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

13 In the Matter of the Accusation Against:

Case No. 800-2016-025039

14 **RENEE M. DUPONT, M.D.**
15 **1011 Devonshire Dr., Ste. G**
Encinitas, CA 92024

OAH No. 2019041259

16 **Physician's and Surgeon's Certificate**
17 **No. A42799,**

STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER

18 Respondent.

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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. Kimberly Kirchmeyer (Complainant) is the Executive Director of the Medical Board
24 of California (Board). She brought this action solely in her official capacity and is represented in
25 this matter by Xavier Becerra, Attorney General of the State of California, by Christine A. Rhee,
26 Deputy Attorney General.

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2. Respondent Renee M. Dupont, M.D. (Respondent) is represented in this proceeding by attorney David M. Balfour Esq., whose address is: 1925 Palomar Oaks Way, Suite 220, Carlsbad, CA 92008.

3. On or about June 23, 1986, the Board issued Physician's and Surgeon's Certificate No. A42799 to Renee M. Dupont, M.D. (Respondent). Physician's and Surgeon's Certificate No. A42799 was in full force and effect at all times relevant to the charges brought in Accusation No. 800-2016-025039, and will expire on March 31, 2020, unless renewed.

JURISDICTION

4. Accusation No. 800-2016-025039 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 February 6, 2019. Respondent timely filed her Notice of Defense contesting the Accusation.

5. A true and correct copy of Accusation No. 800-2016-025039 is attached as Exhibit A and incorporated by reference herein.

ADVISEMENT AND WAIVERS

6. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 800-2016-025039. 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 her 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 her; the right to present evidence and to testify on her 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. Having had the benefit of counsel, Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

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14. The parties agree that copies of this Stipulated Settlement and Disciplinary Order, including copies of the signatures of the parties, may be used in lieu of original documents and signatures and, further, that such copies shall have the same force and effect as originals.

DISCIPLINARY ORDER

1. ALCOHOL - ABSTAIN FROM USE. Respondent shall abstain completely from the use of products or beverages containing alcohol.

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1 A professionalism program 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 program would have
4 been approved by the Board or its designee had the program 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 15 calendar days after successfully completing the program or not later
8 than 15 calendar days after the effective date of the Decision, whichever is later.

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

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

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

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

1 4. CLINICAL DIAGNOSTIC EVALUATIONS AND REPORTS: Within thirty (30)
2 calendar days of the effective date of this Decision, and on whatever periodic basis thereafter as
3 may be required by the Board or its designee, Respondent shall undergo and complete a clinical
4 diagnostic evaluation, including any and all testing deemed necessary, by a Board-appointed
5 board certified physician and surgeon. The examiner shall consider any information provided by
6 the Board or its designee and any other information he or she deems relevant, and shall furnish a
7 written evaluation report to the Board or its designee.

8 The clinical diagnostic evaluation shall be conducted by a licensed physician and surgeon
9 who holds a valid, unrestricted license, has three (3) years' experience in providing evaluations of
10 physicians and surgeons with substance abuse disorders, and is approved by the Board or its
11 designee. The clinical diagnostic evaluation shall be conducted in accordance with acceptable
12 professional standards for conducting substance abuse clinical diagnostic evaluations. The
13 evaluator shall not have a current or former financial, personal, or business relationship with
14 Respondent within the last five (5) years. The evaluator shall provide an objective, unbiased, and
15 independent evaluation. The clinical diagnostic evaluation report shall set forth, in the
16 evaluator's opinion, whether Respondent has a substance abuse problem, whether Respondent is a
17 threat to herself or others, and recommendations for substance abuse treatment, practice
18 restrictions, or other recommendations related to Respondent's rehabilitation and ability to
19 practice safely. If the evaluator determines during the evaluation process that Respondent is a
20 threat to herself or others, the evaluator shall notify the Board within twenty-four (24) hours of
21 such a determination.

