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

In the Matter of the Accusation Against: Jerry Owen Waters, M.D. Physician's and Surgeon's Certificate No. G 51221 Respondent.	Case No. 800-2019-052511

DECISION

The attached Stipulated Surrender of License and 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 NOV 03 2020.

IT IS SO ORDERED OCT 27 2020.

MEDICAL BOARD OF CALIFORNIA

William Prasifka
Executive Director

XAVIER BECERRA
Attorney General of California
ALEXANDRA M. ALVAREZ
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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: **JERRY OWEN WATERS, M.D.** **717 West Pine Avenue** **El Segundo, CA 90245** **Physician's and Surgeon's Certificate No. G 51221,** Respondent.	Case No. 800-2019-052511 **STIPULATED SURRENDER OF LICENSE 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 Xavier Becerra, Attorney General of the State of California, by Karolyn M. Westfall, Deputy Attorney General.

2. Jerry Owen Waters, M.D. (Respondent) is representing himself in this proceeding and has chosen not to exercise his right to be represented by counsel.

3. On or about September 2, 1983, the Board issued Physician's and Surgeon's Certificate No. G 51221 to 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. 800-2019-052511 and expired on September 30, 2020.

JURISDICTION

4. Accusation No. 800-2019-052511 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 September 29, 2020. A copy of Accusation No. 800-2019-052511 is attached as Exhibit A and incorporated by reference.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, and fully understands the charges and allegations in Accusation No. 800-2019-052511. Respondent also has carefully read, and fully understands the effects of this Stipulated Surrender of License and Disciplinary Order.

6. 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 be represented by counsel, at his own expense; 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.

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

CULPABILITY

8. 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. 800-2019-052511, agrees that cause exists for discipline, and hereby surrenders his Physician's and Surgeon's Certificate No. G 51221 for the Board's formal acceptance.

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9. Respondent further agrees that if an accusation is filed against him before the Board, or in any other proceeding before the Board, all of the charges and allegations contained in Accusation No. 800-2019-052511 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.

10. Respondent understands that by signing this stipulation he enables the Board to issue an order accepting the surrender of his Physician's and Surgeon's Certificate without further process.

RESERVATION

11. The admissions made by Respondent herein are only for the purposes of this proceeding, or any other proceedings in which the Board or other professional licensing agency is involved, and shall not be admissible in any other criminal or civil proceeding.

CONTINGENCY

12. Respondent understands that, by signing this stipulation, he enables the Executive Director of the Board to issue an order, on behalf of the Board, accepting the surrender of his Physician's and Surgeon's Certificate No. G 51221 without further notice to, or opportunity to be heard by, Respondent.

13. This Stipulated Surrender of License and Disciplinary Order shall be subject to the approval of the Executive Director on behalf of the Board. The parties agree that this Stipulated Surrender of License and Disciplinary Order shall be submitted to the Executive Director for his consideration in the above-entitled matter and, further, that the Executive Director shall have a reasonable period of time in which to consider and act on this Stipulated Surrender of License and Disciplinary Order after receiving it. By signing this stipulation, Respondent fully understands and agrees that he may not withdraw his agreement or seek to rescind this stipulation prior to the time the Executive Director, on behalf of the Board, considers and acts upon it.

14. The parties agree that this Stipulated Surrender of License and Disciplinary Order shall be null and void and not binding upon the parties unless approved and adopted by the Executive Director on behalf of the Board, except for this paragraph, which shall remain in full

force and effect. Respondent fully understands and agrees that in deciding whether or not to approve and adopt this Stipulated Surrender of License and Disciplinary Order, the Executive Director and/or the Board may receive oral and written communications from its staff and/or the Attorney General's Office. Communications pursuant to this paragraph shall not disqualify the Executive Director, the Board, any member thereof, and/or any other person from future participation in this or any other matter affecting or involving Respondent. In the event that the Executive Director on behalf of the Board does not, in his discretion, approve and adopt this Stipulated Surrender of License and Disciplinary Order, with the exception of this paragraph, it shall not become effective, shall be of no evidentiary value whatsoever, and shall not be relied upon or introduced in any disciplinary action by either party hereto. Respondent further agrees that should this Stipulated Surrender of License and Disciplinary Order be rejected for any reason by the Executive Director on behalf of the Board, Respondent will assert no claim that the Executive Director, the Board, or any member thereof, was prejudiced by its/his/her review, discussion and/or consideration of this Stipulated Surrender of License and Disciplinary Order or of any matter or matters related hereto.

