

Jamie Wright, J.D.
Chair Panel A

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8 *Attorneys for Complainant*

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

13 In the Matter of the Accusation Against:

Case No. 8002013001106

14 **EVA M. GENTILE, M.D.**
15 **2528 Los Amigos Street**
La Crescenta, CA 91214

OAH No. 2016120962

16 **Physician's and Surgeon's Certificate**
17 **No. A42926**

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

18 Respondent.

19
20 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
21 entitled proceedings that the following matters are true:

22 **PARTIES**

23 1. Kimberly Kirchmeyer (Complainant) is the Executive Director of the Medical Board
24 of California (Board). She brought this action solely in her official capacity and is represented in
25 this matter by Xavier Becerra, Attorney General of the State of California, by Jason J. Ahn,
26 Deputy Attorney General.

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2. Respondent Eva M. Gentile, M.D. (Respondent) is represented in this proceeding by attorney Kevin E. Gallagher, Esq., whose address is: 3 Hutton Centre, 9th Floor, Santa Ana, CA 92707.

JURISDICTION

3. On or about August 1, 1986, the Board issued Physician's and Surgeon's Certificate No. A42926 to Eva M. Gentile, M.D. (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. 8002013001106, and will expire on March 31, 2018, unless renewed.

4. Accusation No. 8002013001106 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 or about December 5, 2016. Respondent timely filed her Notice of Defense contesting the Accusation and requested a hearing.

5. A copy of Accusation No. 8002013001106 is attached as exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

6. Respondent has carefully read, fully discussed with counsel, and fully understands the charges and allegations in Accusation No. 8002013001106. Respondent has also carefully read, fully discussed with counsel, and fully understands the effects of this Stipulated Settlement and Disciplinary Order.

7. Respondent is fully aware of her legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to confront and cross-examine the witnesses against her; the right to present evidence and to testify on her 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.

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1 **CULPABILITY**

2 9. Respondent admits the truth of each and every charge and allegation in Accusation
3 No. 8002013001106.

4 10. Respondent agrees that her Physician's and Surgeon's Certificate is subject to
5 discipline and she agrees to be bound by the Board's probationary terms as set forth in the
6 Disciplinary Order below.

7 11. Respondent agrees that if she ever petitions for early termination or modification of
8 probation, or if an accusation and/or petition to revoke probation is filed against her before the
9 Medical Board of California, all of the charges and allegations contained in Accusation No.
10 80020131109 shall be deemed true, correct and fully admitted by Respondent for purposes of any
11 such proceeding or any other licensing proceeding involving Respondent in the State of
12 California.

13 **CONTINGENCY**

14 12. This stipulation shall be subject to approval by the Medical Board of California.
15 Respondent fully understands and agrees that counsel for Complainant and the staff of the
16 Medical Board of California may communicate directly with the Board regarding this stipulation
17 and settlement, without notice to or participation by Respondent or his counsel. By signing the
18 stipulation, Respondent fully understands and agrees that he may not withdraw his agreement or
19 seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board
20 fails to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary
21 Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal
22 action between the parties, and the Board shall not be disqualified from further action by having
23 considered this matter.

24 **ADDITIONAL PROVISIONS**

25 13. This Stipulated Settlement and Disciplinary Order is intended by the parties herein to
26 be an integrated writing representing the complete, final and exclusive embodiment of the
27 agreements of the parties in the above-entitled matter.

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14. The parties agree that copies of this Stipulated Settlement and Disciplinary Order, including copies of the signatures of the parties, may be used in lieu of original documents and signatures and, further, that such copies and signatures shall have the same force and effect as originals.

15. 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. A42926 issued to Respondent Eva M. Gentile, M.D. is revoked. However, the revocation is stayed and Respondent is placed on probation for seven (7) years on the following terms and conditions.

1. **STANDARD STAY ORDER**. However, revocation is stayed and Respondent is placed on probation for seven (7) years upon the following terms and conditions.

2. **COMMUNITY SERVICE - FREE SERVICES**. Within 60 calendar days of the effective date of this Decision, Respondent shall submit to the Board or its designee for prior approval a community service plan in which Respondent shall within the first 2 years of probation, provide 400 hours of free services (e.g., medical or nonmedical) to a community or non-profit organization. If the term of probation is designated for 2 years or less, the community service hours must be completed not later than 6 months prior to the completion of probation.

Prior to engaging in any community service Respondent shall provide a true copy of the Decision(s) to the chief of staff, director, office manager, program manager, officer, or the chief executive officer at every community or non-profit organization where Respondent provides community service and shall submit proof of compliance to the Board or its designee within 15 calendar days. This condition shall also apply to any change(s) in community service.

