

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

In the Matter of the Statement of Issues)
Against:)

File No. 800-2018-050915

OSCAR DANIEL LAZCANO

Applicant.

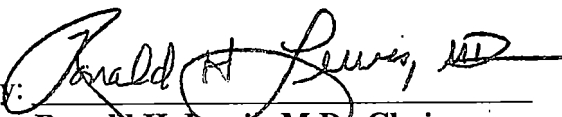
DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby accepted and 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 **December 4, 2019**, although the probation will not commence until the applicant completes any remaining requirements for licensure and the license is issued.

ORDERED: November 27, 2019

MEDICAL BOARD OF CALIFORNIA

By: 

Ronald H. Lewis, M.D., Chair
Panel A

1 XAVIER BECERRA
Attorney General of California
2 STEVE DIEHL
Supervising Deputy Attorney General
3 SARAH J. JACOBS
Deputy Attorney General
4 State Bar No. 255899
California Department of Justice
5 2550 Mariposa Mall, Room 5090
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7 *Attorneys for Complainant*

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

12 In the Matter of the Statement of Issues
13 Against:

14 **OSCAR DANIEL LAZCANO**

15 Applicant.

Case No. 800-2018-050915

16 OAH No. 2019060215

17 **STIPULATED SETTLEMENT AND**
18 **DISCIPLINARY ORDER**

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

21 **PARTIES**

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

26 2. Applicant Oscar Daniel Lazcano (Applicant) is represented in this proceeding by
27 attorney Dennis R. Thelen, Esq., whose address is: P.O. Box 12092, Bakersfield, CA 93389-
28 2092

3. On or about April 29, 2018, Applicant filed an application dated that same day with the Medical Board of California to obtain Physician's and Surgeon's license.

JURISDICTION

4. Statement of Issues No. 800-2018-050915 was filed before the Board, and is currently pending against Applicant. The Statement of Issues and all other statutorily required documents were properly served on Applicant on May 9, 2019.

5. A copy of Statement of Issues No. 800-2018-050915 is attached as Exhibit A and is incorporated herein by reference.

ADVISEMENT AND WAIVERS

6. Applicant has carefully read, fully discussed with counsel, and understands the charges and allegations in Statement of Issues No. 800-2018-050915. Applicant has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

7. Applicant is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Statement of Issues; 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. Applicant voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

CULPABILITY

9. Applicant admits the truth of each and every charge and allegation in Statement of Issues No. 800-2018-050915.

10. Applicant agrees that his application for a Physician's and Surgeon's license is subject to denial and he agrees to be bound by the Board's probationary terms as set forth in the Disciplinary Order below.

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1 completion of each course, the Board or its designee may administer an examination to test
2 Applicant's knowledge of the course. Applicant shall provide proof of attendance for 65 hours of
3 CME of which 40 hours were in satisfaction of this condition.

4 2. CLINICAL COMPETENCE ASSESSMENT PROGRAM. Within 60 calendar days
5 of the effective date of this Decision, Applicant shall enroll in a clinical competence assessment
6 program approved in advance by the Board or its designee. Applicant shall successfully complete
7 the program not later than six (6) months after Applicant's initial enrollment unless the Board or
8 its designee agrees in writing to an extension of that time.

9 The program shall consist of a comprehensive assessment of Applicant's physical and
10 mental health and the six general domains of clinical competence as defined by the Accreditation
11 Council on Graduate Medical Education and American Board of Medical Specialties pertaining to
12 Applicant's current or intended area of practice. The program shall take into account data
13 obtained from the pre-assessment, self-report forms and interview, and the Decision(s),
14 Accusation(s), and any other information that the Board or its designee deems relevant. The
15 program shall require Applicant's on-site participation for a minimum of three (3) and no more
16 than five (5) days as determined by the program for the assessment and clinical education
17 evaluation. Applicant shall pay all expenses associated with the clinical competence assessment
18 program.

