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FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO Nov. 21 2017
BY [Signature] ANALYST

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

12 In the Matter of the First Amended Accusation
Against:

Case No. 800-2016-027737

13 **EDWARD J. CASTNER, M.D.**
501 South First Avenue, Suite G
14 Arcadia, CA 91006

FIRST AMENDED ACCUSATION

15 Physician's and Surgeon's Certificate
16 No. G 12103,

17 Respondent.

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19 Complainant alleges:

20 **PARTIES**

21 1. Kimberly Kirchmeyer (Complainant) brings this First Amended Accusation solely in
22 her official capacity as the Executive Director of the Medical Board of California, Department of
23 Consumer Affairs (Board).

24 2. On or about July 27, 1966, the Medical Board issued Physician's and Surgeon's
25 Certificate Number G 12103 to Edward J. Castner, M.D. (Respondent). The Physician's and
26 Surgeon's Certificate was in full force and effect at all times relevant to the charges brought
27 herein and will expire on August 31, 2018, unless renewed. On or about May 3, 2017, an interim
28 order was issued pursuant to Government Code section 11529 that required Respondent to abstain

1 from alcohol and required random biological fluid testing. On May 25, 2017, a cease practice
2 order was issued and is currently in effect.

3 JURISDICTION

4 3. This First Amended Accusation is brought before the Board, under the authority of
5 the following laws. All section references are to the Business and Professions Code unless
6 otherwise indicated.

7 4. Section 2227 of the Code provides that a licensee who is found guilty under the
8 Medical Practice Act may have his or her license revoked, suspended for a period not to exceed
9 one year, placed on probation and required to pay the costs of probation monitoring, or such other
10 action taken in relation to discipline as the Board deems proper.

11 5. Section 2234 of the Code provides, in pertinent part, that "The board shall take action
12 against any licensee who is charged with unprofessional conduct."

13 6. Section 2236 of the Code provides, in pertinent part, that conviction of any offense
14 substantially related to the qualifications, function or duties of a physician constitute
15 unprofessional conduct.

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

17 "(a) The use or prescribing for or administering to himself or herself, of any controlled
18 substance; or the use of any of the dangerous drugs specified in Section 4022, or of alcoholic
19 beverages, to the extent, or in such a manner as to be dangerous or injurious to the licensee, or to
20 any other person or to the public, or to the extent that such use impairs the ability of the licensee
21 to practice medicine safely or more than one misdemeanor or any felony involving the use,
22 consumption, or self administration of any of the substances referred to in this section, or any
23 combination thereof, constitutes unprofessional conduct. The record of the conviction is
24 conclusive evidence of such unprofessional conduct."
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1 CAUSES FOR DISCIPLINE

2 I

3 (Conviction and Use of Alcohol In a Manner Dangerous To the Licensee or Others)

4 8. Respondent is subject to disciplinary action under sections 2236 and 2239,
5 subdivision (a), in that he was convicted of driving under the influence, and appeared at his office
6 to be under the influence of alcohol. The circumstances are as follows:

7 A. On December 28, 2016, Respondent was arrested for driving under the influence
8 (DUI). The circumstances are as follows: A witness named Mr. D., who lives in the same
9 complex as does Respondent, saw Respondent in his car in the parking area. Mr. D. watched him
10 strike a gate, and then Respondent backed up, reversed into a wall and hit several poles and rain
11 gutters, then he reversed and hit another pole. Respondent almost hit Mr. D. and his vehicle.
12 When police officers were called to the scene and looked at Respondent's car, they observed a lot
13 of damage. This was at about 1:30 in the afternoon.

14 B. An officer from Arcadia Police Department contacted Respondent at his apartment.
15 Respondent admitted he was driving his car and hit the gate. The officer could smell a strong
16 odor of alcohol, Respondent had slurred speech and was unstable on his feet. Respondent told
17 the officer that he started drinking at 8:00 that morning and allegedly stopped at 9:30; he had two
18 glasses of wine.

19 C. Respondent was asked to perform field sobriety tests. Respondent did a breath test at
20 the scene and the results were a .192 and .187. Based on the totality of the circumstances, the
21 officer arrested Respondent for a DUI.

22 D. In the case of *The People of the State of California v. Edward John Castner*, Case No.
23 7PD25902, the District Attorney of the County of Los Angeles charged Respondent with a
24 violation of Vehicle code section 23152, subdivision (a) and (b), driving under the influence of
25 alcohol.

26 E. On August 4, 2017, Respondent pled nolo contendere to a violation of Vehicle code
27 section 23152, subdivision (b). He was placed on summary probation for three years, and ordered
28 to participate in a 3-month first offender alcohol and drug education course.

1 F. V.C. began working for a doctor named Dr. D. in about November 2015 as her office
2 manager and they shared office space with Respondent. V.C. started to notice that Respondent
3 would fail to show up at the office, and when he did he smelled like alcohol, and had slurred
4 speech. When V.C. asked the people who worked for Respondent what was wrong, she was told
5 that Respondent was drinking.

6 G. Around the summer of 2015, L.P., one of Respondent's employees, noticed that
7 Respondent would come into the office stumbling, smelling like alcohol, and red in the face. She
8 would oftentimes have to reschedule patient appointments.

9 H. L.P. recalls an incident when a patient flew in from another city to get a prescription
10 refill. Respondent was not at the office so they drove to his apartment. Once at the apartment,
11 L.P. saw about 10 empty wine bottles on the floor, and Respondent smelled like alcohol and was
12 very unkempt.