Community service performed prior to the effective date of the Decision shall not be accepted in fulfillment of this condition.

3. **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 1358.1. 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.

4. MONITORING - BILLING. Within 30 calendar days of the effective date of this Decision, Respondent shall submit to the Board or its designee for prior approval as a billing monitor(s), the name and qualifications of one or more licensed physicians and surgeons whose licenses are valid and in good standing, and who are preferably American Board of Medical Specialties (ABMS) certified. A monitor shall have no prior or current business or personal relationship with Respondent, or other relationship that could reasonably be expected to compromise the ability of the monitor to render fair and unbiased reports to the Board, including but not limited to, any form of bartering, shall be in Respondent's field of practice, and must agree to serve as Respondent's monitor. Respondent shall pay all monitoring costs.

The Board or its designee shall provide the approved monitor with copies of the Decision(s) and Accusation(s), and a proposed monitoring plan. Within 15 calendar days of receipt of the Decision(s), Accusation(s), and proposed monitoring plan, the monitor shall submit a signed

1 statement that the monitor has read the Decision(s) and Accusation(s), fully understands the role
2 of a monitor, and agrees or disagrees with the proposed monitoring plan. If the monitor disagrees
3 with the proposed monitoring plan, the monitor shall submit a revised monitoring plan with the
4 signed statement for approval by the Board or its designee.

5 Within 60 calendar days of the effective date of this Decision, and continuing throughout
6 probation, Respondent's billing shall be monitored by the approved monitor. Respondent shall
7 make all records available for immediate inspection and copying on the premises by the monitor
8 at all times during business hours and shall retain the records for the entire term of probation.

9 If Respondent fails to obtain approval of a monitor within 60 calendar days of the effective
10 date of this Decision, Respondent shall receive a notification from the Board or its designee to
11 cease the practice of medicine within three (3) calendar days after being so notified. Respondent
12 shall cease the practice of medicine until a monitor is approved to provide monitoring
13 responsibility.

14 The monitor(s) shall submit a quarterly written report to the Board or its designee which
15 includes an evaluation of Respondent's performance, indicating whether Respondent's practices
16 are within the standards of practice of billing, and whether Respondent is practicing medicine
17 safely, billing appropriately or both. It shall be the sole responsibility of Respondent to ensure
18 that the monitor submits the quarterly written reports to the Board or its designee within 10
19 calendar days after the end of the preceding quarter.

20 If the monitor resigns or is no longer available, Respondent shall, within 5 calendar days of
21 such resignation or unavailability, submit to the Board or its designee, for prior approval, the
22 name and qualifications of a replacement monitor who will be assuming that responsibility within
23 15 calendar days. If Respondent fails to obtain approval of a replacement monitor within 60
24 calendar days of the resignation or unavailability of the monitor, Respondent shall receive a
25 notification from the Board or its designee to cease the practice of medicine within three (3)
26 calendar days after being so notified Respondent shall cease the practice of medicine until a
27 replacement monitor is approved and assumes monitoring responsibility.

28 In lieu of a monitor, Respondent may participate in a professional enhancement program

1 approved in advance by the Board or its designee, that includes, at minimum, quarterly chart
2 review, semi-annual practice assessment, and semi-annual review of professional growth and
3 education. Respondent shall participate in the professional enhancement program at Respondent's
4 expense during the term of probation.

5 5. PROHIBITED PRACTICE. During probation, Respondent is prohibited from hiring
6 and/or working with and/or associating with any aestheticians. After the effective date of this
7 Decision, all patients being treated by the Respondent shall be notified that the Respondent is
8 prohibited from hiring and/or working with/ and or associating with any aestheticians. Any new
9 patients must be provided this notification at the time of their initial appointment.

10 Respondent shall maintain a log of all patients to whom the required oral notification was
11 made. The log shall contain the: 1) patient's name, address and phone number; patient's medical
12 record number, if available; 3) the full name of the person making the notification; 4) the date the
13 notification was made; and 5) a description of the notification given. Respondent shall keep this
14 log in a separate file or ledger, in chronological order, shall make the log available for immediate
15 inspection and copying on the premises at all times during business hours by the Board or its
16 designee, and shall retain the log for the entire term of probation.

