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

In the Matter of the Accusation Against:	)	
RONALD KEITH MCGEE, M.D.	)	Case No. 800-2013-001109
Physician's and Surgeon's Certificate No. G26491	)	OAH No. 2016121033.1
Respondent	)	

DECISION

The Proposed Decision of Abraham M. Levy, Administrative Law Judge, dated March 13, 2018 is attached hereto. Said decision is hereby amended, pursuant to Government Code section 11517(c)(2)(C), to correct technical or minor changes that do not affect the factual or legal basis of the proposed decision. The proposed decision is amended as follows:

Page 2, line 2, March 2, 1974 is stricken and replaced with March 20, 1974.

The Proposed Decision as amended is hereby accepted and 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 May 11, 2018.

IT IS SO ORDERED April 11, 2018.

MEDICAL BOARD OF CALIFORNIA

By: Kristina Lawson

Kristina Lawson, JD, Chair
Panel B

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

In the Matter of the Accusation Against: RONALD KEITH MCGEE, M.D. Physician's and Surgeon's Certificate No. G26491, Respondent.	Case No. 8002013001109 OAH No. 2016121033.1

PROPOSED DECISION

Abraham M. Levy, Administrative Law Judge, Office of Administrative Hearings, State of California heard this matter on February 26, 2018, in San Diego, California.

Jason J. Ahn, Deputy Attorney General, represented complainant Kimberly Kirchmeyer, Executive Director of the Medical Board of California.

Adam R. Stull, Attorney at Law, represented respondent Ronald Keith McGee, M.D., who was present.

On February 26, 2018, the record was closed, and the matter was submitted.

SUMMARY

On September 1, 2015, respondent was convicted of a misdemeanor crime substantially related to the qualifications, functions or duties of physician and surgeon, which arose during patient care, treatment and billing. For the reasons stated in this decision, respondent's license is placed on probation for five years with terms and conditions to ensure public protection.

FACTUAL FINDINGS

Jurisdiction

1. On November 28, 2016, complainant filed the Accusation while acting in her official capacity as the Executive Director of the Medical Board of California (board), Department of Consumer Affairs.

2. On March 2, 1974, the board issued Physician's and Surgeon's Certificate Number G26491 to respondent. That certificate was in full force and effect at all times relevant to the charges brought herein and will expire on November 30, 2018, unless renewed.

3. The Accusation alleges that respondent was convicted of a crime substantially related to the qualifications, functions, or duties of a physician due to his September 1, 2015, misdemeanor conviction for unlawfully conspiring with three other doctors to aid and abet an individual in the unlawful practice of medicine in violation of Business and Professions Code section 2052, subdivision (b). The Accusation also alleges that respondent violated the Medical Practice Act and engaged in unprofessional conduct.

Respondent's Conviction

4. On September 1, 2015, in the Superior Court of California, County of Orange, Case Number 13CF3822, captioned *State of California v. Eva Marie Gentile, Ronald Keith McGee, David Ray Zachary, John Frederick Gentile, and Amirshahin Mandegari*, respondent was convicted, on his plea of guilty, of violating Business and Professions Code section 2052, subdivision (b), aiding and abetting the unauthorized practice of medicine, as amended by interlineation, a misdemeanor. Respondent was placed on probation for three years; he was required to pay fines, penalties and fees, and pay restitution on all counts as detailed in the original eight count felony complaint, which was filed on December 6, 2013. Although respondent was only convicted of the aiding and abetting count, he was required to make restitution based on the counts for insurance fraud for false and fraudulent claims for payments of health care benefits that were dismissed as part of the plea agreement. The restitution amount was incorporated into an attachment in respondent's plea agreement and included restitution in varying amounts to five insurance companies for payments they made for health care benefits. As part of the plea agreement, respondent was also required to provide 80 hours of free medical services as approved by probation.

