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

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

Case No. 800-2023-103933

12 **RYAN MATTHEW SPIVAK, M.D.**  
13 **8671 Wilshire Blvd., Suite 500**  
14 **Beverly Hills, CA 90211**

**PETITION TO REVOKE PROBATION**

15 **Physician's and Surgeon's Certificate**  
16 **No. A 113632,**

17 Respondent.

18 **PARTIES**

19 1. Reji Varghese (Complainant) brings this Petition to Revoke Probation solely in his  
20 official capacity as the Executive Director of the Medical Board of California (Board),  
21 Department of Consumer Affairs.

22 2. On or about August 11, 2010, the Board of California issued Physician's and  
23 Surgeon's Certificate Number A 113632 to Ryan Matthew Spivak, M.D. (Respondent). The  
24 Physician's and Surgeon's Certificate was in effect at all times relevant to the charges brought  
25 herein and will expire on August 31, 2028, unless renewed.

26 **PRIOR DISCIPLINE**

27 3. In a disciplinary action entitled *In the Matter of the Accusation against Ryan Matthew*  
28 *Spivak, M.D.*, Case No. 800-2016-020767, the Board issued a decision, effective June 30, 2017,

1 in which Respondent's Physician's and Surgeon's Certificate was revoked, for dishonest acts,  
2 violation of drug statutes, misuse of controlled substances, illegitimate prescriptions,  
3 false/fictitious prescriptions, obtaining prescriptions by fraud/deceit, making or signing false  
4 documents, forging prescriptions for self-use, failure to report change of address, as well as  
5 unprofessional conduct. However, the revocation was stayed and Respondent was placed on  
6 seven years of probation and other terms and conditions. A copy of that Decision is attached as  
7 Exhibit A and incorporated by reference.

8 4. In a disciplinary action entitled *In the Matter of the Accusation and Petition to Revoke*  
9 *Probation against Ryan Matthew Spivak, M.D.*, Case No. 800-2019-061086, the Board issued a  
10 decision, effective September 11, 2020, in which Respondent's Physician's and Surgeon's  
11 Certificate was revoked, for conviction of a crime and failing to comply with certain probation  
12 terms. However, the revocation was stayed and Respondent was placed on probation for two (2)  
13 years to run consecutively from the conclusion of Respondent's probation term in the Board's  
14 Decision in Case No. 800-2016-020767, for a total of nine (9) years' probation, as well as other  
15 terms and conditions. A copy of that Decision is attached as Exhibit B and incorporated by  
16 reference.

17 5. In a disciplinary action entitled *In the Matter of the First Amended Accusation*  
18 *against Ryan Matthew Spivak, M.D.*, Case No. 800-2019-060028, the Board issued a decision,  
19 effective June 9, 2023, in which Respondent's Physician's and Surgeon's Certificate was  
20 revoked, for repeated negligent acts and failure to maintain adequate and accurate medical  
21 records for three patients. However, the revocation was stayed and Respondent was placed on  
22 probation for two (2) years to run consecutively from the conclusion of Respondent's probation  
23 term in the Board's Decision in Case No. 800-2019-061086, for a total of eleven (11) years'  
24 probation, as well as other terms and conditions. A copy of that Decision is attached as Exhibit C  
25 and incorporated by reference.

26 6. In a disciplinary action entitled *In the Matter of the Accusation against Ryan Matthew*  
27 *Spivak, M.D.*, Case No. 800-2021-084122, the Board issued a decision, effective January 24,  
28 2025, in which Respondent's Physician's and Surgeon's Certificate was revoked, for gross

1 negligence, and failure to maintain adequate and accurate medical records for a single patient.  
2 However, the revocation was stayed and Respondent was placed on probation for two (2) years to  
3 run consecutively from the conclusion of Respondent's probation term in the Board's Decision in  
4 Case No. 800-2019-060028, for a total of thirteen (13) years' probation, as well as other terms  
5 and conditions. A copy of that Decision is attached as Exhibit D and incorporated by reference.

#### 6 JURISDICTION

7 7. This Petition to Revoke Probation is brought before the Board, under the authority of  
8 the Board's Decision and Order in the case entitled *In the Matter of the Accusation against Ryan*  
9 *Matthew Spivak, M.D.*, Case No. 800-2021-084122, and the following laws. All section  
10 references are to the Business and Professions Code (Code) unless otherwise indicated.

11 8. Section 2004 of the Code states:

12 The board shall have the responsibility for the following:

13 (a) The enforcement of the disciplinary and criminal provisions of the Medical  
14 Practice Act.

15 (b) The administration and hearing of disciplinary actions.

16 (c) Carrying out disciplinary actions appropriate to findings made by a panel or  
an administrative law judge.

17 (d) Suspending, revoking, or otherwise limiting certificates after the conclusion  
18 of disciplinary actions.

19 (e) Reviewing the quality of medical practice carried out by physician and  
surgeon certificate holders under the jurisdiction of the board.

20 (f) Approving undergraduate and graduate medical education programs.

21 (g) Approving clinical clerkship and special programs and hospitals for the  
22 programs in subdivision (f).

23 (h) Issuing licenses and certificates under the board's jurisdiction.

24 (i) Administering the board's continuing medical education program.

25 9. Section 2227 of the Code states, in pertinent part:

26 (a) A licensee whose matter has been heard by an administrative law judge of  
27 the Medical Quality Hearing Panel as designated in Section 11371 of the Government  
28 Code, or whose default has been entered, and who is found guilty, or who has entered  
into a stipulation for disciplinary action with the board, may, in accordance with the  
provisions of this chapter:

- (1) Have his or her license revoked upon order of the board.
- (2) Have his or her right to practice suspended for a period not to exceed one year upon order of the board.
- (3) Be placed on probation and be required to pay the costs of probation monitoring upon order of the board.
- (4) Be publicly reprimanded by the board. The public reprimand may include a requirement that the licensee complete relevant educational courses approved by the board.
- (5) Have any other action taken in relation to discipline as part of an order of probation, as the board or an administrative law judge may deem proper.

10. California Code of Regulations, title 16, section 1358, states:

Each physician and surgeon who has been placed on probation by the Board shall be subject to the Board's Probation Program and shall be required to fully cooperate with representatives of the Board and its personnel. Such cooperation shall include, but is not necessarily limited to, compliance with each term and condition of the order placing the physician and surgeon on probation...Any monetary fees incurred as a result of a term or condition of probation...shall be borne by the physician-probationer.

11. At all times after the effective date of the Decision in Case No. 800-2021-084122, Probation Condition 8 stated:

**PROFESSIONALISM PROGRAM (ETHICS COURSE).** Within sixty (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 fifteen (15) calendar days after successfully

1 completing the program or not later than fifteen (15) calendar days after the  
2 effective date of the Decision, whichever is later.

3 12. At all times after the effective date of the Decision in Case No. 800-2021-084122,  
4 Probation Condition 9 stated:

5 CLINICAL COMPETENCE ASSESSMENT PROGRAM. Within sixty  
6 (60) calendar days of the effective date of this Decision, Respondent shall enroll in  
7 a clinical competence assessment program approved in advance by the Board or its  
8 designee. Respondent shall successfully complete the program not later than six  
9 (6) months after Respondent's initial enrollment unless the Board or its designee  
10 agrees in writing to an extension of that time.

11 The program shall consist of a comprehensive assessment of Respondent's  
12 physical and mental health and the six general domains of clinical competence as  
13 defined by the Accreditation Council on Graduate Medical Education and  
14 American Board of Medical Specialties pertaining to Respondent's current or  
15 intended area of practice. The program shall take into account data obtained from  
16 the pre-assessment, self-report forms and interview, and the Decision(s),  
17 Accusation(s), and any other information that the Board or its designee deems  
18 relevant. The program shall require Respondent's on-site participation as  
19 determined by the program for the assessment and clinical education and  
20 evaluation. Respondent shall pay all expenses associated with the clinical  
21 competence assessment program.

22 At the end of the evaluation, the program will submit a report to the Board or  
23 its designee which unequivocally states whether Respondent has demonstrated the  
24 ability to practice safely and independently. Based on Respondent's performance  
25 on the clinical competence assessment, the program will advise the Board or its  
26 designee of its recommendation(s) for the scope and length of any additional  
27 educational or clinical training, evaluation or treatment for any medical condition  
28 or psychological condition, or anything else affecting Respondent's practice of  
medicine. Respondent shall comply with the program's recommendations.

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

If Respondent fails to enroll, participate in, or successfully complete the  
clinical competence assessment program within the designated time period,  
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 not resume the practice of medicine until enrollment or  
participation in the outstanding portions of the clinical competence assessment  
program have been completed. If Respondent did not successfully complete the  
clinical competence assessment program, Respondent shall not resume the practice  
of medicine until a final decision has been rendered on the accusation and/or a  
petition to revoke probation. The cessation of practice shall not apply to the  
reduction of the probationary time period.

1 13. At all times after the effective date of the Decision in Case No. 800-2021-084122,  
2 Probation Condition 10 stated:

3 BIOLOGICAL FLUID TESTING. Respondent shall immediately submit to  
4 biological fluid testing, at Respondent's expense, upon request of the Board or its  
5 designee. "Biological fluid testing" may include, but is not limited to, urine,  
6 blood, breathalyzer, hair follicle testing, or similar drug screening approved by the  
7 Board or its designee. Respondent shall make daily contact with the Board or its  
8 designee to determine whether biological fluid testing is required. Respondent  
9 shall be tested on the date of the notification as directed by the Board or its  
10 designee. The Board may order a Respondent to undergo a biological fluid test on  
11 any day, at any time, including weekends and holidays. Except when testing on a  
12 specific date as ordered by the Board or its designee, the scheduling of biological  
13 fluid testing shall be done on a random basis. The cost of biological fluid testing  
14 shall be borne by Respondent.

15 During the first year of probation, Respondent shall be subject to 52 to 104  
16 random tests. During the second year of probation and for the duration of the  
17 probationary term, up to five (5) years, Respondent shall be subject to 36 to 104  
18 random tests per year. Only if there has been no positive biological fluid tests in  
19 the previous five (5) consecutive years of probation, may testing be reduced to one  
20 (1) time per month. Nothing precludes the Board from increasing the number of  
21 random tests to the first-year level of frequency for any reason.

22 Prior to practicing medicine, Respondent shall contract with a laboratory or  
23 service, approved in advance by the Board or its designee, that will conduct  
24 random, unannounced, observed, biological fluid testing and meets all of the  
25 following standards:

26 (a) Its specimen collectors are either certified by the Drug and Alcohol  
27 Testing Industry Association or have completed the training required to serve as a  
28 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  
(1) business day of receipt and all specimens collected shall be handled pursuant to

1 chain of custody procedures. The laboratory shall process and analyze the  
2 specimens and provide legally defensible test results to the Board within seven (7)  
3 business days of receipt of the specimen. The Board will be notified of non-  
negative results within one (1) business day and will be notified of negative test  
results within seven (7) business days.

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

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

8 (i) It maintains testing sites located throughout California.

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

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

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

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

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

21 The contract shall require that the laboratory directly notify the Board or its  
22 designee of non-negative results within one (1) business day and negative test  
23 results within seven (7) business days of the results becoming available.  
Respondent shall maintain this laboratory or service contract during the period of  
probation.

24 A certified copy of any laboratory test result may be received in evidence in  
25 any proceedings between the Board and Respondent.

26 If a biological fluid test result indicates Respondent has used, consumed,  
27 ingested, or administered to himself or herself a prohibited substance, the Board  
28 shall order Respondent to cease practice and instruct Respondent to leave any  
place of work where Respondent is practicing medicine or providing medical

1 services. The Board shall immediately notify all of Respondent's employers,  
2 supervisors and work monitors, if any, that Respondent may not practice medicine  
or provide medical services while the cease-practice order is in effect.

3 A biological fluid test will not be considered negative if a positive result is  
4 obtained while practicing, even if the practitioner holds a valid prescription for the  
5 substance. If no prohibited substance use exists, the Board shall lift the cease-  
practice order within one (1) business day.

6 After the issuance of a cease-practice order, the Board shall determine  
7 whether the positive biological fluid test is in fact evidence of prohibited substance  
8 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.

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

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

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

19 14. At all times after the effective date of the Decision in Case No. 800-2021-084122,  
20 Probation Condition 17 stated:

21 **VIOLATION OF PROBATION CONDITION FOR SUBSTANCE**  
22 **ABUSING LICENSEES.** Failure to fully comply with any term or condition of  
probation is a violation of probation.

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

26 (1) Issue an immediate cease-practice order and order Respondent to  
27 undergo a clinical diagnostic evaluation to be conducted in accordance with  
28 section 1361.5, subdivision (c)(1), of Title 16 of the California Code of  
Regulations, at Respondent's expense. The cease-practice order issued by the  
Board or its designee shall state that Respondent must test negative for at least a

1 month of continuous biological fluid testing before being allowed to resume  
2 practice. For purposes of determining the length of time a Respondent must test  
3 negative while undergoing continuous biological fluid testing following issuance  
4 of a cease-practice order, a month is defined as thirty calendar (30) days.  
5 Respondent may not resume the practice of medicine until notified in writing by  
6 the Board or its designee that he or she may do so.

7 (2) Increase the frequency of biological fluid testing.

8 (3) Refer Respondent for further disciplinary action, such as suspension,  
9 revocation, or other action as determined by the Board or its designee.

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

13 (1) Issue a cease-practice order;

14 (2) Order practice limitations;

15 (3) Order or increase supervision of Respondent;

16 (4) Order increased documentation;

17 (5) Issue a citation and fine, or a warning letter;

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

21 (7) Take any other action as determined by the Board or its designee.

22 C. Nothing in this Decision shall be considered a limitation on the Board's  
23 authority to revoke Respondent's probation if he or she has violated any term or  
24 condition of probation. If Respondent violates probation in any respect, the Board,  
25 after giving Respondent notice and the opportunity to be heard, may revoke  
26 probation and carry out the disciplinary order that was stayed. If an Accusation, or  
27 Petition to Revoke Probation, or an Interim Suspension Order is filed against  
28 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. At all times after the effective date of the Decision in Case No. 800-2021-084122,  
Probation Condition 20 stated:

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.

1       16. At all times after the effective date of the Decision in Case No. 800-2021-084122,  
2 Probation Condition 22 stated:

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

6               Respondent shall submit quarterly declarations not later than ten (10)  
7 calendar days after the end of the preceding quarter.

8               **FIRST CAUSE TO REVOKE PROBATION**

9               **(Failure to Comply with Probation Condition 8 - Professionalism Program (Ethics Course))**

10       17. Respondent's probation is subject to revocation because he failed to comply with  
11 Probation Condition 8, referenced above. The facts and circumstances regarding this violation  
12 are as follows:

13       18. On January 14, 2025, Respondent received a copy of the Decision in Case No. 800-  
14 2021-084122, extending his probation duration to a total of 13 years, with full explanation of his  
15 probation conditions, including but not limited to participating in and successfully completing the  
16 Professionalism Program (Ethics Course), including the completion of the classroom component  
17 of the program not later than six months after his initial enrollment, and the longitudinal  
18 component of the program not later than the time specified by the program, but no later than one  
19 (1) year after attending the classroom component.

20       19. On January 14, 2025, Respondent signed an "Acknowledgement of Decision" and  
21 Tracking Due Dates Form.

22       20. Respondent completed the classroom component of the Professionalism Program  
23 (Ethics Course) course on September 6-7, 2025. The six-month follow-up for the course was due  
24 in February 2026.

25       21. On May 7, 2026, Respondent was sent a non-compliance letter for failing to provide  
26 proof of compliance of his completion of the Professionalism Program (Ethics Course).

27       22. Respondent attended the six-month follow-up for the course on May 18, 2026.  
28 Respondent failed to timely submit the letter of participation.

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23. Respondent violated probation by failing to timely complete and submit proof of completion of the six-month ethics course component, in violation of Probation Condition 8.

**SECOND CAUSE TO REVOKE PROBATION**

**(Failure to Comply with Probation Condition 9 –  
Clinical Competence Assessment Program)**

24. Respondent's probation is subject to revocation because he failed to comply with Probation Condition 9, referenced above. The facts and circumstances regarding this violation are as follows:

25. On January 14, 2025, Respondent received a copy of the Decision in Case No. 800-2021-084122, extending his probation duration to a total of 13 years, with full explanation of his probation conditions, including but not limited to enrolling in a clinical competence assessment program and successfully completing the program no later than six months after his initial enrollment. That same day, Respondent signed an "Acknowledgement of Decision" and Tracking Due Dates Form.

26. Respondent initially enrolled in the clinical competence assessment program on August 29, 2025.

27. On May 7, 2026, Respondent was sent a non-compliance letter for failing to complete the clinical competence assessment program no later than six months after his initial enrollment.

28. As of September 1, 2026, Respondent had failed to timely submit his patient charts to the program as part of his enrollment.

29. Respondent violated Probation Condition 9 by failing to timely submit patient charts to the UCSD PACE Program to ensure completion of his Clinical Competence Assessment within six months after his initial enrollment on August 29, 2025.

**THIRD CAUSE TO REVOKE PROBATION**

**(Failure to Comply with Probation Condition 10 - Biological Fluid Testing)**

30. Respondent's probation is subject to revocation because he failed to comply with Probation Condition 10, referenced above. The facts and circumstances regarding this violation are as follows:

1           31. On January 14, 2025, Respondent received a copy of the Decision in Case No. 800-  
2 2021-084122, extending his probation duration to a total of 13 years, with full explanation of his  
3 probation conditions, including but not limited to enrolling and participating in FirstSource  
4 Solutions (now RecoveryTrek) biological fluid testing and needing to check their system daily to  
5 determine if testing is required for that day. That same day, Respondent signed an  
6 "Acknowledgement of Decision" indicating that he understood the Biological Fluid Testing  
7 condition.

8           32. On December 1, 2025, Respondent was selected to provide a biological fluid sample.  
9 Respondent failed to check in with RecoveryTrek during program hours and failed to provide a  
10 sample when selected. Respondent was referred to citation and fine for the violations.

11           33. On December 8, 2025, Respondent was sent a letter by Enforcement Analyst J.S.,  
12 requesting an explanation for the missed test. On December 10, 2025, Respondent emailed  
13 Enforcement Analyst J.S., stating that he did not submit a sample on December 1, 2025, because  
14 he was unaware that he was selected to submit a sample.

15           34. On January 26, 2026, and January 30, 2026, Respondent failed to check in with  
16 RecoveryTrek during program hours.

17           35. On February 4, 2026, a non-compliance letter was issued for failing to check in with  
18 RecoveryTrek during program hours on January 26, 2026, and January 30, 2026.

19           36. On February 5, 2026, and February 16, 2026, Respondent failed to check in with  
20 RecoveryTrek during program hours.

21           37. On March 6, 2026, and March 10, 2026, Respondent failed to check-in with  
22 RecoveryTrek during program hours.

23           38. On March 11, 2026, a non-compliance letter was issued to Respondent for failing to  
24 check-in with RecoveryTrek during program hours on March 6, 2026, and March 10, 2026.

25           39. On March 30, 2026, Respondent failed to check-in with RecoveryTrek during  
26 program hours.

27           40. On April 1, 2026, Respondent emailed Enforcement Analyst J.S. and Probation  
28 Inspector T.S. after business hours, stating he decided at the last minute to travel internationally

1 to Canada.

2 41. On April 2, 2026, Respondent was selected to provide a biological fluid sample.  
3 Respondent failed to provide a sample when selected.

4 42. On April 6, 2026, Respondent emailed Enforcement Analyst J.S. and Probation  
5 Inspector T.S. confirming that he did not provide a sample on April 2, 2026, and requesting a  
6 make-up test be scheduled. Enforcement Analyst J.S. replied, via email, stating that Respondent  
7 is required to submit to testing on the date selected, and failure to do so is a violation of  
8 probation.

9 43. On May 1, 2026, an administrative citation was issued to Respondent for violating  
10 Condition Nos. 5 and 18 in the Decision placing him on probation (800-2016-020767) by:

- 11 a. Failing to check in with RecoveryTrek during program hours on December 1,  
12 2025, January 26, 2026, January 30, 2026, February 5, 2026, and February 16,  
13 2026.  
14 b. Failing to provide a biological fluid sample when selected on December 1, 2025.

15 44. Respondent violated probation by failing to check in with RecoveryTrek daily and  
16 failing to submit to biological fluid testing when selected. Respondent failed to check in with  
17 RecoveryTrek during program hours on December 7, 2025, January 26, 2026, January 30, 2026,  
18 February 5, 2026, February 16, 2026, March 6, 2026, March 10, 2026, and March 30, 2026.

19 45. On December 1, 2025, and April 2, 2026, Respondent failed to submit a biological  
20 fluid sample when selected.

21 46. Respondent committed a major violation of probation by failing to undergo biological  
22 fluid testing when ordered, in violation of Probation Condition 10.

23 **FOURTH CAUSE TO REVOKE PROBATION**

24 **(Failure to Comply with Probation Condition 22 - Quarterly Declarations)**

25 47. Respondent's probation is subject to revocation because he failed to comply with  
26 Probation Condition 22, referenced above. The facts and circumstances regarding this violation  
27 are as follows:

28 48. On January 14, 2025, Respondent received a copy of the Decision in Case No. 800-

2021-084122, extending his probation duration to a total of 13 years, with full explanation of his probation conditions, including but not limited to submitting quarterly declarations under penalty of perjury no later than ten calendar days after the end of the preceding quarter. That same day, Respondent signed an "Acknowledgement of Decision," a Tracking Due Dates Form, and a Quarterly Declaration Due Dates Form. The Quarterly Declaration Due Dates Form sets forth that Quarter I Declarations are due no later than April 10; Quarter II Declarations are due no later than July 10; Quarter III Declarations are due no later than October 10; and Quarter IV Declarations are due no later than January 10. The form further sets forth "[f]ailure to comply with the reporting requirements is a **violation of probation and grounds for administrative action to revoke probation** and carry out the Decision that was stayed. [emphasis in original.]"

49. On August 18, 2025, Respondent was sent a non-compliance letter for failing to submit Quarter I 2025 and Quarter II 2025 Declarations. Both Quarterly Declarations were received untimely on August 21, 2025.

50. Respondent's Quarter III 2025 Declaration was due by October 10, 2025, and untimely received by the Board on December 22, 2025. Respondent's Quarter IV 2025 Declaration was due by January 10, 2026, and untimely received by the Board on March 11, 2026. Respondent's Quarter I 2026 Declaration was due by April 10, 2026, and untimely received by the Board on May 28, 2026.

51. On August 31, 2026, Respondent was sent a non-compliance letter for failing to submit his Quarter II 2026 Declaration.

52. Respondent violated Probation Condition 22 by failing to timely submit his Quarter I 2025, Quarter II 2025, Quarter III 2025, Quarter IV 2025, Quarter I 2026, and Quarter II 2026 Declarations by their due dates.

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1 **FIFTH CAUSE TO REVOKE PROBATION**

2 **(Failure to Comply with Probation Condition 17 - Violation of**  
3 **Probation for Substance Abusing Licensees)**

4 53. Respondent's probation is subject to revocation because he failed to comply with  
5 Probation Condition 17, referenced above. The facts and circumstances regarding this violation  
6 are as follows:

7 54. The allegations of the Third Cause to Revoke Probation, inclusive, are incorporated  
8 herein by reference as if fully set forth.

9 **SIXTH CAUSE TO REVOKE PROBATION**

10 **(Failure to Comply with Probation Condition 20 - Obey All Laws)**

11 55. Respondent's probation is subject to revocation because he failed to comply with  
12 Probation Condition 20, in that he failed to obey all laws. The facts and circumstances regarding  
13 this violation are as follows:

14 56. The allegations of the First, Second, Third, Fourth, and Fifth Causes to Revoke  
15 Probation, inclusive, are incorporated herein by reference as if fully set forth.

16 **PRAYER**

17 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
18 and that following the hearing, the Medical Board of California issue a decision:

19 1. Revoking the probation that was granted by the Medical Board of California in Case  
20 No. 800-2021-084122 and imposing the disciplinary order that was stayed thereby revoking  
21 Physician's and Surgeon's Certificate No. A 113632 issued to Respondent Ryan Matthew Spivak,  
22 M.D.;

23 2. Revoking or suspending Physician's and Surgeon's Certificate No. A 113632, issued  
24 to Respondent Ryan Matthew Spivak, M.D.;

25 3. Revoking, suspending or denying approval of Respondent Ryan Matthew Spivak,  
26 M.D.'s authority to supervise physician assistants and advanced practice nurses; and

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

DATED: OCT 13 2026

Jason Pritchard for  
REJI VARGHESE  
Executive Director  
Medical Board of California  
Department of Consumer Affairs  
State of California  
Complainant

LA2025604408

Exhibit A

Decision *In the Matter of the Accusation against Ryan Matthew Spivak, M.D.*

Case No. 800-2016-020767

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

**In the Matter of the Accusation  
Against:**

**Ryan Matthew Spivak, M.D.**

**Physician's and Surgeon's  
Certificate No. A 113632**

**Respondent**

**Case No. 800-2016-020767**

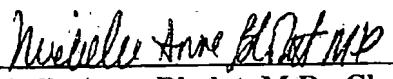
**DECISION**

**The attached Stipulated Settlement and Disciplinary Order 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 30, 2017.**

**IT IS SO ORDERED: May 31, 2017.**

**MEDICAL BOARD OF CALIFORNIA**

  
\_\_\_\_\_  
**Michelle Anne Bholat, M.D., Chair  
Panel B**

1 XAVIER BECERRA  
Attorney General of California  
2 ROBERT MCKIM BELL  
Supervising Deputy Attorney General  
3 REBECCA L. SMITH  
Deputy Attorney General  
4 State Bar No. 179733  
California Department of Justice  
5 300 South Spring Street, Suite 1702  
Los Angeles, California 90013  
6 Telephone: (213) 897-2655  
Facsimile: (213) 897-9395  
7 *Attorneys for Complainant*

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

11 In the Matter of the Accusation Against:

Case No. 800-2016-020767

12 RYAN MATTHEW SPIVAK, M.D.  
2200 West Third Street, Suite 120A  
13 Los Angeles, California 90057

OAH No. 2016100666

14 Physician's and Surgeon's Certificate  
No. A113632,

**STIPULATED SETTLEMENT AND  
DISCIPLINARY ORDER**

15  
16 Respondent.

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

20 PARTIES

21 1. Kimberly Kirchmeyer (Complainant) is the Executive Director of the Medical Board  
22 of California (Board). She brought this action solely in her official capacity and is represented in  
23 this matter by Xavier Becerra, Attorney General of the State of California, by Rebecca L. Smith,  
24 Deputy Attorney General.

25 2. Ryan Matthew Spivak, M.D. (Respondent) is represented in this proceeding by  
26 attorney Sara Hersh, whose address is 11835 West Olympic Blvd., Suite 900, Los Angeles,  
27 California 90064.

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3. On or about August 11, 2010, the Board issued Physician's and Surgeon's Certificate No. A113632 to Respondent. That license was in full force and effect at all times relevant to the charges brought in Accusation No. 800-2016-020767, and will expire on August 31, 2018, unless renewed.

## JURISDICTION

4. Accusation No. 800-2016-020767 was filed before the Board, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on September 29, 2016. Respondent timely filed his Notice of Defense contesting the Accusation.

5. A copy of Accusation No. 800-2016-020767 is attached as Exhibit A and incorporated herein by reference.

## ADVISEMENT AND WAIVERS

6. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 800-2016-020767. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

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

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

## CULPABILITY

9. Respondent understands and agrees that the charges and allegations in Accusation No. 800-2016-020767, if proven at a hearing, constitute cause for imposing discipline upon his Physician's and Surgeon's Certificate.

10. For the purpose of resolving the Accusation without the expense and uncertainty of further proceedings, Respondent agrees that, at a hearing, Complainant could establish a factual basis for the charges in the Accusation, and that Respondent hereby gives up his right to contest those charges.

11. Respondent agrees that his Physician's and Surgeon's Certificate is subject to discipline and he agrees to be bound by the Board's imposition of discipline as set forth in the Disciplinary Order below.

## CONTINGENCY

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

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

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

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1 following factors: Respondent's license type; Respondent's history; Respondent's documented  
2 length of sobriety (i.e., length of time that has elapsed since Respondent's last substance use);  
3 Respondent's scope and pattern of substance abuse; Respondent's treatment history, medical  
4 history and current medical condition; the nature, duration and severity of Respondent's  
5 substance abuse problem or problems; and whether Respondent is a threat to himself or the  
6 public.

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

12 The Board shall review the clinical diagnostic evaluation report within five (5) business  
13 days of receipt to determine whether Respondent is safe to return to either part-time or full-time  
14 practice and what restrictions or recommendations shall be imposed on Respondent based on the  
15 recommendations made by the evaluator. Respondent shall not be returned to practice until he  
16 has at least thirty (30) days of negative biological fluid tests or biological fluid tests indicating  
17 that he has not used, consumed, ingested, or administered to himself a prohibited substance, as  
18 defined in section 1361.51, subdivision (e), of Title 16 of the California Code of Regulations.

19 Clinical diagnostic evaluations conducted prior to the effective date of this Decision shall  
20 not be accepted towards the fulfillment of this requirement. The cost of the clinical diagnostic  
21 evaluation, including any and all testing deemed necessary by the examiner, the Board or its  
22 designee, shall be borne by the licensee.

23 Respondent shall not engage in the practice of medicine until notified by the Board or its  
24 designee that he is fit to practice medicine safely. The period of time that Respondent is not  
25 practicing medicine shall not be counted toward completion of the term of probation. Respondent  
26 shall undergo biological fluid testing as required in this Decision at least two (2) times per week  
27 while awaiting the notification from the Board if he is fit to practice medicine safely.

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1 Respondent shall comply with all restrictions or conditions recommended by the examiner  
2 conducting the clinical diagnostic evaluation within fifteen (15) calendar days after being notified  
3 by the Board or its designee.

4 2. CONTROLLED SUBSTANCES - PARTIAL RESTRICTION. Respondent shall not  
5 order, prescribe, dispense, administer, furnish, or possess any controlled substances as defined by  
6 the California Uniform Controlled Substances Act, except in the perioperative setting when  
7 Respondent is acting as surgeon where the patient will only use such controlled substances at the  
8 location of the procedure (i.e., the foregoing exception shall not apply to any controlled  
9 substances that are used outside of such perioperative setting). Perioperative setting is defined as  
10 immediately prior to surgery, during surgery or immediately after surgery.

11 Respondent shall not issue an oral or written recommendation or approval to a patient or a  
12 patient's primary caregiver for the possession or cultivation of marijuana for the personal medical  
13 purposes of the patient within the meaning of Health and Safety Code section 11362.5. If  
14 Respondent forms the medical opinion, after an appropriate prior examination and medical  
15 indication, that a patient's medical condition may benefit from the use of marijuana, Respondent  
16 shall so inform the patient and shall refer the patient to another physician who, following an  
17 appropriate prior examination and medical indication, may independently issue a medically  
18 appropriate recommendation or approval for the possession or cultivation of marijuana for the  
19 personal medical purposes of the patient within the meaning of Health and Safety Code section  
20 11362.5. In addition, Respondent shall inform the patient or the patient's primary caregiver that  
21 Respondent is prohibited from issuing a recommendation or approval for the possession or  
22 cultivation of marijuana for the personal medical purposes of the patient and that the patient or  
23 the patient's primary caregiver may not rely on Respondent's statements to legally possess or  
24 cultivate marijuana for the personal medical purposes of the patient. Respondent shall fully  
25 document in the patient's chart that the patient or the patient's primary caregiver was so  
26 informed. Nothing in this condition prohibits Respondent from providing the patient or the  
27 patient's primary caregiver information about the possible medical benefits resulting from the use  
28 of marijuana.

1 Throughout his term of probation, Respondent shall provide to his practice monitor, as  
2 described below: (a) copies of all records of controlled substances ordered, prescribed, dispensed,  
3 administered, or possessed by Respondent (collectively, the "CS Records"); and (b) copies of his  
4 surgery records, including drug logs, for each patient that he provides care to in the perioperative  
5 setting (collectively, the "Surgery Records"). Perioperative setting is defined as immediately  
6 prior to surgery, during surgery or immediately after surgery.

7 3. CONTROLLED SUBSTANCES- MAINTAIN RECORDS AND ACCESS TO  
8 RECORDS AND INVENTORIES. Respondent shall maintain a record of all controlled  
9 substances ordered, prescribed, dispensed, administered, or possessed by Respondent, and any  
10 recommendation or approval which enables a patient or patient's primary caregiver to possess or  
11 cultivate marijuana for the personal medical purposes of the patient within the meaning of Health  
12 and Safety Code section 11362.5, during probation, showing all the following: 1) the name and  
13 address of patient; 2) the date; 3) the character and quantity of controlled substances involved;  
14 and 4) the indications and diagnosis for which the controlled substances were furnished.

15 Respondent shall keep these records in a separate file or ledger, in chronological order. All  
16 records and any inventories of controlled substances shall be available for immediate inspection  
17 and copying on the premises by the Board or its designee at all times during business hours and  
18 shall be retained for the entire term of probation.

19 4. CONTROLLED SUBSTANCES - ABSTAIN FROM USE. Respondent shall abstain  
20 completely from the personal use or possession of controlled substances as defined in the  
21 California Uniform Controlled Substances Act, dangerous drugs as defined by Business and  
22 Professions Code section 4022, and any drugs requiring a prescription. This prohibition does not  
23 apply to medications lawfully prescribed to Respondent by another practitioner for a bona fide  
24 illness or condition.

25 Within fifteen (15) calendar days of receiving any lawfully prescribed medications,  
26 Respondent shall notify the Board or its designee of the: issuing practitioner's name, address, and  
27 telephone number; medication name, strength, and quantity; and issuing pharmacy name, address,  
28 and telephone number.

1 If Respondent has a confirmed positive biological fluid test for any substance (whether or  
2 not legally prescribed) and has not reported the use to the Board or its designee, Respondent  
3 shall receive a notification from the Board or its designee to immediately cease the practice of  
4 medicine. Respondent shall not resume the practice of medicine until the final decision on an  
5 accusation and/or a petition to revoke probation is effective. An accusation and/or petition to  
6 revoke probation shall be filed by the Board within thirty (30) days of the notification to cease  
7 practice.

8 If Respondent requests a hearing on the accusation and/or petition to revoke probation, the  
9 Board shall provide Respondent with a hearing within thirty (30) days of the request, unless  
10 Respondent stipulates to a later hearing. If the case is heard by an Administrative Law Judge  
11 alone, he or she shall forward a Proposed Decision to the Board within fifteen (15) days of  
12 submission of the matter. Within fifteen (15) days of receipt by the Board of the Administrative  
13 Law Judge's proposed decision, the Board shall issue its Decision, unless good cause can be  
14 shown for the delay. If the case is heard by the Board, the Board shall issue its decision within  
15 fifteen (15) days of submission of the case, unless good cause can be shown for the delay. Good  
16 cause includes, but is not limited to, non-adoption of the proposed decision, request for  
17 reconsideration, remands and other interlocutory orders issued by the Board. The cessation of  
18 practice shall not apply to the reduction of the probationary time period.

19 If the Board does not file an accusation or petition to revoke probation within thirty (30)  
20 days of the issuance of the notification to cease practice or does not provide Respondent with a  
21 hearing within thirty (30) days of a such a request, the notification of cease practice shall be  
22 dissolved.

23 5. BIOLOGICAL FLUID TESTING. Respondent shall immediately submit to  
24 biological fluid testing, at Respondent's expense, upon request of the Board or its designee.  
25 "Biological fluid testing" may include, but is not limited to, urine, blood, breathalyzer, hair  
26 follicle testing, or similar drug screening approved by the Board or its designee. Respondent shall  
27 make daily contact with the Board or its designee to determine whether biological fluid testing is  
28 required. Respondent shall be tested on the date of the notification as directed by the Board or its

1 designee. The Board may order a Respondent to undergo a biological fluid test on any day, at  
2 any time, including weekends and holidays. Except when testing on a specific date as ordered by  
3 the Board or its designee, the scheduling of biological fluid testing shall be done on a random  
4 basis. The cost of biological fluid testing shall be borne by Respondent.

5 During the first year of probation, Respondent shall be subject to 52 to 104 random tests.  
6 During the second year of probation and for the duration of the probationary term, up to five (5)  
7 years, Respondent shall be subject to 36 to 104 random tests per year. Only if there has been no  
8 positive biological fluid tests in the previous five (5) consecutive years of probation, may testing  
9 be reduced to one (1) time per month. Nothing precludes the Board from increasing the number  
10 of random tests to the first-year level of frequency for any reason.

11 Prior to practicing medicine, Respondent shall contract with a laboratory or service,  
12 approved in advance by the Board or its designee, that will conduct random, unannounced,  
13 observed, biological fluid testing and meets all the following standards:

14 (a) Its specimen collectors are either certified by the Drug and Alcohol Testing Industry  
15 Association or have completed the training required to serve as a collector for the United  
16 States Department of Transportation.

17 (b) Its specimen collectors conform to the current United States Department of  
18 Transportation Specimen Collection Guidelines

19 (c) Its testing locations comply with the Urine Specimen Collection Guidelines published  
20 by the United States Department of Transportation without regard to the type of test  
21 administered.

22 (d) Its specimen collectors observe the collection of testing specimens.

23 (e) Its laboratories are certified and accredited by the United States Department of Health  
24 and Human Services.

25 (f) Its testing locations shall submit a specimen to a laboratory within one (1) business  
26 day of receipt and all specimens collected shall be handled pursuant to chain of custody  
27 procedures. The laboratory shall process and analyze the specimens and provide legally  
28 defensible test results to the Board within seven (7) business days of receipt of the

1 specimen. The Board will be notified of non-negative results within one (1) business day  
2 and will be notified of negative test results within seven (7) business days.

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

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

7 (i) It maintains testing sites located throughout California.

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

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

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

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

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

22 The contract shall require that the laboratory directly notify the Board or its designee of  
23 non-negative results within one (1) business day and negative test results within seven (7)  
24 business days of the results becoming available. Respondent shall maintain this laboratory or  
25 service contract during the period of probation.

26 A certified copy of any laboratory test result may be received in evidence in any  
27 proceedings between the Board and Respondent.

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1 If a biological fluid test result indicates Respondent has used, consumed, ingested, or  
2 administered to himself a prohibited substance, the Board shall order Respondent to cease  
3 practice and instruct Respondent to leave any place of work where Respondent is practicing  
4 medicine or providing medical services. The Board shall immediately notify all of Respondent's  
5 employers, supervisors and work monitors, if any, that Respondent may not practice medicine or  
6 provide medical services while the cease-practice order is in effect.

7 A biological fluid test will not be considered negative if a positive result is obtained while  
8 practicing, even if the practitioner holds a valid prescription for the substance. If no prohibited  
9 substance use exists, the Board shall lift the cease-practice order within one (1) business day.

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

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

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

20 If the Board confirms that a positive biological fluid test is evidence of use of a prohibited  
21 substance, Respondent has committed a major violation, as defined in section 1361.52(a), and the  
22 Board shall impose any or all of the consequences set forth in section 1361.52(b), in addition to  
23 any other terms or conditions the Board determines are necessary for public protection or to  
24 enhance Respondent's rehabilitation.

25 6. COMMUNITY SERVICE - FREE SERVICES. Within sixty (60) calendar days of  
26 the effective date of this Decision, Respondent shall submit to the Board or its designee for prior  
27 approval a community service plan in which Respondent shall within the first two (2) years of  
28 probation, provide forty (40) hours of free non-medical services to a community or non-profit

1 organization. Prior to engaging in any community service, Respondent shall provide a true copy  
2 of the Decision to the chief of staff, director, office manager, program manager, officer, or the  
3 chief executive officer at every community or non-profit organization where Respondent provides  
4 non-medical community service and shall submit proof of compliance to the Board or its designee  
5 within fifteen (15) calendar days. This condition shall also apply to any change(s) in community  
6 service.

7 Community service performed prior to the effective date of the Decision shall not be  
8 accepted in fulfillment of this condition.

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

19 8. PRESCRIBING PRACTICES COURSE. Within sixty (60) calendar days of the  
20 effective date of this Decision, Respondent shall enroll in a course in prescribing practices  
21 approved in advance by the Board or its designee. Respondent shall provide the approved course  
22 provider with any information and documents that the approved course provider may deem  
23 pertinent. Respondent shall participate in and successfully complete the classroom component of  
24 the course not later than six (6) months after Respondent's initial enrollment. Respondent shall  
25 successfully complete any other component of the course within one (1) year of enrollment. The  
26 prescribing practices course shall be at Respondent's expense and shall be in addition to the  
27 Continuing Medical Education (CME) requirements for renewal of licensure.

28 ///

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

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

9 9. MEDICAL RECORD KEEPING COURSE. Within sixty (60) calendar days of the  
10 effective date of this Decision, Respondent shall enroll in a course in medical record keeping  
11 approved in advance by the Board or its designee. Respondent shall provide the approved course  
12 provider with any information and documents that the approved course provider may deem  
13 pertinent. Respondent shall participate in and successfully complete the classroom component of  
14 the course not later than six (6) months after Respondent's initial enrollment. Respondent shall  
15 successfully complete any other component of the course within one (1) year of enrollment. The  
16 medical record keeping course shall be at Respondent's expense and shall be in addition to the  
17 Continuing Medical Education (CME) requirements for renewal of licensure.

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

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

26 10. PROFESSIONALISM PROGRAM (ETHICS COURSE). Within 60 calendar days of  
27 the effective date of this Decision, Respondent shall enroll in a professionalism program, that  
28 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  
2 provide any information and documents that the program may deem pertinent. Respondent shall  
3 successfully complete the classroom component of the program not later than six (6) months after  
4 Respondent's initial enrollment, and the longitudinal component of the program not later than the  
5 time specified by the program, but no later than one (1) year after attending the classroom  
6 component. The professionalism program shall be at Respondent's expense and shall be in  
7 addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

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

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

16 11. SUBSTANCE ABUSE SUPPORT GROUP MEETINGS. Within thirty (30) days of  
17 the effective date of this Decision, Respondent shall submit to the Board or its designee, for its  
18 prior approval, the name of a substance abuse support group which he shall attend for the duration  
19 of probation. Respondent shall attend substance abuse support group meetings at least once per  
20 week, or as ordered by the Board or its designee.

21 Respondent shall pay all substance abuse support group meeting costs.

22 The facilitator of the substance abuse support group meeting shall have a minimum of  
23 three (3) years' experience in the treatment and rehabilitation of substance abuse, and shall be  
24 licensed or certified by the state or nationally certified organizations. The facilitator shall not  
25 have a current or former financial, personal, or business relationship with Respondent within the  
26 last five (5) years. Respondent's previous participation in a substance abuse group support  
27 meeting led by the same facilitator does not constitute a prohibited current or former financial,  
28 personal, or business relationship.

1 The facilitator shall provide a signed document to the Board or its designee showing  
2 Respondent's name, the group name, the date and location of the meeting, Respondent's  
3 attendance and Respondent's level of participation and progress. The facilitator shall report any  
4 unexcused absence by Respondent from any substance abuse support group meeting to the Board,  
5 or its designee, within twenty-four (24) hours of the unexcused absence.

6 12. PSYCHOTHERAPY. Within sixty (60) calendar days of the effective date of this  
7 Decision, Respondent shall submit to the Board or its designee for prior approval the name and  
8 qualifications of a California-licensed board certified psychiatrist or a licensed psychologist who  
9 has a doctoral degree in psychology and at least five years of postgraduate experience in the  
10 diagnosis and treatment of emotional and mental disorders. Upon approval, Respondent shall  
11 undergo and continue psychotherapy treatment, including any modifications to the frequency of  
12 psychotherapy, until the Board or its designee deems that no further psychotherapy is necessary.

13 The psychotherapist shall consider any information provided by the Board or its designee  
14 and any other information the psychotherapist deems relevant and shall furnish a written  
15 evaluation report to the Board or its designee. Respondent shall cooperate in providing the  
16 psychotherapist any information and documents that the psychotherapist may deem pertinent.

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

24 Respondent shall pay the cost of all psychotherapy and psychiatric evaluations.

25 13. MEDICAL EVALUATION AND TREATMENT. Within thirty (30) calendar days  
26 of the effective date of this Decision, and on a periodic basis thereafter as may be required by the  
27 Board or its designee, Respondent shall undergo a medical evaluation by a Board-appointed  
28 physician who shall consider any information provided by the Board or designee and any other

1 information the evaluating physician deems relevant and shall furnish a medical report to the  
2 Board or its designee. Respondent shall provide the evaluating physician any information and  
3 documentation that the evaluating physician may deem pertinent.