17 6. NOTIFICATION. Within seven (7) days of the effective date of this Decision, the
18 Respondent shall provide a true copy of this Decision and Accusation to the Chief of Staff or the
19 Chief Executive Officer at every hospital where privileges or membership are extended to
20 Respondent, at any other facility where Respondent engages in the practice of medicine,
21 including all physician and locum tenens registries or other similar agencies, and to the Chief
22 Executive Officer at every insurance carrier which extends malpractice insurance coverage to
23 Respondent. Respondent shall submit proof of compliance to the Board or its designee within 15
24 calendar days.

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

26 7. SUPERVISION OF PHYSICIAN ASSISTANTS AND ADVANCED
27 PRACTICE NURSES. During probation, Respondent is prohibited from supervising
28 physician assistants and advanced-practice nurses.

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

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

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

9 10. GENERAL PROBATION REQUIREMENTS.

10 Compliance with Probation Unit

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

13 Address Changes

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

19 Place of Practice

20 Respondent shall not engage in the practice of medicine in Respondent's or patient's place
21 of residence, unless the patient resides in a skilled nursing facility or other similar licensed
22 facility.

23 License Renewal

24 Respondent shall maintain a current and renewed California physician's and surgeon's
25 license.

26 Travel or Residence Outside California

27 Respondent shall immediately inform the Board or its designee, in writing, of travel to any
28 areas outside the jurisdiction of California which lasts, or is contemplated to last, more than thirty

1 (30) calendar days.

2 In the event Respondent should leave the State of California to reside or to practice
3 Respondent shall notify the Board or its designee in writing 30 calendar days prior to the dates of
4 departure and return.

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

8 12. NON-PRACTICE WHILE ON PROBATION. Respondent shall notify the Board or
9 its designee in writing within 15 calendar days of any periods of non-practice lasting more than
10 30 calendar days and within 15 calendar days of Respondent's return to practice. Non-practice is
11 defined as any period of time Respondent is not practicing medicine in California as defined in
12 Business and Professions Code sections 2051 and 2052 for at least 40 hours in a calendar month
13 in direct patient care, clinical activity or teaching, or other activity as approved by the Board. All
14 time spent in an intensive training program which has been approved by the Board or its designee
15 shall not be considered non-practice. Practicing medicine in another state of the United States or
16 Federal jurisdiction while on probation with the medical licensing authority of that state or
17 jurisdiction shall not be considered non-practice. A Board-ordered suspension of practice shall
18 not be considered as a period of non-practice.

19 In the event Respondent's period of non-practice while on probation exceeds 18 calendar
20 months, Respondent shall successfully complete a clinical training program that meets the criteria
21 of Condition 18 of the current version of the Board's "Manual of Model Disciplinary Orders and
22 Disciplinary Guidelines" prior to resuming the practice of medicine.

23 Respondent's period of non-practice while on probation shall not exceed two (2) years.

24 Periods of non-practice will not apply to the reduction of the probationary term.

25 Periods of non-practice will relieve Respondent of the responsibility to comply with the
26 probationary terms and conditions with the exception of this condition and the following terms
27 and conditions of probation: Obey All Laws; General Probation Requirements; and Quarterly
28 Declarations.

1 13. COMPLETION OF PROBATION. Respondent shall comply with all financial
2 obligations (e.g., restitution, probation costs) not later than 120 calendar days prior to the
3 completion of probation. Upon successful completion of probation, Respondent's certificate shall
4 be fully restored.

5 14. VIOLATION OF PROBATION. Failure to fully comply with any term or condition
6 of probation is a violation of probation. If Respondent violates probation in any respect, the
7 Board, after giving Respondent notice and the opportunity to be heard, may revoke probation and
8 carry out the disciplinary order that was stayed. If an Accusation, or Petition to Revoke Probation,
9 or an Interim Suspension Order is filed against Respondent during probation, the Board shall have
10 continuing jurisdiction until the matter is final, and the period of probation shall be extended until
11 the matter is final.

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

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

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1 ACCEPTANCE

2 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
3 discussed it with my attorney, Kevin E. Gallagher, Esq.. I fully understand the stipulation and the
4 effect it will have on my Physician's and Surgeon's Certificate. I enter into this Stipulated
5 Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be
6 bound by the Decision and Order of the Medical Board of California.

7
8 DATED: 4/29/17

Eva M. Gentile
9 EVA M. GENTILE, M.D.
10 Respondent

11 I have read and fully discussed with Respondent Eva M. Gentile, M.D. the terms and
12 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.
13 I approve its form and content.

