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

In the Matter of the First Amended Accusation Against: Seyed Saied Kamali, M.D. Physician's and Surgeon's Certificate No. A 77562 Respondent.	Case No. 800-2021-075649

ORDER CORRECTING NUNC PRO TUNC CLERICAL ERROR IN ORDER SECTION OF DECISION AFTER NON-ADOPTION

On its own motion, the Medical Board of California (hereafter "Board") finds that there is a clerical error in the ORDER section of the Decision After Non-Adoption in the above-titled matter, in that the requirement for Respondent to enroll in a Professionalism Program is listed twice (Condition 2 and Condition 5), and that such clerical error should be corrected, and the remaining terms and conditions renumbered for clarity.

IT IS HEREBY ORDERED that the above-titled matter be and hereby is amended and corrected nunc pro tunc as of the date of entry of the Decision After Non-Adoption to strike the duplicate term and condition for Respondent to enroll in a Professionalism Program under Condition 5 and to renumber the remaining terms and conditions accordingly, so that the following apply to Respondent:

1. Education Course
2. Professionalism Program (Ethics Course)
3. Prescribing Practices Course
4. Medical Record Keeping Course
5. Monitoring - Practice
6. Notification
7. Obey All Laws
8. Quarterly Declarations
9. General Probation Requirements

10. Interview with the Board or its Designee
11. Non-Practice While on Probation
12. Completion of Probation
13. Violation of Probation
14. License Surrender
15. Probation Monitoring Costs
16. Cost Recovery

The rest of the Decision After Non-Adoption shall remain the same.

December 19, 2024

Michelle A. Bholat, MD

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

BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
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DECISION

The attached Decision After Non-Adoption 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 16, 2025.

IT IS SO ORDERED: December 17, 2024.

MEDICAL BOARD OF CALIFORNIA

Michelle A. Bholat, MD

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

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

In the Matter of the First Amended Accusation against:

SEYED SAIED KAMALI, M.D.,

Physician's and Surgeon's Certificate No. A 77562,

Respondent

Case No. 800-2021-075649

OAH No. 2022110232

DECISION AFTER NON-ADOPTION

Abraham M. Levy, Administrative Law Judge (ALJ), Office of Administrative Hearings, State of California, heard this matter by videoconference on June 10 through June 12, 2024.

LeAnna E. Shields, Deputy Attorney General, represented complainant, Reji Varghese, Executive Director of the Medical Board of California (Board), Department of Consumer Affairs, State of California.

Lindsay M. Johnson, Attorney at Law, Ray & Bishop, PLC, represented respondent Seyed S. Kamali, M.D., who was present throughout the hearing.

Oral and documentary evidence was received. The record was closed, and the matter was submitted for decision on June 12, 2024.

On September 4, 2024, Panel A of the Medical Board of California (Board) issued an Order of Non-Adoption of Proposed Decision. Oral argument on the matter was heard by the Board on November 20, 2024, with ALJ Julie Cabos-Owen presiding. Deputy Attorney General LeAnna E. Shields appeared on behalf of the complainant. Respondent was present and was represented by Attorney Fredrick M. Ray. The Board, having read and considered the entire record, including the transcripts and exhibits, and having considered the written and oral argument, hereby enters this Decision After Non-Adoption.

SUMMARY

Complainant proved by clear and convincing evidence that respondent violated a drug control statute and committed unprofessional conduct as a result, committed repeated negligent acts, violated a provision of the Medical Practice Act, and engaged in unprofessional conduct, when he took a pill of the controlled substance, Vicodin, prescribed to his mother, and when he failed to document the dispensing and wasting of controlled substances with respect to six patients. After considering the evidence as a whole, a three-year period of probation with education coursework, a professionalism program, a medical recordkeeping course, a prescribing practices course, a practice monitor and standard terms and conditions will serve the interest of public protection. Additionally, reasonable costs of $32,555.83 are awarded.

PROTECTIVE ORDER

A protective order has been issued on complainant's motion sealing Exhibits 5-7, 9-20, 24, 27, and 29-31, and a confidential names list attached to respondent's motion. A reviewing court, parties to this matter, and a government agency decision

maker or designee under Government Code section 11517 may review materials subject to the protective order provided that this material is protected from disclosure to the public. The names of patients in this matter are subject to a protective sealing order. No court reporter or transcription service shall transcribe the actual name of the patients.

FACTUAL FINDINGS

Jurisdictional Matters

1. On January 4, 2002, the Board issued Physician's and Surgeon's Certificate Number A 77562 to respondent. The Certificate is set to expire on September 30, 2025, unless renewed. Respondent has no prior history of discipline.

2. On January 19, 2023, complainant filed the first amended accusation seeking revocation or suspension of respondent's certificate based upon these four causes for discipline:

Under the First Cause for Discipline, respondent violated drug control statutes and regulations when he took Vicodin prescribed to his mother when he was not prescribed the drug.

Under the Second Cause for Discipline, respondent is accused of committing repeated negligent acts with respect to his accounting and wasting of dangerous drugs and controlled substances with respect to six patients at the hospital.

Under the Third Cause for Discipline, respondent is accused of violating a provision or provisions of the Medical Practice Act.

Under the Fourth Cause or Discipline, respondent is accused of general unprofessional conduct.

3. Respondent timely filed a notice of defense to the accusation initially filed and served in this matter, and this hearing followed.

Evidence Relating to Respondent's Refusal to Submit to Drug Testing

4. On January 27, 2021, the Board received a report from the Chief of Staff of Pomona Valley Hospital Medical Center (PVHMC), pursuant to Business and Professions Code section 805, that respondent's temporary staff privileges as an anesthesiologist were summarily terminated from the hospital effective January 12, 2021. Respondent worked at PVHMC as a locum tenens anesthesiologist; he started in that capacity in October 2020.