In his plea agreement respondent identified the following facts as the basis for his guilty plea:

> [B]etween January 1, 2004 and December 31, 2009, I willfully and unlawfully conspired with Dr. Eva Gentile, Dr. John Gentile and Dr. David Zachary to aid and abet Amirshahin Mandegari in

the unlawful practice of medicine. This violated CA.B&P § 2052(b).

Respondent has complied with the terms of probation. He has paid restitution to five insurance companies, he has completed 80 hours of community service and he has paid fines and penalties as ordered. Respondent's probation is set to be completed in August 2018.

5. The following facts and circumstances of respondent's conviction were established through respondent's testimony and the testimony of David Zachary, M.D., in addition to the evidence of record.

Respondent's conviction involved the improper billing for medical services at a South County Urgent Care (Clinic), an urgent care clinic he operated with Drs. Zachary, Eva Gentile, John Gentile, and two other doctors. The Clinic improperly billed for medical services that an esthetician, Amirshahin Mandegari, provided. Mr. Mandegari worked at the Clinic from 2005 to 2009, and he operated an "acne clinic." He provided facial wraps, "comedone extraction,"[1] and light treatments to warm the skin and increase blood flow.

Respondent established the Clinic in 2005 with five other doctors. Respondent, Drs. Zachary, and Gentile were officers. Dr. Eva Gentile was not an officer, but she was a part-owner. The doctors each had an ownership interest and for a time while the Clinic was getting up and running, the doctors agreed to work six hours a week unpaid.

Dr. Eva Gentile brought Mr. Mandegari into the Clinic, and she made arrangements to lease him an office in the Clinic in order to help defray costs. Mr. Mandegari operated six other acne clinics in Orange County and had worked with Dr. Gentle in her own practice. Mr. Mandegari was at the Clinic one to two days a week. Respondent testified that by agreement between the doctors and Mr. Mandegari, Mr. Mandegari was to get 70 percent of his billings at the Clinic and the Clinic was to get 30 percent. Respondent explained that payments for Mr. Mandegari's services that Dr. Gentile cosigned went into her practice. He added that this was why she paid a higher restitution amount than the other doctors convicted under Section 2052.

Respondent said that Mr. Mandegari gave him patient "encounter" forms which he signed in Dr. Eva Gentile's place. Respondent said signing these encounter forms was not unusual because signing for "physician extenders" is not an "unusual" practice. Respondent stated that the patients received excellent treatment and were happy with Mr. Mandegari's services.

Respondent described these encounter forms as papers without CPT or billing codes which identified the types of treatment Mr. Mandegari provided. Mr. Mandegari gave these encounter forms to respondent and other doctors to sign. Respondent signed them and never saw the forms again. Respondent testified that he was not involved in the billing at the

[1] A comedone is a blackhead or clogged hair follicle.

Clinic and did not hire the Clinic's biller. For a time, Dr. Zachary's daughter worked as the biller, but after she left, a biller was brought in from Dr. Eva Gentile's practice. Respondent did not have contact with the biller and did not remember her name.

He said the Clinic biller put the CPT codes on the standard billing forms and sent them to the insurance companies. Unknown to him, the billing procedures were not accurate. The insurance companies paid the bills and sent explanation of benefits paid forms to the biller at the Clinic. Respondent said he never saw the explanation of benefits forms.

Respondent stressed that he did not receive any money from these improper billings. The money went into the Clinic's bank account. All he got was an hourly wage to keep the Clinic open at the time.

In 2009, one of the insurance companies, Blue Cross, brought to the Clinic's attention that the Clinic had billed for erroneous claims for "Acne Surgery" Mr. Mandegari provided. Once Blue Cross brought these claims to the attention of respondent and Dr. Zachary, they discontinued their relationship with Mr. Mandegari. On May 26, 2011, respondent, Dr. Zachary and Dr. John Gentile signed a document captioned "Settlement Agreement and Mutual General Release," for these "billed erroneous claims for Acne Surgery," the Clinic agreed to pay Blue Cross $20,000. The Clinic paid this sum on May 29, 2011, in a check Dr. John Gentile signed. Respondent said the $20,000 payment was "disproportionate" to the billings, but he wanted to clear the slate. He said Blue Cross continued to do business with the Clinic after this event.

