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

In the Matter of the Accusation Against: Jamila Danishwar, M.D. Physician's and Surgeon's Certificate No. A 102800 Respondent.	Case No.: 800-2019-057078

DECISION

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

This Decision shall become effective at 5:00 p.m. on JUL 3 1 2024.

IT IS SO ORDERED: JUL 0 1 2024.

MEDICAL BOARD OF CALIFORNIA

Michelle Bholat, M.D., Interim Chair
Panel A

ROB BONTA
Attorney General of California
ALEXANDRA M. ALVAREZ
Supervising Deputy Attorney General
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BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against: **JAMILA DANISHWAR, M.D.** **14657 Whispering Ridge Road** **San Diego, California 92131-4266** **Physician's and Surgeon's Certificate No. A 102800,** Respondent.	Case No. 800-2019-057078 OAH No. 2024030044 **STIPULATED SETTLEMENT AND DISCIPLINARY ORDER**

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

PARTIES

1. Reji Varghese (Complainant) is the Executive Director of the Medical Board of California (Board). He brought this action solely in his official capacity and is represented in this matter by Rob Bonta, Attorney General of the State of California, and by Joseph F. McKenna III, Deputy Attorney General.

2. Respondent Jamila Danishwar, M.D. (Respondent) is represented in this proceeding by attorney Kevin D. Cauley, Esq., whose address is: 225 South Lake Avenue, Suite 710, Pasadena, California, 91101.

3. On or about February 22, 2008, the Board issued Physician's and Surgeon's Certificate No. A 102800 to Respondent. The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges and allegations brought herein and will expire on August 31, 2025, unless renewed.

JURISDICTION

4. On February 26, 2024, Accusation No. 800-2019-057078 was filed before the Board and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on February 26, 2024. Respondent timely filed her Notice of Defense contesting the Accusation. A true and correct copy of the Accusation is attached hereto as Exhibit A and hereby incorporated by reference as if fully set forth herein.

5. On January 23, 2023, a Stipulated Interim Suspension Order (ISO) was issued pursuant to Government Code section 11529 immediately suspending Respondent's Physician's and Surgeon's Certificate No. A 102800, and prohibiting her from practicing medicine in the State of California pending further order from the Office of Administrative Hearings. The Interim Order will remain in effect, pending a full determination whether Respondent has violated the Medical Practice Act or upon further order by the Board in this matter.

ADVISEMENT AND WAIVERS

6. Respondent has carefully read, discussed with counsel, and fully understands the charges and allegations contained in Accusation No. 800-2019-057078. Respondent has also carefully read, discussed with her counsel, and fully understands the effects of this Stipulated Settlement and Disciplinary Order.

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

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8. Having the benefit of counsel, Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

CULPABILITY

9. Respondent admits the truth of each and every charge and allegation contained in Accusation No. 800-2019-057078.

ACKNOWLEDGMENT

10. Respondent acknowledges the Disciplinary Order below, requiring the disclosure of probation pursuant to Bus. and Prof. Code section 2228.1, serves to protect the public interest.

CONTINGENCY

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

ADDITIONAL PROVISIONS

12. This Stipulated Settlement and Disciplinary Order is intended by the parties herein to be an integrated writing representing the complete, final and exclusive embodiment of the agreements of the parties in the above-entitled matter.

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

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

DISCIPLINARY ORDER

1. IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. A 102800 issued to Respondent JAMILA DANISHWAR, M.D., is revoked. However, the revocation is stayed and Respondent is placed on probation for 8 years from the effective date of the Decision on the following terms and conditions:

2. ACTUAL SUSPENSION.

As part of probation, Respondent is suspended from the practice of medicine for 60 days, beginning from the effective date of this Decision.

3. PATIENT DISCLOSURE.

Before a patient's first visit following the effective date of this order and while the Respondent is on probation, the Respondent must provide all patients, or patient's guardian or health care surrogate, with a separate disclosure that includes the Respondent's probation status, the length of the probation, the probation end date, all practice restrictions placed on the Respondent by the Board, the Board's telephone number, and an explanation of how the patient can find further information on the Respondent's probation on the Respondent's profile page on the Board's website. Respondent shall obtain from the patient, or the patient's guardian or health care surrogate, a separate, signed copy of that disclosure. Respondent shall not be required to provide a disclosure if any of the following applies:

(1) The patient is unconscious or otherwise unable to comprehend the disclosure and sign the copy of the disclosure and a guardian or health care surrogate is unavailable to comprehend the disclosure and sign the copy.

