

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

**In the Matter of the Accusation
Against:**

Jeetinder Singh Sohal, M.D.

**Physician's and Surgeon's
Certificate No. A 110878**

Case No.: 800-2020-064028

Respondent.

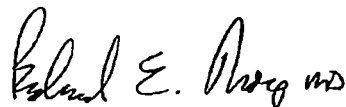
DECISION

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

This Decision shall become effective at 5:00 p.m. on December 14, 2023.

IT IS SO ORDERED: November 14, 2023.

MEDICAL BOARD OF CALIFORNIA



**Richard E. Thorp, M.D. , Chair
Panel B**

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

In the Matter of the Accusation Against:

JEETINDER SINGH SOHAL, M.D., Respondent

Agency Case No. 800-2020-064028

OAH No. 2023040376

PROPOSED DECISION

Danette C. Brown, Administrative Law Judge, Office of Administrative Hearings (OAH), State of California, heard this matter by videoconference on September 19, 2023, from Sacramento, California.

Ryan J. Yates, Deputy Attorney General, represented complainant Reji Varghese, Executive Director, Medical Board of California (Board), Department of Consumer Affairs.

Paul Chan, Attorney at Law, Kravitz and Chan, represented Jeetinder Singh Sohal, M.D. (respondent), who was present at the hearing.

Evidence was received, the record closed, and the matter submitted on September 19, 2023.

FACTUAL FINDINGS

Jurisdictional Matters

1. On January 22, 2010, the Board issued to respondent Physician's and Surgeon's Certificate No. A 110878 (certificate). The certificate expires on October 31, 2023, unless renewed or revoked.
2. On August 25, 2022, a former Board Executive Director filed an Accusation in his official capacity against respondent, alleging four causes for discipline constituting unprofessional conduct: (1) use of alcohol in a dangerous or injurious manner; (2) conviction of a crime substantially related to the qualifications, functions, and duties of a physician and surgeon; (3) violation of the Medical Practice Act (Bus. & Prof. Code, § 2000 et seq.); and (4) general unprofessional conduct. Specifically, the Accusation alleges that respondent's four arrests on August 27, 2019, July 2, 2020, April 13, 2021, and July 23, 2021, and his October 20, 2021, conviction for driving under the influence (DUI), were due to respondent's abuse of alcohol.
3. Additionally, complainant alleged cause for restriction and/or revocation of respondent's certificate pursuant to Business and Professions Code section 822, in that his ability to practice medicine safely is impaired because he is mentally or physically ill, affecting his competency.

Complainant's Evidence

AUGUST 27, 2019 ARREST FOR DOMESTIC VIOLENCE

4. On August 27, 2019, at approximately 8:30 p.m., officers with the Fairfield Police Department responded to a report of gunshots occurring at a residence. Police

determined that respondent fought with another male in front of the residence. The male was an ex-boyfriend of respondent's then-girlfriend, J.D., with whom respondent had been in a dating relationship for five months. J.D. called her ex-boyfriend to the residence so that they could talk. Respondent refused to let J.D. leave the residence to speak to her ex-boyfriend, who was waiting for J.D. down the street. Respondent pushed J.D. to prevent her from leaving the residence. During the altercation respondent punched J.D. one time on the left side of her head with a closed fist.

5. J.D. eventually left the residence, spoke with her ex-boyfriend down the street, and told him that respondent hit her. J.D. and her ex-boyfriend walked back to the residence, as J.D. was concerned about their two-year-old daughter who was also present in the residence. The ex-boyfriend and respondent engaged in a physical altercation. The fight stopped when J.D.'s mother retrieved a gun from the residence and fired two shots in the air. Respondent was arrested for battery upon a person with whom he had a dating relationship, and false imprisonment.

6. On March 1, 2021, respondent sent an email to Board Special Investigator Flor Flatley, explaining the circumstances of the incident. Respondent was at a friend's house. The friend was J.D.'s mother. J.D. arrived and her mother would not let her in the house. J.D. assumed it was respondent preventing her from entering her mother's house. Respondent went out to his car and J.D.'s "boyfriend" attacked him from behind. Respondent was arrested because J.D. and her boyfriend made up a story that respondent restrained her and prevented her from accessing the house. The charges against him were "dropped."

JULY 2, 2020 ARREST FOR DOMESTIC VIOLENCE

7. On July 1, 2020, at approximately 11:28 p.m., Sutter County Sheriff's officers were dispatched to a domestic violence incident. K.A., respondent's girlfriend, called 911 after she and respondent got into an argument at respondent's residence.

8. K.A. explained to officers that respondent began yelling at her. She did not want to argue and wanted to go to bed. As she attempted to put her four-year-old daughter to bed, respondent told K.A. to leave. She was gathering her belongings when she heard respondent throw a television in the front yard. No longer comfortable at respondent's residence, K.A. and her daughter began to leave.

9. As K.A. reached the threshold of the front door, respondent pushed K.A. causing her and her daughter to stumble forward. K.A. and her daughter proceeded towards their vehicle. Respondent threw shoes at K.A., striking her right elbow, the left side of her upper back, and her left buttock. K.A. and her daughter drove away and called 911. K.A. was 16 weeks pregnant with respondent's child during the incident. At the time, K.A. had been in a relationship with respondent for five months and lived at respondent's residence for two months.

10. K.A. had red marks on the inside of her upper right arm, and her left buttock had a one-inch abrasion caused by the shoes respondent threw at her. K.A.'s daughter was not injured. An officer took photographs of K.A.'s injuries.

11. Officers went to respondent's residence. Respondent was home but did not answer the door and turned off all the lights in his residence. An officer observed respondent enter the south side of the house through a window. Another officer used his vehicle-equipped loudspeaker ordering respondent to exit the home and get on his knees. Respondent complied. Respondent resisted officers as they placed him in

custody. Respondent was charged with corporal injury to a cohabitant, cruelty to a child, and resisting a peace officer. The charges were ultimately dismissed.

12. On March 3, 2021, respondent sent an email to Board Special Investigator Flor Flatley, explaining the circumstances of the incident. Respondent admitted that he and K.A. "had a disagreement which eventually escalated." K.A. was pregnant and respondent had Covid-19. He added, "thing[s] probably got louder than should have." Furthermore:

When Sutter County Sheriff Arrived, due to my partner missing a stop sign when she had left for a drive. When they seen her, apparently she was upset and nervous. They further came to the house and as per county rules, whenever there is a domestic issue, one partner has to go and be separated. I was the one to, because she was pregnant. There was no charges.

(As stated in original.)

APRIL 13, 2021 ARREST FOR DOMESTIC BATTERY

13. On April 15, 2021, K.A. went to the Sutter County Sheriff's Office to report a domestic violence incident between her and respondent on April 13, 2021. She reported that she lived with respondent at his residence. K.A. had a five-year-old daughter who also lived in the residence, and she and respondent had a four-month-old daughter together who also lived at the residence.

14. K.A. explained that she returned to the residence on April 13, 2021, at approximately 9:50 p.m. Respondent became angry when she refused to have sexual

intercourse with him. Respondent began consuming alcohol and yelled at K.A. about past relationships and K.A.'s behavior. While respondent was holding their daughter with his left hand, he told K.A. to "get the fuck out of my house and get your nigger ass daughter out of my house." As K.A. exited the residence, respondent pulled the back of her hair with his right hand, hurting K.A.'s head. Later, K.A. confronted respondent about pulling her hair, which respondent denied.

15. K.A. left the residence with her older daughter and got into the driver's seat of her vehicle. Respondent came out to her vehicle and put his right hand through her half-opened driver's side window and grabbed her eyeglasses off of her face. Respondent then slammed the driver's side door on K.A.'s left ankle which she was resting outside of the door opening. She had pain around her ankle area and bruising. K.A. and her older daughter left and spent the night at another residence.

16. Officers went to respondent's residence on April 15, 2021, at approximately 9:43 a.m. They arrested respondent for domestic battery. K.A. then took custody of their infant daughter.

17. Respondent explained to the officers that K.A. came home from a party on April 13, 2021 after consuming a few alcoholic drinks. A dispute ensued when respondent told K.A. that her older daughter talked back to him. K.A. wanted to leave and respondent told K.A. to get out of the house. K.A. left the residence. Respondent denied grabbing K.A.'s eyeglasses and denied closing the car door on K.A.'s ankle. The officers issued a citation to respondent to appear in court.

