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

In the Matter of the Accusation Against: Michael Douglas Moran, M.D. Physician's and Surgeon's Certificate No. A 62602 Respondent.	Case No. 800-2019-054036

DECISION

The attached Proposed Decision is hereby adopted as the Decision and Order of the Medical Board of California, Department of Consumer Affairs, State of California.

This Decision shall become effective at 5:00 p.m. on December 11, 2020.

IT IS SO ORDERED: November 12, 2020.

MEDICAL BOARD OF CALIFORNIA

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

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

In the Matter of the Accusation Against:

MICHAEL DOUGLAS MORAN, M.D.,

Physician's and Surgeon's Certificate No. A 62602

Respondent.

Case No. 800-2019-054036

OAH No. 2020070038

PROPOSED DECISION

Administrative Law Judge Juliet E. Cox, State of California, Office of Administrative Hearings, heard this matter on August 6, 2020, by videoconference and telephone.

Deputy Attorney General Carolyne Evans represented complainant William J. Prasifka, Executive Director of the Medical Board of California

Attorney Raymond McMahon represented respondent Michael Douglas Moran, M.D., who was present for the hearing.

The matter was submitted for decision on August 6, 2020.

FACTUAL FINDINGS

1. Respondent Michael Douglas Moran, M.D., currently holds Physician's and Surgeon's Certificate No. A 62602. The Medical Board of California (CA Board) issued this certificate June 6, 1997, and it was current and active at the time of the hearing.

2. On June 8, 2020, acting in her official capacity as Interim Executive Director of the CA Board, Christine J. Lally filed an accusation against respondent. Complainant William J. Prasifka later replaced Lally as the CA Board's Executive Director. Complainant alleges that the Arizona Medical Board (AZ Board) has disciplined respondent's license to practice medicine in Arizona, and that this Arizona order constitutes cause to discipline respondent's California physician's and surgeon's certificate. Respondent requested a hearing.

Experience and Professional History

3. Respondent graduated from medical school in June 1988. He completed residencies in internal medicine and interventional cardiology.

4. As a board-certified interventional cardiologist, respondent has practiced primarily in Southern California since 1997.

5. Respondent also holds an active license to practice medicine in Arizona. He has not practiced medicine regularly in Arizona but has served as a temporary physician there.

Arizona Complaint and Disciplinary Orders

6. In January 2019, respondent worked for a week at a hospital in Bullhead City, Arizona, as an on-call interventional cardiologist substituting temporarily for a physician who was on vacation. The week's work was unusually busy and stressful, even by comparison to a typical on-call week for an interventional cardiologist.

7. Respondent stayed in a hotel while he was in Bullhead City. He spent all day at the hospital, returning to his hotel every evening. Every night during the week he was on call, respondent had to answer multiple calls, some of which required him to return to the hospital to render urgent care.

8. Respondent understood that the vacationing physician would be home by the last day of respondent's temporary work week. They had planned for respondent to remain on call overnight, however, and for the vacationing physician to return to work at the hospital in the early morning the next day.

9. By the evening of his last day on call, respondent felt too mentally and physically tired to respond to calls overnight. Respondent believed that he would not put any patients at risk if he declined to respond to calls that night, because he assumed that hospital staff members would call the vacationing physician if interventional cardiology services were necessary overnight but respondent could not perform them.

10. Respondent did not confirm that the physician who had been on vacation was willing to assume call duty that night, or was in an appropriate physical and mental condition to take calls safely. He also did not inform hospital staff members that they should call someone else instead of him for emergency cardiology consultation.

11. When he returned to his hotel, respondent ate a meal in the hotel restaurant, and drank at least one alcoholic drink before or with his meal. Afterward, respondent took a drink back to his room as well. Respondent fell asleep without finishing his nightcap. He testified that when he awoke at around 2:00 a.m. and could not fall asleep again, he finished the alcoholic drink he had brought to his room from the hotel restaurant.

12. Overnight, the hospital attempted to call respondent at least once, but he did not answer. Respondent believes that he missed these calls because he inadvertently had allowed his telephone battery to discharge fully. He did not explain what, if anything, he had planned to say or do if any hospital staff member had telephoned him successfully that night.

