

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

In the Matter of the Accusation
Against:

Sarah Nicole Fitch Gallager, M.D.

Physician's and Surgeon's
Certificate No. A 114165

Respondent

Case No. 800-2018-051081

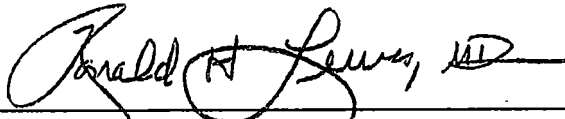
DECISION

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 June 16, 2021.

IT IS SO ORDERED: May 17, 2021.

MEDICAL BOARD OF CALIFORNIA



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

1 XAVIER BECERRA
Attorney General of California
2 MARY CAIN-SIMON
Supervising Deputy Attorney General
3 ALICE W. WONG
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8 **BEFORE THE**
9 **MEDICAL BOARD OF CALIFORNIA**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 800-2018-051081

13 **SARAH NICOLE FITCH GALLAGER,**
14 **M.D**
14 **Kaiser Permanente**
15 **1200 El Camino Real**
15 **South San Francisco CA 94080**

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

16 **Physician's and Surgeon's Certificate No. A**
17 **114165**

18 Respondent.

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

22 **PARTIES**

23 1. 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 this
25 matter by Xavier Becerra, Attorney General of the State of California, by Alice W. Wong, Deputy
26 Attorney General.

1 2. Respondent Sarah Nicole Fitch Gallagher, M.D (Respondent) is represented in this
2 proceeding by attorney Thomas Still, whose address is: 12901 Saratoga Avenue, Saratoga, CA
3 950702.

4 3. On September 29, 2010, the Board issued Physician's and Surgeon's Certificate No. A
5 114165 to Sarah Nicole Fitch Gallagher, M.D. The Physician's and Surgeon's Certificate was in
6 full force and effect at all times relevant to the charges brought in Accusation No. 800-2018-
7 051081, and will expire on April 30, 2022, unless renewed.

8 **JURISDICTION**

9 4. Accusation No. 800-2018-051081 was filed before the Board, and is currently
10 pending against Respondent. The Accusation and all other statutorily required documents were
11 properly served on Respondent on November 1, 2019. Respondent timely filed her Notice of
12 Defense contesting the Accusation.

13 5. A copy of Accusation No. 800-2018-051081 is attached as exhibit A and incorporated
14 herein by reference.

15 **ADVISEMENT AND WAIVERS**

16 6. Respondent has carefully read, fully discussed with counsel, and understands the
17 charges and allegations in Accusation No. 800-2018-051081. Respondent has also carefully read,
18 fully discussed with her counsel, and understands the effects of this Stipulated Settlement and
19 Disciplinary Order.

20 7. Respondent is fully aware of her legal rights in this matter, including the right to a
21 hearing on the charges and allegations in the Accusation; the right to confront and cross-examine
22 the witnesses against her; the right to present evidence and to testify on her own behalf; the right
23 to the issuance of subpoenas to compel the attendance of witnesses and the production of
24 documents; the right to reconsideration and court review of an adverse decision; and all other
25 rights accorded by the California Administrative Procedure Act and other applicable laws.

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

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CULPABILITY

9. Respondent understands and agrees that the charges and allegations in Accusation No. 800-2018-051081, if proven at a hearing, constitute cause for imposing discipline upon her Physician's and Surgeon's Certificate.

10. Respondent does not contest that, at an administrative hearing, Complainant could establish a prima facie case with respect to the charges and allegations in Accusation No. 800-2018-051081, a true and correct copy of which is attached hereto as Exhibit A, and that she has thereby subjected her Physician's and Surgeon's Certificate, No. A 114165 to disciplinary action.

11. Respondent agrees to be bound by the Board's probationary terms as set forth in the Disciplinary Order below.

CONTINGENCY

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

13. Respondent agrees that if she ever petitions for early termination or modification of probation, or if an accusation and/or petition to revoke probation is filed against her before the Board, all of the charges and allegations contained in Accusation No. 800-2018-051081 shall be deemed true, correct and fully admitted by respondent for purposes of any such proceeding or any other licensing proceeding involving Respondent in the State of California.