SEPTEMBER 27, 2021 CONVICTION FOR DOMESTIC BATTERY

18. On September 27, 2021, in the Superior Court of California, County of Sutter, Case No. CRF21-0000996, respondent was convicted upon a plea of nolo

contendere of violating Penal Code section 243, subdivision (e)(1), battery on a cohabitant (K.A.), a misdemeanor. Imposition of sentence was suspended, and respondent was placed on probation for three years, and ordered to spend one day in jail, complete a 52-week batterer's treatment program, maintain no contact, nor batter, annoy, threaten, or harass K.A., and pay court fees and fines.

19. After his conviction, respondent sent an email to Board Special Investigator Flor Flatley, explaining the circumstances of the incident. He wrote that he and his partner had an argument. He asked her to leave. As she did so, respondent refused to give their five-month-old baby to her because he did not believe it was safe for their baby to leave with her. A few days after the incident, respondent was charged with "a DV felony" because "my partner said as she left I shut the door on her ankle ... leading to an ankle injury." Respondent asserted "there was no documentation of ankle injury [*sic*]." He wrote that the case was closed and he was charged with "a DV misdemeanor [*sic*] with no injury." Further, "[s]ince then we have had no issues." The record of conviction of the crime is conclusive evidence of the fact that the conviction occurred, but only of that fact. A collateral attack on the conviction cannot be entertained in this forum (*Arneson v. Fox* (1980) 28 Cal.3d 440, 449.)

JULY 23, 2021 ARREST FOR DRIVING UNDER THE INFLUENCE (DUI) OF ALCOHOL

20. On July 23, 2021, at approximately 8:00 p.m., officers with the Yuba City Police Department were called to a fight at Chili's Restaurant. The 911 caller observed two males fighting, hugging, then fighting again. When they arrived, an officer observed respondent in his black sports utility vehicle driving away from the scene, and the other male walking on the sidewalk. The officer drove away to locate respondent. About a minute later, the officer heard a sound and observed that

respondent's vehicle went off the roadway, hit several bushes, sheared off a fire hydrant, knocked down a tree, and appeared to be wedged between a light pole and a metal fence.

21. The officer found respondent walking around "aimlessly" and displaying objective signs of alcohol intoxication. Respondent admitted he consumed a beer "a few hours ago" and "did not feel the effects of alcohol." When asked what happened, respondent explained that another driver swerved toward his vehicle and respondent swerved in the opposite direction. The officer observed respondent to be "irritated" towards him, and "seemed to dismiss" the officer. Respondent eventually asked for his lawyer and refused field sobriety tests. Respondent resisted when placed under arrest. Four officers struggled to get respondent's hands close enough to handcuff him.

22. Respondent provided a blood sample while in custody and was later booked for DUI. On August 10, 2021, Valley Toxicology Services, Inc. issued a Toxicology Report containing a forensic alcohol analysis of respondent's blood samples provided on July 23, 2021. Respondent's blood alcohol concentration (BAC) was .20 percent, over twice the legal limit.

OCTOBER 20, 2021 DUI CONVICTION

23. On October 20, 2021, in the Superior Court of California, County of Sutter, Case No. CRTR21-0002024, respondent was convicted upon a plea of no contest to violating Vehicle Code sections 23152, subdivision (b) (DUI with .08 percent or more BAC), and 23578 (a sentence enhancement for DUI over .15 percent BAC), a misdemeanor. Imposition of sentence was suspended, and respondent was placed on 36 months of unsupervised probation and ordered to serve four days in jail, enroll in a three-month DUI Program, and pay court fees and fines.

24. On November 8, 2021, respondent filed a Criminal Action Reporting Form with the Board. Respondent reported that on October 20, 2021, he was convicted of violating Vehicle Code section 23152, subdivision (b), upon a plea of no contest. He provided his sentencing information and sentencing date as described above.

25. On November 22, 2021, respondent sent a letter to Board Special Investigator Flor Flatley, explaining the circumstances of the incident. He wrote:

On July 23, 2021, I was out with a friend to celebrate a birthday. During the course of dinner, I had a few alcoholic beverages. I did not feel impaired so I made the poor decision to drive after we left the restaurant. I attempted to negotiate a corner on the road as I was driving and I underestimated the angle on of [sic] the turn. As a result, I struck a pole and I was subsequently approached by law enforcement and arrested for driving under the influence of alcohol.

I accept full responsibility for my conduct and poor judgement. I have completely abstained from alcohol use since the incident.

TESTIMONY OF K.A.

26. K.A. and respondent met at a bar in a local restaurant in Yuba City. They began dating and she became pregnant in March 2020. She moved in with respondent at the end of June 2020. They ended their relationship in April 2022. Respondent and K.A. have two children together. Their first child was born on December 8, 2020. Their

second child was born on December 5, 2022. K.A. also has an older child who will be eight years old in December 2023.

27. Regarding respondent's July 2, 2020 arrest, K.A. explained that she and respondent were outside in the backyard late in the evening. Respondent was drinking a bottle of wine. K.A. was 16 weeks pregnant and was not drinking alcohol. Respondent began arguing with K.A., calling her names. Respondent's behavior continued. He asked K.A. to leave his house. As she was gathering her things, respondent threw her makeup bag across the room. He went to their bedroom, grabbed the television, and threw it outside. K.A. opened the door to leave with her oldest daughter, but respondent would not let her. She eventually made her way towards her vehicle, when respondent picked up K.A.'s shoes and threw them at her. He told K.A. that she "and [her] nigger ass daughter needed to leave" the house. As K.A. drove away, respondent followed her in his truck. K.A. stopped and called 911. Police were dispatched to the scene.

28. Regarding respondent's April 13, 2021 arrest, K.A. explained that she went out to dinner with her mother, cousin, and her mother's friend. She left her older daughter and their baby with respondent at home. K.A. did not consume alcohol. She went home and was getting ready to go to sleep. Respondent wanted sexual intercourse and K.A. did not reciprocate. Respondent began degrading K.A. and called her names. He made K.A. wake up her older daughter and told K.A. to "get that nigger out of my house." K.A. did not call 911 that night. Respondent's sister arrived and told K.A. to go to her house and stay there. Respondent's sister promised K.A. that she would get the baby from respondent in the morning. The following morning, respondent's sister was not able to get the baby from respondent. K.A. decided to file a police report at the station.

29. K.A. has observed respondent abuse alcohol during their relationship. After respondent's October 20, 2021, DUI conviction, she knew respondent would not be drinking for a while. She moved back in with respondent in December 2021 because he was sober. She left him in April 2022 when he began drinking again.

30. K.A. and respondent have an ongoing family court matter. K.A. requested the court order respondent to undergo three random urine screenings. She requested them in June 2023, July 2023, on August 8, 2023. Respondent tested negative for alcohol metabolites. K.A. has requested additional random urine screenings. She asserted that if respondent tests positive, he "cannot see his child." K.A. did not indicate which child she was referring to.

PSYCHIATRIC EVALUATION BY AVAK HOWSEPIAN, M.D., M.A., PH.D.

31. On August 18, 2021, the Board requested respondent voluntarily submit to a mental examination. On September 3, 2021, respondent signed and later submitted the Voluntary Agreement for Mental Examination.

32. Dr. Howsepian is board certified in psychiatry and neurology. In 1987, he received his medical degree from the University of California, Davis. He completed a psychiatry internship in 1988 and his psychiatry residency in 1997, at the University of California, San Francisco-Fresno Central San Joaquin Valley Medical Education Program. He received his Master of Arts Degree in 1991, and Ph.D. in 1997, in Philosophy at the University of Notre Dame.

33. The Board retained Dr. Howsepian to conduct a psychiatric examination of respondent pursuant to Business and Professions Code section 820. That section authorizes the Board to order respondent to be examined by one or more physicians and surgeons designated by the agency if it appears he may be unable to practice

medicine safely due to mental or physical illness affecting competency. Dr. Howsepian conducted his psychiatric examination of respondent on December 18, 2021, and wrote his expert report after his examination. Dr. Howsepian testified at hearing consistent with his report.

