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7

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

12 In the Matter of the Accusation Against:

13 **GARY PAUL YOUNG, M.D.**
14 **P.O. Box 5084**
Napa, CA 94581

15 **Physician's and Surgeon's Certificate No. G**
16 **42386**

17 Respondent.

Case No. 800-2016-022405

OAH No. 2019070604

STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER

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

21 **PARTIES**

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

26 2. Respondent Gary Paul Young, M.D. (Respondent) is represented in this proceeding
27 by attorney Robert B. Zaro, Esq., whose address is: 1315 "I" Street, Suite 200, Sacramento, CA
28 95814-2915.

3. On or about January 6, 2012, the Board issued Physician's and Surgeon's Certificate No. G 42386 to Gary Paul Young, M.D. The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought in Accusation No. 800-2016-022405, and will expire on September 30, 2021, unless renewed.

JURISDICTION

Accusation No. 800-2016-022405 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 November 1, 2018. Respondent timely filed his Notice of Defense contesting the Accusation.

4. A copy of Accusation No. 800-2016-022405 is attached as Exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 800-2016-022405. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

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

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

CULPABILITY

8. Respondent admits the truth of each and every charge and allegation in Accusation No. 800-2016-022405.

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

CONTINGENCY

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

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

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

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. G 42386 issued to Respondent GARY PAUL YOUNG, M.D. is revoked. However, the revocation is stayed and Respondent is placed on probation for four (4) years on the following terms and conditions.

1. CONTROLLED SUBSTANCES - ABSTAIN FROM USE. Respondent shall abstain completely from the personal use or possession of controlled substances as defined in the California Uniform Controlled Substances Act, dangerous drugs as defined by Business and Professions Code section 4022, and any drugs requiring a prescription. This prohibition does

1 not apply to medications lawfully prescribed to Respondent by another practitioner for a bona
2 fide illness or condition.

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

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

9 3. COMMUNITY SERVICE - FREE SERVICES. Within 60 calendar days
10 of the effective date of this Decision, Respondent shall submit to the Board or its designee for
11 prior approval a community service plan in which Respondent shall, within the first 2 years of
12 probation, provide 100 hours of free services (e.g., medical or nonmedical) to a community or
13 non-profit organization. If the term of probation is designated for 2 years or less, the community
14 service hours must be completed not later than 6 months prior to the completion of probation.

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

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

22 4. PROFESSIONALISM PROGRAM (ETHICS COURSE). Within 60
23 calendar days of the effective date of this Decision, Respondent shall enroll in a professionalism
24 program, that meets the requirements of Title 16, California Code of Regulations (CCR) section
25 1358.1. Respondent shall participate in and successfully complete that program. Respondent
26 shall provide any information and documents that the program may deem pertinent. Respondent
27 shall successfully complete the classroom component of the program not later than six (6) months
28 after Respondent's initial enrollment, and the longitudinal component of the program not later

1 than the time specified by the program, but no later than one (1) year after attending the
2 classroom component. The professionalism program shall be at Respondent's expense and shall
3 be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

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

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

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

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

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

1 period of probation shall be extended until the Board determines that Respondent is mentally fit
2 to resume the practice of medicine without restrictions.

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

4 6. MEDICAL EVALUATION AND TREATMENT. Within 30 calendar
5 days of the effective date of this Decision, and on a periodic basis thereafter as may be required
6 by the Board or its designee, Respondent shall undergo a medical evaluation by a Board-
7 appointed physician who shall consider any information provided by the Board or designee and
8 any other information the evaluating physician deems relevant and shall furnish a medical report
9 to the Board or its designee. Respondent shall provide the evaluating physician with any
10 information and documentation that the evaluating physician may deem pertinent.

11 Following the evaluation, Respondent shall comply with all restrictions or conditions
12 recommended by the evaluating physician within 15 calendar days after being notified by the
13 Board or its designee. If Respondent is required by the Board or its designee to undergo medical
14 treatment, Respondent shall within 30 calendar days of the requirement notice, submit to the
15 Board or its designee for prior approval the name and qualifications of a California licensed
16 treating physician of Respondent's choice. Upon approval of the treating physician, Respondent
17 shall within 15 calendar days undertake medical treatment and shall continue such treatment until
18 further notice from the Board or its designee.

