

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

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

Christopher James Aho, M.D.

**Physician's and Surgeon's
Certificate No. A 79102**

Respondent.

Case No.: 800-2019-058604

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 January 12, 2023.

IT IS SO ORDERED: December 13, 2022.

MEDICAL BOARD OF CALIFORNIA



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

1 ROB BONTA
Attorney General of California
2 JUDITH T. ALVARADO
Supervising Deputy Attorney General
3 REBECCA L. SMITH
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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:

13 **CHRISTOPHER JAMES AHO, M.D.**
14 **8135 Painter Avenue, Suite 307**
Whittier, CA 90602

15 **Physician's and Surgeon's Certificate**
16 **No. A 79102,**

17 Respondent.

Case No. 800-2019-058604

OAH No. 2022030011

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 Rebecca L. Smith, Deputy
25 Attorney General.

26 2. Respondent Christopher James Aho, M.D. is represented in this proceeding by
27 attorney Nicholas Jurkowitz, whose address is 1990 South Bundy Drive, Suite 777, Los Angeles,
28 California 90025.

3. On or about May 15, 2002, the Board issued Physician's and Surgeon's Certificate No. A 79102 to Respondent. The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought in Accusation No. 800-2019-058604, and will expire on April 30, 2024, unless renewed.

JURISDICTION

4. Accusation No. 800-2019-058604 was filed before the Board, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on January 25, 2022. Respondent timely filed his Notice of Defense contesting the Accusation.

5. A copy of Accusation No. 800-2019-058604 is attached as Exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

6. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 800-2019-058604. Respondent has also carefully read, fully discussed with his counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

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

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

CULPABILITY

9. Respondent understands and agrees that the charges and allegations in Accusation No. 800-2019-058604, if proven at a hearing, constitute cause for imposing discipline upon his Physician's and Surgeon's Certificate.

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

11. Respondent does not contest that, at an administrative hearing, complainant could establish a prima facie case with respect to the charges and allegations in Accusation No. 800-2019-058604, a true and correct copy of which is attached hereto as Exhibit A, and that he has thereby subjected his Physician's and Surgeon's Certificate, No. A 79102 to disciplinary action.

12. ACKNOWLEDGMENT. Respondent acknowledges the Disciplinary Order below, requiring the disclosure of probation pursuant to Business and Professions Code section 2228.1, serves to protect the public interest.

13. 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.

CONTINGENCY

14. 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.

15. 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. 800-2019-058604 shall be

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

3 16. In consideration of the foregoing admissions and stipulations and the following
4 Disciplinary Order, the Board agrees that this Stipulated Settlement and Disciplinary Order shall
5 also fully resolve, conclude and dismiss Medical Board investigation number 800-2019-058235.

6 17. In consideration of the foregoing admissions and stipulations and the following
7 Disciplinary Order, Respondent agrees to dismiss, with prejudice, *Christopher Aho, M.D. v.*
8 *Kimberly Kirchmeyer, et.al.*, Fourth Appellate District, Division 8, Case No. G061026.

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

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

15 **DISCIPLINARY ORDER**

16 IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. A 79102 issued
17 to Respondent Christopher James Aho, M.D. is revoked. However, the revocation is stayed and
18 Respondent is placed on probation for five (5) years on the following terms and conditions:

19 1. **CONTROLLED SUBSTANCES - PARTIAL RESTRICTION.** Respondent shall not
20 order, prescribe, dispense, administer, furnish, or possess any controlled substances as defined by
21 the California Uniform Controlled Substances Act, except Respondent is permitted to prescribe
22 Norco, Oxycodone, Dilaudid, Flexeril, Robaxin, and Tramadol for post-operative patients when
23 Respondent is acting as the post-operative patient's primary surgeon, for up to sixty (60) days
24 after surgery as well as order these medications for patients in the perioperative setting when
25 Respondent is acting as the patient's primary surgeon. Perioperative setting is defined as
26 immediately prior to surgery, during surgery, or immediately after surgery in a hospital or surgery
27 center. In addition, for patients with a diagnosed and documented claustrophobia or related
28 condition who require medication before undergoing a magnetic resonance imaging (MRI),

1 Respondent is permitted to prescribe up to 1 milligram of Ativan for the patient's use before
2 undergoing a MRI ordered by Respondent.