ADDITIONAL PROVISIONS

15. This Stipulated Surrender of License 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.

16. The parties agree that copies of this Stipulated Surrender of License and Disciplinary Order, including copies of the signatures of the parties, may be used in lieu of original documents and signatures and, further, that such copies shall have the same force and effect as originals.

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

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ORDER

IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. G 51221, issued to Respondent Jerry Owen Waters, M.D., is surrendered and accepted by the Board.

1. The surrender of Respondent's Physician's and Surgeon's Certificate and the acceptance of the surrendered license by the Board shall constitute the imposition of discipline against Respondent. This stipulation constitutes a record of the discipline and shall become a part of Respondent's license history with the Board.

2. Respondent shall lose all rights and privileges as a physician and surgeon in California as of the effective date of the Board's Decision and Order.

3. Respondent shall cause to be delivered to the Board his pocket license and, if one was issued, his wall certificate on or before the effective date of the Decision and Order.

4. If Respondent ever files an application for licensure or a petition for reinstatement in the State of California, the Board shall treat it as a petition for reinstatement. Respondent must comply with all the laws, regulations and procedures for reinstatement of a revoked or surrendered license in effect at the time the petition is filed, and all of the charges and allegations contained in Accusation No. 800-2019-052511 shall be deemed to be true, correct and admitted by Respondent when the Board determines whether to grant or deny the petition.

5. 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 agency in the State of California, all of the charges and allegations contained in Accusation, No. 800-2019-052511 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 licensure.

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ACCEPTANCE

I have carefully read the Stipulated Surrender of License and Disciplinary Order. I understand the stipulation and the effect it will have on my Physician's and Surgeon's Certificate. I enter into this Stipulated Surrender of License and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Medical Board of California.

DATED: 10/13/2020

JERRY OWEN WATERS, M.D.
Respondent

ENDORSEMENT

The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted for consideration by the Medical Board of California of the Department of Consumer Affairs.

DATED: 10/13/20

Respectfully submitted,

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

KAROLYN M. WESTFALL
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 800-2019-052511

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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: **JERRY OWEN WATERS, M.D.** **717 West Pine Avenue** **El Segundo, CA 90245** **Physician's and Surgeon's Certificate No. G 51221,** Respondent.	Case No. 800-2019-052511 **ACCUSATION**

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 September 2, 1983, the Medical Board issued Physician's and Surgeon's Certificate No. G 51221 to Jerry Owen Waters, 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 September 30, 2020, 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 822 of the Code states:

> If a licensing agency determines that its licentiate's ability to practice his or her profession safely is impaired because the licentiate is mentally ill, or physically ill affecting competency, the licensing agency may take action by any one of the following methods:
>
> (a) Revoking the licentiate's certificate or license.
>
> (b) Suspending the licentiate's right to practice.
>
> (c) Placing the licentiate on probation.
>
> (d) Taking such other action in relation to the licentiate as the licensing agency in its discretion deems proper.
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> The licensing agency shall not reinstate a revoked or suspended certificate or license until it has received competent evidence of the absence or control of the condition which caused its action and until it is satisfied that with due regard for the public health and safety the person's right to practice his or her profession may be safely reinstated.

5. Section 2227 of the Code states, in pertinent part:

> (a) A licensee whose matter has been heard by an administrative law judge of the Medical Quality Hearing Panel as designated in Section 11371 of the Government Code, or whose default has been entered, and who is found guilty, or who has entered into a stipulation for disciplinary action with the board, may, in accordance with the provisions of this chapter:
>
> (1) Have his or her license revoked upon order of the board.
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> (2) Have his or her right to practice suspended for a period not to exceed one year upon order of the board.
>
> (3) Be placed on probation and be required to pay the costs of probation monitoring upon order of the board.
>
> (4) Be publicly reprimanded by the board. The public reprimand may include a requirement that the licensee complete relevant educational courses approved by the board.
>
> (5) Have any other action taken in relation to discipline as part of an order of probation, as the board or an administrative law judge may deem proper.
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> ...

