

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

In the Matter of the Accusation Against:

Nani Kanen, M.D.

Physician's & Surgeon's  
Certificate No A 77565

Respondent.

Case No. 800-2018-041336


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 19, 2021.

IT IS SO ORDERED October 21, 2021.

MEDICAL BOARD OF CALIFORNIA



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

1 ROB BONTA  
Attorney General of California  
2 MARY CAIN-SIMON  
Supervising Deputy Attorney General  
3 ALICE W. WONG  
Deputy Attorney General  
4 State Bar No. 160141  
455 Golden Gate Avenue, Suite 11000  
5 San Francisco, CA 94102-7004  
Telephone: (415) 510-3873  
6 Facsimile: (415) 703-5480  
*Attorneys for Complainant*

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

12 In the Matter of the Accusation Against:  
13 **NANI KANEN, MD**  
14 **1838 El Camino Real, Suite 100**  
**Burlingame CA 94010**  
15  
16 **Physician's and Surgeon's Certificate No. A**  
**77565**  
17 Respondent.

Case No. 800-2018-041336  
**STIPULATED SETTLEMENT AND**  
**DISCIPLINARY ORDER**

18  
19 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-  
20 entitled proceedings that the following matters are true:

21 **PARTIES**

22 1. William Prasifka (Complainant) is the Executive Director of the Medical Board of  
23 California (Board). He brought this action solely in his official capacity and is represented in this  
24 matter by Rob Bonta, Attorney General of the State of California, by Alice W. Wong, Deputy  
25 Attorney General.  
26  
27  
28

1           2.     Respondent Nani Kanen, MD (Respondent) is represented in this proceeding by  
2 attorney Joseph Gharrity, whose address is: 275 Battery Street, Suite 1600, San Francisco, CA  
3 94111.

4           3.     On or about January 4, 2002, the Board issued Physician's and Surgeon's Certificate  
5 No. A 77565 to Respondent. The Physician's and Surgeon's Certificate was in full force and  
6 effect at all times relevant to the charges brought in Accusation No. 800-2018-041336, and will  
7 expire on March 31, 2023, unless renewed.

8   **JURISDICTION**

9           4.     Accusation No. 800-2018-041336 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 8, 2021. Respondent timely filed her Notice of  
12 Defense contesting the Accusation.

13          5.     A copy of Accusation No. 800-2018-041336 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. 800-2018-041336. Respondent has also carefully read,  
18 fully discussed with her counsel, and understands the effects of this Stipulated Settlement and  
19 Disciplinary Order.

20          7.     Respondent is fully aware of her 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 her; the right to present evidence and to testify on her 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.

28

1 CULPABILITY

2 9. For the purpose of resolving the Accusation without the expense and uncertainty of  
3 further proceedings, Respondent agrees that, at an administrative hearing, Complainant could  
4 establish a *prima facie* case with respect to the charges and allegations contained in Accusation  
5 No. 800-2018-041336 and that she has thereby subjected her Physician's and Surgeon's  
6 Certificate to disciplinary action. Respondent further agrees to be bound by the Board's  
7 imposition of discipline as set forth in the Disciplinary Order below.

8 10. Respondent further agrees that if she fails to successfully complete the medical record  
9 keeping course, which is more fully described below, within the required time, all of the charges  
10 and allegations contained in Accusation No. 800-2018-041336, shall be deemed true, correct, and  
11 fully admitted by Respondent for purposes of any further proceeding before the Board, and that  
12 her failure to complete the medical record keeping course shall constitute unprofessional conduct  
13 and grounds for further disciplinary action.

14 CONTINGENCY

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

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

1 13. In consideration of the foregoing admissions and stipulations, the parties agree that  
2 the Board may, without further notice or opportunity to be heard by the Respondent, issue and  
3 enter the following Disciplinary Order:

4 **DISCIPLINARY ORDER**

5 A. **PUBLIC REPRIMAND**

6 IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. A 77565 issued  
7 to Respondent NANI KANEN, M.D., shall be and is hereby Publicly Reprimanded pursuant to  
8 California Business and Professions Code section 2277, subdivision (a)(4). This Public  
9 Reprimand is issued in connection with Respondent's failure to provide adequate practitioner  
10 supervision to a physician assistant as set forth in Accusation No. 800-2018-041336 (exhibit A).

