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

In the Matter of the Petition for Reinstatement by: Dennis Michael McMahon, M.D. Physician's and Surgeon's Certificate No. A 88141 Respondent.	Case No.: 800-2023-104408

DECISION

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

This Decision shall become effective at 5:00 p.m. on January 10, 2025.

IT IS SO ORDERED: December 12, 2024.

MEDICAL BOARD OF CALIFORNIA

Richard E. Thorp, Chair
Panel B

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

In the Matter of the Petition for Reinstatement by:

DENNIS MICHAEL MCMAHON, M.D., Petitioner

Agency Case No. 800-2023-104408

OAH Case No. 2024051095

PROPOSED DECISION

Wim van Rooyen, Administrative Law Judge (ALJ), Office of Administrative Hearings (OAH), State of California, heard this matter on October 10, 2024, by videoconference from Sacramento, California.

Paul Chan, Attorney at Law, represented Dennis Michael McMahon, M.D., (petitioner), who was present at hearing.

Jade Wolansky, Deputy Attorney General, represented the People of the State of California pursuant to Government Code section 11522.

Evidence was received, the record closed, and the matter submitted for decision on October 10, 2024.

FACTUAL FINDINGS

Background and Disciplinary History

LICENSE ISSUANCE

1. On July 14, 2004, the Medical Board of California (Board) issued petitioner Physician's and Surgeon's Certificate No. A 88141 (license).

2009 ACCUSATION

2. On January 28, 2009, a former Board Executive Director, in her official capacity, signed and subsequently filed Accusation No. 03-2008-195004 (2009 Accusation) against petitioner. The 2009 Accusation asserted two causes to discipline petitioner's license for: (1) unprofessional conduct; violation of drug statutes; use of controlled substances; fraudulent prescribing; and dishonest or corrupt acts; and (2) use of alcohol and criminal conduct.

Specifically, the 2009 Accusation alleged the following: In 2003, petitioner was admitted to a surgical residency program at Stanford University. On December 31, 2005, he was arrested for driving under the influence (DUI) of alcohol. On May 8, 2006, he entered a nolo contendere plea to a charge for DUI of alcohol. Following petitioner's 2006 DUI conviction, he took a four-month leave of absence from his residency program to undergo substance abuse treatment. He returned to the residency program in October 2006.

Subsequently, petitioner stole a prescription pad or sheets from another physician in the Stanford plastic surgery department. From September 2007 through December 2008, petitioner forged that physician's name and used the stolen

prescription sheets to write himself prescriptions for several drugs, including Ambien, Lunesta, temazepam, and hydrocodone/acetaminophen.[1] A pharmacist eventually discovered petitioner's forgery when he called the purported prescribing physician to verify one of the forged prescriptions. When petitioner's Stanford supervisors confronted him, he admitted the forgery but attempted to convince them not to report his misconduct to the Board.

Finally, on October 6, 2008, petitioner was again arrested for DUI of alcohol, with measured blood alcohol concentration (BAC) levels of 0.12 and 0.10 percent. At the time the 2009 Accusation was filed, criminal charges based on the October 2008 arrest were still pending.

3. On February 6, 2009, petitioner entered into a Stipulated Surrender of License (Stipulated Surrender) submitted for the Board's consideration. Through the Stipulated Surrender, petitioner agreed to surrender his license, not to petition for reinstatement for two years from the surrender's effective date, and that for purposes of any future petition for reinstatement, the 2009 Accusation's allegations shall be deemed admitted.

4. On February 26, 2009, the Board issued a Decision adopting the Stipulated Surrender as its decision resolving the 2009 Accusation. The Decision became effective on March 5, 2009.

---

[1] Ambien, Lunesta, and temazepam are all prescription sleep aids. Hydrocodone/acetaminophen is a prescription opioid pain medication. All are classified as dangerous drugs and controlled substances.

2016 Petition for Reinstatement

5. On May 30, 2016, petitioner signed and thereafter filed a Petition for Penalty Relief (2016 Petition) with the Board. Specifically, the 2016 Petition sought reinstatement of petitioner's license. Petitioner withdrew the 2016 Petition before hearing.

