

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

In the Matter of the Accusation
Against:

Bradley Marion Smith, M.D.

Physician's and Surgeon's
Certificate No. G 50489

Respondent.

Case No.: 800-2020-064027

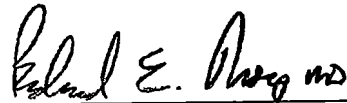
DECISION

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 November 10, 2021.

IT IS SO ORDERED: October 12, 2021.

MEDICAL BOARD OF CALIFORNIA



Richard E. Thorp, M.D., Chair
Panel B

1 ROB BONTA
Attorney General of California
2 STEVEN D. MUNI
Supervising Deputy Attorney General
3 RYAN J. MCEWAN
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9 **BEFORE THE**
MEDICAL BOARD OF CALIFORNIA
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

13 **BRADLEY MARION SMITH, M.D.**
14 **376 Vallombrosa Ave.**
Chico, CA 95926-3900

15 **Physician's and Surgeon's Certificate**
16 **No. G 50489**

17 Respondent.

Case No. 800-2020-064027

OAH No. 2021030144

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19
20 **STIPULATED SETTLEMENT AND**
21 **DISCIPLINARY ORDER**

22
23 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
24 entitled proceedings that the following matters are true:

25 **PARTIES**

26 1. William Prasifka (Complainant) is the Executive Director of the Medical Board of
27 California (Board). He brought this action solely in his official capacity and is represented in this
28 matter by Rob Bonta, Attorney General of the State of California, by Ryan J. McEwan, Deputy
Attorney General.

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1 2. Respondent Bradley Marion Smith, M.D. (Respondent) is represented in this
2 proceeding by attorney D. Marc Lyde, Esq., whose address is: 1600 Humboldt Road, Suite 1,
3 Chico, CA 95928.

4 3. On or about July 1, 1983, the Board issued Physician's and Surgeon's Certificate No.
5 G 50489 to Bradley Marion Smith, M.D. (Respondent). The Physician's and Surgeon's
6 Certificate was in full force and effect at all times relevant to the charges brought in Accusation
7 No. 800-2020-064027, and will expire on July 31, 2023, unless renewed.

8 JURISDICTION

9 4. Accusation No. 800-2020-064027 was filed before the Board, and is currently
10 pending against Respondent. The Accusation and all other statutorily required documents were
11 properly served on Respondent on February 4, 2021. Respondent timely filed his Notice of
12 Defense contesting the Accusation.

13 5. A copy of Accusation No. 800-2020-064027 is attached as exhibit A and incorporated
14 herein by reference.

15 ADVISEMENT AND WAIVERS

16 6. Respondent has carefully read, fully discussed with counsel, and understands the
17 charges and allegations in Accusation No. 800-2020-064027. Respondent has also carefully read,
18 fully discussed with his counsel, and understands the effects of this Stipulated Settlement and
19 Disciplinary Order.

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

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

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CULPABILITY

9. Respondent admits the truth of each and every charge and allegation in Accusation No. 800-2020-064027.

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

RESERVATION

11. The admissions made by Respondent herein are only for the purposes of this proceeding, or any other proceedings in which the Medical Board of California or other professional licensing agency is involved, and shall not be admissible in any other criminal or civil proceeding.

CONTINGENCY

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

13. Respondent agrees that if he ever petitions for early termination or modification of probation, or if an accusation and/or petition to revoke probation is filed against him before the Board, all of the charges and allegations contained in Accusation No. 800-2020-064027 shall be deemed true, correct and fully admitted by respondent for purposes of any such proceeding or any other licensing proceeding involving Respondent in the State of California.

