

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

In the Matter of the Accusation
Against:

Ruth M. Olweny, M.D.

Physician's and Surgeon's
Certificate No. A 88964

Case No.: 800-2021-075997

Respondent.

DECISION

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

This Decision shall become effective at 5:00 p.m. on October 29, 2021.

IT IS SO ORDERED: September 30, 2021.

MEDICAL BOARD OF CALIFORNIA



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

1 ROB BONTA
Attorney General of California
2 JANE ZACK SIMON
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9 **BEFORE THE**
MEDICAL BOARD OF CALIFORNIA
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 800-2021-075997

13 **RUTH M. OLWENY, M.D.**
14 **5301 Hillen Dr.**
Oakland, CA 94619-3217

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

15
16 **Physician's and Surgeon's**
Certificate No. A 88964

17 Respondent.
18

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

22 **PARTIES**

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

27 2. Respondent Ruth M. Olweny, M.D. (Respondent) is represented in this proceeding by
28 attorney Shannon V. Baker, whose address is: 765 University Avenue, Sacramento, CA 95825.

3. On September 29, 2004, the Board issued Physician's and Surgeon's Certificate No. A 88964 to Ruth M. Olweny, 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. 800-2021-075997, and will expire on March 31, 2022, unless renewed.

JURISDICTION

4. Accusation No. 800-2021-075997 was filed before the Board, and is currently pending against Respondent. The Accusation and all other statutorily required documents were served on Respondent on June 14, 2021. Respondent timely filed her Notice of Defense contesting the Accusation.

5. A copy of Accusation No. 800-2021-075997 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. 800-2021-075997. Respondent has also carefully read, fully discussed with her counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

7. Respondent is fully aware of her 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 her; the right to present evidence and to testify on her 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 admits the truth of each and every charge and allegation in Accusation No. 800-2021-075997.

10. ACKNOWLEDGMENT. Respondent acknowledges the Disciplinary Order below, requiring the disclosure of probation pursuant to Business and Professions Code section 2228.1, serves to protect the public interest.

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

CONTINGENCY

12. 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 her counsel. By signing the stipulation, Respondent understands and agrees that she may not withdraw her 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.

13. Respondent agrees that if she ever petitions for early termination or modification of probation, or if an accusation and/or petition to revoke probation is filed against her before the Board, all of the charges and allegations contained in Accusation No. 800-2021-075997 shall be deemed true, correct and fully admitted by respondent for purposes of any such proceeding or any other licensing proceeding involving Respondent in the State of California or any other state.

ADDITIONAL PROVISIONS

14. 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.

15. The parties agree that copies, including Portable Document Format (PDF) and facsimile copies, of this Stipulated Settlement and Disciplinary Order, including copies of the

1 signatures (including Portable Document Format (PDF) and facsimile copies of the signatures),
2 may be used in lieu of original documents and signatures and, further, that such copies shall have
3 the same force and effect as originals.

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

7 **DISCIPLINARY ORDER**

8 IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. A 88964 issued
9 to Respondent Ruth M. Olweny, M.D. is revoked. However, the revocation is stayed and
10 Respondent is placed on probation for 7 years, on the following terms and conditions:

11 1. **CLINICAL DIAGNOSTIC EVALUATIONS AND REPORTS:** Within 30
12 calendar days of the effective date of this Decision, and on whatever periodic basis thereafter as
13 may be required by the Board or its designee, Respondent shall undergo and complete a clinical
14 diagnostic evaluation, including any and all testing deemed necessary, by a Board-appointed
15 board certified physician and surgeon. The examiner shall consider any information provided by
16 the Board or its designee and any other information he or she deems relevant, and shall furnish a
17 written evaluation report to the Board or its designee.

18 The clinical diagnostic evaluation shall be conducted by a licensed physician and surgeon
19 who holds a valid, unrestricted license, has 3 years' experience in providing evaluations of
20 physicians and surgeons with substance abuse disorders, and is approved by the Board or its
21 designee. The clinical diagnostic evaluation shall be conducted in accordance with acceptable
22 professional standards for conducting substance abuse clinical diagnostic evaluations. The
23 evaluator shall not have a current or former financial, personal, or business relationship with
24 Respondent within the last 5 years. The evaluator shall provide an objective, unbiased, and
25 independent evaluation. The clinical diagnostic evaluation report shall set forth, in the
26 evaluator's opinion, whether Respondent has a substance abuse problem, whether Respondent is a
27 threat to himself or herself or others, and recommendations for substance abuse treatment,
28 practice restrictions, or other recommendations related to Respondent's rehabilitation and ability

1 to practice safely. If the evaluator determines during the evaluation process that Respondent is a
2 threat to himself or herself or others, the evaluator shall notify the Board within twenty-four (24)
3 hours of such a determination.

