

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

In the Matter of the Accusation Against:

Austin Brendlen Harris, M.D.

**Physician's & Surgeon's
Certificate No. A 115606**

Case No. 800-2017-039202

Respondent.

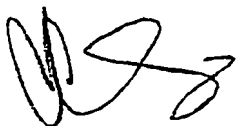
DECISION

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 September 24, 2021.

IT IS SO ORDERED: August 25, 2021.

MEDICAL BOARD OF CALIFORNIA



**Laurie Rose Lubiano, J.D., Chair
Panel A**

1 ROB BONTA
Attorney General of California
2 JUDITH T. ALVARADO
Supervising Deputy Attorney General
3 VLADIMIR SHALKEVICH
Deputy Attorney General
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8
9 **BEFORE THE**
10 **MEDICAL BOARD OF CALIFORNIA**
11 **DEPARTMENT OF CONSUMER AFFAIRS**
12 **STATE OF CALIFORNIA**

13 In the Matter of the Accusation Against:

14 **AUSTIN BRENDLEN HARRIS, M.D.**
15 **12496 Nugent Dr.**
Granada Hills, CA 91344

16 **Physician's and Surgeon's Certificate**
17 **No. A 115606,**

18 Respondent.

Case No. 800-2017-039202

OAH No. 2021020577

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

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

21 **PARTIES**

22 1. William Prasifka (Complainant) is the Executive Director of the Medical Board of
23 California (Board). He brought this action solely in his official capacity and is represented in this
24 matter by Rob Bonta, Attorney General of the State of California, by Vladimir Shalkevich,
25 Deputy Attorney General.

26 2. Respondent Austin Brendlen Harris, M.D. (Respondent) is represented in this
27 proceeding by attorney Peter R. Osinoff, Esq., whose address is: 355 South Grand Avenue, Suite
28 1750, Los Angeles, CA 90071-1562.

3. On or about January 28, 2011, the Board issued Physician's and Surgeon's Certificate No. A 115606 to Austin Brendlen Harris, M.D. The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought in Accusation No. 800-2017-039202, and will expire on January 31, 2023, unless renewed.

JURISDICTION

4. Accusation No. 800-2017-039202 was filed before the Board, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on November 2, 2020. Respondent timely filed his Notice of Defense contesting the Accusation.

5. A copy of Accusation No. 800-2017-039202 is attached as exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

6. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 800-2017-039202. Respondent has also carefully read, fully discussed with his counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

7. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right 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.

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

CULPABILITY

9. Respondent understands and agrees that the charges and allegations in Accusation No. 800-2017-039202, if proven at a hearing, constitute cause for imposing discipline upon his Physician's and Surgeon's Certificate.

10. Respondent agrees that, at a hearing, Complainant could establish a prima facie case or factual basis for the charges in the Accusation, and that Respondent hereby gives up his right to contest those charges.

11. 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. 800-2017-039202, a true and correct copy of which is attached hereto as Exhibit A, and that he has thereby subjected his Physician's and Surgeon's Certificate, No. A 115606 to disciplinary action.

12. 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

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

14. The parties agree that this stipulation contains the entire agreement between the parties relating to the resolution of Accusation No. 800-2017-039202, and all prior or contemporaneous agreements, understanding, representations and statement, whether oral or written, and whether by a party or such party's counsel are merged in this stipulation.

15. Respondent agrees that if he ever petitions for early termination or modification of probation, or if an accusation and/or petition to revoke probation is filed against him before the Board, all of the charges and allegations contained in Accusation No. 800-2017-039202 shall be

1 deemed true, correct and fully admitted by Respondent for purposes of any such proceeding or
2 any other licensing proceeding involving Respondent in the State of California.