4 Following the evaluation, Respondent shall comply with all restrictions or conditions  
5 recommended by the evaluating physician within fifteen (15) calendar days after being notified  
6 by the Board or its designee. If Respondent is required by the Board or its designee to undergo  
7 medical treatment, Respondent shall within thirty (30) calendar days of the requirement notice,  
8 submit to the Board or its designee for prior approval the name and qualifications of a California  
9 licensed treating physician of Respondent's choice. Upon approval of the treating physician,  
10 Respondent shall within fifteen (15) calendar days undertake medical treatment and shall  
11 continue such treatment until further notice from the Board or its designee.

12 The treating physician shall consider any information provided by the Board or its designee  
13 or any other information the treating physician may deem pertinent prior to commencement of  
14 treatment. Respondent shall have the treating physician submit quarterly reports to the Board or  
15 its designee indicating whether or not Respondent is capable of practicing medicine safely.  
16 Respondent shall provide the Board or its designee with any and all medical records pertaining to  
17 treatment, the Board or its designee deems necessary.

18 If, prior to the completion of probation, Respondent is found to be physically incapable of  
19 resuming the practice of medicine without restrictions, the Board shall retain continuing  
20 jurisdiction over Respondent's license and the period of probation shall be extended until the  
21 Board determines that Respondent is physically capable of resuming the practice of medicine  
22 without restrictions. Respondent shall pay the cost of the medical evaluation(s) and treatment.

23 14. MONITORING - PRACTICE. Within thirty (30) calendar days of the effective date  
24 of this Decision, Respondent shall submit to the Board or its designee for prior approval as a  
25 practice monitor, the name and qualifications of one or more licensed physicians and surgeons  
26 whose licenses are valid and in good standing, and who are preferably American Board of  
27 Medical Specialties (ABMS) certified. A monitor shall have no prior or current business or  
28 personal relationship with Respondent, or other relationship that could reasonably be expected to

1 compromise the ability of the monitor to render fair and unbiased reports to the Board, including  
2 but not limited to any form of bartering, shall be in Respondent's field of practice, and must agree  
3 to serve as Respondent's monitor. Respondent shall pay all monitoring costs.

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

11 Within sixty (60) calendar days of the effective date of this Decision, and continuing  
12 throughout probation, Respondent's practice shall be monitored by the approved monitor.  
13 Respondent shall make all records available for immediate inspection and copying on the  
14 premises by the monitor at all times during business hours and shall retain the records for the  
15 entire term of probation.

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

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

27 If the monitor resigns or is no longer available, Respondent shall, within five (5) calendar  
28 days of such resignation or unavailability, submit to the Board or its designee, for prior approval,

1 the name and qualifications of a replacement monitor who will be assuming that responsibility  
2 within fifteen (15) calendar days. If Respondent fails to obtain approval of a replacement monitor  
3 within sixty (60) calendar days of the resignation or unavailability of the monitor, Respondent  
4 shall receive a notification from the Board or its designee to cease the practice of medicine within  
5 three (3) calendar days after being so notified Respondent shall cease the practice of medicine  
6 until a replacement monitor is approved and assumes monitoring responsibility.

7 In lieu of a monitor, Respondent may participate in a professional enhancement program  
8 approved in advance by the Board or its designee, that includes, at minimum, quarterly chart  
9 review, semi-annual practice assessment, and semi-annual review of professional growth and  
10 education. Respondent shall participate in the professional enhancement program at Respondent's  
11 expense during the term of probation.

12 15. MONITORING – WORK SITE MONITOR. Within thirty (30) calendar days of the  
13 effective date of this Decision, Respondent shall submit to the Board or its designee for prior  
14 approval as a worksite monitor, the name and qualifications of one or more licensed physician  
15 and surgeon, other licensed health care professional if no physician and surgeon is available, or,  
16 as approved by the Board or its designee, a person in a position of authority who is capable of  
17 monitoring Respondent at work.

18 The worksite monitor shall not have a current or former financial, personal, or familial  
19 relationship with Respondent, or any other relationship that could reasonably be expected to  
20 compromise the ability of the monitor to render impartial and unbiased reports to the Board or its  
21 designee. If it is impractical for anyone but Respondent's employer to serve as the worksite  
22 monitor, this requirement may be waived by the Board or its designee, however, under no  
23 circumstances shall Respondent's worksite monitor be an employee or supervisee of the licensee.

24 The worksite monitor shall have an active unrestricted license with no disciplinary action  
25 within the last five (5) years, and shall sign an affirmation that he or she has reviewed the terms  
26 and conditions of Respondent's disciplinary order and agrees to monitor Respondent as set forth  
27 by the Board or its designee. Respondent shall pay all worksite monitoring costs. The worksite  
28 monitor shall have face-to-face contact with Respondent in the work environment on as frequent

1 a basis as determined by the Board or its designee, but not less than once per week; interview  
2 other staff in the office regarding Respondent's behavior, if requested by the Board or its  
3 designee; and review Respondent's work attendance. The worksite monitor shall verbally report  
4 any suspected substance abuse to the Board and Respondent's employer or supervisor within one  
5 (1) business day of occurrence. If the suspected substance abuse does not occur during the  
6 Board's normal business hours, the verbal report shall be made to the Board or its designee within  
7 one (1) hour of the next business day. A written report that includes the date, time, and location  
8 of the suspected abuse; Respondent's actions; and any other information deemed important by the  
9 worksite monitor shall be submitted to the Board or its designee within forty-eight (48) hours of  
10 the occurrence.

11 The worksite monitor shall complete and submit a written report monthly or as directed by  
12 the Board or its designee which shall include the following: (1) Respondent's name and  
13 Physician's and Surgeon's Certificate number; (2) the worksite monitor's name and signature; (3)  
14 the worksite monitor's license number, if applicable; (4) the location or location(s) of the  
15 worksite; (5) the dates Respondent had face-to-face contact with the worksite monitor; (6) the  
16 names of worksite staff interviewed, if applicable; (7) a report of Respondent's work attendance;  
17 (8) any change in Respondent's behavior and/or personal habits; and (9) any indicators that can  
18 lead to suspected substance abuse by Respondent. Respondent shall complete any required  
19 consent forms and execute agreements with the approved worksite monitor and the Board, or its  
20 designee, authorizing the Board, or its designee, and worksite monitor to exchange information.  
21 If the worksite monitor resigns or is no longer available, Respondent shall, within five (5)  
22 calendar days of such resignation or unavailability, submit to the Board or its designee, for prior  
23 approval, the name and qualifications of a replacement monitor who will be assuming that  
24 responsibility within fifteen (15) calendar days. If Respondent fails to obtain approval of a  
25 replacement monitor within sixty (60) calendar days of the resignation or unavailability of the  
26 monitor, Respondent shall receive a notification from the Board or its designee to cease the  
27 practice of medicine within three (3) calendar days after being so notified. Respondent shall

28 ///

1 cease the practice of medicine until a replacement monitor is approved and assumes monitoring  
2 responsibility.

3 16. SOLO PRACTICE PROHIBITION. Respondent is prohibited from engaging in the  
4 solo practice of medicine. Prohibited solo practice includes, but is not limited to, a practice  
5 where: 1) Respondent merely shares office space with another physician but is not affiliated for  
6 purposes of providing patient care, or 2) Respondent is the sole physician practitioner at that  
7 location.

8 If Respondent fails to establish a practice with another physician or secure employment in  
9 an appropriate practice setting within sixty (60) calendar days of the effective date of this  
10 Decision, Respondent shall receive a notification from the Board or its designee to cease the  
11 practice of medicine within three (3) calendar days after being so notified. Respondent shall not  
12 resume practice until an appropriate practice setting is established.

13 If, during the course of the probation, Respondent's practice setting changes and  
14 Respondent is no longer practicing in a setting in compliance with this Decision, Respondent  
15 shall notify the Board or its designee within five (5) calendar days of the practice setting change.  
16 If Respondent fails to establish a practice with another physician or secure employment in an  
17 appropriate practice setting within sixty (60) calendar days of the practice setting change,  
18 Respondent shall receive a notification from the Board or its designee to cease the practice of  
19 medicine within three (3) calendar days after being so notified. Respondent shall not resume  
20 practice until an appropriate practice setting is established.

21 17. NOTICE OF EMPLOYER OR SUPERVISOR INFORMATION. Within seven (7)  
22 days of the effective date of this Decision, Respondent shall provide to the Board the names,  
23 physical addresses, mailing addresses, and telephone numbers of any and all employers and  
24 supervisors. Respondent shall also provide specific, written consent for the Board, Respondent's  
25 worksite monitor, and Respondent's employers and supervisors to communicate regarding  
26 Respondent's work status, performance, and monitoring.

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1 For purposes of this section, "supervisors" shall include the Chief of Staff and Health or  
2 Well Being Committee Chair, or equivalent, if applicable, when Respondent has medical staff  
3 privileges.

4 18. VIOLATION OF PROBATION CONDITION FOR SUBSTANCE-ABUSING  
5 LICENSEES. Failure to fully comply with any term or condition of probation is a violation of  
6 probation.

7 A. If Respondent commits a major violation of probation as defined by section  
8 1361.52, subdivision (a), of Title 16 of the California Code of Regulations, the Board shall take  
9 one or more of the following actions:

10 (1) Issue an immediate cease-practice order and order Respondent to undergo a  
11 clinical Diagnostic evaluation to be conducted in accordance with section 1361.5, subdivision  
12 (c)(1), of Title 16 of the California Code of Regulations, at Respondent's expense. The cease-  
13 practice order issued by the Board or its designee shall state that Respondent must test negative  
14 for at least a month of continuous biological fluid testing before being allowed to resume practice.  
15 For purposes of the determining the length of time a Respondent must test negative while  
16 undergoing continuous biological fluid testing following issuance of a cease-practice order, a  
17 month is defined as thirty (30) calendar days. Respondent may not resume the practice of  
18 medicine until notified in writing by the Board or its designee that he may do so.

19 (2) Increase the frequency of biological fluid testing.

20 (3) Refer Respondent for further disciplinary action, such as suspension,  
21 revocation, or other action as determined by the Board or its designee. (Cal. Code Regs., tit. 16, §  
22 1361.52, subd. (b).)

23 B. If Respondent commits a minor violation of probation as defined by section  
24 1361.52, subdivision (c), of Title 16 of the California Code of Regulations, the Board shall take  
25 one or more of the following actions:

26 (1) Issue a cease-practice order;

27 (2) Order practice limitations;

28 (3) Order or increase supervision of Respondent;

- 1 (4) Order increased documentation;  
2 (5) Issue a citation and fine, or a warning letter;  
3 (6) Order Respondent to undergo a clinical diagnostic evaluation to be  
4 conducted in accordance with section 1361.5, subdivision (c)(1), of Title 16 of the California  
5 Code of Regulations, at Respondent's expense;

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

8 C. Nothing in this Decision shall be considered a limitation on the Board's authority  
9 to revoke Respondent's probation if he has violated any term or condition of probation. (See Cal.  
10 Code Regs., tit. 16, § 1361.52, subd. (e).) If Respondent violates probation in any respect, the  
11 Board, after giving Respondent notice and the opportunity to be heard, may revoke probation and  
12 carry out the disciplinary order that was stayed. If an Accusation, or Petition to Revoke  
13 Probation, or an Interim Suspension Order is filed against Respondent during probation, the  
14 Board shall have continuing jurisdiction until the matter is final, and the period of probation shall  
15 be extended until the matter is final.

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

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

25 20. SUPERVISION OF PHYSICIAN ASSISTANTS AND ADVANCED PRACTICE  
26 NURSES. During probation, Respondent is prohibited from supervising physician assistants and  
27 advanced practice nurses.

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

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

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

9       23. GENERAL PROBATION REQUIREMENTS.

10       Compliance with Probation Unit

11       Respondent shall comply with the Board's probation unit.

12       Address Changes

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

18       Place of Practice

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

22       License Renewal

23       Respondent shall maintain a current and renewed California physician's and surgeon's  
24 license.

25       Travel or Residence Outside California

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

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

4 24. INTERVIEW WITH THE BOARD OR ITS DESIGNEE. Respondent shall be  
5 available in person upon request for interviews either at Respondent's place of business or at the  
6 probation unit office, with or without prior notice throughout the term of probation.

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

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

27 Respondent's period of non-practice while on probation shall not exceed two (2) years.  
28 Periods of non-practice will not apply to the reduction of the probationary term.

1       Periods of non-practice for a Respondent residing outside of California, will relieve  
2 Respondent of the responsibility to comply with the probationary terms and conditions with the  
3 exception of this condition and the following terms and conditions of probation: Obey All Laws;  
4 General Probation Requirements; Quarterly Declarations; Abstain from the Use of Alcohol and/or  
5 Controlled Substances; and Biological Fluid Testing.

6       26. COMPLETION OF PROBATION. Respondent shall comply with all financial  
7 obligations (e.g., restitution, probation costs) not later than one hundred twenty (120) calendar  
8 days prior to the completion of probation. Upon successful completion of probation,  
9 Respondent's certificate shall be fully restored.

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

17       28. LICENSE SURRENDER. Following the effective date of this Decision, if  
18 Respondent ceases practicing due to retirement or health reasons or is otherwise unable to satisfy  
19 the terms and conditions of probation, Respondent may request to surrender his license. The  
20 Board reserves the right to evaluate Respondent's request and to exercise its discretion in  
21 determining whether or not to grant the request, or to take any other action deemed appropriate  
22 and reasonable under the circumstances. Upon formal acceptance of the surrender, Respondent  
23 shall within 15 calendar days deliver Respondent's wallet and wall certificate to the Board or its  
24 designee and Respondent shall no longer practice medicine. Respondent will no longer be subject  
25 to the terms and conditions of probation. If Respondent re-applies for a medical license, the  
26 application shall be treated as a petition for reinstatement of a revoked certificate.

27       ///

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29. 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.

## ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Sara Hersh. I understand the stipulation and the effect it will have on my Physician's and Surgeon's Certificate. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Medical Board of California.

**DATED:**

5/5/2017

**RYAN MATTHEW SPIVAK, M.D.**  
*Respondent*

I have read and fully discussed with Respondent Ryan Matthew Spivak, M.D. the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

**DATED:**

5/5/2017

**SARA HERSH**  
*Attorney for Respondent*

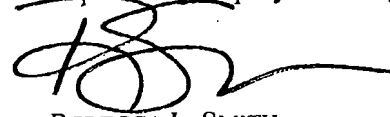
ENDORSEMENT

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

Dated: 5-12-17

Respectfully submitted,

XAVIER BECERRA  
Attorney General of California  
ROBERT MCKIM BELL  
Supervising Deputy Attorney General



REBECCA L. SMITH  
Deputy Attorney General  
*Attorneys for Complainant*

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FILED  
STATE OF CALIFORNIA  
MEDICAL BOARD OF CALIFORNIA  
SACRAMENTO September 29 20 16  
BY R. Fir Laus ANALYST

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

12 In the Matter of the Accusation Against:

Case No. 800-2016-020767

13 **RYAN MATTHEW SPIVAK, M.D.**  
2200 West Third Street, Suite 120A  
Los Angeles, California 90057

**A C C U S A T I O N**

14 Physician's and Surgeon's Certificate  
No. A113632,

15  
16 Respondent.

17  
18 Complainant alleges:

19 **PARTIES**

20 1. Kimberly Kirchmeyer ("Complainant") brings this Accusation solely in her official  
21 capacity as the Executive Director of the Medical Board of California, Department of Consumer  
22 Affairs ("Board").

23 2. On August 11, 2010, the Board issued Physician's and Surgeon's Certificate Number  
24 A113632 to Ryan Matthew Spivak, M.D. ("Respondent"). That license was in full force and  
25 effect at all times relevant to the charges brought herein and will expire on August 31, 2018,  
26 unless renewed.

27 //

28 //

## JURISDICTION

3. This Accusation is brought before the Board under the authority of the following laws. All section references are to the Business and Professions Code ("Code") unless otherwise indicated.

4. Section 2004 of the Code states:

"The board shall have the responsibility for the following:

"(a) The enforcement of the disciplinary and criminal provisions of the Medical Practice Act.

"(b) The administration and hearing of disciplinary actions.

"(c) Carrying out disciplinary actions appropriate to findings made by a panel or an administrative law judge.

"(d) Suspending, revoking, or otherwise limiting certificates after the conclusion of disciplinary actions.

"(e) Reviewing the quality of medical practice carried out by physician and surgeon certificate holders under the jurisdiction of the board.

"(f) Approving undergraduate and graduate medical education programs.

"(g) Approving clinical clerkship and special programs and hospitals for the programs in subdivision (f).

"(h) Issuing licenses and certificates under the board's jurisdiction.

"(i) Administering the board's continuing medical education program."

5. Section 2227 of the Code states:

"(a) A licensee whose matter has been heard by an administrative law judge of the Medical Quality Hearing Panel as designated in Section 11371 of the Government Code, or whose default has been entered, and who is found guilty, or who has entered into a stipulation for disciplinary action with the board, may, in accordance with the provisions of this chapter:

"(1) Have his or her license revoked upon order of the board.

"(2) Have his or her right to practice suspended for a period not to exceed one year upon order of the board.

1       “(3) Be placed on probation and be required to pay the costs of probation monitoring upon  
2 order of the board.

3       “(4) Be publicly reprimanded by the board. The public reprimand may include a  
4 requirement that the licensee complete relevant educational courses approved by the board.

5       “(5) Have any other action taken in relation to discipline as part of an order of probation, as  
6 the board or an administrative law judge may deem proper.

7       “(b) Any matter heard pursuant to subdivision (a), except for warning letters, medical  
8 review or advisory conferences, professional competency examinations, continuing education  
9 activities, and cost reimbursement associated therewith that are agreed to with the board and  
10 successfully completed by the licensee, or other matters made confidential or privileged by  
11 existing law, is deemed public, and shall be made available to the public by the board pursuant to  
12 Section 803.1.”

13       6.     Section 2227 of the Code provides that a licensee who is found guilty under the  
14 Medical Practice Act may have his or her license revoked, suspended for a period not to exceed  
15 one year, placed on probation and required to pay the costs of probation monitoring, or such other  
16 action taken in relation to discipline as the Board deems proper.

17       7.     Section 2234 of the Code, states:

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

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

23       “(b) Gross negligence.

24       “(c) Repeated negligent acts. To be repeated, there must be two or more negligent acts or  
25 omissions. An initial negligent act or omission followed by a separate and distinct departure from  
26 the applicable standard of care shall constitute repeated negligent acts.

27       “(1) An initial negligent diagnosis followed by an act or omission medically appropriate  
28 for that negligent diagnosis of the patient shall constitute a single negligent act.

1       “(2) When the standard of care requires a change in the diagnosis, act, or omission that  
2 constitutes the negligent act described in paragraph (1), including, but not limited to, a  
3 reevaluation of the diagnosis or a change in treatment, and the licensee's conduct departs from the  
4 applicable standard of care, each departure constitutes a separate and distinct breach of the  
5 standard of care.

6       “(d) Incompetence.

7       “(e) The commission of any act involving dishonesty or corruption which is substantially  
8 related to the qualifications, functions, or duties of a physician and surgeon.

9       “(f) Any action or conduct which would have warranted the denial of a certificate.

10       “(g) The practice of medicine from this state into another state or country without meeting  
11 the legal requirements of that state or country for the practice of medicine. Section 2314 shall not  
12 apply to this subdivision. This subdivision shall become operative upon the implementation of  
13 the proposed registration program described in Section 2052.5.

14       “(h) The repeated failure by a certificate holder, in the absence of good cause, to attend and  
15 participate in an interview by the board. This subdivision shall only apply to a certificate holder  
16 who is the subject of an investigation by the board.”

17       8.     Section 2021 of the Code states:

18       “...

19       “(b) Each licensee shall report to the board each and every change of address within 30 days  
20 after each change, giving both the old and new address. If an address reported to the board at the  
21 time of application for licensure or subsequently is a post office box, the applicant shall also  
22 provide the board with a street address. If another address is the licensee's address of record, he  
23 or she may request that the second address not be disclosed to the public.

24       “(c) Each licensee shall report to the board each and every change of name within 30 days  
25 after each change, giving both the old and new names.

26       “...”

27       //

28       //

1       9.    Section 2261 of the Code states:

2       “Knowingly making or signing any certificate or other document directly or indirectly  
3 related to the practice of medicine or podiatry which falsely represents the existence or  
4 nonexistence of a state of facts, constitutes unprofessional conduct.”

5                                   **DRUG LAWS**

6       10.   Section 2238 of the Code states:

7       “A violation of any federal statute or federal regulation or any of the statutes or regulations  
8 of this state regulating dangerous drugs or controlled substances constitutes unprofessional  
9 conduct.”

10      11.   Section 2239 of the Code states:

11      “(a) The use or prescribing for or administering to himself or herself, of any controlled  
12 substance; or the use of any of the dangerous drugs specified in Section 4022, or of alcoholic  
13 beverages, to the extent, or in such a manner as to be dangerous or injurious to the licensee, or to  
14 any other person or to the public, or to the extent that such use impairs the ability of the licensee  
15 to practice medicine safely or more than one misdemeanor or any felony involving the use,  
16 consumption, or self-administration of any of the substances referred to in this section, or any  
17 combination thereof, constitutes unprofessional conduct. The record of the conviction is  
18 conclusive evidence of such unprofessional conduct.

19      “(b) A plea or verdict of guilty or a conviction following a plea of nolo contendere is  
20 deemed to be a conviction within the meaning of this section. The Medical Board may order  
21 discipline of the licensee in accordance with Section 2227 or the Medical Board may order the  
22 denial of the license when the time for appeal has elapsed or the judgment of conviction has been  
23 affirmed on appeal or when an order granting probation is made suspending imposition of  
24 sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal  
25 Code allowing such person to withdraw his or her plea of guilty and to enter a plea of not guilty,  
26 or setting aside the verdict of guilty, or dismissing the accusation, complaint, information, or  
27 indictment.”

28      //

1           12.   Section 4324 of the Code states:

2           “(a) Every person who signs the name of another, or of a fictitious person, or falsely makes,  
3 alters, forges, utters, publishes, passes or attempts to pass, as genuine, any prescription for any  
4 drugs is guilty of forgery and upon conviction thereof shall be punished by imprisonment pursuant  
5 to subdivision (h) of Section 1170 of the Penal Code, or by imprisonment in a county jail for not  
6 more than one year.

7           “(b) Every person who has in his or her possession any drugs secured by a forged  
8 prescription shall be punished by imprisonment pursuant to subdivision (h) of Section 1170 of the  
9 Penal Code, or by imprisonment in the county jail of not more than one year.”

10          13.   Health and Safety Code section 11153 states in pertinent part:

11          “(a) A prescription for a controlled substance shall only be issued for a legitimate medical  
12 purpose by an individual practitioner acting in the usual course of his or her professional  
13 practice...

14          “(b) Any person who knowingly violates this section shall be punished by imprisonment in  
15 the state prison or in a county jail not exceeding one year, or by a fine not exceeding twenty  
16 thousand (\$20,000), or by both that fine and imprisonment...”

17          14.   Health and Safety Code section 11157 states:

18          “No person shall issue a prescription that is false or fictitious in any respect.”

19          15.   Health and Safety Code section 11170 states:

20          “No person shall prescribe, administer, or furnish a controlled substance for himself.”

21          16.   Health and Safety Code section 11173, subdivision (a), states:

22          “No person shall obtain or attempt to obtain controlled substances, or procure or attempt to  
23 procure the administration of or prescription for controlled substances by (1) fraud, deceit,  
24 misrepresentation, or subterfuge; or (2) by the concealment of a material fact.”

25          17.   Health and Safety Code section 11175 states:

26          “No person shall obtain or possess a prescription that does not comply with his division, nor  
27 shall any person obtain a controlled substance by means of a prescription which does not comply  
28 with this division or possess a controlled substance obtained by such a prescription.”

1 18. Health and Safety Code section 11368 states:

2 "Every person who forges or alters a prescription or who issues or utters an altered  
3 prescription, or who issues or utters a prescription bearing a forged or fictitious signature for any  
4 narcotic drug, or who obtains any narcotic drug by any forged, fictitious, or altered prescription,  
5 or who has in possession any narcotic drug secured by a forged, fictitious, or altered prescription,  
6 shall be punished by imprisonment in the county jail for not less than six months nor more than  
7 one year, or in the state prison."

8 **DRUGS INVOLVED**

9 19. Eszopiclone, also known by the trade name Lunesta, is a Schedule IV controlled  
10 substance as defined by section 11057, subdivision (d), of the Health and Safety Code and is a  
11 dangerous drug as defined in Section 4022 of the Code. Eszopiclone is a sedative and is used to  
12 treat insomnia.

13 20. Phentermine is a Schedule IV controlled substance as defined by section 11057,  
14 subdivision (f)(4), of the Health and Safety Code and is a dangerous drug as defined in Section  
15 4022 of the Code. It is a stimulant.

16 21. Metformin is an oral diabetes medicine that helps control blood sugar levels. It is  
17 a dangerous drug as defined in Section 4022 of the Code.

18 **FACTUAL SUMMARY**

19 22. On February 26, 2016, the Central Complaint Unit ("CCU") of the Board received a  
20 complaint dated February 22, 2016 by Dr. M.R. alleging that Respondent used her Drug  
21 Enforcement Administration ("DEA") license number to obtain prescriptions in his name.

22 23. Investigation by the Health Quality Investigations Unit of the Department of  
23 Consumer Affairs revealed that Respondent had falsely and fraudulently obtained prescriptions  
24 for phentermine in his name using the names and DEA licenses of Dr. M.R., Dr. J.C., and Dr.  
25 R.B.  
26

27 24. Dr. M.R. reviewed the California Department of Justice Controlled Substance  
28 Utilization Review and Evaluation System (CURES) report setting forth her prescribing history in

1 California from March 22, 2015 through March 22, 2016 and noted that it inaccurately reflects  
2 that she prescribed medications to Respondent during the timeframe of June 2015 through  
3 December 2015. More specifically:

4 a. Dr. M.R. did not prescribe or authorize the prescription for Eszopiclone 3 mg  
5 tablets that Respondent filled on June 4, 2015.

6 b. Dr. M.R. did not prescribe or authorize the prescription for additional  
7 Eszopiclone 3 mg tablets that Respondent filled on June 4, 2015.

8 c. Dr. M.R. did not prescribe or authorize the prescription for Eszopiclone 3 mg  
9 tablets that Respondent filled on June 29, 2015.

10 d. Dr. M.R. did not prescribe or authorize the prescription for additional  
11 Eszopiclone 3 mg tablets that Respondent filled on June 29, 2015.

12 e. Dr. M.R. did not prescribe or authorize the prescription for Eszopiclone 3 mg  
13 tablets that Respondent filled on August 28, 2015.

14 f. Dr. M.R. did not prescribe or authorize the prescription for Eszopiclone 3 mg  
15 tablets that Respondent filled on October 12, 2015.

16 25. Dr. M.R. reviewed a prescription that she purportedly issued to Respondent dated  
17 June 3, 2015 for thirty (30) Eszopiclone 3 mg tablets with four (4) refills. Dr. M.R. declared  
18 under the penalty of perjury that the prescription was not ordered, prescribed, written, issued or  
19 authorized by her; and, the signature at the bottom of the prescription was not written by her.

20 26. Dr. J.C., an Assistant Professor of Surgery in the Division of Plastic and  
21 Reconstructive Surgery at the University of Southern California (USC), Keck School of Medicine  
22 and an attending physician at USC Hospital, last had contact with Respondent in approximately  
23 June 2015, at the time of Respondent's graduation from the plastic and reconstructive surgery  
24 residency program at USC. Respondent was never one of Dr. J.C.'s patients, Dr. J.C. never  
25  
26  
27  
28

1 treated Respondent for any medical conditions, and Dr. J.C. never prescribed any medications to  
2 Respondent.

3 27. Dr. J.C. reviewed a prescription he purportedly issued to Respondent dated June  
4 12, 2015 for sixty (60) Phentermine HCL 15 mg tablets with no refills. Dr. J.C. declared under  
5 penalty of perjury that the prescription was not ordered, prescribed, written or authorized by him;  
6 and, the signature at the bottom of the prescription was not written by him.

7  
8 28. Dr. J.C. reviewed another prescription he purportedly issued to Respondent dated  
9 June 12, for thirty (30) Lunesta or Eszopiclone 3 mg tablets with no refills. Dr. J.C. declared  
10 under penalty of perjury that the prescription was not ordered, prescribed, written or authorized by  
11 him; and, the signature at the bottom of the prescription was not written by him.

12 29. Dr. R.B. is Program Director for Micrographic Surgery and Dermatologic  
13 Oncology with the Accreditation Counsel for Graduate Medical Education and the American  
14 Board of Dermatology. He provides a fellowship training program at his office. Respondent was  
15 a research fellow in Micrographic Surgery at Dr. R.B.'s office for approximately five months in  
16 late 2015 through approximately February 2016. In approximately February 2016, Dr. R.B.  
17 terminated Respondent from the training program when he became aware that Respondent was  
18 using Dr. R.B.'s name and DEA license to write prescriptions for himself.  
19

20 30. Dr. R.B. obtained the California Department of Justice Controlled Substance  
21 Utilization Review and Evaluation System (CURES) report for Respondent's prescribing history  
22 from January 27, 2015 through January 27, 2016 and noted that it inaccurately reflects that Dr.  
23 R.B. prescribed medications to Respondent during the timeframe of October 2015 through  
24 December 2015. More specifically:  
25

26 a. Dr. R.B. did not prescribe or authorize the prescription for Phentermine  
27 HCL 15 mg capsules that Respondent filled on October 1, 2015.  
28

1                   b.     Dr. R.B. did not prescribe or authorize the prescription for Eszopiclone 3  
2 mg tablets that Respondent filled on November 23, 2015.

3                   c.     Dr. R.B. did not prescribe or authorize the prescription for Eszopiclone 3  
4 mg tablets that Respondent filled on December 3, 2015.

5                   31.     Dr. R.B. reviewed a prescription he purportedly issued to Respondent dated  
6 December 2, 2015 for sixty (60) Phentermine HCL 15 mg tablets with four (4) refills and sixty  
7 (60) Metformin 500 mg tablets with four (4) refills. Dr. R.B. declared, under penalty of perjury,  
8 that the prescription was not ordered, prescribed, written or authorized by him; and, the signature  
9 at the bottom of the prescription was not written by him.  
10

11                  32.     Respondent admits that he improperly wrote several prescriptions for his own use  
12 on the prescription pads of Drs. M.S., J.C. and R.B.  
13

14                  33.     As of August 23, 2016, Respondent changed his address of record with the Board  
15 from Graduate Medical Education Los Angeles County-USC Medical Center, located at 1200  
16 North State Street, Suite A7D, Los Angeles, California 90033, to 2200 West Third Street, Suite  
17 120A, Los Angeles, California 90057. Respondent completed his educational program at Los  
18 Angeles County-USC Medical Center in June of 2015.  
19

20                               **FIRST CAUSE FOR DISCIPLINE**

21                                       **(Dishonest Acts)**

22                  34.     By reason of the facts set forth above in paragraphs 22 through 32, Respondent's  
23 license is subject to disciplinary action pursuant to section 2234, subdivision (e), of the Code for  
24 dishonest acts.

25                  35.     Respondent's acts and/or omissions set forth in paragraphs 22 through 32 above,  
26 whether proven individually, jointly, or in any combination thereof, constitute dishonest acts in  
27 violation of section 2234, subdivision (e), of the Code. Therefore, cause for discipline exists.  
28

//

1 **SECOND CAUSE FOR DISCIPLINE**

2 **(Violation of Drug Statutes)**

3 36. By reason of the facts set forth above in paragraphs 22 through 32, Respondent's  
4 license is subject to disciplinary action pursuant to section 2238 of the Code for violating drug  
5 statutes.

6 37. Respondent's acts and/or omissions set forth in paragraphs 22 through 32 above,  
7 whether proven individually, jointly, or in any combination thereof, constitute drug statute  
8 violations in violation of section 2238. Therefore, cause for discipline exists.

9 **THIRD CAUSE FOR DISCIPLINE**

10 **(Misuse of Controlled Substances)**

11 38. By reason of the facts set forth above in paragraphs 22 through 32, Respondent's  
12 license is subject to disciplinary action pursuant to section 2239, subdivision (a), of the Code for  
13 the misuse of controlled substances.

14 39. Respondent's acts and/or omissions set forth in paragraphs 22 through 32 above,  
15 whether proven individually, jointly, or in any combination thereof, constitute misuse of  
16 controlled substances in violation of section 2239, subdivision (a), of the Code. Therefore, cause  
17 for discipline exists.

18 **FOURTH CAUSE FOR DISCIPLINE**

19 **(Illegitimate Prescriptions)**

20 40. By reason of the facts set forth above in paragraphs 22 through 32, Respondent's  
21 license is subject to disciplinary action pursuant to Health and Safety Code section 11153 for  
22 prescribing illegitimate prescriptions for controlled substances.

23 41. Respondent's acts and/or omissions set forth in paragraphs 22 through 32 above,  
24 whether proven individually, jointly, or in any combination thereof, constitute prescribing  
25 illegitimate prescriptions for controlled substances in violation of Health and Safety Code section  
26 11153. Therefore, cause for discipline exists.

27 //

28 //

1 **FIFTH CAUSE FOR DISCIPLINE**

2 **(False/Fictitious Prescriptions)**

3 42. By reason of the facts set forth above in paragraphs 22 through 32, Respondent's  
4 license is subject to disciplinary action pursuant to Health and Safety Code section 11157 for  
5 issuing false/fictitious prescriptions for controlled substances.

6 43. Respondent's acts and/or omissions set forth in paragraphs 22 through 32 above,  
7 whether proven individually, jointly, or in any combination thereof, constitute issuing  
8 false/fictitious prescriptions for controlled substances in violation of Health and Safety Code  
9 section 11157. Therefore, cause for discipline exists.

10 **SIXTH CAUSE FOR DISCIPLINE**

11 **(Obtaining Prescriptions by Fraud/Deceit)**

12 44. By reason of the facts set forth above in paragraphs 22 through 32, Respondent's  
13 license is subject to disciplinary action pursuant to Health and Safety Code sections 11173 and  
14 11175 for obtaining/procuring prescriptions for controlled substances by fraud/deceit.

15 45. Respondent's acts and/or omissions set forth in paragraphs 22 through 32 above,  
16 whether proven individually, jointly, or in any combination thereof, constitute obtaining/procuring  
17 prescriptions for controlled substances by fraud/deceit in violation of Health and Safety Code  
18 sections 11173 and 11175. Therefore, cause for discipline exists.

19 **SEVENTH CAUSE FOR DISCIPLINE**

20 **(Making or Signing False Documents)**

21 46. By reason of the facts set forth above in paragraphs 22 through 32, Respondent's  
22 license is subject to disciplinary action pursuant to section 2261 of the Code for knowingly  
23 making or signing documents directly or indirectly related to the practice of medicine which  
24 falsely represented the existence or nonexistence of a state of facts.

25 47. Respondent's acts and/or omissions set forth in paragraphs 22 through 32 above,  
26 whether proven individually, jointly, or in any combination thereof, constitute knowingly making  
27 or signing documents directly or indirectly related to the practice of medicine which falsely

28 //

1 represented the existence or nonexistence of a state of facts in violation of section 2261 of the  
2 Code. Therefore, cause for discipline exists.

3 **EIGHTH CAUSE FOR DISCIPLINE**

4 **(Forging Prescriptions for Self-Use)**

5 48. By reason of the facts set forth above in paragraphs 22 through 32, Respondent's  
6 license is subject to disciplinary action pursuant to section 4324 of the Code and Health and  
7 Safety Code sections 11170 and 11368 for forging prescriptions for self-use.

8 49. Respondent's acts and/or omissions set forth in paragraphs 22 through 32 above,  
9 whether proven individually, jointly, or in any combination thereof, constitute forging  
10 prescriptions for self-use in violation of section 4324 of the Code and Health and Safety Code  
11 sections 11170 and 11368. Therefore, cause for discipline exists.

12 **NINTH CAUSE FOR DISCIPLINE**

13 **(Failure to Report Change of Address)**

14 50. By reason of the facts set forth above in paragraph 33, Respondent's license is subject  
15 to disciplinary action pursuant to section 2021, subdivisions (b) and (c), of the Code for failing to  
16 report his changes of address.

17 51. Respondent's acts and/or omissions set forth in paragraph 33 above, whether proven  
18 individually, jointly, or in any combination thereof, constitutes a failure to report his change of  
19 address in violation of section 2021, subdivisions (b) and (c), of the Code. Therefore, cause for  
20 discipline exists.

21 **TENTH CAUSE FOR DISCIPLINE**

22 **(Unprofessional Conduct)**

23 52. By reason of the facts set forth above in paragraphs 22 through 51, Respondent's  
24 license is subject to disciplinary action pursuant to section 2234 of the Code for engaging in  
25 unprofessional conduct.

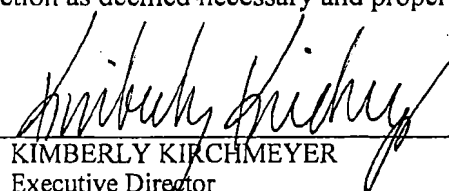
26 53. Respondent's acts and/or omissions set forth in paragraphs 22 through 51 above,  
27 whether proven individually, jointly, or in any combination thereof, constitute unprofessional  
28 conduct in violation of section 2234 of the Code. Therefore, cause for discipline exists.

**PRAYER**

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

1. Revoking or suspending Physician's and Surgeon's Certificate Number A113632, issued to Ryan Matthew Spivak, M.D.;
2. Prohibiting him from supervising physician assistants;
3. If placed on probation, ordering him to pay the Medical Board of California the costs of probation monitoring; and
4. Taking such other and further action as deemed necessary and proper.

DATED: September 29, 2016



KIMBERLY KIRCHMEYER  
Executive Director  
Medical Board of California  
Department of Consumer Affairs  
State of California

*Complainant*

LA2016502132  
62051121.doc

Exhibit B

Decision *In the Matter of the Accusation and Petition to Revoke Probation against Ryan  
Matthew Spivak, M.D.*

Case No. 800-2019-061086

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

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

**Ryan Matthew Spivak, M.D.**

**Physician's and Surgeon's  
C No. A 113632**

**Case No. 800-2019-061086**

**Respondent.**

**DECISION**

**The attached Stipulated Settlement and Disciplinary Order 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 September 11, 2020.**

**IT IS SO ORDERED: August 12, 2020.**

**MEDICAL BOARD OF CALIFORNIA**



**Kristina D. Lawson, J.D., Chair  
Panel B**

1 XAVIER BECERRA-  
Attorney General of California  
2 JUDITH T. ALVARADO  
Supervising Deputy Attorney General  
3 REBECCA L. SMITH  
Deputy Attorney General  
4 State Bar No. 179733  
California Department of Justice  
5 300 South Spring Street, Suite 1702  
Los Angeles, CA 90013  
6 Telephone: (213) 269-6475  
Facsimile: (916) 731-2117  
7 *Attorneys for Complainant*

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

12 In the Matter of the Accusation and Petition to  
13 Revoke Probation Against:

Case No. 800-2019-061086

14 RYAN MATTHEW SPIVAK, M.D.  
15 P.O. Box 46666  
Los Angeles, CA 90046

OAH No. 2020020350

**STIPULATED SETTLEMENT AND  
DISCIPLINARY ORDER**

16 Physician's and Surgeon's Certificate  
17 No. A 113632,

18 Respondent.

19  
20 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-  
21 entitled proceedings that the following matters are true:

22 **PARTIES**

23 1. William J. Prasifka ("Complainant") is the Executive Director of the Medical Board  
24 of California ("Board"). He brought this action solely in his official capacity and is represented  
25 in this matter by Xavier Becerra, Attorney General of the State of California, by Rebecca L.  
26 Smith, Deputy Attorney General.

27 ///

28 ///

2. Respondent Ryan Matthew Spivak, M.D. ("Respondent") is represented in this proceeding by attorneys Sara E. Hersh and Sarvnaz R. Mackin, whose address is: 1100 Glendon Avenue, 14th Floor, Los Angeles, CA 90024.

3. On or about August 11, 2010, the Board issued Physician's and Surgeon's Certificate No. A 113632 to Respondent. That license was in full force and effect at all times relevant to the charges brought in Accusation and Petition to Revoke Probation No. 800-2019-061086, and will expire on August 31, 2020, unless renewed.

## JURISDICTION

4. Accusation and Petition to Revoke Probation No. 800-2019-061086 was filed before the Board, and is currently pending against Respondent. The Accusation and Petition to Revoke Probation and all other statutorily required documents were properly served on Respondent on January 16, 2020. Respondent timely filed his Notice of Defense contesting the Accusation and Petition to Revoke Probation.

5. A copy of Accusation and Petition to Revoke Probation No. 800-2019-061086 is attached as Exhibit A and incorporated herein by reference.

## **ADVISEMENT AND WAIVERS**

6. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation and Petition to Revoke Probation No. 800-2019-061086. Respondent has also carefully read, fully discussed with his counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

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

///

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

## CULPABILITY

9. Respondent does not contest that, at an administrative hearing, Complainant could establish a prima facie case with respect to the charges and allegations contained in Accusation and Petition to Revoke Probation No. 800-2019-061086 and that he has thereby subjected his license to disciplinary action.

10. Respondent agrees that if he ever petitions for early termination or modification of probation, or if the Board ever petitions for revocation of probation, all of the charges and allegations contained in Accusation and Petition to Revoke Probation No. 800-2019-061086 shall be deemed true, correct and fully admitted by Respondent for purposes of that proceeding or any other licensing proceeding involving Respondent in the State of California.

11. Respondent agrees that his Physician's and Surgeon's Certificate is subject to discipline and he agrees to be bound by the Board's probationary terms as set forth in the Disciplinary Order below.

## CONTINGENCY

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

13. Respondent agrees that if he ever petitions for early termination or modification of probation, or if an accusation and/or petition to revoke probation is filed against him before the

1 Board, all of the charges and allegations contained in Accusation and Petition to Revoke  
2 Probation No. 800-2019-061086 shall be deemed true, correct and fully admitted by Respondent  
3 for purposes of any such proceeding or any other licensing proceeding involving Respondent in  
4 the State of California.

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

8 15. In consideration of the foregoing admissions and stipulations, the parties agree that  
9 the Board may, without further notice or opportunity to be heard by Respondent, issue and enter  
10 the following Disciplinary Order:

11 **DISCIPLINARY ORDER**

12 **IT IS HEREBY ORDERED** that Physician's and Surgeon's Certificate No. A 113632  
13 issued to Respondent Ryan Matthew Spivak, M.D. is revoked. However, the revocation is stayed  
14 and Respondent is placed on probation for two (2) years to run consecutively from the conclusion  
15 of Respondent's probation term in the Board's Decision in Case No. 800-2016-020767, for a total  
16 of nine (9) years' probation, with the following terms and conditions:

17 1. **CLINICAL DIAGNOSTIC EVALUATION – Condition Satisfied.** Within thirty (30)  
18 calendar days of the effective date of this Decision, and on whatever periodic basis thereafter as  
19 may be required by the Board or its designee, Respondent shall undergo and complete a clinical  
20 diagnostic evaluation, including any and all testing deemed necessary, by a Board-appointed  
21 board certified physician and surgeon. The examiner shall consider any information provided by  
22 the Board or its designee and any other information he or she deems relevant, and shall furnish a  
23 written evaluation report to the Board or its designee.

24 The clinical diagnostic evaluation shall be conducted by a licensed physician and surgeon  
25 who holds a valid, unrestricted license, has three (3) years' experience in providing evaluations of  
26 physicians and surgeons with substance abuse disorders, and is approved by the Board or its  
27 designee. The clinical diagnostic evaluation shall be conducted in accordance with acceptable  
28 professional standards for conducting substance abuse clinical diagnostic evaluations. The

1 evaluator shall not have a current or former financial, personal, or business relationship with  
2 Respondent within the last five (5) years. The evaluator shall provide an objective, unbiased, and  
3 independent evaluation. The clinical diagnostic evaluation report shall set forth, in the  
4 evaluator's opinion, whether Respondent has a substance abuse problem, whether Respondent is a  
5 threat to himself or others, and recommendations for substance abuse treatment, practice  
6 restrictions, or other recommendations related to Respondent's rehabilitation and ability to  
7 practice safely. If the evaluator determines during the evaluation process that Respondent is a  
8 threat to himself or others, the evaluator shall notify the Board within twenty-four (24) hours of  
9 such a determination.