(2) The visit occurs in an emergency room or an urgent care facility or the visit is unscheduled, including consultations in inpatient facilities.

(3) Respondent is not known to the patient until immediately prior to the start of the visit.

(4) Respondent does not have a direct treatment relationship with the patient.

4. CONTROLLED SUBSTANCES – MAINTAIN RECORDS AND ACCESS TO RECORDS AND INVENTORIES.

Respondent shall maintain a record of all controlled substances ordered, prescribed,

dispensed, administered, or possessed by Respondent, and any recommendation or approval which enables a patient or patient's primary caregiver to possess or cultivate marijuana for the personal medical purposes of the patient within the meaning of Health and Safety Code section 11362.5, during probation, showing all of the following:

(1) The name and address of the patient;

(2) The date;

(3) The character and quantity of controlled substances involved; and

(4) The indications and diagnosis for which the controlled substances were furnished.

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

5. CONTROLLED SUBSTANCES – ABSTAIN FROM USE.

Respondent shall abstain completely from the personal use or possession of controlled substances as defined in the California Uniform Controlled Substances Act, dangerous drugs as defined by Bus. and Prof. Code section 4022, and any drugs requiring a prescription. This prohibition does not apply to medications lawfully prescribed to Respondent by another practitioner for a bona fide illness or condition.

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

6. ALCOHOL – ABSTAIN FROM USE.

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

7. 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 6 months after Respondent's initial enrollment. Respondent shall successfully complete any other component of the course within 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.

8. 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 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 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 1 year after attending the classroom component. The professionalism program shall be at Respondent's expense and shall be in addition to the CME requirements for renewal of licensure.

A professionalism program taken after 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 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.

9. 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 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 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 with 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.

10. MEDICAL EVALUATION AND TREATMENT.

Within 30 calendar days of the effective date of this Decision, and on a periodic basis thereafter as may be required by the Board or its designee, Respondent shall undergo a medical evaluation by a Board-appointed physician who shall consider any information provided by the Board or designee and any other information the evaluating physician deems relevant and shall

furnish a medical report to the Board or its designee. Respondent shall provide the evaluating physician with any information and documentation that the evaluating physician may deem pertinent.

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

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

If, prior to the completion of probation, Respondent is found to be physically incapable of resuming 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 physically capable of resuming the practice of medicine without restrictions. Respondent shall pay the cost of the medical evaluation(s) and treatment.

11. 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 3 calendar days after being so notified. The Respondent shall not resume practice until an appropriate practice setting is established.

If, during the course of the probation, the Respondent's practice setting changes and the Respondent is no longer practicing in a setting in compliance with this Decision and Disciplinary Order, the Respondent shall notify the Board or its designee within 5 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 3 calendar days after being so notified. The Respondent shall not resume practice until an appropriate practice setting is established.

12. 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 3 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 5 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 herself 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 herself 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 herself or the public.

For all clinical diagnostic evaluations, a final written report shall be provided to the Board no 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 30 days from the date the evaluator was originally assigned the matter.

The Board shall review the clinical diagnostic evaluation report within 5 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 she has at least 30 days of negative biological fluid tests or biological fluid tests indicating that she has not used, consumed, ingested, or administered to herself 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 she 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 2 times per week while awaiting the notification from the Board if she 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.

13. NOTICE OF EMPLOYER OR SUPERVISOR INFORMATION.

Within 7 days of the effective date of this Decision, Respondent shall provide 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 the Respondent has medical staff privileges.

14. 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 the 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 5 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 5 consecutive years of probation, may testing be reduced to 1 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 of 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 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 1 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 7 business days of receipt of the specimen. The Board will be notified of non-negative results within 1 business day and will be notified of negative test results within 7 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.

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(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 the 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 the 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 1 business day and negative test results within 7 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 herself 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 1 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, her 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 the Respondent has been instructed by the Board not to use, consume, ingest, or administer to herself.

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 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.

15. 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 she 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 3 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 5 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.

16. 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 the 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 5 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

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

17. 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 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 she may do so;

(2) Increase the frequency of biological fluid testing; and/or

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

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; and/or

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

C. Nothing in this Decision shall be considered a limitation on the Board's authority to revoke Respondent's probation if she has violated any term or condition 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.

18. NOTIFICATION.

Within 7 days of the effective date of this Decision, the Respondent shall provide true and correct copies of this Decision and Disciplinary Order and Accusation No. 800-2019-057078 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.

19. 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.

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20. INVESTIGATION/ENFORCEMENT COST RECOVERY.

