

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

In the Matter of the Accusation
Against:

Anthony Edward Allen, M.D.

Physician's and Surgeon's
Certificate No. A 73148

Respondent.

Case No.: 800-2018-041941

DECISION

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

This Decision shall become effective at 5:00 p.m. on September 22, 2021.

IT IS SO ORDERED: August 23, 2021.

MEDICAL BOARD OF CALIFORNIA



Laurie Rose Lubiano, J.D., Chair
Panel A

1 ROB BONTA
Attorney General of California
2 JANE ZACK SIMON
Supervising Deputy Attorney General
3 LAWRENCE MERCER (SBN 111898)
ANA GONZALEZ (SBN 190263)
4 Deputy Attorneys General
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5 San Francisco, CA 94102-7004
Telephone: (415) 510-3488 (Mercer)
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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 **ANTHONY EDWARD ALLEN, M.D.**
14 **2512 Telegraph Ave.**
15 **Suite 350**
16 **Berkeley CA 94704-2918**

17 **Physician's and Surgeon's Certificate No. A**
18 **73148**

19 Respondent.

Case No. 800-2018-041941

OAH No. 2021020906

STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER

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

22 **PARTIES**

23 1. William Prasifka (Complainant) is the Executive Director of the Medical Board of
24 California (Board). He brought this action solely in his official capacity and is represented in this
25 matter by Rob Bonta, Attorney General of the State of California, by Lawrence Mercer and Ana
26 Gonzalez, Deputy Attorneys General.

27 2. Respondent Anthony Edward Allen, M.D. (Respondent) is represented in this
28 proceeding by attorneys David M. Balfour and Nossaman LLP whose address is 1926 Palomar
Oaks Way, Suite 220, Carlsbad, CA 92008.

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

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

6 **CONTINGENCY**

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

17 12. Respondent agrees that if he ever petitions for early termination or modification of
18 probation, or if an accusation and/or petition to revoke probation is filed against him before the
19 Board, all of the charges and allegations contained in Accusation No. 800-2018-041941 shall be
20 deemed true, correct and fully admitted by respondent for purposes of any such proceeding or any
21 other licensing proceeding involving Respondent in the State of California.

22 13. The parties understand and agree that Portable Document Format (PDF) and facsimile
23 copies of this Stipulated Settlement and Disciplinary Order, including PDF and facsimile
24 signatures thereto, shall have the same force and effect as the originals.

25 14. In consideration of the foregoing admissions and stipulations, the parties agree that
26 the Board may, without further notice or opportunity to be heard by the Respondent, issue and
27 enter the following Disciplinary Order:
28

1 **DISCIPLINARY ORDER**

2 IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. A 73148 issued
3 to Respondent ANTHONY EDWARD ALLEN, M.D. is revoked. However, the revocation is
4 stayed and Respondent is placed on probation for three (3) years on the following terms and
5 conditions:

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

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

16 If Respondent has a confirmed positive biological fluid test for any substance (whether or
17 not legally prescribed) and has not reported the use to the Board or its designee, Respondent
18 shall receive a notification from the Board or its designee to immediately cease the practice of
19 medicine. The Respondent shall not resume the practice of medicine until the final decision on an
20 accusation and/or a petition to revoke probation is effective. An accusation and/or petition to
21 revoke probation shall be filed by the Board within 30 days of the notification to cease practice.
22 If the Respondent requests a hearing on the accusation and/or petition to revoke probation, the
23 Board shall provide the Respondent with a hearing within 30 days of the request, unless the
24 Respondent stipulates to a later hearing. If the case is heard by an Administrative Law Judge
25 alone, he or she shall forward a Proposed Decision to the Board within 15 days of submission of
26 the matter. Within 15 days of receipt by the Board of the Administrative Law Judge's proposed
27 decision, the Board shall issue its Decision, unless good cause can be shown for the delay. If the
28

1 case is heard by the Board, the Board shall issue its decision within 15 days of submission of the
2 case, unless good cause can be shown for the delay. Good cause includes, but is not limited to,
3 non-adoption of the proposed decision, requests for reconsideration, remands and other
4 interlocutory orders issued by the Board. The cessation of practice shall not apply to the
5 reduction of the probationary time period.

