

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

**In the Matter of the Petition for
Reinstatement of Against:**

Christopher Deeptha Wijekoon , M.D.

**Physician's and Surgeon's
Certificate No. A 140858**

Case No.: 800-2024-107571

Respondent.

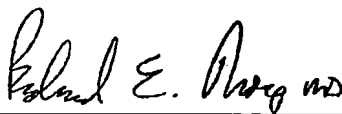
DECISION

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 June 11, 2025.

IT IS SO ORDERED: May 12, 2025.

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 of:

CHRISTOPHER DEEPTHA WIJEKON, Petitioner.

Agency Case No. 800-2024-107571

OAH No. 2024120842

PROPOSED DECISION

Administrative Law Judge Holly M. Baldwin, State of California, Office of Administrative Hearings, heard this matter on March 25, 2025, by videoconference.

Attorney Scott J. Harris represented petitioner Christopher Deeptha Wijekoon, who was present at hearing.

Deputy Attorney General Maryam Ahmad represented the Department of Justice, Office of the Attorney General.

The record closed and the matter was submitted for decision on March 25, 2025.

FACTUAL FINDINGS

1. On February 19, 2016, the Medical Board of California (Board) issued Physician's and Surgeon's Certificate Number A 140858¹ to petitioner Christopher Deeptha Wijekoon. The Board accepted petitioner's surrender of this certificate effective January 31, 2022, after disciplinary proceedings (see Factual Finding 7).

2. Petitioner submitted a petition for reinstatement dated February 22, 2024. A Board investigator interviewed him on July 12, 2024. This hearing followed.

Education and Professional Experience

3. Petitioner graduated from medical school at the University of California, Los Angeles (UCLA) in 2014. He completed a one-year internship and a three-year residency in anesthesiology, ending in 2018, also at UCLA. Petitioner obtained his California certificate during his residency.

4. Petitioner worked as an attending physician in the department of anesthesia at the University of California, San Francisco (UCSF), from August 2018 to the fall of 2021. He has not practiced medicine since that time.

¹ The license history certification provided by complainant at hearing lists petitioner's certificate number as A 104858, but that appears to be a typographical error. All of the documents from petitioner's prior disciplinary proceedings, and the petition, list the certificate number as A 140858.

Disciplinary History

5. Petitioner's increasingly problematic use of alcohol came to the attention of his employer and the Board in 2020. (See Factual Finding 11.) UCSF required petitioner to participate in alcohol treatment, but he relapsed. Petitioner was evaluated by a Board-appointed psychiatrist, who diagnosed severe alcohol use disorder. Petitioner did not stop consuming alcohol. On October 8, 2021, petitioner came to work under the influence of alcohol. He was terminated from his employment.

6. On December 12, 2021, the Board issued an interim suspension order suspending petitioner from medical practice until the resolution of disciplinary proceedings, finding that he suffered from severe alcohol use disorder that impaired his ability to practice medicine safely.

7. On January 13, 2022, the Board's executive director filed an accusation against petitioner, alleging that his ability to practice medicine safely was impaired by his alcohol use disorder, and that he used alcohol in a manner dangerous to himself and others. Petitioner resolved the disciplinary matter by immediately surrendering his certificate, which was accepted by the Board effective January 31, 2022.

The terms of petitioner's stipulated surrender included an agreement that he would pay \$2,400 in cost recovery to the Board prior to issuance of any new or reinstated license. The stipulation also provided that because the surrender was based primarily on Business and Professions Code section 822, he could petition for reinstatement after one year.

Alcohol Use Disorder and Recovery

8. Petitioner testified with candor, humility, and insight about his alcohol abuse and journey of recovery.

9. Petitioner is now 38 years old. He was previously married, but has been divorced since October 2020.

10. Petitioner described his use of alcohol as a student and medical resident as within "the norm" but noted that the social norm may be excessive. His use of alcohol started to become problematic in 2019, and he described himself as having lost the ability to "function as a human being" by late 2021.

11. In 2019, petitioner struggled with anxiety and depression, and began taking medications. In January 2020, petitioner mixed alcohol with his prescribed lorazepam, and was treated in the emergency room after collapsing in his apartment building lobby. The physician who treated petitioner was concerned and made a report to the Board. Petitioner continued his heavy alcohol use in 2020 despite intervention attempts. The UCSF physician wellbeing committee referred him for a fitness for duty evaluation that found alcohol use disorder, and required him to begin treatment. Petitioner attended a brief inpatient program in November 2020 and maintained sobriety for a period of time. He returned to work in early 2021 and continued with outpatient treatment. However, in September 2021 he tested positive for alcohol and codeine (at hearing, petitioner admitted drinking but stated he did not knowingly take codeine). In October 2021, petitioner went to work intoxicated, and was sent home and terminated.