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

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

24 The Board shall review the clinical diagnostic evaluation report within five (5) business  
25 days of receipt to determine whether Respondent is safe to return to either part-time or full-time  
26 practice and what restrictions or recommendations shall be imposed on Respondent based on the  
27 recommendations made by the evaluator. Respondent shall not be returned to practice until he  
28 has at least thirty (30) days of negative biological fluid tests or biological fluid tests indicating

1 that he has not used, consumed, ingested, or administered to himself a prohibited substance, as  
2 defined in section 1361.51, subdivision (e), of Title 16 of the California Code of Regulations.

3 Clinical diagnostic evaluations conducted prior to the effective date of this Decision shall  
4 not be accepted towards the fulfillment of this requirement. The cost of the clinical diagnostic  
5 evaluation, including any and all testing deemed necessary by the examiner, the Board or its  
6 designee, shall be borne by the licensee.

7 Respondent shall not engage in the practice of medicine until notified by the Board or its  
8 designee that he is fit to practice medicine safely. The period of time that Respondent is not  
9 practicing medicine shall not be counted toward completion of the term of probation. Respondent  
10 shall undergo biological fluid testing as required in this Decision at least two (2) times per week  
11 while awaiting the notification from the Board if he is fit to practice medicine safely.

12 Respondent shall comply with all restrictions or conditions recommended by the examiner  
13 conducting the clinical diagnostic evaluation within fifteen (15) calendar days after being notified  
14 by the Board or its designee.

15 2. CONTROLLED SUBSTANCES - TOTAL RESTRICTION. Respondent shall not  
16 order, prescribe, dispense, administer, furnish, or possess any controlled substances as defined in  
17 the California Uniform Controlled Substances Act.

18 Respondent shall not issue an oral or written recommendation or approval to a patient or a  
19 patient's primary caregiver for the possession or cultivation of marijuana for the personal medical  
20 purposes of the patient within the meaning of Health and Safety Code section 11362.5.

21 If Respondent forms the medical opinion, after an appropriate prior examination and a  
22 medical indication, that a patient's medical condition may benefit from the use of marijuana,  
23 Respondent shall so inform the patient and shall refer the patient to another physician who,  
24 following an appropriate prior examination and a medical indication, may independently issue a  
25 medically appropriate recommendation or approval for the possession or cultivation of marijuana  
26 for the personal medical purposes of the patient within the meaning of Health and Safety Code  
27 section 11362.5. In addition, Respondent shall inform the patient or the patient's primary  
28 caregiver that Respondent is prohibited from issuing a recommendation or approval for the

1 possession or cultivation of marijuana for the personal medical purposes of the patient and that  
2 the patient or the patient's primary caregiver may not rely on Respondent's statements to legally  
3 possess or cultivate marijuana for the personal medical purposes of the patient. Respondent shall  
4 fully document in the patient's chart that the patient or the patient's primary caregiver was so  
5 informed. Nothing in this condition prohibits Respondent from providing the patient or the  
6 patient's primary caregiver information about the possible medical benefits resulting from the use  
7 of marijuana.

8 3. CONTROLLED SUBSTANCES - ABSTAIN FROM USE. Respondent shall abstain  
9 completely from the personal use or possession of controlled substances as defined in the  
10 California Uniform Controlled Substances Act, dangerous drugs as defined by Business and  
11 Professions Code section 4022, and any drugs requiring a prescription. This prohibition does not  
12 apply to medications lawfully prescribed to Respondent by another practitioner for a bona fide  
13 illness or condition.

14 Within 15 calendar days of receiving any lawfully prescribed medications, Respondent  
15 shall notify the Board or its designee of the: issuing practitioner's name, address, and telephone  
16 number; medication name, strength, and quantity; and issuing pharmacy name, address, and  
17 telephone number.

18 4. COMMUNITY SERVICE - FREE SERVICES. Within sixty (60) calendar days of  
19 the effective date of this Decision, Respondent shall submit to the Board or its designee for prior  
20 approval a community service plan in which Respondent shall within the first two (2) years of  
21 probation, provide forty (40) hours of free non-medical services to a community or non-profit  
22 organization. Prior to engaging in any community service, Respondent shall provide a true copy  
23 of the Decision to the chief of staff, director, office manager, program manager, officer, or the  
24 chief executive officer at every community or non-profit organization where Respondent provides  
25 non-medical community service and shall submit proof of compliance to the Board or its designee  
26 within fifteen (15) calendar days. This condition shall also apply to any change(s) in community  
27 service.

28 Community service performed prior to the effective date of the Decision shall not be

1 accepted in fulfillment of this condition.

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

12 6. PRESCRIBING PRACTICES COURSE – Condition Satisfied. Within sixty (60)  
13 calendar days of the effective date of this Decision, Respondent shall enroll in a course in  
14 prescribing practices approved in advance by the Board or its designee. Respondent shall provide  
15 the approved course provider with any information and documents that the approved course  
16 provider may deem pertinent. Respondent shall participate in and successfully complete the  
17 classroom component of the course not later than six (6) months after Respondent's initial  
18 enrollment. Respondent shall successfully complete any other component of the course within  
19 one (1) year of enrollment. The prescribing practices course shall be at Respondent's expense and  
20 shall be in addition to the Continuing Medical Education (CME) requirements for renewal of  
21 licensure.

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

27 Respondent shall submit a certification of successful completion to the Board or its  
28 designee not later than fifteen (15) calendar days after successfully completing the course, or not

1 later than fifteen (15) calendar days after the effective date of the Decision, whichever is later.

2 7. MEDICAL RECORD KEEPING COURSE – Condition satisfied. Within sixty (60)  
3 calendar days of the effective date of this Decision, Respondent shall enroll in a course in medical  
4 record keeping approved in advance by the Board or its designee. Respondent shall provide the  
5 approved course provider with any information and documents that the approved course provider  
6 may deem pertinent. Respondent shall participate in and successfully complete the classroom  
7 component of the course not later than six (6) months after Respondent's initial enrollment.  
8 Respondent shall successfully complete any other component of the course within one (1) year of  
9 enrollment. The medical record-keeping course shall be at Respondent's expense and shall be in  
10 addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

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

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

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

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

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

9 9. BIOLOGICAL FLUID TESTING. Respondent shall immediately submit to  
10 biological fluid testing, at Respondent's expense, upon request of the Board or its designee.  
11 "Biological fluid testing" may include, but is not limited to, urine, blood, breathalyzer, hair  
12 follicle testing, or similar drug screening approved by the Board or its designee. Respondent shall  
13 make daily contact with the Board or its designee to determine whether biological fluid testing is  
14 required. Respondent shall be tested on the date of the notification as directed by the Board or its  
15 designee. The Board may order a Respondent to undergo a biological fluid test on any day, at  
16 any time, including weekends and holidays. Except when testing on a specific date as ordered by  
17 the Board or its designee, the scheduling of biological fluid testing shall be done on a random  
18 basis. The cost of biological fluid testing shall be borne by Respondent.

19 During the first year of probation, Respondent shall be subject to 52 to 104 random tests.  
20 During the second year of probation and for the duration of the probationary term, up to five (5)  
21 years, Respondent shall be subject to 36 to 104 random tests per year. Only if there has been no  
22 positive biological fluid tests in the previous five (5) consecutive years of probation, may testing  
23 be reduced to one (1) time per month. Nothing precludes the Board from increasing the number  
24 of random tests to the first-year level of frequency for any reason.

25 Prior to practicing medicine, Respondent shall contract with a laboratory or service,  
26 approved in advance by the Board or its designee, that will conduct random, unannounced,  
27 observed, biological fluid testing and meets all of the following standards:

28 (a) Its specimen collectors are either certified by the Drug and Alcohol Testing Industry

1 Association or have completed the training required to serve as a collector for the United  
2 States Department of Transportation.

3 (b) Its specimen collectors conform to the current United States Department of  
4 Transportation Specimen Collection Guidelines.

5 (c) Its testing locations comply with the Urine Specimen Collection Guidelines published  
6 by the United States Department of Transportation without regard to the type of test  
7 administered.

8 (d) Its specimen collectors observe the collection of testing specimens.

9 (e) Its laboratories are certified and accredited by the United States Department of Health  
10 and Human Services.

11 (f) Its testing locations shall submit a specimen to a laboratory within one (1) business day  
12 of receipt and all specimens collected shall be handled pursuant to chain of custody  
13 procedures. The laboratory shall process and analyze the specimens and provide legally  
14 defensible test results to the Board within seven (7) business days of receipt of the  
15 specimen. The Board will be notified of non-negative results within one (1) business day  
16 and will be notified of negative test results within seven (7) business days.

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

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

21 (i) It maintains testing sites located throughout California.

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

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

27 (l) It employs or contracts with toxicologists that are licensed physicians and have  
28 knowledge of substance abuse disorders and the appropriate medical training to interpret

1 and evaluate laboratory biological fluid test results, medical histories, and any other  
2 information relevant to biomedical information.

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

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

7 The contract shall require that the laboratory directly notify the Board or its designee of  
8 non-negative results within one (1) business day and negative test results within seven (7)  
9 business days of the results becoming available. Respondent shall maintain this laboratory or  
10 service contract during the period of probation.

11 A certified copy of any laboratory test result may be received in evidence in any  
12 proceedings between the Board and Respondent.

13 If a biological fluid test result indicates Respondent has used, consumed, ingested, or  
14 administered to himself or herself a prohibited substance, the Board shall order Respondent to  
15 cease practice and instruct Respondent to leave any place of work where Respondent is practicing  
16 medicine or providing medical services. The Board shall immediately notify all of Respondent's  
17 employers, supervisors and work monitors, if any, that Respondent may not practice medicine or  
18 provide medical services while the cease-practice order is in effect.

19 A biological fluid test will not be considered negative if a positive result is obtained while  
20 practicing, even if the practitioner holds a valid prescription for the substance. If no prohibited  
21 substance use exists, the Board shall lift the cease-practice order within one (1) business day.

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

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

28 For purposes of this condition, the term "prohibited substance" means an illegal drug, a

1 lawful drug not prescribed or ordered by an appropriately licensed health care provider for use by  
2 Respondent and approved by the Board, alcohol, or any other substance Respondent has been  
3 instructed by the Board not to use, consume, ingest, or administer to himself or herself.

4 If the Board confirms that a positive biological fluid test is evidence of use of a prohibited  
5 substance, Respondent has committed a major violation, as defined in section 1361.52(a), and the  
6 Board shall impose any or all of the consequences set forth in section 1361.52(b), in addition to  
7 any other terms or conditions the Board determines are necessary for public protection or to  
8 enhance Respondent's rehabilitation.

9 10. SUBSTANCE ABUSE SUPPORT GROUP MEETINGS. Within thirty (30) days of  
10 the effective date of this Decision, Respondent shall submit to the Board or its designee, for its  
11 prior approval, the name of a substance abuse support group which he shall attend for the duration  
12 of probation. Respondent shall attend substance abuse support group meetings at least once per  
13 week, or as ordered by the Board or its designee.

14 Respondent shall pay all substance abuse support group meeting costs.

15 The facilitator of the substance abuse support group meeting shall have a minimum of  
16 three (3) years' experience in the treatment and rehabilitation of substance abuse, and shall be  
17 licensed or certified by the state or nationally certified organizations. The facilitator shall not  
18 have a current or former financial, personal, or business relationship with Respondent within the  
19 last five (5) years. Respondent's previous participation in a substance abuse group support  
20 meeting led by the same facilitator does not constitute a prohibited current or former financial,  
21 personal, or business relationship.

22 The facilitator shall provide a signed document to the Board or its designee showing  
23 Respondent's name, the group name, the date and location of the meeting, Respondent's  
24 attendance and Respondent's level of participation and progress. The facilitator shall report any  
25 unexcused absence by Respondent from any substance abuse support group meeting to the Board,  
26 or its designee, within twenty-four (24) hours of the unexcused absence.

27 11. PSYCHOTHERAPY. Within sixty (60) calendar days of the effective date of this  
28 Decision, Respondent shall submit to the Board or its designee for prior approval the name and

1 qualifications of a California-licensed board certified psychiatrist or a licensed psychologist who  
2 has a doctoral degree in psychology and at least five years of postgraduate experience in the  
3 diagnosis and treatment of emotional and mental disorders. Upon approval, Respondent shall  
4 undergo and continue psychotherapy treatment, including any modifications to the frequency of  
5 psychotherapy, until the Board or its designee deems that no further psychotherapy is necessary.

6 The psychotherapist shall consider any information provided by the Board or its designee  
7 and any other information the psychotherapist deems relevant and shall furnish a written  
8 evaluation report to the Board or its designee. Respondent shall cooperate in providing the  
9 psychotherapist any information and documents that the psychotherapist may deem pertinent.

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

17 Respondent shall pay the cost of all psychotherapy and psychiatric evaluations.

18 12. MEDICAL EVALUATION AND TREATMENT – Condition satisfied. Within  
19 thirty (30) calendar days of the effective date of this Decision, and on a periodic basis thereafter  
20 as may be required by the Board or its designee, Respondent shall undergo a medical evaluation  
21 by a Board-appointed physician who shall consider any information provided by the Board or  
22 designee and any other information the evaluating physician deems relevant and shall furnish a  
23 medical report to the Board or its designee. Respondent shall provide the evaluating physician  
24 any information and documentation that the evaluating physician may deem pertinent.

25 Following the evaluation, Respondent shall comply with all restrictions or conditions  
26 recommended by the evaluating physician within fifteen (15) calendar days after being notified  
27 by the Board or its designee. If Respondent is required by the Board or its designee to undergo  
28 medical treatment, Respondent shall within thirty (30) calendar days of the requirement notice,

1 submit to the Board or its designee for prior approval the name and qualifications of a California  
2 licensed treating physician of Respondent's choice. Upon approval of the treating physician,  
3 Respondent shall within fifteen (15) calendar days undertake medical treatment and shall  
4 continue such treatment until further notice from the Board or its designee.

5 The treating physician shall consider any information provided by the Board or its designee  
6 or any other information the treating physician may deem pertinent prior to commencement of  
7 treatment. Respondent shall have the treating physician submit quarterly reports to the Board or  
8 its designee indicating whether or not Respondent is capable of practicing medicine safely.  
9 Respondent shall provide the Board or its designee with any and all medical records pertaining to  
10 treatment, the Board or its designee deems necessary.

11 If, prior to the completion of probation, Respondent is found to be physically incapable of  
12 resuming the practice of medicine without restrictions, the Board shall retain continuing  
13 jurisdiction over Respondent's license and the period of probation shall be extended until the  
14 Board determines that Respondent is physically capable of resuming the practice of medicine  
15 without restrictions. Respondent shall pay the cost of the medical evaluation(s) and treatment.

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

25 The Board or its designee shall provide the approved monitor with copies of the Decision  
26 and Accusation, and a proposed monitoring plan. Within fifteen (15) calendar days of receipt of  
27 the Decision, Accusation, and proposed monitoring plan, the monitor shall submit a signed  
28 statement that the monitor has read the Decision and Accusation, fully understands the role of a

1 monitor, and agrees or disagrees with the proposed monitoring plan. If the monitor disagrees  
2 with the proposed monitoring plan, the monitor shall submit a revised monitoring plan with the  
3 signed statement for approval by the Board or its designee.

4 Within sixty (60) calendar days of the effective date of this Decision, and continuing  
5 throughout probation, Respondent's practice shall be monitored by the approved monitor.  
6 Respondent shall make all records available for immediate inspection and copying on the  
7 premises by the monitor at all times during business hours and shall retain the records for the  
8 entire term of probation.

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

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

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

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

1 approved in advance by the Board or its designee, that includes, at minimum, quarterly chart  
2 review, semi-annual practice assessment, and semi-annual review of professional growth and  
3 education. Respondent shall participate in the professional enhancement program at Respondent's  
4 expense during the term of probation.

5 14. WORKSITE MONITOR FOR SUBSTANCE-ABUSING LICENSEE. Within thirty  
6 (30) calendar days of the effective date of this Decision, Respondent shall submit to the Board or  
7 its designee for prior approval as a worksite monitor, the name and qualifications of one or more  
8 licensed physician and surgeon, other licensed health care professional if no physician and  
9 surgeon is available, or, as approved by the Board or its designee, a person in a position of  
10 authority who is capable of monitoring Respondent at work.

11 The worksite monitor shall not have a current or former financial, personal, or familial  
12 relationship with Respondent, or any other relationship that could reasonably be expected to  
13 compromise the ability of the monitor to render impartial and unbiased reports to the Board or its  
14 designee. If it is impractical for anyone but Respondent's employer to serve as the worksite  
15 monitor, this requirement may be waived by the Board or its designee, however, under no  
16 circumstances shall Respondent's worksite monitor be an employee or supervisee of the licensee.

17 The worksite monitor shall have an active unrestricted license with no disciplinary action  
18 within the last five (5) years, and shall sign an affirmation that he or she has reviewed the terms  
19 and conditions of Respondent's disciplinary order and agrees to monitor Respondent as set forth  
20 by the Board or its designee.

21 Respondent shall pay all worksite monitoring costs.

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

26 The worksite monitor shall verbally report any suspected substance abuse to the Board and  
27 Respondent's employer or supervisor within one (1) business day of occurrence. If the suspected  
28 substance abuse does not occur during the Board's normal business hours, the verbal report shall

1 be made to the Board or its designee within one (1) hour of the next business day. A written  
2 report that includes the date, time, and location of the suspected abuse; Respondent's actions; and  
3 any other information deemed important by the worksite monitor shall be submitted to the Board  
4 or its designee within 48 hours of the occurrence.

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

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

24 15. SOLO PRACTICE PROHIBITION. Respondent is prohibited from engaging in the  
25 solo practice of medicine. Prohibited solo practice includes, but is not limited to, a practice  
26 where: 1) Respondent merely shares office space with another physician but is not affiliated for  
27 purposes of providing patient care, or 2) Respondent is the sole physician practitioner at that  
28 location.

1 If Respondent fails to establish a practice with another physician or secure employment in  
2 an appropriate practice setting within 60 calendar days of the effective date of this Decision,  
3 Respondent shall receive a notification from the Board or its designee to cease the practice of  
4 medicine within three (3) calendar days after being so notified. Respondent shall not resume  
5 practice until an appropriate practice setting is established.

6 If, during the course of the probation, Respondent's practice setting changes and  
7 Respondent is no longer practicing in a setting in compliance with this Decision, Respondent  
8 shall notify the Board or its designee within five (5) calendar days of the practice setting change.  
9 If Respondent fails to establish a practice with another physician or secure employment in an  
10 appropriate practice setting within 60 calendar days of the practice setting change, Respondent  
11 shall receive a notification from the Board or its designee to cease the practice of medicine within  
12 three (3) calendar days after being so notified. Respondent shall not resume practice until an  
13 appropriate practice setting is established.

14 16. NOTICE OF EMPLOYER OR SUPERVISOR INFORMATION. Within seven (7)  
15 days of the effective date of this Decision, Respondent shall provide to the Board the names,  
16 physical addresses, mailing addresses, and telephone numbers of any and all employers and  
17 supervisors. Respondent shall also provide specific, written consent for the Board, Respondent's  
18 worksite monitor, and Respondent's employers and supervisors to communicate regarding  
19 Respondent's work status, performance, and monitoring.

20 For purposes of this section, "supervisors" shall include the Chief of Staff and Health or  
21 Well-Being Committee Chair, or equivalent, if applicable, when Respondent has medical staff  
22 privileges.

23 17. VIOLATION OF PROBATION CONDITION FOR SUBSTANCE ABUSING  
24 LICENSEES. Failure to fully comply with any term or condition of probation is a violation of  
25 probation.

26 A. If Respondent commits a major violation of probation as defined by section  
27 1361.52, subdivision (a), of Title 16 of the California Code of Regulations, the Board shall take  
28 one or more of the following actions:

1 (1) Issue an immediate cease-practice order and order Respondent to undergo a clinical  
2 diagnostic evaluation to be conducted in accordance with section 1361.5, subdivision (c)(1), of  
3 Title 16 of the California Code of Regulations, at Respondent's expense. The cease-practice  
4 order issued by the Board or its designee shall state that Respondent must test negative for at least  
5 a month of continuous biological fluid testing before being allowed to resume practice. For  
6 purposes of determining the length of time a Respondent must test negative while undergoing  
7 continuous biological fluid testing following issuance of a cease-practice order, a month is  
8 defined as thirty calendar (30) days. Respondent may not resume the practice of medicine until  
9 notified in writing by the Board or its designee that he may do so.

10 (2) Increase the frequency of biological fluid testing.

11 (3) Refer Respondent for further disciplinary action, such as suspension, revocation, or  
12 other action as determined by the Board or its designee.

13 B. If Respondent commits a minor violation of probation as defined by section  
14 1361.52, subdivision (c), of Title 16 of the California Code of Regulations, the Board shall take  
15 one or more of the following actions:

16 (1) Issue a cease-practice order;

17 (2) Order practice limitations;

18 (3) Order or increase supervision of Respondent;

19 (4) Order increased documentation;

20 (5) Issue a citation and fine, or a warning letter;

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

24 (7) Take any other action as determined by the Board or its designee.

25 C. Nothing in this Decision shall be considered a limitation on the Board's authority  
26 to revoke Respondent's probation if he has violated any term or condition of probation. If  
27 Respondent violates probation in any respect, the Board, after giving Respondent notice and the  
28 opportunity to be heard, may revoke probation and carry out the disciplinary order that was

1 stayed. If an Accusation, or Petition to Revoke Probation, or an Interim Suspension Order is filed  
2 against Respondent during probation, the Board shall have continuing jurisdiction until the matter  
3 is final, and the period of probation shall be extended until the matter is final.

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

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

13 19. SUPERVISION OF PHYSICIAN ASSISTANTS AND ADVANCED PRACTICE  
14 NURSES. During probation, Respondent is prohibited from supervising physician assistants and  
15 advanced practice nurses.

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

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

22 Respondent shall submit quarterly declarations not later than ten (10) calendar days after  
23 the end of the preceding quarter.

24 22. GENERAL PROBATION REQUIREMENTS.

25 Compliance with Probation Unit

26 Respondent shall comply with the Board's probation unit.

27 Address Changes

28 Respondent shall, at all times, keep the Board informed of Respondent's business and

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

5 Place of Practice

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

9 License Renewal

10 Respondent shall maintain a current and renewed California physician's and surgeon's  
11 license.

12 Travel or Residence Outside California

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

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

19 23. INTERVIEW WITH THE BOARD OR ITS DESIGNEE. Respondent shall be  
20 available in person upon request for interviews either at Respondent's place of business or at the  
21 probation unit office, with or without prior notice throughout the term of probation.

22 24. NON-PRACTICE WHILE ON PROBATION. Respondent shall notify the Board or  
23 its designee in writing within fifteen (15) calendar days of any periods of non-practice lasting  
24 more than 30 calendar days and within fifteen (15) calendar days of Respondent's return to  
25 practice. Non-practice is defined as any period of time Respondent is not practicing medicine as  
26 defined in Business and Professions Code sections 2051 and 2052 for at least forty (40) hours in a  
27 calendar month in direct patient care, clinical activity or teaching, or other activity as approved by  
28 the Board. If Respondent resides in California and is considered to be in non-practice,

1 Respondent shall comply with all terms and conditions of probation. All time spent in an  
2 intensive training program which has been approved by the Board or its designee shall not be  
3 considered non-practice and does not relieve Respondent from complying with all the terms and  
4 conditions of probation. Practicing medicine in another state of the United States or Federal  
5 jurisdiction while on probation with the medical licensing authority of that state or jurisdiction  
6 shall not be considered non-practice. A Board-ordered suspension of practice shall not be  
7 considered as a period of non-practice.

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

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

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

16 Periods of non-practice for a Respondent residing outside of California will relieve  
17 Respondent of the responsibility to comply with the probationary terms and conditions with the  
18 exception of this condition and the following terms and conditions of probation: Obey All Laws;  
19 General Probation Requirements; Quarterly Declarations; Abstain from the Use of Alcohol and/or  
20 Controlled Substances; and Biological Fluid Testing.

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

25 26. VIOLATION OF PROBATION. Failure to fully comply with any term or condition  
26 of probation is a violation of probation. If Respondent violates probation in any respect, the  
27 Board, after giving Respondent notice and the opportunity to be heard, may revoke probation and  
28 carry out the disciplinary order that was stayed. If an Accusation, or Petition to Revoke

1 Probation, or an Interim Suspension Order is filed against Respondent during probation, the  
2 Board shall have continuing jurisdiction until the matter is final, and the period of probation shall  
3 be extended until the matter is final.

4 27. LICENSE SURRENDER. Following the effective date of this Decision, if  
5 Respondent ceases practicing due to retirement or health reasons or is otherwise unable to satisfy  
6 the terms and conditions of probation, Respondent may request to surrender his license. The  
7 Board reserves the right to evaluate Respondent's request and to exercise its discretion in  
8 determining whether or not to grant the request, or to take any other action deemed appropriate  
9 and reasonable under the circumstances. Upon formal acceptance of the surrender, Respondent  
10 shall within 15 calendar days deliver Respondent's wallet and wall certificate to the Board or its  
11 designee and Respondent shall no longer practice medicine. Respondent will no longer be subject  
12 to the terms and conditions of probation. If Respondent re-applies for a medical license, the  
13 application shall be treated as a petition for reinstatement of a revoked certificate.

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

19 29. FUTURE ADMISSIONS CLAUSE. If Respondent should ever apply or reapply for  
20 a new license or certification, or petition for reinstatement of a license, by any other health care  
21 licensing action agency in the State of California, all of the charges and allegations contained in  
22 Accusation and Petition to Revoke Probation No. 800-2019-061086 shall be deemed to be true,  
23 correct, and admitted by Respondent for the purpose of any Statement of Issues or any other  
24 proceeding seeking to deny or restrict license.

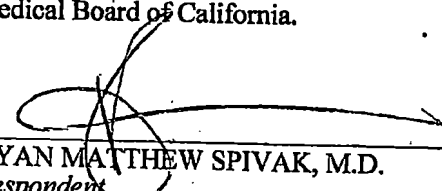
25 30. PETITION FOR EARLY TERMINATION OF PROBATION. Respondent shall not  
26 petition for early termination of probation for at least three (3) years from the effective date of  
27 this Decision.

28 ///

1 ACCEPTANCE

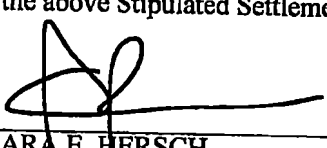
2 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully  
3 discussed it with my attorneys Sara E. Hersch and Sarvnaz R. Mackin. I understand the stipulation  
4 and the effect it will have on my Physician's and Surgeon's Certificate. I enter into this Stipulated  
5 Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be  
6 bound by the Decision and Order of the Medical Board of California.

7  
8 DATED: 07/07/2020

9   
RYAN MATTHEW SPIVAK, M.D.  
Respondent

10  
11 I have read and fully discussed with Respondent Ryan Matthew Spivak, M.D. the terms and  
12 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.  
13 I approve its form and content.

14 DATED: 7/7/20

15   
SARA E. HERSCH  
SARVNAZ R. MACKIN  
Attorney for Respondent

16  
17 ENDORSEMENT

18 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully  
19 submitted for consideration by the Medical Board of California.

20 DATED: July 7, 2020

21 Respectfully submitted,

22 XAVIER BECERRA  
Attorney General of California  
23 JUDITH T. ALVARADO  
Supervising Deputy Attorney General

24   
25 REBECCA L. SMITH  
Deputy Attorney General  
26 Attorneys for Complainant

27 LA2019505193  
28 63361817.docx

**Exhibit A**

**Accusation and Petition to Revoke Probation No. 800-2019-061086**

1 XAVIER BECERRA  
Attorney General of California  
2 JUDITH T. ALVARADO  
Supervising Deputy Attorney General  
3 REBECCA L. SMITH  
Deputy Attorney General  
4 State Bar No. 179733  
California Department of Justice  
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Facsimile: (916) 731-2117  
7 *Attorneys for Complainant*

FILED  
STATE OF CALIFORNIA  
MEDICAL BOARD OF CALIFORNIA  
SACRAMENTO Jan 16 2020  
BY A. CARMICHAEL ANALYST

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

12 In the Matter of the Accusation and Petition to  
13 Revoke Probation Against:

Case No. 800-2019-061086

14 Ryan Matthew Spivak, M.D.  
P.O. Box 46666  
15 Los Angeles, CA 90046

**ACCUSATION AND PETITION TO  
REVOKE PROBATION**

16 Physician's and Surgeon's Certificate  
No. A 113632,

17 Respondent.  
18

19  
20 **PARTIES**

21 1. Christine J. Lally ("Complainant") brings this Accusation and Petition to Revoke  
22 Probation solely in her official capacity as the Interim Executive Director of the Medical Board of  
23 California, Department of Consumer Affairs (Board).

24 2. On or about August 11, 2010, the Medical Board issued Physician's and Surgeon's  
25 Certificate Number A 113632 to Ryan Matthew Spivak, M.D. ("Respondent"). The Physician's  
26 and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought  
27 herein and will expire on August 31, 2020, unless renewed.

28 ///

3. In a matter entitled *In the Matter of the Accusation against Ryan Matthew Spivak, M.D.*, Medical Board Case No. 800-2016-020767, the Board, issued a decision, effective May 31, 2017, in which Respondent's Physician's and Surgeon's Certificate was revoked, for dishonest acts, violation of drug statutes, misuse of controlled substances, illegitimate prescriptions, false/fictitious prescriptions, obtaining prescriptions by fraud/deceit, making or signing false documents, forging prescriptions for self-use, failure to report change of address, as well as unprofessional conduct. However, the revocation was stayed and Respondent was placed on seven years of probation, together with a partial restriction on prescribing controlled substances, as well as the mandatory conditions applying to a substance abusing licensee and other standard terms and conditions. A copy of that Decision is attached as Exhibit A and is incorporated herein by this reference.

## JURISDICTION

4. This Accusation and Petition to Revoke Probation is brought before the Board, under the authority of the following laws. All section references are to the Business and Professions Code ("Code") unless otherwise indicated.

5. Pursuant to Code section 200(1), the Board's highest priority is public protection.

6. Section 2004 of the Code states:

**"The board shall have the responsibility for the following:**

“(a) The enforcement of the disciplinary and criminal provisions of the Medical Practice Act.

**“(b) The administration and hearing of disciplinary actions.**

"(c) Carrying out disciplinary actions appropriate to findings made by a panel or an administrative law judge.

"(d) Suspending, revoking, or otherwise limiting certificates after the conclusion of disciplinary actions.

“(e) Reviewing the quality of medical practice carried out by physician and surgeon certificate holders under the jurisdiction of the board.

“ ”  
1 1 1

1           7.    Section 2227 of the Code states:

2           “(a) A licensee whose matter has been heard by an administrative law judge of the Medical  
3   Quality Hearing Panel as designated in Section 11371 of the Government Code, or whose default  
4   has been entered, and who is found guilty, or who has entered into a stipulation for disciplinary  
5   action with the board, may, in accordance with the provisions of this chapter:

6           “(1) Have his or her license revoked upon order of the board.

7           “(2) Have his or her right to practice suspended for a period not to exceed one year upon  
8   order of the board.

9           “(3) Be placed on probation and be required to pay the costs of probation monitoring upon  
10   order of the board.

11           “(4) Be publicly reprimanded by the board. The public reprimand may include a  
12   requirement that the licensee complete relevant educational courses approved by the board.

13           “(5) Have any other action taken in relation to discipline as part of an order of probation, as  
14   the board or an administrative law judge may deem proper.

15           “(b) Any matter heard pursuant to subdivision (a), except for warning letters, medical  
16   review or advisory conferences, professional competency examinations, continuing education  
17   activities, and cost reimbursement associated therewith that are agreed to with the board and  
18   successfully completed by the licensee, or other matters made confidential or privileged by  
19   existing law, is deemed public, and shall be made available to the public by the board pursuant to  
20   Section 803.1.”

21           8.    Section 2234 of the Code, states:

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

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

27           “...”

28    ///

1           9.     Section 2236 of the Code states:

2           “(a) The conviction of any offense substantially related to the qualifications, functions, or  
3 duties of a physician and surgeon constitutes unprofessional conduct within the meaning of this  
4 chapter [Chapter 5, the Medical Practice Act]. The record of conviction shall be conclusive  
5 evidence only of the fact that the conviction occurred.

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

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

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

21           10.    Section 2237 of the Code states:

22           “(a) The conviction of a charge of violating any federal statutes or regulations or any statute  
23 or regulation of this state, regulating dangerous drugs or controlled substances, constitutes  
24 unprofessional conduct. The record of the conviction is conclusive evidence of such  
25 unprofessional conduct. A plea or verdict of guilty or a conviction following a plea of nolo  
26 contendere is deemed to be a conviction within the meaning of this section.

27           “(b) Discipline may be ordered in accordance with Section 2227 or the Medical Board may  
28 order the denial of the license when the time for appeal has elapsed, or the judgment of conviction

1 has been affirmed on appeal, or when an order granting probation is made suspending the  
2 imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4  
3 of the Penal Code allowing such person to withdraw his or her plea of guilty and to enter a plea of  
4 not guilty, or setting aside the verdict of guilty, or dismissing the accusation, complaint,  
5 information, or indictment."

6 11. Section 490 of the Code states:

7 "(a) In addition to any other action that a board is permitted to take against a licensee, a  
8 board may suspend or revoke a license on the ground that the licensee has been convicted of a  
9 crime, if the crime is substantially related to the qualifications, functions, or duties of the business  
10 or profession for which the license was issued.

11 "(b) Notwithstanding any other provision of law, a board may exercise any authority to  
12 discipline a licensee for conviction of a crime that is independent of the authority granted under  
13 subdivision (a) only if the crime is substantially related to the qualifications, functions, or duties  
14 of the business or profession for which the licensee's license was issued.

15 "(c) A conviction within the meaning of this section means a plea or verdict of guilty or a  
16 conviction following a plea of nolo contendere. Any action that a board is permitted to take  
17 following the establishment of a conviction may be taken when the time for appeal has elapsed, or  
18 the judgment of conviction has been affirmed on appeal, or when an order granting probation is  
19 made suspending the imposition of sentence, irrespective of a subsequent order under the  
20 provisions of Section 1203.4 of the Penal Code.

21 "(d) The Legislature hereby finds and declares that the application of this section has been  
22 made unclear by the holding in *Petropoulos v. Department of Real Estate* (2006) 142 Cal.App.4th  
23 554, and that the holding in that case has placed a significant number of statutes and regulations  
24 in question, resulting in potential harm to the consumers of California from licensees who have  
25 been convicted of crimes. Therefore, the Legislature finds and declares that this section  
26 establishes an independent basis for a board to impose discipline upon a licensee, and that the  
27 amendments to this section made by Chapter 33 of the Statutes of 2008 do not constitute a change  
28 to, but rather are declaratory of, existing law.

1           12. Section 493 of the Code states:

2           “Notwithstanding any other provision of law, in a proceeding conducted by a board within  
3 the department pursuant to law to deny an application for a license or to suspend or revoke a  
4 license or otherwise take disciplinary action against a person who holds a license, upon the  
5 ground that the applicant or the licensee has been convicted of a crime substantially related to the  
6 qualifications, functions, and duties of the licensee in question, the record of conviction of the  
7 crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact,  
8 and the board may inquire into the circumstances surrounding the commission of the crime in  
9 order to fix the degree of discipline or to determine if the conviction is substantially related to the  
10 qualifications, functions, and duties of the licensee in question.

11           “...”

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

13           “For the purposes of denial, suspension or revocation of a license, certificate or permit  
14 pursuant to Division 1.5 (commencing with Section 475) of the code, a crime or act shall be  
15 considered to be substantially related to the qualifications, functions or duties of a person holding  
16 a license, certificate or permit under the Medical Practice Act if to a substantial degree it  
17 evidences present or potential unfitness of a person holding a license, certificate or permit to  
18 perform the functions authorized by the license, certificate or permit in a manner consistent with  
19 the public health, safety or welfare. Such crimes or acts shall include but not be limited to the  
20 following: Violating or attempting to violate, directly or indirectly, or assisting in or abetting the  
21 violation of, or conspiring to violate any provision of the Medical Practice Act.”

22                           **CONTROLLED SUBSTANCES/DANGEROUS DRUGS**

23           14. Code section 4021 states:

24           “‘Controlled substance’ means any substance listed in chapter 2 (commencing with Section  
25 11053) of Division 10 of the Health and Safety Code.”

26           15. Code section 4022 provides:

27           “‘Dangerous drug’ or ‘dangerous device’ means any drug or device unsafe for self-use in  
28 humans or animals, and includes the following:

1       “(a) Any drug that bears the legend: ‘Caution: federal law prohibits dispensing without  
2 prescription,’ ‘Rx only’ or words of similar import.

3       “(b) Any device that bears the statement: ‘Caution: federal law restricts this device to sale  
4 by or on the order of a \_\_\_\_\_,’ ‘Rx only,’ or words of similar import, the blank to be filled  
5 in with the designation of the practitioner licensed to use or order use of the device.

6       “(c) Any other drug or device that by federal or state law can be lawfully dispensed only on  
7 prescription or furnished pursuant to Section 4006.”

8       16. Hydrocodone-acetaminophen, also known by the trade name Vicodin, is a Schedule II  
9 controlled substance as defined by section 11055, subdivision (b)(1)(I), of the Health and Safety  
10 Code and is a dangerous drug as defined in Section 4022 of the Code.

11       17. Hydrocodone-bitartrate acetaminophen, also known by the trade name Norco, is a  
12 Schedule II controlled substance as defined by section 11055, subdivision (b)(1)(I), of the Health  
13 and Safety Code and is a dangerous drug as defined in Section 4022 of the Code.

14       18. Oxycodone-acetaminophen, also known by the trade name Percocet, is a Schedule II  
15 controlled substance as defined by section 11055, subdivision (b)(1)(M), of the Health and Safety  
16 Code and is a dangerous drug as defined in Section 4022 of the Code.

17       19. Hydromorphone-hydrochloride, also known by the trade name Dilaudid, is a  
18 Schedule II controlled substance as defined by section 11055, subdivision (b)(1)(J), of the Health  
19 and Safety Code and is a dangerous drug as defined in Section 4022 of the Code.

20       20. Acetaminophen-codeine, also known by the trade name Tylenol with Codeine, is a  
21 Schedule III controlled substance as defined by section 11056, subdivision (e)(2), of the Health  
22 and Safety Code and is a dangerous drug as defined in Section 4022 of the Code.

23       21. Alprazolam is a Schedule IV controlled substance as defined by section 11057,  
24 subdivision (d)(1), of the Health and Safety Code and is a dangerous drug as defined in Section  
25 4022 of the Code.

26       22. Lorazepam is a Schedule IV controlled substance as defined by section 11057,  
27 subdivision (d)(16), of the Health and Safety Code and is a dangerous drug as defined in Section  
28 4022 of the Code.

1           23. Tramadol is a Schedule IV controlled substance as defined by section 11057,  
2 subdivision (c), of the Health and Safety Code and is a dangerous drug as defined in Section 4022  
3 of the Code.

4                                   **FIRST CAUSE FOR DISCIPLINE**

5                                   **(Conviction of a Crime)**

6           24. Respondent is subject to disciplinary action under section 2234, subdivision (a),  
7 section 2236, subdivision (a), and section 490 of the Code and California Code of Regulations,  
8 title 16, section 1360, in that he has been convicted of a crime substantially related to the  
9 qualifications, function, or duties of a physician and surgeon. The circumstances are as follows:

10          25. On July 18, 2017, in proceedings entitled *The People of the State of California v.*  
11 *Ryan M. Spivak*, case number BA459131 in the Los Angeles County Superior Court, a felony  
12 complaint was filed against Respondent charging him with five counts of obtaining prescriptions  
13 for controlled substances by fraud in violation of Health and Safety Code sections 11173,  
14 subdivision (a) and 11371.1. On April 16, 2018, the complaint was amended adding a sixth count  
15 of obtaining or possessing a controlled substance obtained by a nonconforming prescription in  
16 violation of Health and Safety Code section 11180, a misdemeanor.

17          26. On April 16, 2018, in proceedings entitled *The People of the State of California v.*  
18 *Ryan M. Spivak*, case number BA459131 in the Los Angeles County Superior Court, Respondent,  
19 upon his plea of no contest, was convicted of obtaining or possessing a controlled substance  
20 obtained by a nonconforming prescription in violation of Health and Safety Code section 11180, a  
21 misdemeanor.

22          27. Respondent's acts and/or omissions as set forth in paragraphs 24 through 26 above,  
23 whether proven individually, jointly, or in any combination thereof, constitute a conviction of a  
24 crime substantially related to the qualifications, function, or duties of a physician and surgeon  
25 pursuant to section 2234, subdivision (a), section 2236, subdivision (a), and section 490 of the  
26 Code and California Code of Regulations, title 16, section 1360. Therefore, cause for discipline  
27 exists.

28       ///

**FIRST CAUSE TO REVOKE PROBATION**

**(Failure to Comply with Probation Condition Number 2:**

**Controlled Substances – Partial Restriction)**

28. Condition 2 of the May 31, 2017, Decision states:

“2. CONTROLLED SUBSTANCES - PARTIAL RESTRICTION. Respondent shall not order, prescribe, dispense, administer, furnish, or possess any controlled substances as defined by the California Uniform Controlled Substances Act, except in the perioperative setting when Respondent is acting as surgeon where the patient will only use such controlled substances at the location of the procedure (i.e., the foregoing exception shall not apply to any controlled substances that are used outside of such perioperative setting). Perioperative setting is defined as immediately prior to surgery, during surgery or immediately after surgery.

“Respondent shall not issue an oral or written recommendation or approval to a patient or a patient’s primary caregiver for the possession or cultivation of marijuana for the personal medical purposes of the patient within the meaning of Health and Safety Code section 11362.5. If Respondent forms the medical opinion, after an appropriate prior examination and medical indication, that a patient’s medical condition may benefit from the use of marijuana, Respondent shall so inform the patient and shall refer the patient to another physician who, following an appropriate prior examination and medical indication, may independently issue a medically appropriate recommendation or approval for the possession or cultivation of marijuana for the personal medical purposes of the patient within the meaning of Health and Safety Code section 11362.5. In addition, Respondent shall inform the patient or the patient’s primary caregiver that Respondent is prohibited from issuing a recommendation or approval for the possession or cultivation of marijuana for the personal medical purposes of the patient and that the patient or the patient’s primary caregiver may not rely on Respondent’s statements to legally possess or cultivate marijuana for the personal medical purposes of the patient. Respondent shall fully document in the patient’s chart that the patient or the patient’s primary caregiver was

1 so informed. Nothing in this condition prohibits Respondent from providing the patient or  
2 the patient's primary caregiver information about the possible medical benefits resulting  
3 from the use of marijuana.

4 "Throughout his term of probation, Respondent shall provide to his practice  
5 monitor, as described below: (a) copies of all records of controlled substances ordered,  
6 prescribed, dispensed, administered, or possessed by Respondent (collectively, the "CS  
7 Records"); and (b) copies of his surgery records, including drug logs, for each patient that  
8 he provides care to in the perioperative setting (collectively, the "Surgery Records").  
9 Perioperative setting is defined as immediately prior to surgery, during surgery or  
10 immediately after surgery."

11 29. Respondent's probation is subject to revocation because he failed to comply with  
12 Probation Condition 2, referenced above. The facts and circumstances regarding this violation  
13 are as follows:

14 30. From July 22, 2017 through December 28, 2018, Respondent prescribed controlled  
15 substances to patients on 306 occasions to be used outside of the perioperative setting (i.e.,  
16 outside of the location of the procedures performed by Respondent).

17 31. In July 2017, Respondent prescribed the following:

- 18 a. On July 22, 2017, Respondent prescribed 20 Norco tablets (325 mg) to Patient  
19 1;  
20 b. On July 25, 2017, Respondent prescribed at least 5 Norco tablets (325 mg) to  
21 Patient 2.  
22 c. On July 27, 2017, Respondent prescribed at least 5 Norco tablets (325 mg) to  
23 Patient 3.  
24 d. On July 27, 2017, Respondent prescribed at least 5 Norco tablets (325 mg) to  
25 Patient 4.