Respondent testified that he reluctantly signed the criminal plea agreement and agreed to pay approximately $10,000 in insurance payments the Clinic received over the four years it operated. He said the plea was "false" and was "the lesser of two evils." Respondent said he pled guilty as a matter of expediency despite not feeling that he was guilty because he was given a misdemeanor plea offer and was facing a jury trial. He added that he believed he is a victim and has been damaged because he cannot bill Medicare due to the conviction. Respondent stated that in his 40 years of practicing medicine he has never had any issues with billing. He commented that he does not now use physician extenders.

Regardless of these comments, respondent accepted that he should be disciplined. But, he did not specify the conduct that warranted this discipline. At the same time, respondent argued that this conduct did not arise from or occur "during patient care, treatment, management or billing," as set forth in the board's Disciplinary Guidelines as detailed immediately below.

On cross examination, respondent was asked about a statement he made in his June 16, 2016, interview with the Health Quality Investigation Unit. In that interview, he stated that he "signed the superbill" that went to the insurance company. Respondent said he meant to say he signed encounter forms, not superbills.

6. Respondent's testimony was mostly credible. With this noted, during the hearing he displayed anger about both the misdemeanor conviction and the board's action against him and was not completely responsive to questions complainant posed to him.

The Board's Disciplinary Guidelines

7. The Medical Board's "Manual of Model Disciplinary Orders and Disciplinary Guidelines" (12th Edition 2016) provides a recommended penalty range for the misdemeanor conviction of a crime substantially related to the qualifications, functions or duties of a physician and surgeon. For a misdemeanor conviction "arising from or occurring during patient care, treatment, management or billing," the board's Guidelines recommend a minimum penalty of stayed revocation with seven years' probation with terms and conditions that include community service, an ethics course, a billing monitor, solo practice prohibition, and victim restitution. For the conviction of a misdemeanor crime not arising from or occurring during patient care, treatment, management or billing, the recommended penalty is stayed revocation with seven years' probation, a 30 day suspension, community service, an ethics course, a billing monitor if the crime involved dishonesty or a financial crime, and victim restitution.

The Parties' Arguments

8. The parties disagreed whether respondent's conviction was a crime "arising from or occurring during patient care, treatment, management or billing" for purposes of the level of discipline to be imposed. For purposes of the appropriate level of discipline under the Guidelines, respondent argued that his misdemeanor crime did not arise from patient care, management or billing, and the Guideline's terms and conditions relating to crimes that did not arise from patient care, management or billing should apply. Respondent did not dispute that his crime was substantially related to the qualifications, functions, or duties of a physician or surgeon.

Complainant argued that the conviction was a crime "arising from or occurring during patient care, treatment, management or billing" and asked that respondent be placed on probation for seven years consistent with terms and conditions consistent with the board's disciplinary guidelines.

LEGAL CONCLUSIONS

Applicable Law Regarding Standard and Burden of Proof

1. The standard of proof required is "clear and convincing evidence." (*Ettinger v. Board of Medical Quality Assurance* (1982) 135 Cal.App.3d 853, 856.) The obligation to establish charges by clear and convincing evidence is a heavy burden. It requires a finding of high probability; it is evidence so clear as to leave no substantial doubt, or sufficiently

strong evidence to command the unhesitating assent of every reasonable mind. (*Christian Research Institute v. Alnor* (2007) 148 Cal.App.4th 71, 84.)

Applicable Statutes and Regulation

2. Business and Professions Code section 2227, subdivision (a), states:

> 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) 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 the discipline as part of an order of probation, as the board or an administrative law judge may deem proper.