Respondent is hereby ordered to reimburse the Board its costs of investigation and enforcement, including, but not limited to, investigations, interim suspension order, expert review, legal review, pleadings, as applicable, in the amount of $54,398.22 (fifty-four thousand three hundred ninety-eight dollars and twenty-two cents). Costs shall be payable to the Medical Board of California. Failure to pay costs shall be considered a violation of this agreement and shall be deemed an act of unprofessional conduct and a separate and distinct basis for discipline.

Payment must be made in full within 30 calendar days of the effective date of the Decision, or by a payment plan approved by the Board. Any and all requests for a payment plan shall be submitted in writing by Respondent to the Board. Failure to comply with the payment plan shall be considered a violation of this agreement and shall be deemed an act of unprofessional conduct and a separate and distinct basis for discipline.

The filing of bankruptcy by Respondent shall not relieve Respondent of the responsibility to repay investigation and enforcement costs, including expert review costs (if applicable).

21. 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.

22. 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 Bus. and Prof. 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 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.

23. 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.

24. 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 her return to practice. Non-practice is defined as any period of time Respondent is not practicing medicine as defined in Bus. and Prof. Code sections 2051 and 2052 for at least 40 hours in a calendar month in direct patient care, clinical activity, teaching, or other activity as approved by the Board. If Respondent resides in California and is considered to be in non-practice, she 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 her 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 Boards' 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 2 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.

25. COMPLETION OF PROBATION.

Respondent shall comply with all financial obligations (e.g., probation costs) not later than 120 calendar days prior to the completion of probation. This term does not include cost recovery, which is due within 30 calendar days of the effective date of the Decision, or by a payment plan approved by the Board and timely satisfied. Upon successful completion of probation, Respondent's certificate shall be fully restored.

26. 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.

27. 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.

28. 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.

29. FUTURE ADMISSIONS CLAUSE.

If Respondent should ever apply or reapply for a new license or certification, or petition for reinstatement of a license, by any other health care licensing action agency in the State of California, all of the charges and allegations contained in Accusation No. 800-2019-057078 shall be deemed to be true, correct, and admitted by Respondent for the purpose of any Statement of Issues or any other proceeding seeking to deny or restrict license.

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ACCEPTANCE

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

DATED: 6/10/2024

JAMILA DANISHWAR, M.D.
Respondent

I have read and fully discussed with Respondent Jamila Danishwar, M.D., the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: June 11, 2024

KEVIN D. CAULEY, ESQ.
Attorney for Respondent

ENDORSEMENT

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

DATED: June 11, 2024

Respectfully submitted,

ROB BONTA
Attorney General of California
ALEXANDRA M. ALVAREZ
Supervising Deputy Attorney General

JOSEPH F. MCKENNA III
Deputy Attorney General
Attorneys for Complainant

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Attorneys for Complainant

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

In the Matter of the Accusation Against: **JAMILA DANISHWAR, M.D.** **14657 Whispering Ridge Road** **San Diego, California 92131-4266** **Physician's and Surgeon's Certificate No. A 102800,** Respondent.	Case No. 800-2019-057078 **A C C U S A T I O N**

PARTIES

1. Reji Varghese (Complainant) brings this Accusation solely in his official capacity as the Executive Director of the Medical Board of California (Board), Department of Consumer Affairs.

2. On or about February 22, 2008, the Board issued Physician's and Surgeon's Certificate No. A 102800 to Jamila Danishwar, M.D. (Respondent). The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges and allegations brought herein and will expire on August 31, 2025, unless renewed.

PROCEDURAL HISTORY REGARDING INTERIM ORDER

3. On January 23, 2023, pursuant to the provisions of California Government Code section 11529, an administrative law judge issued an Interim Order of Suspension and Order (Interim Order) immediately suspending Respondent's Physician's and Surgeon's Certificate No. A 102800, and prohibiting her from practicing medicine in the State of California pending further order from the Office of Administrative Hearings. The Interim Order will remain in effect, pending a full determination whether Respondent has violated the Medical Practice Act or upon further order by the Board in this matter. As part of the "Stipulation of the Parties re Interim Order of Suspension and Order," Respondent agreed to and has waived all of her rights under California Government Code section 11529, subsections (f) and (g), including, waived the right to have the Interim Order dissolved if an Accusation was not filed within 30 days of the date that the Interim Order was issued.