19 The treating physician shall consider any information provided by the Board or its designee
20 or any other information the treating physician may deem pertinent prior to commencement of
21 treatment. Respondent shall have the treating physician submit quarterly reports to the Board or
22 its designee indicating whether or not the Respondent is capable of practicing medicine safely.
23 Respondent shall provide the Board or its designee with any and all medical records pertaining to
24 treatment that the Board or its designee deems necessary.

25 If, prior to the completion of probation, Respondent is found to be physically incapable of
26 resuming the practice of medicine without restrictions, the Board shall retain continuing
27 jurisdiction over Respondent's license and the period of probation shall be extended until the
28 Board determines that Respondent is physically capable of resuming the practice of medicine

1 without restrictions. Respondent shall pay the cost of all medical evaluations and treatment.

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

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

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

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 himself or herself or
3 the public.

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

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

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

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

27 Respondent shall comply with all restrictions or conditions recommended by the examiner
28 conducting the clinical diagnostic evaluation within fifteen (15) calendar days after being notified

1 by the Board or its designee.

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

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

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

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

27 Prior to practicing medicine, Respondent shall contract with a laboratory or service,
28 approved in advance by the Board or its designee, that will conduct random, unannounced,

1 observed, biological fluid testing and meets all of the following standards:

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

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

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

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

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

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

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

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

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

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

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

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 the 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 himself or herself a prohibited substance, the Board shall order Respondent to
17 cease practice and instruct Respondent to leave any place of work where Respondent is practicing
18 medicine or providing medical services. The Board shall immediately notify all of Respondent's
19 employers, supervisors and work monitors, if any, that Respondent may not practice medicine or
20 provide 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, his treating physicians,
27 other health care provider, or group facilitator, as applicable.

28 For purposes of this condition, the terms "biological fluid testing" and "testing" mean the

1 acquisition and chemical analysis of a Respondent's urine, blood, breath, or hair.

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

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

11 10. WORKSITE MONITOR FOR SUBSTANCE-ABUSING LICENSEE.

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

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

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

27 Respondent shall pay all worksite monitoring costs.

28 The worksite monitor shall have face-to-face contact with Respondent in the work

1 environment on as frequent a basis as determined by the Board or its designee, but not less than
2 once per week; interview other staff in the office regarding Respondent's behavior, if requested
3 by the Board or its designee; and review Respondent's work attendance.

4 The worksite monitor shall verbally report any suspected substance abuse to the Board and
5 Respondent's employer or supervisor within one (1) business day of occurrence. If the suspected
6 substance abuse does not occur during the Board's normal business hours, the verbal report shall
7 be made to the Board or its designee within one (1) hour of the next business day. A written
8 report that includes the date, time, and location of the suspected abuse; Respondent's actions; and
9 any other information deemed important by the worksite monitor shall be submitted to the Board
10 or its designee within 48 hours of the occurrence.

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

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

responsibility.

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

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

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

(2) Increase the frequency of biological fluid testing.

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

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

(1) Issue a cease-practice order;

(2) Order practice limitations;

(3) Order or increase supervision of Respondent;

(4) Order increased documentation;

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

(6) Order Respondent to undergo a clinical diagnostic evaluation to be conducted in

1 accordance with section 1361.5, subdivision (c)(1), of Title 16 of the California Code of
2 Regulations, at Respondent's expense;

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

4 C. Nothing in this Decision shall be considered a limitation on the Board's authority
5 to revoke Respondent's probation if he or she has violated any term or condition of probation. If
6 Respondent violates probation in any respect, the Board, after giving Respondent notice and the
7 opportunity to be heard, may revoke probation and carry out the disciplinary order that was
8 stayed. If an Accusation, or Petition to Revoke Probation, or an Interim Suspension Order is filed
9 against Respondent during probation, the Board shall have continuing jurisdiction until the matter
10 is final, and the period of probation shall be extended until the matter is final.

