

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

In the Matter of the Accusation and
Petition to Revoke Probation Against:

Case No. 800-2020-064104

Douglas Alvin Schaller, M.D.

Physician's and Surgeon's
Certificate No. G 61159

Respondent.

DECISION

The attached Stipulated Settlement and Disciplinary Order is hereby adopted as the Decision and Order of the Medical Board of California, Department of Consumer Affairs, State of California.

This Decision shall become effective at 5:00 p.m. on September 24, 2020.

IT IS SO ORDERED: August 25, 2020.

MEDICAL BOARD OF CALIFORNIA



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

1. XAVIER BECERRA
Attorney General of California
2 JUDITH T. ALVARADO
Supervising Deputy Attorney General
3 REBECCA L. SMITH
Deputy Attorney General
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9 **BEFORE THE**
MEDICAL BOARD OF CALIFORNIA
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12
13 In the Matter of the Accusation/Petition to
Revoke Probation Against:

14 DOUGLAS ALVIN SCHALLER, M.D.
535 Pacific Street
15 Tustin, CA 92780

16 Physician's and Surgeon's Certificate
No. G 61159,

17 Respondent.
18

Case No. 800-2020-064104

OAH No. 2020030650

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

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. William Prasifka ("Complainant") is the Executive Director of the Medical Board of
24 California ("Board"). He brought this action solely in his official capacity and is represented in
25 this matter by Xavier Becerra, Attorney General of the State of California, by Rebecca L. Smith,
26 Deputy Attorney General.

27 2. Respondent Douglas Alvin Schaller, M.D. ("Respondent") is representing himself in
28 this proceeding and has chosen not to exercise his right to be represented by counsel.

1 3. On or about August 24, 1987, the Board issued Physician's and Surgeon's Certificate
2 No. G 61159 to Respondent. That license was in full force and effect at all times relevant to the
3 charges brought in Accusation/Petition to Revoke Probation No. 800-2020-064104, and will
4 expire on October 31, 2020, unless renewed.

5 **JURISDICTION**

6 4. Accusation/Petition to Revoke Probation No. 800-2020-064104 was filed before the
7 Board, and is currently pending against Respondent. The Accusation/Petition to Revoke
8 Probation and all other statutorily required documents were properly served on Respondent on
9 February 19, 2020. Respondent timely filed his Notice of Defense contesting the
10 Accusation/Petition to Revoke Probation.

11 5. A copy of Accusation/Petition to Revoke Probation No. 800-2020-064104 is attached
12 as Exhibit A and incorporated herein by reference.

13 **ADVISEMENT AND WAIVERS**

14 6. Respondent has carefully read, and understands the charges and allegations in
15 Accusation/Petition to Revoke Probation No. 800-2020-064104. Respondent has also carefully
16 read, and understands the effects of this Stipulated Settlement and Disciplinary Order.

17 7. Respondent is fully aware of his legal rights in this matter, including the right to a
18 hearing on the charges and allegations in the Accusation/Petition to Revoke Probation; the right
19 to be represented by counsel at his own expense; the right to confront and cross-examine the
20 witnesses against him; the right to present evidence and to testify on his own behalf; the right to
21 the issuance of subpoenas to compel the attendance of witnesses and the production of
22 documents; the right to reconsideration and court review of an adverse decision; and all other
23 rights accorded by the California Administrative Procedure Act and other applicable laws.

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

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CULPABILITY

1
2 9. Respondent understands and agrees that the charges and allegations in
3 Accusation/Petition to Revoke Probation No. 800-2020-064104, if proven at a hearing, constitute
4 cause for imposing discipline upon his Physician's and Surgeon's Certificate.

5 10. Respondent agrees that, at a hearing, Complainant could establish a prima facie case
6 or factual basis for the charges in the Accusation/Petition to Revoke Probation, and that
7 Respondent hereby gives up his right to contest those charges.

8 11. Respondent does not contest that, at an administrative hearing, Complainant could
9 establish a prima facie case with respect to the charges and allegations in Accusation/Petition to
10 Revoke Probation No. 800-2020-064104, a true and correct copy of which is attached hereto as
11 Exhibit A, and that he has thereby subjected his Physician's and Surgeon's Certificate No. G
12 61159 to disciplinary action.

13 12. ACKNOWLEDGMENT. Respondent acknowledges the Disciplinary Order below,
14 requiring the disclosure of probation pursuant to Business and Professions Code section 2228.1,
15 serves to protect the public interest.

16 13. Respondent agrees that his Physician's and Surgeon's Certificate is subject to
17 discipline and he agrees to be bound by the Board's probationary terms as set forth in the
18 Disciplinary Order below.

CONTINGENCY

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

3 15. Respondent agrees that if he ever petitions for early termination or modification of
4 probation, or if an accusation and/or petition to revoke probation is filed against him before the
5 Board, all of the charges and allegations contained in Accusation/Petition to Revoke Probation
6 No. 800-2020-064104 shall be deemed true, correct and fully admitted by Respondent for
7 purposes of any such proceeding or any other licensing proceeding involving Respondent in the
8 State of California.

9 16. The parties understand and agree that Portable Document Format ("PDF") and
10 facsimile copies of this Stipulated Settlement and Disciplinary Order, including PDF and
11 facsimile signatures thereto, shall have the same force and effect as the originals.

12 17. In consideration of the foregoing admissions and stipulations, the parties agree that
13 the Board may, without further notice or opportunity to be heard by Respondent, issue and enter
14 the following Disciplinary Order:

15 **DISCIPLINARY ORDER**

16 IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. G 61159 issued
17 to Respondent DOUGLAS ALVIN SCHALLER, M.D. is revoked. However, the revocation is
18 stayed and Respondent is placed on probation for three (3) years on the following terms and
19 conditions:

20 1. **CONTROLLED SUBSTANCES - MAINTAIN RECORDS AND ACCESS TO**
21 **RECORDS AND INVENTORIES.** Respondent shall maintain a record of all controlled
22 substances ordered, prescribed, dispensed, administered, or possessed by Respondent, and any
23 recommendation or approval which enables a patient or patient's primary caregiver to possess or
24 cultivate marijuana for the personal medical purposes of the patient within the meaning of Health
25 and Safety Code section 11362.5, during probation, showing all of the following: 1) the name and
26 address of the patient; 2) the date; 3) the character and quantity of controlled substances involved;
27 and 4) the indications and diagnosis for which the controlled substances were furnished.

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1 Respondent shall keep these records in a separate file or ledger, in chronological order. All
2 records and any inventories of controlled substances shall be available for immediate inspection
3 and copying on the premises by the Board or its designee at all times during business hours and
4 shall be retained for the entire term of probation.

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

11 Within fifteen (15) calendar days of receiving any lawfully prescribed medications,
12 Respondent shall notify the Board or its designee of the: issuing practitioner's name, address, and
13 telephone number; medication name, strength, and quantity; and issuing pharmacy name, address,
14 and telephone number.

15 If Respondent has a confirmed positive biological fluid test for any substance (whether or
16 not legally prescribed) and has not reported the use to the Board or its designee, Respondent
17 shall receive a notification from the Board or its designee to immediately cease the practice of
18 medicine. Respondent shall not resume the practice of medicine until the final decision on an
19 accusation and/or a petition to revoke probation is effective. An accusation and/or petition to
20 revoke probation shall be filed by the Board within thirty (30) days of the notification to cease
21 practice. If Respondent requests a hearing on the accusation and/or petition to revoke probation,
22 the Board shall provide Respondent with a hearing within thirty (30) days of the request, unless
23 Respondent stipulates to a later hearing. If the case is heard by an Administrative Law Judge
24 alone, he or she shall forward a Proposed Decision to the Board within fifteen (15) days of
25 submission of the matter. Within fifteen (15) days of receipt by the Board of the Administrative
26 Law Judge's proposed decision, the Board shall issue its Decision, unless good cause can be
27 shown for the delay. If the case is heard by the Board, the Board shall issue its decision within
28 fifteen (15) days of submission of the case, unless good cause can be shown for the delay. Good

1 cause includes, but is not limited to, non-adoption of the proposed decision, requests for
2 reconsideration, remands and other interlocutory orders issued by the Board. The cessation of
3 practice shall not apply to the reduction of the probationary time period.

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

8 3. EDUCATION COURSE. Within sixty (60) calendar days of the effective date of this
9 Decision, and on an annual basis thereafter, Respondent shall submit to the Board or its designee
10 for its prior approval educational program(s) or course(s) which shall not be less than forty (40)
11 hours per year, for each year of probation. The educational program(s) or course(s) shall be
12 aimed at correcting any areas of deficient practice or knowledge and shall be Category I certified.
13 The educational program(s) or course(s) shall be at Respondent's expense and shall be in addition
14 to the Continuing Medical Education ("CME") requirements for renewal of licensure. Following
15 the completion of each course, the Board or its designee may administer an examination to test
16 Respondent's knowledge of the course. Respondent shall provide proof of attendance for sixty-
17 five (65) hours of CME of which forty (40) hours were in satisfaction of this condition.

18 4. PRESCRIBING PRACTICES COURSE – Condition Satisfied. Within sixty (60)
19 calendar days of the effective date of this Decision, Respondent shall enroll in a course in
20 prescribing practices approved in advance by the Board or its designee. Respondent shall provide
21 the approved course provider with any information and documents that the approved course
22 provider may deem pertinent. Respondent shall participate in and successfully complete the
23 classroom component of the course not later than six (6) months after Respondent's initial
24 enrollment. Respondent shall successfully complete any other component of the course within
25 one (1) year of enrollment. The prescribing practices course shall be at Respondent's expense
26 and shall be in addition to the Continuing Medical Education ("CME") requirements for renewal
27 of licensure.

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

6 Respondent shall submit a certification of successful completion to the Board or its
7 designee not later than fifteen (15) calendar days after successfully completing the course, or not
8 later than fifteen (15) calendar days after the effective date of the Decision, whichever is later.

9 5. MEDICAL RECORD KEEPING COURSE – Condition Satisfied. Within sixty (60)
10 calendar days of the effective date of this Decision, Respondent shall enroll in a course in medical
11 record keeping approved in advance by the Board or its designee. Respondent shall provide the
12 approved course provider with any information and documents that the approved course provider
13 may deem pertinent. Respondent shall participate in and successfully complete the classroom
14 component of the course not later than six (6) months after Respondent’s initial enrollment.
15 Respondent shall successfully complete any other component of the course within one (1) year of
16 enrollment. The medical record keeping course shall be at Respondent’s expense and shall be in
17 addition to the Continuing Medical Education (“CME”) requirements for renewal of licensure.

18 A medical record keeping course taken after the acts that gave rise to the charges in the
19 Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board
20 or its designee, be accepted towards the fulfillment of this condition if the course would have
21 been approved by the Board or its designee had the course been taken after the effective date of
22 this Decision.

23 Respondent shall submit a certification of successful completion to the Board or its
24 designee not later than fifteen (15) calendar days after successfully completing the course, or not
25 later than 15 calendar days after the effective date of the Decision, whichever is later.

26 6. PROFESSIONALISM PROGRAM (ETHICS COURSE). Within sixty (60) calendar
27 days of the effective date of this Decision, Respondent shall enroll in a professionalism program,
28 that meets the requirements of Title 16, California Code of Regulations (“CCR”) section 1358.1.

1 Respondent shall participate in and successfully complete that program. Respondent shall
2 provide any information and documents that the program may deem pertinent. Respondent shall
3 successfully complete the classroom component of the program not later than six (6) months after
4 Respondent's initial enrollment, and the longitudinal component of the program not later than the
5 time specified by the program, but no later than one (1) year after attending the classroom
6 component. The professionalism program shall be at Respondent's expense and shall be in
7 addition to the Continuing Medical Education ("CME") requirements for renewal of licensure.

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

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

16 7. PROFESSIONAL BOUNDARIES PROGRAM. Within sixty (60) calendar days
17 from the effective date of this Decision, Respondent shall enroll in a professional boundaries
18 program approved in advance by the Board or its designee. Respondent, at the program's
19 discretion, shall undergo and complete the program's assessment of Respondent's competency,
20 mental health and/or neuropsychological performance, and at minimum, a twenty-four (24) hour
21 program of interactive education and training in the area of boundaries, which takes into account
22 data obtained from the assessment and from the Decision(s), Accusation(s) and any other
23 information that the Board or its designee deems relevant. The program shall evaluate
24 Respondent at the end of the training and the program shall provide any data from the assessment
25 and training as well as the results of the evaluation to the Board or its designee.