3. Business and Professions Code section 2234 requires the board to take action against a licensee charged with unprofessional conduct. Unprofessional conduct includes, among other things, violating any provision of the Medical Practice Act. (Bus. & Prof. Code, § 2234, subd. (a).) Unprofessional conduct is not limited to specific, identified conduct. It includes conduct that breaches the rules or ethical code of a licensee's profession or conduct that is unbecoming of a physician in good standing and demonstrates an unfitness to practice medicine. (*Shea v. Board of Medical Examiners* (1978) 81 Cal.App.3d 564, 575.)

Conviction of a crime that is substantially related to the qualifications, functions, or duties of a physician is unprofessional conduct and grounds for discipline. (Bus. & Prof. Code, §§ 490, subd. (a) and 2236.)

4. California Code of Regulations, title 16, section 1360, provides that a crime or act is substantially related to the qualifications, functions, or duties of a physician and

surgeon if to a substantial degree it evidences present or potential unfitness to perform the functions of a physician and surgeon.

Statute Respondent Violated

5. Business and Profession Code section 2052 provides as follows:

> (a) Notwithstanding Section 146, any person who practices or attempts to practice, or who advertises or holds himself or herself out as practicing, any system or mode of treating the sick or afflicted in this state, or who diagnoses, treats, operates for, or prescribes for any ailment, blemish, deformity, disease, disfigurement, disorder, injury, or other physical or mental condition of any person, without having at the time of so doing a valid, unrevoked, or unsuspended certificate as provided in this chapter or without being authorized to perform the act pursuant to a certificate obtained in accordance with some other provision of law is guilty of a public offense, punishable by a fine not exceeding ten thousand dollars ($10,000), by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code, by imprisonment in a county jail not exceeding one year, or by both the fine and either imprisonment.
>
> (b) Any person who conspires with or aids or abets another to commit any act described in subdivision (a) is guilty of a public offense, subject to the punishment described in that subdivision.
>
> (c) The remedy provided in this section shall not preclude any other remedy provided by law.

First Cause for Discipline

6. Cause exists under Business and Professions Code section 2236, subdivision (a), to take disciplinary action against respondent's license. Respondent's misdemeanor conviction for aiding and abetting Mr. Mandegari in the unlawful practice of medicine evidences, to a substantial degree, a present or potential unfitness to practice medicine in a manner consistent with the public health, safety or welfare and is substantially related to the qualifications, functions or duties of a physician and surgeon.

Second Cause for Discipline

7. Cause exists under Business and Professions Code section 2234, subdivision (a), to impose discipline against respondent's license. Respondent violated the Medical Practice Act as established by his conviction under Section 2052 for aiding and abetting

Mr. Mandegari in the unlawful practice of medicine between January 1, 2004, and December 31, 2009.

Third Cause for Discipline

8. Cause exists under Business and Professions Code 2234 to impose discipline against respondent's license for general unprofessional conduct. Respondent engaged in general unprofessional conduct when he aided and abetted Mr. Mandegari in the unlawful practice of medicine between January 1, 2004 and December 31, 2009. Respondent's conduct was unbecoming of a member in good standing of the medical profession. (*Shea v. Board of Medical Examiners* (1978) 81 Cal.App.3d 564, 575.)

Disciplinary Guidelines and Considerations

9. Regarding the degree of discipline to impose, it is determined that a five-year period of probation with terms and conditions consistent with the board's Guidelines will ensure public protection for the following reasons:

Respondent has been practicing medicine for over 40 years and has no history of discipline. Although the misdemeanor conviction is not remote in time, and respondent remains on probation until August 2018, the conduct that led to the conviction is not recent. Respondent indicated that he is willing to undertake board-ordered rehabilitation and he made restitution to the insurance companies for the improper billing, including restitution to one insurance company before he was criminally charged, which indicated an early acceptance of responsibility. Respondent's belief that he should not have been criminally convicted and his plea was "false" is not deemed an aggravating factor for purposes of imposing discipline considering the record as whole. Respondent is not required to make a false act of contrition in order to defend himself in this proceeding. (*Hall v. Committee of State Bar Examiners* (1979) 25 Cal.3d 730, 744-745.)

