

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

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

Mark Holbert Schwab, M.D.

**Physician's and Surgeon's
Certificate No. A 104792**

**Case No.: 800-2020-063885 and
800-2021-075129**

Respondent.

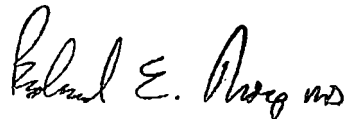
DECISION

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 December 28, 2023.

IT IS SO ORDERED: November 28, 2023.

MEDICAL BOARD OF CALIFORNIA



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

1 ROB BONTA
Attorney General of California
2 ALEXANDRA M. ALVAREZ
Supervising Deputy Attorney General
3 RYAN J. YATES
Deputy Attorney General
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10 **BEFORE THE**
MEDICAL BOARD OF CALIFORNIA
11 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA
12

13 In the Matter of the Accusation Against:

14 **MARK HOLBERT SCHWAB, M.D.**
15 **1040 Mangrove Ave.**
Chico, CA 95926-3509

16 **Physician's and Surgeon's Certificate**
17 **No. A 104792**

18 Respondent.

Case No's. 800-2020-063885 and

800-2021-075129

OAH No. 2021030931

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

19
20 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
21 entitled proceedings that the following matters are true:

22 **PARTIES**

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

27 2. Respondent Mark Holbert Schwab, M.D. (Respondent) is represented in this
28 proceeding by attorney Amelia F. Burroughs, Esq., whose address is: PO Box 1465 Ferndale, CA

1 95536-1465. On or about July 4, 2008, the Board issued Physician's and Surgeon's Certificate
2 No. A 104792 to Mark Holbert Schwab, M.D. (Respondent). The Physician's and Surgeon's
3 Certificate was in full force and effect at all times relevant to the charges brought in Accusation
4 No's. 800-2020-063885 & 800-2021-057129, and will expire on December 31, 2023, unless
5 renewed.

6 **JURISDICTION**

7 3. Accusation No's. 800-2020-063885 and 800-2021-057129 were filed before the
8 Board, and are currently pending against Respondent. Accusation No. 800-2020-063885 and all
9 other statutorily required documents were properly served on Respondent on December 17, 2020.
10 Respondent timely filed his Notice of Defense contesting the Accusation.

11 4. A copy of Accusation No. 800-2020-063885 is attached as Exhibit A and
12 incorporated herein by reference.

13 5. Accusation No. 800-2021-057129 and all other statutorily required documents were
14 properly served on Respondent on August 3, 2022. Respondent timely filed his Notice of
15 Defense contesting the Accusation.

16 6. A copy of Accusation No. 800-2021-057129 is attached as Exhibit B and
17 incorporated herein by reference.

18 **ADVISEMENT AND WAIVERS**

19 7. Respondent has carefully read, fully discussed with counsel, and understands the
20 charges and allegations in Accusation No's. 800-2020-063885 and 800-2021-057129 and all
21 other statutorily required documents were properly served on Respondent on December 17, 2020
22 and on August 3, 2022. Respondent timely filed his Notice of Defense contesting the Accusation.

23 8. Respondent has also carefully read, fully discussed with his counsel, and understands
24 the effects of this Stipulated Settlement and Disciplinary Order.

25 9. Respondent is fully aware of his legal rights in this matter, including the right to a
26 hearing on the charges and allegations in the Accusation; the right to confront and cross-examine
27 the witnesses against him; the right to present evidence and to testify on his own behalf; the right
28 to the issuance of subpoenas to compel the attendance of witnesses and the production of

documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

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

CULPABILITY

11. Respondent understands and agrees that the charges and allegations in Accusation No's. 800-2020-063885 and 800-2021-075129, if proven at a hearing, constitute cause for imposing discipline upon his Physician's and Surgeon's Certificate.

12. Respondent agrees that, at a hearing, Complainant could establish a prima facie case for the charges in the Accusations, and that Respondent hereby gives up his right to contest those charges.

13. Respondent does not contest that, at an administrative hearing, complainant could establish a prima facie case with respect to the charges and allegations in Accusation No's. 800-2020-063885 and 800-2021-075129. True and correct copies of which are attached hereto as Exhibit A and Exhibit B, and that he has thereby subjected his Physician's and Surgeon's Certificate, No. A 104792 to disciplinary action.

14. The parties agree that the facts giving rise to Respondent's discipline with the Medical Board of California did not concern patient safety.