11 B. **MEDICAL RECORD KEEPING COURSE.**

12 Within 60 calendar days of the effective date of this Decision, Respondent shall enroll in a  
13 course in medical record keeping approved in advance by the Board or its designee. Respondent  
14 shall provide the approved course provider with any information and documents that the approved  
15 course provider may deem pertinent. Respondent shall participate in and successfully complete  
16 the classroom component of the course not later than six (6) months after Respondent's initial  
17 enrollment. Respondent shall successfully complete any other component of the course within  
18 one (1) year of enrollment. The medical record keeping course shall be at Respondent's expense  
19 and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of  
20 licensure.

21 A medical record keeping course taken after the acts that gave rise to the charges in the  
22 Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board  
23 or its designee, be accepted towards the fulfillment of this condition if the course would have  
24 been approved by the Board or its designee had the course been taken after the effective date of  
25 this Decision.

26 Respondent shall submit a certification of successful completion to the Board or its  
27 designee not later than 15 calendar days after successfully completing the course, or not later than  
28 15 calendar days after the effective date of the Decision, whichever is later.

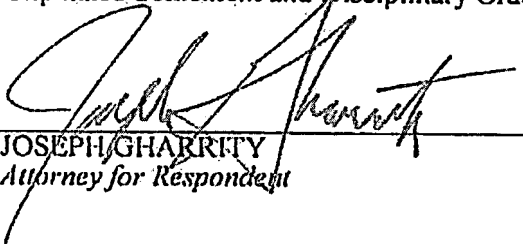
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ACCEPTANCE

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

DATED: 08/03/2021   
NANI KANEN, MD  
*Respondent*


I have read and fully discussed with Respondent Nani Kanen, MD the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: 8/3/2021   
JOSEPH GHARRITY  
*Attorney for Respondent*

ENDORSEMENT

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

DATED: August 4, 2021

Respectfully submitted,  
ROB BONTA  
Attorney General of California  
MARY CAIN-SIMON  
Supervising Deputy Attorney General  
  
ALICE W. WONG  
Deputy Attorney General  
*Attorneys for Complainant*

SF2021400202

**EXHIBIT A**

**800-2018-041336**

1 XAVIER BECERRA  
Attorney General of California  
2 MARY CAIN-SIMON  
Supervising Deputy Attorney General  
3 ALICE W. WONG  
Deputy Attorney General  
4 State Bar No. 160141  
455 Golden Gate Avenue, Suite 11000  
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6 Facsimile: (415) 703-5480  
*Attorneys for Complainant*  
7

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

12 In the Matter of the Accusation Against:

Case No. 800-2018-041336

13 **Nani Kanen, M.D.**  
14 **Suite 100**  
15 **1838 El Camino Real**  
16 **Burlingame, CA 94010**

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

17 **Physician's and Surgeon's Certificate**  
18 **No. A 77565,**

Respondent.

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 January 4, 2002, the Medical Board issued Physician's and Surgeon's Certificate  
25 Number A 77565 to Nani Kanen, M.D. (Respondent). The Physician's and Surgeon's Certificate  
26 was in full force and effect at all times relevant to the charges brought herein and will expire on  
27 March 31, 2023, 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           (b) Gross negligence.

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

20           ...

21       6.     Section 3501 states, in pertinent part:

22           ...

23           (4) "Physician assistant" means a person who meets the requirements of this chapter  
24 and is licensed by the board.

25           (5) "Supervising physician" or "supervising physician and surgeon" means a  
26 physician and surgeon licensed by the Medical Board of California or by the Osteopathic  
27 Medical Board of California who supervises one or more physician assistants, who  
28 possesses a current valid license to practice medicine, and who is not currently on  
disciplinary probation for improper use of a physician assistant.

          (6) "Supervision" means that a licensed physician and surgeon oversees the activities  
of, and accepts responsibility for, the medical services rendered by a physician assistant.

          (7) "Regulations" means the rules and regulations as set forth in Chapter 13.8  
(commencing with Section 1399.500) of Title 16 of the California Code of Regulations.

1 ...

