

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

In the Matter of the)	
Petition for Reinstatement)	
Against:)	
)	
Allan Lawrence Metzger, M.D.)	Case No. 800-2018-045224
)	
Physician's and Surgeon's)	
Certificate No. G22607)	
)	
Petitioner)	
_____)	

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 January 30, 2020.

IT IS SO ORDERED: December 31, 2019.

MEDICAL BOARD OF CALIFORNIA



**Kristina D. Lawson, J.D., Chair
Panel B**

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

In the Matter of the Petition for Reinstatement of:

ALLAN LAWRENCE METZGER, Petitioner

Agency Case No. 800-2018-045224

OAH No. 2019090282

PROPOSED DECISION

Matthew Goldsby, Administrative Law Judge, Office of Administrative Hearings (OAH), State of California, heard this matter on November 4, 2019, in Los Angeles, California.

Brenda P. Reyes, Deputy Attorney General, represented the Attorney General as authorized by Government Code section 11522.

Peter R. Osinoff and Edward Idell, Attorneys at Law, appeared and represented petitioner Allan Lawrence Metzger who was present throughout the hearing.

Oral and documentary evidence was received. The record was closed and the matter was submitted for decision on November 4, 2019.

FACTUAL FINDINGS

1. On July 12, 1972, the Medical Board of California (Board) issued Physician's and Surgeon's Certificate Number G 22607 to petitioner.

2. On May 20, 2013, the Executive Director of the Board filed an Accusation against petitioner alleging that, on October 15, 2012, petitioner was convicted of sexual exploitation of a patient in violation of Business and Professions Code section 729, subdivision (a), and battery in violation of Penal Code section 242. The court placed petitioner on probation for 36 months and ordered him to surrender his medical license in writing to the Board and not to practice medicine as a doctor in any capacity. Petitioner testified that he met all conditions of his criminal probation, including a requirement that he undergo an independent psychiatric evaluation, as supplemented and explained by the letter of Richard E. Kettler, M.D., Ph.D. (Exhibit M.)

3. Petitioner testified about the facts and circumstances of the conviction as follows: Late in the day on November 23, 2011, petitioner had a scheduled office visit with a female patient who was in her late 30's or early 40's. Petitioner had treated the patient for over 17 years and he described her as "always emotional, but she was particularly upset that day" because her mother was cutting off financial support. Petitioner testified that they talked for approximately 15 minutes and that the patient was fully clothed the entire time, except that she had removed her shoes. At the end of their conversation, the patient stood up to collect her things from a side table and "immediately burst into tears." Petitioner testified that, intending to console the patient, he approached her from behind and reached out his hands to put them on her waist when she "slithered down" to adjust her socks and, as a result, petitioner's hands touched both of the patient's breasts. Petitioner testified that they both reacted to the

incident with shock, and that he promptly stated it was an accident and apologized to the patient. The patient left the office without complaint, but also without following petitioner's direction to make a follow-up appointment.

4. Complainant presented a police report taken by a police officer on December 8, 2011, when the patient allegedly walked into a police station to report the incident described at Factual Finding 3. The officer made a written record of the following allegations made by the patient to the officer: that petitioner "gave her a hug and put one of his hands up her shirt"; that petitioner told the patient "they [should] close the door so they could have some fun"; and that petitioner "walked up behind the [patient], reached around her, and grabbed both of her breasts, with both hands on the outside of her shirt . . . [and] pressed his pelvis against her rear area." (Exhibit 16.) On cross examination, petitioner denied the truth of the matters asserted in the police report.¹ Petitioner's direct testimony is entitled to greater weight than the officer's written report containing the unsworn statements of the patient for the

¹ The police report was admitted as administrative hearsay subject to *Lake v. Reed* (1997) 16 Cal.4th 448, which held that a relevant police report is admissible as follows: (1) An uncertified police report is excepted from the hearsay rule under the public employee records exception and any matter directly observed by the reporting officer may be used for all evidentiary purposes; (2) any admission petitioner made to the reporting police officer is admissible under the party admission exception to the hearsay rule and may be used for all evidentiary purposes; and (3) the arresting officer's report containing the unsworn observations of witnesses, although hearsay, may be used to supplement or explain other direct evidence. (Gov. Code, § 11513, subd. (d).)

following reasons: Petitioner testified under oath and subject to cross examination whereas neither the patient nor the officer appeared and testified under oath and subject to cross examination; Petitioner denied the allegations made in the out-of-court statements, directly controverting the facts of the hearsay evidence; and the Attorney General presented no direct evidence to corroborate the patient's hearsay allegations. Because the direct evidence of one witness who is entitled to full credit is sufficient for proof of any fact, petitioner's testimony of the incident is accepted over the hearsay evidence in the police report. (Evid. Code, § 411.)

