

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

**In the Matter of the Petition to Revoke
Probation Against:**

Carlos Antonio Rivas, M.D.

Case No. 800-2024-104928

**Physician's and Surgeon's
Certificate No. A 131589**

Respondent.

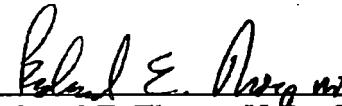
DECISION

**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 August 15, 2025.

IT IS SO ORDERED July 17, 2025.

MEDICAL BOARD OF CALIFORNIA


Richard E. Thorp, M.D.
**Richard E. Thorp, M.D., Chair
Panel B**

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

In the Matter of the Petition to Revoke Probation Against:

CARLOS ANTONIO RIVAS, M.D.,

Physician's and Surgeon's Certificate No. A 131589

Respondent.

Agency Case No. 800-2024-104928

OAH No. 2024110555

PROPOSED DECISION

Administrative Law Judge Michael C. Starkey, State of California, Office of Administrative Hearings, heard this matter on June 9, 2025, via videoconference.

Deputy Attorney General D. Mark Jackson represented petitioner Reji Varghese, Executive Director, Medical Board of California, Department of Consumer Affairs.

Respondent Carlos Antonio Rivas, M.D., represented himself.

The matter was submitted on June 9, 2025.

FACTUAL FINDINGS

Jurisdictional Matters

1. On July 29, 2024, complainant Reji Varghese filed the petition to revoke probation solely in his official capacity as the Executive Director of the Medical Board of California, Department of Consumer Affairs (Board).
2. Respondent Carlos Antonio Rivas, M.D., holds Physician's and Surgeon's Certificate No. A 131589. The Board issued this certificate to respondent on July 1, 2014. The certificate is in delinquent status. It expired on January 31, 2024, and has not been renewed.
3. In a disciplinary action titled "In the Matter of the Accusation Against Carlos Antonio Rivas, M.D., Case No. 800-2021-097441, the Board issued a decision effective October 14, 2021 (2021 Decision), in which respondent's certificate was revoked, the revocation was stayed, and his certificate was placed on probation for a period of five years, under certain terms and conditions.
4. In the instant petition, complainant alleges that respondent has violated three conditions of his probation by failing to practice medicine for more than two years; failing to timely submit quarterly reports; and failing to maintain a current certificate, and this constitutes cause to revoke his probation, lift the stay, and revoke his certificate.

Underlying Discipline

5. In a decision effective October 28, 2020, (2020 Decision), after an evidentiary hearing, the Board adopted a proposed decision revoking respondent's

certificate, but staying the revocation for 10 days to provide respondent with a "final opportunity" to comply with a voluntary agreement to release his medical records to a psychiatrist assigned to evaluate respondent's mental health. This matter arose because the Board received an online complaint that respondent: had inappropriate relations with patients and staff in the workplace, engaged in sexual misconduct, and had been diagnosed with bipolar disorder but refused to take medications.

6. The 2021 Decision placing respondent on probation adopted a stipulated settlement and disciplinary order (Stipulation) in which respondent admitted that a *prima facie* case could be established that the Board-appointed psychiatrist, after completing an evaluation of respondent, concluded that respondent suffers from a condition which impairs his ability to safely practice medicine, and as a result, respondent requires monitoring and treatment in order to safely practice medicine. In the Stipulation, respondent agreed that his certificate was subject to discipline and agreed to be bound by the probationary terms of a disciplinary order, which was incorporated into the 2021 Decision, including the terms and conditions set forth in Factual Findings 7 through 9.

Terms of Respondent's Probation

7. Term 7 of respondent's probation is a requirement that he 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.

8. Term 8 includes a requirement that respondent "maintain a current and renewed California physician's and surgeon's" certificate.

9. Term 10 requires respondent to practice medicine for at least 40 hours each month and mandates that respondent's period of non-practice while on probation may not exceed two years.

10. Term 12 provides that failure to fully comply with any term or condition of probation is a violation of probation and the Board may revoke the probation and impose the disciplinary order that was stayed.

11. Term 13 states that "if [r]espondent ceases practicing due to retirement or health reasons or is otherwise unable to satisfy the terms and conditions of probation," he may request to surrender his certificate, and may petition for reinstatement at a later date.

Respondent's Probation Violations

12. Kimberly Lacap, a management services technician for the Board, testified at hearing. She has worked for the Board since September 2024 and been assigned to monitor respondent's probation since October 2024. Lacap's testimony was credible in all respects. Lacap reports that based on the Board's records and her own percipient knowledge, respondent complied with the requirement to submit quarterly reports through the second quarter of 2023, although he submitted some late. However, Lacap reports that respondent has not submitted a quarterly report to the Board since then, despite numerous reminders from the Board.

13. Lacap reports that in all of the quarterly declarations that respondent did submit, he reported that he was not practicing as a physician. She also reports that respondent's certificate is in delinquent status, which means it is not current and has not been renewed. She reports that since she started working on respondent's case in October 2024, the Board has not received any communication from him.

