

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

In the Matter of the Accusation & the
Automatic Suspension Against:

Robert Jay Rowen, M.D.

Physician's and Surgeon's
Certificate No. G 39465

Case No.: 800-2019-061315

Respondent.

DECISION

The attached Proposed Decision 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 25, 2023.

IT IS SO ORDERED: August 25, 2023.

MEDICAL BOARD OF CALIFORNIA



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

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

In the Matter of the Accusation Against:

ROBERT JAY ROWEN, M.D., Respondent

Case No. 800-2019-061315

OAH No. 2023010081

AND

In the Matter of the Automatic Suspension Against:

ROBERT JAY ROWEN, M.D., Respondent

Case No. 800-2019-061315

OAH No. 2023010088

PROPOSED DECISION

Timothy J. Aspinwall, Administrative Law Judge (ALJ), Office of Administrative Hearings (OAH), State of California, heard these consolidated matters by videoconference on June 19, 2023, from Sacramento, California.

Jannsen Tan, Deputy Attorney General, represented Reji Varghese, (complainant), Interim Executive Director, Medical Board of California (Board), Department of Consumer Affairs.

Robert Jay Rowen, M.D. (respondent), made a "special appearance" to object to OAH's jurisdiction, then exited before the hearing commenced. Respondent was not represented at the hearing and did not present any evidence.

Evidence was received, the record was closed, and the matter was submitted for decision on June 19, 2023.

FACTUAL FINDINGS

Background and Procedural History

1. On June 18, 1979, the Board issued respondent Physician's and Surgeon's Certificate Number G 39465 (certificate). Respondent's certificate will expire on November 30, 2024, unless renewed or revoked.
2. On October 7, 2022, former Executive Director, William Prasifka, signed and caused to be filed an Accusation against respondent alleging that cause exists to discipline his certificate based on a felony conviction for tax evasion and related acts of dishonesty or corruption substantially related to the qualifications, functions, or duties of a physician.
3. Based on respondent's felony conviction and consequent incarceration, respondent's certificate was suspended effective September 1, 2022, pursuant to Business and Professions Code section 2236.1, subdivision (a), which provides that a physician's certificate shall be automatically suspended during any time the holder of

the certificate is incarcerated after conviction of a felony, regardless of whether the conviction has been appealed. On October 7, 2022, former Executive Director, William Prasifka, signed and caused to be filed a Notice of Automatic Suspension of License.

4. Respondent timely filed a Notice of Defense. These matters were set for an evidentiary hearing before an ALJ at OAH, an independent adjudicative agency of the State of California, pursuant to Government Code section 11500 et seq.

Respondent's Criminal Conviction

5. On September 29, 2021, in the United States District Court, Northern District of California, in case number 19-CR-00486-CRB, respondent was convicted on his guilty plea of violating Title 26, United States Code, section 7201 (tax evasion), as set forth in his plea agreement.

6. In his plea agreement, respondent agreed that elements of his offense included the following: (1) he owed more federal income tax for the tax years 1992 through 1997, and 2003 through 2008, than he paid; (2) he knew that he owed more federal income tax for those years than he paid; (3) he made an affirmative attempt to evade or defeat the payment of such additional taxes; and (4) he acted willfully in attempting to evade or defeat the payment of such additional taxes.

7. More specifically, respondent agreed in his plea agreement to facts including the following: (1) as of September 26, 2019, respondent owed federal income tax liabilities in the amount of approximately \$1,209,587.63; (2) during September 19, 2005, through at least September 13, 2018, respondent willfully attempted to evade payment of the foregoing tax liabilities by committing affirmative acts of tax evasion; (3) respondent attempted to conceal his income by incorporating an entity for the sole purpose of receiving and concealing that income; (4) respondent

attempted to conceal his ownership and financial interest in the entity by directing other individuals to receive and deposit checks, sign and issue checks, and falsely represent on corporate documents and tax forms that they were 99 percent shareholders even though they had no ownership interest in the business, when in fact respondent exclusively directed payments of funds and exercised day-to-day management and control over the entity; (5) respondent attempted to conceal income from his medical practice by instructing patients to make checks payable to businesses that were actually gold dealers; (6) and respondent deposited checks written by patients into a gold dealer's bank account, then received gold and silver coins in exchange for the checks, with the intent of concealing assets from the Internal Revenue Service.