26 Failure to complete the entire program not later than six (6) months after Respondent's
27 initial enrollment shall constitute a violation of probation unless the Board or its designee agrees
28 in writing to a later time for completion. Based on Respondent's performance in and evaluations

1 from the assessment, education, and training, the program shall advise the Board or its designee
2 of its recommendation(s) for additional education, training, psychotherapy and other measures
3 necessary to ensure that Respondent can practice medicine safely. Respondent shall comply with
4 program recommendations. At the completion of the program, Respondent shall submit to a final
5 evaluation. The program shall provide the results of the evaluation to the Board or its designee.
6 The professional boundaries program shall be at Respondent's expense and shall be in addition to
7 the Continuing Medical Education ("CME") requirements for renewal of licensure.

8 The program has the authority to determine whether or not Respondent successfully
9 completed the program.

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

15 If Respondent fails to complete the program within the designated time period, Respondent
16 shall cease the practice of medicine within three (3) calendar days after being notified by the
17 Board or its designee that Respondent failed to complete the program.

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

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

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

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

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

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

22 10. THIRD PARTY FEMALE CHAPERONE. During probation, Respondent shall have
23 a third party female chaperone present while consulting, examining or treatment female patients
24 in all locations. Respondent shall, within thirty (30) calendar days of the effective date of the
25 Decision, submit to the Board or its designee for prior approval name(s) of persons who will act
26 as the third party chaperone.

27 If Respondent fails to obtain approval of a third party chaperone within sixty (60) calendar
28 days of the effective date of this Decision, Respondent shall receive a notification from the Board

1 or its designee to cease the practice of medicine within three (3) calendar days after being so
2 notified. Respondent shall cease the practice of medicine until a chaperone is approved to
3 provide monitoring responsibility.

4 Each third party chaperone shall sign (in ink or electronically) and date each patient
5 medical record at the time the chaperone's services are provided. Each third party chaperone
6 shall read the Decision and the Accusation/Petition to Revoke Probation, and fully understand the
7 role of the third party chaperone.

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

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

17 If the third party chaperone resigns or is no longer available, Respondent shall, within five
18 (5) calendar days of such resignation or unavailability, submit to the Board or its designee, for
19 prior approval, the name of the person(s) who will act as the third party chaperone. If Respondent
20 fails to obtain approval of a replacement chaperone within sixty (60) calendar days of the
21 resignation or unavailability of the chaperone, Respondent shall receive a notification from the
22 Board or its designee to cease the practice of medicine within three (3) calendar days after being
23 so notified. Respondent shall cease the practice of medicine until a replacement chaperone is
24 approved and assumes monitoring responsibility.

25 11. THIRD PARTY CHAPERONE. During probation, Respondent shall have a third
26 party chaperone present while handling and reviewing patient medication boxes in any facilities
27 where patient medication boxes are normally maintained in a locked and secured manner to
28 prevent unsupervised patient access to medications (i.e., drug and alcohol detoxification and

1 rehabilitation facilities). Respondent shall, within thirty (30) calendar days of the effective date
2 of the Decision, submit to the Board or its designee for prior approval name(s) of persons who
3 will act as the third party chaperone.

4 If Respondent fails to obtain approval of a third party chaperone within sixty (60) calendar
5 days of the effective date of this Decision, Respondent shall receive a notification from the Board
6 or its designee to cease the practice of medicine within three (3) calendar days after being so
7 notified. Respondent shall cease the practice of medicine until a chaperone is approved to
8 provide monitoring responsibility.

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

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

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

22 If the third party chaperone resigns or is no longer available, Respondent shall, within five
23 (5) calendar days of such resignation or unavailability, submit to the Board or its designee, for
24 prior approval, the name of the person(s) who will act as the third party chaperone. If Respondent
25 fails to obtain approval of a replacement chaperone within sixty (60) calendar days of the
26 resignation or unavailability of the chaperone, Respondent shall receive a notification from the
27 Board or its designee to cease the practice of medicine within three (3) calendar days after being
28 so notified. Respondent shall cease the practice of medicine until a replacement chaperone is

1 approved and assumes monitoring responsibility.

2 12. NOTICE OF EMPLOYER OR SUPERVISOR INFORMATION. Within seven (7)
3 days of the effective date of this Decision, Respondent shall provide to the Board the names,
4 physical addresses, mailing addresses, and telephone numbers of any and all employers and
5 supervisors. Respondent shall also provide specific, written consent for the Board, Respondent's
6 worksite monitor, and Respondent's employers and supervisors to communicate regarding
7 Respondent's work status, performance, and monitoring.

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

11 13. SUBSTANCE ABUSE SUPPORT GROUP MEETINGS. Within thirty (30) days of
12 the effective date of this Decision, Respondent shall submit to the Board or its designee, for its
13 prior approval, the name of a substance abuse support group which he shall attend for the duration
14 of probation. Respondent shall attend substance abuse support group meetings at least once per
15 week, or as ordered by the Board or its designee. Respondent shall pay all substance abuse
16 support group meeting costs.

17 The facilitator of the substance abuse support group meeting shall have a minimum of three
18 (3) years' experience in the treatment and rehabilitation of substance abuse, and shall be licensed
19 or certified by the state or nationally certified organizations. The facilitator shall not have a
20 current or former financial, personal, or business relationship with Respondent within the last five
21 (5) years. Respondent's previous participation in a substance abuse group support meeting led by
22 the same facilitator does not constitute a prohibited current or former financial, personal, or
23 business relationship.

24 The facilitator shall provide a signed document to the Board or its designee showing
25 Respondent's name, the group name, the date and location of the meeting, Respondent's
26 attendance, and Respondent's level of participation and progress. The facilitator shall report any
27 unexcused absence by Respondent from any substance abuse support group meeting to the Board,
28 or its designee, within twenty-four (24) hours of the unexcused absence.

1 14. WORKSITE MONITOR FOR SUBSTANCE-ABUSING LICENSEE. Within thirty
2 (30) calendar days of the effective date of this Decision, Respondent shall submit to the Board or
3 its designee for prior approval as a worksite monitor, the name and qualifications of one or more
4 licensed physician and surgeon, other licensed health care professional if no physician and
5 surgeon is available, or, as approved by the Board or its designee, a person in a position of
6 authority who is capable of monitoring Respondent at work.

7 The worksite monitor shall not have a current or former financial, personal, or familial
8 relationship with Respondent, or any other relationship that could reasonably be expected to
9 compromise the ability of the monitor to render impartial and unbiased reports to the Board or its
10 designee. If it is impractical for anyone but Respondent's employer to serve as the worksite
11 monitor, this requirement may be waived by the Board or its designee, however, under no
12 circumstances shall Respondent's worksite monitor be an employee or supervisee of the licensee.

13 The worksite monitor shall have an active unrestricted license with no disciplinary action
14 within the last five (5) years, and shall sign an affirmation that he or she has reviewed the terms
15 and conditions of Respondent's disciplinary order and agrees to monitor Respondent as set forth
16 by the Board or its designee.

17 Respondent shall pay all worksite monitoring costs.

18 The worksite monitor shall have face-to-face contact with Respondent in the work
19 environment on as frequent a basis as determined by the Board or its designee, but not less than
20 once per week; interview other staff in the office regarding Respondent's behavior, if requested
21 by the Board or its designee; and review Respondent's work attendance.

22 The worksite monitor shall verbally report any suspected substance abuse to the Board and
23 Respondent's employer or supervisor within one (1) business day of occurrence. If the suspected
24 substance abuse does not occur during the Board's normal business hours, the verbal report shall
25 be made to the Board or its designee within one (1) hour of the next business day. A written
26 report that includes the date, time, and location of the suspected abuse; Respondent's actions; and
27 any other information deemed important by the worksite monitor shall be submitted to the Board
28 or its designee within forty-eight (48) hours of the occurrence.

1 The worksite monitor shall complete and submit a written report monthly or as directed by
2 the Board or its designee which shall include the following: (1) Respondent's name and
3 Physician's and Surgeon's Certificate number; (2) the worksite monitor's name and signature; (3)
4 the worksite monitor's license number, if applicable; (4) the location or location(s) of the
5 worksite; (5) the dates Respondent had face-to-face contact with the worksite monitor; (6) the
6 names of worksite staff interviewed, if applicable; (7) a report of Respondent's work attendance;
7 (8) any change in Respondent's behavior and/or personal habits; and (9) any indicators that can
8 lead to suspected substance abuse by Respondent. Respondent shall complete any required
9 consent forms and execute agreements with the approved worksite monitor and the Board, or its
10 designee, authorizing the Board, or its designee, and worksite monitor to exchange information.

11 If the worksite monitor resigns or is no longer available, Respondent shall, within five (5)
12 calendar days of such resignation or unavailability, submit to the Board or its designee, for prior
13 approval, the name and qualifications of a replacement monitor who will be assuming that
14 responsibility within fifteen (15) calendar days. If Respondent fails to obtain approval of a
15 replacement monitor within sixty (60) calendar days of the resignation or unavailability of the
16 monitor, Respondent shall receive a notification from the Board or its designee to cease the
17 practice of medicine within three (3) calendar days after being so notified. Respondent shall
18 cease the practice of medicine until a replacement monitor is approved and assumes monitoring
19 responsibility.

20 15. VIOLATION OF PROBATION CONDITION FOR SUBSTANCE ABUSING
21 LICENSEES . Failure to fully comply with any term or condition of probation is a violation of
22 probation.

23 A. If Respondent commits a major violation of probation as defined by section
24 1361.52, subdivision (a), of Title 16 of the California Code of Regulations, the Board shall take
25 one or more of the following actions:

26 (1) Issue an immediate cease-practice order and order Respondent to undergo a clinical
27 diagnostic evaluation to be conducted in accordance with section 1361.5, subdivision (c)(1), of
28 Title 16 of the California Code of Regulations, at Respondent's expense. The cease-practice

1 order issued by the Board or its designee shall state that Respondent must test negative for at least
2 a month of continuous biological fluid testing before being allowed to resume practice. For
3 purposes of determining the length of time a Respondent must test negative while undergoing
4 continuous biological fluid testing following issuance of a cease-practice order, a month is
5 defined as thirty calendar (30) days. Respondent may not resume the practice of medicine until
6 notified in writing by the Board or its designee that he may do so.

7 (2) Increase the frequency of biological fluid testing.

8 (3) Refer Respondent for further disciplinary action, such as suspension, revocation, or
9 other action as determined by the Board or its designee.

10 B. If Respondent commits a minor violation of probation as defined by section
11 1361.52, subdivision (c), of Title 16 of the California Code of Regulations, the Board shall take
12 one or more of the following actions:

13 (1) Issue a cease-practice order;

14 (2) Order practice limitations;

15 (3) Order or increase supervision of Respondent;

16 (4) Order increased documentation;

17 (5) Issue a citation and fine, or a warning letter;

18 (6) Order Respondent to undergo a clinical diagnostic evaluation to be conducted in
19 accordance with section 1361.5, subdivision (c)(1), of Title 16 of the California Code of
20 Regulations, at Respondent's expense;

21 (7) Take any other action as determined by the Board or its designee.

22 C. Nothing in this Decision shall be considered a limitation on the Board's authority
23 to revoke Respondent's probation if he has violated any term or condition of probation. If
24 Respondent violates probation in any respect, the Board, after giving Respondent notice and the
25 opportunity to be heard, may revoke probation and carry out the disciplinary order that was
26 stayed. If an Accusation, or Petition to Revoke Probation, or an Interim Suspension Order is filed
27 against Respondent during probation, the Board shall have continuing jurisdiction until the matter
28 is final, and the period of probation shall be extended until the matter is final.

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

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

10 17. SUPERVISION OF PHYSICIAN ASSISTANTS AND ADVANCED PRACTICE
11 NURSES. During probation, Respondent is prohibited from supervising physician assistants and
12 advanced practice nurses.

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

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

19 Respondent shall submit quarterly declarations not later than ten (10) calendar days after
20 the end of the preceding quarter.

21 20. GENERAL PROBATION REQUIREMENTS.

22 Compliance with Probation Unit

23 Respondent shall comply with the Board's probation unit.

24 Address Changes

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

1 and Professions Code section 2021, subdivision (b).