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

6 17. In consideration of the foregoing admissions and stipulations, the parties agree that
7 the Board may, without further notice or opportunity to be heard by the Respondent, issue and
8 enter the following Disciplinary Order:

9 **DISCIPLINARY ORDER**

10 IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. A 115606 issued
11 to Respondent AUSTIN BRENDLEN HARRIS, M.D. is revoked. However, the revocation is
12 stayed and Respondent is placed on probation for five (5) years on the following terms and
13 conditions:

14 1. **CONTROLLED SUBSTANCES - ABSTAIN FROM USE.** Respondent shall abstain
15 completely from the personal use or possession of controlled substances as defined in the
16 California Uniform Controlled Substances Act, dangerous drugs as defined by Business and
17 Professions Code section 4022, and any drugs requiring a prescription. This prohibition does not
18 apply to medications lawfully prescribed to Respondent by another practitioner for a bona fide
19 illness or condition.

20 Within 15 calendar days of receiving any lawfully prescribed medications, Respondent
21 shall notify the Board or its designee of the: issuing practitioner's name, address, and telephone
22 number; medication name, strength, and quantity; and issuing pharmacy name, address, and
23 telephone number.

24 2. **ALCOHOL - ABSTAIN FROM USE.** Respondent shall abstain completely from the
25 use of products or beverages containing alcohol.

26 3. **PROFESSIONALISM PROGRAM (ETHICS COURSE).** Within 60 calendar days of
27 the effective date of this Decision, Respondent shall enroll in a professionalism program, that
28 meets the requirements of Title 16, California Code of Regulations (CCR) section 1358.1.

1 Respondent shall participate in and successfully complete that program. Respondent shall
2 provide any information and documents that the program may deem pertinent. Respondent shall
3 successfully complete the classroom component of the program not later than six (6) months after
4 Respondent's initial enrollment, and the longitudinal component of the program not later than the
5 time specified by the program, but no later than one (1) year after attending the classroom
6 component. The professionalism program shall be at Respondent's expense and shall be in
7 addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

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

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

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

23 The psychotherapist shall consider any information provided by the Board or its designee
24 and any other information the psychotherapist deems relevant and shall furnish a written
25 evaluation report to the Board or its designee. Respondent shall cooperate in providing the
26 psychotherapist with any information and documents that the psychotherapist may deem
27 pertinent.

28 Respondent shall have the treating psychotherapist submit quarterly status reports to the

1 Board or its designee. The Board or its designee may require Respondent to undergo psychiatric
2 evaluations by a Board-appointed board certified psychiatrist. If, prior to the completion of
3 probation, Respondent is found to be mentally unfit to resume the practice of medicine without
4 restrictions, the Board shall retain continuing jurisdiction over Respondent's license and the
5 period of probation shall be extended until the Board determines that Respondent is mentally fit
6 to resume the practice of medicine without restrictions.

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

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

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

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

28 If Respondent fails to obtain approval of a monitor within 60 calendar days of the effective

1 date of this Decision, Respondent shall receive a notification from the Board or its designee to
2 cease the practice of medicine within three (3) calendar days after being so notified. Respondent
3 shall cease the practice of medicine until a monitor is approved to provide monitoring
4 responsibility.

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

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

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

24 6. PRESENCE OF ACLS CERTIFIED STAFF DURING PROCEDURES OR
25 INFUSIONS. During probation, when Respondent performs any medical procedure on a patient,
26 including but not limited to, infusion or administration of any substance, another health care
27 provider who holds an Advanced Cardiovascular Life Support Certification shall be physically
28 present in the procedure room where the procedure and/or infusion or administration of any

1 substance occurs. Upon the effective date of this Decision, all patients receiving treatment from
2 Respondent shall be notified of the requirement of an ACLS Certified provider being present.
3 Any new patients must be provided this notification at the time of their initial appointment.

4 Respondent shall maintain a log of all patients to whom the required oral notification was
5 made. The log shall contain the: 1) patient's name, address and phone number; 2) patient's
6 medical record number, if available; 3) the full name of the person making the notification; 4) the
7 date the notification was made; and 5) a description of the notification given. Respondent shall
8 keep this log in a separate file or ledger, in chronological order, shall make the log available for
9 immediate inspection and copying on the premises at all times during business hours by the Board
10 or its designee, and shall retain the log for the entire term of probation.