26 ///

27 <sup>1</sup> For privacy purposes, the patients in this Accusation and Petition to Revoke Probation are  
28 referred to as Patient 1, Patient 2, Patient 3, etc., with the identities of the patients disclosed to Respondent  
in discovery.

1 e. On July 31, 2017, Respondent prescribed 10 Norco tablets (325 mg) to Patient  
2 5.  
3 32. In August 2017, Respondent prescribed the following:  
4 a. On August 1, 2017, Respondent prescribed 20 Norco tablets (325 mg) to  
5 Patient 6.  
6 b. On August 2, 2017, Respondent prescribed 12 Norco tablets (325 mg) to  
7 Patient 7.  
8 c. On August 3, 2017, Respondent prescribed 20 Norco tablets (325 mg) to  
9 Patient 8.  
10 d. On August 3, 2017, Respondent prescribed 20 Norco tablets (325 mg) to  
11 Patient 9.  
12 e. On August 3, 2017, Respondent prescribed 20 Norco tablets (325 mg) to  
13 Patient 10.  
14 f. On August 5, 2017, Respondent prescribed 20 Norco tablets (325 mg) to  
15 Patient 11.  
16 g. On August 5, 2017, Respondent prescribed 20 Norco tablets (325 mg) to  
17 Patient 12.  
18 h. On August 5, 2017, Respondent prescribed 20 Norco tablets (325 mg) to  
19 Patient 13.  
20 i. On August 10, 2017, Respondent prescribed 20 Tylenol with Codeine tablets  
21 (30 mg) to Patient 14.  
22 j. On August 10, 2017, Respondent prescribed 20 Norco tablets (325 mg) to  
23 Patient 15.  
24 k. On August 11, 2017, Respondent prescribed 20 Tylenol with Codeine tablets  
25 (30 mg) to Patient 16.  
26 l. On August 11, 2017, Respondent prescribed 20 Norco tablets (325 mg) to  
27 Patient 17.  
28 ///

1 m. On August 15, 2017, Respondent prescribed 20 Norco tablets (325 mg) to  
2 Patient 18.  
3 n. On August 15, 2017, Respondent prescribed 20 Norco tablets (325 mg) to  
4 Patient 19.  
5 o. On August 16, 2017, Respondent prescribed 20 Norco tablets (325 mg) to  
6 Patient 20.  
7 p. On August 16, 2017, Respondent prescribed 20 Norco tablets (325 mg) to  
8 Patient 21.  
9 q. On August 17, 2017, Respondent prescribed 15 Norco tablets (325 mg) to  
10 Patient 22.  
11 r. On August 18, 2017, Respondent prescribed 20 Norco tablets (325 mg) to  
12 Patient 23.  
13 s. On August 18, 2017, Respondent prescribed 20 Norco tablets (325 mg) to  
14 Patient 24.  
15 t. On August 21, 2017, Respondent prescribed 10 Norco tablets (325 mg) to  
16 Patient 25.  
17 u. On August 24, 2017, Respondent prescribed 20 Norco tablets (325 mg) to  
18 Patient 26.  
19 v. On August 24, 2017, Respondent prescribed 20 Norco tablets (325 mg) to  
20 Patient 27.  
21 w. On August 31, 2017, Respondent prescribed 20 Norco tablets (325 mg) to  
22 Patient 28.  
23 33. In September 2017, Respondent prescribed the following:  
24 a. On September 2, 2017, Respondent prescribed 20 Norco tablets (325 mg) to  
25 Patient 29.  
26 b. On September 2, 2017, Respondent prescribed 20 Norco tablets (325 mg) to  
27 Patient 30.  
28 ///

- 1 c. On September 2, 2017, Respondent prescribed an additional 20 Norco tablets  
2 (325 mg) to Patient 27.
- 3 d. On September 5, 2017, Respondent prescribed 20 Percocet tablets (325 mg) to  
4 Patient 31.
- 5 e. On September 6, 2017, Respondent prescribed 30 Norco tablets (325 mg) to  
6 Patient 32.
- 7 f. On September 11, 2017, Respondent prescribed 20 Norco tablets (325 mg) to  
8 Patient 33.
- 9 g. On September 11, 2017, Respondent prescribed 20 Norco tablets (325 mg) to  
10 Patient 34.
- 11 h. On September 14, 2017, Respondent prescribed 20 Percocet tablets (325 mg) to  
12 Patient 35.
- 13 i. On September 14, 2017, Respondent prescribed 30 Percocet tablets (325 mg) to  
14 Patient 36.
- 15 j. On September 14, 2017, Respondent prescribed 30 Percocet tablets (325 mg) to  
16 Patient 37.
- 17 k. On September 15, 2017, Respondent prescribed 20 Norco tablets (325 mg) to  
18 Patient 38.
- 19 l. On September 15, 2017, Respondent prescribed 20 Norco tablets (325 mg) to  
20 Patient 39.
- 21 m. On September 19, 2017, Respondent prescribed 20 Norco tablets (325 mg) to  
22 Patient 40.
- 23 n. On September 20, 2017, Respondent prescribed 30 Norco tablets (325 mg) to  
24 Patient 36.
- 25 o. On September 23, 2017, Respondent prescribed 20 Norco tablets (325 mg) to  
26 Patient 41.
- 27 p. On September 25, 2017, Respondent prescribed 20 Norco tablets (325 mg) to  
28 Patient 42.

1 q. On September 27, 2017, Respondent prescribed 10 Norco tablets (325 mg) to  
2 Patient 43.  
3 34. In October 2017, Respondent prescribed the following:  
4 a. On October 2, 2017, Respondent prescribed 20 Norco tablets (325 mg) to  
5 Patient 40.  
6 b. On October 4, 2017, Respondent prescribed 20 Norco tablets (325 mg) to  
7 Patient 44.  
8 c. On October 7, 2017, Respondent prescribed 20 Norco tablets (325 mg) to  
9 Patient 45.  
10 d. On October 7, 2017, Respondent prescribed 20 Norco tablets (325 mg) to  
11 Patient 46.  
12 e. On October 7, 2017, Respondent prescribed 35 Norco tablets (325 mg) to  
13 Patient 47.  
14 f. On October 9, 2017, Respondent prescribed 20 Norco tablets (325 mg) to  
15 Patient 48.  
16 g. On October 11, 2017, Respondent prescribed 25 Norco tablets (325 mg) to  
17 Patient 21.  
18 h. On October 11, 2017, Respondent prescribed 20 Norco tablets (325 mg) to  
19 Patient 36.  
20 i. On October 17, 2017, Respondent prescribed 20 Norco tablets (325 mg) to  
21 Patient 49.  
22 j. On October 17, 2017, Respondent prescribed 20 Norco tablets (325 mg) to  
23 Patient 50.  
24 k. On October 18, 2017, Respondent prescribed 20 Norco tablets (325 mg) to  
25 Patient 51.  
26 l. On October 18, 2017, Respondent prescribed 30 Norco tablets (325 mg) to  
27 Patient 52.  
28 ///

- 1 m. On October 18, 2017, Respondent prescribed 20 Norco tablets (325 mg) to  
2 Patient 36.
- 3 n. On October 21, 2017, Respondent prescribed 30 Norco tablets (325 mg) to  
4 Patient 53.
- 5 o. On October 27, 2017, Respondent prescribed 20 Norco tablets (325 mg) to  
6 Patient 54.
- 7 p. On October 31, 2017, Respondent prescribed 20 Norco tablets (325 mg) to  
8 Patient 55.
- 9 35. In November 2017, Respondent prescribed the following:
- 10 a. On November 1, 2017, Respondent prescribed 20 Norco tablets (325 mg) to  
11 Patient 56.
- 12 b. On November 1, 2017, Respondent prescribed 20 Norco tablets (325 mg) to  
13 Patient 57.
- 14 c. On November 2, 2017, Respondent prescribed 20 Norco tablets (325 mg) to  
15 Patient 58.
- 16 d. On November 6, 2017, Respondent prescribed 20 Norco tablets (325 mg) to  
17 Patient 59.
- 18 e. On November 6, 2017, Respondent prescribed 20 Norco tablets (325 mg) to  
19 Patient 60.
- 20 f. On November 10, 2017, Respondent prescribed 20 Norco tablets (325 mg) to  
21 Patient 61.
- 22 g. On November 13, 2017, Respondent prescribed 20 Norco tablets (325 mg) to  
23 Patient 62.
- 24 h. On November 16, 2017, Respondent prescribed 20 Norco tablets (325 mg) to  
25 Patient 21.
- 26 i. On November 18, 2017, Respondent prescribed 20 Percocet tablets (325 mg) to  
27 Patient 24.
- 28 ///

- 1 j. On November 18, 2017, Respondent prescribed 20 Norco tablets (325 mg) to  
2 Patient 63.
- 3 k. On November 18, 2017, Respondent prescribed 20 Norco tablets (325 mg) to  
4 Patient 64.
- 5 l. On November 18, 2017, Respondent prescribed 20 Norco tablets (325 mg) to  
6 Patient 65.
- 7 m. On November 20, 2017, Respondent prescribed 20 Norco tablets (325 mg) to  
8 Patient 59.
- 9 n. On November 22, 2017, Respondent prescribed 20 Norco tablets (325 mg) to  
10 Patient 66.
- 11 o. On November 29, 2017, Respondent prescribed 30 Norco tablets (325 mg) to  
12 Patient 67.
- 13 36. In December 2017, Respondent prescribed the following:
- 14 a. On December 2, 2017, Respondent prescribed 20 Norco tablets (325 mg) to  
15 Patient 48.
- 16 b. On December 2, 2017, Respondent prescribed 30 Percocet tablets (325 mg) to  
17 Patient 68.
- 18 c. On December 6, 2017, Respondent prescribed 20 Norco tablets (325 mg) to  
19 Patient 69.
- 20 d. On December 14, 2017, Respondent prescribed 20 Norco tablets (325 mg) to  
21 Patient 70.
- 22 e. On December 16, 2017, Respondent prescribed 20 Norco tablets (325 mg) to  
23 Patient 71.
- 24 f. On December 18, 2017, Respondent prescribed 30 Norco tablets (325 mg) to  
25 Patient 72.
- 26 g. On December 18, 2017, Respondent prescribed 20 Norco tablets (325 mg) to  
27 Patient 73.
- 28 ///

1 h. On December 21, 2017, Respondent prescribed 20 Norco tablets (325 mg) to  
2 Patient 74.

3 37. In January 2018, Respondent prescribed the following:

4 a. On January 4, 2018, Respondent prescribed 20 Norco tablets (325 mg) to  
5 Patient 75.

6 b. On January 4, 2018, Respondent prescribed 20 Norco tablets (325 mg) to  
7 Patient 76.

8 c. On January 4, 2018, Respondent prescribed 20 Norco tablets (325 mg) to  
9 Patient 2.

10 d. On January 8, 2018, Respondent prescribed 20 Norco tablets (325 mg) to  
11 Patient 77.

12 e. On January 11, 2018, Respondent prescribed 20 Norco tablets (325 mg) to  
13 Patient 78.

14 f. On January 13, 2018, Respondent prescribed 10 Norco tablets (325 mg) to  
15 Patient 79.

16 g. On January 18, 2018, Respondent prescribed 20 Norco tablets (325 mg) to  
17 Patient 80.

18 h. On January 18, 2018; Respondent prescribed 20 Norco tablets (325 mg) to  
19 Patient 81.

20 i. On January 19, 2018, Respondent prescribed 20 Norco tablets (325 mg) to  
21 Patient 82.

22 j. On January 19, 2018, Respondent prescribed 20 Norco tablets (325 mg) to  
23 Patient 83.

24 k. On January 22, 2018, Respondent prescribed 25 Norco tablets (325 mg) to  
25 Patient 84.

26 l. On January 22, 2018, Respondent prescribed 20 Norco tablets (325 mg) to  
27 Patient 82.

28 ///

- 1 m. On January 23, 2018, Respondent prescribed 20 Norco tablets (325 mg) to  
2 Patient 85.
- 3 n. On January 23, 2018, Respondent prescribed 20 Norco tablets (325 mg) to  
4 Patient 86.
- 5 o. On January 25, 2018, Respondent prescribed 20 Norco tablets (325 mg) to  
6 Patient 82.
- 7 p. On January 29, 2018, Respondent prescribed 15 Norco tablets (325 mg) to  
8 Patient 87.
- 9 38. In February 2018, Respondent prescribed the following:
- 10 a. On February 12, 2018, Respondent prescribed 30 Norco tablets (325 mg) to  
11 Patient 88.
- 12 b. On February 12, 2018, Respondent prescribed 30 Norco tablets (325 mg) to  
13 Patient 89.
- 14 c. On February 14, 2018, Respondent prescribed 20 Norco tablets (325 mg) to  
15 Patient 21.
- 16 d. On February 17, 2018, Respondent prescribed 20 Norco tablets (325 mg) to  
17 Patient 90.
- 18 e. On February 19, 2018, Respondent prescribed 20 Norco tablets (325 mg) to  
19 Patient 91.
- 20 f. On February 19, 2018, Respondent prescribed 20 Norco tablets (325 mg) to  
21 Patient 92.
- 22 g. On February 21, 2018, Respondent prescribed 25 Percocet tablets (325 mg) to  
23 Patient 93.
- 24 h. On February 21, 2018, Respondent prescribed 20 Norco tablets (325 mg) to  
25 Patient 94.
- 26 i. On February 21, 2018, Respondent prescribed 30 Percocet tablets (325 mg) to  
27 Patient 95.
- 28 ///

- 1 j. On February 22, 2018, Respondent prescribed 20 Norco tablets (325 mg) to  
2 Patient 96.
- 3 k. On February 22, 2018, Respondent prescribed 30 Norco tablets (325 mg) to  
4 Patient 97.
- 5 l. On February 24, 2018, Respondent prescribed 20 Norco tablets (325 mg) to  
6 Patient 98.
- 7 m. On February 24, 2018, Respondent prescribed 20 Norco tablets (325 mg) to  
8 Patient 99.
- 9 n. On February 26, 2018, Respondent prescribed 20 Norco tablets (325 mg) to  
10 Patient 100.
- 11 o. On February 26, 2018, Respondent prescribed 20 Norco tablets (325 mg) to  
12 Patient 101.
- 13 p. On February 28, 2018, Respondent prescribed 40 Percocet tablets (325 mg) to  
14 Patient 102.
- 15 39. In March 2018, Respondent prescribed the following:
- 16 a. On March 1, 2018, Respondent prescribed 20 Norco tablets (325 mg) to Patient  
17 103.
- 18 b. On March 1, 2018, Respondent prescribed 20 Norco tablets (325 mg) to Patient  
19 104.
- 20 c. On March 8, 2018, Respondent prescribed 20 Norco tablets (325 mg) to Patient  
21 105.
- 22 d. On March 8, 2018, Respondent prescribed 20 Norco tablets (325 mg) to Patient  
23 106.
- 24 e. On March 11, 2018, Respondent prescribed 20 Norco tablets (325 mg) to  
25 Patient 107.
- 26 f. On March 12, 2018, Respondent prescribed 20 Norco tablets (325 mg) to  
27 Patient 108.

28 ///

- 1 g. On March 14, 2018, Respondent prescribed 10 Norco tablets (325 mg) to  
2 Patient 109.
- 3 h. On March 15, 2018, Respondent prescribed 20 Norco tablets (325 mg) to  
4 Patient 110.
- 5 i. On March 16, 2018, Respondent prescribed 15 Norco tablets (325 mg) to  
6 Patient 111.
- 7 j. On March 19, 2018, Respondent prescribed 30 Norco tablets (325 mg) to  
8 Patient 112.
- 9 k. On March 21, 2018, Respondent prescribed 30 Percocet tablets (325 mg) to  
10 Patient 113.
- 11 l. On March 23, 2018, Respondent prescribed 20 Norco tablets (325 mg) to  
12 Patient 98.
- 13 m. On March 26, 2018, Respondent prescribed 20 Norco tablets (325 mg) to  
14 Patient 114.
- 15 n. On March 26, 2018, Respondent prescribed 20 Norco tablets (325 mg) to  
16 Patient 115.
- 17 o. On March 28, 2018, Respondent prescribed 20 Norco tablets (325 mg) to  
18 Patient 98.
- 19 40. In April 2018, Respondent prescribed the following:
- 20 a. On April 2, 2018, Respondent prescribed 15 Norco tablets (325 mg) to Patient  
21 116.
- 22 b. On April 2, 2018, Respondent prescribed 20 Norco tablets (325 mg) to Patient  
23 117.
- 24 c. On April 2, 2018, Respondent prescribed 20 Norco tablets (325 mg) to Patient  
25 118.
- 26 d. On April 5, 2018, Respondent prescribed 20 Norco tablets (325 mg) to Patient  
27 119.
- 28 ///

- 1 e. On April 9, 2018, Respondent prescribed 20 Norco tablets (325 mg) to Patient  
2 33.
- 3 f. On April 9, 2018, Respondent prescribed 10 Percocet tablets (325 mg) to  
4 Patient 120.
- 5 g. On April 9, 2018, Respondent also prescribed 20 Norco tablets (325 mg) to  
6 Patient 120.
- 7 h. On April 10, 2018, Respondent prescribed 20 Norco tablets (325 mg) to Patient  
8 121.
- 9 i. On April 11, 2018, Respondent prescribed 20 Norco tablets (325 mg) to Patient  
10 34.
- 11 j. On April 12, 2018, Respondent prescribed 25 Percocet tablets (325 mg) to  
12 Patient 121.
- 13 k. On April 13, 2018, Respondent prescribed 30 Percocet tablets (325 mg) to  
14 Patient 83.
- 15 l. On April 13, 2018, Respondent prescribed 30 Percocet tablets (325 mg) to  
16 Patient 122.
- 17 m. On April 13, 2018, Respondent also prescribed 40 Norco tablets (325 mg) to  
18 Patient 122.
- 19 n. On April 17, 2018, Respondent prescribed 20 Norco tablets (325 mg) to Patient  
20 123.
- 21 o. On April 17, 2018, Respondent prescribed 20 Norco tablets (325 mg) to Patient  
22 124.
- 23 p. On April 18, 2018, Respondent prescribed 20 Norco tablets (325 mg) to Patient  
24 125.
- 25 q. On April 18, 2018, Respondent prescribed 25 Norco tablets (325 mg) to Patient  
26 126.
- 27 r. On April 18, 2018, Respondent prescribed 20 Norco tablets (325 mg) to Patient  
28 127.

- 1 s. On April 20, 2018, Respondent prescribed 25 Norco tablets (325 mg) to Patient  
2 128.
- 3 t. On April 20, 2018, Respondent prescribed 20 Norco tablets (325 mg) to Patient  
4 97.
- 5 u. On April 20, 2018, Respondent prescribed 20 Norco tablets (325 mg) to Patient  
6 123.
- 7 v. On April 23, 2018, Respondent prescribed 50 Percocet tablets (325 mg) to  
8 Patient 129.
- 9 w. On April 24, 2018, Respondent prescribed 25 Norco tablets (325 mg) to Patient  
10 126.
- 11 x. On April 26, 2018, Respondent prescribed 40 Percocet tablets (325 mg) to  
12 Patient 130.
- 13 y. On April 26, 2018, Respondent prescribed 20 Norco tablets (325 mg) to Patient  
14 65.
- 15 z. On April 26, 2018, Respondent prescribed 25 Norco tablets (325 mg) to Patient  
16 131.
- 17 aa. On April 28, 2018, Respondent prescribed 20 Norco tablets (325 mg) to Patient  
18 132.
- 19 bb. On April 30, 2018, Respondent prescribed 25 Norco tablets (325 mg) to Patient  
20 133.
- 21 41. In May 2018, Respondent prescribed the following:
- 22 a. On May 3, 2018, Respondent prescribed 20 Norco tablets (325 mg) to Patient  
23 134.
- 24 b. On May 3, 2018, Respondent prescribed 40 Percocet tablets (325 mg) to Patient  
25 130.
- 26 c. On May 4, 2018, Respondent prescribed 20 Norco tablets (325 mg) to Patient  
27 135.
- 28 ///

1 d. On May 4, 2018, Respondent prescribed 20 Norco tablets (325 mg) to Patient  
2 136.  
3 e. On May 7, 2018, Respondent prescribed 40 Norco tablets (325 mg) to Patient  
4 137.  
5 f. On May 8, 2018, Respondent prescribed 20 Norco tablets (325 mg) to Patient  
6 138.  
7 g. On May 9, 2018, Respondent prescribed 20 Norco tablets (325 mg) to Patient  
8 139.  
9 h. On May 23, 2018, Respondent prescribed 30 Norco tablets (325 mg) to Patient  
10 140.  
11 i. On May 23, 2018, Respondent prescribed 50 Percocet tablets (325 mg) to  
12 Patient 102.  
13 j. On May 25, 2018, Respondent prescribed 20 Norco tablets (325 mg) to Patient  
14 141.  
15 k. On May 25, 2018, Respondent prescribed 20 Norco tablets (325 mg) to Patient  
16 142.  
17 l. On May 25, 2018, Respondent prescribed 30 Norco tablets (325 mg) to Patient  
18 143.  
19 m. On May 25, 2018, Respondent prescribed 25 Norco tablets (325 mg) to Patient  
20 144.  
21 42. In June 2018, Respondent prescribed the following:  
22 a. On June 1, 2018, Respondent prescribed 20 Norco tablets (325 mg) to Patient  
23 61.  
24 b. On June 1, 2018, Respondent prescribed 20 Norco tablets (325 mg) to Patient  
25 145.  
26 c. On June 4, 2018, Respondent prescribed 25 Norco tablets (325 mg) to Patient  
27 146.  
28 ///

- 1 d. On June 9, 2018, Respondent prescribed 25 Norco tablets (325 mg) to Patient  
2 147.  
3 e. On June 13, 2018, Respondent prescribed 25 Norco tablets (325 mg) to Patient  
4 148.  
5 f. On June 13, 2018, Respondent prescribed 25 Norco tablets (325 mg) to Patient  
6 149.  
7 g. On June 14, 2018, Respondent prescribed 20 Norco tablets (325 mg) to Patient  
8 150.  
9 h. On June 14, 2018, Respondent prescribed 25 Percocet tablets (325 mg) to  
10 Patient 151.  
11 i. On June 15, 2018, Respondent prescribed 20 Norco tablets (325 mg) to Patient  
12 152.  
13 j. On June 18, 2018, Respondent prescribed 20 Norco tablets (325 mg) to Patient  
14 153.  
15 k. On June 20, 2018, Respondent prescribed 40 Percocet tablets (325 mg) to  
16 Patient 154.  
17 l. On June 23, 2018, Respondent prescribed 20 Norco tablets (325 mg) to Patient  
18 155.  
19 m. On June 28, 2018, Respondent prescribed 30 Norco tablets (325 mg) to Patient  
20 156.  
21 n. On June 29, 2018, Respondent prescribed an additional 25 Norco tablets (325  
22 mg) to Patient 155.  
23 o. On June 29, 2018, Respondent prescribed 10 Norco tablets (325 mg) to Patient  
24 157.  
25 43. In July 2018, Respondent prescribed the following:  
26 a. On July 2, 2018, Respondent prescribed 25 Norco tablets (325 mg) to Patient  
27 158.  
28 ///

- 1 b. On July 5, 2018, Respondent prescribed 20 Norco tablets (325 mg) to Patient  
2 159.  
3 c. On July 5, 2018, Respondent prescribed 20 Norco tablets (325 mg) to Patient  
4 155.  
5 d. On July 6, 2018, Respondent prescribed 40 Percocet tablets (325 mg) to Patient  
6 102.  
7 e. On July 7 2018, Respondent prescribed 20 Norco tablets (325 mg) to Patient  
8 160.  
9 f. On July 11, 2018, Respondent prescribed 20 Norco tablets (325 mg) to Patient  
10 161.  
11 g. On July 12, 2018, Respondent prescribed 20 Norco tablets (325 mg) to Patient  
12 162.  
13 h. On July 12, 2018, Respondent prescribed 20 Norco tablets (325 mg) to Patient  
14 163.  
15 i. On July 15, 2018, Respondent prescribed 40 Norco tablets (325 mg) to Patient  
16 164.  
17 j. On July 18, 2018, Respondent prescribed 35 Norco tablets (325 mg) to Patient  
18 165.  
19 k. On July 18, 2018, Respondent prescribed 40 Norco tablets (325 mg) to Patient  
20 166.  
21 l. On July 18, 2018, Respondent prescribed 10 Norco tablets (325 mg) to Patient  
22 167.  
23 m. On July 19, 2018, Respondent prescribed 20 Norco tablets (325 mg) to Patient  
24 168.  
25 n. On July 20, 2018, Respondent prescribed 5 Norco tablets (325 mg) to Patient  
26 169.  
27 o. On July 20, 2018, Respondent prescribed 30 Norco tablets (325 mg) to Patient  
28 102.

- 1 p. On July 22, 2018, Respondent prescribed 25 Norco tablets (325 mg) to Patient  
2 170.
- 3 q. On July 23, 2018, Respondent prescribed 20 Norco tablets (325 mg) to Patient  
4 18.
- 5 r. On July 23, 2018, Respondent prescribed 6 Norco tablets (325 mg) to Patient  
6 171.
- 7 s. On July 23, 2018, Respondent prescribed 30 Norco tablets (325 mg) to Patient  
8 172.
- 9 t. On July 25, 2018, Respondent prescribed 30 Percocet tablets (325 mg) to  
10 Patient 173.
- 11 u. On July 26, 2018, Respondent prescribed 20 Norco tablets (325 mg) to Patient  
12 174.
- 13 v. On July 26, 2018, Respondent prescribed 30 Percocet tablets (325 mg) to  
14 Patient 175.
- 15 w. On July 30, 2018, Respondent prescribed 20 Norco tablets (325 mg) to Patient  
16 176.
- 17 x. On July 30, 2018, Respondent prescribed 20 Norco tablets (325 mg) to Patient  
18 177.
- 19 y. On July 30, 2018, Respondent prescribed 15 Norco tablets (325 mg) to Patient  
20 178.
- 21 z. On July 31, 2018, Respondent prescribed 20 Norco tablets (325 mg) to Patient  
22 179.
- 23 44. In August 2018, Respondent prescribed the following:
- 24 a. On August 3, 2018, Respondent prescribed 30 Dilaudid tablets (2 mg) to  
25 Patient 180.
- 26 b. On August 5, 2018, Respondent prescribed 30 Norco tablets (325 mg) to  
27 Patient 181.
- 28 ///

- 1 c. On August 8, 2018, Respondent prescribed 30 Norco tablets (325 mg) to  
2 Patient 182.
- 3 d. On August 8, 2018, Respondent prescribed 15 Norco tablets (325 mg) to  
4 Patient 66.
- 5 e. On August 8, 2018, Respondent prescribed 6 Norco tablets (325 mg) to Patient  
6 183.
- 7 f. On August 9, 2018, Respondent prescribed 10 Norco tablets (325 mg) to  
8 Patient 184.
- 9 g. On August 9, 2018, Respondent prescribed 10 Norco tablets (325 mg) to  
10 Patient 185.
- 11 h. On August 16, 2018, Respondent prescribed 20 Norco tablets (325 mg) to  
12 Patient 186.
- 13 i. On August 16, 2018, Respondent prescribed 20 Norco tablets (325 mg) to  
14 Patient 187.
- 15 j. On August 18, 2018, Respondent prescribed 30 Percocet tablets (325 mg) to  
16 Patient 188.
- 17 k. On August 18, 2018, Respondent prescribed 10 Tylenol with Codeine tablets  
18 (30 mg) to Patient 189.
- 19 l. On August 20, 2018, Respondent prescribed 10 Norco tablets (325 mg) to  
20 Patient 190.
- 21 m. On August 20, 2018, Respondent prescribed 20 Norco tablets (325 mg) to  
22 Patient 191.
- 23 n. On August 22, 2018, Respondent prescribed 30 Norco tablets (325 mg) to  
24 Patient 192.
- 25 o. On August 23, 2018, Respondent prescribed 20 Norco tablets (325 mg) to  
26 Patient 193.
- 27 p. On August 25, 2018, Respondent prescribed 20 Norco tablets (325 mg) to  
28 Patient 194.

- 1 q. On August 27, 2018, Respondent again prescribed 20 Norco tablets (325 mg) to  
2 Patient 194.
- 3 r. On August 29, 2018, Respondent prescribed 40 Norco tablets (325 mg) to  
4 Patient 186.
- 5 s. On August 29, 2018, Respondent also prescribed 40 Percocet tablets (10 mg) to  
6 Patient 186.
- 7 t. On August 31, 2018, Respondent prescribed 30 Percocet tablets (325 mg) to  
8 Patient 195.
- 9 45. In September 2018, Respondent prescribed the following:
- 10 a. On September 7, 2018, Respondent prescribed 20 Norco tablets (325 mg) to  
11 Patient 196.
- 12 b. On September 8, 2018, Respondent prescribed 20 Norco tablets (325 mg) to  
13 Patient 98.
- 14 c. On September 8, 2018, Respondent prescribed 20 Norco tablets (325 mg) to  
15 Patient 197.
- 16 d. On September 12, 2018, Respondent prescribed 10 Norco tablets (325 mg) to  
17 Patient 198.
- 18 e. On September 12, 2018, Respondent prescribed 20 Norco tablets (325 mg) to  
19 Patient 140.
- 20 f. On September 13, 2018, Respondent prescribed 20 Norco tablets (325 mg) to  
21 Patient 199.
- 22 g. On September 14, 2018, Respondent prescribed 20 Vicodin tablets (500 mg) to  
23 Patient 200.
- 24 h. On September 14, 2018, Respondent also prescribed 20 Norco tablets (325 mg)  
25 to Patient 200.
- 26 i. On September 17, 2018, Respondent prescribed 20 Norco tablets (325 mg) to  
27 Patient 201.
- 28 ///

1 j. On September 22, 2018, Respondent prescribed 15 Percocet tablets (325 mg) to  
2 Patient 202.  
3 k. On September 22, 2018, Respondent prescribed 20 Norco tablets (325 mg) to  
4 Patient 24.  
5 l. On September 27, 2018, Respondent prescribed 20 Norco tablets (325 mg) to  
6 Patient 203.  
7 m. On September 27, 2018, Respondent prescribed 20 Norco tablets (325 mg) to  
8 Patient 204.  
9 n. On September 28, 2018, Respondent prescribed 20 Norco tablets (325 mg) to  
10 Patient 205.  
11 o. On September 29, 2018, Respondent prescribed 20 Norco tablets (325 mg) to  
12 Patient 206.  
13 46. In October 2018, Respondent prescribed the following:  
14 a. On October 3, 2018, Respondent prescribed 35 Norco tablets (325 mg) to  
15 Patient 207.  
16 b. On October 4, 2018, Respondent prescribed 20 Norco tablets (325 mg) to  
17 Patient 84.  
18 c. On October 5, 2018, Respondent prescribed 20 Norco tablets (325 mg) to  
19 Patient 152.  
20 d. On October 8, 2018, Respondent prescribed 20 Norco tablets (325 mg) to  
21 Patient 208.  
22 e. On October 10, 2018, Respondent prescribed 30 Norco tablets (325 mg) to  
23 Patient 209.  
24 f. On October 11, 2018, Respondent prescribed 20 Norco tablets (325 mg) to  
25 Patient 210.  
26 g. On October 13, 2018, Respondent prescribed 40 Norco tablets (325 mg) to  
27 Patient 209.  
28 ///

- 1           h.    On October 17, 2018, Respondent prescribed 40 Norco tablets (325 mg) to  
2 Patient 211.
- 3           i.    On October 20, 2018, Respondent prescribed 20 Norco tablets (325 mg) to  
4 Patient 212.
- 5           j.    On October 20, 2018, Respondent prescribed 20 Norco tablets (325 mg) to  
6 Patient 213.
- 7           k.    On October 20, 2018, Respondent prescribed 20 Norco tablets (325 mg) to  
8 Patient 214.
- 9           l.    On October 24, 2018, Respondent prescribed 10 Norco tablets (325 mg) to  
10 Patient 215.
- 11          m.    On October 26, 2018, Respondent prescribed 30 Norco tablets (325 mg) to  
12 Patient 216.
- 13          n.    On October 26, 2018, Respondent prescribed an additional 20 Norco tablets  
14 (325 mg) to Patient 216.
- 15          o.    On October 31, 2018, Respondent prescribed 15 Norco tablets (325 mg) to  
16 Patient 217.
- 17          p.    On October 31, 2018, Respondent prescribed 40 Percocet tablets (325 mg) to  
18 Patient 218.
- 19        47.    In November 2018, Respondent prescribed the following:
- 20          a.    On November 1, 2018, Respondent prescribed 20 Norco tablets (325 mg) to  
21 Patient 219.
- 22          b.    On November 3, 2018, Respondent prescribed 10 Norco tablets (325 mg) to  
23 Patient 220.
- 24          c.    On November 7, 2018, Respondent prescribed 20 Norco tablets (325 mg) to  
25 Patient 207.
- 26          d.    On November 8, 2018, Respondent prescribed 20 Norco tablets (325 mg) to  
27 Patient 221.

28 ///

- 1 e. On November 9, 2018, Respondent prescribed 20 Norco tablets (325 mg) to  
2 Patient 222.
- 3 f. On November 12, 2018, Respondent prescribed 30 Norco tablets (325 mg) to  
4 Patient 223.
- 5 g. On November 13, 2018, Respondent prescribed 6 Norco tablets (325 mg) to  
6 Patient 224.
- 7 h. On November 13, 2018, Respondent prescribed 20 Norco tablets (325 mg) to  
8 Patient 140.
- 9 i. On November 14, 2018, Respondent prescribed 9 Norco tablets (325 mg) to  
10 Patient 225.
- 11 j. On November 15, 2018, Respondent prescribed 20 Norco tablets (325 mg) to  
12 Patient 226.
- 13 k. On November 15, 2018, Respondent prescribed 15 Tylenol with Codeine  
14 tablets (30 mg) to Patient 227.
- 15 l. On November 16, 2018, Respondent prescribed 20 Norco tablets (325 mg) to  
16 Patient 228.
- 17 m. On November 17, 2018, Respondent prescribed 20 Norco tablets (325 mg) to  
18 Patient 229.
- 19 n. On November 19, 2018, Respondent prescribed 30 Norco tablets (325 mg) to  
20 Patient 230.
- 21 o. On November 19, 2018, Respondent prescribed 30 Percocet tablets (325 mg) to  
22 Patient 231.
- 23 p. On November 20, 2018, Respondent prescribed 20 Norco tablets (325 mg) to  
24 Patient 232.
- 25 q. On November 21, 2018, Respondent prescribed 30 Norco tablets (325 mg) to  
26 Patient 224.
- 27 r. On November 26, 2018, Respondent prescribed 30 Norco tablets (325 mg) to  
28 Patient 233.

- 1           s.    On November 29, 2018, Respondent prescribed 20 Norco tablets (325 mg) to  
2 Patient 234.
- 3           t.    On November 29, 2018, Respondent prescribed 20 Norco tablets (325 mg) to  
4 Patient 235.
- 5       48.   In December 2018, Respondent prescribed the following:
- 6           a.    On December 3, 2018, Respondent prescribed 20 Norco tablets (325 mg) to  
7 Patient 236.
- 8           b.    On December 5, 2018, Respondent prescribed 30 Norco tablets (325 mg) to  
9 Patient 224.
- 10          c.    On December 6, 2018, Respondent prescribed 20 Norco tablets (325 mg) to  
11 Patient 237.
- 12          d.    On December 6, 2018, Respondent prescribed 20 Norco tablets (325 mg) to  
13 Patient 238.
- 14          e.    On December 7, 2018, Respondent prescribed 25 Norco tablets (325 mg) to  
15 Patient 239.
- 16          f.    On December 8, 2018, Respondent prescribed 20 Norco tablets (325 mg) to  
17 Patient 46.
- 18          g.    On December 10, 2018, Respondent prescribed 20 Norco tablets (325 mg) to  
19 Patient 146.
- 20          h.    On December 10, 2018, Respondent prescribed 20 Norco tablets (325 mg) to  
21 Patient 240.
- 22          i.    On December 12, 2018, Respondent prescribed 25 Norco tablets (325 mg) to  
23 Patient 241.
- 24          j.    On December 12, 2018, Respondent prescribed 25 Norco tablets (325 mg) to  
25 Patient 242.
- 26          k.    On December 13, 2018, Respondent prescribed 20 Norco tablets (325 mg) to  
27 Patient 243.
- 28       ///

- 1 l. On December 13, 2018, Respondent prescribed 20 Norco tablets (325 mg) to  
2 Patient 105.
- 3 m. On December 14, 2018, Respondent prescribed 25 Norco tablets (325 mg) to  
4 Patient 244.
- 5 n. In December 2018, Respondent prescribed 25 Norco tablets (325 mg) to Patient  
6 245.
- 7 o. On December 18, 2018, Respondent prescribed 25 Norco tablets (325 mg) to  
8 Patient 246.
- 9 p. On December 19, 2018, Respondent prescribed 30 Norco tablets (325 mg) to  
10 Patient 247.
- 11 q. On December 19, 2018, Respondent prescribed 20 Norco tablets (325 mg) to  
12 Patient 148.
- 13 r. On December 20, 2018, Respondent prescribed 10 Norco tablets (325 mg) to  
14 Patient 248.
- 15 s. On December 21, 2018, Respondent prescribed 20 Norco tablets (325 mg) to  
16 Patient 249.
- 17 t. On December 22, 2018, Respondent prescribed 20 Norco tablets (325 mg) to  
18 Patient 250.
- 19 u. On December 22, 2018, Respondent prescribed 20 Norco tablets (325 mg) to  
20 Patient 251.
- 21 v. On December 28, 2018, Respondent prescribed 20 Norco tablets (325 mg) to  
22 Patient 252.
- 23 49. From May 2018 through January 2019, Respondent failed to provide his practice  
24 monitor, Dr. M.Z. with copies of all records of controlled substances ordered, prescribed,  
25 dispensed, administered, or possessed by Respondent.
- 26 50. From May 2018 through January 2019, Respondent failed to provide his practice  
27 monitor, Dr. M.Z. with copies of his surgery records, including drug logs, for each Patient that he  
28 provided care to in the perioperative setting.

1 **SECOND CAUSE TO REVOKE PROBATION**

2 (Failure to Comply with Probation Condition Number 3:

3 **Controlled Substances-Maintain Records and Access to Records and Inventories)**

4 51. Condition 3 of the May 31, 2017, Decision states:

5 "3. **CONTROLLED SUBSTANCES- MAINTAIN RECORDS AND ACCESS**

6 **TO RECORDS AND INVENTORIES.** Respondent shall maintain a record of all  
7 controlled substances ordered, prescribed, dispensed, administered, or possessed by  
8 Respondent, and any recommendation or approval which enables a patient or patient's  
9 primary caregiver to possess or cultivate marijuana for the personal medical purposes of  
10 the patient within the meaning of Health and Safety Code section 11362.5, during  
11 probation, showing all the following: 1) the name and address of patient; 2) the date; 3)  
12 the character and quantity of controlled substances involved; and 4) the indications and  
13 diagnosis for which the controlled substances were furnished.

14 "Respondent shall keep these records in a separate file or ledger, in chronological  
15 order. All records and any inventories of controlled substances shall be available for  
16 immediate inspection and copying on the premises by the Board or its designee at all  
17 times during business hours and shall be retained for the entire term of probation."

18 52. Respondent's probation is subject to revocation because he failed to comply with  
19 Condition 3 of the May 31, 2017 Decision, referenced above. The facts and circumstances  
20 regarding this violation are as follows:

21 53. In August 2017, Respondent failed to log the following prescriptions for controlled  
22 substances:

23 a. Twenty tablets of hydrocodone bitartrate-acetaminophen (325 mg) to Patient  
24 253.

25 b. Twenty tablets of hydrocodone bitartrate-acetaminophen (325 mg) to Patient  
26 254.

27 54. In December 2017, Respondent failed to log the following prescriptions for controlled  
28 substances:

1 a. Twenty tablets of hydrocodone bitartrate-acetaminophen (325 mg) to Patient

2 255.

3 b. Twenty tablets of hydrocodone bitartrate-acetaminophen (325 mg) to Patient

4 256.

5 55. In January 2018, Respondent failed to log the following prescriptions for controlled  
6 substances:

7 a. Twenty tablets of hydrocodone bitartrate-acetaminophen (325 mg) to Patient

8 257.

9 56. In February 2018, Respondent failed to log the following prescriptions for controlled  
10 substances:

11 a. Twenty tablets of hydrocodone bitartrate-acetaminophen (325 mg) to Patient

12 258.

13 b. Twenty tablets of acetaminophen-hydrocodone bitartrate (325 mg) to Patient

14 259.

15 57. In March 2018, Respondent failed to log the following prescriptions for controlled  
16 substances:

17 a. Twenty tablets of acetaminophen-hydrocodone bitartrate (325 mg) to Patient

18 260.

19 b. Twenty tablets of hydrocodone bitartrate-acetaminophen (325 mg) to Patient

20 261.

21 c. Twenty tablets of hydrocodone bitartrate-acetaminophen (325 mg) to Patient

22 262.

23 d. Ten tablets of hydrocodone bitartrate-acetaminophen (325 mg) to Patient. 263.

24 58. In April 2018, Respondent failed to log the following prescriptions for controlled  
25 substances:

26 a. Twenty tablets of hydrocodone bitartrate-acetaminophen (325 mg) to Patient

27 264.

28 ///

1        59. In May 2018, Respondent failed to log the following prescriptions for controlled  
2 substances:

3            a. Five tablets of Alprazolam (.5 mg) to Patient 137.

4        60. In June 2018, Respondent failed to log the following prescriptions for controlled  
5 substances:

6            a. Thirty tablets of hydrocodone bitartrate-acetaminophen (325 mg) to Patient 59.

7            b. Twenty tablets of hydrocodone bitartrate-acetaminophen (325 mg) to Patient  
8 265.

9            c. Forty tablets of hydrocodone bitartrate-acetaminophen (325 mg) to Patient 242.

10          d. Twenty tablets of acetaminophen-hydrocodone bitartrate (325 mg) to Patient  
11 266.

12        61. In July 2018, Respondent failed to log the following prescriptions for controlled  
13 substances:

14            a. Twenty tablets of hydrocodone bitartrate-acetaminophen (325 mg) to Patient  
15 267.

16            b. Thirty tablets of hydrocodone bitartrate-acetaminophen (325 mg) to Patient  
17 241.

18        62. In August 2018, Respondent failed to log the following prescriptions for controlled  
19 substances:

20            a. Fifteen tablets of acetaminophen-hydrocodone bitartrate (325 mg) to Patient 74.

21            b. Thirty tablets of acetaminophen-hydrocodone bitartrate (325 mg) to Patient  
22 268.

23        63. In September 2018, Respondent failed to log the following prescriptions for  
24 controlled substances:

25            a. Ten tablets of Lorazepam (1 mg) to Patient 269.

26            b. Twenty tablets of acetaminophen-hydrocodone bitartrate (325 mg) to Patient  
27 269.

28 ///

1        64. In October 2018, Respondent failed to log the following prescriptions for controlled  
2 substances:

- 3            a. Twenty tablets of acetaminophen-hydrocodone bitartrate (325 mg) to Patient  
4 270.  
5            b. Twenty tablets of Tramadol (50 mg) to Patient 60.  
6            c. Forty tablets of hydrocodone bitartrate-acetaminophen (325 mg) to Patient 271.

7        65. In November 2018, Respondent failed to log the following prescriptions for  
8 controlled substances:

- 9            a. Twenty tablets of hydrocodone bitartrate-acetaminophen (325 mg) to Patient  
10 272.  
11           b. Twenty tablets of acetaminophen-hydrocodone bitartrate (325 mg) to Patient  
12 273.

13       66. In December 2018, Respondent failed to log the following prescriptions for controlled  
14 substances:

- 15           a. Eight tablets of Alprazolam (1 mg) to Patient 105.  
16           b. Twenty tablets of acetaminophen-codeine phosphate to Patient 105.  
17           c. Twenty tablets of acetaminophen-hydrocodone bitartrate (325 mg) to Patient  
18 274.  
19           d. Twenty tablets of hydrocodone bitartrate-acetaminophen (325 mg) to Patient  
20 275.