13. The next morning, respondent went to the hospital to finish some medical record-keeping and to brief the physician who was returning from vacation about the previous week. A hospital staff member believed that respondent smelled of alcohol. This belief, in addition to respondent's failure overnight to answer hospital calls, led the staff member to report respondent to the AZ Board, alleging that he had consumed alcohol while on call and that he had failed to respond to emergency calls.

14. Effective March 11, 2019, and upon respondent's consent, the AZ Board entered an interim order prohibiting respondent from practicing medicine in Arizona while the AZ Board investigated the allegations described in Finding 13.

15. Effective May 27, 2020, and also upon respondent's consent, the AZ Board entered a further interim order restoring respondent's authority to practice medicine in Arizona. This order restored respondent's authority to practice only on condition that he enroll and participate in the AZ Board's Physician Health Program for

one year. This order also requires respondent to abstain from alcohol and other unprescribed mood-altering drugs, although it requires him to confirm such abstinence with random testing only for one year after the order's effective date.

16. The order described in Finding 15 states that the AZ Board's investigation into the complaint described in Finding 13 is not complete, and that the interim order described in Finding 15 will remain in effect until the AZ Board completes the investigation and enters any final order regarding the allegations against respondent.

Psychological Evaluations

17. In March 2019, respondent met with Elena Volfson, M.D., a psychiatrist who evaluated respondent for the AZ Board. Dr. Volfson interviewed and examined respondent, and reviewed records that the AZ Board had provided to her.

18. Dr. Volfson's report states that respondent told her (consistent with his testimony at the hearing) that he "did not call anyone to take the shift for him" overnight at the end of his temporary work week in Bullhead City, and that he "did not communicate to the hospital that he could not work any more." Nevertheless, her report also states (emphasis original),

> It is still unclear to me what Dr. Moran's responsibilities were after 19:00 on 01/31/2019. If, as he claims, he "clocked out" and therefore was **off duty** after 19:00, I have no evidence to suggest that he had practiced medicine impaired. On the other hand, if he continued to be on duty after 19:00, did not respond to hospital pages and neglected his responsibilities then we have circumstantial

evidence that he drank two drinks while on duty and therefore needs to be monitored.

Dr. Volfson did not testify at the hearing to explain why respondent's statements left her uncertain as to whether he consumed alcohol during an evening and night when he had allowed hospital staff members to believe he would be on call for emergency cardiology services.

19. Dr. Volfson diagnosed a probable mild to moderate alcohol use disorder, but recommended to the AZ Board that respondent undergo a more thorough evaluation. He did so in April 2020, through Soberman's Estate in Arizona. He met with a four-person evaluation team (Thomas Gazda, M.D.; Suzie Matsura, R.N.; Frank Saverino, M.Ed.; and Tamara Causey, Ph.D.), who also reviewed a variety of reports and physical and psychological test results.

20. The Soberman's Estate evaluators noted that respondent has had two turbulent marriages in which substance abuse by his wives was a challenge. They also noted that "he tends to minimize personal issues in his life," and was reluctant "to disclose any information that might suggest he has some type of mental health diagnosis." Despite these observations, the evaluators assumed that respondent and his current wife were truthful in reporting to them that respondent used alcohol only infrequently and in small quantities, and concluded that he is unlikely to have an alcohol use disorder. Nevertheless, they recommended that respondent abstain from alcohol and undergo confirmatory monitoring for a year; this recommendation resulted in the order described above in Finding 15.

Additional Evidence

21. Respondent drank alcohol regularly until April 2020. Blood testing in March 2019 and in April 2020 confirmed that he did, although this testing could not confirm or refute respondent's reports about how often he drank alcohol or about how much alcohol he typically drank in a day or week.

22. To satisfy the monitoring requirement in the order described above in Finding 15, respondent agreed to participate for one year (beginning June 4, 2020) in a program through the Pacific Assistance Group (PAG), in California. He began undergoing random testing to confirm his abstinence from alcohol and unprescribed mood-altering drugs in mid-June 2020, and had received only negative results (indicating no drug or alcohol consumption) through the hearing date. Respondent's PAG agreement calls for him to attend at least one health professionals' support group each week (although he usually attends two), but does not require him to attend any other substance use disorder recovery groups.

23. Respondent's primary care physician, Paul Cassedy, M.D., provided a reference letter for respondent and testified at the hearing. In addition to primary care, Dr. Cassedy practices in addiction medicine. Dr. Cassedy has known respondent for about 20 years; he not only provides medical care to respondent but also refers patients to respondent for cardiology care. He does not believe that respondent abuses alcohol, and does believe that respondent is a highly skilled cardiologist and a strong patient advocate.

24. Respondent also provided reference letters from several other friends and colleagues.

a. Inderpal Gujral, M.D., is a cardiologist who has known respondent professionally for about 16 years. Respondent and Dr. Gujral have shared patients, and each has filled in for the other during vacations or other periods of unavailability. Dr. Gujral considers respondent to be a responsible physician who cares well for patients and cooperates effectively with other physicians.

b. Susanne Shaw has been respondent's patient for about 13 years. She has observed him to be compassionate and thorough, with sound judgment and a strong work ethic.

c. Ted Beard is respondent's parents' neighbor, and has known respondent for about 10 years. He considers respondent "responsible and reliable," and credits respondent with having saved Beard's friend's life when the friend had a cardiac emergency.

d. Craig Hammer has known respondent socially for more than ten years. Hammer emphasizes respondent's strong "moral character," and describes him as a "dedicated and diligent medical professional."

LEGAL CONCLUSIONS

1. Discipline against a medical license respondent holds in another state, on grounds that would have been cause for discipline in California, is cause for discipline against respondent's California physician's and surgeon's certificate. (Bus. & Prof. Code, § 2305.) The out-of-state disciplinary order itself is "conclusive evidence" of the facts the order states. (*Id.*, § 141, subd. (a).)

2. The matters stated in Findings 14 and 15 constitute discipline against respondent's Arizona medical license. Moreover, these matters along with the matters stated in Findings 19 and 20 demonstrate that the AZ Board's disciplinary order rests on medical and psychological evaluations concluding that the AZ Board should monitor respondent's alcohol use to avoid potential danger to patients. These matters constitute cause under Business and Professions Code section 2305 for the CA Board also to take disciplinary action against respondent.

3. According to the CA Board's "Manual of Model Disciplinary Orders and Disciplinary Guidelines, 12th Edition 2016" (Cal. Code Regs., tit. 16, § 1361, subd. (a)), the minimum recommended discipline for excessive alcohol use, for practice under the influence of alcohol, or for generally unprofessional conduct is stayed revocation of the physician's certificate, with five years' probation. Although the matters stated in Findings 14 through 16 do not demonstrate that respondent suffered discipline in Arizona because of having treated or attempted to treat patients while he was under the influence of alcohol, the matters stated in Findings 6 through 12 describe an occasion on which respondent chose alcohol over his on-call responsibilities. Along with the matters stated in Findings 19 and 20, this event raises significant questions about respondent's professional judgment, and in particular about his judgment involving alcohol, and justifies a probation order that follows the Disciplinary Guidelines.

ORDER

Physician's and Surgeon's Certificate No. A 62602, issued to respondent Michael Douglas Moran, M.D., is revoked. The revocation is stayed, and respondent is placed on probation for five years upon the following terms and conditions.

1. Clinical Diagnostic Evaluations and Reports

Within 30 calendar days of the effective date of this decision, and on whatever periodic basis thereafter as may be required by the CA Board or its designee, respondent shall undergo and complete a clinical diagnostic evaluation, including any and all testing deemed necessary, by a board-certified physician and surgeon appointed by the CA Board. The examiner shall consider any information provided by the CA Board or its designee and any other information he or she deems relevant, and shall furnish a written evaluation report to the CA Board or its designee.

The clinical diagnostic evaluation shall be conducted by a licensed physician and surgeon who holds a valid, unrestricted license, has three years' experience in providing evaluations of physicians and surgeons with substance use disorders, and is approved by the CA Board or its designee. The clinical diagnostic evaluation shall be conducted in accordance with acceptable professional standards for conducting substance abuse clinical diagnostic evaluations. The evaluator shall not have a current or former financial, personal, or business relationship with respondent within the last five years. The evaluator shall provide an objective, unbiased, and independent evaluation. The clinical diagnostic evaluation report shall set forth, in the evaluator's opinion, whether respondent has a substance abuse problem, whether respondent is a threat to himself or others, and recommendations for substance abuse treatment, practice restrictions, or other recommendations related to respondent's rehabilitation

and ability to practice safely. If the evaluator determines during the evaluation process that respondent is a threat to himself or others, the evaluator shall notify the CA Board within 24 hours of such a determination.