8. On January 26, 2022, the court in the above referenced matter sentenced respondent to serve 18 months in federal prison, and ordered him to pay monetary penalties including a \$95,000 fine, and \$241,156.28 in restitution.

9. Respondent was incarcerated in a federal prison at the time his certificate was automatically suspended. At the time of the hearing in this matter respondent had been released on home confinement.

Prior Discipline

10. On August 11, 1998, in a prior disciplinary matter brought by the Board *In the Matter of the Accusation Against Robert J. Rowen, M.D.*, certificate # G-39465, Case No. 16-97-74289, the Board issued a Public Reprimand against respondent's certificate. The bases for the Public Reprimand are set forth in a Stipulated Settlement in Case No. 16-97-74289, signed by respondent on May 27, 1998, by which respondent admitted that on September 10, 1997, he pled guilty to and was convicted of violating

Title 26, United States Code, section 7212 (attempt to obstruct or impede administration of internal revenue laws).

Costs

11. Complainant requested that respondent be ordered to reimburse the Board for the reasonable costs of investigation and enforcement of this matter in the total amount of \$19,991.50. In support of this total amount, complainant submitted: (1) a Certification of Prosecution Costs: Declaration of Jannsen Tan dated June 8, 2023 (AG Certification), which states that the Attorney General's Office billed the Board \$18,975 for time spent on this matter (AG Costs); and (2) a Declaration of Investigative Activity (Investigation Declaration) in the total amount of \$1,016.50 (Investigation Costs).

12. California Code of Regulations, title 1, section 1042, sets forth the requirements that an agency must comply with in order to recover its costs. Section 1042 requires that a declaration regarding services provided by a regular agency employee must include "the general tasks performed, the time spent on each task, and the method of calculating the cost."

13. The AG Certification includes a "Cost of Suit Summary" which sets forth total attorney hours and total paralegal hours during 2022-2023, without any specification of tasks performed or time spent on each task. The AG Certification does not comply with the requirements set forth in California Code of Regulations, title 1, section 1042.

14. The Investigation Declaration describes the tasks performed, the amount of time billed, and the billing rate of the investigator on this matter. The Investigation Costs appear to be reasonable in light of the allegations.

LEGAL CONCLUSIONS

Standard and Burden of Proof

1. Complainant bears the burden of proving, by clear and convincing evidence to a reasonable certainty, that cause exists to discipline respondent's license as alleged in the Accusation. (*Ettinger v. Board of Medical Quality Assurance* (1982) 135 Cal.App.3d 853, 856.) Clear and convincing evidence is evidence that leaves no substantial doubt and is sufficiently strong to command the unhesitating assent of every reasonable mind. (*Katie V. v. Superior Court* (2005) 130 Cal.App.4th 586, 594.)

Applicable Laws and Regulations

2. Business and Professions Code section 2227 provides that a physician who has been found "guilty" of violations of the Medical Practices Act may be subject to discipline up to and including revocation of his or her license.

3. Business and Professions Code section 2234, requires the Board to "take action against any licensee who is charged with unprofessional conduct." Unprofessional conduct includes but is not limited to: "[t]he commission of any act involving dishonesty or corruption that is substantially related to the qualifications, functions, or duties of a physician and surgeon." (Bus & Prof. Code, § 2234, subd. (e).)

4. Business and Professions Code section 2236, subdivision (a), provides that: "[t]he 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"

5. California Code of Regulations, title 16, section 1360, provides, in relevant part:

[A] crime, professional misconduct, or act shall be considered to be substantially related to the qualifications, functions or duties of a person holding a license if to a substantial degree it evidences present or potential unfitness of a person holding a license to perform the functions authorized by the license in a manner consistent with the public health, safety or welfare.

