

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

In the Matter of the Accusation
Against:

Carrie Wynn Bacon, M.D.

Physician's and Surgeon's
Certificate No. A 85044

Respondent.

Case No.: 800-2022-092466

DECISION

The attached Stipulate 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 August 4, 2023.

IT IS SO ORDERED: July 7, 2023.

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 LATRICE R. HEMPHILL
Deputy Attorney General
4 State Bar No. 285973
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 269-6198
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:

13 **CARRIE WYNN BACON, M.D.**
14 **31150 Temecula Parkway, Suite 200**
Temecula, CA 92592

15 **Physician's and Surgeon's Certificate**
16 **No. A 85044,**

17 Respondent.

Case No. 800-2022-092466

OAH No. 2023020230

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. Reji Varghese (Complainant) is the Interim Executive Director of the Medical Board
23 of California (Board). He brought this action solely in his official capacity and is represented in
24 this matter by Rob Bonta, Attorney General of the State of California, by Latrice R. Hemphill,
25 Deputy Attorney General.

26 2. Respondent Carrie Wynn Bacon, M.D. (Respondent) is represented in this proceeding
27 by attorney Kevin C. Murphy, whose address is: Murphy Jones APC, 5575 Lake Park Way, Suite
28 218, La Mesa, CA 91942.

1 10. Respondent does not contest that, at an administrative hearing, complainant could
2 establish a prima facie case with respect to the charges and allegations in Accusation No. 800-
3 2022-092466, a true and correct copy of which is attached hereto as Exhibit A, and that he has
4 thereby subjected her Physician's and Surgeon's Certificate, No. A 85044 to disciplinary action.

5 11. Respondent agrees that her Physician's and Surgeon's Certificate is subject to
6 discipline and she agrees to be bound by the Board's probationary terms as set forth in the
7 Disciplinary Order below.

8 **CONTINGENCY**

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

19 13. Respondent agrees that if she ever petitions for early termination or modification of
20 probation, or if an accusation and/or petition to revoke probation is filed against her before the
21 Board, all of the charges and allegations contained in Accusation No. 800-2022-092466 shall be
22 deemed true, correct and fully admitted by respondent for purposes of any such proceeding or any
23 other licensing proceeding involving Respondent in the State of California.

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

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1 addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 (5) years. Respondent's previous participation in a substance abuse group support meeting led by
2 the same facilitator does not constitute a prohibited current or former financial, personal, or
3 business relationship.

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

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

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

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

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

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

27 B. If Respondent commits a minor violation of probation as defined by section
28 1361.52, subdivision (c), of Title 16 of the California Code of Regulations, the Board shall take

1 one or more of the following actions:

2 (1) Issue a cease-practice order;

3 (2) Order practice limitations;

4 (3) Order or increase supervision of Respondent;

5 (4) Order increased documentation;

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

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

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

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

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

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

27 9. OBEY ALL LAWS. Respondent shall obey all federal, state and local laws, all rules
28 governing the practice of medicine in California and remain in full compliance with any court

1 ordered criminal probation, payments, and other orders.

2 10. INVESTIGATION/ENFORCEMENT COST RECOVERY. Respondent is hereby
3 ordered to reimburse the Board its costs of investigation and enforcement in the amount of \$7,680
4 (seven thousand six hundred and eighty dollars). Costs shall be payable to the Medical Board of
5 California. Failure to pay such costs shall be considered a violation of probation.

6 Payment must be made in full within 30 calendar days of the effective date of the Order, or
7 by a payment plan approved by the Medical Board of California. Any and all requests for a
8 payment plan shall be submitted in writing by respondent to the Board. Failure to comply with
9 the payment plan shall be considered a violation of probation.

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

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

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

17 12. GENERAL PROBATION REQUIREMENTS.

18 Compliance with Probation Unit

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

20 Address Changes

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

26 Place of Practice

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

1 facility.

