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

In the Matter of the Accusation and Petition to Revoke Probation Against: Jeffrey Douglas Lovin, M.D. Physician's & Surgeon's Certificate No. G 85644 Respondent.	Case No. 800-2019-059206

DENIAL BY OPERATION OF LAW
PETITION FOR RECONSIDERATION

No action having been taken on the petition for reconsideration, filed by December 21, 2020, and the time for action having expired at 5:00 p.m. on January 29, 2021, the petition is deemed denied by operation of law.

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

In the Matter of the Accusation and Petition to Revoke Probation Against: **Jeffrey Douglas Lovin, M.D.** Physician's & Surgeon's Certificate No. G 85644 Respondent.	Case No. 800-2019-059206 **ORDER GRANTING STAY** (Government Code Section 11521)

The Medical Board of California (Board) has filed a Request for Stay of Execution of the Decision in this matter with an effective date of January 19, 2021, at 5:00 p.m.

Execution is stayed until January 29, 2021, at 5:00 p.m.

This stay is granted solely for the purpose of allowing the Board time to review and consider the Petition for Reconsideration.

DATED: January 15, 2021

For: William Prasifka
Executive Director
Medical Board of California

REJI VARGHESE
DEPUTY DIRECTOR

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

In the Matter of the Accusation and Petition to Revoke Probation Against: Jeffrey Douglas Lovin, M.D. Physician's & Surgeon's Certificate No. G 85644 Respondent.	Case No. 800-2019-059206 **ORDER GRANTING STAY** (Government Code Section 11521)

Edward O. Lear, Attorney at Law, on behalf of respondent, Jeffrey Douglas Lovin, M.D., has filed a Request for Stay of execution of the Decision in this matter with an effective date of December 18, 2020, at 5:00 pm.

Execution is stayed until January 19, 2021, at 5:00 p.m.

This stay is granted solely for the purpose of allowing the Respondent to file a Petition for Reconsideration.

DATED: December 8, 2020

William Prasifka
Executive Director
Medical Board of California

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

In the Matter of the Accusation and Petition to Revoke Probation Against: Jeffrey Douglas Lovin, M.D. Physician's and Surgeon's Certificate No. G 85644 Respondent.	Case No. 800-2019-059206

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 18, 2020.

IT IS SO ORDERED November 18, 2020.

MEDICAL BOARD OF CALIFORNIA

Ronald H. Lewis, M.D., Chair
Panel A

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

In the Matter of the Accusation and Petition to Revoke Probation Against:

JEFFREY DOUGLAS LOVIN, M.D., Respondent

Physician's and Surgeon's Certificate No. G 85644

Case No. 800-2019-059206

OAH No. 2020010202

PROPOSED DECISION

Debra D. Nye-Perkins, Administrative Law Judge, Office of Administrative Hearings (OAH), State of California, heard this matter by videoconference and telephonically on August 17 through 19, 2020, pursuant to the July 22, 2020, order of OAH converting the hearing to a videoconference/telephonic hearing because of concerns arising from the COVID-19 pandemic.

Keith C. Shaw, Deputy Attorney General, Department of Justice, Office of the Attorney General, State of California, represented complainant, Christine J. Lally, Deputy Director of the Medical Board of California (board).

Henry R. Fenton and Randy Hsieh, Attorneys at Law, Fenton Law Group LLP, represented respondent, Jeffrey Douglas Lovin, M.D., who was present.

Oral and documentary evidence was received. The record remained open to allow the parties to submit written closing arguments and the matter was submitted for decision on August 21, 2020.

SUMMARY

Complainant alleged two causes for discipline of respondent's license, namely: (1) mental or physical impairment; and (2) unprofessional conduct by failing to comply with the terms of his probation. Complainant alleged five causes to revoke probation of respondent's license, namely: (1) violation of probation condition no. 2 (Psychotherapy) by being found on July 12, 2019, to be unfit to safely practice medicine after undergoing a required psychiatric evaluation; (2) violation of probation condition no. 3 (Monitoring-Practice) by continuing to practice medicine at a practice location he did not disclose to the board following the issuance of a Cease Practice Order on May 28, 2019, and without obtaining required approval of a practice monitor for that location; (3) violation of probation condition no. 4 (Solo Practice/Locum Tenens Prohibition) by continuing to practice medicine at a practice location he did not disclose to the board within five calendar days of a change to his practice setting following the issuance of a Cease Practice Order on May 28, 2019; (4) violation of probation condition no. 6 (Notification) by continuing to practice medicine following the issuance of a Cease Practice Order on May 28, 2019, without providing a copy of the Accusation and Decision to the Chief of Staff or Chief Executive Officer at the facility where he engaged in the practice of medicine; and (5) violation of probation condition no. 14 (Violation of Probation) by continuing to practice medicine following

the issuance of a Cease Practice Order on May 28, 2019, and failing to comply with all terms of probation.

Respondent argued that the board failed meet the required burden of proof to establish that a board-appointed psychiatrist found respondent unfit to practice medicine, and that any violations of his probation terms for practice after the Cease Practice Order was issued were minor and inadvertent.

The board failed to meet its burden of proof to establish that respondent is mentally or physically unfit to practice medicine. However, the board established that respondent violated multiple terms of his probation. The evidence presented established that revocation of respondent's license is the only appropriate measure to ensure public protection under these circumstances.

FACTUAL FINDINGS

Jurisdictional Matters

1. On March 17, 2000, the board issued Physician's and Surgeon's Certificate No. G 85644 to respondent, Jeffrey Douglas Lovin, M.D. On July 21, 2017, respondent's certificate was placed on probation pursuant to a Stipulated Settlement and Disciplinary Order. On May 28, 2019, the board issued a Cease Practice-No Practice order to respondent, and on July 10, 2019, a Termination of the Cease Practice

Order was issued. The physician's certificate remained in full effect until February 29, 2020, unless expired or revoked[1].

2. On November 7, 2016, the board filed a disciplinary action entitled "*In the Matter of the Accusation against Jeffrey Douglas Lovin, M.D.*," Case Number 800-2016-024671, against respondent alleging one cause of discipline, namely an out-of-state discipline from the Colorado Medical Board issued on July 14, 2016.

3. On June 22, 2017, the board issued a Decision and Order adopting a Stipulated Settlement and Disciplinary Order in Case No. 800-2016-024671, effective July 21, 2017, wherein respondent's physician's and surgeon's certificate was revoked, and the revocation stayed for a period of five years with various terms and conditions. The following terms and conditions are at issue in this matter:

> 2. PSYCHOTHERAPY. Within 60 calendar days of the effective date of this Decision, Respondent shall submit to the Board or its designee for prior approval the name and qualifications of a California-licensed board certified psychiatrist or a licensed psychologist who has a doctoral degree in psychology and at least five years of postgraduate experience in the diagnosis and treatment of emotional and mental disorders. Upon approval,

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[1] Documents received in evidence established that as of August 13, 2019, respondent's certificate was renewed and current until the expiration date of February 29, 2020. No evidence was offered or received to establish that respondent's certificate is currently active or if it expired after the February 29, 2020, date.

Respondent shall undergo and continue psychotherapy treatment as recommended by the treating therapist, including any modifications to the frequency of psychotherapy, until the Board or its designee deems that no further psychotherapy is necessary.

The psychotherapist shall consider any information provided by the Board or its designee and any other information the psychotherapist deems relevant and shall furnish a written evaluation report to the Board or its designee. Respondent shall cooperate in providing the psychotherapist with any information and documents that the psychotherapist may deem pertinent. Respondent shall have the treating-psychotherapist submit quarterly status reports to the Board or its designee.

Over the course of probation, the Board or its designee may require Respondent to undergo psychiatric evaluations (and psychological testing, if deemed necessary) by a Board-appointed board certified psychiatrist. Respondent shall cooperate with the appointed evaluator, and shall provide prompt access to any information or records requested by the evaluator. The evaluator shall furnish a written evaluation report to the Board or its designee.

If, prior to the completion of probation. Respondent is found to be mentally unfit to resume the practice of

medicine without restrictions, the Board shall retain continuing jurisdiction over Respondent's license and the period of probation shall be extended until the Board determines that Respondent is mentally fit to resume the practice of medicine without restrictions.

Respondent shall pay the cost of all psychotherapy and required evaluations.

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

The Board or its designee shall provide the approved monitor with copies of the Decision and Accusation, and a proposed monitoring plan. Within 15 calendar days of

receipt of the Decision, Accusation, and proposed monitoring plan, the monitor shall submit a signed statement that the monitor has read the Decision and Accusation, fully understands the role of a monitor, and agrees or disagrees with the proposed monitoring plan. If the monitor disagrees with the proposed monitoring plan, the monitor shall submit a revised monitoring plan with the signed statement for approval by the Board or its designee.

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

If Respondent fails to obtain approval of a monitor within 60 calendar days of the effective date of this Decision, Respondent shall receive a notification from the Board or its designee to cease the practice of medicine within three (3) calendar days after being so notified. Respondent shall cease the practice of medicine until a monitor is approved to provide monitoring responsibility.

The monitor shall submit a quarterly written report to the Board or its designee which includes an evaluation of Respondent's performance, indicating whether

Respondent's practices are within the standards of practice, and whether Respondent is practicing medicine safely. It shall be the sole responsibility of Respondent to ensure that the monitor submits the quarterly written reports to the Board or its designee within 10 calendar days after the end of the preceding quarter.

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

In lieu of a monitor, Respondent may participate in a professional enhancement program approved in advance by the Board or its designee that includes, at minimum, quarterly chart review, semi-annual practice assessment, and semi-annual review of professional growth and

education. Respondent shall participate in the professional enhancement program at Respondent's expense during the term of probation.

4. SOLO PRACTICE/LOCUM TENENS PROHOBITION. Respondent is prohibited from engaging in the solo practice of medicine, or from practicing in a locum tenens capacity. Prohibited solo practice includes, but is not limited to, a practice where: 1) Respondent merely shares office space with another physician but is not affiliated for purposes of providing patient care, or 2) Respondent is the sole physician practitioner at that location.

If Respondent fails to establish a practice with another physician or secure employment in an appropriate practice setting within 60 calendar days of the effective date of this Decision, Respondent shall receive a notification from the Board or its designee to cease the practice, of medicine within three (3) calendar days after being so notified. Respondent shall not resume practice until an appropriate practice setting is established.

If, during the course of the probation, Respondent's practice setting changes and the Respondent is no longer practicing in a setting in compliance with this Decision, Respondent shall notify the Board or its designee within five (5) calendar days of the practice setting change. If Respondent fails to establish a practice with another

physician or secure employment in an appropriate practice setting within 60 calendar days of the practice setting change, Respondent shall receive a notification from the Board or its designee to cease the practice of medicine within three (3) calendar days after being so notified. Respondent shall not resume practice until an appropriate practice setting is established.

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

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

14. VIOLATION OF PROBATION. Failure to fully comply with any term or condition of probation is a violation of probation. If Respondent violates probation in any respect, the Board, after giving Respondent notice and the

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

4. On May 28, 2019, the board issued a Cease Practice Order prohibiting respondent from engaging in the practice of medicine. The Cease Practice Order was based on respondent's failure to obey probationary condition number 4 by "not establishing a practice with another physician or secure employment in an appropriate practice setting." On July 10, 2019, the board issued a Termination of Cease Practice Order, which stated that respondent had complied with his terms and conditions of probation by "securing employment in an appropriate practice setting."

5. On November 12, 2019, the board filed the Accusation and Petition to Revoke Probation in this matter alleging two causes to discipline respondent's license and five causes to revoke his probation. The allegations related to the first cause of discipline are that respondent's ability to practice medicine safely is impaired because he is mentally ill which affects his competency based upon findings made during a neuropsychological evaluation on July 12, 2019, by a board-approved psychologist. The allegations related to the second cause of discipline are that respondent engaged in unprofessional conduct by failing to comply with the terms of his probation, specifically the five probation terms listed above, and as alleged in the five causes to revoke his probation as listed below.

Complainant alleged five causes to revoke probation of respondent's license, namely: (1) violation of probation condition no. 2 (Psychotherapy) by being found on July 12, 2019, to be unfit to safely practice medicine after undergoing a required psychiatric evaluation; (2) violation of probation condition no. 3 (Monitoring-Practice) by continuing to practice medicine at a practice location he did not disclose to the board following the issuance of a Cease Practice Order on May 28, 2019, and without obtaining required approval of a practice monitor for that location; (3) violation of probation condition no. 4 (Solo Practice/Locum Tenens Prohibition) by continuing to practice medicine at a practice location he did not disclose to the board within five calendar days of a change to his practice setting following the issuance of a Cease Practice Order on May 28, 2019; (4) violation of probation condition no. 6 (Notification) by continuing to practice medicine following the issuance of a Cease Practice Order on May 28, 2019, without providing a copy of the Accusation and Decision to the Chief of Staff or Chief Executive Officer at the facility where he engaged in the practice of medicine; and (5) violation of probation condition no. 14 (Violation of Probation) by continuing to practice medicine following the issuance of a Cease Practice Order on May 28, 2019, and failing to comply with all terms of probation.

6. Respondent timely filed a notice of defense, and this hearing followed.

Complainant's Evidence

ALLEGATIONS OF VIOLATION OF PROBATION TERMS

7. Kimberly Andrew is employed as an Inspector II with the board, a position she has held for the past three-and-a-half years. Her duties in her current position include monitoring probationers with the board to ensure compliance with

their terms of probation. Ms. Andrew has been assigned as respondent's probation monitor since July 27, 2017. Prior to Ms. Andrew being assigned as respondent's probation monitor, Danielle Farwell was assigned as his probation monitor for approximately one week from July 21, 2017 to July 26, 2017. Ms. Andrew testified at this hearing and the following factual findings are based on her testimony and supporting documentation received in evidence.

8. During her time as respondent's probation monitor, Ms. Andrew met with respondent on a quarterly basis to review the terms and conditions of probation as well as to review respondent's quarterly reports to the board. On April 4, 2019, Ms. Andrew received respondent's quarterly declaration in which he answered "no" to the question of whether he has been arrested or violated any county of city ordinances. On April 10, 2019, Ms. Andrew learned that criminal charges had been brought against respondent after his arrest on March 2, 2019, for violating a domestic relations court order, and disorderly conduct from peeping into an inhabited building. On May 7, 2019, the board ordered a psychiatric evaluation of respondent to be conducted and Ms. Andrew sent a letter to respondent on that date informing him of a May 17, 2019, appointment with Dr. Markham Kirsten.

9. On May 9, 2019, Ms. Andrew received information from the Director of the Medical Staff of Hemet Valley Hospital, where respondent was employed, that respondent was no longer allowed to practice medicine at the hospital and was only allowed to meet with his supervisors and directors at the facility after he was escorted by security to their location. Ms. Andrew was further informed that respondent was only allowed to "tele-read radiology images" from his home to continue working at Hemet Valley Hospital, which respondent was doing. Ms. Andrew explained that tele-working from his home is a violation of term 10 of his probation terms prohibiting him

from practicing medicine at his place of residence. Additionally, respondent failed to notify the board of any change of his practice location within five days, which is a violation of term 4 of his probation. On May 9, 2019, Ms. Andrew attempted to contact respondent to discuss this updated employment information but was unable to reach him. On May 9, 2019, she sent, by email and regular mail, a non-compliance letter to respondent informing him that he was out of compliance with the terms of his probation for terms number 4, 10, and 14.