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

9 2. ALCOHOL - ABSTAIN FROM USE. Respondent shall abstain completely from the
10 use of products or beverages containing alcohol.

11 If Respondent has a confirmed positive biological fluid test for alcohol, Respondent shall
12 receive a notification from the Board or its designee to immediately cease the practice of
13 medicine. The Respondent shall not resume the practice of medicine until the final decision on an
14 accusation and/or a petition to revoke probation is effective. An accusation and/or petition to
15 revoke probation shall be filed by the Board within 30 days of the notification to cease practice.
16 If the Respondent requests a hearing on the accusation and/or petition to revoke probation, the
17 Board shall provide the Respondent with a hearing within 30 days of the request, unless the
18 Respondent stipulates to a later hearing. the case is heard by an Administrative Law Judge alone,
19 he or she shall forward a Proposed Decision to the Board within 15 days of submission of the
20 matter. Within 15 days of receipt by the Board of the Administrative Law Judge's proposed
21 decision, the Board shall issues its Decision, unless good cause can be shown for the delay. If the
22 case is heard by the Board, the Board shall issue its decision within 15 days of submission of the
23 case, unless good cause can be shown for the delay. Good cause includes, but is not limited to,
24 non-adoption of the proposed decision, requests for reconsideration, remands and other
25 interlocutory orders issued by the Board. The cessation of practice shall not apply to the
26 reduction of the probationary time period.

27 If the Board does not file an accusation or petition to revoke probation within 30 days of the
28 issuance of the notification to cease practice or does not provide Respondent with a hearing

1 within 30 days of such a request, the notification of cease practice shall be dissolved.

2 3. BIOLOGICAL FLUID TESTING. Respondent shall immediately submit to
3 biological fluid testing, at Respondent's expense, upon request of the Board or its designee.
4 "Biological fluid testing" may include, but is not limited to, urine, blood, breathalyzer, hair
5 follicle testing, or similar drug screening approved by the Board or its designee. Prior to
6 practicing medicine, Respondent shall contract with a laboratory or service approved in advance
7 by the Board or its designee that will conduct random, unannounced, observed, biological fluid
8 testing. The contract shall require results of the tests to be transmitted by the laboratory or
9 service directly to the Board or its designee within four hours of the results becoming available.
10 Respondent shall maintain this laboratory or service contract during the period of probation.

11 A certified copy of any laboratory test result may be received in evidence in any
12 proceedings between the Board and Respondent.

13 If Respondent fails to cooperate in a random biological fluid testing program within the
14 specified time frame, Respondent shall receive a notification from the Board or its designee to
15 immediately cease the practice of medicine. The Respondent shall not resume the practice of
16 medicine until the final decision on an accusation and/or a petition to revoke probation is
17 effective. An accusation and/or petition to revoke probation shall be filed by the Board within 30
18 days of the notification to cease practice. If the Respondent requests a hearing on the accusation
19 and/or petition to revoke probation, the Board shall provide the Respondent with a hearing within
20 30 days of the request, unless the Respondent stipulates to a later hearing. If the case is heard by
21 an Administrative Law Judge alone, he or she shall forward a Proposed Decision to the Board
22 within 15 days of submission of the matter. Within 15 days of receipt by the Board of the
23 Administrative Law Judge's proposed decision, the Board shall issue its Decision, unless good
24 cause can be shown for the delay. If the case is heard by the Board, the Board shall issue its
25 decision within 15 days of submission of the case, unless good cause can be shown for the delay.
26 Good cause includes, but is not limited to, non-adoption of the proposed decision, requests for
27 reconsideration, remands and other interlocutory orders issued by the Board. The cessation of
28 practice shall not apply to the reduction of the probationary time period.

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

4 4. PRESCRIBING PRACTICES COURSE. Within 60 calendar days of the effective
5 date of this Decision, Respondent shall enroll in a course in prescribing practices approved in
6 advance by the Board or its designee. Respondent shall provide the approved course provider
7 with any information and documents that the approved course provider may deem pertinent.
8 Respondent shall participate in and successfully complete the classroom component of the course
9 not later than six (6) months after Respondent's initial enrollment. Respondent shall successfully
10 complete any other component of the course within one (1) year of enrollment. The prescribing
11 practices course shall be at Respondent's expense and shall be in addition to the Continuing
12 Medical Education (CME) requirements for renewal of licensure.