2 License Renewal

3 Respondent shall maintain a current and renewed California physician's and surgeon's
4 license.

5 Travel or Residence Outside California

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

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

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

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

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

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

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

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

13 15. COMPLETION OF PROBATION. Respondent shall comply with all financial
14 obligations (e.g., restitution, probation costs) not later than 120 calendar days prior to the
15 completion of probation. This term does not include cost recovery, which is due within 30
16 calendar days of the effective date of the Order, or by a payment plan approved by the Medical
17 Board and timely satisfied. Upon successful completion of probation, Respondent's certificate
18 shall be fully restored.

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

26 17. LICENSE SURRENDER. Following the effective date of this Decision, if
27 Respondent ceases practicing due to retirement or health reasons or is otherwise unable to satisfy
28 the terms and conditions of probation, Respondent may request to surrender his or her license.

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

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

13 19. FUTURE ADMISSIONS CLAUSE. If Respondent should ever apply or reapply for
14 a new license or certification, or petition for reinstatement of a license, by any other health care
15 licensing action agency in the State of California, all of the charges and allegations contained in
16 Accusation No. 800-2022-092466 shall be deemed to be true, correct, and admitted by
17 Respondent for the purpose of any Statement of Issues or any other proceeding seeking to deny or
18 restrict license.

19 ACCEPTANCE

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

25
26 DATED: May 26, 2023

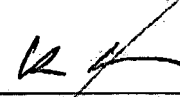
Carrie Wynn Bacon, MD
27 CARRIE WYNN BACON, M.D.
28 Respondent

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I have read and fully discussed with Respondent Carrie Wynn Bacon, M.D. the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.

I approve its form and content.

DATED: 5/30/23



KEVIN C. MURPHY, ESQ.
Attorney for Respondent

ENDORSEMENT

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

DATED: _____

Respectfully submitted,
ROB BONTA
Attorney General of California
JUDITH T. ALVARADO
Supervising Deputy Attorney General

LATRICE R. HEMPHILL
Deputy Attorney General
Attorneys for Complainant

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1 I have read and fully discussed with Respondent Carrie Wynn Bacon, 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: _____
5 KEVIN C. MURPHY, ESQ.
6 *Attorney for Respondent*

7
8 **ENDORSEMENT**

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

11 DATED: May 31, 2023

12 Respectfully submitted,
13 ROB BONTA
14 Attorney General of California
15 JUDITH T. ALVARADO
16 Supervising Deputy Attorney General
17 
18 LATRICE R. HEMPHILL
19 Deputy Attorney General
20 *Attorneys for Complainant*

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Exhibit A

Accusation No. 800-2022-092466

1 ROB BONTA
Attorney General of California
2 JUDITH T. ALVARADO
Supervising Deputy Attorney General
3 LATRICE R. HEMPHILL
Deputy Attorney General
4 State Bar No. 285973
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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. 800-2022-092466

13 **CARRIE WYNN BACON, M.D.**
14 **31150 Temecula Parkway, Suite 200**
Temecula, CA 92592

A C C U S A T I O N

15 **Physician's and Surgeon's Certificate**
16 **No. A 85044,**

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 October 29, 2003, the Medical Board issued Physician's and Surgeon's
24 Certificate Number A 85044 to Carrie Wynn Bacon, 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 July 31, 2023, unless renewed.

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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
into a stipulation for disciplinary action with the board, may, in accordance with the
provisions of this chapter:

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

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

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

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

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

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

20 **STATUTES**

21 5. Section 2234 of the Code, states:

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

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

26 (b) Gross negligence.

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

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

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

9 (d) Incompetence.