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

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

7 **DISCIPLINARY ORDER**

8 IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. G 50489 issued
9 to Respondent Bradley Marion Smith, M.D. is revoked. However, the revocation is stayed and
10 Respondent is placed on probation for five (5) years on the following terms and conditions:

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

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

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

23 3. **PROFESSIONALISM PROGRAM (ETHICS COURSE).** Within 60 calendar days of
24 the effective date of this Decision, Respondent shall enroll in a professionalism program, that
25 meets the requirements of Title 16, California Code of Regulations (CCR) section 1358.1.
26 Respondent shall participate in and successfully complete that program. Respondent shall
27 provide any information and documents that the program may deem pertinent. Respondent shall
28 successfully complete the classroom component of the program not later than six (6) months after

1 Respondent's initial enrollment, and the longitudinal component of the program not later than the
2 time specified by the program, but no later than one (1) year after attending the classroom
3 component. The professionalism program shall be at Respondent's expense and shall be in
4 addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

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

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

13 4. CLINICAL DIAGNOSTIC EVALUATIONS AND REPORTS: Within thirty (30)
14 calendar days of the effective date of this Decision, and on whatever periodic basis thereafter as
15 may be required by the Board or its designee, Respondent shall undergo and complete a clinical
16 diagnostic evaluation, including any and all testing deemed necessary, by a Board-appointed
17 board certified physician and surgeon. The examiner shall consider any information provided by
18 the Board or its designee and any other information he or she deems relevant, and shall furnish a
19 written evaluation report to the Board or its designee.

20 The clinical diagnostic evaluation shall be conducted by a licensed physician and surgeon
21 who holds a valid, unrestricted license, has three (3) years' experience in providing evaluations of
22 physicians and surgeons with substance abuse disorders, and is approved by the Board or its
23 designee. The clinical diagnostic evaluation shall be conducted in accordance with acceptable
24 professional standards for conducting substance abuse clinical diagnostic evaluations. The
25 evaluator shall not have a current or former financial, personal, or business relationship with
26 Respondent within the last five (5) years. The evaluator shall provide an objective, unbiased, and
27 independent evaluation. The clinical diagnostic evaluation report shall set forth, in the
28 evaluator's opinion, whether Respondent has a substance abuse problem, whether Respondent is a

1 threat to himself or herself or others, and recommendations for substance abuse treatment,
2 practice restrictions, or other recommendations related to Respondent's rehabilitation and ability
3 to practice safely. If the evaluator determines during the evaluation process that Respondent is a
4 threat to himself or herself or others, the evaluator shall notify the Board within twenty-four (24)
5 hours of such a determination.

6 In formulating his or her opinion as to whether Respondent is safe to return to either part-
7 time or full-time practice and what restrictions or recommendations should be imposed, including
8 participation in an inpatient or outpatient treatment program, the evaluator shall consider the
9 following factors: Respondent's license type; Respondent's history; Respondent's documented
10 length of sobriety (i.e., length of time that has elapsed since Respondent's last substance use);
11 Respondent's scope and pattern of substance abuse; Respondent's treatment history, medical
12 history and current medical condition; the nature, duration and severity of Respondent's
13 substance abuse problem or problems; and whether Respondent is a threat to himself or herself or
14 the public.

15 For all clinical diagnostic evaluations, a final written report shall be provided to the Board
16 no later than ten (10) days from the date the evaluator is assigned the matter. If the evaluator
17 requests additional information or time to complete the evaluation and report, an extension may
18 be granted, but shall not exceed thirty (30) days from the date the evaluator was originally
19 assigned the matter.

20 The Board shall review the clinical diagnostic evaluation report within five (5) business
21 days of receipt to determine whether Respondent is safe to return to either part-time or full-time
22 practice and what restrictions or recommendations shall be imposed on Respondent based on the
23 recommendations made by the evaluator. Respondent shall not be returned to practice until he or
24 she has at least thirty (30) days of negative biological fluid tests or biological fluid tests indicating
25 that he or she has not used, consumed, ingested, or administered to himself or herself a prohibited
26 substance, as defined in section 1361.51, subdivision (e), of Title 16 of the California Code of
27 Regulations.