JURISDICTION

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

5. Section 2220 of the Code states, in relevant part:

> Except as otherwise provided by law, the board may take action against all persons guilty of violating this chapter. The board shall enforce and administer this article as to physician and surgeon certificate holders, including those who hold certificates that do not permit them to practice medicine, such as, but not limited to, retired, inactive, or disabled status certificate holders, and the board shall have all the powers granted in this chapter for these purposes ...

STATUTORY PROVISIONS

6. Section 2227 of the Code states:

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

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(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.

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

7. Section 2228.1 of the Code states, in relevant part:

(a) On and after July 1, 2019, except as otherwise provided in subdivision (c), the board ... shall require a licensee to provide a separate disclosure that includes the licensee's probation status, the length of the 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:

...

(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.

...

8. Section 2234 of the Code states, in relevant part:

The board shall take action against any licensee who is charged with unprofessional conduct. In addition to other provisions of this article, unprofessional conduct 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.

...

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

...

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

10. Section 2236 of the Code states, in relevant part:

> (a) The conviction of any offense substantially related to the qualifications, functions, or duties of a physician and surgeon constitutes unprofessional conduct within the meaning of this chapter. The record of conviction shall be conclusive evidence only of the fact that the conviction occurred.
>
> ...
>
> (d) A plea or verdict of guilty or a conviction after a plea of nolo contendere is deemed to be a conviction within the meaning of this section and Section 2236.1. The record of conviction shall be conclusive evidence of the fact that the conviction occurred.

11. Section 2238 of the Code states, in relevant part:

> A violation of ... any of the statutes or regulations of this state regulating dangerous drugs or controlled substances constitutes unprofessional conduct.

12. Section 2239 of the Code states, in relevant part:

> (a) The use or prescribing for or administering to himself or herself, of any controlled substance;[1] or the use of any of the dangerous drugs specified in Section 4022, or of alcoholic beverages,[2] to the extent, or in such a manner as to be dangerous or injurious to the licensee, or to any other person or to the public, or to the extent that such use impairs the ability of the licensee to practice medicine safely or more than one misdemeanor or any felony involving the use, consumption, or self-administration of any of the substances referred to in this section, or any combination thereof, constitutes unprofessional conduct. The record of the conviction is conclusive evidence of such unprofessional conduct.

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[1] There is a nexus between a physician's use of controlled substances and his or her fitness to practice medicine, established by the Legislature in section 2239, that "has determined that conviction of a doctor for a violation of the laws regulating narcotics and dangerous drugs or a doctor's personal non-prescribed use of such substances evidences a sufficient danger to the public that sanctions should be imposed regardless of the availability of evidence that such conduct in fact impaired the doctor's professional skill." (*Weissbuch v. Board of Medical Examiners* (1974) 41 Cal.App.3d 924, 929.)

[2] There is a nexus between a physician's use of alcoholic beverages and his or her fitness to practice medicine, established by the Legislature in section 2239, "in all cases where a licensed physician used alcoholic beverages to the extent or in such a manner as to pose a danger to himself or others." (*Watson v. Superior Court* (Medical Board) (2009) 176 Cal.App.4th 1407, 1411.)

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

13. Section 11170 of the Health and Safety Code states:

No person shall prescribe, administer, or furnish a controlled substance for himself.

14. Section 11171 of the Health and Safety Code states:

No person shall prescribe, administer, or furnish a controlled substance except under the conditions and in the manner provided by this division.

15. Section 11173 of the Health and Safety Code states:

(a) No person shall obtain or attempt to obtain controlled substances, or procure or attempt to procure the administration of or prescription for controlled substances, (1) by fraud, deceit, misrepresentation, or subterfuge; or (2) by the concealment of a material fact.

...

GENERAL STATUTORY PROVISIONS

16. Section 490 of the Code states:

(a) In addition to any other action that a board is permitted to take against a licensee, a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime, if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.

(b) Notwithstanding any other provision of law, a board may exercise any authority to discipline a licensee for conviction of a crime that is independent of the authority granted under subdivision (a) only if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the licensee's license was issued.

(c) A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code.

(d) The Legislature hereby finds and declares that the application of this section has been made unclear by the holding in *Petropoulos* v. *Department of Real Estate* (2006) 142 Cal.App.4th 554, and that the holding in that case has placed a significant number of statutes and regulations in question, resulting in potential harm to the consumers of California from licensees who have been convicted of crimes. Therefore, the Legislature finds and declares that this section establishes an independent basis for a board to impose discipline upon a licensee, and that the amendments to this section made by Chapter 33 of the Statutes of 2008 do not constitute a change to, but rather are declaratory of, existing law.

