

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

In the Matter of the Accusation)
Against:)
)
Robert John Joseph II, D.P.M.)
)
Doctor of Podiatric Medicine)
License No. E-4013)
)

Respondent.)

Case No: 500-2018-000703

DECISION AND ORDER

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

This Decision shall become effective at 5:00 p.m. on JAN 02 2025.

DATED DEC 03 2024.

PODIATRIC MEDICAL BOARD



Carolyn McAloon, D.P.M., President

1 ROB BONTA
Attorney General of California
2 EDWARD KIM
Supervising Deputy Attorney General
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7

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

12 In the Matter of the Accusation Against:

13 **ROBERT JOHN JOSEPH II, D.P.M.**
150 North Robertson Blvd., Suite 300
Beverly Hills, CA 90211

14 **Doctor of Podiatric Medicine License**
No. E 4013,

15 Respondent.
16

Case No. 500-2018-000703

OAH No. 2024020769

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

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

19 **PARTIES**

20 1. Brian Naslund (Complainant) is the Executive Officer of the Podiatric Medical Board
21 (Board). He brought this action solely in his official capacity and is represented in this matter by
22 Rob Bonta, Attorney General of the State of California, by Christine Friar Walton, Deputy
23 Attorney General.

24 2. Respondent Robert John Joseph II, D.P.M. (Respondent) is represented in this
25 proceeding by attorney James R. Parrett of Thompson & Colegate LLP, located at 3610
26 Fourteenth Street - P.O. Box 1299, Riverside, California 92502.

27 3. On July 8, 1996, the Board issued Doctor of Podiatric Medicine License Number
28 E 4013 to Respondent. That Doctor of Podiatric Medicine License was in full force and effect at

1 all times relevant to the charges brought in Accusation No. 500-2018-000703, and will expire on
2 June 30, 2026, unless renewed.

3 **JURISDICTION**

4 4. Accusation No. 500-2018-000703 was filed before the Board on December 8, 2023,
5 and was properly served on Respondent along with all other statutorily required documents.
6 Respondent timely filed his Notice of Defense contesting the Accusation.

7 5. A copy of Accusation No. 500-2018-000703 is attached as Exhibit A and
8 incorporated herein by reference.

9 **ADVISEMENT AND WAIVERS**

10 6. Respondent has carefully read, discussed with counsel, and fully understands the
11 charges and allegations in Accusation No. 500-2018-000703. Respondent has also carefully read,
12 fully discussed with counsel, and understands the effects of this Stipulated Settlement and
13 Disciplinary Order.

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

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

22 **CULPABILITY**

23 9. Respondent admits the truth of each and every charge and allegation in Accusation
24 No. 500-2018-000703.

25 10. Respondent agrees that his Doctor of Podiatric Medicine License is subject to
26 discipline and he agrees to be bound by the Board's probationary terms as set forth in the
27 Disciplinary Order below.

28 ///

1 **CONTINGENCY**

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

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

15 13. In consideration of the foregoing admissions and stipulations, the parties agree that
16 the Board may, without further notice or formal proceeding, issue and enter the following
17 Disciplinary Order:

18 **DISCIPLINARY ORDER**

19 IT IS HEREBY ORDERED that Doctor of Podiatric Medicine License No. E 4013 issued
20 to Respondent Robert John Joseph II, D.P.M. is revoked. However, the revocation is stayed and
21 Respondent is placed on probation for five (5) years on the following terms and conditions:

22 1. ETHICS COURSE. Within 60 days of the effective date of this Decision,
23 Respondent shall enroll in a course in ethics, at Respondent's expense, approved in advance by
24 the Board or its designee. Failure to successfully complete the course during the first year is a
25 violation of probation.

26 An ethics course taken after the acts that gave rise to the charges in the Accusation, but
27 prior to the effective date of the Decision may, in the sole discretion of the Board or its designee,
28 be accepted towards the fulfillment of this condition if the course would have been approved by

1 the Board or its designee had the course been taken after the effective date of this Decision.

2 Respondent shall submit a certification of successful completion to the Board or its
3 designee not later than 15 calendar days after the effective date of the Decision.