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1 Clinical diagnostic evaluations conducted prior to the effective date of this Decision shall
2 not be accepted towards the fulfillment of this requirement. The cost of the clinical diagnostic
3 evaluation, including any and all testing deemed necessary by the examiner, the Board or its
4 designee, shall be borne by the licensee.

5 Respondent shall not engage in the practice of medicine until notified by the Board or its
6 designee that he or she is fit to practice medicine safely. The period of time that Respondent is
7 not practicing medicine shall not be counted toward completion of the term of probation.
8 Respondent shall undergo biological fluid testing as required in this Decision at least two (2)
9 times per week while awaiting the notification from the Board if he or she is fit to practice
10 medicine safely.

11 Respondent shall comply with all restrictions or conditions recommended by the examiner
12 conducting the clinical diagnostic evaluation within fifteen (15) calendar days after being notified
13 by the Board or its designee.

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

20 For purposes of this section, "supervisors" shall include the Chief of Staff and Health or
21 Well Being Committee Chair, or equivalent, if applicable, when the Respondent has medical staff
22 privileges.

23 6. BIOLOGICAL FLUID TESTING. Respondent shall immediately submit to
24 biological fluid testing, at Respondent's expense, upon request of the Board or its designee.
25 "Biological fluid testing" may include, but is not limited to, urine, blood, breathalyzer, hair
26 follicle testing, or similar drug screening approved by the Board or its designee. Respondent shall
27 make daily contact with the Board or its designee to determine whether biological fluid testing is
28 required. Respondent shall be tested on the date of the notification as directed by the Board or its

1 designee. The Board may order a Respondent to undergo a biological fluid test on any day, at
2 any time, including weekends and holidays. Except when testing on a specific date as ordered by
3 the Board or its designee, the scheduling of biological fluid testing shall be done on a random
4 basis. The cost of biological fluid testing shall be borne by the Respondent.

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

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

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

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

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

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

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

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

1 specimen. The Board will be notified of non-negative results within one (1) business day
2 and will be notified of negative test results within seven (7) business days.

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

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

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

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

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

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

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

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

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

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

27 If a biological fluid test result indicates Respondent has used, consumed, ingested, or
28 administered to himself or herself a prohibited substance, the Board shall order Respondent to

1 cease practice and instruct Respondent to leave any place of work where Respondent is practicing
2 medicine or providing medical services. The Board shall immediately notify all of Respondent's
3 employers, supervisors and work monitors, if any, that Respondent may not practice medicine or
4 provide medical services while the cease-practice order is in effect.

5 A biological fluid test will not be considered negative if a positive result is obtained while
6 practicing, even if the practitioner holds a valid prescription for the substance. If no prohibited
7 substance use exists, the Board shall lift the cease-practice order within one (1) business day.

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

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

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

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

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

1 The facilitator of the substance abuse support group meeting shall have a minimum of three
2 (3) years experience in the treatment and rehabilitation of substance abuse, and shall be licensed
3 or certified by the state or nationally certified organizations. The facilitator shall not have a
4 current or former financial, personal, or business relationship with Respondent within the last five
5 (5) years. Respondent's previous participation in a substance abuse group support meeting led by
6 the same facilitator does not constitute a prohibited current or former financial, personal, or
7 business relationship.

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

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

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

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

1 Respondent shall pay all worksite monitoring costs.

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

6 The worksite monitor shall verbally report any suspected substance abuse to the Board and
7 Respondent's employer or supervisor within one (1) business day of occurrence. If the suspected
8 substance abuse does not occur during the Board's normal business hours, the verbal report shall
9 be made to the Board or its designee within one (1) hour of the next business day. A written
10 report that includes the date, time, and location of the suspected abuse; Respondent's actions; and
11 any other information deemed important by the worksite monitor shall be submitted to the Board
12 or its designee within 48 hours of the occurrence.