17. Section 820 of the Code states:

Whenever it appears that any person holding a license, certificate or permit under this division or under any initiative act referred to in this division may be unable to practice his or her profession safely because the licentiate's ability to practice is impaired due to mental illness, or physical illness affecting competency, the licensing agency may order the licentiate to be examined by one or more physicians and surgeons or psychologists designated by the agency. The report of the examiners shall be made available to the licentiate and may be received as direct evidence in proceedings conducted pursuant to Section 822.

18. Section 822 of the Code states:

If a licensing agency determines that its licentiate's ability to practice his or her profession safely is impaired because the licentiate is mentally ill, or physically ill affecting competency, the licensing agency may take action by any one of the following methods:

(a) Revoking the licentiate's certificate or license.

(b) Suspending the licentiate's right to practice.

(c) Placing the licentiate on probation.

(d) Taking such other action in relation to the licentiate as the licensing agency in its discretion deems proper.

The licensing agency shall not reinstate a revoked or suspended certificate or license until it has received competent evidence of the absence or control of the condition which caused its action and until it is satisfied that with due regard for the public health and safety the person's right to practice his or her profession may be safely reinstated.

19. Section 4021 of the Code states:

"Controlled substance" means any substance listed in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code.

20. Section 4022 of the Code states:

"Dangerous drug" or "dangerous device" means any drug or device unsafe for self-use in humans or animals, and includes the following:

(a) Any drug that bears the legend: "Caution: federal law prohibits dispensing without prescription," "Rx only," or words of similar import.

(b) Any device that bears the statement: 'Caution: federal law restricts this device to sale by or on the order of a _____,' 'Rx only,' or words of similar import, the blank to be filled in with the designation of the practitioner licensed to use or order use of the device.

(c) Any other drug or device that by federal or state law can be lawfully dispensed only on prescription or furnished pursuant to Section 4006.

REGULATORY PROVISIONS

21. Section 1360, Title 16, of the California Code of Regulations states, in relevant part:

(a) For the purposes of denial, suspension or revocation of a license pursuant to Section 141 or Division 1.5 (commencing with Section 475) of the code, a crime, professional misconduct, or act shall be considered to be substantially related to the qualifications, functions or duties of a person holding a license 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.

...

22. Section 1360.1, Title 16, of the California Code of Regulations states:

(a) When considering the suspension or revocation of a license under Section 490 of the code on the ground that a person holding a license has been convicted of a crime, the board shall consider whether the licensee made a showing of rehabilitation if the licensee completed the criminal sentence at issue without a violation of parole or probation. In making this determination, the board shall consider the following criteria:

(1) The nature and gravity of the crime(s).

(2) The length(s) of the applicable parole or probation period(s).

(3) The extent to which the applicable parole or probation period was shortened or lengthened, and the reason(s) the period was modified.

(4) The terms or conditions of parole or probation and the extent to which they bear on the licensee's rehabilitation.

(5) The extent to which the terms or conditions of parole or probation were modified, and the reason(s) for the modification.

(b) If the licensee has not completed the criminal sentence at issue without a violation of parole or probation, the board determines that the licensee did not make the showing of rehabilitation based on the criteria in subdivision (a), or the suspension or revocation is based on disciplinary action as described in Section 141 of the Code, the board shall apply the following criteria in evaluating the licensee's rehabilitation:

(1) The nature and gravity of the act(s), professional misconduct, or crime(s).

(2) The total criminal record, or record of professional misconduct.

(3) The time that has elapsed since commission of the act(s), professional misconduct, or crime(s).

(4) Whether the licensee has complied with any terms of parole, probation, restitution or any other sanctions lawfully imposed against such person.

(5) The criteria in subdivisions (a)(1)-(5), as applicable.

(6) If applicable, evidence of dismissal proceedings pursuant to Section 1203.4 of the Penal Code.

(7) Evidence, if any, of rehabilitation submitted by the licensee.

23. Section 1361, Title 16, of the California Code of Regulations states, in relevant part:

...

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

...

24. Section 1361.5, Title 16, of the California Code of Regulations states, in relevant part:

(a) If the licensee is to be disciplined for unprofessional conduct involving the use of illegal drugs, the abuse of 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 [Business and Professions] Code.

...

COST RECOVERY

25. Section 125.3 of the Code states:

(a) Except as otherwise provided by law, in any order issued in resolution of a disciplinary proceeding before any board within the department or before the Osteopathic Medical Board, upon request of the entity bringing the proceeding, the administrative law judge may direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

(b) In the case of a disciplined licensee that is a corporation or a partnership, the order may be made against the licensed corporate entity or licensed partnership.