4 2. PSYCHIATRIC EVALUATION. Within 30 days of the effective date of this
5 Decision, and on whatever periodic basis thereafter may be required by the Board or its designee,
6 Respondent shall undergo a psychiatric evaluation (and psychological testing, if deemed
7 necessary) by a Board appointed Board certified psychiatrist, who shall consider any information
8 provided by the Board or designee and any other information the psychiatrist deems relevant, and
9 shall furnish a written evaluation report to the Board or its designee. Psychiatric evaluations
10 conducted prior to the effective date of the Decision shall not be accepted towards the fulfillment
11 of the requirement. Respondent shall pay the cost of all psychiatric evaluations and psychological
12 testing.

13 Respondent shall comply with all restrictions or conditions recommended by the evaluating
14 psychiatrist within 15 calendar days after being notified by the Board or its designee. Failure to
15 undergo and complete a psychiatric evaluation and psychological testing, or comply with the
16 required additional conditions or restrictions, is a violation of probation.

17 3. MONITORING - PRACTICE/BILLING. Within 30 days of the effective date of this
18 Decision, the entire practice shall be monitored, including, but not limited to the following:
19 medical records, charting, pre and postoperative evaluations, all surgical procedures and billing
20 records.

21 The Board shall immediately, within the exercise of reasonable discretion, appoint a doctor
22 of podiatric medicine from its panel of medical consultants or panel of expert reviewers as the
23 monitor.

24 The monitor shall provide quarterly reports to the Board or its designee which include an
25 evaluation of Respondent's performance, indicating whether Respondent's practices are within
26 the standards of practice of podiatric medicine or billing, or both, and whether Respondent is
27 practicing podiatric medicine safely.

28 The Board or its designee shall determine the frequency and practice areas to be monitored.

1 Such monitoring shall be required during the entire period of probation. The Board or its
2 designee may at its sole discretion also require prior approval by the monitor of any medical or
3 surgical procedures engaged in by the Respondent. The Respondent shall pay all costs of such
4 monitoring and shall otherwise comply with all requirements of his or her contract with the
5 monitor. If the monitor terminates the contract, or is no longer available, the Board or its
6 designee shall appoint a new monitor immediately. Respondent shall not practice at any time
7 during the probation until the Respondent provides a copy of the contract with the current monitor
8 to the probation investigator and such contract is approved by the Board.

9 Respondent shall provide access to the practice monitor of Respondent's patient records
10 and such monitor shall be permitted to make direct contact with any patients treated or cared for
11 by Respondent and to discuss any matters related to Respondent's care and treatment of those
12 patients. Respondent shall obtain any necessary patient releases to enable the monitor to review
13 records and to make direct contact with patients. Respondent shall execute a release authorizing
14 the monitor to provide to the Board or its designee any relevant information. If the practice
15 monitor deems it necessary to directly contact any patient, and thus require the disclosure of such
16 patient's identity, Respondent shall notify the patient that the patient's identity has been requested
17 pursuant to the Decision. This notification shall be signed and dated by each patient prior to the
18 commencement or continuation of any examination or treatment of each patient by Respondent
19 and a copy of such notification shall be maintained in each patient's file. The notifications signed
20 by Respondent's patients shall be subject to inspection and copying by the Board or its designee
21 at any time during the period of probation that Respondent is required to comply with this
22 condition. The practice monitor will sign a confidentiality agreement requiring him or her to
23 keep all patient information regarding Respondent's patients in complete confidence, except as
24 otherwise required by the Board or its designee.

25 Failure to maintain all records, or to make all appropriate records available for immediate
26 inspection and copying on the premises, or to comply with this condition as outlined above, is a
27 violation of probation.

28 In lieu of a monitor, Respondent may participate in the professional enhancement program

1 offered by the Physician Assessment and Clinical Education Program at the University of
2 California, San Diego School of Medicine, that includes, at minimum, quarterly chart review,
3 semi-annual practice assessment, and semi-annual review of professional growth and education.
4 Respondent shall participate in the professional enhancement program at Respondent's expense
5 during the term of probation.

6 4. SOLO PRACTICE. Respondent is prohibited from engaging in the solo practice of
7 podiatric medicine.