6. Respondent's crime of tax evasion is substantially related to the practice of medicine. The court in *Windham v. Board of Medical Quality Assurance* (1980) 104 Cal.App.3d 461, upheld the application of California Code of Regulations, title 16, section 1360, in finding conduct outside the actual practice of medicine to be substantially related to the practice of medicine. The conviction at issue in that case was income tax evasion. The court stated: "... we find it difficult to compartmentalize dishonesty in such a way that a person who is willing to cheat his government of \$65,000 in taxes may yet be considered honest in his dealings with his patients." (*Id.* at p. 470.) Noting that the doctor-patient relationship is based on the utmost trust and confidence in the doctor's honesty and integrity, the court held that a conviction involving dishonesty evidenced a present or potential unfitness to practice medicine consistent with the public health, safety or welfare. (*Ibid.*)

7. Business and Professions Code section 2236.1, subdivision (a), provides that a physician's certificate shall be automatically suspended during any time the holder of the certificate is incarcerated after conviction of a felony, regardless of whether the conviction has been appealed.

Cause for Discipline

8. Cause exists to discipline respondent's certificate pursuant to Business and Professions Code sections 2234, subdivision (e), and 2236, subdivision (a), considered individually and jointly, based on the Factual Findings as a whole and the foregoing Legal Conclusions. Respondent's criminal conviction for tax evasion is substantially related to the qualifications, functions and duties of a physician.

Cause for Suspension

9. Cause existed to automatically suspend respondent's certificate during his term of incarceration pursuant to Business and Professions Code section 2236.1, subdivision (a), based on the Factual Findings as a whole and the foregoing Legal Conclusions. Complainant did not argue that respondent's home confinement constitutes incarceration for purposes of Business and Professions Code section 2236.1, subdivision (a), and that question is not addressed here.

Level of Discipline

10. The Board has developed criteria to consider when determining the appropriate level of discipline to impose on a licensee convicted of a crime. Specifically, California Code of Regulations, title 16, section 1360.1 provides that the following factors are to be considered: (1) the nature and severity of the acts or offenses; (2) total criminal record; (3) the time that has elapsed since commission of the acts or offenses; (4) whether the licensee has complied with any terms of parole, probation, restitution or any other sanctions lawfully imposed; (5) evidence of expungement proceedings pursuant to Penal Code section 1203.4; (6) any evidence of rehabilitation submitted by the licensee, certificate or permit holder.

11. Respondent's offenses were quite severe. He was convicted less than two years ago of evading federal income taxes in the amount of approximately \$1,209,587.63. He accomplished this through deliberate schemes implemented over an extended time. Respondent did not submit any evidence of rehabilitation. Moreover, respondent's attitude towards these proceedings and the Board's responsibility for overseeing his certificate do not bode well for his being a successful probationer. Considering all these factors, and the Factual Findings and Legal Conclusions as a whole, public protection requires revocation of respondent's certificate.

Cost Recovery

12. Pursuant to Business and Professions Code section 125.3, a licensee found to have violated a licensing act may be ordered to pay the reasonable costs of investigation and prosecution of a case. In *Zuckerman v. Board of Chiropractic Examiners* (2002) 29 Cal.4th 32, the California Supreme Court set forth factors to be considered in determining the reasonableness of costs sought pursuant to statutory provisions like Business and Professions Code section 125.3. These factors include: (1) whether the licensee has been successful at hearing in getting charges dismissed or reduced; (2) the licensee's subjective good faith belief in the merits of his or her position; (3) whether the licensee has raised a colorable challenge to the proposed discipline; (4) the financial ability of the licensee to pay; and, (5) whether the scope of the investigation was appropriate in light of the alleged misconduct.

13. As set forth in the Factual Findings, complainant sought AG Costs in the amount of \$18,975, and Investigation Costs in the amount of \$1,016.50. Because the AG Certification did not comply with California Code of Regulations, title 1, section 1042, the \$18,975 sought by that certification may not be awarded. The costs set forth in the Investigation Declaration are appropriate. When all the relevant factors in

Zuckerman are considered, the costs to be paid by respondent are appropriately set at \$1,016.50.

ORDER

1. Physician's and Surgeon's Certificate Number G 39465, issued to respondent Robert Jay Rowen is revoked.
2. Respondent shall pay the Board \$1,016.50 for the Investigation Costs in this matter, within 60 days of the effective date of this decision.