12. In his testimony, petitioner described with insight and reflection the stressors that were triggers for his alcohol abuse. He was socially isolated in San

Francisco after moving away from his strong support system in Los Angeles. His job at UCSF was very demanding and difficult, and petitioner struggled with work for the first time in his life. Petitioner had married in 2018 but was having problems with his marriage. He felt financial pressures. Petitioner's uncle died in August 2019. Only a few days later, petitioner witnessed his father die on the operating table in a hospital, while receiving chest compressions and while not under sedation. Petitioner described that experience and his inability to ensure a better end-of-life experience for his father as what ultimately "broke" him. During a time of profound suffering, petitioner used alcohol as an "off switch" and a means of self-punishment for his perceived failures as a physician, husband, and son. The COVID pandemic was also enormously stressful and isolating in 2020 and 2021. By the summer of 2020, petitioner acknowledged he had a problem with alcohol, but his initial steps toward recovery were not successful.

13. Petitioner described the incident in which he came to work intoxicated in October 2021 as being completely out of character for the person he was raised to be and who he is today. Petitioner accepts responsibility and is remorseful for his past conduct. The loss of his medical license and career was devastating, but it saved his life and he is grateful. Petitioner achieved sustained sobriety through a holistic approach addressing his physical health, mental health, and spiritual practice, described below.

14. Petitioner's sobriety date is November 1, 2021.

15. Petitioner has voluntarily participated in a physician monitoring and recovery program since November 2021 (see Factual Findings 16-17), which he credits as being instrumental to his recovery. He is also active in Alcoholics Anonymous (AA) and other recovery groups (see Factual Findings 22-23). In addition to abstaining from alcohol, petitioner improved his nutrition and adopted a healthy diet. Petitioner began attending yoga classes daily, which provided community as well as exercise, and he

continues to maintain a daily yoga practice. Petitioner improved his mental health through mindfulness work and individual therapy, and worked with his psychiatrist to titrate off all psychoactive medications. Petitioner has cultivated a spiritual practice founded on compassion for others and himself, gratitude, and community.

16. Petitioner entered into a voluntary five-year monitoring agreement with Pacific Assistance Group (PAG) in November 2021, through PAG's Northern California office. He subsequently moved back to Los Angeles and has been monitored through PAG's Southern California office since April 2023. Petitioner attends facilitated group meetings twice weekly with licensed clinical psychologist Tracy Zemansky, Ph.D. These group meetings are primarily online, with a monthly in-person group meeting.

Petitioner's monitoring with PAG includes random, observed biological testing (hair, blood, urine) and daily breathalyzer testing using a SoberLink device. He is currently submitting biological test samples about once weekly, and is currently using the breathalyzer device three times daily.

Petitioner's PAG participation also requires him to participate actively in individual counseling and with outside recovery programs such as AA.

17. Dr. Zemansky testified credibly and persuasively at hearing, and also submitted a letter of support written in January 2024 (it is dated January 16, 2023, which was a typographical error). Dr. Zemansky has run the Southern California office of PAG since 2007, and has worked with professionals in recovery since 1998.

Dr. Zemansky has monitored petitioner's recovery since April 2023 and she consulted with PAG's Northern California office to confirm petitioner's participation from November 2021 to April 2023. Petitioner has tested with PAG since November

2021, with no positive tests for alcohol or drugs. Petitioner has had no unexcused absences from his PAG meetings, and he is active in outside recovery activities.

Dr. Zemansky described petitioner's growth in recovery. She has seen a remarkable change in petitioner, who is now open, extremely diligent, and sincere, where he was previously angry and defeated. Dr. Zemansky believes petitioner now has the ability and tools to manage stressors while returning to medical practice, with the precautions recommended by PAG (ongoing monitoring and testing, groups, probation conditions, outside recovery activities, and a gradual return to work). Dr. Zemansky referred petitioner for a fitness for duty evaluation, reviewed the report, and agrees with its conclusions (see Factual Finding 18). She has no reservations about petitioner's return to practice and supports his petition.

18. James W. Golden, M.D., is a board-certified addiction medicine specialist who regularly evaluates medical professionals. He completed a fitness for duty evaluation of petitioner and wrote a report dated November 30, 2023, and he reviewed updated information and spoke with petitioner shortly before the hearing. Dr. Golden testified credibly and persuasively in support of petitioner's request for reinstatement.

Dr. Golden diagnosed petitioner with alcohol use disorder, severe, in remission. Dr. Golden discussed petitioner's successful sobriety of nearly three and one-half years, noting that three years of sobriety is a good benchmark for achieving proper brain health in recovery from alcoholism. He also emphasized petitioner's compliance with PAG monitoring, lack of positive tests or relapse, improvement in his sharing and thinking behaviors, and successful work in a non-medical job.

