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

In the Matter of the Accusation
Against:

JOSEPH NICHOLAS CAREY, M.D. Case No. 11-2013-229347
Physician's and Surgeon's Certificate No. A87082
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 September 16, 2015.

IT IS SO ORDERED: August 17, 2015.

MEDICAL BOARD OF CALIFORNIA

Jamie Wright, J.D., Chair
Panel A
BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

JOSEPH NICHOLAS CAREY, M.D.
2160 North Bronson Avenue
Los Angeles, CA 90068

Physician's and Surgeon's Certificate No. A 87082,

Respondent.

Case No. 11-2013-229347
OAH No. 2014120805

STIPULATED SETTLEMENT 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. Kimberly Kirchmeyer ("Complainant") is the Executive Director of the Medical Board of California ("Board"), Department of Consumer Affairs. She brought this action solely in her official capacity and is represented in this matter by Kamala D. Harris, Attorney General of the State of California, by Christina L. Sein, Deputy Attorney General.

2. Respondent Joseph Nicholas Carey, M.D. ("Respondent") is represented in this proceeding by attorney Keith Carlson, whose address is: 2424 S E Bristol, Suite 300, Newport Beach, California 92660.
3. On or about May 7, 2004, the Board issued Physician's and Surgeon's Certificate No. A 87082 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. 11-2013-229347 and will expire on May 31, 2016, unless renewed.

JURISDICTION

4. Accusation No. 11-2013-229347 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 November 10, 2014. Respondent timely filed his Notice of Defense contesting the Accusation.

5. A copy of Accusation No. 11-2013-229347 is attached as exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

6. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 11-2013-229347. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

7. 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.

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

CULPABILITY

9. Respondent admits the truth of each and every charge and allegation in Accusation No. 11-2013-229347.
10. 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**

11. This stipulation shall be subject to approval by the Board. Respondent understands and agrees that counsel for Complainant and the staff of the Board 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.

12. 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.

13. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Disciplinary Order:

**DISCIPLINARY ORDER**

IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. A 87082 issued to Respondent Joseph Nicholas Carey, M.D. is revoked. However, the revocation is stayed and Respondent is placed on probation for five (5) years on the following terms and conditions.

1. CONTROLLED SUBSTANCES - ABSTAIN FROM USE. Respondent shall abstain completely from the personal use or possession of controlled substances as defined in the California Uniform Controlled Substances Act, dangerous drugs as defined by Business and Professions Code section 4022, and any drugs requiring a prescription. This prohibition does not apply to medications lawfully prescribed to Respondent by another practitioner for a bona fide
illness or condition.

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

If Respondent has a confirmed positive biological fluid test for any substance (whether or not legally prescribed) and has not reported the use to the Board or its designee, Respondent shall receive a notification from the Board or its designee to immediately cease the practice of medicine. The Respondent shall not resume the practice of medicine until final decision on an accusation and/or a petition to revoke probation. An accusation and/or petition to revoke probation shall be filed by the Board within 15 days of the notification to cease practice. If the Respondent requests a hearing on the accusation and/or petition to revoke probation, the Board shall provide the Respondent with a hearing within 30 days of the request, unless the Respondent stipulates to a later hearing. A decision shall be received from the Administrative Law Judge or the Board within 15 days unless good cause can be shown for the delay. The cessation of practice shall not apply to the reduction of the probationary time period.

If the Board does not file an accusation or petition to revoke probation within 15 days of the issuance of the notification to cease practice or does not provide Respondent with a hearing within 30 days of a such a request, the notification of cease practice shall be dissolved.

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

If Respondent has a confirmed positive biological fluid test for alcohol, Respondent shall receive a notification from the Board or its designee to immediately cease the practice of medicine. The Respondent shall not resume the practice of medicine until final decision on an accusation and/or a petition to revoke probation. An accusation and/or petition to revoke probation shall be filed by the Board within 15 days of the notification to cease practice. If the Respondent requests a hearing on the accusation and/or petition to revoke probation, the Board shall provide the Respondent with a hearing within 30 days of the request, unless the Respondent
stipulates to a later hearing. A decision shall be received from the Administrative Law Judge or the Board within 15 days unless good cause can be shown for the delay. The cessation of practice shall not apply to the reduction of the probationary time period.