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

23 If the worksite monitor resigns or is no longer available, Respondent shall, within five (5)
24 calendar days of such resignation or unavailability, submit to the Board or its designee, for prior
25 approval, the name and qualifications of a replacement monitor who will be assuming that
26 responsibility within fifteen (15) calendar days. If Respondent fails to obtain approval of a
27 replacement monitor within sixty (60) calendar days of the resignation or unavailability of the
28 monitor, Respondent shall receive a notification from the Board or its designee to cease the

1 practice of medicine within three (3) calendar days after being so notified. Respondent shall
2 cease the practice of medicine until a replacement monitor is approved and assumes monitoring
3 responsibility.

4 9. VIOLATION OF PROBATION CONDITION FOR SUBSTANCE ABUSING
5 LICENSEES. Failure to fully comply with any term or condition of probation is a violation of
6 probation.

7 A. If Respondent commits a major violation of probation as defined by section
8 1361.52, subdivision (a), of Title 16 of the California Code of Regulations, the Board shall take
9 one or more of the following actions:

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

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

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

22 B. If Respondent commits a minor violation of probation as defined by section
23 1361.52, subdivision (c), of Title 16 of the California Code of Regulations, the Board shall take
24 one or more of the following actions:

25 (1) Issue a cease-practice order;

26 (2) Order practice limitations;

27 (3) Order or increase supervision of Respondent;

28 (4) Order increased documentation;

- 1 (5) Issue a citation and fine, or a warning letter;
- 2 (6) Order Respondent to undergo a clinical diagnostic evaluation to be conducted in
- 3 accordance with section 1361.5, subdivision (c)(1), of Title 16 of the California Code of
- 4 Regulations, at Respondent's expense;
- 5 (7) Take any other action as determined by the Board or its designee.

6 C. Nothing in this Decision shall be considered a limitation on the Board's authority

7 to revoke Respondent's probation if he or she has violated any term or condition of probation. If

8 Respondent violates probation in any respect, the Board, after giving Respondent notice and the

9 opportunity to be heard, may revoke probation and carry out the disciplinary order that was

10 stayed. If an Accusation, or Petition to Revoke Probation, or an Interim Suspension Order is filed

11 against Respondent during probation, the Board shall have continuing jurisdiction until the matter

12 is final, and the period of probation shall be extended until the matter is final.

13 10. NOTIFICATION. Within seven (7) days of the effective date of this Decision, the

14 Respondent shall provide a true copy of this Decision and Accusation to the Chief of Staff or the

15 Chief Executive Officer at every hospital where privileges or membership are extended to

16 Respondent, at any other facility where Respondent engages in the practice of medicine,

17 including all physician and locum tenens registries or other similar agencies, and to the Chief

18 Executive Officer at every insurance carrier which extends malpractice insurance coverage to

19 Respondent. Respondent shall submit proof of compliance to the Board or its designee within 15

20 calendar days.

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

22 11. SUPERVISION OF PHYSICIAN ASSISTANTS AND ADVANCED PRACTICE

23 NURSES. During probation, Respondent is prohibited from supervising physician assistants and

24 advanced practice nurses.

25 12. OBEY ALL LAWS. Respondent shall obey all federal, state and local laws, all rules

26 governing the practice of medicine in California and remain in full compliance with any court

27 ordered criminal probation, payments, and other orders.

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1 13. QUARTERLY DECLARATIONS. Respondent shall submit quarterly declarations
2 under penalty of perjury on forms provided by the Board, stating whether there has been
3 compliance with all the conditions of probation.

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

6 14. GENERAL PROBATION REQUIREMENTS.