Dr. Golden opined that petitioner may safely return to the practice of medicine, subject to the following recommendations: continued PAG monitoring for five years and/or the duration of any Board probation period; active participation in AA; psychodynamic psychotherapy with duration and frequency to be determined by the therapist; and a gradual return to the practice of medicine. Dr. Golden explained that PAG would create an individualized plan for such a return to practice, which could include a limitation on the number of cases taken by petitioner or a prohibition against being on-call. Dr. Golden suggested that petitioner reintegrate into medical practice by working part-time for several months, with a worksite monitor, before moving to full-time work.

19. Petitioner is in treatment with addiction psychiatrist Jerrell Mitchell, D.O., through LifeStance Health. Dr. Mitchell wrote a letter of support,² confirmed that he has treated petitioner since December 2021, roughly once a month. Dr. Mitchell wrote that during that time, petitioner has discussed his history of alcohol abuse and recovery process, been consistent with his AA meetings and physical fitness, and obtained employment. Dr. Mitchell opined: "I believe that he has learned from his previous experiences and will be able to make the necessary decisions to return to medicine and be a valuable contributor to society." Petitioner confirmed in his testimony that he continues to treat with Dr. Mitchell, seeing him most recently the week before hearing. Petitioner was formerly taking medication for anxiety and depression, but had successfully weaned off those medications with Dr. Mitchell.

² The letter is dated January 5, 2023, which appears to be a typographical error for 2024.

20. Petitioner also receives individual therapy from clinical psychologist Yvette Campbell, Ph.D., through LifeStance Health. Dr. Campbell wrote a letter dated January 24, 2024. She confirmed that petitioner has participated in outpatient counseling since November 2022, focusing on anxiety management, navigating and processing ongoing life stressors and transitions, goal setting, and expansion of healthy coping skills. Dr. Campbell wrote:

[Petitioner] has demonstrated a strong motivation to change and has placed great emphasis on self improvement as demonstrated by him seeking additional resources outside of counseling i.e., self-help podcasts and bibliotherapy. Throughout his therapy journey, [petitioner] has prioritized his physical and emotional health and well-being via his diligent practice of healthy coping strategies such as yoga, meditation, diaphragmatic breathing techniques and healthy sleep and eating patterns. [Petitioner] appears to understand the value of social support and has been making an effort to expand his social connections with others.

21. Petitioner is also currently receiving cognitive behavioral therapy for insomnia, which has been helpful.

22. Petitioner is active in AA and has embraced the 12 Steps. He attends meetings with his AA home group on Sundays. He also attends a couple of other local meetings, one of which is run by a close yoga friend. He has worked the 12 Steps with his sponsor for almost two years, and meets weekly with his sponsor.

23. Petitioner attended the annual meeting of International Doctors in Alcoholics Anonymous in July 2024, and the annual conference of Western Doctors in Recovery in February 2023, both of which provided continuing education.

24. Since October 2023, petitioner has worked at Lululemon Athletica, in a retail store. He began his employment with Lululemon as a part-time seasonal hire, and has worked full time since 2024. Petitioner has enjoyed his return to the workforce and contributing to a team. He described his store as having an excellent team and family atmosphere.

25. Petitioner has been open with his co-workers and with his friends about his struggles with alcohol. He also enjoys a close relationship with his mother.

26. Petitioner now has the tools needed to handle stress without alcohol use. Over the last three years, he has maintained his sobriety, despite stressors such as the death of a close medical school friend, the beginnings and endings of relationships, financial stress from unemployment and a lower-paying retail job, a return to full-time work, and the Los Angeles wildfires.

Petitioner described his coping tools as falling into two categories: things he can do on his own, and things that require other people. The former category includes: responding to emotions by using breath work, mindfulness, and meditation; using cognitive reframing tools he learned in therapy; taking care of himself by getting adequate sleep, exercise, nutrition, and time outdoors; and exercising self-compassion. Most importantly, petitioner has learned he cannot do it alone. He participates in therapy. He learns from other spiritual traditions. He focuses on being of service to others (a pillar of AA). Petitioner described his community and support system as including his friends from college, medical school, and residency; friends from yoga

and the dog park; his AA home group and sponsor; his PAG group of other medical professionals; his co-workers; and his dog.

References

27. Ajit Rai, M.D., testified at hearing and wrote a letter dated January 5, 2024. Dr. Rai is a board-certified anesthesiologist and pain medicine physician. He has been friends with petitioner since they met in medical school in 2010, and they completed their residencies together. Petitioner was one of the top students in their class. Dr. Rai described petitioner's use of alcohol in medical school and residency as within social norms. In 2020 or 2021, Dr. Rai became aware of petitioner's increasing problems with alcohol. He is aware of the incidents leading to petitioner's discipline.