4 In formulating his or her opinion as to whether Respondent is safe to return to either part-
5 time or full-time practice and what restrictions or recommendations should be imposed, including
6 participation in an inpatient or outpatient treatment program, the evaluator shall consider the
7 following factors: Respondent's license type; Respondent's history; Respondent's documented
8 length of sobriety (i.e., length of time that has elapsed since Respondent's last substance use);
9 Respondent's scope and pattern of substance abuse; Respondent's treatment history, medical
10 history and current medical condition; the nature, duration and severity of Respondent's
11 substance abuse problem or problems; and whether Respondent is a threat to himself or herself or
12 the public. The evaluator shall also have access to all of Respondent's rehabilitation and sobriety
13 testing records, including all of Respondent's breathalyzer and Soberlink records from Pacific
14 Assistance Group. The evaluator shall consider these items as part of his or her evaluation.

15 For all clinical diagnostic evaluations, a final written report shall be provided to the Board
16 no later than 10 days from the date the evaluator is assigned the matter. If the evaluator requests
17 additional information or time to complete the evaluation and report, an extension may be
18 granted, but shall not exceed 30 days from the date the evaluator was originally assigned the
19 matter.

20 The Board shall review the clinical diagnostic evaluation report within 5 business days of
21 receipt to determine whether Respondent is safe to return to either part-time or full-time practice
22 and what restrictions or recommendations shall be imposed on Respondent based on the
23 recommendations made by the evaluator. Respondent shall not be returned to practice until he or
24 she has at least 30 days of negative biological fluid tests or biological fluid tests indicating that he
25 or she has not used, consumed, ingested, or administered to himself or herself a prohibited
26 substance, as defined in section 1361.51, subdivision (e), of Title 16 of the California Code of
27 Regulations.

28 Clinical diagnostic evaluations conducted prior to the effective date of this Decision shall

1 not be accepted towards the fulfillment of this requirement. The cost of the clinical diagnostic
2 evaluation, including any and all testing deemed necessary by the examiner, the Board or its
3 designee, shall be borne by the licensee.

4 Respondent shall not engage in the practice of medicine until notified by the Board or its
5 designee that he or she is fit to practice medicine safely. The period of time that Respondent is
6 not practicing medicine shall not be counted toward completion of the term of probation.
7 Respondent shall undergo biological fluid testing as required in this Decision at least 2 times per
8 week while awaiting the notification from the Board if he or she is fit to practice medicine safely.

9 Respondent shall comply with all restrictions or conditions recommended by the examiner
10 conducting the clinical diagnostic evaluation within 15 calendar days after being notified by the
11 Board or its designee.

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

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

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

1 the Board or its designee, the scheduling of biological fluid testing shall be done on a random
2 basis. The cost of biological fluid testing shall be borne by the Respondent.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25 If a biological fluid test result indicates Respondent has used, consumed, ingested, or
26 administered to himself or herself a prohibited substance, the Board shall order Respondent to
27 cease practice and instruct Respondent to leave any place of work where Respondent is practicing
28 medicine or providing medical services. The Board shall immediately notify all of Respondent's

1 employers, supervisors and work monitors, if any, that Respondent may not practice medicine or
2 provide medical services while the cease-practice order is in effect.

3 A biological fluid test will not be considered negative if a positive result is obtained while
4 practicing, even if the practitioner holds a valid prescription for the substance. If no prohibited
5 substance use exists, the Board shall lift the cease-practice order within one (1) business day.

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

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

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

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

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

27 The facilitator of the substance abuse support group meeting shall have a minimum of 3
28 years experience in the treatment and rehabilitation of substance abuse, and shall be licensed or

1 certified by the state or nationally certified organizations. The facilitator shall not have a current
2 or former financial, personal, or business relationship with Respondent within the last 5 years.
3 Respondent's previous participation in a substance abuse group support meeting led by the same
4 facilitator does not constitute a prohibited current or former financial, personal, or business
5 relationship.

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

11 5. WORKSITE MONITOR FOR SUBSTANCE-ABUSING LICENSEE.

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

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

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

27 Respondent shall pay all worksite monitoring costs.

28 The worksite monitor shall have face-to-face contact with Respondent in the work

1 environment on as frequent a basis as determined by the Board or its designee, but not less than
2 once per week; interview other staff in the office regarding Respondent's behavior, if requested
3 by the Board or its designee; and review Respondent's work attendance.