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

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

The CA Board shall review the clinical diagnostic evaluation report within five business days of receipt to determine whether respondent is safe for either part-time or full-time practice and what restrictions or recommendations shall be imposed on respondent based on the recommendations made by the evaluator. If removed from practice following a clinical diagnostic evaluation, respondent shall not be returned to practice until he has at least 30 days of negative biological fluid tests or biological fluid tests indicating that he has not used, consumed, ingested, or administered to

himself a prohibited substance, as defined in section 1361.51, subdivision (e), of title 16 of the California Code of Regulations.

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

Respondent may engage in the practice of medicine unless and until notified by the CA Board or its designee that he is unfit to practice medicine safely. Any period of time that respondent is not practicing medicine shall not be counted toward completion of the term of probation. Respondent shall undergo biological fluid testing as required in this decision while awaiting the results of any clinical diagnostic evaluation.

Respondent shall comply with all restrictions or conditions recommended by the examiner conducting the clinical diagnostic evaluation within 15 calendar days after being notified by the CA Board or its designee.

2. Notice of Employer or Supervisor Information

Within seven days of the effective date of this decision, respondent shall provide to the CA Board the names, physical addresses, mailing addresses, and telephone numbers of any and all employers and supervisors. Respondent shall also provide specific, written consent for the CA Board and respondent's employers and supervisors to communicate regarding respondent's work status, performance, and monitoring.

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

3. 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 not apply to medications lawfully prescribed to respondent by another practitioner for a bona fide illness or condition.

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

If respondent has a confirmed positive biological fluid test for any substance (whether or not legally prescribed) and has not reported the use to the CA Board or its designee, respondent shall receive a notification from the CA Board or its designee to immediately cease the practice of medicine. Respondent shall not resume the practice of medicine until the final decision on an accusation and/or a petition to revoke probation is effective. An accusation and/or petition to revoke probation shall be filed by the CA Board within 30 days of the notification to cease practice. If respondent requests a hearing on the accusation and/or petition to revoke probation, the CA Board shall provide respondent with a hearing within 30 days of the request, unless respondent stipulates to a later hearing. If the case is heard by an Administrative Law Judge alone, he or she shall forward a proposed decision to the CA Board within 15

days of submission of the matter. Within 15 days of receipt by the CA Board of the Administrative Law Judge's proposed decision, the CA Board shall issue its decision, unless good cause can be shown for the delay. If the case is heard by the CA Board, the CA Board shall issue its decision within 15 days of submission of the case, unless good cause can be shown for the delay. Good cause includes, but is not limited to, non-adoption of the proposed decision, request for reconsideration, remands and other interlocutory orders issued by the CA Board. The cessation of practice shall not apply to the reduction of the probationary time period.

If the CA Board does not file an accusation or petition to revoke probation within 30 days of the issuance of the notification to cease practice or does not provide respondent with a hearing within 30 days of a such a request, the notification of cease practice shall be dissolved.

4. Alcohol: Abstain From Use

Respondent shall abstain completely from the use of products or beverages containing alcohol.

If respondent has a confirmed positive biological fluid test for alcohol, respondent shall receive a notification from the CA Board or its designee to immediately cease the practice of medicine. Respondent shall not resume the practice of medicine until the final decision on an accusation and/or a petition to revoke probation is effective. An accusation and/or petition to revoke probation shall be filed by the CA Board within 30 days of the notification to cease practice. If respondent requests a hearing on the accusation and/or petition to revoke probation, the CA Board shall provide respondent with a hearing within 30 days of the request, unless respondent stipulates to a later hearing. If the case is heard by an Administrative Law

Judge alone, he or she shall forward a proposed decision to the CA Board within 15 days of submission of the matter. Within 15 days of receipt by the CA Board of the Administrative Law Judge's proposed decision, the CA Board shall issue its decision, unless good cause can be shown for the delay. If the case is heard by the CA Board, the CA Board shall issue its decision within 15 days of submission of the case, unless good cause can be shown for the delay. Good cause includes, but is not limited to, non-adoption of the proposed decision, request for reconsideration, remands and other interlocutory orders issued by the CA Board. The cessation of practice shall not apply to the reduction of the probationary time period.