19 At the end of the evaluation, the program will submit a report to the Board or its designee
20 which unequivocally states whether the Applicant has demonstrated the ability to practice safely
21 and independently. Based on Applicant's performance on the clinical competence assessment,
22 the program will advise the Board or its designee of its recommendation(s) for the scope and
23 length of any additional educational or clinical training, evaluation or treatment for any medical
24 condition or psychological condition, or anything else affecting Applicant's practice of medicine.
25 Applicant shall comply with the program's recommendations.

26 Determination as to whether Applicant successfully completed the clinical competence
27 assessment program is solely within the program's jurisdiction.

28 Applicant shall not practice medicine until Applicant has successfully completed the

1 program and has been so notified by the Board or its designee in writing.

2 Within 60 days after Applicant has successfully completed the clinical competence
3 assessment program, Applicant shall participate in a Professional Enhancement Program (PEP)
4 approved in advance by the Board or its designee, which shall include quarterly chart review,
5 semi-annual practice assessment, and semi-annual review of professional growth and education.
6 Applicant shall participate in the professional enhancement program at Applicant's expense
7 during the term of probation, or until the Board or its designee determines that further
8 participation is no longer necessary.

9 3. SOLO PRACTICE PROHIBITION. Applicant is prohibited from engaging in the
10 solo practice of medicine. Prohibited solo practice includes, but is not limited to, a practice
11 where: 1) Applicant merely shares office space with another physician but is not affiliated for
12 purposes of providing patient care, or 2) Applicant is the sole physician practitioner at that
13 location.

14 If Applicant fails to establish a practice with another physician or secure employment in an
15 appropriate practice setting within 60 calendar days of the effective date of this Decision,
16 Applicant shall receive a notification from the Board or its designee to cease the practice of
17 medicine within three (3) calendar days after being so notified. The Applicant shall not resume
18 practice until an appropriate practice setting is established.

19 If, during the course of the probation, the Applicant's practice setting changes and the
20 Applicant is no longer practicing in a setting in compliance with this Decision, the Applicant shall
21 notify the Board or its designee within five (5) calendar days of the practice setting change. If
22 Applicant fails to establish a practice with another physician or secure employment in an
23 appropriate practice setting within 60 calendar days of the practice setting change, Applicant shall
24 receive a notification from the Board or its designee to cease the practice of medicine within three
25 (3) calendar days after being so notified. The Applicant shall not resume practice until an
26 appropriate practice setting is established.

27 4. NOTIFICATION. Within seven (7) days of the effective date of this Decision, the
28 Applicant shall provide a true copy of this Decision and Accusation to the Chief of Staff or the

1 Chief Executive Officer at every hospital where privileges or membership are extended to
2 Applicant, at any other facility where Applicant engages in the practice of medicine, including all
3 physician and locum tenens registries or other similar agencies, and to the Chief Executive
4 Officer at every insurance carrier which extends malpractice insurance coverage to Applicant.
5 Applicant shall submit proof of compliance to the Board or its designee within 15 calendar days.

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

7 5. SUPERVISION OF PHYSICIAN ASSISTANTS AND ADVANCED PRACTICE
8 NURSES. During probation, Applicant is prohibited from supervising physician assistants and
9 advanced practice nurses.

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

13 7. QUARTERLY DECLARATIONS. Applicant shall submit quarterly declarations
14 under penalty of perjury on forms provided by the Board, stating whether there has been
15 compliance with all the conditions of probation.

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

18 8. GENERAL PROBATION REQUIREMENTS.

19 Compliance with Probation Unit

20 Applicant shall comply with the Board's probation unit.

21 Address Changes

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

27 Place of Practice

28 Applicant shall not engage in the practice of medicine in Applicant's or patient's place of

1 residence, unless the patient resides in a skilled nursing facility or other similar licensed facility.

2 License Renewal

3 Applicant shall maintain a current and renewed California physician's and surgeon's
4 license.

5 Travel or Residence Outside California

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

9 In the event Applicant should leave the State of California to reside or to practice,
10 Applicant shall notify the Board or its designee in writing 30 calendar days prior to the dates of
11 departure and return.