Dr. Rai communicates with petitioner at least once or twice a week. In Dr. Rai's opinion, petitioner is now a different person than he was at the time of the events leading to his license discipline. Dr. Rai has observed that petitioner now has insight into his addiction and has "extraordinarily better" coping mechanisms, including therapy, meaningful interactions with his community, and commitment to physical, mental, and emotional fitness. Petitioner formerly did not reach out for help, now he would do so. Dr. Rai described petitioner as a "fantastic doctor" and an asset to the profession. He believes petitioner is ready to rejoin the medical workforce.

28. Osama Elbuluk, M.D., testified at hearing and wrote a letter of support in January 2024.³ Dr. Elbuluk is a neuroradiologist. He has known petitioner since 2010, throughout medical school and their residencies at UCLA (petitioner in anesthesiology

³ Dr. Elbuluk's letter is dated January 2, 2023, but he confirmed in an interview with the Board's investigator that this date was a typographical error for 2024.

and Dr. Elbuluk in radiology). They are very close friends. He described petitioner as extremely bright and a good medical student. Petitioner's use of alcohol in medical school and residency was not unusual, and commensurate with the "work hard, play hard" attitude of their peers.

In about 2019, Dr. Elbuluk became aware of petitioner's increasingly problematic use of alcohol, after speaking with petitioner's wife. At hearing and in his letter, Dr. Elbuluk described how factors including social isolation, personal loss, and burnout converged at the time petitioner's drinking became an addiction.

Dr. Elbuluk has seen petitioner reconstruct his life, and he is very proud of petitioner's growth. Dr. Elbuluk reported that petitioner has shown a "tenfold increase" in vulnerability since his work in recovery, and that petitioner has been very honest with him over the last several years. They call and check in with each other frequently. Dr. Elbuluk has confidence in petitioner's ability to handle future stresses including a return to medical practice, explaining that petitioner now has tools, maturity, and intentionality that he did not previously possess. In his letter, Dr. Elbuluk wrote:

Somehow at his lowest point, [petitioner] mustered together the humility and resiliency to rise from the ashes and rebuild his life from the ground up.....[¶] I've watched and spoken to [petitioner] extensively throughout the past two years, and metaphorically speaking, he has taken the stairs throughout every step of his recovery. He has never short changed the work and it's clearly paid off. He is more grounded, more gracious, and more conscious than ever before, and perhaps surprisingly better apt to be a physician and healer than almost anyone I know..... [¶] [As

petitioner] prepares to re-enter the healthcare workforce, I am extremely confident that he is prepared to be a great service to his patients, and more importantly, to handle the stresses and strains of being a physician without compromising his own well-being.

Petitioner's Plans If Reinstatement Is Granted

29. Petitioner plans to continue with PAG monitoring if reinstated, and plans on lifelong AA participation. He agrees that a gradual return to medical practice is a good plan, and is open to having a worksite monitor.

30. Petitioner has not practiced medicine since fall of 2021, but has tried to stay current through reading literature and listening to podcasts. He is willing to participate in a clinical competency assessment program if required by the Board.

31. Petitioner described his passion for the practice of anesthesiology as something that "lights him up." His goal is to join a collegial group practice focused on the egalitarian, compassionate, and ethical practice of anesthesiology.

LEGAL CONCLUSIONS

1. In a proceeding for the restoration of a license, the burden rests on the petitioner to prove that he or she is rehabilitated and entitled to have the license reinstated. (*Flanzer v. Board of Dental Examiners* (1990) 220 Cal.App.3d 1392, 1398.) The standard of proof is clear and convincing evidence. (*Housman v. Board of Medical Examiners* (1948) 84 Cal.App.2d 308, 315-316.)

2. Business and Professions Code section 2307, subdivision (b)(3), provides that a reinstatement petition may be filed one year after an individual's license is revoked or surrendered due to mental or physical illness. This petition was filed two years after petitioner's license was surrendered due to his alcohol use disorder. (Factual Findings 1, 2, & 7.) The Board may consider the petition.

3. In determining whether to grant reinstatement, "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" may be considered. (Bus. & Prof. Code, § 2307, subd. (e).)

Factors considered in determining whether a licensee has been rehabilitated include (as relevant to this petition): the nature and gravity of the misconduct; any subsequent misconduct; the amount of time that has elapsed; and petitioner's evidence of rehabilitation. (Cal. Code Regs., tit. 16, § 1360.2)

4. The primary purpose of this proceeding is to protect the public, not to punish the licensee. (*Camacho v. Youde* (1979) 95 Cal.App.3d 161, 164.) This view is consistent with the Medical Practice Act, which provides that in exercising its disciplinary authority, the Board's highest priority is the protection of the public. (Bus. & Prof. Code, § 2229, subd. (a).)

