

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

In the Matter of the Accusation
Against:

DUSTIN ZIEROLD, M.D.

Physician's and Surgeon's
Certificate No. A 85833

Case No.: 800-2019-056632

Respondent.

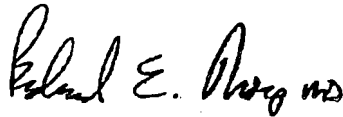
DECISION

The attached Stipulated Settlement 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 July 14, 2023.

IT IS SO ORDERED: June 14, 2023.

MEDICAL BOARD OF CALIFORNIA



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

1 ROB BONTA
Attorney General of California
2 STEVE DIEHL
Supervising Deputy Attorney General
3 RYAN J. YATES
Deputy Attorney General
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8
9 **BEFORE THE**
MEDICAL BOARD OF CALIFORNIA
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

13 **DUSTIN ZIEROLD, M.D.**
14 **2 Medical Plaza Drive, Suite 275**
Roseville, CA 95661-3043

15 **Physician's and Surgeon's Certificate No. A**
16 **85833**

17 Respondent.

Case No. 800-2019-056632

OAH No. 2022070340

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 Ryan J. Yates, Deputy
25 Attorney General.

26 2. Respondent Dustin Zierold, M.D. (Respondent) is representing himself in this
27 proceeding and has chosen not to exercise his right to be represented by counsel.
28

1 3. On or about January 30, 2004, the Board issued Physician's and Surgeon's Certificate
2 No. A 85833 to Dustin Zierold, M.D. The Physician's and Surgeon's Certificate was in full force
3 and effect at all times relevant to the charges brought in Accusation No. 800-2019-056632, and
4 will expire on March 31, 2023, unless renewed.

5 **JURISDICTION**

6 4. Accusation No. 800-2019-056632 was filed before the Board, and is currently
7 pending against Respondent. The Accusation and all other statutorily required documents were
8 properly served on Respondent on May 5, 2022. Respondent timely filed his Notice of Defense
9 contesting the Accusation.

10 5. A copy of Accusation No. 800-2019-056632 is attached as exhibit A and incorporated
11 herein by reference.

12 **ADVISEMENT AND WAIVERS**

13 6. Respondent has carefully read, and understands the charges and allegations in
14 Accusation No. 800-2019-056632. Respondent has also carefully read, and understands the
15 effects of this Stipulated Settlement and Disciplinary Order.

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

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

25 **CULPABILITY**

26 9. Respondent understands and agrees that the charges and allegations in Accusation
27 No. 800-2019-056632, if proven at a hearing, constitute cause for imposing discipline upon his
28 Physician's and Surgeon's Certificate.

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 2019-056632, a true and correct copy of which is attached hereto as Exhibit A, and that he has
4 thereby subjected his Physician's and Surgeon's Certificate, No. A 85833 to disciplinary action.

5 11. Respondent agrees that his Physician's and Surgeon's Certificate is subject to
6 discipline and he 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. By signing the stipulation,
13 Respondent understands and agrees that he may not withdraw his agreement or seek to rescind the
14 stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this
15 stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of
16 no force or effect, except for this paragraph, it shall be inadmissible in any legal action between
17 the parties, and the Board shall not be disqualified from further action by having considered this
18 matter.

19 13. Respondent agrees that if he ever petitions for early termination or modification of
20 probation, or if an accusation and/or petition to revoke probation is filed against him before the
21 Board, all of the charges and allegations contained in Accusation No. 800-2019-056632 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.

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

4 **DISCIPLINARY ORDER**

5 IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. A 85833 issued
6 to Respondent Dustin Zierold, M.D. is revoked. However, the revocation is stayed and
7 Respondent is placed on probation for three (3) years on the following terms and conditions:

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

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

28 A professionalism program taken after the acts that gave rise to the charges in the

1 Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board
2 or its designee, be accepted towards the fulfillment of this condition if the program would have
3 been approved by the Board or its designee had the program been taken after the effective date of
4 this Decision.