14 DATED: 4/29/17

Kevin E. Gallagher
15 KEVIN E. GALLAGHER, ESQ.
16 Attorney for Respondent

17 ENDORSEMENT

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

20 Dated:

Respectfully submitted,

21 XAVIER BECERRA
22 Attorney General of California
23 MATTHEW M. DAVIS
24 Supervising Deputy Attorney General

25 JASON J. AHN
26 Deputy Attorney General
27 Attorneys for Complainant
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DATED: _____
EVA M. GENTILE, M.D.
Respondent

DATED: _____

KEVIN E. GALLAGHER, ESQ.
Attorney for Respondent

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

Respectfully submitted,

XAVIER BECERRA
Attorney General of California
MATTHEW M. DAVIS
Supervising Deputy Attorney General

JASON J. AHN
Deputy Attorney General
Attorneys for Complainant

Exhibit A

Accusation No. 8002013001106

1 KAMALA D. HARRIS
Attorney General of California
2 MATTHEW M. DAVIS
Supervising Deputy Attorney General
3 JASON J. AHN
Deputy Attorney General
4 State Bar No. 253172
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7 Facsimile: (619) 645-2061

8 *Attorneys for Complainant*

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

13 In the Matter of the Accusation Against:

Case No. 8002013001106

14 **Eva Gentile, M.D.**
15 **2528 Los Amigos Street**
La Crescenta, CA 91214

ACCUSATION

16 **Physician's and Surgeon's Certificate**
17 **No. A42926**

18 Respondent.

19 Complainant alleges:

20 **PARTIES**

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

24 2. On or about August 1, 1986, the Medical Board issued Physician's and Surgeon's
25 Certificate Number A42926 to Eva Marie Gentile, 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 March 31, 2018, unless renewed.

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FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO Dec. 5 20 16
BY R. Firdaus **ANALYST**

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 (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, be publicly reprimanded, or have such other action taken in relation to discipline as the Board deems proper.

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

"The board shall take action against any licensee who is charged with unprofessional conduct.¹ 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. 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 Quality² of the pendency of an action against

¹ Unprofessional conduct under California Business and Professions Code section 2234 is conduct which breaches the rules of ethical code of the medical profession, or conduct which is unbecoming to a member in good standing of the medical profession, and which demonstrates an unfitness to practice medicine. (*Shea v. Board of Medical Examiners* (1978) 81 Cal.App.3d 564, 575.)

² "Division of Medical Quality" shall be deemed to refer to the Medical Board of California.

1 a licensee charging a felony or misdemeanor immediately upon obtaining
2 information that the defendant is a licensee. The notice shall identify the licensee
3 and describe the crimes charged and the facts alleged. The prosecuting agency
4 shall also notify the clerk of the court in which the action is pending that the
5 defendant is a licensee, and the clerk shall record prominently in the file that the
6 defendant holds a license as a physician and surgeon.

7 “(c) The clerk of the court in which a licensee is convicted of a crime
8 shall, within 48 hours after the conviction, transmit a certified copy of the record
9 of conviction to the board. The division may inquire into the circumstances
10 surrounding the commission of a crime in order to fix the degree of discipline or
11 to determine if the conviction is of an offense substantially related to the
12 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
14 contendere is deemed to be a conviction within the meaning of this section and
15 Section 2236.1. The record of conviction shall be conclusive evidence of the fact
16 that the conviction occurred.”

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

18 “For the purposes of denial, suspension or revocation of a license,
19 certificate or permit pursuant to Division 1.5 (commencing with Section 475) of
20 the code, a crime or act shall be considered to be substantially related to the
21 qualifications, functions or duties of a person holding a license, certificate or
22 permit under the Medical Practice Act if to a substantial degree it evidences
23 present or potential unfitness of a person holding a license, certificate or permit to
24 perform the functions authorized by the license, certificate or permit in a manner
25 consistent with the public health, safety or welfare. Such crimes or acts shall
26 include but not be limited to the following: Violating or attempting to violate,
27 directly or indirectly, or assisting in or abetting the violation of, or conspiring to
28 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 a Physician and Surgeon)**

8. Respondent has subjected her Physician's and Surgeon's Certificate No. A42926 to disciplinary action under sections 2227 and 2234, as defined by section 2236, of the Code, in that she has been convicted of a crime substantially related to the qualifications, functions, or duties of a physician and surgeon. The circumstances are as follows:

9. On or about December 6, 2013, a criminal complaint was filed against respondent in the case entitled *The People of the State of California v. Eva Marie Gentile et al.*, Superior Court of California, County of Orange, Case No. 13CF3822, charging respondent with the following counts:

A. Count 1-6

On or about and between January 1, 2004 and December 31, 2009, in violation of Section 550(a)(6) of the Penal Code (MEDICAL INSURANCE FRAUD), a FELONY, respondent, Ronald Keith McGee, David Ray Zachary, John Frederick Gentile, and Amirshahin Mandegari, with the intent to defraud, did knowingly and unlawfully make and cause to be made a false and fraudulent claim to various insurance companies for payment of a health care benefit in an amount exceeding four hundred dollars (\$400), and did aid and abet, solicit, and conspire with another to do the same.