Analysis

5. The above-described criteria have been considered to determine the outcome of petitioner's request for reinstatement.

Petitioner's abuse of alcohol, which included presenting for work as an anesthesiologist while intoxicated, was very serious. However, since surrendering his license, petitioner has made a sustained, serious, and comprehensive effort to turn his life around. Petitioner voluntarily and successfully participated in PAG monitoring, which has confirmed his sobriety of nearly three and one-half years. Petitioner has embraced recovery, the 12 Steps, individual therapy, and personal growth. His treating clinicians and close friends have attested to petitioner's change in attitude and dedication to sobriety. Petitioner has demonstrated insight into the roots of his addiction and developed healthy coping mechanisms. An evaluation by an addiction medicine specialist has found that petitioner's alcohol use disorder is in remission and that he is fit to return to medical practice, subject to appropriate conditions.

Petitioner has demonstrated by clear and convincing evidence that he is rehabilitated. Allowing him to resume the practice of medicine, subject to the terms and conditions described below, for a probationary period of five years, would not be inconsistent with public protection.

6. The Board's Manual of Model Disciplinary Orders and Disciplinary Guidelines, 12th Edition 2016 (Disciplinary Guidelines) (Cal. Code Regs., tit. 16, § 1361, subd. (a)), recommends at least five years' probation for licensees who have committed misconduct involving substance abuse, on conditions including abstinence from alcohol and from unprescribed psychoactive drugs. This period of probation is appropriate in this matter to permit the Board to confirm petitioner's ability to maintain his sobriety while returning to medical practice.

7. The matters stated in Factual Findings 5 through 7 call for the Board to treat petitioner as a "substance-abusing licensee" in evaluating appropriate probation conditions. (Cal. Code Regs., tit. 16, § 1361.5, subd. (a).) The Board has adopted

Uniform Standards for Substance-Abusing Licensees that include optional and standard probation terms for such matters. (*Id.*, § 1361, subd. (b).)

a. A clinical diagnostic evaluation is optional. (Cal. Code Regs., tit. 16, § 1361.5, subd. (c)(1)(A).) Because of the matters stated in Factual Finding 18, no such evaluation is necessary as a prerequisite to petitioner's resuming medical practice. In the future, however, the Board reasonably may require petitioner to undergo a further mental health evaluation, and to follow any therapeutic recommendations that arise from that evaluation.

b. Communication with petitioner's employer and supervisor is a standard term. (Cal. Code Regs., tit. 16, § 1361.5, subd. (c)(2).)

c. Biological fluid testing to confirm abstinence from alcohol and from unprescribed psychoactive drugs is a standard term. (Cal. Code Regs., tit. 16, § 1361.5, subd. (c)(3)(A).)

d. Group support meetings are optional (Cal. Code Regs., tit. 16, § 1361.5, subd. (c)(4)), but are appropriate in this matter.

e. A worksite monitor also is optional (Cal. Code Regs., tit. 16, § 1361.5, subd. (c)(5)(A)), but is appropriate for petitioner.

f. A term defining "major" and "minor" violations, and describing penalties for such violations, is standard. (Cal. Code Regs., tit. 16, §§ 1361.5, subd. (c)(6), 1361.52.)

8. In addition to probation conditions reflecting petitioner's substance abuse history, the Board should impose a condition in this matter requiring a clinical competence assessment, because petitioner has not practiced medicine in more than

three years. (Factual Finding 30.) Such an assessment will permit the Board as well as any hospital or surgery center in which he may practice to confirm that petitioner's anesthesiology knowledge and skills are current when he returns to work.

ORDER

Physician's and Surgeon's Certificate Number A 140858, issued to petitioner Christopher Deeptha Wijekoon, M.D., is reinstated. The certificate is immediately revoked; the revocation is stayed; and petitioner is placed on probation for five years upon the following terms and conditions.

1. Clinical Competence Assessment

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 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, accusation, 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 three and no more than five 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 that states unequivocally whether 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.

Petitioner shall not resume the practice of medicine until petitioner has successfully completed the clinical competence assessment program and has been so notified by the Board or its designee in writing.

2. Clinical Diagnostic Evaluations and Reports

Subsequent to the clinical competence assessment described in Condition 1, and if directed by the Board or its designee, petitioner shall undergo and complete a clinical diagnostic evaluation, including any and all testing deemed necessary, by a board-certified physician and surgeon appointed by the Board. The examiner shall consider any information provided by the Board or its designee and any other information he or she deems relevant, and shall furnish a written evaluation report to the Board or its designee.

Any clinical diagnostic evaluation shall be conducted by a licensed physician and surgeon who holds a valid, unrestricted license, has three years' experience in providing evaluations of physicians and surgeons with substance use disorders, and is approved by the Board or its designee. The clinical diagnostic evaluation shall be conducted in accordance with acceptable professional standards for conducting substance abuse clinical diagnostic evaluations. The evaluator shall not have a current or former financial, personal, or business relationship with petitioner within the last five years. The evaluator shall provide an objective, unbiased, and independent evaluation. The clinical diagnostic evaluation report shall set forth, in the evaluator's opinion, whether petitioner has an active substance use disorder, whether petitioner is a threat to himself or others, and recommendations for substance abuse treatment, practice restrictions, or other recommendations related to petitioner's rehabilitation and ability to practice safely. If the evaluator determines during the evaluation process that petitioner is a threat to himself or others, the evaluator shall notify the Board within 24 hours of such a determination.