21       67. In January 2019, Respondent failed to log the following prescriptions for controlled  
22 substances:

- 23           a. Twenty tablets of acetaminophen-hydrocodone bitartrate (325 mg) to Patient  
24 96.  
25           b. Ten tablets of acetaminophen-hydrocodone bitartrate (325 mg) to Patient 276.  
26           c. 20 tablets of hydrocodone bitartrate-acetaminophen (325 mg) to Patient 277.  
27           d. Twenty tablets of acetaminophen-hydrocodone bitartrate (325 mg) to Patient  
28 278.

- 1 e. Thirty tablets of hydrocodone bitartrate-acetaminophen (325 mg) to Patient  
2 279.  
3 f. Forty tablets of acetaminophen-hydrocodone bitartrate (325 mg) to Patient 280.  
4 g. Twenty-five tablets of oxycodone HCL-acetaminophen (325 mg) to Patient  
5 281.  
6 h. Ten tablets of hydrocodone bitartrate-acetaminophen (325 mg) to Patient 282.  
7 i. Twenty tablets of hydrocodone bitartrate-acetaminophen (325 mg) to Patient  
8 283.  
9 j. Twenty tablets of hydrocodone bitartrate-acetaminophen (325 mg) to Patient  
10 284.  
11 k. Twenty tablets of acetaminophen-hydrocodone bitartrate (325 mg) to Patient  
12 285.  
13 l. Ten tablets of acetaminophen-hydrocodone bitartrate (325 mg) to Patient 286.  
14 m. Twenty tablets of acetaminophen-hydrocodone bitartrate (325 mg) to Patient  
15 287.  
16 n. Twenty tablets of acetaminophen-hydrocodone bitartrate (325 mg) to Patient  
17 288.  
18 o. Twenty-four tablets of acetaminophen-hydrocodone bitartrate (325 mg) to  
19 Patient 289.  
20 68. In July 2019, Respondent failed to log the following prescriptions for controlled  
21 substances:  
22 a. Ten tablets of tramadol HCL to Patient 290.  
23 69. In August 2019, Respondent failed to log the following prescriptions for controlled  
24 substances:  
25 a. Ten tablets of tramadol HCL to Patient 291.  
26 ///  
27 ///  
28 ///

1 **THIRD CAUSE TO REVOKE PROBATION**

2 **(Failure to Comply with Probation Condition Number 21: Obey all Laws)**

3 70. Condition 21 of the May 31, 2017, Decision states:

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

7 71. Respondent's probation is subject to revocation because he failed to comply with  
8 Condition 21 of the May 31, 2017 Decision, referenced above. The facts and circumstances  
9 regarding this violation are as follows:

10 72. On April 16, 2018, in proceedings entitled *The People of the State of California v.*  
11 *Ryan M. Spivak*, case number BA459131 in the Los Angeles County Superior Court, Respondent,  
12 upon his plea of no contest, was convicted of obtaining or possessing a controlled substance  
13 obtained by a nonconforming prescription in violation of Health and Safety Code section 11180, a  
14 misdemeanor.

15 **FOURTH CAUSE TO REVOKE PROBATION**

16 **(Failure to Comply with Probation Condition Number 22: Quarterly Declarations)**

17 73. Condition 22 of the May 31, 2017, Decision states:

18 "22. QUARTERLY DECLARATIONS. Respondent shall submit quarterly declarations  
19 under penalty of perjury on forms provided by the Board, stating whether there has been  
20 compliance with all conditions of probation."

21 "..."

22 74. Respondent's probation is subject to revocation because he failed to comply with  
23 Condition 22 of the May 31, 2017 Decision, referenced above. The facts and circumstances  
24 regarding this violation are as follows:

25 75. On January 9, 2017, Respondent executed his Quarterly Declaration Due Date  
26 Statement indicating that he understands that "[f]ailure to comply with the [quarterly  
27 declarations] reporting requirements is a violation of probation and is grounds for

28 ///

1 administrative action to revoke probation and carry out the Decision that was stayed.”

2 [emphasis in original.]

3 76. On July 3, 2018, Respondent executed his Quarterly Declaration for the reporting  
4 period of April-June 2018, indicating that since his last quarterly declaration, he has not violated  
5 any county or city ordinances, been arrested, charged, convicted of, pled nolo contendere in any  
6 state or federal court or foreign country to any misdemeanor, felony, or other offense.

7 **DISCIPLINARY CONSIDERATIONS**

8 77. To determine the degree of discipline, if any, to be imposed on Respondent,  
9 Complainant alleges that in a matter entitled *In the Matter of the Accusation against Ryan*  
10 *Matthew Spivak, M.D.*, Medical Board Case No. 800-2016-020767, the Board, issued a decision,  
11 effective May 31, 2017, in which Respondent’s Physician’s and Surgeon’s Certificate was  
12 revoked, for dishonest acts, violation of drug statutes, misuse of controlled substances,  
13 illegitimate prescriptions, false/fictitious prescriptions, obtaining prescriptions by fraud/deceit,  
14 making or signing false documents, forging prescriptions for self-use, failure to report change of  
15 address, as well as unprofessional conduct. However, the revocation was stayed and Respondent  
16 was placed on seven years of probation, together with a partial restriction on prescribing  
17 controlled substances, as well as the mandatory conditions applying to a substance abusing  
18 licensee and other standard terms and conditions. That decision is now final and is incorporated  
19 by reference as if fully set forth herein. -

20 78. To determine the degree of discipline, if any, to be imposed on Respondent,  
21 Complainant alleges that on April 16, 2018, in proceedings entitled *The People of the State of*  
22 *California v. Ryan M. Spivak*, case number BA459131 in the Los Angeles County Superior Court,  
23 Respondent, upon his plea of no contest, was convicted of obtaining or possessing a controlled  
24 substance obtained by a nonconforming prescription in violation of Health and Safety Code  
25 section 11180, a misdemeanor.

26 ///

27 ///

28 ///

1 PRAYER

2 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
3 and that following the hearing, the Medical Board of California issue a decision:

4 1. Revoking the probation that was granted by Board in Case No. 800-2016-020767 and  
5 imposing the disciplinary order that was stayed, thereby revoking Physician's and Surgeon's  
6 Certificate Number A 113632, issued to Ryan Matthew Spivak, M.D.;

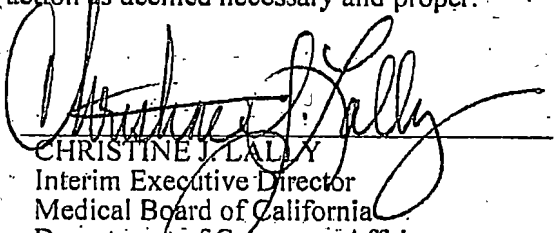
7 2. Revoking or suspending Physician's and Surgeon's Certificate Number A 113632,  
8 issued to Ryan Matthew Spivak, M.D.;

9 3. Revoking, suspending or denying approval of Ryan Matthew Spivak, M.D.'s  
10 authority to supervise physician assistants and advanced practice nurses;

11 4. Ordering Ryan Matthew Spivak, M.D.; if placed on probation, to pay the Board the  
12 costs of probation monitoring; and

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

14  
15 DATED: JAN-16, 2020

  
CHRISTINE J. LALLY  
Interim Executive Director  
Medical Board of California  
Department of Consumer Affairs  
State of California  
Complainant

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28

**Exhibit A**

**Stipulated Settlement and Disciplinary Order Case No. 800-2016-020767**

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

**In the Matter of the Accusation  
Against:**

**Ryan Matthew Spivak, M.D.**

**Case No. 800-2016-020767**

**Physician's and Surgeon's  
Certificate No. A 113632**

**Respondent**

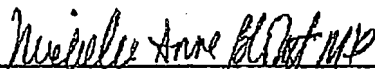
**DECISION**

The attached Stipulated Settlement and Disciplinary Order 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 30, 2017.

**IT IS SO ORDERED: May 31, 2017.**

**MEDICAL BOARD OF CALIFORNIA**

  
\_\_\_\_\_  
**Michelle Anne Bholat, M.D., Chair  
Panel B**

1 XAVIER BECERRA  
Attorney General of California  
2 ROBERT MCKIM BELL  
Supervising Deputy Attorney General  
3 REBECCA L. SMITH  
Deputy Attorney General  
4 State Bar No. 179733  
California Department of Justice  
5 300 South Spring Street, Suite 1702  
Los Angeles, California 90013  
6 Telephone: (213) 897-2655  
Facsimile: (213) 897-9395  
7 *Attorneys for Complainant*

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

12 In the Matter of the Accusation Against:

Case No. 800-2016-020767

13 RYAN MATTHEW SPIVAK, M.D.  
2200 West Third Street, Suite 120A  
Los Angeles, California 90057

OAH No. 2016100666

14 Physician's and Surgeon's Certificate  
No. A113632,

**STIPULATED SETTLEMENT AND  
DISCIPLINARY ORDER**

15  
16 Respondent.

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

20 PARTIES

21 1. Kimberly Kirchmeyer (Complainant) is the Executive Director of the Medical Board  
22 of California (Board). She brought this action solely in her official capacity and is represented in  
23 this matter by Xavier Becerra, Attorney General of the State of California, by Rebecca L. Smith,  
24 Deputy Attorney General.

25 2. Ryan Matthew Spivak, M.D. (Respondent) is represented in this proceeding by  
26 attorney Sara Hersh, whose address is 11835 West Olympic Blvd., Suite 900, Los Angeles,  
27 California 90064.

28 ///

3. On or about August 11, 2010, the Board issued Physician's and Surgeon's Certificate No. A113632 to Respondent. That license was in full force and effect at all times relevant to the charges brought in Accusation No. 800-2016-020767, and will expire on August 31, 2018, unless renewed.

## JURISDICTION

4. Accusation No. 800-2016-020767 was filed before the Board, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on September 29, 2016. Respondent timely filed his Notice of Defense contesting the Accusation.

5. A copy of Accusation No. 800-2016-020767 is attached as Exhibit A and incorporated herein by reference.

## ADVISEMENT AND WAIVERS

6. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 800-2016-020767. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

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

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

## CULPABILITY

9. Respondent understands and agrees that the charges and allegations in Accusation No. 800-2016-020767, if proven at a hearing, constitute cause for imposing discipline upon his Physician's and Surgeon's Certificate.

10. For the purpose of resolving the Accusation without the expense and uncertainty of further proceedings, Respondent agrees that, at a hearing, Complainant could establish a factual basis for the charges in the Accusation, and that Respondent hereby gives up his right to contest those charges.

11. Respondent agrees that his Physician's and Surgeon's Certificate is subject to discipline and he agrees to be bound by the Board's imposition of discipline as set forth in the Disciplinary Order below.

## CONTINGENCY

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

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

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

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///

///

**DISCIPLINARY ORDER**

IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. A113632 issued to Respondent Ryan Matthew Spivak, M.D. is revoked. However, the revocation is stayed and Respondent is placed on probation for seven (7) years on the following terms and conditions.

1. **CLINICAL DIAGNOSTIC EVALUATION.** Within thirty (30) calendar days of the effective date of this Decision, and on whatever periodic basis thereafter as may be required by the Board or its designee, Respondent shall undergo and complete a clinical diagnostic evaluation, including any and all testing deemed necessary, by a Board-appointed board certified physician and surgeon. 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.

The clinical diagnostic evaluation shall be conducted by a licensed physician and surgeon who holds a valid, unrestricted license, has three (3) years' experience in providing evaluations of physicians and surgeons with substance abuse 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 Respondent within the last five (5) 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 Respondent has a substance abuse problem, whether Respondent is a threat to himself or others, and recommendations for substance abuse treatment, practice restrictions, or other recommendations related to Respondent's rehabilitation and ability to practice safely. If the evaluator determines during the evaluation process that Respondent is a threat to himself or others, the evaluator shall notify the Board within twenty-four (24) hours of such a determination.

In formulating his opinion as to whether Respondent is safe to return to 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

1 following factors: Respondent's license type; Respondent's history; Respondent's documented  
2 length of sobriety (i.e., length of time that has elapsed since Respondent's last substance use);  
3 Respondent's scope and pattern of substance abuse; Respondent's treatment history, medical  
4 history and current medical condition; the nature, duration and severity of Respondent's  
5 substance abuse problem or problems; and whether Respondent is a threat to himself or the  
6 public.

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

12 The Board shall review the clinical diagnostic evaluation report within five (5) business  
13 days of receipt to determine whether Respondent is safe to return to either part-time or full-time  
14 practice and what restrictions or recommendations shall be imposed on Respondent based on the  
15 recommendations made by the evaluator. Respondent shall not be returned to practice until he  
16 has at least thirty (30) days of negative biological fluid tests or biological fluid tests indicating  
17 that he has not used, consumed, ingested, or administered to himself a prohibited substance, as  
18 defined in section 1361.51, subdivision (e), of Title 16 of the California Code of Regulations.

19 Clinical diagnostic evaluations conducted prior to the effective date of this Decision shall  
20 not be accepted towards the fulfillment of this requirement. The cost of the clinical diagnostic  
21 evaluation, including any and all testing deemed necessary by the examiner, the Board or its  
22 designee, shall be borne by the licensee.

23 Respondent shall not engage in the practice of medicine until notified by the Board or its  
24 designee that he is fit to practice medicine safely. The period of time that Respondent is not  
25 practicing medicine shall not be counted toward completion of the term of probation. Respondent  
26 shall undergo biological fluid testing as required in this Decision at least two (2) times per week  
27 while awaiting the notification from the Board if he is fit to practice medicine safely.

28 ///

1 Respondent shall comply with all restrictions or conditions recommended by the examiner  
2 conducting the clinical diagnostic evaluation within fifteen (15) calendar days after being notified  
3 by the Board or its designee.

4 2. CONTROLLED SUBSTANCES - PARTIAL RESTRICTION. Respondent shall not  
5 order, prescribe, dispense, administer, furnish, or possess any controlled substances as defined by  
6 the California Uniform Controlled Substances Act, except in the perioperative setting when  
7 Respondent is acting as surgeon where the patient will only use such controlled substances at the  
8 location of the procedure (i.e., the foregoing exception shall not apply to any controlled  
9 substances that are used outside of such perioperative setting). Perioperative setting is defined as  
10 immediately prior to surgery, during surgery or immediately after surgery.

11 Respondent shall not issue an oral or written recommendation or approval to a patient or a  
12 patient's primary caregiver for the possession or cultivation of marijuana for the personal medical  
13 purposes of the patient within the meaning of Health and Safety Code section 11362.5. If  
14 Respondent forms the medical opinion, after an appropriate prior examination and medical  
15 indication, that a patient's medical condition may benefit from the use of marijuana, Respondent  
16 shall so inform the patient and shall refer the patient to another physician who, following an  
17 appropriate prior examination and medical indication, may independently issue a medically  
18 appropriate recommendation or approval for the possession or cultivation of marijuana for the  
19 personal medical purposes of the patient within the meaning of Health and Safety Code section  
20 11362.5. In addition, Respondent shall inform the patient or the patient's primary caregiver that  
21 Respondent is prohibited from issuing a recommendation or approval for the possession or  
22 cultivation of marijuana for the personal medical purposes of the patient and that the patient or  
23 the patient's primary caregiver may not rely on Respondent's statements to legally possess or  
24 cultivate marijuana for the personal medical purposes of the patient. Respondent shall fully  
25 document in the patient's chart that the patient or the patient's primary caregiver was so  
26 informed. Nothing in this condition prohibits Respondent from providing the patient or the  
27 patient's primary caregiver information about the possible medical benefits resulting from the use  
28 of marijuana.

1 Throughout his term of probation, Respondent shall provide to his practice monitor, as  
2 described below: (a) copies of all records of controlled substances ordered, prescribed, dispensed,  
3 administered, or possessed by Respondent (collectively, the "CS Records"); and (b) copies of his  
4 surgery records, including drug logs, for each patient that he provides care to in the perioperative  
5 setting (collectively, the "Surgery Records"). Perioperative setting is defined as immediately  
6 prior to surgery, during surgery or immediately after surgery.

7 3. CONTROLLED SUBSTANCES- MAINTAIN RECORDS AND ACCESS TO  
8 RECORDS AND INVENTORIES. Respondent shall maintain a record of all controlled  
9 substances ordered, prescribed, dispensed, administered, or possessed by Respondent, and any  
10 recommendation or approval which enables a patient or patient's primary caregiver to possess or  
11 cultivate marijuana for the personal medical purposes of the patient within the meaning of Health  
12 and Safety Code section 11362.5, during probation, showing all the following: 1) the name and  
13 address of patient; 2) the date; 3) the character and quantity of controlled substances involved;  
14 and 4) the indications and diagnosis for which the controlled substances were furnished.

15 Respondent shall keep these records in a separate file or ledger, in chronological order. All  
16 records and any inventories of controlled substances shall be available for immediate inspection  
17 and copying on the premises by the Board or its designee at all times during business hours and  
18 shall be retained for the entire term of probation.

19 4. CONTROLLED SUBSTANCES - ABSTAIN FROM USE. Respondent shall abstain  
20 completely from the personal use or possession of controlled substances as defined in the  
21 California Uniform Controlled Substances Act, dangerous drugs as defined by Business and  
22 Professions Code section 4022, and any drugs requiring a prescription. This prohibition does not  
23 apply to medications lawfully prescribed to Respondent by another practitioner for a bona fide  
24 illness or condition.

25 Within fifteen (15) calendar days of receiving any lawfully prescribed medications,  
26 Respondent shall notify the Board or its designee of the: issuing practitioner's name, address, and  
27 telephone number; medication name, strength, and quantity; and issuing pharmacy name, address,  
28 and telephone number.

1 If Respondent has a confirmed positive biological fluid test for any substance (whether or  
2 not legally prescribed) and has not reported the use to the Board or its designee, Respondent  
3 shall receive a notification from the Board or its designee to immediately cease the practice of  
4 medicine. Respondent shall not resume the practice of medicine until the final decision on an  
5 accusation and/or a petition to revoke probation is effective. An accusation and/or petition to  
6 revoke probation shall be filed by the Board within thirty (30) days of the notification to cease  
7 practice.

8 If Respondent requests a hearing on the accusation and/or petition to revoke probation, the  
9 Board shall provide Respondent with a hearing within thirty (30) days of the request, unless  
10 Respondent stipulates to a later hearing. If the case is heard by an Administrative Law Judge  
11 alone, he or she shall forward a Proposed Decision to the Board within fifteen (15) days of  
12 submission of the matter. Within fifteen (15) days of receipt by the Board of the Administrative  
13 Law Judge's proposed decision, the Board shall issue its Decision, unless good cause can be  
14 shown for the delay. If the case is heard by the Board, the Board shall issue its decision within  
15 fifteen (15) days of submission of the case, unless good cause can be shown for the delay. Good  
16 cause includes, but is not limited to, non-adoption of the proposed decision, request for  
17 reconsideration, remands and other interlocutory orders issued by the Board. The cessation of  
18 practice shall not apply to the reduction of the probationary time period.

19 If the Board does not file an accusation or petition to revoke probation within thirty (30)  
20 days of the issuance of the notification to cease practice or does not provide Respondent with a  
21 hearing within thirty (30) days of a such a request, the notification of cease practice shall be  
22 dissolved.

23 5. BIOLOGICAL FLUID TESTING. Respondent shall immediately submit to  
24 biological fluid testing, at Respondent's expense, upon request of the Board or its designee.  
25 "Biological fluid testing" may include, but is not limited to, urine, blood, breathalyzer, hair  
26 follicle testing, or similar drug screening approved by the Board or its designee. Respondent shall  
27 make daily contact with the Board or its designee to determine whether biological fluid testing is  
28 required. Respondent shall be tested on the date of the notification as directed by the Board or its

1 designee. The Board may order a Respondent to undergo a biological fluid test on any day, at  
2 any time, including weekends and holidays. Except when testing on a specific date as ordered by  
3 the Board or its designee, the scheduling of biological fluid testing shall be done on a random  
4 basis. The cost of biological fluid testing shall be borne by Respondent.

5 During the first year of probation, Respondent shall be subject to 52 to 104 random tests.  
6 During the second year of probation and for the duration of the probationary term, up to five (5)  
7 years, Respondent shall be subject to 36 to 104 random tests per year. Only if there has been no  
8 positive biological fluid tests in the previous five (5) consecutive years of probation, may testing  
9 be reduced to one (1) time per month. Nothing precludes the Board from increasing the number  
10 of random tests to the first-year level of frequency for any reason.

11 Prior to practicing medicine, Respondent shall contract with a laboratory or service,  
12 approved in advance by the Board or its designee, that will conduct random, unannounced,  
13 observed, biological fluid testing and meets all the following standards:

14 (a) Its specimen collectors are either certified by the Drug and Alcohol Testing Industry  
15 Association or have completed the training required to serve as a collector for the United  
16 States Department of Transportation.

17 (b) Its specimen collectors conform to the current United States Department of  
18 Transportation Specimen Collection Guidelines.

19 (c) Its testing locations comply with the Urine Specimen Collection Guidelines published  
20 by the United States Department of Transportation without regard to the type of test  
21 administered.

22 (d) Its specimen collectors observe the collection of testing specimens.

23 (e) Its laboratories are certified and accredited by the United States Department of Health  
24 and Human Services.

25 (f) Its testing locations shall submit a specimen to a laboratory within one (1) business  
26 day of receipt and all specimens collected shall be handled pursuant to chain of custody  
27 procedures. The laboratory shall process and analyze the specimens and provide legally  
28 defensible test results to the Board within seven (7) business days of receipt of the

specimen. The Board will be notified of non-negative results within one (1) business day and will be notified of negative test results within seven (7) business days.

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

(h) Its testing locations are able to scientifically test 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 Respondent 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 abuse 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 Respondent 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 (1) business day and negative test results within seven (7) business days of the results becoming available. Respondent 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 Respondent.

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1        If a biological fluid test result indicates Respondent has used, consumed, ingested, or  
2 administered to himself a prohibited substance, the Board shall order Respondent to cease  
3 practice and instruct Respondent to leave any place of work where Respondent is practicing  
4 medicine or providing medical services. The Board shall immediately notify all of Respondent's  
5 employers, supervisors and work monitors, if any, that Respondent may not practice medicine or  
6 provide medical services while the cease-practice order is in effect.

7        A biological fluid test will not be considered negative if a positive result is obtained while  
8 practicing, even if the practitioner holds a valid prescription for the substance. If no prohibited  
9 substance use exists, the Board shall lift the cease-practice order within one (1) business day.

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

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

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

20       If the Board confirms that a positive biological fluid test is evidence of use of a prohibited  
21 substance, Respondent has committed a major violation, as defined in section 1361.52(a), and the  
22 Board shall impose any or all of the consequences set forth in section 1361.52(b), in addition to  
23 any other terms or conditions the Board determines are necessary for public protection or to  
24 enhance Respondent's rehabilitation.

25       6. COMMUNITY SERVICE - FREE SERVICES. Within sixty (60) calendar days of  
26 the effective date of this Decision, Respondent shall submit to the Board or its designee for prior  
27 approval a community service plan in which Respondent shall within the first two (2) years of  
28 probation, provide forty (40) hours of free non-medical services to a community or non-profit

1 organization. Prior to engaging in any community service, Respondent shall provide a true copy  
2 of the Decision to the chief of staff, director, office manager, program manager, officer, or the  
3 chief executive officer at every community or non-profit organization where Respondent provides  
4 non-medical community service and shall submit proof of compliance to the Board or its designee  
5 within fifteen (15) calendar days. This condition shall also apply to any change(s) in community  
6 service.

7 Community service performed prior to the effective date of the Decision shall not be  
8 accepted in fulfillment of this condition.

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

19 8. PRESCRIBING PRACTICES COURSE. Within sixty (60) calendar days of the  
20 effective date of this Decision, Respondent shall enroll in a course in prescribing practices  
21 approved in advance by the Board or its designee. Respondent shall provide the approved course  
22 provider with any information and documents that the approved course provider may deem  
23 pertinent. Respondent shall participate in and successfully complete the classroom component of  
24 the course not later than six (6) months after Respondent's initial enrollment. Respondent shall  
25 successfully complete any other component of the course within one (1) year of enrollment. The  
26 prescribing practices course shall be at Respondent's expense and shall be in addition to the  
27 Continuing Medical Education (CME) requirements for renewal of licensure.

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

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

9 9. MEDICAL RECORD KEEPING COURSE. Within sixty (60) calendar days of the  
10 effective date of this Decision, Respondent shall enroll in a course in medical record keeping  
11 approved in advance by the Board or its designee. Respondent shall provide the approved course  
12 provider with any information and documents that the approved course provider may deem  
13 pertinent. Respondent shall participate in and successfully complete the classroom component of  
14 the course not later than six (6) months after Respondent's initial enrollment. Respondent shall  
15 successfully complete any other component of the course within one (1) year of enrollment. The  
16 medical record keeping course shall be at Respondent's expense and shall be in addition to the  
17 Continuing Medical Education (CME) requirements for renewal of licensure.

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

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

26 10. PROFESSIONALISM PROGRAM (ETHICS COURSE). Within 60 calendar days of  
27 the effective date of this Decision, Respondent shall enroll in a professionalism program, that  
28 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  
2 provide any information and documents that the program may deem pertinent. Respondent shall  
3 successfully complete the classroom component of the program not later than six (6) months after  
4 Respondent's initial enrollment, and the longitudinal component of the program not later than the  
5 time specified by the program, but no later than one (1) year after attending the classroom  
6 component. The professionalism program shall be at Respondent's expense and shall be in  
7 addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

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

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

16 11. SUBSTANCE ABUSE SUPPORT GROUP MEETINGS. Within thirty (30) days of  
17 the effective date of this Decision, Respondent shall submit to the Board or its designee, for its  
18 prior approval, the name of a substance abuse support group which he shall attend for the duration  
19 of probation. Respondent shall attend substance abuse support group meetings at least once per  
20 week, or as ordered by the Board or its designee.

21 Respondent shall pay all substance abuse support group meeting costs.

22 The facilitator of the substance abuse support group meeting shall have a minimum of  
23 three (3) years' experience in the treatment and rehabilitation of substance abuse, and shall be  
24 licensed or certified by the state or nationally certified organizations. The facilitator shall not  
25 have a current or former financial, personal, or business relationship with Respondent within the  
26 last five (5) years. Respondent's previous participation in a substance abuse group support  
27 meeting led by the same facilitator does not constitute a prohibited current or former financial,  
28 personal, or business relationship.

1 The facilitator shall provide a signed document to the Board or its designee showing  
2 Respondent's name, the group name, the date and location of the meeting, Respondent's  
3 attendance and Respondent's level of participation and progress. The facilitator shall report any  
4 unexcused absence by Respondent from any substance abuse support group meeting to the Board,  
5 or its designee, within twenty-four (24) hours of the unexcused absence.

6 12. PSYCHOTHERAPY. Within sixty (60) calendar days of the effective date of this  
7 Decision, Respondent shall submit to the Board or its designee for prior approval the name and  
8 qualifications of a California-licensed board certified psychiatrist or a licensed psychologist who  
9 has a doctoral degree in psychology and at least five years of postgraduate experience in the  
10 diagnosis and treatment of emotional and mental disorders. Upon approval, Respondent shall  
11 undergo and continue psychotherapy treatment, including any modifications to the frequency of  
12 psychotherapy, until the Board or its designee deems that no further psychotherapy is necessary.

13 The psychotherapist shall consider any information provided by the Board or its designee  
14 and any other information the psychotherapist deems relevant and shall furnish a written  
15 evaluation report to the Board or its designee. Respondent shall cooperate in providing the  
16 psychotherapist any information and documents that the psychotherapist may deem pertinent.

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

24 Respondent shall pay the cost of all psychotherapy and psychiatric evaluations.

25 13. MEDICAL EVALUATION AND TREATMENT. Within thirty (30) calendar days  
26 of the effective date of this Decision, and on a periodic basis thereafter as may be required by the  
27 Board or its designee, Respondent shall undergo a medical evaluation by a Board-appointed  
28 physician who shall consider any information provided by the Board or designee and any other

1 information the evaluating physician deems relevant and shall furnish a medical report to the  
2 Board or its designee. Respondent shall provide the evaluating physician any information and  
3 documentation that the evaluating physician may deem pertinent.

4       Following the evaluation, Respondent shall comply with all restrictions or conditions  
5 recommended by the evaluating physician within fifteen (15) calendar days after being notified  
6 by the Board or its designee. If Respondent is required by the Board or its designee to undergo  
7 medical treatment, Respondent shall within thirty (30) calendar days of the requirement notice,  
8 submit to the Board or its designee for prior approval the name and qualifications of a California  
9 licensed treating physician of Respondent's choice. Upon approval of the treating physician,  
10 Respondent shall within fifteen (15) calendar days undertake medical treatment and shall  
11 continue such treatment until further notice from the Board or its designee.

12       The treating physician shall consider any information provided by the Board or its designee  
13 or any other information the treating physician may deem pertinent prior to commencement of  
14 treatment. Respondent shall have the treating physician submit quarterly reports to the Board or  
15 its designee indicating whether or not Respondent is capable of practicing medicine safely.  
16 Respondent shall provide the Board or its designee with any and all medical records pertaining to  
17 treatment, the Board or its designee deems necessary.

18       If, prior to the completion of probation, Respondent is found to be physically incapable of  
19 resuming the practice of medicine without restrictions, the Board shall retain continuing  
20 jurisdiction over Respondent's license and the period of probation shall be extended until the  
21 Board determines that Respondent is physically capable of resuming the practice of medicine  
22 without restrictions. Respondent shall pay the cost of the medical evaluation(s) and treatment.

23       14. MONITORING – PRACTICE. Within thirty (30) calendar days of the effective date  
24 of this Decision, Respondent shall submit to the Board or its designee for prior approval as a  
25 practice monitor, the name and qualifications of one or more licensed physicians and surgeons  
26 whose licenses are valid and in good standing, and who are preferably American Board of  
27 Medical Specialties (ABMS) certified. A monitor shall have no prior or current business or  
28 personal relationship with Respondent, or other relationship that could reasonably be expected to

1 compromise the ability of the monitor to render fair and unbiased reports to the Board, including  
2 but not limited to any form of bartering, shall be in Respondent's field of practice, and must agree  
3 to serve as Respondent's monitor. Respondent shall pay all monitoring costs.

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

11 Within sixty (60) calendar days of the effective date of this Decision, and continuing  
12 throughout probation, Respondent's practice shall be monitored by the approved monitor.  
13 Respondent shall make all records available for immediate inspection and copying on the  
14 premises by the monitor at all times during business hours and shall retain the records for the  
15 entire term of probation.

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

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

27 If the monitor resigns or is no longer available, Respondent shall, within five (5) calendar  
28 days of such resignation or unavailability, submit to the Board or its designee, for prior approval,

1 the name and qualifications of a replacement monitor who will be assuming that responsibility  
2 within fifteen (15) calendar days. If Respondent fails to obtain approval of a replacement monitor  
3 within sixty (60) calendar days of the resignation or unavailability of the monitor, Respondent  
4 shall receive a notification from the Board or its designee to cease the practice of medicine within  
5 three (3) calendar days after being so notified Respondent shall cease the practice of medicine  
6 until a replacement monitor is approved and assumes monitoring responsibility.

7 In lieu of a monitor, Respondent may participate in a professional enhancement program  
8 approved in advance by the Board or its designee, that includes, at minimum, quarterly chart  
9 review, semi-annual practice assessment, and semi-annual review of professional growth and  
10 education. Respondent shall participate in the professional enhancement program at Respondent's  
11 expense during the term of probation.

12 15. MONITORING – WORK SITE MONITOR. Within thirty (30) calendar days of the  
13 effective date of this Decision, Respondent shall submit to the Board or its designee for prior  
14 approval as a worksite monitor, the name and qualifications of one or more licensed physician  
15 and surgeon, other licensed health care professional if no physician and surgeon is available, or,  
16 as approved by the Board or its designee, a person in a position of authority who is capable of  
17 monitoring Respondent at work.

18 The worksite monitor shall not have a current or former financial, personal, or familial  
19 relationship with Respondent, or any other relationship that could reasonably be expected to  
20 compromise the ability of the monitor to render impartial and unbiased reports to the Board or its  
21 designee. If it is impractical for anyone but Respondent's employer to serve as the worksite  
22 monitor, this requirement may be waived by the Board or its designee, however, under no  
23 circumstances shall Respondent's worksite monitor be an employee or supervisee of the licensee.

24 The worksite monitor shall have an active unrestricted license with no disciplinary action  
25 within the last five (5) years, and shall sign an affirmation that he or she has reviewed the terms  
26 and conditions of Respondent's disciplinary order and agrees to monitor Respondent as set forth  
27 by the Board or its designee. Respondent shall pay all worksite monitoring costs. The worksite  
28 monitor shall have face-to-face contact with Respondent in the work environment on as frequent

1 a basis as determined by the Board or its designee, but not less than once per week; interview  
2 other staff in the office regarding Respondent's behavior, if requested by the Board or its  
3 designee; and review Respondent's work attendance. The worksite monitor shall verbally report  
4 any suspected substance abuse to the Board and Respondent's employer or supervisor within one  
5 (1) business day of occurrence. If the suspected substance abuse does not occur during the  
6 Board's normal business hours, the verbal report shall be made to the Board or its designee within  
7 one (1) hour of the next business day. A written report that includes the date, time, and location  
8 of the suspected abuse; Respondent's actions; and any other information deemed important by the  
9 worksite monitor shall be submitted to the Board or its designee within forty-eight (48) hours of  
10 the occurrence.

11 The worksite monitor shall complete and submit a written report monthly or as directed by  
12 the Board or its designee which shall include the following: (1) Respondent's name and  
13 Physician's and Surgeon's Certificate number; (2) the worksite monitor's name and signature; (3)  
14 the worksite monitor's license number, if applicable; (4) the location or location(s) of the  
15 worksite; (5) the dates Respondent had face-to-face contact with the worksite monitor; (6) the  
16 names of worksite staff interviewed, if applicable; (7) a report of Respondent's work attendance;  
17 (8) any change in Respondent's behavior and/or personal habits; and (9) any indicators that can  
18 lead to suspected substance abuse by Respondent. Respondent shall complete any required  
19 consent forms and execute agreements with the approved worksite monitor and the Board, or its  
20 designee, authorizing the Board, or its designee, and worksite monitor to exchange information.  
21 If the worksite monitor resigns or is no longer available, Respondent shall, within five (5)  
22 calendar days of such resignation or unavailability, submit to the Board or its designee, for prior  
23 approval, the name and qualifications of a replacement monitor who will be assuming that  
24 responsibility within fifteen (15) calendar days. If Respondent fails to obtain approval of a  
25 replacement monitor within sixty (60) calendar days of the resignation or unavailability of the  
26 monitor, Respondent shall receive a notification from the Board or its designee to cease the  
27 practice of medicine within three (3) calendar days after being so notified. Respondent shall

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1 cease the practice of medicine until a replacement monitor is approved and assumes monitoring  
2 responsibility.

3 16. SOLO PRACTICE PROHIBITION. Respondent is prohibited from engaging in the  
4 solo practice of medicine. Prohibited solo practice includes, but is not limited to, a practice  
5 where: 1) Respondent merely shares office space with another physician but is not affiliated for  
6 purposes of providing patient care, or 2) Respondent is the sole physician practitioner at that  
7 location.

8 If Respondent fails to establish a practice with another physician or secure employment in  
9 an appropriate practice setting within sixty (60) calendar days of the effective date of this  
10 Decision, Respondent shall receive a notification from the Board or its designee to cease the  
11 practice of medicine within three (3) calendar days after being so notified. Respondent shall not  
12 resume practice until an appropriate practice setting is established.

13 If, during the course of the probation, Respondent's practice setting changes and  
14 Respondent is no longer practicing in a setting in compliance with this Decision, Respondent  
15 shall notify the Board or its designee within five (5) calendar days of the practice setting change.  
16 If Respondent fails to establish a practice with another physician or secure employment in an  
17 appropriate practice setting within sixty (60) calendar days of the practice setting change,  
18 Respondent shall receive a notification from the Board or its designee to cease the practice of  
19 medicine within three (3) calendar days after being so notified. Respondent shall not resume  
20 practice until an appropriate practice setting is established.

21 17. NOTICE OF EMPLOYER OR SUPERVISOR INFORMATION. Within seven (7)  
22 days of the effective date of this Decision, Respondent shall provide to the Board the names,  
23 physical addresses, mailing addresses, and telephone numbers of any and all employers and  
24 supervisors. Respondent shall also provide specific, written consent for the Board, Respondent's  
25 worksite monitor, and Respondent's employers and supervisors to communicate regarding  
26 Respondent's work status, performance, and monitoring.

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1 For purposes of this section, "supervisors" shall include the Chief of Staff and Health or  
2 Well Being Committee Chair, or equivalent, if applicable, when Respondent has medical staff  
3 privileges.

4 18. **VIOLATION OF PROBATION CONDITION FOR SUBSTANCE-ABUSING**  
5 **LICENSEES.** Failure to fully comply with any term or condition of probation is a violation of  
6 probation.

7 A. If Respondent commits a major violation of probation as defined by section  
8 1361.52, subdivision (a), of Title 16 of the California Code of Regulations, the Board shall take  
9 one or more of the following actions:

10 (1) Issue an immediate cease-practice order and order Respondent to undergo a  
11 clinical Diagnostic evaluation to be conducted in accordance with section 1361.5, subdivision  
12 (c)(1), of Title 16 of the California Code of Regulations, at Respondent's expense. The cease-  
13 practice order issued by the Board or its designee shall state that Respondent must test negative  
14 for at least a month of continuous biological fluid testing before being allowed to resume practice.  
15 For purposes of the determining the length of time a Respondent must test negative while  
16 undergoing continuous biological fluid testing following issuance of a cease-practice order, a  
17 month is defined as thirty (30) calendar days. Respondent may not resume the practice of  
18 medicine until notified in writing by the Board or its designee that he may do so.

19 (2) Increase the frequency of biological fluid testing.

20 (3) Refer Respondent for further disciplinary action, such as suspension,  
21 revocation, or other action as determined by the Board or its designee. (Cal. Code Regs., tit. 16, §  
22 1361.52, subd. (b).)

23 B. If Respondent commits a minor violation of probation as defined by section  
24 1361.52, subdivision (c), of Title 16 of the California Code of Regulations, the Board shall take  
25 one or more of the following actions:

26 (1) Issue a cease-practice order;

27 (2) Order practice limitations;

28 (3) Order or increase supervision of Respondent;

1 (4) Order increased documentation;  
2 (5) Issue a citation and fine, or a warning letter;  
3 (6) Order Respondent to undergo a clinical diagnostic evaluation to be  
4 conducted in accordance with section 1361.5, subdivision (c)(1), of Title 16 of the California  
5 Code of Regulations, at Respondent's expense;

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

8 C. Nothing in this Decision shall be considered a limitation on the Board's authority  
9 to revoke Respondent's probation if he has violated any term or condition of probation. (See Cal.  
10 Code Regs., tit. 16, § 1361.52, subd. (e).) If Respondent violates probation in any respect, the  
11 Board, after giving Respondent notice and the opportunity to be heard, may revoke probation and  
12 carry out the disciplinary order that was stayed. If an Accusation, or Petition to Revoke  
13 Probation, or an Interim Suspension Order is filed against Respondent during probation, the  
14 Board shall have continuing jurisdiction until the matter is final, and the period of probation shall  
15 be extended until the matter is final.

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

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

25 20. SUPERVISION OF PHYSICIAN ASSISTANTS AND ADVANCED PRACTICE  
26 NURSES. During probation, Respondent is prohibited from supervising physician assistants and  
27 advanced practice nurses.

28 ///

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

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

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

9       23. GENERAL PROBATION REQUIREMENTS.

10       Compliance with Probation Unit

11       Respondent shall comply with the Board's probation unit.

12       Address Changes

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

18       Place of Practice

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

22       License Renewal

23       Respondent shall maintain a current and renewed California physician's and surgeon's  
24 license.

25       Travel or Residence Outside California

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

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

4 24. INTERVIEW WITH THE BOARD OR ITS DESIGNEE. Respondent shall be  
5 available in person upon request for interviews either at Respondent's place of business or at the  
6 probation unit office, with or without prior notice throughout the term of probation.

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

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

27 Respondent's period of non-practice while on probation shall not exceed two (2) years.  
28 Periods of non-practice will not apply to the reduction of the probationary term.

1       Periods of non-practice for a Respondent residing outside of California, will relieve  
2 Respondent of the responsibility to comply with the probationary terms and conditions with the  
3 exception of this condition and the following terms and conditions of probation: Obey All Laws;  
4 General Probation Requirements; Quarterly Declarations; Abstain from the Use of Alcohol and/or  
5 Controlled Substances; and Biological Fluid Testing.

6       26. COMPLETION OF PROBATION. Respondent shall comply with all financial  
7 obligations (e.g., restitution, probation costs) not later than one hundred twenty (120) calendar  
8 days prior to the completion of probation. -Upon successful completion of probation,  
9 Respondent's certificate shall be fully restored.

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

17       28. LICENSE SURRENDER. Following the effective date of this Decision, if  
18 Respondent ceases practicing due to retirement or health reasons or is otherwise unable to satisfy  
19 the terms and conditions of probation, Respondent may request to surrender his license. The  
20 Board reserves the right to evaluate Respondent's request and to exercise its discretion in  
21 determining whether or not to grant the request, or to take any other action deemed appropriate  
22 and reasonable under the circumstances. Upon formal acceptance of the surrender, Respondent  
23 shall within 15 calendar days deliver Respondent's wallet and wall certificate to the Board or its  
24 designee and Respondent shall no longer practice medicine. Respondent will no longer be subject  
25 to the terms and conditions of probation. If Respondent re-applies for a medical license, the  
26 application shall be treated as a petition for reinstatement of a revoked certificate.

27       ///

28       ///

29. 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.

## ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Sara Hersh. I understand the stipulation and the effect it will have on my Physician's and Surgeon's Certificate. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Medical Board of California.

**DATED:**

5/5/2017

**RYAN MATTHEW SPIVAK, M.D.**  
*Respondent*

I have read and fully discussed with Respondent Ryan Matthew Spivak, M.D. the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

**DATED:**

5/5/2017

**SARA HERSH**  
*Attorney for Respondent*

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Dated: 5-12-17

XAVIER BECERRA  
Attorney General of California  
ROBERT MCKIM BELL  
Supervising Deputy Attorney General

REBECCA L. SMITH  
Deputy Attorney General.  
*Attorneys for Complainant*

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**Exhibit A**

**Accusation Case No. 800-2016-020767**

FILED  
STATE OF CALIFORNIA  
MEDICAL BOARD OF CALIFORNIA  
SACRAMENTO September 29 20 16  
BY R. Firdaus ANALYST

1 KAMALA D. HARRIS  
Attorney General of California  
2 ROBERT MCKIM BELL  
Supervising Deputy Attorney General  
3 REBECCA L. SMITH  
Deputy Attorney General  
4 State Bar No. 179733  
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5 300 South Spring Street, Suite 1702  
Los Angeles, California 90013  
6 Telephone: (213) 897-2655  
Facsimile: (213) 897-9395  
7 *Attorneys for Complainant*

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

11 In the Matter of the Accusation Against:

Case No. 800-2016-020767

12 **RYAN MATTHEW SPIVAK, M.D.**  
13 **2200 West Third Street, Suite 120A**  
**Los Angeles, California 90057**

**ACCUSATION**

14 Physician's and Surgeon's Certificate  
15 No. A113632,

16 Respondent.

17  
18 Complainant alleges:

19 **PARTIES**

20 1. Kimberly Kirchmeyer ("Complainant") brings this Accusation solely in her official  
21 capacity as the Executive Director of the Medical Board of California, Department of Consumer  
22 Affairs ("Board").

23 2. On August 11, 2010, the Board issued Physician's and Surgeon's Certificate Number  
24 A113632 to Ryan Matthew Spivak, M.D. ("Respondent"). That license was in full force and  
25 effect at all times relevant to the charges brought herein and will expire on August 31, 2018,  
26 unless renewed.

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4. Section 2004 of the Code states:

“(a) The enforcement of the disciplinary and criminal provisions of the Medical Practice

"(c) Carrying out disciplinary actions appropriate to findings made by a panel or an administrative law judge.

“(e) Reviewing the quality of medical practice carried out by physician and surgeon certificate holders under the jurisdiction of the board.

“(g) Approving clinical clerkship and special programs and hospitals for the programs in vision (f).

“(i) Administering the board’s continuing medical education program.”

