

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

In the Matter of the Accusation
Against:

Alan S. Ruttenberg, M.D.

Physician's and Surgeon's
Certificate No. C 27473

Case No.: 800-2018-049052

Respondent.

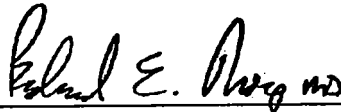
DECISION

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 October 20, 2023.

IT IS SO ORDERED: September 20, 2023.

MEDICAL BOARD OF CALIFORNIA



Richard E. Thorp, Chair
Panel B

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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5 Los Angeles, CA 90013
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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. 800-2018-049052

13 **ALAN S. RUTTENBERG, M.D.**
22048 Sherman Way, Suite 214
14 Canoga Park, CA 91303

OAH No. 2022030142

15 **Physician's and Surgeon's Certificate**
No. C 27473,

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

16 Respondent.
17

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 Alan S. Ruttenberg, M.D. (Respondent) is represented in this proceeding
27 by attorney Jennifer A. Hansen, Esq., whose address is: 101 W. Broadway, Suite 1200, San
28 Diego, CA 92101-3890.

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 course would have
3 been approved by the Board or its designee had the course 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 course, or not later than
7 15 calendar days after the effective date of the Decision, whichever is later.

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

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

22 Respondent shall submit a certification of successful completion to the Board or its
23 designee not later than 15 calendar days after successfully completing the course, or not later than
24 15 calendar days after the effective date of the Decision, whichever is later.

25 4. MONITORING - PRACTICE. Within 30 calendar days of the effective date of this
26 Decision, Respondent shall submit to the Board or its designee for prior approval as a practice
27 monitor, the name and qualifications of one or more licensed physicians and surgeons whose
28 licenses are valid and in good standing, and who are preferably American Board of Medical

1 Specialties (ABMS) certified. A monitor shall have no prior or current business or personal
2 relationship with Respondent, or other relationship that could reasonably be expected to
3 compromise the ability of the monitor to render fair and unbiased reports to the Board, including
4 but not limited to any form of bartering, shall be in Respondent's field of practice, and must agree
5 to serve as Respondent's monitor. Respondent shall pay all monitoring costs.

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

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

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

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

28 If the monitor resigns or is no longer available, Respondent shall, within 5 calendar days of

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

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

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

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

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

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

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1 8. INVESTIGATION/ENFORCEMENT COST RECOVERY. Respondent is hereby
2 ordered to reimburse the Board its costs of investigation and enforcement, in the amount of
3 \$10,217.38 (ten thousand two hundred seventeen dollars and thirty-eight cents). Costs shall be
4 payable to the Medical Board of California. Failure to pay such costs shall be considered a
5 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 9. 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 10. 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 11. 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 12. 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 13. 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 14. 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 15. 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 16. 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 17. 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. 800-2018-049052 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, Jennifer A. Hansen, 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 2, 2023

Alan S. Ruttenberg, M.D.

ALAN S. RUTTENBERG, M.D.
Respondent

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I have read and fully discussed with Respondent Alan S. Ruttenberg, 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: May 3, 2023



JENNIFER A. HANSEN, 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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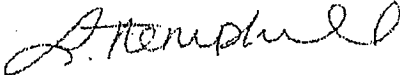
1 I have read and fully discussed with Respondent Alan S. Rattenberg, M.D. the terms and
2 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.
3 I approve its form and content.

4 DATED: _____
5 JENNIFER A. HANSEN, ESQ.
6 *Attorney for Respondent*

7 **ENDORSEMENT**

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

10 DATED: May 3, 2023.

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

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28

1 ROB BONTA
Attorney General of California
2 JUDITH T. ALVARADO
Supervising Deputy Attorney General
3 TAN N. TRAN
Deputy Attorney General
4 State Bar No. 197775
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5 300 South Spring Street, Suite 1702
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6 Telephone: (213) 269-6535
Facsimile: (916) 731-2117
7 *Attorneys for Complainant*

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

12 In the Matter of the Accusation Against:

Case No. 800-2018-049052

13 **ALAN S. RUTTENBERG, M.D.**
14 **22048 Sherman Way, Suite 214**
Canoga Park, CA 91303

ACCUSATION

15 **Physician's and Surgeon's Certificate**
16 **No. C 27473,**

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 August 30, 1965, the Board issued Physician's and Surgeon's Certificate.
24 Number C 27473 to Alan S. Ruttenberg, 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 March 31, 2023, unless renewed.

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JURISDICTION

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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 2004 of the Code states:

6 The board shall have the responsibility for the following:

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

9 (b) The administration and hearing of disciplinary actions.

