

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

In the Matter of the Accusation
Against:

Anthony James Musielewicz, M.D.

Physician's and Surgeon's
Certificate No. G 74503

Case No.: 800-2018-048262

Respondent

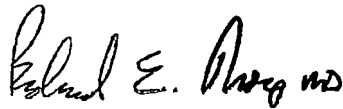
DECISION

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 August 12, 2021.

IT IS SO ORDERED: July 13, 2021.

MEDICAL BOARD OF CALIFORNIA



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

1 MATTHEW RODRIQUEZ
Acting Attorney General of California
2 JANE ZACK SIMON
Supervising Deputy Attorney General
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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:

13 **ANTHONY JAMES MUSIELEWICZ, M.D.**
14 **621 National Street**
Santa Cruz, CA 95060-6040
15 **Physician's and Surgeon's Certificate**
16 **No. G 74503**

17 Respondent.

Case No. 800-2018-048262

18 OAH No. 2021020069

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

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

21 **PARTIES**

22 1. William Prasifka (Complainant) is the Executive Director of the Medical Board of
23 California (Board). He brought this action solely in his official capacity and is represented in this
24 matter by Matthew Rodriquez, Acting Attorney General of the State of California, by Lynne K.
25 Dombrowski, Deputy Attorney General.

26 2. Respondent Anthony James Musielewicz, M.D. (Respondent) is represented in this
27 proceeding by attorney Lindsay M. Johnson, Esq., whose address is: Ray & Bishop PLC, 5000
28 Birch Street, Suite 7000, Newport Beach, CA 92660-8151.

1 3. On or about June 30, 1992, the Board issued Physician's and Surgeon's Certificate
2 No. G 74503 to Anthony James Musielewicz, M.D. (Respondent). The Physician's and Surgeon's
3 Certificate was in full force and effect at all times relevant to the charges brought in Accusation
4 No. 800-2018-048262, and will expire on May 31, 2022, unless renewed.

5 **JURISDICTION**

6 4. Accusation No. 800-2018-048262 was filed before the Board, and is currently
7 pending against Respondent. The Accusation and all other statutorily required documents were
8 properly served on Respondent on November 24, 2020. Respondent timely filed his Notice of
9 Defense contesting the Accusation.

10 5. A copy of Accusation No. 800-2018-048262 is attached as Exhibit A and is
11 incorporated herein by reference.

12 **ADVISEMENT AND WAIVERS**

13 6. Respondent has carefully read, fully discussed with counsel, and understands the
14 charges and allegations in Accusation No. 800-2018-048262. Respondent has also carefully read,
15 fully discussed with his counsel, and understands the effects of this Stipulated Settlement and
16 Disciplinary Order.

17 7. Respondent is fully aware of his legal rights in this matter, including the right to a
18 hearing on the charges and allegations in the Accusation; the right to confront and cross-examine
19 the witnesses against him; the right to present evidence and to testify on his own behalf; the right
20 to the issuance of subpoenas to compel the attendance of witnesses and the production of
21 documents; the right to reconsideration and court review of an adverse decision; and all other
22 rights accorded by the California Administrative Procedure Act and other applicable laws.

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

25 **CULPABILITY**

26 9. Respondent admits the truth of each and every charge and allegation in Accusation
27 No. 800-2018-048262.

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10. ACKNOWLEDGMENT. Respondent acknowledges that 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 his Physician's and Surgeon's Certificate is subject to discipline and he agrees to be bound by the Board's probationary terms as set forth in the Disciplinary Order below.

CONTINGENCY

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 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.

13. Respondent agrees that if he ever petitions for early termination or modification of probation, or if an accusation and/or petition to revoke probation is filed against him before the Board, all of the charges and allegations contained in Accusation No. 800-2018-048262 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.

14. 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.

15. 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:

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

Within 15 calendar days of receiving any lawfully prescribed medications, Respondent shall notify the Board or its designee of the: issuing practitioner's name, address, and telephone

STIPULATED SETTLEMENT (800-2018-048262)

number; medication name, strength, and quantity; and issuing pharmacy name, address, and telephone number.