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

15 10. NON-PRACTICE WHILE ON PROBATION. Applicant shall notify the Board or its
16 designee in writing within 15 calendar days of any periods of non-practice lasting more than 30
17 calendar days and within 15 calendar days of Applicant's return to practice. Non-practice is
18 defined as any period of time Applicant is not practicing medicine as defined in Business and
19 Professions Code sections 2051 and 2052 for at least 40 hours in a calendar month in direct
20 patient care, clinical activity or teaching, or other activity as approved by the Board. If Applicant
21 resides in California and is considered to be in non-practice, Applicant shall comply with all
22 terms and conditions of probation. All time spent in an intensive training program which has
23 been approved by the Board or its designee shall not be considered non-practice and does not
24 relieve Applicant from complying with all the terms and conditions of probation. Practicing
25 medicine in another state of the United States or Federal jurisdiction while on probation with the
26 medical licensing authority of that state or jurisdiction shall not be considered non-practice. A
27 Board-ordered suspension of practice shall not be considered as a period of non-practice.

28 In the event Applicant's period of non-practice while on probation exceeds 18 calendar

1 months, Applicant shall successfully complete the Federation of State Medical Boards's Special
2 Purpose Examination, or, at the Board's discretion, a clinical competence assessment program
3 that meets the criteria of Condition 18 of the current version of the Board's "Manual of Model
4 Disciplinary Orders and Disciplinary Guidelines" prior to resuming the practice of medicine.

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

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

7 Periods of non-practice for Applicant residing outside of California will relieve Applicant
8 of the responsibility to comply with the probationary terms and conditions with the exception of
9 this condition and the following terms and conditions of probation: Obey All Laws; General
10 Probation Requirements; Quarterly Declarations; Abstain from the Use of Alcohol and/or
11 Controlled Substances; and Biological Fluid Testing.

12 11. COMPLETION OF PROBATION. Applicant shall comply with all financial
13 obligations (e.g., restitution, probation costs) not later than 120 calendar days prior to the
14 completion of probation. Upon successful completion of probation, Applicant's certificate shall
15 be fully restored.

16 12. VIOLATION OF PROBATION. Failure to fully comply with any term or condition
17 of probation is a violation of probation. If Applicant violates probation in any respect, the Board,
18 after giving Applicant notice and the opportunity to be heard, may revoke probation and carry out
19 the disciplinary order that was stayed. If an Accusation, or Petition to Revoke Probation, or an
20 Interim Suspension Order is filed against Applicant during probation, the Board shall have
21 continuing jurisdiction until the matter is final, and the period of probation shall be extended until
22 the matter is final.

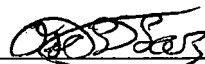
23 13. LICENSE SURRENDER. Following the effective date of this Decision, if Applicant
24 ceases practicing due to retirement or health reasons or is otherwise unable to satisfy the terms
25 and conditions of probation, Applicant may request to surrender his or her license. The Board
26 reserves the right to evaluate Applicant's request and to exercise its discretion in determining
27 whether or not to grant the request, or to take any other action deemed appropriate and reasonable
28 under the circumstances. Upon formal acceptance of the surrender, Applicant shall within 15

1 calendar days deliver Applicant's wallet and wall certificate to the Board or its designee and
2 Applicant shall no longer practice medicine. Applicant will no longer be subject to the terms and
3 conditions of probation. If Applicant re-applies for a medical license, the application shall be
4 treated as a petition for reinstatement of a revoked certificate.


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

9
10 ACCEPTANCE

11 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
12 discussed it with my attorney, Dennis R. Thelen, Esq. I understand the stipulation and the effect
13 it will have on my Physician's and Surgeon's Certificate. I enter into this Stipulated Settlement
14 and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the
15 Decision and Order of the Medical Board of California.

16
17 DATED: 9/20/19 
18 OSCAR DANIEL LAZCANO
19 Applicant

20 I have read and fully discussed with Applicant Oscar Daniel Lazcano the terms and
21 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.
22 I approve its form and content.