“(a) A licensee whose matter has been heard by an administrative law judge of the Medical Quality Hearing Panel as designated in Section 11371 of the Government Code, or whose default has been entered, and who is found guilty, or who has entered into a stipulation for disciplinary action with the board, may, in accordance with the provisions of this chapter:

"(2) Have his or her right to practice suspended for a period not to exceed one year upon order of the board.

1       “(3) Be placed on probation and be required to pay the costs of probation monitoring upon  
2 order of the board.

3       “(4) Be publicly reprimanded by the board. The public reprimand may include a  
4 requirement that the licensee complete relevant educational courses approved by the board.

5       “(5) Have any other action taken in relation to discipline as part of an order of probation, as  
6 the board or an administrative law judge may deem proper.

7       “(b) Any matter heard pursuant to subdivision (a), except for warning letters, medical  
8 review or advisory conferences, professional competency examinations, continuing education  
9 activities, and cost reimbursement associated therewith that are agreed to with the board and  
10 successfully completed by the licensee, or other matters made confidential or privileged by  
11 existing law, is deemed public, and shall be made available to the public by the board pursuant to  
12 Section 803.1.”

13       6.     Section 2227 of the Code provides that a licensee who is found guilty under the  
14 Medical Practice Act may have his or her license revoked, suspended for a period not to exceed  
15 one year, placed on probation and required to pay the costs of probation monitoring, or such other  
16 action taken in relation to discipline as the Board deems proper.

17       7.     Section 2234 of the Code, states:

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

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

23       “(b) Gross negligence.

24       “(c) Repeated negligent acts. To be repeated, there must be two or more negligent acts or  
25 omissions. An initial negligent act or omission followed by a separate and distinct departure from  
26 the applicable standard of care shall constitute repeated negligent acts.

27       “(1) An initial negligent diagnosis followed by an act or omission medically appropriate  
28 for that negligent diagnosis of the patient shall constitute a single negligent act.

1       “(2) When the standard of care requires a change in the diagnosis, act, or omission that  
2 constitutes the negligent act described in paragraph (1), including, but not limited to, a  
3 reevaluation of the diagnosis or a change in treatment, and the licensee's conduct departs from the  
4 applicable standard of care, each departure constitutes a separate and distinct breach of the  
5 standard of care.

6       “(d) Incompetence.

7       “(e) The commission of any act involving dishonesty or corruption which is substantially  
8 related to the qualifications, functions, or duties of a physician and surgeon.

9       “(f) Any action or conduct which would have warranted the denial of a certificate.

10       “(g) The practice of medicine from this state into another state or country without meeting  
11 the legal requirements of that state or country for the practice of medicine. Section 2314 shall not  
12 apply to this subdivision. This subdivision shall become operative upon the implementation of  
13 the proposed registration program described in Section 2052.5.

14       “(h) The repeated failure by a certificate-holder, in the absence of good cause, to attend and  
15 participate in an interview by the board. This subdivision shall only apply to a certificate holder  
16 who is the subject of an investigation by the board.”

17       8. Section 2021 of the Code states:

18       “...

19       “(b) Each licensee shall report to the board each and every change of address within 30 days  
20 after each change, giving both the old and new address. If an address reported to the board at the  
21 time of application for licensure or subsequently is a post office box, the applicant shall also  
22 provide the board with a street address. If another address is the licensee's address of record, he  
23 or she may request that the second address not be disclosed to the public.

24       “(c) Each licensee shall report to the board each and every change of name within 30 days  
25 after each change, giving both the old and new names.

26       “...”

27       //

28       //

1       9.    Section 2261 of the Code states:

2       "Knowingly making or signing any certificate or other document directly or indirectly  
3 related to the practice of medicine or podiatry which falsely represents the existence or  
4 nonexistence of a state of facts, constitutes unprofessional conduct."

5                               DRUG LAWS

6       10.   Section 2238 of the Code states:

7       "A violation of any federal statute or federal regulation or any of the statutes or regulations  
8 of this state regulating dangerous drugs or controlled substances constitutes unprofessional  
9 conduct."

10      11.   Section 2239 of the Code states:

11      "(a) The use or prescribing for or administering to himself or herself, of any controlled  
12 substance; or the use of any of the dangerous drugs specified in Section 4022, or of alcoholic  
13 beverages, to the extent, or in such a manner as to be dangerous or injurious to the licensee, or to  
14 any other person or to the public, or to the extent that such use impairs the ability of the licensee  
15 to practice medicine safely or more than one misdemeanor or any felony involving the use,  
16 consumption, or self-administration of any of the substances referred to in this section, or any  
17 combination thereof, constitutes unprofessional conduct. The record of the conviction is  
18 conclusive evidence of such unprofessional conduct.

19      "(b) A plea or verdict of guilty or a conviction following a plea of nolo contendere is  
20 deemed to be a conviction within the meaning of this section. The Medical Board may order  
21 discipline of the licensee in accordance with Section 2227 or the Medical Board may order the  
22 denial of the license when the time for appeal has elapsed or the judgment of conviction has been  
23 affirmed on appeal or when an order granting probation is made suspending imposition of  
24 sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal  
25 Code allowing such person to withdraw his or her plea of guilty and to enter a plea of not guilty,  
26 or setting aside the verdict of guilty, or dismissing the accusation, complaint, information, or  
27 indictment."

28      //

1       12.   Section 4324 of the Code states:

2       “(a) Every person who signs the name of another, or of a fictitious person, or falsely makes,  
3 alters, forges, utters, publishes, passes or attempts to pass, as genuine, any prescription for any  
4 drugs is guilty of forgery and upon conviction thereof shall be punished by imprisonment pursuant  
5 to subdivision (h) of Section 1170 of the Penal Code, or by imprisonment in a county jail for not  
6 more than one year.

7       “(b) Every person who has in his or her possession any drugs secured by a forged  
8 prescription shall be punished by imprisonment pursuant to subdivision (h) of Section 1170 of the  
9 Penal Code, or by imprisonment in the county jail of not more than one year.”

10       13.   Health and Safety Code section 11153 states in pertinent part:

11       “(a) A prescription for a controlled substance shall only be issued for a legitimate medical  
12 purpose by an individual practitioner acting in the usual course of his or her professional  
13 practice...”

14       “(b) Any person who knowingly violates this section shall be punished by imprisonment in  
15 the state prison or in a county jail not exceeding one year, or by a fine not exceeding twenty  
16 thousand (\$20,000), or by both that fine and imprisonment...”

17       14.   Health and Safety Code section 11157 states:

18       “No person shall issue a prescription that is false or fictitious in any respect.”

19       15.   Health and Safety Code section 11170 states:

20       “No person shall prescribe, administer, or furnish a controlled substance for himself.”

21       16.   Health and Safety Code section 11173, subdivision (a), states:

22       “No person shall obtain or attempt to obtain controlled substances, or procure or attempt to  
23 procure the administration of or prescription for controlled substances by (1) fraud, deceit,  
24 misrepresentation, or subterfuge; or (2) by the concealment of a material fact.”

25       17.   Health and Safety Code section 11175 states:

26       “No person shall obtain or possess a prescription that does not comply with his division, nor  
27 shall any person obtain a controlled substance by means of a prescription which does not comply  
28 with this division or possess a controlled substance obtained by such a prescription.”

1 18. Health and Safety Code section 11368 states:

2 "Every person who forges or alters a prescription or who issues or utters an altered  
3 prescription, or who issues or utters a prescription bearing a forged or fictitious signature for any  
4 narcotic drug, or who obtains any narcotic drug by any forged, fictitious, or altered prescription,  
5 or who has in possession any narcotic drug secured by a forged, fictitious, or altered prescription,  
6 shall be punished by imprisonment in the county jail for not less than six months nor more than  
7 one year, or in the state prison."

8 **DRUGS INVOLVED**

9 19. Eszopiclone, also known by the trade name Lunesta, is a Schedule IV controlled  
10 substance as defined by section 11057, subdivision (d), of the Health and Safety Code and is a  
11 dangerous drug as defined in Section 4022 of the Code. Eszopiclone is a sedative and is used to  
12 treat insomnia.

13 20. Phentermine is a Schedule IV controlled substance as defined by section 11057,  
14 subdivision (f)(4), of the Health and Safety Code and is a dangerous drug as defined in Section  
15 4022 of the Code. It is a stimulant.

16 21. Metformin is an oral diabetes medicine that helps control blood sugar levels. It is  
17 a dangerous drug as defined in Section 4022 of the Code.

18 **FACTUAL SUMMARY**

19 22. On February 26, 2016, the Central Complaint Unit ("CCU") of the Board received a  
20 complaint dated February 22, 2016 by Dr. M.R. alleging that Respondent used her Drug  
21 Enforcement Administration ("DEA") license number to obtain prescriptions in his name.

22 23. Investigation by the Health Quality Investigations Unit of the Department of  
23 Consumer Affairs revealed that Respondent had falsely and fraudulently obtained prescriptions  
24 for phentermine in his name using the names and DEA licenses of Dr. M.R., Dr. J.C., and Dr.  
25 R.B.

26  
27 24. Dr. M.R. reviewed the California Department of Justice Controlled Substance  
28 Utilization Review and Evaluation System (CURES) report setting forth her prescribing history in

1 California from March 22, 2015 through March 22, 2016 and noted that it inaccurately reflects  
2 that she prescribed medications to Respondent during the timeframe of June 2015 through  
3 December 2015. More specifically:

4 a. Dr. M.R. did not prescribe or authorize the prescription for Eszopiclone 3 mg  
5 tablets that Respondent filled on June 4, 2015.

6 b. Dr. M.R. did not prescribe or authorize the prescription for additional  
7 Eszopiclone 3 mg tablets that Respondent filled on June 4, 2015.

8 c. Dr. M.R. did not prescribe or authorize the prescription for Eszopiclone 3 mg  
9 tablets that Respondent filled on June 29, 2015.

10 d. Dr. M.R. did not prescribe or authorize the prescription for additional  
11 Eszopiclone 3 mg tablets that Respondent filled on June 29, 2015.

12 e. Dr. M.R. did not prescribe or authorize the prescription for Eszopiclone 3 mg  
13 tablets that Respondent filled on August 28, 2015.

14 f. Dr. M.R. did not prescribe or authorize the prescription for Eszopiclone 3 mg  
15 tablets that Respondent filled on October 12, 2015.

16 25. Dr. M.R. reviewed a prescription that she purportedly issued to Respondent dated  
17 June 3, 2015 for thirty (30) Eszopiclone 3 mg tablets with four (4) refills. Dr. M.R. declared  
18 under the penalty of perjury that the prescription was not ordered, prescribed, written, issued or  
19 authorized by her; and, the signature at the bottom of the prescription was not written by her.

20 26. Dr. J.C., an Assistant Professor of Surgery in the Division of Plastic and  
21 Reconstructive Surgery at the University of Southern California (USC), Keck School of Medicine  
22 and an attending physician at USC Hospital, last had contact with Respondent in approximately  
23 June 2015, at the time of Respondent's graduation from the plastic and reconstructive surgery  
24 residency program at USC. Respondent was never one of Dr. J.C.'s patients, Dr. J.C. never  
25  
26  
27  
28

1 treated Respondent for any medical conditions, and Dr. J.C. never prescribed any medications to  
2 Respondent.

3 27. Dr. J.C. reviewed a prescription he purportedly issued to Respondent dated June  
4 12, 2015 for sixty (60) Phentermine HCL 15 mg tablets with no refills. Dr. J.C. declared under  
5 penalty of perjury that the prescription was not ordered, prescribed, written or authorized by him;  
6 and, the signature at the bottom of the prescription was not written by him.

7  
8 28. Dr. J.C. reviewed another prescription he purportedly issued to Respondent dated  
9 June 12, for thirty (30) Lunesta or Eszopiclone 3 mg tablets with no refills. Dr. J.C. declared  
10 under penalty of perjury that the prescription was not ordered, prescribed, written or authorized by  
11 him; and, the signature at the bottom of the prescription was not written by him.

12 29. Dr. R.B. is Program Director for Micrographic Surgery and Dermatologic  
13 Oncology with the Accreditation Counsel for Graduate Medical Education and the American  
14 Board of Dermatology. He provides a fellowship training program at his office. Respondent was  
15 a research fellow in Micrographic Surgery at Dr. R.B.'s office for approximately five months in  
16 late 2015 through approximately February 2016. In approximately February 2016, Dr. R.B.  
17 terminated Respondent from the training program when he became aware that Respondent was  
18 using Dr. R.B.'s name and DEA license to write prescriptions for himself.  
19  
20

21 30. Dr. R.B. obtained the California Department of Justice Controlled Substance  
22 Utilization Review and Evaluation System (CURES) report for Respondent's prescribing history  
23 from January 27, 2015 through January 27, 2016 and noted that it inaccurately reflects that Dr.  
24 R.B. prescribed medications to Respondent during the timeframe of October 2015 through  
25 December 2015. More specifically:

26  
27 a. Dr. R.B. did not prescribe or authorize the prescription for Phentermine  
28 HCL 15 mg capsules that Respondent filled on October 1, 2015.

1 b. Dr. R.B. did not prescribe or authorize the prescription for Eszopiclone 3  
2 mg tablets that Respondent filled on November 23, 2015.

3 c. Dr. R.B. did not prescribe or authorize the prescription for Eszopiclone 3  
4 mg tablets that Respondent filled on December 3, 2015.

5 31. Dr. R.B. reviewed a prescription he purportedly issued to Respondent dated  
6 December 2, 2015 for sixty (60) Phentermine HCL 15 mg tablets with four (4) refills and sixty  
7 (60) Metformin 500 mg tablets with four (4) refills. Dr. R.B. declared, under penalty of perjury,  
8 that the prescription was not ordered, prescribed, written or authorized by him; and, the signature  
9 at the bottom of the prescription was not written by him.  
10

11 32. Respondent admits that he improperly wrote several prescriptions for his own use  
12 on the prescription pads of Drs. M.S., J.C. and R.B.  
13

14 33. As of August 23, 2016, Respondent changed his address of record with the Board  
15 from Graduate Medical Education Los Angeles County-USC Medical Center, located at 1200  
16 North State Street, Suite A7D, Los Angeles, California 90033, to 2200 West Third Street, Suite  
17 120A, Los Angeles, California 90057. Respondent completed his educational program at Los  
18 Angeles County-USC Medical Center in June of 2015.  
19

20 **FIRST CAUSE FOR DISCIPLINE**

21 **(Dishonest Acts)**

22 34. By reason of the facts set forth above in paragraphs 22 through 32, Respondent's  
23 license is subject to disciplinary action pursuant to section 2234, subdivision (e), of the Code for  
24 dishonest acts.

25 35. Respondent's acts and/or omissions set forth in paragraphs 22 through 32 above,  
26 whether proven individually, jointly, or in any combination thereof, constitute dishonest acts in  
27 violation of section 2234, subdivision (e), of the Code. Therefore, cause for discipline exists.  
28

//



1 **FIFTH CAUSE FOR DISCIPLINE**

2 **(False/Fictitious Prescriptions)**

3 42. By reason of the facts set forth above in paragraphs 22 through 32, Respondent's  
4 license is subject to disciplinary action pursuant to Health and Safety Code section 11157 for  
5 issuing false/fictitious prescriptions for controlled substances.

6 43. Respondent's acts and/or omissions set forth in paragraphs 22 through 32 above,  
7 whether proven individually, jointly, or in any combination thereof, constitute issuing  
8 false/fictitious prescriptions for controlled substances in violation of Health and Safety Code  
9 section 11157. Therefore, cause for discipline exists.

10 **SIXTH CAUSE FOR DISCIPLINE**

11 **(Obtaining Prescriptions by Fraud/Deceit)**

12 44. By reason of the facts set forth above in paragraphs 22 through 32, Respondent's  
13 license is subject to disciplinary action pursuant to Health and Safety Code sections 11173 and  
14 11175 for obtaining/procuring prescriptions for controlled substances by fraud/deceit.

15 45. Respondent's acts and/or omissions set forth in paragraphs 22 through 32 above,  
16 whether proven individually, jointly, or in any combination thereof, constitute obtaining/procuring  
17 prescriptions for controlled substances by fraud/deceit in violation of Health and Safety Code  
18 sections 11173 and 11175. Therefore, cause for discipline exists.

19 **SEVENTH CAUSE FOR DISCIPLINE**

20 **(Making or Signing False Documents)**

21 46. By reason of the facts set forth above in paragraphs 22 through 32, Respondent's  
22 license is subject to disciplinary action pursuant to section 2261 of the Code for knowingly  
23 making or signing documents directly or indirectly related to the practice of medicine which  
24 falsely represented the existence or nonexistence of a state of facts.

25 47. Respondent's acts and/or omissions set forth in paragraphs 22 through 32 above,  
26 whether proven individually, jointly, or in any combination thereof, constitute knowingly making  
27 or signing documents directly or indirectly related to the practice of medicine which falsely

28 //

1 represented the existence or nonexistence of a state of facts in violation of section 2261 of the  
2 Code. Therefore, cause for discipline exists.

3 **EIGHTH CAUSE FOR DISCIPLINE**

4 **(Forging Prescriptions for Self-Use)**

5 48. By reason of the facts set forth above in paragraphs 22 through 32, Respondent's  
6 license is subject to disciplinary action pursuant to section 4324 of the Code and Health and  
7 Safety Code sections 11170 and 11368 for forging prescriptions for self-use.

8 49. Respondent's acts and/or omissions set forth in paragraphs 22 through 32 above,  
9 whether proven individually, jointly, or in any combination thereof, constitute forging  
10 prescriptions for self-use in violation of section 4324 of the Code and Health and Safety Code  
11 sections 11170 and 11368. Therefore, cause for discipline exists.

12 **NINTH CAUSE FOR DISCIPLINE**

13 **(Failure to Report Change of Address)**

14 50. By reason of the facts set forth above in paragraph 33, Respondent's license is subject  
15 to disciplinary action pursuant to section 2021, subdivisions (b) and (c), of the Code for failing to  
16 report his changes of address.

17 51. Respondent's acts and/or omissions set forth in paragraph 33 above, whether proven  
18 individually, jointly, or in any combination thereof, constitutes a failure to report his change of  
19 address in violation of section 2021, subdivisions (b) and (c), of the Code. Therefore, cause for  
20 discipline exists.

21 **TENTH CAUSE FOR DISCIPLINE**

22 **(Unprofessional Conduct)**

23 52. By reason of the facts set forth above in paragraphs 22 through 51, Respondent's  
24 license is subject to disciplinary action pursuant to section 2234 of the Code for engaging in  
25 unprofessional conduct.

26 53. Respondent's acts and/or omissions set forth in paragraphs 22 through 51 above,  
27 whether proven individually, jointly, or in any combination thereof, constitute unprofessional  
28 conduct in violation of section 2234 of the Code. Therefore, cause for discipline exists.

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

  
KIMBERLY KIRCHMEYER  
Executive Director

*Complainant*

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62051121.doc

Exhibit C

*Decision In the Matter of the First Amended Accusation against Ryan Matthew Spivak, M.D.*

Case No. 800-2019-060028

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

In the Matter of the Accusation  
Against:

Ryan Matthew Spivak, M.D.

Physician's and Surgeon's  
Certificate No. A 113632

Case No.: 800-2019-060028

Respondent.

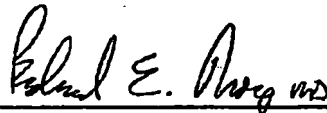
DECISION

The attached Stipulated Settlement and Disciplinary Order 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 9, 2023.

IT IS SO ORDERED: May 11, 2023.

MEDICAL BOARD OF CALIFORNIA



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

1 ROB BONTA  
Attorney General of California  
2 JUDITH T. ALVARADO  
Supervising Deputy Attorney General  
3 REBECCA L. SMITH  
Deputy Attorney General  
4 State Bar No. 179733  
300 So. Spring Street, Suite 1702  
5 Los Angeles, CA 90013  
Telephone: (213) 269-6475  
6 Facsimile: (916) 731-2117  
*Attorneys for Complainant*  
7

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

12 In the Matter of the First Amended Accusation  
Against:

Case No. 800-2019-060028

13 RYAN MATTHEW SPIVAK, M.D.  
14 27509 Agoura Road, Suite 110  
Agoura Hills, CA 91301

OAH No. 2022040932

**STIPULATED SETTLEMENT AND  
DISCIPLINARY ORDER.**

15 Physician's and Surgeon's Certificate  
16 No. A 113632,

17 Respondent.  
18

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

21 **PARTIES**

22 1. Reji Varghese (Complainant) is the Interim Executive Director of the Medical Board  
23 of California (Board). He brought this action solely in his official capacity and is represented in  
24 this matter by Rob Bonta, Attorney General of the State of California, by Rebecca L. Smith,  
25 Deputy Attorney General.

26 2. Ryan Matthew Spivak, M.D. (Respondent) is represented in this proceeding by  
27 attorney Kevin D. Cauley, whose address is 624 South Grand Avenue, 22nd Floor, Los Angeles,  
28 California 90017-3323.

3. On or about August 11, 2010, the Board issued Physician's and Surgeon's Certificate No. A 113632 to Respondent. That license was in full force and effect at all times relevant to the charges brought in First Amended Accusation No. 800-2019-060028, and will expire on August 31, 2024, unless renewed.

## JURISDICTION

4. First Amended Accusation No. 800-2019-060028 was filed before the Board, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on March 30, 2022. Respondent timely filed his Notice of Defense contesting the Accusation.

5. A copy of First Amended Accusation No. 800-2019-060028 is attached as Exhibit A and incorporated herein by reference.

## ADVISEMENT AND WAIVERS

6. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in First Amended Accusation No. 800-2019-060028. Respondent has also carefully read, fully discussed with his counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

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

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

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1 **CULPABILITY**

2 9. Respondent does not contest that, at an administrative hearing, complainant could  
3 establish a prima facie case with respect to the charges and allegations in First Amended  
4 Accusation No. 800-2019-060028 and that he has thereby subjected his license to disciplinary  
5 action.

6 10. Respondent agrees that his Physician's and Surgeon's Certificate is subject to  
7 discipline and he agrees to be bound by the Board's probationary terms as set forth in the  
8 Disciplinary Order below.

9 **RESERVATION**

10 11. The admissions made by Respondent herein are only for the purposes of this  
11 proceeding, or any other proceedings in which the Medical Board of California or other  
12 professional licensing agency is involved, and shall not be admissible in any other criminal or  
13 civil proceeding.

14 **CONTINGENCY**

15 12. This stipulation shall be subject to approval by the Medical Board of California.  
16 Respondent understands and agrees that counsel for Complainant and the staff of the Medical  
17 Board of California may communicate directly with the Board regarding this stipulation and  
18 settlement, without notice to or participation by Respondent or his counsel. By signing the  
19 stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek  
20 to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails  
21 to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary  
22 Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal  
23 action between the parties, and the Board shall not be disqualified from further action by having  
24 considered this matter.

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13. Respondent agrees that if he ever petitions for early termination or modification of probation, or if an accusation and/or petition to revoke probation is filed against him before the Board, all of the charges and allegations contained in First Amended Accusation No. 800-2019-060028 shall be deemed true, correct and fully admitted by respondent for purposes of any such proceeding or any other licensing proceeding involving Respondent in the State of California.

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

15. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or opportunity to be heard by the Respondent, issue and enter the following Disciplinary Order:

## DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. A 113632 issued to Respondent RYAN MATTHEW SPIVAK, M.D. is revoked. However, the revocation is stayed and Respondent is placed on probation for two (2) years to run consecutively from the conclusion of Respondent's probation term in the Board's Decision in Case No. 800-2019-061086, for a total of eleven (11) years' probation, with the following terms and conditions:

1. CLINICAL DIAGNOSTIC EVALUATION – Condition Satisfied. Within thirty (30) calendar days of the effective date of this Decision, and on whatever periodic basis thereafter as may be required by the Board or its designee, Respondent shall undergo and complete a clinical diagnostic evaluation, including any and all testing deemed necessary, by a Board-appointed board certified physician and surgeon. 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.

The clinical diagnostic evaluation shall be conducted by a licensed physician and surgeon who holds a valid, unrestricted license, has three (3) years' experience in providing evaluations of physicians and surgeons with substance abuse disorders, and is approved by the Board or its designee. The clinical diagnostic evaluation shall be conducted in accordance with acceptable

1 professional standards for conducting substance abuse clinical diagnostic evaluations. The  
2 evaluator shall not have a current or former financial, personal, or business relationship with  
3 Respondent within the last five (5) years. The evaluator shall provide an objective, unbiased, and  
4 independent evaluation. The clinical diagnostic evaluation report shall set forth, in the  
5 evaluator's opinion, whether Respondent has a substance abuse problem, whether Respondent is a  
6 threat to himself or others, and recommendations for substance abuse treatment, practice  
7 restrictions, or other recommendations related to Respondent's rehabilitation and ability to  
8 practice safely. If the evaluator determines during the evaluation process that Respondent is a  
9 threat to himself or others, the evaluator shall notify the Board within twenty-four (24) hours of  
10 such a determination.

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

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

25 The Board shall review the clinical diagnostic evaluation report within five (5) business  
26 days of receipt to determine whether Respondent is safe to return to either part-time or full-time  
27 practice and what restrictions or recommendations shall be imposed on Respondent based on the  
28 recommendations made by the evaluator. Respondent shall not be returned to practice until he

1 has at least thirty (30) days of negative biological fluid tests or biological fluid tests indicating  
2 that he has not used, consumed, ingested, or administered to himself a prohibited substance, as  
3 defined in section 1361.51, subdivision (e), of Title 16 of the California Code of Regulations.

4 Clinical diagnostic evaluations conducted prior to the effective date of this Decision shall  
5 not be accepted towards the fulfillment of this requirement. The cost of the clinical diagnostic  
6 evaluation, including any and all testing deemed necessary by the examiner, the Board or its  
7 designee, shall be borne by the licensee.

8 Respondent shall not engage in the practice of medicine until notified by the Board or its  
9 designee that he is fit to practice medicine safely. The period of time that Respondent is not  
10 practicing medicine shall not be counted toward completion of the term of probation. Respondent  
11 shall undergo biological fluid testing as required in this Decision at least two (2) times per week  
12 while awaiting the notification from the Board if he is fit to practice medicine safely.

13 Respondent shall comply with all restrictions or conditions recommended by the examiner  
14 conducting the clinical diagnostic evaluation within fifteen (15) calendar days after being notified  
15 by the Board or its designee.

16 2. CONTROLLED SUBSTANCES - TOTAL RESTRICTION. Respondent shall not  
17 order, prescribe, dispense, administer, furnish, or possess any controlled substances as defined in  
18 the California Uniform Controlled Substances Act.

19 Respondent shall not issue an oral or written recommendation or approval to a patient or a  
20 patient's primary caregiver for the possession or cultivation of marijuana for the personal medical  
21 purposes of the patient within the meaning of Health and Safety Code section 11362.5.

22 If Respondent forms the medical opinion, after an appropriate prior examination and a  
23 medical indication, that a patient's medical condition may benefit from the use of marijuana,  
24 Respondent shall so inform the patient and shall refer the patient to another physician who,  
25 following an appropriate prior examination and a medical indication, may independently issue a  
26 medically appropriate recommendation or approval for the possession or cultivation of marijuana  
27 for the personal medical purposes of the patient within the meaning of Health and Safety Code  
28 section 11362.5. In addition, Respondent shall inform the patient or the patient's primary

1 caregiver that Respondent is prohibited from issuing a recommendation or approval for the  
2 possession or cultivation of marijuana for the personal medical purposes of the patient and that  
3 the patient or the patient's primary caregiver may not rely on Respondent's statements to legally  
4 possess or cultivate marijuana for the personal medical purposes of the patient. Respondent shall  
5 fully document in the patient's chart that the patient or the patient's primary caregiver was so  
6 informed. Nothing in this condition prohibits Respondent from providing the patient or the  
7 patient's primary caregiver information about the possible medical benefits resulting from the use  
8 of marijuana.

9 3. CONTROLLED SUBSTANCES - ABSTAIN FROM USE. Respondent shall abstain  
10 completely from the personal use or possession of controlled substances as defined in the  
11 California Uniform Controlled Substances Act, dangerous drugs as defined by Business and  
12 Professions Code section 4022, and any drugs requiring a prescription. This prohibition does not  
13 apply to medications lawfully prescribed to Respondent by another practitioner for a bona fide  
14 illness or condition.

15 Within 15 calendar days of receiving any lawfully prescribed medications, Respondent  
16 shall notify the Board or its designee of the: issuing practitioner's name, address, and telephone  
17 number; medication name, strength, and quantity; and issuing pharmacy name, address, and  
18 telephone number.

19 4. COMMUNITY SERVICE - FREE SERVICES – Condition Satisfied. Within sixty  
20 (60) calendar days of the effective date of this Decision, Respondent shall submit to the Board or  
21 its designee for prior approval a community service plan in which Respondent shall within the  
22 first two (2) years of probation, provide forty (40) hours of free non-medical services to a  
23 community or non-profit organization. Prior to engaging in any community service, Respondent  
24 shall provide a true copy of the Decision to the chief of staff, director, office manager, program  
25 manager, officer, or the chief executive officer at every community or non-profit organization  
26 where Respondent provides non-medical community service and shall submit proof of  
27 compliance to the Board or its designee within fifteen (15) calendar days. This condition shall  
28 also apply to any change(s) in community service.

1 Community service performed prior to the effective date of the Decision shall not be  
2 accepted in fulfillment of this condition.

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

13 6. PRESCRIBING PRACTICES COURSE – Condition Satisfied. Within sixty (60)  
14 calendar days of the effective date of this Decision, Respondent shall enroll in a course in  
15 prescribing practices approved in advance by the Board or its designee. Respondent shall provide  
16 the approved course provider with any information and documents that the approved course  
17 provider may deem pertinent. Respondent shall participate in and successfully complete the  
18 classroom component of the course not later than six (6) months after Respondent's initial  
19 enrollment. Respondent shall successfully complete any other component of the course within  
20 one (1) year of enrollment. The prescribing practices course shall be at Respondent's expense and  
21 shall be in addition to the Continuing Medical Education (CME) requirements for renewal of  
22 licensure.

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

28 Respondent shall submit a certification of successful completion to the Board or its

1 designee not later than fifteen (15) calendar days after successfully completing the course, or not  
2 later than fifteen (15) calendar days after the effective date of the Decision, whichever is later.

3 7. MEDICAL RECORD KEEPING COURSE. Within sixty (60) calendar days of the  
4 effective date of this Decision, Respondent shall enroll in a course in medical record keeping  
5 approved in advance by the Board or its designee. Respondent shall provide the approved course  
6 provider with any information and documents that the approved course provider may deem  
7 pertinent. Respondent shall participate in and successfully complete the classroom component of  
8 the course not later than six (6) months after Respondent's initial enrollment. Respondent shall  
9 successfully complete any other component of the course within one (1) year of enrollment. The  
10 medical record keeping course shall be at Respondent's expense and shall be in addition to the  
11 Continuing Medical Education (CME) requirements for renewal of licensure.

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

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

20 8. PROFESSIONALISM PROGRAM (ETHICS COURSE). Within sixty (60) calendar  
21 days of the effective date of this Decision, Respondent shall enroll in a professionalism program,  
22 that meets the requirements of Title 16, California Code of Regulations (CCR) section 1358.1.  
23 Respondent shall participate in and successfully complete that program. Respondent shall  
24 provide any information and documents that the program may deem pertinent. Respondent shall  
25 successfully complete the classroom component of the program not later than six (6) months after  
26 Respondent's initial enrollment, and the longitudinal component of the program not later than the  
27 time specified by the program, but no later than one (1) year after attending the classroom  
28 component. The professionalism program shall be at Respondent's expense and shall be in

1 addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

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

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

10 9. BIOLOGICAL FLUID TESTING. Respondent shall immediately submit to  
11 biological fluid testing, at Respondent's expense, upon request of the Board or its designee.  
12 "Biological fluid testing" may include, but is not limited to, urine, blood, breathalyzer, hair  
13 follicle testing, or similar drug screening approved by the Board or its designee. Respondent shall  
14 make daily contact with the Board or its designee to determine whether biological fluid testing is  
15 required. Respondent shall be tested on the date of the notification as directed by the Board or its  
16 designee. The Board may order a Respondent to undergo a biological fluid test on any day, at  
17 any time, including weekends and holidays. Except when testing on a specific date as ordered by  
18 the Board or its designee, the scheduling of biological fluid testing shall be done on a random  
19 basis. The cost of biological fluid testing shall be borne by Respondent.

20 During the first year of probation, Respondent shall be subject to 52 to 104 random tests.  
21 During the second year of probation and for the duration of the probationary term, up to five (5)  
22 years, Respondent shall be subject to 36 to 104 random tests per year. Only if there has been no  
23 positive biological fluid tests in the previous five (5) consecutive years of probation, may testing  
24 be reduced to one (1) time per month. Nothing precludes the Board from increasing the number  
25 of random tests to the first-year level of frequency for any reason.

26 Prior to practicing medicine, Respondent shall contract with a laboratory or service,  
27 approved in advance by the Board or its designee, that will conduct random, unannounced,  
28 observed, biological fluid testing and meets all of the following standards:

- 1 (a) Its specimen collectors are either certified by the Drug and Alcohol Testing Industry  
2 Association or have completed the training required to serve as a collector for the United  
3 States Department of Transportation.
- 4 (b) Its specimen collectors conform to the current United States Department of  
5 Transportation Specimen Collection Guidelines.
- 6 (c) Its testing locations comply with the Urine Specimen Collection Guidelines published  
7 by the United States Department of Transportation without regard to the type of test  
8 administered.
- 9 (d) Its specimen collectors observe the collection of testing specimens.
- 10 (e) Its laboratories are certified and accredited by the United States Department of Health  
11 and Human Services.
- 12 (f) Its testing locations shall submit a specimen to a laboratory within one (1) business day  
13 of receipt and all specimens collected shall be handled pursuant to chain of custody  
14 procedures. The laboratory shall process and analyze the specimens and provide legally  
15 defensible test results to the Board within seven (7) business days of receipt of the  
16 specimen. The Board will be notified of non-negative results within one (1) business day  
17 and will be notified of negative test results within seven (7) business days.
- 18 (g) Its testing locations possess all the materials, equipment, and technical expertise  
19 necessary in order to test Respondent on any day of the week.
- 20 (h) Its testing locations are able to scientifically test for urine, blood, and hair specimens  
21 for the detection of alcohol and illegal and controlled substances.
- 22 (i) It maintains testing sites located throughout California.
- 23 (j) It maintains an automated 24-hour toll-free telephone system and/or a secure on-line  
24 computer database that allows Respondent to check in daily for testing.
- 25 (k) It maintains a secure, HIPAA-compliant website or computer system that allows staff  
26 access to drug test results and compliance reporting information that is available 24 hours a  
27 day.
- 28 (l) It employs or contracts with toxicologists that are licensed physicians and have

1 knowledge of substance abuse disorders and the appropriate medical training to interpret  
2 and evaluate laboratory biological fluid test results, medical histories, and any other  
3 information relevant to biomedical information.

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

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

8 The contract shall require that the laboratory directly notify the Board or its designee of  
9 non-negative results within one (1) business day and negative test results within seven (7)  
10 business days of the results becoming available. Respondent shall maintain this laboratory or  
11 service contract during the period of probation.

12 A certified copy of any laboratory test result may be received in evidence in any  
13 proceedings between the Board and Respondent.

14 If a biological fluid test result indicates Respondent has used, consumed, ingested, or  
15 administered to himself or herself a prohibited substance, the Board shall order Respondent to  
16 cease practice and instruct Respondent to leave any place of work where Respondent is practicing  
17 medicine or providing medical services. The Board shall immediately notify all of Respondent's  
18 employers, supervisors and work monitors, if any, that Respondent may not practice medicine or  
19 provide medical services while the cease-practice order is in effect.

20 A biological fluid test will not be considered negative if a positive result is obtained while  
21 practicing, even if the practitioner holds a valid prescription for the substance. If no prohibited  
22 substance use exists, the Board shall lift the cease-practice order within one (1) business day.

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

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

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

5 If the Board confirms that a positive biological fluid test is evidence of use of a prohibited  
6 substance, Respondent has committed a major violation, as defined in section 1361.52(a), and the  
7 Board shall impose any or all of the consequences set forth in section 1361.52(b), in addition to  
8 any other terms or conditions the Board determines are necessary for public protection or to  
9 enhance Respondent's rehabilitation.

10 10. SUBSTANCE ABUSE SUPPORT GROUP MEETINGS. Within thirty (30) days of  
11 the effective date of this Decision, Respondent shall submit to the Board or its designee, for its  
12 prior approval, the name of a substance abuse support group which he shall attend for the duration  
13 of probation. Respondent shall attend substance abuse support group meetings at least once per  
14 week, or as ordered by the Board or its designee.

15 Respondent shall pay all substance abuse support group meeting costs.

16 The facilitator of the substance abuse support group meeting shall have a minimum of  
17 three (3) years' experience in the treatment and rehabilitation of substance abuse, and shall be  
18 licensed or certified by the state or nationally certified organizations. The facilitator shall not  
19 have a current or former financial, personal, or business relationship with Respondent within the  
20 last five (5) years. Respondent's previous participation in a substance abuse group support  
21 meeting led by the same facilitator does not constitute a prohibited current or former financial,  
22 personal, or business relationship.

23 The facilitator shall provide a signed document to the Board or its designee showing  
24 Respondent's name, the group name, the date and location of the meeting, Respondent's  
25 attendance and Respondent's level of participation and progress. The facilitator shall report any  
26 unexcused absence by Respondent from any substance abuse support group meeting to the Board,  
27 or its designee, within twenty-four (24) hours of the unexcused absence.

28 11. PSYCHOTHERAPY. Within sixty (60) calendar days of the effective date of this

1 Decision, Respondent shall submit to the Board or its designee for prior approval the name and  
2 qualifications of a California-licensed board certified psychiatrist or a licensed psychologist who  
3 has a doctoral degree in psychology and at least five years of postgraduate experience in the  
4 diagnosis and treatment of emotional and mental disorders. Upon approval, Respondent shall  
5 undergo and continue psychotherapy treatment, including any modifications to the frequency of  
6 psychotherapy, until the Board or its designee deems that no further psychotherapy is necessary.

7 The psychotherapist shall consider any information provided by the Board or its designee  
8 and any other information the psychotherapist deems relevant and shall furnish a written  
9 evaluation report to the Board or its designee. Respondent shall cooperate in providing the  
10 psychotherapist any information and documents that the psychotherapist may deem pertinent.

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

18 Respondent shall pay the cost of all psychotherapy and psychiatric evaluations.

19 12. MEDICAL EVALUATION AND TREATMENT – Condition satisfied. Within  
20 thirty (30) calendar days of the effective date of this Decision, and on a periodic basis thereafter  
21 as may be required by the Board or its designee, Respondent shall undergo a medical evaluation  
22 by a Board-appointed physician who shall consider any information provided by the Board or  
23 designee and any other information the evaluating physician deems relevant and shall furnish a  
24 medical report to the Board or its designee. Respondent shall provide the evaluating physician  
25 any information and documentation that the evaluating physician may deem pertinent.

26 Following the evaluation, Respondent shall comply with all restrictions or conditions  
27 recommended by the evaluating physician within fifteen (15) calendar days after being notified  
28 by the Board or its designee. If Respondent is required by the Board or its designee to undergo

1 medical treatment, Respondent shall within thirty (30) calendar days of the requirement notice,  
2 submit to the Board or its designee for prior approval the name and qualifications of a California  
3 licensed treating physician of Respondent's choice. Upon approval of the treating physician,  
4 Respondent shall within fifteen (15) calendar days undertake medical treatment and shall  
5 continue such treatment until further notice from the Board or its designee.

6 The treating physician shall consider any information provided by the Board or its designee  
7 or any other information the treating physician may deem pertinent prior to commencement of  
8 treatment. Respondent shall have the treating physician submit quarterly reports to the Board or  
9 its designee indicating whether or not Respondent is capable of practicing medicine safely.  
10 Respondent shall provide the Board or its designee with any and all medical records pertaining to  
11 treatment, the Board or its designee deems necessary.

12 If, prior to the completion of probation, Respondent is found to be physically incapable of  
13 resuming the practice of medicine without restrictions, the Board shall retain continuing  
14 jurisdiction over Respondent's license and the period of probation shall be extended until the  
15 Board determines that Respondent is physically capable of resuming the practice of medicine  
16 without restrictions. Respondent shall pay the cost of the medical evaluation(s) and treatment.

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

26 The Board or its designee shall provide the approved monitor with copies of the Decision  
27 and Accusation, and a proposed monitoring plan. Within fifteen (15) calendar days of receipt of  
28 the Decision, Accusation, and proposed monitoring plan, the monitor shall submit a signed

1 statement that the monitor has read the Decision and Accusation, fully understands the role of a  
2 monitor, and agrees or disagrees with the proposed monitoring plan. If the monitor disagrees  
3 with the proposed monitoring plan, the monitor shall submit a revised monitoring plan with the  
4 signed statement for approval by the Board or its designee.

5 Within sixty (60) calendar days of the effective date of this Decision, and continuing  
6 throughout probation, Respondent's practice shall be monitored by the approved monitor.  
7 Respondent shall make all records available for immediate inspection and copying on the  
8 premises by the monitor at all times during business hours and shall retain the records for the  
9 entire term of probation.

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

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

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

1 In lieu of a monitor, Respondent may participate in a professional enhancement program  
2 approved in advance by the Board or its designee, that includes, at minimum, quarterly chart  
3 review, semi-annual practice assessment, and semi-annual review of professional growth and  
4 education. Respondent shall participate in the professional enhancement program at Respondent's  
5 expense during the term of probation.

6 14. WORKSITE MONITOR FOR SUBSTANCE-ABUSING LICENSEE. Within thirty  
7 (30) calendar days of the effective date of this Decision, Respondent shall submit to the Board or  
8 its designee for prior approval as a worksite monitor, the name and qualifications of one or more  
9 licensed physician and surgeon, other licensed health care professional if no physician and  
10 surgeon is available, or, as approved by the Board or its designee, a person in a position of  
11 authority who is capable of monitoring Respondent at work.

12 The worksite monitor shall not have a current or former financial, personal, or familial  
13 relationship with Respondent, or any other relationship that could reasonably be expected to  
14 compromise the ability of the monitor to render impartial and unbiased reports to the Board or its  
15 designee. If it is impractical for anyone but Respondent's employer to serve as the worksite  
16 monitor, this requirement may be waived by the Board or its designee, however, under no  
17 circumstances shall Respondent's worksite monitor be an employee or supervisee of the licensee.

18 The worksite monitor shall have an active unrestricted license with no disciplinary action  
19 within the last five (5) years, and shall sign an affirmation that he or she has reviewed the terms  
20 and conditions of Respondent's disciplinary order and agrees to monitor Respondent as set forth  
21 by the Board or its designee.

22 Respondent shall pay all worksite monitoring costs.

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

27 The worksite monitor shall verbally report any suspected substance abuse to the Board and  
28 Respondent's employer or supervisor within one (1) business day of occurrence. If the suspected

1 substance abuse does not occur during the Board's normal business hours, the verbal report shall  
2 be made to the Board or its designee within one (1) hour of the next business day. A written  
3 report that includes the date, time, and location of the suspected abuse; Respondent's actions; and  
4 any other information deemed important by the worksite monitor shall be submitted to the Board  
5 or its designee within 48 hours of the occurrence.

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

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

25 15. NOTICE OF EMPLOYER OR SUPERVISOR INFORMATION. Within seven (7)  
26 days of the effective date of this Decision, Respondent shall provide to the Board the names,  
27 physical addresses, mailing addresses, and telephone numbers of any and all employers and  
28 supervisors. Respondent shall also provide specific, written consent for the Board, Respondent's

1 worksite monitor, and Respondent's employers and supervisors to communicate regarding  
2 Respondent's work status, performance, and monitoring.

3 For purposes of this section, "supervisors" shall include the Chief of Staff and Health or  
4 Well Being Committee Chair, or equivalent, if applicable, when Respondent has medical staff  
5 privileges.

6 16. VIOLATION OF PROBATION CONDITION FOR SUBSTANCE ABUSING  
7 LICENSEES. Failure to fully comply with any term or condition of probation is a violation of  
8 probation.