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

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

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

responsibility.

6. VIOLATION OF PROBATION CONDITION FOR SUBSTANCE ABUSING LICENSEES. Failure to fully comply with any term or condition of probation is a violation of probation.

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

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

(2) Increase the frequency of biological fluid testing.

(3) Refer Respondent for further disciplinary action, such as suspension, revocation, or other action as determined by the Board or its designee. (Cal. Code Regs., tit. 16, § 1361.52, subd. (b).)

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

(1) Issue a cease-practice order;

(2) Order practice limitations;

(3) Order or increase supervision of Respondent;

(4) Order increased documentation;

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

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

4 (7) Take any other action as determined by the Board or its designee. (Cal. Code Regs., tit.
5 16, § 1361.52, subd. (d).)

6 C. Nothing in this Decision shall be considered a limitation on the Board's authority
7 to revoke Respondent's probation if he or she has violated any term or condition of probation.
8 (Cal. Code Regs., tit. 16, § 1361.52, subd. (e).) If Respondent violates probation in any respect,
9 the Board, after giving Respondent notice and the opportunity to be heard, may revoke probation
10 and carry out the disciplinary order that was stayed. If an Accusation, or Petition to Revoke
11 Probation, or an Interim Suspension Order is filed against Respondent during probation, the
12 Board shall have continuing jurisdiction until the matter is final, and the period of probation shall
13 be extended until the matter is final.

14 7. CONTROLLED SUBSTANCES - ABSTAIN FROM USE. Respondent shall
15 abstain 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 8. ALCOHOL - ABSTAIN FROM USE. Respondent shall abstain completely from
25 the use of products or beverages containing alcohol.

26 9. PROFESSIONALISM PROGRAM (ETHICS COURSE). Within 60 calendar
27 days of the effective date of this Decision, Respondent shall enroll in a professionalism program,
28 that 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 10. PSYCHOTHERAPY. Within 60 calendar days of the effective date of this
17 Decision, 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 11. MONITORING - PRACTICE.

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

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

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

1 If Respondent fails to obtain approval of a monitor within 60 calendar days of the effective
2 date of this Decision, Respondent shall receive a notification from the Board or its designee to
3 cease the practice of medicine within three calendar days after being so notified. Respondent
4 shall cease the practice of medicine until a monitor is approved to provide monitoring
5 responsibility.

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

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

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

25 12. SOLO PRACTICE PROHIBITION.

26 Respondent is prohibited from engaging in the solo practice of medicine. Prohibited solo
27 practice includes, but is not limited to, a practice where: 1) Respondent merely shares office space
28 with another physician but is not affiliated for purposes of providing patient care, or 2)

1 Respondent is the sole physician practitioner at that location.

2 If Respondent fails to establish a practice with another physician or secure employment in
3 an appropriate practice setting within 60 calendar days of the effective date of this Decision,
4 Respondent shall receive a notification from the Board or its designee to cease the practice of
5 medicine within 3 calendar days after being so notified. The Respondent shall not resume
6 practice until an appropriate practice setting is established.

7 If, during the course of the probation, the Respondent's practice setting changes and the
8 Respondent is no longer practicing in a setting in compliance with this Decision, the Respondent
9 shall notify the Board or its designee within 5 calendar days of the practice setting change. If
10 Respondent fails to establish a practice with another physician or secure employment in an
11 appropriate practice setting within 60 calendar days of the practice setting change, Respondent
12 shall receive a notification from the Board or its designee to cease the practice of medicine within
13 3 calendar days after being so notified. The Respondent shall not resume practice until an
14 appropriate practice setting is established.

15 13. PATIENT DISCLOSURE. Before a patient's first visit following the effective
16 date of this order and while Respondent is on probation, Respondent must provide all patients, or
17 patient's guardian or health care surrogate, with a separate disclosure that includes Respondent's
18 probation status, the length of the probation, the probation end date, all practice restrictions
19 placed on the respondent by the board, the board's telephone number, and an explanation of how
20 the patient can find further information on the respondent's probation on the respondent's profile
21 page on the board's website. Respondent shall obtain from the patient, or the patient's guardian
22 or health care surrogate, a separate, signed copy of that disclosure. Respondent shall not be
23 required to provide a disclosure if any of the following applies: (1) The patient is unconscious or
24 otherwise unable to comprehend the disclosure and sign the copy of the disclosure and a guardian
25 or health care surrogate is unavailable to comprehend the disclosure and sign the copy; (2) The
26 visit occurs in an emergency room or an urgent care facility or the visit is unscheduled, including
27 consultations in inpatient facilities; (3) Respondent is not known to the patient until immediately
28 prior to the start of the visit; (4) Respondent does not have a direct treatment relationship with the

1 patient.