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

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

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

14 (f) Approving undergraduate and graduate medical education programs.

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

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

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

19 5. Section 2227 of the Code states:

20 (a) A licensee whose matter has been heard by an administrative law judge of
21 the Medical Quality Hearing Panel as designated in Section 11371 of the Government
22 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:

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

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

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

27 (4) Be publicly reprimanded by the board. The public reprimand may include a
28 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.

6 STATUTORY PROVISIONS

7 6. Section 2234 of the Code, states:

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

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

13 (b) Gross negligence.

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

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

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

26 (d) Incompetence.

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

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

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

7. Section 2241 of the Code states:

(a) A physician and surgeon may prescribe, dispense, or administer prescription
drugs, including prescription controlled substances, to an addict under his or her
treatment for a purpose other than maintenance on, or detoxification from,

1 prescription drugs or controlled substances.

2 (b) A physician and surgeon may prescribe, dispense, or administer prescription
3 drugs or prescription controlled substances to an addict for purposes of maintenance
4 on, or detoxification from, prescription drugs or controlled substances only as set
5 forth in subdivision (c) or in Sections 11215, 11217, 11217.5, 11218, 11219, and
6 11220 of the Health and Safety Code. Nothing in this subdivision shall authorize a
7 physician and surgeon to prescribe, dispense, or administer dangerous drugs or
8 controlled substances to a person he or she knows or reasonably believes is using or
9 will use the drugs or substances for a nonmedical purpose.

10 (c) Notwithstanding subdivision (a), prescription drugs or controlled substances
11 may also be administered or applied by a physician and surgeon, or by a registered
12 nurse acting under his or her instruction and supervision, under the following
13 circumstances:

14 (1) Emergency treatment of a patient whose addiction is complicated by the
15 presence of incurable disease, acute accident, illness, or injury, or the infirmities
16 attendant upon age.

17 (2) Treatment of addicts in state-licensed institutions where the patient is kept
18 under restraint and control, or in city or county jails or state prisons.

19 (3) Treatment of addicts as provided for by Section 11217.5 of the Health and
20 Safety Code.

21 (d)(1) For purposes of this section and Section 2241.5, addict means a person
22 whose actions are characterized by craving in combination with one or more of the
23 following:

24 (A) Impaired control over drug use.

25 (B) Compulsive use.

26 (C) Continued use despite harm.

27 (2) Notwithstanding paragraph (1), a person whose drug-seeking behavior is
28 primarily due to the inadequate control of pain is not an addict within the meaning of
this section or Section 2241.5.

8. Section 2242 of the Code states:

(a) Prescribing, dispensing, or furnishing dangerous drugs as defined in Section
4022 without an appropriate prior examination and a medical indication, constitutes
unprofessional conduct. An appropriate prior examination does not require a
synchronous interaction between the patient and the licensee and can be achieved
through the use of telehealth, including, but not limited to, a self-screening tool or a
questionnaire, provided that the licensee complies with the appropriate standard of
care.

(b) No licensee shall be found to have committed unprofessional conduct within
the meaning of this section if, at the time the drugs were prescribed, dispensed, or
furnished, any of the following applies:

1 (1) The licensee was a designated physician and surgeon or podiatrist serving in
2 the absence of the patient's physician and surgeon or podiatrist, as the case may be,
3 and if the drugs were prescribed, dispensed, or furnished only as necessary to
4 maintain the patient until the return of the patient's practitioner, but in any case no
5 longer than 72 hours.

6 (2) The licensee transmitted the order for the drugs to a registered nurse or to a
7 licensed vocational nurse in an inpatient facility, and if both of the following
8 conditions exist:

9 (A) The practitioner had consulted with the registered nurse or licensed
10 vocational nurse who had reviewed the patient's records.

11 (B) The practitioner was designated as the practitioner to serve in the absence
12 of the patient's physician and surgeon or podiatrist, as the case may be.

13 (3) The licensee was a designated practitioner serving in the absence of the
14 patient's physician and surgeon or podiatrist, as the case may be, and was in
15 possession of or had utilized the patient's records and ordered the renewal of a
16 medically indicated prescription for an amount not exceeding the original prescription
17 in strength or amount or for more than one refill.

18 (4) The licensee was acting in accordance with Section 120582 of the Health
19 and Safety Code.

20 9. Section 2266 of the Code states:

21 The failure of a physician and surgeon to maintain adequate and accurate
22 records relating to the provision of services to their patients constitutes unprofessional
23 conduct.