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

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

17 6. PHYSICIAN ASSISTANTS. Prior to receiving assistance from a physician assistant,
18 Respondent must notify the supervising physician of the terms and conditions of his/her
19 probation.

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

23 8. QUARTERLY DECLARATIONS. Respondent shall submit quarterly declarations
24 under penalty of perjury on forms provided by the Board, stating whether there has been
25 compliance with all the conditions of probation. Respondent shall submit quarterly declarations
26 not later than 10 calendar days after the end of the preceding quarter.

27 9. PROBATION COMPLIANCE UNIT. Respondent shall comply with the Board's
28 probation unit. Respondent shall, at all times, keep the Board informed of Respondent's business

1 and residence addresses. Changes of such addresses shall be immediately communicated in
2 writing to the Board or its designee. Under no circumstances shall a post office box serve as an
3 address of record, except as allowed by Business and Professions Code section 2021(b).

4 Respondent shall not engage in the practice of podiatric medicine in Respondent's place of
5 residence. Respondent shall maintain a current and renewed California doctor of podiatric
6 medicine's license.

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

10 10. INTERVIEW WITH THE BOARD OR ITS DESIGNEE. Respondent shall be
11 available in person for interviews either at Respondent's place of business or at the probation unit
12 office with the Board or its designee, upon request, at various intervals and either with or without
13 notice throughout the term of probation.

14 11. RESIDING OR PRACTICING OUT-OF-STATE. In the event Respondent should
15 leave the State of California to reside or to practice, Respondent shall notify the Board or its
16 designee in writing 30 calendar days prior to the dates of departure and return. Non-practice is
17 defined as any period of time exceeding 30 calendar days in which Respondent is not engaging in
18 any activities defined in section 2472 of the Business and Professions Code.

19 All time spent in an intensive training program outside the State of California which has
20 been approved by the Board or its designee shall be considered as time spent in the practice of
21 medicine within the State. A Board-ordered suspension of practice shall not be considered as a
22 period of non-practice. Periods of temporary or permanent residence or practice outside
23 California will not apply to the reduction of the probationary term. Periods of temporary or
24 permanent residence or practice outside California will relieve Respondent of the responsibility to
25 comply with the probationary terms and conditions, with the exception of this condition, and the
26 following terms and conditions of probation: Obey All Law; Probation Unit Compliance; and
27 Cost Recovery.

28 Respondent's license shall be automatically cancelled if Respondent's periods of temporary

1 or permanent residence or practice outside California totals two years. However, Respondent's
2 license shall not be cancelled as long as Respondent is residing and practicing podiatric medicine
3 in another state of the United States and is on active probation with the medical licensing
4 authority of that state, in which case the two year period shall begin on the date probation is
5 completed or terminated in that state.

6 12. FAILURE TO PRACTICE PODIATRIC MEDICINE - CALIFORNIA RESIDENT.

7 In the event the Respondent resides in the State of California and for any reason Respondent stops
8 practicing podiatric medicine in California, Respondent shall notify the Board or its designee in
9 writing within 30 calendar days prior to the dates of non-practice and return to practice. Any
10 period of non-practice within California as defined in this condition will not apply to the
11 reduction of the probationary term and does not relieve Respondent of the responsibility to
12 comply with the terms and conditions of probation. Non-practice is defined as any period of time
13 exceeding thirty calendar days in which Respondent is not engaging in any activities defined in
14 section 2472 of the Business and Professions Code.

15 All time spent in an intensive training program which has been approved by the Board or its
16 designee shall be considered time spent in the practice of medicine. For purposes of this
17 condition, non-practice due to a Board-ordered suspension or in compliance with any other
18 condition of probation shall not be considered a period of non-practice.

19 Respondent's license shall be automatically cancelled if Respondent resides in California
20 and for a total of two years, fails to engage in California in any of the activities described in
21 Business and Professions Code section 2472.

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

26 14. VIOLATION OF PROBATION. If Respondent violates probation in any respect, the
27 Board, after giving Respondent notice and the opportunity to be heard, may revoke probation and
28 carry out the disciplinary order that was stayed. If an accusation or petition to revoke probation is

1 filed against Respondent during probation, the Board shall have continuing jurisdiction until the
2 matter is final, the period of probation shall be extended until the matter is final, and no petition
3 for modification of penalty shall be considered while there is an accusation or petition to revoke
4 probation pending against Respondent.

