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

In the Matter of the Case Against: **Laura E. Diana, M.D.** **1493 Glenmar Dr.** **Pottstown, PA 19465-7815** **Physician's and Surgeon's** **Certificate No. G 75508** **Respondent.**	**Case No. 800-2019-054515** **STIPULATION FOR SURRENDER OF LICENSE**

TO ALL PARTIES:

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

1. Complainant, Kimberly Kirchmeyer, is the Executive Director of the Medical Board of California, Department of Consumer Affairs ("Board").

2. Laura E. Diana, M.D. ("Respondent") has carefully read and fully understands the effect of this Stipulation.

3. Respondent agrees that based on the action taken by the Pennsylvania State Board of Medicine, (Exhibit A) cause exists to discipline her California Physician's and Surgeon's certificate pursuant to Business and Professions Code sections 141(a) and 2305.

4. Respondent understands that, if proven at hearing, the charges and allegations under investigation would constitute cause for imposing discipline upon Respondent's license issued by the Board.

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5. Respondent is aware of each of her rights, including the right to a hearing, the right to confront and cross-examine witnesses who would testify against Respondent, the right to testify and present evidence on her own behalf, as well as to the issuance of subpoenas to compel the attendance of witnesses and the production of documents, the right to contest any charges and allegations, and other rights which are accorded Respondent pursuant to the California Administrative Procedure Act (Gov. Code, §11500 et seq.) and other applicable laws, including the right to seek reconsideration, review by the superior court, and appellate review.

6. In order to avoid the expense and uncertainty of a hearing, Respondent freely and voluntarily waives each and every one of these rights set forth above. Respondent hereby agrees to surrender Physician's and Surgeon's Certificate No. G 75508.

7. Respondent understands that by signing this Stipulation she is enabling the Board to accept the surrender of her license without further process, as provided by section 11415.60(b) of the Government Code.

8. Upon acceptance of the Stipulation by the Board, Respondent understands that she will no longer be permitted to practice as a Physician and Surgeon in California, and also agrees to surrender and cause to be delivered to the Board both her license and wallet certificate before the effective date of the Decision.

9. Respondent hereby represents that she does not intend to seek relicensure or reinstatement as a Physician and Surgeon. Respondent fully understands and agrees, however, that if Respondent ever files an application for relicensure or reinstatement in the State of California, the Board shall treat it as a Petition for Reinstatement, and the Respondent must comply with all the laws, regulations and procedures for reinstatement of a revoked license in effect at the time the Petition is filed. Case Report No. 800-2019-054515, including all referenced attachments and other exhibits, and any additional attachments, and other exhibits, that may be generated subsequent to the filing of the surrender of license, shall be admissible as direct evidence, and any time based defenses, such as laches or any applicable statute of limitations, shall be waived when the Board determines whether to grant or deny the Petition.

10. Respondent understands that this document may be disclosed to the public, and/or the National Practitioner Data Bank and/or the Federation of State Medical Boards.

ACCEPTANCE

I, Laura E. Diana, M.D., have carefully read the above Stipulation and enter into it freely and voluntarily, with the full knowledge of its force and effect, do hereby surrender Physician's and Surgeon's Certificate No. G 75508, to the Medical Board of California. By signing this Stipulation for Surrender of License, I recognize that upon its formal acceptance by the Board, I will lose all rights and privileges to practice as a Physician and Surgeon in the State of California, and I also will cause to be delivered to the Board both my license and wallet certificate before the effective date of the Decision.

Laura E. Diana, M.D.
Respondent

Date 5/11/2019

Attorney or Witness

Date 5/11/2019

Kimberly Kirchmeyer
Executive Director
Medical Board of California

Date May 21, 2019

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Exhibit A

PROTHONOTARY
2019 MAR 19 AM 8:21
Department of State

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
BEFORE THE STATE BOARD OF MEDICINE

Commonwealth of Pennsylvania **Bureau of Professional and** **Occupational Affairs** **vs.** **Laura Elizabeth Diana, M.D.,** **Respondent**	**File No.:** **18-49-02317**

CONSENT AGREEMENT AND ORDER

PARTIES

The Commonwealth of Pennsylvania, Department of State, Bureau of Professional and Occupational Affairs ("Commonwealth") and **Laura Elizabeth Diana, M.D.** ("Respondent") stipulate as follows in settlement of the above-captioned case.