The question that now needs to be determined is the degree of discipline to impose. For purposes of applying the Guidelines, as discussed earlier in the Decision, it must first be decided whether respondent's substantially related conviction arose from or occurred "during patient care, treatment, management or billing." As the evidence of record showed, respondent's conviction for aiding and abetting Mr. Mandegari in the unlawful practice of medicine arose from patient care and management and the improper billing for skincare treatments between December 31, 2004, and January 1, 2009. Aiding and abetting the unlawful practice of medicine relates to the care and treatment of patients, and respondent improperly billed insurance companies over a four-year period for the treatments Mr. Mandegari provided. Respondent's objection to the conviction notwithstanding, respondent's conviction stands "as conclusive evidence of [respondent's] guilt of the offense[s] charged." (*Arneson v. Fox* (1980) 28 Cal.3d 440, 449.)

Accordingly, consistent with the Guidelines for a conviction that arose from or occurred "during patient care, treatment, management or billing," and based on the evidence

as a whole, the following terms and conditions are imposed against respondent's license: respondent's license is placed on probation for five years, respondent will be required to perform 50 hours of community service, take a professionalism course, submit to a billing monitor, and he will be prohibited from working with an aesthetician. The five-year period of probation represents a departure from the seven-year period the Guidelines recommend and is ordered considering the age of the conduct at issue and respondent's lack of disciplinary history over a long career. In addition, a solo practice prohibition is not necessary to ensure public protection considering respondent's lack of discipline over his long medical career, the facts at issue in this case, and the other terms and conditions of probation which will afford adequate public protection. Similarly, for these same reasons, 50 hours of community service is deemed appropriate and complainant's request that respondent complete 200 hours of community service is denied. Complainant's request that respondent be required to take additional education courses is also denied for these same reasons.

ORDER

Physician's and Surgeon's Certificate Number G26491, issued to respondent Ronald Keith McGee, M.D., is revoked. However, the revocation is stayed, and respondent is placed on probation for five years upon the following terms and conditions:

1. Community Service-Free Services

Within 60 calendar days of the effective date of this Decision, respondent shall submit to the Board or its designee for prior approval a community service plan in which respondent shall within the first 2 years of probation, provide 50 hours of free services (e.g., medical or nonmedical) to a community or non-profit organization.

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

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

2. Professionalism Program (Ethics Courses)

Within 60 calendar days of the effective date of this Decision, respondent shall enroll in a professionalism program, that meets the requirements of Title 16, California Code of Regulations (CCR) section 1358.1. Respondent shall participate in and successfully complete that program. Respondent shall provide any information and documents that the program may deem pertinent. Respondent shall successfully complete the classroom

component of the program not later than six (6) months after respondent's initial enrollment, and the longitudinal component of the program not later than the time specified by the program, but no later than one (1) year after attending the classroom component. The professionalism program shall be at respondent's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

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

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

3. Monitoring-Billing

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

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

Within 60 calendar days of the effective date of this Decision, and continuing throughout probation, respondent's billing shall be monitored by the approved monitor. Respondent shall make all records available for immediate inspection and copying on the premises by the monitor at all times during business hours and shall retain the records for the entire term of probation.

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

notified. Respondent shall cease the practice of medicine until a monitor is approved to provide monitoring responsibility.

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

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

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

4. Prohibited Practice

During probation, respondent is prohibited from hiring and/or working with and/or associating with any aestheticians. After the effective date of this Decision, all patients being treated by the respondent shall be notified that the respondent is prohibited from hiring and/or working with and/or associating with any aestheticians. Any new patients must be provided this notification at the time of their initial appointment.

Respondent shall maintain a log of all patients to whom the required oral notification was made. The log shall contain the: 1) patient's name, address and phone number; 2) patient's medical record number, if available; 3) the full name of the person making the notification; 4) the date the notification was made; and 5) a description of the notification given. Respondent shall keep this log in a separate file or ledger, in chronological order, shall make the log available for immediate inspection and copying on the premises at all times during business hours by the Board or its designee, and shall retain the log for the entire term of probation.