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

8 3. PSYCHIATRIC EVALUATION. Within 30 calendar days of the effective date of
9 this Decision, and on whatever periodic basis thereafter may be required by the Board or its
10 designee, Respondent shall undergo and complete a psychiatric evaluation (and psychological
11 testing, if deemed necessary) by a Board-appointed board certified psychiatrist, who shall
12 consider any information provided by the Board or designee and any other information the
13 psychiatrist deems relevant, and shall furnish a written evaluation report to the Board or its
14 designee. Psychiatric evaluations conducted prior to the effective date of the Decision shall not
15 be accepted towards the fulfillment of this requirement. Respondent shall pay the cost of all
16 psychiatric evaluations and psychological testing.

17 Respondent shall comply with all restrictions or conditions recommended by the evaluating
18 psychiatrist within 15 calendar days after being notified by the Board or its designee.

19 4. MONITORING - PRACTICE/BILLING. Within 30 calendar days of the effective
20 date of this Decision, Respondent shall submit to the Board or its designee for prior approval as a
21 practice, monitor(s), the name and qualifications of one or more licensed physicians and surgeons
22 whose licenses are valid and in good standing, and who are preferably American Board of
23 Medical Specialties (ABMS) certified. A monitor shall have no prior or current business or
24 personal relationship with Respondent, or other relationship that could reasonably be expected to
25 compromise the ability of the monitor to render fair and unbiased reports to the Board, including
26 but not limited to any form of bartering, shall be in Respondent's field of practice, and must agree
27 to serve as Respondent's monitor. Respondent shall pay all monitoring costs.

28 The Board or its designee shall provide the approved monitor with copies of the Decision(s)

1 and Accusation(s), and a proposed monitoring plan. Within 15 calendar days of receipt of the
2 Decision(s), Accusation(s), and proposed monitoring plan, the monitor shall submit a signed
3 statement that the monitor has read the Decision(s) and Accusation(s), fully understands the role
4 of a monitor, and agrees or disagrees with the proposed monitoring plan. If the monitor disagrees
5 with the proposed monitoring plan, the monitor shall submit a revised monitoring plan with the
6 signed statement for approval by the Board or its designee.

7 Within 60 calendar days of the effective date of this Decision, and continuing throughout
8 probation, Respondent's practice, shall be monitored by the approved monitor. Respondent shall
9 make all records available for immediate inspection and copying on the premises by the monitor
10 at all times during business hours and shall retain the records for the entire term of probation.

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

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

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

1 replacement monitor is approved and assumes monitoring responsibility.

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

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

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

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

19 7. INVESTIGATION/ENFORCEMENT COST RECOVERY. Respondent is hereby
20 ordered to reimburse the Board its costs of investigation and enforcement, including, but not
21 limited to, expert review, amended accusations, legal reviews, investigation(s), and subpoena
22 enforcement, as applicable, in the amount of \$8,386.25 (eight thousand three hundred and eighty-
23 six dollars and twenty-five cents). Costs shall be payable to the Medical Board of California.
24 Failure to pay such costs shall be considered a violation of probation.

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

1 The filing of bankruptcy by respondent shall not relieve respondent of the responsibility to
2 repay investigation and enforcement costs, including expert review costs (if applicable).

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

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

8 9. GENERAL PROBATION REQUIREMENTS.

9 Compliance with Probation Unit

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

11 Address Changes

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

17 Place of Practice

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

21 License Renewal

22 Respondent shall maintain a current and renewed California physician's and surgeon's
23 license.

24 Travel or Residence Outside California

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

28 In the event Respondent should leave the State of California to reside or to practice

1 Respondent shall notify the Board or its designee in writing 30 calendar days prior to the dates of
2 departure and return.

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

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

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

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

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

27 Periods of non-practice for a Respondent residing outside of California will relieve

28 Respondent of the responsibility to comply with the probationary terms and conditions with the

1 exception of this condition and the following terms and conditions of probation: Obey All Laws;
2 General Probation Requirements; Quarterly Declarations; Abstain from the Use of Alcohol and/or
3 Controlled Substances; and Biological Fluid Testing..