If the CA Board does not file an accusation or petition to revoke probation within 30 days of the issuance of the notification to cease practice or does not provide respondent with a hearing within 30 days of a such a request, the notification of cease practice shall be dissolved.

5. Biological Fluid Testing

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

During the first year of probation, respondent shall be subject to 52 to 104 random tests. During the second year of probation and for the duration of the probationary term, respondent shall be subject to 36 to 104 random tests per year. Only if there have been no positive biological fluid tests in the previous three consecutive years of probation, may testing be reduced to one time per month. Nothing precludes the CA Board from increasing the number of random tests to the first-year level of frequency for any reason.

Prior to practicing medicine after the effective date of this order, respondent shall contract with a laboratory or service, approved in advance by the CA Board or its designee, that will conduct random, unannounced, observed, biological fluid testing and meets all the following standards:

(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 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 CA Board within seven business days of receipt of the specimen. The CA Board will be notified of non-negative results within one business day and will be notified of negative test results within seven 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 test scientifically 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 the respondent to check in daily for testing.

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

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

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

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

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

A certified copy of any laboratory test result may be received in evidence in any proceedings between the CA Board and respondent.

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

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

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

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

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

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

6. Substance Abuse Support Group Meetings

Within 30 days of the effective date of this decision, respondent shall submit to the CA Board or its designee, for prior approval, the name of a substance abuse support group that he shall attend for the duration of probation. Respondent shall

attend substance abuse support group meetings at least once per week, or as ordered by the CA Board or its designee. Respondent shall pay all substance abuse support group meeting costs.

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

The facilitator shall provide a signed document to the CA Board or its designee showing respondent's name, the group name, the date and location of the meeting, respondent's attendance, and respondent's level of participation and progress. The facilitator shall report any unexcused absence by respondent from any substance abuse support group meeting to the CA Board or its designee within 24 hours of the unexcused absence.

7. Worksite Monitor

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

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

The worksite monitor shall have an active unrestricted license with no disciplinary action within the last five years, and shall sign an affirmation that he or she has reviewed the terms and conditions of this disciplinary order and agrees to monitor respondent as required by the CA Board or its designee.

Respondent shall pay any and all worksite monitoring costs.

The worksite monitor shall (1) have face-to-face contact with respondent in the work environment on as frequent a basis as determined by the CA Board or its designee, but not less than once per week; (2) interview other staff in the office regarding respondent's behavior, if requested by the CA Board or its designee; and (3) review respondent's work attendance.

The worksite monitor shall orally report any suspected substance abuse to the CA Board and respondent's employer or supervisor within one business day of occurrence. If the suspected substance abuse does not occur during the CA Board's normal business hours, the oral report shall be made to the CA Board or its designee within one hour of the next business day. A written report that includes the date, time, and location of the suspected substance abuse; respondent's actions; and any other

information deemed important by the worksite monitor shall be submitted to the CA Board or its designee within 48 hours of the occurrence.

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

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

8. Notification

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

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

9. Supervision of Physician Assistants and Advanced Practice Nurses

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

10. Obey All Laws

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

11. Quarterly Declarations

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

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

12. General Probation Requirements

Compliance with Probation Unit: Respondent shall comply with the CA Board's probation unit.

Address Changes: Respondent shall, at all times, keep the CA 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 CA Board or its designee. Under no circumstances shall a post office box serve as an address of record, except as allowed by Business and Professions Code section 2021, subdivision (b).

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

License Renewal: Respondent shall maintain a current and renewed California physician's and surgeon's certificate.

Travel or Residence Outside California: Respondent shall immediately inform the CA 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 calendar days.

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

13. Interview with the CA 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.

14. Non-Practice While on Probation

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

In the event respondent's period of non-practice while on probation exceeds 18 calendar months, respondent shall successfully complete the Federation of State Medical Board's Special Purpose Examination, or, at the CA Board's discretion, a clinical competence assessment program that meets the criteria of Condition 18 of the

current version of the CA Board's "Manual of Model Disciplinary Orders and Disciplinary Guidelines" prior to resuming the practice of medicine.