22 In formulating his or her opinion as to whether Respondent is safe to return to either part-
23 time or full-time practice and what restrictions or recommendations should be imposed, including
24 participation in an inpatient or outpatient treatment program, the evaluator shall consider the
25 following factors: Respondent's license type; Respondent's history; Respondent's documented
26 length of sobriety (i.e., length of time that has elapsed since Respondent's last substance use);
27 Respondent's scope and pattern of substance abuse; Respondent's treatment history, medical

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1 history and current medical condition; the nature, duration and severity of Respondent's
2 substance abuse problem or problems; and whether Respondent is a threat to herself or the public.

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

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

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

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

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

27 5. NOTICE OF EMPLOYER OR SUPERVISOR INFORMATION. Within seven (7)
28 days of the effective date of this Decision, Respondent shall provide to the Board the names,

1 physical addresses, mailing addresses, and telephone numbers of any and all employers and
2 supervisors. Respondent shall also provide specific, written consent for the Board, Respondent's
3 worksite monitor, and Respondent's employers and supervisors to communicate regarding
4 Respondent's work status, performance, and monitoring.

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

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

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

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

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- (a) Its specimen collectors are either certified by the Drug and Alcohol Testing Industry Association or have completed the training required to serve as a collector for the United States Department of Transportation.
- (b) Its specimen collectors conform to the current United States Department of Transportation Specimen Collection Guidelines.
- (c) Its testing locations comply with the Urine Specimen Collection Guidelines published by the United States Department of Transportation without regard to the type of test administered.
- (d) Its specimen collectors observe the collection of testing specimens.
- (e) Its laboratories are certified and accredited by the United States Department of Health and Human Services.
- (f) Its testing locations shall submit a specimen to a laboratory within one (1) business day of receipt and all specimens collected shall be handled pursuant to chain of custody procedures. The laboratory shall process and analyze the specimens and provide legally defensible test results to the Board within seven (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.

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

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

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

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

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

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

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

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

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1 For purposes of this condition, the terms “biological fluid testing” and “testing” mean the
2 acquisition and chemical analysis of a Respondent’s urine, blood, breath, or hair.

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

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

12 7. SUBSTANCE ABUSE SUPPORT GROUP MEETINGS. Within thirty (30) days of
13 the effective date of this Decision, Respondent shall submit to the Board or its designee, for its
14 prior approval, the name of a substance abuse support group which she shall attend for the
15 duration of probation. Respondent shall attend substance abuse support group meetings at least
16 once per week, or as ordered by the Board or its designee. Respondent shall pay all substance
17 abuse support group meeting costs.

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

25 The facilitator shall provide a signed document to the Board or its designee showing
26 Respondent’s name, the group name, the date and location of the meeting, Respondent’s
27 attendance, and Respondent’s level of participation and progress. The facilitator shall report any

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1 unexcused absence by Respondent from any substance abuse support group meeting to the Board,
2 or its designee, within twenty-four (24) hours of the unexcused absence.

3 8. 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 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 9. VIOLATION OF PROBATION CONDITION FOR SUBSTANCE ABUSING
23 LICENSEES. Failure to fully comply with any term or condition of probation is a violation of
24 probation.

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

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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 she 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 she 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 10. 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 11. SUPERVISION OF PHYSICIAN ASSISTANTS AND ADVANCED PRACTICE
14 NURSES. During probation, Respondent is prohibited from supervising physician assistants and
15 advanced practice nurses.

16 12. 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 13. 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 10 calendar days after the end
23 of the preceding quarter.

24 14. GENERAL PROBATION REQUIREMENTS.

25 Compliance with Probation Unit

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

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1 Address Changes

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

7 Place of Practice

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

11 License Renewal

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

14 Travel or Residence Outside California

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

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

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

24 16. NON-PRACTICE WHILE ON PROBATION. Respondent shall notify the Board or
25 its designee in writing within 15 calendar days of any periods of non-practice lasting more than
26 30 calendar days and within 15 calendar days of Respondent's return to practice. Non-practice is
27 defined as any period of time Respondent is not practicing medicine as defined in Business and
28 Professions Code sections 2051 and 2052 for at least 40 hours in a calendar month in direct

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

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

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

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

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

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

26 18. VIOLATION OF PROBATION. Failure to fully comply with any term or condition
27 of probation is a violation of probation. If Respondent violates probation in any respect, the
28 Board, after giving Respondent notice and the opportunity to be heard, may revoke probation and