23
24 DATED: 9-21-19 
25 DENNIS R. THELEN, ESQ.
26 Attorney for Applicant
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ENDORSEMENT

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

DATED: 9-27-19

Respectfully submitted,

XAVIER BECERRA
Attorney General of California
STEVE DIEHL
Supervising Deputy Attorney General


SARAH J. JACOBS
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Statement of Issues No. 800-2018-050915

1 XAVIER BECERRA
Attorney General of California
2 STEVE DIEHL
Supervising Deputy Attorney General
3 SARAH J. JACOBS
Deputy Attorney General
4 Department of Justice
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5 California Department of Justice
2550 Mariposa Mall, Room 5090
6 Fresno, CA 93721
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Attorneys for Complainant.
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FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO May 9 20 19
BY K. Voong ANALYST

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

13 In the Matter of the Statement of Issues
14 Against:

Case No. 800-2018-050915

15 **OSCAR DANIEL LAZCANO**

STATEMENT OF ISSUES

16 Applicant.
17

18 Complainant alleges:

19 **PARTIES**

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

23 2. On or about April 29, 2018, the Medical Board of California, Department of
24 Consumer Affairs received an application for a Physician's and Surgeon's License from Oscar
25 Daniel Lazcano (Applicant). On or about June 3, 2018, Oscar Daniel Lazcano certified under
26 penalty of perjury to the truthfulness of all statements, answers, and representations in the
27 application.
28 \\\

3. On or about October 25, 2018, the Board denied Applicant's application for a Physician's and Surgeon's License.

4. On or about December 4, 2018, Application requested an administrative hearing to contest the denial of his application.

JURISDICTION

5. This Statement of Issues 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 Code¹ unless otherwise indicated.

6. Section 475 of the Code provides the grounds of the denial of licenses, which provides in pertinent part:

“(a) Notwithstanding any other provisions of this code, the provisions of this division shall govern the denial of licenses on the grounds of:

“[90]...[90]”

“(4) Commission of any act which, if done by a licentiate of the business or profession in question, would be grounds for suspension or revocation of license.

“[¶] . . . [¶]”

7. Section 480 of the Code provides the acts disqualifying an applicant, which states:

“(a) A board may deny a license regulated by this code on the grounds that the applicant has one of the following:

“[9]...[9]”

(3)(A) Done any act that if done by a licentiate of the business or profession in question, would be grounds for suspension or revocation of license.

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

“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:

¹ All further statutory references are to the Business and Professions Code, unless otherwise indicated.

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

3 “[¶] . . . [¶]”

4 “(d) Incompetence.

5 “[¶] . . . [¶]”

6 9. Section 2221 of the Codes provides the denial of a physician’s and surgeon’s
7 certificate, which states, in pertinent part:

8 “(a) The board may deny a physician’s and surgeon’s certificate to an applicant guilty of
9 unprofessional conduct or of any cause that would subject a licensee to revocation or suspension
10 of his or her license. The board in its sole discretion, may issue a probationary physician’s and
11 surgeon’s certificate to an applicant subject to terms and conditions, including, but not limited to,
12 any of the following conditions of probation:

13 “(1) Practice limited to a supervised, structured environment where the licensee’s
14 activities shall be supervised by another physician and surgeon.

15 “(2) Total or partial restrictions on drug prescribing privileges for controlled
16 substances.

17 “(3) Continuing medical or psychiatric treatment.

18 “(4) Ongoing participation in a specified rehabilitation program.

19 “(5) Enrollment and successful completion of a clinical training program.

20 “(6) Abstention from the use of alcohol or drugs.

21 “(7) Restrictions against engaging in certain types of medical practice.

22 “(8) Compliance with all provisions of this chapter.

23 “(9) Payment of the cost of probation monitoring.

24 “(b) The board may modify or terminate the terms and conditions imposed on the
25 probationary certificate upon receipt of a petition from the licensee. The board may assign the
26 petition to an administrative law judge designated in Section 11371 of the Government Code.
27 After a hearing on the petition, the administrative law judge shall provide a proposed decision to
28 the board.

1 "[] . . . []"

2 "(d) An applicant shall not be eligible to reapply for a physician's and surgeon's certificate
3 for a minimum of three years from the effective date of the denial of his or her application, except
4 that the board may, in its discretion and for good cause demonstrated, permit reapplication after
5 not less than one year has elapsed from the effective date of the denial."