10. On May 9, 2019, Ms. Andrew received an email from respondent's attorney wherein he wrote in part:

> Kimberly- your letter to Dr. Lovin of today has been referred to me for response. First, Dr. Lovin still has privileges at Menefee and Hemet Valley Medical Centers. Next, be advised that teleradiology is a normal practice. It makes no difference whether Dr. Lovin sits at a computer and reads x-rays from a computer in the hospital or outside of the hospital. He still is part of a group practice and virtually all of his reports are either supervised or reviewed by Dr. Nayyar. Would you please urge your supervisor in Sacramento to appoint a new probation officer for the reasons previously discussed.

On May 10, 2019, Ms. Andrew sent a non-compliance letter to respondent wherein she informed him that he was in violation of terms numbered 8 (obey all laws), 9 (quarterly declarations -to submit under penalty of perjury to the truthfulness in the reports), and 10 (general probation requirements – to cooperate with the probation unit).

11. On May 16, 2019, Ms. Andrew drafted a probation non-compliance report for respondent's probation wherein she summarized all of respondent's violations of probation conditions to date. In that report Ms. Andrew wrote that respondent violated term 4 (Solo Practice/Locum Tenens Prohibition) of his probation by failing to notify the board within five calendar days of his practice setting change, which was his inability to practice at the Hemet Valley Hospital facility, and failed to establish a practice with another physician or secure employment in an appropriate practice within 60 days of the practice setting change. She wrote that respondent violated term 8 (obey all laws) because respondent was arrested on March 2, 2019, for violation of a domestic relations court order, and disorderly conduct due to his peeping into an inhabited building. She wrote that respondent violated term 9 (quarterly declarations) because respondent provided an incorrect answer to the question of whether he had been arrested or violated any laws on his April 2019 quarterly report and failed to state under penalty or perjury whether he had been in compliance with all terms of probation. She wrote that respondent violated term 10 (general probation requirements) because respondent failed to cooperate with the board's probation unit by not responding to emails and phone calls, and because respondent engaged in the practice of medicine from his home in violation of the place of practice portion of this condition. Finally, she wrote in the report that respondent violated term 14 (Violation of Probation) because he failed to comply with all of the terms of his probation. As part of her recommendation summarized in the non-compliance report, Ms. Andrew recommended that a cease practice order be issued and a petition to revoke probation filed. Ms. Andrew testified that as a result of respondent's probation violations, a Cease Practice Order was issued.

12. On May 28, 2019, a Cease Practice Order was issued to respondent by the board based solely upon his violation of probation condition number 4. The Cease Practice Order stated in relevant part:

> Probation Condition No. 4 prohibits Respondent from engaging in the solo practice of medicine, or from practicing in a locum tenens capacity. Prohibited solo practice includes, but is not limited to, a practice where: 1) Respondent merely shares office space with another physician but is not affiliated for purposes of providing patient care, or 2) Respondent is the sole physician practitioner at that location.

13. The Cease Practice Order was in effect from May 28. 2019, to July 10, 2019. On July 10, 2019, the board issued a Termination of Cease Practice Order where in it stated:

> Respondent having complied with the terms and conditions in the Decision and Order in the case by securing employment in an appropriate practice setting, it is hereby ordered that the Cease Practice Order issued against Jeffrey Douglas Lovin, M.D., on May 28, 2019, is hereby terminated.

Ms. Andrew testified that the reason the Cease Practice Order was terminated was because respondent was hired as a radiologist at Valley MRI and Radiology, which is located in Northern California.

14. After respondent obtained employment at Valley MRI and Radiology, Ms. Andrew transferred respondent's probation oversight duties to another Inspector named Chris King, who was located in a Northern California office of the board.

15. On July 9, 2019, Ms. Andrew was contacted by telephone by the ex-girlfriend of respondent, who informed Ms. Andrew that respondent is and has been working during the time of the cease practice order at F and M Radiology in San Bernardino and Fallbrook, California. The ex-girlfriend told Ms. Andrew that respondent has worked at F and M Radiology on a per diem basis for a number of years. Respondent had never informed the board that he had ever worked at F and M Radiology at either the San Bernardino or Fallbrook locations and there were no notifications to that employer regarding respondent's probation in respondent's probation file. In order to follow-up on the information she received, Ms. Andrew called the F and M Radiology location in San Bernardino and spoke to the receptionist, who informed Ms. Andrew that respondent did not work at that location and hung up the phone. Ms. Andrew called back and again asked for respondent and was told that respondent "no longer works for the company."

Ms. Andrew then attempted to contact F and M Radiology's Fallbrook location by telephone and spoke to the receptionist named Jennifer Loya. Ms. Loya told Ms. Andrew that respondent's schedule varies but he was usually in the office on Thursdays and that respondent had been in the office on July 2, 2019, to administer injections and was expected to be in the office again on July 11, 2019. Thereafter, on July 11, 2019, Ms. Andrew along with two board Investigators, met at the Fallbrook location of F and M Radiology at 10:00 a.m. Upon entry into the facility, Ms. Andrew met Jennifer Loya and asked her if there were any managers available and Ms. Loya responded, "No." Ms. Andrew asked if respondent was available and Ms. Loya

responded that he was not in the office. Ms. Andrew proceeded to ask Ms. Loya a series of questions regarding respondent's employment there and Ms. Loya then directed Ms. Andrew and the two investigators to Ms. Alma Gamboa, the office manager for the Fallbrook and San Bernardino locations. Ms. Andrew thereafter spoke to a radiology technician at the facility. Ms. Andrew obtained patient and physician logs dated January 1, 2019, to July 10, 2019. Additionally, Ms. Andrew and the two investigators were shown images and work notes on the computer system at F and M Radiology when one of the inspectors observed a binder labeled "Log-in" located next to the computer. Upon inspection, the binder contained log-in sheets that listed all radiologists who read images at the facility from dates of January 19, 2019, to July 2, 2019. The first page in the binder was dated July 2, 2019, and showed an entry indicating "read by Lovin." Ms. Andrew requested a copy of the binder from Ms. Gamboa and left the facility with copies of the binder. Additionally, the log-in sheets obtained show that respondent worked at the F and M Radiology facility in Fallbrook on May 28, 2019, June 4, 2019, June 11, 2019, June 20, 2019, and June 25, 2019. All of these dates were during the time the Cease Practice Order was in effect for respondent.

16. On August 2, 2019, Ms. Andrew received the final Neuropsychological report of Dr. Christine Baser from the board-ordered evaluation of respondent. Based on information and conclusions in the report from Dr. Baser, Ms. Andrew concluded that respondent is unfit for safe medical practice. Accordingly, Ms. Andrew concluded that respondent violated term number 2 of his probation (Psychotherapy) because he was determined by psychiatric evaluation to be unfit to practice medicine safely. Ms. Andrew explained that Dr. Christine Baser is a licensed neuropsychologist and is not a licensed psychiatrist. However, as required by the board, respondent was first

evaluated by a board-certified psychiatrist named Dr. Markham Kristen, who recommended further psychological evaluation by Dr. Baser.

17. On August 6, 2019, Ms. Andrew drafted another probation non-compliance report regarding respondent's violations of probation terms based on her investigation and the results obtained from the board-ordered psychiatric evaluation of respondent. In that report Ms. Andrew described five violations of respondent's probation terms. Specifically, Ms. Andrew wrote that he violated term two (Psychotherapy) because he was found to be unfit to safely practice medicine by Dr. Christine Baser. She also wrote that respondent violated term 3 (Practice Monitor) because respondent failed to obtain approval of a practice monitor when his practice setting changed to work at F and M Radiology and was not monitored by a practice monitor when he worked at that practice location, which was not disclosed to the board. Ms. Andrew also summarized that respondent violated term 4 (Solo Practice/Locum Tenens Prohibition) because respondent failed to notify the board within five calendar days of his practice setting change that he was working at F and M Radiology, and he failed to "establish a practice with another physician or secure employment in an appropriate practice setting within 60 days of the practice setting change," which means respondent failed to establish with the board that he was working in an appropriate practice setting at F and M Radiology because the board had no understanding of whether other physicians practice there. Ms. Andrew also wrote that respondent violated term 6 (Notification) because he failed to provide a copy of the Accusation and Decision related to probation as required to the Chief of Staff or the Chief Executive Officer of F and M Radiology where he engaged in the practice of medicine. Ms. Andrew also wrote that respondent violated term 14 (Violation of Probation) for failing to fully comply with all terms of his probation. Ms. Andrew recommended that a petition to revoke respondent's probation be filed.

18. On August 5, 2019, Ms. Andrew was contacted by Dr. Charles Stillman of Valley MRI and Radiology in Northern California where respondent worked. Dr. Stillman informed Ms. Andrew that respondent was terminated from his position there.

19. Ms. Andrew testified that during the time she worked as respondent's probation monitor she had great difficulty communicating with respondent because he would not respond to her emails for days and she frequently could not reach him by telephone, or he would hang up on her when they would speak by telephone. Ms. Andrew would be contacted by respondent's attorney, who would use profanity during the calls and would instruct her to not contact his client, and that he considered her attempts to contact respondent to be harassment. On one occasion during Ms. Andrew's monitoring of respondent, she met him with for a Quarterly meeting interview and respondent "demonstrated erratic behavior." According to Ms. Andrew, when respondent entered the room where the interview would take place, respondent "burst into a rage" and refused to close the door because he stated he "did not want another Harvey Weinstein incident," that the board is "ruining his life" and he "did not want to be there." Ms. Andrew stated that others in the area heard the commotion, and a person from the next office over came in and spoke to respondent telling him that if he continued that behavior Ms. Andrew would end the interview and he would be in non-compliance of his probation. Thereafter, respondent calmed down, apologized, and Ms. Andrew continued the interview. Ms. Andrew was startled by respondent's behavior that day.

MENTAL FITNESS TO PRACTICE MEDICINE

20. Christine Baser, Ph.D., is a clinical neuropsychologist in private practice. She has been licensed in California as a psychologist since 1987. She received her Ph.D. in Clinical Psychology in June 1985 from the California School of Professional

Psychology. Dr. Baser also received bachelor of science degree in nursing with a minor in psychology from Duke University in May 1977. She worked as a registered nurse from September 1977 to January 1984. Dr. Baser completed her post-doctorate fellowship in neuropsychology in June 1986 at the University of California San Diego (UCSD), Division of Neurosurgery. Dr. Baser worked as a psychologist at UCSD Medical Center in the Department of Psychiatry and Division of Neurosurgery from July 1986 to March 1988 where she completed both clinical and research work. Dr. Baser has been in private practice as a clinical neuropsychologist since March 1988 in San Diego providing neuropsychological and psychodiagnostic evaluations for clinical and forensic reasons, psychotherapy, cognitive rehabilitation and stress management, as well as consulting. Approximately 25 percent of her private practice consists of conducting neuropsychological evaluations, with the remainder of her practice providing individual or couples therapy as well as administration. Dr. Baser performs approximately 40 to 45 neuropsychological evaluations per year. Dr. Baser has been approved by the board as a provider since January 2019. Dr. Baser testified at the hearing and the following factual findings are based on her testimony and supporting documents received into evidence.

21. Dr. Baser explained that a neuropsychological assessment consists of a clinical interview, record review, test administration of cognitive and personality functioning, as well as integration of all the data collected. Neuropsychology explores the brain/behavior relationships and often evaluates patients with known neurological conditions, injuries or disorders to determine how the patient is functioning. Dr. Baser explained that a psychiatric evaluation looks only at emotional functioning of the patient, whereas a neuropsychological evaluation looks at cognitive functioning of the patient. Dr. Baser further explained that some mental health disorders have no impact on cognition, whereas others primarily affect cognitive functioning. In some mental

health disorders, the cognitive impact may occur only on a temporary basis. Dr. Baser stated that a person may complete a psychiatric evaluation and the results show no impairment, but a further neuropsychological evaluation may show cognitive impairment not seen on a psychiatric evaluation, which utilizes different testing and techniques.

22. Dr. Baser completed a neuropsychological evaluation of respondent on behalf of the board in July 2019. Dr. Baser stated that respondent was referred to her by the board for a "fitness for duty evaluation." Dr. Baser testified that she is familiar with the standards for evaluation of a patient under Business and Professions code section 822 related to the mental competency of an individual to practice medicine. Dr. Baser was provided documentation regarding respondent from Ms. Andrew on July 1, 2019, including a document listing questions to be answered by Dr. Baser on behalf of the board based upon her evaluation of respondent. Dr. Baser met with respondent face-to-face in her office in Carlsbad on July 12, 2019, from 9:30 a.m. to approximately 6:00 p.m. During that time, she performed a clinical intake interview of respondent, and thereafter performed various tests on respondent for approximately six hours and 45 minutes. Prior to meeting with respondent on July 12, 2019, Dr. Baser reviewed the following documents: a report dated June 3, 2019, from Dr. Markham Kirsten; a report dated November 15 and 16, 2016, from Mark McDonough, Ph.D.; six quarterly reports by psychologist Joseph Bratsky, Ph.D. from dates December 8, 2017, to March 25, 2019; and the Stipulated Settlement and Disciplinary Decision for respondent in this matter. Prior to her testimony at this hearing, Dr. Baser also reviewed two reports from Alan A. Abrams, M.D. the first report dated July 2019 and the second April 2020, and a report of Robert A. Leark, Ph.D. dated April 26, 2020, along with Dr. Leark's underlying test data.

With regard to her review of records provided to her, Dr. Baser noted that the quarterly reports provided by Dr. Bratsky provided very little substance and consisted of only one paragraph that repeated the same generic statements verbatim in each of those reports. Also, the reports failed to mention significant life events such as respondent's March 2019 arrest leading Dr. Baser to question whether respondent provided that information to Dr. Bratsky. She also stated that Dr. Bratsky's reports contained almost no substantive information regarding respondent's therapy and life events leading Dr. Baser to question the therapy that is being provided by Dr. Bratsky.

With regard to her review of the 2016 neuropsychological evaluation completed by Dr. McDonough, Dr. Baser noted that Dr. McDonough found impaired performances for respondent most notably on immediate and delayed visual memory tests. Dr. Baser also noted that Dr. McDonough also found that respondent's perceptual reasoning index score was lower than other Intellectual Quotient (IQ) indexes, that respondent had a reduced abstract capacity, and a marked decline when executive functions were added to a task. Dr. McDonough concluded that these aberrant findings were not sufficient to infer that respondent had a neurocognitive disorder at that time. Notably, Dr. McDonough's report concluded that respondent suffered from mood issues, and wrote in part as follows:

> To merely take one or two unrelated low scores and infer neurocognitive impairment is inappropriate and uninformed. These limited punctuations of weaker performance are believed to be due to his ongoing stress and anxiety now fueled largely by investigations and into his cognition and personality.

With regard to Dr. Kirsten's psychiatric evaluation, Dr. Baser noted that Dr. Kirsten concluded that respondent's diagnosis is obsessional disorder, post-traumatic stress disorder (PTSD), and major depression in partial remission, which was diagnosed initially by the Colorado Medical Board. Dr. Kirsten also concluded that despite these diagnoses, respondent was not incapacitated to practice medicine, but noted that a referral for neuropsychological evaluation was necessary because respondent has a family history of Alzheimer's Disease, demonstrated irritability, demonstrated a hand tremor, and failed a clock drawing task during Dr. Kirsten's evaluation. Dr. Kirsten wanted the neuropsychological evaluation to rule out a cognitive impairment. Dr. Baser also stated that while Dr. Kirsten found that respondent is not incapacitated to practice medicine, Dr. Kirsten also found that respondent has "fragile, serious, psychiatric conditions, is at risk for decompensation, and needs to be 'stabilized psychiatrically'."