5. Notification

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

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

6. Supervision of Physician Assistants and Advanced Practice Nurses

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

7. 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.

8. Quarterly Declarations

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

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

9. General Probation Requirements

Compliance with Probation Unit

Respondent shall comply with the board's probation unit.

Address Changes

Respondent shall, at all times, keep the board informed of respondent's business and residence addresses, email address (if available), and telephone number. Changes of such addresses shall be immediately communicated in writing to the board or its designee. Under

no circumstances shall a post office box serve as an address of record, except as allowed by Business and Professions Code section 2021, subdivision (b).

Place of Practice

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

License Renewal

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

Travel or Residence Outside California

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

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

10. Interview with the Board or its Designee

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

11. Non-practice While on Probation

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

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

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

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

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

12. Completion of Probation

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

13. Violation of Probation

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

14. License Surrender

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

15. 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.

DATED: March 13, 2018

DocuSigned by:
Abraham Levy
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ABRAHAM M. LEVY
Administrative Law Judge
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FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO November 28, 2016
BY: [illegible] ANALYST

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

In the Matter of the Accusation Against: **Ronald Keith McGee, M.D.** **3553 Camino Mira Costa, Suite A** **San Clemente, CA 92672** **Physician's and Surgeon's Certificate No. G26491** Respondent.	Case No. 8002013001109 **ACCUSATION**

Complainant alleges:

PARTIES

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

2. On or about March 20, 1974, the Medical Board issued Physician's and Surgeon's Certificate Number G26491 to Ronald Keith McGee, M.D. (respondent). The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought herein, and will expire on November 30, 2018, unless renewed.

JURISDICTION

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

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

5. Section 2234 of the Code states, in pertinent part:

"The board shall take action against any licensee who is charged with unprofessional conduct.[1] 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.

"..."

6. Section 2236 of the Code states:

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

"(b) The district attorney, city attorney, or other prosecuting agency shall notify the Division of Medical Quality of the pendency of an action against a licensee charging a felony or misdemeanor immediately upon obtaining

[1] Unprofessional conduct under California Business and Professions Code section 2234 is conduct which breaches the rules of ethical code of the medical profession, or conduct which is unbecoming to a member in good standing of the medical profession, and which demonstrates an unfitness to practice medicine. (*Shea v. Board of Medical Examiners* (1978) 81 Cal.App.3d 564, 575.)

information that the defendant is a licensee. The notice shall identify the licensee and describe the crimes charged and the facts alleged. The prosecuting agency shall also notify the clerk of the court in which the action is pending that the defendant is a licensee, and the clerk shall record prominently in the file that the defendant holds a license as a physician and surgeon.

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

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

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

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

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FIRST CAUSE FOR DISCIPLINE

(Conviction of a Crime Substantially related to the Qualifications, Functions, or Duties of a Physician and Surgeon)

8. Respondent has subjected his Physician's and Surgeon's Certificate No. G26491 to disciplinary action under sections 2227 and 2234, as defined by section 2236, of the Code, in that he has been convicted of a crime substantially related to the qualifications, functions, or duties of a physician and surgeon. The circumstances are as follows:

9. On or about December 6, 2013, a criminal complaint was filed against respondent in the case entitled *The People of the State of California v. Ronald Keith McGee et al., Superior Court of California, County of Orange*, Case No. 13CF3822, charging respondent with the following counts:

A. Count 1–6

On or about and between January 1, 2004 and December 31, 2009, in violation of Section 550(a)(6) of the Penal Code (MEDICAL INSURANCE FRAUD), a FELONY, respondent, Eva Marie Gentile, David Ray Zachary, John Frederick Gentile, and Amirshahin Mandegari, with the intent to defraud, did knowingly and unlawfully make and cause to be made a false and fraudulent claim to various insurance companies for payment of a health care benefit in an amount exceeding four hundred dollars ($400), and did aid and abet, solicit, and conspire with another to do the same.

