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

In the Matter of the Accusation Against: **Randall Scott Cohen, M.D.** **Physician's & Surgeon's Certificate No. C 55835** **Respondent.**	**Case No. 800-2019-057077**

DECISION

The attached Stipulated Settlement and Disciplinary Order is hereby adopted as the Decision and Order of the Medical Board of California, Department of Consumer Affairs, State of California.

This Decision shall become effective at 5:00 p.m. on October 8, 2021.

IT IS SO ORDERED September 9, 2021

MEDICAL BOARD OF CALIFORNIA

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

ROB BONTA
Attorney General of California
STEVEN D. MUNI
Supervising Deputy Attorney General
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Attorneys for Complainant

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

In the Matter of the Accusation Against: **RANDALL SCOTT COHEN, M.D.** **771 Warren Way** **Auburn, CA 95603-4950** **Physician's and Surgeon's Certificate No. C 55835** Respondent.	Case No. 800-2019-057077 OAH No. 2020120071 **STIPULATED SETTLEMENT AND DISCIPLINARY ORDER**

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

PARTIES

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

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2. Respondent Randall Scott Cohen, M.D. (Respondent) is represented in this proceeding by attorney M. Bradley Wishek, Esq., whose address is: 765 University Avenue Sacramento, CA 95825.

3. On or about March 22, 2013, the Board issued Physician's and Surgeon's Certificate No. C 55835 to Randall Scott Cohen, M.D. (Respondent). The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought in Accusation No. 800-2019-057077, and will expire on January 31, 2023, unless renewed.

JURISDICTION

4. Accusation No. 800-2019-057077 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 October 28, 2020. Respondent timely filed his Notice of Defense contesting the Accusation.

5. A copy of Accusation No. 800-2019-057077 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. 800-2019-057077. 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.

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CULPABILITY

9 Respondent agrees that, at an administrative hearing, Complainant could establish a *prima facie* case with respect to the charges and allegations contained in Accusation No. 800-2019-057077 and that he gives up his right to contest the charges and has thereby subjected his Physician's and Surgeon's Certificate to disciplinary action. Respondent further agrees to be bound by the Board's imposition of discipline as set forth in the Disciplinary Order below.

10. Respondent further agrees that if he fails to successfully complete the professionalism program, which is more fully described below, within the required time, all of the charges and allegations contained in Accusation No. 800-2019-057077, shall be deemed true, correct, and fully admitted by Respondent for purposes of any further proceeding before the Board, and that his failure to complete the professionalism program shall constitute unprofessional conduct and grounds for further disciplinary action.

CONTINGENCY

11. 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.

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

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13. This Stipulated Settlement and Disciplinary Order is intended by the parties herein to be an integrated writing representing the complete, final, and exclusive embodiment of the agreements of the parties in the above-entitled matter.

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

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. C 55835 issued to Respondent Randall Scott Cohen, M.D. shall be and is hereby publicly reprimanded pursuant to California Business and Professions Code section 2227, subdivision (a)(4). This Public Reprimand is issued in connection with Respondent's driving under the influence on May 30, 2019, with a blood alcohol level of 0.18%, which resulted in a misdemeanor conviction of Vehicle Code section 23152, subdivision (b), as set forth in Exhibit A.

IT IS FURTHER ORDERED THAT that within 60 calendar days of the effective date of this Decision, Respondent shall enroll in a professionalism program that meets the requirements of Title 16, California Code of Regulations (CCR) section 1358.1. Respondent shall participate in and successfully complete that program. Respondent shall provide any information and documents that the program may deem pertinent. Respondent shall successfully complete the classroom component of the program not later than six (6) months after Respondent's initial enrollment, and the longitudinal component of the program not later than the time specified by the program, but no later than one (1) year after attending the classroom component. The professionalism program shall be at Respondent's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

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

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

Any failure by Respondent to comply with the terms and conditions of the Disciplinary Order set forth above shall constitute unprofessional conduct and be grounds for further disciplinary action.

ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, M. Bradley Wishek, Esq.. I understand the stipulation and the effect it will have on my Physician's and Surgeon's Certificate. 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: 5-14-21

RANDALL SCOTT COHEN, M.D.
Respondent

I have read and fully discussed with Respondent Randall Scott Cohen, 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: 5-14-21

M. BRADLEY WISHEK, 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: 5/14/2021

Respectfully submitted,

ROB BONTA
Attorney General of California
STEVEN D. MUNI
Supervising Deputy Attorney General

Veronica Vo

VERONICA VO
Deputy Attorney General
Attorneys for Complainant

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Randall Cohen Stipulated Settlement and Disciplinary Order.docx

Exhibit A

Accusation No. 800-2019-057077

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

In the Matter of the Accusation Against: **Randall Scott Cohen, M.D.** **3288 Bell Road** **Auburn, CA 95603** **Physician's and Surgeon's Certificate No. C 55835,** Respondent.	Case No. 800-2019-057077 **ACCUSATION**

Complainant alleges:

PARTIES

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

2. On or about March 22, 2013, the Medical Board issued Physician's and Surgeon's Certificate No. C 55835 to Randall Scott Cohen, M.D. (Respondent). The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought herein and will expire on January 31, 2021, 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 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:

"The board shall take action against any licensee who is charged with unprofessional conduct.[1] 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.

"..."

6. Section 2236 of the Code states:

"(a) The conviction of any offense substantially related to the qualifications, functions, or duties of a physician and surgeon constitutes unprofessional conduct within the meaning of this chapter [Chapter 5, the Medical Practice Act]. The record of conviction shall be conclusive evidence only of the fact that the conviction occurred.

"(b) The district attorney, city attorney, or other prosecuting agency shall notify the Medical Board of the pendency of an action against a licensee charging a felony or misdemeanor immediately upon obtaining information that the defendant is a licensee. The notice shall identify the licensee and describe the crimes charged and the facts alleged. The prosecuting agency shall also notify the clerk of the court in which the action is pending that the defendant is a licensee,

[1] Unprofessional conduct under California Business and Professions Code section 2234 is conduct which breaches the rules or ethical code of the medical profession, or conduct which is unbecoming a member in good standing of the medical profession, and which demonstrates an unfitness to practice medicine. (*Shea v. Board of Medical Examiners* (1978) 81 Cal.App.3d 564, 575.)

and the clerk shall record prominently in the file that the defendant holds a license as a physician and surgeon.

"(c) The clerk of the court in which a licensee is convicted of a crime shall, within 48 hours after the conviction, transmit a certified copy of the record of conviction to the board. The division may inquire into the circumstances surrounding the commission of a crime in order to fix the degree of discipline or to determine if the conviction is of an offense substantially related to the qualifications, functions, or duties of a physician and surgeon.

"(d) A plea or verdict of guilty or a conviction after a plea of nolo contendere is deemed to be a conviction within the meaning of this section and Section 2236.1. The record of conviction shall be conclusive evidence of the fact that the conviction occurred."

7. Section 2239 of the Code states:

"(a) The use or prescribing for or administering to himself or herself, of any controlled substance; or the use of any of the dangerous drugs specified in Section 4022, or of alcoholic beverages, to the extent, or in such a manner as to be dangerous or injurious to the licensee, or to any other person or to the public, or to the extent that such use impairs the ability of the licensee to practice medicine safely or more than one misdemeanor or any felony involving the use, consumption, or self-administration of any of the substances referred to in this section, or any combination thereof, constitutes unprofessional conduct. The record of the 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 may order discipline of the licensee in accordance with Section 2227 or the Medical Board 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."

8. California Code of Regulations, title 16, section 1360, states:

"For the purposes of denial, suspension or revocation of a license, certificate or permit pursuant to Division 1.5 (commencing with Section 475) of the code, a crime or act shall be considered to be substantially related to the qualifications, functions or duties of a person holding a license, certificate or permit under the Medical Practice Act if to a substantial degree it evidences present or potential unfitness of a person holding a license, certificate or permit to perform the functions authorized by the license, certificate or permit in a manner consistent with the public health, safety or welfare. Such crimes or acts shall include but not be limited to the following: Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate any provision of the Medical Practice Act."

FIRST CAUSE FOR DISCIPLINE

(Conviction of a Crime Substantially Related to the Qualifications, Functions, or Duties of a Physician and Surgeon)

9. Respondent Randall Scott Cohen, M.D. is subject to disciplinary action under sections 2227 and 2234, as defined by section 2236, of the Code, and California Code of Regulations, title 16, section 1360, in that he was convicted of a crime substantially related to the qualifications, functions, or duties of a physician and surgeon. The circumstances are as follows:

10. On or about May 30, 2019, Respondent, while on his way to work, was involved in a solo-vehicle accident. Respondent lost control of his vehicle, hit a guardrail, and landed upside down in a creek filled with water. Respondent freed himself from the vehicle and attempted to walk home. While walking, two women noticed Respondent was wet, muddy, and barefoot. These two women drove Respondent home. The two women also reported their observations to law enforcement.