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

CONTINGENCY

16. This stipulation shall be subject to approval by the Medical Board of California. Respondent understands and agrees that counsel for Complainant and the staff of the Medical Board of California may communicate directly with the Board regarding this stipulation and settlement, without notice to or participation by Respondent or his counsel. By signing the stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails

1 to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary
2 Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal
3 action between the parties, and the Board shall not be disqualified from further action by having
4 considered this matter.

5 17. Respondent agrees that if he ever petitions for early termination or modification of
6 probation, or if an accusation and/or petition to revoke probation is filed against him before the
7 Board, all of the charges and allegations contained in Accusation No's. 800-2020-063885 and
8 800-2021-075129 shall be deemed true, correct and fully admitted by Respondent for purposes of
9 any such proceeding or any other licensing proceeding involving Respondent in the State of
10 California.

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

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

17 **DISCIPLINARY ORDER**

18 IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. A 104792
19 issued to Respondent Mark Holbert Schwab, M.D., is revoked. However, the revocation is stayed
20 and Respondent is placed on probation for five (5) years from the effective date of the Decision
21 on the following terms and conditions:

22 1. **PSYCHIATRIC EVALUATION.** Within 30 calendar days of the effective date of
23 this Decision, and on whatever periodic basis thereafter may be required by the Board or its
24 designee, Respondent shall undergo and complete a psychiatric evaluation (and psychological
25 testing, if deemed necessary) by a Board-appointed board certified psychiatrist, who shall
26 consider any information provided by the Board or designee and any other information the
27 psychiatrist deems relevant, and shall furnish a written evaluation report to the Board or its
28 designee. Psychiatric evaluations conducted prior to the effective date of the Decision shall not

1 be accepted towards the fulfillment of this requirement. Respondent shall pay the cost of all
2 psychiatric evaluations and psychological testing.

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

5 2. PSYCHOTHERAPY. Within 60 calendar days of the effective date of this Decision,
6 Respondent shall submit to the Board or its designee for prior approval the name and
7 qualifications of a California-licensed board certified psychiatrist or a licensed psychologist who
8 has a doctoral degree in psychology and at least five years of postgraduate experience in the
9 diagnosis and treatment of emotional and mental disorders. Upon approval, Respondent shall
10 undergo and continue psychotherapy treatment, including any modifications to the frequency of
11 psychotherapy, until the Board or its designee deems that no further psychotherapy is necessary.

12 The psychotherapist shall consider any information provided by the Board or its designee
13 and any other information the psychotherapist deems relevant and shall furnish a written
14 evaluation report to the Board or its designee. Respondent shall cooperate in providing the
15 psychotherapist with any information and documents that the psychotherapist may deem
16 pertinent.

17 Respondent shall have the treating psychotherapist submit quarterly status reports to the
18 Board or its designee. The Board or its designee may require Respondent to undergo psychiatric
19 evaluations by a Board-appointed board certified psychiatrist. If, prior to the completion of
20 probation, Respondent is found to be mentally unfit to resume the practice of medicine without
21 restrictions, the Board shall retain continuing jurisdiction over Respondent's license and the
22 period of probation shall be extended until the Board determines that Respondent is mentally fit
23 to resume the practice of medicine without restrictions.

24 Should the psychiatric evaluation referred to in the aforementioned provision not
25 recommend psychotherapy for Respondent, or should a Board-approved psychotherapist
26 determine that Respondent no longer needs psychotherapy, this provision will no longer
27 constitute a term of Respondent's probation.

28 Respondent shall pay the cost of all psychotherapy and psychiatric evaluations.

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

11 The Board or its designee shall provide the approved monitor with copies of the Decision(s)
12 and Accusation(s), and a proposed monitoring plan. Within 15 calendar days of receipt of the
13 Decision(s), Accusation(s), and proposed monitoring plan, the monitor shall submit a signed
14 statement that the monitor has read the Decision(s) and Accusation(s), fully understands the role
15 of a monitor, and agrees or disagrees with the proposed monitoring plan. If the monitor disagrees
16 with the proposed monitoring plan, the monitor shall submit a revised monitoring plan with the
17 signed statement for approval by the Board or its designee.

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

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

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1 The monitor(s) shall submit a quarterly written report to the Board or its designee which
2 includes an evaluation of Respondent's performance, indicating whether Respondent's practices
3 are within the standards of practice of medicine and billing, and whether Respondent is practicing
4 medicine safely and billing appropriately. It shall be the sole responsibility of Respondent to
5 ensure that the monitor submits the quarterly written reports to the Board or its designee within
6 10 calendar days after the end of the preceding quarter.