DATE: July 18, 2023

Timothy Aspinwall

TIMOTHY J. ASPINWALL

Administrative Law Judge

Office of Administrative Hearings

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

12 In the Matter of the Accusation Against:

Case No. 800-2019-061315

13 **Robert Jay Rowen, M.D.**
14 **2200 County Center Drive, Suite C**
Santa Rosa, CA 95403

A C C U S A T I O N

15 **Physician's and Surgeon's Certificate**
16 **No. G 39465,**

17 Respondent.

18
19
20 **PARTIES**

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

24 2. On or about June 18, 1979, the Medical Board issued Physician's and Surgeon's
25 Certificate Number G 39465 to Robert Jay Rowen, 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 November 30, 2024 unless renewed.
28

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 2227 of the Code states, in part:

6 “(a) A licensee whose matter has been heard by an administrative law judge of the
7 Medical Quality Hearing Panel as designated in Section 11371 of the Government Code, or
8 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:

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

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

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

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

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

16 ...

17 5. Section 2234 of the Code, states, in part:

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

20 ...

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

23 ...

24 6. Section 2236 of the Code states:

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

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

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

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

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

17 (a) For the purposes of denial, suspension or revocation of a license pursuant to Section 141
18 or Division 1.5 (commencing with Section 475) of the code, a crime, professional misconduct, or
19 act shall be considered to be substantially related to the qualifications, functions or duties of a
20 person holding a license if to a substantial degree it evidences present or potential unfitness of a
21 person holding a license to perform the functions authorized by the license in a manner consistent
22 with the public health, safety or welfare. Such crimes, professional misconduct, or acts shall
23 include but not be limited to the following: Violating or attempting to violate, directly or
24 indirectly, or assisting in or abetting the violation of, or conspiring to violate any provision of
25 state or federal law governing the applicant's or licensee's professional practice.”

26 (b) In making the substantial relationship determination required under subdivision (a) for a
27 crime, the board shall consider the following criteria:

28 (1) The nature and gravity of the crime;

- 1 (2) The number of years elapsed since the date of the crime; and
2 (3) The nature and duties of the profession.

3
4 **COST RECOVERY**

5 8. Section 125.3 of the Code states:

6 (a) Except as otherwise provided by law, in any order issued in resolution of a
7 disciplinary proceeding before any board within the department or before the
8 Osteopathic Medical Board, upon request of the entity bringing the proceeding, the
9 administrative law judge may direct a licensee found to have committed a violation or
10 violations of the licensing act to pay a sum not to exceed the reasonable costs of the
11 investigation and enforcement of the case.

12 (b) In the case of a disciplined licensee that is a corporation or a partnership, the
13 order may be made against the licensed corporate entity or licensed partnership.

14 (c) A certified copy of the actual costs, or a good faith estimate of costs where
15 actual costs are not available, signed by the entity bringing the proceeding or its
16 designated representative shall be prima facie evidence of reasonable costs of
17 investigation and prosecution of the case. The costs shall include the amount of
18 investigative and enforcement costs up to the date of the hearing, including, but not
19 limited to, charges imposed by the Attorney General.

20 (d) The administrative law judge shall make a proposed finding of the amount
21 of reasonable costs of investigation and prosecution of the case when requested
22 pursuant to subdivision (a). The finding of the administrative law judge with regard
23 to costs shall not be reviewable by the board to increase the cost award. The board
24 may reduce or eliminate the cost award, or remand to the administrative law judge if
25 the proposed decision fails to make a finding on costs requested pursuant to
26 subdivision (a).

27 (e) If an order for recovery of costs is made and timely payment is not made as
28 directed in the board's decision, the board may enforce the order for repayment in any
appropriate court. This right of enforcement shall be in addition to any other rights
the board may have as to any licensee to pay costs.

(f) In any action for recovery of costs, proof of the board's decision shall be
conclusive proof of the validity of the order of payment and the terms for payment.

(g) (1) Except as provided in paragraph (2), the board shall not renew or
reinstate the license of any licensee who has failed to pay all of the costs ordered
under this section.

(2) Notwithstanding paragraph (1), the board may, in its discretion,
conditionally renew or reinstate for a maximum of one year the license of any
licensee who demonstrates financial hardship and who enters into a formal agreement
with the board to reimburse the board within that one-year period for the unpaid
costs.

(h) All costs recovered under this section shall be considered a reimbursement
for costs incurred and shall be deposited in the fund of the board recovering the costs

1 to be available upon appropriation by the Legislature.

