

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

In the Matter of the Accusation
Against:

Archis David Desai, M.D.

Physician's and Surgeon's
Certificate No. A 144563

Respondent.

Case No.: 800-2018-045964

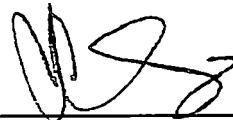
DECISION

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 April 1, 2022.

IT IS SO ORDERED: March 3, 2022.

MEDICAL BOARD OF CALIFORNIA



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

1 ROB BONTA
Attorney General of California
2 MATTHEW M. DAVIS
Supervising Deputy Attorney General
3 MARTIN W. HAGAN
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**BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

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In the Matter of the Accusation Against:

ARCHIS DAVID DESAI, M.D.
1030 Nevada Street, Ste #101
Redlands, CA 92374

Physician's and Surgeon's Certificate No. A
144563

Respondent.

Case No. 800-2018-045964
OAH No. 2021050240
**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

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

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PARTIES

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1. William Prasifka (Complainant) is the Executive Director of the Medical Board of California (Board). He brought this action solely in his official capacity and is represented in this matter by Rob Bonta, Attorney General of the State of California, by Martin W. Hagan, Deputy Attorney General.

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1 **CULPABILITY**

2 8. Respondent understands and agrees that the charges and allegations in Accusation
3 No. 800-2018-045964, if proven at a hearing, constitute cause for imposing discipline upon his
4 Physician's and Surgeon's Certificate.

5 9. Respondent agrees that, at a hearing, Complainant could establish a prima facie case
6 or factual basis for the charges in the Accusation, and that Respondent hereby gives up his right
7 to contest those charges.

8 10. Respondent does not contest that, at an administrative hearing, complainant could
9 establish a prima facie case with respect to the charges and allegations in Accusation No. 800-
10 2018-045964, a true and correct copy of which is attached hereto as Exhibit A, and that he has
11 thereby subjected his Physician's and Surgeon's Certificate, No. A 144563 to disciplinary action.

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

15 **CONTINGENCY**

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

26 13. Respondent agrees that if he ever petitions for early termination or modification of
27 probation, or if an accusation and/or petition to revoke probation is filed against him before the
28 Board, all of the charges and allegations contained in Accusation No. 800-2018-045964 shall be

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

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

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

9 **DISCIPLINARY ORDER**

10 **IT IS HEREBY ORDERED** that Physician's and Surgeon's Certificate No. A 144563
11 issued to Respondent Archis David Desai, M.D. is revoked. However, the revocation is stayed
12 and Respondent is placed on probation for thirty-five (35) months on the following terms and
13 conditions:

14 1. **ALCOHOL - ABSTAIN FROM USE.** Respondent shall abstain completely from
15 the use of products or beverages containing alcohol.

16 2. **PROFESSIONALISM PROGRAM (ETHICS COURSE).** Within 60 calendar
17 days of the effective date of this Decision, Respondent shall enroll in a professionalism program,
18 that meets the requirements of Title 16, California Code of Regulations (CCR) section 1358.1.
19 Respondent shall participate in and successfully complete that program. Respondent shall
20 provide any information and documents that the program may deem pertinent. Respondent shall
21 successfully complete the classroom component of the program not later than six (6) months after
22 Respondent's initial enrollment, and the longitudinal component of the program not later than the
23 time specified by the program, but no later than one (1) year after attending the classroom
24 component. The professionalism program shall be at Respondent's expense and shall be in
25 addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

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

1 been approved by the Board or its designee had the program been taken after the effective date of
2 this Decision.

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

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

13 The clinical diagnostic evaluation shall be conducted by a licensed physician and surgeon
14 who holds a valid, unrestricted license, has three (3) years' experience in providing evaluations of
15 physicians and surgeons with substance abuse disorders, and is approved by the Board or its
16 designee. The clinical diagnostic evaluation shall be conducted in accordance with acceptable
17 professional standards for conducting substance abuse clinical diagnostic evaluations. The
18 evaluator shall not have a current or former financial, personal, or business relationship with
19 Respondent within the last five (5) years. The evaluator shall provide an objective, unbiased, and
20 independent evaluation. The clinical diagnostic evaluation report shall set forth, in the
21 evaluator's opinion, whether Respondent has a substance abuse problem, whether Respondent is a
22 threat to himself or herself or others, and recommendations for substance abuse treatment,
23 practice restrictions, or other recommendations related to Respondent's rehabilitation and ability
24 to practice safely. If the evaluator determines during the evaluation process that Respondent is a
25 threat to himself or herself or others, the evaluator shall notify the Board within twenty-four (24)
26 hours of such a determination.