The hospital took the action to terminate his privileges because respondent refused to provide a urine sample for the purpose of drug control testing on January 12, 2021. Respondent was required to provide this sample under the hospital's drug free workplace policy, which respondent signed. Upon a reasonable suspicion, this policy authorized the hospital to test respondent for drugs. On January 12, 2021, the Chief of the Anesthesia Department of the hospital asked respondent to provide this sample due to irregularities associated with his dispensing of narcotics at the hospital and after an anonymous complaint against respondent alleging he engaged in suspicious behavior during a procedure where he had trouble inserting an IV.[1]

On January 12, 2021, the Chief asked to speak with respondent. The Chief discussed discrepancies in respondent's documented pharmacy records. After this discussion, the Chief directed respondent to see another physician at the hospital. This physician instructed respondent regarding the submission of the urine test.

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[1] The names of the Chief, or Chair, of the Anesthesiology Department at PVHMC are redacted in the hearing record, and it is difficult to identify these persons by their names in this decision. Respondent referred to one such person as "the Chief."

Respondent declined to submit to the urine test. The physician recorded a note in respondent's credentialing file that respondent told him he had headaches three days before and took "Percocets."[2] He said he was worried the urine test would be positive on that basis, and he said he needed to speak to his lawyer. The physician advised respondent he could refuse, but his refusal could reflect presumptive guilt. He asked respondent again if he would be willing to provide a urine sample. Respondent again refused.

5. After receiving the Section 805 report, the Board opened an investigation concerning the facts related to the termination of respondent's staff privileges. In his Health Quality Investigation Unit (HQIU) interview on January 20, 2022, respondent said he refused to submit to drug testing because he had consumed Vicodin that was prescribed to his mother. He was not prescribed the drug. Vicodin is a brand name for hydrocodone and acetaminophen and is a Schedule II controlled substance pursuant to Health and Safety Code section 11055, subdivision n(b)(l)(l)(ii), and a dangerous drug pursuant to Business and Professions Code section 4022.

Respondent explained at his interview he took the Vicodin because he had a migraine on the Saturday before he was scheduled to be at the hospital, which was on a Monday. On that Tuesday, as discussed above, the Chief asked him to submit to the screen.

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[2] Percocet is the brand name for the combination of oxycodone and acetaminophen, which is a Schedule II controlled substance. Though the physician recorded in the note that respondent told him he took "Percocets," respondent testified he took a single pill of Vicodin.

Evidence Relating to Discrepancies in Respondent's Pharmacy Records, and Expert's Testimony

6. Based upon an anonymous incident report that respondent engaged in suspicious behavior during a surgical procedure, the Chief of Staff of the hospital asked the hospital pharmacy to monitor and conduct an audit of respondent's records regarding pulling, dispensing, documenting, and wasting of Schedule II medications. PVHMC's Pharmacy Manager, Renee Weng, Pharm. D., who also worked in the capacity as the clinical quality manager, and Amy Schatzman, Pharm. D., who worked as a Medication Safety Pharmacist, conducted this monitoring and audit between October 2020 and January 2021. The concern was to identify, as a safety matter, discrepancies for possible instances of diversion.

7. In the course of their audit of respondent's pharmacy records, Dr. Schatzman generated a report from Bluesight. Bluesight is a program that identifies discrepancies in the pharmacy records among hospital anesthesiologists and creates an "IRIS (Individual Risk Identification Score)" score. The Bluesight program does this by pulling information from the hospital's CERNER electronic medical record (EMR) system, the Omnicell medication dispensing system, and other information. Omnicell is a machine at the hospital that dispenses medications to qualified health providers.

8. In the course of her audit, Dr. Schatzman randomly picked 14 patients, and pulled their anesthesia records, medical records, and Omnicell reports. She looked at the timing of when medications were pulled, when the procedures were scheduled, dosing, and documented charting.

9. Dr. Schatzman prepared reports for respondent's pharmacy records for a list of patients where she identified discrepancies respondent did not reconcile.

Reconciliation allows the anesthesiologist correcting or amending the EMRs to account for the dispensing and wastage of medications. As discussed in the hearing, it is a common practice that affords anesthesiologists the opportunity to account for the correct dosing of medications in the EMR. Anesthesiologists had 30 days to reconcile the record.

10. On January 6, 2021, the Chief, or Chair, of the Anesthesiology Department asked respondent to reconcile discrepancies Dr. Schatzman identified in a list of patients that Dr. Schatzman prepared. In an email dated Wednesday January 6, 2021, respondent advised Dr. Weng he would be at the hospital on the following Monday to address the discrepancies Dr. Schatzman identified. On that Monday, respondent was not able to contact Dr. Weng because she was not in the hospital in the afternoon when he tried to reach her, per his testimony as detailed below. He did not, thus, reconcile the discrepancies.

The next day respondent was asked to submit to a urine screen, which he declined to do, and his hospital privileges were terminated.

COMPLAINANT'S EXPERT TESTIMONY

11. Complainant called Eric R. Amador, M.D. as his expert. Dr. Amador prepared a report which was received as evidence.

Dr. Amador is a board-certified anesthesiologist. He is the Practice Manager at the Anesthesia Medical Group of Santa Barbara, where he is a partner, and he is Secretary of Medical Staff at Cottage Hospital of Santa Barbara. At Cottage Hospital, he served as Chairman of the Department of Anesthesia from 2014 to 2016. He has served as a board expert reviewer since 2006. Dr. Amador received his medical education at the University of California, Irvine. He completed an internship in surgery

at Cottage Hospital in 1999, a residency in anesthesia in 2002 at Stanford University Medical Center, and a fellowship in regional anesthesia in 2003.

12. Dr. Amador reviewed the patient medical records, Bluesight reports, Omnicell reports, the transcripts of Dr. Weng's, Dr. Schatzman's, and respondent's HQIU interviews, and other information.

