

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

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

Anthony T. Nasser, M.D.

**Physician's & Surgeon's
Certificate No A 113112**

Respondent.

Case No. 800-2016-024117

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 SEP 09 2020

IT IS SO ORDERED AUG 10 2020

MEDICAL BOARD OF CALIFORNIA



**Kristina D. Lawson, J.D., Chair
Panel B**

1 XAVIER BECERRA
Attorney General of California
2 ALEXANDRA M. ALVAREZ
Supervising Deputy Attorney General
3 JOSEPH F. MCKENNA III
Deputy Attorney General
4 State Bar No. 231195
600 West Broadway, Suite 1800
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8 *Attorneys for Complainant*

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

12 In the Matter of the Accusation Against:

13 **ANTHONY T. NASSER, M.D.**
14 **355 Placentia Avenue, Suite 205**
Newport Beach, California 92663-3302
15 **Physician's and Surgeon's Certificate**
16 **No. A 113112,**

17 Respondent.

Case No. 800-2016-024117

OAH No. 2020020586

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

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

20 **PARTIES**

21 1. William Prasifka (Complainant) is the Executive Director of the Medical Board of
22 California (Board). This action was brought by then Complainant Kimberly Kirchmeyer,¹ solely
23 in her official capacity. Complainant is represented in this matter by Xavier Becerra, Attorney
24 General of the State of California, and by Joseph F. McKenna III, Deputy Attorney General.

25 2. Respondent Anthony T. Nasser, M.D., (Respondent) is represented in this proceeding
26 by attorney Peter R. Osinoff, Esq., whose address is: 355 South Grand Avenue, Suite 1750, Los
27 Angeles, California, 90071.

28 ¹ Ms. Kirchmeyer became the Director of the Department of Consumer Affairs on October 28, 2019.

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DISCIPLINARY ORDER

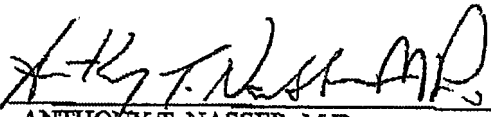
1. PUBLIC REPRIMAND.

IT IS HEREBY ORDERED that Respondent Anthony T. Nasser, M.D.'s, Physician's and Surgeon's Certificate No. A 113112 shall be and is hereby Publicly Reprimanded pursuant to California Business and Professions Code section 2227, subdivision (a), subsection (4). This Public Reprimand, which is issued in connection with the charges and allegations contained in Accusation No. 800-2016-024117, is as follows:


Respondent committed negligence by failing to document a proper examination of Patient A for his back pain and by failing to order an MRI for Patient A, as more particularly alleged in Accusation No. 800-2016-024117.

ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have discussed it with my attorney, Peter R. Osinoff, Esq. I fully understand the stipulation and the effect it will have on my Physician's and Surgeon's Certificate No. A 113112. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Medical Board of California.

DATED: 7/15/20 
ANTHONY T. NASSER, M.D.
Respondent

I have read and fully discussed with Respondent Anthony T. Nasser, 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: 7/17/20 
PETER R. OSINOFF, ESQ.
Attorney for Respondent

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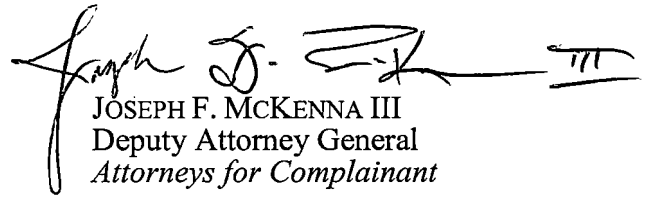
ENDORSEMENT

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

DATED: July 20, 2020

Respectfully submitted,

XAVIER BECERRA
Attorney General of California
ALEXANDRA M. ALVAREZ
Supervising Deputy Attorney General


JOSEPH F. MCKENNA III
Deputy Attorney General
Attorneys for Complainant

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Doc.No. 82384443

Exhibit A

Accusation No. 800-2016-024117

1 XAVIER BECERRA
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8 *Attorneys for Complainant*

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO June 20 20 19
BY SRVA Pasion ANALYST

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

13 In the Matter of the Accusation Against:
14 **ANTHONY T. NASSER, M.D.**
15 **355 Placentia Avenue, Suite 205**
Newport Beach, CA 92663-3302
16 **Physician's and Surgeon's Certificate**
17 **No. A113112,**
18 Respondent.