27 In formulating his or her opinion as to whether Respondent is safe to return to either part-
28 time or full-time practice and what restrictions or recommendations should be imposed, including

1 participation in an inpatient or outpatient treatment program, the evaluator shall consider the
2 following factors: Respondent's license type; Respondent's history; Respondent's documented
3 length of sobriety (i.e., length of time that has elapsed since Respondent's last substance use);
4 Respondent's scope and pattern of substance abuse; Respondent's treatment history, medical
5 history and current medical condition; the nature, duration and severity of Respondent's
6 substance abuse problem or problems; and whether Respondent is a threat to himself or herself or
7 the public.

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

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

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

25 Respondent shall not engage in the practice of medicine until notified by the Board or its
26 designee that he or she is fit to practice medicine safely. The period of time that Respondent is
27 not practicing medicine shall not be counted toward completion of the term of probation.

28 Respondent shall undergo biological fluid testing as required in this Decision at least two (2)

1 times per week while awaiting the notification from the Board if he or she is fit to practice
2 medicine safely.

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

6 4. **NOTICE OF EMPLOYER OR SUPERVISOR INFORMATION.** Within seven
7 (7) days of the effective date of this Decision, Respondent shall provide to the Board the names,
8 physical addresses, mailing addresses, and telephone numbers of any and all employers and
9 supervisors. Respondent shall also provide specific, written consent for the Board, Respondent's
10 worksite monitor, and Respondent's employers and supervisors to communicate regarding
11 Respondent's work status, performance, and monitoring. For purposes of this section,
12 "supervisors" shall include the Chief of Staff and Health or Well Being Committee Chair, or
13 equivalent, if applicable, when the Respondent has medical staff privileges.

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

24 During the first year of probation, Respondent shall be subject to 52 to 104 random tests.
25 During the second year of probation and for the duration of the probationary term, up to five (5)
26 years, Respondent shall be subject to 36 to 104 random tests per year. Only if there has been no
27 positive biological fluid tests in the previous five (5) consecutive years of probation, may testing
28 be reduced to one (1) time per month. Nothing precludes the Board from increasing the number

1 of random tests to the first-year level of frequency for any reason.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

27 After the issuance of a cease-practice order, the Board shall determine whether the positive
28 biological fluid test is in fact evidence of prohibited substance use by consulting with the

1 specimen collector and the laboratory, communicating with the licensee, his or her treating
2 physician(s), other health care provider, or group facilitator, as applicable.

3 For purposes of this condition, the terms “biological fluid testing” and “testing” mean the
4 acquisition and chemical analysis of a Respondent’s urine, blood, breath, or hair.

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

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

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

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

27 The facilitator shall provide a signed document to the Board or its designee showing
28 Respondent’s name, the group name, the date and location of the meeting, Respondent’s

1 attendance, and Respondent's level of participation and progress. The facilitator shall report any
2 unexcused absence by Respondent from any substance abuse support group meeting to the Board,
3 or its designee, within twenty-four (24) hours of the unexcused absence.

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

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

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

20 Respondent shall pay all worksite monitoring costs.

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

25 The worksite monitor shall verbally report any suspected substance abuse to the Board and
26 Respondent's employer or supervisor within one (1) business day of occurrence. If the suspected
27 substance abuse does not occur during the Board's normal business hours, the verbal report shall
28 be made to the Board or its designee within one (1) hour of the next business day. A written

1 report that includes the date, time, and location of the suspected abuse; Respondent's actions; and
2 any other information deemed important by the worksite monitor shall be submitted to the Board
3 or its designee within 48 hours of the occurrence.

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

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

23 **8. VIOLATION OF PROBATION CONDITION FOR SUBSTANCE ABUSING**
24 **LICENSEES.** Failure to fully comply with any term or condition of probation is a violation of
25 probation.

26 A. If Respondent commits a major violation of probation as defined by section
27 1361.52, subdivision (a), of Title 16 of the California Code of Regulations, the Board shall take
28 one or more of the following actions:

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

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

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

13 B. If Respondent commits a minor violation of probation as defined by section
14 1361.52, subdivision (c), of Title 16 of the California Code of Regulations, the Board shall take
15 one or more of the following actions:

16 (1) Issue a cease-practice order;

17 (2) Order practice limitations;

18 (3) Order or increase supervision of Respondent;

19 (4) Order increased documentation;

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

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

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

25 C. Nothing in this Decision shall be considered a limitation on the Board's authority
26 to revoke Respondent's probation if he or she has violated any term or condition of probation. If
27 Respondent violates probation in any respect, the Board, after giving Respondent notice and the
28 opportunity to be heard, may revoke probation and carry out the disciplinary order that was

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

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

13 10. **SUPERVISION OF PHYSICIAN ASSISTANTS AND ADVANCED**
14 **PRACTICE NURSES.** During probation, Respondent is prohibited from supervising physician
15 assistants and advanced practice nurses.