34. Dr. Howsepian conducted an approximately hour and a half remote video interview with respondent and reviewed respondent's arrest reports and his written explanations, certified court documents, video and audio recordings provided by K.A., and respondent's BAC results. His methods of evaluation were his clinical interview of respondent, a clock drawing exercise, a mini-mental state examination, and materials review. Dr. Howsepian opined:

In my professional opinion, to a reasonable degree of medical certainty, [respondent] currently suffers from **Alcohol Use Disorder, Severe, in Early Remission**. There are also some suggestions in [respondent's] history of a possible vulnerability to seasonal anxiety and depressive symptoms (which might, in the past, have risen to a level of a Seasonal Depressive Disorder) and some suggestions in his presentation of certain maladaptive personality traits which require longitudinal evaluation. I found no evidence that [respondent] suffers from psychotic disorder, a bipolar disorder, Posttraumatic Stress Disorder, an impulse control disorder, a paraphilic disorder, an Antisocial Personality Disorder, or a Substance Use Disorder involving illicit substances of abuse. I also found no evidence to suggest,

while not intoxicated with alcohol, that [respondent] is prone to violence. [Bold in original.]

35. The Board asked Dr. Howsepian to answer six questions. The first question was whether respondent had a mental illness or condition that impacted his ability to safely engage in the practice of medicine. Dr. Howsepian opined that so long as respondent remains abstinent from alcohol, his alcohol use disorder did not impact his ability to safely engage in the practice of medicine.

36. The second question was whether respondent's presentation was possibly due to a physical illness such that a physical examination is necessary. Dr. Howsepian opined that respondent's presentation was not due to a physical illness such that a physical examination was necessary.

37. The third question was whether respondent is able to practice medicine safely at this time without any restrictions or conditions. Dr. Howsepian opined that so long as respondent remains abstinent from alcohol, respondent is able to practice medicine safely at this time without any restrictions or conditions.

38. The fourth question was whether respondent is unable to safely practice medicine at this time as a result of a mental illness or condition. Dr. Howsepian opined that so long as respondent remains abstinent from alcohol, respondent is able to practice medicine at this time.

39. The fifth question was whether respondent's continued practice of medicine poses a present danger or threat to the public health, welfare, or safety. Dr. Howsepian opined that so long as respondent remains abstinent from alcohol, his continued practice of medicine poses no present danger or threat to public health, welfare, or safety.

40. The sixth and last question was whether respondent has a mental illness or condition which requires monitoring, treatment, oversight, or other terms and conditions in order for him to practice medicine safely. Dr. Howsepian opined that respondent's alcohol use disorder "*does require* ongoing monitoring and continued treatment in order for him to continue practicing medicine safely." (Italics in original.)

41. Dr. Howsepian concluded in his report:

Proper psychotherapy that addresses both [respondent's] alcoholism, his impaired stress tolerance, and that helps him manage conflicts with [K.A. and her daughter], his nuclear family (most importantly, perhaps, his father) and the greater Eastern Indian/Sikh community is critical for [respondent's] full recovery.

42. At hearing, Dr. Howsepian explained that early remission of Alcohol Use Disorder, Severe, requires respondent to be at least three months and less than one year sober. If respondent had been sober for two years, he would be in full remission. Respondent's "issue was strictly contained to his alcohol overuse" with "symptoms of "depressive and personality vulnerability." Respondent is a "social drinker that got worse during Covid." Dr. Howsepian observed an increase in alcohol abuse with patients during the Covid-19 pandemic. He opined that respondent is an alcoholic, and that "very few people with alcohol use disorder can return to alcohol drinking" and should remain abstinent. He observed respondent to be "quite enthusiastic about being sober and wants his life to go well."

Respondent's Evidence

RESPONDENT'S TESTIMONY

43. Respondent received his medical degree in 2003 from St. Georges University in Grenada. He completed his general surgery residency in 2005 and his obstetrics and gynecology residency in 2007 at Nassau University, Long Island, New York. He is board certified in Obstetrics and Gynecology.

44. Respondent began a private practice in California in 2009. He ended his private practice in 2013 and began working at San Joaquin General Hospital as a community clinic provider, emergency room physician for gynecological emergencies, and gynecological hospitalist and surgeon. From 2018 to 2019, he worked as an obstetrics hospitalist at North Bay Hospital. From 2020 to 2021, he worked at Oroville Hospital performing clinical and call coverage for gynecological procedures. From March 2021 to February 2022, respondent took a leave of absence from medical practice. From March 2022 to March 2023, he worked at San Joaquin General Hospital in a laborist position. He is not currently employed and is awaiting the outcome of the instant case.

45. Respondent did not dispute the allegations in the Accusation. He is ashamed and takes responsibility for his actions. His actions do not reflect who he is today.

46. Regarding his August 27, 2019 arrest, respondent explained that he was arrested but not criminally charged or convicted. He consumed wine at a wine tasting event and got into a fight with the boyfriend of an ex-girlfriend. He asserted that the fight was "something that should not have happened."

47. Regarding his July 2, 2020 arrest, respondent explained he is very embarrassed by the incident and takes full responsibility. He asserted his arrest did not result in any criminal charges or a conviction. He was in a relationship he "should not have been in "due to multicultural differences." He was "not great at coping with that stress." His alcohol consumption increased because it was a coping mechanism for his stress.

48. Regarding his April 13, 2021 arrest and September 27, 2021 conviction for domestic battery, respondent explained that this was "another incident where alcohol was a factor." He takes full responsibility for his actions. He asserted that he and K.A. were drinking, and they fought. Physical violence was involved. Respondent is "very ashamed of that" and disappointed in his actions. Respondent was placed on three years' probation and completed a 52-week batterer's program ordered by the court. He was also required to obey all laws. He did not abstain from alcohol at that time. He is no longer in an intimate relationship with K.A.

49. Regarding his July 23, 2021 arrest and October 20, 2021 DUI conviction, respondent explained that he consumed a significant amount alcohol and crashed his car into a light pole on the way home. He described the incident as "life changing." He stopped drinking alcohol from that night forward. He has become "more religious," attending church twice a day. He was placed on probation for three years.

50. Respondent saw Carol Seigler, Licensed Marriage Family Therapist, New Day Family Counseling Center, from July 6, 2020, through March 30, 2022, and began seeing her again beginning on April 26, 2023. Respondent and Ms. Seigler work on respondent's stressors and emotions arising out of his child custody issues with K.A., and his continued sobriety. He sees Ms. Seigler from twice a week to every other week. Ms. Seigler wrote a letter dated July 24, 2023, confirming that she provides therapeutic

services to respondent for custody issues related to his two-year-old daughter, his dysfunctional relationship dynamics with K.A., and tools for effective and healthy communication with K.A. Ms. Siegler is impressed with respondent's commitment to therapy and is making great progress, showing improvement in managing difficult emotions.

51. Respondent began a court-ordered domestic violence program on November 30, 2021, and completed the program on December 6, 2022. He learned how to deal with stressors and triggers leading to arguments with K.A. He knows now to de-escalate the situation by taking a time out and walking away to avoid arguments. He acknowledged that his consumption of alcohol could trigger arguments.

52. Respondent began a court-ordered first offender three-month DUI program called Pathways on November 22, 2021, and completed the program on May 15, 2022. He described the program as "eye-opening." He learned to take full accountability for his alcohol consumption, make good decisions, and utilize resources to maintain sobriety.

LETTERS OF SUPPORT

53. Lloyd J. Lee, M.D., is the Chief of the Obstetrics and Gynecology (OB/GYN) Department at San Joaquin General Hospital. Dr. Lee wrote in his August 25, 2023 letter that he has known respondent for more than 10 years. He hired respondent and has closely observed respondent as his supervisor, and has worked directly with respondent in "a busy high risk OB/GYN practice." Dr. Lee is aware of the Board's Accusation. The allegations do not alter his opinion of respondent's good

character and professional conduct. He described respondent as having "integrity, honesty, and [an] ethical approach towards his work and personal life."

54. Mani Sidhu, Attorney at Law, wrote in his August 28, 2023, letter that he has known respondent his entire life. He and respondent grew up together and were college roommates in 1997. Mr. Sidhu knows of the Board's allegations, explaining that the allegations came at a very stressful time in respondent's life and are "not indicative of the person he is and has always been."