9 A. If Respondent commits a major violation of probation as defined by section  
10 1361.52, subdivision (a), of Title 16 of the California Code of Regulations, the Board shall take  
11 one or more of the following actions:

12 (1) Issue an immediate cease-practice order and order Respondent to undergo a clinical  
13 diagnostic evaluation to be conducted in accordance with section 1361.5, subdivision (c)(1), of  
14 Title 16 of the California Code of Regulations, at Respondent's expense. The cease-practice  
15 order issued by the Board or its designee shall state that Respondent must test negative for at least  
16 a month of continuous biological fluid testing before being allowed to resume practice. For  
17 purposes of determining the length of time a Respondent must test negative while undergoing  
18 continuous biological fluid testing following issuance of a cease-practice order, a month is  
19 defined as thirty calendar (30) days. Respondent may not resume the practice of medicine until  
20 notified in writing by the Board or its designee that he may do so.

21 (2) Increase the frequency of biological fluid testing.

22 (3) Refer Respondent for further disciplinary action, such as suspension, revocation, or  
23 other action as determined by the Board or its designee.

24 B. If Respondent commits a minor violation of probation as defined by section  
25 1361.52, subdivision (c), of Title 16 of the California Code of Regulations, the Board shall take  
26 one or more of the following actions:

27 (1) Issue a cease-practice order;

28 (2) Order practice limitations;

- 1 (3) Order or increase supervision of Respondent;
- 2 (4) Order increased documentation;
- 3 (5) Issue a citation and fine, or a warning letter;
- 4 (6) Order Respondent to undergo a clinical diagnostic evaluation to be conducted in
- 5 accordance with section 1361.5, subdivision (c)(1), of Title 16 of the California Code of
- 6 Regulations, at Respondent's expense;
- 7 (7) Take any other action as determined by the Board or its designee.

8 C. Nothing in this Decision shall be considered a limitation on the Board's authority

9 to revoke Respondent's probation if he has violated any term or condition of probation. If

10 Respondent violates probation in any respect, the Board, after giving Respondent notice and the

11 opportunity to be heard, may revoke probation and carry out the disciplinary order that was

12 stayed. If an Accusation, or Petition to Revoke Probation, or an Interim Suspension Order is filed

13 against Respondent during probation, the Board shall have continuing jurisdiction until the matter

14 is final, and the period of probation shall be extended until the matter is final.

15 17. NOTIFICATION. Within seven (7) days of the effective date of this Decision,

16 Respondent shall provide a true copy of this Decision and Accusation to the Chief of Staff or the

17 Chief Executive Officer at every hospital where privileges or membership are extended to

18 Respondent, at any other facility where Respondent engages in the practice of medicine,

19 including all physician and locum tenens registries or other similar agencies, and to the Chief

20 Executive Officer at every insurance carrier which extends malpractice insurance coverage to

21 Respondent. Respondent shall submit proof of compliance to the Board or its designee within 15

22 calendar days.

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

24 18. SUPERVISION OF PHYSICIAN ASSISTANTS AND ADVANCED PRACTICE

25 NURSES. During probation, Respondent is prohibited from supervising physician assistants and

26 advanced practice nurses.

27 19. OBEY ALL LAWS. Respondent shall obey all federal, state and local laws, all rules

28 governing the practice of medicine in California and remain in full compliance with any court

1 ordered criminal probation, payments, and other orders.

2 20. INVESTIGATION/ENFORCEMENT COST RECOVERY. Respondent is hereby  
3 ordered to reimburse the Board its costs of investigation and enforcement, in the amount of  
4 \$17,376.00 (seventeen thousand three hundred seventy-six dollars and no cents). Costs shall be  
5 payable to the Medical Board of California. Failure to pay such costs shall be considered a  
6 violation of probation.

7 Payment must be made in full within 30 calendar days of the effective date of the Order, or  
8 by a payment plan approved by the Medical Board of California. Any and all requests for a  
9 payment plan shall be submitted in writing by respondent to the Board. Failure to comply with  
10 the payment plan shall be considered a violation of probation.

11 The filing of bankruptcy by respondent shall not relieve respondent of the responsibility to  
12 repay investigation and enforcement costs.

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

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

18 22. GENERAL PROBATION REQUIREMENTS.

19 Compliance with Probation Unit

20 Respondent shall comply with the Board's probation unit.

21 Address Changes

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

27 Place of Practice

28 Respondent shall not engage in the practice of medicine in Respondent's or patient's place

1 of residence, unless the patient resides in a skilled nursing facility or other similar licensed  
2 facility.

3 License Renewal

4 Respondent shall maintain a current and renewed California physician's and surgeon's  
5 license.

6 Travel or Residence Outside California

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

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

13 23. INTERVIEW WITH THE BOARD OR ITS DESIGNEE. Respondent shall be  
14 available in person upon request for interviews either at Respondent's place of business or at the  
15 probation unit office, with or without prior notice throughout the term of probation.

16 24. NON-PRACTICE WHILE ON PROBATION. Respondent shall notify the Board or  
17 its designee in writing within 15 calendar days of any periods of non-practice lasting more than  
18 30 calendar days and within 15 calendar days of Respondent's return to practice. Non-practice is  
19 defined as any period of time Respondent is not practicing medicine as defined in Business and  
20 Professions Code sections 2051 and 2052 for at least 40 hours in a calendar month in direct  
21 patient care, clinical activity or teaching, or other activity as approved by the Board. If  
22 Respondent resides in California and is considered to be in non-practice, Respondent shall  
23 comply with all terms and conditions of probation. All time spent in an intensive training  
24 program which has been approved by the Board or its designee shall not be considered non-  
25 practice and does not relieve Respondent from complying with all the terms and conditions of  
26 probation. Practicing medicine in another state of the United States or Federal jurisdiction while  
27 on probation with the medical licensing authority of that state or jurisdiction shall not be  
28 considered non-practice. A Board-ordered suspension of practice shall not be considered as a

1 period of non-practice.

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

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

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

9 Periods of non-practice for a Respondent residing outside of California will relieve  
10 Respondent of the responsibility to comply with the probationary terms and conditions with the  
11 exception of this condition and the following terms and conditions of probation: Obey All Laws;  
12 General Probation Requirements; Quarterly Declarations; Abstain from the Use of Alcohol and/or  
13 Controlled Substances; and Biological Fluid Testing.

14 25. COMPLETION OF PROBATION. Respondent shall comply with all financial  
15 obligations (e.g., restitution, probation costs) not later than 120 calendar days prior to the  
16 completion of probation. This term does not include cost recovery, which is due within 30  
17 calendar days of the effective date of the Order, or by a payment plan approved by the Medical  
18 Board and timely satisfied. Upon successful completion of probation, Respondent's certificate  
19 shall be fully restored.

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

27 27. LICENSE SURRENDER. Following the effective date of this Decision, if  
28 Respondent ceases practicing due to retirement or health reasons or is otherwise unable to satisfy

1 the terms and conditions of probation, Respondent may request to surrender his or her license.  
2 The Board reserves the right to evaluate Respondent's request and to exercise its discretion in  
3 determining whether or not to grant the request, or to take any other action deemed appropriate  
4 and reasonable under the circumstances. Upon formal acceptance of the surrender, Respondent  
5 shall within 15 calendar days deliver Respondent's wallet and wall certificate to the Board or its  
6 designee and Respondent shall no longer practice medicine. Respondent will no longer be subject  
7 to the terms and conditions of probation. If Respondent re-applies for a medical license, the  
8 application shall be treated as a petition for reinstatement of a revoked certificate.

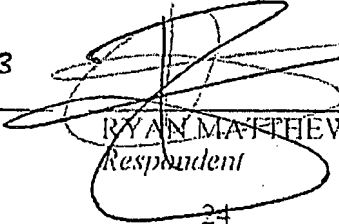
9 28. PROBATION MONITORING COSTS. Respondent shall pay the costs associated  
10 with probation monitoring each and every year of probation, as designated by the Board, which  
11 may be adjusted on an annual basis. Such costs shall be payable to the Medical Board of  
12 California and delivered to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

14 29. FUTURE ADMISSIONS CLAUSE. If Respondent should ever apply or reapply for  
15 a new license or certification, or petition for reinstatement of a license, by any other health care  
16 licensing action agency in the State of California, all of the charges and allegations contained in  
17 First Amended Accusation No. 800-2019-060028 shall be deemed to be true, correct, and  
18 admitted by Respondent for the purpose of any Statement of Issues or any other proceeding  
19 seeking to deny or restrict license.

#### 20 ACCEPTANCE

21 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully  
22 discussed it with my attorney, Kevin D. Cauley. I understand the stipulation and the effect it will  
23 have on my Physician's and Surgeon's Certificate. I enter into this Stipulated Settlement and  
24 Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the  
25 Decision and Order of the Medical Board of California.

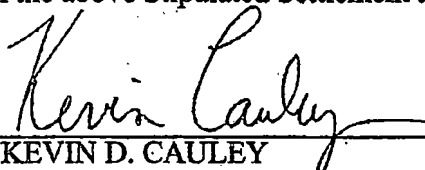
26  
27 DATED: 02/23/2023

28   
RYAN MATTHEW SPIVAK, M.D.  
Respondent

1 I have read and fully discussed with Respondent Ryan Matthew Spivak, M.D. the terms and  
2 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.

3 I approve its form and content.

4 DATED: February 24, 2023

  
KEVIN D. CAULEY  
Attorney for Respondent

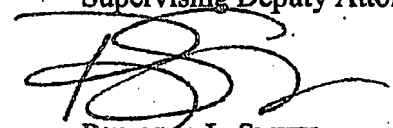
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7 **ENDORSEMENT**

8 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully  
9 submitted for consideration by the Medical Board of California.

10 DATED: 2/24/2023

11 Respectfully submitted,

12 ROB BONTA  
13 Attorney General of California  
14 JUDITH T. ALVARADO  
15 Supervising Deputy Attorney General

  
16 REBECCA L. SMITH  
17 Deputy Attorney General  
18 Attorneys for Complainant

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**Exhibit A**

**First Amended Accusation No. 800-2019-060028**

1 ROB BONTA  
Attorney General of California  
2 JUDITH T. ALVARADO  
Supervising Deputy Attorney General  
3 REBECCA L. SMITH  
Deputy Attorney General  
4 State Bar No. 179733  
300 South Spring Street, Suite 1702  
5 Los Angeles, CA 90013  
Telephone: (213) 269-6475  
6 Facsimile: (916) 731-2117  
*Attorneys for Complainant*  
7

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

12 In the Matter of the First Amended Accusation  
Against:

Case No. 800-2019-060028.

13 RYAN MATTHEW SPIVAK, M.D.  
14 27509 Agoura Road, Suite 110  
Agoura Hills, California 91301

**FIRST AMENDED ACCUSATION**

15 Physician's and Surgeon's Certificate  
16 No. A 113632,

17 Respondent.  
18  
19

20 **PARTIES**

21 1. William Prasifka (Complainant) brings this First Amended Accusation solely in his  
22 official capacity as the Executive Director of the Medical Board of California, Department of  
23 Consumer Affairs (Board).

24 2. On or about August 11, 2010, the Board issued Physician's and Surgeon's Certificate  
25 Number A 113632 to Ryan Matthew Spivak, M.D. (Respondent). The Physician's and Surgeon's  
26 Certificate was in full force and effect at all times relevant to the charges brought herein and will  
27 expire on August 31, 2024, unless renewed.

28 ///

## JURISDICTION

3. This First Amended Accusation is brought before the Board, under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

4. Section 2004 of the Code states:

The board shall have the responsibility for the following:

(a) The enforcement of the disciplinary and criminal provisions of the Medical Practice Act.

(b) The administration and hearing of disciplinary actions.

(c) Carrying out disciplinary actions appropriate to findings made by a panel or an administrative law judge.

(d) Suspending, revoking, or otherwise limiting certificates after the conclusion of disciplinary actions.

(e) Reviewing the quality of medical practice carried out by physician and surgeon certificate holders under the jurisdiction of the board.

(f) Approving undergraduate and graduate medical education programs.

(g) Approving clinical clerkship and special programs and hospitals for the programs in subdivision (f).

(h) Issuing licenses and certificates under the board's jurisdiction.

(i) Administering the board's continuing medical education program.

5. Section 2227 of the Code states:

(a) A licensee whose matter has been heard by an administrative law judge of the Medical Quality Hearing Panel as designated in Section 11371 of the Government Code, or whose default has been entered, and who is found guilty, or who has entered into a stipulation for disciplinary action with the board, may, in accordance with the provisions of this chapter:

(1) Have his or her license revoked upon order of the board.

(2) Have his or her right to practice suspended for a period not to exceed one year upon order of the board.

(3) Be placed on probation and be required to pay the costs of probation monitoring upon order of the board.

(4) Be publicly reprimanded by the board. The public reprimand may include a requirement that the licensee complete relevant educational courses approved by the board.

///

1 (5) Have any other action taken in relation to discipline as part of an order of  
probation, as the board or an administrative law judge may deem proper.

2 (b) Any matter heard pursuant to subdivision (a), except for warning letters,  
3 medical review or advisory conferences, professional competency examinations,  
4 continuing education activities, and cost reimbursement associated therewith that are  
5 agreed to with the board and successfully completed by the licensee, or other matters  
6 made confidential or privileged by existing law, is deemed public, and shall be made  
7 available to the public by the board pursuant to Section 803.1.

8 6. Section 2234 of the Code, states:

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

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

14 (b) Gross negligence.

15 (c) Repeated negligent acts. To be repeated, there must be two or more  
16 negligent acts or omissions. An initial negligent act or omission followed by a  
17 separate and distinct departure from the applicable standard of care shall constitute  
18 repeated negligent acts.

19 (1) An initial negligent diagnosis followed by an act or omission medically  
20 appropriate for that negligent diagnosis of the patient shall constitute a single  
21 negligent act.

22 (2) When the standard of care requires a change in the diagnosis, act, or  
23 omission that constitutes the negligent act described in paragraph (1), including, but  
24 not limited to, a reevaluation of the diagnosis or a change in treatment, and the  
25 licensee's conduct departs from the applicable standard of care, each departure  
26 constitutes a separate and distinct breach of the standard of care.

27 (d) Incompetence.

28 (e) The commission of any act involving dishonesty or corruption that is  
substantially related to the qualifications, functions, or duties of a physician and  
surgeon.

(f) Any action or conduct that would have warranted the denial of a certificate.

(g) The failure by a certificate holder, in the absence of good cause, to attend  
and participate in an interview by the board. This subdivision shall only apply to a  
certificate holder who is the subject of an investigation by the board.

7. Section 2266 of the Code states:

The failure of a physician and surgeon to maintain adequate and accurate  
records relating to the provision of services to their patients constitutes unprofessional  
conduct.

///

## COST RECOVERY

8. Section 125.3 of the Code states:

(a) Except as otherwise provided by law, in any order issued in resolution of a disciplinary proceeding before any board within the department or before the Osteopathic Medical Board, upon request of the entity bringing the proceeding, the administrative law judge may direct a licensee 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.

(b) In the case of a disciplined licensee that is a corporation or a partnership, the order may be made against the licensed corporate entity or licensed partnership.

(c) 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. The costs shall include the amount of investigative and enforcement costs up to the date of the hearing, including, but not limited to, charges imposed by the Attorney General.

(d) The administrative law judge shall make a proposed finding of the amount of reasonable costs of investigation and prosecution of the case when requested pursuant to subdivision (a). The finding of the administrative law judge with regard to costs shall not be reviewable by the board to increase the cost award. The board may reduce or eliminate the cost award, or remand to the administrative law judge if the proposed decision fails to make a finding on costs requested pursuant to subdivision (a).

(e) If an order for recovery of costs is made and timely payment is not made as directed in the board's decision, the board may enforce the order for repayment in any appropriate court. This right of enforcement shall be in addition to any other rights the board may have as to any licensee to pay costs.

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

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

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

(h) All costs recovered under this section shall be considered a reimbursement for costs incurred and shall be deposited in the fund of the board recovering the costs to be available upon appropriation by the Legislature.

(i) Nothing in this section shall preclude a board from including the recovery of the costs of investigation and enforcement of a case in any stipulated settlement.

(j) This section does not apply to any board if a specific statutory provision in

1 that board's licensing act provides for recovery of costs in an administrative  
2 disciplinary proceeding.

3 **FIRST CAUSE FOR DISCIPLINE**

4 **(Repeated Negligent Acts)**

5 9. Respondent is subject to disciplinary action under Code section 2234, subdivision (c),  
6 in that he engaged in repeated acts of negligence in the care and treatment of Patients 1, 2 and 3.<sup>1</sup>  
7 The circumstances are as follows:

8 **Patient 1:**

9 10. Patient 1, a then 47-year-old female, was referred to Respondent, a plastic and  
10 reconstructive surgeon, by her primary care physician following massive weight loss with  
11 gastrectomy.<sup>2</sup> Respondent performed a successful staged panniculectomy<sup>3</sup> on October 12, 2018  
12 and October 17, 2018, at St. Francis Medical Center. Approximately 2 months after the  
13 panniculectomy surgeries, Patient 1 returned to Respondent for bilateral brachioplasty.<sup>4</sup>

14 11. On January 8, 2019, Patient 1 presented to Respondent for a pre-operative  
15 examination and measurements for compression garments to be applied after the brachioplasty.  
16 Patient 1's bilateral arm examination demonstrated bilateral large arm pannuses with extension to  
17 the axilla. Her arm circumference was noted to be 30 centimeters. Respondent did not note  
18 asymmetry of the arms. Respondent noted that the surgery was to take place on an outpatient  
19 basis at St. Francis Medical Center. He further noted that the risks, benefits, alternatives and  
20 potential complications of the procedure were discussed with Patient 1.

21 12. On Friday, March 22, 2019, Respondent performed the bilateral brachioplasty at St.  
22 Francis Medical Center. Respondent noted that the surgical technique he utilized consisted of  
23 closing the surgical wound of each brachioplasty in three stages. Respondent completed the right

24 <sup>1</sup> For privacy purposes, the patients in this First Amended Accusation are referred to as Patients 1,  
25 2, and 3, with the identities of the patients disclosed to Respondent in discovery.

26 <sup>2</sup> Gastrectomy is surgery to remove part or all of the stomach.

27 <sup>3</sup> Panniculectomy is a surgery done to remove stretched out, excess fat and overhanging skin from  
28 the abdomen.

<sup>4</sup> Brachioplasty, also known as an arm lift, is a surgery done to remove excess skin and fat from  
the area between the armpit and elbow.

1 arm brachioplasty. He then proceeded to the left arm, where he encountered a complication  
2 during the middle stage. The mid left arm could not be closed. Respondent noted that there was  
3 an approximate 5 x 5 cm. section that could not be closed, secondary to swelling and deficit of  
4 skin.

5 13. Respondent documented that he attempted intra-operative techniques to accomplish  
6 wound closure, including wrapping the arm for approximately thirty to forty minutes with  
7 intraoperative Kerlix and Ace bandage wraps to reduce swelling and completing a superiorly  
8 based Z-plasty.<sup>5</sup> Still unable to directly close the wound, Respondent placed a wound vacuum  
9 and planned to perform a split-thickness or full-thickness skin graft to take place on Monday,  
10 March 25, 2019.

11 14. The standard of care requires that the surgeon understand the surgical operation being  
12 performed and to have a working knowledge of common solutions to address intraoperative  
13 complications.

14 15. Once Respondent determined that he was unable to resolve the closure issue after  
15 compression wrapping of the arm, surgical maneuvers should have been considered. These  
16 include aggressive undermining to mobilize the tissue to facilitate closure, or local flaps,  
17 including rotational flaps or transpositional flaps. Z-plasty was an inappropriate choice for  
18 closing the wound. Prior to excising the third serial section of the proximal arm, a rotation or  
19 transposition flap could have been designed from that excess skin to resolve the skin deficit in  
20 the second or middle section. Z-plasty will not (and did not) accomplish this.

21 16. There are also very common delayed closure techniques that involve applying  
22 traction to the wound over time. A common method is to use skin staples as anchors and then  
23 vessel loops to apply tension that can be increased at the bedside over several days, to close a  
24 challenging wound.

25 17. Respondent's failure to consider other surgical maneuvers and delayed closure  
26 techniques represents a departure from the standard of care.

---

27 <sup>5</sup> Z-plasty is a plastic surgery technique that is used to improve the function and cosmetic  
28 appearance of scars. With this technique, it is possible to redirect a scar into better alignment with a  
natural skin fold or the lines of least skin tension. Contracted scars may be lengthened with this technique.

1 18. Patient 1 was admitted as a hospital inpatient following the March 22, 2019  
2 procedure. On March 27, 2019, Respondent performed a split thickness skin graft harvested from  
3 the patient's left upper thigh to close the left upper arm wound.<sup>6</sup> Patient 1 was discharged home  
4 on March 28, 2019, with a wound vacuum.

5 19. On April 4, 2019, Patient 1 presented to Respondent's clinic for a postoperative visit.  
6 The wound vacuum was removed and Respondent noted one hundred percent (100%) skin graft  
7 take on the left arm as well as good wound healing of the right arm. Respondent also noted a left  
8 arm seroma<sup>7</sup> at the elbow which was not drained at that time, secondary to the patient's request to  
9 wait until her next visit the following week.

10 20. On April 9, 2019, Patient 1 presented to Respondent's clinic for a postoperative visit.  
11 Respondent noted that evaluation of the left arm demonstrated the split-thickness skin graft site  
12 was starting to dry out a "little bit" and there was a "little bit" of dried skin slough from the split-  
13 thickness skin graft site. At the left elbow, the seroma remained present. During this visit,  
14 Patient 1 agreed to drainage of the seroma. Respondent performed an incision and drainage to the  
15 left elbow seroma, draining 100 ml. of clear serous fluid.

16 21. On April 12, 2019, Patient 1 presented to Respondent's clinic with complaints that  
17 the seroma had recurred, the area was no longer draining and it was painful. At that time,  
18 Respondent noted a recurrent seroma at the distal left upper extremity, medial side, towards the  
19 elbow. He also noted that her split-thickness skin graft site had some dry slough on it, but it  
20 appeared healthier than four days ago when it was noted as dried out. Respondent drained  
21 approximately 75 ml. of clear serous fluid at the previous incision and drainage site and placed a  
22 Penrose drain.<sup>8</sup> Wound cultures from the drainage were sent to the laboratory for testing.

23 ///

24 \_\_\_\_\_  
25 <sup>6</sup> Respondent's Operative Report states that the wound size was increased from 5 x 5 cm. to 8 x 9  
26 cm. by circumferential paring of skin edges. This is an extremely large increase in wound burden, more  
consistent with debridement of necrotic skin flaps than paring damaged skin edges.

27 <sup>7</sup> A seroma is a collection of fluid that builds up under the surface of the skin.

28 <sup>8</sup> A Penrose drain is a soft, flexible rubber tube used as a surgical drain, to prevent the buildup of  
fluid in a surgical site.

1        22. Patient 1 presented to Respondent's clinic on April 16, 2019 with complaints that the  
2 seroma had reoccurred. Respondent recommended taking the patient to surgery for removal of  
3 the skin graft to revise the entire brachioplasty as well as drain and address the seroma. The  
4 patient declined the surgical procedure. As an alternative, Respondent offered to perform another  
5 incision and drainage of the left arm at his clinic with the placement of a Jackson-Pratt (JP)  
6 drain.<sup>9</sup> He noted that the incision and drainage was less certain to completely resolve the seroma.  
7 Patient 1 agreed to the repeat incision and drainage with placement of the JP drain. The  
8 procedure was noted to have been performed without complication. The wound culture from the  
9 previously performed incision and drainage demonstrated growth of *Pseudomonas aeruginosa*.  
10 Patient 1 was started on Levaquin, an antibiotic. With respect to the split-thickness skin graft site  
11 of the left upper arm, Respondent noted some dry slough with some loss of skin graft at the distal  
12 aspect of the skin graft with a skin reaction to the native skin, approximately 4 x 4 ml. He noted  
13 that there had been a significant amount of skin stretching to the left upper extremity surrounding  
14 the split-skin graft site and that a pinch test showed that the skin graft could be excised and closed  
15 directly. He discussed scheduling the surgery in approximately two to three weeks with Patient 1.

16        23. Thereafter, Patient 1 refused further care and treatment by Respondent. On April 24,  
17 2019, Patient 1 began treating with another plastic and reconstructive surgeon, Dr. R.R., who  
18 noted a seven centimeter wound with necrotic tissue over the wound. Patient 1 was followed by  
19 Dr. R. for several months. By October 2019, the wound had still not completely resolved.

20        24. Patient 1 filed a grievance with her health plan, Lakeside Community Healthcare,  
21 regarding her care and treatment by Respondent. A quality of care internal review process was  
22 initiated wherein the Quality Improvement Committee of Lakeside Community Healthcare  
23 requested that Respondent provide a summary and explanation of his care and treatment of  
24 Patient 1.

25        ///

26        ///

27

28        <sup>9</sup> A Jackson-Pratt drain is a closed-suction medical device that is commonly used as a post-operative drain for collecting bodily fluids from surgical sites.

1       25. In his written summary and explanation of his care and treatment of Patient 1,  
2 Respondent characterized the patient's complication as a wound separation/wound dehiscence. In  
3 conclusion, Respondent stated: "Throughout the course of this patient's treatment in multiple  
4 surgeries, I delivered care at the highest level and always to the standard of care. Unfortunately  
5 she experienced an outcome (wound separation/dehiscence) that is a known risk for her  
6 procedure and which I had extensively reviewed the risks with her about. From the time of her  
7 wound separation I delivered standard of care throughout her postoperative course."

8       26. In medical communications, especially with other health organizations, the standard  
9 of care requires that physicians and surgeons accurately describe their patient care and treatment  
10 in a factually neutral, clear and honest manner. Respondent's failure to accurately describe his  
11 care and treatment of Patient 1 to the Quality Improvement Committee of Lakeside Community  
12 Healthcare is a departure from the standard of care.

13       27. Patient 1's wound was not closed during the first surgical procedure performed on  
14 March 22, 2019. In a subsequent procedure performed on March 27, 2019, Respondent applied a  
15 skin graft to manage the left arm wound. It is inaccurate to describe Patient 1's intraoperative  
16 complication as a wound dehiscence. Surgical wound dehiscence is the separation and/or  
17 opening of a previously closed wound. The complication from the March 22, 2019 brachioplasty  
18 procedure was the inability to close the surgical site on the left arm.

19 **Patient 2:**

20       28. Patient 2, a then 44-year-old patient, presented to Elite Body Sculpture on February  
21 21, 2019, for a liposuction and fat transfer consultation. At that time, Patient 2 filled out a  
22 medical history form and signed a Notice of Privacy Practices form and Statement of Rights  
23 form. Patient 2's chart does not contain a consultation report of February 21, 2019.

24       29. On March 7, 2019, Patient 2 presented for Airsculpt liposuction with fat transfer to be  
25 performed by Respondent. That same day, the patient executed consents for the surgical  
26 procedure.

27       30. Respondent utilized a standardized Surgery Note form for Patient 2's procedure.  
28 With respect to vital signs, the pre-printed form sets forth: "Pulse oximetry should be continuous.

1 Blood pressure every 15 minutes. Continuous EKG monitoring on all patients with cardiac  
2 history and all patients in California. Recovery time is from procedure completion until  
3 discharge criteria are met and must be a minimum of 15 minutes. Vital signs must be  
4 recorded no less than [every] 15 minutes in recovery." On the same form, Patient 2's vital  
5 signs were recorded preoperatively at 2:25 p.m., at the start of recovery at 7:45 p.m., and at  
6 discharge at 8:15 p.m.<sup>10</sup> In addition, a pre-printed Pre-Operative Evaluation section on the  
7 same page set forth that the "[p]atient was seen prior to surgery. Medical history was  
8 reviewed and updated. Physical exam was completed and documented. Procedure discussed  
9 with patient to include expectations, limitations and anticipated postoperative course.  
10 Consent reviewed which addresses potential benefits, surgical risks and alternatives in detail.  
11 Consent signed after all questions answered."

12 31. The procedure started at 2:50 p.m., under local anesthesia with minimal sedation, and  
13 ended at 7:30 p.m. In the section identified as "Surgeon Narrative," Respondent documented "no  
14 issues." At the time of discharge, the patient was instructed to return in one week.

15 32. Patient 2 was next seen by Respondent on March 14, 2019, for a follow-up visit.  
16 Respondent noted that the patient was unhappy with the result to her waist. The patient was  
17 next seen on June 25, 2019, at which time Respondent documented that the patient  
18 complained of no improvement in abdomen, waist, and hip shaping and that she had minimal  
19 improvement in buttocks grafting. Upon examination, Respondent noted that Patient 2 had  
20 minimal shape improvement in waist, hips, and abdomen and some improvement in lateral  
21 buttocks with "indents." Respondent further noted that "no revisional work possible" and  
22 "will bump up to the Director of Operations to discuss accommodation."

23 33. When performing cosmetic procedures, the standard of care requires that the  
24 physician document a pre-operative consultation with the patient, including documentation of  
25 the discussions with the patient regarding the risks and benefits of the procedure, as well as,  
26 ///

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27 <sup>10</sup> At the time of Respondent's interview with the Board on September 8, 2020, Respondent stated  
28 that a blood pressure cuff was on the patient and regularly cycled during the procedure, but admitted  
that the patient's vital signs during the procedure were not documented.

1 alternative options. The physician must also maintain documentation of the procedure,  
2 including the patient's intra-operative and post-operative care.

3 34. Respondent failed to document a pre-operative consultation with the patient,  
4 including discussions regarding the risks and benefits of the surgical procedure. This is a  
5 simple departure from the standard of care.

6 35. When performing cosmetic procedures using oral conscious sedation, the standard  
7 of care requires documentation of baseline vital signs as well as intermittent quantitative  
8 monitoring and recording of oxygen saturation, heart and respiratory rates, and blood pressure  
9 readings. The name, dose and time of administration of all drugs administered during the  
10 procedure, including local and inhalation anesthetics, must be documented. The length of the  
11 procedure, any complications of oral sedation, and a statement of the patient's condition at the  
12 time of discharge must also be documented.

13 36. Patient 2's vital signs were recorded preoperatively at 2:25 p.m., at the start of  
14 recovery at 7:45 p.m., and at discharge at 8:15 p.m. Respondent failed to have intermittent  
15 vital signs recorded during the procedure. This is a simple departure from the standard of  
16 care.

17 **Patient 3:**

18 37. Patient 3, a then 39-year-old male patient, presented to Respondent on February  
19 21, 2019 for a liposuction consultation. On the intake form, Patient 3 noted that he was  
20 referred by Patient 2, his sister-in-law. Patient 3 initialed a Notice of Privacy Practices form  
21 which set forth how medical information about the patient may be used and disclosed. He  
22 also signed and dated a Patient Rights & Responsibilities form which set forth that "Patients  
23 have the right to personal privacy and to privacy concerning their own medical care: patients  
24 expect that all communications, health information, and records pertaining to their care will  
25 be treated as confidential."

26 38. On March 15, 2019, Respondent performed a laser assisted tumescent liposuction  
27 on Patient 3. Respondent's Surgery Note reflects that "[p]atient was pre-medicated and

28 ///

1 sedated as noted, remaining responsive at all times.” Nitrous oxide<sup>11</sup> was used during the  
2 procedure. It was also documented that Patient 3 was under “minimal sedation” for the  
3 procedure.

4 39. In the operating room, two videos of Patient 3 were taken while he was laying on  
5 the operating table prior to the commencement of the procedure, after sedation began.  
6 Respondent sent one of the videos of Patient 3 to Patient 2, via text message. Patient 3 stated  
7 that the videos were taken without his permission and that he was extremely shocked when  
8 he learned that Respondent sent a video to his sister-in-law (Patient 2). During Respondent’s  
9 September 20, 2021 interview with the Board, he stated that a video was sent to Patient 2 at  
10 Patient 3’s request. There is no documentation in Patient 3’s chart reflecting that Patient 3  
11 authorized the taking of the videos prior to the procedure or authorized the transmittal of any  
12 videos to his sister-in-law.

13 40. Patients have a right to personal privacy and to privacy concerning their own  
14 medical care. The standard of care requires that the physician respect patient privacy rights.  
15 Videos were taken of Patient 3 while he was on the operating table and one of the videos was  
16 sent by Respondent to another person by text message. While Respondent states that Patient  
17 3 requested that he send the video to his sister-in-law, the patient had been given medication  
18 which may have impaired his judgment. Respondent should have ignored the request to text  
19 message the video to the patient’s sister-in-law, or he should have waited until the patient  
20 was no longer experiencing effects of medication and confirm that the patient did in fact  
21 want the video to be shared. This was a simple departure from the standard of care.

## 22 **SECOND CAUSE FOR DISCIPLINE**

### 23 **(Failure to Maintain Adequate and Accurate Records)**

24 41. Respondent is subject to disciplinary action under section 2266 of the Code in that he  
25 failed to maintain adequate and accurate records relating to the provision of services to Patients 1,  
26 2, and 3. The circumstances are as follows:

27  
28 <sup>11</sup> Nitrous oxide, commonly known as laughing gas, is commonly used for sedation and pain relief during tumescent liposuction.

1       42. The allegations in the First Cause for Discipline above are incorporated herein by  
2 reference as if fully set forth.

3                                   DISCIPLINARY CONSIDERATIONS

4       43. To determine the degree of discipline, if any, to be imposed on Respondent,  
5 Complainant alleges that in a matter entitled *In the Matter of the Accusation against Ryan*  
6 *Matthew Spivak, M.D.*, Medical Board Case No. 800-2016-020767, the Board issued a decision,  
7 effective June 30, 2017, in which Respondent's Physician's and Surgeon's Certificate was  
8 revoked, for dishonest acts, violation of drug statutes, misuse of controlled substances,  
9 illegitimate prescriptions, false/fictitious prescriptions, obtaining prescriptions by fraud/deceit,  
10 making or signing false documents, forging prescriptions for self-use, failure to report change of  
11 address, as well as unprofessional conduct. The revocation was stayed and Respondent was  
12 placed on seven years of probation, together with a partial restriction on prescribing controlled  
13 substances, as well as mandatory conditions applicable to a substance abusing licensee and other  
14 standard terms and conditions. That decision is now final and is incorporated by reference as if  
15 fully set forth herein.

16       44. To further determine the degree of discipline, if any, to be imposed on Respondent,  
17 Complainant alleges that on April 16, 2018, in proceedings entitled *The People of the State of*  
18 *California v. Ryan M. Spivak*, case number BA459131 in the Los Angeles County Superior Court,  
19 Respondent, upon his plea of no contest, was convicted of obtaining or possessing a controlled  
20 substance obtained by a nonconforming prescription in violation of Health and Safety Code  
21 section 11180, a misdemeanor.

22       45. To further determine the degree of discipline, if any, to be imposed on Respondent,  
23 Complainant alleges that in a matter entitled *In the Matter of the Accusation and Petition to*  
24 *Revoke Probation against Ryan Matthew Spivak, M.D.*, Medical Board Case No. 800-2019-  
25 061086, the Board issued a decision, effective September 11, 2020, in which Respondent's  
26 Physician's and Surgeon's Certificate was revoked, for conviction of a crime and failing to  
27 comply with the following probation terms: ~~partial restriction on prescribing controlled~~  
28 substances, maintaining records and access to records, and inventories of controlled substances,

1 and to obey all laws. The revocation was stayed and Respondent was placed on probation for two  
2 (2) years to run consecutively from the conclusion of Respondent's probation term in the Board's  
3 Decision in Case No. 800-2016-020767, for a total of nine (9) years' probation, together with a  
4 total restriction on prescribing controlled substances, as well as the mandatory conditions  
5 applying to a substance abusing licensee and other standard terms and conditions. That decision  
6 is now final and is incorporated by reference as if fully set forth herein.

7 **PRAYER**

8 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
9 and that following the hearing, the Medical Board of California issue a decision:

- 10 1. Revoking or suspending Physician's and Surgeon's Certificate Number A 113632,  
11 issued to Respondent Ryan Matthew Spivak, M.D.;
- 12 2. Revoking, suspending or denying approval of Respondent Ryan Matthew Spivak,  
13 M.D.'s authority to supervise physician assistants and advanced practice nurses;
- 14 3. Ordering Respondent Ryan Matthew Spivak, M.D., to pay the Board the costs of the  
15 investigation and enforcement of this case, and if placed on probation, the costs of probation  
16 monitoring; and
- 17 4. Taking such other and further action as deemed necessary and proper.

18  
19 DATED: AUG 17 2022

20   
21 WILLIAM PRASITKA  
22 Executive Director  
23 Medical Board of California  
24 Department of Consumer Affairs  
25 State of California  
26 Complainant

24 LA2022600295  
25 65337042.docx

Exhibit D

Decision *In the Matter of the Accusation against Ryan Matthew Spivak, M.D.*,  
Case No. 800-2021-084122

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

**In the Matter of the Accusation  
Against:**

**Ryan Matthew Spivak, M.D.**

**Physician's and Surgeon's  
Certificate No. A 113632**

**Case No.: 800-2021-084122**

**Respondent.**

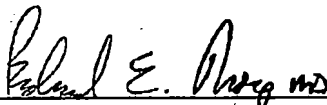
**DECISION**

**The attached Stipulated Settlement and Disciplinary Order 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 24, 2025.**

**IT IS SO ORDERED: December 27, 2024.**

**MEDICAL BOARD OF CALIFORNIA**

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

1 ROB BONTA  
2 Attorney General of California  
3 JUDITH T. ALVARADO  
4 Supervising Deputy Attorney General  
5 REBECCA L. SMITH  
6 Deputy Attorney General  
7 State Bar No. 179733  
300 South Spring Street, Suite 1702  
Los Angeles, CA 90013  
Telephone: (213) 269-6475  
Facsimile: (916) 731-2117  
E-mail: Rebecca.Smith@doj.ca.gov  
*Attorneys for Complainant*

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

In the Matter of the Accusation Against:

**RYAN MATTHEW SPIVAK, M.D.**  
**27509 Agoura Road, Suite 110**  
**Agoura Hills, CA 91301**

**Physician's and Surgeon's Certificate**  
**No. A 113632,**

Respondent.

Case No. 800-2021-084122

OAH No. 2024050168

**STIPULATED SETTLEMENT AND  
DISCIPLINARY ORDER**

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

**PARTIES**

1. Reji Varghese (Complainant) is the Executive Director of the Medical Board of California (Board). He brought this action solely in his official capacity and is represented in this matter by Rob Bonta, Attorney General of the State of California, by Rebecca L. Smith, Deputy Attorney General.

2. Ryan Matthew Spivak, M.D. (Respondent) is represented in this proceeding by attorney Kevin D. Cauley, whose address is 35 North Lake Avenue, Suite 710, Pasadena, California 91101-4185.

///

3. On or about August 11, 2010, the Board issued Physician's and Surgeon's Certificate No. A 113632 to Respondent. That license was in full force and effect at all times relevant to the charges brought in Accusation No. 800-2021-084122, and will expire on August 31, 2026, unless renewed.

## JURISDICTION

4. Accusation No. 800-2021-084122 was filed before the Board, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on March 21, 2024. Respondent timely filed his Notice of Defense contesting the Accusation.

5. A copy of Accusation No. 800-2021-084122 is attached as Exhibit A and incorporated herein by reference.

## ADVISEMENT AND WAIVERS

6. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 800-2021-084122. Respondent has also carefully read, fully discussed with his counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

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

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

**CULPABILITY**

9. Respondent understands and agrees that the charges and allegations in Accusation No. 800-2021-084122, if proven at a hearing, constitute cause for imposing discipline upon his Physician's and Surgeon's Certificate.

10. Respondent does not contest that, at an administrative hearing, Complainant could establish a prima facie case with respect to the charges and allegations in Accusation No. 800-2021-084122, a true and correct copy of which is attached hereto as Exhibit A, and that he has thereby subjected his Physician's and Surgeon's Certificate, No. A 113632 to disciplinary action.

11. Respondent agrees that his Physician's and Surgeon's Certificate is subject to discipline and agrees to be bound by the Board's probationary terms as set forth in the Disciplinary Order below.

## CONTINGENCY

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

13. This Stipulated Settlement and Disciplinary Order is intended by the parties herein to be an integrated writing representing the complete, final and exclusive embodiment of the agreement of the parties in this above entitled matter.

14. Respondent agrees that if he ever petitions for early termination or modification of probation, or if an accusation and/or petition to revoke probation is filed against him before the Board, all of the charges and allegations contained in Accusation No. 800-2021-084122 shall be deemed true, correct and fully admitted by Respondent for purposes of any such proceeding or any other licensing proceeding involving Respondent in the State of California.

15. The parties understand and agree that Portable Document Format (PDF) and facsimile copies of this Stipulated Settlement and Disciplinary Order, including PDF and facsimile

1 signatures thereto, shall have the same force and effect as the originals.

2 16. In consideration of the foregoing admissions and stipulations, the parties agree that  
3 the Board may, without further notice or opportunity to be heard by Respondent, issue and enter  
4 the following Disciplinary Order:

5 **DISCIPLINARY ORDER**

6 IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. A 113632 issued  
7 to Respondent RYAN MATTHEW SPIVAK, M.D. is revoked. However, the revocation is  
8 stayed and Respondent is placed on probation for two (2) years to run consecutively from the  
9 conclusion of Respondent's probation term in the Board's Decision in Case No. 800-2019-  
10 060028, for a total of thirteen (13) years' probation, with the following terms and conditions:

11 1. CLINICAL DIAGNOSTIC EVALUATION – Condition Satisfied. Within thirty (30)  
12 calendar days of the effective date of this Decision, and on whatever periodic basis thereafter as  
13 may be required by the Board or its designee, Respondent shall undergo and complete a clinical  
14 diagnostic evaluation, including any and all testing deemed necessary, by a Board-appointed  
15 board certified physician and surgeon. The examiner shall consider any information provided by  
16 the Board or its designee and any other information he or she deems relevant, and shall furnish a  
17 written evaluation report to the Board or its designee.

18 The clinical diagnostic evaluation shall be conducted by a licensed physician and surgeon  
19 who holds a valid, unrestricted license, has three (3) years' experience in providing evaluations of  
20 physicians and surgeons with substance abuse disorders, and is approved by the Board or its  
21 designee. The clinical diagnostic evaluation shall be conducted in accordance with acceptable  
22 professional standards for conducting substance abuse clinical diagnostic evaluations. The  
23 evaluator shall not have a current or former financial, personal, or business relationship with  
24 Respondent within the last five (5) years. The evaluator shall provide an objective, unbiased, and  
25 independent evaluation. The clinical diagnostic evaluation report shall set forth, in the  
26 evaluator's opinion, whether Respondent has a substance abuse problem, whether Respondent is a  
27 threat to himself or others, and recommendations for substance abuse treatment, practice  
28 restrictions, or other recommendations related to Respondent's rehabilitation and ability to

1 practice safely. If the evaluator determines during the evaluation process that Respondent is a  
2 threat to himself or others, the evaluator shall notify the Board within twenty-four (24) hours of  
3 such a determination.

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

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

18 The Board shall review the clinical diagnostic evaluation report within five (5) business  
19 days of receipt to determine whether Respondent is safe to return to either part-time or full-time  
20 practice and what restrictions or recommendations shall be imposed on Respondent based on the  
21 recommendations made by the evaluator. Respondent shall not be returned to practice until he  
22 has at least thirty (30) days of negative biological fluid tests or biological fluid tests indicating  
23 that he has not used, consumed, ingested, or administered to himself a prohibited substance, as  
24 defined in section 1361.51, subdivision (e), of Title 16 of the California Code of Regulations.

25 Clinical diagnostic evaluations conducted prior to the effective date of this Decision shall  
26 not be accepted towards the fulfillment of this requirement. The cost of the clinical diagnostic  
27 evaluation, including any and all testing deemed necessary by the examiner, the Board or its  
28 designee, shall be borne by the licensee.

1 Respondent shall not engage in the practice of medicine until notified by the Board or its  
2 designee that he is fit to practice medicine safely. The period of time that Respondent is not  
3 practicing medicine shall not be counted toward completion of the term of probation. Respondent  
4 shall undergo biological fluid testing as required in this Decision at least two (2) times per week  
5 while awaiting the notification from the Board if he is fit to practice medicine safely.

6 Respondent shall comply with all restrictions or conditions recommended by the examiner  
7 conducting the clinical diagnostic evaluation within fifteen (15) calendar days after being notified  
8 by the Board or its designee.

9 2. CONTROLLED SUBSTANCES - TOTAL RESTRICTION. Respondent shall not  
10 order, prescribe, dispense, administer, furnish, or possess any controlled substances as defined in  
11 the California Uniform Controlled Substances Act.