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

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

...

(e) The commission of any act involving dishonesty or corruption that is substantially related to the qualifications, functions, or duties of a physician and surgeon.

...

7. Section 2236 of the Code states, in pertinent part:

(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.

...

(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.

8. Section 2239 of the Code states, in pertinent part:

(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.

...

FIRST CAUSE FOR DISCIPLINE

(Use of Alcoholic Beverages to the Extent, or in a Manner, as to be Dangerous to Respondent, Another Person, or the Public)

9. Respondent has subjected his Physician's and Surgeon's Certificate No. G 51221 to disciplinary action under sections 2227 and 2234, as defined by section 2239, subdivision (a), of the Code, in that he has used alcoholic beverages to the extent, or in such a manner, as to be dangerous or injurious to himself, another person, or the public, as more particularly alleged

hereinafter:

10. Respondent has a long documented history of alcohol dependence. Respondent first used alcohol at age 17. In or around 2008, Respondent was arrested and convicted of driving under the influence of alcohol (DUI), and was sentenced to probation. In or around 2010, he completed his probation and had his conviction expunged.[1]

11. In or around 2013, Respondent began to drink alcohol daily, and drank to excess on days he was not working as an emergency room physician. Sometimes he would take extra shifts at work in order to avoid drinking.

12. In or around June 2018, Respondent received treatment for alcohol abuse at a substance abuse program in Pasadena for approximately two weeks. Shortly after his discharge from the program, Respondent began drinking again.

13. On or about December 15, 2018, Respondent stopped to drink alcohol on his way to work. When he arrived at the emergency room, he realized it was a bad decision and took the day off. In or around that same timeframe, Respondent also experienced suicidal ideation.

14. Between on or about December 18, 2018, through on or about January 13, 2019, Respondent took a leave of absence from work and received residential treatment for severe alcohol dependence at the Betty Ford Center (Betty Ford). During his first three days of treatment, Respondent was placed in a medical stabilization unit due to his acute alcohol withdrawal.

15. On or about January 16, 2019, at approximately 1:45 p.m., police officers were called after witnesses observed Respondent sideswipe a parked vehicle and then crash into a pole. When police officers arrived, Respondent was still seated in the driver's seat. Respondent initially admitted drinking one beer before driving, but later admitted to drinking whiskey when officers located an almost empty bottle of Jack Daniels on the driver's side floorboard. Respondent told the officers that he had previously suffered a conviction for driving under the influence of alcohol approximately eleven (11) years earlier. Respondent performed poorly on

[1] Conduct related to an expunged criminal conviction is for informational purposes and for consideration in a cause for action only. It is not alleged as a basis for discipline.

field sobriety tests and his blood alcohol content registered .22 and .23 on a preliminary alcohol screening device. Respondent was placed under arrest, and at approximately 4:10 p.m., two breath samples were obtained from Respondent that revealed he had blood alcohol levels of 0.19 and 0.18 percent, respectively.

16. On or about January 28, 2019, after drinking heavily, Respondent sent an email to his niece informing her that he intended to overdose on self-prescribed medications. Respondent's niece called police, who then transported Respondent to Del Amo Hospital on involuntary hold pursuant to Welfare and Institutions Code section 5150. Respondent received treatment at Del Amo Hospital for a mood disorder and severe alcohol use disorder until on or about January 31, 2019, when he was discharged to receive outpatient care at Betty Ford.

17. On or about February 5, 2019, the Los Angeles County District Attorney filed a criminal complaint against Respondent in the matter entitled, *The People of the State of California v. Jerry Owen Waters,* Orange County Superior Court Case No. 9AR00212. The complaint charged Respondent with two misdemeanor counts, including, driving under the influence of alcohol, in violation of Vehicle Code section 23152, subdivision (a), and driving with a blood alcohol content level of 0.08 percent or more, in violation of Vehicle Code section 23152, subdivision (b).

