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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 **Andrew Thomas Nadell, M.D.**  
14 **1828 El Camino Real, Ste. 509**  
**Burlingame, CA 94010**  
15 **Physician's and Surgeon's Certificate**  
16 **No. A 29449,**  
17 Respondent.

Case No. 800-2019-052463

**ACCUSATION**

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 August 26, 1975, the Board issued Physician's and Surgeon's Certificate  
24 Number A 29449 to Andrew Thomas Nadell, M.D. (Respondent). The Physician's and Surgeon's  
25 Certificate was in full force and effect at all times relevant to the charges brought herein and will  
26 expire on November 30, 2022, unless renewed.

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1 **JURISDICTION**

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

5 4. Section 2004 of the Code states:

6 “The board shall have the responsibility for the following:

7 “(a) The enforcement of the disciplinary and criminal provisions of the Medical Practice  
8 Act;

9 “(b) The administration and hearing of disciplinary actions;

10 “(c) Carrying out disciplinary actions appropriate to findings made by a panel or an  
11 administrative law judge;

12 “(d) Suspending, revoking, or otherwise limiting certificates after the conclusion of  
13 disciplinary actions;

14 “(e) Reviewing the quality of medical practice carried out by physician and surgeon  
15 certificate holders under the jurisdiction of the board.

16 “ . . . ”

17 5. Section 2227 of the Code states:

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

22 “(1) Have his or her license revoked upon order of the board;

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

25 “(3) Be placed on probation and be required to pay the costs of probation monitoring upon  
26 order of the board;

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

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

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

9 6. Section 2234 of the Code, states:

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

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

15 “(b) Gross negligence;

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

19 “(d) Incompetence;

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

22 “(f) Any action or conduct that would have warranted the denial of a certificate;

23 “. . .”

24 7. Section 2228.1 of the Code states:

25 “(a) On and after July 1, 2019, except as otherwise provided in subdivision (c), the board  
26 shall require a licensee to provide a separate disclosure that includes the licensee’s probation  
27 status, the length of the probation, the probation end date, all practice restrictions placed on the  
28 licensee by the board, the board’s telephone number, and an explanation of how the patient can

1 find further information on the licensee's probation on the licensee's profile page on the board's  
2 online license information Internet Web site, to a patient or the patient's guardian or health care  
3 surrogate before the patient's first visit following the probationary order while the licensee is on  
4 probation pursuant to a probationary order made on and after July 1, 2019, in any of the following  
5 circumstances:

6 "(1) A final adjudication by the board following an administrative hearing or admitted  
7 findings or prima facie showing in a stipulated settlement establishing any of the following:

8 "(A) The commission of any act of sexual abuse, misconduct, or relations with a  
9 patient or client as defined in Section 726 or 729."

10 "..."

11 8. Section 726 of the Code states:

12 "(a) The commission of any act of sexual abuse, misconduct, or relations with a patient,  
13 client, or customer constitutes unprofessional conduct and grounds for disciplinary action for any  
14 person licensed under this or under any initiative act referred to in this division. . ."

15 9. Section 729 of the Code states:

16 "(a) Any physician and surgeon, psychotherapist, alcohol and drug abuse counselor or any  
17 person holding himself or herself out to be a physician and surgeon, psychotherapist, or alcohol  
18 and drug abuse counselor, who engages in an act of sexual intercourse, sodomy, oral copulation,  
19 or sexual contact with a patient or client . . . is guilty of sexual exploitation by a physician and  
20 surgeon, psychotherapist, or alcohol and drug abuse counselor. . ."

21 "For purposes of subdivision (a), in no instance shall consent of the patient or client be a  
22 defense. However, physicians and surgeons shall not be guilty of sexual exploitation for touching  
23 any intimate part of a patient or client unless the touching is outside the scope of medical  
24 examination and treatment, or the touching is done for sexual gratification.

25 "(c) For purposes of this section:

26 "..."

27 "(3) "Sexual contact" means sexual intercourse or the touching of an intimate part of a  
28 patient for the purpose of sexual arousal, gratification, or abuse.

1 “(4) “Intimate part” and “touching” have the same meanings as defined in Section 243.4 of  
2 the Penal Code.”

3 10. Section 2 of the Principles of Medical Ethics published by the American Psychiatric  
4 Association (APA) (2013 Edition) states that sexual activity with either a current or former  
5 patient is unethical, in part, because of the “inherent inequality” in the doctor/patient relationship  
6 which can lead to exploitation, and because the necessary intensity of the treatment relationship  
7 may activate sexual needs and weaken objectivity.