2 (i) Nothing in this section shall preclude a board from including the recovery of
3 the costs of investigation and enforcement of a case in any stipulated settlement.

4 (j) This section does not apply to any board if a specific statutory provision in
5 that board's licensing act provides for recovery of costs in an administrative
6 disciplinary proceeding.

7 **CAUSE FOR DISCIPLINE**

8 **(Conviction of a Crime and Unprofessional Conduct - Tax Evasion [26 U.S.C. 7201])**

9 9. Respondent Robert Jay Rowen, M.D. is subject to disciplinary action under section
10 2236, and section 2234, subdivision (e), in that he was convicted of a crime, and committed acts
11 of dishonesty or corruption, which were substantially related to the qualifications, functions, or
12 duties of a physician. The circumstances are as follows:

13 10. At the times relevant to this criminal conviction, Respondent practiced alternative
14 medicine at a clinic in Santa Rosa, California.

15 11. On or about September 26, 2019, in a case entitled, *United States of America v.*
16 *Robert Rowen and Teresa Su*, in the United States District Court, Northern District of California,
17 Case No. 19-cr-00468-CRB, Respondent was charged in an Indictment with one count of felony
18 tax evasion, in violation of 26 U.S.C. section 7201.

19 12. On or about January 16, 2020, in *United States of America v. Robert Rowen and*
20 *Teresa Su*, United States District Court, Northern District of California, Case No. 19-cr-00468-
21 CRB, Respondent was charged in a Superseding Indictment with one count of felony tax evasion,
22 in violation of 26 U.S.C. section 7201.

23 13. Respondent entered into a Plea Agreement (Plea Agreement) in *United States of*
24 *America v. Robert Rowen*, United States District Court, Northern District of California, Case No.
25 19-cr-00468-CRB. On or about September 29, 2021, Respondent signed the Plea Agreement.
26 The Plea Agreement was filed on October 13, 2021. In the Plea Agreement, Respondent agreed
27 to plead guilty to the charge of Tax Evasion in violation of 26 U.S.C. section 7201.

28 14. In this Plea Agreement, Respondent agreed that the elements of the offense to which
he was pleading guilty were (1) owing more federal income tax for tax years 1992 through 1997
and 2003 through 2008 than was paid; (2) knowing that he owed more federal income tax for

1 those periods than was paid; (3) making an affirmative attempt to evade or defeat the payment of
2 such additional tax; and (4) acting willfully in attempting to evade or defeat the payment of such
3 additional tax.

4 15. In Paragraph 2 of the Plea Agreement, Respondent agreed that he was guilty of the
5 offense to which he was pleading guilty, and that the following facts (summarized below) were
6 true:

- 7 • that as of September 26, 2019, Respondent owed federal income tax liabilities in the
8 amount of approximately \$1,209,587.63.
- 9 • that Respondent willfully attempted to evade payment of his tax liability by
10 committing various affirmative acts of evasion.
- 11 • that Respondent concealed income received in exchange for providing promotional
12 research and writing articles by incorporating an entity to receive income and use
13 those funds to purchase gold coins.
- 14 • that Respondent intentionally tried to conceal his ownership, management, and
15 financial interest in the entity by directing other individuals to receive and deposit
16 checks received for providing promotional research and writing articles into the
17 entity's account; sign and issue checks from the entity's account to a gold dealer for
18 gold purchases; and falsely represent on the entity's corporate documents and tax
19 forms that they were 99% shareholders of the company, even though they had no
20 ownership interest in the business, and Respondent exclusively directed payments of
21 funds and exercised day-to-day management and control over operations.
- 22 • that in order to conceal from the Internal Revenue Service ("IRS") the income that
23 he earned from his medical practice, from approximately January 2007 through
24 April 2014, Respondent instructed patients, either personally or through staff, to
25 make their checks for medical services payable to a gold dealer.
- 26 • that Respondent deposited these patient checks, along with other checks, into bank
27 accounts for a gold dealer, and pursuant to arrangements Respondent made with a
28

1 gold dealer, in exchange for these deposits, a gold dealer would send Respondent
2 gold and silver coins.