2 Place of Practice

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

6 License Renewal

7 Respondent shall maintain a current and renewed California physician's and surgeon's
8 license.

9 Travel or Residence Outside California

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

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

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

19 22. NON-PRACTICE WHILE ON PROBATION. Respondent shall notify the Board or
20 its designee in writing within fifteen (15) calendar days of any periods of non-practice lasting
21 more than 30 calendar days and within fifteen (15) calendar days of Respondent's return to
22 practice. Non-practice is defined as any period of time Respondent is not practicing medicine as
23 defined in Business and Professions Code sections 2051 and 2052 for at least forty (40) hours in a
24 calendar month in direct patient care, clinical activity or teaching, or other activity as approved by
25 the Board. If Respondent resides in California and is considered to be in non-practice,
26 Respondent shall comply with all terms and conditions of probation. All time spent in an
27 intensive training program which has been approved by the Board or its designee shall not be
28 considered non-practice and does not relieve Respondent from complying with all the terms and

1 conditions of probation. Practicing medicine in another state of the United States or Federal
2 jurisdiction while on probation with the medical licensing authority of that state or jurisdiction
3 shall not be considered non-practice. A Board-ordered suspension of practice shall not be
4 considered as a period of non-practice.

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

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

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

13 Periods of non-practice for a Respondent residing outside of California will relieve
14 Respondent of the responsibility to comply with the probationary terms and conditions with the
15 exception of this condition and the following terms and conditions of probation: Obey All Laws;
16 General Probation Requirements; Quarterly Declarations; Abstain from the Use of Alcohol and/or
17 Controlled Substances; and Biological Fluid Testing.

18 23. COMPLETION OF PROBATION. Respondent shall comply with all financial
19 obligations (e.g., restitution, probation costs) not later than one hundred twenty (120) calendar
20 days prior to the completion of probation. Upon successful completion of probation,
21 Respondent's certificate shall be fully restored.

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

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

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

16 27. FUTURE ADMISSIONS CLAUSE. If Respondent should ever apply or reapply for
17 a new license or certification, or petition for reinstatement of a license, by any other health care
18 licensing action agency in the State of California, all of the charges and allegations contained in
19 Accusation/Petition to Revoke Probation No. 800-2020-064104 shall be deemed to be true,
20 correct, and admitted by Respondent for the purpose of any Statement of Issues or any other
21 proceeding seeking to deny or restrict license.

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ACCEPTANCE

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I have carefully read the Stipulated Settlement and Disciplinary Order. I understand the stipulation and the effect it will have on my Physician's and Surgeon's Certificate. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Medical Board of California.


DATED: July 8, 2020 Douglas A. Schaller MD
DOUGLAS ALVIN SCHALLER, M.D.
Respondent

ENDORSEMENT

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

DATED: 7/8/2020

Respectfully submitted,
XAVIER BECERRA
Attorney General of California
JUDITH T. ALVARADO
Supervising Deputy Attorney General


REBECCA L. SMITH
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation/Petition to Revoke Probation No. 800-2020-064104

1 XAVIER BECERRA
Attorney General of California
2 JUDITH T. ALVARADO
Supervising Deputy Attorney General
3 State Bar No. 155307
California Department of Justice
4 300 South Spring Street, Suite 1702
Los Angeles, California 90013
5 Telephone: (213) 269-6453
Facsimile: (916) 731-2117
6 *Attorneys for Complainant*

7
8 **BEFORE THE**
9 **MEDICAL BOARD OF CALIFORNIA**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation/Petition to
Revoke Probation Against:

Case No. 800-2020-064104

13 **Douglas Alvin Schaller, M.D.**
14 **535 Pacific Street**
Tustin, CA 92780

**ACCUSATION AND PETITION TO
REVOKE PROBATION**

15 **Physician's and Surgeon's Certificate**
16 **No. G 61159,**

17 Respondent.

18
19 **PARTIES**

20 1. Christine J. Lally (Complainant) brings this Accusation solely in her official capacity
21 as the Interim Executive Director of the Medical Board of California, Department of Consumer
22 Affairs (Board).

23 2. On or about August 24, 1987, the Medical Board issued Physician's and Surgeon's
24 Certificate Number G 61159 to Douglas Alvin Schaller, M.D. (Respondent). The Physician's and
25 Surgeon's Certificate was in full force and effect at all times relevant to the charges brought
26 herein and will expire on October 31, 2020, unless renewed.

27 3. In a matter entitled *In the Matter of the First Amended Accusation and Petition to*
28 *Revoke Probation Against: Douglas A. Schaller, M.D.*, case no. 19-2013-230308, the Board

1 issued a decision, effective June 20, 2016. Respondent's license was revoked, that revocation was
2 stayed and Respondent was placed on probation for a period of two-years on certain terms and
3 conditions to run consecutive to the five-year term of probation implemented in case no. 04-2011-
4 213435, effective September 19, 2012. A copy of the Decision in case no. 19-2013-230308, is
5 attached as Exhibit A and incorporated herein by this reference.

6 JURISDICTION

7 4. This Accusation is brought before the Board, under the authority of the following
8 laws. All section references are to the Business and Professions Code (Code) unless otherwise
9 indicated.

10 5. Section 2004 of the Code states:

11 The board shall have the responsibility for the following:

12 (a) The enforcement of the disciplinary and criminal provisions of the Medical
13 Practice Act.

14 (b) The administration and hearing of disciplinary actions.

15 (c) Carrying out disciplinary actions appropriate to findings made by a panel or
an administrative law judge.

16 (d) Suspending, revoking, or otherwise limiting certificates after the conclusion
17 of disciplinary actions.

18 (e) Reviewing the quality of medical practice carried out by physician and
surgeon-certificate holders under the jurisdiction of the board.

19 (f) Approving undergraduate and graduate medical education programs.

20 (g) Approving clinical clerkship and special programs and hospitals for the
21 programs in subdivision (f).

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

23 (i) Administering the board's continuing medical education program.

24 6. Section 2227 of the Code states:

25 (a) A licensee whose matter has been heard by an administrative law judge of
26 the Medical Quality Hearing Panel as designated in Section 11371 of the Government
Code, or whose default has been entered, and who is found guilty, or who has entered
27 into a stipulation for disciplinary action with the board, may, in accordance with the
provisions of this chapter:

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

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

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

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

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

9 (b) Any matter heard pursuant to subdivision (a), except for warning letters,
10 medical review or advisory conferences, professional competency examinations,
11 continuing education activities, and cost reimbursement associated therewith that are
12 agreed to with the board and successfully completed by the licensee, or other matters
13 made confidential or privileged by existing law, is deemed public, and shall be made
14 available to the public by the board pursuant to Section 803.1.

11 STATUTORY PROVISIONS

12 7. Section 726 of the Code states:

13 (a) The commission of any act of sexual abuse, misconduct, or relations with a
14 patient, client, or customer constitutes unprofessional conduct and grounds for
15 disciplinary action for any person licensed under this or under any initiative act
16 referred to in this division.

17 (b) This section shall not apply to consensual sexual contact between a licensee
18 and his or her spouse or person in an equivalent domestic relationship when that
19 licensee provides medical treatment, to his or her spouse or person in an equivalent
20 domestic relationship.

21 8. Section 729 of the Code states:

22 (a) Any physician and surgeon, psychotherapist, alcohol and drug abuse
23 counselor or any person holding himself or herself out to be a physician and surgeon,
24 psychotherapist, or alcohol and drug abuse counselor, who engages in an act of sexual
25 intercourse, sodomy, oral copulation, or sexual contact with a patient or client, or
26 with a former patient or client when the relationship was terminated primarily for the
27 purpose of engaging in those acts, unless the physician and surgeon, psychotherapist,
28 or alcohol and drug abuse counselor has referred the patient or client to an
independent and objective physician and surgeon, psychotherapist, or alcohol and
drug abuse counselor recommended by a third-party physician and surgeon,
psychotherapist, or alcohol and drug abuse counselor for treatment, is guilty of sexual
exploitation by a physician and surgeon, psychotherapist, or alcohol and drug abuse
counselor.

(b) Sexual exploitation by a physician and surgeon, psychotherapist, or alcohol
and drug abuse counselor is a public offense:

(1) An act in violation of subdivision (a) shall be punishable by imprisonment
in a county jail for a period of not more than six months, or a fine not exceeding one
thousand dollars (\$1,000), or by both that imprisonment and fine.

1 (2) Multiple acts in violation of subdivision (a) with a single victim, when the
2 offender has no prior conviction for sexual exploitation, shall be punishable by
imprisonment in a county jail for a period of not more than six months, or a fine not
exceeding one thousand dollars (\$1,000), or by both that imprisonment and fine.

3 (3) An act or acts in violation of subdivision (a) with two or more victims shall
4 be punishable by imprisonment pursuant to subdivision (h) of Section 1170 of the
5 Penal Code for a period of 16 months, two years, or three years, and a fine not
6 exceeding ten thousand dollars (\$10,000); or the act or acts shall be punishable by
imprisonment in a county jail for a period of not more than one year, or a fine not
exceeding one thousand dollars (\$1,000), or by both that imprisonment and fine.

7 (4) Two or more acts in violation of subdivision (a) with a single victim, when
8 the offender has at least one prior conviction for sexual exploitation, shall be
9 punishable by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal
10 Code for a period of 16 months, two years, or three years, and a fine not exceeding
ten thousand dollars (\$10,000); or the act or acts shall be punishable by imprisonment
in a county jail for a period of not more than one year, or a fine not exceeding one
thousand dollars (\$1,000), or by both that imprisonment and fine.

11 (5) An act or acts in violation of subdivision (a) with two or more victims, and
12 the offender has at least one prior conviction for sexual exploitation, shall be
punishable by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal
Code for a period of 16 months, two years, or three years, and a fine not exceeding
ten thousand dollars (\$10,000).

13 For purposes of subdivision (a), in no instance shall consent of the patient or
14 client be a defense. However, physicians and surgeons shall not be guilty of sexual
15 exploitation for touching any intimate part of a patient or client unless the touching is
16 outside the scope of medical examination and treatment, or the touching is done for
sexual gratification.

17 (c) For purposes of this section:

18 (1) Psychotherapist has the same meaning as defined in Section 728.

19 (2) Alcohol and drug abuse counselor means an individual who holds himself
or herself out to be an alcohol or drug abuse professional or paraprofessional.

20 (3) Sexual contact means sexual intercourse or the touching of an intimate part
21 of a patient for the purpose of sexual arousal, gratification, or abuse.

22 (4) Intimate part and touching have the same meanings as defined in Section
243.4 of the Penal Code.

23 (d) In the investigation and prosecution of a violation of this section, no person
24 shall seek to obtain disclosure of any confidential files of other patients, clients, or
former patients or clients of the physician and surgeon, psychotherapist, or alcohol
25 and drug abuse counselor.

26 (e) This section does not apply to sexual contact between a physician and
surgeon and his or her spouse or person in an equivalent domestic relationship when
27 that physician and surgeon provides medical treatment, other than psychotherapeutic
treatment, to his or her spouse or person in an equivalent domestic relationship.

28 (f) If a physician and surgeon, psychotherapist, or alcohol and drug abuse

1 counselor in a professional partnership or similar group has sexual contact with a
2 patient in violation of this section, another physician and surgeon, psychotherapist, or
3 alcohol and drug abuse counselor in the partnership or group shall not be subject to
4 action under this section solely because of the occurrence of that sexual contact.

5 9. Section 2234 of the Code, states:

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

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

11 (b) Gross negligence.

12 (c) Repeated negligent acts. To be repeated, there must be two or more
13 negligent acts or omissions. An initial negligent act or omission followed by a
14 separate and distinct departure from the applicable standard of care shall constitute
15 repeated negligent acts.

16 (1) An initial negligent diagnosis followed by an act or omission medically
17 appropriate for that negligent diagnosis of the patient shall constitute a single
18 negligent act.

19 (2) When the standard of care requires a change in the diagnosis, act, or
20 omission that constitutes the negligent act described in paragraph (1), including, but
21 not limited to, a reevaluation of the diagnosis or a change in treatment, and the
22 licensee's conduct departs from the applicable standard of care, each departure
23 constitutes a separate and distinct breach of the standard of care.

24 (d) Incompetence.

25 (e) The commission of any act involving dishonesty or corruption which is
26 substantially related to the qualifications, functions, or duties of a physician and
27 surgeon.