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

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

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

1 basis. The cost of biological fluid testing shall be borne by the Respondent.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

28 A biological fluid test will not be considered negative if a positive result is obtained while

1 practicing, even if the practitioner holds a valid prescription for the substance. If no prohibited
2 substance use exists, the Board shall lift the cease-practice order within one (1) business day.

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

7 For purposes of this condition, the terms "biological fluid testing" and "testing" mean the
8 acquisition and chemical analysis of a Respondent's urine, blood, breath, or hair.

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

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

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

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

1 the same facilitator does not constitute a prohibited current or former financial, personal, or
2 business relationship.

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

8 10. WORKSITE MONITOR FOR SUBSTANCE-ABUSING LICENSEE. Within thirty
9 (30) calendar days of the effective date of this Decision, Respondent shall submit to the Board or
10 its designee for prior approval as a worksite monitor, the name and qualifications of one or more
11 licensed physician and surgeon, other licensed health care professional if no physician and
12 surgeon is available, or, as approved by the Board or its designee, a person in a position of
13 authority who is capable of monitoring the Respondent at work.

14 The worksite monitor shall not have a current or former financial, personal, or familial
15 relationship with Respondent, or any other relationship that could reasonably be expected to
16 compromise the ability of the monitor to render impartial and unbiased reports to the Board or its
17 designee. If it is impractical for anyone but Respondent's employer to serve as the worksite
18 monitor, this requirement may be waived by the Board or its designee, however, under no
19 circumstances shall Respondent's worksite monitor be an employee or supervisee of the licensee.

20 The worksite monitor shall have an active unrestricted license with no disciplinary action
21 within the last five (5) years, and shall sign an affirmation that he or she has reviewed the terms
22 and conditions of Respondent's disciplinary order and agrees to monitor Respondent as set forth
23 by the Board or its designee.

24 Respondent shall pay all worksite monitoring costs.

25 The worksite monitor shall have face-to-face contact with Respondent in the work
26 environment on as frequent a basis as determined by the Board or its designee, but not less than
27 once per week; interview other staff in the office regarding Respondent's behavior, if requested
28 by the Board or its designee; and review Respondent's work attendance. Worksite Monitor's

1 meetings with Respondent and his staff shall be done in a discrete manner and out of hearing of
2 patients. The worksite monitor shall verbally report any suspected substance abuse to the Board
3 and Respondent's employer or supervisor within one (1) business day of occurrence. If the
4 suspected substance abuse does not occur during the Board's normal business hours, the verbal
5 report shall be made to the Board or its designee within one (1) hour of the next business day. A
6 written report that includes the date, time, and location of the suspected abuse; Respondent's
7 actions; and any other information deemed important by the worksite monitor shall be submitted
8 to the Board or its designee within 48 hours of the occurrence.

9 The worksite monitor shall complete and submit a written report monthly or as directed by
10 the Board or its designee which shall include the following: (1) Respondent's name and
11 Physician's and Surgeon's Certificate number; (2) the worksite monitor's name and signature; (3)
12 the worksite monitor's license number, if applicable; (4) the location or location(s) of the
13 worksite; (5) the dates Respondent had face-to-face contact with the worksite monitor; (6) the
14 names of worksite staff interviewed, if applicable; (7) a report of Respondent's work attendance;
15 (8) any change in Respondent's behavior and/or personal habits; and (9) any indicators that can
16 lead to suspected substance abuse by Respondent. Respondent shall complete any required
17 consent forms and execute agreements with the approved worksite monitor and the Board, or its
18 designee, authorizing the Board, or its designee, and worksite monitor to exchange information.

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

28 11. VIOlation OF PROBATION CONDITION FOR SUBSTANCE ABUSING

1 LICENSEES. Failure to fully comply with any term or condition of probation is a violation of
2 probation.

3 A. If Respondent commits a major violation of probation as defined by section
4 1361.52, subdivision (a), of Title 16 of the California Code of Regulations, the Board shall take
5 one or more of the following actions:

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

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

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

18 B. If Respondent commits a minor violation of probation as defined by section
19 1361.52, subdivision (c), of Title 16 of the California Code of Regulations, the Board shall take
20 one or more of the following actions:

21 (1) Issue a cease-practice order;

22 (2) Order practice limitations;

23 (3) Order or increase supervision of Respondent;

24 (4) Order increased documentation;

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

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

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

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

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

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

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

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

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

26 15. GENERAL PROBATION REQUIREMENTS.