Case No. 800-2016-024117
A C C U S A T I O N

19
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21 **PARTIES**

- 22 1. Kimberly Kirchmeyer (Complainant) brings this Accusation solely in her official
23 capacity as the Executive Director of the Medical Board of California, Department of Consumer
24 Affairs (Board).
25 2. On or about July 2, 2010, the Medical Board issued Physician's and Surgeon's
26 Certificate No. A113112 to Anthony T. Nasser, M.D. (Respondent). Physician's and Surgeon's
27 Certificate No. A113112 was in full force and effect at all times relevant to the charges brought
28 herein and will expire on October 31, 2019, unless renewed.

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 states, in pertinent part:

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

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

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

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

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

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

21 “...”

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

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

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

28 “...”

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

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

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

13 “...”

14 **FIRST CAUSE FOR DISCIPLINE**
15 **(Repeated Negligent Acts)**

16 6. Respondent has subjected his Physician’s and Surgeon’s Certificate No. A113112 to
17 disciplinary action under sections 2227 and 2234, as defined by section 2234, subdivision (c), of
18 the Code, in that he committed repeated negligent acts in his care and treatment of Patient A,¹ as
19 more particularly alleged hereafter:

20 7. On or about November 16, 2013, Patient A, then a forty-five-year-old male,
21 voluntarily admitted himself to S.D.P.H. for depression and suicidal ideations. S.D.P.H. provided
22 inpatient adult emergency and psychiatric services. At the time, Respondent, who was an
23 employee of S.D.P.H., would act as an internal medicine consultant for patients who also needed
24 non-psychiatric medical attention.

25 8. On or about November 16, 2013, S.K., M.D., a psychiatrist working at S.D.P.H., did
26 a psychiatric assessment of Patient A. Patient A, who was homeless, reported a history of bipolar
27

28 ¹ To protect the privacy of the patient, the patient’s name has been omitted from this pleading.
Respondent is aware of Patient A’s identity.

1 disorder, paranoid schizophrenia, substance abuse disorder, and chronic back pain. Patient A had
2 been experiencing suicidal thoughts with ongoing depressive symptoms. Patient A was admitted
3 to S.D.P.H.'s Emergency Psychiatric Unit for safety, further observation, and psychiatric
4 treatment. To address his chronic back pain, Patient A was prescribed ibuprofen.

5 9. On or about November 17, 2013, R.F., M.D., another staff physician at S.D.P.H., did
6 a history and physical assessment of Patient A. R.F. noted that Patient A was "tired of living in
7 pain, being homeless and [was] feeling very depressed." R.F. also observed that Patient A was
8 "moaning and groaning" due to back pain, and used a walker to slowly walk to the exam room.
9 Patient A told R.F. that his back problems started 20 years prior when he fell three stories while
10 working as a carpenter. Patient A said that approximately five weeks prior, he tripped and fell at
11 the park, and that he had severe back spasms ever since. Patient A also told R.F. that he had gone
12 to other local hospitals three times prior for his back pain and was given pain medications, but
13 that no x-rays had ever been ordered.

14 10. R.F. performed a physical exam on Patient A. He noted that Patient A was stiff in his
15 mid-back, and that he had a great deal of difficulty sitting up, bending over, and straightening up.
16 Patient A reported his pain level was "10/10" and that he had spasms up and down his mid- to
17 lower-back. R.F. noted that Patient A's reflexes were absent at the knees and ankles, but that he
18 did not have numbness or shooting pain in his legs. R.F.'s impressions included subacute severe
19 mid-back pain superimposed upon a history of chronic mid-back pain from an old fall injury. He
20 ordered x-rays of the thoracic and lumbar spines and prescribed Patient A Flexeril² and Vicodin³
21 for severe back pain.

22 11. On or about November 18, 2013, x-rays of Patient A's spine were taken, and
23 corresponding reports from the radiologist were sent to S.D.P.H. The impressions documented in
24 the radiology reports included marked osteopenia,⁴ wedge shaped compression deformities
25

26 ² Flexeril, brand name for cyclobenzaprine, is a muscle relaxant.

27 ³ Vicodin, brand name for hydrocodone and acetaminophen, is an opiate narcotic used to treat
severe pain.

28 ⁴ Osteopenia is a condition in which bone density is below normal.