APPLICABLE LAW

1. This matter is before the State Board of Medicine ("Board") pursuant to the Medical Practice Act of 1985, act of December 20, 1985, P.L. 457, No. 112, ("Act"), *as amended*, 63 P.S. §§ 422.1-422.53; the Medical Care Availability and Reduction of Error ("Mcare") Act, Act of March 20, 2002, P.L. 154, No. 13, *as amended*, 40 P.S. §§ 1303.101-1303.910; and/or the Act of July 2, 1993, P.L. 345, No. 48 ("ACT 48"), *as amended*, 63 P.S. §§ 2201-2207.

LICENSURE STATUS

2. At all relevant and material times, Respondent held the following license to practice as a medical physician and surgeon in the Commonwealth of Pennsylvania: license no. MD447027, which was originally issued on September 12, 2012, and which expired on December 31, 2018.

STIPULATED FACTS

3. The Respondent admits that the following allegations are true:

a. Absent further Board action, Respondent's license may be continually reactivated, renewed, or reinstated upon the filing of the appropriate documentation and payment of the necessary fees.

b. Respondent's last known office address, as on file with the Board is: 1493 Glenmar Dr., Pottstown, PA 19465.

c. Respondent has previously been charged with Driving Under the Influence.

d. Respondent was offered participation in the Voluntary Recovery Program (VRP), and admits to an on-going problem with alcohol; however, before finalizing her enrollment, Respondent relapsed. Following her relapse, Respondent failed to follow recommendations of the VRP, notably, the recommendation to attend long term treatment and maintain sober living.

e. On or about October 25, 2018, the Probable Cause Screening Committee of the State Board of Medicine[1] (PCSC) issued an Order Compelling Respondent to submit to a Mental and Physical Examination with Dr. Richard M. Sobel, M.D. (Dr. Sobel).

f. On or about November 28, 2018, Dr. Sobel evaluated Respondent pursuant to the order of the PCSC.

g. Dr. Sobel diagnosed Respondent with alcohol use disorder-severe.

[1] The PCSC consisted of Paul J. Valigorsky, MD, Joseph Losee, MD and John M. Mitchell, L.P., C.C.P.

h. Respondent suffers from a history of multiple relapses when dealing with stressful situations.

i. Dr. Sobel has opined that Respondent is not safe to hold an unlimited license to practice medicine unless she is monitored.

j. Respondent is unable to safely and competently practice medicine and surgery with reasonable skill and safety to patients.

ALLEGED VIOLATIONS

4. The Commonwealth alleges that the Board is authorized to suspend, revoke, or otherwise restrict Respondent's license under Sections 41 and 42 of the Act, 63 P.S. §§ 422.41 & 422.42; and/or impose a civil penalty upon Respondent under Sections 39 through 42 of the Act, 63 P.S. §§ 422.39-422.42, and /or Section 5(b)(4) of ACT 48, 63 P.S. § 2205(b)(4); and/or impose the costs of investigation upon Respondent under Section 5(b)(5) of ACT 48, 63 P.S. § 2205(b)(5), because Respondent violated the Act at:

a. Section 41(5) of the Act, 63 P.S. § 422.41(5) as Respondent is unable to practice with reasonable skill and safety to patients by reason of illness, addiction to drugs or alcohol.

PROPOSED ORDER

5. The parties, intending to be legally bound, consent to the issuance of the following Order in settlement of this matter:

a. The Board finds that it is authorized to suspend, revoke, or otherwise restrict Respondent's license under Sections 41 and 42 of the Act, 63 P.S. §§ 422.41 & 422.42; and/or impose a civil penalty upon Respondent under Sections 39 through 42 of the Act, 63 P.S. §§ 422.39-422.42, and/or Section 5(b)(4) of ACT 48, 63 P.S. § 2205(b)(4); and/or impose the costs of investigation upon

Respondent under Section 5(b)(5) of ACT 48, 63 P.S. § 2205(b)(5), because Respondent violated the Act at:

(1) Section 41(5) of the Act, 63 P.S. § 422.41(5) in that Respondent is unable to practice with reasonable skill and safety to patients by reason of illness, addition to drugs or alcohol.