13. Dr. Amador testified he focused his attention in his review on the patients' anesthesia records that are contained in their medical records. He further focused on medications, specifically controlled substances, that could be abused. Of the nine cases Dr. Amador was asked to review, he found respondent committed simple departures in the accounting of Schedule II medications in six patients. Essentially, Dr. Amador found that in these instances, Schedule II medications were unaccounted for by administration, return, or wastage. Dr. Amador commented that the Bluesight program errantly flagged three cases.

14. Dr. Amador testified that the standard of care requires Schedule II medications to be dispensed to specific patients with dosages and wastages recorded and witnessed. He added it is a requirement for an anesthesiologist to document and reconcile these medications. Reconciliation, as discussed in more detail below, involves correcting a patient's medical records when discrepancies are found.

When determining what the standard of care is in the community, Dr. Amador stated that the same standard applies for locum tenens anesthesiologists as for staff anesthesiologists.

15. Dr. Amador is familiar with the definitions of simple departure from the standard of care and extreme departure from the standard of care.

16. In his analysis of respondent's conduct, Dr. Amador commented that hospitals do not have a standardized systems of medication dispensing and medical record systems. Anesthesiologists like respondent, who work as locum tenens, can have significant difficulty accurately interacting with these systems. A lack of familiarity and/or onboard training can result in documentation errors. He testified that it is common for anesthesiologists to have errors in their documentation.

17. Based on the information Dr. Amador gathered regarding the six patients where he found departures, the following is Dr. Amador's summary of his findings that respondent departed from the standard of care for each of the six patients whose records he reviewed.

PATIENT A

18. On November 6, 2020, Patient A, a then 27-year-old female, was scheduled for a surgical procedure at PVHMC where respondent was providing locum tenens anesthesia coverage. Based upon the Bluesight report, Omnicell record, and Patient A's anesthesia record, respondent checked out 4 mg of hydromorphone and 2 mg of midazolam. Midazolam is a Schedule IV controlled substance pursuant to Health and Safety Code section 11057, subdivision (d), and a dangerous drug pursuant to Business and Professions Code section 4022. Hydromorphone is an opioid drug, is a Schedule II controlled substance pursuant to Health and Safety Code section 11055, subdivision (b), and a dangerous drug pursuant to Business and Professions Code section 4022.

Respondent returned the 4 mg of hydromorphone, but he did not document the administration, return, or wasting of 2 mg of midazolam for the procedure, which a different anesthesiologist ended up doing.

19. Dr. Amador found that respondent committed a simple departure from the standard of care because he did not account for the missing 2 mg of midazolam to indicate whether the medication was administered, wasted, or returned.

PATIENT B

20. On December 1, 2020, Patient B, a then 58-year-old male, was scheduled for a surgical procedure at PVHMC where respondent was providing locum tenens anesthesia coverage. Based upon the Bluesight report, Omnicell record, and Patient B's anesthesia record, respondent did not document the administration, return, or wasting of 2 mg of hydromorphone he pulled for Patient B's surgery.

21. Dr. Amador found that respondent committed a simple departure from the standard of care because he failed to account for the missing 2 mg of hydromorphone to indicate whether the medication was administered, wasted, or returned.

PATIENT C

22. On December 18, 2020, Patient C, a then 53-year-old male, was scheduled for a surgical procedure at PVHMC. The surgery however was cancelled.

Based upon the Bluesight report, Omnicell record, and Patient C's anesthesia record, respondent did not document the administration, return, or wasting of 2 mg of midazolam he pulled for Patient C's surgery.

23. Dr. Amador found that respondent committed a simple departure from the standard of care when he failed to provide an account for this missing 2 mg of midazolam to indicate whether the medication was administered, wasted, or returned.

PATIENT D

24. On December 11, 2020, Patient D, a then 89-year-old female, was scheduled for a surgical procedure at PVHMC. Based upon the Bluesight report Omnicell record, and Patient D's anesthesia record, he did not document the administration, return, or wasting of 0.5 mg of hydromorphone he pulled for Patient D's surgery.

25. Dr. Amador found that respondent committed a simple departure from the standard of care when he failed to provide an account for this missing 0.5 mg of hydromorphone to indicate whether the medication was administered, wasted, or returned.

PATIENT E

26. On October 28, 2020, Patient E, a then 36-year-old male, was scheduled for a surgical procedure at PVHMC. Based upon the Bluesight report, Omnicell record, and Patient E's anesthesia record, respondent did not document the administration, return, or wasting of 250 mcg of fentanyl he pulled for Patient E's surgery.

27. Dr. Amador found that respondent committed a simple departure from the standard of care when he failed to account for the missing 250 mcg of fentanyl to indicate whether the medication was administered, wasted, or returned.

PATIENT F

28. On October 22, 2020, Patient F, a then 57-year-old female, was scheduled for a surgical procedure in the catheterization lab at PVHMC. Based upon the Bluesight report, Omnicell record, and Patient F's anesthesia record, he did not document the administration, return, or wasting of 1 mg of hydromorphone he pulled for Patient F's surgery.

29. Dr. Amador found that respondent committed a simple departure from the standard of care when he failed to account for the missing 1 mg of hydromorphone to indicate whether the medication was administered, wasted or returned.

30. In answer to questions on cross-examination, first with regard to Patient A, Dr. Amador acknowledged that it is not uncommon for another anesthesiologist to take over another patient's anesthesia, as was the case with Patient A. Regarding Patient C, he acknowledged that Patient C's surgery was canceled. The concern was that respondent unnecessarily pulled medication for a procedure that did not occur. Patient C refused to sign the consent, the patient felt pressure to have the surgery, and the case was canceled. He also agreed it is common for an anesthesiologist to check out medications for a surgery in the pre-operation room.

31. Dr. Amador did not notice any pattern of medications that respondent did not return. He agreed that it is common for a person who diverts medications to identify a class of opioids, or another specific medication, to divert.