2023 Petition for Reinstatement

6. On November 7, 2023, petitioner signed and thereafter filed a Petition for Penalty Relief (2023 Petition), which the Board received on December 22, 2023. Specifically, the 2023 Petition seeks reinstatement of petitioner's license. Petitioner testified at hearing and offered extensive documentary evidence in support of the 2023 Petition. Additionally, petitioner offered the testimony and/or support letters of third parties.

Petitioner's Testimony

7. Petitioner admits and accepts full responsibility for his prior misconduct. He does not wish to make excuses, but explained the circumstances that led to that misconduct.

8. Petitioner described himself as a perfectionist, Eagle Scout, and three-sports Varsity athlete who performed very well throughout high school, college, and medical school. In his third year of medical school, he was inducted into the Alpha Omega Alpha National Medical Honor Society. He also scored in the top one percent of the nation on the Step I National Board Exam. He had his choice of residencies and opted for a combined six-year residency in general surgery and plastic surgery at Stanford.

9. The start of petitioner's surgical residency was a "confidence crushing experience" with demanding requirements, harsh criticism, and significant stress that petitioner had not previously faced. Additionally, petitioner faced several personal stressors. He and his wife had two unplanned children, one of whom was born premature and had to spend five weeks in the Neonatal Intensive Care Unit. His wife also attempted suicide after experiencing significant depression due to petitioner's long work hours and caring for young children without the support of friends and family.

10. In addition to petitioner's perfectionism, he had difficulty with asking for help. He decided to just "push through" his residency. He was initially prescribed Ambien to help him sleep and used it cautiously. However, he soon started abusing it and became dependent on it. He also sometimes combined it with alcohol. After petitioner's first DUI, he took a four-month leave of absence and underwent an outpatient substance abuse treatment program, but did not take it seriously enough. Upon returning to his residency, he again started abusing Ambien and his addiction escalated, leading to his forging prescriptions for Ambien and other sleep aids as well as the second DUI.

11. Petitioner realized he had a serious problem and decided to commit to substance abuse treatment. He enrolled and successfully completed two 90-day inpatient programs at the Betty Ford Center and Talbott Recovery. He initially hoped that he would be able to save his license, but ultimately decided to surrender it based on poor legal advice and limited resources at the time.

12. Following surrender of petitioner's license, he "shifted gears" and pursued a career in the medical device industry. At all times, he disclosed to prospective employers that he had surrendered his medical license.

13. From 2009 through 2017, he worked for Medtronic in Santa Rosa, California, first as an intern and later as a program manager and clinical research manager in the field of structural heart, coronary, and renal denervation. During his time at Medtronic, he also completed a Master of Business Administration degree. Then, from 2017 through 2019, petitioner worked as a clinical research director for JC Medical in Burlingame, California, managing the transcatheter aortic and mitral valve programs. Neither his Medtronic positions nor his JC Medical position required a medical license.

14. In January 2020, petitioner moved to Rhode Island to work as a Senior Director of Medical Affairs at Becton-Dickinson (BD), primarily working in the interventional surgery division. He was subsequently promoted to a Vice President position. At the time, neither position required a medical license. However, he was terminated in September 2022 after another terminated employee filed a lawsuit against BD, and BD management determined that having a Vice President without a medical license presented too large a risk for the company.

15. Since December 2022, petitioner has worked as the Vice President of Medical Affairs for MiMedx, a Georgia company specializing in products for wound care and surgery. Petitioner continues to be based in Rhode Island. MiMedx officially requires a medical license for petitioner's current position, but waived that requirement given petitioner's stellar qualifications and work history and because the work does not involve the practice of medicine. Nevertheless, MiMedx has strongly encouraged petitioner to obtain a medical license.

16. Petitioner inquired about obtaining a medical license in Rhode Island. However, Rhode Island licensing authorities informed him that he cannot be issued a Rhode Island medical license until his medical license in California is restored.

17. Petitioner acknowledges withdrawing his prior 2016 Petition in California. At the time, he did not feel he had a sufficiently strong application, and he did not want to receive a denial that would reflect badly on his record. He believes he is now in a much stronger position to petition for reinstatement.