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

3. SOLO PRACTICE PROHIBITION. Respondent is prohibited from engaging in the solo practice of medicine. Prohibited solo practice includes, but is not limited to, a practice where: 1) Respondent merely shares office space with another physician but is not affiliated for purposes of providing patient care, or 2) Respondent is the sole physician practitioner at that location.

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

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

4. CLINICAL DIAGNOSTIC EVALUATIONS AND REPORTS: Within thirty (30) calendar days of the effective date of this Decision, and on whatever periodic basis thereafter as may be required by the Board or its designee, Respondent shall undergo and complete a clinical diagnostic evaluation, including a neuro-psychological evaluation and any and all testing deemed necessary, by a Board-appointed board-certified physician and surgeon. The examiner shall consider any information provided by the Board or its designee and any other information he or

1 she deems relevant, and shall furnish a written evaluation report to the Board or its designee.

2 The clinical diagnostic evaluation shall be conducted by a licensed physician and surgeon
3 who holds a valid, unrestricted license, has three (3) years' experience in providing evaluations of
4 physicians and surgeons with substance abuse disorders, and is approved by the Board or its
5 designee. The clinical diagnostic evaluation shall be conducted in accordance with acceptable
6 professional standards for conducting substance abuse clinical diagnostic evaluations. The
7 evaluator shall not have a current or former financial, personal, or business relationship with
8 Respondent within the last five (5) years. The evaluator shall provide an objective, unbiased, and
9 independent evaluation. The clinical diagnostic evaluation report shall set forth, in the
10 evaluator's opinion, whether Respondent has a substance abuse problem, whether Respondent is a
11 threat to himself or others, and recommendations for substance abuse treatment, practice
12 restrictions, or other recommendations related to Respondent's rehabilitation and ability to
13 practice safely. If the evaluator determines during the evaluation process that Respondent is a
14 threat to himself or others, the evaluator shall notify the Board within twenty-four (24) hours of
15 such a determination.

16 In formulating his or her opinion as to whether Respondent is safe to return to either part-
17 time or full-time practice and what restrictions or recommendations should be imposed, including
18 participation in an inpatient or outpatient treatment program, the evaluator shall consider the
19 following factors: Respondent's license type; Respondent's history; Respondent's documented
20 length of sobriety (i.e., length of time that has elapsed since Respondent's last substance use);
21 Respondent's scope and pattern of substance abuse; Respondent's treatment history, medical
22 history and current medical condition; the nature, duration and severity of Respondent's
23 substance abuse problem or problems; and whether Respondent is a threat to himself or the
24 public.

25 For all clinical diagnostic evaluations, a final written report shall be provided to the Board
26 no later than ten (10) days from the date the evaluator is assigned the matter. If the evaluator
27 requests additional information or time to complete the evaluation and report, an extension may

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1 be granted, but shall not exceed thirty (30) days from the date the evaluator was originally
2 assigned the matter.

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

10 Clinical diagnostic evaluations conducted prior to the effective date of this Decision shall
11 not be accepted towards the fulfillment of this requirement. The cost of the clinical diagnostic
12 evaluation, including any and all testing deemed necessary by the examiner, the Board or its
13 designee, shall be borne by the licensee.

14 Respondent shall not engage in the practice of medicine until notified by the Board or its
15 designee that he is fit to practice medicine safely. The period of time that Respondent is not
16 practicing medicine shall not be counted toward completion of the term of probation. Respondent
17 shall undergo biological fluid testing as required in this Decision at least two (2) times per week
18 while awaiting the notification from the Board if he is fit to practice medicine safely.

19 Respondent shall comply with all restrictions or conditions recommended by the examiner
20 conducting the clinical diagnostic evaluation within fifteen (15) calendar days after being notified
21 by the Board or its designee.

22 5. NOTICE OF EMPLOYER OR SUPERVISOR INFORMATION. Within seven (7)
23 days of the effective date of this Decision, Respondent shall provide to the Board the names,
24 physical addresses, mailing addresses, and telephone numbers of any and all employers and
25 supervisors. Respondent shall also provide specific, written consent for the Board, Respondent's
26 worksite monitor, and Respondent's employers and supervisors to communicate regarding
27 Respondent's work status, performance, and monitoring.

