

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

**In the Matter of the Accusation Against:**

**Austin Brendlen Harris, M.D.**

**Physician's & Surgeon's  
Certificate No. A 115606**

**Case No. 800-2017-039202**

**Respondent.**

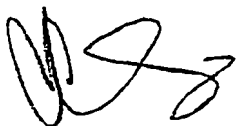
**DECISION**

**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 24, 2021.**

**IT IS SO ORDERED: August 25, 2021.**

**MEDICAL BOARD OF CALIFORNIA**



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

1 ROB BONTA  
Attorney General of California  
2 JUDITH T. ALVARADO  
Supervising Deputy Attorney General  
3 VLADIMIR SHALKEVICH  
Deputy Attorney General  
4 State Bar No. 173955  
California Department of Justice  
5 300 So. Spring Street, Suite 1702  
Los Angeles, CA 90013  
6 Telephone: (213) 269-6538  
Facsimile: (916) 731-2117  
7 *Attorneys for Complainant*

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

13 In the Matter of the Accusation Against:

14 **AUSTIN BRENDLEN HARRIS, M.D.**  
15 **12496 Nugent Dr.**  
**Granada Hills, CA 91344**

16 **Physician's and Surgeon's Certificate**  
17 **No. A 115606,**

18 Respondent.

Case No. 800-2017-039202

OAH No. 2021020577

**STIPULATED SETTLEMENT AND  
DISCIPLINARY ORDER**

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 Rob Bonta, Attorney General of the State of California, by Vladimir Shalkevich,  
25 Deputy Attorney General.

26 2. Respondent Austin Brendlen Harris, M.D. (Respondent) is represented in this  
27 proceeding by attorney Peter R. Osinoff, Esq., whose address is: 355 South Grand Avenue, Suite  
28 1750, Los Angeles, CA 90071-1562.

1           3.     On or about January 28, 2011, the Board issued Physician's and Surgeon's Certificate  
2     No. A 115606 to Austin Brendlen Harris, M.D. The Physician's and Surgeon's Certificate was in  
3     full force and effect at all times relevant to the charges brought in Accusation No. 800-2017-  
4     039202, and will expire on January 31, 2023, unless renewed.

5                                   **JURISDICTION**

6           4.     Accusation No. 800-2017-039202 was filed before the Board, and is currently  
7     pending against Respondent. The Accusation and all other statutorily required documents were  
8     properly served on Respondent on November 2, 2020. Respondent timely filed his Notice of  
9     Defense contesting the Accusation.

10          5.     A copy of Accusation No. 800-2017-039202 is attached as exhibit A and incorporated  
11     herein by reference.

12                                   **ADVISEMENT AND WAIVERS**

13          6.     Respondent has carefully read, fully discussed with counsel, and understands the  
14     charges and allegations in Accusation No. 800-2017-039202. Respondent has also carefully read,  
15     fully discussed with his counsel, and understands the effects of this Stipulated Settlement and  
16     Disciplinary Order.

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

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

25                                   **CULPABILITY**

26          9.     Respondent understands and agrees that the charges and allegations in Accusation  
27     No. 800-2017-039202, if proven at a hearing, constitute cause for imposing discipline upon his  
28     Physician's and Surgeon's Certificate.



1 deemed true, correct and fully admitted by Respondent for purposes of any such proceeding or  
2 any other licensing proceeding involving Respondent in the State of California.

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

6 17. In consideration of the foregoing admissions and stipulations, the parties agree that  
7 the Board may, without further notice or opportunity to be heard by the Respondent, issue and  
8 enter the following Disciplinary Order:

9 **DISCIPLINARY ORDER**

10 IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. A 115606 issued  
11 to Respondent AUSTIN BRENDLEN HARRIS, M.D. is revoked. However, the revocation is  
12 stayed and Respondent is placed on probation for five (5) years on the following terms and  
13 conditions:

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

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

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

26 3. **PROFESSIONALISM PROGRAM (ETHICS COURSE).** Within 60 calendar days of  
27 the effective date of this Decision, Respondent shall enroll in a professionalism program, that  
28 meets the requirements of Title 16, California Code of Regulations (CCR) section 1358.1.