6 10. Section 2004 of the Code provides the responsibility of the Board, which states, in
7 pertinent part:

8 "The board shall have the responsibility for the following:

9 "[] . . . []"

10 "(h) Issuing licenses and certificates under the board's jurisdiction.

11 "[] . . . []"

12 **FIRST CAUSE FOR DENIAL OF APPLICATION**

13 **(Unprofessional Conduct)**

14 11. Applicant's Physician's and Surgeon's License application is subject to denial under
15 sections 480, subdivision (a)(3)(A), section 2234, and section 2234, subdivision (d), on the
16 grounds that the Applicant has demonstrated conduct which, if done by a licentiate, would be
17 grounds for suspension or revocation of a license, i.e., unprofessional conduct and/or conduct
18 which indicates an unfitness to practice medicine. The circumstances are as follows:

19 12. On March 12, 2015, during Applicant's Anesthesiology Residency Program, the
20 Clinical Competence Committee Chair sent a letter to Applicant placing him "On Review," and
21 thereby more closely scrutinizing his performance. The letter described Applicant's performance
22 in the Residency program being evaluated as below what was expected for his level of training.
23 The letter noted Applicant's potential compromises to patient safety centering on his lack of
24 vigilance.

25 13. In a letter dated August 21, 2015, Dr. J.S., described meeting with Applicant to
26 discuss areas of concern about his residency performance. Specifically, Applicant placed an
27 epidural at 22:46, however there was no epidural check until the next morning at 06:24, after the
28 patient complained of discomfort. Next, Applicant administered a bolus of ropivacaine, but failed

1 to do an evaluation of the epidural's functioning, such as sensory levels or checking the patient's
2 pain level prior to administration of the local anesthetic bolus. Applicant admitted his failure to
3 do any additional assessment. After he was confronted, Applicant admitted that he did not
4 discuss the procedure with faculty. Applicant also was reported by a patient's family member for
5 failing to wear gloves when he removed the patient's dressing in order to assess the epidural and
6 failed to wear gloves when he removed of the epidural.

7 14. On October 22, 2015, the Clinical Competence Committee Chair sent a letter to
8 Applicant describing a September 23, 2015, meeting discussing Applicant's performance in the
9 Residency program. The letter described Applicant's missing or incomplete items including: 49
10 delinquent evaluations from his assigned faculty members, missing his Journal Club and Grand
11 Round attendance logs, failing to complete the Safety and Cultural Competency courses, and
12 failing to submit the hand-off card. The letter further detailed Applicant's six month milestones
13 regarding his skills and attributes in each level, and noted CA-2 residents are expected to achieve
14 a level of 2.5. Of Applicant's 16 milestones, none of them were at a level of 2.5 or greater. Only
15 three of Applicant's milestones were at a 1.5 level and the remainder were at the level of 1. The
16 letter also noted that Applicant's milestone achievements had regressed in the past six months in a
17 number of areas of previous achievement. The letter noted numerous areas of concern including:
18 inadequate preoperative evaluation (e.g., patients going to the OR without a pre-op being
19 completed, lack of awareness regarding patient history), inadequate preparation for cases, lack of
20 appropriate documentation (e.g., placing an epidural and not documenting the procedure),
21 performance of procedures without faculty knowledge, clinical care concerns (e.g., concerns
22 regarding Applicant's sterile technique), and unresponsiveness to feedback (e.g., impression that
23 Applicant is apathetic and not motivated to improve patient skills).

24 15. On November 5, 2015, the Anesthesiology Residency Program Director sent a letter
25 to Applicant informing him that he was being placed on academic probation. This was based on
26 Applicant's inadequate preoperative evaluation, inadequate preparation for cases, lack of
27 appropriate documentation, performance of procedures without faculty knowledge, clinical care
28 concerns, and unresponsiveness to feedback. Applicant was required to meet with his advisor

1 every week for the first month, and then every two weeks thereafter for the duration of his
2 academic probation.

