

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

In the Matter of the First Amended
Accusation Against:

Ahimsa Porter Sumchai, M.D.

Physician's and Surgeon's
Certificate No. G 48983

Respondent.

Case No.: 800-2018-048806

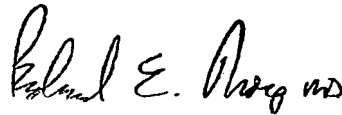
DECISION

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 29, 2023.

IT IS SO ORDERED: November 30, 2023.

MEDICAL BOARD OF CALIFORNIA



Richard E. Thorp, M.D., Chair
Panel A

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

In the Matter of the First Amended Accusation Against:

AHIMSA PORTER SUMCHAI, M.D.,

Physician's and Surgeon's Certificate No. G 48983

Respondent.

Agency Case No. 800-2018-048806

OAH No. 2023020467

PROPOSED DECISION

Administrative Law Judge Karen Reichmann, State of California, Office of Administrative Hearings, heard this matter on October 3, 2023, by videoconference.

Deputy Attorney General Harriet Newman and Supervising Deputy Attorney General Greg Chambers represented complainant Reji Varghese, Executive Director of the Medical Board of California.

Respondent Ahimsa Porter Sumchai, M.D., appeared on her own behalf.

The record remained open for respondent to submit exhibits and for complainant to raise any objections to respondent's exhibits. Respondent timely

submitted 51 exhibits, which have been marked as exhibits R1 through R51.

Complainant timely filed a response, objecting to four of the exhibits (R13, R15, R20, and R21). Complainant's objections are overruled. Respondents exhibits R1 through R51 are all admitted into evidence and have been considered.

Complainant moved to seal four of respondent's exhibits that contain identifying patient information. This motion is granted, and exhibits R9, R11, R15, and R16 are sealed. An updated protective order has been issued.

The record closed and the matter was submitted for decision on October 10, 2023.

FACTUAL FINDINGS

Jurisdictional Matters

1. The Medical Board of California (Board) issued Physician's and Surgeon's Certificate No. G 48983 to respondent Ahimsa Porter Sumchai, M.D., on September 27, 1982. It was in full force and effect at all times relevant to this matter and is scheduled to expire on May 31, 2024, unless renewed.

2. In June 1999, an Accusation was filed against respondent. On October 18, 1999, a decision became effective which read: license restricted, prior conditions.

3. On February 2, 2000, an Interim Suspension Order was issued suspending respondent from practicing.

4. On March 24, 2001, a decision became effective accepting respondent's surrender of her certificate. Respondent surrendered her certificate because her ability to practice was impaired due to Post-Traumatic Stress Disorder.

5. Respondent filed a petition for reinstatement in 2004 and in December 2005, respondent's certificate was reinstated; immediately revoked; the revocation stayed; and respondent was placed on probation for five years.

6. Respondent filed a petition for early termination of probation in 2008. The petition was denied, but probation was modified by deleting two conditions. Respondent completed probation on September 21, 2011.

7. On October 6, 2021, the Board's former executive director filed an Accusation against respondent; and on April 29, 2022, he filed the First Amended Accusation, seeking to discipline respondent for gross negligence, repeated negligent acts, and failing to maintain adequate medical records, all related to her prescribing topical analgesics to six patients residing in New York state in 2018. Complainant also seeks to recover prosecution costs.

Respondent's Professional Background

8. Respondent was previously board certified in emergency medicine and practiced in this field for many years, including working for two years on an aeromedical helicopter crew. Respondent worked for the Veterans' Administration for about five years, in the 1990s, as an attending physician in the emergency department of a hospital and as a research consultant.

9. Respondent has never been licensed in any other state.

10. Respondent has been in private practice since 2005. Her practice includes traditional and alternative medicine, exercise therapeutics, nutrition consulting, biomonitoring, toxicological screening, and telemedicine. Respondent has a clinic in San Francisco and previously also had a clinic in Sacramento. Respondent is 71 years old and described herself as "semi-retired" from practicing medicine.

11. Respondent is the founder, principal investigator, and medical director of Hunters Point Biomonitoring, "an independent human biomonitoring initiative established to offer residents and workers within the one mile buffer zone of a system of federal and state Superfund properties low cost, accurate urinary toxic exposure and nutritional screenings."

12. Respondent is also the editor of a community newspaper, a journalist, and a public speaker.

13. Respondent is a member of the Board of Directors of the UCSF Medical Alumni Association. In 2021, the Association awarded her its Alumna of the Year Award, in recognition of her "years of commitment to health, advocacy, and research for the Hunters Point community, as well as a career of service to patients and UCSF students."