5 15. COST RECOVERY. Within 90 calendar days from the effective date of the Decision
6 or other period agreed to by the Board or its designee, Respondent shall reimburse the Board the
7 amount of \$40,589.25 for its investigative and prosecution costs. The filing of bankruptcy or
8 period of non-practice by Respondent shall not relieve the Respondent of his/her obligation to
9 reimburse the Board for its costs.

10 16. LICENSE SURRENDER. Following the effective date of this Decision, if
11 Respondent ceases practicing due to retirement or health reasons, or is otherwise unable to satisfy
12 the terms and conditions of probation, Respondent may request the voluntary surrender of
13 Respondent's license. The Board reserves the right to evaluate the Respondent's request and to
14 exercise its discretion whether to grant the request or to take any other action deemed appropriate
15 and reasonable under the circumstances. Upon formal acceptance of the surrender, Respondent
16 shall within 15 calendar days deliver Respondent's wallet and wall certificate to the Board or its
17 designee and Respondent shall no longer practice podiatric medicine. Respondent will no longer
18 be subject to the terms and conditions of probation and the surrender of Respondent's license
19 shall be deemed disciplinary action. If Respondent re-applies for a podiatric medical license, the
20 application shall be treated as a petition for reinstatement of a revoked certificate.

21 17. PROBATION MONITORING COSTS. Respondent shall pay the costs associated
22 with probation monitoring each and every year of probation as designated by the Board, which
23 may be adjusted on an annual basis. Such costs shall be payable to the Board of Podiatric
24 Medicine and delivered to the Board or its designee within 60 days after the start of the new fiscal
25 year. Failure to pay costs within 30 calendar days of this date is a violation of probation.

26 18. NOTICE TO EMPLOYEES. Respondent shall, upon or before the effective date of
27 this Decision, post or circulate a notice which actually recites the offenses for which Respondent
28 has been disciplined and the terms and conditions of probation to all employees involved in

1 his/her practice. Within fifteen (15) days of the effective date of this Decision, Respondent shall
 2 cause his/her employees to report to the Board in writing, acknowledging the employees have
 3 read the Accusation and Decision in the case and understand Respondent's terms and conditions
 4 of probation.

5 19. CHANGES OF EMPLOYMENT. Respondent shall notify the Board in writing,
 6 through the assigned probation officer, of any and all changes of employment, location, and
 7 address within thirty (30) days of such change.

8 20. COMPLIANCE WITH REQUIRED CONTINUING MEDICAL EDUCATION.
 9 Respondent shall submit satisfactory proof biennially to the Board of compliance with the
 10 requirement to complete fifty hours of approved continuing medical education, and meet
 11 continuing competence requirements for re-licensure during each two (2) year renewal period.

12 ACCEPTANCE

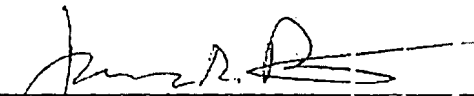
13 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
 14 discussed it with my attorney, James R. Parrett. I understand the stipulation and the effect it will
 15 have on my Doctor of Podiatric Medicine License. I enter into this Stipulated Settlement and
 16 Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the
 17 Decision and Order of the Podiatric Medical Board.

18 DATED: 9/16/24

19 
 ROBERT JOHN JOSEPH II, D.P.M.
 Respondent

21 I have read and fully discussed with Respondent Robert John Joseph II, D.P.M. the terms
 22 and conditions and other matters contained in the above Stipulated Settlement and Disciplinary
 23 Order. I approve its form and content.