55. Michelle Gutierrez wrote in her August 5, 2023, letter that she is a charge nurse in the Labor and Delivery Department at San Joaquin General Hospital and has known respondent since he began working there in 2014. She knows of the Board's allegations, but they do not change her opinion of respondent "as an individual or professional." She has never seen any negative interactions between respondent and other employees. She described respondent as "very caring" and a "very hard working, professional and dedicated physician."

56. Jamilah Abdul-Haqq, wrote in her undated letter that she has known respondent since 2017, when she transitioned into a new role within the Post-Anesthesia Care Unit caring for labor and delivery patients. She described respondent as an empathetic and professional doctor who was respected by the nursing staff. She knows of the Board's allegations and believes they do not accurately reflect his commitment to patient care.

57. Sandeep Sohal, respondent's younger sister, wrote in her August 1, 2023, letter that she knows of the Board's allegations, and they do not change her view of and respect towards respondent. She believes the allegations stemmed from a personal issue and do not reflect who respondent is. She described respondent as

"one of the hardest working, dedicated individual[s] as a physician, father and brother."

58. Benny Daniel Rodgers, Jr., M.D., wrote in his August 14, 2023, letter that he has known respondent professionally and personally for over a decade. He worked with respondent closely for four years, often paired together in surgery. He described respondent as a compassionate and competent doctor. Dr. Rodgers is aware of respondent's "marital situation," spending many evenings discussing solutions to repair his "marital concerns." Despite respondent's personal problems, he maintained his "compassionate care to underserved [women] in the [sic] San Joaquin County."

59. Surinder Dhaliwal, Director of Operations for the Salvation Army Yuba Sutter Corps, wrote in his August 30, 2023, letter that he is respondent's "sponsor." He did not indicate whether his sponsorship is through Alcoholics Anonymous (AA). Mr. Dhaliwal is a 17-year recovering addict. As of the date of his letter, he and respondent worked together for four months. They set up a schedule for 90 meetings in 90 days. They met and discussed at length the 12-step program and began implementing the steps. They met bi-weekly and talked on the phone a few times per week. Mr. Dhaliwal has observed respondent make great progress in his sobriety, and believes there is "no reason to be concerned with relapse at this time." Further, respondent "accepts his mistakes and is moving forward with a positive outlook on a sober future." Mr. Dhaliwal did not indicate whether he continues to sponsor respondent or whether he and respondent completed the 90 meetings in 90 days as scheduled.

Analysis

SUBSTANTIAL RELATIONSHIP

60. A conviction is substantially related to the qualifications, functions, and duties of a physician and surgeon "if to a substantial degree it evidences present or potential unfitness of a person holding a license to perform the functions authorized by the license in a manner consistent with the public health, safety, or welfare." (Cal. Code Regs., tit. 16, § 1360, subd. (a).) The Board considers the following criteria when making a substantial relationship determination: (1) nature and gravity of the crime; (2) number of years elapsed since the date of the crime; and (3) nature and duties of the profession. (Cal. Code Regs., tit. 16, § 1360, subd. (b).)

61. Respondent's domestic battery and DUI convictions were serious and the circumstances involved harm to others and property. The incidents were recent, having occurred in April and July 2021. Respondent will be on criminal probation for his domestic battery conviction until July 2024, and his DUI conviction until October 2024. A physician knows or should know of the effects of alcohol impairment and must conduct himself in a lawful manner. Respondent disregarded his medical knowledge when he consumed alcohol to an extent that law enforcement were called. His criminal conduct demonstrates present or potential unfitness to perform the functions authorized by his certificate in a manner consistent with the public health, safety, and welfare. Thus, respondent's domestic battery and DUI convictions are substantially related to the qualifications, functions, and duties of a physician and surgeon.

REHABILITATION

62. California Code of Regulations, title 16, section 1360.1, subdivision (b), sets forth rehabilitation criteria to consider when physician has been convicted of a

crime. Relevant criteria include: (1) nature and severity of the acts or offenses; (2) total criminal record; (3) time that has elapsed since commission of the offense; and (3) evidence of rehabilitation submitted by the licensee.

63. Respondent's conduct underlying his arrests and convictions are serious. He was arrested for domestic violence three times, once for DUI, over a period of approximately two years. He has substantially related convictions for domestic battery and DUI. His BAC at the time of his DUI arrest was .20 percent, over twice the legal limit. Respondent attempted to diminish the seriousness of his arrests, stating the charges were dropped, and no convictions occurred. His explanations of his arrests and convictions tended to minimize his conduct. His failure to appreciate the severity of his conduct and how it harmed his family, the public, and property of others, demonstrates a lack of insight and remorse. Fully acknowledging the wrongfulness of his actions is an essential step towards rehabilitation. (*Seide v. Committee of Bar Examiners* (1989) 49 Cal. 3d 933, 940.)

64. Respondent's total criminal record occurred over a span of two years. His last conviction occurred on October 20, 2021, exactly two years ago. Very little time has elapsed since the commission of his last conviction.

65. Respondent completed the court-ordered 52-week batterer's program, and the three-month DUI program. He learned that his alcohol consumption triggered arguments with K.A. The tools he learned to de-escalate conflicts are to take a time out and walk away. The DUI program taught him to take full accountability for his alcohol consumption and to make good decisions. He did not provide any other meaningful insights into what he learned about himself upon completion of the programs. Respondent does not attend Alcoholics Anonymous (AA) or any other type of alcohol abuse support program demonstrating rehabilitation efforts.

66. Respondent resumed seeing his therapist, Ms. Seigler, on April 26, 2023. He sees her anywhere from twice a week to every other week. She helps respondent manage his stressors and emotions arising out of his child custody case with K.A., and his sobriety. She did not identify respondent's sobriety date. She did not provide any insights into respondent's violent conduct with K.A. and others, or why respondent made racist remarks directed at K.A.'s daughter. She simply wrote in her letter that respondent is committed to therapy.

67. Respondent's letters of support collectively described respondent as a compassionate and professional physician. All of the authors expressed knowledge of the Board's allegations and did not change their opinion of respondent. The letters did not provide insight into respondent's efforts at rehabilitation, but do provide compelling insight into respondent's good conduct at work. They are given moderate weight.

68. Respondent made disingenuous attempts to express remorse for his criminal conduct. The mere expression of remorse does not demonstrate rehabilitation. Rather, a truer indication of rehabilitation is the demonstration of sustained conduct over an extended period of time that the licensee is rehabilitated and fit to practice. (*In re Menna* (1995) 11 Cal.4th 975, 987, 991.) Respondent has just begun his journey of sobriety and lawful conduct. His relationship with K.A. is now stable. Respondent testified that he stopped drinking after his July 23, 2021, DUI arrest. However, K.A. credibly testified that she left respondent in April 2022, when he began drinking again. Respondent's testimony in this regard was not credible and demonstrates a lack of rehabilitation.

69. Respondent remains on criminal probation until October 2024. It is well-established that rehabilitative efforts when a person is on criminal probation are

accorded less weight, "[s]ince persons under the direct supervision of correctional authorities are required to behave in exemplary fashion..." (*In re Gossage* (2000) 23 Cal.4th 1080, 1099.) While respondent has made some rehabilitation efforts by gaining insight through therapy, receiving spiritual support at church, and maintaining sobriety, true rehabilitation does not begin until respondent completes his criminal probation.

70. Clear and convincing evidence established respondent's use of alcohol in a dangerous or injurious manner, his conviction of substantially related crimes involving alcohol, violation of the Medical Practice Act, and unprofessional conduct. In addition, as stated in *Griffiths v. Superior Court* (2002) 96 Cal.App.4th 757, 770:

Convictions involving alcohol consumption reflect a lack of sound professional and personal judgment that is relevant to a physician's fitness and competence to practice medicine. Alcohol consumption quickly affects normal driving ability, and driving under the influence of alcohol threatens personal safety and places the safety of the public in jeopardy. It further shows a disregard of medical knowledge concerning the effects of alcohol on vision, reaction time, motor skills, judgment, coordination and memory, and the ability to judge speed, dimensions, and distance.