3 Respondent shall not issue an oral or written recommendation or approval to a patient or a
4 patient's primary caregiver for the possession or cultivation of marijuana for the personal medical
5 purposes of the patient within the meaning of Health and Safety Code section 11362.5. If
6 Respondent forms the medical opinion, after an appropriate prior examination and medical
7 indication, that a patient's medical condition may benefit from the use of marijuana, Respondent
8 shall so inform the patient and shall refer the patient to another physician who, following an
9 appropriate prior examination and medical indication, may independently issue a medically
10 appropriate recommendation or approval for the possession or cultivation of marijuana for the
11 personal medical purposes of the patient within the meaning of Health and Safety Code section
12 11362.5. In addition, Respondent shall inform the patient or the patient's primary caregiver that
13 Respondent is prohibited from issuing a recommendation or approval for the possession or
14 cultivation of marijuana for the personal medical purposes of the patient and that the patient or
15 the patient's primary caregiver may not rely on Respondent's statements to legally possess or
16 cultivate marijuana for the personal medical purposes of the patient. Respondent shall fully
17 document in the patient's chart that the patient or the patient's primary caregiver was so
18 informed. Nothing in this condition prohibits Respondent from providing the patient or the
19 patient's primary caregiver information about the possible medical benefits resulting from the use
20 of marijuana.

21 2. CONTROLLED SUBSTANCES - MAINTAIN RECORDS AND ACCESS TO
22 RECORDS AND INVENTORIES. Respondent shall maintain a record of all controlled
23 substances ordered, prescribed, dispensed, administered, or possessed by Respondent, and any
24 recommendation or approval which enables a patient or patient's primary caregiver to possess or
25 cultivate marijuana for the personal medical purposes of the patient within the meaning of Health
26 and Safety Code section 11362.5, during probation, showing all of the following: 1) the name and
27 address of the patient; 2) the date; 3) the character and quantity of controlled substances involved;
28 and 4) the indications and diagnosis for which the controlled substances were furnished.

Respondent shall keep these records in a separate file or ledger, in chronological order. All records and any inventories of controlled substances shall be available for immediate inspection and copying on the premises by the Board or its designee at all times during business hours and shall be retained for the entire term of probation.

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

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

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

5. EDUCATION COURSE. Within sixty (60) calendar days of the effective date of this Decision, and on an annual basis thereafter, Respondent shall submit to the Board or its designee for its prior approval educational program(s) or course(s) which shall not be less than forty (40) hours per year, for each year of probation. The educational program(s) or course(s) shall be aimed at correcting any areas of deficient practice or knowledge and shall be Category I certified. The educational program(s) or course(s) shall be at Respondent's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure. Following the completion of each course, the Board or its designee may administer an examination to test Respondent's knowledge of the course. Respondent shall provide proof of attendance for sixty-five (65) hours of CME of which forty (40) hours were in satisfaction of this condition.

6. PRESCRIBING PRACTICES COURSE. Within sixty (60) calendar days of the effective date of this Decision, Respondent shall enroll in a course in prescribing practices

1 approved in advance by the Board or its designee. Respondent shall provide the approved course
2 provider with any information and documents that the approved course provider may deem
3 pertinent. Respondent shall participate in and successfully complete the classroom component of
4 the course not later than six (6) months after Respondent's initial enrollment. Respondent shall
5 successfully complete any other component of the course within one (1) year of enrollment. The
6 prescribing practices course shall be at Respondent's expense and shall be in addition to the
7 Continuing Medical Education (CME) requirements for renewal of licensure.

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

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

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

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

1 this Decision.