12 Respondent shall not issue an oral or written recommendation or approval to a patient or a  
13 patient's primary caregiver for the possession or cultivation of marijuana for the personal medical  
14 purposes of the patient within the meaning of Health and Safety Code section 11362.5.

15 If Respondent forms the medical opinion, after an appropriate prior examination and a  
16 medical indication, that a patient's medical condition may benefit from the use of marijuana,  
17 Respondent shall so inform the patient and shall refer the patient to another physician who,  
18 following an appropriate prior examination and a medical indication, may independently issue a  
19 medically appropriate recommendation or approval for the possession or cultivation of marijuana  
20 for the personal medical purposes of the patient within the meaning of Health and Safety Code  
21 section 11362.5. In addition, Respondent shall inform the patient or the patient's primary  
22 caregiver that Respondent is prohibited from issuing a recommendation or approval for the  
23 possession or cultivation of marijuana for the personal medical purposes of the patient and that  
24 the patient or the patient's primary caregiver may not rely on Respondent's statements to legally  
25 possess or cultivate marijuana for the personal medical purposes of the patient. Respondent shall  
26 fully document in the patient's chart that the patient or the patient's primary caregiver was so  
27 informed. Nothing in this condition prohibits Respondent from providing the patient or the  
28 patient's primary caregiver information about the possible medical benefits resulting from the use

1 of marijuana.

2 3. CONTROLLED SUBSTANCES - ABSTAIN FROM USE. Respondent shall abstain  
3 completely from the personal use or possession of controlled substances as defined in the  
4 California Uniform Controlled Substances Act, dangerous drugs as defined by Business and  
5 Professions Code section 4022, and any drugs requiring a prescription. This prohibition does not  
6 apply to medications lawfully prescribed to Respondent by another practitioner for a bona fide  
7 illness or condition.

8 Within fifteen (15) calendar days of receiving any lawfully prescribed medications,  
9 Respondent shall notify the Board or its designee of the: issuing practitioner's name, address, and  
10 telephone number; medication name, strength, and quantity; and issuing pharmacy name, address,  
11 and telephone number.

12 4. COMMUNITY SERVICE - FREE SERVICES -- Condition Satisfied. Within sixty  
13 (60) calendar days of the effective date of this Decision, Respondent shall submit to the Board or  
14 its designee for prior approval a community service plan in which Respondent shall within the  
15 first two (2) years of probation, provide forty (40) hours of free non-medical services to a  
16 community or non-profit organization. Prior to engaging in any community service, Respondent  
17 shall provide a true copy of the Decision to the chief of staff, director, office manager, program  
18 manager, officer, or the chief executive officer at every community or non-profit organization  
19 where Respondent provides non-medical community service and shall submit proof of  
20 compliance to the Board or its designee within fifteen (15) calendar days. This condition shall  
21 also apply to any change(s) in community service.

22 Community service performed prior to the effective date of the Decision shall not be  
23 accepted in fulfillment of this condition.

24 5. EDUCATION COURSE. Within sixty (60) calendar days of the effective date of this  
25 Decision, and on an annual basis thereafter, Respondent shall submit to the Board or its designee  
26 for its prior approval educational program(s) or course(s) which shall not be less than forty (40)  
27 hours per year, for each year of probation. The educational program(s) or course(s) shall be  
28 aimed at correcting any areas of deficient practice or knowledge and shall be Category I certified.

1 The educational program(s) or course(s) shall be at Respondent's expense and shall be in addition  
2 to the Continuing Medical Education (CME) requirements for renewal of licensure. Following  
3 the completion of each course, the Board or its designee may administer an examination to test  
4 Respondent's knowledge of the course. Respondent shall provide proof of attendance for sixty-  
5 five (65) hours of CME of which forty (40) hours were in satisfaction of this condition.

6 6. PREScribing PRACTICES COURSE – Condition Satisfied. Within sixty (60)  
7 calendar days of the effective date of this Decision, Respondent shall enroll in a course in  
8 prescribing practices approved in advance by the Board or its designee. Respondent shall provide  
9 the approved course provider with any information and documents that the approved course  
10 provider may deem pertinent. Respondent shall participate in and successfully complete the  
11 classroom component of the course not later than six (6) months after Respondent's initial  
12 enrollment. Respondent shall successfully complete any other component of the course within  
13 one (1) year of enrollment. The prescribing practices course shall be at Respondent's expense and  
14 shall be in addition to the Continuing Medical Education (CME) requirements for renewal of  
15 licensure.

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

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

24 7. MEDICAL RECORD KEEPING COURSE – Condition Satisfied. Within sixty (60)  
25 calendar days of the effective date of this Decision, Respondent shall enroll in a course in medical  
26 record keeping approved in advance by the Board or its designee. Respondent shall provide the  
27 approved course provider with any information and documents that the approved course provider  
28 may deem pertinent. Respondent shall participate in and successfully complete the classroom

1 component of the course not later than six (6) months after Respondent's initial enrollment.  
2 Respondent shall successfully complete any other component of the course within one (1) year of  
3 enrollment. The medical record keeping course shall be at Respondent's expense and shall be in  
4 addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

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

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

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

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

28 Respondent shall submit a certification of successful completion to the Board or its

1 designee not later than fifteen (15) calendar days after successfully completing the program or not  
2 later than fifteen (15) calendar days after the effective date of the Decision, whichever is later.

3 9. CLINICAL COMPETENCE ASSESSMENT PROGRAM. Within sixty (60)  
4 calendar days of the effective date of this Decision, Respondent shall enroll in a clinical  
5 competence assessment program approved in advance by the Board or its designee. Respondent  
6 shall successfully complete the program not later than six (6) months after Respondent's initial  
7 enrollment unless the Board or its designee agrees in writing to an extension of that time.

8 The program shall consist of a comprehensive assessment of Respondent's physical and  
9 mental health and the six general domains of clinical competence as defined by the Accreditation  
10 Council on Graduate Medical Education and American Board of Medical Specialties pertaining to  
11 Respondent's current or intended area of practice. The program shall take into account data  
12 obtained from the pre-assessment, self-report forms and interview, and the Decision(s),  
13 Accusation(s), and any other information that the Board or its designee deems relevant. The  
14 program shall require Respondent's on-site participation as determined by the program for the  
15 assessment and clinical education and evaluation. Respondent shall pay all expenses associated  
16 with the clinical competence assessment program.

17 At the end of the evaluation, the program will submit a report to the Board or its designee  
18 which unequivocally states whether Respondent has demonstrated the ability to practice safely  
19 and independently. Based on Respondent's performance on the clinical competence assessment,  
20 the program will advise the Board or its designee of its recommendation(s) for the scope and  
21 length of any additional educational or clinical training, evaluation or treatment for any medical  
22 condition or psychological condition, or anything else affecting Respondent's practice of  
23 medicine. Respondent shall comply with the program's recommendations.

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

26 If Respondent fails to enroll, participate in, or successfully complete the clinical  
27 competence assessment program within the designated time period, Respondent shall receive a  
28 notification from the Board or its designee to cease the practice of medicine within three (3)

1 calendar days after being so notified. Respondent shall not resume the practice of medicine until  
2 enrollment or participation in the outstanding portions of the clinical competence assessment  
3 program have been completed. If Respondent did not successfully complete the clinical  
4 competence assessment program, Respondent shall not resume the practice of medicine until a  
5 final decision has been rendered on the accusation and/or a petition to revoke probation. The  
6 cessation of practice shall not apply to the reduction of the probationary time period.

7 10. BIOLOGICAL FLUID TESTING. Respondent shall immediately submit to  
8 biological fluid testing, at Respondent's expense, upon request of the Board or its designee.  
9 "Biological fluid testing" may include, but is not limited to, urine, blood, breathalyzer, hair  
10 follicle testing, or similar drug screening approved by the Board or its designee. Respondent shall  
11 make daily contact with the Board or its designee to determine whether biological fluid testing is  
12 required. Respondent shall be tested on the date of the notification as directed by the Board or its  
13 designee. The Board may order a Respondent to undergo a biological fluid test on any day, at  
14 any time, including weekends and holidays. Except when testing on a specific date as ordered by  
15 the Board or its designee, the scheduling of biological fluid testing shall be done on a random  
16 basis. The cost of biological fluid testing shall be borne by Respondent.

17 During the first year of probation, Respondent shall be subject to 52 to 104 random tests.  
18 During the second year of probation and for the duration of the probationary term, up to five (5)  
19 years, Respondent shall be subject to 36 to 104 random tests per year. Only if there has been no  
20 positive biological fluid tests in the previous five (5) consecutive years of probation, may testing  
21 be reduced to one (1) time per month. Nothing precludes the Board from increasing the number  
22 of random tests to the first-year level of frequency for any reason.

23 Prior to practicing medicine, Respondent shall contract with a laboratory or service,  
24 approved in advance by the Board or its designee, that will conduct random, unannounced,  
25 observed, biological fluid testing and meets all of the following standards:

- 26 (a) Its specimen collectors are either certified by the Drug and Alcohol Testing Industry  
27 Association or have completed the training required to serve as a collector for the United  
28 States Department of Transportation.

- 1 (b) Its specimen collectors conform to the current United States Department of  
2 Transportation Specimen Collection Guidelines.
- 3 (c) Its testing locations comply with the Urine Specimen Collection Guidelines published  
4 by the United States Department of Transportation without regard to the type of test  
5 administered.
- 6 (d) Its specimen collectors observe the collection of testing specimens.
- 7 (e) Its laboratories are certified and accredited by the United States Department of Health  
8 and Human Services.
- 9 (f) Its testing locations shall submit a specimen to a laboratory within one (1) business day  
10 of receipt and all specimens collected shall be handled pursuant to chain of custody  
11 procedures. The laboratory shall process and analyze the specimens and provide legally  
12 defensible test results to the Board within seven (7) business days of receipt of the  
13 specimen. The Board will be notified of non-negative results within one (1) business day  
14 and will be notified of negative test results within seven (7) business days.
- 15 (g) Its testing locations possess all the materials, equipment, and technical expertise  
16 necessary in order to test Respondent on any day of the week.
- 17 (h) Its testing locations are able to scientifically test for urine, blood, and hair specimens  
18 for the detection of alcohol and illegal and controlled substances.
- 19 (i) It maintains testing sites located throughout California.
- 20 (j) It maintains an automated 24-hour toll-free telephone system and/or a secure on-line  
21 computer database that allows Respondent to check in daily for testing.
- 22 (k) It maintains a secure, HIPAA-compliant website or computer system that allows staff  
23 access to drug test results and compliance reporting information that is available 24 hours a  
24 day.
- 25 (l) It employs or contracts with toxicologists that are licensed physicians and have  
26 knowledge of substance abuse disorders and the appropriate medical training to interpret  
27 and evaluate laboratory biological fluid test results, medical histories, and any other  
28 information relevant to biomedical information.

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

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

5 The contract shall require that the laboratory directly notify the Board or its designee of  
6 non-negative results within one (1) business day and negative test results within seven (7)  
7 business days of the results becoming available. Respondent shall maintain this laboratory or  
8 service contract during the period of probation.

9 A certified copy of any laboratory test result may be received in evidence in any  
10 proceedings between the Board and Respondent.

11 If a biological fluid test result indicates Respondent has used, consumed, ingested, or  
12 administered to himself or herself a prohibited substance, the Board shall order Respondent to  
13 cease practice and instruct Respondent to leave any place of work where Respondent is practicing  
14 medicine or providing medical services. The Board shall immediately notify all of Respondent's  
15 employers, supervisors and work monitors, if any, that Respondent may not practice medicine or  
16 provide medical services while the cease-practice order is in effect.

17 A biological fluid test will not be considered negative if a positive result is obtained while  
18 practicing, even if the practitioner holds a valid prescription for the substance. If no prohibited  
19 substance use exists, the Board shall lift the cease-practice order within one (1) business day.

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

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

26 For purposes of this condition, the term "prohibited substance" means an illegal drug, a  
27 lawful drug not prescribed or ordered by an appropriately licensed health care provider for use by  
28 Respondent and approved by the Board, alcohol, or any other substance Respondent has been

1 instructed by the Board not to use, consume, ingest, or administer to himself or herself.

2 If the Board confirms that a positive biological fluid test is evidence of use of a prohibited  
3 substance, Respondent has committed a major violation, as defined in section 1361.52(a), and the  
4 Board shall impose any or all of the consequences set forth in section 1361.52(b), in addition to  
5 any other terms or conditions the Board determines are necessary for public protection or to  
6 enhance Respondent's rehabilitation.

7 11. SUBSTANCE ABUSE SUPPORT GROUP MEETINGS. Within thirty (30) days of  
8 the effective date of this Decision, Respondent shall submit to the Board or its designee, for its  
9 prior approval, the name of a substance abuse support group which he shall attend for the duration  
10 of probation. Respondent shall attend substance abuse support group meetings at least once per  
11 week, or as ordered by the Board or its designee.

12 Respondent shall pay all substance abuse support group meeting costs.

13 The facilitator of the substance abuse support group meeting shall have a minimum of  
14 three (3) years' experience in the treatment and rehabilitation of substance abuse, and shall be  
15 licensed or certified by the state or nationally certified organizations. The facilitator shall not  
16 have a current or former financial, personal, or business relationship with Respondent within the  
17 last five (5) years. Respondent's previous participation in a substance abuse group support  
18 meeting led by the same facilitator does not constitute a prohibited current or former financial,  
19 personal, or business relationship.

20 The facilitator shall provide a signed document to the Board or its designee showing  
21 Respondent's name, the group name, the date and location of the meeting, Respondent's  
22 attendance and Respondent's level of participation and progress. The facilitator shall report any  
23 unexcused absence by Respondent from any substance abuse support group meeting to the Board,  
24 or its designee, within twenty-four (24) hours of the unexcused absence.

25 12. PSYCHOTHERAPY. Within sixty (60) calendar days of the effective date of this  
26 Decision, Respondent shall submit to the Board or its designee for prior approval the name and  
27 qualifications of a California-licensed board certified psychiatrist or a licensed psychologist who  
28 has a doctoral degree in psychology and at least five years of postgraduate experience in the

1 diagnosis and treatment of emotional and mental disorders. Upon approval, Respondent shall  
2 undergo and continue psychotherapy treatment, including any modifications to the frequency of  
3 psychotherapy, until the Board or its designee deems that no further psychotherapy is necessary.

4 The psychotherapist shall consider any information provided by the Board or its designee  
5 and any other information the psychotherapist deems relevant and shall furnish a written  
6 evaluation report to the Board or its designee. Respondent shall cooperate in providing the  
7 psychotherapist any information and documents that the psychotherapist may deem pertinent.

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

15 Respondent shall pay the cost of all psychotherapy and psychiatric evaluations.

16 13. MEDICAL EVALUATION AND TREATMENT – Condition satisfied. Within  
17 thirty (30) calendar days of the effective date of this Decision, and on a periodic basis thereafter  
18 as may be required by the Board or its designee, Respondent shall undergo a medical evaluation  
19 by a Board-appointed physician who shall consider any information provided by the Board or  
20 designee and any other information the evaluating physician deems relevant and shall furnish a  
21 medical report to the Board or its designee. Respondent shall provide the evaluating physician  
22 any information and documentation that the evaluating physician may deem pertinent.

23 Following the evaluation, Respondent shall comply with all restrictions or conditions  
24 recommended by the evaluating physician within fifteen (15) calendar days after being notified  
25 by the Board or its designee. If Respondent is required by the Board or its designee to undergo  
26 medical treatment, Respondent shall within thirty (30) calendar days of the requirement notice,  
27 submit to the Board or its designee for prior approval the name and qualifications of a California  
28 licensed treating physician of Respondent's choice. Upon approval of the treating physician,

1 Respondent shall within fifteen (15) calendar days undertake medical treatment and shall  
2 continue such treatment until further notice from the Board or its designee.

3 The treating physician shall consider any information provided by the Board or its designee  
4 or any other information the treating physician may deem pertinent prior to commencement of  
5 treatment. Respondent shall have the treating physician submit quarterly reports to the Board or  
6 its designee indicating whether or not Respondent is capable of practicing medicine safely.  
7 Respondent shall provide the Board or its designee with any and all medical records pertaining to  
8 treatment, the Board or its designee deems necessary.

9 If, prior to the completion of probation, Respondent is found to be physically incapable of  
10 resuming the practice of medicine without restrictions, the Board shall retain continuing  
11 jurisdiction over Respondent's license and the period of probation shall be extended until the  
12 Board determines that Respondent is physically capable of resuming the practice of medicine  
13 without restrictions. Respondent shall pay the cost of the medical evaluation(s) and treatment.

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

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

1 with the signed statement for approval by the Board or its designee.

2 Within sixty (60) calendar days of the effective date of this Decision, and continuing  
3 throughout probation, Respondent's practice shall be monitored by the approved monitor.  
4 Respondent shall make all records available for immediate inspection and copying on the  
5 premises by the monitor at all times during business hours and shall retain the records for the  
6 entire term of probation.

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

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

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

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

1 education. Respondent shall participate in the professional enhancement program at  
2 Respondent's expense during the term of probation.

3 15. WORKSITE MONITOR FOR SUBSTANCE-ABUSING LICENSEE. Within thirty  
4 (30) calendar days of the effective date of this Decision, Respondent shall submit to the Board or  
5 its designee for prior approval as a worksite monitor, the name and qualifications of one or more  
6 licensed physician and surgeon, other licensed health care professional if no physician and  
7 surgeon is available, or, as approved by the Board or its designee, a person in a position of  
8 authority who is capable of monitoring Respondent at work.

9 The worksite monitor shall not have a current or former financial, personal, or familial  
10 relationship with Respondent, or any other relationship that could reasonably be expected to  
11 compromise the ability of the monitor to render impartial and unbiased reports to the Board or its  
12 designee. If it is impractical for anyone but Respondent's employer to serve as the worksite  
13 monitor, this requirement may be waived by the Board or its designee, however, under no  
14 circumstances shall Respondent's worksite monitor be an employee or supervisee of the licensee.

15 The worksite monitor shall have an active unrestricted license with no disciplinary action  
16 within the last five (5) years, and shall sign an affirmation that he or she has reviewed the terms  
17 and conditions of Respondent's disciplinary order and agrees to monitor Respondent as set forth  
18 by the Board or its designee.

19 Respondent shall pay all worksite monitoring costs.

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

24 The worksite monitor shall verbally report any suspected substance abuse to the Board and  
25 Respondent's employer or supervisor within one (1) business day of occurrence. If the suspected  
26 substance abuse does not occur during the Board's normal business hours, the verbal report shall  
27 be made to the Board or its designee within one (1) hour of the next business day. A written  
28 report that includes the date, time, and location of the suspected abuse; Respondent's actions; and

1 any other information deemed important by the worksite monitor shall be submitted to the Board  
2 or its designee within forty-eight (48) hours of the occurrence.

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

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

22 16. NOTICE OF EMPLOYER OR SUPERVISOR INFORMATION. Within seven (7)  
23 days of the effective date of this Decision, Respondent shall provide to the Board the names,  
24 physical addresses, mailing addresses, and telephone numbers of any and all employers and  
25 supervisors. Respondent shall also provide specific, written consent for the Board, Respondent's  
26 worksite monitor, and Respondent's employers and supervisors to communicate regarding  
27 Respondent's work status, performance, and monitoring.

28 For purposes of this section, "supervisors" shall include the Chief of Staff and Health or

1 Well Being Committee Chair, or equivalent, if applicable, when Respondent has medical staff  
2 privileges.

3 17. VIOLATION OF PROBATION CONDITION FOR SUBSTANCE ABUSING  
4 LICENSEES . Failure to fully comply with any term or condition of probation is a violation of  
5 probation.

6 A. If Respondent commits a major violation of probation as defined by section  
7 1361.52, subdivision (a), of Title 16 of the California Code of Regulations, the Board shall take  
8 one or more of the following actions:

9 (1) Issue an immediate cease-practice order and order Respondent to undergo a clinical  
10 diagnostic evaluation to be conducted in accordance with section 1361.5, subdivision (c)(1), of  
11 Title 16 of the California Code of Regulations, at Respondent's expense. The cease-practice  
12 order issued by the Board or its designee shall state that Respondent must test negative for at least  
13 a month of continuous biological fluid testing before being allowed to resume practice. For  
14 purposes of determining the length of time a Respondent must test negative while undergoing  
15 continuous biological fluid testing following issuance of a cease-practice order, a month is  
16 defined as thirty calendar (30) days. Respondent may not resume the practice of medicine until  
17 notified in writing by the Board or its designee that he or she may do so.

18 (2) Increase the frequency of biological fluid testing.

19 (3) Refer Respondent for further disciplinary action, such as suspension, revocation, or  
20 other action as determined by the Board or its designee.

21 B. If Respondent commits a minor violation of probation as defined by section  
22 1361.52, subdivision (c), of Title 16 of the California Code of Regulations, the Board shall take  
23 one or more of the following actions:

24 (1) Issue a cease-practice order;

25 (2) Order practice limitations;

26 (3) Order or increase supervision of Respondent;

27 (4) Order increased documentation;

28 (5) Issue a citation and fine, or a warning letter;

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

4 (7) Take any other action as determined by the Board or its designee.

5 C. Nothing in this Decision shall be considered a limitation on the Board's authority  
6 to revoke Respondent's probation if he or she has violated any term or condition of probation. If  
7 Respondent violates probation in any respect, the Board, after giving Respondent notice and the  
8 opportunity to be heard, may revoke probation and carry out the disciplinary order that was  
9 stayed. If an Accusation, or Petition to Revoke Probation, or an Interim Suspension Order is filed  
10 against Respondent during probation, the Board shall have continuing jurisdiction until the matter  
11 is final, and the period of probation shall be extended until the matter is final.

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

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

21 19. SUPERVISION OF PHYSICIAN ASSISTANTS AND ADVANCED PRACTICE  
22 NURSES. During probation, Respondent is prohibited from supervising physician assistants and  
23 advanced practice nurses.

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

27 21. INVESTIGATION/ENFORCEMENT COST RECOVERY. Respondent is hereby  
28 ordered to reimburse the Board its costs of investigation and enforcement, in the amount of

1 \$50,694.00 (Fifty Thousand Six Hundred Ninety-Four Dollars and No Cents). Costs shall be  
2 payable to the Medical Board of California. Failure to pay such costs shall be considered a  
3 violation of probation.

4 Payment must be made in full within thirty (30) calendar days of the effective date of the  
5 Order, or by a payment plan approved by the Medical Board of California. Any and all requests  
6 for a payment plan shall be submitted in writing by Respondent to the Board. Failure to comply  
7 with the payment plan shall be considered a violation of probation.

8 The filing of bankruptcy by Respondent shall not relieve Respondent of the responsibility  
9 to repay investigation and enforcement costs.

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

13 Respondent shall submit quarterly declarations not later than ten (10) calendar days after  
14 the end of the preceding quarter.

15 23. GENERAL PROBATION REQUIREMENTS.

16 Compliance with Probation Unit

17 Respondent shall comply with the Board's probation unit.

18 Address Changes

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

24 Place of Practice

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

28 ///

1        License Renewal

2        Respondent shall maintain a current and renewed California physician's and surgeon's  
3        license.

4        Travel or Residence Outside California

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

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

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

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

28       In the event Respondent's period of non-practice while on probation exceeds eighteen (18)

1 calendar months, Respondent shall successfully complete the Federation of State Medical Boards'  
2 Special Purpose Examination, or, at the Board's discretion, a clinical competence assessment  
3 program that meets the criteria of Condition 18 of the current version of the Board's "Manual of  
4 Model Disciplinary Orders and Disciplinary Guidelines" prior to resuming the practice of  
5 medicine.

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

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

8 Periods of non-practice for a Respondent residing outside of California will relieve  
9 Respondent of the responsibility to comply with the probationary terms and conditions with the  
10 exception of this condition and the following terms and conditions of probation: Obey All Laws;  
11 General Probation Requirements; Quarterly Declarations; Abstain from the Use of Alcohol and/or  
12 Controlled Substances; and Biological Fluid Testing.

13 26. COMPLETION OF PROBATION. Respondent shall comply with all financial  
14 obligations (e.g., restitution, probation costs) not later than one hundred twenty (120) calendar  
15 days prior to the completion of probation. This term does not include cost recovery, which is due  
16 within thirty (30) calendar days of the effective date of the Order, or by a payment plan approved  
17 by the Medical Board and timely satisfied. Upon successful completion of probation,  
18 Respondent's certificate shall be fully restored.

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

26 28. LICENSE SURRENDER. Following the effective date of this Decision, if  
27 Respondent ceases practicing due to retirement or health reasons or is otherwise unable to satisfy  
28 the terms and conditions of probation, Respondent may request to surrender his or her license.

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1 The Board reserves the right to evaluate Respondent's request and to exercise its discretion in  
2 determining whether or not to grant the request, or to take any other action deemed appropriate  
3 and reasonable under the circumstances. Upon formal acceptance of the surrender, Respondent  
4 shall within fifteen (15) calendar days deliver Respondent's wallet and wall certificate to the  
5 Board or its designee and Respondent shall no longer practice medicine. Respondent will no  
6 longer be subject to the terms and conditions of probation. If Respondent re-applies for a medical  
7 license, the application shall be treated as a petition for reinstatement of a revoked certificate.

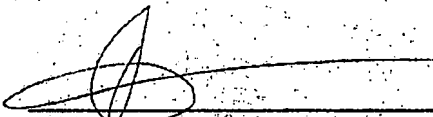
8 29. PROBATION MONITORING COSTS. Respondent shall pay the costs associated  
9 with probation monitoring each and every year of probation, as designated by the Board, which  
10 may be adjusted on an annual basis. Such costs shall be payable to the Medical Board of  
11 California and delivered to the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

13 30. FUTURE ADMISSIONS CLAUSE. If Respondent should ever apply or reapply for  
14 a new license or certification, or petition for reinstatement of a license, by any other health care  
15 licensing action agency in the State of California, all of the charges and allegations contained in  
16 Accusation No. 800-2021-084122 shall be deemed to be true, correct, and admitted by  
17 Respondent for the purpose of any Statement of Issues or any other proceeding seeking to deny or  
18 restrict license.

19  
20 ACCEPTANCE

21 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully  
22 discussed it with my attorney, Kevin D. Cauley. I understand the stipulation and the effect it will  
23 have on my Physician's and Surgeon's Certificate. I enter into this Stipulated Settlement and  
24 Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the  
25 Decision and Order of the Medical Board of California.

26  
27 DATED: December 2nd 2024

  
28 RYAN MATTHEW SPIVAK, M.D.  
Respondent

1 I have read and fully discussed with Respondent Ryan Matthew Spivak, M.D. the terms and  
2 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.  
3 I approve its form and content.

4  
5 DATED: December 2, 2024

  
KEVIN D. CAULEY  
Attorney for Respondent

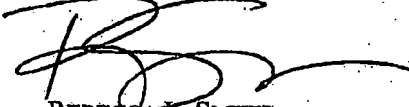
7  
8 **ENDORSEMENT**

9 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully  
10 submitted for consideration by the Medical Board of California.

11 DATED: December 2, 2024

12 Respectfully submitted,

13 ROB BONTA  
Attorney General of California  
14 JUDITH T. ALVARADO  
Supervising Deputy Attorney General

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16 REBECCA L. SMITH  
17 Deputy Attorney General  
18 Attorneys for Complainant

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Telephone: (213) 269-6475  
6 Facsimile: (916) 731-2117  
*Attorneys for Complainant*  
7

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

12 In the Matter of the Accusation Against:

Case No. 800-2021-084122

13 **RYAN MATTHEW SPIVAK, M.D.**  
27509 Agoura Road, Suite 110  
14 Agoura Hills, CA 91301

**ACCUSATION**

15 **Physician's and Surgeon's Certificate**  
No. A 113632,  
16

Respondent.  
17

18 **PARTIES**

19 1. Reji Varghese (Complainant) brings this Accusation solely in his official capacity as  
20 the Executive Director of the Medical Board of California, Department of Consumer Affairs  
21 (Board).

22 2. On or about August 11, 2010, the Medical Board issued Physician's and Surgeon's  
23 Certificate Number A 113632 to Ryan Matthew Spivak, M.D. (Respondent). The Physician's and  
24 Surgeon's Certificate was in full force and effect at all times relevant to the charges brought  
25 herein and will expire on August 31, 2024, unless renewed.

26 ///

27 ///

## JURISDICTION

3. This Accusation is brought before the Board, under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

4. Section 2004 of the Code states:

The board shall have the responsibility for the following:

(a) The enforcement of the disciplinary and criminal provisions of the Medical Practice Act;

(b) The administration and hearing of disciplinary actions.

(c) Carrying out disciplinary actions appropriate to findings made by a panel or an administrative law judge.

(d) Suspending, revoking, or otherwise limiting certificates after the conclusion of disciplinary actions.

(e) Reviewing the quality of medical practice carried out by physician and surgeon certificate holders under the jurisdiction of the board.

(f) Approving undergraduate and graduate medical education programs.

(g) Approving clinical clerkship and special programs and hospitals for the programs in subdivision (f).

(h) Issuing licenses and certificates under the board's jurisdiction.

(i) Administering the board's continuing medical education program.

5. Section 2220 of the Code states:

Except as otherwise provided by law, the board may take action against all persons guilty of violating this chapter. The board shall enforce and administer this article as to physician and surgeon certificate holders, including those who hold certificates that do not permit them to practice medicine, such as, but not limited to, retired, inactive, or disabled status certificate holders, and the board shall have all the powers granted in this chapter for these purposes including, but not limited to:

(a) Investigating complaints from the public, from other licensees, from health care facilities, or from the board that a physician and surgeon may be guilty of unprofessional conduct. The board shall investigate the circumstances underlying a report received pursuant to Section 805 or 805.01 within 30 days to determine if an interim suspension order or temporary restraining order should be issued. The board shall otherwise provide timely disposition of the reports received pursuant to Section 805 and Section 805.01.

(b) Investigating the circumstances of practice of any physician and surgeon where there have been any judgments, settlements, or arbitration awards requiring the physician and surgeon or his or her professional liability insurer to pay an amount in

1 damages in excess of a cumulative total of thirty thousand dollars (\$30,000) with  
2 respect to any claim that injury or damage was proximately caused by the physician's  
3 and surgeon's error, negligence, or omission.

4 (c) Investigating the nature and causes of injuries from cases which shall be  
5 reported of a high number of judgments, settlements, or arbitration awards against a  
6 physician and surgeon.

7 6. Section 2227 of the Code states:

8 (a) A licensee whose matter has been heard by an administrative law judge of  
9 the Medical Quality Hearing Panel as designated in Section 11371 of the Government  
10 Code, or whose default has been entered, and who is found guilty, or who has entered  
11 into a stipulation for disciplinary action with the board, may, in accordance with the  
12 provisions of this chapter:

13 (1) Have his or her license revoked upon order of the board.

14 (2) Have his or her right to practice suspended for a period not to exceed one  
15 year upon order of the board.

16 (3) Be placed on probation and be required to pay the costs of probation  
17 monitoring upon order of the board.

18 (4) Be publicly reprimanded by the board. The public reprimand may include a  
19 requirement that the licensee complete relevant educational courses approved by the  
20 board.

21 (5) Have any other action taken in relation to discipline as part of an order of  
22 probation, as the board or an administrative law judge may deem proper.

23 (b) Any matter heard pursuant to subdivision (a), except for warning letters,  
24 medical review or advisory conferences, professional competency examinations,  
25 continuing education activities, and cost reimbursement associated therewith that are  
26 agreed to with the board and successfully completed by the licensee, or other matters  
27 made confidential or privileged by existing law, is deemed public, and shall be made  
28 available to the public by the board pursuant to Section 803.1.

### STATUTORY PROVISIONS

7. Section 2234 of the Code, states:

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

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

(b) Gross negligence.

(c) Repeated negligent acts. To be repeated, there must be two or more  
negligent acts or omissions. An initial negligent act or omission followed by a  
separate and distinct departure from the applicable standard of care shall constitute  
repeated negligent acts.

///

1 (1) An initial negligent diagnosis followed by an act or omission medically  
2 appropriate for that negligent diagnosis of the patient shall constitute a single  
3 negligent act.

4 (2) When the standard of care requires a change in the diagnosis, act, or  
5 omission that constitutes the negligent act described in paragraph (1), including, but  
6 not limited to, a reevaluation of the diagnosis or a change in treatment, and the  
7 licensee's conduct departs from the applicable standard of care, each departure  
8 constitutes a separate and distinct breach of the standard of care.

9 (d) Incompetence.

10 (e) The commission of any act involving dishonesty or corruption that is  
11 substantially related to the qualifications, functions, or duties of a physician and  
12 surgeon.

13 (f) Any action or conduct that would have warranted the denial of a certificate.

14 (g) The failure by a certificate holder, in the absence of good cause, to attend  
15 and participate in an interview by the board no later than 30 calendar days after being  
16 notified by the board. This subdivision shall only apply to a certificate holder who is  
17 the subject of an investigation by the board.

18 8. Section 2266 of the Code states:

19 The failure of a physician and surgeon to maintain adequate and accurate records  
20 relating to the provision of services to their patients constitutes unprofessional conduct.

### 21 COST RECOVERY

22 9. Section 125.3 of the Code states:

23 (a) Except as otherwise provided by law, in any order issued in resolution of a  
24 disciplinary proceeding before any board within the department or before the  
25 Osteopathic Medical Board, upon request of the entity bringing the proceeding, the  
26 administrative law judge may direct a licensee found to have committed a violation or  
27 violations of the licensing act to pay a sum not to exceed the reasonable costs of the  
28 investigation and enforcement of the case.

(b) In the case of a disciplined licensee that is a corporation or a partnership, the  
order may be made against the licensed corporate entity or licensed partnership.

(c) 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. The costs shall include the amount of  
investigative and enforcement costs up to the date of the hearing, including, but not  
limited to, charges imposed by the Attorney General.

(d) The administrative law judge shall make a proposed finding of the amount  
of reasonable costs of investigation and prosecution of the case when requested  
pursuant to subdivision (a). The finding of the administrative law judge with regard  
to costs shall not be reviewable by the board to increase the cost award. The board  
may reduce or eliminate the cost award, or remand to the administrative law judge if  
the proposed decision fails to make a finding on costs requested pursuant to

subdivision (a).

(e) If an order for recovery of costs is made and timely payment is not made as directed in the board's decision, the board may enforce the order for repayment in any appropriate court. This right of enforcement shall be in addition to any other rights the board may have as to any licensee to pay costs.

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

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

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

(h) All costs recovered under this section shall be considered a reimbursement for costs incurred and shall be deposited in the fund of the board recovering the costs to be available upon appropriation by the Legislature.

(i) Nothing in this section shall preclude a board from including the recovery of the costs of investigation and enforcement of a case in any stipulated settlement.

(j) This section does not apply to any board if a specific statutory provision in that board's licensing act provides for recovery of costs in an administrative disciplinary proceeding.

#### **FIRST CAUSE FOR DISCIPLINE**

##### **(Gross Negligence)**

10. Respondent is subject to disciplinary action under Code section 2234, subdivision (b), in that he engaged in gross negligence in the care and treatment of Patient 1.<sup>1</sup> The circumstances are as follows:

11. On or about September 12, 2018, Patient 1, a then 54-year-old woman, presented to Respondent, a plastic and reconstruction surgeon, for treatment of a deflated left breast implant. By way of history, Patient 1 had undergone saline breast implant placement and a mastopexy in 2006. In 2017, Patient 1 underwent a mammogram, and a slow deflation of her left implant was noted. Respondent noted the deflated left implant, an intact right implant, bilateral capsular contracture, and grade 2 breast ptosis. Respondent recommended that Patient 1 undergo in-office deflation of the right implant for symmetry. Surgery was planned for removal of the failed

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<sup>1</sup> For privacy purposes, the patient in this Accusation is referred to as Patient 1.

1 implants; bilateral capsulectomy, and secondary mastopexy.

2 12. Respondent requested and obtained medical clearance for Patient 1 to undergo  
3 surgery. Patient 1's EKG showed a left axis deviation and left anterior hemiblock. She was  
4 referred to cardiologist, Dr. B.M. On November 6, 2018, Dr. B.M. provided cardiac clearance for  
5 the procedure. That same day, Dr. B.M. sent a second letter to Patient 1's primary care provider  
6 at East Valley Community Health Clinic, which stated that in addition to providing cardiac  
7 clearance for the breast surgery, Dr. B.M. recommended that Patient 1 undergo cardiac stress  
8 testing in the future.

9 13. On or about December 18, 2018, Patient 1 presented to St. Vincent Medical Center  
10 for the planned breast surgery by Respondent. Laboratory studies performed that morning were  
11 essentially within normal limits. Dr. J.R., the anesthesiologist, performed a pre-operative  
12 evaluation. Patient 1 denied any history of cardiac issues. Dr. J.R. classified Patient 1 as ASA 2.<sup>2</sup>

13 14. That same day, Respondent completed a Short-Form History and Physical. No vital  
14 signs were documented on the form. The only physical finding noted was "[bilateral] breast  
15 implant rupture." Respondent filled out an additional form in Patient 1's hospital records entitled  
16 "Operative Progress Notes." Under the "Pre-Operative" section, Respondent checked the box  
17 reflecting that a history and physical examination was performed in the last 30 days, was  
18 reviewed, patient examined and there were not changes. Respondent signed this "Pre-Operative"  
19 section on December 18, 2018 at 7:30 a.m.

20 15. Respondent performed Patient 1's breast surgery under general anesthesia. In the  
21 operative report, Respondent noted that he performed an intraoperative intercostal nerve block  
22 with 60 milliliters (ml) of 0.55 bupivacaine<sup>3</sup> per side, using a spinal needle. At the time of

23  
24 <sup>2</sup> ASA (American Society of Anesthesiologists) Physical Status Classification System is a risk-  
25 stratifying system used mainly by anesthesiologists to help predict preoperative risks. The classifications  
26 are as follows: ASA 1 is a normal healthy patient; ASA 2 is a patient with mild systemic disease without  
27 significant functional limitation; ASA 3 is a patient with severe systemic disease with significant  
28 functional limitation; ASA 4 is a patient with severe systemic disease with constant threat to life; ASA 5 is  
a moribund patient not expected to survive without the operation; and ASA 6 is a declared brain-dead  
patient with plans for organ donation.

<sup>3</sup> Bupivacaine, also known by the brand name Marcaine, is a local anesthetic used to produce  
numbness during labor, surgery, or certain medical procedures.

1 Respondent's interview with the Board, he stated that he only used 60 ml total of bupivacaine  
2 during the surgery and he knows that "because of the calculation." Intraoperative nursing records  
3 reflect that Respondent used 95 ml of bupivacaine 0.5%. Jackson Pratt drains were sutured in  
4 place on each breast. Respondent noted that after the procedure, the patient was taken to the post-  
5 operative care unit (PACU) in good and stable condition.

6 16. The surgery was about 5 hours, from approximately 8:28 a.m. to 1:38 p.m. Patient 1  
7 was transferred from the operative room to the PACU at approximately 1:45 p.m. The PACU  
8 nurse noted that the patient has an Aldrete Score of 5.<sup>4</sup> Patient 1 was given oxygen by mask. At  
9 approximately 2:04 p.m., the PACU nurse noted oxygen desaturation, began bag-mask  
10 ventilation, and called for Dr. J.R. Another anesthesiologist arrived at Patient 1's bedside and  
11 placed a nasal airway at approximately 2:07 p.m. The patient's oxygen level returned to one  
12 hundred percent (100%). At approximately 2:31 p.m., the patient's somnolence resolved and the  
13 nasal airway was removed. Thereafter, the PACU nurse noted that the patient became combative  
14 and confused. Patient 1 pulled out her intravenous line and refused to have it replaced, and tried  
15 to get off the gurney. The PACU nurse then received a telephone order from Respondent to place  
16 soft wrist restraints to keep Patient 1 from falling out of bed and injuring herself. He also ordered  
17 a "sitter" to stay with the patient and watch her.

18 17. Patient 1 remained confused. Respondent requested that the patient be kept in the  
19 hospital overnight with consultations from a hospitalist and psychiatrist. Psychiatrist, Dr. M.K.,  
20 evaluated Patient 1 on December 19, 2018. Dr. M.K. described Patient 1's confusion and  
21 paranoia as "post-anesthetic delirium," and felt that the patient was safe to go home in the care of  
22 her family.

23 18. That same day, Patient 1 requested discharge. She refused to sign any discharge  
24 documents. Respondent did not see Patient 1 before she left the hospital on December 19, 2018.

25 ///

26  
27 <sup>4</sup> The Aldrete Scoring system measures physiological recovery from anesthesia using five  
28 parameters; respiration, circulation, consciousness, color, and level of activity. Each parameter is scored  
0, 1, or 2, and patients with a score of 9 or greater are able to be discharged from the PACU.

1           19. On or about December 20, 2018, Patient 1 was taken to the emergency department at  
2 St. Mary's Medical Center for complaints of shortness of breath and chest discomfort. The  
3 patient's EKG showed no acute changes and her troponin level was elevated at 0.4.<sup>5</sup> She was  
4 admitted to the hospital for a possible non-ST-elevation myocardial infarction. A CT scan of the  
5 chest showed no evidence of pulmonary embolism. Following a negative Lexascan stress test of  
6 Patient 1's heart, she was discharged home on December 21, 2018.

7           20. On or about December 27, 2018, Patient 1 returned to East Valley Clinic and  
8 requested a plastic surgery referral, as she needed her drains removed and did not want to return  
9 to Respondent.

10          21. Patient 1 did not receive the referral and returned to see Respondent on or about  
11 January 8, 2019. Respondent removed the left drain and instructed the patient to return in three  
12 days for removal of the right drain. Patient 1 did not return to see Respondent.

13 Use of Higher than Recommended Dosage of Bupivacaine During Surgery.

14          22. The standard of care requires surgeons to be cognizant of safe levels of local  
15 anesthetic, and to document the amount used in the patient's medical records. The maximum  
16 recommended dose of bupivacaine for local anesthesia is 175 milligrams (mg). The  
17 recommended dosing for intercostal blocks is three to five milliliters of 0.25% bupivacaine to ribs  
18 two through six. The maximum recommended dose is 25 ml per side, which adds up to 100 mg  
19 of bupivacaine.

20          23. In his operative report, Respondent noted that he performed an intraoperative  
21 intercostal nerve block with 60 ml of 0.55 bupivacaine per side. At the time of Respondent's  
22 interview with the Board, he stated that he only used 60 ml and he knows that "because of the  
23 calculation." Intraoperative nursing records reflect that Respondent used 95 ml of bupivacaine  
24 0.5%. Even if the operative report and/or intraoperative nursing record are incorrect, and  
25 Respondent only injected 60 ml total of bupivacaine, that amount still represents 300 mg of  
26 bupivacaine, which is three times the recommended maximum dose. Respondent's use of a  
27 higher than recommended dose of bupivacaine is an extreme departure from the standard of care.

28           <sup>5</sup> The reference range for normal Troponin levels is from .00 to .045.



28. To determine the degree of discipline, if any, to be imposed on Respondent, Complainant alleges that in a matter entitled *In the Matter of the First Amended Accusation against Ryan Matthew Spivak, M.D.*, Medical Board Case No. 800-2019-060028, the Board, issued a decision, effective Jun 9, 2023, in which Respondent's Physician's and Surgeon's Certificate was revoked, for repeated negligent acts and failure to maintain adequate and accurate medical records for three patients. However, the revocation was stayed and Respondent was placed on probation for two (2) years to run consecutively from the conclusion of Respondent's probation term in the Board's Decision in Case No. 800-2019-061086, for a total of eleven (11) years' probation, as well as other terms and conditions. That decision is now final and is incorporated by reference as if fully set forth herein.

**PRAYER**

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

1. Revoking or suspending Physician's and Surgeon's Certificate Number A 113632, issued to Respondent Ryan Matthew Spivak, M.D.;

2. Revoking, suspending or denying approval of Respondent Ryan Matthew Spivak, M.D.'s authority to supervise physician assistants and advanced practice nurses;

3. Ordering Respondent Ryan Matthew Spivak, M.D., to pay the Board the costs of the investigation and enforcement of this case, and if placed on probation, the costs of probation monitoring; and

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

DATED: MAR 21 2024

  
REJI VARGHESE  
Executive Director  
Medical Board of California  
Department of Consumer Affairs  
State of California  
Complainant

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