Driving while under the influence of alcohol also shows an inability or unwillingness to obey the legal prohibition against drinking and driving and constitutes a serious breach of a duty owed to society.

71. Respondent's criminal conduct poses serious concerns for the Board. He placed the public health, safety, and welfare at risk, and harmed his victims. His conviction for domestic battery cannot be conflated with his alcohol abuse. Addressing his alcohol abuse will not alleviate the Board's concerns that he is a violent licensee. Moreover, he undermined public confidence and respect for the medical profession by his criminal conduct. To provide the Board with assurances that respondent no longer poses a risk to the public, his physician and surgeon's certificate must be disciplined, as addressed in the Legal Conclusions below.

MENTAL OR PHYSICAL ILLNESS AFFECTING COMPETENCY TO PRACTICE MEDICINE

72. Dr. Howsepian persuasively determined that so long as respondent remains abstinent from alcohol, his Alcohol Use Disorder does not impact his ability to safely engage in the practice of medicine, and that respondent does not pose a present danger or threat to the public health, welfare, or safety. He added that respondent's Alcohol Use Disorder requires ongoing monitoring and continued treatment in order for him to continue practicing medicine safely. Respondent did not dispute Dr. Howsepian's medical opinions in this case.

73. While Dr. Howsepian did not characterize respondent's Alcohol Use Disorder as a mental illness like psychotic disorder, a bipolar disorder, posttraumatic stress disorder, impulse control disorder, paraphilic disorder, antisocial personality disorder, or substance use disorder involving illicit substances of abuse, respondent's disorder is nonetheless a mental health disorder. Dr. Howsepian did not find that respondent suffered from a physical illness.

74. It is concerning that Dr. Howsepian found some suggestions in respondent's presentation of certain maladaptive personality traits requiring longitudinal examination but did not identify those traits or opine on them. He did not meaningfully address respondent's violent conduct evidenced by his multiple arrests for fighting and domestic violence, and conviction for domestic battery. Further psychological and psychiatric assessment and testing must be done over a period of time, and a written report must be completed from the treating psychiatrist and/or psychologist, informing the Board that respondent's maladaptive personality traits have been treated and he is fit to return to practice.

Costs

75. Pursuant to Business and Professions Code section 125.3, complainant requested that respondent be ordered to reimburse the Board for the reasonable costs of the prosecution of the case. Complainant submitted a Declaration of the Deputy Attorney General with an attached computer printout that lists the amounts charged by the Attorney General's Office by time, date, and task. The Declaration and computer printout show that the Attorney General's Office billed the Board \$27,827.50 for prosecuting the case. These costs appear reasonable in light of the allegations and issues this matter. Costs are more fully discussed in the Legal Conclusion below.

LEGAL CONCLUSIONS

Purpose of Physician Discipline

1. The Medical Practice Act is set forth in Business and Professions Code section 2000 et seq. The purpose of the Medical Practice Act is to assure the high

quality of medical practice. (*Shea v. Bd. of Medical Examiners* (1978) 81 Cal.App.3d 564, 574.)

Burden and Standard of Proof

2. Complainant bears the burden of proving each of the grounds for discipline alleged in the Accusation, and must do so by clear and convincing evidence. (*Ettinger v. Bd. of Medical Quality Assurance* (1982) 135 Cal.App.3d 853, 856.) Clear and convincing evidence is evidence that leaves no substantial doubt and is sufficiently strong to command the unhesitating assent of every reasonable mind. (*In re Marriage of Weaver* (1990) 224 Cal.App.3d 478, 487.) The higher standard of proof is justified where vested rights are at stake – the revocation or suspension of a physician's and surgeon's certificate in this case.

License Discipline

3. Business and Professions Code section 2227, subdivision (a) provides, in pertinent part, that a licensee who has been found "guilty" of violations of the Medical Practice Act (Bus. & Prof. Code, § 2000 et seq.), shall:

- (1) Have his or her license revoked upon order of the board.
- (2) Have his or her right to practice suspended for a period not to exceed one year upon order of the board.
- (3) Be placed on probation and be required to pay the costs of probation monitoring upon order of the board.
- (4) Be publicly reprimanded by the board. The public reprimand may include a requirement that the licensee

complete relevant educational courses approved by the board.

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

Unprofessional Conduct

4. Business and Professions Code section 2234 provides in pertinent part, that the Board shall take action against any licensee found to have engaged in unprofessional conduct, which includes but is not limited to the following:

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

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

6. Business and Professions Code section 2236, subdivision (a), provides that conviction of a crime that is substantially related to the qualifications, functions, and duties of a physician and surgeon constitutes unprofessional conduct.

7. Business and Professions Code section 2239, subdivision (a), provides that the use of alcoholic beverages to the extent or in such a manner as to be dangerous or injurious to the licensee, any person, or the public, or the extent such

use impairs the ability of the licensee to practice medicine safely, constitutes unprofessional conduct.

Substantial Relationship

8. California Code of Regulations, title 16, section 1360, subdivision (a), provides in pertinent part, that a crime is considered to be substantially related to the qualifications, functions, and duties of a physician and surgeon if:

To a substantial degree it evidences present or potential unfitness of a person holding a license to perform the functions authorized by the license in a manner consistent with the public health, safety or welfare. Such crimes, professional misconduct, or acts shall include but not be limited to the following: Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate any provision of state or federal law governing the applicant's or licensee's professional practice.

9. As set forth the Factual Findings as a whole, respondent's domestic battery and DUI convictions demonstrate present unfitness to perform the functions authorized by the license in a manner consistent with the public health, safety or welfare. The convictions are thus substantially related to the qualifications, functions, and duties of a physician and surgeon.

Mental or Physical Illness Affecting Competency

10. Business and Professions Code section 822 provides that if a licensing agency determines the licensee's ability to practice his profession safely is impaired due to mental or physical illness affecting competency, the licensing agency may revoke, suspend, place on probation, or take other action on the license. As set forth in Dr. Howsepian's persuasive testimony, respondent's Alcohol Use Disorder requires ongoing monitoring and continued treatment in order for him to continue practicing medicine safely. Moreover, additional evaluation into suggested maladaptive personality traits through psychotherapy and/or psychiatry is needed to identify those traits and provide treatment or therapy for any mental illness or disease, if found. A period of probation is the appropriate discipline to provide assurances to the Board that respondent is a safe medical practitioner.

Cause for Discipline

11. Cause exists to discipline respondent's certificate, pursuant to Business and Professions Code sections 2227 and 2234, as defined by section 2239, and California Code of Regulations, title 16, section 1360, in that respondent used alcoholic beverages to the extent, or in such a manner, as to be dangerous or injurious to himself, or to any other person or to the public, as set forth in the Factual Findings and Legal Conclusions as a whole.

12. Cause exists to discipline respondent's certificate, pursuant to Business and Professions Code sections 2227 and 2234, as defined by section 2236, in that respondent has been convicted of crimes, domestic battery and DUI, that are substantially related to the qualifications, functions, and duties of a physician and surgeon, as set forth in the Factual Findings and Legal Conclusions as a whole.

13. Cause exists to discipline respondent's certificate, pursuant to Business and Professions Code sections 2227 and 2234, as defined by section 2234, subdivision (a), and California Code of Regulations, title 16, section 1360, in that respondent violated a provision of the Medical Practice Act: (1) by his use of use alcohol in a dangerous and injurious manner; (2) his three arrests for domestic violence; (3) his arrest for DUI; and (4) his substantially related convictions for domestic battery and DUI, as set forth in the Factual Findings and Legal Conclusions as a whole.

14. Cause exists to discipline respondent's certificate based on general unprofessional conduct, pursuant to Business and Professions Code sections 2227 and 2234, as defined in section 2234, in that respondent engaged in conduct referenced above, which breaches the rules or ethical code of the medical profession, or conduct which is unbecoming a member in good standing of the medical profession, and which demonstrates an unfitness to practice medicine, as set forth in the Factual Findings and Legal Conclusions as a whole.