RESPONDENT'S TESTIMONY

32. Respondent's testimony is summarized here as follows:

33. Respondent obtained his medical degree from Ross University School of Medicine in Dominica. He completed a residency in 1999 at Mercer University in Macon, Georgia, and a residency in anesthesiology in 2002 at Harvard University, Beth Israel Deaconness Medical Center, where he was Chief Resident from 2001 to 2002. Since 2004, respondent has been an independent contractor as a locum tenens anesthesiologist at various hospitals. From 2009 to 2011 respondent was Director of Anesthesia at Renaissance Surgical Arts. He is board certified in anesthesiology.

34. Respondent worked as a locum tenens anesthesiologist starting in 2018 and began working at PVHMC in October 2020 as a locum tenens. On December 23, 2020, PVHMC extended his temporary privileges from January 11, 2021, to July 10, 2021. He is currently unemployed. At PVHMC, he received about two hours of training in the EMR system and Omnicell system. He was not familiar with the Omnicell dispensing machine, but he agreed it is similar to other dispensing machines he has used.

35. Respondent's schedule varied. At the beginning of a shift, he was assigned patients; sometimes he would start with one surgeon and then be reassigned. He analogized his assignments to traffic control. As a locum tenens, he was assigned patients with limited or no insurance because the hospital paid him regardless of the insurance reimbursement.

36. Respondent discussed his last day at PVHMC on January 12, 2021. He arrived for his shift in the morning and at mid-day, the Chief (apparently of the Anesthesia Department)[3] asked to meet him. While the Chief was putting a patient to sleep, the Chief mentioned discrepancies in his pharmacy records. He told the Chief that the day before (which was Monday) he reached out to Dr. Weng at the pharmacy to reconcile the medications from the list he was given, but she had left for the day. The Chief said "ok." The meeting lasted about five minutes.

37. Without explanation, the Chief asked respondent to meet another physician in the hallway. This physician asked him to submit a urine sample. Respondent asked why he needed to do this. This physician then said because the hospital requires it, and it was hospital policy. Respondent said he was not aware of

[3] Respondent referred to him as "the Chief" without further identifying information.

this policy and declined to submit to providing a urine sample. He stated that this request was made in a hallway with patients present. He repeated in his HQIU interview he did not know he was required to submit to a screen.

38. Respondent testified he declined to submit to the test because he took a single pill of Vicodin three days before due to a migraine. He said he told this physician he took a medication for a migraine three days before, and he did not know if that medication would show up on the test results. He asked that the test "distinguish" or "differentiate," as he said at his HQIU interview, the medication he took for his migraine. He did not, it appears, mention to the physician that the medication he took was Vicodin. The hospital did not respond to his request after he refused to submit to the drug screen.

39. Respondent told the HQIU investigator, who went to his home about two or three weeks after he refused to submit to the test, that he took his mother's Vicodin. He did not hide the fact that he took this medication; and he repeated at his subject interview he took his mother's medication. At this investigator's request, he submitted to a test when the investigator went to his home, which was negative for drugs.

40. Respondent said he was not working when he took the Vicodin. He took one pill; which he was admits he was not prescribed. The medication was prescribed to his mother. At the time he was taking care of his mother. Respondent got a severe migraine, light hit his eye and hurt him, and he could not go to the emergency room due to the COVID pandemic. He also did not want to expose his family to COVID. His only recourse was to go into a dark room.

41. Respondent added that he used to get migraines once a week during his medical residency, and thereafter he would get them once or twice a year. Respondent did not have a prescription for Vicodin because he said he does not like to take medications. During his residency training, his attending physician prescribed him a medication, not an opioid like Vicodin.

42. Respondent stated he "never" took his mother's medication before he took the Vicodin. In hindsight, he recognizes his taking her medication "probably [was] not the wisest choice" and "not the best choice". He repeated he took the medication because he did not want to expose his family to COVID.

43. As noted, two or three weeks after the termination of his privileges, an HQIU investigator went to respondent's residence and asked him to provide a urine sample, which he did. He was also asked to agree to physical and psychiatric examinations. He agreed to these examinations. Since that time, he has submitted to four urine screens, and he has never tested positive for opioids or controlled substances.

44. Regarding the patients in this matter, respondent said he did not have access to their charts until this matter was filed. Before the hearing he reviewed their records. In general, he said it is hard to recollect individual patients. But after looking at the records, he is able to remember a couple instances.

45. With regard to Patient A, respondent said he was reassigned from this patient because the patient's insurance was good. He was asked to switch patients, and he returned the medications. As a matter of logistics, every anesthesiologist would pull medications and return the medications if not used, or if drawn, the anesthesiologist would waste the medications.

Respondent said he would pull medications into a syringe. In such instances, the surgery would usually take place within an hour after him being notified. He would go and set up the room. Sometimes he said he had to wait on other factors out of his control.

46. With regard to the midazolam that was not fully wasted, respondent said there were times where the Omnicell did not show the medication for the patient when he tried to pull the medication. When he had trouble accessing the patient's name in the Omnicell machine, he asked the charge nurse to assist him to waste the drug, and she was not able to pull up the patient's name either. He contacted the hospital pharmacy, and the Pharmacist in Charge (PIC) came up, and he gave the medication to the pharmacy PIC. At his subject interview, respondent stated that he worked with the pharmacy a couple of times due to problems he had with Omnicell. Respondent stated that unlike other dispensing machines he has used, Omnicell did not give him a printout, which would have made it easier for him to document wastage.

Nonetheless, respondent said that unfortunately he did not chart he gave the medication to the PIC to waste it.

47. With regard to Patient B, he does not have an independent recollection of the surgery. But from reviewing the case, he believes he was relieved when he was about to do procedure at the last second. He believes that the 2 mg of hydrocodone was probably wasted, but instead of putting "4" he put "2." He noted that he never was given this chart to reconcile the error.