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

4 6. BIOLOGICAL FLUID TESTING. Respondent shall immediately submit to
5 biological fluid testing, at Respondent's expense, upon request of the Board or its designee.
6 "Biological fluid testing" may include, but is not limited to, urine, blood, breathalyzer, hair
7 follicle testing, or similar drug screening approved by the Board or its designee. Respondent shall
8 make daily contact with the Board or its designee to determine whether biological fluid testing is
9 required. Respondent shall be tested on the date of the notification as directed by the Board or its
10 designee. The Board may order a Respondent to undergo a biological fluid test on any day, at
11 any time, including weekends and holidays. Except when testing on a specific date as ordered by
12 the Board or its designee, the scheduling of biological fluid testing shall be done on a random
13 basis. The cost of biological fluid testing shall be borne by the Respondent.

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

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

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

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

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- 1 (c) Its testing locations comply with the Urine Specimen Collection Guidelines published
2 by the United States Department of Transportation without regard to the type of test
3 administered.
- 4 (d) Its specimen collectors observe the collection of testing specimens.
- 5 (e) Its laboratories are certified and accredited by the United States Department of Health
6 and Human Services.
- 7 (f) Its testing locations shall submit a specimen to a laboratory within one (1) business day
8 of receipt and all specimens collected shall be handled pursuant to chain of custody
9 procedures. The laboratory shall process and analyze the specimens and provide legally
10 defensible test results to the Board within seven (7) business days of receipt of the
11 specimen. The Board will be notified of non-negative results within one (1) business day
12 and will be notified of negative test results within seven (7) business days.
- 13 (g) Its testing locations possess all the materials, equipment, and technical expertise
14 necessary in order to test Respondent on any day of the week.
- 15 (h) Its testing locations are able to scientifically test for urine, blood, and hair specimens
16 for the detection of alcohol and illegal and controlled substances.
- 17 (i) It maintains testing sites located throughout California.
- 18 (j) It maintains an automated 24-hour toll-free telephone system and/or a secure on-line
19 computer database that allows the Respondent to check in daily for testing.
- 20 (k) It maintains a secure, HIPAA-compliant website or computer system that allows staff
21 access to drug test results and compliance reporting information that is available 24 hours a
22 day.
- 23 (l) It employs or contracts with toxicologists that are licensed physicians and have
24 knowledge of substance abuse disorders and the appropriate medical training to interpret
25 and evaluate laboratory biological fluid test results, medical histories, and any other
26 information relevant to biomedical information.
- 27 (m) It will not consider a toxicology screen to be negative if a positive result is obtained
28 while practicing, even if the Respondent holds a valid prescription for the substance.

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

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

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

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

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

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

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

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

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

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

12 The facilitator of the substance abuse support group meeting shall have a minimum of three
13 (3) years' experience in the treatment and rehabilitation of substance abuse, and shall be licensed
14 or certified by the state or nationally certified organizations. The facilitator shall not have a
15 current or former financial, personal, or business relationship with Respondent within the last five
16 (5) years. Respondent's previous participation in a substance abuse group support meeting led by
17 the same facilitator does not constitute a prohibited current or former financial, personal, or
18 business relationship.

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

24 8. WORKSITE MONITOR FOR SUBSTANCE-ABUSING LICENSEE. Within thirty
25 (30) calendar days of the effective date of this Decision, Respondent shall submit to the Board or
26 its designee for prior approval as a worksite monitor, the name and qualifications of one or more
27 licensed physician and surgeon, other licensed health care professional if no physician and

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1 surgeon is available, or, as approved by the Board or its designee, a person in a position of
2 authority who is capable of monitoring the Respondent at work.