23. In forming her conclusions Dr. Baser considered the extensive history of respondent she obtained from him and reviewed in documents provided to her. She noted that questions regarding respondent's competency to practice medicine arose in 2013 in Colorado when he was terminated from his position with Sterling Regional Medical Center for making significant errors in his interpretation of radiology images and for inappropriate behavior. After Sterling Regional Medical Center filed a complaint with the Colorado Medical Board, an investigation was conducted, and a hearing completed. As a result, the Colorado Medical Board found that respondent had multiple arrests and one conviction from the dates of August 2009 to February 2013, all of which he failed to report to the Colorado Medical Board. The Colorado Medical Board also found that respondent provided substandard medical care to five patients in March 2013 for errors in his interpretation of radiological images for those patients. Additionally, the Colorado Medical Board ordered respondent to undergo a

mental and physical health evaluation, after which the Colorado Medical Board found that he had a physical or mental illness resulting in unprofessional conduct and compromised ability to practice medicine. As a result of these findings, the Colorado Medical Board placed respondent's Colorado medical license on a five-year probation term with terms and conditions, including the condition that he undergo treatment and treatment monitoring for a period of five years.

In addition to his history of license discipline in Colorado, respondent also had an extensive arrest history and at least one criminal conviction. Specifically, in August 2009, respondent was convicted in California of spousal battery, and he had at least seven arrests from August 2009 to February 2013 for various charges including resisting arrest, false imprisonment, reckless driving, intimidation, attempted obstruction and willful harm to a child, domestic violence, and violation of a restraining order. Most recently, respondent was arrested on March 3, 2019, for violation of a restraining order filed by a former girlfriend when he was found peeking into her residence window.

24. Dr. Baser's evaluation of respondent was split into three parts: (1) clinical interview, (2) administration of tests having approximately 53 data points and involving a variety of cognitive tasks, and (3) administration of the Minnesota Multiphasic Personality Inventory (MMPI), which is a true/false questionnaire commonly used in psychological evaluations. During the clinical interview and testing of respondent, Dr. Baser observed that he had a slight tremor in his dominant right hand and was overly eager and would at times interrupt or not listen. Dr. Baser observed that respondent showed signs of impulsivity and when "even given verbal cues to slow down respondent had difficulty modulating his behavior." Dr. Baser also

noted that respondent frequently failed to "recognize errors" in his work during tasks given to him.

With regard to tests Dr. Baser administered to respondent, Dr. Baser administered approximately 22 different tests, as well as the MMPI test, as summarized in her report. Some of the tests she administered also have subtests included, such as the Wechsler Adult Intelligence Scale, which has nine different subtests. Dr. Baser explained that it is expected that one individual will perform differently on each of these tests, which are commonly used in psychological evaluations. Dr. Baser stated that respondent performed in the average to high average on many of the tests she administered. However, some of his test scores were in the "impaired" range and some scores showed decline from his previous testing performed by Dr. McDonough in 2016. Dr. Baser explained that when she gives a percentile score for respondent in her testing scores, those percentiles are relative to respondent's peer group, who are people who are similar in age, gender, education, ethnicity and from a healthy population with no neurological conditions.

Dr. Baser administered a series of tests measuring respondent's "Attention" and the results showed that respondent showed a "mild impairment" of "visual immediate focus" where his scores were in the 9th percentile rank for his peer group. Dr. Baser explained that in one of these tests she is pointing to a series of blocks in a certain sequence and respondent is supposed to tap the same blocks she does in the same sequence. She stated that respondent immediately started making a significant number of mistakes and could only repeat four blocks in correct forward sequence, however a "testing of limits" was done that showed that respondent is capable of repeating up to seven blocks in correct forward sequence. On one of the tests respondent was asked to identify all of the number "3"s scattered on a page and he

missed one of those number 3s which put him in the 17th percentile of his peers in the performance of that task. Dr. Baser concluded that respondent had inconsistent attention with immediate visual attention and visual scanning abilities mildly compromised.

Dr. Baser administered a series of tests measuring respondent's "Perception Skills" and the results of these tests showed that respondent was mildly impaired for "design copy," and "part-to-whole synthesis," and was low average in the "design fluency," "perceptual reasoning index," and "visual discrimination." Dr. Baser explained that respondent's perception skills were the most concerning results she obtained from respondent and where he had the most difficulties. She explained that the "design copy" test is a test of visual perceptual abilities and involved respondent copying a design with 18 different elements onto paper. Respondent omitted one of the 18 elements, failed to properly organize the elements spatially, and had shaky control of the pencil. Respondent's performance on that test put him between the 11th and 16th percentile of his peer group. With regard to the design fluency test, which is a visual perceptual task where respondent uses a paper and pencil. In this test Dr. Baser noted that respondent made a large number of errors, specifically 5 errors out of 13 designs total. While respondent's overall score for design fluency was low average range, the number of errors he made was significant. With regard to the "part-to-whole synthesis" this test consists of a visual puzzle subtest where respondent integrates elements into a whole. The results of this test show that respondent was mildly impaired and fell into the 16th percentile of his peer group.

The perceptual reasoning index test is a subtest of the Wechsler Adult Intelligence Scale test measuring respondent's visual perceptual abilities. Respondent's results on this test showed that he was in the low average range of performance and

in the 21st percentile of his peer group. Dr. Baser opined that the visual perceptual abilities, which includes visual-perceptual reasoning and visual-spatial analysis, scores of respondent were amount his lowest and markedly below "the expected level for his education and occupation." Dr. Baser also testified that these scores for visual-perceptual reasoning were 26 points lower than what was expected of respondent, and were also 17 points lower than the scores respondent received on the same test administered to him by Dr. McDonough in 2016. The decline in his scores from 2016 to present show respondent has had a significant decline in his perceptual reasoning skills. Additionally, with regard to the "visual discrimination" test, Dr. Baser explained that this test is very simple and involves matching visual geometric shapes. She stated that most people attain a perfect score of 32 or close to a perfect score of 29 or above on this test. However, respondent performed in the low average range with a score of 26, which is only one point above falling into the borderline range. Dr. Baser stated that respondent made an unusually high number of errors on the visual discrimination test, and the mistakes he made "were major." For example, he missed that a square became a triangle or that a cross was rotated to become an "x." Dr. Baser opined that respondent's errors on this test "were probably due to a lapse of attention or impulsivity."

Dr. Baser administered a series of tests measuring respondent's "Language Skills" and these results of these tests showed that respondent has very strong language skills generally. However, Dr. Baser noted that while respondent performed well in these tests, he also had a "very high rate of errors," which was an "error rate much higher than normal." She stated that respondent did not conform to the rules of the test and repeated his answers despite instructions not to do so.

Dr. Baser also administered a series of tests measuring respondent's "Motor Skills" and these tests results show that respondent has average skill levels in all areas, but has superior skills in "graphomotor speed" and atypical skills in "graphomotor legibility" and mild impairment in his "fine motor speed" in his non-dominant hand. Dr. Baser stated that respondent has a tremor in his right hand, and he is right hand dominant. As a result of his tremor, respondent's "graphomotor legibility" is atypical because you can see he does not have smooth handwriting or drawings. With regard to the mild impairment in his non-dominant hand for "fine motor speed," Dr. Baser stated that this is a measurement of how quickly respondent can tap his left index finger. She noted that his speed in tapping his right index finger was significantly faster than his left index finger, and the difference between the right and left hand is larger than expected. Dr. Baser opined that this might indicate that there is possibly "something going on" with the non-language portion of his brain.

Dr. Baser also administered a series of tests measuring respondent's "Memory" and these tests results show that respondent had memory abilities that varied across different tasks and modalities. Specifically, respondent was mildly impaired in his auditory immediate recall, also called "story recall," and was at the 9th percentile of his peer group. Dr. Baser stated that respondent performed in the average range for visual immediate recall, but was mildly impaired in his visual delayed recall, which involves remembering designs he drew earlier, and respondent remembered only two of five designs. Dr. Baser also noted that respondent's delayed visual incidental memory was mildly impaired. Dr. Baser opined that respondent's performance on these tests where he performed below an average score were concerning considering his expected performance as compared to his peer group. She noted in her report that respondent "consistently forgot more information than expected, achieving mildly impaired performances on two measures of delayed visual memory." Dr. Baser also testified that

respondent had been tested in 2016 by Dr. McDonough using some of the same tests and his scores for auditory memory and visual working memory had declined significantly between 2016 and 2019. Dr. Baser also testified that memory dysfunction is a hallmark for dementia disorders and respondent has difficulty with visual memory, auditory memory and working memory.

Dr. Baser also administered a series of tests measuring respondent's "Learning" and these tests results show that respondent performed in the average range in all areas other than his accuracy/error rate for auditory information where he was mildly impaired. Dr. Baser stated that these tests involve giving respondent a list of words verbally and respondent would need to repeat those words back to her. Respondent would give the all the words back, but he would include words that he thought were on the list but were not, which is called an intrusion error. Respondent had a very high number of intrusion errors, and would not correct the intrusion errors even after hearing the list again and again.

Dr. Baser also administered a series of tests measuring respondent's "Intelligence" and these tests results show that respondent performed in the high average or very superior ranges in all areas other than perceptual reasoning where he scored in the low average range. Dr. Baser noted that respondent's overall full scale score of 111 placed him in the high average intelligence functioning for his age group. However, there was a statistically significant difference between his low average score of 88 in perceptual reasoning index. She stated that all of the subtests for the perceptual reasoning index for respondent showed he had distinct weaknesses in the areas of visual-perceptual discrimination, spatial analysis, and visual reasoning. Dr. Baser also found that it was significant that respondent scored 17 points higher in his perceptual reasoning index in 2016 when he was tested by Dr. McDonough using the

same test. She opined that this sort of decline is "very rare without some sort of clinical process going on." Dr. Baser also opined that she would expect a person with respondent's educational accomplishments to have a full-scale IQ score in the very superior range, but respondent's is not because of his low average score in perceptual reasoning.

Dr. Baser also administered a series of tests measuring respondent's "Executive Functioning" and these tests results show that respondent has from average to superior executive functioning in all areas. However, his self-monitoring for errors was in the inconsistent, fair to poor range. Dr. Baser noted that respondent would check his work product for accuracy but would not always recognize errors made and also forgot the applicable rules for the test. She noted this his performance did not indicate any impairment, but his error rate was concerning.

Dr. Baser also administered the MMPI, version 2, and another test to measure respondent's "Emotional Functioning" and these tests results show that respondent has no scores in the clinically significant range for personality disorders, but Dr. Baser noted that he has a pattern of prominent personality traits in combination with his behavior history that are concerning. She noted that his prominent personality traits are thinking of himself as being special, above reproach, and self-important, as well as alienated from mainstream and feeling victimized. Dr. Baser stated that respondent has grandiose thinking about himself, believes that he knows best, and thinks he should not be subject to the same conventions as others.

25. Dr. Baser concluded based on all of her testing, clinical interviews, record review, and observations that respondent has the following three diagnoses: mild neurocognitive disorder, probably of Alzheimer's Type; major depression, per history, in remission; and Narcissistic Personality Disorder. Dr. Baser opined that respondent

had borderline to impaired scores on measures of visual-perception analysis and reasoning, visuo-motor construction, visual memory, immediate auditory memory, visual working memory, visual scanning, and visual discrimination. Notably, Dr. Baser opined that "[t]hese abilities were well below the normal range for Dr. Lovin's educational and professional status." Dr. Baser opined that respondent's poor performance in visual perceptual reasoning and visual memory were "the most pertinent to his fitness for duty" because respondent is a radiologist and visual perception is his central function in that role. Dr. Baser testified that "it is well documented that the majority of errors made in radiology are because of visual perception." Dr. Baser also found evidence of cognitive decline in respondent based upon the comparison of the 2016 testing done by Dr. McDonough, and based upon significant differences between his performance and his "predicted abilities" based upon his educational achievements and professional status.

Dr. Baser also concluded that respondent's personality testing and her observations show that respondent has a "tendency toward grandiose thinking, either alienated from or superior to what is common and ordinary." She noted that "[t]he pattern of his thinking was evident, although he did not endorse so many symptoms as to achieve a clinical case. Dr. Baser opined that respondent feels he is a victim, disregards rules and feels those rules don't apply to him, and blames others for his problems, which are all narcissistic personality traits.

Dr. Baser concluded that respondent is unable to safely and competently practice medicine based upon his cognitive decline in visual-perceptual reasoning, visual working memory, and auditory and visual delayed memory, as well as his behavioral factors combined. Dr. Baser wrote her conclusion in her report as follows:

> Dr. Lovin's past behavior and current test results indicate that he is at risk for making errors and disregarding professional rules and conventions. Both cognitive dysfunction and personality factors make him unfit for safe medical practice. The prognosis is poor. It is expected that Dr. Lovin's cognitive abilities will gradually decline, but the exact rate or quality of this decline cannot be determined. He is not an immediate danger to himself or the public. However, losing his career would make his behavior more unpredictable and he may become willing to take more risks.

26. In reaching her conclusion, Dr. Baser criticized Dr. Kristen's evaluation, which was the source of Dr. Baser's referral for evaluation of respondent. Notably, Dr. Kirsten found that respondent was not incapacitated for the practice of medicine based upon Dr. Kirsten's diagnoses of obsessional disorder, PTSD, and major depression in remission. Dr. Baser criticized Dr. Kirsten's conclusion and stated that Dr. Kirsten dismissed the significance of respondent making an error during a clock drawing task, which she found as a significant finding. Dr. Baser also criticized Dr. Kirsten for recommending that respondent receive psychiatric treatment for "current fragile, serious, psychiatric conditions" that caused him to be "at risk for decompensation," but at the same time find that respondent is safe to practice medicine despite his psychiatric fragility. Dr. Baser also criticized Dr. Kirsten for overlooking significant personality elements of respondent and failing to account for "lack of professionalism or criminal behavior" in determining respondent's competency.

27. Dr. Baser also noted that information contained in the reports of Dr. Abrams and Dr. Leark also support her conclusions. Specifically, in Dr. Abram's 2019 report of his evaluation or respondent, he noted that respondent had difficulty understanding that the conditions of probation from the board are real and need to be followed. Dr. Baser found that consistent with the fact that respondent disregards rules and believes they don't apply to him. Dr. Abrams also found that respondent has a tendency to blame others for his problems and not see himself at fault, which Dr. Baser stated supports her conclusion that respondent has narcissistic personality traits. Dr. Baser also noted that Dr. Abrams only provided a psychiatric evaluation of respondent in both 2019 and 2020 and never provided any neuropsychological evaluation. With regard to Dr. Abram's 2020 report of his evaluation of respondent, Dr. Baser took issue with Dr. Abram's criticism of her in that report, which she characterized as prejudicial and wrong. She noted that Dr. Abrams concluded that respondent has Autism Spectrum Disorder (ASD) in that report. Dr. Baser criticized Dr. Abram's conclusions, particularly because they were not based on test data as her conclusions were.