48. With regard to Patient C, Respondent recalled this patient because this was a craniotomy case. Instead of an IV, gas was used, and the set up was more extensive. Prior to going to the OR, and after talking to the patient, the patient said he

was not comfortable and felt pressure to have the surgery. Respondent told the surgeon the patient was not comfortable, and the surgeon cancelled the surgery. Respondent had already pulled the medication because this was a six-hour procedure. The standard medications for this procedure are propofol, hydromorphone, and midazolam. He noted that only one of the medications was not returned, and it was probably an error on his part because he did not enter it correctly. He believes the patient's name did not appear when he tried to access Omnicell; the pharmacy came, and the 2 mg of midazolam was given directly to the pharmacy technician. He agreed he should have documented this.

49. Regarding Patient D, respondent has no independent recollection of this patient. He commented that he did not concentrate on documentation because usually he was concentrating on patient care for patients in recovery. A lot of times while a patient is in recovery, he would give the patient a pain medication. Respondent said this was not an excuse to not document the hydromorphone in the patient's chart. But he stressed over 20 years, he always made sure patients came first.

50. Regarding Patient E, respondent does not recall this patient. Because this patient had bone fractures, respondent said this was "more of an IV case," where more opioids were drawn and given to the patient intermittently.

Respondent believes most likely he gave 250 mcg of fentanyl to the patient to make sure the patient's pain was under control. His recognizes he mistakenly did not document this. He understands the board's concern, and that if not documented it appears the medication was not given, and documentation is important for subsequent clinicians to make educated conclusions regarding care.

51. Regarding Patient F, he believes he gave 1 mg of hydromorphone to the patient while in the post-operation room while nursing staff was admitting the patient

to the unit. In hindsight, he recognizes this was a documentation error, and he should have documented the chart about this medication. He noted that the procedure did not start until 8:28 a.m., although he pulled the medication at 7:11 a.m. He speculated the surgeon might have been late getting to the hospital.

52. In summary, respondent said he wants this matter cleaned up so he can return to work. Since January 2021, he has not been working and living off of his savings.

Respondent understands the Board's concerns. He recognizes he needs to be more vigilant in his documentation going forward. Based on his history, he said he can practice safely. He has had no complaints about the care he has provided and has done the most difficult cases.

53. Respondent's testimony is found credible.

RESPONDENT'S DOCUMENTARY EVIDENCE

54. Respondent submitted letters from Attorney Richard E. Bishop, IV, and respondent's brother, John Kamali.

55. Mr. Bishop writes in his letter that he has known respondent for over 40 years and is his close friend. He regards respondent as person of outstanding ethics, honesty, and character. Respondent told him he is regretful for his lapse of judgment in taking the pain medication not prescribed to him.

56. Mr. Kamali states in his letter that his brother is devoted to caring for their mother, who has a variety of medical problems. The day he took their mother's Vicodin, he said he observed his brother with a severe migraine, and because he did not want to go to the hospital due to COVID, he took his mother's medication. He has never seen respondent do this before and considers respondent's conduct to be

an isolated instance.

57. Respondent also submitted certificates of completion for continuing medical education (CME) courses he has done. These certificates document he completed courses on May 3, 2023, in electronic health record interoperability, a course entitled "Lean Health Care", a course entitled "Panel Sizes for Primary Care Physicians", and a course on artificial intelligence to augment medical decision making. He also completed several courses on November 27, 2022, on the topics of opioid safety and efficacy, responsible opioid prescribing, balancing benefits and risks as a matter of opioid safety. He also submitted a certificate for a course he completed in opioid safety on December 12, 2018, before the accusation in this matter was filed. On February 16, 2023, respondent completed a course in medical ethics. He also submitted documentation he completed courses on the topic of electronic health records.

58. In addition, respondent submitted negative urine screen lab results from August 24, 2020, October 6, 2020, and May 17, 2021.

The Parties' Arguments

59. Complainant argued that respondent had a pattern of discrepancies from October 2020 to December 2020, and Dr. Amador's opinions were not refuted and should be accepted. Regarding the taking of the Vicodin prescribed to his mother, complainant concedes that this was a one-time incident. Complainant is not seeking application of the substance abusing licensee guidelines. However, complainant believes monitoring is required considering respondent violated drug control laws by taking a controlled substance prescribed to his mother. Consistent with the Board's guidelines, complainant asks that respondent be placed on probation for five years with terms and conditions that include an education course, prescribing

practices course, completion of a clinical competency education program, practice monitoring, prohibited practice, and cost recovery.

Concerning cost recovery, complainant recognizes that the request for cost recovery should be reduced by a third because a third of the investigation did not "make it into the case."

60. Respondent argued that the case involves one instance where he improperly took one pill of Vicodin, and six simple departures involving inadequate documentation.

Respondent believes at most a public reprimand is warranted. Respondent makes this argument for several reasons: Dr. Amador recognized that hospitals do not have standardized systems for documentation, and locum tenens anesthesiologists, like respondent, can have difficulty interacting with the hospital systems. Respondent was working with a complicated system at PVHMC.

With regard to the Vicodin, respondent stressed he never hid the fact that he took the medication, and he cooperated with the investigation. Complainant, further, does not consider respondent to be a substance abusing licensee.

Evaluation

61. Dr. Amador's testimony is found persuasive in all respects. His opinions and conclusions are supported by the record and are unrefuted. He testified in a clear, dispassionate, and thoughtful manner about respondent's failure to account for the controlled substance he pulled for each of the six patients. He further recognized the challenge respondent had, as a locum tenens anesthesiologist, regarding documenting his pharmaceutical use in the EMR system at PVHMC due to the lack of a standardized system of medical record keeping and medication dispensing. His conclusion that

respondent committed six simple departures from the standard of care is accepted accordingly.

62. With regard to respondent's taking of a single pill of Vicodin, for which he did not have a prescription, it is undisputed that respondent furnished to himself a controlled substance, a pill of Vicodin, when he did not have a prescription for that drug. (Health & Saf., § 11170.) Respondent thus violated a statute regulating controlled substances.

Costs of Enforcement

63. Complainant seeks recovery of enforcement and investigative costs in the total amount of $48,833.75 for the period between June 7, 2021, and June 7, 2024, pursuant to Business and Professions Code section 125.3.