If the Board does not file an accusation or petition to revoke probation within 15 days of the issuance of the notification to cease practice or does not provide Respondent with a hearing within 30 days of a such a request, the notification of cease practice shall be dissolved.

3. **BIOLOGICAL FLUID TESTING.** Respondent shall immediately submit to biological fluid testing, at Respondent's expense, upon request of the Board or its designee. “Biological fluid testing” may include, but is not limited to, urine, blood, breathalyzer, hair follicle testing, or similar drug screening approved by the Board or its designee. Prior to practicing medicine, Respondent shall contract with a laboratory or service approved in advance by the Board or its designee that will conduct random, unannounced, observed, biological fluid testing. The contract shall require results of the tests to be transmitted by the laboratory or service directly to the Board or its designee within four hours of the results becoming available. Respondent shall maintain this laboratory or service contract during the period of probation.

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

If Respondent fails to cooperate in a random biological fluid testing program within the specified time frame, Respondent shall receive a notification from the Board or its designee to immediately cease the practice of medicine. The Respondent shall not resume the practice of medicine until final decision on an accusation and/or a petition to revoke probation. An accusation and/or petition to revoke probation shall be filed by the Board within 15 days of the notification to cease practice. If the Respondent requests a hearing on the accusation and/or petition to revoke probation, the Board shall provide the Respondent with a hearing within 30 days of the request, unless the Respondent stipulates to a later hearing. A decision shall be received from the Administrative Law Judge or the Board within 15 days unless good cause can be shown for the delay. The cessation of practice shall not apply to the reduction of the probationary time period.
If the Board does not file an accusation or petition to revoke probation within 15 days of the issuance of the notification to cease practice or does not provide Respondent with a hearing within 30 days of a such a request, the notification of cease practice shall be dissolved.

4. **PROFESSIONALISM PROGRAM (ETHICS COURSE).** Within 60 calendar days of the effective date of this Decision, Respondent shall enroll in a professionalism program, that meets the requirements of Title 16, California Code of Regulations (CCR) section 1358. Respondent shall participate in and successfully complete that program. Respondent shall provide any information and documents that the program may deem pertinent. Respondent shall successfully complete the classroom component of the program not later than six (6) months after Respondent’s initial enrollment, and the longitudinal component of the program not later than the time specified by the program, but no later than one (1) year after attending the classroom component. The professionalism program shall be at Respondent’s expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

A professionalism program taken after the acts that gave rise to the charges in the Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board or its designee, be accepted towards the fulfillment of this condition if the program would have been approved by the Board or its designee had the program been taken after the effective date of this Decision.

Respondent shall submit a certification of successful completion to the Board or its designee not later than 15 calendar days after successfully completing the program or not later than 15 calendar days after the effective date of the Decision, whichever is later.

5. **PSYCHIATRIC EVALUATION.** Within 30 calendar days of the effective date of this Decision, and on whatever periodic basis thereafter may be required by the Board or its designee, Respondent shall undergo and complete a psychiatric evaluation (and psychological testing, if deemed necessary) by a Board-appointed board certified psychiatrist, who shall consider any information provided by the Board or designee and any other information the psychiatrist deems relevant, and shall furnish a written evaluation report to the Board or its designee. Psychiatric evaluations conducted prior to the effective date of the Decision shall not
be accepted towards the fulfillment of this requirement. Respondent shall pay the cost of all psychiatric evaluations and psychological testing.

Respondent shall comply with all restrictions or conditions recommended by the evaluating psychiatrist within 15 calendar days after being notified by the Board or its designee.