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

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

11 15. SUPERVISION OF PHYSICIAN ASSISTANTS AND ADVANCED PRACTICE
12 NURSES. During probation, Respondent is prohibited from supervising physician assistants and
13 advanced practice nurses.

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

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

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

22 18. GENERAL PROBATION REQUIREMENTS.

23 Compliance with Probation Unit

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

25 Address Changes

26 Respondent shall, at all times, keep the Board informed of Respondent's business and
27 residence addresses, email address (if available), and telephone number. Changes of such
28 addresses shall be immediately communicated in writing to the Board or its designee. Under no

1 circumstances shall a post office box serve as an address of record, except as allowed by Business
2 and Professions Code section 2021, subdivision (b).

3 Place of Practice

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

7 License Renewal

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

10 Travel or Residence Outside California

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

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

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

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

1 practice and does not relieve Respondent from complying with all the terms and conditions of
2 probation. Practicing medicine in another state of the United States or Federal jurisdiction while
3 on probation with the medical licensing authority of that state or jurisdiction shall not be
4 considered non-practice. A Board-ordered suspension of practice shall not be considered as a
5 period of non-practice.

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

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

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

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

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

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

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

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

25. FUTURE ADMISSIONS CLAUSE. If Respondent should ever apply or reapply for a new license or certification, or petition for reinstatement of a license, by any other health care licensing action agency in the State of California, all of the charges and allegations contained in Accusation No. 800-2021-075997 shall be deemed to be true, correct, and admitted by Respondent for the purpose of any Statement of Issues or any other proceeding seeking to deny or restrict license.

ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Shannon V. Baker. 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.

1 DATED:

8/18/2021

RUTH M. OLWENY, M.D.
Respondent

Ruth Olweny

3 I have read and fully discussed with Respondent Ruth M. Olweny, M.D. the terms and
4 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.

5 I approve its form and content.

6 DATED: 8/18/21

SHANNON V. BAKER
Attorney for Respondent

Shannon V. Baker

9 **ENDORSEMENT**

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

12 DATED: _____

Respectfully submitted,

14 ROB BONTA
Attorney General of California
15 JANE ZACK SIMON
Supervising Deputy Attorney General

17 CAITLIN ROSS
18 Deputy Attorney General
Attorneys for Complainant

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1 DATED: _____

RUTH M. OLWENY, M.D.
Respondent

3 I have read and fully discussed with Respondent Ruth M. Olweny, M.D. the terms and
4 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.
5 I approve its form and content.

6 DATED: _____

SHANNON V. BAKER
Attorney for Respondent

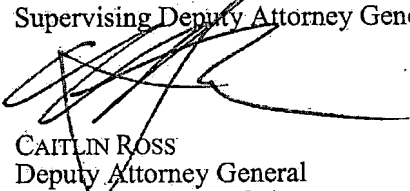
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9 **ENDORSEMENT**

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

12 DATED: 8-19-21

Respectfully submitted,

14 ROB BONTA
Attorney General of California
15 JANE ZACK SIMON
Supervising Deputy Attorney General

16
17 
18 CAITLIN ROSS
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

1 ROB BONTA
Attorney General of California
2 JANE ZACK SIMON
Supervising Deputy Attorney General
3 CAITLIN ROSS
Deputy Attorney General
4 State Bar No. 271651
455 Golden Gate Avenue, Suite 11000
5 San Francisco, CA 94102-7004
Telephone: (415) 510-3615
6 Facsimile: (415) 703-5480
E-mail: Caitlin.Ross@doj.ca.gov
7 *Attorneys for Complainant*

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

12 In the Matter of the Accusation Against:

Case No. 800-2021-075997

13 Ruth M. Olweny, M.D.
14 5301 Hillen Dr.
Oakland, CA 94619-3217

A C C U S A T I O N

15
16 Physician's and Surgeon's Certificate
No. A 88964,

17 Respondent.
18

19
20 **PARTIES**

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

24 2. On or about September 29, 2004, the Medical Board issued Physician's and
25 Surgeon's Certificate Number A 88964 to Ruth M. Olweny, M.D. (Respondent). The Physician's
26 and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought
27 herein and will expire on March 31, 2022, unless renewed.
28

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 provides that the Board shall take action against any licensee who is charged with unprofessional conduct.

6. Section 2280 of the Code provides, in pertinent part, that it is unprofessional conduct for a licensee to practice medicine while under the influence of alcohol to such an extent as to impair his or her ability to safely practice medicine.