Dr. Baser also reviewed the report from Dr. Leark, which utilized some of the same or similar testing as Dr. Baser used, and found that Dr. Leark also found that respondent had difficulties with visual perceptual reasoning as Dr. Baser found. Despite having the same findings about respondent's visual perceptual reasoning, Dr. Leark believes that these findings will not affect respondent's ability to practice medicine. Dr. Baser disagrees with that conclusion. Dr. Baser also pointed out that Dr. Leark's entire evaluation of respondent happened over videoconference and not in person because of the COVID-19 pandemic, which she stated is not ideal and prevented Dr. Leark from observing respondent fully.

Respondent's Evidence

RESPONDENT'S MENTAL FITNESS EXPERTS

28. Robert A. Leark, Ph.D. is currently in private practice as a forensic and consulting neuropsychologist. He received his license to practice psychology from the State of California in January 1984, and his license to practice psychology from the State of Nevada in August 2010. Prior to this position, he worked as a professor in forensic psychology at Alliant International University from September 2008 to September 2017. He was an associate professor in forensic psychology at Alliant International University from September 2003 to September 2008. Prior to that position he was an associate professor in the Social and Behavioral Sciences Department of Pacific Christian College at Hope International University from Spring 1998 to September 2003. Dr. Leark has also been involved in academic administration at Alliant International University. Dr. Leark evaluated respondent for cognitive deficits and evaluated the conclusions made by Dr. Baser based on her test data and summarized his findings in a report dated April 26, 2020. Dr. Leark testified at the hearing and the following factual findings are based upon his testimony and supporting documents received in evidence.

29. Dr. Leark noted in his report and during his testimony that he performed "a limited neuropsychological evaluation" due to the restrictions in place regarding the COVID-19 pandemic. Dr. Leark stated that he was asked to determine if respondent is displaying any indications of dementia disorder in his evaluation. Dr. Leark spent one hour interviewing respondent over the phone, and thereafter approximately six hours over a two-day period performing testing by videoconference. Dr. Leark never met respondent face-to-face. During the videoconference with respondent, Dr. Leark was not able to observe respondent's hands because he only saw from his shirt pocket

upward. Dr. Leark performed a total of six tests on respondent, but none of those tests were performance tests and he was unable to perform visual spatial testing by videoconference. As a result, the testing performed by Dr. Leark was not as thorough as he would have liked. Dr. Leark also did not perform any personality testing of respondent, but he did use the results obtained from Dr. Baser's testing and "rescored" those results. Dr. Leark also did not perform any emotional testing on respondent. Prior to his evaluation of respondent, Dr. Leark reviewed Dr. Baser's report, Dr. Kirsten's report, the 2016 report from Dr. McDonough, and Dr. Abram's 2019 report. Dr. Leark did not review Dr. Abram's 2020 report.

30. Dr. Leark opined that his review of all the information contained in Dr. Baser's report, as well as the underlying raw test data used by Dr. Baser, did not indicate to Dr. Leark that respondent is unable to practice medicine safely. Additionally, the testing conducted by Dr. Leark indicated to him that respondent "did not seem to have signs of cognitive deterioration" and that respondent should be capable of functioning safely as a physician. Dr. Leark explained that the percentile ranks used by Dr. Baser in her report can be confusing and are not the same as percentages. Percentile rank is not distributed like a bell-shaped curve, but are instead clustered in the middle and not equally distributed. For example, with regard to IQ scores a percentile ranking of 16 implies that 84 people scored higher, and that sounds terrible. However, a percentile ranking of 16 is indicative of a normal IQ score of 85 because percentile ranks are not percentages per se, and an average percentile ranking is 50 not 100.

With regard to the test scores Dr. Leark obtained from his own testing, Dr. Leark agrees that his results were essentially the same as those obtained by Dr. Baser and by Dr. McDonough in 2016. Additionally, Dr. Leark concluded that respondent's scores on

measures of intellectual processing are within the average range and Dr. Leark saw no evidence of cognitive decline. Dr. Leark testified and wrote in his report as follows:

> His scores on measures of intellectual processing are within the average range. While it seems commonsensical that all physicians would score in the above average range, there is no empirical evidence for the notion. Statistically, the expected score range is that within the average range, thus the statistical expectation is average. He falls within that expected range. Within the testing conducted by Drs. McDonough and Baser, his scores are in the similar range, reflecting test variance not intellectual variance (i.e., average and upper end average). While the scores on intellectual processing may reflect a decline, I have no evidence to support that he had an above average intellectual ability compared to his current average intellectual ability. It is important to note that I could not assess speed of processing within the intellectual measure given the restricted platform.

Dr. Leark further opined that respondent's overall performance measures on learning and memory were not consistent with dementia disorder or degenerative disorder. Dr. Leark admitted he was not able to perform tests for visual-perceptual learning and memory, and admitted that Dr. Baser's results for those tests show respondent fell in the below average range. Dr. Leark wrote in his report as follows:

> He does show below average abilities for tasks requiring visual-spatial perception, visual recognition and visual

> organization. The findings here are similar to those found by Dr. Baser and Dr. McDonough. Again, while it is commonsensical that lesser abilities to perform visual-spatial processing would directly impact his ability to do tasks of a radiologist, there is no empirical evidence for this. They may do so, however, I do not have empirical support for making such an opinion. The etiology of the score performance is unknown. It may reflect a deterioration of a prior level of functioning; however, I have no evidence for such. It may also reflect a congenital anomaly, but I do not have evidence of such either.

While Dr. Leark opined that respondent's performance on verbal learning and memory, and intellectual processing tasks did not support a diagnosis of a degenerative disorder, such as dementia disorder, he left open the possibility that respondent may suffer from those disorders. Specifically, he wrote in his report that "if further assistance is needed to make this determination" of whether respondent suffers from a dementia disorder, "I recommend neurological consultation and follow up to determine if the poorer than expected performances are related to a degenerative disorder."

Dr. Leark also stated that he did not perform any personality or emotional testing on respondent, and he was not asked to do so. Dr. Leark stated that he did not disagree or agree with Dr. Baser's conclusions regarding personality traits of respondent. Dr. Leark also noted that he did not know what basis Dr. Baser used to make her conclusion that respondent is "at risk for making errors and disregarding professional rules and conventions. Both cognitive dysfunction and personality factors

make him unfit for safe medical practice. The prognosis is poor." Accordingly, without knowing what empirical evidence Dr. Baser relied upon for that conclusion, Dr. Leark does not agree with this conclusion. Dr. Leark stated that the data he obtained did not support such a conclusion.

31. Alan A. Abrams, M.D. is currently in private practice as a psychiatrist and has been since he retired in 2012 from a position as the Chief Psychiatrist at the Department of Corrections facility in Vacaville, California. Additionally, Dr. Abrams currently is the faculty psychiatrist at the student clinic at the University of California San Diego (UCSD), and he has had that position since 2018. Dr. Abrams received his Medical Doctorate degree in 1974 from UCSD, School of Medicine. He completed his residency in psychiatry in 1979 and his fellowship in psychopharmacology in 1977 all from UCSD, School of Medicine. Dr. Abrams also completed a Juris Doctorate degree in 1992 from the University of California Berkley, Boalt Hall School of Law. Dr. Abrams is board certified in psychiatry, forensic psychiatry, addiction psychiatry, and addiction medicine. Dr. Abrams is currently an associate clinical professor of psychiatry at UCSD, School of Medicine and has been on faculty there since 1979. Dr. Abrams is also currently the forensic psychiatry training director at UCSD Department of Psychiatry. Dr. Abrams has worked for the board performing evaluations for fitness to practice medicine for approximately 25 years. On June 28, 2019, Dr. Abrams was contacted by Ms. Andrew of the board to perform a complete psychiatric evaluation of respondent on behalf of the board, which Dr. Abrams performed on July 1, 2019, and summarized his findings in his report dated July 4, 2019. Thereafter, in February 2020, Dr. Abrams was contacted by respondent's attorney to conduct a further psychiatric evaluation of respondent on behalf of respondent, which Dr. Abrams completed on April 28, 2020, and summarized his findings in his report dated April 29, 2020. Dr. Abrams testified at

the hearing and the following factual findings are based on his testimony and supporting documents received in evidence.

32. Dr. Abrams testified that although he had been retained by the board to evaluate respondent in 2019 and thereafter was retained by the respondent in 2020 for a re-evaluation, he did not believe he had any conflict of interest because he did not believe the party retaining him would bias him in any way so as to affect his analysis.

33. With regard to Dr. Abram's 2019 evaluation and report, Dr. Abrams performed a mental status exam on and obtained a history from respondent in Dr. Abram's office for approximately two hours on July 1, 2019. Prior to that evaluation on July 1, 2019, Dr. Abrams reviewed the psychiatric evaluation from Dr. Kirsten, the neuropsychological evaluation from 2016 from Dr. McDonough, the quarterly reports from Dr. Bratsky, and the Stipulated Settlement and Disciplinary Order placing respondent on probation effective July 22, 2017, as well as the underlying accusation and Colorado discipline documents.

After his review of documents and his evaluation of respondent in 2019, Dr Abrams diagnosed respondent with two different diagnoses: (1) High Functioning Autism Spectrum Disorder (ASD), and (2) Adjustment Disorder with Anxiety. Dr. Abrams opined that neither of these diagnoses impaired respondent's ability to practice medicine safely, but Dr. Abrams believes that these diagnoses would affect respondent's global happiness in life unless they were addressed. Dr. Abrams testified "I am not a radiologist, so I don't know about his competency in radiology." Dr. Abrams opined that respondent has poor social skills and was experiencing adjustment disorder with anxiety after entering into a marriage too quickly and being under stress with financial problems.

Notably, while Dr. Abrams does not believe that respondent's ASD diagnosis impairs his ability to practice medicine safely, he did opine that the ASD diagnosis could be a problem for respondent to comply with the terms of his probation with the board. Specifically, Dr. Abrams stated that he was concerned that respondent's preoccupation with the importance of being a technically competent radiologist would interfere with "his understanding that the medical board imposed real conditions that he must obey." Dr. Abrams further stated that respondent has a "cognitive distortion" such that "if something is not exactly spelled out to the dotted 'I' and crossed 'T' then [respondent] thinks it is not real." Dr. Abrams testified that it struck him that respondent did not understand what the temporary restraining order issued against him by his ex-girlfriend really meant because it had a different address on it so he thought it did not apply to the location where he was found peeping into her window. Dr. Abrams stated that this same "social blindness" concerned him with regard to respondent's ability to follow the terms of probation.

In his 2019 report Dr. Abrams opined that respondent did not need psychotherapy or psychiatric treatment, but respondent should consider having a life coach to help him interact with the world. Dr. Abrams testified that he strongly recommended that respondent "get rid of" Dr. Bratsky because Dr. Abrams did not believe that treatment from Dr. Bratsky was doing respondent any good. Dr. Abrams stated that respondent and Dr. Bratsky were not therapeutically compatible.

34. With regard to Dr. Abram's 2020 evaluation and report, Dr. Abrams was contacted by respondent's attorney after the accusation and petition to revoke probation at issue in this matter was filed in order to perform a follow-up evaluation of respondent. On April 28, 2020, Dr. Abrams interviewed respondent by videoconference for one hour as part of that evaluation. Additionally, Dr. Abrams reviewed his own

prior report from 2019, Dr. Kirsten's report dated June 3, 2019, Dr. McDonough's report from 2016, Dr. Baser's report dated July 12, 2019, and Dr. Leark's report dated April 27, 2020. Dr. Abrams wrote in his report that he did not address the alleged probation violations of respondent in his report, but "primarily addressed the issues raised by Dr. Baser alleging Dr. Lovin is unfit to practice medicine." Dr. Abrams evaluation of respondent consisted of an assessment of respondent's emotional functioning and personality through the one-hour interview. Dr. Abrams did not conduct any neuropsychological testing and did not ask respondent any "true or false" type questions for his personality evaluation.

Dr. Abrams opined in his report and during his testimony that there had been no change in respondent's presentation from when Dr. Abrams evaluated him in 2019. Dr. Abrams noted that the only real difference was that when Dr. Abrams asked respondent to name the presidents of the United States backward in chronological order, respondent did so all the way back to President McKinley (although respondent omitted Taft). Dr. Abrams thought respondent's ability to do so was "extensive," however he acknowledged that respondent may have "studied up" because he knew that Dr. Abrams would ask that question. Dr. Abrams also interviewed respondent about his hand tremor, which was noted in Dr. Baser's report as being of neurological significance. However, Dr. Abrams wrote in his report that respondent "had no visible tremor." Dr. Abrams also noted that Dr. Baser and Dr. Kirsten failed to interview respondent about the hand tremor. Dr. Abrams noted that respondent informed him that he will sometimes have a tremor if he drinks too much caffeine or is under exceptional stress. Dr. Abrams opined that this information clarifies that the tremor is of "no neurological significance."

Dr. Abrams heavily criticized Dr. Baser's evaluation and conclusions regarding respondent's diagnosis in his 2020 report and testimony at the hearing. Dr. Abrams testified that while he knows that Dr. Baser "had a good reputation for a while," her report is something he "would be ashamed of" if his colleagues knew he produced it. Specifically, Dr. Abrams wrote in his report:

> Dr. Baser made highly speculative and I believe entirely inaccurate diagnosis of a progressive dementing illness. No other expert has made such a diagnosis. Dr. Kirsten merely raised this as a possibility, not a diagnosis. Dr. Baser's diagnosis of Narcissistic Personality Disorder is in contrast to all other psychiatric and psychological experts. None of the additional information from Dr. Baser or Dr. Leark has altered my opinions in any manner whatsoever. I continue to believe that Dr. Lovin needs a life coach/therapist to actively provide on-going corrections for his ASD and his decision making. I continue to believe that Dr. Lovin is particularly well suited to working in his chosen specialty of radiology. I do not find any mental condition or neuropsychological condition that would make Dr. Lovin unfit to practice medicine in a safe manner. . . . It appears for some reason Dr. Baser found Dr. Lovin defective and unacceptable as a person. This is not an uncommon lay person response to people with high functioning ASD. Both Dr. Bratsky's and Dr. McDonough's assessments should have indicated to her that Dr. Lovin was not acting out any

> "moral failing" but had behavioral problems because of his impoverished social skills due to ASD.

Dr. Abrams stated that Dr. Baser's diagnosis of early Alzheimer's Disease is simply speculation. Dr. Abrams also agreed with Dr. Leark's conclusion that "there is no correlation between a psychological testing score and real life performance for the low visual-spatial, visual recognition and/or visual organization findings." Dr. Abrams also pointed out that the MMPI personality test administered by Dr. Baser "was not developed to diagnose ASD." He also opined that respondent's MMPI testing did not indicate Narcissistic Personality Disorder as a valid diagnosis. Dr. Abrams also disagreed with Dr. Baser's assertion that respondent's "lower than expected" cognitive ability scores showed significant decline. Instead, Dr. Abrams opined "It is as likely that they are life-long anomalies for which he [h]as attempted to adapt or overcome."

As a result of his 2020 evaluation of respondent, Dr. Abrams concluded the following diagnosis and prognosis for respondent:

> I continue to believe the very most accurate diagnoses remain High Functioning Autism Spectrum Disorder and Adjustment Disorder with Anxiety. There is no evidence that Dr. Lovin has any form of diagnosable cognitive disorder. There is no evidence that he has an affective disorder, PTSD or a personality disorder apart from his ASD.