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

4 15. In consideration of the foregoing admissions and stipulations, the parties agree that
5 the Board may, without further notice or opportunity to be heard by the Respondent, issue and
6 enter the following Disciplinary Order:

7 **DISCIPLINARY ORDER**

8 IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. A 114165 issued
9 to Respondent SARAH NICOLE FITCH GALLAGER, M.D is revoked. However, the
10 revocation is stayed and Respondent is placed on probation for four (4) years on the following
11 terms and conditions:

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

18 Within 15 calendar days of receiving any lawfully prescribed medications, Respondent
19 shall notify the Board or its designee of the: issuing practitioner's name, address, and telephone
20 number; medication name, strength, and quantity; and issuing pharmacy name, address, and
21 telephone number.

22 2. ALCOHOL - ABSTAIN FROM USE. Respondent shall abstain completely from the
23 use of products or beverages containing alcohol.

24 3. PROFESSIONALISM PROGRAM (ETHICS COURSE). Within 60 calendar days of
25 the effective date of this Decision, Respondent shall enroll in a professionalism program, that
26 meets the requirements of Title 16, California Code of Regulations (CCR) section 1358.1.
27 Respondent shall participate in and successfully complete that program. Respondent shall
28 provide any information and documents that the program may deem pertinent. Respondent shall

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

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

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

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

21 The psychotherapist shall consider any information provided by the Board or its designee
22 and any other information the psychotherapist deems relevant and shall furnish a written
23 evaluation report to the Board or its designee. Respondent shall cooperate in providing the
24 psychotherapist with any information and documents that the psychotherapist may deem
25 pertinent.

26 Respondent shall have the treating psychotherapist submit quarterly status reports to the
27 Board or its designee. The Board or its designee may require Respondent to undergo psychiatric
28 evaluations by a Board-appointed board certified psychiatrist. If, prior to the completion of

1 probation, Respondent is found to be mentally unfit to resume the practice of medicine without
2 restrictions, the Board shall retain continuing jurisdiction over Respondent's license and the
3 period of probation shall be extended until the Board determines that Respondent is mentally fit
4 to resume the practice of medicine without restrictions.

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

6 5. MEDICAL EVALUATION AND TREATMENT. Within 30 calendar days of the
7 effective date of this Decision, and on a periodic basis thereafter as may be required by the Board
8 or its designee, Respondent shall undergo a medical evaluation by a Board-appointed physician
9 who shall consider any information provided by the Board or designee and any other information
10 the evaluating physician deems relevant and shall furnish a medical report to the Board or its
11 designee. Respondent shall provide the evaluating physician with any information and
12 documentation that the evaluating physician may deem pertinent.

13 Following the evaluation, Respondent shall comply with all restrictions or conditions
14 recommended by the evaluating physician within 15 calendar days after being notified by the
15 Board or its designee. If Respondent is required by the Board or its designee to undergo medical
16 treatment, Respondent shall within 30 calendar days of the requirement notice, submit to the
17 Board or its designee for prior approval the name and qualifications of a California licensed
18 treating physician of Respondent's choice. Upon approval of the treating physician, Respondent
19 shall within 15 calendar days undertake medical treatment and shall continue such treatment until
20 further notice from the Board or its designee.

21 The treating physician shall consider any information provided by the Board or its designee
22 or any other information the treating physician may deem pertinent prior to commencement of
23 treatment. Respondent shall have the treating physician submit quarterly reports to the Board or
24 its designee indicating whether or not the Respondent is capable of practicing medicine safely.
25 Respondent shall provide the Board or its designee with any and all medical records pertaining to
26 treatment that the Board or its designee deems necessary.

27 If, prior to the completion of probation, Respondent is found to be physically incapable of
28 resuming the practice of medicine without restrictions, the Board shall retain continuing

1 jurisdiction over Respondent's license and the period of probation shall be extended until the
2 Board determines that Respondent is physically capable of resuming the practice of medicine
3 without restrictions. Respondent shall pay the cost of the medical evaluation(s) and treatment.

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

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

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

23 During Respondent's first year of probation and for the duration of the probationary term,
24 up to four (4) years, Respondent shall be subject to second-year level testing, which is 36 to 104
25 random tests per year. Only if there has been no positive biological fluid tests in the previous
26 three (3) consecutive years of probation, may testing be reduced to one (1) time per month.
27 Nothing precludes the Board from increasing the number of random tests to the first-year level of
28 frequency, which is 52 to 104 random tests per year, for any reason.

1 Prior to practicing medicine, Respondent shall contract with a laboratory or service,
2 approved in advance by the Board or its designee, that will conduct random, unannounced,
3 observed, biological fluid testing and meets all of the following standards:

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

7 (b) Its specimen collectors conform to the current United States Department of
8 Transportation Specimen Collection Guidelines.