13 I. A Medical Board expert reviewed the case and opined that based on the above
14 evidence, it appears Respondent may have an alcohol use disorder. The expert opined that
15 Respondent is not able to safely engage in the practice of medicine and he poses an imminent
16 danger to public safety.

17 J. In September 2017, the Board received a patient complaint from J.O.S. She began
18 treatment with Respondent in March 2016. In September 2016, the patient was going through
19 some difficulties at work so she wanted to apply for short-term disability. J.O.S. wanted to
20 pursue the application process and tried setting up an appointment with Respondent several times.
21 In October 2016, the patient was laid off. She left several voicemail messages for Respondent
22 with no response and even went to his office but no one was there.

23 K. On May 10, 2017, J.O.S. had an appointment with Respondent at 2:00 p.m. She
24 noticed he was not behaving normally. He was slurring his words, he was slouched, and his head
25 was dropping. Respondent wrote her a prescription but she did not fill it and has not been back
26 since then. J.O.S. saw Respondent from April 2016 until May 2017, for a total of eight times.

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II

(UNPROFESSIONAL CONDUCT)

9. Respondent is subject to disciplinary action under section 2234 for unprofessional conduct when he violated the conditions of his interim suspension order. The circumstances are as follows:

A. Based on Respondent's DUI arrest, the allegations from ex-employees, and the results of a psychiatric review of documents, the Board filed a petition for interim suspension ("ISO"). On May 3, 2017, the ISO was issued against Respondent. The order restricted Respondent's license by ordering that he abstain from controlled substances; abstain from alcohol and products or beverages containing alcohol; and submit to random biological fluid testing.

B. As of May 3, the ISO went into effect. On May 9, 2017, Respondent signed a Participant Disclosure Form, where he agreed to limit his exposure to products containing alcohol, including mouthwash, over the counter medications, certain foods, and sanitizing gels.

C. On May 12 and May 17, 2017, Respondent tested positive for metabolites of alcohol, therefore, a Cease Practice Order was issued, and it is currently in effect.

D. On May 22, 2017, Respondent wrote a letter explaining that the positive results were from his use of mouthwash and after shave lotion despite signing the May 9 agreement.

E. From May 12 through October 29, 2017, Respondent was randomly tested for the presence of alcohol, and he was required to submit to urine tests. The urine is tested for Ethyl glucuronide (ETG) and Ethyl sulfate (ETS). The cut-off is 250 ETG and 50 ETS ng/mL. The result of the test was as follows: May 12, 2017, were ETG 6215/ETS 1456; positive for alcohol metabolites.

May 17, Respondent's urine results were ETG 21227/ ETS 4523; he also tested positive for Xanax;

May 23, ETG 51548/ ETS 7905, positive for alcohol metabolites, and positive for Xanax;¹

¹ Xanax is a brand name for Alpraxolam, a Schedule IV controlled substance as designated by Health and Safety Code section 11057, subdivision (c)(1), and dangerous drug as defined in Business and Professions Code section 4022. It is used to treat anxiety and panic disorder.

1 May 26, ETG 5956/ ETS 1581, positive for alcohol metabolites, and positive for Xanax;
2 May 30, ETG 22273/ ETS 3985, positive for alcohol metabolites, and positive for Xanax;
3 May 31, ETG 40422 /ETS 6548, positive for alcohol metabolites, and positive for Xanax;
4 July 12, ETG 30707/ ETS 5720, positive for alcohol metabolites, and positive for Xanax;
5 July 18, ETG 751/ ETS 296, positive for alcohol metabolites.
6 August 4, positive for Xanax;
7 August 8, positive for Xanax;
8 August 12, ETG 8446/ETS 134, positive for alcohol metabolites, and positive for Xanax;
9 August 30, positive for Xanax;
10 September 20, positive for Xanax;
11 September 22, positive for Xanax;
12 September 23, ETG 1191/ ETS 223, positive for alcohol metabolites.
13 September 26, positive for Xanax;
14 October 8, ETG 4599/ ETS 916, positive for alcohol metabolites, and positive for Xanax
15 October 9, ETG 1250/ ETS 304, positive for alcohol metabolites, and positive for Xanax
16 October 29, ETG 3194/ ETS 800, positive for alcohol metabolites.

17 F. On June 9, 2017, Respondent underwent a Phosphatidylethanol (PEth test) for
18 detection of alcohol in the blood. PEth is a direct biomarker of ethyl alcohol which forms only in
19 the presence of ethyl alcohol after the ingestion of alcohol. PEth is confirmed and reported
20 positive if the result is 20ng/mL or above. The presence of PEth is consistent with the ingestion
21 of ethyl alcohol in the 2-3 week period before the blood was drawn. Respondent's test result on
22 June 9 was 144ng/mL.

23 G. On June 21, 2017, Respondent underwent a PEth test. The result was 119ng/mL.

24 H. On September 6, 2017, Respondent underwent a PEth test in the blood. The result
25 was 41ng/ML.
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PRAYER

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

1. Revoking or suspending Physician's and Surgeon's Certificate Number G 12103, issued to Edward J. Castner, M.D.;
2. Revoking, suspending or denying approval of Edward J. Castner, M.D.'s authority to supervise physician assistants and advanced practice nurses;
3. Ordering Edward J. Castner, M.D., if placed on probation, to pay the Board the costs of probation monitoring; and
4. Taking such other and further action as deemed necessary and proper.

DATED: November 21, 2017


KIMBERLY KIRCHMEYER
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant

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