6. **PSYCHOTHERAPY.** Within 60 calendar days of the effective date of this Decision, Respondent shall submit to the Board or its designee for prior approval the name and qualifications of a California-licensed board certified psychiatrist or a licensed psychologist who has a doctoral degree in psychology and at least five years of postgraduate experience in the diagnosis and treatment of emotional and mental disorders. Upon approval, Respondent shall undergo and continue psychotherapy treatment, including any modifications to the frequency of psychotherapy, until the Board or its designee deems that no further psychotherapy is necessary.

The psychotherapist shall consider any information provided by the Board or its designee and any other information the psychotherapist deems relevant and shall furnish a written evaluation report to the Board or its designee. Respondent shall cooperate in providing the psychotherapist any information and documents that the psychotherapist may deem pertinent.

Respondent shall have the treating psychotherapist submit quarterly status reports to the Board or its designee. The Board or its designee may require Respondent to undergo psychiatric evaluations by a Board-appointed board certified psychiatrist. If, prior to the completion of probation, Respondent is found to be mentally unfit to resume the practice of medicine without restrictions, the Board shall retain continuing jurisdiction over Respondent’s license and the period of probation shall be extended until the Board determines that Respondent is mentally fit to resume the practice of medicine without restrictions.

Respondent shall pay the cost of all psychotherapy and psychiatric evaluations.

7. **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, including all physician and locum tenens registries or other similar agencies, and to the Chief
Executive Officer at every insurance carrier which extends malpractice insurance coverage to Respondent. Respondent shall submit proof of compliance to the Board or its designee within 15 calendar days.

This condition shall apply to any change(s) in hospitals, other facilities or insurance carrier.

8. **SUPERVISION OF PHYSICIAN ASSISTANTS.** During probation, Respondent is prohibited from supervising physician assistants.

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

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

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

11. **GENERAL PROBATION REQUIREMENTS.**

   Compliance with Probation Unit

   Respondent shall comply with the Board’s probation unit and all terms and conditions of this Decision.

   **Address Changes**

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

   **Place of Practice**

   Respondent shall not engage in the practice of medicine in Respondent’s or patient’s place of residence, unless the patient resides in a skilled nursing facility or other similar licensed facility.
License Renewal

Respondent shall maintain a current and renewed California physician’s and surgeon’s license.

Travel or Residence Outside California

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

In the event Respondent should leave the State of California to reside or to practice

Respondent shall notify the Board or its designee in writing 30 calendar days prior to the dates of departure and return.

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

13. NON-PRACTICE WHILE ON PROBATION. Respondent shall notify the Board or its designee in writing within 15 calendar days of any periods of non-practice lasting more than 30 calendar days and within 15 calendar days of Respondent’s return to practice. Non-practice is defined as any period of time Respondent is not practicing medicine in California as defined in Business and Professions Code sections 2051 and 2052 for at least 40 hours in a calendar month in direct patient care, clinical activity or teaching, or other activity as approved by the Board. All time spent in an intensive training program which has been approved by the Board or its designee shall not be considered non-practice. 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 a clinical training 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 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; and General Probation Requirements.

14. **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.

15. **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.

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

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

ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
discussed it with my attorney, Keith Carlson. 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: 6/19/2015

[Signature]
Joseph Nicholas Carey, M.D.
Respondent

I have read and fully discussed with Respondent Joseph Nicholas Carey, 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: 6/19/2015

[Signature]
Keith Carlson
Attorney for Respondent

[Endorsement on following page]
ENDORSEMENT

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

Dated: 4/24/15

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
JUDITH T. ALVARADO
Supervising Deputy Attorney General

CHRISTINA L. SEIN
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 11-2013-229347
BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

JOSEPH NICHOLAS CAREY, M.D.

2160 North Bronson Avenue
Los Angeles, CA 90068

Physician's and Surgeon's Certificate No. A 87082,

Respondent.

Complainant alleges:

PARTIES

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

2. On or about May 7, 2004, the Medical Board of California issued Physician's and Surgeon's Certificate Number A 87082 to Joseph Nicholas Carey, 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 May 31, 2016, unless renewed.
JURISDICTION

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

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

5. Section 2234, subdivision (a) of the Code states:

"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."