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

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

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

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

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

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

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

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

28 (k) It maintains a secure, HIPAA-compliant website or computer system that allows staff

1 access to drug test results and compliance reporting information that is available 24 hours a
2 day.

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

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

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

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

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

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

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

26 After the issuance of a cease-practice order, the Board shall determine whether the positive
27 biological fluid test is in fact evidence of prohibited substance use by consulting with the
28 specimen collector and the laboratory, communicating with the licensee, her treating physician(s),

1 other health care provider, or group facilitator, as applicable.

2 For purposes of this condition, the terms “biological fluid testing” and “testing” mean the
3 acquisition and chemical analysis of a Respondent’s urine, blood, breath, or hair.

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

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

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

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

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

1 Respondent shall pay all worksite monitoring costs.

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

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

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

23 If the worksite monitor resigns or is no longer available, Respondent shall, within five (5)
24 calendar days of such resignation or unavailability, submit to the Board or its designee, for prior
25 approval, the name and qualifications of a replacement monitor who will be assuming that
26 responsibility within fifteen (15) calendar days. If Respondent fails to obtain approval of a
27 replacement monitor within sixty (60) calendar days of the resignation or unavailability of the
28 monitor, Respondent shall receive a notification from the Board or its designee to cease the

1 practice of medicine within three (3) calendar days after being so notified. Respondent shall
2 cease the practice of medicine until a replacement monitor is approved and assumes monitoring
3 responsibility.

4 9. VIOLATION OF PROBATION CONDITION FOR SUBSTANCE ABUSING
5 LICENSEES. Failure to fully comply with any term or condition of probation is a violation of
6 probation.

7 A. If Respondent commits a major violation of probation as defined by section
8 1361.52, subdivision (a), of Title 16 of the California Code of Regulations, the Board shall take
9 one or more of the following actions:

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

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

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

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

25 (1) Issue a cease-practice order;

26 (2) Order practice limitations;

27 (3) Order or increase supervision of Respondent;

28 (4) Order increased documentation;

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

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

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

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

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

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

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

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

28 13. QUARTERLY DECLARATIONS. Respondent shall submit quarterly declarations

1 under penalty of perjury on forms provided by the Board, stating whether there has been
2 compliance with all the conditions of probation.

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

5 14. GENERAL PROBATION REQUIREMENTS.

6 Compliance with Probation Unit

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

8 Address Changes

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

14 Place of Practice

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

18 License Renewal

19 Respondent shall maintain a current and renewed California physician's and surgeon's
20 license.

21 Travel or Residence Outside California

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

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

28 15. INTERVIEW WITH THE BOARD OR ITS DESIGNEE. Respondent shall be

1 available in person upon request for interviews either at Respondent's place of business or at the
2 probation unit office, with or without prior notice throughout the term of probation.

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

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

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

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

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

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

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

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

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

27 21. FUTURE ADMISSIONS CLAUSE. If Respondent should ever apply or reapply for
28 a new license or certification, or petition for reinstatement of a license, by any other health care

1 licensing action agency in the State of California, all of the charges and allegations contained in
2 Accusation No. 800-2018-051081 shall be deemed to be true, correct, and admitted by
3 Respondent for the purpose of any Statement of Issues or any other proceeding seeking to deny or
4 restrict license.

6 ACCEPTANCE

7 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
8 discussed it with my attorney, Thomas Still. I understand the stipulation and the effect it will
9 have on my Physician's and Surgeon's Certificate. I enter into this Stipulated Settlement and
10 Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the
11 Decision and Order of the Medical Board of California.

13 DATED 3/4/2021


14 SARAH NICOLE FITCH GALLAGER, M.D.
Respondent

16 I have read and fully discussed with Respondent Sarah Nicole Fitch Gallager, M.D. the
17 terms and conditions and other matters contained in the above Stipulated Settlement and
18 Disciplinary Order. I approve its form and content.

20 DATED: 3/4/2021


21 THOMAS STILL
Attorney for 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: March 8, 2021

Respectfully submitted,

XAVIER BECERRA
Attorney General of California
MARY CAIN-SIMON
Supervising Deputy Attorney General

Alice W. Wong

ALICE W. WONG
Deputy Attorney General
Attorneys for Complainant

SF2019201654

Exhibit A

Accusation No. 800-2018-051081

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO NOV. 1 20 19
BY A. GERBIA ANALYST

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Attorney General of California
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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 Against:

Case No. 800-2018-051081

13 **Sarah Nicole Fitch Gallager, M.D.**
14 **Kaiser Permanente**
1200 El Camino Real
15 **South San Francisco, CA 94080**

ACCUSATION

16 **Physician's and Surgeon's Certificate**
17 **No. A 114165,**

Respondent.