5. On October 14, 2014, petitioner executed a Stipulated Settlement and Disciplinary Order, in which he admitted the truth of the allegations contained in the Accusation pertaining to the conviction, agreed that his license was subject to discipline, and surrendered his certificate for the Board's formal acceptance.

6. On December 16, 2014, the Board adopted the Stipulated Settlement and Disciplinary Order as its Decision and Order, accepting the surrender of petitioner's license effective December 23, 2014 (Disciplinary Order). Petitioner was not ordered to undergo an independent psychiatric evaluation by an examiner approved by the Board.

7. On June 21, 2019, petitioner filed a petition for reinstatement of his license. Petitioner supported the petition with his written explanation about the causes for discipline against his certificate, his curriculum vitae, proof of rehabilitation, and two letters of recommendation by licensed medical doctors.

8. As proof of rehabilitation, petitioner presented evidence that, in January 2012, he began therapy at the Center for Healthy Sex for issues related to sexuality

and professional boundaries. Petitioner's participation in the program was voluntary and not ordered by the court or the Board.

9. On March 15, 2016, petitioner completed a professional monitoring program with Pacific Assistance Group, under the direction of Tracy R. Zemansky, Ph.D., a licensed clinical psychologist. Petitioner complied with the program requirements, including attending once or twice-weekly 90-minute healthcare professionals support group meetings and attending at least three community-based self-help meetings per week. Petitioner's participation in the program was voluntary and not ordered by the court or the Board.

10. Before the 2011 incident described at Factual Finding 3, petitioner had undergone therapy relating to sexual behavior affecting his marriage. Petitioner testified that he had been unfaithful to his wife, and sought treatment "to look into [his] overall behavior." On September 13, 2009, petitioner admitted himself into an inpatient program at Sierra Tucson, a special hospital in Arizona with 15 acute psychiatric beds and a "Level 2 Behavioral Health Residential 124 bed Agency." (Exhibit 6.) Petitioner was discharged from treatment on October 10, 2009.

11. On November 11, 2011, petitioner successfully completed a three-day course entitled "Maintaining Proper Boundaries" at Santé Center for Healing. The course focused "particularly on sexual boundary issues: including sexual boundary transgressions and interpersonal sexual boundary violations." (Exhibit 9.) Petitioner enrolled in the course because he was "upset that he had dated the mother of a patient." The rehabilitation activity occurred before the 2011 incident described at Factual Finding 3 and the conviction in October 2012.

12. Petitioner sought therapeutic care from Lawrence E. Newman, M.D., a licensed and board-certified psychiatrist. From 2010 until about one year ago, petitioner underwent therapy with Dr. Newman every one to three weeks on average, which continued after the incident with the patient in November 2011 and the conviction in October 2012. On May 12, 2018, Dr. Newman made the following observation in a written report:

[A]fter initially experiencing great humiliation and regret at his sexual battery behavior, [petitioner] has diligently worked on understanding his past issues and behaviors. He has progressed in therapy from remorsefulness to being more respectful of women, is in a five-year faithful relationship [as of May 12, 2018], and has had no private or risk-related instances of inappropriate and/or sexually deviant behavior. I am not aware of any contradictory behavior to his strong commitment to becoming an honest and respectful member of society.

(Exhibit 4.)

13. At hearing, petitioner testified that he works as the president and chief financial officer of RDL Reference Laboratory. He is not on record as a medical director of the laboratory with the Department of Public Health. (Exhibit Q.) Petitioner seeks reinstatement of his license to further develop the laboratory's research activities, not to return to the clinical practice of medicine. Petitioner submitted a list of educational courses he has voluntarily taken since the 2011 incident to stay current on the practice of rheumatology. None of the courses petitioner has taken since the 2011 incident have included the subject of professional boundaries.