B. Count 7

On or about and between January 1, 2004 and May 26, 2011, in violation of Section 182(a)(1) of the Penal Code (CONSPIRACY TO COMMIT A CRIME), a FELONY, respondent, Ronald Keith McGee, David Ray Zachary, John Frederick Gentile, and Amirshahin Mandegari did unlawfully conspire together and with another person, whose identity is unknown, to commit the crime of CONSPIRING IN, AIDING AND ABETTING THE UNAUTHORIZED PRACTICE OF MEDICINE, in violation of Section 2052(b) of the Business and Professions Code.

C. Count 8

On or about September 1, 2015, Count 8 was added by interlineation, which stated:

On or about and between January 1, 2004 and December 31, 2009, in violation of Section 2052(b) of the Business and Professions Code (AIDING AND ABETTING UNAUTHORIZED PRACTICE OF MEDICINE), a MISDEMEANOR, respondent, willfully and unlawfully conspired with John Gentile, David Zachary, and Ronald McGee to aid and abet Amirshahin Mandegari in the unlawful practice of medicine.

D. Special Allegations

a) It is further alleged pursuant to Penal Code section 186.11(a)(1)/(3) (AGGRAVATED WHITE COLLAR CRIME – OVER \$100,000), that as to counts 1, 2, 3, 4, 5, and 6, respondent, Ronald Keith McGee, David Ray Zachary, John Frederick Gentile, and Amirshahin Mandegari engaged in a pattern of related fraudulent felony conduct involving the taking of more than one hundred thousand dollars (\$100,000) but less than five hundred thousand dollars (\$500,000).

b) As to Count(s) 1, 2, 3, 4, 5, and 6, it is further alleged pursuant to Penal Code section 12022.6(a)(1) (PROPERTY DAMAGE / LOSS OVER \$65,000), that respondent, Ronald Keith McGee, David Ray Zachary, John Frederick Gentile and Amirshahin Mandegari intentionally took, damaged, and destroyed property valued in excess of sixty-five thousand dollars (\$65,000) during the commission and attempted commission of the above offense;

E. On or about September 1, 2015, respondent pled guilty to count 8. The rest of the counts and special allegations were dismissed by the People of the State of California.

F. On or about September 1, 2015, respondent was sentenced to, among other things, 160 hours of voluntary free medical care, restitution of \$166,230.87, three (3) years of probation, and various fines and fees.

SECOND CAUSE FOR DISCIPLINE

(Violation of the Medical Practice Act)

10. Respondent has further subjected her Physician's and Surgeon's Certificate No. A42926 to disciplinary action under sections 2227 and 2234, as defined by section 2234, subdivision (a), of the Code, in that she has violated or attempted to violate, directly or indirectly, or assisted in or abetted the violation of, or conspired to violate a provision of the Medical Practices Act, as more particularly alleged hereinafter:

(a) Paragraphs 8 through 9, above, are hereby incorporated by reference and realleged as if fully set forth herein.

THIRD CAUSE FOR DISCIPLINE

(General Unprofessional Conduct)

11. Respondent has further subjected her Physician's and Surgeon's Certificate No. A42926 to disciplinary action under sections 2227 and 2234, as defined by section 2234 of the Code, in that she has engaged in conduct which breaches the rules or ethical code of the medical profession, or conduct which is unbecoming to a member in good standing of the medical profession and which demonstrates an unfitness to practice medicine, as more particularly alleged hereinafter:

(a) Paragraphs 8 through 10, above, are hereby incorporated by reference and realleged as if fully set forth herein.

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PRAYER

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

1. Revoking or suspending Physician's and Surgeon's Certificate Number A 42926, issued to Eva Marie Gentile, M.D.;
2. Revoking, suspending or denying approval of Eva Marie Gentile, M.D.'s authority to supervise physician assistants, pursuant to section 3527 of the Code;
3. Ordering Eva Marie Gentile, M.D., if placed on probation, to pay the Board the costs of probation monitoring; and
4. Taking such other and further action as deemed necessary and proper.

DATED: December 5, 2016


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