

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

In the Matter of the Accusation
Against:

Michael Alan Rudolph, M.D.

Physician's and Surgeon's
Certificate No. G48974

Respondent

Case No. 800-2019-060550

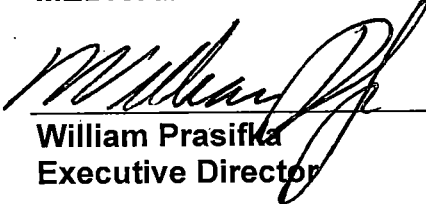
DECISION

The attached Stipulated Surrender of License 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 May 14, 2021.

IT IS SO ORDERED May 7, 2021.

MEDICAL BOARD OF CALIFORNIA



William Prasifka
Executive Director

1 MATTHEW RODRIQUEZ
Acting Attorney General of California
2 ALEXANDRA M. ALVAREZ
Supervising Deputy Attorney General
3 JOSEPH F. MCKENNA III
Deputy Attorney General
4 State Bar No. 231195
600 West Broadway, Suite 1800
5 San Diego, California 92101
P.O. Box 85266
6 San Diego, California 92186-5266
Telephone: (619) 738-9417
7 Facsimile: (619) 645-2061

8 *Attorneys for Complainant*

9
10 **BEFORE THE**
MEDICAL BOARD OF CALIFORNIA
11 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA
12

13 In the Matter of the Accusation Against:

Case No. 800-2019-060550

14 **MICHAEL ALAN RUDOLPH, M.D.**
16731 Phelps Lane
15 Huntington Beach, California 92649-3047

**STIPULATED SURRENDER OF
LICENSE AND DISCIPLINARY ORDER**

16 **Physician's and Surgeon's Certificate**
No. G 48974,

17 Respondent.
18

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

21 **PARTIES**

22 1. William Prasifka (Complainant) is the Executive Director of the Medical Board of
23 California (Board). He brought this action solely in his official capacity and is represented in this
24 matter by Matthew Rodriquez, Acting Attorney General of the State of California, and by Joseph
25 F. McKenna III, Deputy Attorney General.

26 2. Respondent Michael Alan Rudolph, M.D. (Respondent) is represented in this
27 proceeding by attorney Constance A. Endelicato, Esq., whose address is: 10960 Wilshire
28 Boulevard, Floor 18, Los Angeles, California, 90024.

1 **DISCIPLINARY ORDER**

2 IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. G 48974, issued
3 to Respondent Michael Alan Rudolph, M.D., is surrendered and accepted by the Medical Board
4 of California.

5 1. The surrender of Respondent's Physician's and Surgeon's Certificate No. G 48974
6 and the acceptance of the surrendered license by the Medial Board shall constitute the imposition
7 of discipline against Respondent. This stipulation constitutes a record of the discipline and shall
8 become a part of Respondent's license history with the Medical Board of California.

9 2. Respondent shall lose all rights and privileges as a Physician and Surgeon in
10 California as of the effective date of the Medical Board's Decision and Order.

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

14 4. If Respondent ever files an application for licensure or a petition for reinstatement of
15 Physician's and Surgeon's Certificate No. G 48974 in the State of California, the Medical Board
16 shall treat it as a petition for reinstatement. Respondent must comply with all the laws,
17 regulations, and procedures for reinstatement of a revoked license in effect at the time the petition
18 is filed, and all of the charges and allegations contained in Accusation No. 800-2019-060550 shall
19 be deemed to be true, correct, and admitted by Respondent when the Medical Board determines
20 whether to grant or deny the petition.

21 5. If Respondent should ever apply or reapply for a new license or certification, or
22 petition for reinstatement of a license, by any other health care licensing agency in the State
23 of California, all of the charges and allegations contained in Accusation No. 800-2019-060550
24 shall be deemed to be true, correct, and fully admitted by Respondent for the purpose of any
25 Statement of Issues or any other proceeding seeking to deny or restrict licensure.

26 **ACCEPTANCE**

27 I have carefully read the above Stipulated Surrender of License and Disciplinary Order and
28 have fully discussed it with my attorney, Constance A. Endelicato, Esq. I understand the


1 stipulation and the effect it will have on my Physician's and Surgeon's Certificate No. G 48974. I
2 enter into this Stipulated Surrender of License and Disciplinary Order voluntarily, knowingly, and
3 intelligently, and agree to be bound by the Decision and Order of the Medical Board of California.

4
5 DATED: 4/16/2021


6 MICHAEL ALAN RUDOLPH, M.D.
7 Respondent

8 I have read and fully discussed with Respondent Michael Alan Rudolph, M.D., the terms
9 and conditions and other matters contained in this Stipulated Surrender of License and
10 Disciplinary Order. I approve its form and content.