28 (f) Any action or conduct which would have warranted the denial of a
certificate.

(g) The repeated failure by a certificate holder, in the absence of good cause, to
attend and participate in an interview by the board. This subdivision shall only apply
to a certificate holder who is the subject of an investigation by the board.

FACTUAL ALLEGATIONS

Sexual Contact with a Patient

10. Respondent specializes in addiction medicine and internal medicine. Between
September 2016 and March 2017, he was working at a drug and alcohol detoxification and
rehabilitation facility in Santa Ana, California, which treated in-patients and out-patients for
substance abuse ("facility").

1 11. Patient A,¹ a 68-year-old woman, was an in-patient at the facility and a patient of
2 Respondent. She was admitted to the facility for treatment of alcohol abuse; she also had
3 comorbidities of depression and anxiety.

4 12. On or about January 31, 2017, multiple staff members of the facility witnessed
5 Respondent kissing and embracing Patient A in his office. Employee T.C. walked into
6 Respondent's office and caught Respondent and Patient A embracing. Respondent and Patient A
7 quickly separated, and Patient A pulled down her blouse and adjusted her clothing. Respondent
8 stated he and Patient A were embracing because Patient A was upset.

9 13. Patient A later reported to facility staff that Respondent touched her hand, rubbed her
10 arm and told her she had very soft skin. Respondent then kissed Patient A and put his hand up
11 her shirt and grabbed her breast. He then stated, "Look what you do to me." When Patient A
12 looked down she saw that Respondent had an ejaculate stain on his pants.

13 14. Patient A also reported that Respondent passed her notes to cover-up his misconduct.
14 One note contained Respondent's personal cell phone number. Another note contained
15 instructions on how Patient A should respond to questions regarding their sexual encounter. The
16 note advised Patient A to say that they did not kiss and to "deny everything else."

17 **Failure to Properly Secure Dangerous Drugs**

18 15. On or about September 30, 2016, Respondent entered facility employee T.C.'s office.
19 T.C. knew that Respondent was treating a patient and asked if he left the patient alone in his
20 office with her medication box. Respondent answered in the affirmative. It was the policy of the
21 facility and the standard of care that medications and dangerous drugs are kept locked in the
22 facility's medication safe or in a locked office at all times, so that patients could not gain
23 unintended access. Patients seeking treatment for substance abuse should not be left alone with
24 unsupervised access to medication.

25 16. T.C. ran down to Respondent's office and found the patient bent over her open
26 medication box which was on the floor in the center of the room. The medication box contained
27 gabapentin 300 mg (an anticonvulsant used to treat nerve pain and a dangerous drug pursuant to
28

¹ The patient is identified as "Patient A" to protect her privacy.

1 section 4022 of the Code); methocarbamol 750 mg (a muscle relaxant and a dangerous drug
2 pursuant to section 4022 of the Code); trazodone 150 mg (an SSRI antidepressant and a
3 dangerous drug pursuant to section 4022 of the Code); Ativan 0.1 mg (a benzodiazepine anti-
4 anxiolytic and a dangerous drug pursuant to section 4022 of the Code); and Zofran 8 mg (an
5 antiemetic and a dangerous drug pursuant to section 4022 of the Code). T.C. admonished
6 Respondent not to leave patients alone with their medications at any time. Respondent stated he
7 would not do it again.

8 17. On or about February 9, 2017, Respondent removed a patient's medication box from
9 the locked medication safe in the drug room. He took the medication box to his office for the
10 purpose of determining if refills of medications were needed. Respondent left his office and
11 failed to lock the door behind him, despite knowing that he should always lock his door if
12 medications were left unattended. Facility employee M.D. noted that Respondent's office was
13 empty, but an open medication box filled with medication bottles was on the floor. Facility
14 employee M.D. confirmed with Respondent that the office door should be locked.

15 18. On or about February 12, 2017, at approximately 2:30 p.m., Respondent again
16 removed two patients' medication boxes from the locked medication safe in the drug room for the
17 purpose of determining if refills were needed. Respondent left his office to go to the bathroom.
18 Respondent left his office door unlocked despite knowing that it was unsafe to do so. Facility
19 employee J.E. observed the two medication boxes inside Respondent's unattended and unlocked
20 office. J.E. admonished Respondent regarding the unsecured medication boxes.

21 19. Later, on February 12, 2017, at approximately 3:30 p.m., facility member K.B. noted
22 that a box of Suboxone strips (an opioid medication used in the treatment of opiate use disorder
23 and a dangerous drug pursuant to section 4022 of the Code) was missing. A facility surveillance
24 camera was reviewed and a patient was seen going into Respondent's unlocked office. The
25 patient removed the box of Suboxone strips from one of the medication boxes and walked out of
26 Respondent's office toward the living room area. The patient was confronted and produced the
27 box of Suboxone strips that he had removed from Respondent's unsecured office.

28 ///

1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Sexual Exploitation of a Patient)**

3 20. Respondent Douglas Alvin Schaller, M.D. is subject to disciplinary action under
4 section 729 of the Code in that he engaged in the sexual exploitation of Patient A. The
5 circumstances are as follows:

6 21. Complainant refers to and, by this reference, incorporates paragraphs 10 through 14,
7 above, as though fully set forth herein.

8 22. Respondent had an established doctor-patient relationship with Patient A.
9 Respondent sexually exploited Patient A by improperly touching and making physical contact
10 with an intimate part of Patient A's body on January 31, 2017, when his kissed her and put his
11 hand up her shirt and grabbed her breast, for the purpose of sexual arousal and sexual
12 gratification.

13 **SECOND CAUSE FOR DISCIPLINE**

14 **(Sexual Misconduct with a Patient)**

15 23. Respondent Douglas Alvin Schaller, M.D. is subject to disciplinary action under
16 section 726 of the Code in that he committed sexual misconduct with Patient A. The
17 circumstances are as follows:

18 24. Complainant refers to and, by this reference, incorporates paragraphs 10 through 14,
19 above, as though fully set forth herein.

20 25. Respondent had an established doctor-patient relationship with Patient A.
21 Respondent engaged in sexual misconduct by improperly touching and making physical contact
22 with Patient A on January 31, 2017, when his kissed her and put his hand up her shirt and grabbed
23 her breast.

24 **THIRD CAUSE FOR DISCIPLINE**

25 **(Gross Negligence-Sexual Misconduct with a Patient)**

26 26. Respondent Douglas Alvin Schaller, M.D. is subject to disciplinary action under
27 section 2234, subdivision (b), of the Code in that he was grossly negligent by engaging in a
28 sexual relationship with Patient A. The circumstances are as follows:

1 27. Complainant refers to and, by this reference, incorporates paragraphs 10 through 14,
2 above, as though fully set forth herein.

3 28. The standard of professional care requires that physicians not engage in sexual
4 relationships with patients.

5 29. The American Medical Association Code of Ethics, Section 8.14 states:

6 Sexual contact that occurs concurrent with the patient-physician relationship
7 constitutes sexual misconduct. Sexual or romantic interactions between physicians
8 and patients detract from the goals of the physician-patient relationship, may exploit
9 the vulnerability of the patient, may obscure the physician's objective judgment
concerning the patient's health care, and ultimately may be detrimental to the
patient's well-being.

10 30. Respondent had an established doctor-patient relationship with Patient A.
11 Respondent was grossly negligent by improperly touching and making physical contact with
12 Patient A on January 31, 2017, when he kissed her and put his hand up her shirt and grabbed her
13 breast.

14 31. Respondent's acts and/or omissions as set forth in paragraphs 10 through 14 and 23
15 through 30, whether proven individually, jointly, or in any combination thereof, constitute gross
16 negligence pursuant to section 2234, subdivision (b), of the Code. Therefore, cause for discipline
17 exists.

18 **FOURTH CAUSE FOR DISCIPLINE**

19 **(Gross Negligence-Failure to Secure Medications and Dangerous Drugs)**

20 32. Respondent Douglas Alvin Schaller, M.D. is subject to disciplinary action under
21 section 2234, subdivision (b), of the Code in that he was grossly negligent by failing to secure
22 medications and dangerous drugs. The circumstances are as follows:

23 33. Complainant refers to and, by this reference, incorporates paragraphs 15 through 19,
24 above, as though fully set forth herein.

25 34. The standard of care for a physician working in a substance abuse treatment program
26 requires the physician to abide by the policies and protocols in place for the safe storage of
27 medications and dangerous drugs. Patients in treatment for substance abuse are at higher risk of
28 diverting medications and dangerous drugs, overdosing and stealing medications and dangerous

1 drugs. Therefore, medications are always secured and stored appropriately, with limited access to
2 only trained employees.

3 35. On multiple occasions, Respondent was grossly negligent when he left medications
4 and dangerous drugs unsecured, violating the policies and protocols of the facility and the
5 standard of care. Respondent's failure to abide by the facility's policy and procedures and the
6 standard of care, allowed unsupervised patients to be in his office with controlled substances and
7 dangerous drugs. On one occasion, a patient stole a box of Suboxone strips from Respondent's
8 unsecured office.

9 36. Respondent's acts and/or omissions as set forth in paragraphs 15 through 19 and 32
10 through 35, whether proven individually, jointly, or in any combination thereof, constitute gross
11 negligence pursuant to section 2234, subdivision (b), of the Code. Therefore, cause for discipline
12 exists.

13 **FIFTH CAUSE FOR DISCIPLINE**

14 **(Repeated Negligent Acts)**

15 37. Respondent Douglas Alvin Schaller, M.D. is subject to disciplinary action under
16 section 2234, subdivision (c), of the Code. The circumstances are as follows:

17 38. Complainant refers to and, by this reference, incorporates paragraphs 10 through 36,
18 above, as though fully set forth herein.

19 39. Respondent's acts and/or omissions as set forth in paragraphs 10 through 38, above,
20 whether proven individually, jointly, or in any combination thereof, constitute repeated negligent
21 acts pursuant to section 2234, subdivision (c), of the Code. Therefore, cause for discipline exists.

22 **SIXTH CAUSE FOR DISCIPLINE**

23 **(Unprofessional Conduct)**

24 40. Respondent Douglas Alvin Schaller, M.D. is subject to disciplinary action under
25 sections 726 and 2234 of the Code. The circumstances are as follows:

26 41. Complainant refers to and, by this reference, incorporates paragraphs 10 through 39,
27 above, as though fully set forth herein.

28 ///

1 42. Respondent's acts and/or omissions as set forth in paragraphs 10 through 41, above,
2 whether proven individually, jointly, or in any combination thereof, constitute unprofessional
3 conduct pursuant to sections 726 and 2234 of the Code. Therefore, cause for discipline exists.

4 **FIRST CAUSE TO REVOKE PROBATION**

5 **(Failure to Comply: Obey All Laws)**

6 43. At all times after the effective date of Respondent's probation, Condition 15
7 regarding general probation requirements, provided in pertinent part:

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

10 44. Complainant refers to and, by this reference, incorporates paragraphs 10 through 42,
11 above, as though fully set forth herein.

12 45. The probation of the physician's and surgeon's certificate issued to Douglas Alvin
13 Schaller, M.D. is subject to revocation because he failed to abide by Condition 15 of his
14 probation, in that he failed to obey all federal, state, and local laws and rules governing the
15 practice of medicine in California.

16 **DISCIPLINARY CONSIDERATIONS**

17 46. To determine the degree of discipline, if any, to be imposed on Respondent,
18 Complainant alleges that on November 1, 2005, an Interim Order of Suspension was issued
19 against the physician's and surgeon's certificate issued to Douglas Alvin Schaller, M.D., in case
20 no. 04-2005-170654. By stipulation of the parties on January 9, 2006, the Interim Order of
21 Suspension was amended and partial restrictions were placed on Dr. Schaller's physician's and
22 surgeon's certificate. The Interim Suspension Order was terminated on April 30, 2007.

23 47. To determine the degree of discipline, if any, to be imposed on Respondent,
24 Complainant further alleges that in the case entitled, *The People of the State of California v.*
25 *Douglas Alvin Schaller*, Superior Court of the State of California, County of Orange, Harbor
26 Justice Center-Newport Beach Facility, case no. 11HM05849, Respondent was convicted on
27 September 22, 2011, upon his plea of guilty, of driving under the influence of alcohol or drugs, in
28 violation of Vehicle Code section 23152, subdivision (a).