Dr. Abrams testified and wrote in his report that because of respondent's ASD diagnosis, respondent has difficulty understanding his probation terms and what is expected of him by the board. Dr. Abrams opined and wrote in his report that he believes that an ASD diagnosis is a covered disability by the Americans With

Disabilities Act (ADA) and that "there are a range of accommodations" that can improve respondent's functioning in society, and that the board may be subject to those laws requiring the board to provide accommodations to respondent so that he can abide by the board's probation terms. Dr. Abrams wrote "Autism is no excuse for incompetence or poor conduct, but neither is the condition a reason for employers to impede the successful practice and career progression of doctors with ASD." Dr. Abrams believes that the board "needs to spell out every term of probation because [respondent] is not good at understanding things that are not exact." Dr. Abrams believes that respondent needs a life coach because if respondent believes that a term or condition is unfair, he has trouble abiding by it. Without having such a life coach, Dr. Abrams believes that respondent likely won't be able to abide by his probation terms because he "is not a good protector of his self-interest."

RESPONDENT'S TESTIMONY

35. Respondent is 62 years of age and currently a practicing radiologist at White Memorial Advantis Hospital in East Los Angeles. Respondent received his undergraduate degree in 1980 from Cornell University in New York and graduated magna cum laude. He was also in the Reserve Officer's Training Corp (ROTC) while attending Cornell University. Respondent received his Medical Doctorate degree in 1984 from the University of Washington in Seattle, Washington and graduated in the upper quarter of his class. He completed his residency in 1988 in Diagnostic Radiology at the University of Michigan. Respondent successfully completed his board examination with the American Board of Radiology in 1988. After completing his residency, respondent had a fellowship lined up at Massachusetts General Hospital, but was unable to attend that fellowship because of his military obligations from the ROTC. Instead, he joined the U.S. Army and served at two army medical centers and

was deployed during the Desert Storm operation. Respondent served in the army for a total of four years and did serve in the army reserve for some time thereafter. Respondent was honorably discharged from the military in 1992. Respondent completed a fellowship in nuclear medicine and a fellowship in MRI in the late 1990s from Wake Forest University. He successfully passed his nuclear cardiology examination in 1999. Respondent is board certified in nuclear medicine and MRI, and holds a certificate in nuclear cardiology. Respondent has also held a number of academic positions as a clinical adjunct professor at the University of Colorado, the Western Osteopathic Medicine University, and the University of Oregon.

36. Respondent was married prior to entering the military and has two children, both of whom are now adults. Respondent remained married to his first wife until sometime after he returned from his deployment oversees. Thereafter, he married another woman named Tammy, and respondent described that relationship as "not a happy marriage" and claimed that Tammy "fleeced him for a lot of money." During his relationship with Tammy, respondent was arrested numerous times and incurred one conviction in 2009 for spousal battery. At some point thereafter he was engaged to be married to a woman named Rochelle. After his relationship with Rochelle dissolved, respondent was arrested in March 2019 for violating a Temporary Restraining Order against him filed by Rochelle when respondent was alleged to be peering through Rochelle's home window. That criminal case is still pending in court. Respondent testified that Rochelle "took me for well over $600,000 and did not marry me despite her promises." Respondent has recently remarried another woman and remains married to her.

37. Respondent testified that he worked as a radiologist in locum tenens positions in Montana and other states with a staffing agency. He stated that he first

moved to California in 2007 and was licensed in California in 2007.[2] Respondent acknowledged that he received discipline against his Colorado Medical license in 2016 and thereafter the California Medical Board brought a disciplinary action against his California medical license based upon the Colorado discipline. As a result, respondent signed a Stipulated Settlement and Disciplinary Order with the board placing his California medical license on probation for five years with terms and conditions, effective July 21, 2017.

Respondent testified that he has had four practice monitors with the California board since his license was placed on probation. Specifically, for the first two months of his probation his probation monitor was Danielle Farrell, thereafter Ms. Andrew was his probation monitor, and for a brief time in 2018 his probation monitor was Christopher King, and currently his probation monitor since November 2019 is Betty Solis. Respondent testified that at the time he entered into the stipulation with the board containing his probationary terms, he did not understand those terms and his attorney did not explain those terms to him and he simply "signed what the attorneys told [him] to sign." Respondent also testified that on July 24, 2017, when he met with Ms. Ferrell for the first time and signed an "Acknowledgement of Decision" on that date acknowledging that he received a copy of the board's decision and that Ms. Ferrell explained all the terms and conditions to him, he did not actually understand those terms and conditions. Respondent testified that Ms. Ferrell had him "sign a zillion papers," she hurried him through the process, and respondent "did his best to understand" all the terms but he actually did not.

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[2] Certified documents from the California Medical Board indicate that respondent was first licensed in California on March 17, 2000.

38. On May 28, 2019, the board issued a Cease Practice Order to him. Respondent testified that he was caught by surprise when he learned of the Cease Practice Order. Respondent admitted that at the time he received the Cease Practice Order, he was no longer working at the locations of Hemet Valley Hospital or Menefee Valley Medical Center, but was reading radiology exams from home and was also working occasionally at F and M Radiology, a location where he had been working since 2017. Respondent claimed that he told Ms. Ferrell that he was working at F and M Radiology when he first started his probation. He stated that he told Ms. Ferrell that he was working at F and M Radiology occasionally, but it was not his primary employment, which was in Hemet. According to respondent, Ms. Ferrell told him that he was not required to report his employment at F and M Radiology to the board, but only had to report his "primary" employment. Respondent admitted that after he received the Cease Practice Order he continued to work "a few times" at F and M Radiology. Respondent testified that after receiving the Cease Practice Order he consulted with his attorney who advised him that he needed to stop working at his primary employment in Hemet Valley Hospital, but could continue working part-time at F and M Radiology. Respondent stated that he took his attorney's advice, despite knowing the attorney had a "negative relationship" with Ms. Andrew of the board. At the hearing respondent stated he had no intention of violating the Cease Practice Order and apologized if "there was any misunderstanding on his part." He said he tries very hard to follow orders, but doesn't "quite catch everything because he is a nerd."

39. With regard to the quarterly report he executed after he was arrested in March 2019 and without disclosing his arrest on that document, respondent stated that he simply made a mistake and had no intention of providing a wrong answer to the question of whether he had been arrested and he did not knowingly hide that information. Ms. Andrew asked him during the quarterly meeting if he had been

arrested, and respondent said yes. After Ms. Andrew pointed out to respondent that he answered the question on the form stating that he had not been arrested, he apologized to her.

40. With regard to the probation term requiring that respondent have a practice monitor for his practice, respondent testified he has had multiple practice monitors while he has been on probation. He currently has a practice monitor named Dr. Donald Cornforth who monitors his work at White Memorial Medical Center. He has had a practice monitor while working at Hemet Valley Hospital, and a practice monitor while working in Northern California. However, respondent did not provide any information during his testimony regarding whether he had a practice monitor monitoring his work while he was working at F and M Radiology. Respondent's silence on that issue was telling. Respondent also provided no testimony or information regarding any notification he may have gave to F and M Radiology regarding his Stipulated Settlement and Disciplinary Order and underlying accusation resulting in his license probation.

41. With regard to the probation term prohibiting respondent from solo practice or locum tenens, which also requires that respondent advise the board of any practice setting changes, respondent testified that he never worked in a solo practice, but "it depends on how you define solo." Specifically, respondent admitted that he worked from home reading radiology images after Hemet Valley Hospital did not allow him to be present in the hospital facility. Hemet Valley Hospital was concerned after respondent's March 2019 arrest and preferred that he read images from home because "that is how things are done now." Respondent stated that his attorney advised him that working from home was allowed by the terms of his probation and his employer preferred it. On cross-examination respondent admitted that his

probation terms required that he not engage in the practice of medicine at his residence, but claimed he was not aware of that provision or what it meant and relied instead on the advice of his attorney and the instructions of his employer.

42. On cross-examination respondent also denied that he made any mistakes regarding the five underlying patients that were at issue in the Colorado medical board license discipline despite his signed stipulation admitting to the truth of those allegations. Respondent also denied making any errors in radiology reports from Valley MRI and denied he was terminated from his job there. Respondent also denied using profanity with the staff at Valley MRI. Finally, respondent also denied ever "bursting into a rage" with Ms. Andrew during a quarterly meeting. Respondent stated that he asked for the door to remain open "because he wanted transparency." Respondent also denied making any comment to Ms. Andrew regarding Harvey Weinstein.

43. Respondent stated that he would like to continue his practice as a radiologist at White Memorial Medical Center, which is a 500-bed hospital serving primarily African American and Hispanic patients in an underserved community in East Los Angeles. Respondent testified that he now has a good working relationship with his current probation monitor, Ms. Betty Solis, and believes that she is helpful to him to "point out details he is not aware of." Respondent intends to comply with the terms of his probation moving forward.

RESPONDENT'S DOCUMENTARY EVIDENCE

44. Respondent provided multiple documents evidencing his completion of extensive continuing medical education courses he has completed over the past several years. Additionally, respondent provided one letter of support from Dr. Donald

Cornforth, his current practice monitor at White Memorial Hospital where respondent has worked since February 2020 and at Delano Regional Medical Center where respondent worked prior to that. Dr. Cornforth wrote he has been respondent's practice monitor since September 30, 2019. Dr. Cornforth wrote that respondent's imaging services are satisfactory and are within standards of quality and "generally better than the other radiology staff members." Dr. Cornforth wrote that respondent's interactions with staff have always been appropriate and professional, and respondent has dramatically improved the radiology services. Dr. Cornforth also wrote that respondent has shown "no decline in his professional performance." Dr. Cornforth requested in his letter "the removal of his probationary status and restoration of his active medical license without restrictions."

Evaluation

MENTAL FITNESS TO PRACTICE MEDICINE

45. Evidence from two psychiatrists who evaluated respondent to determine if he was safe to practice medicine was received in evidence. Specifically, the report from Dr. Kirsten, and the two reports from Dr. Abrams, as well as his testimony. Additionally, evidence from three neuropsychologists who evaluated respondent were received in evidence. Namely, Dr. Baser's report and testimony, Dr. Leark's report and testimony, as well as Dr. McDonough's report. Four of the five experts opined that respondent is safe to practice medicine. Only Dr. Baser offered the opinion that respondent was incapacitated to safely practice medicine based upon cognitive decline. The diagnoses of respondent from each of these individuals varied widely. For example, Dr. Kirsten diagnosed respondent with PTSD, major depression in remission, and obsessional personality traits; Dr. Abrams diagnosed respondent with ASD; Dr. McDonough diagnosed respondent with "mood issues"; Dr. Leark did not provide a

diagnosis for respondent but opined that he did not have a cognitive degenerative disorder as Dr. Baser opined; and Dr. Baser opined that respondent suffers from mild neurocognitive disorder, probably Alzheimer's type, major depression in remission, and narcissistic personality disorder.

California courts have repeatedly underscored that an expert's opinion is only as good as the facts and reasons upon which that opinion is based. (*Kennemur v. State of California* (1982) 133 Cal.App.3d 907, 924.) While Dr. Baser performed extensive neuropsychological testing of respondent, her finding that respondent is suffering from a mild neurocognitive disorder probably of Alzheimer's type is based on underlying assumptions, namely that respondent's intellectual functioning and cognitive abilities were once higher than average, as currently measured, simply because of his previous academic achievements and professional status. Dr. Baser provided no evidence on which to base that assumption. Additionally, Dr. Baser's conclusion that respondent's scores for visual-perceptual reasoning, visual working memory, auditory and visual delayed memory being in the low average or mildly impaired range will result in his inability to safely practice as a radiologist is somewhat speculative given that Dr. Baser has no evidence linking those test scores with performance as a radiologist specifically. Additionally, while Dr. McDonough had similar scores for respondent but higher, Dr. McDonough explained that the low scores on some of those tests cannot be considered in a vacuum, and other factors could account for why those tests scores were lower than others. Dr. Leark also obtained similar tests scores and concluded that there was not evidence to show that respondent was suffering from a cognitive decline based on those scores.

Additionally, Dr. Abrams criticized Dr. Baser's analysis and conclusions, not only by pointing out that she was the only practitioner of the five to opine that respondent

was suffering from cognitive decline, but also pointing out some of her underlying assumptions as noted above. However, it is noted that Dr. Abrams is also the only practitioner to diagnose respondent with ASD, despite the fact that Dr. Abrams did not perform any objective tests to come to that conclusion and only made that determination based upon his forensic interviews of respondent. Accordingly, Dr. Abram's opinions also suffer from a lack of underlying objective evidence. Regardless, of the diagnosis, it is of serious concern that Dr. Abrams opined that respondent is not capable of following the rules and terms of his probation with the board without the assistance of a life coach to hold his hand throughout the process.

46. After consideration of all the expert evidence and testimony, the board failed to prove by clear and convincing evidence that respondent is impaired because of a mental illness to practice medicine safely. Dr. Baser's conclusions suffer from underlying assumptions not established by the evidence and are contrary to the bulk of other evidence from the other experts showing that respondent is not impaired to practice medicine safely.

VIOLATIONS OF PROBATION TERMS

47. The evidence provided established that respondent violated multiple terms of his probation. Specifically, the evidence established that respondent failed to notify the board of his work as a radiologist at F and M Radiology from 2017 up to and after the time after the Cease Practice Order was issued. While respondent testified that he told Ms. Ferrell about his work there and claims she told him he did not have to report that work to the board, respondent's testimony is not credible in this regard. The board had no knowledge that respondent was working at F and M Radiology, and during the time he worked there the board has no information about whether he was the only radiologist working there or not. Also, there was no practice monitor

overseeing respondent's work at F and M Radiology. Respondent knowingly violated the Cease Practice Order by continuing to work at F and M Radiology after the Cease Practice Order was issued. Respondent's explanation that his attorney advised him that it was ok to do so also lacked credibility. While it is evident that respondent and his attorney appeared to have an adversarial relationship with the board, respondent is obligated to follow the terms of his probation and to cooperate with the board. Additionally, respondent provided no evidence to show that he ever informed F and M Radiology that he was on probation, or that he provided a copy of the Stipulated Settlement and Disciplinary Order and underlying accusation to F and M Radiology.

With regard to the probation requirement that respondent not practice medicine from his home, the evidence established that respondent violated this probation condition by working from his home at the request of Hemet Valley Medical Center after his employer prohibited him from coming to the facility. However, it is noted that this probation requirement is found in term 10 of respondent's probation terms, which is not specifically alleged in the Accusation and Petition to Revoke Probation as a basis to revoke respondent's probation. Accordingly, this probation violation is not considered as an independent basis for revocation of respondent's probation, other than to the extent that it is a probation violation pursuant to term 14.[3]

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[3] It is also noted that Ms. Andrew testified about respondent's violation of term 8 of respondent's probation terms requiring that he obey all laws, by his March 2019 arrest for violation of a temporary restraining order. While this violation was established by evidence, it was not alleged in the Accusation and Petition to Revoke

LEGAL CONCLUSIONS

Burden and Standard of Proof

1. Complainant bears the burden of proof of establishing that the charges in the accusation and petition to revoke probation are true. (Evid. Code, § 115; 500.)