14. Jay J. Stein, M.D., F.A.C.S., recommended petitioner's reinstatement in writing and by testifying at the hearing. Dr. Stein has been a licensee in good standing for 44 years and has known petitioner since 1975. Dr. Stein testified that he and petitioner are close friends, that they have traveled together with their respective spouses, and that he has socialized with petitioner and his current girlfriend. Dr. Stein testified that he knew petitioner had lost his license and underwent treatment and therapy for sexual addiction, but that he did not know the details of the allegations in the accusation until days before the hearing. Dr. Stein testified that petitioner's reputation for honesty and truthfulness are excellent.

15. E. Robert Harris, M.D., recommended petitioner's reinstatement in writing and by testifying at the hearing. Dr. Harris has been a licensee in good standing since 1972, the year he first met petitioner. Dr. Harris testified that he and petitioner are close friends, that petitioner confided in him when the criminal charges were brought against petitioner, and that he knew about the allegations in the accusation many years ago. Dr. Harris testified and wrote that petitioner became dedicated to changing his moral compass in his personal and professional life, and that Dr. Harris has "seen [petitioner] become more empathetic, an absolutely faithful, committed partner, and a very much more introspective human being." (Exhibit 2). Dr. Harris testified that petitioner's reputation for honesty and truthfulness are excellent.

16. On September 20, 2000, the Board issued a Public Letter of Reprimand against petitioner's license because petitioner "engaged in fraudulent medical practice based on prescriptions written for an international entertainer using a false/fictitious name." (Exhibit 13.)

LEGAL CONCLUSIONS

1. A person whose certificate was surrendered while under investigation or while charges were pending may petition the Board for reinstatement. (Bus. & Prof. Code, § 2307, subd. (a).) The burden is on petitioner to prove rehabilitation and that he is entitled to have his license restored. (*Flanzer v. Board of Dental Examiners* (1990) 220 Cal.App.3d 1392, 1398.)

2. A petition for reinstatement of a surrendered license must be filed after at least three years have elapsed from the effective date of the decision ordering that disciplinary action. (Bus. & Prof. Code, § 2307, subd. (b).) A petition must be accompanied by at least two verified recommendations from licensed physicians with personal knowledge of the petitioner's activities since the disciplinary penalty was imposed. (Bus. & Prof. Code, § 2307, subd. (c).)

3. A person seeking reinstatement must present strong proof of rehabilitation and the showing of rehabilitation must be sufficient to overcome the Board's former adverse determination. The standard of proof is clear and convincing evidence. (*Housman v. Board of Medical Examiners* (1948) 84 Cal.App.2d, 308, 315-316.)

4. California Code of Regulations, title 16, section 1360.2, sets forth the following criteria by which evidence of rehabilitation must be evaluated when considering a petition for reinstatement of a revoked or surrendered license:

A. The nature and severity of the acts or crimes under consideration as grounds for denial.

B. Evidence of any acts or crimes committed subsequent to the acts or crimes under consideration as grounds for denial which also could be considered as grounds for denial under Business and Professions Code section 480.²

C. The time that has elapsed since the commission of the acts or crimes under consideration.

D. In the case of a revocation based upon the conviction of a crime: (1) the total criminal record; (2) whether the licensee, certificate or permit holder has complied with any terms of parole, probation, restitution or any other sanctions lawfully imposed against such person; and (3) evidence of expungement proceedings pursuant to Penal Code section 1203.4. (Cal. Code Regs., tit. 16, § 1360.1.)

E. Evidence, if any, of rehabilitation submitted by the applicant.

5. Rehabilitation is a state of mind and the law looks with favor upon rewarding one who has achieved reformation and regeneration with the opportunity to serve. (*Hightower v. State Bar* (1983) 34 Cal.3d 150, 157.) Cases authorizing reinstatement to a professional practice commonly involve a substantial period of

² Business and Professions Code section 480 provides: "A board may deny a license regulated by this code on the grounds that the applicant has one of the following: (1) Been convicted of a crime. . . . (2) Done any act involving dishonesty, fraud, or deceit with the intent to substantially benefit himself or herself or another, or substantially injure another. (3) 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 . . . only if the crime or act is substantially related to the qualifications, functions, or duties of the business or profession for which application is made."

exemplary conduct following the misdeeds. The more serious the misconduct, the stronger the showing of rehabilitation must be. (*In re Gossage* (2000) 23 Cal.4th 1080, 1098.)