6. Section 2236 of the Code states:

"(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.

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

(c) The clerk of the court in which a licensee is convicted of a crime shall, within 48 hours after the conviction, transmit a certified copy of the record of conviction to the board. The
division may inquire into the circumstances surrounding the commission of a crime in order to fix
the degree of discipline or to determine if the conviction is of an offense substantially related to the
qualifications, functions, or 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 Division of Medical Quality
may order discipline of the licensee in accordance with Section 2227 or the Division of Licensing
may order the denial of the license when the time for appeal has elapsed or the judgment of
conviction has been affirmed on appeal or when an order granting probation is made suspending
imposition of sentence, irrespective of a 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."

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

"For the purposes of denial, suspension or revocation of a license, certificate or 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 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 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 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 violation of, or conspiring to violate any provision of the Medical Practice Act.”

**FIRST CAUSE FOR DISCIPLINE**

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

9. Respondent’s license is subject to disciplinary action under sections 2227, 2234, subdivision (a), and 2236, subdivisions (a) and (d), of the Code, and California Code of Regulations, title 16, section 1360, in that he has been convicted of a crime, to wit: violation of California Vehicle Code section 23152(b) [driving under the influence of alcohol with a BAC of .08% or greater], substantially related to the qualifications, functions or duties of a physician and surgeon, as more particularly alleged hereinafter:

10. Respondent is a physician and surgeon licensed to practice in California. He is Board certified in Surgery and Plastic Surgery and works at the University of Southern California Keck School of Medicine as well as Los Angeles County Hospital.

11. On or about December 22, 2012, at approximately 12:40 a.m., California Highway Patrol (CHP) Officers received a radio call of a traffic collision located at the intersection of Sunset Blvd. and Ivar Street. Three vehicles were involved in the collision: a Jeep Cherokee, a motorcycle, and a Toyota Corolla. The motorcycle was damaged to the point that officers were unable to determine the model of it at the scene.

12. When making contact with Respondent at the scene, Officer Castor immediately detected the odor of an alcoholic beverage emitting from Respondent. Officer Castor also observed objective symptoms of intoxication in that Respondent’s face was flushed and his eyes were bloodshot and watery. Respondent also had an unsteady gait. Respondent, who was driving the Jeep Cherokee, admitted to driving his vehicle after having consumed three alcoholic beverages at a Christmas party. He was returning home when the collision occurred. Respondent was
unable to complete the Standardized Field Sobriety Test(s) (SFST) as explained and demonstrated. Based on the objective symptoms of intoxication and the results of the SFST, Officer Castor formed the opinion that Respondent was under the influence of an intoxicant, most likely alcohol, and was unable to safely operate a motor vehicle. After Respondent was arrested and transported to the Metropolitan Detention Center for booking, he submitted to a breath test. Two consecutive blood alcohol content (BAC) results of 0.12% were obtained.

13. Officer Castor was unable to obtain a statement from the driver of the motorcycle at the scene because he had been transported to Cedars Sinai Medical Center for additional medical treatment having received severe injuries as a result of the collision. The driver of the Toyota Corolla told Officer Castor that he was traveling westbound in the number one lane of Sunset Blvd. when he was struck head on by Respondent’s vehicle.

14. A witness to the collision stated that he was traveling westbound in the number two lane of Sunset Blvd. directly next to the motorcycle. As he approached the intersection of Sunset Blvd. and Ivar St., the westbound light turned green and he proceeded towards the intersection. Just prior to entering the intersection, the witness observed Respondent’s vehicle approach eastbound in the westbound number one lane and collide head on with the motorcycle in the intersection. After colliding with the motorcycle, Respondent’s vehicle continued eastbound in the westbound number one lane and collided head on with the Toyota Corolla traveling westbound in the westbound number one lane of Sunset Blvd.