7 If the monitor resigns or is no longer available, Respondent shall, within 5 calendar days of
8 such resignation or unavailability, submit to the Board or its designee, for prior approval, the
9 name and qualifications of a replacement monitor who will be assuming that responsibility within
10 15 calendar days. If Respondent fails to obtain approval of a replacement monitor within 60
11 calendar days of the resignation or unavailability of the monitor, Respondent shall receive a
12 notification from the Board or its designee to cease the practice of medicine within three (3)
13 calendar days after being so notified. Respondent shall cease the practice of medicine until a
14 replacement monitor is approved and assumes monitoring responsibility.

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

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

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

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

4 6. INVESTIGATION/ENFORCEMENT COST RECOVERY. Respondent is hereby
5 ordered to reimburse the Board its costs of investigation and enforcement, including, but not
6 limited to, expert review, amended accusations, legal reviews, investigation(s), and subpoena
7 enforcement, as applicable, in the amount of \$24,881.75 (twenty-four thousand eight hundred
8 eighty-one dollars and seventy-five cents). Costs shall be payable to the Medical Board of
9 California. Failure to pay such costs shall be considered a violation of probation.

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

14 The filing of bankruptcy by respondent shall not relieve respondent of the responsibility to
15 repay investigation and enforcement costs, including expert review costs.

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

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

21 8. GENERAL PROBATION REQUIREMENTS.

22 Compliance with Probation Unit

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

24 Address Changes

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

1 and Professions Code section 2021, subdivision (b).

2 Place of Practice

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

6 License Renewal

7 Respondent shall maintain a current and renewed California physician's and surgeon's
8 license.

9 Travel or Residence Outside California

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

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

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

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

1 probation. Practicing medicine in another state of the United States or Federal jurisdiction while
2 on probation with the medical licensing authority of that state or jurisdiction shall not be
3 considered non-practice. A Board-ordered suspension of practice shall not be considered as a
4 period of non-practice.

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

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

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

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

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

23 12. VIOLATION OF PROBATION. Failure to fully comply with any term or condition
24 of probation is a violation of probation. If Respondent violates probation in any respect, the
25 Board, after giving Respondent notice and the opportunity to be heard, may revoke probation and
26 carry out the disciplinary order that was stayed. If an Accusation, or Petition to Revoke Probation,
27 or an Interim Suspension Order is filed against Respondent during probation, the Board shall have

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1 continuing jurisdiction until the matter is final, and the period of probation shall be extended
2 until the matter is final.

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

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

18 15. FUTURE ADMISSIONS CLAUSE. If Respondent should ever apply or reapply for
19 a new license or certification, or petition for reinstatement of a license, by any other health care
20 licensing action agency in the State of California, all of the charges and allegations contained in
21 Accusation No's. 800-2020-063885 & 800-2021-075129 shall be deemed to be true, correct, and
22 admitted by Respondent for the purpose of any Statement of Issues or any other proceeding
23 seeking to deny or restrict license.

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2 ACCEPTANCE

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

8
9 DATED: 8/9/23


10 MARK HOLBERT SCHWAB, M.D.
Respondent

11 I have read and fully discussed with Respondent Mark Holbert Schwab, M.D., the terms
12 and conditions and other matters contained in the above Stipulated Settlement and Disciplinary
13 Order. I approve its form and content.

14 DATED: 8/9/23


15 AMELIA F. BURROUGHS, ESQ.
Attorney for Respondent

16
17 ENDORSEMENT

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

20 DATED: 8/11/23

21 Respectfully submitted,

22 ROB BONTA
Attorney General of California
23 ALEXANDRA M. ALVAREZ
Supervising Deputy Attorney General


24 
25 RYAN J. YATES
26 Deputy Attorney General
27 Attorneys for Complainant
28

Exhibit A

1 XAVIER BECERRA
Attorney General of California
2 STEVEN D. MUNI
Supervising Deputy Attorney General
3 RYAN J. YATES
Deputy Attorney General
4 State Bar No. 279257
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8 *Attorneys for Complainant*

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

12 In the Matter of the Accusation Against:

Case No. 800-2020-063885

13 **Mark Holbert Schwab, M.D.**
14 **1531 Esplanade**
Chico, CA 95926-3310

A C C U S A T I O N

15 **Physician's and Surgeon's Certificate**
16 **No. A 104792,**

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 July 4, 2008, the Medical Board issued Physician's and Surgeon's
24 Certificate Number A 104792 to Mark Holbert Schwab, 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 December 31, 2021, unless renewed.