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

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

13 Respondent shall pay all worksite monitoring costs.

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

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

25 The worksite monitor shall complete and submit a written report monthly or as directed by
26 the Board or its designee which shall include the following: (1) Respondent's name and
27 Physician's and Surgeon's Certificate number; (2) the worksite monitor's name and signature; (3)
28 the worksite monitor's license number, if applicable; (4) the location or location(s) of the

1 worksite; (5) the dates Respondent had face-to-face contact with the worksite monitor; (6) the
2 names of worksite staff interviewed, if applicable; (7) a report of Respondent's work attendance;
3 (8) any change in Respondent's behavior and/or personal habits; and (9) any indicators that can
4 lead to suspected substance abuse by Respondent. Respondent shall complete any required
5 consent forms and execute agreements with the approved worksite monitor and the Board, or its
6 designee, authorizing the Board, or its designee, and worksite monitor to exchange information.

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

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

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

22 (1) Issue an immediate cease-practice order and order Respondent to undergo a clinical
23 diagnostic evaluation to be conducted in accordance with section 1361.5, subdivision (c)(1), of
24 Title 16 of the California Code of Regulations, at Respondent's expense. The cease-practice
25 order issued by the Board or its designee shall state that Respondent must test negative for at least
26 a month of continuous biological fluid testing before being allowed to resume practice. For
27 purposes of determining the length of time a Respondent must test negative while undergoing
28 continuous biological fluid testing following issuance of a cease-practice order, a month is

defined as thirty calendar (30) days. Respondent may not resume the practice of medicine until notified in writing by the Board or its designee that he 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.

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;

(6) 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;

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

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

10. NOTIFICATION. Within seven (7) days of the effective date of this Decision, the Respondent shall provide a true copy of this Decision and Accusation to the Chief of Staff or the Chief Executive Officer at every hospital where privileges or membership are extended to Respondent, at any other facility where Respondent engages in the practice of medicine,

1 including all physician and locum tenens registries or other similar agencies, and to the Chief
2 Executive Officer at every insurance carrier which extends malpractice insurance coverage to
3 Respondent. Respondent shall submit proof of compliance to the Board or its designee within 15
4 calendar days. This condition shall apply to any change(s) in hospitals, other facilities or
5 insurance carrier.

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

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

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

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

17 14. GENERAL PROBATION REQUIREMENTS.

18 Compliance with Probation Unit

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

20 Address Changes

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

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1 Place of Practice

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

5 License Renewal

6 Respondent shall maintain a current and renewed California physician's and surgeon's
7 license.

8 Travel or Residence Outside California

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

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

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

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

on probation with the medical licensing authority of that state or jurisdiction shall not be considered non-practice. A Board-ordered suspension of practice shall not be considered as a period of non-practice.

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

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

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

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

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

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

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

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

16 21. FUTURE ADMISSIONS CLAUSE. If Respondent should ever apply or reapply for
17 a new license or certification, or petition for reinstatement of a license, by any other health care
18 licensing action agency in the State of California, all of the charges and allegations contained in
19 Accusation No. 800-2018-048262 shall be deemed to be true, correct, and admitted by
20 Respondent for the purpose of any Statement of Issues or any other proceeding seeking to deny or
21 restrict license.

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ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Lindsay M. Johnson, 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:

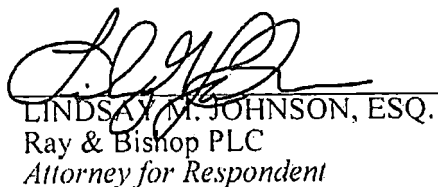
4/20/21


ANTHONY JAMES MUSIELEWICZ, M.D.
Respondent

I have read and fully discussed with Respondent Anthony James Musielewicz, 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:

04/21/2021


LINDSAY M. JOHNSON, ESQ.
Ray & Bishop PLC
Attorney for Respondent

ENDORSEMENT

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

DATED: 04/22/2021

Respectfully submitted,

MATTHEW RODRIQUEZ
Acting Attorney General of California
JANE ZACK SIMON
Supervising Deputy Attorney General

Lynne K. Dombrowski
LYNNE K. DOMBROWSKI
Deputy Attorney General
Attorneys for Complainant