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

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

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

20 ACCEPTANCE

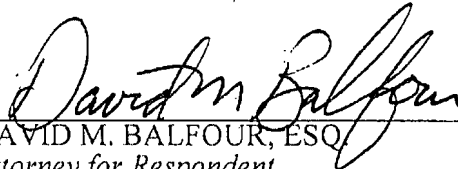
21 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
22 discussed it with my attorney, David M. Balfour, Esq. I understand the stipulation and the effect
23 it will have on my Physician's and Surgeon's Certificate. I enter into this Stipulated Settlement
24 and 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: 9/23/19

Renee M. Dupont MD
28 RENEE M. DUPONT, M.D.
Respondent

1 I have read and fully discussed with Respondent Renee M. Dupont, 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: 9/23/2019


6 DAVID M. BALFOUR, ESQ.
7 Attorney for Respondent

ENDORSEMENT

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

10 DATED: _____

Respectfully submitted,

11 XAVIER BECERRA
12 Attorney General of California
13 ALEXANDRA M. ALVAREZ
14 Supervising Deputy Attorney General

15 CHRISTINE A. RHEE
16 Deputy Attorney General
17 Attorneys for Complainant

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1 I have read and fully discussed with Respondent Renee M. Dupont, 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: _____

6 DAVID M. BALFOUR, ESQ.
7 *Attorney for Respondent*

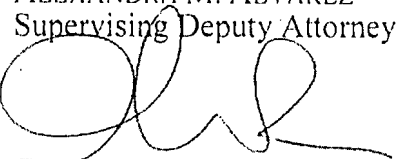
8 **ENDORSEMENT**

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

11 DATED: 9/24/19

12 Respectfully submitted,

13 XAVIER BECERRA
14 Attorney General of California
15 ALEXANDRA M. ALVAREZ
16 Supervising Deputy Attorney General

17 
18 CHRISTINE A. RHEE
19 Deputy Attorney General
20 *Attorneys for Complainant*

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Exhibit A

Accusation No. 800-2016-025039

1 XAVIER BECERRA
2 Attorney General of California
3 ALEXANDRA M. ALVAREZ
4 Supervising Deputy Attorney General
5 CHRISTINE A. RHEE
6 Deputy Attorney General
7 State Bar No. 295656
8 600 West Broadway, Suite 1800
9 San Diego, CA 92101
10 P.O. Box 85266
11 San Diego, CA 92186-5266
12 Telephone: (619) 738-9455
13 Facsimile: (619) 645-2061

14 *Attorneys for Complainant*

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO Feb. 6 20 19
BY ANALYST

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

29 In the Matter of the Accusation Against:

Case No. 800-2016-025039

30 **RENEE M. DUPONT, M.D.**
31 **1011 Devonshire Dr Ste G**
32 **Encinitas, CA 92024**

A C C U S A T I O N

33 **Physician's and Surgeon's Certificate**
34 **No. A42799,**

35 Respondent.

36 Complainant alleges:

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PARTIES

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

52 2. On or about June 23, 1986, the Medical Board issued Physician's and Surgeon's
53 Certificate No. A42799 to Renee M. Dupont, M.D. (Respondent). Physician's and Surgeon's
54 Certificate No. A42799 was in full force and effect at all times relevant to the charges brought
55 herein and will expire on March 31, 2020, unless renewed.

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 2227 of the Code states, in pertinent part:

“(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.

“(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.

“...”

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

“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.

“...”

1 6. Unprofessional conduct under Business and Professions Code section 2234 is conduct
2 which breaches the rules or ethical code of the medical profession, or conduct which is
3 unbecoming to a member in good standing of the medical profession, and which demonstrates an
4 unfitness to practice medicine. (*Shea v. Board of Medical Examiners* (1978) 81 Cal.App.3d 564,
5 575.)

6 7. Section 2236 of the Code states, in pertinent part:

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

11 “...