2 (10) "Delegation of services agreement" means the writing that delegates to a  
3 physician assistant from a supervising physician the medical services the physician assistant  
4 is authorized to perform consistent with subdivision (a) of Section 1399.540 of Title 16 of  
5 the California Code of Regulations.

6 ...

7 (b) A physician assistant acts as an agent of the supervising physician when  
8 performing any activity authorized by this chapter or regulations adopted under this  
9 chapter."

10 7. Section 3502 of the Code states, in pertinent part:

11 (a) Notwithstanding any other provision of law, a physician assistant may  
12 perform those medical services as set forth by the regulations adopted under this  
13 chapter when the services are rendered under the supervision of a licensed  
14 physician and surgeon who is not subject to a disciplinary condition imposed by the  
15 Medical Board of California prohibiting that supervision or prohibiting the  
16 employment of a physician assistant. The medical record, for each episode of care  
17 for a patient, shall identify the physician and surgeon who is responsible for the  
18 supervision of the physician assistant.

19 ...

20 (c) (1) A physician assistant and his or her supervising physician and surgeon  
21 shall establish written guidelines for the adequate supervision of the physician  
22 assistant. This requirement may be satisfied by the supervising physician and  
23 surgeon adopting protocols for some or all of the tasks performed by the physician  
24 assistant. The protocols adopted pursuant to this subdivision shall comply with the  
25 following requirements:

26 (A) A protocol governing diagnosis and management shall, at a minimum,  
27 include the presence or absence of symptoms, signs, and other data necessary to  
28 establish a diagnosis or assessment, any appropriate tests or studies to order, drugs  
to recommend to the patient, and education to be provided to the patient.

(B) A protocol governing procedures shall set forth the information to be  
provided to the patient, the nature of the consent to be obtained from the patient,  
the preparation and technique of the procedure, and the follow-up care.

(C) Protocols shall be developed by the supervising physician and surgeon or  
adopted from, or referenced to, texts or other sources.

(D) Protocols shall be signed and dated by the supervising physician and  
surgeon and the physician assistant.

1 (2) (A) The supervising physician and surgeon shall use one or more of the  
2 following mechanisms to ensure adequate supervision of the physician assistant  
3 functioning under the protocols:

4 (i) The supervising physician and surgeon shall review, countersign, and date  
5 a sample consisting of, at a minimum, 5 percent of the medical records of patients  
6 treated by the physician assistant functioning under the protocols within 30 days of  
7 the date of treatment by the physician assistant.

8 (ii) The supervising physician and surgeon and physician assistant shall  
9 conduct a medical records review meeting at least once a month during at least 10  
10 months of the year. During any month in which a medical records review meeting  
11 occurs, the supervising physician and surgeon and physician assistant shall review  
12 an aggregate of at least 10 medical records of patients treated by the physician  
13 assistant functioning under protocols. Documentation of medical records reviewed  
14 during the month shall be jointly signed and dated by the supervising physician and  
15 surgeon and the physician assistant.

16 (iii) The supervising physician and surgeon shall review a sample of at least  
17 10 medical records per month, at least 10 months during the year, using a  
18 combination of the countersignature mechanism described in clause (i) and the  
19 medical records review meeting mechanism described in clause (ii). During each  
20 month for which a sample is reviewed, at least one of the medical records in the  
21 sample shall be reviewed using the mechanism described in clause (i) and at least  
22 one of the medical records in the sample shall be reviewed using the mechanism  
23 described in clause (ii).

24 (B) In complying with subparagraph (A), the supervising physician and  
25 surgeon shall select for review those cases that by diagnosis, problem, treatment, or  
26 procedure represent, in his or her judgment, the most significant risk to the patient.

27 ...

28 8. Section 3502.1 of the Code states, in pertinent part:

(a) In addition to the services authorized in the regulations adopted by the  
Medical Board of California, and except as prohibited by Section 3502, while  
under the supervision of a licensed physician and surgeon or physicians and  
surgeons authorized by law to supervise a physician assistant, a physician assistant  
may administer or provide medication to a patient, or transmit orally, or in writing  
on a patient's record or in a drug order, an order to a person who may lawfully  
furnish the medication or medical device pursuant to subdivisions (c) and (d).

(1) A supervising physician and surgeon who delegates authority to issue a  
drug order to a physician assistant may limit this authority by specifying the  
manner in which the physician assistant may issue delegated prescriptions.