7 Compliance with Probation Unit

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

9 Address Changes

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

15 Place of Practice

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

19 License Renewal

20 Respondent shall maintain a current and renewed California physician's and surgeon's
21 license.

22 Travel or Residence Outside California

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

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

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

4 16. NON-PRACTICE WHILE ON PROBATION. Respondent shall notify the Board or
5 its designee in writing within 15 calendar days of any periods of non-practice lasting more than
6 30 calendar days and within 15 calendar days of Respondent's return to practice. Non-practice is
7 defined as any period of time Respondent is not practicing medicine as defined in Business and
8 Professions Code sections 2051 and 2052 for at least 40 hours in a calendar month in direct
9 patient care, clinical activity or teaching, or other activity as approved by the Board. If
10 Respondent resides in California and is considered to be in non-practice, Respondent shall
11 comply with all terms and conditions of probation. All time spent in an intensive training
12 program which has been approved by the Board or its designee shall not be considered non-
13 practice and does not relieve Respondent from complying with all the terms and conditions of
14 probation. Practicing medicine in another state of the United States or Federal jurisdiction while
15 on probation with the medical licensing authority of that state or jurisdiction shall not be
16 considered non-practice. A Board-ordered suspension of practice shall not be considered as a
17 period of non-practice.

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

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

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

25 Periods of non-practice for a Respondent residing outside of California will relieve
26 Respondent of the responsibility to comply with the probationary terms and conditions with the
27 exception of this condition and the following terms and conditions of probation: Obey All Laws;
28 General Probation Requirements; Quarterly Declarations; Abstain from the Use of Alcohol and/or

1 Controlled Substances; and Biological Fluid Testing.

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

6 18. VIOLATION OF PROBATION. Failure to fully comply with any term or condition
7 of probation is a violation of probation. If Respondent violates probation in any respect, the
8 Board, after giving Respondent notice and the opportunity to be heard, may revoke probation and
9 carry out the disciplinary order that was stayed. If an Accusation, or Petition to Revoke Probation,
10 or an Interim Suspension Order is filed against Respondent during probation, the Board shall have
11 continuing jurisdiction until the matter is final, and the period of probation shall be extended until
12 the matter is final.

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

23 20. PROBATION MONITORING COSTS. Respondent shall pay the costs associated
24 with probation monitoring each and every year of probation, as designated by the Board, which
25 may be adjusted on an annual basis. Such costs shall be payable to the Medical Board of
26 California and delivered to the Board or its designee no later than January 31 of each calendar
27 year.

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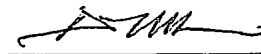
1 21. FUTURE ADMISSIONS CLAUSE. If Respondent should ever apply or reapply for
2 a new license or certification, or petition for reinstatement of a license, by any other health care
3 licensing action agency in the State of California, all of the charges and allegations contained in
4 Accusation No. 800-2020-064027 shall be deemed to be true, correct, and admitted by
5 Respondent for the purpose of any Statement of Issues or any other proceeding seeking to deny or
6 restrict license.

7 ACCEPTANCE

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

13
14 DATED: 8/17/2021 
15 BRADLEY MARION SMITH, M.D./
16 Respondent

17 I have read and fully discussed with Respondent Bradley Marion Smith, M.D. the terms and
18 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.
19 I approve its form and content.

20
21 DATED: 08-17-21 
22 D. MARC LYDE, ESQ.
23 Attorney 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: August 17, 2021

Respectfully submitted,

ROB BONTA
Attorney General of California
STEVEN D. MUNI
Supervising Deputy Attorney General



RYAN J. MCEWAN
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

1 XAVIER BECERRA
Attorney General of California
2 STEVEN D. MUNI
Supervising Deputy Attorney General
3 RYAN J. MCEWAN
Deputy Attorney General
4 State Bar No. 285595
1300 I Street, Suite 125
5 P.O. Box 944255
Sacramento, CA 94244-2550
6 Telephone: (916) 210-7548
Facsimile: (916) 327-2247

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:

Case No. 800-2020-064027

14 **Bradley Marion Smith, M.D.**
15 **376 Vallombrosa Ave.**
Chico, CA 95926-3900

A C C U S A T I O N

16 **Physician's and Surgeon's Certificate**
17 **No. G 50489,**

Respondent.

18
19
20 **PARTIES**

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

24 2. On or about July 1, 1983, the Medical Board issued Physician's and Surgeon's
25 Certificate No. G 50489 to Bradley Marion Smith, 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, 2021, unless renewed.