3 16. On January 20, 2016, the Clinical Competence Committee Chair signed a Clinical
4 Competency Committee Report of Applicant's Residency program training period during July 1,
5 2015 to December 31, 2015. The report identified several deficiencies and areas of concern in
6 Applicant's performance related to inadequate and incomplete preoperative evaluations,
7 inadequate preparation for cases that included failing to provide necessary equipment for patient
8 care despite discussion with faculty prior to the procedure, a lack of appropriate documentation
9 related to patient care, and clinical care concerns.

10 17. On February 3, 2016, the Clinical Competency Committee met to discuss Applicant's
11 performance and continued his term of academic probation for another three months. On
12 February 17, 2016, the Committee wrote a letter to Applicant summarizing the meeting and
13 noting Applicant's continued knowledge deficits in failing to synthesize information into an
14 anesthetic plan and suboptimal preparation of cases. It was determined that Applicant failed to
15 follow the probationary terms of initiating and meeting with his advisor every week for the first
16 month and then every two weeks thereafter for the duration of his probation. Based on this
17 schedule, Applicant should have met with his advisor eight times; however, only four meetings
18 occurred. They found that Applicant failed to complete the terms of his academic probation.

19 18. On March 1, 2016, the Residency Program Director/Resident conducted a meeting
20 regarding Applicant. The minutes stated that the faculty voiced concerns over Applicant's level
21 of performance and assessments. Applicant was reported to be distracted and underperforming.

22 19. On March 1, 2016, the University sent a letter to Applicant, formally notifying him of
23 continuation of his probationary status for another three months. This was due to Applicant's
24 lack of demonstration of medical knowledge and his inability to synthesize it for patient care
25 consistent with a resident at his stage of training. It further described Applicant's not
26 demonstrating the ability to consistently and accurately assess patients and provide safe patient
27 care and Applicant's failure to meet the requirements from his previous academic probation.

28 \\\

1 20. On March 24, 2016, the American Board of Anesthesiology sent a letter to
2 Applicant's program director noting that Applicant received an unsatisfactory certificate of
3 clinical competence report for the term of July 1, 2015 to December 31, 2015.

4 21. On April 27, 2016, the Clinical Competence Committee sent a letter to Applicant
5 describing its March 23, 2016, meeting discussing Applicant's performance in the Residency
6 program. The letter described Applicant's missing or incomplete items including as follows:
7 update of case logs, completion of hand-off card, completion of attendance logs, and a plan for
8 his academic project. The letter further detailed Applicant's six month milestones regarding his
9 skills and attributes in each level, and noted CA-3 residents are expected to achieve a level of 3.
10 Of Applicant's 25 milestones, none of them were at a level of 3 or greater; only one milestone
11 was at the neighboring level of 2.5, and all other milestones were at or below 2.

12 22. In an email on May 13, 2016, the Department of Anesthesiology described
13 Applicant's failure to do a pre-operative evaluation on two complicated inpatient cardiac cases, as
14 well as his failure to delegate the evaluations. When questioned, Applicant stated that he did not
15 get a chance to see the patients. When asked why, Applicant responded, "Well, I guess I should
16 have." The cardiac patients were inpatient for two weeks and were placed on the anesthesiology
17 schedule the day before.

18 23. On June 3, 2016, the program director explained that the Clinical Competence
19 Committee recommended Applicant to be removed from probationary status and returned to
20 regular resident status in the Department of Anesthesiology.

21 24. On June 8, 2016, the program director sent an email noting that Applicant had failed
22 his CT rotation.

23 25. On June 14, 2016, the program director removed Applicant from academic probation
24 status.

25 26. On September 19, 2016, the program's Clinical Competence Committee Chair wrote
26 a letter to Applicant regarding their August 31, 2016 meeting discussing his performance in the
27 Anesthesiology Residency Program. The letter described Applicant's missing or incomplete
28 items including as follows: an academic project, update of case logs, BLS/ACLS certification

1 expiration, Blackboard Safety Module, Journal Club and Grand Rounds attendance logs. The
2 letter further detailed Applicant's six month milestones regarding his skills and attributes in each
3 level, and noted CA-3 residents are expected to achieve a 3.5 level. Of Applicant's 25
4 milestones, only one (Professionalism 4: Receiving and Giving Feedback) was at the expected
5 level of 3.5 or greater. However, the letter noted that Applicant had greatly improved in the past
6 six months, but still remained below the goal of 3.5. Several faculty evaluations commented on
7 specific areas for improvement including knowledge base, communication in the OR, and critical
8 thinking in terms of being more proactive and less reactive. Due to concerns noted on some
9 faculty evaluations, the Committee noted it would reassess Applicant's overall performance over
10 several months.