Law enforcement arrived at Respondent's home and noticed Respondent exhibited objective signs of intoxication, including; bloodshot, watery eyes, slow, slurred speech, and a strong odor of alcohol. The officer had Respondent perform a variety of field sobriety tests. Respondent staggered as he took these tests. Eventually after failing the field sobriety tests, Respondent was arrested for driving under the influence of alcohol and/or drugs and for leaving

the scene of an accident. Shortly thereafter, Respondent agreed to take a breathalyzer test. Respondent's blood alcohol content was 0.18%, over twice the legal limit.

11. On June 19, 2019, the Placer County District Attorney filed a criminal complaint against Respondent in the case entitled *The People of the State of California v. Randall Scott Cohen*, Placer County Superior Court Case No. 62-167250. Count One of the Complaint charged Respondent with Driving under the Influence of Alcohol, in violation of Vehicle Code section 23152, subdivision (a), a misdemeanor. Count Two of the Complaint charged Respondent with driving with a blood alcohol content level of 0.08 percent or more, in violation of Vehicle Code section 23152, subdivision (b), a misdemeanor. In addition, a special allegation was added as to both Counts One and Two, alleging that during the commission of the offenses charged, Respondent drove a vehicle with a blood alcohol content of 0.15 percent or more, within the meaning of Vehicle Code section 23578. Lastly, Count Three of the Complaint charged Respondent with hit and run driving, in violation of Vehicle Code section 20002, subdivision (a), a misdemeanor.

12. On or about January 21, 2020, Respondent was convicted upon his plea of no contest to Count Two of the Complaint, i.e., driving with a blood alcohol content level of 0.08 percent or more, in violation of Vehicle Code section 23152, subdivision (b). On the same day of his plea, Respondent was sentenced to the following terms and conditions: 3 years probation, 1 day in jail with credit for time served, 40 hours of community service, DUI panel, 3 month DUI 1st offender program, fine of $1,538, obey all laws, submit to search and seizure, do not drive with any measurable amount of alcohol/intoxicants in system, do not drive without valid license or insurance, do not refuse to take a chemical test if asked by law enforcement, abstain from the use or possession or intoxicants and do not frequent places where alcohol is the chief item for sale.

SECOND CAUSE FOR DISCIPLINE

(Use of Alcohol in a Dangerous or Injurious Manner)

13. Respondent is subject to disciplinary action under sections 2227 and 2234, as defined by section 2239, of the Code, and California Code of Regulations, title 16, section 1360, in that he has used alcoholic beverages to the extent, or in such a manner, as to be dangerous or injurious

to himself, or to any other person or to the public, as more particularly alleged in paragraphs 9 through 12, above, which is hereby incorporated by reference and realleged as if fully set forth herein.

THIRD CAUSE FOR DISCIPLINE

(Violation of the State Medical Practice Act)

14. Respondent is further subject to disciplinary action under sections 2227 and 2234, as defined by section 2234, subdivision (a), of the Code, and California Code of Regulations, title 16, section 1360, in that he has violated a provision or provisions of the Medical Practice Act, as more particularly alleged in paragraphs 9 through 12, above, which are hereby realleged and incorporated by reference as if fully set forth herein.

FOURTH CAUSE FOR DISCIPLINE

(General Unprofessional Conduct)

15. Respondent is further subject to disciplinary action under sections 2227 and 2234, as defined by section 2234, of the Code, in that he has engaged in conduct which breaches the rules or ethical code of the medical profession, or conduct which is unbecoming a member in good standing of the medical profession, and which demonstrates an unfitness to practice medicine, as more particularly alleged in paragraphs 9 through 12, above, which are hereby realleged and incorporated by reference as if fully set forth herein.

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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 No. C 55835, issued to Randall Scott Cohen, M.D.;

2. Revoking, suspending or denying approval of Randall Scott Cohen, M.D.'s authority to supervise physician assistants and advanced practice nurses;

3. Ordering Randall Scott Cohen, 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: OCT 28 2020

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

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