6. In this case, the nature of the acts resulting in the discipline of petitioner's license involved sexual misconduct with a patient. The misconduct was severe, warranting criminal prosecution and a conviction of two crimes. Petitioner voluntarily engaged in therapeutic activities not ordered by the Board or any court, but with a personal commitment to controlling inappropriate impulses that may have influenced his past misconduct. Although some of the rehabilitation activities occurred before the 2011 incident and conviction, and were insufficient to fully rehabilitate petitioner by the time of the incident, the evidence nonetheless exhibits an acknowledgement of some wrongdoing and good faith efforts to reform his behavior. Over the course of the past eight years, there is no evidence to show any recurrence of sexually deviant behavior or that petitioner has committed any other acts or crimes which could be considered as grounds for denial of licensure under Business and Professions Code section 480. "The evidentiary significance of . . . misconduct is greatly diminished by the passage of time and by the absence of similar, more recent misconduct." (*Kwasnik v. State Bar* (1990) 50 Cal.3d 1061, 1070.)

7. Protection of the public is the highest priority for the Board in exercising its disciplinary authority and is paramount over other interests in conflict with that objective. (Bus. & Prof. Code, § 2001.1.) The Board previously took disciplinary action against petitioner's certificate to protect the public, and petitioner surrendered his certificate while charges were pending. Petitioner filed for reinstatement of his surrendered license more than four and a half years after the effective date of the Board's acceptance of the surrendered certificate, and the petition is supported by the

verified recommendations of E. Robert Harris, M.D., and Jay J. Stein, M.D., two licensed physicians with personal knowledge of petitioner's activities since the disciplinary penalty was imposed. By clear and convincing evidence, petitioner presented strong proof of rehabilitation, sufficient to overcome the Board's former adverse determination.

8. Accordingly, the requested penalty relief shall be granted subject to protective and remedial terms of probation. Petitioner credibly testified that he intends to use his licensure to develop the research activities of RDL Reference Laboratory, and not to engage in the clinical practice of medicine. Therefore, petitioner argues that term of completing a clinical competence assessment program should be imposed only as a condition precedent to petitioner's return to practice. However, petitioner's argument fails to address how the Board will be able to assure petitioner's competency to practice after probation ends. Upon satisfying the terms of probation, petitioner's reinstated certificate will grant him the authority to actively practice medicine, but the Board will no longer have jurisdiction to evaluate his fitness to practice.

9. A physician's and surgeon's certificate authorizes the holder to use drugs or devices in or upon human beings and to sever or penetrate the tissues of human beings and to use any and all other methods in the treatment of diseases, injuries, deformities, and other physical and mental conditions. (Cal. Bus. & Prof. Code, § 2051.) Accordingly, petitioner will be ordered to meet all qualifications to hold a medical license, even if he intends to hold it for reasons unrelated to the clinical practice of medicine. Because the Board never ordered petitioner to undergo a psychiatric evaluation and petitioner discontinued psychotherapy with Dr. Newman about one year ago, a psychiatric evaluation shall be a condition of probation. Because petitioner

completed a professional boundaries course before the 2011 incident, and none of the courses petitioner has taken since the 2011 incident have included the subject of professional boundaries, petitioner shall be required to enroll in a professional boundaries course and he shall be required to have a third party chaperone present while consulting with, examining, or treating any female patient during the period of probation.

10. If petitioner satisfactorily complies with all terms of probation for three years, more than 10 years will have elapsed since the 2011 incident without evidence of unlawful sexual behavior. Accordingly, a three-year term of probation shall be sufficient to establish full rehabilitation and to protect the public.

ORDER

The petition of Allan Lawrence Metzger for reinstatement of his surrendered certificate is granted. Physician's and Surgeon's Certificate number G 22607 shall be reinstated and immediately revoked. However, the revocation is stayed and petitioner is placed on probation for three years upon the following terms and conditions:

1. Clinical Competency Program

Within 120 calendar days of the effective date of this Decision, petitioner shall enroll in a clinical competence assessment program approved in advance by the Board or its designee. Petitioner shall successfully complete the program not later than six months after petitioner's initial enrollment unless the Board or its designee agrees in writing to an extension of that time.