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

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

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

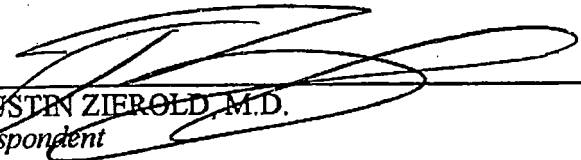
27 15. PROBATION MONITORING COSTS. Respondent shall pay the costs associated
28 with probation monitoring each and every year of probation, as designated by the Board, which

1 may be adjusted on an annual basis. Such costs shall be payable to the Medical Board of
2 California and delivered to the Board or its designee no later than January 31 of each calendar
3 year.

4 16. FUTURE ADMISSIONS CLAUSE. If Respondent should ever apply or reapply for a
5 new license or certification, or petition for reinstatement of a license, by any other health care
6 licensing action agency in the State of California, all of the charges and allegations contained in
7 Accusation No. 800-2019-056632 shall be deemed to be true, correct, and admitted by
8 Respondent for the purpose of any Statement of Issues or any other proceeding seeking to deny or
9 restrict license.

10
11 ACCEPTANCE

12 I have carefully read the Stipulated Settlement and Disciplinary Order. I understand the
13 stipulation and the effect it will have on my Physician's and Surgeon's Certificate. I enter into
14 this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and
15 agree to be bound by the Decision and Order of the Medical Board of California.

16
17 DATED: 12/21/22 
18 DUSTIN ZIEROLD, M.D.
19 *Respondent*

20 ENDORSEMENT

21 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully
22 submitted for consideration by the Medical Board of California.
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DATED: 3/15/23

Respectfully submitted,
ROB BONTA
Attorney General of California
STEVE DIEHL
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9 **BEFORE THE**
MEDICAL BOARD OF CALIFORNIA
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA
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12 In the Matter of the Accusation Against:

Case No. 800-2019-056632

13 **DUSTIN ZIEROLD, M.D.**
14 **2 Medical Plaza Drive, Suite 275**
Roseville, CA 95661-3043

A C C U S A T I O N

15 **Physician's and Surgeon's Certificate**
16 **No. A 85833,**

17 Respondent.

18
19 **PARTIES**

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

23 2. On or about January 30, 2004, the Board issued Physician's and Surgeon's Certificate
24 No. A 85833 to Dustin Zierold, M.D. (Respondent). The Physician's and Surgeon's Certificate
25 was in full force and effect at all times relevant to the charges brought herein and will expire on
26 March 31, 2023, unless renewed.

27 ///

28 ///

JURISDICTION

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

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

9 5. Section 2234 of the Code, states:

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

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

15 “(b) Gross negligence.

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

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

23 “(2) When the standard of care requires a change in the diagnosis, act, or
24 omission that constitutes the negligent act described in paragraph (1), including, but
25 not limited to, a reevaluation of the diagnosis or a change in treatment, and the
26 licensee’s conduct departs from the applicable standard of care, each departure
27 constitutes a separate and distinct breach of the standard of care.

28 “... ”

1 **COST RECOVERY**

2 6. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
3 administrative law judge to direct a licensee found to have committed a violation or violations of
4 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
5 enforcement of the case, with failure of the licensee to comply subjecting the license to not being
6 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be
7 included in a stipulated settlement.

8 **FACTUAL ALLEGATIONS**

9 7. Respondent is a physician and surgeon who is board-certified in general surgery and
10 surgical critical care by the American Board of Surgery. At all times relevant to this action,
11 Respondent worked at Sutter Roseville Medical Center (SRMC) and Roseville Trauma Medical
12 Group. In the SRMC Emergency Room (ER), there are four trauma rooms (Trauma Rooms 1, 2,
13 3, and 4) all housed in one moderate sized room and separated by a curtain, which is only
14 partially effective for visual separation but not at all for sound isolation. Loud voices or activity in
15 one trauma room can be heard in all other trauma rooms.