(2) Each supervising physician and surgeon who delegates the authority to  
issue a drug order to a physician assistant shall first prepare and adopt, or adopt, a

1 written, practice specific, formulary and protocols that specify all criteria for the  
2 use of a particular drug or device, and any contraindications for the selection.  
3 Protocols for Schedule II controlled substances shall address the diagnosis of  
4 illness, injury, or condition for which the Schedule II controlled substance is  
5 being administered, provided, or issued. The drugs listed in the protocols shall  
6 constitute the formulary and shall include only drugs that are appropriate for use  
7 in the type of practice engaged in by the supervising physician and surgeon. When  
8 issuing a drug order, the physician assistant is acting on behalf of and as an agent  
9 for a supervising physician and surgeon.

10 (b) "Drug order," for purposes of this section, means an order for medication  
11 that is dispensed to or for a patient, issued and signed by a physician assistant  
12 acting as an individual practitioner within the meaning of Section 1306.02 of Title  
13 21 of the Code of Federal Regulations. Notwithstanding any other provision of  
14 law, (1) a drug order issued pursuant to this section shall be treated in the same  
15 manner as a prescription or order of the supervising physician, (2) all references  
16 to "prescription" in this code and the Health and Safety Code shall include drug  
17 orders issued by physician assistants pursuant to authority granted by their  
18 supervising physicians and surgeons, and (3) the signature of a physician assistant  
19 on a drug order shall be deemed to be the signature of a prescriber for purposes of  
20 this code and the Health and Safety Code.

21 (c) A drug order for any patient cared for by the physician assistant that is  
22 issued by the physician assistant shall either be based on the protocols described in  
23 subdivision (a) or shall be approved by the supervising physician and surgeon  
24 before it is filled or carried out.

25 (1) A physician assistant shall not administer or provide a drug or issue a  
26 drug order for a drug other than for a drug listed in the formulary without advance  
27 approval from a supervising physician and surgeon for the particular patient. At the  
28 direction and under the supervision of a physician and surgeon, a physician  
assistant may hand to a patient of the supervising physician and surgeon a properly  
labeled prescription drug prepackaged by a physician and surgeon, manufacturer as  
defined in the Pharmacy Law, or a pharmacist.

(2) A physician assistant may not administer, provide, or issue a drug order  
to a patient for Schedule II through Schedule V controlled substances without  
advance approval by a supervising physician and surgeon for that particular patient  
unless the physician assistant has completed an education course that covers  
controlled substances and that meets standards, including pharmacological content,  
approved by the board. The education course shall be provided either by an  
accredited continuing education provider or by an approved physician assistant  
training program. If the physician assistant will administer, provide, or issue a drug  
order for Schedule II controlled substances, the course shall contain a minimum of  
three hours exclusively on Schedule II controlled substances. Completion of the  
requirements set forth in this paragraph shall be verified and documented in the  
manner established by the board prior to the physician assistant's use of a  
registration number issued by the United States Drug Enforcement Administration

1 to the physician assistant to administer, provide, or issue a drug order to a patient  
2 for a controlled substance without advance approval by a supervising physician and  
surgeon for that particular patient.

3 (3) Any drug order issued by a physician assistant shall be subject to a  
4 reasonable quantitative limitation consistent with customary medical practice in the  
supervising physician and surgeon's practice.

5 (d) A written drug order issued pursuant to subdivision (a), except a written  
6 drug order in a patient's medical record in a health facility or medical practice,  
7 shall contain the printed name, address, and telephone number of the supervising  
physician and surgeon, the printed or stamped name and license number of the  
8 physician assistant, and the signature of the physician assistant. Further, a written  
9 drug order for a controlled substance, except a written drug order in a patient's  
10 medical record in a health facility or a medical practice, shall include the federal  
controlled substances registration number of the physician assistant and shall  
11 otherwise comply with the of Section 11162.1 of the Health and Safety Code.  
12 Except as otherwise required for written drug orders for controlled substances  
under Section 11162.1 of the Health and Safety Code, the requirements of this  
13 subdivision may be met through stamping or otherwise imprinting on the  
supervising physician and surgeon's prescription blank to show the name, license  
14 number, and if applicable, the federal controlled substances registration number of  
the physician assistant, and shall be signed by the physician assistant. When using a  
15 drug order, the physician assistant is acting on behalf of and as the agent of a  
supervising physician and surgeon.