2. With respect to the accusation portion of the pleadings, the standard of proof required is "clear and convincing evidence." (*Ettinger v. Board of Medical Quality Assurance* (1982) 135 Cal.App.3d 853, 856.) The obligation to establish charges by clear and convincing evidence is a heavy burden. It requires a finding of high probability; it is evidence so clear as to leave no substantial doubt, or sufficiently strong evidence to command the unhesitating assent of every reasonable mind. (*Christian Research Institute v. Alnor* (2007) 148 Cal.App.4th 71, 84.) With regard to the petition to revoke probation portion of the pleadings, the standard of proof is a preponderance of the evidence. (*Sandarg v. Dental Board of California* (2010) 184 Cal.App.4th 1434, 1441-1442.)

Applicable Statutes

3. Business and Professions Code section 2227 provides that a licensee who has violated 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 subject to other discipline the board deems proper.

Probation, and as a result is not an independent basis to revoke respondent's probation.

4. The board's Decision and Order, effective July 21, 2017, contained the following provision in term 14:

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

5. Business and Professions Code section 822 provides:

> If a licensing agency determines that its licentiate's ability to practice his or her profession safely is impaired because the licentiate is mentally ill, or physically ill affecting competency, the licensing agency may take action by any one of the following methods:
>
> (a) Revoking the licentiate's certificate or license.
>
> (b) Suspending the licentiate's right to practice.
>
> (c) Placing the licentiate on probation.
>
> (d) Taking such other action in relation to the licentiate as the licensing agency in its discretion deems proper.

> The licensing agency shall not reinstate a revoked or suspended certificate or license until it has received competent evidence of the absence or control of the condition which caused its action and until it is satisfied that with due regard for the public health and safety the person's right to practice his or her profession may be safely reinstated.

6. Business and Professions Code section 2234 provides in relevant part:

> The board shall take action against any licensee who is charged with unprofessional conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not limited to, the following:
>
> > (a) Violating or attempting to violate, directly or indirectly, assisting in or abetting the violation of, or conspiring to violate any provision of this chapter. . . .

7. The primary purpose of disciplinary action is to protect the public. (Bus. & Prof. Code, § 2229, subd. (a).) The Medical Practice Act emphasizes that the board should "seek out those licensees who have demonstrated deficiencies in competency and then take those actions as are indicated, with priority given to those measures, including further education, restrictions from practice, or other means, that will remove those deficiencies." (Bus. & Prof. Code, § 2229, subd. (c).) However, "[w]here rehabilitation and protection are inconsistent, protection shall be paramount." (Bus. & Prof. Code, § 2229, subd. (c).)

Disciplinary Guidelines

8. California Code of Regulations, title 16, section 1361, provides that when reaching a decision on a disciplinary action, the board must consider and apply the "Manual of Model Disciplinary Orders and Disciplinary Guidelines" (12th Edition/2016). Under the Guidelines the board expects that, absent mitigating or other appropriate circumstances such as early acceptance of responsibility, demonstrated willingness to undertake board-ordered rehabilitation, the age of the case, and evidentiary problems, Administrative Law Judges hearing cases on behalf of the board and proposed settlements submitted to the board will follow the guidelines, including those imposing suspensions. Any proposed decision or settlement that departs from the disciplinary guidelines shall identify the departures and the facts supporting the departure.

9. Under the Disciplinary Guidelines, the minimum discipline for unprofessional conduct as a result of violation of probation is 30 days of suspension. The maximum discipline is revocation. The Disciplinary Guidelines provide that the maximum penalty should be given for repeated similar offenses or for probation violations revealing a cavalier or recalcitrant attitude. The Disciplinary Guidelines also provide that any violation of the conditions of probation of Psychiatric Evaluation or Psychotherapy should result in, at minimum, a 60 day suspension.

Causes for Discipline

10. Cause does not exist under Business and Professions Code section 822 to impose discipline. Complainant failed to establish by clear and convincing evidence that respondent's ability to practice medicine is impaired by a mental or physical illness affecting his competency.

11. Cause exists under Business and Professions Code section 2227, and 2234 to impose discipline. Complainant established by clear and convincing evidence that respondent engaged in unprofessional conduct by failing to comply with the terms of his probation as set forth herein.

Causes to Revoke Probation

12. Cause does not exist to revoke respondent's probation for violating probation condition 2 (Psychotherapy) because a preponderance of the evidence did not establish that respondent is unfit to practice medicine after undergoing a required psychiatric evaluation as explained above.

13. Cause exists to revoke respondent's probation for violating probation condition 3 (Monitoring-Practice) because a preponderance of the evidence established that respondent failed to inform the board of his practice of medicine at F and M Radiology, continued to practice at that location after the Cease Practice Order was issued, failed to obtain approval for a practice monitor to oversee his practice at that location and failed to be monitored by a practice monitor at that location.

14. Cause exists to revoke respondent's probation for violating probation condition 4 (Solo Practice/Locum Tenens Prohibition) because a preponderance of the evidence established that respondent failed to inform the board of his practice of medicine at F and M Radiology, and failed to inform the board of a change in his practice setting within five calendar days of the change after he stopped working at Hemet Valley Hospital and continued to work at F and M Radiology.

15. Cause exists to revoke respondent's probation for violating probation condition 6 (Notification) because a preponderance of the evidence established that respondent failed to inform the board of his practice of medicine at F and M

Radiology continued to practice at that location after the Cease Practice Order was issued, and failed to provide a copy of the Accusation and Decision to the Chief of Staff or Chief Executive Officer at the F and M facility where he engaged in the practice of medicine.

16. Cause exists to revoke respondent's probation for violating probation condition 14 (Violation of Probation) because a preponderance of the evidence established that respondent failed to fully comply with all terms and conditions of probation as set forth herein.

Appropriate Discipline

17. Respondent's violations of probation are serious in nature. There is no other profession in which one passes so completely within the power and control of another as does the practice of medicine. The physician-patient relationship is built on trust and honesty. (*Shea v. Board of Medical Examiners* (1978) 81 Cal.App.3d 564, 578-579.) Respondent's violations of multiple terms of his probation call into question his ability to abide by probation terms generally. Dr. Abram's testimony that respondent is simply not capable of following the probation terms, particularly those he feels are unfair, without the assistance of a life coach to help him is particularly concerning. Respondent's argument that he was never provided sufficient explanation of the terms of his probation by his attorneys or by his initial probation monitor is also without merit. While respondent claims that he now has an understanding of his probation terms and has a good working relationship with his current probation monitor, so that that he is now able to follow those terms, his assurances provide little comfort that he will actually do so. Under these circumstances the only appropriate discipline that will ensure public protection is revocation.

ORDER

Respondent Jeffrey Douglas Lovin, M.D.'s Physician's and Surgeon's Certificate, No. G 85644 is revoked.

DocuSigned by:
Debra Nye-Perkins
73AD8C62D0DE42D...

DATE: September 21, 2020

DEBRA D. NYE-PERKINS

Administrative Law Judge

Office of Administrative Hearings

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FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO Nov. 12 2019
BY A. Gerenia ANALYST

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

In the Matter of the Accusation and Petition to Revoke Probation Against: **Jeffrey Douglas Lovin, M.D.** 14043 Durango Drive Del Mar, CA 92014 **Physician's and Surgeon's Certificate No. G 85644,** Respondent.	Case No. 800-2019-059206 **ACCUSATION AND PETITION TO REVOKE PROBATION**

PARTIES

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

2. On or about March 17, 2000, the Medical Board issued Physician's and Surgeon's Certificate No. G 85644 to Jeffrey Douglas Lovin, 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 February 29, 2020, unless renewed.

PRIOR DISCIPLINARY HISTORY

3. On or about November 7, 2016, the Board filed an accusation against Respondent entitled, *In the Matter of the Accusation Against Jeffrey Douglas Lovin, M.D.*, Case No. 800-2016-024671, charging Respondent with out-of-state discipline.

4. On or about June 22, 2017, the Board issued a Decision and Order adopting a Stipulated Settlement and Disciplinary Order Case No. 800-2016-024671. That Decision and Order became effective on July 21, 2017, revoked Respondent's Physician's and Surgeon's certificate No. G 85644, stayed that revocation, and placed Respondent on probation for five (5) years with various terms and conditions. Included in the conditions were the following requirements: psychotherapy, practice monitor, solo practice/locum tenens prohibition, notification, and violation of probation.

5. On or about, May 28, 2019, the Board issued a Cease Practice Order prohibiting Respondent from engaging in the practice of medicine. That Cease Practice Order was based on Respondent's failure to comply with a probationary condition in the Board's Decision and Order requiring that Respondent establish a practice with another physician or secure employment in an appropriate practice setting within 60 calendar days of the effective date of the Decision. The Cease Practice Order was terminated on July 10, 2019.

6. A true and correct copy of the Board's Decision and Order in Case No. 800-2016-024671 is attached as Exhibit A, and incorporated by reference, as if fully set forth herein.

JURISDICTION

7. This Accusation and Petition to Revoke Probation is brought before the Board, under the authority of the following laws, and the Decision and Order in the matter entitled, *In the Matter of the Accusation Against Jeffrey Douglas Lovin, M.D.*, Case No. 800-2016-024671. All section references are to the Business and Professions Code unless otherwise indicated.

8. 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.

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

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

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

". . ."

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

11. Section 822 of the Code provides that if the Board determines that a licensee's ability to practice his or her profession safely is impaired because the licensee is mentally ill, or physically ill affecting competency, the Board may take action by revoking or suspending the license, placing the licensee on probation, or taking such other action as the Board in its discretion deems proper.

FIRST CAUSE FOR ACTION

(Mental or Physical Impairment)

12. Respondent is subject to action pursuant to Section 822 of the Code in that his ability to practice medicine safely is impaired because he is mentally ill and/or physically ill affecting competency. The circumstances are as follows:

13. On or about July 12, 2019, Respondent underwent a neuropsychological evaluation with a Board-approved psychologist pursuant to the requirements of his probation. The evaluator noted that Respondent displayed cognitive decline primarily affecting visual-perceptual reasoning, visual memory, and auditory and visual delayed memory; all areas that are relevant to Respondent's practice. Respondent's personality testing revealed narcissistic personality features, with traits of unconventionality and risk-taking.

///

14. Respondent's history, test results and behavioral observation led to the conclusion that Respondent suffers from the following diagnoses: Mild Neurocognitive Disorder, Probably of the Alzheimer's Type; Major Depression, per history, in Remission; and Narcissistic Personality Disorder. It was noted that Respondent's past behavior and neuropsychological testing results indicate that Respondent is at risk for making errors and disregarding professional rules and conventions. The evaluator concluded that Respondent's cognitive dysfunction and personality factors make him unfit for the safe practice of medicine, and that the prognosis is poor. While it was determined that Respondent is not an immediate danger to himself or the public, it was expected that Respondent's cognitive abilities will continue to gradually decline.

CAUSE FOR DISCIPLINE

(Unprofessional Conduct)

15. Respondent has subjected his Physician's and Surgeon's certificate No. G 85644 to disciplinary action under sections 2227 and 2234, as defined by section 2234, of the Code, in that he has engaged in conduct which breaches the rules or ethical code of the medical profession, or conduct which is unbecoming of a member in good standing of the medical profession, and which demonstrates an unfitness to practice medicine, by failing to comply with the terms of his probation, as more particularly alleged hereinafter:

A. At all times after the effective date of the Medical Board's Decision and Order in Case No. 800-2016-024671, Probation Condition 2 stated:

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

"The psychotherapist shall consider any information provided by the Board or its designee

and any other information the psychotherapist deems relevant and shall furnish a written evaluation report to the Board or its designee. Respondent shall cooperate in providing the psychotherapist with any information and documents that the psychotherapist may deem pertinent. Respondent shall have the treating psychotherapist submit quarterly status reports to the Board or its designee.

"Over the course of probation, the Board or its designee may require Respondent to undergo psychiatric evaluations (and psychological testing, if deemed necessary) by a Board-appointed board certified psychiatrist. Respondent shall cooperate with the appointed evaluator, and shall provide prompt access to any information or records requested by the evaluator. The evaluator shall furnish a written evaluation report to the Board or its designee.

"If, prior to the completion of probation, Respondent is found to be mentally unfit to resume the practice of medicine without restrictions, the Board shall retain continuing jurisdiction over Respondent's license and the period of probation shall be extended until the Board determines that Respondent is mentally fit to resume the practice of medicine without restrictions.

"Respondent shall pay the cost of all psychotherapy and required evaluations."

B. Respondent engaged in conduct which breaches the rules of ethical code of the medical profession, or conduct which is unbecoming of a member in good standing of the medical profession, and which demonstrates an unfitness to practice medicine when he failed to comply with Probation Condition No. 2, as follows:

C. On or about July 12, 2019, Respondent was found to be unfit to safely practice medicine after undergoing a required psychiatric evaluation.

D. At all times after the effective date of the Medical Board's Decision and Order in Case No. 800-2016-024671, Probation Condition 3 stated:

"MONITORING - PRACTICE. Within 30 calendar days of the effective date of this Decision, Respondent shall submit to the Board or its designee for prior approval as a practice monitor, the name and qualifications of one or more licensed physicians and surgeons whose licenses are valid and in good standing, and who are preferably American Board of Medical Specialties (ABMS) certified. A monitor shall have no prior or current business or personal

relationship with Respondent, or other relationship that could reasonably be expected to compromise the ability of the monitor to render fair and unbiased reports to the Board, including but not limited to any form of bartering, shall be in Respondent's field of practice, and must agree to serve as Respondent's monitor. Respondent shall pay all monitoring costs.

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

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

"If Respondent fails to obtain approval of a monitor within 60 calendar days of the effective date of this Decision, Respondent shall receive a notification from the Board or its designee to cease the practice of medicine within three (3) calendar days after being so notified. Respondent shall cease the practice of medicine until a monitor is approved to provide monitoring responsibility.

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

"If the monitor resigns or is no longer available, Respondent shall, within 5 calendar days of such resignation or unavailability, submit to the Board or its designee, for prior approval, the

name and qualifications of a replacement monitor who will be assuming that responsibility within 15 calendar days. If Respondent fails to obtain approval of a replacement monitor within 60 calendar days of the resignation or unavailability of the monitor, Respondent shall receive a notification from the Board or its designee to cease the practice of medicine within three (3) calendar days after being so notified. Respondent shall cease the practice of medicine until a replacement monitor is approved and assumes monitoring responsibility.

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

E. Respondent engaged in conduct which breaches the rules of ethical code of the medical profession, or conduct which is unbecoming of a member in good standing of the medical profession, and which demonstrates an unfitness to practice medicine when he failed to comply with Probation Condition No. 3, as follows:

F. Following issuance of a Cease Practice Order on or about May 28, 2019, Respondent continued to practice medicine at a practice location that he did not disclose to the Board.

G. Respondent failed to obtain approval of a practice monitor when his practice location changed.

H. Respondent failed to be monitored by his approved practice monitor at a practice location that he did not disclose to the Board.

I. At all times after the effective date of the Medical Board's Decision and Order in Case No. 800-2016-024671, Probation Condition 4 stated:

"SOLO PRACTICE/LOCUM TENENS PROHIBITION. Respondent is prohibited from engaging in the solo practice of medicine, or from practicing in a locum tenens capacity

"Prohibited solo practice includes, but is not limited to, a practice where: 1) Respondent merely shares office space with another physician but is not affiliated for purposes of providing patient care, or 2) Respondent is the sole physician practitioner at that location.

"If Respondent fails to establish a practice with another physician or secure employment in an appropriate practice setting within 60 calendar days of the effective date of this Decision, Respondent shall receive a notification from the Board or its designee to cease the practice of medicine within three (3) calendar days after being so notified. Respondent shall not resume practice until an appropriate practice setting is established.