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

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

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

Petitioner shall not practice medicine until petitioner has successfully completed the program and has been so notified by the Board or its designee in writing.

2. Psychiatric Evaluation

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

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

Petitioner shall not engage in the practice of medicine until notified by the Board or its designee that petitioner is mentally fit to practice medicine safely. The period of time that petitioner is not practicing medicine shall not be counted toward completion of the term of probation.

3. Professional Boundaries

Within 60 calendar days from the effective date of this Decision, petitioner shall enroll in a professional boundaries program approved in advance by the Board or its designee. Petitioner, at the program's discretion, shall undergo and complete the program's assessment of petitioner's competency, mental health and/or neuropsychological performance, and at minimum, a 24-hour program of interactive education and training in the area of boundaries, which takes into account data

obtained from the assessment and from the Decision, Accusation and any other information that the Board or its designee deems relevant. The program shall evaluate petitioner at the end of the training and the program shall provide any data from the assessment and training as well as the results of the evaluation to the Board or its designee.

Failure to complete the entire program not later than six months after petitioner's initial enrollment shall constitute a violation of probation unless the Board or its designee agrees in writing to a later time for completion. Based on Petitioner's performance in and evaluations from the assessment, education, and training, the program shall advise the Board or its designee of its recommendations for additional education, training, psychotherapy and other measures necessary to ensure that petitioner can practice medicine safely. Petitioner shall comply with program recommendations. At the completion of the program, petitioner shall submit to a final evaluation. The program shall provide the results of the evaluation to the Board or its designee. The professional boundaries program shall be at petitioner's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

The program has the authority to determine whether or not petitioner successfully completed the program.

A professional boundaries course 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 course would have been approved by the Board or its designee had the course been taken after the effective date of this Decision.

Petitioner shall not practice medicine until petitioner has successfully completed the program and has been so notified by the Board or its designee in writing.

4. Third Party Chaperone

During probation, petitioner shall have a third party chaperone present while consulting, examining or treating female patients. Petitioner shall, within 30 calendar days of the effective date of the Decision, submit to the Board or its designee for prior approval the name of each person who will act as the third party chaperone.

If petitioner fails to obtain approval of a third party chaperone within 60 calendar days of the effective date of this Decision, petitioner shall receive a notification from the Board or its designee to cease the practice of medicine within three calendar days after being so notified. Respondent shall cease the practice of medicine until a chaperone is approved to provide monitoring responsibility.

Each third party chaperone shall sign (in ink or electronically) and date each patient medical record at the time the chaperone's services are provided. Each third party chaperone shall read the Decision and the Accusation, and fully understand the role of the third party chaperone.

Petitioner shall maintain a log of all patients seen for whom a third party chaperone is required. The log shall contain the: 1) patient initials, address and telephone number; 2) medical record number; and 3) date of service. Petitioner shall keep this log in a separate file or ledger, in chronological order, shall make the log available for immediate inspection and copying on the premises at all times during business hours by the Board or its designee, and shall retain the log for the entire term of probation.

Petitioner is prohibited from terminating employment of a Board-approved third party chaperone solely because that person provided information as required to the Board or its designee.

If the third party chaperone resigns or is no longer available, petitioner shall, within five calendar days of such resignation or unavailability, submit to the Board or its designee, for prior approval, the name of the person(s) who will act as the third party chaperone. If petitioner fails to obtain approval of a replacement chaperone within 30 calendar days of the resignation or unavailability of the chaperone, petitioner shall receive a notification from the Board or its designee to cease the practice of medicine within three calendar days after being so notified. Petitioner shall cease the practice of medicine until a replacement chaperone is approved and assumes monitoring responsibility.

5. Notice of Employer or Supervisor Information

Within seven days of the effective date of this Decision, petitioner shall provide to the Board the names, physical addresses, mailing addresses, and telephone numbers of any and all employers and supervisors. Petitioner shall also provide specific, written consent for the Board, petitioner's worksite monitor, and petitioner's employers and supervisors to communicate regarding petitioner's work status, performance, and monitoring.