Respondent's Collaboration with Pharmsource

14. Respondent was contacted by Pharmsource in late 2017. She was told that Pharmsource was interested in establishing a network of telemedicine providers and pharmacies to help low-income senior citizens access topical and transdermal analgesics as alternatives to higher-risk pain medications. Respondent had written a book and journal articles on the use of topical analgesics and had prior experience in telemedicine.

15. Respondent was paid a \$2,000 monthly stipend to serve as a consultant. Her primary function was to assist with the telemedicine platform and help create a provider network. She also agreed to serve as a backup physician for prescribing the topical products to patients, if their primary care physicians were not available.

16. Starting in January 2018, respondent wrote prescriptions for topical analgesics for patients referred to her by Pharmsource. These topical analgesics are not controlled substances, but all required prescriptions. Because these products require prescriptions, they meet the definition of "dangerous drug" set forth in Business and Professions Code section 4022. In the first few months of 2018, Pharmsource referred just a few patients to respondent for prescriptions. By around March 2018, the number of patient referrals increased.

17. Respondent did not meet with or perform an examination of any of the patients to whom she prescribed the topical medications. For each patient, respondent was sent by email an audio file of a telephone interview of each patient, done by a medical assistant. The interview followed a script and lasted less than one minute for each patient. The interviewer confirmed that the patients desired the medications, what conditions they had, and whether they consented to a physician other than their primary providers reviewing their records.

For each patient, respondent was also sent by email a one-page prescription form and a one-page medical record. Respondent reviewed the audio files and documents, filled out the prescription forms, and sent them to a pharmacy by facsimile or Federal Express. The pharmacy dispensed the medications to the patients.

Patients A through F

18. Between February and August 2018, respondent prescribed topical medications to the following six patients through her collaboration with Pharmsource.

PATIENT A

19. Respondent prescribed the topical anesthetic lidocaine 5% (in 2018, this lidocaine preparation required a prescription; as of 2019 it is available over the counter) and the nonsteroidal anti-inflammatory topical drug diclofenac sodium 3% (a drug available only by prescription) to Patient A. Patient A was born in 1940 and lives in Scarsdale, New York. Patient A refilled these prescriptions two times.

20. Respondent's medical records for Patient A consist of a one-page prescription form and a one-page medical record. The medical record lists current medications and medical conditions. In a box labeled "Chief Complaint and Treatment Plan" there is a notation, "Requested tropical pain cream/option – experiencing pain in lower back." The medical record does not reflect a patient encounter, does not list respondent as a provider, does not reflect a review of systems, does not contain documentation of informed consent, and does not contain a treatment plan.

PATIENT B

21. Respondent prescribed lidocaine 5% to Patient B. Patient B was born in 1948 and lives in the Bronx, New York. Patient B refilled the prescription once.

22. Respondent has no medical records for Patient B.

PATIENT C

23. Respondent prescribed lidocaine 5% and diclofenac sodium 3% to Patient C. Patient C was born in 1953 and lives in Brooklyn, New York.

24. Respondent has no medical records for Patient C.

PATIENT D

25. Respondent prescribed lidocaine 5%¹ to Patient D. Patient D was born in 1954 and lives in Morris, New York.

26. Respondent has no medical records for Patient D.

PATIENT E

27. Respondent prescribed lidocaine 5% and diclofenac sodium 3% to Patient E. Patient E was born in 1949 and lives in Brooklyn, New York.

28. Respondent has no medical records for Patient E.

PATIENT F

29. Respondent prescribed lidocaine 5% and diclofenac sodium 3% to Patient F. Patient F was born in 1945 and lives in Spring Valley, New York.

¹ Complainant also alleges that respondent prescribed calcipotriene 0.005% to Patient D; however, this prescription was not established by clear and convincing evidence.

30. Respondent has no medical records for Patient F.

July 2021 Investigation Interview

31. An investigation of respondent was initiated after an online complaint was submitted by CVS Health in Scottsdale, Arizona. Investigator Jacob Seals and District Medical Consultant Lorna Yamaguchi, M.D., interviewed respondent on July 27, 2021, by telephone.

During the interview, respondent stated that she was aware of some improprieties involving Pharmsource, and assumed "full responsibility for the circumstances" that brought her to the interview. Respondent stated that the number of patient files sent to her increased beyond what she expected when she agreed to the collaboration, and she asked Pharmsource to find someone else because she was having difficulty processing the volume of documents sent to her. The pharmacy and several patients began to express various concerns around June 2018. By July or August 2018, respondent determined that Pharmsource was engaging in fraudulent conduct, and she resigned.