1 involving the inferior T10 and superior T11⁵ endplates, and a subtle dextroscoliosis⁶ of the lower
2 dorsal spine. The radiologist recommended a follow up CT (computerized tomography) scan of
3 the thoracic spine for further evaluation, and for Patient A's treating providers to consider a
4 thoracic spine MRI (magnetic resonance imaging) as a follow up study.

5 12. On or about November 18, 2013, Respondent saw Patient A for a follow up visit.
6 Respondent had reviewed the prior history and physical assessment done by R.F. as well the
7 radiology reports. Respondent noted that Patient A was complaining of back pain, and that his
8 pain level was "10/10." He noted Patient A's current medications, Flexeril and Vicodin, and that
9 Patient A was using a walker. He also referenced the x-rays and the fact that no compression
10 fractures were noted. Respondent reviewed Patient A's vital signs and performed a physical
11 exam. He documented that Patient A was not in acute stress, and that his back had paraspinal
12 tenderness. He wrote that Patient A had full range of motion, full motor strength, and normal
13 reflexes.

14 13. In a subsequent interview with Board investigators, Respondent said that he had
15 talked to Patient A about titrating off Vicodin during this visit because Patient A wanted to go to
16 a shelter that prohibited the use of narcotics. Respondent told Board investigators that Patient A
17 agreed to discontinue the Vicodin. This discussion was not documented in Respondent's progress
18 note.

19 14. Respondent's assessment of Patient A was that he had back pain and spasms with no
20 fracture. He prescribed acetaminophen, ibuprofen, and a topical analgesic cream for pain as
21 needed. He showed Patient A back exercises he could try to relieve the pain.

22 15. Patient A remained at S.D.P.H. until on or about November 21, 2013. S.D.P.H.
23 records show that from the time of Respondent's examination to the time Patient A left, Patient A
24 complained that he could not get out of bed due to his back pain, told nurses he was in severe
25 pain, and repeatedly asked for stronger pain medication.

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27 ⁵ T10 and T11 are two of twelve vertebrae that make up the central section of the vertebral
28 column.

⁶ Dextroscoliosis is a right-leaning curvature of the spine.

1 16. On or about November 21, 2013, Patient A requested to be discharged and left
2 S.D.P.H.

3 17. On or about November 25, 2013, Patient A was emergently admitted to a hospital for
4 worsening chronic back pain, numbness in his left leg, generalized weakness, and urinary
5 retention. An MRI revealed that Patient A had a T10-T11 disk space infection with an epidural
6 abscess resulting in spinal cord compression. Patient A underwent a laminectomy with drainage
7 of the epidural abscess, but was unable to regain much function in his lower extremities.

8 18. Respondent committed repeated negligent acts in his care and treatment of Patient A
9 which includes, but is not limited to, the following:

10 a. Respondent failed to do and/or document a proper examination of Patient
11 A for his back pain, which would include testing the strength of the major muscle
12 groups of the lower extremities, sensation to light touch of the lower extremities, ankle
13 and patellar reflexes, straight leg raising, and gait evaluation; and

14 b. Respondent failed to order an MRI for Patient A.

15 **SECOND CAUSE FOR DISCIPLINE**
16 **(Violation of the Medical Practice Act)**

17 19. Respondent has further subjected his Physician's and Surgeon's Certificate No.
18 A113112 to disciplinary action under sections 2227 and 2234, as defined by section 2234,
19 subdivision (a), of the Code, in that he violated the Medical Practice Act in his care and treatment
20 of Patient A, as more particularly alleged in paragraphs 7 through 18, above, which are hereby re-
21 alleged and incorporated by reference herein.

22 **PRAYER**

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

25 1. Revoking or suspending Physician's and Surgeon's Certificate No. A113112, issued
26 to Respondent Anthony T. Nasser, M.D.;

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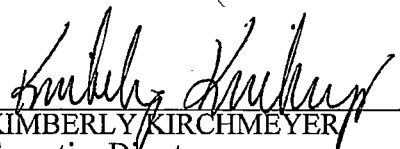
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2. Revoking, suspending or denying approval of Respondent Anthony T. Nasser, M.D.'s authority to supervise physician assistants, pursuant to section 3527 of the Code, and advanced practice nurses;

3. Ordering Respondent Anthony T. Nasser, 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: June 20, 2019


KIMBERLY KIRCHMEYER
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant

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