7. Section 2239 of the Code provides that it is unprofessional conduct for a licensee to use alcohol 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.

8. Section 822 of the Code provides that the Board may take action if a licensee's ability to safely practice medicine is impaired because of mental or physical illness.

9. Section 2228.1 of the Code provides, in pertinent part, that the Board shall require a licensee who is disciplined based on drug or alcohol abuse to the extent that such use impairs the ability of the licensee to practice medicine safely to disclose to his or her patients information regarding his or her probation status. The licensee is required to disclose: probation status, the length of the probation, the probation end date, all practice restrictions placed on the license by the Board, the Board's telephone number, and an explanation of how the patient can find further information on the licensee's probation on the Board's Internet Web site.

1 **FACTUAL ALLEGATIONS**

2 10. Respondent is a physician who practices as an obstetrician and gynecologist.

3 11. At her home on the evening of February 4, 2021, Respondent consumed alcohol and
4 became seriously intoxicated. She fell, sustained an injury, and accordingly presented at the
5 emergency room of a hospital. During that emergency room stay, in the early hours of the next
6 morning, February 5, 2021, Respondent's blood alcohol level was .17%. She was discharged
7 from the hospital at approximately 3:24 a.m. on February 5, 2021. Less than four hours later, she
8 drove to her 8:00 a.m. physician shift at a San Francisco hospital.

9 12. Respondent presented to the hospital to begin her 8:00 a.m. shift. During the first 15-
10 20 minutes of her shift, Respondent completed the process of signing out patients from the prior
11 shift's medical staff and assigning patients to herself. Shortly after this process was completed,
12 Respondent vomited into a trashcan in front of another medical staffmember. Respondent was
13 then admitted to the emergency room located at the hospital where she was working. Respondent
14 was tested for alcohol during this emergency room visit, and the results showed a blood alcohol
15 level of .05%.

16 13. Respondent sought alcohol-dependence treatment and has been diagnosed with an
17 alcohol use disorder.

18 **FIRST CAUSE FOR DISCIPLINE**

19 **(Impaired Ability to Safely Practice Medicine)**

20 14. Paragraphs 1-13 are incorporated as if set forth herein.

21 15. Respondent's Certificate is subject to disciplinary action by the Board pursuant to
22 sections 2227 and 822 of the Code in that Respondent, as set forth above, is impaired in her
23 ability to safely practice medicine as a result of substance abuse.

24 **SECOND CAUSE FOR DISCIPLINE**

25 **(Dangerous Use of Alcohol)**

26 16. Paragraphs 1-15 are incorporated as if set forth herein.
27
28

1 17. Respondent's Certificate is subject to disciplinary action for unprofessional conduct
2 pursuant to sections 2234 and/or 2239 of the Code, in that, as set forth above, she used alcohol to
3 such an extent or in such a manner as to be dangerous to herself, others and the public.

4 **THIRD CAUSE FOR DISCIPLINE**

5 **(Practice While Under the Influence or Impaired)**

6 18. Paragraphs 1-17 are incorporated as if set forth herein.

7 19. Respondent's Certificate is subject to disciplinary action for unprofessional conduct
8 pursuant to sections 2234 and/or 2280 in that, as set forth above, she reported to work and
9 completed the process of having patients transferred to her care from the staff on the previous
10 shift. This was despite the fact that Respondent arrived for her shift with measurable alcohol in
11 her system, as evidenced by the fact that she tested positive for alcohol in the emergency room
12 after she arrived for her shift.

13 **PRAYER**

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

16 1. Revoking or suspending Physician's and Surgeon's Certificate Number A 88964,
17 issued to Ruth M. Olweny, M.D.;

18 2. Revoking, suspending or denying approval of Ruth M. Olweny, M.D.'s authority to
19 supervise physician assistants and advanced practice nurses;

20 3. Ordering Ruth M. Olweny, M.D., if placed on probation, to pay the Board the costs of
21 probation monitoring;

22 4. Ordering Ruth M. Olweny, M.D., if placed on probation, to provide patient
23 notification in accordance with Business and Professions Code section 2228.1; and

24 ///

25 ///

26 ///

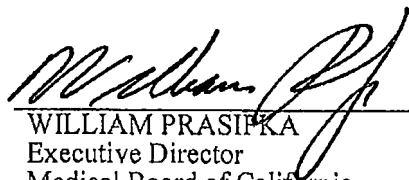
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5. Taking such other and further action as deemed necessary and proper.

DATED: JUN 14 2021



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

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