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

5 8. PROFESSIONALISM PROGRAM (ETHICS COURSE). Within sixty (60) calendar
6 days of the effective date of this Decision, Respondent shall enroll in a professionalism program,
7 that meets the requirements of Title 16, California Code of Regulations (CCR) section 1358.1.
8 Respondent shall participate in and successfully complete that program. Respondent shall
9 provide any information and documents that the program may deem pertinent. Respondent shall
10 successfully complete the classroom component of the program not later than six (6) months after
11 Respondent's initial enrollment, and the longitudinal component of the program not later than the
12 time specified by the program, but no later than one (1) year after attending the classroom
13 component. The professionalism program shall be at Respondent's expense and shall be in
14 addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

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

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

23 9. MONITORING - PRACTICE. Within thirty (30) calendar days of the effective date
24 of this Decision, Respondent shall submit to the Board or its designee for prior approval as a
25 practice monitor, the name and qualifications of one or more licensed physicians and surgeons
26 whose licenses are valid and in good standing, and who are preferably American Board of
27 Medical Specialties (ABMS) certified. A monitor shall have no prior or current business or
28 personal relationship with Respondent, or other relationship that could reasonably be expected to

1 compromise the ability of the monitor to render fair and unbiased reports to the Board, including
2 but not limited to any form of bartering, shall be in Respondent's field of practice, and must agree
3 to serve as Respondent's monitor. Respondent shall pay all monitoring costs.

4 The Board or its designee shall provide the approved monitor with copies of the Decision(s)
5 and Accusation(s), and a proposed monitoring plan. Within fifteen (15) calendar days of receipt
6 of the Decision(s), Accusation(s), and proposed monitoring plan, the monitor shall submit a
7 signed statement that the monitor has read the Decision(s) and Accusation(s), fully understands
8 the role of a monitor, and agrees or disagrees with the proposed monitoring plan. If the monitor
9 disagrees with the proposed monitoring plan, the monitor shall submit a revised monitoring plan
10 with the signed statement for approval by the Board or its designee.

11 Within sixty (60) calendar days of the effective date of this Decision, and continuing
12 throughout probation, Respondent's practice shall be monitored by the approved monitor.
13 Respondent shall make all records available for immediate inspection and copying on the
14 premises by the monitor at all times during business hours and shall retain the records for the
15 entire term of probation.

16 If Respondent fails to obtain approval of a monitor within sixty (60) calendar days of the
17 effective date of this Decision, Respondent shall receive a notification from the Board or its
18 designee to cease the practice of medicine within three (3) calendar days after being so notified.
19 Respondent shall cease the practice of medicine until a monitor is approved to provide monitoring
20 responsibility.

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

27 If the monitor resigns or is no longer available, Respondent shall, within five (5) calendar
28 days of such resignation or unavailability, submit to the Board or its designee, for prior approval,

1 the name and qualifications of a replacement monitor who will be assuming that responsibility
2 within fifteen (15) calendar days. If Respondent fails to obtain approval of a replacement monitor
3 within sixty (60) calendar days of the resignation or unavailability of the monitor, Respondent
4 shall receive a notification from the Board or its designee to cease the practice of medicine within
5 three (3) calendar days after being so notified. Respondent shall cease the practice of medicine
6 until a replacement monitor is approved and assumes monitoring responsibility.

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

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

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

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

1 the Board or its designee, the scheduling of biological fluid testing shall be done on a random
2 basis. The cost of biological fluid testing shall be borne by Respondent.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25 If a biological fluid test result indicates Respondent has used, consumed, ingested, or
26 administered to himself or herself a prohibited substance, the Board shall order Respondent to
27 cease practice and instruct Respondent to leave any place of work where Respondent is practicing
28 medicine or providing medical services. The Board shall immediately notify all of Respondent's

1 employers, supervisors and work monitors, if any, that Respondent may not practice medicine or
2 provide medical services while the cease-practice order is in effect.