11 DATED: 4/16/21


12 CONSTANCE A. ENDELICATO, ESQ.
13 Attorney for Respondent

14 **ENDORSEMENT**

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

18 DATED: April 16, 2021

19 Respectfully submitted,

20 MATTHEW RODRIQUEZ
21 Acting Attorney General of California
22 ALEXANDRA M. ALVAREZ
23 Supervising Deputy Attorney General

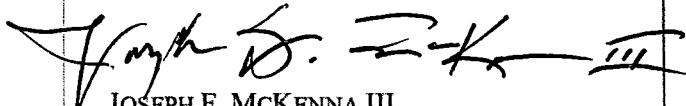

24 JOSEPH F. MCKENNA III
25 Deputy Attorney General
26 Attorneys for Complainant

Exhibit A

Accusation No. 800-2019-060550

1 XAVIER BECERRA
Attorney General of California
2 ALEXANDRA M. ALVAREZ
Supervising Deputy Attorney General
3 JOSEPH F. MCKENNA III
Deputy Attorney General
4 State Bar No. 231195
600 West Broadway, Suite 1800
5 San Diego, California 92101
P.O. Box 85266
6 San Diego, California 92186-5266
Telephone: (619) 738-9417
7 Facsimile: (619) 645-2061

8 *Attorneys for Complainant*

9
10
11
12
13
14
15
16
17
18
19

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

In the Matter of the Accusation Against:

MICHAEL ALAN RUDOLPH, M.D.
16731 Phelps Lane
Huntington Beach, California 92649-3047

Physician's and Surgeon's Certificate
No. G 48974,

Respondent.

Case No. 800-2019-060550
ACCUSATION

20
21
22
23
24
25
26
27
28

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 or about September 27, 1982, the Medical Board issued Physician's and Surgeon's Certificate No. G 48974 to Michael Alan Rudolph, M.D. (Respondent). The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought herein and will expire on July 31, 2022, unless renewed.

1 **PROCEDURAL HISTORY**

2 3. On February 10, 2021, pursuant to the provisions of California Government Code
3 section 11529, an administrative law judge issued an Interim Order Imposing License Restrictions
4 (Interim Order) restricting Physician's and Surgeon's Certificate No. G 48974, and requiring
5 Respondent to comply with multiple license restrictions including: abstain from use of controlled
6 substances, biological fluid testing, and have a worksite monitor. The Interim Order will remain
7 in effect, pending a full determination whether Respondent violated the Medical Practice Act or
8 upon further order by the Medical Board in this matter. As part of the "Stipulation of the Parties
9 re Interim Order Imposing License Restrictions" (Stipulation), Respondent agreed to and waived
10 all of his rights under California Government Code section 11529, subsections (f) and (g),
11 including, waived the right to have the interim order dissolved if an Accusation was not filed
12 within thirty (30) days of the date that the interim order was issued.

13 **JURISDICTION**

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

17 **STATUTORY PROVISIONS**

18 5. Section 2227 of the Code states:

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

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

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

27 (3) Be placed on probation and be required to pay the costs of probation
28 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.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

(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.

6. Section 2234 of the Code states, in relevant part:

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

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

...

7. Unprofessional conduct under section 2234 of the Code is conduct which breaches the rules or ethical code of the medical profession, or conduct which is unbecoming to a member in good standing of the medical profession, and which demonstrates an unfitness to practice medicine. (*Shea v. Board of Medical Examiners* (1978) 81 Cal.App.3d 564, 575.).

8. Section 2238 of the Code states:

A violation of any federal statute or federal regulation or any of the statutes or regulations of this state regulating dangerous drugs or controlled substances constitutes unprofessional conduct.

9. Section 2239 of the Code states, in relevant part:

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

...

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

10. Section 11170 of the Health and Safety Code states:

No person shall prescribe, administer, or furnish a controlled substance for himself.

11. Section 11171 of the Health and Safety Code states:

No person shall prescribe, administer, or furnish a controlled substance except under the conditions and in the manner provided by this division.

REGULATORY PROVISIONS

12. California Code of Regulations, title 16, section 1360, states, in relevant part:

(a) For the purposes of denial, suspension or revocation of a license pursuant to Section 141 or Division 1.5 (commencing with Section 475) of the code, a crime, professional misconduct, or act shall be considered to be substantially related to the qualifications, functions or duties of a person holding a license if to a substantial degree it evidences present or potential unfitness of a person holding a license to perform the functions authorized by the license in a manner consistent with the public health, safety or welfare. Such crimes, professional misconduct, or acts shall include but not be limited to the following: Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate any provision of state or federal law governing the applicant's or licensee's professional practice.

...

DRUG INFORMATION

13. Methamphetamine, commonly referred to as "meth", is a highly addictive chemical substance that affects the brain and body and is used as a stimulant. It is an illegal drug in the same class as cocaine and other powerful street drugs. It is commonly sold in crystal or powder form. Methamphetamine can be injected, smoked, snorted, or taken orally.

14. Ativan, a benzodiazepine, is a Schedule IV controlled substance pursuant to Health and Safety Code section 11057; a dangerous drug pursuant to Business and Professions Code section 4022; and can only be legally obtained through a prescription from a licensed medical provider. Ativan is a brand name for lorazepam.

////

1 FACTUAL ALLEGATIONS

2 15. On or about October 11, 2019, the Board received an online complaint regarding
3 Respondent falling asleep during patient encounters. The complainant, L.F.¹, served as a
4 language interpreter for a patient regularly seen by Respondent. L.F. would accompany the
5 patient to her medical appointments at Respondent's clinic, where she alleged that Respondent
6 would completely fall asleep in mid-sentence when talking to the patient during the clinical visits.
7 L.F. further alleged that, after dozing off, Respondent would then regain consciousness and
8 resume talking as if nothing had happened. This pattern would repeat itself during the same
9 clinical visit and had occurred at multiple clinical visits, according to L.F.

10 16. On February 11, 2020, the case was referred to the Health Quality Investigation Unit
11 (HQIU) for further investigation.

12 17. On or about February 19, 2020, HQIU Investigator L.C. made an unannounced visit
13 at Respondent's office and spoke with him. Investigator L.C. told Respondent that an allegation
14 had been made of his falling asleep while treating patients. Respondent admitted to "dozing off"
15 during patient appointments so he quit his position at an emergency medicine clinic where he had
16 been working for some time. Respondent stated that he did not have narcolepsy and that he had
17 taken Ativan nightly for approximately fifteen (15) years, but Respondent did not believe that it
18 had any effect on his ability to practice medicine safely. Respondent declined to voluntarily
19 provide a urine sample per Investigator L.C.'s request

20 18. On or about April 24, 2020, Respondent, with his attorney present, was interviewed
21 by Investigator L.C. on behalf of the Board. During this interview, Respondent listed the names
22 of the prescription medications that were currently prescribed to him, but Ativan was not one of
23 them. Respondent denied any history of illicit or recreational drug use. He stated that since
24 2018, he had been working in worker's compensation medicine, and currently worked five days a
25 week. Respondent stated that he had worked "full-time" in emergency medicine between 1997
26 until 2012. He denied ever having any lapses of consciousness. Respondent admitted that he had

27 _____
28 ¹ To protect the privacy of the complainant involved in this matter, the complainant's name has not been included in this pleading. Respondent is aware of the identity of L.F.

1 used Ativan in the past to deal with “bad insomnia,” but that he had only taken Ativan “on two
2 different occasions.” Respondent then admitted that he had fallen asleep while seeing patients,
3 that it had happened approximately three different times, and that it was because he had been
4 “real tired.” At the conclusion of the interview, Respondent agreed to provide a voluntary urine
5 sample, and he also signed voluntary agreements for a Business and Professions Code section 820
6 mental evaluation and a Business and Professions Code section physical evaluation.

7 19. On or about April 28, 2020, Respondent presented at the Tustin HQIU field office
8 and voluntarily provided a urine sample.

9 20. On or about May 12, 2020, Investigator L.C. obtained the results of Respondent’s
10 urine sample which revealed a positive result for amphetamine and methamphetamine.

11 21. On or about June 4, 2020, Investigator L.C. obtained Controlled Substance Utilization
12 Review and Evaluation System (CURES) patient activity reports for Respondent that covered the
13 date range of February 20, 2013, through June 4, 2020. According to these CURES reports,
14 Respondent did not fill any prescriptions for Ativan, or any other controlled substance
15 prescriptions, during this timeframe.

16 22. On or about July 2, 2020, Respondent voluntarily submitted to a face-to-face mental
17 evaluation by Board appointed psychiatrist, M.N., M.D.² After conducting an extensive review
18 of materials, psychiatric testing, and a face-to-face evaluation with Respondent, Dr. M.N. opined
19 that although Respondent did not have a psychiatric disorder, to be considered fully safe to
20 practice medicine, Respondent should undergo random drug testing. Dr. M.N. found that
21 Respondent’s unexplained positive drug test result for amphetamine and methamphetamine
22 necessitated random drug testing, in order to find Respondent fully safe to practice medicine.
23 Dr. M.N. also found troubling that Respondent had misused a controlled substance, which had
24 occurred when he took Ativan given to him by a friend. Dr. M.N. noted that psychiatric testing

25 ////

26 ////

27 ² Dr. M.N. is board certified in Psychiatry, Addiction Medicine, Pain Medicine,
28 Psychopharmacology, Forensic Psychiatry, and Child Psychiatry.