18. Petitioner's DUI convictions have been expunged. He has had no subsequent criminal convictions or negative interactions with law enforcement. When petitioner still resided in California, he voluntarily participated in the Pacific Assistance Group's program, attending weekly physician group and Alcoholics Anonymous (AA) meetings and submitting to random drug testing. Upon moving to Rhode Island in 2020, he also initially enrolled in the Rhode Island Medical Society's Physician Health Program (RIPHP), but then withdrew due to demanding work travel requirements. In September 2022, petitioner voluntarily reenrolled in the RIPHP and has been participating consistently since.

19. Petitioner has not used Ambien or any other sleep aids since 2013. Following his license surrender, petitioner also did not consume alcohol for many years. However, he acknowledges a brief relapse in September 2022 when BD terminated him. That same month, he reenrolled in the RIPHP and has remained sober since September 9, 2022.

20. As part of the RIPHP, petitioner is required to check in monthly with program staff, attend formal quarterly meetings with program staff, participate in weekly physician support meetings and group therapy, attend AA or NA meetings, receive medication management, and undergo random drug and alcohol testing through a breathalyzer and urine samples. Petitioner has fully complied with all RIPHP requirements, except that he had 11 instances of positive results for alcohol on initial breathalyzer testing. However, he explained that this resulted from incidental

environmental exposure to alcohol through hand sanitizer, mouth wash, or cologne. Breathalyzer tests repeated within 20 to 30 minutes after each positive test were negative, and all urine drug tests were negative.

21. Petitioner now has better awareness of his triggers, which are stress, anxiety, depression, and poor sleep. He believes he has a solid relapse prevention plan and strong support system through his AA sponsor, AA home group, family, and colleagues. He is also under the care of a psychiatrist and addictionologist who manages his anxiety through non-addictive medications. He has learned to combat his perfectionist tendencies, talk about his struggles, and ask for help when needed.

22. Petitioner primarily seeks reinstatement of licensure in California to allow him to obtain his Rhode Island medical license. It would not only enhance his career prospects with his current employer, but also allow him to volunteer at a local wound clinic. Through his work at MiMedx, petitioner has become passionate about wound care, and he has taken numerous continuing education courses on the topic.

23. Although petitioner does not have any immediate plans to practice medicine in California, he is open to relocation if necessary to reinstate his license. He is willing to comply with any probation conditions the Board deems appropriate.

THIRD PARTY TESTIMONY AND/OR SUPPORT LETTERS

24. Steven Andrew Carreras, Ph.D., testified at hearing. Dr. Carreras is a licensed clinical social worker in several states, including Rhode Island, and is currently the Director of the RIPHP. Dr. Carreras described petitioner as a diligent, responsive, and "100 percent compliant" participant in the RIPHP; he wished all participants were like petitioner. Dr. Carreras confirmed that the RIPHP deemed the 11 initial positive breathalyzer tests the result of incidental environmental exposures, with no evidence

of relapse since petitioner reenrolled in September 2022. Dr. Carreras is aware of petitioner's prior misconduct and disciplinary history, but supports the Petition given petitioner's rehabilitation and exemplary conduct while monitored by the RIPHP.

25. Craig Wisman, M.D., authored a Board-verified support letter and testified at hearing. Dr. Wisman is petitioner's former supervisor at BD. He holds medical licenses in Florida and Pennsylvania. His work experience before joining the medical device industry includes years of clinical practice as a cardiothoracic surgeon. He also served on a physician's health committee in Pennsylvania and has extensive experience with physicians struggling with substance use disorders.

While working as a Vice President at BD, Dr. Wisman recruited, interviewed, and hired petitioner as a Senior Director of Medical Affairs. Before accepting the position, petitioner fully disclosed his California license surrender and underlying misconduct. Although it gave Dr. Wisman pause, he appreciated petitioner's candor and gave him the opportunity. Petitioner proved to be an extremely bright, engaging, and hardworking employee who interacted well with all stakeholder groups. He never displayed any signs of impairment or a substance use disorder. Dr. Wisman was so impressed by petitioner that he recommended petitioner for promotion to Dr. Wisman's own Vice President position before Dr. Wisman retired in July 2022. Dr. Wisman confirmed that petitioner's subsequent termination from BD did not result from deficient work performance or misconduct, but rather BD's risk reduction efforts in response to an employee lawsuit.

Dr. Wisman still remains in touch with petitioner intermittently. Based on his personal experience working closely with petitioner at BD, he supports the Petition without any reservation.