27 Compliance with Probation Unit

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

1 Address Changes

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

7 Place of Practice

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

11 License Renewal

12 Respondent shall maintain a current and renewed California physician's and surgeon's
13 license.

14 Travel or Residence Outside California

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

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

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

24 17. NON-PRACTICE WHILE ON PROBATION. Respondent shall notify the Board or
25 its designee in writing within 15 calendar days of any periods of non-practice lasting more than
26 30 calendar days and within 15 calendar days of Respondent's return to practice. Non-practice is
27 defined as any period of time Respondent is not practicing medicine as defined in Business and
28 Professions Code sections 2051 and 2052 for at least 40 hours in a calendar month in direct

1 patient care, clinical activity or teaching, or other activity as approved by the Board. If
2 Respondent resides in California and is considered to be in non-practice, Respondent shall
3 comply with all terms and conditions of probation. All time spent in an intensive training
4 program which has been approved by the Board or its designee shall not be considered non-
5 practice and does not relieve Respondent from complying with all the terms and conditions of
6 probation. Practicing medicine in another state of the United States or Federal jurisdiction while
7 on probation with the medical licensing authority of that state or jurisdiction shall not be
8 considered non-practice. A Board-ordered suspension of practice shall not be considered as a
9 period of non-practice.

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

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

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

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

22 18. COMPLETION OF PROBATION. Respondent shall comply with all financial
23 obligations (e.g., restitution, probation costs) not later than 120 calendar days prior to the
24 completion of probation. Upon successful completion of probation, Respondent's certificate shall
25 be fully restored.

26 19. VIOLATION OF PROBATION. Failure to fully comply with any term or condition
27 of probation is a violation of probation. If Respondent violates probation in any respect, the
28 Board, after giving Respondent notice and the opportunity to be heard, may revoke probation and

1 carry out the disciplinary order that was stayed. If an Accusation, or Petition to Revoke
2 Probation, or an Interim Suspension Order is filed against Respondent during probation, the
3 Board shall have continuing jurisdiction until the matter is final, and the period of probation shall
4 be extended until the matter is final.

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

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

20 22. FUTURE ADMISSIONS CLAUSE. If Respondent should ever apply or reapply for
21 a new license or certification, or petition for reinstatement of a license, by any other health care
22 licensing action agency in the State of California, all of the charges and allegations contained in
23 Accusation No. 800-2017-039202 shall be deemed to be true, correct, and admitted by
24 Respondent for the purpose of any Statement of Issues or any other proceeding seeking to deny or
25 restrict license.

26 ACCEPTANCE

27 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
28 discussed it with my attorney, Peter R. Osinoff, Esq.. I understand the stipulation and the effect it

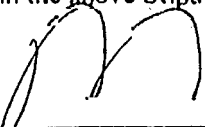
1 will have on my Physician's and Surgeon's Certificate. I enter into this Stipulated Settlement and
2 Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the
3 Decision and Order of the Medical Board of California.

4
5 DATED: 7-12-21


6 AUSTIN BRENDLEN HARRIS, M.D.
7 Respondent

8 I have read and fully discussed with Respondent Austin Brendlen Harris, M.D. the terms
9 and conditions and other matters contained in the above Stipulated Settlement and Disciplinary
10 Order. I approve its form and content.