B. Count 7

On or about and between January 1, 2004 and May 26, 2011, in violation of Section 182(a)(1) of the Penal Code (CONSPIRACY TO COMMIT A CRIME), a FELONY, respondent, Eva Marie Gentile, David Ray Zachary, John Frederick Gentile, and Amirshahin Mandegari did unlawfully conspire together and with another person, whose identity is unknown, to commit the crime of CONSPIRING IN, AIDING AND ABETTING THE UNAUTHORIZED PRACTICE OF MEDICINE, in violation of Section 2052(b) of the Business and Professions Code.

C. Count 8

On or about September 1, 2015, Count 8 was added by interlineation, which stated:

On or about and between January 1, 2004 and December 31, 2009, in violation of Section 2052(b) of the Business and Professions Code (AIDING AND ABETTING UNAUTHORIZED PRACTICE OF MEDICINE), a MISDEMEANOR, respondent, willfully and unlawfully conspired with Dr. Eva Gentile, Dr. David Zachary, and Dr. John Gentile to aid and abet Amirshahin Mandegari in the unlawful practice of medicine.

D. Special Allegations

a) It is further alleged pursuant to Penal Code section 186.11(a)(1)/(3) (AGGRAVATED WHITE COLLAR CRIME – OVER $100,000), that as to counts 1, 2, 3, 4, 5, and 6, respondent, Eva Marie Gentile, David Ray Zachary, John Frederick Gentile, and Amirshahin Mandegari engaged in a pattern of related fraudulent felony conduct involving the taking of more than one hundred thousand dollars ($100,000) but less than five hundred thousand dollars ($500,000).

b) As to Count(s) 1, 2, 3, 4, 5, and 6, it is further alleged pursuant to Penal Code section 12022.6(a)(1) (PROPERTY DAMAGE / LOSS OVER $65,000), that respondent, Eva Marie Gentile, David Ray Zachary, John Frederick Gentile, and Amirshahin Mandegari intentionally took, damaged, and destroyed property valued in excess of sixty-five thousand dollars ($65,000) during the commission and attempted commission of the above offense;

E. On or about September 1, 2015, respondent pled guilty to count 8. The rest of the counts and special allegations were dismissed by the People of the State of California.

F. On or about September 1, 2015, respondent was sentenced to, among other things, 80 hours of voluntary free medical care, restitution totaling $10,555.10 to the victims, including on dismissed counts, three (3) years of probation, and

various fines and fees.

SECOND CAUSE FOR DISCIPLINE

(Violation of the Medical Practice Act)

10. Respondent has further subjected his Physician's and Surgeon's Certificate No. G26491 to disciplinary action under sections 2227 and 2234, as defined by section 2234, subdivision (a), of the Code, in that he has violated or attempted to violate, directly or indirectly, or assisted in or abetted the violation of, or conspired to violate a provision of the Medical Practices Act, as more particularly alleged hereinafter:

(a) Paragraphs 8 through 9, above, are hereby incorporated by reference and realleged as if fully set forth herein.

THIRD CAUSE FOR DISCIPLINE

(General Unprofessional Conduct)

11. Respondent has further subjected his Physician's and Surgeon's Certificate No. G26491 to disciplinary action under sections 2227 and 2234, as defined by section 2234 of the Code, in that he has engaged in conduct which breaches the rules or ethical code of the medical profession, or conduct which is unbecoming to a member in good standing of the medical profession and which demonstrates an unfitness to practice medicine, as more particularly alleged hereinafter:

(a) Paragraphs 8 through 10, above, are hereby incorporated by reference and realleged as if fully set forth herein.

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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 G26491, issued to Ronald Keith McGee, M.D.

2. Revoking, suspending or denying approval of Ronald Keith McGee, M.D.'s authority to supervise physician assistants, pursuant to section 3527 of the Code;

3. Ordering Ronald Keith McGee, M.D., if placed on probation, to pay the Board the costs of probation monitoring; and

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

DATED: November 28, 2016

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