(c) A certified copy of the actual costs, or a good faith estimate of costs where actual costs are not available, signed by the entity bringing the proceeding or its designated representative shall be prima facie evidence of reasonable costs of investigation and prosecution of the case. The costs shall include the amount of investigative and enforcement costs up to the date of the hearing, including, but not limited to, charges imposed by the Attorney General.

(d) The administrative law judge shall make a proposed finding of the amount of reasonable costs of investigation and prosecution of the case when requested pursuant to subdivision (a). The finding of the administrative law judge with regard to costs shall not be reviewable by the board to increase the cost award. The board may reduce or eliminate the cost award, or remand to the administrative law judge if the proposed decision fails to make a finding on costs requested pursuant to subdivision (a).

(e) If an order for recovery of costs is made and timely payment is not made as directed in the board's decision, the board may enforce the order for repayment in any appropriate court. This right of enforcement shall be in addition to any other rights the board may have as to any licensee to pay costs.

(f) In any action for recovery of costs, proof of the board's decision shall be conclusive proof of the validity of the order of payment and the terms for payment.

(g) (1) Except as provided in paragraph (2), the board shall not renew or reinstate the license of any licensee who has failed to pay all of the costs ordered under this section.

(2) Notwithstanding paragraph (1), the board may, in its discretion, conditionally renew or reinstate for a maximum of one year the license of any licensee who demonstrates financial hardship and who enters into a formal agreement with the board to reimburse the board within that one-year period for the unpaid costs.

(h) All costs recovered under this section shall be considered a reimbursement for costs incurred and shall be deposited in the fund of the board recovering the costs to be available upon appropriation by the Legislature.

(i) Nothing in this section shall preclude a board from including the recovery of the costs of investigation and enforcement of a case in any stipulated settlement.

(j) This section does not apply to any board if a specific statutory provision in that board's licensing act provides for recovery of costs in an administrative disciplinary proceeding.

FACTUAL ALLEGATIONS

26. On the evening of May 6, 2022, at approximately 1848 hours, Respondent[3] was driving home from work at a medical clinic when, under the combined influence of alcohol and controlled substances, she hit another vehicle with such force that it lost control and was forced off the highway into the dirt shoulder area of the roadside. Respondent immediately fled the scene at a high rate of speed without stopping to check on the welfare of other motorists involved in the collision. The other motorists sustained injuries and were later taken to the hospital.

[3] Respondent works as an Emergency Department physician.

27. A California Highway Patrol (CHP) officer investigating the collision responded to Respondent's residential address later that same evening and encountered her in work scrubs and a white medical jacket. While questioning Respondent in front of her home, the CHP officer observed several objective symptoms of intoxication, including, but not limited to, strong odor of alcohol on her breath, red and watery eyes, heavily slurred speech, and extremely lethargic behavior. Respondent admitted to being involved in a motor vehicle accident earlier that evening, and major damage was observed on the front-end of a vehicle parked in the driveway of her home.[4] Respondent told the CHP officer that she had stopped her vehicle after the accident but the other vehicle simply "took off."

28. Field Sobriety Tests (FST) were conducted in front of Respondent's home and she failed to perform them as instructed. The CHP officer administered a preliminary alcohol screening (PAS) test, which results measured Respondent's blood alcohol concentration (BAC) level at 0.30 percent and 0.29 percent. Respondent was arrested for driving under the influence (DUI) of alcohol causing injury and fleeing the scene of an automobile accident causing injury.

29. Approximately three and a half (3 ½) hours after the reported collision, a blood sample was taken from Respondent. Chemical testing later performed on the blood sample determined Respondent's BAC was 0.30 percent. A toxicology analysis performed on Respondent's blood sample detected that benzodiazepines[5] (clonazepam and diazepam) and cannabis were also in her system at the time of driving.

30. Significantly, Respondent did not have a validly issued prescription for diazepam on the date of the collision.

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[4] The vehicle description and license plate number exactly matched the information provided to a 911 operator by an eyewitness-motorist, who had observed the highway collision and the vehicle flee at "a high rate of speed" immediately following the collision.

[5] Benzodiazepines are Schedule IV controlled substances pursuant to Health and Safety Code section 11057, and are a dangerous drug pursuant to Code section 4022. The DEA has identified benzodiazepines as a drug of abuse. (Drugs of Abuse, DEA Resource Guide (2022 Edition), at p. 73.)