11 DATED: 7/12/2021


12 PETER R. OSINOFF, ESQ.
13 Attorney for Respondent

14 **ENDORSEMENT**

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

17 DATED: July 12, 2021

Respectfully submitted,

18 ROB BONTA
19 Attorney General of California
20 JUDITH T. ALVARADO
21 Supervising Deputy Attorney General


22 VLADIMIR SHALKEVICH
23 Deputy Attorney General
24 Attorneys for Complainant

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Exhibit A

Accusation No. 800-2017-039202

1 XAVIER BECERRA
Attorney General of California
2 JUDITH T. ALVARADO
Supervising Deputy Attorney General
3 VLADIMIR SHALKEVICH
Deputy Attorney General
4 State Bar No. 173955
California Department of Justice
5 300 So. Spring Street, Suite 1702
Los Angeles, CA 90013
6 Telephone: (213) 269-6538
Facsimile: (916) 731-2117
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. 800-2017-039202

13 **Austin Brendlen Harris, M.D.**
14 **12460 McLennan Ave.**
Granada Hills, CA 91344

A C C U S A T I O N

15 **Physician's and Surgeon's Certificate**
16 **No. A 115606,**

17 **Respondent.**

18
19 **PARTIES**

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

23 2. On or about January 28, 2011, the Medical Board issued Physician's and Surgeon's
24 Certificate Number A 115606 to Austin Brendlen Harris, M.D. (Respondent). The Physician's
25 and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought
26 herein and will expire on January 31, 2021, unless renewed.

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conviction is conclusive evidence of such unprofessional conduct.

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

FACTUAL ALLEGATIONS

7. In or about 2002, while attending college, Respondent consumed alcohol and drove himself and friends to a local fast-food establishment to purchase food. While driving back to campus, Respondent was stopped by law enforcement for making an allegedly illegal U-turn. Respondent was arrested for drunk driving. On or about May 6, 2003, in Los Angeles County Superior Court case number 300794, entitled *People of the State of California v. Austin Brendlen Harris*, Respondent pled no-contest to, and was convicted of, a violation of Vehicle Code section 23152, subdivision (b) – driving with blood alcohol level of more than .08%. Respondent was placed on probation for, he reported, “two-and-a-half years or three years or something like that ... it overlapped into the beginning of my medical school, which started fairly shortly thereafter, about one year later.”

8. On or about November 3, 2012, Respondent was again arrested for driving under the influence of alcohol. Respondent attended a concert at a venue in West Hollywood, California, where he consumed alcohol. After the concert, he drove his vehicle and was stopped by law enforcement, for allegedly driving without headlights after dark. Respondent was arrested for drunk driving, and was taken to a local hospital where his blood was drawn for alcohol testing. On or about February 1, 2013, in Los Angeles County Superior Court case number 2BV02484, entitled *People of the State of California v. Austin Brendlen Harris*, Respondent pled no-contest to, and was convicted of, a violation of Vehicle Code section 23152, subdivision (b) – driving with blood alcohol level of more than .08%. In making his plea, Respondent admitted to the prior, 2003, conviction. Respondent was fined and sentenced to spend 4 days in the county jail;

1 summary probation for 60 months; completion of an 18-month licensed second-offender alcohol
2 and other drug education and counseling program; to not drive with any measurable amount of
3 alcohol in his system, and to have an ignition interlock device installed in his vehicle for one
4 year; as well as to abide by other terms of probation.

5 9. On November 17, 2017, prior to the completion of Respondent's term of criminal
6 probation described in paragraph 8 herein, Respondent was once again arrested for drunk driving.
7 At approximately 7:40 a.m. on November 17, 2017, a California Highway Patrol Officer observed
8 the aftermath of a rear-end traffic collision, at the intersection of Margarita Road and Yukon
9 Road in Temecula, California, and stopped to investigate. Respondent's vehicle's passenger side
10 wheels were damaged. A witness on the scene recognized Respondent as a doctor who worked at
11 Inland Valley hospital's operating room, and related that she observed Respondent collide with a
12 street curb near the corner of Margarita Road and La Serena Way, approximately a block away.
13 Respondent then collided with a rear-end of another vehicle, which was stopped at a red light at
14 Yukon Road. The driver of the other vehicle claimed to have been injured in the collision.
15 Respondent was on his way to provide anesthesia to patients at Inland Valley Medical Center.
16 Respondent was wearing hospital scrubs and his hospital identification badge. He also appeared
17 intoxicated and disheveled, and his pants were falling off. A blood alcohol test administered to
18 Respondent that morning showed that he drove with blood alcohol level of .10%.¹