Disciplinary Guidelines

PENALTY RANGES

15. The Board's Manual of Model Disciplinary Orders and Disciplinary Guidelines (Guidelines) provides recommended ranges of penalties for specified violations of the Medical Practice Act:

(a) For use of alcohol in a dangerous or injurious manner in violation of Business and Professions Code sections 2227 and 2234, defined by 2239, the minimum penalty is stayed revocation and five years' probation with the following terms: suspension of 60 days or more; abstain from use of alcohol; biological fluid testing; professionalism program (ethics course); psychiatric evaluation; psychotherapy;

medical evaluation and treatment; monitoring-practice/billing. The maximum penalty is revocation.

(b) For a misdemeanor conviction substantially related to the qualifications, functions, or duties of a physician and surgeon, pursuant to Business and Professions Code sections 2227 and 2234, as defined by 2236, the minimum penalty is stayed revocation and five years' probation with the following terms: community service; professionalism program (ethics course); psychiatric evaluation; medical evaluation and treatment; and victim restitution.

(c) For violation of Medical Practice Act pursuant to Business and Professions Code sections 2227 and 2234, as defined by 2234, subdivision (a), and California Code of Regulations, title 16, section 1360, the minimum penalty is stayed revocation and five years' probation with the following terms: education course; prescribing practices course; medical recordkeeping course; professionalism program (ethics course); clinical competence assessment program; monitoring-practice/billing; solo practice prohibition; and prohibited practice.

(d) For general unprofessional conduct pursuant to Business and Professions Code sections 2227 and 2234, as defined by 2234, the minimum penalty is stayed revocation and five years' probation with same terms as above for violation of the Medical Practice Act.

(e) For a mental illness or condition requiring monitoring or treatment pursuant to Business and Professions Code section 822, the minimum penalty is stayed revocation, five years' probation with the following terms: written examination; psychiatric evaluation; psychotherapy; medical evaluation and treatment; monitoring-

practice/billing; solo practice prohibition; and prohibited practice. The maximum penalty is revocation.

16. California Code of Regulations, title 16, section 1361, provides that the Board shall consider the Guidelines, and deviation from the Guidelines, including the standard terms of probation, is appropriate where the facts of a particular case warrant such a deviation due to mitigating factors, the age of the case, and evidentiary problems. Notwithstanding the Board's Guidelines, under California Code of Regulations, title 16, section 1361.5, subdivision (a):

If the licensee is to be disciplined for unprofessional conduct involving the use of illegal drugs, the abuse or drugs and/or alcohol, or the use of another prohibited substance as defined herein, the licensee shall be presumed to be a substance-abusing licensee for purposes of section 315 of the Code.

Subdivision (b) requires the Board to use the Uniform Standards for Substance-Abusing Licensees (Uniform Standards) "as provided in section 1361.5, without deviation, for each individual determined to be a substance-abusing licensee."

Subdivision (c) sets forth the required probationary terms and conditions that shall be used without deviation in the case of a substance-abusing licensee: (1) clinical diagnostic evaluations and reports; (2) notice of employer or supervisor information; (3) biological fluid testing; (4) group support meetings; (5) worksite monitor requirements and responsibilities; and (6) compliance with all terms and conditions of probation.

17. As set forth in the Factual Findings as a whole, the evidence established that respondent is a substance-abusing licensee. Thus, the probation terms in the Uniform Standards will apply. Optional probation terms under Board's Guidelines, including: medical evaluation and treatment; monitoring practice/billing; victim restitution; education course; prescribing practices course; medical recordkeeping course; clinical competence assessment program; prohibited practice; and written examination, are not warranted as those terms are unrelated to the allegations in the Accusation or the Factual Findings. The standard probation terms shall apply and no deviation is warranted. Furthermore, deviation from the Uniform Standards is not permitted. Given the seriousness of respondent's conduct and scant rehabilitation in this case, a period of probation more than the minimum term of five years shall be ordered.

PATIENT NOTIFICATION PROBATION CONDITION

18. On and after July 1, 2019, Business and Professions Code section 2228.1, subdivision (a), requires a licensee to:

Provide a separate disclosure that includes the licensee's probation status, the length of probation, the probation end date, all practice restrictions placed on the licensee by the board, the board's telephone number, and an explanation of how the patient can find further information on the licensee's probation on the licensee's profile page on the board's online license information internet website, to a patient or the patient's guardian or health care surrogate before the patient's first visit following the probationary order while the licensee is on probation

pursuant to a probationary order made on and after July 1, 2019, in any of the following circumstances:

(1) A final adjudication by the board following an administrative hearing or admitted findings or prima facie showing in a stipulated settlement establishing any of the following:

[1] ... [1]

(B) Drug or alcohol abuse directly resulting in harm to patients or the extent that such use impairs the ability of the licensee to practice safely.

19. As set forth in the Factual Findings as a whole, the undisputed evidence established that so long as respondent remains abstinent from alcohol, he is able to practice medicine safely. Conversely, his alcohol abuse, should it continue, impairs his ability to practice safely. Respondent's sobriety date was not established at hearing. Respondent testified he stopped drinking after his DUI arrest in July 2021. K.A. testified she left respondent because he began drinking again in April 2022. Respondent has undergone court-ordered random urine screenings beginning in June 2023. He has not tested positive for alcohol. The evidence established that respondent has abstained from alcohol consumption since at least June 2023.

20. There has not yet been a final adjudication of this matter. The admitted findings are that respondent is an alcoholic, and there are admitted findings by Dr. Howsepian that respondent's alcohol use disorder requires ongoing monitoring and continued treatment in order for him to continue to practice medicine safely. Thus, his alcohol abuse is to such extent that it impairs his ability to practice safely. Respondent

shall be required to comply with Business and Professions Code section 2228.1, subdivision (a)(1)(B).

Conclusion

21. The objective of an administrative proceeding relating to licensing is to protect the public. Such proceedings are not for the primary purpose of punishment. (*Fahmy v. Medical Bd. of California* (1995) 38 Cal.App.4th 810, 817.) When all of the evidence is considered, to provide the Board with assurances that respondent remains abstinent has addressed Dr. Howsepian's concerns, a seven-year probation with standard and optional terms and conditions, and the conditions under the Uniform Standards will be imposed. As a condition precedent for return to practice, respondent shall undergo: (1) a psychotherapy evaluation that addresses his alcoholism and impaired stress tolerance in his personal interactions with K.A., his family, and the greater Eastern Indian/Sikh community; and (2) a follow-up longitudinal evaluation recommended by Dr. Howsepian addressing any maladaptive personality traits with a written report from the treating psychiatrist or psychotherapist that his maladaptive traits have been treated and he is fit to return to practice.

Cost Recovery

22. Pursuant to Business and Professions Code section 125.3, a licensee found to have violated a licensing act may be ordered to pay the reasonable costs of investigation and prosecution of a case. In *Zuckerman v. Board of Chiropractic Examiners* (2002) 29 Cal.4th 32, the California Supreme Court set forth factors to be considered in determining the reasonableness of costs sought pursuant to statutory provisions like Business and Professions Code section 125.3. These factors include whether the licensee has been successful at hearing in getting charges dismissed or

reduced, the licensee's subjective good faith belief in the merits of his or her position, whether the licensee has raised a colorable challenge to the proposed discipline, the financial ability of the licensee to pay, and whether the scope of the investigation was appropriate in light of the alleged misconduct.

23. Respondent did not get the charges dismissed or reduced. He did not present a colorable challenge to license revocation. Respondent did establish a basis to reduce the costs in this matter because he is currently unemployed, causing financial hardship. Costs shall be imposed in the reduced amount of \$14,000. Respondent may make payments in installments as directed by the Board.

ORDER

Physician's and Surgeon's Certificate No. A 110878 issued to respondent is revoked. However, revocation is stayed and respondent is placed on probation for seven years upon the following terms and conditions:

Optional Conditions

1. ACTUAL SUSPENSION/CONDITION PRECEDENT

As part of probation, respondent is suspended from the practice of medicine until notified by the Board or its designee that he has satisfied the condition precedent under Probation Condition 6 (psychiatric assessment and psychological testing).

2. PATIENT DISCLOSURE

Respondent shall provide a separate disclosure that includes his probation status, the length of probation, the probation end date, all practice restrictions placed

on respondent by the Board, the Board's telephone number, and an explanation of how the patient can find further information on respondent's probation on his profile page on the Board's online license information internet website, to a patient or the patient's guardian or health care surrogate before the patient's first visit following the probationary order while respondent is on probation pursuant to a probationary order.