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

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

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

17 6. Section 2236 of the Code states:

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

23 (b) The district attorney, city attorney, or other prosecuting agency shall notify
24 the Medical Board of the pendency of an action against a licensee charging a felony
25 or misdemeanor immediately upon obtaining information that the defendant is a
26 licensee. The notice shall identify the licensee and describe the crimes charged and
27 the facts alleged. The prosecuting agency shall also notify the clerk of the court in
28 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

1 or injurious to the licensee, or to any other person or to the public, or to the extent that
2 such use impairs the ability of the licensee to practice medicine safely or more than
3 one misdemeanor or any felony involving the use, consumption, or
4 self-administration of any of the substances referred to in this section, or any
5 combination thereof, constitutes unprofessional conduct. The record of the
6 conviction is conclusive evidence of such unprofessional conduct.

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

17 8. Section 490 of the Code states:

18 (a) In addition to any other action that a board is permitted to take against a
19 licensee, a board may suspend or revoke a license on the ground that the licensee has
20 been convicted of a crime, if the crime is substantially related to the qualifications,
21 functions, or duties of the business or profession for which the license was issued.

22 (b) Notwithstanding any other provision of law, a board may exercise any
23 authority to discipline a licensee for conviction of a crime that is independent of the
24 authority granted under subdivision (a) only if the crime is substantially related to the
25 qualifications, functions, or duties of the business or profession for which the
26 licensee's license was issued.

27 (c) A conviction within the meaning of this section means a plea or verdict of
28 guilty or a conviction following a plea of nolo contendere. Any action that a board is
permitted to take following the establishment of a conviction may be taken 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 the imposition of
sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of
the Penal Code.

(d) The Legislature hereby finds and declares that the application of this section
has been made unclear by the holding in *Petropoulos v. Department of Real Estate*
(2006) 142 Cal.App.4th 554, and that the holding in that case has placed a significant
number of statutes and regulations in question, resulting in potential harm to the
consumers of California from licensees who have been convicted of crimes.
Therefore, the Legislature finds and declares that this section establishes an
independent basis for a board to impose discipline upon a licensee, and that the
amendments to this section made by Chapter 33 of the Statutes of 2008 do not
constitute a change to, but rather are declaratory of, existing law.

REGULATORY PROVISIONS

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

For the purposes of denial, suspension or revocation of a license, certificate or

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

10 COST RECOVERY

11 10. Section 125.3 of the Code states:

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

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

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

26 (d) The administrative law judge shall make a proposed finding of the amount
27 of reasonable costs of investigation and prosecution of the case when requested
28 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).

(e) If an order for recovery of costs is made and timely payment is not made as
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.

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

(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.

(2) Notwithstanding paragraph (1), the board may, in its discretion,
conditionally renew or reinstate for a maximum of one year the license of any
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

costs.

1
2 (h) All costs recovered under this section shall be considered a reimbursement
3 for costs incurred and shall be deposited in the fund of the board recovering the costs
4 to be available upon appropriation by the Legislature.

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

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

10 FACTUAL ALLEGATIONS

11 11. On or about March 9, 2021, California Highway Patrol officers were dispatched to
12 the scene of a possible collision with ambulance responding. Upon arrival, an officer saw
13 Respondent's vehicle stopped on the dirt adjacent to the highway shoulder. The officer was
14 advised by emergency personnel that Respondent was removed from her vehicle and was
15 unresponsive. Emergency personnel transported Respondent to the Inland Valley Medical
16 Center.

17 12. The officer searched Respondent's vehicle and located four empty 50 milliliter
18 alcohol bottles in the passenger compartment of the vehicle.

19 13. Subsequently, the officer responded to the Inland Valley Medical Center to interview
20 Respondent. Upon arrival, the officer was advised that the Respondent was still unresponsive.
21 The officer observed Respondent in the hospital bed and detected the odor of alcohol emitting
22 from Respondent's body. When a nurse lifted Respondent's eyelids, the officer observed
23 Respondent's eyes to be bloodshot red, watery, and glossy. The officer tried to introduce himself
24 and explain his presence to Respondent, but she was still incoherent and responded with moans.