1 48. To determine the degree of discipline, if any, to be imposed on Respondent,
2 Complainant further alleges that in the case entitled, *The People of the State of California v.*
3 *Douglas Alvin Schaller*, Superior Court of the State of California, County of Orange, West Justice
4 Center, case no. HBPD 11-19988, the Board obtained an Order restricting Respondent's practice
5 as a physician and surgeon on March 14, 2012.

6 49. To determine the degree of discipline, if any, to be imposed on Respondent,
7 Complainant further alleges that in the case entitled, *The People of the State of California v.*
8 *Douglas Alvin Schaller*, Superior Court of the State of California, County of Orange, West Justice
9 Center, case no. HBPD 11-19988. Respondent was convicted on March 20, 2012, upon his plea
10 of guilty, of driving under the influence of alcohol or drugs, in violation of Vehicle Code section
11 23152, subdivision (a), and violating Health and Safety Code section 11550, subdivision (a),
12 being under the influence of a controlled substance without a prescription.

13 50. To determine the degree of discipline, if any, to be imposed on Respondent,
14 Complainant further alleges that in a decision effective September 19, 2012, *In the Matter of the*
15 *First Amended Accusation Against: Douglas Alvin Schaller, M.D.*, case no. 04-2011-213435,
16 Respondent's physician's and surgeon's certificate was revoked, revocation stayed and the
17 certificate was placed on probation for a term of five-years, with terms and conditions, including
18 a period of suspension of sixty-days.

19 51. To determine the degree of discipline, if any, to be imposed on Respondent,
20 Complainant further alleges that on September 10, 2015, the Medical Board of California issued a
21 Cease Practice Order-No Practice, in case no. 04-2011-213435, for Respondent's violation of
22 Condition 7 of his probation: failing to submit to biological fluid testing within the required
23 timeframe.

24 52. To determine the degree of discipline, if any, to be imposed on Respondent,
25 Complainant further alleges that in a decision effective July 20, 2016, *In the Matter of the First*
26 *Amended Accusation and Petition to Revoke Probation Against: Douglas Alvin Schaller, M.D.*,
27 case no. 19-2013-230308, Respondent's physician's and surgeon's certificate was revoked,
28 revocation stayed and the certificate was placed on probation for a term of two additional years,

1 to run consecutive to the five-year probationary term from case no. 04-2011-213435, with terms
2 and conditions.

3 53. To determine the degree of discipline, if any, to be imposed on Respondent,
4 Complainant further alleges that on December 8, 2017, the Medical Board of California issued a
5 Citation and Order of Abatement, number 800-2017-039073, for violation of Condition 9 of
6 Respondent's probation: failing to submit to biological fluid testing within the required timeframe
7 on November 22, 2017. The Citation was resolved by way of compliance with the order of
8 abatement on December 20, 2017.

9 54. To determine the degree of discipline, if any, to be imposed on Respondent,
10 Complainant further alleges that on July 3, 2018, the Medical Board of California issued a
11 Citation and Order of Abatement, number 800-2018-045343, for violation of Condition 9 of
12 Respondent's probation: failing to check in with FirstSource within the required timeframe on
13 May 22, 2018. The Citation was resolved by way of compliance with the order of abatement on
14 August 2, 2018.

15 55. To determine the degree of discipline, if any, to be imposed on Respondent,
16 Complainant further alleges that on February 22, 2019, the Medical Board of California issued a
17 Citation and Order of Abatement, number 800-2018-050807, for violation of Condition 9 of
18 Respondent's probation: failing to check in with FirstSource during program hours on November
19 1, 2018. The Citation was resolved by way of compliance with the order of abatement on
20 February 22, 2019.

21 **PRAYER**

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

24 1. Revoking Respondent's probation and carrying out the disciplinary order that was
25 stayed in the Board's Decision of December 20, 2017 in case no. 19-2013-230308;

26 2. Revoking or suspending Physician's and Surgeon's Certificate Number G-61159,
27 issued to Douglas Alvin Schaller, M.D.;

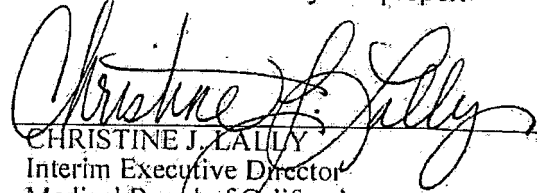
28 ///

1 3. Revoking, suspending or denying approval of Douglas Alvin Schaller, M.D.'s
2 authority to supervise physician assistants and advanced practice nurses;

3 4. Ordering Douglas Alvin Schaller, M.D., if placed on probation, to pay the Board the
4 costs of probation monitoring; and

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

6
7 DATED: FEB 19 2020


CHRISTINE J. LALLY
Interim Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant

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Exhibit A

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

| | | |
|---|---|--------------------------------|
| In the Matter of the First Amended |) | |
| Accusation and Petition to Revoke |) | |
| Probation Against: |) | |
| |) | |
| DOUGLAS ALVIN SCHALLER, M.D. |) | Case No. 19-2013-230308 |
| |) | |
| Physician's and Surgeon's |) | |
| Certificate No. G 61159 |) | |
| |) | |
| Respondent. |) | |
| _____ |) | |

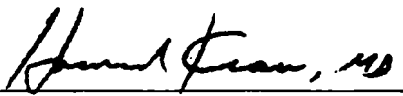
DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Medical Board of California, Department of Consumer Affairs, State of California, as its Decision in this matter.

This Decision shall become effective at 5:00 p.m. on July 20, 2016.

IT IS SO ORDERED June 20, 2016.

MEDICAL BOARD OF CALIFORNIA

By: 
Howard Krauss, M.D., Chair
Panel B

1 KAMALA D. HARRIS
Attorney General of California
2 E. A. JONES III
Supervising Deputy Attorney General
3 State Bar No. 71375
California Department of Justice
4 300 So. Spring Street, Suite 1702
Los Angeles, CA 90013
5 Telephone: (213) 897-2543
Facsimile: (213) 897-9395
6 *Attorneys for Complainant*

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

11 In the Matter of the First Amended Accusation
and Petition to Revoke Probation Against:

12 **DOUGLAS A. SCHALLER, M.D.**
13 **535 Pacific Street**
Tustin, CA 92780

14 **Physician's and Surgeon's Certificate No. G**
61159,

15 **Respondent.**

Case No. 19-2013-230308

OAH No. 2014100059

16 **STIPULATED SETTLEMENT AND**
DISCIPLINARY ORDER

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

19 PARTIES

20 1. Kimberly Kirchmeyer (Complainant) is the Executive Director of the Medical Board
21 of California. She brought this action solely in her official capacity and is represented in this
22 matter by Kamala D. Harris, Attorney General of the State of California, by E. A. Jones III,
23 Supervising Deputy Attorney General.

24 2. Respondent DOUGLAS A. SCHALLER, M.D. ("Respondent") is representing
25 himself in this proceeding and has chosen not to exercise his right to be represented by counsel.

26 3. On or about August 24, 1987, the Medical Board of California issued Physician's and
27 Surgeon's Certificate No. G 61159 to DOUGLAS A. SCHALLER, M.D. (Respondent). The
28 Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the

1 charges brought in First Amended Accusation and Petition to Revoke Probation No. 19-2013-
2 230308, and will expire on October 31, 2016, unless renewed.

3 JURISDICTION

4 4. First Amended Accusation and Petition to Revoke Probation No. 19-2013-230308
5 was filed before the Medical Board of California (Board), Department of Consumer Affairs, and
6 is currently pending against Respondent. The First Amended Accusation and Petition to Revoke
7 Probation and all other statutorily required documents were properly served on Respondent on
8 September 22, 2015. Respondent timely filed his Notice of Defense contesting the First
9 Amended Accusation and Petition to Revoke Probation.

10 5. A copy of First Amended Accusation and Petition to Revoke Probation No. 19-2013-
11 230308 is attached as exhibit A and incorporated herein by reference.

12 ADVISEMENT AND WAIVERS

13 6. Respondent has carefully read, and understands the charges and allegations in First
14 Amended Accusation and Petition to Revoke Probation No. 19-2013-230308. Respondent has
15 also carefully read, and understands the effects of this Stipulated Settlement and Disciplinary
16 Order.

17 7. Respondent is fully aware of his legal rights in this matter, including the right to a
18 hearing on the charges and allegations in the First Amended Accusation and Petition to Revoke
19 Probation; the right to be represented by counsel at his own expense; the right to confront and
20 cross-examine the witnesses against him; the right to present evidence and to testify on his own
21 behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the
22 production of documents; the right to reconsideration and court review of an adverse decision;
23 and all other rights accorded by the California Administrative Procedure Act and other applicable
24 laws.

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

27 CULPABILITY

28 9. Respondent admits the truth of each and every charge and allegation in First

1 Amended Accusation and Petition to Revoke Probation No. 19-2013-230308.

2 10. Respondent agrees that his Physician's and Surgeon's Certificate is subject to
3 discipline and he agrees to be bound by the Board's probationary terms as set forth in the
4 Disciplinary Order below.

5 CIRCUMSTANCES IN MITIGATION

6 11. Respondent DOUGLAS A. SCHALLER, M.D. is admitting responsibility at an early
7 stage in the proceedings. He currently is employed at a rehabilitation facility where he is using
8 his own experiences to help other professionals who suffer from drug dependency issues.

9 RESERVATION

10 12. The admissions made by Respondent herein are only for the purposes of this
11 proceeding, or any other proceedings in which the Medical Board of California or other
12 professional licensing agency is involved, and shall not be admissible in any other criminal or
13 civil proceeding.

14 CONTINGENCY

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

25 14. The parties understand and agree that Portable Document Format (PDF) and facsimile
26 copies of this Stipulated Settlement and Disciplinary Order, including PDF and facsimile
27 signatures thereto, shall have the same force and effect as the originals.

28 15. In consideration of the foregoing admissions and stipulations, the parties agree that

1 the Board may, without further notice or formal proceeding, issue and enter the following
2 Disciplinary Order:

3 **DISCIPLINARY ORDER**

4 IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. G 61159 issued
5 to Respondent DOUGLAS A. SCHALLER, M.D. is revoked. However, the revocation is stayed
6 and Respondent is placed on probation for two (2) additional years which term of probation will
7 commence upon the expiration of the term of probation of five (5) years, as set forth in the Prior
8 Case August 21, 2012, Disciplinary Order, effective September 19, 2012. Upon the effective date
9 of this order Respondent shall comply with the following terms and conditions.

10 1. CONTROLLED SUBSTANCES- MAINTAIN RECORDS AND ACCESS TO
11 RECORDS AND INVENTORIES. Respondent shall maintain a record of all controlled
12 substances ordered, prescribed, dispensed, administered, or possessed by Respondent, and any
13 recommendation or approval which enables a patient or patient's primary caregiver to possess or
14 cultivate marijuana for the personal medical purposes of the patient within the meaning of Health
15 and Safety Code section 11362.5, during probation, showing all the following: 1) the name and
16 address of patient; 2) the date; 3) the character and quantity of controlled substances involved;
17 and 4) the indications and diagnosis for which the controlled substances were furnished.

18 Respondent shall keep these records in a separate file or ledger, in chronological order. All
19 records and any inventories of controlled substances shall be available for immediate inspection
20 and copying on the premises by the Board or its designee at all times during business hours and
21 shall be retained for the entire term of probation.

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

28 Within 15 calendar days of receiving any lawfully prescribed medications, Respondent

1 shall notify the Board or its designee of the: issuing practitioner's name, address, and telephone
2 number; medication name, strength, and quantity; and issuing pharmacy name, address, and
3 telephone number.

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

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

18 3. EDUCATION COURSE. Within 60 calendar days of the effective date of this
19 Decision, and on an annual basis thereafter, Respondent shall submit to the Board or its designee
20 for its prior approval educational program(s) or course(s) which shall not be less than 40 hours
21 per year, for each year of probation. The educational program(s) or course(s) shall be aimed at
22 correcting any areas of deficient practice or knowledge and shall be Category I certified. The
23 educational program(s) or course(s) shall be at Respondent's expense and shall be in addition to
24 the Continuing Medical Education (CME) requirements for renewal of licensure. Following the
25 completion of each course, the Board or its designee may administer an examination to test
26 Respondent's knowledge of the course. Respondent shall provide proof of attendance for 65
27 hours of CME of which 40 hours were in satisfaction of this condition.