Respondent shall participate in and successfully complete that program. Respondent shall provide any information and documents that the program may deem pertinent. Respondent shall successfully complete the classroom component of the program not later than six (6) months after Respondent's initial enrollment, and the longitudinal component of the program not later than the time specified by the program, but no later than one (1) year after attending the classroom component. The professionalism program shall be at Respondent's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

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

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

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

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

Respondent shall have the treating psychotherapist submit quarterly status reports to the

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

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

8 5. MONITORING - PRACTICE. Within 30 calendar days of the effective date of this  
9 Decision, Respondent shall submit to the Board or its designee for prior approval as a practice  
10 monitor(s), the name and qualifications of one or more licensed physicians and surgeons whose  
11 licenses are valid and in good standing, and who are preferably American Board of Medical  
12 Specialties (ABMS) certified. A monitor shall have no prior or current business or personal  
13 relationship with Respondent, or other relationship that could reasonably be expected to  
14 compromise the ability of the monitor to render fair and unbiased reports to the Board, including  
15 but not limited to any form of bartering, shall be in Respondent's field of practice, and must agree  
16 to serve as Respondent's monitor. Respondent shall pay all monitoring costs.

17 The Board or its designee shall provide the approved monitor with copies of the Decision(s)  
18 and Accusation(s), and a proposed monitoring plan. Within 15 calendar days of receipt of the  
19 Decision(s), Accusation(s), and proposed monitoring plan, the monitor shall submit a signed  
20 statement that the monitor has read the Decision(s) and Accusation(s), fully understands the role  
21 of a monitor, and agrees or disagrees with the proposed monitoring plan. If the monitor disagrees  
22 with the proposed monitoring plan, the monitor shall submit a revised monitoring plan with the  
23 signed statement for approval by the Board or its designee.

24 Within 60 calendar days of the effective date of this Decision, and continuing throughout  
25 probation, Respondent's practice shall be monitored by the approved monitor. Respondent shall  
26 make all records available for immediate inspection and copying on the premises by the monitor  
27 at all times during business hours and shall retain the records for the entire term of probation.

28 If Respondent fails to obtain approval of a monitor within 60 calendar days of the effective

1 date of this Decision, Respondent shall receive a notification from the Board or its designee to  
2 cease the practice of medicine within three (3) calendar days after being so notified. Respondent  
3 shall cease the practice of medicine until a monitor is approved to provide monitoring  
4 responsibility.

5 The monitor(s) shall submit a quarterly written report to the Board or its designee which  
6 includes an evaluation of Respondent's performance, indicating whether Respondent's practices  
7 are within the standards of practice of medicine, and whether Respondent is practicing medicine  
8 safely, billing appropriately or both. It shall be the sole responsibility of Respondent to ensure  
9 that the monitor submits the quarterly written reports to the Board or its designee within 10  
10 calendar days after the end of the preceding quarter.

11 If the monitor resigns or is no longer available, Respondent shall, within 5 calendar days of  
12 such resignation or unavailability, submit to the Board or its designee, for prior approval, the  
13 name and qualifications of a replacement monitor who will be assuming that responsibility within  
14 15 calendar days. If Respondent fails to obtain approval of a replacement monitor within 60  
15 calendar days of the resignation or unavailability of the monitor, Respondent shall receive a  
16 notification from the Board or its designee to cease the practice of medicine within three (3)  
17 calendar days after being so notified. Respondent shall cease the practice of medicine until a  
18 replacement monitor is approved and assumes monitoring responsibility.

19 In lieu of a monitor, Respondent may participate in a professional enhancement program  
20 approved in advance by the Board or its designee that includes, at minimum, quarterly chart  
21 review, semi-annual practice assessment, and semi-annual review of professional growth and  
22 education. Respondent shall participate in the professional enhancement program at  
23 Respondent's expense during the term of probation.

24 6. PRESENCE OF ACLS CERTIFIED STAFF DURING PROCEDURES OR  
25 INFUSIONS. During probation, when Respondent performs any medical procedure on a patient,  
26 including but not limited to, infusion or administration of any substance, another health care  
27 provider who holds an Advanced Cardiovascular Life Support Certification shall be physically  
28 present in the procedure room where the procedure and/or infusion or administration of any

1 substance occurs. Upon the effective date of this Decision, all patients receiving treatment from  
2 Respondent shall be notified of the requirement of an ACLS Certified provider being present.  
3 Any new patients must be provided this notification at the time of their initial appointment.