- 3 • that Respondent admitted he deposited these patient checks into these bank accounts
4 in order to conceal his assets from IRS collection.
- 5 • that between 2008 and 2013, Respondent used his income from providing
6 promotional research and writing articles, along with income from his medical
7 practice, to purchase more than \$3.7 million in gold and silver coins from a gold
8 dealer.

9 16. On January 26, 2022, Judgment was imposed in *United States of America v. Robert*
10 *Rowen*, in the United States District Court, Northern District of California, Case No. CR-19-
11 0468-CRB. The Judgment was filed on February 15, 2022. In the Judgment, Respondent pleaded
12 guilty to felony Tax Evasion under 26 U.S.C. section 7201.

13 17. On January 26, 2022, Respondent was sentenced to the federal Bureau of Prisons for
14 a term of 18 months, placed on supervised release for a term of 3 years under conditions, ordered
15 to pay \$100, ordered to pay restitution, ordered to pay a \$95,000 fine, and ordered to self-
16 surrender to the designated Bureau of Prisons facility on or before September 1, 2022.

17 18. In the United States Court of Appeals for the Ninth Circuit, Case No. 22-10072,
18 Respondent appealed the Judgment in *United States of America v. Robert Rowen*, in the United
19 States District Court, Northern District of California, Case No. CR-19-0468-CRB. In his Appeal,
20 Respondent attempted to challenge his conviction for Tax Evasion based on the voluntariness of
21 his plea. On August 23, 2022, the Ninth Circuit ordered that the government's motion for
22 summary affirmance was granted. The Judgment in *United States of America v. Robert Rowen*, in
23 the United States District Court, Northern District of California, Case No. CR-19-0468-CRB was
24 affirmed. The judgment of the Ninth Circuit was entered on August 23, 2022, and took effect on
25 September 14, 2022.

26 19. In the Plea Agreement, Respondent agreed to give up his right to appeal the Judgment
27 and all orders of the Court, reserving only the right to claim ineffective assistance of counsel and
28 the right to claim that his sentence violated the Plea Agreement, applicable law, or the

1 Constitution. Respondent violated the Plea Agreement when he filed his Appeal that challenged
2 the validity of the Plea Agreement itself. In the Plea Agreement, Respondent agreed that the facts
3 in Paragraph 2 of his Plea Agreement (which are summarized in Paragraph 18 of this Accusation)
4 shall be admissible against Respondent in any subsequent proceeding, including trial.

5 20. On or about September 1, 2022, Respondent was incarcerated in the United States
6 Federal Correctional Institution Sheridan, Satellite Camp, in Sheridan, Oregon. Respondent's
7 Physician's and Surgeon's Certificate Number G 39465 was suspended automatically by
8 operation of law pursuant to section 2236.1.

9 DISCIPLINARY CONSIDERATIONS

10 21. To determine the degree of discipline, if any, to be imposed on Respondent Robert
11 Jay Rowen, M.D., Complainant alleges that on or about August 11, 1998, in a prior disciplinary
12 action titled *In the Matter of the Accusation Against Robert Jay Rowen, M.D.*, Certificate # G-
13 39465, File No. 16-97-74289 before the Medical Board of California, Respondent's license was
14 disciplined when the Board issued a Decision ordering that Respondent is publicly reprimanded,
15 finding an allegation of conviction for federal tax obstruction to be true, pursuant to Section 2236
16 subdivision (a) of the Code. That Public Reprimand decision is now final and incorporated by
17 reference as if fully set forth herein.

18 PRAYER

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

21 1. Revoking or suspending Physician's and Surgeon's Certificate Number G 39465,
22 issued to Robert Jay Rowen, M.D.;

23 2. Revoking, suspending or denying approval of Robert Jay Rowen, M.D.'s authority to
24 supervise physician assistants and advanced practice nurses;

25 3. Ordering Robert Jay Rowen, M.D., to pay the Board the costs of the investigation and
26 enforcement of this case, and if placed on probation, the costs of probation monitoring;

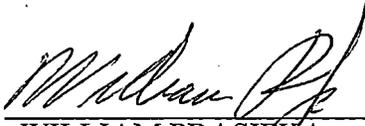
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4. Taking such other and further action as deemed necessary and proper.

DATED: OCT 07 2022



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

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