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1 6. Section 2220 of the Code states:

2 “Except as otherwise provided by law, the board may take action against all persons guilty
3 of violating this chapter. The board shall enforce and administer this article as to physician and
4 surgeon certificate holders, including those who hold certificates that do not permit them to
5 practice medicine, such as, but not limited to, retired, inactive, or disabled status certificate
6 holders, and the board shall have all the powers granted in this chapter for these purposes
7 including, but not limited to:

8 “(a) Investigating complaints from the public, from other licensees, from health care
9 facilities, or from the board that a physician and surgeon may be guilty of unprofessional conduct.
10 The board shall investigate the circumstances underlying a report received pursuant to Section
11 805 or 805.01 within 30 days to determine if an interim suspension order or temporary restraining
12 order should be issued. The board shall otherwise provide timely disposition of the reports
13 received pursuant to Section 805 and Section 805.01.

14 “(b) Investigating the circumstances of practice of any physician and surgeon where there
15 have been any judgments, settlements, or arbitration awards requiring the physician and surgeon
16 or his or her professional liability insurer to pay an amount in damages in excess of a cumulative
17 total of thirty thousand dollars (\$30,000) with respect to any claim that injury or damage was
18 proximately caused by the physician’s and surgeon’s error, negligence, or omission.

19 “(c) Investigating the nature and causes of injuries from cases which shall be reported of a
20 high number of judgments, settlements, or arbitration awards against a physician and surgeon.”

21 7. Section 820 of the Code states:

22 “Whenever it appears that any person holding a license, certificate or permit under this
23 division or under any initiative act referred to in this division may be unable to practice his or her
24 profession safely because the licentiate’s ability to practice is impaired due to mental illness, or
25 physical illness affecting competency, the licensing agency may order the licentiate to be
26 examined by one or more physicians and surgeons or psychologists designated by the agency.
27 The report of the examiners shall be made available to the licentiate and may be received as direct
28 evidence in proceedings conducted pursuant to Section 822.”

1 8. Section 822 of the Code states:

2 “If a licensing agency determines that its licensee’s ability to practice his or her
3 profession safely is impaired because the licensee is mentally ill, or physically ill affecting
4 competency, the licensing agency may take action by any one of the following methods:

5 “(a) Revoking the licensee’s certificate or license.

6 “(b) Suspending the licensee’s right to practice.

7 “(c) Placing the licensee on probation.

8 “(d) Taking such other action in relation to the licensee as the licensing agency in its
9 discretion deems proper.

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

14 **CAUSE FOR RESTRICTION AND/OR REVOCATION**
15 **(Mental or Physical Illness Affecting Competency to Practice Medicine)**

16 9. Respondent’s Physician’s and Surgeon’s Certificate No. A 104792 is subject to action
17 under section 822 of the Code, in that his ability to practice medicine safely is impaired, because
18 he is mentally or physically ill, affecting competency, as more particularly alleged hereinafter.

19 10. On or about January 9, 2020, the Board received a Subsequent Arrest Notification,
20 which stated that Respondent was arrested on September 10, 2019 for Penal Code, section 21310,
21 carrying a concealed dirk or dagger, a felony. The circumstances, are as follows:

22 11. On or about September 10, 2019, officers of the Chico Police Department responded
23 to a call regarding [REDACTED]. Shortly thereafter, they contacted Respondent
24 near his residence, who matched the description. Respondent’s [REDACTED] was also with
25 him. Respondent confirmed his identity and consented to a search of his person. During the
26 search, the officer found a fixed bladed knife, concealed in Respondent’s pocket. The officer
27 additionally noticed a flask in Respondent’s possession and two (2) additional knives on the
28 ground near Respondent, which Respondent admitted to possessing.

1 12. During the conversation with officers, Respondent [REDACTED]
2 [REDACTED], and stated that he wanted to take them to the hospital for their safety.
3 Respondent further stated that he wanted the officers to arrest him. During the conversation,
4 Respondent stated that he made up the allegations of physical abuse, then recanted, and then
5 reasserted that he had made up the allegations. Respondent stated "I am dangerous...I am not
6 dangerous. I am both," or words to that effect. Respondent stated to the officers that he had been
7 drinking. Respondent then stated that he was only drinking water. Based on Respondent's
8 statements and unusual behavior, the officers became concerned for Respondent's [REDACTED]
9 safety. While being questioned by the officers, Respondent observed a person riding a bicycle,
10 then pointed at the person and stated, "I'm concerned that woman might hurt my dogs," or words
11 to that effect. Respondent refused to provide [REDACTED] name to the officers, and stated, "My dogs
12 know him," or words that effect. When asked to provide his [REDACTED] he replied to the
13 officers, "She will tell you if she trusts you. She has many names. She has no name," or words to
14 that effect.