4 Respondent shall maintain a log of all patients to whom the required oral notification was  
5 made. The log shall contain the: 1) patient's name, address and phone number; 2) patient's  
6 medical record number, if available; 3) the full name of the person making the notification; 4) the  
7 date the notification was made; and 5) a description of the notification given. Respondent shall  
8 keep this log in a separate file or ledger, in chronological order, shall make the log available for  
9 immediate inspection and copying on the premises at all times during business hours by the Board  
10 or its designee, and shall retain the log for the entire term of probation.

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

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

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

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

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

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

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

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

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

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

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

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

27 (g) Its testing locations possess all the materials, equipment, and technical expertise  
28 necessary in order to test Respondent on any day of the week.

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

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

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

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

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

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

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

16 The contract shall require that the laboratory directly notify the Board or its designee of  
17 non-negative results within one (1) business day and negative test results within seven (7)  
18 business days of the results becoming available. Respondent shall maintain this laboratory or  
19 service contract during the period of probation.

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

22 If a biological fluid test result indicates Respondent has used, consumed, ingested, or  
23 administered to himself or herself a prohibited substance, the Board shall order Respondent to  
24 cease practice and instruct Respondent to leave any place of work where Respondent is practicing  
25 medicine or providing medical services. The Board shall immediately notify all of Respondent's  
26 employers, supervisors and work monitors, if any, that Respondent may not practice medicine or  
27 provide medical services while the cease-practice order is in effect.

28 A biological fluid test will not be considered negative if a positive result is obtained while

1 practicing, even if the practitioner holds a valid prescription for the substance. If no prohibited  
2 substance use exists, the Board shall lift the cease-practice order within one (1) business day.

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

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

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

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

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

24 The facilitator of the substance abuse support group meeting shall have a minimum of three  
25 (3) years experience in the treatment and rehabilitation of substance abuse, and shall be licensed  
26 or certified by the state or nationally certified organizations. The facilitator shall not have a  
27 current or former financial, personal, or business relationship with Respondent within the last five  
28 (5) years. Respondent's previous participation in a substance abuse group support meeting led by

1 the same facilitator does not constitute a prohibited current or former financial, personal, or  
2 business relationship.

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

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

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

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

24 Respondent shall pay all worksite monitoring costs.

25 The worksite monitor shall have face-to-face contact with Respondent in the work  
26 environment on as frequent a basis as determined by the Board or its designee, but not less than  
27 once per week; interview other staff in the office regarding Respondent's behavior, if requested  
28 by the Board or its designee; and review Respondent's work attendance. Worksite Monitor's

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

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

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

28 11. VIOLATION OF PROBATION CONDITION FOR SUBSTANCE ABUSING

1 LICENSEES. Failure to fully comply with any term or condition of probation is a violation of  
2 probation.

3 A. If Respondent commits a major violation of probation as defined by section  
4 1361.52, subdivision (a), of Title 16 of the California Code of Regulations, the Board shall take  
5 one or more of the following actions:

6 (1) Issue an immediate cease-practice order and order Respondent to undergo a clinical  
7 diagnostic evaluation to be conducted in accordance with section 1361.5, subdivision (c)(1), of  
8 Title 16 of the California Code of Regulations, at Respondent's expense. The cease-practice  
9 order issued by the Board or its designee shall state that Respondent must test negative for at least  
10 a month of continuous biological fluid testing before being allowed to resume practice. For  
11 purposes of determining the length of time a Respondent must test negative while undergoing  
12 continuous biological fluid testing following issuance of a cease-practice order, a month is  
13 defined as thirty calendar (30) days. Respondent may not resume the practice of medicine until  
14 notified in writing by the Board or its designee that he or she may do so.

15 (2) Increase the frequency of biological fluid testing.

16 (3) Refer Respondent for further disciplinary action, such as suspension, revocation, or  
17 other action as determined by the Board or its designee.

18 B. If Respondent commits a minor violation of probation as defined by section  
19 1361.52, subdivision (c), of Title 16 of the California Code of Regulations, the Board shall take  
20 one or more of the following actions:

21 (1) Issue a cease-practice order;

22 (2) Order practice limitations;

23 (3) Order or increase supervision of Respondent;

24 (4) Order increased documentation;

25 (5) Issue a citation and fine, or a warning letter;

26 (6) Order Respondent to undergo a clinical diagnostic evaluation to be conducted in  
27 accordance with section 1361.5, subdivision (c)(1), of Title 16 of the California Code of  
28 Regulations, at Respondent's expense;

1 (7) Take any other action as determined by the Board or its designee.