28 4. PRESCRIBING PRACTICES COURSE. Within 60 calendar days of the effective

1 date of this Decision, Respondent shall enroll in a course in prescribing practices equivalent to the
2 Prescribing Practices Course at the Physician Assessment and Clinical Education Program,
3 University of California, San Diego School of Medicine (Program), approved in advance by the
4 Board or its designee. Respondent shall provide the program with any information and
5 documents that the Program may deem pertinent. Respondent shall participate in and
6 successfully complete the classroom component of the course not later than six (6) months after
7 Respondent's initial enrollment. Respondent shall successfully complete any other component of
8 the course within one (1) year of enrollment. The prescribing practices course shall be at
9 Respondent's expense and shall be in addition to the Continuing Medical Education (CME)
10 requirements for renewal of licensure.

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

16 Respondent shall submit a certification of successful completion to the Board or its
17 designee not later than 15 calendar days after successfully completing the course, or not later than
18 15 calendar days after the effective date of the Decision, whichever is later.

19 5. MEDICAL RECORD KEEPING COURSE. Within 60 calendar days of the effective
20 date of this Decision, Respondent shall enroll in a course in medical record keeping equivalent to
21 the Medical Record Keeping Course offered by the Physician Assessment and Clinical Education
22 Program, University of California, San Diego School of Medicine (Program), approved in
23 advance by the Board or its designee. Respondent shall provide the program with any
24 information and documents that the Program may deem pertinent. Respondent shall participate in
25 and successfully complete the classroom component of the course not later than six (6) months
26 after Respondent's initial enrollment. Respondent shall successfully complete any other
27 component of the course within one (1) year of enrollment. The medical record keeping course
28 shall be at Respondent's expense and shall be in addition to the Continuing Medical Education

1 (CME) requirements for renewal of licensure.

2 A medical record keeping course taken after the acts that gave rise to the charges in the
3 Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board
4 or its designee, be accepted towards the fulfillment of this condition if the course would have
5 been approved by the Board or its designee had the course been taken after the effective date of
6 this Decision.

7 Respondent shall submit a certification of successful completion to the Board or its
8 designee not later than 15 calendar days after successfully completing the course, or not later than
9 15 calendar days after the effective date of the Decision, whichever is later.

10 6. PSYCHIATRIC EVALUATION. On whatever periodic basis may be required by the
11 Board or its designee, Respondent shall undergo and complete a psychiatric evaluation (and
12 psychological testing, if deemed necessary) by a Board-appointed, board certified psychiatrist,
13 who shall consider any information provided by the Board or designee and any other information
14 the psychiatrist deems relevant, and shall furnish a written evaluation report to the Board or its
15 designee. Psychiatric evaluations conducted prior to the effective date of the Decision shall not
16 be accepted towards the fulfillment of this requirement. Respondent shall pay the cost of all
17 psychiatric evaluations and psychological testing.

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

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

27 The psychotherapist shall consider any information provided by the Board or its designee
28 and any other information the psychotherapist deems relevant and shall furnish a written

1 evaluation report to the Board or its designee. Respondent shall cooperate in providing the
2 psychotherapist any information and documents that the psychotherapist may deem pertinent.

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

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

11 8. NOTICE OF EMPLOYER OR SUPERVISOR INFORMATION. Within seven (7)
12 days of the effective date of this Decision, respondent shall provide to the Board the names,
13 physical addresses, mailing addresses, and telephone numbers of any and all employers and
14 supervisors. Respondent shall also provide specific, written consent for the Board, respondent's
15 worksite monitor, and respondent's employers and supervisors to communicate regarding
16 respondent's work status, performance, and monitoring.

17 9. BIOLOGICAL FLUID TESTING. Respondent shall immediately submit to
18 biological fluid testing, at respondent's expense, upon request of the Board or its designee.
19 "Biological fluid testing" may include, but is not limited to, urine, blood, breathalyzer, hair
20 follicle testing, or similar drug screening approved by the Board or its designee. Respondent shall
21 make daily contact with the Board or its designee to determine whether biological fluid testing is
22 required. Respondent shall be tested on the date of the notification as directed by the Board or its
23 designee. The Board may order a respondent to undergo a biological fluid test on any day, at any
24 time, including weekends and holidays. Except when testing on a specific date as ordered by the
25 Board or its designee, the scheduling of biological fluid testing shall be done on a random basis.
26 The cost of biological fluid testing shall be borne by the respondent.

27 During the first year of probation, respondent shall be subject to 52 to 104 random tests.
28 During the second year of probation and for the duration of the probationary term, up to five (5)

1 years, respondent shall be subject to 36 to 104 random tests per year. Only if there has been no
2 positive biological fluid tests in the previous five (5) consecutive years of probation, may testing
3 be reduced to one (1) time per month. Nothing precludes the Board from increasing the number
4 of random tests to the first-year level of frequency for any reason.

5 Prior to practicing medicine, respondent shall contract with a laboratory or service,
6 approved in advance by the Board or its designee, that will conduct random, unannounced,
7 observed, biological fluid testing and meets all the following standards:

8 (a) Its specimen collectors are either certified by the Drug and Alcohol Testing Industry
9 Association or have completed the training required to serve as a collector for the United States
10 Department of Transportation.

11 (b) Its specimen collectors conform to the current United States Department of
12 Transportation Specimen Collection Guidelines

13 (c) Its testing locations comply with the Urine Specimen Collection Guidelines published
14 by the United States Department of Transportation without regard to the type of test administered.

15 (d) Its specimen collectors observe the collection of testing specimens.

16 (e) Its laboratories are certified and accredited by the United States Department of Health
17 and Human Services.

18 (f) Its testing locations shall submit a specimen to a laboratory within one (1) business day
19 of receipt and all specimens collected shall be handled pursuant to chain of custody procedures.
20 The laboratory shall process and analyze the specimens and provide legally defensible test results
21 to the Board within seven (7) business days of receipt of the specimen. The Board will be
22 notified of non-negative results within one (1) business day and will be notified of negative test
23 results within seven (7) business days.

24 (g) Its testing locations possess all the materials, equipment, and technical expertise
25 necessary in order to test respondent on any day of the week.

26 (h) Its testing locations are able to scientifically test for urine, blood, and hair specimens
27 for the detection of alcohol and illegal and controlled substances.

28 (i) It maintains testing sites located throughout California.

1 (j) It maintains an automated 24-hour toll-free telephone system and/or a secure on-line
2 computer database that allows the respondent to check in daily for testing.

3 (k) It maintains a secure, HIPAA-compliant website or computer system that allows staff
4 access to drug test results and compliance reporting information that is available 24 hours a day.

5 (l) It employs or contracts with toxicologists that are licensed physicians and have
6 knowledge of substance abuse disorders and the appropriate medical training to interpret and
7 evaluate laboratory biological fluid test results, medical histories, and any other information
8 relevant to biomedical information.

9 (m) It will not consider a toxicology screen to be negative if a positive result is obtained
10 while practicing, even if the respondent holds a valid prescription for the substance.

11 Prior to changing testing locations for any reason, including during vacation or other travel,
12 alternative testing locations must be approved by the Board and meet the requirements above.

13 The contract shall require that the laboratory directly notify the Board or its designee of
14 non-negative results within one (1) business day and negative test results within seven (7)
15 business days of the results becoming available. Respondent shall maintain this laboratory or
16 service contract during the period of probation.

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

19 If a biological fluid test result indicates respondent has used, consumed, ingested, or
20 administered to himself or herself a prohibited substance, the Board shall order respondent to
21 cease practice and instruct respondent to leave any place of work where respondent is practicing
22 medicine or providing medical services. The Board shall immediately notify all of respondent's
23 employers, supervisors and work monitors, if any, that respondent may not practice medicine or
24 provide medical services while the cease-practice order is in effect.

25 A biological fluid test will not be considered negative if a positive result is obtained while
26 practicing, even if the practitioner holds a valid prescription for the substance. If no prohibited
27 substance use exists, the Board shall lift the cease-practice order within one (1) business day.

28 After the issuance of a cease-practice order, the Board shall determine whether the positive

1 biological fluid test is in fact evidence of prohibited substance use by consulting with the
2 specimen collector and the laboratory, communicating with the licensee, his or her treating
3 physician(s), other health care provider, or group facilitator, as applicable.

4 For purposes of this condition, the terms "biological fluid testing" and "testing" mean the
5 acquisition and chemical analysis of a respondent's urine, blood, breath, or hair.

6 For purposes of this condition, the term "prohibited substance" means an illegal drug, a
7 lawful drug not prescribed or ordered by an appropriately licensed health care provider for use by
8 respondent and approved by the Board, alcohol, or any other substance the respondent has been
9 instructed by the Board not to use, consume, ingest, or administer to himself or herself.

10 If the Board confirms that a positive biological fluid test is evidence of use of a prohibited
11 substance, respondent has committed a major violation, as defined in section 1361.52(a), and the
12 Board shall impose any or all of the consequences set forth in section 1361.52(b), in addition to
13 any other terms or conditions the Board determines are necessary for public protection or to
14 enhance respondent's rehabilitation.

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

18 10. SUBSTANCE ABUSE SUPPORT GROUP MEETINGS. Within thirty (30) days of
19 the effective date of this Decision, respondent shall submit to the Board or its designee, for its
20 prior approval, the name of a substance abuse support group which he or she shall attend for the
21 duration of probation. Respondent shall attend substance abuse support group meetings at least
22 once per week, or as ordered by the Board or its designee. Respondent shall pay all substance
23 abuse support group meeting costs.

24 The facilitator of the substance abuse support group meeting shall have a minimum of three
25 (3) years experience in the treatment and rehabilitation of substance abuse, and shall be licensed
26 or certified by the state or nationally certified organizations. The facilitator shall not have a
27 current or former financial, personal, or business relationship with respondent within the last five
28 (5) years. Respondent's previous participation in a substance abuse group support meeting led by

1 the same facilitator does not constitute a prohibited current or former financial, personal, or
2 business relationship.

3 The facilitator shall provide a signed document to the Board or its designee showing
4 respondent's name, the group name, the date and location of the meeting, respondent's attendance,
5 and respondent's level of participation and progress. The facilitator shall report any unexcused
6 absence by respondent from any substance abuse support group meeting to the Board, or its
7 designee, within twenty-four (24) hours of the unexcused absence.

8 11. WORKSITE MONITOR FOR SUBSTANCE-ABUSING LICENSEE. Within thirty
9 (30) calendar days of the effective date of this Decision, respondent shall submit to the Board or
10 its designee for prior approval as a worksite monitor, the name and qualifications of one or more
11 licensed physician and surgeon, other licensed health care professional if no physician and
12 surgeon is available, or, as approved by the Board or its designee, a person in a position of
13 authority who is capable of monitoring the respondent at work.

14 The worksite monitor shall not have a current or former financial, personal, or familial
15 relationship with respondent, or any other relationship that could reasonably be expected to
16 compromise the ability of the monitor to render impartial and unbiased reports to the Board or its
17 designee. If it is impractical for anyone but respondent's employer to serve as the worksite
18 monitor, this requirement may be waived by the Board or its designee, however, under no
19 circumstances shall respondent's worksite monitor be an employee or supervisee of the licensee.

20 The worksite monitor shall have an active unrestricted license with no disciplinary action
21 within the last five (5) years, and shall sign an affirmation that he or she has reviewed the terms
22 and conditions of respondent's disciplinary order and agrees to monitor respondent as set forth by
23 the Board or its designee.

24 Respondent shall pay all worksite monitoring costs.

25 The worksite monitor shall have face-to-face contact with respondent in the work
26 environment on as frequent a basis as determined by the Board or its designee, but not less than
27 once per week; interview other staff in the office regarding respondent's behavior, if requested by
28 the Board or its designee; and review respondent's work attendance.

1 The worksite monitor shall verbally report any suspected substance abuse to the Board and
2 respondent's employer or supervisor within one (1) business day of occurrence. If the suspected
3 substance abuse does not occur during the Board's normal business hours, the verbal report shall
4 be made to the Board or its designee within one (1) hour of the next business day. A written
5 report that includes the date, time, and location of the suspected abuse; respondent's actions; and
6 any other information deemed important by the worksite monitor shall be submitted to the Board
7 or its designee within 48 hours of the occurrence.