In formulating an opinion as to whether petitioner is safe for either part-time or full-time practice and what restrictions or recommendations should be imposed, including participation in an inpatient or outpatient treatment program, the evaluator shall consider the following factors: petitioner's license type; petitioner's history; petitioner's documented length of sobriety (length of time that has elapsed since petitioner's last substance use); petitioner's scope and pattern of substance abuse; petitioner's treatment history, medical history and current medical condition; the nature, duration and severity of petitioner's substance abuse problem or problems; and whether petitioner is a threat to himself or the public.

For all clinical diagnostic evaluations, a final written report shall be provided to the Board no later than 10 days after the date the evaluator is assigned the matter. If the evaluator requests additional information or time to complete the evaluation and report, an extension may be granted, but shall not exceed 30 days after the date the evaluator was originally assigned the matter.

The Board shall review the clinical diagnostic evaluation report within five business days of receipt to determine whether petitioner is safe for either part-time or full-time practice and what restrictions or recommendations shall be imposed on petitioner based on the recommendations made by the evaluator. If removed from practice following a clinical diagnostic evaluation, petitioner shall not be returned to practice until he has at least 30 days of negative biological fluid tests or biological fluid tests indicating that he has not used, consumed, ingested, or administered to himself a prohibited substance, as defined in section 1361.51, subdivision (e), of title 16 of the California Code of Regulations.

The cost of a clinical diagnostic evaluation, including any and all testing deemed necessary by the examiner, the Board or its designee, shall be borne by petitioner.

Upon satisfying Condition 1, above, petitioner may engage in the practice of medicine unless and until notified by the Board or its designee that he is unfit to practice medicine safely. Any period of time that petitioner is not practicing medicine shall not be counted toward completion of the term of probation. Petitioner shall undergo biological fluid testing as required in this decision while awaiting the results of any clinical diagnostic evaluation.

Petitioner shall comply with all restrictions or conditions recommended by the examiner conducting the clinical diagnostic evaluation within 15 calendar days after being notified by the Board or its designee.

3. 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. 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 petitioner requests a hearing on the accusation and/or petition to revoke probation, the Board shall provide petitioner with a hearing within 30 days of the request, unless 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. 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. 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 petitioner requests a hearing on the accusation and/or petition to revoke probation, the Board shall provide petitioner with a hearing within 30 days of the request, unless 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. 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. Petitioner shall make daily contact with the Board or its designee to determine whether biological fluid testing is required. Petitioner shall be tested on the date of the notification as directed by the Board or its designee. The Board may order petitioner to undergo a biological fluid test on any day, at any time, including weekends and holidays. Except when testing on a specific date as ordered by the Board or its designee, the scheduling of biological fluid testing shall be done on a random basis. The cost of biological fluid testing shall be borne by petitioner.

During the first year of probation, petitioner shall be subject to 52 to 104 random tests. During the second year of probation and for the duration of the probationary term, petitioner shall be subject to 36 to 104 random tests per year. If, but only if, there have been no positive biological fluid tests in the previous three consecutive years of probation, testing may be reduced to one time per month. Nothing precludes the Board from increasing the number of random tests to the first year level of frequency for any reason.

Before practicing medicine after the effective date of this order, 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 and meets all the following standards:

- (a) Its specimen collectors are either certified by the Drug and Alcohol Testing Industry Association or have completed the training required to serve as a collector for the United States Department of Transportation.
- (b) Its specimen collectors conform to the current United States Department of Transportation Specimen Collection Guidelines.
- (c) Its testing locations comply with the Urine Specimen Collection Guidelines published by the United States Department of Transportation without regard to the type of test administered.
- (d) Its specimen collectors observe the collection of testing specimens.
- (e) Its laboratories are certified and accredited by the United States Department of Health and Human Services.

(f) Its testing locations shall submit a specimen to a laboratory within one business day of receipt and all specimens collected shall be handled pursuant to chain of custody procedures. The laboratory shall process and analyze the specimens and provide legally defensible test results to the Board within seven business days of receipt of the specimen. The Board will be notified of non negative results within one business day and will be notified of negative test results within seven business days.

(g) Its testing locations possess all the materials, equipment, and technical expertise necessary in order to test petitioner on any day of the week.

(h) Its testing locations are able to test scientifically for urine, blood, and hair specimens for the detection of alcohol and illegal and controlled substances.

(i) It maintains testing sites located throughout California.