18
19
20 **PARTIES**

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

24 2. On or about September 29, 2010, the Medical Board issued Physician's and Surgeon's
25 Certificate Number A 114165 to Sarah Nicole Fitch Gallager, M.D. (Respondent). The
26 Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the
27 charges brought herein and will expire on April 30, 2020, unless renewed.
28

JURISDICTION

1
2 3. This Accusation is brought before the Board, under the authority of the following
3 laws. All section references are to the Business and Professions Code (Code) unless otherwise
4 indicated.

5 4. Section 2227 of the Code provides that a licensee who is found guilty under the
6 Medical Practice Act may have his or her license revoked, suspended for a period not to exceed
7 one year, placed on probation and required to pay the costs of probation monitoring, or such other
8 action taken in relation to discipline as the Board deems proper.

9 5. Section 2234 of the Code, states:

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

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

14 (b) Gross negligence.

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

17 (1) An initial negligent diagnosis followed by an act or omission medically
18 appropriate for that negligent diagnosis of the patient shall constitute a single
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
not limited to, a reevaluation of the diagnosis or a change in treatment, and the
21 licensee's conduct departs from the applicable standard of care, each departure
constitutes a separate and distinct breach of the standard of care.

22 (d) Incompetence.

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

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

27 (g) The practice of medicine from this state into another state or country
28 without meeting the legal requirements of that state or country for the practice of
medicine. Section 2314 shall not apply to this subdivision. This subdivision shall
become operative upon the implementation of the proposed registration program

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described in Section 2052.5.

(h) 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.

6. Section 2236 of the Code states:

(a) The conviction of any offense substantially related to the qualifications, functions, or duties of a physician and surgeon constitutes unprofessional conduct within the meaning of this chapter. The record of conviction shall be conclusive evidence only of the fact that the conviction occurred.

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

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

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

7. Section 2239 of the Code states:

(a) The use or prescribing for or administering to himself or herself, of any controlled substance; or the use of any of the dangerous drugs specified in Section 4022, or of alcoholic beverages, to the extent, or in such a manner as to be dangerous or injurious to the licensee, or to any other person or to the public, or to the extent that such use impairs the ability of the licensee to practice medicine safely or more than one misdemeanor or any felony involving the use, consumption, or self-administration of any of the substances referred to in this section, or any combination thereof, constitutes unprofessional conduct. The record of the conviction is conclusive evidence of such unprofessional conduct.

(b) A plea or verdict of guilty or a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning of this section. The Medical Board may order discipline of the licensee in accordance with Section 2227 or the Medical Board may order the denial of the license when the time for appeal has elapsed or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code allowing such person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, complaint, information, or indictment.

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

2 For the purposes of denial, suspension or revocation of a license, certificate or permit
3 pursuant to Division 1.5 (commencing with Section 475) of the code, a crime or act shall be
4 considered to be substantially related to the qualifications, functions or duties of a person holding
5 a license, certificate or permit under the Medical Practice Act if to a substantial degree it
6 evidences present or potential unfitness of a person holding a license, certificate or permit to
7 perform the functions authorized by the license, certificate or permit in a manner consistent with
8 the public health, safety or welfare. Such crimes or acts shall include but not be limited to the
9 following: violating or attempting to violate, directly or indirectly, or assisting in or abetting the
10 violation of, or conspiring to violate any provision of the Medical Practice Act.

8 9. California Vehicle Code Section 23152 states:

9 (a) It is unlawful for a person who is under the influence of any alcoholic beverage to drive
10 a vehicle.

11 (b) It is unlawful for a person who has a 0.08 percent or more, by weight, of alcohol in his
12 or her blood to drive a vehicle.

12 10. California Vehicle Code Section 23578 states:

13 In addition to any other provisions of this code, if a person is convicted of a violation of
14 Section 23152 or 23153, the court shall consider a concentration of alcohol in the person's blood
15 of 0.15 percent or more, by weight, or the refusal of the person to take a chemical test, as a
16 special factor that may justify enhancing the penalties in sentencing, in determining whether to
17 grant probation, and, if probation is granted, in determining additional or enhanced terms and
18 conditions of probation.