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

19 12. **QUARTERLY DECLARATIONS.** Respondent shall submit quarterly declarations
20 under penalty of perjury on forms provided by the Board, stating whether there has been
21 compliance with all the conditions of probation. Respondent shall submit quarterly declarations
22 not later than 10 calendar days after the end of the preceding quarter.

23 13. **GENERAL PROBATION REQUIREMENTS.**

24 **Compliance with Probation Unit:** Respondent shall comply with the Board's probation
25 unit.

26 **Address Changes:** Respondent shall, at all times, keep the Board informed of
27 Respondent's business and residence addresses, email address (if available), and telephone
28 number. Changes of such addresses shall be immediately communicated in writing to the Board

1 or its designee. Under no circumstances shall a post office box serve as an address of record,
2 except as allowed by Business and Professions Code section 2021, subdivision (b).

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

6 **License Renewal:** Respondent shall maintain a current and renewed California physician's
7 and surgeon's license.

8 **Travel or Residence Outside California:** Respondent shall immediately inform the Board
9 or its designee, in writing, of travel to any areas outside the jurisdiction of California which lasts,
10 or is contemplated to last, more than thirty (30) calendar days. In the event Respondent should
11 leave the State of California to reside or to practice Respondent shall notify the Board or its
12 designee in writing 30 calendar days prior to the dates of departure and return.

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

16 15. **NON-PRACTICE WHILE ON PROBATION.** Respondent shall notify the Board
17 or its designee in writing within 15 calendar days of any periods of non-practice lasting more than
18 30 calendar days and within 15 calendar days of Respondent's return to practice. Non-practice is
19 defined as any period of time Respondent is not practicing medicine as defined in Business and
20 Professions Code sections 2051 and 2052 for at least 40 hours in a calendar month in direct
21 patient care, clinical activity or teaching, or other activity as approved by the Board. If
22 Respondent resides in California and is considered to be in non-practice, Respondent shall
23 comply with all terms and conditions of probation. All time spent in an intensive training
24 program which has been approved by the Board or its designee shall not be considered non-
25 practice and does not relieve Respondent from complying with all the terms and conditions of
26 probation. Practicing medicine in another state of the United States or Federal jurisdiction while
27 on probation with the medical licensing authority of that state or jurisdiction shall not be
28 considered non-practice. A Board-ordered suspension of practice shall not be considered as a

1 period of non-practice.

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

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

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

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

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

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

25 18. **LICENSE SURRENDER.** Following the effective date of this Decision, if
26 Respondent ceases practicing due to retirement or health reasons or is otherwise unable to satisfy
27 the terms and conditions of probation, Respondent may request to surrender his or her license.
28 The Board reserves the right to evaluate Respondent's request and to exercise its discretion in

1 determining whether or not to grant the request, or to take any other action deemed appropriate
2 and reasonable under the circumstances. Upon formal acceptance of the surrender, Respondent
3 shall within 15 calendar days deliver Respondent's wallet and wall certificate to the Board or its
4 designee and Respondent shall no longer practice medicine. Respondent will no longer be subject
5 to the terms and conditions of probation. If Respondent re-applies for a medical license, the
6 application shall be treated as a petition for reinstatement of a revoked certificate.

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

12 **20. FUTURE ADMISSIONS CLAUSE.** If Respondent should ever apply or reapply for
13 a new license or certification, or petition for reinstatement of a license, by any other health care
14 licensing action agency in the State of California, all of the charges and allegations contained in
15 Accusation No. 800-2018-045964 shall be deemed to be true, correct, and admitted by
16 Respondent for the purpose of any Statement of Issues or any other proceeding seeking to deny or
17 restrict license.

18 **ACCEPTANCE**


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

24
25 DATED: 12/15/2021

26 
ARCHIS DAVID DESAI, M.D.
27 Respondent
28

1 I have read and fully discussed with Respondent Archis David Desai, M.D. the terms and
2 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.
3 I approve its form and content.

