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

10 In the Matter of the First Amended Accusation
11 Against:

Case No. 800-2017-030422

FIRST AMENDED ACCUSATION

12 **Anand Pandya, M.D.**
13 **215 E 24th St., Apt. 321**
New York, NY 10010-3804

14 **Physician's and Surgeon's Certificate**
15 **No. A 93032,**

16 Respondent.

17
18 **PARTIES**

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

22 2. On or about October 7, 2005, the Medical Board issued Physician's and Surgeon's
23 Certificate Number A 93032 to Anand Pandya, M.D. (Respondent). The Physician's and
24 Surgeon's Certificate was in full force and effect at all times relevant to the charges brought
25 herein and will expire on February 28, 2021, unless renewed.
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JURISDICTION

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

5 4. Section 2227 of the Code states:

6 (a) A licensee whose matter has been heard by an administrative law judge of
7 the Medical Quality Hearing Panel as designated in Section 11371 of the Government
8 Code, or whose default has been entered, and who is found guilty, or who has entered
9 into a stipulation for disciplinary action with the board, may, in accordance with the
10 provisions of this chapter:

11 (1) Have his or her license revoked upon order of the board.

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

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

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

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

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

27 5. Section 2234 of the Code, states:

28 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:

 (a) Violating or attempting to violate, directly or indirectly, assisting in or abetting the
violation of, or conspiring to violate any provision of this chapter.

 (b) Gross negligence.

 (c) Repeated negligent acts. To be repeated, there must be two or more negligent acts
or omissions. An initial negligent act or omission followed by a separate and distinct
departure from the applicable standard of care shall constitute repeated negligent acts.

 (1) An initial negligent diagnosis followed by an act or omission medically
appropriate for that negligent diagnosis of the patient shall constitute a single negligent act.

 (2) When the standard of care requires a change in the diagnosis, act, or omission that
constitutes the negligent act described in paragraph (1), including, but not limited to, a
reevaluation of the diagnosis or a change in treatment, and the licensee's conduct departs

1 from the applicable standard of care, each departure constitutes a separate and distinct
2 breach of the standard of care.

3 (d) Incompetence.

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

6 (f) Any action or conduct that would have warranted the denial of a certificate.

7 (g) The failure by a certificate holder, in the absence of good cause, to attend and
8 participate in an interview by the board. This subdivision shall only apply to a certificate
9 holder who is the subject of an investigation by the board.

10 6. Section 2236 of the Code states:

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

16 (b) The district attorney, city attorney, or other prosecuting agency shall notify
17 the Medical Board of the pendency of an action against a licensee charging a felony
18 or misdemeanor immediately upon obtaining information that the defendant is a
19 licensee. The notice shall identify the licensee and describe the crimes charged and
20 the facts alleged. The prosecuting agency shall also notify the clerk of the court in
21 which the action is pending that the defendant is a licensee, and the clerk shall record
22 prominently in the file that the defendant holds a license as a physician and surgeon.

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

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

7. Section 2239 of the Code states:

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

(b) A plea or verdict of guilty or a conviction following a plea of nolo
contendere is deemed to be a conviction within the meaning of this section. The
[Medical Board] may order discipline of the licensee in accordance with Section 2227
or the [Medical Board] may order the denial of the license when the time for appeal

1 has elapsed or the judgment of conviction has been affirmed on appeal or when an
2 order granting probation is made suspending imposition of sentence, irrespective of a
3 subsequent order under the provisions of Section 1203.4 of the Penal Code allowing
such person to withdraw his or her plea of guilty and to enter a plea of not guilty, or
setting aside the verdict of guilty, or dismissing the accusation, complaint,
information, or indictment.

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

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

11 DEFINITIONS

12 9. Methamphetamine is a schedule II controlled substance pursuant to Health and Safety
13 Code Section 11055(d)(2) and dangerous drug pursuant to Business and Professions Code section
14 4022.

15 FACTS

16 10. On September 15, 2016, United States Customs Officers at the Newark Liberty
17 International Airport conducted a screening search of Respondent's luggage, after Respondent
18 arrived on a flight from Germany. The Customs officers found approximately 18.3 grams of
19 methamphetamine in Respondent's suitcase, concealed in a baby powder container. The officers
20 also found that Respondent was in possession of approximately twenty-five hypodermic needles.

21 11. Respondent has submitted a letter explaining that during August and September 2016,
22 Respondent travelled outside the United States, and during that trip, he used methamphetamine.
23 Respondent further explained that upon Respondent's return to the United States, Respondent
24 brought methamphetamine into the United States, where customs officials discovered the
25 methamphetamine in his luggage.

26 12. On April 17, 2017, in a criminal proceeding titled State of New Jersey v. Anand
27 Pandya in Essex County Superior Court, Case Number 17-01-00264I, Respondent entered a
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1 guilty plea to a charge of Possession of Controlled Dangerous Substance (Third Degree), New
2 Jersey Statutes 2C:35-10a, a misdemeanor, and was ordered to Pre-Trial Intervention Program.

3 **CAUSE FOR DISCIPLINE**

4 **(Unprofessional Conduct, Criminal Conviction of a Crime, and Use of Controlled**
5 **Substance)**

6 13. Respondent Anand Pandya, M.D. is subject to disciplinary action under section 2234
7 (unprofessional conduct), and/or section 2236 and California Code of Regulations, title 16,
8 section 1360 (criminal conviction), and /or section 2239 (use of controlled substance), based on
9 the conduct and the criminal conviction/guilty plea described in paragraphs 10-12, above.

10 **PRAYER**

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

- 13 1. Revoking or suspending Physician's and Surgeon's Certificate Number A 93032,
14 issued to Anand Pandya, M.D.;
- 15 2. Revoking, suspending or denying approval of Anand Pandya, M.D.'s authority to
16 supervise physician assistants and advanced practice nurses;
- 17 3. Ordering Anand Pandya, M.D., if placed on probation, to pay the Board the costs of
18 probation monitoring; and
- 19 4. Taking such other and further action as deemed necessary and proper.

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21
22 DATED: AUG 18 2020

23 
24 WILLIAM PRASIFKA
25 Executive Director
26 Medical Board of California
27 Department of Consumer Affairs
28 State of California
Complainant

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