Respondent told the interviewers that she saved only the medical records of the "problem charts," which she explained were charts of patients who complained or were audited. She maintained some hard copies of some Pharmsource patient charts between February and April 2018. Some of these were stored in her former clinic location in Sacramento and were water-damaged. Other files were put in storage that she was not able to maintain due to physical and financial challenges. After April or May 2018, she maintained only digital records for Pharmsource patients. Her Comcast account reached capacity in 2020 and she deleted Pharmsource files. The only

information respondent retained for the majority of the patients she prescribed medications to during her collaboration with Pharmsource was a list of patient names.

Expert Opinion

32. Jonathon Avalos, M.D., prepared an expert report dated August 30, 2021, and testified at hearing on behalf of complainant. Dr. Avalos is board certified in family medicine and addiction medicine. He is the Associate Medical Director for the San Bernardino County Department of Behavioral Health. In this role, Dr. Avalos has been involved in the launch of a telemedicine software program and in training physicians and staff in the regulations governing telemedicine.

33. Dr. Avalos reviewed respondent's conduct using the standard of care applicable at the time she provided care to the patients, in 2018. Dr. Avalos agreed with respondent that the standard of care for telemedicine evolved during the COVID-19 pandemic. He also agreed with respondent that the medications at issue in the case are lower-risk medications.

34. Dr. Avalos explained that prescribing medications to a patient in another state where the physician is not licensed is an extreme departure from the standard of care, unless there is an emergency. Because he saw no reason to believe these prescriptions were for emergencies, he concluded that respondent committed extreme departures from the standard of care by prescribing topical analgesic products to all six patients.

35. Dr. Avalos explained that the standard of care requires a physician to perform an examination or review of systems prior to prescribing medications. After an initial review of systems is documented, subsequent interactions between patient and physician may be asynchronous. Dr. Avalos opined that respondent's listening to the

audio files of a medical assistant's conversation with a patient did not satisfy the standard of care. He characterized the prescribing of medication to a patient without performing or documenting an examination and a review of systems as an extreme departure from the standard of care.

36. Dr. Avalos explained that the standard of care for prescribing any medication, including topical analgesics, requires that the prescriber explain the risks, benefits, and alternatives to the medication and obtain informed consent from the patient. This obligation can possibly be delegated to a physician assistant or nurse practitioner, but cannot be delegated to a medical assistant who lacks the training and expertise to engage in the informed consent process. Dr. Avalos characterized respondent's failure to explain the risks, benefits, and alternatives to the medications she prescribed and to obtain informed consent as a simple departure from the standard of care, as to all six patients.

37. Dr. Avalos explained that the standard of care for both in person and telemedicine requires physicians to maintain adequate medical records (paper or electronic) documenting patient examinations, pertinent findings, and the physician's reasoning, rationale, and treatment plan, such that another provider could take over care. By law, patient records must be retained for seven years. Dr. Avalos characterized respondent's failure to either establish or maintain adequate records, and to retain them for seven years, as an extreme departure from the standard of care.

38. Dr. Avalos's testimony and expert report are consistent with the evidence and persuasive.

Respondent's Contentions

39. Respondent argued that the Board should dismiss the First Amended Accusation for several reasons.

a. Respondent contends that her conduct should be assessed using the standard of care that was in effect at the time the original Accusation was filed in October 2021, and not the standard of care at the time she provided care for the six patients in 2018. She argued that the standard of care for physicians engaging in telemedicine in 2018 was vague.

b. Respondent contends that discipline is being sought against her in retaliation for her actions as an expert witness in pending litigation seeking damages on behalf of individuals exposed to toxicants in the Hunters Point community in San Francisco.

c. Prior to the hearing, respondent filed a document demanding the recusal of the Department of Justice on several grounds, including alleged conflict of interest and violations of respondent's right to due process.

d. Respondent contends that because the subpoenas and patient release forms used during the investigation did not include her full name and professional degree as it appears on her Business Registration Certificate and her Physician's and Surgeon's Certificate (Ahimsa Porter Sumchai, M.D.), all documents acquired using these forms violated HIPAA and were procured through fraud and should not be used to seek discipline against her. She contends this preclusion should even apply to the documents she provided during the investigation.