8 11. The American Medical Association (AMA) Code of Medical Ethics’ Opinions 8.14  
9 (2015 Edition) states that any sexual contact that occurs concurrent with the patient-physician  
10 relationship constitutes sexual misconduct, and detracts from the goals of the physician-patient  
11 relationship including possible exploitation of the vulnerability of the patient. Further, the  
12 physician’s objective judgment may be obscured regarding appropriate patient care which may  
13 ultimately be detrimental to the patient’s well-being.

14 **FACTUAL ALLEGATIONS**

15 12. At all times relevant to these charges, Respondent was practicing as a Board-certified  
16 psychiatrist at an adolescent in-patient mental health unit.

17 13. On February 9, 2019, the Medical Board received a complaint containing the  
18 following information: In November 2009, Patient 1<sup>1</sup> was a 13-year-old female struggling with  
19 depression, who on November 26, 2009, was admitted to Mills Peninsula Hospital (Hospital) for  
20 psychological evaluation. During the intake process, Respondent told Patient 1 that if she did not  
21 want to be held involuntarily, she needed to prove to him that she was able to listen to doctors.  
22 When they were alone in a room during intake, Respondent then forcibly made Patient 1 orally  
23 copulate him.

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28 <sup>1</sup> The patient is identified as Patient 1 to protect her confidentiality. Respondent is aware  
of the identity of Patient 1, and can confirm Patient 1’s identity through the discovery process.

1 14. Respondent then informed Patient 1's mother that Patient 1 needed to be admitted for  
2 a 72-hour hold, although by that point, Patient 1 wanted to return home.<sup>2</sup> Patient 1 recalled that  
3 there were few other patients there at the time.

4 15. The next morning Respondent saw Patient 1 again. During that patient encounter,  
5 Respondent first asked questions, but then began telling Patient 1 that if he ever heard her talking  
6 about anything sexual, he would call her school and tell them her favorite female teacher was the  
7 one who was doing inappropriate things with Patient 1. Respondent told Patient 1 that no one  
8 would believe a mental patient over a doctor with decades of experience.

9 16. During a subject interview conducted on July 1, 2020, Respondent admitted that, as  
10 Patient 1's treating psychiatrist, he had unlimited access at all times of the day and night to  
11 Patient 1's bedroom which was unlocked. Respondent also admitted that, although he could not  
12 remember this patient, his usual practice was to conduct an unchaperoned intake interview in  
13 either a consulting room or a dictation room. Respondent confirmed that he was Patient 1's  
14 attending physician during her psychiatric hold and that he saw her four times during her stay.  
15 Respondent stated Patient 1 had serious depressive symptoms and was suicidal, in his opinion,  
16 based on cutting behavior. Otherwise, her case was "unremarkable" and he did not have a  
17 "particular memory" of her.

18 17. Patient 1 described other sexual assaults during her psychiatric hold: Respondent  
19 forced her again to orally copulate him—this time in the bathroom of her patient room. Patient 1  
20 vomited in the toilet so Respondent made her "do it again." Patient 1 remembers another sexual  
21 assault, this time on her patient bed: Respondent climbed on top of her and raped her.

#### 22 CAUSE FOR DISCIPLINE

#### 23 (Unprofessional Conduct: Sexual Misconduct, Exploitation, and Abuse)

24 18. The allegations of paragraphs 12 through 17 are incorporated by reference as if set  
25 out in full. Respondent Andrew Thomas Nadell, M.D. is subject to disciplinary action for  
26 Unprofessional Conduct under Sections 2234 and/or 2234, subdivisions (a) through (f) of the

27 <sup>2</sup> Patient 1 was admitted pursuant to section 5150 of the Welfare and Institutions Code  
28 which provides that a person can be held involuntarily if a professional determines that the person  
is a threat to themselves or others; commonly referred to as a "psychiatric hold."


1 Code and/or sections 726 (Sexual Misconduct) and/or 729 (Sexual Exploitation) and/or APA and  
2 AMA Medical Ethics Opinions in that he engaged in sexual misconduct, exploitation, and abuse  
3 of Patient 1.

4 **PRAYER**

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

- 7 1. Revoking or suspending Physician's and Surgeon's Certificate Number A 29449,  
8 issued to Andrew Thomas Nadell, M.D.;
- 9 2. Revoking, suspending or denying approval of Andrew Thomas Nadell, M.D.'s  
10 authority to supervise physician assistants and advanced practice nurses;
- 11 3. Ordering Andrew Thomas Nadell, M.D., if placed on probation, to pay the Board the  
12 costs of probation monitoring;
- 13 4. Ordering Andrew Thomas Nadell, M.D., if placed on probation and found to have  
14 committed any acts of sexual misconduct, abuse or exploitation to notify his patients pursuant to  
15 Section 2228.1(a)(1)(A) of the Code; and
- 16 4. Taking such other and further action as deemed necessary and proper.

17  
18 DATED: JUL 07 2021

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

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24 Andrew Thomas Nadell, M.D. Accusation