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

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

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

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

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

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

27 The facilitator of the substance abuse support group meeting shall have a minimum of three
28 (3) years' experience in the treatment and rehabilitation of substance abuse, and shall be licensed

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

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

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

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

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

27 Respondent shall pay all worksite monitoring costs.

28 The worksite monitor shall have face-to-face contact with Respondent in the work

1 environment on as frequent a basis as determined by the Board or its designee, but not less than
2 once per week; interview other staff in the office regarding Respondent's behavior, if requested
3 by the Board or its designee; and review Respondent's work attendance.

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

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

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

responsibility.

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

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

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

(2) Increase the frequency of biological fluid testing.

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

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

(1) Issue a cease-practice order;

(2) Order practice limitations;

(3) Order or increase supervision of Respondent;

(4) Order increased documentation;

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

(6) Order Respondent to undergo a clinical diagnostic evaluation to be conducted in

1 accordance with section 1361.5, subdivision (c)(1), of Title 16 of the California Code of
2 Regulations, at Respondent's expense;

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

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

11 15. PATIENT DISCLOSURE. Before a patient's first visit following the effective date
12 of this order and while Respondent is on probation, Respondent must provide all patients, or
13 patient's guardian or health care surrogate, with a separate disclosure that includes Respondent's
14 probation status, the length of the probation, the probation end date, all practice restrictions
15 placed on Respondent by the board, the board's telephone number, and an explanation of how the
16 patient can find further information on Respondent's probation on Respondent's profile page on
17 the board's website. Respondent shall obtain from the patient, or the patient's guardian or health
18 care surrogate, a separate, signed copy of that disclosure. Respondent shall not be required to
19 provide a disclosure if any of the following applies: (1) The patient is unconscious or otherwise
20 unable to comprehend the disclosure and sign the copy of the disclosure and a guardian or health
21 care surrogate is unavailable to comprehend the disclosure and sign the copy; (2) The visit occurs
22 in an emergency room or an urgent care facility or the visit is unscheduled, including
23 consultations in inpatient facilities; (3) Respondent is not known to the patient until immediately
24 prior to the start of the visit; (4) Respondent does not have a direct treatment relationship with the
25 patient.

26 16. NOTIFICATION. Within seven (7) days of the effective date of this Decision,
27 Respondent shall provide a true copy of this Decision and Accusation to the Chief of Staff or the
28 Chief Executive Officer at every hospital where privileges or membership are extended to

Respondent, at any other facility where Respondent engages in the practice of medicine, including all physician and locum tenens registries or other similar agencies, and to the Chief Executive Officer at every insurance carrier which extends malpractice insurance coverage to Respondent. Respondent shall submit proof of compliance to the Board or its designee within fifteen (15) calendar days.

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

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

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

19. INVESTIGATION/ENFORCEMENT COST RECOVERY. Respondent is hereby ordered to reimburse the Board its costs of investigation and enforcement, in the amount of \$10,043.00 (ten thousand forty-three dollars and no cents). Costs shall be payable to the Medical Board of California. Failure to pay such costs shall be considered a violation of probation.

Any and all requests for a payment plan shall be submitted in writing by Respondent to the Board.

The filing of bankruptcy by Respondent shall not relieve Respondent of the responsibility to repay investigation and enforcement costs.

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

Respondent shall submit quarterly declarations not later than ten (10) calendar days after the end of the preceding quarter.

21. GENERAL PROBATION REQUIREMENTS.

Compliance with Probation Unit

Respondent shall comply with the Board's probation unit.

1 Address Changes

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

7 Place of Practice

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

11 License Renewal

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

14 Travel or Residence Outside California

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

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

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

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

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

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

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

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

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

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

27 25. VIOLATION OF PROBATION. Failure to fully comply with any term or condition
28 of probation is a violation of probation. If Respondent violates probation in any respect, the

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

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

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

21 28. FUTURE ADMISSIONS CLAUSE. If Respondent should ever apply or reapply for
22 a new license or certification, or petition for reinstatement of a license, by any other health care
23 licensing action agency in the State of California, all of the charges and allegations contained in
24 Accusation No. 800-2019-058604 shall be deemed to be true, correct, and admitted by
25 Respondent for the purpose of any Statement of Issues or any other proceeding seeking to deny or
26 restrict license.