3. ALCOHOL-ABSTAIN FROM USE

Respondent shall abstain completely from the use of products or beverages containing alcohol.

If respondent has a confirmed positive biological fluid test for alcohol, respondent shall receive a notification from the Board or its designee to immediately cease the practice of medicine. Respondent shall not resume the practice of medicine until the final decision on an accusation and/or a petition to revoke probation is effective. An accusation and/or petition to revoke probation shall be filed by the Board within 30 days of the notification to cease practice. If respondent requests a hearing on the accusation and/or petition to revoke probation, the Board shall provide respondent with a hearing within 30 days of the request, unless respondent stipulates to a later hearing. If the case is heard by an Administrative Law Judge alone, he or she shall forward a Proposed Decision to the Board within 15 days of submission of the matter. Within 15 days of receipt by the Board of the Administrative Law Judge's proposed decision, the Board shall issue its Decision, unless good cause can be shown for the delay. If the case is heard by the Board, the Board shall issue its decision within 15 days of submission of the case, unless good cause can be shown for the delay. Good cause includes, but is not limited to, nonadoption of the proposed decision, request for reconsideration, remands and other interlocutory orders issued by the

Board. The cessation of practice shall not apply to the reduction of the probationary time period.

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

4. COMMUNITY SERVICE-FREE SERVICES

Within 60 calendar days of the effective date of this Decision, respondent shall submit to the Board or its designee for prior approval a community service plan in which respondent shall within the first two years of probation, provide community service hours as determined by the Board, of free services (e.g., medical or nonmedical) to a community or non-profit organization. If the term of probation is designated for two years or less, the community service hours must be completed not later than six months prior to the completion of probation.

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

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

5. PROFESSIONALISM PROGRAM (ETHICS COURSE)

Within 60 calendar days of the effective date of this Decision, respondent shall enroll in a professionalism program, that meets the requirements of Title 16, California Code of Regulations (CCR) section 1358.1. Respondent shall participate in and successfully complete that program. Respondent shall provide any information and documents that the program may deem pertinent. Respondent shall successfully complete the classroom component of the program not later than six months after respondent's initial enrollment, and the longitudinal component of the program not later than the time specified by the program, but not later than one year after attending the classroom component. The professionalism program shall be at respondent's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

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

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

6. PSYCHIATRIC EVALUATION

Within 30 calendar days of the effective date of this Decision, and on whatever periodic basis thereafter may be required by the Board or its designee, respondent

shall undergo and complete a psychiatric evaluation (and psychological testing, if deemed necessary) by a Board appointed board certified psychiatrist, who shall consider any information provided by the Board or its designee and any other information the psychiatrist deems relevant, and shall furnish a written evaluation report to the Board or its designee. Psychiatric evaluations conducted prior to the effective date of the Decision shall not be accepted towards the fulfillment of this requirement. Respondent shall pay the cost of all psychiatric evaluations and psychological testing.

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

Condition Precedent

Respondent shall not engage in the practice of medicine until notified by the Board or its designee that respondent is mentally fit to practice medicine safely. The period of time that respondent is not practicing medicine shall not be counted toward completion of the term of probation. The psychiatric evaluation and psychological testing shall include: (1) an examination of respondent's alcoholism and impaired stress tolerance in his personal interactions with K.A., his family, and the greater Eastern Indian/Sikh community; and (2) a follow-up longitudinal evaluation recommended by Dr. Howsepian addressing any maladaptive personality traits with a written report from the treating psychiatrist or psychotherapist that his maladaptive traits have been treated and he is fit to return to practice.

7. PSYCHOTHERAPY

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

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

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

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

8. SOLO PRACTICE PROHIBITION

Respondent is prohibited from engaging in the solo practice of medicine. Prohibited solo practice includes, but is not limited to, a practice where: (1) respondent merely shares office space with another physician but is not affiliated for purposes of providing patient care, or (2) respondent is the sole physician practitioner at that location.

If respondent fails to establish a practice with another physician or secure employment in an appropriate practice setting within 60 calendar days of the effective date of this Decision, respondent shall receive a notification from the Board or its designee to cease the practice of medicine within three calendar days after being so notified. Respondent shall not resume practice until an appropriate practice setting is established.

If, during the course of the probation, respondent's practice setting changes and respondent is no longer practicing in a setting in compliance with this Decision, respondent shall notify the Board or its designee within five calendar days of the practice setting change. If respondent fails to establish a practice with another physician or secure employment in an appropriate practice setting within 60 calendar days of the practice setting change, respondent shall receive a notification from the Board or its designee to cease the practice of medicine within three calendar days after being so notified. Respondent shall not resume practice until an appropriate practice setting is established.

Conditions Under the Uniform Standards for Substance Abusing Licensees

9. CLINICAL DIAGNOSTIC EVALUATIONS AND REPORTS

Within 30 calendar days of the effective date of this Decision, and on whatever periodic basis thereafter as may be required by the Board or its designee, respondent shall undergo and complete a clinical diagnostic evaluation, including any and all testing deemed necessary, by a Board-appointed board-certified physician and surgeon. The examiner shall consider any information provided by the Board or its designee and any other information he or she deems relevant, and shall furnish a written evaluation report to the Board or its designee.

The clinical diagnostic evaluation shall be conducted by a licensed physician and surgeon who holds a valid, unrestricted license, has three years' experience in providing evaluations of physicians and surgeons with substance abuse disorders, and is approved by the Board or its designee. The clinical diagnostic evaluation shall be conducted in accordance with acceptable professional standards for conducting substance abuse clinical diagnostic evaluations. The evaluator shall not have a current or former financial, personal, or business relationship with respondent within the last five years. The evaluator shall provide an objective, unbiased, and independent evaluation. The clinical diagnostic evaluation report shall set forth, in the evaluator's opinion, whether respondent has a substance abuse problem, whether respondent is a threat to himself or others, and recommendations for substance abuse treatment, practice restrictions, or other recommendations related to respondent's rehabilitation and ability to practice safely. If the evaluator determines during the evaluation process that respondent is a threat to himself or others, the evaluator shall notify the Board within 24 hours of such a determination.

In formulating his or her opinion as to whether respondent is safe to return to either part-time or full-time practice and what restrictions or recommendations should be imposed, including participation in an inpatient or outpatient treatment program, the evaluator shall consider the following factors: respondent's license type; respondent's history; respondent's documented length of sobriety (i.e., length of time that has elapsed since respondent's last substance use); respondent's scope and pattern of substance abuse; respondent's treatment history, medical history and current medical condition; the nature, duration and severity of respondent's substance abuse problem or problems; and whether respondent is a threat to himself or the public.

For all clinical diagnostic evaluations, a final written report shall be provided to the Board not later than 10 days from the date the evaluator is assigned the matter. If the evaluator requests additional information or time to complete the evaluation and report, an extension may be granted, but shall not exceed thirty days from the date the evaluator was originally assigned the matter.

The Board shall review the clinical diagnostic evaluation report within five business days of receipt to determine whether respondent is safe to return to either part-time or full-time practice and what restrictions or recommendations shall be imposed on respondent based on the recommendations made by the evaluator. Respondent shall not be returned to practice until he has at least 30 days of negative biological fluid tests or biological fluid tests indicating that he has not used, consumed, ingested, or administered to himself a prohibited substance, as defined in section 1361.51, subdivision (e), of Title 16 of the California Code of Regulations.

Clinical diagnostic evaluations conducted prior to the effective date of this Decision shall not be accepted towards the fulfillment of this requirement. The cost of

the clinical diagnostic evaluation, including any and all testing deemed necessary by the examiner, the Board or its designee, shall be borne by the licensee.

Respondent shall not engage in the practice of medicine until notified by the Board or its designee that he is fit to practice medicine safely. The period of time that respondent is not practicing medicine shall not be counted toward completion of the term of probation. Respondent shall undergo biological fluid testing as required in this Decision at least two times per week while awaiting the notification from the Board if he is fit to practice medicine safely.

Respondent shall comply with all restrictions or conditions recommended by the examiner conducting the clinical diagnostic evaluation within 15 calendar days after being notified by the Board or its designee.