The various subpoenas issued by the investigator which respondent contend are fraudulent identified respondent as:

Dr. Ahimsa Sumchai

Sumchai, Ahimsa, MD

Ahimsa Sumchai, MD

Ahimsa Sumchai, NPI 1952570319

Ahimsa Sumchai

e. Respondent contends that the versions of her name that do not identify her as a doctor reflect the findings of sociological research that has found a chronic failure to bestow the professional title MD on female and African American physicians to be a racial and gender microaggression.

f. Respondent objects to the description of the topical analgesics in this matter as "dangerous drugs." She asserts that the products are beneficial, not controlled substances; the active ingredients are available over the counter; and they are lower-risk drugs than some other pain medications. She called the use of the term "dangerous drug" criminalizing and racial and gender microaggression.

g. Respondent contends that the phrase "dangerous drug" as used in the First Amended Accusation and the Business and Professions Code is unconstitutionally vague.

h. Respondent accuses expert witness Dr. Avalos of libel, document fraud, defamation, professional negligence, lacking the requisite experience in telemedicine to qualify as an expert witness, bias, and violating HIPAA.

i. Respondent contends that discipline is inappropriate in this matter because the patients benefited from the use of safe topical products and were not harmed.

j. Respondent objected to the imposition of costs in this matter because she does not believe she should have to pay for an “unlawful prosecution.” She also stated that she has suffered financially in recent years, and has been near bankruptcy.

k. Respondent stated that if her Certificate is placed on probation, she would surrender it, which would cause harm to herself and her patients.

Other Evidence

40. Respondent presented the testimony of Robert Hodge. Hodge was a patient for whom respondent prescribed topical analgesics when she was collaborating with Pharmsource. Hodge is not one of the patients at issue in this case. Hodge testified that he wanted the products to help with pain in his knee and back. He found the products to be beneficial, and there were no side effects.

41. In a letter dated November 16, 2021, Mary Ratcliff, a retired attorney and former editor of the *Bay View* newspaper, wrote that she has lived in Hunters Point for 30 years and is a patient of respondent’s biomonitoring medical screening clinic. Ratcliff wrote that respondent is a hero in the Bayview Hunters Point community as a physician, scientist, and journalist who has researched and written about the contaminants in the region. Ratcliff is a plaintiff in the Proposition 65 lawsuit regarding Hunters Point Shipyard in which respondent has served as an expert witness. Ratcliff wrote that the Bayview Hunters Point community questions the timing and motive of the Board’s filing of an Accusation against respondent.

Costs

42. Complainant seeks to recover \$24,363.75 for legal services provided by the Department of Justice between January 1, 2022, and October 2, 2023, and an additional \$440 for final trial preparation, for a total of \$24,803.75. These costs are supported by a declaration in compliance with the requirements of California Code of Regulations, title 1, section 1042, and are reasonable. No investigation or expert witness costs are sought.

Ultimate Findings

43. Clear and convincing evidence established that respondent committed extreme departures from the standard of care by prescribing medications to six patients living in the state of New York; prescribing these medications without an appropriate medical examination or review of systems; and failing to maintain accurate and adequate medical records for these patients.

44. Clear and convincing evidence established that respondent committed multiple simple departures from the standard of care by failing to obtain informed consent from the six patients at issue.

45. None of respondent's contentions provided cause to exclude any of complainant's exhibits from evidence, or to dismiss any of the allegations in the First Amended Accusation.

LEGAL CONCLUSIONS

1. It is complainant's burden to demonstrate the truth of the allegations by "clear and convincing evidence to a reasonable certainty," and that the allegations

constitute cause for discipline of respondent's Certificate. (*Ettinger v. Board of Medical Quality Assurance* (1982) 135 Cal.App.3d 853, 856.)

First through Sixth Causes for Discipline

2. Business and Professions Code section 2234, subdivision (b), provides that the Board may discipline a licensee who commits gross negligence. Clear and convincing evidence established cause for discipline for gross negligence, based on multiple extreme departures from the standard of care. (Factual Finding 43.)

3. Business and Professions Code section 2242 provides that the Board may discipline a licensee who prescribes a dangerous drug without an appropriate prior (although not necessarily synchronous) examination and medical indication. Cause for discipline was established in light of the matters set forth in Findings 16 through 30.

4. Business and Professions Code section 2290.5 provides that the Board may discipline a licensee for providing telehealth services without documenting oral or written patient consent. Cause for discipline was established in light of the matters set forth in Findings 19 through 30.

Seventh Cause for Discipline

5. Business and Professions Code section 2266 provides that the Board may discipline a licensee for failing to maintain accurate and adequate medical records. Cause for discipline was established in light of the matters set forth in Factual Findings 19 through 30.

Eighth Cause for Discipline

6. Business and Professions Code section 2234, subdivision (c), provides that the Board may discipline a licensee for repeated negligent acts. Cause for discipline was established in light of the matters set forth in Factual Finding 44, for failing to obtain informed consent when prescribing prescription medications to all six patients.