15 13. Respondent consented to a Blood Alcohol Content (BAC) test, which revealed that he
16 had a 0% alcohol content. Shortly thereafter, Respondent's ex-wife arrived at the scene. The
17 officers brought Respondent's [REDACTED] the ex-wife and conversed with her. During the
18 conversation, Respondent's ex-wife stated that Respondent [REDACTED] and she did not
19 know if Respondent was [REDACTED]. She further stated that Respondent
20 had [REDACTED]. According to Respondent's
21 ex-wife, Respondent had been placed on a [REDACTED] in
22 2017. She also stated that [REDACTED] occurred in 2018. The officers allowed Respondent's
23 [REDACTED] to go with his ex-wife, and they left the scene. The officers then placed Respondent
24 under arrest, and he was transported to the Chico Police Department for processing.

25 14. On or about September 12, 2019, after Respondent's release from jail, he was
26 [REDACTED] in Sacramento, California, [REDACTED]
27 [REDACTED]. While at Sutter, Respondent's
28 [REDACTED]

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[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED] in a private setting. Additionally, Respondent [REDACTED]
[REDACTED]

15. On or about September 12, 2019, [REDACTED]
[REDACTED]
Respondent. On or about September 15, 2019, one of the nursing staff members reported that
[REDACTED] On or about September 16, 2019, Respondent
[REDACTED]
[REDACTED] On or about September 17, 2019, Respondent [REDACTED]
[REDACTED]. He was [REDACTED]
[REDACTED] On or about
September 23, 2019, Respondent [REDACTED]

16. Following the Board's receipt of the above information, Respondent participated in a
psychiatric evaluation, by a Board-appointed psychiatrist (Dr. B).

17. On September 2, 2020, following his psychiatric evaluation of Respondent, review of
the relevant materials, Dr. B submitted a report, which contained the following findings and
opinions:

A. Dr. B found that Respondent's [REDACTED] was considered as first differential,
as well as substantial evidence to support diagnosis of [REDACTED] including
[REDACTED]
[REDACTED]
[REDACTED]

B. In the Summary and Recommendations section of the report, Dr. B presented the
question, "Does the subject physician have a mental illness or condition that impacts
his ability to engage in the practice of medicine?" Dr. B found that Respondent
appears to have returned to normal duties following his initial episode in December

1 2017, and worked until September 2019,” and that “merely having diagnosis of
2 [REDACTED] would not impact a person’s ability to function or engage in the
3 practice of medicine.” “However, a person suffering from an acute episode of
4 [REDACTED] might have substantial impairments of function and may prevent him
5 from his abilities to engage in the practice of medicine.”

6 C. Dr. B addressed the additional question, “Is the subject physician able to practice
7 medicine safely at this time without any restrictions or conditions?” Dr. B found that
8 Respondent is able to practice medicine safely, provided his [REDACTED]
9 [REDACTED] are prevented. Both
10 [REDACTED] can be unpredictable, and thus
11 [REDACTED] as well as treatment with [REDACTED]
12 [REDACTED]”

13 D. Dr. B addressed the question, “Does the subject physician require monitoring,
14 oversight, or other terms and conditions in order to practice medicine safely?” Dr. B
15 concluded that “[REDACTED] can be chronic and episodic illness, and to prevent
16 episodes, patients need [REDACTED]
17 [REDACTED] Subject physician
18 therefore is strongly encouraged to participate in ongoing psychiatric care and
19 treatment compliance.” Additionally, he concluded that, “[REDACTED]
20 [REDACTED] within a 3 year period, subject physician is
21 recommended to have oversight and monitoring of psychiatric care for up to a
22 period of 1 year...Subject physician may voluntarily consider having a mentor
23 physician at workplace for first six months to review his re-entry to practice of
24 medicine and to receive feedback on work-performance...He can also request
25 accommodations for frequent supervisions and change in work schedule to maintain
26 control of symptoms and continue treatment of [REDACTED]”

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PRAYER

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

1. Revoking or suspending Physician's and Surgeon's Certificate Number A 104792, issued to Mark Holbert Schwab, M.D.;
2. Revoking, suspending or denying approval of Mark Holbert Schwab, M.D.'s authority to supervise physician assistants and advanced practice nurses;
3. Ordering Mark Holbert Schwab, M.D., if placed on probation, to pay the Board the costs of probation monitoring; and
4. Taking such other and further action as deemed necessary and proper.