2 C. Nothing in this Decision shall be considered a limitation on the Board's authority  
3 to revoke Respondent's probation if he or she has violated any term or condition of probation. If  
4 Respondent violates probation in any respect, the Board, after giving Respondent notice and the  
5 opportunity to be heard, may revoke probation and carry out the disciplinary order that was  
6 stayed. If an Accusation, or Petition to Revoke Probation, or an Interim Suspension Order is filed  
7 against Respondent during probation, the Board shall have continuing jurisdiction until the matter  
8 is final, and the period of probation shall be extended until the matter is final.

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

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

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

21 14. QUARTERLY DECLARATIONS. Respondent shall submit quarterly declarations  
22 under penalty of perjury on forms provided by the Board, stating whether there has been  
23 compliance with all the conditions of probation.

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

26 15. GENERAL PROBATION REQUIREMENTS.

27 Compliance with Probation Unit

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

1       Address Changes

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

7       Place of Practice

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

11      License Renewal

12      Respondent shall maintain a current and renewed California physician's and surgeon's  
13      license.

14      Travel or Residence Outside California

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

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

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

24      17. NON-PRACTICE WHILE ON PROBATION. Respondent shall notify the Board or  
25      its designee in writing within 15 calendar days of any periods of non-practice lasting more than  
26      30 calendar days and within 15 calendar days of Respondent's return to practice. Non-practice is  
27      defined as any period of time Respondent is not practicing medicine as defined in Business and  
28      Professions Code sections 2051 and 2052 for at least 40 hours in a calendar month in direct

1 patient care, clinical activity or teaching, or other activity as approved by the Board. If  
2 Respondent resides in California and is considered to be in non-practice, Respondent shall  
3 comply with all terms and conditions of probation. All time spent in an intensive training  
4 program which has been approved by the Board or its designee shall not be considered non-  
5 practice and does not relieve Respondent from complying with all the terms and conditions of  
6 probation. Practicing medicine in another state of the United States or Federal jurisdiction while  
7 on probation with the medical licensing authority of that state or jurisdiction shall not be  
8 considered non-practice. A Board-ordered suspension of practice shall not be considered as a  
9 period of non-practice.

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

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

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

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

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

26 19. VIOLATION OF PROBATION. Failure to fully comply with any term or condition  
27 of probation is a violation of probation. If Respondent violates probation in any respect, the  
28 Board, after giving Respondent notice and the opportunity to be heard, may revoke probation and

1 carry out the disciplinary order that was stayed. If an Accusation, or Petition to Revoke  
2 Probation, or an Interim Suspension Order is filed against Respondent during probation, the  
3 Board shall have continuing jurisdiction until the matter is final, and the period of probation shall  
4 be extended until the matter is final.

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

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

20 22. FUTURE ADMISSIONS CLAUSE. If Respondent should ever apply or reapply for  
21 a new license or certification, or petition for reinstatement of a license, by any other health care  
22 licensing action agency in the State of California, all of the charges and allegations contained in  
23 Accusation No. 800-2017-039202 shall be deemed to be true, correct, and admitted by  
24 Respondent for the purpose of any Statement of Issues or any other proceeding seeking to deny or  
25 restrict license.

#### 26 ACCEPTANCE

27 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully  
28 discussed it with my attorney, Peter R. Osinoff, Esq.. I understand the stipulation and the effect it

1 will have on my Physician's and Surgeon's Certificate. I enter into this Stipulated Settlement and  
2 Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the  
3 Decision and Order of the Medical Board of California.

4  
5 DATED: 7-12-21

  
6 AUSTIN BRENDLEN HARRIS, M.D.  
7 Respondent

8 I have read and fully discussed with Respondent Austin Brendlen Harris, M.D. the terms  
9 and conditions and other matters contained in the above Stipulated Settlement and Disciplinary  
10 Order. I approve its form and content.