26. John Harper, Ph.D., submitted a November 29, 2023 letter in support of the Petition. Dr. Harper is the Senior Vice President of Research and Development and Medical Affairs at MiMedx. He is also petitioner's direct supervisor. He describes petitioner as a "tremendous asset to our company" that has "greatly elevated our Medical Affairs team" and has great rapport with physicians throughout the surgery and wound care fields. Dr. Harper is aware of petitioner's disciplinary history and fully supports reinstatement of his licensure.

27. Joseph Ciolino, M.D., a Massachusetts-licensed physician, and Edward Lee, M.D., a New Jersey-licensed physician, submitted Board-verified letters in support of the Petition. Both are medical school classmates of petitioner who have remained in touch with petitioner over the years. Dr. Ciolino is an Associate Professor of Ophthalmology at Harvard Medical School, and Dr. Lee is an Associate Professor of Surgery at Rutgers University. Both lauded petitioner's intellect, talent, and caring nature. He has been forthright with them about his prior misconduct, which resulted from a period of great stress and for which he has demonstrated sincere remorse. Based on his recovery and rehabilitation, they strongly believe his California license should be reinstated.

LEGAL CONCLUSIONS

1. "Protection of the public shall be the highest priority for the Medical Board of California in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount." (Bus. & Prof. Code, § 2001.1.)

2. At the time petitioner filed his 2023 Petition, a former licensee could petition for reinstatement of a license surrendered for unprofessional conduct only after at least three years have passed since the effective date of the surrender. However, based on good cause shown, the Board could specify that a petition for reinstatement may be filed after two years. (See former Bus. & Prof. Code, § 2307, subds. (a) & (b)(1).) The petition shall state any facts the Board requires and "shall be accompanied by at least two verified recommendations from physicians and surgeons licensed in any state who have personal knowledge of the activities of the petitioner since the disciplinary penalty was imposed." (*Id.*, subd. (c).)

3. In evaluating the petition, the Board "may consider all activities of the petitioner since the disciplinary action was taken, the offense for which the petitioner was disciplined, the petitioner's activities during the time the certificate was in good standing, and the petitioner's rehabilitative efforts, general reputation for truth, and professional ability." (Former Bus. & Prof. Code, § 2307, subd. (e).) If a license is reinstated, the Board may impose "any terms and conditions deemed necessary." (*Id.*, subd. (f).)

4. Petitioner bears the burden of proving by clear and convincing evidence that he is entitled to the relief requested by the 2023 Petition. "Clear and convincing evidence requires a finding of high probability. The evidence must be so clear as to leave no substantial doubt. It must be sufficiently strong to command the unhesitating assent of every reasonable mind." (*In re David C.* (1984) 152 Cal.App.3d 1189, 1208.)

5. In this case, the Board's Decision, effective March 5, 2009, specified that petitioner could petition for reinstatement after two years. The 2023 Petition was received by the Board well over two years later on December 22, 2023. The 2023

Petition is also accompanied by at least two verified recommendations as required. Consequently, the 2023 Petition is timely and may be considered on its merits.

6. Petitioner's prior misconduct was very serious. Not only did he place himself and the public at grave risk of harm by abusing controlled substances and driving under the influence of alcohol, but he also engaged in dishonesty and fraud by forging prescriptions. Although there was no evidence of actual patient harm, his substance abuse in residency posed at least a potential risk of patient harm.

However, petitioner also presented strong rehabilitation evidence. He admitted and accepted full responsibility for his prior misconduct. He voluntarily underwent inpatient substance use disorder treatment at the Betty Ford Center and Talbott Recovery, and voluntarily participated in continued treatment and monitoring through the Pacific Assistance Group in California and RIPHP in Rhode Island. Petitioner has been sober from all drugs and alcohol since at least September 9, 2022; has good insight into his triggers; and a solid support system through his psychiatrist and addictionologist, AA sponsor, AA home group, family, and colleagues. His criminal convictions were expunged, and he has had no subsequent criminal convictions or negative interactions with law enforcement. Additionally, petitioner has an exemplary work history, and his Petition is strongly supported by his current and former supervisors.