"If, during the course of the probation, Respondent's practice setting changes and the Respondent is no longer practicing in a setting in compliance with this Decision, Respondent shall notify the Board or its designee within five (5) calendar days of the practice setting change. If Respondent fails to establish a practice with another physician or secure employment in an appropriate practice setting within 60 calendar days of the practice setting change, Respondent shall receive a notification from the Board or its designee to cease the practice of medicine within three (3) calendar days after being so notified. Respondent shall not resume practice until an appropriate practice setting is established."

J. Respondent engaged in conduct which breaches the rules of ethical code of the medical profession, or conduct which is unbecoming of a member in good standing of the medical profession, and which demonstrates an unfitness to practice medicine when he failed to comply with Probation Condition No. 4, as follows:

K. Following issuance of a Cease Practice Order on or about May 28, 2019, Respondent continued to practice medicine at a practice location that he did not disclose to the Board.

L. Respondent failed to notify the Board within five (5) calendar days of a change to his practice setting.

M. At all times after the effective date of the Medical Board's Decision and Order in Case No. 800-2016-024671, Probation Condition 6 stated:

"NOTIFICATION. Within seven (7) days of the effective date of this Decision, Respondent shall provide a true copy of this Decision and Accusation to the Chief of Staff or the Chief Executive Officer at every hospital where privileges or membership are extended to Respondent, at any other facility where Respondent engages in the practice of medicine, including all physician and any registries or other similar agencies, and to the Chief Executive

Officer at every insurance carrier which extends malpractice insurance coverage to Respondent. Respondent shall submit proof of compliance to the Board or its designee within 15 calendar days.

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

N. Respondent engaged in conduct which breaches the rules of ethical code of the medical profession, or conduct which is unbecoming of a member in good standing of the medical profession, and which demonstrates an unfitness to practice medicine when he failed to comply with Probation Condition No. 6, as follows:

O. Following issuance of a Cease Practice Order on or about May 28, 2019, Respondent continued to practice medicine at a practice location that he did not disclose to the Board.

P. Respondent failed to provide a copy of the Accusation and Decision to the Chief of Staff or Chief Executive Officer at every facility where he engaged in the practice of medicine.

Q. At all times after the effective date of the Medical Board's Decision and Order in Case No. 800-2016-024671, Probation Condition 14 stated:

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

R. Respondent engaged in conduct which breaches the rules of ethical code of the medical profession, or conduct which is unbecoming of a member in good standing of the medical profession, and which demonstrates an unfitness to practice medicine when he failed to comply with Probation Condition No. 14, as follows:

S. Following issuance of a Cease Practice Order on or about May 28, 2019, Respondent continued to practice medicine at a practice location that he did not disclose to the Board.

T. Respondent failed to fully comply with all terms and conditions of probation.

FIRST CAUSE TO REVOKE PROBATION

(Psychotherapy)

16. Respondent's probation is subject to revocation because he failed to comply with Probation Condition No. 2, as required by the Board's Decision and Order, effective as of July 21, 2017, as more particularly alleged in paragraph 15, above, which is hereby incorporated by reference and realleged as if fully set forth herein, in that Respondent was found to be unfit to safely practice medicine after undergoing a required psychiatric evaluation on or about July 12, 2019.

SECOND CAUSE TO REVOKE PROBATION

(Monitoring - Practice)

17. Respondent's probation is subject to revocation because he failed to comply with Probation Condition No. 3, as required by the Board's Decision and Order, effective as of July 21, 2017, as more particularly alleged in paragraph 15, above, which is hereby incorporated by reference and realleged as if fully set forth herein, in that Respondent, following issuance of a Cease Practice Order on or about May 28, 2019, continued to practice medicine at a practice location that he did not disclose to the Board, failed to obtain approval of a practice monitor when his practice location changed, and failed to be monitored by his approved practice monitor.

THIRD CAUSE TO REVOKE PROBATION

(Solo Practice/Locum Tenens Prohibition)

18. Respondent's probation is subject to revocation because he failed to comply with Probation Condition No. 4, as required by the Board's Decision and Order, effective as of July 21, 2017, as more particularly alleged in paragraph 15, above, which is hereby incorporated by reference and realleged as if fully set forth herein, in that Respondent, following issuance of a Cease Practice Order on or about May 28, 2019, continued to practice medicine at a practice location that he did not disclose to the Board, and failed to notify the Board within five (5) calendar days of a change to his practice setting.

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FORTH CAUSE TO REVOKE PROBATION

(Notification)

19. Respondent's probation is subject to revocation because he failed to comply with Probation Condition No. 6, as required by the Board's Decision and Order, effective as of July 21, 2017, as more particularly alleged in paragraph 15, above, which is hereby incorporated by reference and realleged as if fully set forth herein, in that Respondent, following issuance of a Cease Practice Order on or about May 28, 2019, continued to practice medicine at a practice location that he did not disclose to the Board, and failed to provide a copy of the Accusation and Decision to the Chief of Staff or Chief Executive Officer at every facility where he engaged in the practice of medicine.

FIFTH CAUSE TO REVOKE PROBATION

(Violation of Probation)

20. Respondent's probation is subject to revocation because he failed to comply with Probation Condition No. 14, as required by the Board's Decision and Order, effective as of July 21, 2017, as more particularly alleged in paragraph 15, above, which is hereby incorporated by reference and realleged as if fully set forth herein, in that Respondent, following issuance of a Cease Practice Order on or about May 28, 2019, continued to practice medicine at a practice location that he did not disclose to the Board, and failed to fully comply with all terms and conditions of probation.

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 G 85644, issued to Jeffrey Douglas Lovin, M.D.;

2. Revoking the probation and imposing discipline that was stayed in Case No. 800-2016-024671, i.e., revocation of Physician's and Surgeon's Certificate No. G 85644, issued to Jeffrey Douglas Lovin, M.D.;

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3. Revoking, suspending or denying approval of Jeffrey Douglas Lovin, M.D.'s authority to supervise physician assistants and advanced practice nurses;

4. Ordering Jeffrey Douglas Lovin, M.D., if placed on probation, to pay the Board the costs of probation monitoring;

5. Taking action as authorized by section 822 of the Code as the Board, in its discretion, deems necessary and proper; and

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

DATED: November 12, 2019

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

SD2019702221
14159938

EXHIBIT A

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

In the Matter of the Accusation Against:	)	
JEFFREY DOUGLAS LOVIN, M.D.	)	Case No. 800-2016-024671
Physician's and Surgeon's Certificate No. G85644	)	
Respondent	)	

DECISION

The attached Stipulated Settlement and Disciplinary Order 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 July 21, 2017.

IT IS SO ORDERED: June 22, 2017.

MEDICAL BOARD OF CALIFORNIA

Jamie Wright, JD, Chair
Panel A

XAVIER BECERRA
Attorney General of California
JANE ZACK SIMON
Supervising Deputy Attorney General
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Attorneys for Complainant

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

In the Matter of the Accusation Against: **JEFFREY DOUGLAS. LOVIN, M.D.** 14043 Durango Drive Del Mar, CA 92014 Physician's and Surgeon's Certificate No. G85644 Respondent.	Case No. 800-2016-024671 **STIPULATED SETTLEMENT AND DISCIPLINARY ORDER**

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

PARTIES

1. Kimberly Kirchmeyer (Complainant) is the Executive Director of the Medical Board of California (Board). She brought this action solely in her official capacity and is represented in this matter by Xavier Becerra, Attorney General of the State of California, by Jane Zack Simon, Supervising Deputy Attorney General.

2. Respondent Jeffrey Douglas Lovin, M.D. (Respondent) is represented in this proceeding by attorneys William R. Winship, Jr., 591 Camino de la Reina, Suite 1015 San Diego, CA 92108 and Albert J. Garcia, 2000 Powell Street, Suite 1290, Emeryville, CA 94608.

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3. On March 17, 2000, the Board issued Physician's and Surgeon's Certificate No. G85644 to Jeffrey Douglas. Lovin, 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. 800-2016-024671, and will expire on February 28, 2018, unless renewed.

JURISDICTION

4. Accusation No. 800-2016-024671 (Accusation) was filed by the Medical Board and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent, who filed a Notice of Defense. A copy of the Accusation is attached as Exhibit A.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 800-2016-024671. 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 understands and agrees that the charges and allegations in Accusation No. 800-2016-024671, if proven at a hearing, constitute cause for imposing discipline upon his Physician's and Surgeon's Certificate.

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9. For the purpose of resolving the Accusation without the expense and uncertainty of further proceedings, Respondent agrees that, at a hearing, Complainant could establish a factual basis for the charges in the Accusation, and that Respondent hereby gives up his right to contest those charges.

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

RESERVATION

11. The admissions made by Respondent herein are only for the purposes of this proceeding, or any other proceedings in which the Board or other professional licensing agency is involved, and shall not be admissible in any other criminal or civil proceeding.

CONTINGENCY

12. This Stipulation shall be subject to the approval of the Board. Respondent understands and agrees that Board staff and counsel for Complainant may communicate directly with the Board regarding this stipulation, without notice to or participation by Respondent or his counsel. If the Board fails to adopt this Stipulation as its Order in this matter, the Stipulation shall be of no force or effect; it shall be inadmissible in any legal action between the parties; and the Board shall not be disqualified from further action in this matter by virtue of its consideration of this Stipulation. Respondent also understands and agrees that he will not be able to withdraw or modify this Stipulation while it is before the Board for consideration

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

14. 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:

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DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. G85644 issued to Respondent Jeffrey Douglas. Lovin, M.D. is revoked. However, the revocation is stayed and Respondent is placed on probation for five (5) years on the following terms and conditions.

1. EDUCATION COURSE. Within 60 calendar days of the effective date of this Decision, and on an annual basis thereafter, Respondent shall submit to the Board or its designee for its prior approval educational program(s) or course(s) which shall not be less than 25 hours per year, for each year of probation. The educational program(s) or course(s) shall focus on the area of breast imaging studies, be aimed at correcting any areas of deficient practice or knowledge, and shall be Category I certified. The educational program(s) or course(s) shall be at Respondent's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure. Following the completion of each course, the Board or its designee may administer an examination to test Respondent's knowledge of the course. Respondent shall provide proof of attendance of the courses taken in satisfaction of this condition.

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

The psychotherapist shall consider any information provided by the Board or its designee and any other information the psychotherapist deems relevant and shall furnish a written evaluation report to the Board or its designee. Respondent shall cooperate in providing the psychotherapist with any information and documents that the psychotherapist may deem pertinent. Respondent shall have the treating psychotherapist submit quarterly status reports to the

Board or its designee.

Over the course of probation, the Board or its designee may require Respondent to undergo psychiatric evaluations (and psychological testing, if deemed necessary)by a Board-appointed board certified psychiatrist. Respondent shall cooperate with the appointed evaluator, and shall provide prompt access to any information or records requested by the evaluator. The evaluator shall furnish a written evaluation report to the Board or its designee.

If, prior to the completion of probation, Respondent is found to be mentally unfit to resume the practice of medicine without restrictions, the Board shall retain continuing jurisdiction over Respondent's license and the period of probation shall be extended until the Board determines that Respondent is mentally fit to resume the practice of medicine without restrictions.

Respondent shall pay the cost of all psychotherapy and required evaluations.

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

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

Within 60 calendar days of the effective date of this Decision, and continuing throughout

probation, Respondent's practice shall be monitored by the approved monitor. Respondent shall make all records available for immediate inspection and copying on the premises by the monitor at all times during business hours and shall retain the records for the entire term of probation.

If Respondent fails to obtain approval of a monitor within 60 calendar days of the effective date of this Decision, Respondent shall receive a notification from the Board or its designee to cease the practice of medicine within three (3) calendar days after being so notified. Respondent shall cease the practice of medicine until a monitor is approved to provide monitoring responsibility.

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

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

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

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4. SOLO PRACTICE/LOCUM TENENS PROHIBITION. Respondent is prohibited from engaging in the solo practice of medicine, or from practicing in a locum tenens capacity

Prohibited solo practice includes, but is not limited to, a practice where: 1) Respondent merely shares office space with another physician but is not affiliated for purposes of providing patient care, or 2) Respondent is the sole physician practitioner at that location.

If Respondent fails to establish a practice with another physician or secure employment in an appropriate practice setting within 60 calendar days of the effective date of this Decision, Respondent shall receive a notification from the Board or its designee to cease the practice of medicine within three (3) calendar days after being so notified. Respondent shall not resume practice until an appropriate practice setting is established.

If, during the course of the probation, Respondent's practice setting changes and the Respondent is no longer practicing in a setting in compliance with this Decision, Rspondent shall notify the Board or its designee within five (5) calendar days of the practice setting change. If Respondent fails to establish a practice with another physician or secure employment in an appropriate practice setting within 60 calendar days of the practice setting change, Respondent shall receive a notification from the Board or its designee to cease the practice of medicine within three (3) calendar days after being so notified. Respondent shall not resume practice until an appropriate practice setting is established.

5. COMPLIANCE WITH ORDER ISSUED BY COLORADO MEDICAL BOARD:

Respondent shall fully comply with the Preceptorship Program recommended by the Center for Personalized Education for Physicians in accordance with the Stipulation and Final Agency Order issued by the Colorado Medical Board on July 14, 2016. Respondent shall provide access to the Board or its designee to information regarding the Preceptorship Program, including but not limited to his compliance with the Preceptorship Program, reports issued by the Preceptor, and his progress in the Preceptorship Program.

6. NOTIFICATION. Within seven (7) days of the effective date of this Decision, Respondent shall provide a true copy of this Decision and Accusation to the Chief of Staff or the Chief Executive Officer at every hospital where privileges or membership are extended to

Respondent, at any other facility where Respondent engages in the practice of medicine, including all physician and any registries or other similar agencies, and to the Chief Executive Officer at every insurance carrier which extends malpractice insurance coverage to Respondent. Respondent shall submit proof of compliance to the Board or its designee within 15 calendar days.

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

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

8. 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.

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

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

10. GENERAL PROBATION REQUIREMENTS.

Compliance with Probation Unit

Respondent shall comply and cooperate 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.

11. 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.

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

period of non-practice.

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

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

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

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

13. 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.

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

15. 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 or her license. The Board reserves the right to evaluate Respondent's request and to exercise its discretion in

determining whether or not to grant the request, or to take any other action deemed appropriate and reasonable under the circumstances. Upon formal acceptance of the surrender, Respondent shall within 15 calendar days deliver Respondent's wallet and wall certificate to the Board or its designee and Respondent shall no longer practice medicine. Respondent will no longer be subject to the terms and conditions of probation. If Respondent re-applies for a medical license, the application shall be treated as a petition for reinstatement of a revoked certificate.

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

ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorneys. 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: 5/10/17

JEFFREY DOUGLAS LOVIN, M.D.
Respondent

APPROVAL

We have read and fully discussed with Respondent Jeffrey Douglas Lovin, M.D. the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order, and approve its form and content.