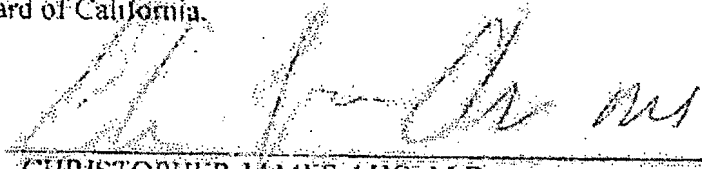
27 ///

28 ///

1 ACCEPTANCE

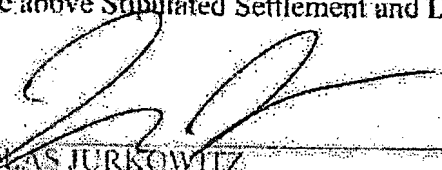
2 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
3 discussed it with my attorney, Nicholas Jurkowitz. I understand the stipulation and the effect it
4 will have on my Physician's and Surgeon's Certificate. I enter into this Stipulated Settlement and
5 Disciplinary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

7
8 DATED: 9/16/2022


9 CHRISTOPHER JAMES AHO, M.D.
Respondent

10 I have read and fully discussed with Respondent Christopher James Aho, M.D. the terms
11 and conditions and other matters contained in the above Stipulated Settlement and Disciplinary
12 Order. I approve its form and content.

13 DATED: 9-16-22


14 NICHOLAS JURKOWITZ
Attorney for Respondent

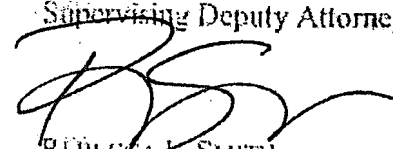
15
16
17 ENDORSEMENT

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

20 DATED: 9/19/2022

21 Respectfully submitted,

22 ROB BONTA
Attorney General of California
23 JUDITH T. ALVARADO
Supervising Deputy Attorney General


24 REBECCA L. SMITH
25 Deputy Attorney General
26 Attorneys for Complainant

27 LA2021604533
28 65318069.docx

Exhibit A

Accusation No. 800-2019-058604

1 ROB BONTA
Attorney General of California
2 JUDITH T. ALVARADO
Supervising Deputy Attorney General
3 REBECCA L. SMITH
Deputy Attorney General
4 State Bar No. 179733
300 South Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 269-6475
6 Facsimile: (916) 731-2117
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. 800-2019-058604

13 **CHRISTOPHER JAMES AHO, M.D.**
14 **8135 Painter Avenue, Suite 307**
Whittier, CA 90602-3161

A C C U S A T I O N

15 **Physician's and Surgeon's Certificate**
16 **No. A 79102,**

Respondent.

17
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 May 15, 2002, the Board issued Physician's and Surgeon's Certificate
24 Number A 79102 to Christopher James Aho, M.D. (Respondent). The Physician's and Surgeon's
25 Certificate was in full force and effect at all times relevant to the charges brought herein and will
26 expire on April 30, 2022, unless renewed.

27 ///

28 ///

JURISDICTION

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

4. Section 2004 of the Code states:

The board shall have the responsibility for the following:

(a) The enforcement of the disciplinary and criminal provisions of the Medical Practice Act.

(b) The administration and hearing of disciplinary actions.

(c) Carrying out disciplinary actions appropriate to findings made by a panel or an administrative law judge.

(d) Suspending, revoking, or otherwise limiting certificates after the conclusion of disciplinary actions.

(e) Reviewing the quality of medical practice carried out by physician and surgeon certificate holders under the jurisdiction of the board.

(f) Approving undergraduate and graduate medical education programs.

(g) Approving clinical clerkship and special programs and hospitals for the programs in subdivision (f).