11 27. During that residency program, on or about October 3, 2016, Applicant was working
12 with his attending physician. Applicant prepared a patient and was setting up the instruments to
13 perform an anesthetic nerve block. The attending physician reviewed the patient's chart prior to
14 joining Applicant and the patient and noticed that the patient was taking a blood-thinner
15 medication. While Applicant was setting up his tray, the attending physician asked the patient if
16 she was taking any blood-thinner medication and she immediately responded affirmatively that
17 she was taking Plavix. Applicant admitted that he was not aware of the patient's blood-thinner
18 medication and he was unaware that the patient had taken the medication the day before. On
19 October 4, 2016, the faculty reported this incident.

20 28. On October 7, 2016, Applicant resigned from his residency program.

21 29. The Board received an application for a Physician's and Surgeon's Certificate from
22 Applicant, dated April 29, 2018. In the application, Applicant answered "yes" to questions 17,
23 20, and 22, which were in the Accreditation Counsel for Graduate Medical Education (ACGME)
24 section and dealt with Applicant's receiving partial or no credit during a postgraduate training
25 program, being placed on probation for any reason, and the use of limitations of special
26 requirements put in place for clinical professionalism, medical knowledge, discipline or any other
27 reason.

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1 30. On or about June 4, 2018, Applicant submitted to the Board a form entitled
2 "Explanation for Application Question." The form provided Applicant's detailed written
3 explanation to question number 17 on the application – "Have you ever received partial or no
4 credit for a postgraduate training program?" Applicant included his own explanation of his
5 probationary period during his Anesthesiology program. Applicant stated that during his CA-3
6 year, he resigned from the program for personal reasons. The form also provided Applicant's
7 detailed written explanation to question number 20 on the application – "Have you ever been
8 placed on probation for any reason?" Applicant included his own explanation of his academic
9 probation. Applicant's further detailed his written explanation to question number 22 on the
10 application – "Have you ever had any limitations or special requirements placed upon you for
11 clinical performance professionalism, medical knowledge, discipline, or for any other reason?"
12 Applicant included his own explanation of his performance and limitations placed on him during
13 his probation period.

14 **SECOND CAUSE FOR DENIAL OF APPLICATION**

15 **(Incompetence)**

16 31. Applicant's application is subject to denial under section 475, subdivision (a)(4),
17 section 480, subdivision (a)(3), section 2221, and section 2234, subdivision (d), on the grounds
18 that Applicant has demonstrated conduct which, if done by a licensee, would be grounds for
19 suspension or revocation of a license, i.e., unprofessional conduct and/or conduct which indicated
20 an unfitness to practice medicine, and incompetence. The circumstances are set forth in
21 paragraphs 11 through 31, which are incorporated as if set forth fully herein.

22 32. Applicant's acts and/or omissions set forth in paragraphs 11 through 30, inclusive,
23 above, whether proven individually, jointly, or in any combination thereof, constitute
24 incompetence, in violation of section 475, subdivision (a)(4), section 480, subdivision (a)(3),
25 section 2221, and section 2234, subdivision (d). Therefore, cause for denial of the Application
26 exists.

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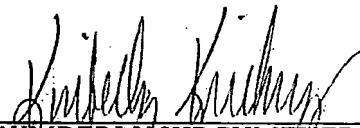
PRAYER

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. Denying the application of Oscar Daniel Lazcano for a Physician's and Surgeon's License;
2. If issued a probationary license, ordering Applicant to pay the Medical Board of California the costs of probation monitoring;
3. If placed on probation, revoking, suspending or denying approval of the Applicant's authority to supervise physician assistants and advanced practice nurses; and
4. Taking such other and further action as deemed necessary and proper.

DATED:

May 9, 2019


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

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