24 DATED: 9/12/24

25 
 JAMES R. PARRETT
 Attorney for Respondent

26 ///
 27 ///
 28 ///

ENDORSEMENT

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

DATED: September 13, 2024

Respectfully submitted,

ROB BONTA
Attorney General of California
EDWARD KIM
Supervising Deputy Attorney General

Christine Friar Walton
Digitally signed by
Christine Friar Walton
Date: 2024.09.13
11:24:17 -07'00'

CHRISTINE FRIAR WALTON
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 500-2018-000703

1 ROB BONTA
Attorney General of California
2 EDWARD KIM
Supervising Deputy Attorney General
3 CHRISTINE FRIAR WALTON
Deputy Attorney General
4 State Bar No. 228421
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8 **BEFORE THE**
9 **PODIATRIC MEDICAL BOARD**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 500-2018-000703

13 **ROBERT JOHN JOSEPH II, D.P.M.**
150 North Robertson Blvd., Suite 300
Beverly Hills, CA 90211

ACCUSATION

14 Doctor of Podiatric Medicine License
No. E 4013,

15 Respondent.
16

17 **PARTIES**

18 1. Brian Naslund ("Complainant") brings this Accusation solely in his official capacity
19 as the Executive Officer of the Podiatric Medical Board, Department of Consumer Affairs
20 ("Board").

21 2. On or about July 8, 1996, the Podiatric Medical Board issued Podiatrist License
22 Number E 4013 to Robert John Joseph II, D.P.M. ("Respondent"). The Podiatrist License was in
23 full force and effect at all times relevant to the charges brought herein and will expire on June 30,
24 2024, unless renewed.

25 **JURISDICTION**

26 3. This Accusation is brought before the Podiatric Medical Board ("Board"), under the
27 authority of the following laws. All section references are to the Business and Professions Code
28

1 ("Code") unless otherwise indicated.

2 4. Section 2222 of the Code states:

3 The California Board of Podiatric Medicine shall enforce and administer this
4 article as to doctors of podiatric medicine. Any acts of unprofessional conduct or
5 other violations proscribed by this chapter are applicable to licensed doctors of
6 podiatric medicine and wherever the Medical Quality Hearing Panel established
7 under Section 11371 of the Government Code is vested with the authority to enforce
8 and carry out this chapter as to licensed physicians and surgeons, the Medical Quality
9 Hearing Panel also possesses that same authority as to licensed doctors of podiatric
10 medicine.

11 The California Board of Podiatric Medicine may order the denial of an
12 application or issue a certificate subject to conditions as set forth in Section 2221, or
13 order the revocation, suspension, or other restriction of, or the modification of that
14 penalty, and the reinstatement of any certificate of a doctor of podiatric medicine
15 within its authority as granted by this chapter and in conjunction with the
16 administrative hearing procedures established pursuant to Sections 11371, 11372,
17 11373, and 11529 of the Government Code. For these purposes, the California Board
18 of Podiatric Medicine shall exercise the powers granted and be governed by the
19 procedures set forth in this chapter.

20 5. Section 2497 of the Code states:

21 (a) The board may order the denial of an application for, or the suspension of,
22 or the revocation of, or the imposition of probationary conditions upon, a certificate
23 to practice podiatric medicine for any of the causes set forth in Article 12
24 (commencing with Section 2220) in accordance with Section 2222.

25 (b) The board may hear all matters, including but not limited to, any contested
26 case or may assign any such matters to an administrative law judge. The proceedings
27 shall be held in accordance with Section 2230. If a contested case is heard by the
28 board itself, the administrative law judge who presided at the hearing shall be present
during the board's consideration of the case and shall assist and advise the board.

20 6. Section 2228 of the Code states:

21 The authority of the board or the California Board of Podiatric Medicine to
22 discipline a licensee by placing him or her on probation includes, but is not limited to,
23 the following:

24 (a) Requiring the licensee to obtain additional professional training and to pass
25 an examination upon the completion of the training. The examination may be written
26 or oral, or both, and may be a practical or clinical examination, or both, at the option
27 of the board or the administrative law judge.

28 (b) Requiring the licensee to submit to a complete diagnostic examination by
one or more physicians and surgeons appointed by the board. If an examination is
ordered, the board shall receive and consider any other report of a complete
diagnostic examination given by one or more physicians and surgeons of the
licensee's choice.

1 (c) Restricting or limiting the extent, scope, or type of practice of the licensee,
2 including requiring notice to applicable patients that the licensee is unable to perform
3 the indicated treatment, where appropriate.

4 (d) Providing the option of alternative community service in cases other than
5 violations relating to quality of care.