31. On July 18, 2022, the San Diego County District Attorney's Office filed a criminal complaint against Respondent in the matter of *The People of the State of California v. Jamila Danishwar*, Superior Court Case No. SCD295421. The criminal complaint charged Respondent with committing four (4) felonies:

(1) Count 1: Vehicle Code Section 23153, subdivision (a), wherein, Respondent did unlawfully, while under the influence of an alcoholic beverage, drive a vehicle and concurrently neglected a duty imposed by law which caused bodily injury to another person.

(2) Count 2: Vehicle Code Section 23153, subdivision (b), wherein, Respondent did unlawfully, while having 0.08 percent of alcohol in her blood, drive a vehicle and concurrently neglected a duty imposed by law which caused bodily injury to another person.

(3) Count 3: Vehicle Code Section 23153, subdivision (g), wherein, Respondent did unlawfully, while under the influence of an alcoholic beverage and a drug and under their combined influence, drive a vehicle and concurrently neglected a duty imposed by law which caused bodily injury to another person.

(4) Count 4: Vehicle Code Section 20001, subdivision (a), wherein, Respondent, having driven a vehicle involved in an accident resulting in injury to another, did unlawfully fail to immediately stop her vehicle at the scene of an accident to exchange contact information and render reasonable assistance to any person injured in the accident.

(5) Counts 1, 2, and 3 each contain separate allegations which allege that Respondent drove with a BAC of 0.15 percent or more, pursuant to Vehicle Code Section 23578.

32. On March 30, 2023, Respondent was convicted of a felony under Count 2. In the guilty plea form, Respondent admitted that she "drove a vehicle w/ .15% or more BAC and caused a collision resulting in injury to another person."

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33. On June 7, 2023, the San Diego County Superior Court sentenced Respondent to formal felony probation for three (3) years, with the following terms and conditions imposed:

(1) Commitment to sheriff for ninety (90) days of custody; County Parole and Alternative Custody (CPAC) permitted Respondent to serve custody under "home detention" program with an installed alcohol monitoring device.

(2) Complete eighteen (18) month Multiple Conviction Program;

(3) MADD;

(4) Restitution to victims; and

(5) Standard fines.

SECTION 822 CAUSE FOR ACTION

(Mental Impairment)

34. Respondent has subjected her Physician's and Surgeon's Certificate No. A 102800 to Board action under section 822 of the Code in that her ability to practice medicine safely is impaired because she suffers from a disorder that affects her competency as a physician. The circumstances are as follows:

(a) Paragraphs 26 through 33, above, are hereby incorporated by reference and realleged as if fully set forth herein.

(b) On or about November 10, 2023, Respondent voluntarily submitted to a mental evaluation by Board appointed psychiatrist, Daniel Brockett, M.D. (Dr. Brockett). After conducting psychometric testing, an extensive review of pertinent materials, and a face-to-face evaluation of Respondent, Dr. Brockett opined that Respondent suffers from a disorder.[6] In his report to the Board Dr. Brockett concluded that, in order to practice medicine safely, Respondent requires monitoring (by the Board) to ensure that she has a long period of sustained recovery from the disorder.

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[6] The diagnosed disorder is known by Respondent.

FIRST CAUSE FOR DISCIPLINE

(Conviction of a Crime Substantially Related to the Qualifications, Functions, or Duties of a Physician and Surgeon)

35. Respondent has subjected her Physician's and Surgeon's Certificate No. A 102800 to disciplinary action under sections 2227 and 2234, as defined by section 2236, subdivision (a), of the Code, in that she has been convicted of a crime substantially related to the qualifications, functions, or duties of a physician and surgeon, as more particularly alleged in paragraphs 26 through 33, above, which are hereby incorporated by reference and realleged as if fully set forth herein.

SECOND CAUSE FOR DISCIPLINE

(Use of Controlled Substances and Alcoholic Beverages to the Extent, or in Such a Manner, as to be Dangerous or Injurious to Respondent, Another Person or the Public)

36. Respondent has further subjected her Physician's and Surgeon's Certificate No. A 102800 to disciplinary action under sections 2227 and 2234, as defined by section 2239, subdivision (a), of the Code, in that she used controlled substances and consumed alcoholic beverages, to the extent, or in such a manner as to be dangerous or injurious to Respondent, or to any other person or to the public, as more particularly alleged in paragraphs 26 through 33, above, which are hereby incorporated by reference and realleged as if fully set forth herein.