24 10. Section 725 of the Code states:

25 (a) Repeated acts of clearly excessive prescribing, furnishing, dispensing, or
26 administering of drugs or treatment, repeated acts of clearly excessive use of
27 diagnostic procedures, or repeated acts of clearly excessive use of diagnostic or
28 treatment facilities as determined by the standard of the community of licensees is
unprofessional conduct for a physician and surgeon, dentist, podiatrist, psychologist,
physical therapist, chiropractor, optometrist, speech-language pathologist, or
audiologist.

(b) Any person who engages in repeated acts of clearly excessive prescribing or
administering of drugs or treatment is guilty of a misdemeanor and shall be punished
by a fine of not less than one hundred dollars (\$100) nor more than six hundred
dollars (\$600), or by imprisonment for a term of not less than 60 days nor more than
180 days, or by both that fine and imprisonment.

(c) A practitioner who has a medical basis for prescribing, furnishing,
dispensing, or administering dangerous drugs or prescription controlled substances
shall not be subject to disciplinary action or prosecution under this section.

(d) No physician and surgeon shall be subject to disciplinary action pursuant to
this section for treating intractable pain in compliance with Section 2241.5.

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1 11. Section 2239 of the Code states:

2 (a) The use or prescribing for or administering to himself or herself, of any
3 controlled substance; or the use of any of the dangerous drugs specified in Section
4 4022, or of alcoholic beverages, to the extent, or in such a manner as to be dangerous
5 or injurious to the licensee, or to any other person or to the public, or to the extent that
6 such use impairs the ability of the licensee to practice medicine safely or more than
7 one misdemeanor or any felony involving the use, consumption, or
8 self-administration of any of the substances referred to in this section, or any
9 combination thereof, constitutes unprofessional conduct. The record of the
10 conviction is conclusive evidence of such unprofessional conduct.

11 ...
12 12. Health and Safety Code section 11170 states:

13 No person shall prescribe, administer, or furnish a controlled substance for
14 himself.

15 **FIRST CAUSE FOR DISCIPLINE**

16 (Gross Negligence/Repeated Negligent Acts – 3 Patients)

17 13. Respondent Alan S. Ruttenberg, M.D. is subject to disciplinary action under section
18 2234, subdivisions (b) and (c), of the Code for the commission of acts or omissions involving
19 gross negligence/repeated negligent acts in the care and treatment of Patients 1, 2, and 3.¹ The
20 circumstances are as follows:

21 **Patient 1**

22 14. Patient 1 (or "patient") is a sixty-five-year-old female, who was treated by
23 Respondent from approximately 2015 to 2020,² for various maladies including pituitary adenoma,
24 high blood pressure, multiple fainting (passing out) spells, and anxiety (not officially diagnosed
25 by Respondent but presumably from Patient 1's domestic violence issues). Per CURES
26 (Controlled Substance Utilization Review and Evaluation System, a drug monitoring database for
27 Schedule II through V controlled substances dispensed in California), Respondent prescribed to
28 Patient 1 alprazolam (Xanax), as well as simultaneous benzodiazepine prescriptions for
lorazepam (a sedative used to treat anxiety) and temazepam (a sedative used to treat insomnia).

¹ The patients are identified by number to protect their privacy.

² These are approximate dates based on the medical records which were available to the Board. Patient 1 may have treated with Respondent before or after these dates.

1 While Patient 1 was treating with Respondent, Patient 1 was also regularly getting controlled
2 substances (e.g. morphine sulfate, hydrocodone, oxycodone, etc.) from other physicians.³

3 15. During the above time-period, there was no indication that Respondent conducted
4 regular mental status examinations to assess Patient 1's mood, affect, insight, judgment, thought
5 process, or thought content. Also, Respondent did not document assessing Patient 1 for any
6 particular diagnosis or the progression of that diagnosis. Respondent did not address the issue of
7 domestic violence as a possible threat to Patient 1's safety, and Respondent did not address
8 whether Patient 1 was suicidal, which is a particular issue when prescribing controlled substances.

9 16. Respondent's care and treatment of Patient 1, as outlined above, represents an
10 extreme departure from the standard of care for prescribing two benzodiazepines (e.g. lorazepam
11 and temazepam) simultaneously and on an ongoing basis at high doses. Respondent's care and
12 treatment of Patient 1, as outlined above, also demonstrates an extreme departure from the
13 standard of care with respect to Respondent's incomplete examination, diagnosis, and treatment
14 plans for Patient 1. The above departures also represent repeated acts of negligence.

15 Patient 2

16 17. Patient 2 (or "patient") is a fifty-three-year-old male, who was treated by Respondent
17 from approximately 2016 through 2019.⁴ Although Respondent did not document any official
18 diagnoses for Patient 2, records indicate that Patient 2 often had difficulty concentrating,
19 depression, and was on long-term disability. Patient 2 was also seeing a pain management doctor
20 who wanted to adjust the medications which Respondent was prescribing to Patient 2.