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

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

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

15. Completion of Probation

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

16. Violation of Probation

Failure to comply fully 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 CA 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 CA 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 respondent must test negative while undergoing continuous biological fluid testing following issuance of a cease-practice order, a month is defined as thirty calendar days. Respondent may not resume the practice of medicine until notified in writing by the CA Board or its designee that he 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 CA Board or its designee. (Cal. Code Regs., tit. 16, § 1361.52, subd. (b).)

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 CA 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 accordance with section 1361.5, subdivision (c)(1), of title 16 of the California Code of Regulations, at respondent's expense;

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

C. Nothing in this decision shall be considered a limitation on the CA Board's authority to revoke respondent's probation if he has violated any term or condition of probation. (See Cal. Code Regs., tit. 16, § 1361.52, subd. (e).) If respondent violates probation in any respect, the CA Board, after giving respondent notice and the opportunity to be heard, may revoke probation and carry out the disciplinary order that was stayed. If an accusation, or petition to revoke probation, or an interim suspension order is filed against respondent during probation, the CA Board shall have continuing jurisdiction until the matter is final, and the period of probation shall be extended until the matter is final.

17. License Surrender

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

the terms and conditions of probation. If respondent re-applies for a medical license, the application shall be treated as a petition for reinstatement of a revoked certificate.

18. Probation Monitoring Costs

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

DATE: September 4, 2020

DocuSigned by:
Juliet E. Cox
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JULIET E. COX
Administrative Law Judge
Office of Administrative Hearings

XAVIER BECERRA
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MARY CAIN-SIMON
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Deputy Attorney General
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Facsimile: (415) 703-5480
Attorneys for Complainant

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

In the Matter of the Accusation Against: **Michael Douglas Moran, M.D.** **25301 Cabot Rd., Suite 104** **Laguna Hills, CA 92653-5511** **Physician's and Surgeon's Certificate No. A 62602,** Respondent.	Case No. 800-2019-054036 **A C C U S A T I O N**

PARTIES

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

2. On or about June 6, 1997, the Medical Board issued Physician's and Surgeon's Certificate Number A 62602 to Michael Douglas Moran, M.D. (Respondent). The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought

herein and will expire on July 31, 2020, unless renewed. On April 20, 2020, the Board suspended Respondent's Physician's and Surgeon's Certificate pursuant to Business and Profession Code Section 2310(a).

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 provides that a licensee who is found guilty under the Medical Practice 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 provides that the Board shall take action against any licensee who is charged with "unprofessional conduct," which includes but is not limited to, "[v]iolating . . . any provision of this chapter."

6. Section 2305 of the Code provides, in pertinent part, that the revocation, suspension, or other discipline, restriction, or limitation imposed by another state upon a license to practice medicine issued by that state, or the revocation, suspension, or restriction of the authority to practice medicine by any agency of the federal government, that would have been grounds for discipline in California, shall constitute grounds for disciplinary action for unprofessional conduct.

7. Section 141 of the Code provides:

(a) For any licensee holding a license issued by a board under the jurisdiction of the department, a disciplinary action taken by another state, by any agency of the federal government, or by another country for any act substantially related to the practice regulated by the California license, may be a ground for disciplinary action by the respective state licensing board. A certified copy of the record of the disciplinary action taken against the licensee by another state, an agency of the federal government, or another country shall be conclusive evidence of the events related therein.

(b) Nothing in this section shall preclude a board from applying a specific statutory provision in the licensing act administered by that board that provides for discipline based upon a disciplinary action taken against the licensee by another state, an agency of the federal government or another country.

CAUSE FOR DISCIPLINE

(Discipline, Restriction, or Limitation Imposed by Another State)

8. On March 11, 2019, the Arizona Medical Board (Arizona Board) issued an Interim Consent Agreement for Practice Restriction (Practice Restriction Agreement) Case No. MD-19-0158A, attached herewith as Exhibit A, regarding Respondent's license to practice medicine in Arizona. The Practice Restriction Agreement states that Respondent is prohibited from practicing medicine in Arizona. The Arizona Board determined that a practice prohibition was necessary based on evidence that Respondent presented a danger to public health and safety. The Arizona Board cites allegations that Respondent failed to respond when providing unassigned call coverage to another physician and that he consumed alcohol while on call at the hospital.