16 (e) The supervising physician and surgeon shall use either of the following  
17 mechanisms to ensure adequate supervision of the administration, provision, or  
18 issuance by a physician assistant of a drug order to a patient for Schedule II  
controlled substances:

19 (1) The medical record of any patient cared for by a physician assistant for  
20 whom the physician assistant's Schedule II drug order has been issued or carried  
out shall be reviewed, countersigned, and dated by a supervising physician and  
surgeon within seven days.

21 (2) If the physician assistant has documentation evidencing the successful  
22 completion of an education course that covers controlled substances, and that  
controlled substance education course (A) meets the standards, including  
23 pharmacological content, established in Sections 1399.610 and 1399.612 of Title  
16 of the California Code of Regulations, and (B) is provided either by an  
24 accredited continuing education provider or by an approved physician assistant  
25 training program, the supervising physician and surgeon shall review, countersign,  
and date, within seven days, a sample consisting of the medical records of at least  
26 20 percent of the patients cared for by the physician assistant for whom the  
physician assistant's Schedule II drug order has been issued or carried out.  
27 Completion of the requirements set forth in this paragraph shall be verified and  
28 documented in the manner established in Section 1399.612 of Title 16 of the

1 California Code of Regulations. Physician assistants who have a certificate of  
2 completion of the course described in paragraph (2) of subdivision (c) shall be  
3 deemed to have met the education course requirement of this subdivision.

4 ...

5 9. California Code of Regulations, title 16, section 1399.540, states, in pertinent  
6 part:

7 (a) A physician assistant may only provide those medical services which he  
8 or she is competent to perform and which are consistent with the physician  
9 assistant's education, training, and experience, and which are delegated in writing  
10 by a supervising physician who is responsible for the patients cared for by that  
11 physician assistant.

12 (b) The writing which delegates the medical services shall be known as a  
13 delegation of services agreement. A delegation of services agreement shall be  
14 signed and dated by the physician assistant and each supervising physician. A  
15 delegation of services agreement may be signed by more than one supervising  
16 physician only if the same medical services have been delegated by each  
17 supervising physician. A physician assistant may provide medical services pursuant  
18 to more than one delegation of services agreement.

19 ...

20 (d) A physician assistant shall consult with a physician regarding any task,  
21 procedure or diagnostic problem which the physician assistant determines exceeds  
22 his or her level of competence or shall refer such cases to a physician.

23 10. California Code of Regulations, title 16, section 1399.542, states:

24 The delegation of procedures to a physician assistant under Section 1399.541,  
25 subsections (b) and (c) shall not relieve the supervising physician of primary continued  
26 responsibility for the welfare of the patient.

27 11. California Code of Regulations, title 16, section 1399.545, states:

28 (a) A supervising physician shall be available in person or by electronic  
communication at all times when the physician assistant is caring for patients.

(b) A supervising physician shall delegate to a physician assistant only those  
tasks and procedures consistent with the supervising physician's specialty or usual  
and customary practice and with the patient's health and condition.

(c) A supervising physician shall observe or review evidence of the physician  
assistant's performance of all tasks and procedures to be delegated to the  
physician assistant until assured of competency.

1 (d) The physician assistant and the supervising physician shall establish in  
2 writing transport and back-up procedures for the immediate care of patients who are  
3 in need of emergency care beyond the physician assistant's scope of practice for  
4 such times when a supervising physician is not on the premises.