SF2020401192

Exhibit A

Accusation No. 800-2018-048262

1 XAVIER BECERRA
Attorney General of California
2 JANE ZACK SIMON
Supervising Deputy Attorney General
3 LYNNE K. DOMBROWSKI
Deputy Attorney General
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E-mail: Lynne.Dombrowski@doj.ca.gov
7 *Attorneys for Complainant*

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

13 In the Matter of the Accusation Against:

Case No. 800-2018-048262

14 **Anthony James Musielewicz, M.D.**
621 National Street
Santa Cruz, CA 95060-6040

ACCUSATION

15 Physician's and Surgeon's Certificate
16 No. G 74503,

17 Respondent.

18
19 **PARTIES**

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

23 2. On or about June 30, 1992, the Medical Board issued Physician's and Surgeon's
24 Certificate Number G 74503 to Anthony James Musielewicz, M.D. (Respondent). The
25 Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the
26 charges brought herein and will expire on May 31, 2022, 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 820 of the Code states:

Whenever it appears that any person holding a license, certificate or permit under this division or under any initiative act referred to in this division may be unable to practice his or her profession safely because the licentiate's ability to practice is impaired due to mental illness, or physical illness affecting competency, the licensing agency may order the licentiate to be examined by one or more physicians and surgeons or psychologists designated by the agency. The report of the examiners shall be made available to the licentiate and may be received as direct evidence in proceedings conducted pursuant to Section 822.

5. 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.

The licensing section 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.

6. Section 2227 of the Code states:

(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.

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

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

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

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

8 (b) Any matter heard pursuant to subdivision (a), except for warning letters,
9 medical review or advisory conferences, professional competency examinations,
10 continuing education activities, and cost reimbursement associated therewith that are
11 agreed to with the board and successfully completed by the licensee, or other matters
12 made confidential or privileged by existing law, is deemed public, and shall be made
13 available to the public by the board pursuant to Section 803.1.

14 CAUSE FOR DISCIPLINE

15 **(Impaired Ability to Practice Medicine Safely: Business and Professions Code section 822)**

16 7. Respondent Anthony James Musielewicz, M.D. is subject to disciplinary action under
17 sections 820 and 822 in that Respondent is unable to practice medicine safely, without certain
18 restrictions and monitoring, as described more fully herein.

19 8. On or about September 19, 2018, the Medical Board received a Health Facility/Peer
20 Review Reporting Form, required by Section 805 of the California Business and Professions
21 Code (the "805 Report"). The 805 Report was submitted on behalf of CEP America-California,
22 LLC doing business as Vituity by the physician chairman of Vituity's Credentialing and
23 Partnership Affairs Committee ("CPAC"). It was reported that Respondent was a physician who
24 worked for Vituity in the emergency departments of two California hospitals. On August 29,
25 2018, a CPAC peer review body convened and informed Respondent of its determination after
26 reviewing his actions following anonymous allegations of drug abuse. Respondent was
27 suspended and not allowed to return to work until after he completed a fitness-for-duty evaluation
28 and had been determined to be fit to practice. It was further reported that Respondent remained
suspended from practicing with Vituity because he failed to complete a fitness-for-duty
evaluation, thereby presenting a risk to patient safety or to the delivery of patient care.

9. The Board, during its investigation, received information that, as early as June 30,
2017, Respondent was informed by Vituity about its receipt of anonymous allegations that he had

1 a substance abuse problem with methamphetamines and that he had offered to sell prescription
2 drugs. At the time, Respondent denied that he had offered to sell prescription drugs but admitted
3 that he had used methamphetamines three times, while on vacation in Mexico in November 2016.

4 10. On or about August 19, 2017, Respondent entered a residential drug rehabilitation
5 treatment program, which he completed on or about September 15, 2017. Respondent then
6 entered an intensive outpatient treatment program from October 10, 2017 through October 23,
7 2017. At the time of completion of that program at the end of October 2017, it was the finding of
8 the program's medical director that Respondent was not able to practice medicine safely at the
9 time of his discharge. It was recommended that Respondent maintain abstinence from all mood-
10 altering substances, and participate in continued treatment and therapy programs, including a
11 partial hospitalization program (PHP).