(h) Issuing licenses and certificates under the board's jurisdiction.

(i) Administering the board's continuing medical education program.

5. Section 2227 of the Code states:

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

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

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

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

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

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

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

9 STATUTORY PROVISIONS

10 6. Section 820 of the Code states:

11 Whenever it appears that any person holding a license, certificate or permit
12 under this division or under any initiative act referred to in this division may be
13 unable to practice his or her profession safely because the licentiate's ability to
14 practice is impaired due to mental illness, or physical illness affecting competency,
15 the licensing agency may order the licentiate to be examined by one or more
16 physicians and surgeons or psychologists designated by the agency. The report of the
17 examiners shall be made available to the licentiate and may be received as direct
18 evidence in proceedings conducted pursuant to Section 822.

19 7. Section 822 of the Code states:

20 If a licensing agency determines that its licentiate's ability to practice his or her
21 profession safely is impaired because the licentiate is mentally ill, or physically ill
22 affecting competency, the licensing agency may take action by any one of the
23 following methods:

24 (a) Revoking the licentiate's certificate or license.

25 (b) Suspending the licentiate's right to practice.

26 (c) Placing the licentiate on probation.

27 (d) Taking such other action in relation to the licentiate as the licensing agency
28 in its discretion deems proper.

The licensing section shall not reinstate a revoked or suspended certificate or
license until it has received competent evidence of the absence or control of the
condition which caused its action and until it is satisfied that with due regard for the
public health and safety the person's right to practice his or her profession may be
safely reinstated.

8. 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.

(b) Gross negligence.

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

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

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

13 (d) Incompetence.

14 (e) The commission of any act involving dishonesty or corruption that is
15 substantially related to the qualifications, functions, or duties of a physician and
16 surgeon.

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

18 (g) The failure by a certificate holder, in the absence of good cause, to attend
19 and participate in an interview by the board. This subdivision shall only apply to a
20 certificate holder who is the subject of an investigation by the board.

21 COST RECOVERY

22 9. Section 125.3 of the Code states:

23 (a) Except as otherwise provided by law, in any order issued in resolution of a
24 disciplinary proceeding before any board within the department or before the
25 Osteopathic Medical Board, upon request of the entity bringing the proceeding, the
26 administrative law judge may direct a licensee found to have committed a violation or
27 violations of the licensing act to pay a sum not to exceed the reasonable costs of the
28 investigation and enforcement of the case.

(b) In the case of a disciplined licensee that is a corporation or a partnership, the
order may be made against the licensed corporate entity or licensed partnership.

(c) A certified copy of the actual costs, or a good faith estimate of costs where
actual costs are not available, signed by the entity bringing the proceeding or its
designated representative shall be prima facie evidence of reasonable costs of
investigation and prosecution of the case. The costs shall include the amount of
investigative and enforcement costs up to the date of the hearing, including, but not
limited to, charges imposed by the Attorney General.

(d) The administrative law judge shall make a proposed finding of the amount
of reasonable costs of investigation and prosecution of the case when requested
pursuant to subdivision (a). The finding of the administrative law judge with regard
to costs shall not be reviewable by the board to increase the cost award. The board
may reduce or eliminate the cost award, or remand to the administrative law judge if
the proposed decision fails to make a finding on costs requested pursuant to
subdivision (a).

1 (e) If an order for recovery of costs is made and timely payment is not made as
2 directed in the board's decision, the board may enforce the order for repayment in any
appropriate court. This right of enforcement shall be in addition to any other rights
the board may have as to any licensee to pay costs.

3 (f) In any action for recovery of costs, proof of the board's decision shall be
4 conclusive proof of the validity of the order of payment and the terms for payment.

5 (g) (1) Except as provided in paragraph (2), the board shall not renew or
reinstate the license of any licensee who has failed to pay all of the costs ordered
under this section.