(j) It maintains an automated 24 hour toll free telephone system and/or a secure on line computer database that allows the petitioner to check in daily for testing.

(k) It maintains a secure, HIPAA compliant website or computer system that allows staff access to drug test results and compliance reporting information that is available 24 hours a day.

(l) It employs or contracts with toxicologists that are licensed physicians and have knowledge of substance use disorders and the appropriate medical training to interpret and evaluate laboratory biological fluid test results, medical histories, and any other information relevant to biomedical information.

(m) It will not consider a toxicology screen to be negative if a positive result is obtained while practicing, even if petitioner holds a valid prescription for the substance.

Prior to changing testing locations for any reason, including during vacation or other travel, alternative testing locations must be approved by the Board and meet the requirements above.

The contract shall require that the laboratory directly notify the Board or its designee of non-negative results within one business day and negative test results within seven business days 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 a biological fluid test result indicates petitioner has used, consumed, ingested, or administered to himself a prohibited substance, the Board shall order petitioner to cease practice and instruct petitioner to leave any place of work where petitioner is practicing medicine or providing medical services. The Board shall immediately notify all of petitioner's employers, supervisors and work monitors, if any, that petitioner may not practice medicine or provide medical services while the cease practice order is in effect.

A biological fluid test will not be considered negative if a positive result is obtained while practicing, even if the practitioner holds a valid prescription for the substance. If no prohibited substance use exists, the Board shall lift the cease practice order within one business day.

After the issuance of a cease practice order, the Board shall determine whether the positive biological fluid test is in fact evidence of prohibited substance use by consulting with the specimen collector and the laboratory, communicating with the licensee, his treating physician(s), other health care provider, or group facilitator, as applicable.

For purposes of this condition, the terms "biological fluid testing" and "testing" mean the acquisition and chemical analysis of petitioner's urine, blood, breath, or hair.

For purposes of this condition, the term "prohibited substance" means an illegal drug, a lawful drug not prescribed or ordered by an appropriately licensed health care provider for use by petitioner and approved by the Board, alcohol, or any other substance petitioner has been instructed by the Board not to use, consume, ingest, or administer to himself.

If the Board confirms that a positive biological fluid test is evidence of use of a prohibited substance, petitioner has committed a major violation, as defined in California Code of Regulations, title 16, section 1361.52, subdivision (a); and the Board shall impose any or all of the consequences set forth in California Code of Regulations, title 16, section 1361.52, subdivision (b), in addition to any other terms or conditions the Board determines are necessary for public protection or to enhance petitioner rehabilitation.

6. Substance Abuse Support Group Meetings

Within 30 days of the effective date of this decision, petitioner shall submit to the Board or its designee, for prior approval, the name of a substance abuse support group that he shall attend for the duration of probation. Petitioner shall attend substance abuse support group meetings at least once per week, or as ordered by the

Board or its designee. Petitioner shall pay all substance abuse support group meeting costs.

The substance abuse support group meeting facilitator shall have a minimum of three years' experience in treatment and rehabilitation of substance abuse, and shall be licensed or certified by the state or nationally certified organizations. The facilitator shall not have a current or former financial, personal, or business relationship with petitioner within the last five years. Petitioner's previous participation in a substance abuse support group led by the same facilitator does not constitute a prohibited current or former financial, personal, or business relationship.

The facilitator shall provide a signed document to the Board or its designee showing petitioner's name, the group name, the date and location of the meeting, petitioner's attendance, and petitioner's level of participation and progress. The facilitator shall report any unexcused absence by petitioner from any substance abuse support group meeting to the Board or its designee within 24 hours of the unexcused absence.

7. Worksite Monitor

Within 30 calendar days of the effective date of this decision, petitioner shall submit to the Board or its designee, for prior approval as a worksite monitor, the name and qualifications of one or more licensed physicians and surgeons (or other licensed health care professional if no physician and surgeon is available), or, as approved by the Board or its designee, a person in a position of authority who is capable of monitoring petitioner at work.

The worksite monitor shall not have a current or former financial, personal, or familial relationship with petitioner, or any other relationship that reasonably could be

expected to compromise the monitor's ability to render impartial and unbiased reports to the Board or its designee. If it is impractical for anyone but petitioner's employer to serve as the worksite monitor, this requirement may be waived by the Board or its designee; however, under no circumstances shall petitioner's worksite monitor be petitioner's employee or supervisee.

The worksite monitor shall have an active unrestricted license with no disciplinary action within the last five years, and shall sign an affirmation that he or she has reviewed the terms and conditions of this disciplinary order and agrees to monitor petitioner as required by the Board or its designee.

Petitioner shall pay any and all worksite monitoring costs.

The worksite monitor shall (1) have face-to-face contact with petitioner in the work environment on as frequent a basis as determined by the Board or its designee, but not less than once per week; (2) interview other staff in the office regarding petitioner's behavior, if requested by the Board or its designee; and (3) review petitioner's work attendance.