1 had demonstrated that Respondent may be under-reporting, and potentially raised additional
2 concerns surrounding how he was addressing his self-reported medical issue of insomnia.³

3 23. On or about July 14, 2020, Respondent voluntarily submitted to a face-to-face
4 physical evaluation by Board appointed family medicine physician, F.H., M.D.⁴ After conducting
5 an extensive review of materials and a face-to-face physical evaluation of Respondent, Dr. F.H.
6 opined that although Respondent did not present with any signs of physical ailments precluding
7 work as a physician, in order for Respondent to continue to practice medicine safely, the
8 condition of routine monitoring and random urine drug testing was necessary. Dr. F.H. found that
9 Respondent's unexplained positive urine screen for amphetamines and methamphetamines is
10 incompatible with the full certification of Respondent's ability to practice medicine safely.

11 24. On or about August 7, 2020, Investigator L.C. obtained the results of a D/L Isomer
12 test of Respondent's urine sample, which confirmed a positive result for methamphetamine.

13 **FIRST CAUSE FOR ACTION**

14 **(Use of a Controlled Substance)**

15 25. Respondent has subjected his Physician's and Surgeon's Certificate No. G 48974 to
16 disciplinary action under sections 2227 and 2234, as defined by section 2239, subdivision (a), of
17 the Code, in that he has used a controlled substance, as more particularly alleged hereinafter:

18 (a) Paragraphs 13 through 24, above, are hereby incorporated by reference
19 and realleged as if fully set forth herein.

20 **SECOND CAUSE FOR DISCIPLINE**

21 **(Violation of Statutes Regulating Dangerous Drugs and Controlled Substances)**

22 26. Respondent has further subjected his Physician's and Surgeon's Certificate No.
23 G 48974 to disciplinary action under sections 2227 and 2234, as defined by section 2238 of the
24 Code, in that Respondent has violated state statutes regulating dangerous drugs and controlled
25 substances, including, but not limited to, section 2239 of the Code; Health and Safety Code

26
27 ³ Respondent was not being treated for insomnia, and therefore was not receiving a validly
issued prescription for Ativan from a treating physician.

28 ⁴ Dr. R.F. is board certified in Family Medicine.

1 section 11170 [administering controlled substances for self-use]; and Health and Safety Code
2 section 11171 [administering controlled substances in manner not provided by law], as more
3 particularly alleged hereinafter:

4 (a) Paragraphs 13 through 24, above, are hereby incorporated by reference
5 and realleged as if fully set forth herein.

6 **THIRD CAUSE FOR DISCIPLINE**

7 **(Violation of a Provision or Provisions of the Medical Practice Act)**

8 27. Respondent has further subjected his Physician's and Surgeon's Certificate No.
9 G 48974 to disciplinary action under sections 2227 and 2234, as defined by section 2234,
10 subsection (a), in that he violated a provision or provisions of the Medical Practice Act, as more
11 particularly alleged hereinafter:

12 (a) Paragraphs 13 through 24, above, are hereby incorporated by reference
13 and realleged as if fully set forth herein.

14 **FOURTH CAUSE FOR DISCIPLINE**

15 **(Unprofessional Conduct)**

16 28. Respondent has further subjected his Physician's and Surgeon's Certificate No.
17 G 48974 to disciplinary action under sections 2227 and 2234 of the Code, as defined by section
18 1360, title 16, of the California Code of Regulations, in that Respondent has engaged in conduct
19 which breaches the rules or ethical code of the medical profession, or conduct which is
20 unbecoming to a member in good standing of the medical profession, and which demonstrates an
21 unfitness to practice medicine, as more particularly alleged in paragraphs 13 through 24, above,
22 which are hereby incorporated by reference and realleged as if fully set forth herein.

23 ////

24 ////

25 ////

26 ////

27 ////

28 ////

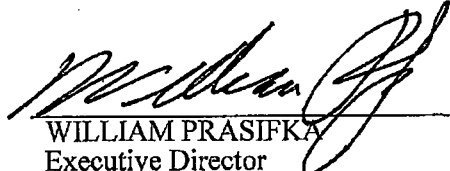
1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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 No. G 48974, issued to Respondent Michael Alan Rudolph, M.D.;
2. Revoking, suspending or denying approval of Respondent Michael Alan Rudolph, M.D.'s authority to supervise physician assistants and advanced practice nurses, pursuant to section 3527 of the Code;
3. Ordering Respondent Michael Alan Rudolph, M.D., to pay the Medical Board the costs of probation monitoring, if placed on probation; and
4. Taking such other and further action as deemed necessary and proper.

DATED: MAR 03 2021



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

SD2020800218
Doc.No.82742498