64. In support of the request for recovery of investigative costs, the Health Quality Investigation Unit (HQIU) of the Division of Investigation submitted a declaration requesting $3,910.50 signed by a representative of HQIU, who certified these costs. The declaration details the work performed by two HQIU investigators, the time spent on each task, and the hourly rate.

65. Complainant, in addition, submitted a declaration requesting $1,237 for the expenses billed by complainant's expert, Dr. Amador. This declaration is signed by a designated representative of the Board and details the time spent and hourly rate for Dr. Amador's evaluation of case related materials, report writing, and hearing preparation.

66. In support of the request for recovery of enforcement costs, the Deputy Attorney General who prosecuted the case signed a cost declaration dated June 7, 2024, requesting $43,686.25 relating to the legal work performed in this matter.

Attached to the declarations are two documents titled "Master Time Activity by Professional Type." These documents identify the tasks performed, the dates legal services were provided, who provided the services, the time spent on each task, and the hourly rate for the Supervising Deputies Attorney General, Deputies Attorney General, a paralegal and analyst, from June 7, 2021, through June 7, 2024, for the total prosecution costs.

67. The Deputy Attorney General's declaration identifies the specific tasks performed to satisfy the requirements of section 1042, subdivision (b). California Code of Regulations, title 1, section 1042, subdivision (b), requires that this declaration must include "specific and sufficient facts to support findings regarding actual costs incurred and the reasonableness of the costs."

68. The costs associated with the investigation and enforcement of this matter are disproportionate to the charges against respondent. Complainant candidly acknowledged this. Dr. Amador did not find a basis to conclude that respondent departed from the standard of care with respect to three of the nine patients he was asked to review. As a result, considering the nature of the charges against respondent, a reduction by one third in the assessment of the reasonableness of the costs are in order under the requirements of section 1042, subdivision (b).

Therefore, after this one third reduction in the amount of $16,277.92, the total reasonable costs of enforcement of this matter are found to be $32,555.83.

LEGAL CONCLUSIONS

Purpose of Physician Discipline

1. The purpose of the Medical Practice Act (Chapter I, Division 2, of the Business and Professions Code) is to assure the high quality of medical practice; in

other words, to keep unqualified and undesirable persons and those guilty of unprofessional conduct out of the medical profession. (*Shea v. Board of Medical Examiners* (1978) 81 Cal.App.3d 564, 574.)

The purpose of administrative discipline is not to punish, but to protect the public by eliminating those practitioners who are dishonest, immoral, disreputable or incompetent. (*Fahmy v. Medical Board of California* (1995) 38 Cal.App.4th 810, 817.)

Burden and Standard of Proof

2. Complainant bears the burden of proof of establishing that the charges in the accusation are true.

The standard of proof in an administrative action seeking to suspend or revoke a physician's certificate is clear and convincing evidence. (*Ettinger v. Board of Medical Quality Assurance* (1982) 135 Cal.App.3d 853, 856.) Clear and convincing evidence requires a finding of high probability, or evidence so clear as to leave no substantial doubt; sufficiently strong evidence to command the unhesitating assent of every reasonable mind. (*Katie V. v. Superior Court* (2005) 130 Cal.App.4th 586, 594.)

Cause Exists to Impose Discipline Against Respondent's License

FIRST CAUSE FOR DISCIPLINE

3. Complainant proved by clear and convincing evidence that respondent committed unprofessional conduct pursuant to Business and Professions Code section 2238, when he violated Health and Safety Code section 11170, which prohibits a person from furnishing to himself a controlled substance. As found above, respondent violated this section when he took a single pill of his mother's Vicodin.

SECOND CAUSE FOR DISCIPLINE

4. Complainant proved by clear and convincing evidence that respondent committed repeated negligent acts pursuant to Section 2234, subdivision (c), when he failed to document the administration, return or wasting of controlled substances relating to for Patients A, B, C, D, E, and F, based on Dr. Amador's persuasive testimony consistent with the evidence of record as found above.

THIRD CAUSE FOR DISCIPLINE

5. Complainant proved by clear and convincing evidence that respondent violated provisions of the Medical Practice Act, pursuant to Section 2234, subdivision (a), as found above under the First and Second Causes for Discipline.

FOURTH CAUSE FOR DISCIPLINE

6. Complainant proved by clear and convincing evidence that respondent committed unprofessional conduct as found above under the First and Second Causes for Discipline. (*Shea v. Board of Medical Examiners*, *supra*, 81 Cal.App.3d at 575.)

The Board's Disciplinary Guidelines and Evaluation Regarding the Degree of Discipline

7. The Board's Manual of Model Disciplinary Orders and Disciplinary Guidelines (12th Edition 2016) offers this guidance concerning the imposition of discipline:

> The Board expects that, absent mitigating or other appropriate circumstances such as early acceptance of responsibility, demonstrated willingness to undertake Board-ordered rehabilitation, the age of the case, and

evidentiary problems, Administrative Law Judges hearing cases on behalf of the Board and proposed settlements submitted to the Board will follow the guidelines, including those imposing suspensions. Any proposed decision or settlement that departs from the disciplinary guidelines shall identify the departures and the facts supporting the departure.

8. For repeated negligent acts, the Board's disciplinary guidelines provide that revocation is the maximum discipline and provide the following minimum recommended terms and conditions:

> For gross negligence and repeated negligent acts under Business and Professions Code section 2234, subdivisions (b) and (d), or failure to maintain adequate records under Business and Professions Code section 2266, revocation, stayed, and five years' probation, with conditions including an education course, prescribing practices course, medical record keeping course, professionalism program (ethics course), clinical competence assessment program, monitoring, solo practice prohibition, and prohibited practices. In cases charging repeated negligent acts with one patient, a public reprimand may, in appropriate circumstances, be ordered.

9. For a violation of drug-controlled statutes, the recommended penalty ranges from a minimum penalty of five years' probation to revocation with various terms and conditions, including education and prescribing practices courses.

Disciplinary Considerations and Disposition Regarding the Degree of Discipline

10. After considering the Board's guidelines, evidence of mitigation, and the evidence of record as a whole, it is determined that a three-year period of probation with education coursework, a professionalism program, a medical recordkeeping course, a prescribing practices course, a practice monitor and standard terms and conditions will serve to protect the public and rehabilitate the respondent.

This conclusion represents a departure from the recommended guidelines, as it imposes three years of probation, rather than five. The order of probation also deviates from the recommended guidelines in that respondent will not be prohibited from supervising physician assistants or advanced practice nurses, which is a standard condition of probation. These departures are warranted because mitigating factors exist that explain respondent's failure to document the administration and wasting of the controlled substances. First, respondent was not able to reconcile the records for the six patients to account for the missing medications. At PVHMC it was a common practice to allow anesthesiologists time to reconcile patient records to account for medications when there were discrepancies. On January 6, 2021, PVHMC advised respondent he needed to come to the hospital to reconcile the patient records to account for them. He said he would be at the hospital that Monday to do so, and on that Monday in the afternoon he contacted Dr. Weng to do this. Dr. Weng had left for the day, and respondent was not able to reconcile the records that day. The next day the Chief asked to meet with him about the medication discrepancies. Respondent told the Chief he reached out to Dr. Weng to do this, the inference being that he would continue to reach out to her to reconcile the record. After meeting the Chief, he was asked to submit to a urine screen, he refused to submit to this test, and his

privileges were terminated.

The other mitigating factor concerns respondent's lack of familiarity with the Omnicell dispensing machine, and his problems using it to document the wastage of medications, as he credibly described in his testimony.

With regard to the taking of his mother's Vicodin, respondent took one pill he should not have taken due to a severe migraine he was experiencing. He acknowledged his mistake. There is no indication respondent has a substance abuse problem. Moreover, respondent was transparent about his taking of this medication. He told the physician who was administering the drug test to him that he took his mother's medication, and he repeated this at his Board interview. Respondent, further, cooperated with the Board in all respects. He submitted to a drug screen when asked to do so, and he agreed to physical and psychiatric examinations.

As an additional factor in the conclusion that a three-year period of probation, rather than a five-year period, is warranted, respondent has no history of discipline.

While the Board considered the mitigating evidence, the Board determined that a public reprimand is insufficient to meet the Board's primary mission of consumer protection pursuant to Business and Professions Code section 2229. The Board also determined that a public reprimand is insufficient to provide for the rehabilitation of the respondent pursuant to Business and Professions Code section 2229, subdivision (b). For each of the four causes of action proven in this matter, the recommended minimum penalty is five years' probation with appropriate terms and conditions. Respondent's transactions with Omnicell were audited following an anonymous report of respondent's suspicious behavior. The audit revealed six patients where respondent had unaccounted for, or unreconciled medications. Additionally, respondent admitted to diverting one Vicodin from his mother's prescription for his

own use, and then refused to submit to a urinalysis when requested by the hospital. Under these circumstances, a three-year period of probation is warranted so that the Board may closely monitor respondent's practice to protect the public and may monitor respondent's rehabilitation efforts.

Costs of Enforcement

11. Under Business and Professions Code section 125.3, complainant may request that an administrative law judge "direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case." "A certified copy of the actual costs, or a good faith estimate of costs where actual costs are not available, signed by the entity bringing the proceeding or its designated representative shall be prima facie evidence of reasonable costs of investigation and prosecution of the case." (Bus. & Prof. Code, § 125.3, subd. (c).)

12. Another consideration in determining costs is *Zuckerman v. Board of Chiropractic Examiners* (2002) 29 Cal.4th 32. In *Zuckerman*, the California Supreme Court decided, in part, that in order to determine whether the reasonable costs of investigation and enforcement should be awarded or reduced, the administrative law judge must decide: (a) whether the licensee has been successful at hearing in getting charges dismissed or reduced; (b) the licensee's subjective good faith belief in the merits of his or her position; (c) whether the licensee has raised a colorable challenge to the proposed discipline; (d) the financial ability of the licensee to pay; and (e) whether the scope of the investigation was appropriate to the alleged misconduct. The scope of the investigation was appropriate to the allegations. The charges were sustained, and respondent provided no evidence regarding his ability to pay the costs.

13. After consideration of the factors under *Zuckerman, supra,* no reduction of the amount of reasonable costs of $32,555.83, as found above, is required because respondent did not successfully argue against the imposition of a period of probation and terms and conditions that complainant sought. Accordingly, costs are assessed at $32,555.83.

ORDER

Physician's and Surgeon's Certificate No. A 77562, issued to respondent Seyed Saied Kamali, M.D., is revoked; however, revocation is stayed, and respondent is placed on probation for three (3) years under the following terms and conditions:

1. Education Course

Within 60 calendar days of the effective date of this Decision, and on an annual basis thereafter, respondent shall submit to the Board or its designee for its prior approval educational program(s) or course(s) which shall not be less than 40 hours per year, for each year of probation. The educational program(s) or course(s) shall be aimed at correcting any areas of deficient practice or knowledge and shall be Category I certified. The educational program(s) or course(s) shall be at respondent's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure. Following the completion of each course, the Board or its designee may administer an examination to test respondent's knowledge of the course. Respondent shall provide proof of attendance for 65 hours of CME of which 40 hours were in satisfaction of this condition.