The worksite monitor shall orally report any suspected substance abuse to the Board and petitioner's employer or supervisor within one business day of occurrence. If the suspected substance abuse does not occur during the Board's normal business hours, the oral report shall be made to the Board or its designee within one hour of the next business day. A written report that includes the date, time, and location of the suspected substance abuse; petitioner's actions; and any other information deemed important by the worksite monitor shall be submitted to the Board or its designee within 48 hours of the occurrence.

The worksite monitor shall complete and submit a written report monthly or as directed by the Board or its designee that shall include the following: (1) petitioner's name and certificate number; (2) the worksite monitor's name and signature; (3) the worksite monitor's license number, if applicable; (4) the location or locations of the worksite; (5) the dates petitioner had face-to-face contact with the worksite monitor; (6) the names of worksite staff interviewed, if applicable; (7) a report of petitioner's work attendance; (8) any change in petitioner's behavior and/or personal habits; and (9) any indicators that lead to suspicion of substance abuse by petitioner. Petitioner shall complete any required consent forms and execute agreements with the approved worksite monitor and the Board or its designee authorizing the Board or its designee and the worksite monitor to exchange information.

If the worksite monitor resigns or is no longer available, petitioner shall, within five 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 assume that responsibility within 15 calendar days. If petitioner fails to obtain approval for a replacement monitor within 60 calendar days of the prior monitor's resignation or unavailability, petitioner shall receive a notification from the Board or its designee to cease the practice of medicine within three calendar days after being so notified. Petitioner shall cease the practice of medicine until a replacement monitor is approved and assumes monitoring responsibility.

8. Notification

Within seven days of the effective date of this decision, petitioner shall provide a true copy of this decision and the accusation to the Chief of Staff or the Chief Executive Officer at every hospital where privileges or membership are extended to 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.

9. Supervision of Physician Assistants and Advanced Practice Nurses

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

10. 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.

11. 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.

12. 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, subdivision (b).

Place of Practice: Petitioner shall not engage in the practice of medicine in petitioner's or a 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 certificate.

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 that lasts, or is contemplated to last, more than thirty 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.

13. 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.

14. 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 that 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" before resuming the practice of medicine.

Petitioner'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 while 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.

15. 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.

16. Violation of Probation

Failure to comply fully with any term or condition of probation is a violation of probation.

A. If petitioner commits a major violation of probation as defined by section 1361.52, subdivision (a), of title 16 of the California Code of Regulations, the Board shall take one or more of the following actions:

(1) Issue an immediate cease practice order and order petitioner to undergo a clinical diagnostic evaluation to be conducted in accordance with section 1361.5,

subdivision (c)(1), of title 16 of the California Code of Regulations, at petitioner's expense. The cease practice order issued by the Board or its designee shall state that petitioner must test negative for at least a month of continuous biological fluid testing before being allowed to resume practice. For purposes of determining the length of time petitioner must test negative while undergoing continuous biological fluid testing following issuance of a cease practice order, a month is defined as 30 calendar days. Petitioner may not resume the practice of medicine until notified in writing by the Board or its designee that he may do so.

(2) Increase the frequency of biological fluid testing.

(3) Refer petitioner for further disciplinary action, such as suspension, revocation, or other action as determined by the Board or its designee. (Cal. Code Regs., tit. 16, § 1361.52, subd. (b).)

B. If petitioner commits a minor violation of probation as defined by section 1361.52, subdivision (c), of title 16 of the California Code of Regulations, the Board shall take one or more of the following actions:

- (1) Issue a cease practice order;
- (2) Order practice limitations;
- (3) Order or increase supervision of petitioner;
- (4) Order increased documentation;
- (5) Issue a citation and fine, or a warning letter;

(6) Order petitioner to undergo a clinical diagnostic evaluation to be conducted in accordance with section 1361.5, subdivision (c)(1), of title 16 of the California Code of Regulations, at petitioner's expense;

(7) Take any other action as determined by the Board or its designee. (Cal. Code Regs., tit. 16, § 1361.52, subd. (d).)

C. Nothing in this decision shall be considered a limitation on the Board's authority to revoke petitioner's probation if he has violated any term or condition of probation. (See Cal. Code Regs., tit. 16, § 1361.52, subd. (e).) 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.

17. 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.

18. Cost Recovery

Respondent is hereby ordered to reimburse the Medical Board of California the amount of \$2,400 for its enforcement costs in the previous disciplinary action, as set forth in Factual Finding 7. Respondent shall complete this reimbursement within 90 days from the effective date of this decision, or pursuant to a payment plan authorized by the Board.

19. 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: 04/14/2025



HOLLY M. BALDWIN

Administrative Law Judge

Office of Administrative Hearings