11 DATED: 7/12/2021

  
12 PETER R. OSINOFF, ESQ.  
13 Attorney for Respondent


14 **ENDORSEMENT**

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

17 DATED: July 12, 2021

Respectfully submitted,

18 ROB BONTA  
19 Attorney General of California  
20 JUDITH T. ALVARADO  
21 Supervising Deputy Attorney General

  
22 VLADIMIR SHALKEVICH  
23 Deputy Attorney General  
24 Attorneys for Complainant

25  
26 LA2020601504  
27 64356045.docx  
28

**Exhibit A**

**Accusation No. 800-2017-039202**

1 XAVIER BECERRA  
Attorney General of California  
2 JUDITH T. ALVARADO  
Supervising Deputy Attorney General  
3 VLADIMIR SHALKEVICH  
Deputy Attorney General  
4 State Bar No. 173955  
California Department of Justice  
5 300 So. Spring Street, Suite 1702  
Los Angeles, CA 90013  
6 Telephone: (213) 269-6538  
Facsimile: (916) 731-2117  
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 Accusation Against:

Case No. 800-2017-039202

13 **Austin Brendlen Harris, M.D.**  
14 **12460 McLennan Ave.**  
**Granada Hills, CA 91344**

**A C C U S A T I O N**

15 **Physician's and Surgeon's Certificate**  
16 **No. A 115606,**

17 **Respondent.**

18  
19 **PARTIES**

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

23 2. On or about January 28, 2011, the Medical Board issued Physician's and Surgeon's  
24 Certificate Number A 115606 to Austin Brendlen Harris, M.D. (Respondent). The Physician's  
25 and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought  
26 herein and will expire on January 31, 2021, unless renewed.

27 ///

28 ///

1

2

5

9

10

13

14

21

conviction is conclusive evidence of such unprofessional conduct.

(b) A plea or verdict of guilty or a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning of this section. The [Medical Board of California] may order discipline of the licensee in accordance with Section 2227 or the [Medical Board of California] may order the denial of the license when the time for appeal has elapsed or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code allowing such person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, complaint, information, or indictment.

### FACTUAL ALLEGATIONS

7. In or about 2002, while attending college, Respondent consumed alcohol and drove himself and friends to a local fast-food establishment to purchase food. While driving back to campus, Respondent was stopped by law enforcement for making an allegedly illegal U-turn. Respondent was arrested for drunk driving. On or about May 6, 2003, in Los Angeles County Superior Court case number 300794, entitled *People of the State of California v. Austin Brendlen Harris*, Respondent pled no-contest to, and was convicted of, a violation of Vehicle Code section 23152, subdivision (b) – driving with blood alcohol level of more than .08%. Respondent was placed on probation for, he reported, “two-and-a-half years or three years or something like that ... it overlapped into the beginning of my medical school, which started fairly shortly thereafter, about one year later.”

8. On or about November 3, 2012, Respondent was again arrested for driving under the influence of alcohol. Respondent attended a concert at a venue in West Hollywood, California, where he consumed alcohol. After the concert, he drove his vehicle and was stopped by law enforcement, for allegedly driving without headlights after dark. Respondent was arrested for drunk driving, and was taken to a local hospital where his blood was drawn for alcohol testing. On or about February 1, 2013, in Los Angeles County Superior Court case number 2BV02484, entitled *People of the State of California v. Austin Brendlen Harris*, Respondent pled no-contest to, and was convicted of, a violation of Vehicle Code section 23152, subdivision (b) – driving with blood alcohol level of more than .08%. In making his plea, Respondent admitted to the prior, 2003, conviction. Respondent was fined and sentenced to spend 4 days in the county jail;

1 summary probation for 60 months; completion of an 18-month licensed second-offender alcohol  
2 and other drug education and counseling program; to not drive with any measurable amount of  
3 alcohol in his system, and to have an ignition interlock device installed in his vehicle for one  
4 year; as well as to abide by other terms of probation.

5 9. On November 17, 2017, prior to the completion of Respondent's term of criminal  
6 probation described in paragraph 8 herein, Respondent was once again arrested for drunk driving.  
7 At approximately 7:40 a.m. on November 17, 2017, a California Highway Patrol Officer observed  
8 the aftermath of a rear-end traffic collision, at the intersection of Margarita Road and Yukon  
9 Road in Temecula, California, and stopped to investigate. Respondent's vehicle's passenger side  
10 wheels were damaged. A witness on the scene recognized Respondent as a doctor who worked at  
11 Inland Valley hospital's operating room, and related that she observed Respondent collide with a  
12 street curb near the corner of Margarita Road and La Serena Way, approximately a block away.  
13 Respondent then collided with a rear-end of another vehicle, which was stopped at a red light at  
14 Yukon Road. The driver of the other vehicle claimed to have been injured in the collision.  
15 Respondent was on his way to provide anesthesia to patients at Inland Valley Medical Center.  
16 Respondent was wearing hospital scrubs and his hospital identification badge. He also appeared  
17 intoxicated and disheveled, and his pants were falling off. A blood alcohol test administered to  
18 Respondent that morning showed that he drove with blood alcohol level of .10%.<sup>1</sup>