THIRD CAUSE FOR DISCIPLINE

(Self-Administration of Controlled Substances)

37. Respondent has further subjected her Physician's and Surgeon's Certificate No. A 102800 to disciplinary action under sections 2227 and 2234, and 2238, of the Code, as defined by section 11170 of the Health and Safety Code, in that she self-administered controlled substances to herself, as more particularly alleged in paragraphs 29 through 31, above, which are hereby incorporated by reference and realleged as if fully set forth herein.

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FOURTH CAUSE FOR DISCIPLINE

(Violation of State Statutes Regulating Dangerous Drugs or Controlled Substances)

38. Respondent has further subjected her Physician's and Surgeon's Certificate No. A 102800 to disciplinary action under sections 2227 and 2234, as defined by section 2238, of the Code, in that she has violated state statutes regulating dangerous drugs or controlled substances, including, but not limited to, Health and Safety Code section 11170 [administering controlled substances for self-use]; Health and Safety Code section 11171 [administering controlled substances in manner not provided by law], and Health and Safety Code section 11173, subdivision (a) [obtaining controlled substances by fraud, deceit, misrepresentation, or subterfuge], as more particularly alleged in paragraphs 29 through 31, above, which are hereby incorporated by reference and realleged as if fully set forth herein.

FIFTH CAUSE FOR DISCIPLINE

(Unprofessional Conduct)

39. Respondent has further subjected her Physician's and Surgeon's Certificate No. A 102800 to disciplinary action under sections 2227 and 2234, as defined by section 2234, subsections (a) and (e), 2238, 2239, and 2280 of the Code, in that she has engaged in conduct which breaches the rules or ethical code of the medical profession, or conduct which is unbecoming to a member in good standing of the medical profession, and which demonstrates an unfitness to practice medicine, as more particularly alleged in paragraphs 26 through 33, above, which are hereby incorporated by reference and realleged as if fully set forth herein.

DISCIPLINARY CONSIDERATIONS

40. To determine the degree of discipline, if any, to be imposed on Respondent, Complainant alleges that on or about March 30, 2023, in a prior criminal proceeding titled, *The People of the State of California vs. Jamila Danishwar*, Superior Court Case No. M260997, Respondent was convicted of violating Vehicle Code section 23152, subsection (b) [misdemeanor DUI]. In Respondent's guilty plea form she wrote, "Drove a vehicle w/.08% or more BAC."[7] On

[7] The arrest date for this misdemeanor DUI is May 31, 2019; it is for informational purposes only and is not alleged as a separate basis for disciplinary action.

June 7, 2023, Respondent was sentenced on both her misdemeanor DUI and felony DUI [Case No. SCD295421] convictions, with misdemeanor probation conditions set to run concurrently with felony probation determined by the court. The record of conviction in Case No. M260997 is incorporated by reference as if fully set forth herein.

41. To determine the degree of discipline, if any, to be imposed on Respondent, Complainant alleges that on or about February 28, 2018, in a prior disciplinary action titled *In the Matter of the Accusation Against Jamila Danishwar, M.D.*, before the Medical Board of California, in Case Number 800-2014-005866, Respondent's license was disciplined and publicly reprimanded pursuant to Code section 2227, subdivision (a), subsection (4). The Disciplinary Order required Respondent to complete the following: (i) Clinical Competence Assessment Program, (ii) Education Course, (iii) Medical Record Keeping Course, and (iv) 80 hours of free services to a community or non-profit organization. The Board's Decision and Order is now final and is incorporated by reference as if fully set forth herein.

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PRAYER

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

1. Revoking or suspending Physician's and Surgeon's Certificate No. A 102800, issued to Respondent Jamila Danishwar, M.D.;

2. Revoking, suspending, or denying approval of Respondent Jamila Danishwar, M.D.'s authority to supervise physician assistants and advanced practice nurses;

3. Taking action as authorized by Business and Professions Code section 822, as the Board in its discretion deems necessary and proper;

4. Ordering Respondent Jamila Danishwar, M.D., to pay the Board the costs of the investigation and enforcement of this case;

5. Ordering Respondent Jamila Danishwar, M.D., if placed on probation, to pay the Board the costs of probation monitoring;

6. Ordering Respondent Jamila Danishwar, M.D., if placed on probation, and upon a finding that the extent of Respondent's alcohol and drug use impaired her ability to practice safely, to provide patient notification in accordance with Business and Professions Code section 2228.1; and

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

DATED: FEB 2 6 2024

REJI VARGHESE
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant

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