Determination of Discipline

7. In exercising its disciplinary functions, protection of the public is the Board's highest priority. (Bus. & Prof. Code, § 2229, subd. (a).) The Board is also required to take disciplinary action that is calculated to aid the rehabilitation of the physician whenever possible, as long as the Board's action is not inconsistent with public safety. (Bus. & Prof. Code, § 2229, subds. (b), (c).)

8. The evidence established numerous, serious causes for discipline in connection with respondent's prescribing of lower risk topical medications to six patients in 2018. It was not alleged, and there was no evidence to establish, that any patients were harmed by respondent's misconduct. Respondent's conduct took place five years ago. Her motive – to assist low-income seniors access beneficial alternatives to higher-risk pain medications – was commendable. There has been no prior discipline of this nature against respondent. Respondent has accepted some responsibility for her misconduct.

9. Complainant requests a five-year period of probation with additional conditions including education, prescribing practices, record keeping, and professionalism courses. This recommendation is consistent with the Board's Disciplinary Guidelines and will provide adequate public protection.

10. Business and Professions Code section 125.3 authorizes the Board to recover its reasonable costs of enforcement if the licensee is found to have committed a violation of the licensing act. In *Zuckerman v. Board of Chiropractic Examiners* (2002) 29 Cal.4th 32, the California Supreme Court set forth standards by which a licensing board must exercise its discretion to reduce or eliminate cost awards to ensure that licensees with potentially meritorious claims are not deterred from exercising their right to an administrative hearing. Those standards include whether the licensee has been successful at hearing in getting the charges dismissed or reduced, the licensee's 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 to the alleged misconduct. These factors have been considered. No cause for a reduction in costs was established.

ORDER

Physician's and Surgeon's Certificate No. G 48983, issued to respondent Ahimsa Porter Sumchai, M.D., is revoked; however, revocation is stayed, and respondent is placed on probation for five years under the following terms and conditions.

1. Education Course

Within 60 calendar days of the effective date of this Decision, and on an annual basis thereafter, respondent shall submit to the Board or its designee for its prior approval educational program(s) or course(s) which shall not be less than 40 hours per year, for each year of probation. The educational program(s) or course(s) shall be aimed at correcting any areas of deficient practice or knowledge and shall be Category

I certified. The educational program(s) or course(s) shall be at respondent's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure. Following the completion of each course, the Board or its designee may administer an examination to test respondent's knowledge of the course. Respondent shall provide proof of attendance for 65 hours of CME of which 40 hours were in satisfaction of this condition.

2. Prescribing Practices Course

Within 60 calendar days of the effective date of this Decision, respondent shall enroll in a course in prescribing practices approved in advance by the Board or its designee. Respondent shall provide the approved course provider with any information and documents that the approved course provider may deem pertinent. Respondent shall participate in and successfully complete the classroom component of the course not later than six (6) months after respondent's initial enrollment. Respondent shall successfully complete any other component of the course within one (1) year of enrollment. The prescribing practices course shall be at respondent's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

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

Respondent shall submit a certification of successful completion to the Board or its designee not later than 15 calendar days after successfully completing the course,

or not later than 15 calendar days after the effective date of the Decision, whichever is later.

3. Medical Record Keeping Course

Within 60 calendar days of the effective date of this Decision, respondent shall enroll in a course in medical record keeping approved in advance by the Board or its designee. Respondent shall provide the approved course provider with any information and documents that the approved course provider may deem pertinent. Respondent shall participate in and successfully complete the classroom component of the course not later than six (6) months after respondent's initial enrollment. Respondent shall successfully complete any other component of the course within one (1) year of enrollment. The medical record keeping course shall be at respondent's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

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

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

4. 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 (6) months after respondent's initial enrollment, and the longitudinal component of the program not later than the time specified by the program, but no later than one (1) 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.

5. Notification

Within seven days of the effective date of this decision, respondent shall provide a true copy of this decision and the 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.

6. Supervision of Physician Assistants and Advanced Practice Nurses

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

7. 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.

8. 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.

9. 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, subdivision (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 certificate.

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 thirty 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.

10. 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.

11. 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.

12. 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.

13. 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.

14. 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 her 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.

15. 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 no later than January 31 of each calendar year.

16. Cost Recovery

Respondent shall pay to the Board costs associated with its enforcement of this matter, pursuant to Business and Professions Code Section 125.3, in the amount of \$24,363.75.

DATE: 10/31/2023

Karen Reichmann

KAREN REICHMANN

Administrative Law Judge

Office of Administrative Hearings