9. Respondent's foregoing conduct and the actions of the Arizona Board, as set forth in paragraph 8, above, and Exhibit A, attached, constitute cause for discipline, pursuant to section 2234 and/or section 2305 and/or section 141 of the Code.

PRAYER

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

1. Revoking or suspending Physician's and Surgeon's Certificate Number A 62602, issued to Respondent;

2. Revoking, suspending or denying approval of Respondent's authority to supervise physician assistants and advanced practice nurses;

3. Ordering Respondent, if placed on probation, to pay the Board the costs of probation monitoring; and

///

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

DATED: JUN 08 2020

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

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EXHIBIT A

BEFORE THE ARIZONA MEDICAL BOARD

In the Matter of **MICHAEL D. MORAN, M.D.** Holder of License No. 54854 For the Practice of Allopathic Medicine In the State of Arizona.	**Case No. MD-19-0158A** **INTERIM CONSENT AGREEMENT FOR PRACTICE RESTRICTION**

INTERIM CONSENT AGREEMENT

Licensee, M.D. ("Respondent") elects to permanently waive any right to a hearing and appeal with respect to this Interim Consent Agreement for Practice Restriction and consents to the entry of this Order by the Arizona Medical Board ("Board").

INTERIM FINDINGS OF FACT

1. The Board is the duly constituted authority for the regulation and control of the practice of allopathic medicine in the State of Arizona.

2. Respondent is the holder of License No. 54854 for the practice of allopathic medicine in the State of Arizona.

3. The Board initiated case number MD-19-0158A after receiving a notification from a Hospital where Respondent had held privileges that he had been asked to refrain from practicing during an investigation into an allegation that Respondent had failed to respond when providing unassigned call coverage, and consumed alcohol while on call at the Hospital.

4. In his initial response to the Board, Respondent stated that the physician for whom he was providing coverage was back in town, but admitted that he failed to contact the physician to ensure the handoff of coverage. Respondent denied knowingly failing to respond to any calls for coverage, or providing patient care while under the influence of alcohol.

5. The aforementioned information was presented to the investigative staff, the medical consultant and the lead Board member. All reviewed the information and concur that the interim consent agreement to restrict Respondent's practice is appropriate.

6. The investigation into this matter is pending and will be forwarded to the Board promptly upon completion for review and action.

INTERIM CONCLUSIONS OF LAW

1. The Board possesses jurisdiction over the subject matter hereof and over Respondent.

2. Pursuant to A.R.S. § 32-1405(C)(25) the Executive Director has authority to enter into a consent agreement when there is evidence of danger to the public health and safety.

3. Pursuant to A.A.C. R4-16-504, the Executive Director may enter into an interim consent agreement when there is evidence that a restriction is needed to mitigate imminent danger to the public's health and safety. Investigative staff, the Board's medical consultant and the lead Board member have reviewed the case and concur that an interim consent agreement is appropriate.

INTERIM ORDER

IT IS HEREBY ORDERED THAT:

1. Respondent is prohibited from engaging in the practice of medicine in the State of Arizona as set forth in A.R.S. § 32-1401(22) until Respondent applies to the Executive Director and receives permission to do so.

2. Respondent may request, in writing, release and/or modification of this Interim Consent Agreement. Respondent's request must be accompanied by information demonstrating that Respondent is safe to practice medicine. The Executive Director, in consultation with and agreement of the lead Board member and the Chief Medical

Consultant, has the discretion to determine whether it is appropriate to release Respondent from this Interim Consent Agreement.

3. The Board retains jurisdiction and may initiate new action based upon any violation of this Interim Consent Agreement, including, but not limited to, summarily suspending Respondent's license.

4. Because this is an Interim Consent Agreement and not a final decision by the Board regarding the pending investigation, it is subject to further consideration by the Board. Once the investigation is complete, it will be promptly provided to the Board for its review and appropriate action.

5. This Interim Consent Agreement shall be effective on the date signed by the Board's Executive Director.

DATED this 11th day of March, 2019.