28 ///

JURISDICTION

1
2 3. This Accusation is brought before the Board, under the authority of the following
3 laws. All section references are to the Business and Professions Code (Code) unless otherwise
4 indicated.

5 4. Section 2227 of the Code provides that a licensee who is found guilty under the
6 Medical Practice Act may have his or her license revoked, suspended for a period not to exceed
7 one year, placed on probation and required to pay the costs of probation monitoring, or such other
8 action taken in relation to discipline as the Board deems proper.

9 5. Section 2234 of the Code, states:

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

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

15 “...”

16 6. Unprofessional conduct under Business and Professions Code section 2234 is conduct
17 which breaches the rules or ethical conduct of the medical profession, or conduct which is
18 unbecoming to a member in good standing of the medical profession, and which demonstrates an
19 unfitness to practice medicine. (*Shea v. Board of Medical Examiners* (1978) 81 Cal.App.3d 564,
20 575.)

21 7. Section 2236 of the Code states:

22 “(a) The conviction of any offense substantially related to the qualifications,
23 functions, or duties of a physician and surgeon constitutes unprofessional conduct
24 within the meaning of this chapter [Chapter 5, the Medical Practice Act]. The record
25 of conviction shall be conclusive evidence only of the fact that the conviction
26 occurred.

27 “...”

28 ///

1 “(d) A plea or verdict of guilty or a conviction after a plea of nolo contendere is
2 deemed to be a conviction within the meaning of this section and Section 2236.1. The
3 record of conviction shall be conclusive evidence of the fact that the conviction
4 occurred.”

5 8. Section 2239 of the Code states:

6 “(a) The use or prescribing for or administering to himself or herself, of any
7 controlled substance; or the use of any of the dangerous drugs specified in Section
8 4022, or of alcoholic beverages, to the extent, or in such a manner as to be dangerous
9 or injurious to the licensee, or to any other person or to the public, or to the extent that
10 such use impairs the ability of the licensee to practice medicine safely or more than
11 one misdemeanor or any felony involving the use, consumption, or
12 self-administration of any of the substances referred to in this section, or any
13 combination thereof, constitutes unprofessional conduct. The record of the conviction
14 is conclusive evidence of such unprofessional conduct.

15 “(b) A plea or verdict of guilty or a conviction following a plea of nolo
16 contendere is deemed to be a conviction within the meaning of this section. The
17 Medical Board may order discipline of the licensee in accordance with Section 2227
18 or the Medical Board may order the denial of the license when the time for appeal has
19 elapsed or the judgment of conviction has been affirmed on appeal or when an order
20 granting probation is made suspending imposition of sentence, irrespective of a
21 subsequent order under the provisions of Section 1203.4 of the Penal Code allowing
22 such person to withdraw his or her plea of guilty and to enter a plea of not guilty, or
23 setting aside the verdict of guilty, or dismissing the accusation, complaint,
24 information, or indictment.”¹

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26
27 ¹ There is a nexus between a physician's alcohol use and his or her fitness to practice
28 medicine, established by the Legislature in section 2239, “in all cases where a licensed physician
used alcoholic beverages to the extent or in such a manner as to pose a danger to himself or
others.” (*Watson v. Superior Court (Medical Board)* (2009) 176 Cal.App.4th 1407, 1411.)

1 9. California Code of Regulations, title 16, section.1360, states:

2 "For the purposes of denial, suspension or revocation of a license, certificate or
3 permit pursuant to Division 1.5 (commencing with Section 475) of the code, a crime
4 or act shall be considered to be substantially related to the qualifications, functions or
5 duties of a person holding a license, certificate or permit under the Medical Practice
6 Act if to a substantial degree it evidences present or potential unfitness of a person
7 holding a license, certificate or permit to perform the functions authorized by the
8 license, certificate or permit in a manner consistent with the public health, safety or
9 welfare. Such crimes or acts shall include but not be limited to the following:
10 Violating or attempting to violate, directly or indirectly, or assisting in or abetting the
11 violation of, or conspiring to violate any provision of the Medical Practice Act."