6 7. Section 2228.1 of the Code states:

7 (a) On and after July 1, 2019, except as otherwise provided in subdivision (c),
8 the board shall require a licensee to provide a separate disclosure that includes the
9 licensee's probation status, the length of the probation, the probation end date, all
10 practice restrictions placed on the licensee by the board, the board's telephone
11 number, and an explanation of how the patient can find further information on the
12 licensee's probation on the licensee's profile page on the board's online license
13 information Internet Web site, to a patient or the patient's guardian or health care
14 surrogate before the patient's first visit following the probationary order while the
15 licensee is on probation pursuant to a probationary order made on and after July 1,
16 2019, in any of the following circumstances:

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

20 (A) The commission of any act of sexual abuse, misconduct, or relations
21 with a patient or client as defined in Section 726 or 729.

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

24 (C) Criminal conviction directly involving harm to patient health.

25 (D) Inappropriate prescribing resulting in harm to patients and a
26 probationary period of five years or more.

27 (2) An accusation or statement of issues alleged that the licensee committed
28 any of the acts described in subparagraphs (A) to (D), inclusive, of paragraph (1),
and a stipulated settlement based upon a nolo contendere or other similar
compromise that does not include any prima facie showing or admission of guilt or
fact but does include an express acknowledgment that the disclosure requirements
of this section would serve to protect the public interest.

(b) A licensee required to provide a disclosure pursuant to subdivision (a) shall
obtain from the patient, or the patient's guardian or health care surrogate, a separate,
signed copy of that disclosure.

(c) A licensee shall not be required to provide a disclosure pursuant to
subdivision (a) 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 pursuant to subdivision (b) 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.

1 (3) The licensee who will be treating the patient during the visit is not known
to the patient until immediately prior to the start of the visit.

2 (4) The licensee does not have a direct treatment relationship with the patient.

3 (d) On and after July 1, 2019, the board shall provide the following
4 information, with respect to licensees on probation and licensees practicing under
probationary licenses, in plain view on the licensee's profile page on the board's
5 online license information Internet Web site.

6 (1) For probation imposed pursuant to a stipulated settlement, the causes
alleged in the operative accusation along with a designation identifying those causes
7 by which the licensee has expressly admitted guilt and a statement that acceptance
of the settlement is not an admission of guilt.

8 (2) For probation imposed by an adjudicated decision of the board, the causes
9 for probation stated in the final probationary order.

10 (3) For a licensee granted a probationary license, the causes by which the
probationary license was imposed.

11 (4) The length of the probation and end date.

12 (5) All practice restrictions placed on the license by the board.
13 (e) Section 2314 shall not apply to this section.

14 **STATUTORY PROVISIONS**

15 8. Section 2234 of the Code, states:

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

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

20 ...

21 9. Unprofessional conduct under Business and Professions Code section 2234 is conduct
22 which breaches the rules or ethical code of the medical profession, or conduct which is
23 unbecoming to a member in good standing of the medical profession, and which demonstrates an
24 unfitness to practice medicine. (*Shea v. Board of Medical Examiners* (1978) 81 Cal.App.3d 546,
25 575.)

26 10. Section 2236 of the Code states:

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

evidence only of the fact that the conviction occurred.

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

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

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

11. 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.

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1 12. Section 493 of the Code states:

2 (a) Notwithstanding any other law, in a proceeding conducted by a board within
3 the department pursuant to law to deny an application for a license or to suspend or
4 revoke a license or otherwise take disciplinary action against a person who holds a
5 license, upon the ground that the applicant or the licensee has been convicted of a
6 crime substantially related to the qualifications, functions, and duties of the licensee
7 in question, the record of conviction of the crime shall be conclusive evidence of the
8 fact that the conviction occurred, but only of that fact.

9 (b) (1) Criteria for determining whether a crime is substantially related to the
10 qualifications, functions, or duties of the business or profession the board regulates
11 shall include all of the following:

12 (A) The nature and gravity of the offense.

13 (B) The number of years elapsed since the date of the offense.

14 (C) The nature and duties of the profession.

15 (2) A board shall not categorically bar an applicant based solely on the type of
16 conviction without considering evidence of rehabilitation.