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

16 8. Section 2239 of the Code states:

17 “(a) The use or prescribing for or administering to himself or herself, of any
18 controlled substance; or the use of any of the dangerous drugs specified in Section
19 4022, or of alcoholic beverages, to the extent, or in such a manner as to be dangerous
20 or injurious to the licensee, or to any other person or to the public, or to the extent that
21 such use impairs the ability of the licensee to practice medicine safely or more than one
22 misdemeanor or any felony involving the use, consumption, or self-administration of
23 any of the substances referred to in this section, or any combination thereof, constitutes
24 unprofessional conduct. The record of the conviction is conclusive evidence of such
25 unprofessional conduct.

26 “(b) A plea or verdict of guilty or a conviction following a plea of nolo
27 contendere is deemed to be a conviction within the meaning of this section. The
28 Medical Board may order discipline of the licensee in accordance with Section 2227 or

1 the Medical Board may order the denial of the license when the time for appeal has
2 elapsed or the judgment of conviction has been affirmed on appeal or when an order
3 granting probation is made suspending imposition of sentence, irrespective of a
4 subsequent order under the provisions of Section 1203.4 of the Penal Code allowing
5 such person to withdraw his or her plea of guilty and to enter a plea of not guilty, or
6 setting aside the verdict of guilty, or dismissing the accusation, complaint, information,
7 or indictment.”

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

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

19 **FIRST CAUSE FOR DISCIPLINE**

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

21 10. Respondent has subjected her Physician’s and Surgeon’s Certificate No. A42799 to
22 disciplinary action under sections 2227 and 2234, as defined by section 2236, of the Code, in that
23 she has been convicted of a crime substantially related to the qualifications, functions, or duties of
24 a physician and surgeon, as more particularly alleged hereinafter:

25 11. On or about July 19, 2016 at approximately 1819 hours, San Diego Sheriff’s
26 Department Deputy C. saw Respondent’s car fail to properly stop at a stop sign. Deputy C.
27 followed Respondent, and observed Respondent’s car fail to maintain its lane of travel and stop
28 without cause on the road.

1 12. Deputy C. stopped Respondent's car, and Deputy M.P. interviewed Respondent.
2 Deputy M.P. asked Respondent how many drinks she had that day, and Respondent answered that
3 she had scotch. Respondent told Deputy M.P. that she thought she had two drinks.

4 13. Deputy M.P. checked Respondent's eyes for possible gaze nystagmus. He observed
5 that Respondent's eyes were bloodshot and watery, and that Respondent's eyes could not
6 smoothly follow the horizontal movement of his finger from side to side.

7 14. Deputy M.P. attempted to have Respondent perform field coordination tests. Because
8 Respondent had a difficult time maintaining her balance and standing, Deputy M.P. did not have
9 Respondent complete some of the tests.

10 15. Respondent was taken into custody, and she provided a blood sample at
11 approximately 2022 hours. The reported blood alcohol concentration for Respondent's blood
12 sample was 0.22 g/100 mL.

13 16. On or about August 9, 2016, in *The People of the State of California v. Renee Marie*
14 *Dupont*, San Diego Superior Court Case No. CN362702, Respondent was charged with the
15 following: (1) driving under the influence of an alcoholic beverage, a violation of Vehicle Code
16 section 23152, subdivision (a); and (2) driving while having 0.08 percent and more, by weight, of
17 alcohol in her blood, a violation of Vehicle Code section 23152, subdivision (b). It was further
18 alleged that Respondent had a blood alcohol concentration of 0.15 percent or more, pursuant to
19 Vehicle Code section 23578.

20 17. On or about September 23, 2016, Respondent pleaded guilty to one count of a
21 violation of Vehicle Code section 23152, subdivision (b), with the enhancement of Vehicle Code
22 section 23578. Respondent admitted to driving a vehicle while having a blood alcohol level
23 above 0.15 percent.

24 18. Respondent was sentenced to five (5) years summary probation with 30 days' custody
25 suspended pending successful completion of probation. Other terms and conditions of
26 Respondent's probation included the First Conviction Program, the MADD Program, 30 hours of
27 volunteer work, the standard alcohol conditions, and fines.

28 ///

(Use of Alcoholic Beverages to the Extent, or in a Manner, as to be Dangerous to Respondent, Another Person, or the Public)

THIRD CAUSE FOR DISCIPLINE **(Unprofessional Conduct)**

PRAYER

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

DATED: February 6, 2019


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

SD2018103722
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