12 10. Section 802.1 of the Code states:

13 "(a)(1) A physician and surgeon, osteopathic physician and surgeon, a doctor of
14 podiatric medicine, and a physician assistant shall report either of the following to the
15 entity that issued his or her license:

16 "(A) The bringing of an indictment or information charging a felony against the
17 licensee.

18 "(B) The conviction of the licensee, including any verdict of guilty, or plea of
19 guilty or no contest, of any felony or misdemeanor.

20 "(2) The report required by this subdivision shall be made in writing within 30
21 days of the date of the bringing of the indictment or information or of the conviction.

22 "(b) Failure to make a report required by this section shall be a public offense
23 punishable by a fine not to exceed five thousand dollars (\$5,000)."

24 **FIRST CAUSE FOR DISCIPLINE**

25 **(Use of Alcohol in a Dangerous or Injurious Manner)**

26 11. Respondent is subject to disciplinary action under sections 2227 and 2234, as defined
27 by section 2239, of the Code, and California Code of Regulations, title 16, section 1360, in that

28 ///

1 he used alcoholic beverages, to the extent, or in such a manner, as to be dangerous or injurious to
2 himself, or to any other person or to the public, as more particularly alleged as follows:

3 12. On or about January 29, 2018, at approximately 1:05 p.m., California Highway Patrol
4 (CHP) Officer D.G. was dispatched to a traffic collision on Skyway Road in Butte County,
5 California. CHP Officer D.G. arrived on the scene, Skyway Road (westbound), west of a lookout
6 point (the "Lookout"), at approximately 1:15 p.m. Skyway westbound (west of the Lookout) is a
7 2-lane rural roadway. There is a grassy dirt median separating the westbound and eastbound
8 traffic lanes.

9 13. When CHP Officer D.G. arrived on the scene, Respondent was lying on the ground
10 next to his vehicle, a 2016 black BMW. Butte County Fire-Medics attended to Respondent.
11 Respondent's vehicle was located completely in the center median of Skyway Road and had
12 sustained major/total damage, mostly to the front and left side. CHP Officer D.G. interviewed
13 several witnesses who saw Respondent driving at a high rate of speed and in a very aggressive
14 and erratic manner immediately before the accident. One witness drove behind Respondent's
15 vehicle and observed him swerve in and out of lanes several times, prompting her to call 9-1-1
16 before the accident had even occurred. Shortly after passing the Lookout, the left tires of
17 Respondent's vehicle went into the dirt median and then crashed into a tree.

18 14. Respondent was transferred to an emergency room at the Feather River Hospital,
19 where CHP Officer D.G. spoke to him. Respondent stated that he was driving the vehicle with no
20 passengers when a small animal moved out into the lane from the left side median. Respondent
21 stated that he attempted to avoid the animal and swerved left whereupon the vehicle's left tires
22 moved off the asphalt and onto the dirt. Respondent lost control of the vehicle and crashed.

23 15. While speaking to Respondent, CHP Officer D.G. could smell the odor of an
24 alcoholic beverage on Respondent's breath and further observed that Respondent's eyes were
25 pink and glossy. CHP Officer D.G. asked Respondent how much he had to drink. Respondent
26 stated that he had not had alcohol in years.

27 16. CHP Officer D.G. explained and demonstrated a series of field sobriety tests to
28 Respondent, including the Horizontal Gaze Nystagmus and Rhomberg. Respondent exhibited

1 intoxication during the Horizontal Gaze Nystagmus. Respondent also consented to a preliminary
2 breath test. He provided two breath samples that measured 0.184% and 0.169% at approximately
3 2:11 p.m. and 2:13 p.m., respectively. Respondent also agreed to provide a blood sample at
4 approximately 2:32 p.m., which measured a blood alcohol concentration of 0.17%.