7. In sum, petitioner has presented clear and convincing evidence of rehabilitation sufficient to reinstate his license. Nevertheless, given the seriousness of his prior misconduct and relatively recent relapse involving alcohol, monitoring petitioner on probation for a period of five years is necessary to protect public health, safety, and welfare. In addition to all standard terms, probation conditions shall include appropriate optional conditions to monitor for substance abuse and address

petitioner's prior unethical conduct. Furthermore, given petitioner's lengthy absence from clinical practice, requiring completion of a clinical competence assessment program is appropriate. That assessment will also include a comprehensive assessment of petitioner's physical and mental health.

ORDER

The Petition for Penalty Relief, seeking reinstatement of a surrendered license, filed by Dennis Michael McMahon, M.D., is GRANTED. Physician's and Surgeon's Certificate No. A 88141 is reinstated. However, that certificate is immediately revoked, the revocation stayed, and the certificate placed on probation for five years upon the following terms and conditions:

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

Petitioner shall maintain a record of all controlled substances ordered, prescribed, dispensed, administered, or possessed by petitioner, 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 the following: 1) the name and address of 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.

Petitioner 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.

2. CONTROLLED SUBSTANCES – ABSTAIN FROM USE

Petitioner 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 Business and Professions Code section 4022, and any drugs requiring a prescription. This prohibition does not apply to medications lawfully prescribed to petitioner by another practitioner for a bona fide illness or condition.

Within 15 calendar days of receiving any lawfully prescribed medications, petitioner 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.

If petitioner has a confirmed positive biological fluid test for any substance (whether or not legally prescribed) and has not reported the use to the Board or its designee, petitioner shall receive a notification from the Board or its designee to immediately cease the practice of medicine. The petitioner shall not resume the practice of medicine until the final decision on an accusation and/or a petition to revoke probation is effective. An accusation and/or petition to revoke probation shall be filed by the Board within 30 days of the notification to cease practice. If the petitioner requests a hearing on the accusation and/or petition to revoke probation, the Board shall provide the petitioner with a hearing within 30 days of the request, unless the petitioner stipulates to a later hearing. If the case is heard by an Administrative Law Judge alone, he or she shall forward a Proposed Decision to the Board within 15 days of submission of the matter. Within 15 days of receipt by the

Board of the Administrative Law Judge's proposed decision, the Board shall issue its Decision, unless good cause can be shown for the delay. If the case is heard by the Board, the Board shall issue its decision within 15 days of submission of the case, unless good cause can be shown for the delay. Good cause includes, but is not limited to, non-adoption of the proposed decision, request for reconsideration, remands and other interlocutory orders issued by the Board. The cessation of practice shall not apply to the reduction of the probationary time period.

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

3. ALCOHOL – ABSTAIN FROM USE

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

If petitioner has a confirmed positive biological fluid test for alcohol, petitioner shall receive a notification from the Board or its designee to immediately cease the practice of medicine. The petitioner shall not resume the practice of medicine until the final decision on an accusation and/or a petition to revoke probation is effective. An accusation and/or petition to revoke probation shall be filed by the Board within 30 days of the notification to cease practice. If the petitioner requests a hearing on the accusation and/or petition to revoke probation, the Board shall provide the petitioner with a hearing within 30 days of the request, unless the petitioner stipulates to a later hearing. If the case is heard by an Administrative Law Judge alone, he or she shall forward a Proposed Decision to the Board within 15 days of submission of the matter.

Within 15 days of receipt by the Board of the Administrative Law Judge's proposed decision, the Board shall issue its Decision, unless good cause can be shown for the delay. If the case is heard by the Board, the Board shall issue its decision within 15 days of submission of the case, unless good cause can be shown for the delay. Good cause includes, but is not limited to, non-adoption of the proposed decision, request for reconsideration, remands and other interlocutory orders issued by the Board. The cessation of practice shall not apply to the reduction of the probationary time period.

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

4. BIOLOGICAL FLUID TESTING

Petitioner shall immediately submit to biological fluid testing, at petitioner'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. Prior to practicing medicine, petitioner 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. The contract shall require results of the tests to be transmitted by the laboratory or service directly to the Board or its designee within four hours of the results becoming available. Petitioner 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 petitioner.