12 11. On or about January 25, 2018, Respondent completed a pre-admission assessment to
13 enroll in a new residential drug rehabilitation program in which he indicated that he had used
14 methamphetamines for approximately seven years, that he frequently binged on
15 methamphetamines, could not control the urge to use, and at times smoked 1-2 grams daily. The
16 results of a urine drug screen collected on January 25, 2018 showed positive results for
17 amphetamine, methamphetamine, EtG (alcohol), and fentanyl.

18 12. Respondent was discharged from the detox program on about February 7, 2018, at
19 which time he directly entered an outpatient recovery program that he attended until about March
20 8, 2018. At the time of his discharge, Respondent was diagnosed with unspecified PTSD and
21 with Major Depressive Disorder, recurrent, severe, in addition to a Substance Use Disorder. His
22 prognosis was listed as good.

23 13. In March 2018, Respondent began to see a therapist as an outpatient on an
24 intermittent basis, with Respondent being a "no-show" for many scheduled visits over the course
25 of about fifteen months.

26 14. On or about May 25, 2018, Respondent underwent a fitness-for-duty evaluation with
27 a psychiatrist and submitted urine and hair samples for testing. Respondent, however, failed to
28

1 fully complete the associated drug testing screens and did not fully pay the balance owed for the
2 evaluation.

3 15. On or about August 29, 2018, the Vituity medical group separated from their contract
4 with Respondent because of his failure to complete the fitness-for-duty evaluation, as was
5 reported in their subsequent 805 Report submitted to the Medical Board.

6 16. On or about June 6, 2019, Respondent was interviewed by a Board investigator and a
7 Board Medical Consultant. Respondent signed a Voluntary Agreement for Mental Evaluation by
8 a Board-approved physician. During his interview with the Board investigator, Respondent stated
9 that his last use of methamphetamine was in June of 2018 and that his last use of any non-
10 prescribed drugs was on January 20, 2019. He refused a request to submit a urine sample because
11 he would only agree to submit samples directly to a laboratory.

12 17. On or about August 14, 2020, Respondent was examined and evaluated by a Board-
13 approved physician who is board certified in psychiatry and neurology. The evaluation was
14 conducted by videoconference, due to shelter-in-place restrictions. Respondent was located in
15 Louisiana, where he stated that he has been living and practicing medicine since December 2019.
16 He stated that his permanent residence is still in California. Respondent reported that his last
17 methamphetamine use was in June of 2019 and denied having any current cravings for
18 methamphetamines. Respondent, however, had no consistent documentation of being regularly
19 tested for methamphetamines and other substances.

20 18. In an evaluation report dated August 23, 2020, the physician examiner diagnosed
21 Respondent with a Stimulant Use Disorder that was possibly in sustained remission, based on his
22 self-reporting. The physician examiner also diagnosed Respondent with Post-Traumatic Stress
23 Disorder, currently well-treated with minimal residual symptoms, and a probable Major
24 Depressive Disorder, currently well-treated and in remission. The conclusion of the physician
25 examiner was that Respondent is able to practice medicine safely provided that he is monitored to
26 ensure his continued abstinence from stimulants (esp. methamphetamines) and that he is engaged
27 in regular treatment for his substance abuse and associated psychological issues.

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1 PRAYER

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

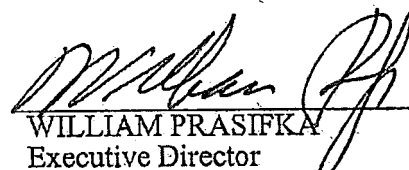
4 1. Revoking or suspending Physician's and Surgeon's Certificate Number G 74503,
5 issued to Anthony James Musielewicz, M.D.;

6 2. Revoking, suspending or denying approval of Anthony James Musielewicz, M.D.'s
7 authority to supervise physician assistants and advanced practice nurses;

8 3. Ordering Anthony James Musielewicz, M.D., if placed on probation, to pay the Board
9 the costs of probation monitoring; and

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

11
12 DATED: NOV 24 2020



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

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