18 **CAUSE FOR DISCIPLINE**

19 **(Unprofessional Conduct: Criminal Conviction/Dangerous Use of Alcohol)**

20 11. Respondent Sarah Nicole Fitch Gallager, M.D. is subject to disciplinary action under
21 section 2234 (unprofessional conduct), and/or 2236 and California Code of Regulations, title 16,
22 section 1360 (criminal conviction) and/or section 2239 (dangerous use of alcohol), in that on or
23 about March 26, 2019, in a criminal proceeding entitled *The People of the State of California v.*
24 *Sarah Nicole Gallager*, in the San Mateo Superior Court, Case No. 0788949, Respondent was
25 convicted by plea of "no contest" to violating California Vehicle Code sections 23152(b) with
26 admission of the enhancement allegation of driving with a blood alcohol content of 0.15% or
27 higher, in violation of California Vehicle Code section 23578. The circumstances are as follows:
28

1 a. On or about October 27, 2018, at approximately 10:10 p.m., in San Mateo, California,
2 officers responded to a report of a vehicle collision. At the scene, officers contacted Respondent,
3 who was identified as the driver of an overturned vehicle. Respondent told officers she was
4 driving home from a friend's house, that she believed the traffic light was yellow when she
5 entered the intersection, and she could not recall how her vehicle overturned. The officers
6 observed that Respondent displayed objective signs of impairment: red, watery eyes, slurred
7 speech and the odor of alcohol emanating from Respondent's breath. Respondent performed
8 poorly on field sobriety tests administered by one of the officers. The officers placed Respondent
9 under arrest for driving while under the influence of alcohol.

10 b. When initially contacted by the officer, Respondent claimed she consumed three (3)
11 glasses of wine and spritzer between 12:00 p.m. and 9:00 p.m. on October 27, 2018. At
12 approximately 11:37 p.m., a blood draw of Respondent was obtained for alcohol testing. The test
13 result was a blood alcohol content (BAC) of 0.20%.

14 c. Respondent was charged by the San Mateo District Attorney's Office with violating
15 California Vehicle Code sections 23152(a), driving under the influence, and 23152(b), driving
16 with a BAC in excess of 0.08%, and special allegation of driving with a BAC in excess of 0.15%,
17 pursuant to California Vehicle Code section 23578. Additionally, Respondent was charged with
18 Penal Code Section 273A(b), endangering the health of a child, based on the fact that
19 Respondent's 6-year old child was seated in the rear passenger seat while Respondent was driving
20 under the influence of alcohol.

21 d. On or about March 26, 2019, Respondent pleaded "no contest" to violating California
22 Vehicle Code sections 23152(b) and admitted to the enhancement allegation of driving with a
23 BAC of 0.15% or higher, in violation of California Vehicle Code section 23578. The child
24 endangerment charge was dismissed. Respondent was sentenced by the court to four days in
25 custody; three years' probation; a fine of \$1,914.00; First Offender DUI program; and ordered not
26 to drive with any measurable amount of alcohol during the probationary period.

27 12. Respondent engaged in unprofessional conduct, pursuant to section 2234 of the Code,
28 by virtue of the fact that Respondent drove a vehicle while under the influence of an excessive

1 amount of alcohol in a manner dangerous to Respondent and others in violation of section 2239
2 of the Code.

3 13. Respondent's criminal conviction for driving under the influence is substantially
4 related to the qualifications, functions and duties of a physician and surgeon, and constitutes
5 unprofessional conduct and cause for discipline pursuant to sections 2234 and 2236 of the Code,
6 and title 16, section 1360 of the California Code of Regulations.

7
8 **PRAYER**

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

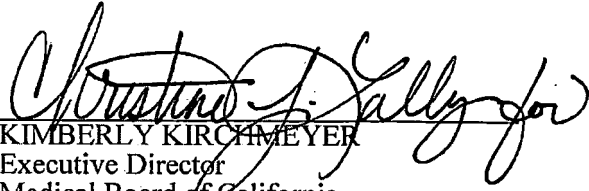
11 1. Revoking or suspending Physician's and Surgeon's Certificate Number A 114165,
12 issued to Sarah Nicole Fitch Gallager, M.D.;

13 2. Revoking, suspending or denying approval of Sarah Nicole Fitch Gallager, M.D.'s
14 authority to supervise physician assistants and advanced practice nurses;

15 3. Ordering Sarah Nicole Fitch Gallager, M.D., if placed on probation, to pay the Board
16 the costs of probation monitoring; and

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

18
19 DATED: November 1, 2019

20 
21 KIMBERLY KIRCHMEYER
22 Executive Director
23 Medical Board of California
24 Department of Consumer Affairs
25 State of California
26 Complainant

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28 SF2019201654