If petitioner fails to cooperate in a random biological fluid testing program within the specified time frame, petitioner shall receive a notification from the Board or its designee to immediately cease the practice of medicine. The petitioner shall not resume the practice of medicine until the final decision on an accusation and/or a petition to revoke probation is effective. An accusation and/or petition to revoke probation shall be filed by the Board within 30 days of the notification to cease practice. If the petitioner requests a hearing on the accusation and/or petition to revoke probation, the Board shall provide the petitioner with a hearing within 30 days of the request, unless the petitioner stipulates to a later hearing. If the case is heard by an Administrative Law Judge alone, he or she shall forward a Proposed Decision to the Board within 15 days of submission of the matter. Within 15 days of receipt by the Board of the Administrative Law Judge's proposed decision, the Board shall issue its Decision, unless good cause can be shown for the delay. If the case is heard by the Board, the Board shall issue its decision within 15 days of submission of the case, unless good cause can be shown for the delay. Good cause includes, but is not limited to, non-adoption of the proposed decision, request for reconsideration, remands and other interlocutory orders issued by the Board. The cessation of practice shall not apply to the reduction of the probationary time period.

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

5. EDUCATION COURSE

Within 60 calendar days of the effective date of this Decision, and on an annual basis thereafter, petitioner shall submit to the Board or its designee for its prior

approval educational program(s) or course(s) which shall not be less than 40 hours per year, for each year of probation. The educational program(s) or course(s) shall be aimed at correcting any areas of deficient practice or knowledge and shall be Category I certified. The educational program(s) or course(s) shall be at petitioner's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure. Following the completion of each course, the Board or its designee may administer an examination to test petitioner's knowledge of the course. Petitioner shall provide proof of attendance for 65 hours of CME of which 40 hours were in satisfaction of this condition.

6. PRESCRIBING PRACTICES COURSE

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

Petitioner 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.

7. PROFESSIONALISM PROGRAM (ETHICS COURSE)

Within 60 calendar days of the effective date of this Decision, petitioner shall enroll in a professionalism program, that meets the requirements of Title 16, California Code of Regulations (CCR) section 1358.1. Petitioner shall participate in and successfully complete that program. Petitioner shall provide any information and documents that the program may deem pertinent. Petitioner shall successfully complete the classroom component of the program not later than six (6) months after petitioner's initial enrollment, and the longitudinal component of the program not later than the time specified by the program, but no later than one (1) year after attending the classroom component. The professionalism program shall be at petitioner's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

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

Petitioner 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.

8. CLINICAL COMPETENCE ASSESSMENT PROGRAM

Within 60 calendar days of the effective date of this Decision, petitioner shall enroll in a clinical competence assessment program approved in advance by the Board or its designee. Petitioner shall successfully complete the program not later than six (6) months after petitioner's initial enrollment unless the Board or its designee agrees in writing to an extension of that time.

The program shall consist of a comprehensive assessment of petitioner's physical and mental health and the six general domains of clinical competence as defined by the Accreditation Council on Graduate Medical Education and American Board of Medical Specialties pertaining to petitioner's current or intended area of practice. The program shall take into account data obtained from the pre-assessment, self-report forms and interview, and the Decision(s), Accusation(s), and any other information that the Board or its designee deems relevant. The program shall require petitioner's on-site participation for a minimum of 3 and no more than 5 days as determined by the program for the assessment and clinical education evaluation. Petitioner shall pay all expenses associated with the clinical competence assessment program.

At the end of the evaluation, the program will submit a report to the Board or its designee which unequivocally states whether the petitioner has demonstrated the ability to practice safely and independently. Based on petitioner's performance on the clinical competence assessment, the program will advise the Board or its designee of its recommendation(s) for the scope and length of any additional educational or

clinical training, evaluation or treatment for any medical condition or psychological condition, or anything else affecting petitioner's practice of medicine. Petitioner shall comply with the program's recommendations.

Determination as to whether petitioner successfully completed the clinical competence assessment program is solely within the program's jurisdiction.

If petitioner fails to enroll, participate in, or successfully complete the clinical competence assessment program within the designated time period, petitioner shall receive a notification from the Board or its designee to cease the practice of medicine within three (3) calendar days after being so notified. The petitioner shall not resume the practice of medicine until enrollment or participation in the outstanding portions of the clinical competence assessment program have been completed. If the petitioner did not successfully complete the clinical competence assessment program, the petitioner shall not resume the practice of medicine until a final decision has been rendered on the accusation and/or a petition to revoke probation. The cessation of practice shall not apply to the reduction of the probationary time period.