13 A prescribing practices course taken after the acts that gave rise to the charges in the
14 Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board
15 or its designee, be accepted towards the fulfillment of this condition if the course would have
16 been approved by the Board or its designee had the course been taken after the effective date of
17 this Decision.

18 Respondent shall submit a certification of successful completion to the Board or its
19 designee not later than 15 calendar days after successfully completing the course, or not later than
20 15 calendar days after the effective date of the Decision, whichever is later.

21 5. PROFESSIONALISM PROGRAM (ETHICS COURSE). Within 60 calendar days of
22 the effective date of this Decision, Respondent shall enroll in a professionalism program, that
23 meets the requirements of Title 16, California Code of Regulations (CCR) section 1358.1.
24 Respondent shall participate in and successfully complete that program. Respondent shall
25 provide any information and documents that the program may deem pertinent. Respondent shall
26 successfully complete the classroom component of the program not later than six (6) months after
27 Respondent's initial enrollment, and the longitudinal component of the program not later than the
28 time specified by the program, but no later than one (1) year after attending the classroom

1 component. The professionalism program shall be at Respondent's expense and shall be in
2 addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

3 A professionalism program taken after the acts that gave rise to the charges in the
4 Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board
5 or its designee, be accepted towards the fulfillment of this condition if the program would have
6 been approved by the Board or its designee had the program been taken after the effective date of
7 this Decision.

8 Respondent shall submit a certification of successful completion to the Board or its
9 designee not later than 15 calendar days after successfully completing the program or not later
10 than 15 calendar days after the effective date of the Decision, whichever is later.

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

18 The psychotherapist shall consider any information provided by the Board or its designee
19 and any other information the psychotherapist deems relevant and shall furnish a written
20 evaluation report to the Board or its designee. Respondent shall cooperate in providing the
21 psychotherapist with any information and documents that the psychotherapist may deem
22 pertinent.

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

1 to resume the practice of medicine without restrictions.

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

3 7. MEDICAL EVALUATION AND TREATMENT. Within 30 calendar days of the
4 effective date of this Decision, and on a periodic basis thereafter as may be required by the Board
5 or its designee, Respondent shall undergo a medical evaluation by a Board-appointed physician
6 who shall consider any information provided by the Board or designee and any other information
7 the evaluating physician deems relevant and shall furnish a medical report to the Board or its
8 designee. Respondent shall provide the evaluating physician with any information and
9 documentation that the evaluating physician may deem pertinent.

10 Following the evaluation, Respondent shall comply with all restrictions or conditions
11 recommended by the evaluating physician within 15 calendar days after being notified by the
12 Board or its designee. If Respondent is required by the Board or its designee to undergo medical
13 treatment, Respondent shall within 30 calendar days of the requirement notice, submit to the
14 Board or its designee for prior approval the name and qualifications of a California licensed
15 treating physician of Respondent's choice. Upon approval of the treating physician, Respondent
16 shall within 15 calendar days undertake medical treatment and shall continue such treatment until
17 further notice from the Board or its designee.

18 The treating physician shall consider any information provided by the Board or its designee
19 or any other information the treating physician may deem pertinent prior to commencement of
20 treatment. Respondent shall have the treating physician submit quarterly reports to the Board or
21 its designee indicating whether or not the Respondent is capable of practicing medicine safely.
22 Respondent shall provide the Board or its designee with any and all medical records pertaining to
23 treatment that the Board or its designee deems necessary.

24 If, prior to the completion of probation, Respondent is found to be physically incapable of
25 resuming the practice of medicine without restrictions, the Board shall retain continuing
26 jurisdiction over Respondent's license and the period of probation shall be extended until the
27 Board determines that Respondent is physically capable of resuming the practice of medicine
28 without restrictions. Respondent shall pay the cost of the medical evaluation(s) and treatment.