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

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

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

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

26 15. QUARTERLY DECLARATIONS. Respondent shall submit quarterly
27 declarations under penalty of perjury on forms provided by the Board, stating whether there has
28 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.

16. 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(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.

17. 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.

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

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

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

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

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

27 19. COMPLETION OF PROBATION. Respondent shall comply with all
28 financial obligations (e.g., restitution, probation costs) not later than 120 calendar days prior to

1 the completion of probation. Upon successful completion of probation, Respondent's certificate
2 shall be fully restored.

3 20. VIOLATION OF PROBATION. Failure to fully comply with any term or
4 condition of probation is a violation of probation. If Respondent violates probation in any
5 respect, the Board, after giving Respondent notice and the opportunity to be heard, may revoke
6 probation and carry out the disciplinary order that was stayed. If an Accusation, or Petition to
7 Revoke Probation, or an Interim Suspension Order is filed against Respondent during probation,
8 the Board shall have continuing jurisdiction until the matter is final, and the period of probation
9 shall be extended until the matter is final.

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

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

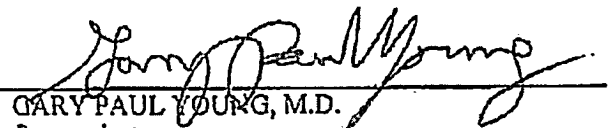
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26 ///

27 ///

ACCEPTANCE

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

DATED: 11-26-19
GARY PAUL YOUNG, M.D.
Respondent

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

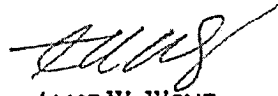
DATED: 11/26/19
ROBERT B. ZARO, ESQ.
Attorney for RespondentENDORSEMENT

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

DATED: 11/27/2019

Respectfully submitted,

XAVIER BECERRA
Attorney General of California
MARY CAIN-SIMON
Supervising Deputy Attorney General


ALICE W. WONG
Deputy Attorney General
Attorneys for Complainant

SF2018201370

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FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO 12/1 20 18
BY [Signature] ANALYST

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

12 In the Matter of the Accusation Against:

Case No. 800-2016-022405

13 **Gary Paul Young, M.D.**
14 **P.O. Box 5084**
15 **Napa, CA 94581**

ACCUSATION

16 **Physician's and Surgeon's Certificate**
17 **No. G 42386,**

Respondent.

18
19 Complainant alleges:

20 **PARTIES**

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

24 2. On or about January 6, 2012, the Medical Board issued Physician's and Surgeon's
25 Certificate Number G 42386 to Gary Paul Young, M.D. (Respondent). The Physician's and
26 Surgeon's Certificate was in full force and effect at all times relevant to the charges brought
27 herein and will expire on September 30, 2019, unless renewed.
28

JURISDICTION

3. This Accusation is brought before the Board, under the authority of the following laws. All section references are to the Business and Professions Code 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, or such other action taken in relation to discipline as the Board deems proper.

5. Section 2234 of the Code, states:

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

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

"(b) Gross negligence.

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

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

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

"(d) Incompetence.

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

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

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

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

8 6. Section 2236 of the Code states:

9 “(a) The conviction of any offense substantially related to the qualifications, functions, or
10 duties of a physician and surgeon constitutes unprofessional conduct within the meaning of this
11 chapter. The record of conviction shall be conclusive evidence only of the fact that the conviction
12 occurred.

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

16 7. Section 2239 of the Code states:

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

25 “(b) A plea or verdict of guilty or a conviction following a plea of nolo contendere is
26 deemed to be a conviction within the meaning of this section. The Medical Board may order
27 discipline of the licensee in accordance with Section 2227 or the Medical Board may order the
28 denial of the license when the time for appeal has elapsed or the judgment of conviction has been

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

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

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

16 9. California Vehicle Code Section 23152 states:

17 “(a) It is unlawful for a person who is under the influence of any alcoholic beverage to
18 drive a vehicle.”

19 “(b) It is unlawful for a person who has a 0.08 percent or more, by weight, of alcohol in his
20 or her blood to drive a vehicle. ...”