PERMANENT VOLUNTARY SURRENDER

b. In consideration for not imposing other disciplinary sanctions (which could include the revocation of Respondent's license to practice as a medical physician and surgeon and the imposition of civil penalties), the Parties propose, and the Board hereby accepts, the **VOLUNTARY SURRENDER** of Respondent's license to practice as a medical physician and surgeon in the Commonwealth of Pennsylvania, along with any other licenses, registrations, certificates, approvals, authorizations, or permits (hereinafter referred to collectively as "authorizations to practice the profession") issued by the Board to Respondent at the time this Consent Agreement is adopted by the Board. Respondent acknowledges that with the permanent voluntary surrender of her authorizations to practice the profession, Respondent is surrendering any and all property rights she may have in those authorizations to practice the profession and will no longer be eligible to renew those authorizations to practice the profession. As further stated consideration for the Commonwealth not seeking other disciplinary sanctions against Respondent, Respondent agrees to:

(1) cease practicing as a medical physician and surgeon in the Commonwealth on and after the effective

date of this Consent Agreement, and shall not indicate any ability to practice the profession in the Commonwealth in any manner whatsoever in the future,

(2) Unless otherwise specified in this agreement, Respondent agrees to not apply, at any time in the future, for the reactivation, reinstatement, reissuance, or the issuance of any authorization to practice issued by the Board and further directs that the board should not consider, and may deny without hearing, any application for an authorization to practice filed with the Board,

(3) not work as an unlicensed assistant to any person holding an authorization from the Board to practice the profession,

(4) not possess a controlling interest in any organization requiring an authorization from the Board to practice the profession,

(5) not possess a controlling interest in any organization whose employees require an authorization from the Board to practice the profession when conducting the business of the organization,

c. For purposes of this paragraph, the term 'controlling interest' shall include being an owner, officer, manager, director, partner, member, or associate,

as well as owning any quantity of outstanding corporate stock sufficient to control or direct the actions of the firm.

d. Respondent shall, within ten (10) days of adoption of this Consent Agreement and Order, surrender Respondent's wall certificate, biennial renewal certificate and wallet card (or notarized affidavit of their loss or destruction) by mailing them to:

Anita P. Shekletski
Senior Prosecutor in Charge
Bureau of Professional and Occupational Affairs
P.O. Box 69521
Harrisburg, PA 17106-9521

or by delivering them in person at:

Bureau of Professional and Occupational Affairs
One Penn Center
2601 North 3rd St.
Harrisburg, Pennsylvania

e. This Order constitutes disciplinary action by the Board and shall be reported to other licensing authorities and any applicable national licensing databank as a disciplinary action by the Board.

f. This case shall be deemed settled and discontinued upon the Board issuing an Order adopting this Consent Agreement.

REINSTATEMENT OF LICENSE

6. Respondent may petition the Board to reinstate Respondent's authorizations to practice the profession if Respondent can show, to the Board's satisfaction, she is in a period of sustained recovery and can safely and competently practice medicine. The Board may schedule a hearing and/or impose any terms or conditions it deems necessary.

ADMISSIBILITY OF CONSENT AGREEMENT IN FUTURE PROCEEDINGS

7. Respondent agrees that if Respondent is charged with a violation of an Act enforced by this Board in the future, this Consent Agreement and Order shall be admitted into evidence without objection in that proceeding.

ACKNOWLEDGMENT OF NOTICE AND WAIVER OF HEARING

8. Respondent waives the filing of an Order to Show Cause in this matter. Respondent knowingly and voluntarily waives the right to an administrative hearing in this matter, and knowingly and voluntarily waives the following rights related to that hearing: to be represented by counsel at the hearing; to present witnesses and testimony in defense or in mitigation of any sanction that may be imposed for a violation; to cross-examine witnesses and to challenge evidence presented by the Commonwealth; to present legal arguments by means of a brief; and to take an appeal from any final adverse decision.

ACKNOWLEDGMENT OF RIGHT TO ATTORNEY

9. Respondent acknowledges that she is aware that she has the right to consult with, and/or be represented by, private legal counsel of Respondent's choosing and at Respondent's expense when reviewing, considering and accepting the terms of this Consent Agreement. To the extent that Respondent is not represented by legal counsel, Respondent has knowingly elected to proceed without the assistance of legal counsel.