8 The worksite monitor shall complete and submit a written report monthly or as directed by
9 the Board or its designee which shall include the following: (1) respondent's name and
10 Physician's and Surgeon's Certificate number; (2) the worksite monitor's name and signature; (3)
11 the worksite monitor's license number, if applicable; (4) the location or location(s) of the
12 worksite; (5) the dates respondent had face-to-face contact with the worksite monitor; (6) the
13 names of worksite staff interviewed, if applicable; (7) a report of respondent's work attendance;
14 (8) any change in respondent's behavior and/or personal habits; and (9) any indicators that can
15 lead to suspected substance abuse by respondent. Respondent shall complete any required
16 consent forms and execute agreements with the approved worksite monitor and the Board, or its
17 designee, authorizing the Board, or its designee, and worksite monitor to exchange information.

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

27 12. VIOLATION OF PROBATION CONDITION FOR SUBSTANCE ABUSING
28 LICENSEES Failure to fully comply with any term or condition of probation is a violation of

1 probation.

2 A. If respondent commits a major violation of probation as defined by section
3 1361.52, subdivision (a), of Title 16 of the California Code of Regulations, the Board shall take
4 one or more of the following actions:

5 (1) Issue an immediate cease-practice order and order respondent to undergo a clinical
6 diagnostic evaluation to be conducted in accordance with section 1361.5, subdivision (c)(1),
7 of Title 16 of the California Code of Regulations, at respondent's expense. The cease-
8 practice order issued by the Board or its designee shall state that respondent must test
9 negative for at least a month of continuous biological fluid testing before being allowed to
10 resume practice. For purposes of the determining the length of time a respondent must test
11 negative while undergoing continuous biological fluid testing following issuance of a
12 cease-practice order, a month is defined as thirty calendar (30) days. Respondent may not
13 resume the practice of medicine until notified in writing by the Board or its designee that he
14 or she may do so.

15 (2) Increase the frequency of biological fluid testing.

16 (3) Refer respondent for further disciplinary action, such as suspension, revocation, or
17 other action as determined by the Board or its designee.

18 B. If respondent commits a minor violation of probation as defined by section
19 1361.52, subdivision (c), of Title 16 of the California Code of Regulations, the Board shall take
20 one or more of the following actions:

21 (1) Issue a cease-practice order;

22 (2) Order practice limitations;

23 (3) Order or increase supervision of respondent;

24 (4) Order increased documentation;

25 (5) Issue a citation and fine, or a warning letter;

26 (6) Order respondent to undergo a clinical diagnostic evaluation to be conducted
27 in accordance with section 1361.5, subdivision (c)(1), of Title 16 of the California Code of
28 Regulations, at respondent's expense;

1 (7) Take any other action as determined by the Board or its designee.

2 C. Nothing in this Decision shall be considered a limitation on the Board's authority
3 to revoke respondent's probation if he or she has violated any term or condition of probation. If
4 respondent violates probation in any respect, the Board, after giving respondent notice and the
5 opportunity to be heard, may revoke probation and carry out the disciplinary order that was
6 stayed. If an Accusation, or Petition to Revoke Probation, or an Interim Suspension Order is filed
7 against respondent during probation, the Board shall have continuing jurisdiction until the matter
8 is final, and the period of probation shall be extended until the matter is final.

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

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

18 14. SUPERVISION OF PHYSICIAN ASSISTANTS. During probation, Respondent is
19 prohibited from supervising physician assistants.

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

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

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

28 ///

1 17. GENERAL PROBATION REQUIREMENTS.

2 Compliance with Probation Unit

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

5 Address Changes

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

11 Place of Practice

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

15 License Renewal

16 Respondent shall maintain a current and renewed California physician's and surgeon's
17 license.

18 Travel or Residence Outside California

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

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

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

28 19. NON-PRACTICE WHILE ON PROBATION. Respondent shall notify the Board or

1 its designee in writing within 15 calendar days of any periods of non-practice lasting more than
2 30 calendar days and within 15 calendar days of Respondent's return to practice. Non-practice is
3 defined as any period of time Respondent is not practicing medicine in California as defined in
4 Business and Professions Code sections 2051 and 2052 for at least 40 hours in a calendar month
5 in direct patient care, clinical activity or teaching, or other activity as approved by the Board. All
6 time spent in an intensive training program which has been approved by the Board or its designee
7 shall not be considered non-practice. Practicing medicine in another state of the United States or
8 Federal jurisdiction while on probation with the medical licensing authority of that state or
9 jurisdiction shall not be considered non-practice. A Board-ordered suspension of practice shall
10 not be considered as a period of non-practice.

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

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

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

17 Periods of non-practice will relieve Respondent of the responsibility to comply with the
18 probationary terms and conditions with the exception of this condition and the following terms
19 and conditions of probation: Obey All Laws; and General Probation Requirements.

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

24 21. VIOLATION OF PROBATION. Failure to fully comply with any term or condition
25 of probation is a violation of probation. If Respondent violates probation in any respect, the
26 Board, after giving Respondent notice and the opportunity to be heard, may revoke probation and
27 carry out the disciplinary order that was stayed. If an Accusation, or Petition to Revoke
28 Probation, or an Interim Suspension Order is filed against Respondent during probation, the

1 Board shall have continuing jurisdiction until the matter is final, and the period of probation shall
2 be extended until the matter is final.

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

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

18
19 ACCEPTANCE

20 I have carefully read the Stipulated Settlement and Disciplinary Order. I understand the
21 stipulation and the effect it will have on my Physician's and Surgeon's Certificate. I enter into
22 this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and
23 agree to be bound by the Decision and Order of the Medical Board of California.

24
25 DATED: 5/29/2016

Douglas A Schaller, M.D.
DOUGLAS A. SCHALLER, M.D.
Respondent

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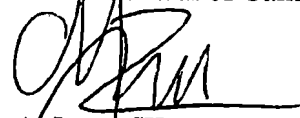
ENDORSEMENT

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

Dated: April 29, 2016

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California



E. A. JONES III
Supervising Deputy Attorney General
Attorneys for Complainant

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Exhibit A

First Amended Accusation and Petition to Revoke Probation No. 19-2013-230308

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO September 22 2015
BY R. FIRDaus ANALYST

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

10 In the Matter of the First Amended Accusation
11 and Petition to Revoke Probation Against:
12 DOUGLAS A. SCHALLER, M.D.
13 535 Pacific Street
14 Tustin, California 92780
15 Physician's and Surgeon's Certificate No. G
16 61159,
17 Respondent.

Case No. 19-2013-230308

FIRST AMENDED
ACCUSATION
and
PETITION TO REVOKE PROBATION

17 Complainant alleges:

18 PARTIES

- 19 1. Kimberly Kirchmeyer (Complainant) brings this First Amended Accusation and
20 Petition to Revoke Probation solely in her official capacity as the Executive Director of the
21 Medical Board of California, Department of Consumer Affairs (Board).
22 2. On or about August 24, 1987, the Medical Board of California issued Physician's and
23 Surgeon's Certificate Number G 61159 to Douglas A. Schaller, M.D. (Respondent). The
24 Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the
25 charges brought herein and will expire on October 31, 2016, unless renewed. On or about
26 September 10, 2015, based on his failure to successfully complete biological fluid testing, a Cease
27 Practice Order was issued to Respondent prohibiting him from practicing medicine effective
28 September 13, 2015.

1 8. Section 2234 of the Code reads, in relevant part, as follows:

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

4 ...

5 (c) Repeated negligent acts. To be repeated, there must be two or more
6 negligent acts or omissions. An initial negligent act or omission followed by a
7 separate and distinct departure from the applicable standard of care shall constitute
8 repeated negligent acts.

8 (1) An initial negligent diagnosis followed by an act or omission
9 medically appropriate for that negligent diagnosis of the patient shall constitute a
10 single negligent act.

9 (2) When the standard of care requires a change in the diagnosis, act, or
10 omission that constitutes the negligent act described in paragraph (1), including, but
11 not limited to, a reevaluation of the diagnosis or a change in treatment, and the
12 licensee’s conduct departs from the applicable standard of care, each departure
13 constitutes a separate and distinct breach of the standard of care.”

12 9. Section 2238 states as follows:

13 “A violation of any federal statute or federal regulation or any of the statutes or
14 regulations of this state regulating dangerous drugs or controlled substances constitutes
15 unprofessional conduct.”

15 10. Section 2266 of the Code states, “The failure of a physician and surgeon to maintain
16 adequate and accurate records relating to the provision of services to their patients constitutes
17 unprofessional conduct.”

18 11. Health & Safety Code section 11172 states:

19 “No person shall antedate or postdate a prescription.”

20 **FIRST CAUSE FOR DISCIPLINE**

21 **(Repeated Negligent Acts)**

22 12. Respondent is subject to disciplinary action under section 2234, subdivision (c), of
23 the Code in that Respondent was repeatedly negligent in the care and treatment of a two patients.
24 The circumstances are as follows:

25 **Patient D.A.¹**

26 13. On or about January 2, 2012, patient D.A. presented to Respondent complaining of

27 _____
28 ¹ Patients are referred to by initials in this pleading to protect their privacy.

1 pain in her neck and low back radiating down her left arm; multiple herniated discs in the cervical
2 and lumbar spine as seen on a CT scan; "arthritis" (pain and swelling) in both hands and knees
3 confirmed by x-ray; and bilateral torn menisci (knee cartilages). An MRI scan of the cervical
4 spine on January 22, 2010, shows mild disc bulging with mild-moderate central stenosis and
5 narrowing of the neuroforamina at C5-6 and C6-7.

6 14. D.A. also suffered from multiple basal cell carcinomas (minor skin cancers) on the
7 face, and severe emphysema with only 35% of normal lung capacity, requiring continuous nasal
8 oxygen supplementation. At the time of the January 2, 2012 visit, D.A. had prescriptions for
9 OxyContin (60 mg four times a day), oxycodone (30 mg every 4 hours as needed), Valium (10
10 mg as needed for anxiety), and two inhalers for her emphysema. Respondent's examination of
11 D.A. stated that she exhibited pain in the neck and low back with any movement, and weakness
12 and numbness in the left arm. The physical examination also noted scars on her face from skin
13 surgery, abnormal lung exam compatible with her emphysema, and an abnormal neurologic exam
14 of the left upper extremity. Respondent diagnosed her with degenerative cervical and lumbar disc
15 disease with left arm radicular symptoms, arthritis in hands and knees with bilateral degeneration
16 of the menisci, COPD (chronic obstructive pulmonary disease), and basal cell carcinomas. He
17 recommended treatment and referred her to the Cedars-Sinai Spine Center for her spine and to an
18 orthopedist for her knees. He also continued her medications at the same levels.

19 15. On or about February 23, 2012, D.A. again presented to Respondent reporting that
20 her pain was unchanged, and the swelling of her knees was worse. Again, Respondent prescribed
21 her ongoing medications at the same levels as previously prescribed, substituting Xanax at 2 mg
22 instead of continuing the Valium.

23 16. On or about February 28, 2012, patient D.A. returned to Respondent with greater
24 knee swelling. Respondent advised her to stay off her feet and prescribed another 120 OxyContin
25 at 60 mg, 180 oxycodone at 30 mg, and 90 Valium at 10 mg.

26 17. On or about March 26, 2012, D.A. returned to Respondent saying her knee swelling
27 had decreased. Respondent noted that she would need a pulmonary consultation prior to seeing
28 an orthopedist because of the severity of her lung disease.

1 18. On or about March 26, 2012, Respondent wrote and postdated prescriptions for five
2 months of each of the following: 120 OxyContin 60 mg; 180 oxycodone 30 mg; 90 Valium 10
3 mg; 120 Robaxin 750 mg; and 120 ibuprofen 800 mg. This was D.A.'s last visit with Respondent.

4 **Patient T.A.**

5 19. On or about July 21, 2011, patient T.A., a male, presented to Respondent complaining
6 of pain resulting from a fall on the ice in Big Bear, California on February 23, 2011, resulting in
7 multiple fractured ribs, a lung contusion, and a possible spinal injury. At the time of the initial
8 visit, T.A. was prescribed OxyContin (dosage unknown-records illegible) and 4-6 30-mg
9 Roxicodone per day.

10 20. T.A. had torn his right biceps tendon and rotator cuff in a previous injury in 2010, and
11 was treated with OxyContin (dosage unknown-medical records illegible) and up to 12 Percocet
12 (dosage unknown-medical records illegible) per day.

13 21. T.A. had also suffered a spinal injury in an automobile accident and the medical
14 records reflect T.A. stating that he had also suffered an injury on or about June 2, 2010 causing
15 "nerve root sciatic nerve pain."

16 22. The medical records are unclear, but appear to reference a lumbar MRI showing three
17 8-10-mm disc herniations that cause pain radiating down the left lower extremity to the foot. As
18 a result, T.A. had received prescriptions since 2010 for three OxyContin 60 mg/day and 4-6
19 Roxicodone/day.

20 23. Respondent diagnosed T.A. as having an "opiate addiction with increased tolerance to
21 opiates due to [illegible] long-term opiates for chronic back and spinal problems." Respondent's
22 treatment plan is difficult to read but apparently involved tapering the opiate dose and
23 supplementing with non-narcotics like clonidine. The treatment plan also indicates that if the
24 patient exhibited withdrawal symptoms, buprenorphine would be administered.

25 24. A continued diagnosis on the second page of the records refers to "chronic back
26 spinal pain due to multiple traumas, now with radicular pain and reduced range of motion and due
27 to chronic opiate use and increased tolerance with minimal effectiveness." The treatment plan is
28 continued on the second page and states Respondent was going to:

1 "Attempt a taper rapid until withdrawal starts, then start buprenorphine up to maximal
2 dose and supplement with other nonopiate pain [illegible] to stop increased tolerance
3 to opiates therefore full effect can be achieved again. May have to utilize other pain
4 doctor to place indwelling epidural [catheter] during transition but will first attempt
5 without."

6 As part of this plan Respondent prescribed:

7 "20 buprenorphine 8 mg, 1-3/day to start after full withdrawal begins; 2) clonidine
8 0.2 mg, three a day to decrease withdrawal symptoms; 3) phenobarbital 60 mg as
9 needed for sedation; 4) Robaxin 750 mg three times a day for muscle discomfort; 5)
10 Ambien 10 mg as needed for sleep; and 6) OxyContin 60 mg four times a day as
11 needed for seven days after taking buprenorphine for seven days."

12 25. On or about July 24, 2012, Respondent spent the day at home with the patient to
13 begin the treatment plan with buprenorphine. The records reflect that at 7:00 a.m., the patient
14 was "experiencing heavy withdrawal symptoms." He was given 8 mg of buprenorphine at 10:00
15 a.m., and by noon had a "major increase in withdrawal symptoms." T.A. was then given another
16 8 mg of buprenorphine. At 3:00 p.m., Respondent notes that T.A., had "withdrawal progressively
17 increasing now with nausea/vomiting pain level intolerable. May have to abandon plan to
18 alternate and utilize epidural during transition." At 6:00 p.m., Respondent notes that: "patient
19 extremely sick with withdrawal symptoms, shaking chills, nausea/vomiting, pain at unbearable."
20 And at 7:00 p.m., "[t]ransition attempt failed will restart OxyContin, one 60 mg given." And at
21 9:00 p.m., "[p]ain and withdrawal still severe. Second OxyContin 60 mg given. Patient
22 instructed to resume regular medication." At 11:00 p.m., "[p]ain decreased, will reexamine patient
23 tomorrow."²

24 26. T.A. visited Respondent on or about August 23, 2011 (see footnote 2). On that visit
25 Respondent notes that T.A., "states had terrible experience with attempted transition, now
26 hesitant to try again even with use of epidural. No change in pain level, bedridden for days at a
27 time." Respondent prescribed 180 oxycodone 60 mg, 180 OxyContin 60 mg, 30 Ambien 10 mg,
28 and 90 Robaxin 750 mg. These prescriptions were repeated nearly exactly at subsequent visits of
September 9, 2011, October 25, 2011, November 18, 2011, and December 20, 2011, except
Respondent prescribed 60 Valium 10 mg on November 18, 2011 instead of the Ambien, and he

² Although the chart clearly states that these events occurred in 2012, it seems probable that they actually occurred in 2011, due to the totality of the records. No visit the next day was reflected in the records.

1 switched to Ambien CR 12.5 mg on December 20, 2011.

2 27. The same prescription pattern was repeated on January 20, 2012 and February 20,
3 2012.

4 28. On or about March 26, 2012, Respondent wrote and postdated prescriptions for
5 OxyContin, Oxycodone, Valium, Robaxin, and Ambien CR for T.A. There are no laboratory or
6 other tests reflected in the medical records.

7 29. At the subject interview, Respondent acknowledged that he did not check a CURES
8 report to see if either D.A. or T.A. were receiving medications from other physicians.

9 30. By reason of the matters set forth above in paragraphs 13 through 29, incorporated
10 herein by this reference, Respondent is subject to disciplinary action under section 2234,
11 subdivision (c), of the Code, in that he was repeatedly negligent in the care and treatment of D.A.
12 and T.A., as more particularly alleged hereinafter. The circumstances are as follows:

13 31. Respondent prescribed large quantities of opiates and sedatives to T.A., who
14 acknowledged a previous history of addiction, and he did not evaluate whether D.A. or T.A. had
15 an addiction problem. Respondent did not obtain a CURES report or urine toxicology screen on
16 either patient, nor did he attempt to obtain previous records or coordinate care with other
17 providers. Because Respondent did not perform even the minimal due diligence to address these
18 issues, he did not act in accordance with the standard of care and was repeatedly negligent.

19 32. Respondent continued to prescribe strong opiate medications to both T.A. and D.A.
20 even though neither patient demonstrated reduced symptoms and improved function. Continuing
21 to prescribe high-dose medication without evidence of benefit is a simple departure from the
22 standard of care, demonstrates lack of knowledge about proper use of strong opiates, and
23 constitutes repeated negligence.

24 33. In attempting to treat T.A.'s opiate dependence, Respondent gave T.A. 8 mg of
25 buprenorphine, a dose significantly higher than the standard 2 or 4 mg initial dose. Respondent
26 then compounded his error by immediately giving two more 8-mg doses resulting in a worsening
27 of T.A.'s withdrawal symptoms. Moreover, Respondent's plan to alternate oxycodone and
28 buprenorphine at weekly intervals means the patient would have undergone precipitated

1 withdrawal every two weeks, whenever the buprenorphine was restarted. Respondent's lack of
2 knowledge of the proper use of buprenorphine is a simple departure from the standard of care,
3 demonstrates lack of knowledge about treatment for opiate dependence, and constitutes
4 negligence.

5 **SECOND CAUSE FOR DISCIPLINE**

6 **(Unprofessional Conduct - Postdating Prescriptions)**

7 34. Respondent is subject to disciplinary action under Code section 2238 in that he
8 violated a statute of this state regulating dangerous drugs or controlled substances, to wit, Health
9 and Safety Code section 11172, by postdating prescriptions. The circumstances are as follows:

10 35. On or about June 5, 2013, Respondent admitted to a Board that, in anticipation of his
11 upcoming license suspension in a disciplinary action entitled *In the Matter of Accusation Against*
12 *Douglas A. Schaller, M.D.*, Case Nos. 04-2011-213435 and 04-2012-220871, he had postdated
13 prescriptions for his patients so that they would not be without pain medication during his
14 suspension. By postdating prescriptions Respondent violated Health and Safety Code section
15 11172.

16 **THIRD CAUSE FOR DISCIPLINE**

17 **(Failure to Maintain Adequate and Accurate Records)**

18 36. Respondent is subject to disciplinary action under Code section 2266 in that he failed
19 to maintain adequate and accurate medical records for patients D.A. and T.A. The circumstances
20 are as follows:

21 37. The facts and circumstances alleged in paragraphs 13 through 33 are incorporated
22 here as if fully set forth.

23 38. Respondent failed to document all important aspects of patient encounters for both
24 D.A. and T.A., including: history, current medications, physical examination results, tests,
25 assessment, and the treatment plan.

26 39. Respondent failed to detail which symptoms occurred and how they were diagnosed
27 and treated; who else was currently treating the patient; a description of current complaints; an
28 assessment of either patient's psychological status and social functioning; and either patient's

1 addiction history. Respondent failed to perform adequate physical examinations.

2 40. Respondent failed to follow the results of treatment and reevaluate the treatment over
3 time. Respondent's records are not clear and legible and contain obvious errors as to dates.

4 **CAUSE TO REVOKE PROBATION**

5 **(Failure to Comply with Biological Fluid Testing)**

6 41. On or about August 21, 2012, the Board issued a Decision and Order in the case
7 entitled *In the Matter of Accusation Against Douglas A. Schaller, M.D.*, Case Nos. 04-2011-
8 213435 and 04-2012-220871 adopting a Stipulated Settlement and Disciplinary Order as its final
9 decision. The Decision and Order, which was effective September 19, 2012, placed Respondent
10 on probation with terms and conditions for five years.

11 42. Probation Condition 20 of the August 21, 2012, disciplinary order states as follows:

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

19 43. Probation Condition 7 of the August 21, 2012, disciplinary order states as follows:

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

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

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

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

18 44. Respondent’s probation is subject to revocation because he failed to comply with
19 Probation Condition 7, referenced above. The facts and circumstances regarding this violation
20 are as follows.

21 45. Respondent’s random biological fluid testing program requires him to call in daily to
22 determine whether he needs to report for biological fluid testing. Respondent failed to call in to
23 check if he needed to report for testing on the following dates: July 5, 2014, July 6, 2014, July
24 19, 2014, July 23, 2014, July 25, 2014, July 26, 2014, August 2, 2014, August 11, 2014, August
25 15, 2014, August 16, 2014, August 17, 2014, August 24, 2014, August 29, 2014, August 31,
26 2014, September 4, 2014, September 5, 2014, September 7, 2014, September 8, 2014, September
27 19, 2014, October 6, 2014, October 12, 2014, October 18, 2014, October 27, 2014, November 3,
28 2014, November 12, 2014, November 22, 2014, November 23, 2014, November 24, 2014,

1 November 25, 2014, November 26, 2014, November 28, 2014, November 29, 2014, November
2 30, 2014, December 28, 2014, January 2, 2015, January 3, 2015, January 4, 2015, January 8,
3 2015, January 14, 2015, January 21, 2015, January 24, 2015, January 25, 2015, January 26, 2015,
4 February 2, 2015, February 8, 2015, February 14, 2015, February 21, 2015, February 23, 2015,
5 March 2, 2015, March 24, 2015, March 28, 2015, March 31, 2015, April 25, 2015, April 29,
6 2015, May 9, 2015, May 18, 2015, May 27, 2015, June 3, 2015, June 6, 2015, June 18, 2015,
7 June 30, 2015, July 3, 2015, July 9, 2015, and July 17, 2015. Respondent's failure to call in on
8 the above-listed dates represents 64 violations of Probation Condition 7.

9 46. As a consequence of failing to call in to check if he was required to be tested,
10 Respondent failed to be tested on July 23, 2014, September 5, 2014, September 8, 2014,
11 September 19, 2014, November 25, 2014, January 26, 2015, March 31, 2015, and June 22, 2015.
12 Respondent's failure to submit to testing on the above-listed dates represents eight additional
13 violations of Probation Condition 7.

14 47. On or about September 10, 2015, based on his failure to successfully complete
15 biological fluid testing as alleged above in paragraphs 44 and 45, a Cease Practice Order was
16 issued to Respondent prohibiting him from practicing medicine effective September 13, 2015.

17 PRAYER

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

20 1. Revoking the probation that was granted by the Medical Board of California in Case
21 Nos. 04-2011-213435 and 04-2012-220871 and imposing the disciplinary order that was stayed
22 thereby revoking Physician's and Surgeon's Certificate No. G 61159 issued to Respondent
23 Douglas A. Schaller, M.D.;

24 2. Revoking Physician's and Surgeon's Certificate No. G 61159 issued to Respondent;

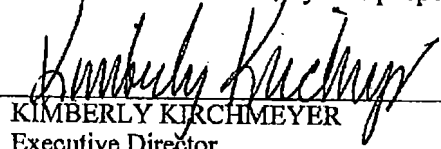
25 3. Revoking, suspending or denying approval of his authority to supervise physician
26 assistants, pursuant to section 3527 of the Code;

27 4. If placed on probation, ordering him to pay the Medical Board of California the costs
28 of probation monitoring; and

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

DATED: September 22, 2015



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

Complainant

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