5 (e) A physician assistant and his or her supervising physician shall establish  
6 in writing guidelines for the adequate supervision of the physician assistant which  
7 shall include one or more of the following mechanisms:

8 (1) Examination of the patient by a supervising physician the same day as  
9 care is given by the physician assistant;

10 (2) Countersignature and dating of all medical records written by the  
11 physician assistant within thirty (30) days that the care was given by the physician  
12 assistant;

13 (3) The supervising physician may adopt protocols to govern the  
14 performance of a physician assistant for some or all tasks. The minimum content for  
15 a protocol governing diagnosis and management as referred to in this section shall  
16 include the presence or absence of symptoms, signs, and other data necessary to  
17 establish a diagnosis or assessment, any appropriate tests or studies to order, drugs  
18 to recommend to the patient, and education to be given the patient. For protocols  
19 governing procedures, the protocol shall state the information to be given the  
20 patient, the nature of the consent to be obtained from the patient, the preparation and  
21 technique of the procedure, and the follow-up care. Protocols shall be developed by  
22 the physician, adopted from, or referenced to, texts or other sources. Protocols shall  
23 be signed and dated by the supervising physician and the physician assistant. The  
24 supervising physician shall review, countersign, and date a minimum of 5% sample  
25 of medical records of patients treated by the physician assistant functioning under  
26 these protocols within thirty (30) days. The physician shall select for review those  
27 cases which by diagnosis, problem, treatment or procedure represent, in his or her  
28 judgment, the most significant risk to the patient;

(4) Other mechanisms approved in advance by the board.

(f) The supervising physician has continuing responsibility to follow the  
progress of the patient and to make sure that the physician assistant does not  
function autonomously. The supervising physician shall be responsible for all  
medical services provided by a physician assistant under his or her supervision.

### **FACTUAL ALLEGATIONS**

12. At all times relevant to this matter, Respondent was the Medical Director at Lemi  
Medical in Burlingame, California and Ann Marie Strain, P.A. (P.A. Strain) was a physician  
assistant licensed to practice in California and worked at Lemi Medical.

1 13. On or about November 30, 2016, Respondent and P.A. Strain entered into a  
2 Delegation of Service Agreement, which outlined P.A. Strain's scope of practice, standardized  
3 procedures, supervision required, authorized services, and consultation required.

4 14. At all times relevant to this matter, Respondent was the supervising physician for  
5 P.A. Strain in the care and treatment of Patients P-1, P-2, and P-3. Physician assistants require  
6 oversight for all activities and medical services by a supervising physician.<sup>1</sup>

7 **PATIENT P-1**<sup>2</sup>

8 15. Patient P-1, a female born in 1977, first saw P.A. Strain for chronic back pain on  
9 February 4, 2016.

10 16. During the time period from February 2016 to April 2019, P.A. Strain saw P-1 on a  
11 near monthly basis and treated P-1 with opioids for pain management.

12 17. P.A. Strain did not document in P-1's medical records any social history, family  
13 history, addiction history, or psychiatric history. Drug overuse and the patient's psychiatric  
14 distress mandate such review.

15 18. P.A. Strain used a template that copied information from one visit to another, which  
16 resulted in excessive and cumulative records from prior visits to be included in each office visit.  
17 Patient P-1's medical records were poorly documented.

18 **PATIENT P-2**

19 19. Patient P-2, a female born in 1948, first saw P.A. Strain for pain management of  
20 osteoarthritis and insomnia on or about December 9, 2016.

21 20. During the time period from November 2016 to October 2019, P.A. Strain saw P-2 on  
22 a near monthly basis. P-2 was treated with opioids and sedatives.

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24  
25 <sup>1</sup> See [https://pab.ca.gov/licensees/supervision\\_of\\_pa.pdf](https://pab.ca.gov/licensees/supervision_of_pa.pdf) and  
[https://www.mbc.ca.gov/Licensees/Physicians\\_and\\_Surgeons/Physician\\_Assistants\\_FAQ.aspx](https://www.mbc.ca.gov/Licensees/Physicians_and_Surgeons/Physician_Assistants_FAQ.aspx)

26 <sup>2</sup> The patients are designated in this document as Patients P-1, P-2 and P-3 to protect the patients'  
27 privacy. Respondent knows the names of the patients and can confirm the patients identities through  
28 discovery.



1 21. On May 17, 2018, P.A. Strain noted P-2 had a previous diagnosis of obstructive sleep  
2 apnea<sup>3</sup> and referred P-2 to a pulmonologist for a sleep evaluation. P-2 did not comply with the  
3 referral to a pulmonologist to evaluate P-2's obstructive sleep apnea.

4 22. P.A. Strain continued to prescribe sedatives to P-2 without requiring P-2 to obtain the  
5 sleep evaluation.