19 10. On or about September 19, 2019, in the Riverside County Superior Court case  
20 number SWM1800028, entitled *People of the State of California v. Austin Brendlen Harris*,  
21 Respondent was convicted by a jury of a violation of Vehicle Code section 23152, subdivision (b)  
22 – driving with blood alcohol level of more than .08%. On November 15, 2019, Respondent was  
23 fined and sentenced to 30 days in jail, with credit for one day served; 36 months of summary  
24

25 <sup>1</sup> On October 9, 2017 and on November 17, 2017, pursuant to a prescription from his  
26 doctor, Respondent was dispensed a months' supply of lorazepam, for nightly use, at a CVS  
27 pharmacy in Temecula, California. Lorazepam is a benzodiazepine sold under the trade name  
28 Ativan, which is commonly used as a sleep aid and to treat anxiety. Lorazepam is a dangerous  
drug pursuant to Business and Professions Code section 4022, and a Schedule IV controlled  
substance pursuant to Health and Safety Code section 11507 (d)(16). Lorazepam and alcohol,  
when ingested together are known to have synergistic effects, increasing the intoxicating effects  
of both.

1 probation; participation in an enhanced 18-month drinking offender program; installation of an  
2 alcohol interlock device in his vehicle; restitution to his victim, as well as other terms of summary  
3 probation.

#### 4 **FIRST CAUSE FOR DISCIPLINE**

##### 5 **(Use of Alcohol and/or Drugs in a Dangerous Manner)**

6 11. Respondent Austin Brendlen Harris, M.D. is subject to disciplinary action under  
7 section 2239 of the Code, in that Respondent used alcohol and/or drugs in a manner dangerous to  
8 himself or others and suffered more than one misdemeanor conviction involving the use of  
9 alcohol. The circumstances are as follows:

10 12. Allegations of paragraphs 7 through 10, inclusively, are incorporated herein by  
11 reference.

#### 12 **SECOND CAUSE FOR DISCIPLINE**

##### 13 **(Conviction of a Crime)**

14 13. Respondent Austin Brendlen Harris, M.D. is subject to disciplinary action under  
15 section 2236 of the Code, in that he was convicted of a crime substantially related to the  
16 qualifications, functions and duties of a physician and surgeon. The circumstances are as follows:

17 14. Allegations of paragraphs 7 through 10, inclusively, are incorporated herein by  
18 reference.

#### 19 **DISCIPLINARY CONSIDERATIONS**

20 15. To determine the degree of discipline, if any, to be imposed on Respondent Austin  
21 Brendlen Harris, M.D., Complainant alleges that on or about April 27, 2019, and May 22, 2019  
22 while actively providing in-hospital anesthesia services to patients, Respondent became  
23 unresponsive for several minutes, essentially suffering two separate episodes of presyncope.  
24 Respondent was tested for drugs and alcohol, and the testing was negative. However, subsequent  
25 medical and psychiatric evaluators recommended further medical and psychiatric or  
26 psychological treatment, and that Respondent not practice surgical anesthesia until such  
27 evaluation and/or treatment is completed.

28 ///

1       ///

2                                   PRAYER

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

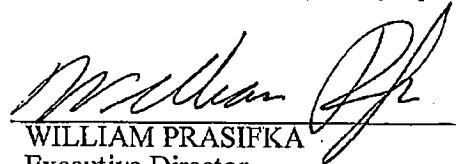
5           1.    Revoking or suspending Physician's and Surgeon's Certificate Number A 115606,  
6       issued to Austin Brendlen Harris, M.D.;

7           2.    Revoking, suspending or denying approval of Austin Brendlen Harris, M.D.'s  
8       authority to supervise physician assistants and advanced practice nurses;

9           3.    Ordering Austin Brendlen Harris, M.D., if placed on probation, to pay the Board the  
10      costs of probation monitoring; and

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

12  
13      DATED: 10/16/2020

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

14  
15  
16  
17  
18      LA2020601504  
19      63527972.docx  
20  
21  
22  
23  
24  
25  
26  
27  
28