6 (2) Notwithstanding paragraph (1), the board may, in its discretion,
7 conditionally renew or reinstate for a maximum of one year the license of any
8 licensee who demonstrates financial hardship and who enters into a formal agreement
with the board to reimburse the board within that one-year period for the unpaid
9 costs.

10 (h) All costs recovered under this section shall be considered a reimbursement
for costs incurred and shall be deposited in the fund of the board recovering the costs
to be available upon appropriation by the Legislature.

11 (i) Nothing in this section shall preclude a board from including the recovery of
12 the costs of investigation and enforcement of a case in any stipulated settlement.

13 (j) This section does not apply to any board if a specific statutory provision in
14 that board's licensing act provides for recovery of costs in an administrative
disciplinary proceeding.

15 FACTUAL ALLEGATIONS

16 10. On July 18, 2019, from approximately 10:45 a.m. to 1:26 p.m., Respondent
17 performed a scheduled elective anterior cervical discectomy and fusion (ACDF) on Patient 1¹ for
18 cervical spondylosis and stenosis with radiculopathy at PIH Health Hospital – Whittier (the
19 Hospital).²

20 11. Surgical staff involved in Patient 1's ACDF surgery raised concerns whether
21 Respondent was physically and mentally compromised during the performance of the surgery, as
22 Respondent was observed by members of the surgical staff to be lethargic with bloodshot eyes
23 and slurred speech, and he appeared to have "dozed off" during the surgery.³

24
25 ¹ The patient herein is referred to as Patient 1 in order to protect their privacy.

26 ² PIH Health Hospital – Whittier was formerly called Presbyterian Intercommunity Hospital-
Whittier.

27 ³ During Respondent's interview with the Board on June 3, 2021, Respondent stated that he
28 remembers being sleepy the day of Patient 1's surgery but that he did not doze off during the surgery and
was safe to practice at the time of the surgery.

1 12. At approximately 6:00 p.m. on July 18, 2019, Respondent was asked to submit to a
2 drug test. Respondent declined the request. In response, the Hospital summarily suspended
3 Respondent's hospital privileges, effective immediately. The summary suspension was based
4 upon reports of hospital staff that Respondent's speech was slurred and he was difficult to
5 understand during telephone calls on July 16, 2019 and July 17, 2019, and reports from surgical
6 staff that Respondent was tired and appeared to fall asleep during Patient 1's July 18, 2019
7 surgery.

8 13. Respondent had no further contact with Patient 1 following the July 18, 2019 surgery.
9 Postoperatively, Patient 1 was followed by hospitalist, Dr. J.M. and Respondent's Nurse
10 Practitioner, J.B. Patient 1 was discharged from the Hospital on July 19, 2019, with instructions
11 to follow-up with Respondent in one week. Patient 1's post-operative care was transferred to Dr.
12 H.M., a neurosurgeon who shared office space with Respondent.⁴

13 14. On July 21, 2019, Respondent presented to St. Jude Medical Center with complaints
14 of chest pain, shortness of breath and anxiety attack after stopping all his medications for two
15 days. He was admitted to St. Jude Medical Center for two days. Respondent was then seen on
16 July 30, 2019, by the Hospital referred physician, Dr. G.S., at the Center for Professional
17 Recovery for a comprehensive evaluation. Dr. G.S. opined that Respondent was not then
18 currently impaired but suffered from medical issues that required attention. Respondent
19 underwent an inpatient treatment program at Rehabilitation Center for Professional Recovery
20 from August 1, 2019 through September 15, 2019.

21 15. On November 15, 2019, Respondent underwent a voluntary mental evaluation by Dr.
22 M.K., pursuant to Business and Professions Code section 820. Dr. M.K. noted that Respondent
23 suffered from psychiatric conditions, severe benzodiazepine use disorder, severe alcohol use
24 disorder, all in early remission. Upon completion of his evaluation, Dr. M.K. opined that in order
25 for Respondent to safely practice medicine, he requires practice restrictions.