17 (c) As used in this section, "license" includes "certificate," "permit,"
18 "authority," and "registration."

19 ...

20 (e) This section shall become operative on July 1, 2020.

21 **REGULATORY PROVISIONS**

22 13. California Code of Regulations, title 16, section 1360, states:

23 For the purposes of denial, suspension or revocation of a license, certificate or
24 permit pursuant to Division 1.5 (commencing with Section 475) of the code, a crime
25 or act shall be considered to be substantially related to the qualifications, functions or
26 duties of a person holding a license, certificate or permit under the Medical Practice
27 Act if to a substantial degree it evidences present or potential unfitness of a person
28 holding a license, certificate or permit to perform the functions authorized by the
license, certificate or permit in a manner consistent with the public health, safety or
welfare. Such crimes 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 the Medical Practice Act.

COST RECOVERY

14. Section 2497.5 of the Code states:

(a) The board may request the administrative law judge, under his or her
proposed decision in resolution of a disciplinary proceeding before the board, to
direct any licensee found guilty of unprofessional conduct to pay to the board a sum
not to exceed the actual and reasonable costs of the investigation and prosecution of
the case.

1 (b) The costs to be assessed shall be fixed by the administrative law judge and
2 shall not be increased by the board unless the board does not adopt a proposed
3 decision and in making its own decision finds grounds for increasing the costs to be
4 assessed, not to exceed the actual and reasonable costs of the investigation and
5 prosecution of the case.

6 (c) When the payment directed in the board's order for payment of costs is not
7 made by the licensee, the board may enforce the order for payment by bringing an
8 action in any appropriate court. This right of enforcement shall be in addition to any
9 other rights the board may have as to any licensee directed to pay costs.

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

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

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

20 (f) All costs recovered under this section shall be deposited in the Board of
21 Podiatric Medicine Fund as a reimbursement in either the fiscal year in which the
22 costs are actually recovered or the previous fiscal year, as the board may direct.

23 FIRST CAUSE FOR DISCIPLINE

24 (Conviction of a Crime)

25 15. Respondent Robert John Joseph II, D.P.M. is subject to disciplinary action under
26 Code sections 490, 493, and 2236; and California Code of Regulations, title 16, section 1360, in
27 that he was convicted of a crime substantially related to the qualifications, functions, or duties of
28 a doctor of podiatric medicine when he was convicted of violating 18 U.S.C. § 371 (Conspiracy),
a felony. The circumstances are as follows:

16. On May 24, 2018, in the case of *United States of America v. Irena Shut, Domenic
Signorelli, and Robert Joseph*, United States District Court for the Central District of California,
case number 2:18-cr-00315 RGK, Respondent was charged with violating 18 U.S.C. § 371
(Conspiracy), a felony (Count 1). The Indictment alleged, in pertinent part, as follows:

A. Respondent was a conspirator in a plan to defraud various government health
care programs. Specifically, Respondent wrote compound drug prescriptions for
patients that he caused to be routed to certain co-conspirator pharmacies for

1 dispensing in exchange for kickback payments (“Kickback Tainted
2 Prescriptions”).

3 B. “Compounding” is a practice in which a licensed professional (e.g., pharmacist
4 or physician) combines, mixes or alters ingredients of a drug or multiple drugs to
5 create drugs tailored to the needs of an individual patient. Compounded drugs
6 are not FDA-approved. Compounded drugs can be prescribed when no FDA-
7 approved drug meets the health needs of a particular patient. For example, if a
8 patient is allergic to a specific ingredient in an FDA-approved medication, such
9 as a dye, a compound drug can be prescribed and prepared that excludes the
10 ingredient. As another example, compounded drugs are also used when a patient
11 cannot consume a medication by traditional means (e.g. needs liquid in place of
12 a pill).