Respondent's Evidence

14. Respondent admits that he has not practiced medicine since his probation began on October 14, 2021, more than three and one-half years ago.

15. Respondent admits that he has not renewed his California physician's and surgeon's certificate. He reports that this is because he has been experiencing severe financial difficulty and has no ability to pay the fee for renewal. He also reports that he has no ability to pay a cost award in this proceeding. Respondent reports that he has hundreds of thousands of dollars in debt, no stable income, and relies on friends and family for housing and support.

16. Respondent refused to admit that he has failed to submit quarterly reports after the second quarter of 2023, testifying, the "timeline is too long to properly answer." However, respondent submitted no testimony or documentary evidence to show that he did submit quarterly reports after the second quarter of 2023. Instead, he claimed that he was unaware this was an issue, did not have time to review his own documents, and was not properly served notice of this proceeding. These claims are not credible. A preponderance of the evidence shows that respondent failed to submit quarterly reports to the Board after the second quarter of 2023.

17. Respondent's attitude at hearing was defensive and evasive. He evidenced no remorse for violating the terms of his probation and offered no assurances that he would be more conscientious in the future.

Costs

18. In connection with the investigation and enforcement of this petition to revoke probation, complainant requests an award of costs in the total amount of \$16,745.50 for attorney and paralegal services provided by the Department of Justice and billed to the Board through June 4, 2025, and an estimated additional \$1,824 in attorneys' fees through hearing. That request is supported by a declaration that complies with the requirements of California Code of Regulations, title 1, section 1042. These costs were all incurred after January 1, 2022. The declaration reflects some duplication of effort by multiple attorneys. Complainant proved \$12,000 in reasonable costs.

LEGAL CONCLUSIONS

1. Complainant has the burden of proving each of the grounds for revoking probation alleged in the petition to revoke probation by a preponderance of the evidence. (*Sandarg v. Dental Bd. of California* (2010) 184 Cal.App.4th 1434, 1441.)
2. Respondent violated Terms 7, 8, and 10 of his probation. (Factual Findings 12–16.) Pursuant to Term 12, these violations establish cause to revoke his probation, lift the stay, and revoke his physician's and surgeon's certificate.
3. When exercising its disciplinary authority, the Board, whenever possible, shall take action that aids in the rehabilitation of the licensee, however, protection of the public remains the Board's highest priority. (Bus. & Prof. Code, § 2229, subd. (a).) The Board's Disciplinary Guidelines provide for license revocation as the maximum penalty for a probation violation. The Guidelines advise that the maximum penalty should be given for violations revealing a cavalier or recalcitrant attitude. Respondent

demonstrated such an attitude and does not currently appear to be a good candidate for probation. Respondent cites various obstacles to complying with the terms of his probation. Term 13 strongly suggests that the intended remedy for a probationer unable to comply with the terms of probation is to request surrender of the certificate and then apply for reinstatement of the certificate when ready, willing, and able to resume the practice of medicine. Under these circumstances, revocation is the appropriate penalty. It would be against the public interest to permit respondent to retain his physician's and surgeon's certificate.

Costs

4. A physician found to have committed a violation of the laws governing medical practice in California may be required to pay the Board's reasonable costs of the investigation and enforcement of the case, but only as incurred on and after January 1, 2022. (Bus. & Prof. Code, § 125.3.) Cause exists to order respondent to pay the Board's reasonable costs. (Factual Finding 6 and Legal Conclusion 2.) The reasonable costs for this matter total \$12,000. (Factual Finding 18.)

5. Cost awards must not deter licensees with potentially meritorious claims from exercising their right to an administrative hearing. (*Zuckerman v. State Board of Chiropractic Examiners* (2002) 29 Cal.4th 32, 45.) Cost awards must be reduced where a licensee has been successful at hearing in getting the charges dismissed or reduced; a licensee is unable to pay; or where the scope of the investigation was disproportionate to the alleged misconduct. (*Ibid.*) The agency must also consider whether the licensee has raised a colorable challenge to the proposed discipline, and a licensee's good faith belief in the merits of his or her position. (*Ibid.*) Respondent raised no colorable defense to this petition, but credibly testified that he has no ability to pay a cost award at this time. (See Factual Finding 15.) The cost award will be reduced to \$5,000,

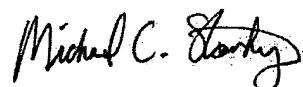
payable pursuant to a payment plan authorized by the Board, if and when respondent's certificate is reinstated.

ORDER

1. The Petition to Revoke Probation concerning Physician's and Surgeon's Certificate Number A 131589, issued to respondent Carlos Antonio Rivas, M.D., is granted. The stay of revocation is lifted and the certificate is revoked.

2. If and when respondent successfully petitions for reinstatement of his certificate, he is obligated to reimburse the Medical Board of California the amount of \$5,000 for its enforcement costs, pursuant to Business and Professions Code section 125.3. Respondent shall complete this reimbursement within 90 days from the effective date of reinstatement, or pursuant to a payment plan authorized by the Board.

DATE: 06/30/2025



MICHAEL C. STARKEY

Administrative Law Judge

Office of Administrative Hearings