25 14. The officer was unable to conduct any Field Sobriety Tests (FSTs) due to
26 Respondent's condition. However, based on his observations, the officer arrested Respondent for
27 driving under the influence of alcohol, in violation of Vehicle Code section 23152, subdivision
28 (a).

15. The officer obtained a search warrant for Respondent's blood to conduct a chemical
test. Respondent's blood was drawn and it was later determined that her blood alcohol
concentration was 0.321%.

1 16. After several hours, Respondent became responsive and the officer explained why she
2 was in custody.

3 17. On or about September 22, 2021, in the case of *The People of the State of California*
4 *v. Carrie Wynn Bacon*, Superior Court of California for the County of Riverside, case number
5 SWM2104751, Respondent was charged with driving while under the influence of an alcoholic
6 beverage (DUI), in violation of Vehicle Code section 23152, subdivision (a), a misdemeanor. A
7 special allegation was included, alleging that Respondent violated Vehicle Code section 23152
8 while having a blood alcohol concentration of 0.15 and more, within the meaning of Vehicle
9 Code section 23578. Respondent was also charged with driving a vehicle while having a 0.08
10 percent and more blood alcohol concentration, in violation of Vehicle Code section 23152,
11 subdivision (b), a misdemeanor. A special allegation was also included to this count, alleging
12 that Respondent violated Vehicle Code section 23152 while having a blood alcohol concentration
13 of 0.15 and more, within the meaning of Vehicle Code section 23578.

14 18. On or about October 5, 2022, Respondent pled no contest and was convicted of
15 driving a vehicle while having a 0.08 percent and more blood alcohol concentration, in violation
16 of Vehicle Code section 23152, subdivision (b), with the special allegation included. The
17 remaining count of the complaint was dismissed.

18 19. Respondent was sentenced to 36 months of probation and ordered to complete a first
19 offender program. Respondent was also ordered to pay a fine, restitution, and additional fees.

20 **FIRST CAUSE FOR DISCIPLINE**

21 **(Conviction of a Crime)**

22 20. Respondent is subject to disciplinary action under Code section 2236 and 490, and the
23 California Code of Regulations, title 16, section 1360 in that she was convicted of a crime
24 substantially related to the qualifications, functions, or duties of a physician or surgeon, as more
25 particularly alleged in paragraphs 11 through 19, above, which are hereby incorporated by
26 reference as if fully set forth herein.

27 ///

28 ///

1 **SECOND CAUSE FOR DISCIPLINE**

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

3 21. Respondent is subject to disciplinary action under Code section 2239 insofar as
4 Respondent used alcoholic beverages to the extent, or in such a manner, as to be dangerous or
5 injurious to herself and to the public, as more particularly alleged in paragraphs 11 through 19,
6 above, which are incorporated herein by reference as if fully set forth.

7 **THIRD CAUSE FOR DISCIPLINE**

8 **(Unprofessional Conduct)**

9 22. Respondent is subject to disciplinary action under Code section 2234 in that she
10 engaged in unprofessional conduct. The circumstances are as follows:

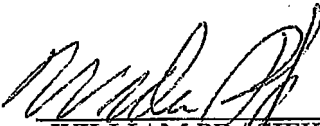
11 23. The allegations in the First and Second Causes for Discipline are incorporated herein
12 by reference as if fully set forth.

13 **PRAYER**

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

- 16 1. Revoking or suspending Physician's and Surgeon's Certificate Number A 85044,
17 issued to Carrie Wynn Bacon, M.D.;
- 18 2. Revoking, suspending or denying approval of Carrie Wynn Bacon, M.D.'s authority
19 to supervise physician assistants and advanced practice nurses;
- 20 3. Ordering Carrie Wynn Bacon, M.D., to pay the Board the costs of the investigation
21 and enforcement of this case, and if placed on probation, the costs of probation monitoring; and
- 22 5. Taking such other and further action as deemed necessary and proper.

23
24 DATED: DEC 22 2022

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

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