2. Professionalism Program (Ethics Course)

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

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

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

3. Prescribing Practices Course

Within 60 calendar days of the effective date of this Decision, respondent shall enroll in a course in prescribing practices approved in advance by the Board or its designee. Respondent shall provide the approved course provider with any information

and documents that the approved course provider may deem pertinent. Respondent shall participate in and successfully complete the classroom component of the course not later than six (6) months after respondent's initial enrollment. Respondent shall successfully complete any other component of the course within one (1) year of enrollment. The prescribing practices course shall be at respondent's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

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

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

4. Medical Record Keeping Course

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

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

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

5. Professionalism Program (Ethics Course)

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

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

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

6. Monitoring - Practice

Within 30 calendar days of the effective date of this Decision, respondent shall submit to the Board or its designee for prior approval as a practice monitor, the name and qualifications of one or more licensed physicians and surgeons whose licenses are valid and in good standing, and who are preferably American Board of Medical Specialties (ABMS) certified. A monitor shall have no prior or current business or personal relationship with respondent, or other relationship that could reasonably be expected to compromise the ability of the monitor to render fair and unbiased reports to the Board, including but not limited to any form of bartering, shall be in respondent's field of practice, and must agree to serve as respondent's monitor. Respondent shall pay all monitoring costs.

The Board or its designee shall provide the approved monitor with copies of the Decision(s) and Accusation(s), and a proposed monitoring plan. Within 15 calendar days of receipt of the Decision(s), Accusation(s), and proposed monitoring plan, the monitor shall submit a signed statement that the monitor has read the Decision(s) and Accusation(s), fully understands the role of a monitor, and agrees or disagrees with the proposed monitoring plan. If the monitor disagrees with the proposed monitoring plan, the monitor shall submit a revised monitoring plan with the signed statement for approval by the Board or its designee.

Within 60 calendar days of the effective date of this Decision, and continuing throughout probation, respondent's practice shall be monitored by the approved monitor. Respondent shall make all records available for immediate inspection and copying on the

premises by the monitor at all times during business hours and shall retain the records for the entire term of probation.

If respondent fails to obtain approval of a monitor within 60 calendar days of the effective date of this Decision, respondent shall receive a notification from the Board or its designee to cease the practice of medicine within three (3) calendar days after being so notified. Respondent shall cease the practice of medicine until a monitor is approved to provide monitoring responsibility.

The monitor(s) shall submit a quarterly written report to the Board or its designee which includes an evaluation of respondent's performance, indicating whether respondent's practices are within the standards of practice of medicine, and whether respondent is practicing medicine safely. It shall be the sole responsibility of respondent to ensure that the monitor submits the quarterly written reports to the Board or its designee within 10 calendar days after the end of the preceding quarter.

If the monitor resigns or is no longer available, respondent shall, within five (5) calendar days of such resignation or unavailability, submit to the Board or its designee, for prior approval, the name and qualifications of a replacement monitor who will be assuming that responsibility within 15 calendar days. If respondent fails to obtain approval of a replacement monitor within 60 calendar days of the resignation or unavailability of the monitor, respondent shall receive a notification from the Board or its designee to cease the practice of medicine within three (3) calendar days after being so notified Respondent shall cease the practice of medicine until a replacement monitor is approved and assumes monitoring responsibility.

In lieu of a monitor, respondent may participate in a professional enhancement program approved in advance by the Board or its designee, that includes, at minimum, quarterly chart review, semi-annual practice assessment, and semi-annual review of

professional growth and education. Respondent shall participate in the professional enhancement program at respondent's expense during the term of probation.

7. Notification

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

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

8. Obey All Laws

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

9. Quarterly Declarations

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

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

10. General Probation Requirements

Compliance with Probation Unit: Respondent shall comply with the Board's probation unit and all terms and conditions of this Decision.

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

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

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

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

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

11. Interview with the Board or its Designee

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

notice throughout the term of probation.

12. Non-Practice While on Probation

Respondent shall notify the Board or its designee in writing within 15 calendar days of any periods of non-practice lasting more than 30 calendar days and within 15 calendar days of Respondent's return to practice. Non-practice is defined as any period of time Respondent is not practicing medicine in California as defined in Business and Professions Code sections 2051 and 2052 for at least 40 hours in a calendar month in direct patient care, clinical activity or teaching, or other activity as approved by the Board. If Respondent resides in California and is considered to be in non-practice, Respondent shall comply with all terms and conditions of probation. All time spent in an intensive training program which has been approved by the Board or its designee shall not be considered non-practice and does not relieve Respondent from complying with all the terms and conditions of probation. Practicing medicine in another state of the United States or Federal jurisdiction while on probation with the medical licensing authority of that state or jurisdiction shall not be considered non-practice. A Board ordered suspension of practice shall not be considered as a period of non-practice.

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

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

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

Periods of non-practice for Respondent residing outside of California, will relieve Respondent of the responsibility to comply with the probationary terms and conditions with the exception of this condition and the following terms and conditions of probation: Obey All Laws; General Probation Requirements; and Quarterly Declarations.

13. Completion of Probation

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

14. Violation of Probation

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

15. License Surrender

Following the effective date of this Decision, if Respondent ceases practicing due to retirement or health reasons or is otherwise unable to satisfy the terms and conditions of probation, Respondent may request to surrender his Certificate. The Board reserves the right to evaluate Respondent's request and to exercise its discretion in determining whether or not to grant the request, or to take any other action deemed appropriate and reasonable under the circumstances. Upon formal acceptance of the surrender, Respondent shall within 15 calendar days deliver Respondent's wallet

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

16. Probation Monitoring Costs

Respondent shall pay the costs associated with probation monitoring each and every year of probation, as designated by the Board, which may be adjusted on an annual basis. Such costs shall be payable to the Medical Board of California and delivered to the Board or its designee no later than January 31 of each calendar year.

17. Cost Recovery

Respondent shall pay to the Board costs associated with its investigation and enforcement pursuant to Business and Professions Code Section 125.3 in the amount of $32,555.83. Respondent shall be permitted to pay these costs in a payment plan approved by the Board, with payments to be completed no later than three months prior to the end of the probation term.

The Decision shall become effective at 5:00 p.m. on January 16, 2025.

IT IS SO ORDERED this 17th day of December, 2024.

Michelle A. Bholat, MD

Michelle A. Bholat, M.D.
Chair, Panel A
Medical Board of California