For purposes of this section, "supervisors" shall include the Chief of Staff and Health or Well Being Committee Chair, or equivalent, if applicable, when petitioner has medical staff privileges.

6. Notification

Prior to engaging in the practice of medicine petitioner shall provide a true copy of this Decision and Order to the Chief of Staff or the Chief Executive Officer at every hospital where privileges or membership are extended to petitioner, at any other facility where petitioner engages in the practice of medicine, including all physician and locum tenens registries or other similar agencies, and to the Chief Executive Officer at every insurance carrier which extends malpractice insurance coverage to petitioner. Petitioner shall submit proof of compliance to the Board or its designee within 15 calendar days. This condition shall apply to any change in hospitals, other facilities, or insurance carrier.

7. Supervision of Physician Assistants

During probation, petitioner is prohibited from supervising physician assistants.

8. Obey All Laws

Petitioner shall obey all federal, state and local laws, all rules governing the practice of medicine in California and remain in full compliance with any court-ordered criminal probation, payments, and other orders.

9. Quarterly Declarations

Petitioner shall submit quarterly declarations under penalty of perjury on forms provided by the Board, stating whether there has been compliance with all the conditions of probation. Petitioner shall submit quarterly declarations not later than 10 calendar days after the end of the preceding quarter.

10. General Probation Requirements

Compliance with Probation Unit. Petitioner shall comply with the Board's probation unit.

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

Place of Practice. Petitioner shall not engage in the practice of medicine in petitioner's or patient's place of residence, unless the patient resides in a skilled nursing facility or other similar licensed facility.

License Renewal. Petitioner shall maintain a current and renewed California physician's and surgeon's license.

Travel or Residence Outside California. Petitioner shall immediately inform the Board or its designee, in writing, of travel to any areas outside the jurisdiction of California which lasts, or is contemplated to last, more than 30 calendar days. In the event petitioner should leave the State of California to reside or to practice, petitioner shall notify the Board or its designee in writing 30 calendar days prior to the dates of departure and return.

11. Interview with the Board or Its Designee

Petitioner shall be available in person for interviews either at petitioner's place of business or at the probation unit office, with the Board or its designee upon request

at various intervals and either with or without prior notice throughout the term of probation.

12. Non-practice While on Probation

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

In the event petitioner's period of non-practice while on probation exceeds 18 calendar months, petitioner shall successfully complete the Federation of State Medical Board's Special Purpose Examination, or, at the Board's discretion, a clinical competence assessment program that meets the criteria of Condition 18 of the current version of the Board's "Manual of Model Disciplinary Orders and Disciplinary Guidelines" prior to resuming the practice of medicine.

Petitioner's period of non-practice while on probation shall not exceed two years.

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

Periods of non-practice for a petitioner residing outside of California, will relieve petitioner of the responsibility to comply with the probationary terms and conditions with the exception of this condition and the following terms and conditions of probation: Obey All Laws; General Probation Requirements; Quarterly Declarations.

13. Violation of Probation

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

14. License Surrender

Following the effective date of this Decision, if petitioner ceases practicing due to retirement or health reasons or is otherwise unable to satisfy the terms and conditions of probation, petitioner may request to surrender his license. The Board reserves the right to evaluate petitioner's request and to exercise its discretion in determining whether or not to grant the request, or to take any other action deemed appropriate and reasonable under the circumstances. Upon formal acceptance of the surrender, petitioner shall within 15 calendar days deliver petitioner's wallet and wall

certificate to the Board or its designee and petitioner shall no longer practice medicine. Petitioner will no longer be subject to the terms and conditions of probation. If petitioner re-applies for a medical license, the application shall be treated as a petition for reinstatement of a revoked certificate.

15. Probation Monitoring Costs

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

16. Completion of Probation

Petitioner shall comply with all financial obligations (e.g., restitution, probation costs) not later than 120 calendar days prior to the completion of probation. Upon successful completion of probation, petitioner's certificate shall be fully restored.

DATE: November 19, 2019

DocuSigned by:
Matthew Goldsby
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MATTHEW GOLDSBY

Administrative Law Judge

Office of Administrative Hearings