5 17. On or about February 20, 2018, in *The People of the State of California v. Bradley*
6 *Marion Smith*, Butte County Superior Court Case No. 18-CM-00970, Respondent was charged
7 with the following misdemeanors: (1) Driving Under the Influence of an Alcoholic Beverage, in
8 violation of Vehicle Code section 23152(a); (2) Driving with a 0.08% Blood Alcohol Content, in
9 violation of Vehicle Code section 23152(b). It was further alleged that Respondent had a blood
10 alcohol concentration that was 0.15% or more, thus subjecting him to additional punishment
11 under Vehicle Code section 23578.

12 18. On or about October 16, 2018, Respondent pleaded no contest to the charge of
13 driving under the influence of an alcoholic beverage, in violation of Vehicle Code section
14 23152(a). Respondent did not report the criminal conviction to the Board.

15 19. On or about December 4, 2020, a Board Investigator interviewed Respondent
16 regarding the drunk driving incident. Respondent described a cycle of waking up from nightmares
17 and taking shots of vodka throughout the night before. He did not recall how much alcohol he
18 had. The morning of the incident, Respondent went to two business meetings—one in Chico and
19 one in Paradise—before driving back to Chico where he crashed his vehicle and was arrested. He
20 did not remember going to the first business meeting that morning but was told by colleagues that
21 he went to it. Respondent acknowledged that he did not report the criminal conviction to the
22 Board. In addition, he confirmed that his vehicle was totaled in the accident.

23 **SECOND CAUSE FOR DISCIPLINE**

24 **(Conviction of a Crime Substantially Related to the Qualifications, Functions, or Duties of a 25 Physician and Surgeon)**

26 20. Respondent is subject to disciplinary action under sections 2227 and 2234, as defined
27 by section 2236, of the Code, and California Code of Regulations, title 16, section 1360, in that
28 he has been convicted of a crime, to wit: violation of Vehicle Code section 23152(a) driving

1 under the influence of an alcoholic beverage, which is substantially related to the qualifications,
2 functions or duties of a physician and surgeon, as more particularly alleged in paragraphs 11
3 through 19, above, which are hereby incorporated by reference as if fully set forth herein.

4 **THIRD CAUSE FOR DISCIPLINE**

5 **(Failure to Report Conviction to the Board)**

6 21. Respondent is subject to disciplinary action under sections 2227 and 2234, as defined
7 by section 802.1, of the Code, in that he failed to disclose his conviction to the Board, as more
8 particularly alleged in paragraphs 18 through 19 above, which are hereby incorporated by
9 reference as if fully set forth herein.

10 **FOURTH CAUSE FOR DISCIPLINE**

11 **(General Unprofessional Conduct)**

12 22. Respondent is subject to disciplinary action under Code sections 2227 and 2234, in
13 that he has engaged in conduct which breaches the rules or ethical code of the medical profession,
14 or conduct which is unbecoming a member in good standing of the medical profession, and which
15 demonstrates an unfitness to practice medicine, as more particularly alleged in paragraphs 11
16 through 21, above, which are hereby incorporated by reference as if fully set forth herein.

17 **PRAYER**

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

20 1. Revoking or suspending Physician's and Surgeon's Certificate No. G 50489, issued
21 to Bradley Marion Smith, M.D.;

22 2. Revoking, suspending or denying approval of Bradley Marion Smith, M.D.'s
23 authority to supervise physician assistants and advanced practice nurses;

24 3. Ordering Bradley Marion Smith, M.D., if placed on probation, to pay the Board the
25 costs of probation monitoring; and

26 ///

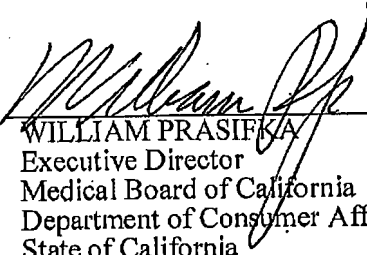
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4. Taking such other and further action as deemed necessary and proper.

DATED: FEB 04 2021



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

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