WAIVER OF CLAIM OF COMMINGLING AND OTHER CONSTITUTIONAL CLAIMS

10. Respondent expressly waives any constitutional rights and issues, such as commingling of prosecutorial and adjudicative functions by the Board or its counsel, which may arise or have arisen during the negotiation, preparation and/or presentation of this Consent Agreement. Respondent specifically agrees that if the Board rejects this agreement, it may assume that the facts and averments as alleged in this Consent Agreement are true and correct for

the limited purpose of recommending a sanction, based on those assumed facts, that would be acceptable to the Board before hearing the case. In the event that the Board does assume the facts and averments as alleged in this Consent Agreement are true for purposes of making a recommendation as to an acceptable sanction, such action shall not constitute commingling of prosecutorial and adjudicative functions by the Board or its counsel, and the Respondent expressly waives any constitutional rights and issues related to alleged commingling, bias, or violation of due process rights to have an unbiased and impartial adjudicator in any subsequent hearing. If a hearing is subsequently held, neither this Consent Agreement nor the proposed terms of settlement may be admitted into evidence and any facts, averments, and allegations contained in the Consent Agreement must be proven at hearing unless otherwise separately stipulated. This paragraph is binding on the participants even if the Board does not approve this Consent Agreement..

NO MODIFICATION OF ORDER

11. Respondent agrees, as a condition of entering into this Consent Agreement, not to seek modification at a later date of the Stipulated Order adopting and implementing this Consent Agreement without first obtaining the express written concurrence of the Prosecution Division.

AGREEMENT NOT BINDING ON OTHER PARTIES

12. The Office of General Counsel has approved this Consent Agreement as to form and legality; however, this Consent Agreement shall have no legal effect unless and until the Board issues the stipulated Order.

EFFECT OF BOARD'S REJECTION OF CONSENT AGREEMENT

13. Should the Board not approve this Consent Agreement, presentation to and consideration of this Consent Agreement and other documents and matters by the Board shall not prejudice the Board or any of its members from further participation in the adjudication of this

matter. This paragraph is binding on the participants even if the Board does not approve this Consent Agreement.

ENTIRE AGREEMENT

14. This agreement contains the whole agreement between the participants; provided however, that the captions printed in the various provisions of this agreement are for ease of reading only and are not to be interpreted as forming any part of this agreement. There are no other terms, obligations, covenants, representations, statements or conditions, or otherwise, of any kind whatsoever concerning this agreement.

AGREEMENT DOES NOT PREVENT ADDITIONAL DISCIPLINE BASED ON OTHER COMPLAINTS

15. Nothing in this Order shall preclude the Prosecution Division for the Commonwealth from filing charges or the Board from imposing disciplinary or corrective measures for violations or facts not contained in this Consent Agreement;

VERIFICATION OF FACTS AND STATEMENTS

16. Respondent verifies that the facts and statements set forth in this Consent Agreement are true and correct to the best of Respondent's knowledge, information and belief. Respondent understands that statements in this Consent Agreement are made subject to the criminal penalties of 18 Pa.C.S.A. §4904 relating to unsworn falsification to authorities.

Anita P. Shekletski
Senior Prosecutor in Charge

DATED: 2/14/19

Laura Elizabeth Diana, M.D.
Respondent

DATED: 02/10/2019

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
BEFORE THE STATE BOARD OF MEDICINE

Commonwealth of Pennsylvania **Bureau of Professional and Occupational Affairs** **vs.** **Laura Elizabeth Diana, M.D.,** **Respondent**	**File No.:** **18-49-02317**

ORDER

AND NOW, this day of 2019, the **STATE BOARD OF MEDICINE** ("Board") adopts and approves the foregoing Consent Agreement and incorporates the terms of paragraph 5, which shall constitute the Board's Order and is now issued in resolution of this matter.

This Order shall take effect immediately.

BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS

K. Kalonji Johnson
Acting Commissioner

BY ORDER:
STATE BOARD OF MEDICINE

Keith E. Loiselle
Chair

For the Commonwealth:

Anita P. Shekletski, Esquire
2601 North Third Street
P. O. Box 69521
Harrisburg, PA 17106-9521

Respondent:

Laura Elizabeth Diana, M.D.
1493 Glenmar Dr.
Pottstown, PA 19465

Date of mailing: