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

In the Matter of the Accusation Against: Nicholas Dean Browning, M.D. Physician's and Surgeon's Certificate No. A 81247 Respondent.	Case No. 800-2020-070753

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 April 27, 2021.

IT IS SO ORDERED April 20, 2021.

MEDICAL BOARD OF CALIFORNIA

William Prasifka
Executive Director

MATTHEW RODRIQUEZ
Acting Attorney General of California
JANE ZACK SIMON
Supervising Deputy Attorney General
LAWRENCE MERCER
Deputy Attorney General
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Attorneys for Complainant

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

In the Matter of the Accusation Against: **NICHOLAS DEAN BROWNING, M.D.** Kaiser Permanente Hospital 1425 S Main St Walnut Creek, CA 94596-5318 Physician's and Surgeon's Certificate No. A81247 Respondent.	Case No. 800-2020-070753 **STIPULATED SURRENDER OF LICENSE AND ORDER**

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

PARTIES

1. William Prasifka (Complainant) is the Executive Director of the Medical Board of California (Board). He brought this action solely in his official capacity and is represented in this matter by Matthew Rodriquez, Attorney General of the State of California, by Lawrence Mercer, Deputy Attorney General.

2. Nicholas Dean Browning, M.D. (Respondent) is represented in this proceeding by attorney Marglyn Paseka, whose address is: 50 California Street, 34th Floor, San Francisco, CA 94111 .

3. On November 27, 2002, the Medical Board of California issued Physician's and Surgeon's Certificate Number A81247 to Nicholas Dean Browning, M.D. (Respondent). The certificate is renewed and current with an expiration date of February 28, 2022. Currently, license fees waived because the license is in disabled status and Respondent is not permitted to practice medicine.

JURISDICTION

4. Accusation No. 800-2020-070753 was filed before the Board, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on April 2, 2021. Respondent timely filed his Notice of Defense contesting the Accusation. A copy of Accusation No. 800-2020-070753 is attached as Exhibit A and incorporated by reference.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 800-2020-070753. Respondent also has carefully read, fully discussed with counsel, and understands the effects of this Stipulated Surrender of License and Order.

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

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

CULPABILITY

8. Respondent understands that the charges and allegations in Accusation No. 800-2020-070753, if proven at a hearing, constitute cause for imposing discipline upon his Physician's and Surgeon's Certificate.

9. For the purpose of resolving the Accusation without the expense and uncertainty of further proceedings, Respondent agrees that, at a hearing, Complainant could establish a factual basis for the charges in the Accusation and that those charges constitute cause for discipline. Respondent hereby gives up his right to contest that cause for discipline exists based on those charges.

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

CONTINGENCY

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

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

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

ORDER

IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. A81247, issued to Respondent Nicholas Dean Browning, M.D., is surrendered and accepted by the Board.

1. The surrender of Respondent's Physician's and Surgeon's Certificate and the acceptance of the surrendered license by the Board shall constitute the imposition of discipline

against Respondent. This stipulation constitutes a record of the discipline and shall become a part of Respondent's license history with the Board.

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 understands that because this surrender of license is based on Section 822 of the Code, he may not petition for reinstatement as a physician and surgeon for a period of one (1) year from the effective date of his surrender. Information gathered in connection with the Accusation may be considered by the Board in determining whether to grant or deny the petition for reinstatement. For the purposes of the reinstatement hearing, the allegations contained in the Accusation shall be deemed to be admitted by Respondent, and Respondent waives any and all defenses based on a claim of laches or the statute of limitations.

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ACCEPTANCE

I have carefully read the above Stipulated Surrender of License and Order and have fully discussed it with my attorney Marglyn Paseka. 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: 04 / 06 / 2021

Nicholas Browning, MD

NICHOLAS DEAN BROWNING, M.D.
Respondent

I have read and fully discussed with Respondent Nicholas Dean Browning, 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: 04 / 06 / 2021

M. Paseka

MARGLYN PASEKA
Attorney for Respondent

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: April 6 2021

Respectfully submitted,

MATTHEW RODRIQUEZ
Acting 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. 800-2020-070753

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

In the Matter of the Accusation Against: **Nicholas Dean Browning, M.D.** Kaiser Permanente Hospital 1425 South Main Street Walnut Creek CA 94596 Physician's and Surgeon's Certificate No. A81247, Respondent.	Case No. 800-2020-070753 **A C C U S A T I O N**

PARTIES

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

2. On November 27, 2002, the Medical Board of California issued Physician's and Surgeon's Certificate Number A81247 to Nicholas Dean Browning, M.D. (Respondent). The certificate is renewed and current with an expiration date of February 28, 2022. Currently, license fees are waived because the license is in disabled status and Respondent is not permitted to

practice medicine. At all relevant times, Respondent was a licensed physician and hospitalist with a practice in Internal Medicine.

JURISDICTION

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

4. Section 2227 of the Code states:

> (a) A licensee whose matter has been heard by an administrative law judge of the Medical Quality Hearing Panel as designated in Section 11371 of the Government Code, or whose default has been entered, and who is found guilty, or who has entered into a stipulation for disciplinary action with the board, may, in accordance with the provisions of this chapter:
>
> (1) Have his or her license revoked upon order of the board.
>
> (2) Have his or her right to practice suspended for a period not to exceed one year upon order of the board.
>
> (3) Be placed on probation and be required to pay the costs of probation monitoring upon order of the board.
>
> (4) Be publicly reprimanded by the board. The public reprimand may include a requirement that the licensee complete relevant educational courses approved by the board.
>
> (5) Have any other action taken in relation to discipline as part of an order of probation, as the board or an administrative law judge may deem proper.
>
> (b) Any matter heard pursuant to subdivision (a), except for warning letters, medical review or advisory conferences, professional competency examinations, continuing education activities, and cost reimbursement associated therewith that are agreed to with the board and successfully completed by the licensee, or other matters made confidential or privileged by existing law, is deemed public, and shall be made available to the public by the board pursuant to Section 803.1.

5. Section 2234 of the Code, states that the board shall take action against any licensee who is charged with unprofessional conduct.

6. Section 820 of the Code states:

> Whenever it appears that any person holding a license, certificate or permit under this division or under any initiative act referred to in this division may be unable to practice his or her profession safely because the licentiate's ability to practice is impaired due to mental illness, or physical illness affecting competency, the licensing agency may order the licentiate to be examined by one or more physicians and surgeons or psychologists designated by the agency. The report of the

examiners shall be made available to the licentiate and may be received as direct evidence in proceedings conducted pursuant to Section 822.

7. Section 822 of the Code states:

If a licensing agency determines that its licentiate's ability to practice his or her profession safely is impaired because the licentiate is mentally ill, or physically ill affecting competency, the licensing agency may take action by any one of the following methods:

(a) Revoking the licentiate's certificate or license.

(b) Suspending the licentiate's right to practice.

(c) Placing the licentiate on probation.

(d) Taking such other action in relation to the licentiate as the licensing agency in its discretion deems proper.

The licensing section shall not reinstate a revoked or suspended certificate or license until it has received competent evidence of the absence or control of the condition which caused its action and until it is satisfied that with due regard for the public health and safety the person's right to practice his or her profession may be safely reinstated.

CAUSE FOR DISCIPLINE

(Mental Impairment/Unprofessional Conduct)

8. Respondent Nicholas Dean Browning, M.D. is subject to disciplinary action under sections 2234 and 822 in that Respondent engaged in unprofessional conduct and Respondent suffers from a mental illness which impairs his ability to practice safely. The circumstances are as follows:

9. On September 9, 2020, the Board received notification from the Bureau of Criminal Identification and Information (CII) that Nicholas Dean Browning was arrested on September 8, 2020, on charges of violation of Penal Code § 422(a) [threats to commit a crime that will result in death or great bodily injury to another] in Placer County, California. Briefly stated, Respondent engaged in a course of conduct and made threats that caused other persons to have fears for their safety.

10. Respondent was again arrested on September 14, 2020, on charges of violation of Penal Code § 422(a) [threats to commit a crime that will result in death or great bodily injury to another], as well as making a false bomb threat and possession of a concealed pen knife, in

Monterey County, California. Briefly stated, Respondent engaged in a course of conduct and made threats that caused other persons to have fears for their safety.

11. The Board also learned that Respondent's behaviors at other times raised a concern that he might be a threat to himself and others, resulting in additional contacts with law enforcement and two involuntary (Welfare and Institutions Code § 5150) psychiatric holds in July and September, 2020.

12. Pursuant to Business and Professions Code § 820, the Medical Board issued an Order Compelling Psychiatric Examination on January 7, 2021.

13. On February 15, 2021, Respondent underwent a psychiatric examination. On February 28, 2021, the psychiatrist who examined Respondent stated that he suffers from a mental illness, Bipolar I Disorder, which impairs his ability to practice medicine safely. The psychiatrist stated that Respondent's psychiatric condition is associated with recurrent periods of psychotic symptoms including impaired reality testing, judgment and impulse control and that his continued practice posed a risk to the public health, safety and welfare. The psychiatrist recommended that Respondent be prohibited from engaging in the practice of medicine until there is medical evidence that his condition is controlled to the extent that he is able to safely engage in the practice of medicine.

14. On March 26, 2021, the Board filed a Petition for Interim Suspension Order.

15. By reason of the premises, Respondent is subject to disciplinary action pursuant to Business and Professions Code §§ 2227 and 822, in that Respondent suffers from a mental illness which has resulted in aberrant behaviors and impaired his ability to practice medicine safely.

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 A81247, issued to Nicholas Dean Browning, M.D.;

2. Revoking, suspending or denying approval of Nicholas Dean Browning, M.D.'s authority to supervise physician assistants and advanced practice nurses;

3. Ordering Nicholas Dean Browning, 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: APR 0 2 2021

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

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