21 10. California Vehicle Code Section 23538(b)(2) states:

22 “The court shall refer a first offender whose blood-alcohol concentration was .20 percent or
23 more, by weight, or who refused to take a chemical test, to participate for at least nine months or
24 longer, as ordered by the court, in a licensed program that consists of at least 60 hours of program
25 activities including those education, group counseling, and individual interview sessions
26 described in Chapter 9 (commencing with Section 11836) of Part 2 Division 10.5 of the Health
27 and Safety Code.”

CAUSE FOR DISCIPLINE

(Unprofessional Conduct, Criminal Conviction of a Crime, and Dangerous Use of Alcohol)

11. Respondent is subject to disciplinary action under section 2234 (unprofessional conduct), and/or section 2236 and California Code of Regulations, title 16, section 1360 (criminal conviction), and /or section 2239 (dangerous use of alcohol), in that on or about August 15, 2016, in a criminal proceeding entitled *People of the State of California v. Gary Paul Young* in the Orange County Superior Court, Case Number 16NM08417, Respondent was convicted by a guilty plea to violating California Vehicle Code Section 23152(a), a misdemeanor offense, and admitting an allegation of the California Vehicle Code Section 23538 (b)(2), driving with a high blood alcohol concentration (BAC) of .20 percent or higher. The circumstances are as follows:

- a. On or about April 22, 2016, at approximately 7:00 p.m., in Anaheim, California, Respondent was arrested for driving under the influence of alcohol after a witness observed Respondent drive erratically, nearly colliding into multiple vehicles, speeding and slowing down suddenly before exiting the freeway. The witness followed Respondent's vehicle where he observed Respondent pull into a driveway and then fall out of the vehicle unto the ground.
- b. Anaheim Police Officers responded and found Respondent laying face down next to the driver's side of the vehicle and assisted Respondent into a seated position. Respondent had a strong odor of alcohol and was slurring his speech. Respondent was unable to stand without the assistance of the officers and was unable to perform field sobriety tests.
- c. Respondent provided a blood draw at 8:47 p.m. The result of the blood draw was a BAC of .27%.
- d. Respondent was charged by the Orange County District Attorney's Office with violating California Vehicle Code sections 23152(a), driving under the influence, and 23153 (b), driving with a BAC in excess of 0.08%. Additionally, Respondent was charged with the allegation of driving with a BAC in excess of 0.20%, pursuant to California Vehicle Code section 23538(b)(2).

1 e. On or about August 15, 2016, Respondent pleaded "no contest" to violating California
2 Vehicle Code section 23152(a) and admitted the allegation of Vehicle Code section
3 23538(b)(2). Respondent was sentenced by the court to fifteen (15) days in custody
4 with credit for one (1) day served; three (3) years probation; a fine of \$2,024.00; and a
5 nine (9) month DUI program.

6 12. Respondent engaged in unprofessional conduct, pursuant to section 2234 of the Code,
7 by virtue of the fact that Respondent drove a vehicle while under the influence of an excessive
8 amount of alcohol in a manner dangerous to Respondent and others in violation of section 2239
9 of the Code.

10 13. Respondent's criminal conviction for driving under the influence of alcohol, with a
11 BAC in excess of .20%, pursuant to California Vehicle Code sections 23152 and 23538 (b)(2), is
12 substantially related to the qualifications, functions and duties of a physician and surgeon, and
13 constitutes unprofessional conduct and cause for discipline pursuant to sections 2234 and 2236 of
14 the Code, and title 16, section 1360 of the California Code of Regulations.

15 **PRAYER**

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

- 18 1. Revoking or suspending Physician's and Surgeon's Certificate Number G 42386,
19 issued to Gary Paul Young, M.D.;
- 20 2. Revoking, suspending or denying approval of Gary Paul Young, M.D.'s authority to
21 supervise physician assistants and advanced practice nurses;
- 22 3. Ordering Gary Paul Young, M.D, if placed on probation, to pay the Board the costs of
23 probation monitoring; and
- 24 4. Taking such other and further action as deemed necessary and proper.

25 DATED: November 1, 2018

26 
27 KIMBERLY KIRCHMEYER, Executive Director
28 Medical Board of California
Department of Consumer Affairs
State of California
Complainant