18. In or around February 2019, Respondent received outpatient treatment at Betty Ford for severe alcohol dependence.

19. On or about March 27, 2019, Respondent was convicted upon his plea of nolo contendere to driving under the influence of alcohol, in violation of Vehicle Code section 23152, subdivision (a), and was sentenced to three years of probation subject to various terms and conditions.

20. On or about April 11, 2020, at approximately 1:13 p.m., police officers were called after a witness observed Respondent sideswipe a parked vehicle and continue driving. The witness provided the officers with Respondent's license plate number, which the officers used to locate Respondent's home address. Officers arrived at Respondent's home shortly thereafter, and found him attempting to exit his vehicle. The officers immediately noted the vehicle had fresh

collision damage to the passenger side door, and that Respondent smelled of alcohol, had slurred speech, and had recently urinated on himself. Respondent admitted drinking whiskey before driving, but denied knowing he had hit another vehicle. Respondent was then placed under arrest and had a blood sample obtained, which revealed he had a blood alcohol content of .22 percent.

21. In or around April 2020, Respondent fell and hit his head, resulting in a hematoma and hemorrhaging.

22. Between on or about April 16, 2020, through on or about May 15, 2020, Respondent received treatment for severe alcohol use disorder at Tres Vistas Recovery Center (Tres Vistas), where he admitted drinking approximately one pint of whiskey every day, and having previously experienced a subdural hematoma from a drunken fall. Upon his discharge from Tres Vistas, it was noted that Respondent "is at high risk of relapse due to long history of chronic relapsing and an inability to remain sober for extended periods of time... [Respondent] does show a sense of denial and the serious nature of his alcoholism... If [Respondent] does not adjust focus [he] has a high chance for relapse."

23. On or about April 21, 2020, while receiving treatment at Tres Vistas, Respondent submitted to an interview by an investigator for the Board. During that interview, Respondent was asked, other than his 2019 DUI, if he had ever been arrested or convicted of a misdemeanor or felony in any state. In response, Respondent admitted having been convicted of a prior DUI twelve (12) years ago, during which he claimed he had been pulled over for not wearing his seatbelt and his blood alcohol content was registered to be approximately .13 percent. He informed the investigator that he had since had that conviction expunged. Respondent did not inform the investigator at any time during the interview about his April 11, 2020, DUI arrest.

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SECOND CAUSE FOR DISCIPLINE

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

24. Respondent has further subjected his Physician's and Surgeon's Certificate No. G 51221 to disciplinary action under sections 2227 and 2234, as defined by section 2236, of the Code, in that he has been convicted of a crime substantially related to the qualifications, functions, or duties of a physician and surgeon, as more particularly alleged in paragraphs 9 through 23, above, which are hereby incorporated by reference and realleged as if fully set forth herein.

THIRD CAUSE FOR DISCIPLINE

(Dishonesty or Corruption)

25. Respondent has further subjected his Physician's and Surgeon's Certificate No. G 51221 to disciplinary action under sections 2227 and 2234, as defined by section 2234, subdivision (e), of the Code, in that he has committed an act or acts of dishonesty or corruption, as more particularly alleged in paragraphs 9 through 23, above, which are hereby incorporated by reference and realleged as if fully set forth herein.

SECTION 822 CAUSE FOR ACTION

(Mental Illness and/or Physical Illness Affecting Competency)

26. Respondent is subject to action under section 822 of the Code, in that his ability to practice medicine safely is impaired due to a mental illness and/or physical illness affecting competency, as more particularly alleged in paragraphs 9 through 23, above, which are hereby incorporated by reference and realleged as if fully set forth herein, and as more particularly alleged hereinafter:

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. G 51221, issued to Respondent, Jerry Owen Waters, M.D.;

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2. Revoking, suspending, or denying approval of Respondent, Jerry Owen Waters, M.D.'s authority to supervise physician assistants and advanced practice nurses;

3. Ordering Respondent, Jerry Owen Waters, M.D., if placed on probation, to pay the Board the costs of probation monitoring;

4. Ordering Respondent, Jerry Owen Waters, M.D., if placed on probation, to disclose the disciplinary order to patients pursuant to section 2228.1 of the Code;

5. Taking action as authorized by section 822 of the Code as the Board, in its discretion, deems necessary and proper; and

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

DATED: SEP 29 2020

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

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