15. Based on the statements by the driver of the Toyota Corolla, the witness, and the physical evidence at the scene, officers concluded that Respondent, driving while intoxicated, caused the collision by failing to drive on the right half of the roadway.

16. A statement was later obtained from the driver of the motorcycle who stated that he was driving west on Sunset Blvd. in the westbound number one lane. As he approached the intersection, the light turned green. He observed two vehicles in the left turn lane facing the opposite direction that were waiting to turn left (north). As he drove through the intersection, the first vehicle remained stopped, but the vehicle behind it (Respondent’s vehicle) pulled out from behind and traveled east in the westbound lane, and collided with him. The driver of the
motorcycle suffered serious injuries: his right leg was broken in two places, his left leg required surgery to repair tendons, his left wrist was broken, and metal plates were inserted into his right knee.

17. In the case entitled *The People of the State of California v. Joseph Nicholas Carey*, Los Angeles County Superior Court, Case No. BA406576, Respondent was charged in Count One with a felony violation of California Vehicle Code section 23152(a) for driving a motor vehicle under the influence of alcohol causing bodily injury to three persons, and in Count Two with a felony violation of California Vehicle Code section 23152(b) for driving a motor vehicle while having 0.08% or more, by weight of alcohol in his blood, causing bodily injury to three persons.

18. On or about January 8, 2014, Respondent pled nolo contendere in the case entitled *The People of the State of California v. Joseph Nicholas Carey*, Los Angeles County Superior Court, Case No. BA406576, to Count Two and was found guilty. Count One was dismissed due to the plea negotiation. The imposition of sentence was suspended and Respondent was placed on three years formal probation under the following terms and conditions: serve 5 days in Los Angeles County jail with credit for 1 day served; do not drive after consuming alcohol and do not refuse any test requested by law enforcement; obey all laws and orders of the court; obey all rules and regulations of the probation department; cooperate with the probation officer in a plan for rehabilitation; provide buccal swab samples and thumb and hand prints for law enforcement identification; enroll and complete an alcohol and drug education program; perform 500 hours of community service; pay fines, penalties, and fees; and make restitution to the victim.

**SECOND CAUSE FOR DISCIPLINE**

(Use of Alcohol in a Dangerous or Injurious Manner)

19. Respondent is further subject to disciplinary action under section 2227 and 2234, subdivision (a), and 2239, of the Code, and California Code of Regulations, title 16, section 1360, in that he has used alcoholic beverages, to the extent, or in such a manner as to be dangerous or injurious to himself, to any other person or to the public, as more particularly alleged in paragraphs 10 through 18 above, which are hereby incorporated by reference and realleged as if fully set forth herein.
THIRD CAUSE FOR DISCIPLINE
(General Unprofessional Conduct)

20. Respondent is further subject to disciplinary action under sections 2227 and 2234, subdivision (a), and 2239, of the Code, in that he has engaged in conduct which breaches the rules or ethical code of the medical profession, or conduct which is unbecoming a member in good standing of the medical profession, and which demonstrates an unfitness to practice medicine, as more particularly alleged in paragraph 10 through 18 above, which are hereby incorporated by reference and realleged as if fully set forth herein.

FOURTH CAUSE FOR DISCIPLINE
(Violation of the State Medical Practice Act)

21. Respondent is further subject to disciplinary action under sections 2227 and 2234, subdivision (a), of the Code, and California Code of Regulations, title 16, section 1360, in that he has violated a provision or provisions of the Medical Practice Act, as more particularly alleged in paragraph 10 through 18, above, which are hereby incorporated by reference and realleged as if fully set forth herein.
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 A 87082, issued to Joseph Nicholas Carey, M.D.;

2. Revoking, suspending or denying approval of Joseph Nicholas Carey, M.D.'s authority to supervise physician assistants, pursuant to section 3527 of the Code;

3. Ordering Joseph Nicholas Carey, M.D. to pay the Medical Board of California, if placed on probation, the costs of probation monitoring; and

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

DATED: November 10, 2014

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

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