16 8. On or about May 25, 2019, Respondent was working at the SRMC ER when a 24-
17 year-old male patient was brought to the SRMC ER by the Roseville Police Department for
18 medical clearance prior to being transferred to the local jail. This patient (referred to herein as
19 Patient A)¹ suffered puncture wounds to his posterior right thigh and abrasions to his right hand.
20 The patient was brought into the SRMC ER in an ambulatory bed with a full spit mask on, hands
21 handcuffed behind his back, and a full restriction of his lower extremity movement with the use¹
22 of a WRAP restraining device. The patient was very agitated and combative and shouting foul
23 language, profanities, and racial slurs at staff and others in the SRMC ER. The patient was taken
24 to Trauma Room 3 where he was evaluated by an ER physician, Dr. D.W., who believed that
25 Patient A was stable with no life-threatening problems; however, he believed Patient A had
26 suffered multiple superficial dog bites. Dr. D.W. believed that the patient's main issue was an

27 _____
28 ¹ The patient's identity is omitted to protect privacy. It will be provided to Respondent in
discovery.

1 acute psychosis of unclear etiology, but believed it could also be related to an unknown substance
2 abuse. Dr. D.W.'s plan was to clean the dog bites with soap and water, give the patient a broad-
3 spectrum antibiotic, and discharge the patient into the custody of the Roseville Police
4 Department. Dr. D.W. left the Trauma Room shortly after assessing Patient A.

5 9. At just about the same time that Patient A arrived in SRMC EC Trauma Room 3,
6 another patient was brought into Trauma Room 1 as a full trauma alert with life-threatening
7 injuries from a mangled lower extremity injury from a chainsaw accident. Respondent was
8 assigned to treat Patient B. Respondent believed that the patient needed a very quick assessment
9 to determine if the leg could be saved (rather than amputated). This required, among other things,
10 an assessment of the blood flow in the distal arteries of the extremity using a vascular Doppler
11 device.

12 10. As Respondent initially assessed Patient B, Patient A was being very loud and
13 verbally abusive to those around him. In order to assess the lower extremity blood flow,
14 Respondent needed to loosen the tourniquet so that blood flow could be restored and assessed
15 with the Doppler. Releasing the tourniquet, however, also resulted in significant bleeding.
16 Respondent could not hear any signals from the Doppler as Patient A had created a ruckus in the
17 trauma rooms. Respondent reapplied the tourniquet to the bleeding extremity so that he could find
18 a way to quiet down and control Patient A.

19 11. Respondent attempted to reach Patient A's physician, but Dr. D.W. was no longer in
20 the immediate area. Respondent requested that the anesthesiologist intubate Patient A. And he
21 asked Roseville Police Department Officers—who were standing near Patient A—to quiet him
22 down. When these attempts failed, Respondent entered Trauma Room 3 and approached Patient
23 A from the side of his bed. At this point, Patient A had on a spit mask, his hands were cuffed
24 behind his back, and his lower body was in a WRAP restraint. The WRAP did not allow his legs
25 to bend at the knees, meaning he could not walk or run. He could, however, sit partially up in bed,
26 which was the position he was in as Respondent approached him. Respondent shouted at Patient
27 A to "shut up" several times while using profanities. Patient A did not comply with Respondent's
28 demands, and he lurched forward again. Respondent then grabbed Patient A's head with both

1 hands and placed direct pressure with his thumbs at both of Patient A's supraorbital notches,
2 pushing him down to the bed. This unexpected maneuver seemed to quiet Patient A temporarily.
3 According to Patient A's primary nurse, Respondent brought his face close to Patient A's face
4 and shouted at Patient A to "shut up"—again using many profanities. Patient A continued to be
5 verbally abusive and disruptive but also mentioned that he was in the military. Respondent, who
6 had served in the Air Force with tours in both Iraq and Afghanistan, responded that he was also in
7 the military and asked if Patient A wanted to see his tags, which Respondent then showed to
8 Patient A. This seemed to temporarily change Patient A's disposition as he thanked Respondent
9 for his service. At some point, Patient A continued his loud and disruptive behavior, and he was
10 ultimately moved to a more isolated holding area where he could no longer disrupt the other
11 trauma rooms.