13 C. The co-conspirator pharmacies to whom Respondent routed his patients’
14 compound prescriptions would then send, by mail, the compounded drugs and
15 other pharmaceuticals prescribed by Respondent to patient-beneficiaries, and
16 submit claims for reimbursement to various government health care programs.
17 Those government programs included: 1) the Defense Health Agency’s program
18 of health care coverage (“TRICARE”) for Department of Defense beneficiaries
19 worldwide, including active duty service members, National Guard and Reserve
20 members, retirees, their families, and survivors; 2) the Federal Employees’
21 Compensation Act (“FECA”) program, which provides benefits (including
22 reimbursement for prescription medication) to civilian employees of the United
23 States for wage-loss disability due to traumatic injury or occupational disease
24 while working as a federal employee; and 3) the California Workers’
25 Compensation System, which provides insurance coverage for treatment of
26 injury or illness suffered by individuals during the course of their employment
27 (collectively, “Affected Health Care Plans”).

28 ///

- 1 D. Respondent's co-conspirators used reimbursements received from the Affected
2 Health Care Plans for the Kickback Tainted Prescriptions to pay Respondent's
3 kickbacks.
- 4 E. In addition to kickbacks and bribes, Respondent received other inducements
5 from his co-conspirators in exchange for authorizing pre-printed prescriptions
6 for compound drugs: (a) with no prior physician/patient relationship with the
7 beneficiaries; (b) without the knowledge or consent of the purported
8 beneficiaries; and/or (c) without meaningfully considering a far less expensive
9 FDA-approved (i.e., non-compounded) prescription drug for the patient.
- 10 F. Respondent concealed material information from his patients and the Affected
11 Health Care Plans, including that the compound prescriptions were part of a
12 kickback scheme.
- 13 G. In furtherance of the conspiracy, Respondent's co-conspirators submitted claims
14 for reimbursement on Kickback Tainted Prescriptions seeking in excess of \$250
15 million from the Affected Health Care Plans.
- 16 H. From in or around April 2014 through in or around July 2016, Respondent was
17 paid approximately \$332,500, in exchange for authorizing Kickback Tainted
18 Prescriptions, which were dispensed by his co-conspirator pharmacies and for
19 which the Affected Health Care Plans reimbursed Respondent's co-conspirators
20 approximately \$1.3 million.

21 17. On or about July 25, 2022, Respondent was convicted, by way of a plea of guilty, of
22 Count 1 as charged in the Indictment.

23 18. On or about July 25, 2022, the United States District Court sentenced Respondent to
24 (2) years of probation with terms and conditions, including 600 hours of community service, and
25 ordered him to pay fees and a fine of \$10,000. The Court also entered a money judgment of
26 forfeiture against Respondent in the amount of \$332,500. Further, and pursuant to the terms of
27 his probation, Respondent "shall not be employed in any position that requires licensing and/or
28 certification by any local, state, or federal agency without the prior written approval of the

1 Probation Officer.”

2 19. On or about August 8, 2022, Respondent caused a Criminal Action Reporting Form
3 to be filed with the Board. That form advised the Board that Respondent had been convicted of a
4 felony violation of 18 U.S.C. § 371 (Conspiracy).

5 **SECOND CAUSE FOR DISCIPLINE**

6 **(General Unprofessional Conduct)**

7 20. Respondent Robert John Joseph II, D.P.M. is subject to disciplinary action under
8 Code section 2234, generally, in that he has engaged in conduct which breaches the rules or
9 ethical code of the medical profession, or conduct which is unbecoming to a member in good
10 standing of the medical profession, and which demonstrated an unfitness to practice medicine.

11 The circumstances are as follows:

12 21. The allegations contained in the First Cause for Discipline herein are incorporated by
13 reference as if fully set forth.

14 **PRAYER**

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

17 1. Revoking or suspending Doctor of Podiatric Medicine License Number E 4013,
18 issued to Robert John Joseph II, D.P.M.;

19 2. Ordering Robert John Joseph II, D.P.M. to pay the Podiatric Medical Board the
20 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
21 Professions Code section 2497.5;

22 3. Ordering Robert John Joseph II, D.P.M., if placed on probation, to pay the Podiatric
23 Medical Board the costs of probation monitoring;

24 4. Ordering Respondent Robert John Joseph II, D.P.M., if placed on probation, to
25 provide patient notification in accordance with Business and Professions Code section 2228.1;

26 and


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

DATED: 12/08/2023


BRIAN NASLUND
Executive Officer
Podiatric Medical Board
Department of Consumer Affairs
State of California
Complainant

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