10. NOTICE OF EMPLOYER OR SUPERVISOR INFORMATION

Within seven days of the effective date of this Decision, respondent shall provide to the Board the names, physical addresses, mailing addresses, and telephone numbers of any and all employers and supervisors. Respondent shall also provide specific, written consent for the Board, respondent's worksite monitor, and respondent's employers and supervisors to communicate regarding respondent's work status, performance, and monitoring. For purposes of this section, "supervisors" shall include the Chief of Staff and Health or Well Being Committee Chair, or equivalent, if applicable, when respondent has medical staff privileges.

11. BIOLOGICAL FLUID TESTING

Respondent shall immediately submit to biological fluid testing, at respondent's expense, upon request of the Board or its designee. "Biological fluid testing" may

include, but is not limited to, urine, blood, breathalyzer, hair follicle testing, or similar drug screening approved by the Board or its designee. Respondent shall make daily contact with the Board or its designee to determine whether biological fluid testing is required. Respondent shall be tested on the date of the notification as directed by the Board or its designee. The Board may order a respondent to undergo a biological fluid test on any day, at any time, including weekends and holidays. Except when testing on a specific date as ordered by the Board or its designee, the scheduling of biological fluid testing shall be done on a random basis. The cost of biological fluid testing shall be borne by respondent.

During the first year of probation, respondent shall be subject to 52 to 104 random tests. During the second year of probation and for the duration of the probationary term, up to five years, respondent shall be subject to 36 to 104 random tests per year. Only if there has been no positive biological fluid tests in the previous five consecutive years of probation, may testing be reduced to one time per month. Nothing precludes the Board from increasing the number of random tests to the first-year level of frequency for any reason.

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

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

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

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

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

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

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

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

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

(i) It maintains testing sites located throughout California.

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

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

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

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

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

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

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

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

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

After the issuance of a cease-practice order, the Board shall determine whether the positive biological fluid test is in fact evidence of prohibited substance use by consulting with the specimen collector and the laboratory, communicating with the licensee, his treating physician(s), other health care provider, or group facilitator, as applicable.

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

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

If the Board confirms that a positive biological fluid test is evidence of use of a prohibited substance, respondent has committed a major violation, as defined in California Code of Regulations, title 16, section 1361.52(a), and the Board shall impose any or all of the consequences set forth in section 1361.52(b), in addition to any other terms or conditions the Board determines are necessary for public protection or to enhance respondent's rehabilitation.

12. SUBSTANCE ABUSE SUPPORT GROUP MEETINGS

Within 30 days of the effective date of this Decision, respondent shall submit to the Board or its designee, for its prior approval, the name of a substance abuse support group which he shall attend for the duration of probation. Respondent shall attend substance abuse support group meetings at least once per week, or as ordered by the Board or its designee. Respondent shall pay all substance abuse support group meeting costs.

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

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

13. WORKSITE MONITOR FOR SUBSTANCE-ABUSING LICENSEE

Within 30 calendar days of the effective date of this Decision, respondent shall submit to the Board or its designee for prior approval as a worksite monitor, the name

and qualifications of one or more licensed physician and surgeon, other licensed health care professional if no physician and surgeon is available, or, as approved by the Board or its designee, a person in a position of authority who is capable of monitoring respondent at work.

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

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

Respondent shall pay all worksite monitoring costs.

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

The worksite monitor shall verbally report any suspected substance abuse to the Board and respondent's employer or supervisor within one business day of occurrence. If the suspected substance abuse does not occur during the Board's normal business

hours, the verbal report shall be made to the Board or its designee within one hour of the next business day. A written report that includes the date, time, and location of the suspected abuse; respondent's actions; and any other information deemed important by the worksite monitor shall be submitted to the Board or its designee within 48 hours of the occurrence.

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

If the worksite monitor resigns or is no longer available, respondent shall, within five (5) calendar days of such resignation or unavailability, submit to the Board or its designee, for prior approval, the name and qualifications of a replacement monitor who will be assuming that responsibility within 15 calendar days. If respondent fails to obtain approval of a replacement monitor within 60 calendar days of the resignation or unavailability of the monitor, respondent shall receive a notification from the Board or its designee to cease the practice of medicine within three calendar days after being

so notified. Respondent shall cease the practice of medicine until a replacement monitor is approved and assumes monitoring responsibility.

14. VIOLATION OF PROBATION CONDITION FOR SUBSTANCE-ABUSING LICENSEES

Failure to fully comply with any term or condition of probation is a violation of probation.

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

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

(2) Increase the frequency of biological fluid testing.

(3) Refer respondent for further disciplinary action, such as suspension, revocation, or other action as determined by the Board or its designee. (Cal. Code Regs., tit. 16, § 1361.52, subd. (b).)

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

- (1) Issue a cease-practice order;
- (2) Order practice limitations;
- (3) Order or increase supervision of respondent;
- (4) Order increased documentation;
- (5) Issue a citation and fine, or a warning letter;

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

(7) Take any other action as determined by the Board or its designee. (Cal. Code Regs., tit. 16, § 1361.52, subd. (d).)

C. Nothing in this Decision shall be considered a limitation on the Board's authority to revoke respondent's probation if he has violated any term or condition of probation. (See Cal. Code Regs., tit. 16, § 1361.52, subd. (e).) If respondent violates probation in any respect, the Board, after giving respondent notice and the opportunity to be heard, may revoke probation and carry out the disciplinary order that was stayed. If an Accusation, or Petition to Revoke Probation, or an Interim Suspension Order is filed against respondent during probation, the Board shall have continuing jurisdiction until the matter is final, and the period of probation shall be extended until the matter is final.

Standard Conditions

15. NOTIFICATION

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

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

16. SUPERVISION OF PHYSICIAN ASSISTANTS AND ADVANCED PRACTICE NURSES

During probation, respondent is prohibited from supervising physician assistants and advanced practice nurses.

17. OBEY ALL LAWS

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

18. QUARTERLY DECLARATIONS

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

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

19. GENERAL PROBATION REQUIREMENTS

Compliance with Probation Unit

Respondent shall comply with the Board's probation unit.

Address Changes

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

Place of Practice

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

License Renewal

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

Travel or Residence Outside California

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

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

20. INTERVIEW WITH THE BOARD OR ITS DESIGNEE

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

21. NON-PRACTICE WHILE ON PROBATION

Respondent shall notify the Board or its designee in writing within 15 calendar days of any periods of non-practice lasting more than 30 calendar days and within 15 calendar days of respondent's return to practice. Non-practice is defined as any period of time respondent is not practicing medicine as defined in Business and Professions Code sections 2051 and 2052 for at least 40 hours in a calendar month in direct patient care, clinical activity or teaching, or other activity as approved by the Board. If respondent resides in California and is considered to be in non-practice, respondent shall comply with all terms and conditions of probation. All time spent in an intensive training program which has been approved by the Board or its designee shall not be

considered non-practice and does not relieve respondent from complying with all the terms and conditions of probation. Practicing medicine in another state of the United States or Federal jurisdiction while on probation with the medical licensing authority of that state or jurisdiction shall not be considered non-practice. A Board-ordered suspension of practice shall not be considered as a period of non-practice.

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

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

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

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

22. COMPLETION OF PROBATION

Respondent shall comply with all financial obligations (e.g., restitution, probation costs) not later than 120 calendar days prior to the completion of probation.

Upon successful completion of probation, respondent's certificate shall be fully restored.

23. VIOLATION OF PROBATION

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

24. LICENSE SURRENDER

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

25. PROBATION MONITORING COSTS

Respondent shall pay the costs associated with probation monitoring each and every year of probation, as designated by the Board, which may be adjusted on an annual basis. Such costs shall be payable to the Medical Board of California and delivered to the Board or its designee not later than January 31 of each calendar year.

26. ENFORCEMENT COSTS

Respondent shall pay the costs associated with the enforcement of this matter in the reduced amount of \$14,000. Respondent may negotiate a payment plan with the Board and the costs may be adjusted. Such costs shall be payable to the Medical Board of California and delivered to the Board or its designee not later than January 31 of each calendar year.

DATE: October 17, 2023

Danette C. Brown

DANETTE C. BROWN

Administrative Law Judge

Office of Administrative Hearings