DATED: DEC 17 2020



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

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Exhibit B

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Supervising Deputy Attorney General
3 RYAN J. YATES
Deputy Attorney General
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7 *Attorneys for Complainant*

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:

Case No. 800-2021-075129

13 **MARK HOLBERT SCHWAB, M.D.**
14 **1040 Mangrove Ave.**
Chico, CA 95926-3310

OAH No. 2021030931

A C C U S A T I O N

15 **Physician's and Surgeon's Certificate**
16 **No. A 104792,**

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 July 4, 2008, the Board issued Physician's and Surgeon's Certificate
24 Number A 104792 to Mark Holbert Schwab, 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 December 31, 2023, unless renewed.

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JURISDICTION

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

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

5. Section 2234 of the Code states, in pertinent part:

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

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

"(b) Gross negligence.

"(c) Repeated negligent acts. To be repeated, there must be two or more 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) An initial negligent diagnosis followed by an act or omission medically appropriate for that negligent diagnosis of the patient shall constitute a single negligent act.

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

"..."

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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 **FIRST CAUSE FOR DISCIPLINE**

9 **(Gross Negligence)**

10 7. Respondent's license is subject to disciplinary action under section 2234, subdivision
11 (b), of the Code, in that he committed gross negligence, while performing his duties as a
12 physician. On February 18, 2021, the Board received an "805 Report" from Enloe Medical Center
13 (Enloe) pertaining to alleged unprofessional conduct committed by Respondent. On or about
14 January 24, 2021, Respondent—an Enloe emergency room physician—brought a metal pipe into
15 Enloe's Emergency Department (ED), while on duty. The circumstances are as follows:

16 8. On or about January 24, 2021, Respondent was working as an emergency room
17 physician at Enloe. While on a break from duty, Respondent walked outside from the emergency
18 room to an outdoor area. Respondent found a discarded metal pipe and began swinging it around
19 in the parking lot, in full view of Enloe staff.

20 9. Respondent then returned to the emergency department through the building's front
21 lobby, with the pipe concealed in the sleeve of his coat. Respondent moved through security and
22 returned to the emergency department, where other staff were present. After arriving, Respondent
23 said words to the effect of, "do you know how easy it is to bring a shank in here?" He then pulled
24 out the metal pipe and stated, "that easy," or words to that effect. Enloe staff then [REDACTED]

25 [REDACTED]

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SECOND CAUSE FOR DISCIPLINE

(Repeated Negligent Acts)

10. Respondent's license is subject to disciplinary action under section 2234, subdivision (c), of the Code, in that he committed repeated negligent acts, as more fully described in paragraphs 7 through 9, above, and those paragraphs are incorporated by reference as if fully set forth herein. Respondent additionally committed repeated negligent acts regarding the self-prescribing of medications. The circumstances are as follows:

11. The Board obtained certified pharmacy profiles regarding Respondent's prescribing. Respondent self-prescribed the following medications:

- [REDACTED] 100 mg – (April 25, 2017, August 13, 2018, March 15, 2019, and April 22, 2019.
- [REDACTED] 24 mg – March 8, 2014 and May 6, 2019.
- [REDACTED] 375 mg – April 25, 2021.

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¹ [REDACTED] is a non-controlled prescription medication used [REDACTED] It can also help prevent [REDACTED]

² [REDACTED] is a non-controlled prescription medication used to [REDACTED]
[REDACTED]


³ [REDACTED] is a non-controlled prescription medication used to treat [REDACTED]
[REDACTED]

PRAYER

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

1. Revoking or suspending Physician's and Surgeon's Certificate Number A 104792, issued to Respondent Mark Holbert Schwab, M.D.;
2. Revoking, suspending or denying approval of Respondent Mark Holbert Schwab, M.D.'s authority to supervise physician assistants and advanced practice nurses;
3. Ordering Respondent Mark Holbert Schwab, M.D., to pay the Board the costs of the investigation and enforcement of this case, and if placed on probation, the costs of probation monitoring; and
4. Taking such other and further action as deemed necessary and proper.

DATED: AUG 03 2022


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

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