6 23. P.A. Strain used a template that copied information from one visit to another, which  
7 resulted in excessive and cumulative records from prior visits to be included in each office visit.  
8 Patient P-2's medical records were poorly documented.

9  
10 **PATIENT P-3**

11 24. Patient P-3, a male born in 1984, first saw P.A. Strain for chronic low back pain on  
12 October 29, 2015.

13 25. During the time period from October 2015 to September 2017, Respondent saw P-3  
14 on a near monthly basis, with some intermittent gaps. Respondent was treated with fentanyl  
15 patch<sup>4</sup> and Norco<sup>5</sup> following a series of injuries.

16 26. P-3 was diaphoretic<sup>6</sup> from opioid withdrawal at each office visit and constantly  
17 complained he had run out of medication.

18 27. P.A. Strain reasonably believed P-3 to be an opioid addict but continued to prescribe  
19 high dose opioids to P-3.

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20  
21 <sup>3</sup> Obstructive sleep apnea occurs when the muscles that support the soft tissues in your throat  
22 relax, narrowing or closing your airway and breathing is momentarily cut off. Sleep apnea can be deadly,  
especially in those taking sedating drugs.

23 <sup>4</sup> Fentanyl patch is a potent synthetic opioid used for the treatment of chronic pain. It is a  
24 Schedule II controlled substance, which can cause analgesia, sedation, respiratory depression, nausea, and  
25 vomiting. Use of this medication with other central nervous system depressants, including alcohol, can  
result in increased risk of respiratory depression to the patient. The use of fentanyl can result in physical  
and psychological dependence similar to that produced by morphine.

26 <sup>5</sup> Norco is a trade name for hydrocodone bitartrate w/APAP (hydrocodone with acetaminophen)  
tablets. Hydrocodone is a semisynthetic narcotic analgesic, a dangerous drug as defined in section 4022,  
27 and a Schedule II controlled substance.

28 <sup>6</sup> Drug-induced diaphoresis is profuse, excessive, or increased sweating due to the effects of the  
controlled substance.

1 28. P.A. Strain used a template that copied information from one visit to another, which  
2 resulted in excessive and cumulative records from prior visits to be included in each office visit.  
3 The medical records of P-3 were poorly documented.

4 **FIRST CAUSE FOR DISCIPLINE**

5 **(Repeated Negligent Acts)**

6 29. Respondent Nani Kanen, M.D. is subject to disciplinary action under sections 2227  
7 and 2234, as defined by section 2234, subdivision (c) of the Code, in that she committed repeated  
8 negligent acts, as more particularly alleged in 12 through 28, above, which included but was not  
9 limited to, the following:

- 10 (a) Failing to provide adequate mid-level practitioner supervision to P.A. Strain for  
11 P.A. Strain's care and treatment of Patients P-1, P-2, and P-3;  
12 (b) Failing to conduct and/or document medical record reviews with P.A. Strain for  
13 P.A. Strain's care and treatment of Patients P-1, P-2, and P-3.

14 **SECOND CAUSE FOR DISCIPLINE**

15 **(Unprofessional Conduct)**

16 30. Respondent Nani Kanen, M.D. is subject to disciplinary action under sections 2227  
17 and 2234, as defined by section 2234 of the Code, in that she engaged in unprofessional conduct,  
18 as more particularly alleged in paragraphs 12 through 29, above, which are hereby incorporated  
19 by reference and re-alleged as if fully set forth herein.

20 **PRAYER**

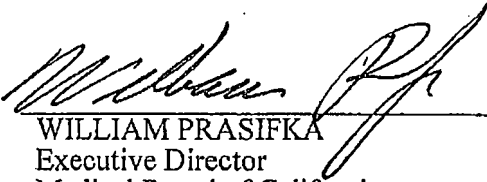
21 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
22 and that following the hearing, the Medical Board of California issue a decision:

- 23 1. Revoking or suspending Physician's and Surgeon's Certificate Number A 77565,  
24 issued to Nani Kanen, M.D.;
- 25 2. Revoking, suspending or denying approval of Nani Kanen, M.D.'s authority to  
26 supervise physician assistants and advanced practice nurses;
- 27 3. Ordering Nani Kanen, M.D., if placed on probation, to pay the Board the costs of  
28 probation monitoring; and

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

DATED: FEB 08 2021

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

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