21 18. During this time period, Respondent prescribed to Patient 2 temazepam (a sedative
22 used to treat insomnia), lorazepam (a sedative used to alleviate anxiety), trazodone (an
23 antidepressant), Wellbutrin (an antidepressant), Strattera (a cognition-enhancing medication), and
24 zolpidem (Ambien), a sleep aid.

25 ³ The medications prescribed to Patient 1 by Respondent and other physicians are
26 controlled substances, and have serious side effects and risk for addiction. They are also
27 dangerous drugs pursuant to section 4022 of the Code. It should also be noted that Respondent
28 informed the Board that he does not check CURES, but instead relies on pharmacists to let him
know if patients are being prescribed multiple controlled substances.

⁴ Again, these are approximate dates based on the medical records which were available to
the Board. Patient 2 may have treated with Respondent before or after these dates.

1 19. During the above time-period, Respondent did not check CURES, despite Patient 2
2 telling Respondent that he was seeing a pain management doctor who wanted to adjust the
3 medications which Respondent was prescribing. There was no evidence that Respondent
4 assessed Patient 2's school history, work history, or functioning in interpersonal areas in terms of
5 attention to detail, distractibility, and task completion, etc. Respondent did not adequately
6 document assessing Patient 2 for a particular diagnosis, or the progression of that diagnosis.
7 Respondent did not adequately document target symptoms for medications, or justification for
8 increased doses of benzodiazepines. There is no adequate documentation about Patient 2's
9 disability, or the impact the disability had on Patient 2's life.

10 20. The above multiple failures on the part of Respondent demonstrate an extreme
11 departure from the standard of care with respect to Respondent's failure to check CURES and the
12 incomplete examination, diagnosis, and treatment plans for Patient 2. The above departures also
13 represent repeated acts of negligence.

14 **Patient 3**

15 21. Patient 3 (or "patient") is a fifty-seven-year-old female, who treated with Respondent
16 from approximately 2016 through 2019,⁵ for anxiety, panic attacks, and pain.⁶ During this time-
17 period, Respondent prescribed to Patient 3 Lexapro (used to treat depression and anxiety),
18 Wellbutrin, and Xanax (alprazolam).⁷

19 22. During the above time period, Respondent failed to adequately document a solid
20 clinical justification for his long-term prescribing of benzodiazepines to Patient 3, as the patient
21 was on non-benzodiazepine pharmacology (e.g. Lexapro, an SSRI antidepressant), but there was
22 no attempt to increase psychotherapy or to decrease the prescribing of benzodiazepines (e.g.,
23 alprazolam) to Patient 3.

24 ///

25 _____
26 ⁵ Again, these are approximate dates based on the medical records which were available to
the Board.

27 ⁶ Similar to the other patients named in this Accusation, Respondent's records were
unclear as to whether Respondent had an actual diagnosis or diagnoses for Patient 3.

28 ⁷ These medications are also controlled substances, and have serious side effects and risk
for addiction. They are also dangerous drugs pursuant to section 4022 of the Code.

1 FIFTH CAUSE FOR DISCIPLINE

2 (Inadequate Records – 3 Patients)

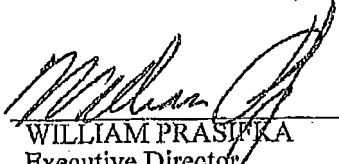
3 28. By reason of the facts and allegations set forth in the First Cause for Discipline above,
4 Respondent Alan S. Ruttenberg, M.D. is subject to disciplinary action under section 2266 of the
5 Code, in that Respondent failed to maintain adequate and accurate records of his care and
6 treatment of Patients 1, 2, and 3, above.

7 PRAYER

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

- 10 1. Revoking or suspending Physician's and Surgeon's Certificate Number C 27473,
11 issued to Respondent Alan S. Ruttenberg, M.D.;
- 12 2. Revoking, suspending or denying approval of Respondent Alan S. Ruttenberg, M.D.'s
13 authority to supervise physician assistants and advanced practice nurses;
- 14 3. Ordering Respondent Alan S. Ruttenberg, M.D., if placed on probation, to pay the
15 Board the costs of probation monitoring; and
- 16 4. Taking such other and further action as deemed necessary and proper.

17
18 DATED: OCT 12 2021

19 
20 WILLIAM PRASITKA
21 Executive Director
22 Medical Board of California
23 Department of Consumer Affairs
24 State of California
25 Complainant
26
27
28