19 10. On or about September 19, 2019, in the Riverside County Superior Court case
20 number SWM1800028, entitled *People of the State of California v. Austin Brendlen Harris*,
21 Respondent was convicted by a jury of a violation of Vehicle Code section 23152, subdivision (b)
22 – driving with blood alcohol level of more than .08%. On November 15, 2019, Respondent was
23 fined and sentenced to 30 days in jail, with credit for one day served; 36 months of summary
24

25 ¹ On October 9, 2017 and on November 17, 2017, pursuant to a prescription from his
26 doctor, Respondent was dispensed a months' supply of lorazepam, for nightly use, at a CVS
27 pharmacy in Temecula, California. Lorazepam is a benzodiazepine sold under the trade name
28 Ativan, which is commonly used as a sleep aid and to treat anxiety. Lorazepam is a dangerous
drug pursuant to Business and Professions Code section 4022, and a Schedule IV controlled
substance pursuant to Health and Safety Code section 11507 (d)(16). Lorazepam and alcohol,
when ingested together are known to have synergistic effects, increasing the intoxicating effects
of both.

1 probation; participation in an enhanced 18-month drinking offender program; installation of an
2 alcohol interlock device in his vehicle; restitution to his victim, as well as other terms of summary
3 probation.

4 **FIRST CAUSE FOR DISCIPLINE**

5 **(Use of Alcohol and/or Drugs in a Dangerous Manner)**

6 11. Respondent Austin Brendlen Harris, M.D. is subject to disciplinary action under
7 section 2239 of the Code, in that Respondent used alcohol and/or drugs in a manner dangerous to
8 himself or others and suffered more than one misdemeanor conviction involving the use of
9 alcohol. The circumstances are as follows:

10 12. Allegations of paragraphs 7 through 10, inclusively, are incorporated herein by
11 reference.

12 **SECOND CAUSE FOR DISCIPLINE**

13 **(Conviction of a Crime)**

14 13. Respondent Austin Brendlen Harris, M.D. is subject to disciplinary action under
15 section 2236 of the Code, in that he was convicted of a crime substantially related to the
16 qualifications, functions and duties of a physician and surgeon. The circumstances are as follows:

17 14. Allegations of paragraphs 7 through 10, inclusively, are incorporated herein by
18 reference.

19 **DISCIPLINARY CONSIDERATIONS**

20 15. To determine the degree of discipline, if any, to be imposed on Respondent Austin
21 Brendlen Harris, M.D., Complainant alleges that on or about April 27, 2019, and May 22, 2019
22 while actively providing in-hospital anesthesia services to patients, Respondent became
23 unresponsive for several minutes, essentially suffering two separate episodes of presyncope.
24 Respondent was tested for drugs and alcohol, and the testing was negative. However, subsequent
25 medical and psychiatric evaluators recommended further medical and psychiatric or
26 psychological treatment, and that Respondent not practice surgical anesthesia until such
27 evaluation and/or treatment is completed.

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2 PRAYER

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

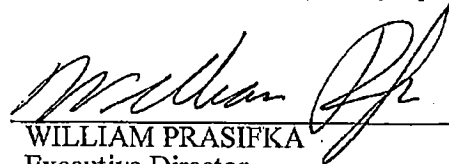
5 1. Revoking or suspending Physician's and Surgeon's Certificate Number A 115606,
6 issued to Austin Brendlen Harris, M.D.;

7 2. Revoking, suspending or denying approval of Austin Brendlen Harris, M.D.'s
8 authority to supervise physician assistants and advanced practice nurses;

9 3. Ordering Austin Brendlen Harris, M.D., if placed on probation, to pay the Board the
10 costs of probation monitoring; and

11 4. Taking such other and further action as deemed necessary and proper.

12
13 DATED: 10/16/2020



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

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