ARIZONA MEDICAL BOARD

By Patricia E. McSorley
Patricia E. McSorley
Executive Director

RECITALS

Respondent understands and agrees that:

1. The Board, through its Executive Director, may adopt this Interim Consent Agreement, or any part thereof, pursuant to A.R.S. § 32-1405(C)(25) and A.A.C. R4-16-504.

2. Respondent has read and understands this Interim Consent Agreement as set forth herein, and has had the opportunity to discuss this Interim Consent Agreement

with an attorney or has waived the opportunity to discuss this Interim Consent Agreement with an attorney. Respondent voluntarily enters into this Interim Consent Agreement and by doing so agrees to abide by all of its terms and conditions.

3. By entering into this Interim Consent Agreement, Respondent freely and voluntarily relinquishes all rights to an administrative hearing on the matters set forth herein, as well as all rights of rehearing, review, reconsideration, appeal, judicial review or any other administrative and/or judicial action, concerning the matters related to the Interim Consent Agreement.

4. Respondent understands that this Interim Consent Agreement does not constitute a dismissal or resolution of this matter or any matters that may be currently pending before the Board and does not constitute any waiver, express or implied, of the Board's statutory authority or jurisdiction regarding this or any other pending or future investigations, actions, or proceedings. Respondent also understands that acceptance of this Interim Consent Agreement does not preclude any other agency, subdivision, or officer of this State from instituting civil or criminal proceedings with respect to the conduct that is the subject of this Interim Consent Agreement. Respondent further does not relinquish Respondent's rights to an administrative hearing, rehearing, review, reconsideration, judicial review or any other administrative and/or judicial action, concerning the matters related to a final disposition of this matter, unless Respondent affirmatively does so as part of the final resolution of this matter.

5. Respondent acknowledges and agrees that upon signing this Interim Consent Agreement and returning it to the Board's Executive Director, Respondent may not revoke Respondent's acceptance of this Interim Consent Agreement or make any

modifications to it. Any modification of this original document is ineffective and void unless mutually approved by the parties in writing.

6. Respondent understands that this Interim Consent Agreement shall not become effective unless and until it is signed by the Board's Executive Director.

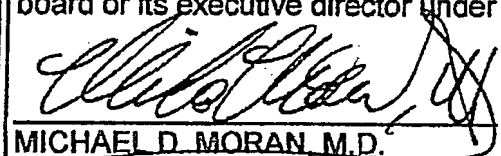
7. Respondent understands and agrees that if the Board's Executive Director does not adopt this Interim Consent Agreement, Respondent will not assert in any future proceedings that the Board's consideration of this Interim Consent Agreement constitutes bias, prejudice, prejudgment, or other similar defense.

8. Respondent understands that this Interim Consent Agreement is a public record that may be publicly disseminated as a formal action of the Board, and that it shall be reported as required by law to the National Practitioner Data Bank.

9. Respondent understands that this Interim Consent Agreement does not alleviate Respondent's responsibility to comply with the applicable license-renewal statutes and rules. If this Interim Consent Agreement remains in effect at the time Respondent's allopathic medical license comes up for renewal, Respondent must renew the license if Respondent wishes to retain the license. If Respondent elects not to renew the license as prescribed by statute and rule, Respondent's license will not expire but rather, by operation of law (A.R.S. § 32-3202), become suspended until the Board takes final action in this matter. Once the Board takes final action, in order for Respondent to be licensed in the future, Respondent must submit a new application for licensure and meet all of the requirements set forth in the statutes and rules at that time.

10. Respondent understands that any violation of this Interim Consent Agreement constitutes unprofessional conduct under A.R.S. § 32-1401(27)(s) ("Violating a

formal order, probation, consent agreement or stipulation issued or entered into by the board or its executive director under this chapter.").



MICHAEL D. MORAN, M.D.

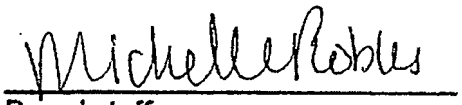
DATED: 3/8/19

EXECUTED COPY of the foregoing e-mailed this 11th day of March, 2019 to:

Michael D. Moran, M.D.
Address of Record

ORIGINAL of the foregoing filed this 11th day of March, 2019 with:

Arizona Medical Board
1740 West Adams, Suite 4000
Phoenix, Arizona 85007



Board staff