

19 14. Respondent also obtained a urine sample, which was subsequently analyzed and
20 reported to be positive for oxycodone, as well as non-prescribed opiates and marijuana.
21 Respondent did not document a discussion with the patient regarding the positive test results.
22 Respondent did not document an informed consent discussion with the patient regarding the risks
23 of opioid therapy, nor did he establish a medication agreement with the patient by which the
24 patient agreed not to abuse his medications or to take non-prescribed drugs.

25 ¹ Patient's names are redacted to protect privacy interests.

26 ² CURES (Controlled Substance Utilization Review and Evaluation System) is a database
27 of Schedule II, III and IV controlled substance prescriptions dispensed in California serving the
28 public health, regulatory oversight agencies, and law enforcement.

³ Oxycodone is a narcotic analgesic with multiple actions similar to those of morphine.
Oxycodone is a controlled substance and is available in combination with other drugs or alone. It
can produce drug dependence and, therefore has the potential for being abused.

1 15. Respondent continued to treat Patient 1 from October 17, 2011, through April 8,
2 2013. His treatment plan consisted primarily of opioid therapy utilizing oxycodone, 30 mg, #120,
3 albeit the patient did not improve on this regimen. In October, 2012, Patient 1 again tested
4 positive for non-prescribed medications, i.e. marijuana and benzodiazepines, but Respondent did
5 not document a discussion with the patient regarding the risks of taking non-prescribed
6 medications in addition to his opioid regimen. In December, 2012, the patient requested an
7 increased dosage because "he runs out early" and Respondent complied with this request,
8 increasing the amount prescribed to #140/month. While Respondent did discuss alternative
9 treatments with the patient, Patient 1 either rejected these (e.g., steroid injections and/or
10 orthopedic evaluation) or was non-compliant (e.g., weight loss and exercise). Respondent did not
11 seek a specialty consultation or refer the patient to a pain management clinic.

12 16. On April 22, 2013, Patient 1 was seen by another physician, who performed a more
13 complete physical examination, provided Patient 1 with a final refill of his medications and
14 referred him to a pain management clinic. On May 12, 2013, Patient 1 died after a heroin
15 overdose.

16 17. Respondent is guilty of unprofessional conduct and Respondent's certificate is subject
17 to disciplinary action based on his repeated negligent acts and/or unprofessional conduct as set
18 forth above and including, but not limited to, the following:

- 19 A. Respondent failed to perform the comprehensive physical examination of the patient
20 before initiating long-term opioid medication management;
- 21 B. Respondent failed to provide and/or document informed consent and failed to establish
22 a medication agreement with Patient 1;
- 23 C. Respondent failed to follow up on positive drug screen tests, failed to utilize the
24 CURES system and failed to discuss why Patient 1 was running out of his prescribed
25 narcotics early;
- 26 D. Respondent continued the patient's medication management for back pain over many
27 months, despite his lack of improvement, without requesting a specialty consultation or
28 referring the patient to a pain management clinic.

1 **SECOND CAUSE FOR DISCIPLINE**

2 **(Unprofessional Conduct/Gross Negligence/Sexual Misconduct)**

3
4 18. Respondent Annamalai Ashokan, M.D. is subject to disciplinary action under section
5 2234 and/or 2234(b) and/or 726 in that he engaged in acts constituting unprofessional conduct,
6 gross negligence and/or sexual misconduct. The circumstances are as follows:

7 19. At all relevant times, Patient 2 was a female patient under Respondent's care for
8 treatment of chronic pain at his office in Chico, California.

9 20. On April 6, 2018, Patient 2 lay in a prone position on an examination table while
10 Respondent administered bilateral injections to her neck. Patient 2 lost consciousness. When she
11 awoke, she found that she had been shifted from the prone position on the exam table and had
12 been propped up on her side. Her clothing and bra had been moved aside and Respondent was
13 sucking on her left breast. As Patient 2 tried to get up from the examination table, she lost her
14 balance. Respondent grabbed her torso to hold her up. As he did so, his hands were on her
15 breasts, his waist was against her body and she felt his erect penis through his clothing.

16 21. Patient 2 reported what Respondent had done to her to the police. With the assistance
17 of Chico Police, a Sexual Assault Response Team (SART) examination was performed. On the
18 same day, a Butte County Superior Court judge signed a search warrant for a DNA sample from
19 Respondent. On May 22, 2018, initial test results identified male DNA on the left breast.

20 22. On June 20, 2018, Patient 2 returned to see Dr. Ashokan wearing a wire. She advised
21 Respondent that she was afraid to let him treat her again and stated that her "boob was just a little
22 weird feeling, you know? I'm married, you know?" Police officers monitored and recorded her
23 interaction with Respondent. During that meeting, Respondent apologized several times and
24 asked the patient to forgive him for what had occurred at her prior visit.

25 23. On December 6, 2018, the DOJ DNA Laboratory matched the DNA obtained from
26 the patient's left breast with the DNA on the buccal swab obtained from Respondent. On March
27 19, 2019 the Butte County District Attorney filed charges of sexual battery against Respondent.

1 DISCIPLINARY CONSIDERATIONS

2 24. To determine the degree of discipline, if any, to be imposed on Respondent
3 Annamalai Ashokan, M.D., Complainant alleges that on or about September 24, 2001, in a prior
4 disciplinary action entitled: *In the Matter of the Accusation Against Annamalai Ashokan, M.D.*
5 before the Medical Board of California, in Case Number 03-1999-95983, Respondent's certificate
6 was revoked, the revocation stayed, and Respondent was placed on probation for five years, with
7 terms and conditions. That decision is final and is incorporated by reference as if fully set forth
8 herein. Attached to and incorporated into the Decision is the underlying Accusation, which set
9 forth the charges brought against Respondent. That document alleged that Respondent
10 administered bilateral occipital injections to a female patient on February 23, 1999, after which
11 she became dizzy and nauseated. Respondent had the patient lay down on an examination table,
12 at which time he proceeded to caress her hand and the exposed skin on her midriff while he
13 rubbed his erect penis, through his clothing, against her bare right arm. He also allegedly caressed
14 the patient's nipples with his hand under her blouse. When the patient tried to rise from the table,
15 she felt dizzy and Respondent allegedly grabbed her around the waist and, while holding her
16 against his body, rubbed his erect penis against her groin area and kissed her cheek.

17 PRAYER

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

- 20 1. Revoking or suspending Physician's and Surgeon's Certificate No. A 43142, issued
21 to Respondent;
- 22 2. Revoking, suspending or denying approval of Respondent's authority to supervise
23 physician assistants and advanced practice nurses;
- 24 3. Ordering Respondent, if placed on probation, to pay the Board the costs of probation
25 monitoring; and

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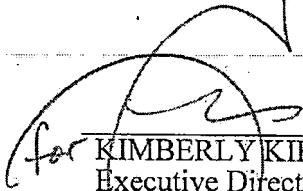
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4. Taking such other and further action as deemed necessary and proper.

DATED:

July 1, 2019



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

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