12 12. When Respondent returned to Patient B in Trauma Room 1, he was able to use a
13 vascular Doppler to hear and to confirm that both the critical arteries to the distal aspect of Patient
14 B's traumatized leg were intact. According to Respondent, he was able to perform surgery
15 without amputating Patient B's leg.

16 **FIRST CAUSE FOR DISCIPLINE**

17 **(Gross Negligence)**

18 13. Respondent's license is subject to disciplinary action under section 2234, subdivision
19 (b), of the Code, in that he committed gross negligence during his interactions with Patient A, as
20 more particularly alleged in paragraphs 7 through 12 above, which are hereby incorporated by
21 reference and realleged as if fully set forth herein. Additional circumstances are as follows:

22 14. Respondent committed grossly negligent acts, including but not limited to:

23 A. Using unacceptable and profane language during his verbal interaction with
24 Patient A; and

25 B. Using an unacceptable and inappropriate physical maneuver during his physical
26 interaction with Patient A.

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1 **SECOND CAUSE FOR DISCIPLINE**

2 **(Repeated Negligent Acts)**

3 15. Respondent's license is also subject to disciplinary action under section 2234, was
4 subdivision (c), of the Code, in that he committed repeated negligent acts during his interactions
5 with Patient A, as more particularly alleged in paragraphs 7 through 14 above, which are hereby
6 incorporated by reference and realleged as if fully set forth herein.

7 **THIRD CAUSE FOR DISCIPLINE**

8 **(Unprofessional Conduct)**

9 16. Respondent's license is also subject to disciplinary action under section 2234 of the
10 Code in that he engaged in conduct which breaches the rules or ethical code of the medical
11 profession, or conduct which is unbecoming a member in good standing of the medical
12 profession, and which demonstrate an unfitness to practice medicine.

13 **DISCIPLINARY CONSIDERATIONS**

14 17. To determine the degree of discipline, if any, to be imposed on Respondent,
15 Complainant alleges that on or about September 19, 2012, in a prior criminal proceeding in was
16 Solano County Superior Court, Respondent was convicted of violating Penal Code sections 246.3
17 (grossly negligent discharge of a firearm) and 417(a)(2) (brandishing a firearm), both
18 misdemeanors. Respondent was sentenced to 3 years' formal probation, directed to continue in
19 counseling until released by his therapist, and ordered to perform 50 hours of community service.
20 The court also ordered that Respondent possess no firearms while on probation, but made
21 allowance for modification of that condition should Respondent, an active duty officer in the U.S.
22 Air Force, be again deployed in a combat zone. The record of the criminal proceeding is
23 incorporated as if fully set forth herein

24 18. In addition, Complainant alleges that on January 9, 2014, in a prior disciplinary action
25 titled *In the Matter of the Accusation Against Dustin Zierold, M.D.* before the Medical Board of
26 California, in Case Number No. 12-2012-221352, Respondent's license was revoked; however,
27 the revocation was stayed and Respondent's license was placed on probation for a period of three
28 years with certain terms and conditions. The underlying Accusation was based on the above


1 criminal matter, alleging that Respondent was convicted of criminal charges substantially related
2 to the qualifications, functions, or duties of a physician and surgeon. That Decision is now final
3 and is incorporated by reference as if fully set forth herein.

4 **PRAYER**

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

- 7 1. Revoking or suspending Physician's and Surgeon's Certificate Number A 85833,
8 issued to Respondent Dustin Zierold, M.D.;
- 9 2. Revoking, suspending or denying approval of Respondent Dustin Zierold, M.D.'s
10 authority to supervise physician assistants and advanced practice nurses;
- 11 3. Ordering Respondent Dustin Zierold, M.D., to pay the Board the costs of the
12 investigation and enforcement of this case, and if placed on probation, the costs of probation
13 monitoring; and
- 14 4. Taking such other and further action as deemed necessary and proper.

15
16 DATED: **MAY 05 2022**



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

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