9. PSYCHOTHERAPY

Within 60 calendar days of the effective date of this Decision, petitioner 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, petitioner 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 its designee and any other information the psychotherapist deems relevant and shall furnish a written evaluation report to the Board or its designee. Petitioner shall cooperate in providing the psychotherapist any information and documents that the psychotherapist may deem pertinent.

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

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

10. SOLO PRACTICE PROHIBITION

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

If petitioner 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, petitioner shall receive a notification from the Board or its designee to cease the practice of medicine within three (3) calendar days after being

so notified. The petitioner shall not resume practice until an appropriate practice setting is established.

If, during the course of the probation, the petitioner's practice setting changes and the petitioner is no longer practicing in a setting in compliance with this Decision, the petitioner shall notify the Board or its designee within 5 calendar days of the practice setting change. If petitioner 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, petitioner shall receive a notification from the Board or its designee to cease the practice of medicine within three (3) calendar days after being so notified. The petitioner shall not resume practice until an appropriate practice setting is established.

11. NOTIFICATION

Within seven (7) days of the effective date of this Decision, the petitioner shall provide a true copy of this Decision and Accusation to the Chief of Staff or the Chief Executive Officer at every hospital where privileges or membership are extended to petitioner, at any other facility where petitioner 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 petitioner. Petitioner 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.

12. SUPERVISION OF PHYSICIAN ASSISTANTS AND ADVANCED PRACTICE NURSES

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

13. OBEY ALL LAWS

Petitioner 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.

14. QUARTERLY DECLARATIONS

Petitioner 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.

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

15. GENERAL PROBATION REQUIREMENTS

Compliance with Probation Unit:

Petitioner shall comply with the Board's probation unit.

Address Changes:

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

Place of Practice:

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

License Renewal:

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

Travel or Residence Outside California:

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

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

16. INTERVIEW WITH THE BOARD OR ITS DESIGNEE

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

17. NON-PRACTICE WHILE ON PROBATION

Petitioner 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 petitioner's return to practice. Non-practice is defined as any period of time petitioner is not practicing medicine as defined in Business and Professions Code sections 2051 and 2052 for at least 40 hours in a calendar month in direct patient care, clinical activity or teaching, or other activity as approved by the Board. If petitioner resides in California and is considered to be in non-practice, petitioner 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 petitioner 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 petitioner's period of non-practice while on probation exceeds 18 calendar months, petitioner shall successfully complete the Federation of State Medical Board's Special Purpose Examination, or, at the Board's discretion, a clinical competence assessment program that meets the criteria of Condition 18 of the current version of the Board's "Manual of Model Disciplinary Orders and Disciplinary Guidelines" prior to resuming the practice of medicine.

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

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

Periods of non-practice for a petitioner residing outside of California will relieve petitioner 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.

18. COMPLETION OF PROBATION

Petitioner shall comply with all financial obligations (e.g., restitution, probation costs) not later than 120 calendar days prior to the completion of probation. Upon successful completion of probation, petitioner's certificate shall be fully restored.

19. VIOLATION OF PROBATION

Failure to fully comply with any term or condition of probation is a violation of probation. If petitioner violates probation in any respect, the Board, after giving petitioner 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 petitioner 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.

20. LICENSE SURRENDER

Following the effective date of this Decision, if petitioner ceases practicing due to retirement or health reasons or is otherwise unable to satisfy the terms and conditions of probation, petitioner may request to surrender his license. The Board reserves the right to evaluate petitioner'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, petitioner shall within 15 calendar days deliver petitioner's wallet and wall

certificate to the Board or its designee and petitioner shall no longer practice medicine. Petitioner will no longer be subject to the terms and conditions of probation. If petitioner re-applies for a medical license, the application shall be treated as a petition for reinstatement of a revoked certificate.

21. PROBATION MONITORING COSTS

Petitioner 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.

DATE: November 12, 2024

Wim van Rooyen

WIM VAN ROOYEN

Administrative Law Judge

Office of Administrative Hearings