1 8. NOTIFICATION. Within seven (7) days of the effective date of this Decision, the
2 Respondent shall provide a true copy of this Decision and Accusation to the Chief of Staff or the
3 Chief Executive Officer at every hospital where privileges or membership are extended to
4 Respondent, at any other facility where Respondent engages in the practice of medicine,
5 including all physician and locum tenens registries or other similar agencies, and to the Chief
6 Executive Officer at every insurance carrier which extends malpractice insurance coverage to
7 Respondent. Respondent shall submit proof of compliance to the Board or its designee within 15
8 calendar days.

9 This condition shall apply to any change(s) in hospitals, other facilities or insurance carrier.

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

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

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

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

21 12. GENERAL PROBATION REQUIREMENTS.

22 Compliance with Probation Unit

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

24 Address Changes

25 Respondent shall, at all times, keep the Board informed of Respondent's business and
26 residence addresses, email address (if available), and telephone number. Changes of such
27 addresses shall be immediately communicated in writing to the Board or its designee. Under no
28 circumstances shall a post office box serve as an address of record, except as allowed by Business

1 and Professions Code section 2021, subdivision (b).

2 Place of Practice

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

6 License Renewal

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

9 Travel or Residence Outside California

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

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

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

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

1 probation. Practicing medicine in another state of the United States or Federal jurisdiction while
2 on probation with the medical licensing authority of that state or jurisdiction shall not be
3 considered non-practice. A Board-ordered suspension of practice shall not be considered as a
4 period of non-practice.

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

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

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

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

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

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

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

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

16 19. FUTURE ADMISSIONS CLAUSE. If Respondent should ever apply or reapply for
17 a new license or certification, or petition for reinstatement of a license, by any other health care
18 licensing action agency in the State of California, all of the charges and allegations contained in
19 Accusation No. 800-2018-041941 shall be deemed to be true, correct, and admitted by
20 Respondent for the purpose of any Statement of Issues or any other proceeding seeking to deny or
21 restrict license.
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ACCEPTANCE

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

DATED: 6/21/21 
ANTHONY EDWARD ALLEN, M.D.
Respondent

I have read and fully discussed with Respondent Anthony Edward Allen, M.D. the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

NOSSAMAN, LLP

DATED: June 17, 2021 
DAVID M. BALFOUR
Attorneys for Respondent

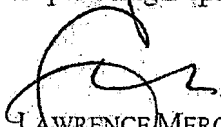
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ENDORSEMENT

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

DATED: 6/21/2021

Respectfully submitted,
ROB BONTA
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. 800-2018-041941

1 ROB BONTA
Attorney General of California
2 JANE ZACK SIMON
Supervising Deputy Attorney General
3 LAWRENCE MERCER
Deputy Attorney General
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455 Golden Gate Avenue, Suite 11000
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E-mail: Larry.mercer@doj.ca.gov
7 *Attorneys for Complainant*

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

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

14 **Anthony Edward Allen, M.D.**
15 **2512 Telegraph Ave., Suite 350**
Berkeley, CA 94704-2918

16 **Physician's and Surgeon's Certificate**
17 **No. A 73148,**

Respondent.

Case No. 800-2018-041941

OAH No. 2021020906

FIRST AMENDED ACCUSATION

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20 **PARTIES**

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

24 2. On or about September 28, 2000, the Medical Board issued Physician's and Surgeon's
25 Certificate Number A 73148 to Anthony Edward Allen, 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 July 31, 2022, unless renewed.

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JURISDICTION

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

5. Section 2234 of the Code, states:

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:

...

(b) Gross negligence.

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

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

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

6. Section 2239 of the Code states:

(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.

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

2 (a) Prescribing, dispensing, or furnishing dangerous drugs as defined in Section
3 4022 without an appropriate prior examination and a medical indication, constitutes
4 unprofessional conduct.

5 8. Section 2266 of the Code states:

6 The failure of a physician and surgeon to maintain adequate and accurate
7 records relating to the provision of services to their patients constitutes unprofessional
8 conduct.

9 **CONTROLLED SUBSTANCES**

10 9. Ambien (zolpidem) is a sedative/hypnotic used for treating insomnia. Ambien is a
11 Schedule IV controlled substance, recommended for short-term use due to the potential for
12 dependency and abuse.