26 ⁴ Patient 1 subsequently experienced increased symptoms of neck and arm pain and difficulty
27 ambulating requiring further surgical interventions. On October 2, 2019, Dr. H.M. performed a posterior
28 cervical fusion from C4-C7. On October 4, 2019, Dr. H.M. performed a revision anterior cervical
procedure with removal of the previously implanted anterior cervical hardware and revision of the
decompression and fusion of C4-7 on October 4, 2019.

16. On November 22, 2019, Respondent underwent a voluntary physical evaluation by Dr. B.K., pursuant to Business and Professions Code section 820. Dr. B.K. noted that Respondent reported that he had abused benzodiazepines and hydrocodone in the past and that he had not had any alcohol or recreational drug use in the 124 days prior to Dr. B.K.'s evaluation. At the time of the evaluation, Respondent stated that he was under the care of an addiction psychiatrist and participates in an after-care program that includes counseling sessions as well as random drug and alcohol testing. Upon completion of his evaluation, Dr. B.K. opined that Respondent is safe to practice with the continued participation in his after-care program, including remaining under the care of an addiction psychiatrist and abstaining from addictive substances.

FIRST CAUSE FOR DISCIPLINE

(Inability to Practice Medicine Safely Without Practice Restrictions)

17. Respondent is subject to disciplinary action pursuant to section 822 of the Code, in that Respondent cannot safely practice medicine without practice restrictions. The circumstances are as follows:

18. Complainant refers to and, by this reference, incorporates paragraphs 11 through 16, above, as though set forth fully herein.

SECOND CAUSE FOR DISCIPLINE

(Unprofessional Conduct – Gross Negligence)

19. Respondent is subject to disciplinary action pursuant to section 2234, subdivision (b), of the Code, in that he engaged in gross negligence in his care and treatment of Patient 1. The circumstances are as follows:

20. Complainant refers to and, by this reference, incorporates paragraphs 11 through 18, above, as though set forth fully herein.

21. The standard of care for a surgeon performing an elective ACDF procedure, which has the potential for life-threatening complications and major morbidity, requires that the surgeon optimize all controllable variables while caring for the surgical patient who has placed her trust in the surgeon. The surgeon should take due precaution at all times during the surgical procedure to

1 protect the patient from harm. The surgeon is expected to be prepared physically and mentally to
2 fully complete the duties of the surgery.

3 22. In the event that after a recent surgery, the surgeon is unable to continue to provide
4 care for the patient for personal medical health reasons, the standard of care would be for the
5 surgeon, if he is not physically incapacitated, to disclose to the patient and her family in person or
6 by telephone the reasons for the necessity of transfer of care and then introduce the covering
7 surgeon who would assume care moving forward so that the patient's care is continuous.

8 23. Respondent committed an extreme departure from the standard of care in choosing to
9 proceed with Patient 1's surgery while being in a compromised physical and mental condition and
10 failing to attempt to contact Patient 1 and explain the circumstances requiring Respondent to take
11 urgent leave and assign Patient 1's postoperative care to another surgeon.

12 **PRAYER**

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

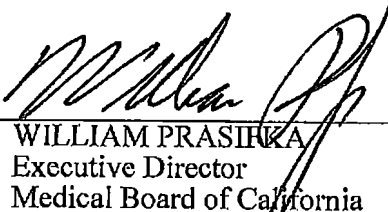
15 1. Revoking or suspending Physician's and Surgeon's Certificate Number A 79102,
16 issued to Respondent Christopher James Aho, M.D.;

17 2. Revoking, suspending or denying approval of Respondent Christopher James Aho,
18 M.D.'s authority to supervise physician assistants and advanced practice nurses;

19 3. Ordering Respondent Christopher James Aho, M.D., to pay the Board the costs of the
20 investigation and enforcement of this case, and if placed on probation, the costs of probation
21 monitoring; and

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

23
24 DATED: JAN 25 2022

25 
26 WILLIAM PRASANNA
27 Executive Director
28 Medical Board of California
Department of Consumer Affairs
State of California
Complainant

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