4 DATED: December 16, 2021


RAYMOND J. MCMAHON, ESQ.
Attorney for Respondent

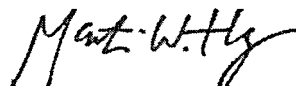
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7 **ENDORSEMENT**

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

10 DATED: December 16, 2021

11 Respectfully submitted,

12 ROB BONTA
13 Attorney General of California
14 MATTHEW M. DAVIS
15 Supervising Deputy Attorney General


16 MARTIN W. HAGAN
17 Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 800-2018-045964

1 XAVIER BECERRA
Attorney General of California
2 MATTHEW M. DAVIS
Supervising Deputy Attorney General
3 MARTIN W. HAGAN
Deputy Attorney General
4 State Bar No. 155553
600 West Broadway, Suite 1800
5 San Diego, CA 92101
P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 738-9405
7 Facsimile: (619) 645-2061

8 *Attorneys for Complainant*

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

13 In the Matter of the Accusation Against:

Case No. 800-2018-045964

14 **Archis David Desai, M.D.**
15 **1809 W. Redlands Blvd.**
Redlands, CA 92373-8054

A C C U S A T I O N

16 **Physician's and Surgeon's Certificate**
17 **No. A 144563,**

Respondent.

18
19 **PARTIES**

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

23 2. On or about August 17, 2016, the Medical Board issued Physician's and Surgeon's
24 Certificate Number A 144563 to Archis David Desai, M.D. (Respondent). The Physician's and
25 Surgeon's Certificate was in full force and effect at all times relevant to the charges brought
26 herein and will expire on October 31, 2021, unless renewed.

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28 ////

1 **JURISDICTION**

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 states:

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

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

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

14 (3) Be placed on probation and be required to pay the costs of probation
15 monitoring upon order of the board.

16 (4) Be publicly reprimanded by the board. The public reprimand may include a
17 requirement that the licensee complete relevant educational courses approved by the
18 board.

19 (5) Have any other action taken in relation to discipline as part of an order of
20 probation, as the board or an administrative law judge may deem proper.

21 (b) Any matter heard pursuant to subdivision (a), except for warning letters,
22 medical review or advisory conferences, professional competency examinations,
23 continuing education activities, and cost reimbursement associated therewith that are
24 agreed to with the board and successfully completed by the licensee, or other matters
25 made confidential or privileged by existing law, is deemed public, and shall be made
26 available to the public by the board pursuant to Section 803.1.

27 **STATUTORY PROVISIONS**

28 5. Section 2234 of the Code, states:

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

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

...

(f) Any action or conduct that would have warranted the denial of a certificate.

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6. Section 2236 of the Code states:

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

(b) The district attorney, city attorney, or other prosecuting agency shall notify the Medical Board of the pendency of an action against a licensee charging a felony or misdemeanor immediately upon obtaining information that the defendant is a licensee. The notice shall identify the licensee and describe the crimes charged and the facts alleged. The prosecuting agency shall also notify the clerk of the court in which the action is pending that the defendant is a licensee, and the clerk shall record prominently in the file that the defendant holds a license as a physician and surgeon.

(c) The clerk of the court in which a licensee is convicted of a crime shall, within 48 hours after the conviction, transmit a certified copy of the record of conviction to the board. The division may inquire into the circumstances surrounding the commission of a crime in order to fix the degree of discipline or to determine if the conviction is of an offense substantially related to the qualifications, functions, or duties of a physician and surgeon.

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

7. Section 2239 of the Code states:

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

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

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1 **GENERAL UNPROFESSIONAL CONDUCT**

2 8. Unprofessional conduct is conduct which breaches rules or ethical codes of a
3 profession or conduct which is unbecoming a member in good standing of a profession. (*Shea v.*
4 *Board of Medical Examiners* (1978) 81 Cal.App.3rd 564, 575.)

5 **FIRST CAUSE FOR DISCIPLINE**

6 **(Conviction of an Offense Substantially Related to the Qualifications, Functions, or Duties**
7 **of a Physician or Surgeon)**

8 9. Respondent is subject to disciplinary action under sections 2227 and 2234, as defined
9 by section 2236 of the Code, in that he has been convicted of an offense substantially related to
10 the qualifications, functions, or duties of a physician and surgeon, as more particularly alleged
11 hereinafter:

12 10. On or about June 30, 2018, Respondent was having mixed drinks with his brother
13 when he decided to drive his car to a local supermarket. While he was enroute to the
14 supermarket, Respondent lost control of his car and collided with a street light and two
15 transformers which resulted in "the whole of the back of the side of the car [being] totaled." The
16 collision was reported to the San Bernardino County Sheriff's Department who dispatched a
17 deputy to the scene at 8:49 p.m. When the deputy arrived on scene at 8:55 p.m., he made contact
18 with Respondent who "appeared to be uninjured but disoriented." As part of his field
19 investigation, the deputy observed Respondent's face appeared to be flush, he had watery eyes,
20 his speech was "confused" and he noted a strong odor of alcohol. When Respondent was asked if
21 he had been drinking any alcohol, he responded he had consumed two twenty-four ounce beers.¹
22 Field sobriety tests were not conducted at the scene because Respondent "did not want to partake"
23 and also because the deputy felt it was unsafe to perform them due to his "intoxication level and
24 being involved in a traffic collision." Respondent was arrested for driving under the influence of
25 alcohol under California Vehicle Code section 23152, subdivisions (a) and (b). The deputy
26

27 ¹ During a subsequent interview with a Special Investigator from the Medical Board of
28 California, Respondent acknowledged that his statement about consuming two twenty-four ounce
beers was not accurate and, in truth and fact, he had actually had three to four mixed drinks with
his brother. (Interview Transcript, at p. 4.)

1 subsequently admonished Respondent that under California law he was required to submit to a
2 blood or breath test in order to determine his blood alcohol content and, if he failed to do so, there
3 would be penalties associated with his refusal to submit to a blood or breath test. Respondent
4 refused to submit to a blood or breath test after being properly admonished. Based on
5 Respondent's refusal, the deputy prepared a search warrant for a forced blood draw, which was
6 granted by the Court, and a sample of Respondent's blood was obtained which measured a blood
7 alcohol content of .28%.

8 11. A misdemeanor complaint was filed against Respondent in *The People of the State of*
9 *California v. Archis Desai*, San Bernardino Superior Court, Case No. MSB 18016293, which
10 charged him with two counts of Driving Under the Influence of Alcohol in violation of Vehicle
11 Code sections 23152, subdivision (a) [driving while under the influence of alcohol] and
12 subdivision (b) [driving with a blood alcohol level of 0.08 or more].

13 12. On or about August 24, 2020, Respondent entered into a plea bargain agreement to
14 resolve the misdemeanor criminal complaint against him for driving under the influence of
15 alcohol. According to the written Plea Bargain Agreement and Minute Order, Respondent pled
16 guilty to driving under the influence of alcohol in violation of Vehicle Code sections 23152,
17 subdivision (b) [driving with a blood alcohol level of 0.08 or more] with the count for violation of
18 Vehicle Code section 23152, subdivision (a), being stricken and dismissed. The parties to the
19 criminal matter "stipulated to a factual finding of [a] blood alcohol concentration of below a .08
20 [%]" and Respondent was required to attend and complete a nine month driving under the
21 influence program "[d]ue to a .20 BA [blood alcohol]." Complainant herein was not a party to
22 the criminal matter and the issue of the blood alcohol content was not actually litigated and
23 decided in the criminal matter. Respondent's other terms and conditions included, but were not
24 limited to, serving twenty-five days (with eligibility for county jail weekend and/or work release
25 program and two days credit for time served), summary probation for three years, and payment of
26 various fees and fines.

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1 **SECOND CAUSE FOR DISCIPLINE**

2 **(Excessive Use of Alcohol or Drugs)**

3 13. Respondent is further subject to disciplinary action under sections 2227 and 2234, as
4 defined by section 2239 of the Code, in that he used alcohol to the extent, or in such a manner, to
5 be dangerous to himself, to any other person, or to the public, as more particularly alleged in
6 paragraphs 9 through 12, above, which are hereby incorporated by reference and realleged as if
7 fully set forth herein.

8 **THIRD CAUSE FOR DISCIPLINE**

9 **(General Unprofessional Conduct)**

10 14. Respondent is further subject to disciplinary action under sections 2227 and 2234, in
11 that he engaged in conduct which breached a rule or ethical code of the medical profession or
12 engaged in conduct which was unbecoming a member in good standing of the medical profession,
13 and which demonstrates an unfitness to practice medicine, as more particularly alleged in
14 paragraphs 9 through 13, above, which are hereby incorporated by reference and realleged as if
15 fully set forth herein.

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PRAYER

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

1. Revoking or suspending Physician's and Surgeon's Certificate Number A 144563, issued to Respondent Archis David Desai, M.D.;
2. Revoking, suspending or denying approval of Respondent's Archis David Desai, M.D.'s authority to supervise physician assistants and advanced practice nurses;
3. Ordering Respondent Archis David Desai, M.D., if placed on probation, to pay the Board the costs of probation monitoring; and
4. Taking such other and further action as deemed necessary and proper.

DATED: MAR 29 2021



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

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