13 10. Ativan (lorazepam) is a benzodiazepine used for treating anxiety. Ativan is a
14 Schedule IV controlled substance and typically prescribed for less than four months due to the
15 potential for dependency and abuse.

16 **FIRST CAUSE FOR DISCIPLINE**

17 **(Inappropriate Prescribing and Use)**

18 11. Respondent Anthony Edward Allen, M.D. is subject to disciplinary action under
19 sections 2234 and/or 2234(b) and/or 2234(c) and/or 2239 and/or 2242(a) in that Respondent
20 inappropriately prescribed controlled substances and other medications to friends, family
21 members and himself, and used the controlled substances. The circumstances are as follows:

22 12. In 2018, during the course of a Board investigation, CURES reports¹ were obtained
23 that revealed Respondent prescribed Ambien to his spouse, Ativan and Ambien to a Southern
24 California physician,² and Ativan and Lyrica to another individual in Orange County. CURES
25 reports for Respondent showed that the Southern California physician prescribed Ativan to

26
27 ¹ CURES (Controlled Substance Utilization Review and Evaluation System) is a database
28 of Schedule II, III and IV controlled substance prescriptions dispensed in California serving the
public health, regulatory oversight agencies and law enforcement.

² Names are redacted to protect privacy interests.

1 Respondent. The documented cross prescribing of controlled substances between Respondent and
2 the Southern California physician extended over a period of seven years, 2012-2018.

3 13. During an investigational interview, Respondent advised that his relationship with the
4 Southern California physician extended back to a residency program and he started prescribing
5 Ativan, as well as occasional Ambien and other hypnotic medications, to that physician during
6 that time (i.e., in or about 1998). He acknowledged that he was prescribed Ativan by the Southern
7 California physician as “a thing we did for each other” to self-treat chronic insomnia. Respondent
8 stated that the arrangement continued through 2018, at which time they ceased prescribing for one
9 another. Respondent also admitted to prescribing Ambien for his wife during the period 2012-
10 2018, as well as Ativan and Lyrica to a family friend in Orange County. When asked whether he
11 maintained medical records for these individuals, Respondent stated that he had no records for his
12 wife, but did have some records for the others.

13 14. In response to an investigational subpoena, Respondent produced a one-page record,
14 dated August 12, 2014, for one encounter with the Southern California physician. Respondent
15 described his record for the physician as an “H & P” (history and physical); however, the record
16 postdates the onset of the Respondent’s prescribing to him and lacks any substance abuse history
17 despite the fact that Respondent knew the physician was in diversion during residency and his
18 wife complained that his Ambien use was a problem. Respondent produced no record for the
19 Orange County family friend hence there was no documentation to explain why Ativan and
20 Lyrica were prescribed concurrently.

21 15. In an investigational medical evaluation, Respondent acknowledged self-prescribing
22 mirtazapine (an antidepressant), trazodone (an antidepressant and sleep medication) and Viagra.
23 He also admitted that he diverted the Ambien he prescribed to his wife for his own use.

24 16. Respondent is guilty of unprofessional conduct and Respondent’s certificate is subject
25 to disciplinary action based on his gross negligence, repeated negligent acts and/or prescribing
26 without an appropriate examination or medical indication, in that Respondent inappropriately
27 prescribed controlled substances and other medications to friends, family members and himself.

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SECOND CAUSE FOR DISCIPLINE

(Inadequate Medical Records)

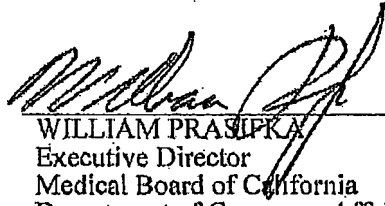
17. Respondent Anthony Edward Allen, M.D. is subject to disciplinary action under section 2266 in that, as set forth above, Respondent failed to maintain adequate and accurate records for the friends and family members to whom he prescribed.

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 A 73148, issued to Anthony Edward Allen, M.D.;
2. Revoking, suspending or denying approval of Anthony Edward Allen, M.D.'s authority to supervise physician assistants and advanced practice nurses;
3. Ordering Anthony Edward Allen, 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: MAY 25 2021



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

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