DATED: 5/10/17

WILLIAM R. WINSHIP, JR.
Attorney for Respondent

DATED: May 9, 2017

Albert Garcia
ALBERT J. GARCIA
Attorney for Respondent

ENDORSEMENT

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

Dated:

Respectfully submitted,

XAVIER BECERRA
Attorney General of California

JANE ZACK SIMON
Supervising Deputy Attorney General
Attorneys for Complainant

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EXHIBIT A

KAMALA D. HARRIS
Attorney General of California
JANE ZACK SIMON
Supervising Deputy Attorney General
MACHAELA M. MINGARDI
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Attorneys for Complainant

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO Nov. 7 2016
BY: ANALYST

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

In the Matter of the Accusation Against: Jeffrey Douglas Lovin, M.D. 14043 Durango Drive Del Mar, CA 92014 Physician's and Surgeon's Certificate No. G85644, Respondent.	Case No. 800-2016-024671 **ACCUSATION**

Complainant alleges:

PARTIES

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

2. On or about March 17, 2000, the Medical Board issued Physician's and Surgeon's Certificate Number G 85644 to Jeffrey Douglas Lovin, 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 February 28, 2018, unless renewed.

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JURISDICTION

3. This Accusation is brought before the Medical Board of California (Board) under the authority of the following sections of the California Business and Professions Code (Code) and/or other relevant statutory enactment:

A. Section 2227 of the Code provides in part that the Board may revoke, suspend for a period not to exceed one year, or place on probation, the license of any licensee who has been found guilty under the Medical Practice Act, and may recover the costs of probation monitoring.

B. Section 2305 of the Code provides, in 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, that would have been grounds for discipline in California under the Medical Practice Act, constitutes grounds for discipline for unprofessional conduct.

C. Section 141 of the Code provides:

> "(a) For any licensee holding a license issued by a board under the jurisdiction of a 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 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 by 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 the 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."

FIRST CAUSE FOR DISCIPLINE

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

4. On July 14, 2016, the Colorado Medical Board (Colorado Board) issued a Stipulation and Final Agency Order (Order) regarding Respondent's license to practice in Colorado. In the Order, Respondent specifically admitted to, and the Panel made, numerous findings, including but not limited to the following:

a. In 2009, Respondent was arrested, charged and subsequently convicted of spousal

battery in the State of California.

b. From 2009 to 2013, Respondent was subsequently arrested several other times and charged with resisting arrest, domestic violence and violating a restraining order. The charges were all later dismissed, but Respondent failed to report any arrest, charge or his criminal conviction to the Colorado Board.

c. In March 2013, Respondent was released from his position as a locum tenens physician radiologist at a medical center due to "alleged inaccuracies in radiology reports and reports of inappropriate behavior." Respondent failed to report this adverse action to the Colorado Board.

d. On October 14, 2014, the Colorado Board ordered Respondent to undergo an evaluation by the Colorado Physician Health Program (CPHP), which found that "Respondent has a physical or mental illness condition that renders Respondent unable to perform a medical service with reasonable skill and with safety to patients in the absence of treatment monitoring."

5. Respondent was placed on five years probation, with terms and conditions including a prohibition on solo practice and practicing as a locum tenens physician; an hourly practice restriction of 40 hours per week; treatment as recommended by CPHP; treatment monitoring by CPHP; and a competence assessment. A copy of the Order issued by the Colorado Board is attached as Exhibit A.

6. Respondent now resides in the State of California.

7. Respondent's conduct and the action of the Colorado Board as set forth in paragraphs 4 and 5, above, constitute unprofessional conduct within the meaning of section 2305 and conduct subject to discipline within the meaning of section 141(a).

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 G85644, issued to Jeffrey Douglas Lovin, M.D.;

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

3. Ordering Jeffrey Douglas Lovin, M.D., if placed on probation, to pay the Board the costs of probation monitoring; and

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

DATED: November 7, 2016

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

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EXHIBIT A

BEFORE THE COLORADO MEDICAL BOARD

STATE OF COLORADO

CASE NO. 2013-3284-A

STIPULATION AND FINAL AGENCY ORDER

IN THE MATTER OF THE DISCIPLINARY PROCEEDING REGARDING THE LICENSE TO PRACTICE MEDICINE IN THE STATE OF COLORADO OF **JEFFREY DOUGLAS LOVIN, M.D.**, LICENSE NUMBER **DR-29034**,

Respondent.

IT IS HEREBY STIPULATED and agreed by and between Inquiry Panel A ("Panel") of the Colorado Medical Board ("Board") and Jeffrey Douglas Lovin, M.D. ("Respondent") (collectively, the "Parties") as follows:

JURISDICTION AND CASE HISTORY

1. Respondent was licensed to practice medicine in the state of Colorado on August 5, 1988 and was issued license number DR-29034, which Respondent has held continuously since that date ("License").

2. The Panel and the Board have jurisdiction over Respondent and over the subject matter of this proceeding.

3. On January 14, 2016, the Panel reviewed case number 2013-3284-A and determined that further proceedings by formal complaint were warranted pursuant to Section 12-36-118(4)(c)(IV), C.R.S.

4. It is the intent of the parties and the purpose of this Stipulation and Final Agency Order ("Order") to provide for a settlement of all matters set forth in case number 2013-3284-A, without the necessity of conducting a formal disciplinary hearing. This Order constitutes the entire agreement between the parties, and there are no other agreements or promises, written or oral, which modify, interpret, construe or affect this Order.

5. Respondent understands that:

a. Respondent has the right to be represented by an attorney of the Respondent's choice, and Respondent is represented by counsel in this matter;

b. Respondent has the right to a formal complaint and disciplinary hearing pursuant to Sections 12-36-118(4)(c)(IV) and 12-36-118(5), C.R.S.;

c. By entering into this Order, Respondent is knowingly and voluntarily giving up the right to a formal complaint and disciplinary hearing, admits the facts contained in this Order, and relieves the Panel of its burden of proving such facts;

d. Respondent is knowingly and voluntarily giving up the right to present a defense by oral and documentary evidence and to cross-examine witnesses who would testify on behalf of the Panel; and

e. Respondent is knowingly and voluntarily waiving the right to seek judicial review of this Order.

FACTUAL BASIS

6. Respondent specifically admits and the Panel finds that:

a. On or about August 22, 2009, in the state of California, Respondent was charged with spousal battery, false imprisonment, reckless driving, intimidation, attempted obstruction and willful harm to a child. Respondent was subsequently convicted of spousal battery.

b. On or about October 23, 2009, Respondent was charged with resisting arrest, but the charge was eventually dismissed.

c. On or about December 20, 2011, Respondent was charged with domestic violence, but the charge was eventually dismissed.

d. On or about January 19, 2013, February 8, 2013, February 13, 2013 and February 16, 2013, Respondent was charged with violation of a restraining Order, but the charges were eventually dismissed.

e. Respondent failed to report any of his charges, arrests or convictions to the Board.

f. From approximately March 11, 2013 through March 15, 2015 Respondent worked at the Sterling Regional Medical Center in Colorado as a locum tenens physician radiologist. Respondent was released from his position on March 15, 2013 because of alleged inaccuracies in radiology reports and reports of inappropriate behavior. Respondent failed to report this adverse action to the Board.

g. On October 14, 2014, the Board ordered Respondent to undergo an evaluation by the Colorado Physician Health Program ("CPHP").

h. Respondent has a physical or mental illness or condition that renders Respondent unable to perform a medical service with reasonable skill and with safety to patients in the absence of treatment monitoring.

i. On or about March 11, 2013, at the Sterling Regional Medical Center, Respondent interpreted a bilateral screening mammogram on patient H.S. as a benign mammogram.

j. Respondent did not compare the finding of asymmetric areas of non-specific increased opacity present on H.S's March 11, 2013 mammogram to previous studies to ascertain if the opacity was new or had increased since previous studies.

k. On or about March 11, 2013, Respondent interpreted a bilateral screening mammogram on patient J.S. as normal.

l. Given the focal nature of and the degree of density of the area of increased opacity revealed on the March 11, 2013 mammogram for J.S., additional imaging should have been advised.

m. On or about March 13, 2013, Respondent interpreted a lower extremity venous ultrasound on patient F.V. as involving a nonocclusive clot in the left SFV, popliteal and posterior vein.

n. The March 13, 2013 study for patient F.V. revealed an occlusive thrombus in the left leg deep venous system.

o. On or about March 14, 2013, Respondent interpreted an angiogram of the abdomen and pelvis on patient P.T. as "lungs are clear, with no infiltrate or consolidation, the heart is enlarged, diffuse osteopenia and cement in the T12 and L1 vertebral bodies."

p. The March 14, 2013 study for patient P.T revealed compression deformities at T8, T9 and T11, which Respondent failed to report.

q. On or about March 13, 2013, Respondent interpreted a CT angiogram of the abdomen and pelvis on patient J.K as an aortic stent graft without endo or exoleak.

r. The March 13, 2013 images for patient C.T. reveal a 4.4cm fusiform, infrarenal abdominal aortic aneurysm, rather than an aortic stent graft as described by Respondent. The images also reveal mild ectasia of both common iliac arteries, as well as a focal atherosclerotic stenosis in the distal right common iliac artery, a focal stenosis at the origin of the left renal artery, a mild stenosis of the origin of the superior mesenteric artery with slight post-stenotic dilation, a retroaortic left renal vein, a few tiny cysts in the left lobe of the liver, cysts in the inferior left kidney and an enlarged prostate gland, none of which are described by Respondent.

s. The medical care provided by Respondent to patients H.S., J.S., F.V., P.T. and J.K. was substandard.

7. Respondent admits and the Panel finds that the conduct set forth above constitutes unprofessional conduct as defined in Section 12-36-117(1)(o), (p), and (y), C.R.S., which state:

> (1) "Unprofessional conduct" as used in this article means:
>
> (o) Failing to notify the board, as required by section 12-36-118.5(1), of a physical or mental illness or condition that impacts the licensee's ability to perform a medical service with reasonable skill and with safety to patients, failing to act within the limitations created by a physical or mental illness or condition that renders the licensee unable to perform a medical service with reasonable skill and with safety to the patient, or failing to comply with the limitations agreed to under a confidential agreement entered pursuant to section 12-36-118.5.
>
> (p) Any act or omission which fails to meet generally accepted standards of medical practice.
>
> (y) Failing to report to the board, within thirty days after an adverse action, that an adverse action has been taken against the licensee by another licensing agency in another state or country, a peer review body, a health care institution, a professional or medical society or association, a governmental agency, a law enforcement agency, or a court for acts or conduct that would constitute grounds for disciplinary or adverse action as described in this article.

8. Based upon the above, the Parties agree and stipulate that the terms of this Order are authorized by Section 12-36-118(5)(g)(III), C.R.S.

LETTER OF ADMONITION

9. This provision shall constitute a Letter of Admonition as set forth in Sections 12-36-118(4)(c)(III)(A) and 12-36-118(5)(g)(III), C.R.S. Respondent is hereby admonished for the acts and omissions described in the factual basis above.

10. By entering this Order, Respondent agrees to waive the rights provided by Section 12-36-118(4)(c)(III)(B), C.R.S., to contest this Letter of Admonition.

PROBATIONARY TERMS

11. Respondent's license to practice medicine is hereby placed on probation for five (5) years commencing on the effective date of this Order. All terms of probation shall be effective throughout the probationary period and shall constitute terms of this Order.

12. During the probationary period, Respondent agrees to be bound by the terms and conditions set forth below.

PRACTICE RESTRICTIONS

13. Respondent shall not practice medicine as a solo practitioner and/or in any setting where Respondent is the sole physician. Respondent shall not practice as a locum tenens physician in any setting.

14. Upon successful completion of three (3) years of probation, Respondent may petition the Board for modification of this restriction provided that Respondent's treatment providers have determined that he no longer has any physical or mental disability making any such restriction necessary and that Respondent is able to provide written documentation in support of modification of this restriction by both CPHP and CPEP. The Panel may choose to grant the request, may choose to deny the request, or may choose to grant the request subject to specific terms and conditions including, but not limited to, additional assessment, training, and/or supervision. Respondent specifically acknowledges that the Panel's decision regarding a request to modify the practice restriction shall be in the sole discretion of the Panel and shall not be subject to review by any court, hearings panel or any other entity.

HOURLY PRACTICE RESTRICTION

15. Respondent may provide medical care to patients only at such times that he is physically able to function as a physician. Respondent's work hours shall not exceed forty (40) hours per week.

16. Respondent may petition the Panel for modification of this restriction provided that Respondent submits a written report from CPHP as to CPHP's opinion from a medical and psychiatric perspective that Respondent is safe to practice medicine with reasonable skill and safety without an hourly restriction. The Panel may choose to grant the request, may choose to deny the request, or may choose to grant the request subject to specific terms and conditions including, but not limited to, additional assessment, training, and/or supervision. Respondent specifically acknowledges that the Panel's decision regarding a request to modify the practice restriction shall be in the sole discretion of the Panel and shall not be subject to review by any court, hearings panel or any other entity.

TREATMENT MONITORING

17. During the probationary period, Respondent shall receive such treatment as is determined to be appropriate by CPHP. All instructions and recommendations to Respondent by CPHP shall constitute terms of this Order, and Respondent must comply with any such instructions and recommendations. Failure to comply with such instructions and recommendations shall constitute a violation of this Order. CPHP shall also function as the "treatment monitor" as that term is used in this Order.

18. Within 30 days of the effective date of this Order, Respondent shall sign any and all releases necessary to allow CPHP to communicate with the Panel. Within 60 days of the effective date of this Order, Respondent shall provide the Panel with a copy of such releases. This information may include alcohol and drug abuse treatment program records that may be confidential under federal or state law. Respondent shall update any and all releases as often as may reasonably be required to allow the Panel access to Respondent's privileged or confidential information. Respondent shall not revoke such releases prior to successful completion of the probationary period as set forth in this Order. Any failure to execute such a release, failure to provide copies to the Panel, or any premature revocation of such a release shall constitute a violation of this Order. In the event Respondent revokes such release, CPHP may, because of confidentiality concerns, refuse to acknowledge Respondent's participation in CPHP. CPHP's refusal to acknowledge Respondent's participation with that organization shall constitute a violation of this Order.

19. Respondent shall also complete any and all unrestricted releases as are necessary to permit CPHP to disclose to the Panel information generated by other sources. Respondent authorizes the Panel to re-disclose and make public, consistent with Board Policy 30-9, information obtained from CPHP necessary for the limited purposes of enforcing this Order, seeking sanctions for noncompliance with this Order, or other purposes authorized in the Medical Practice Act. Medical records shall not become public records by virtue of such use. Any failure to execute such a release, failure to provide copies to the Panel, or any premature revocation of such a release shall constitute a violation of this Order.

20. CPHP's treatment monitoring activities shall constitute ongoing examinations of Respondent for the purpose of Section 12-36-118(9)(a), C.R.S. Respondent's failure to comply with CPHP's instructions and recommendations shall have the full force and effect of a violation of an order pursuant to Section 12-36-118(9)(a), C.R.S., and subject Respondent to action pursuant to Sections 12-36-118(5)(g)(IV) and 12-36-118(9)(a), C.R.S.

21. Respondent shall ensure that CPHP submits quarterly written reports to the Panel. The reports shall briefly describe CPHP's ongoing examinations and treatment monitoring of Respondent. The reports shall also state whether Respondent is in compliance with this Order. If at any time CPHP has reasonable cause to believe that Respondent has violated the terms of this Order, is unable to practice with reasonable skill and with safety to patients or has committed unprofessional conduct as defined in Section 12-36-117(1), C.R.S., CPHP shall immediately inform the Panel.

22. CPHP's treatment monitoring instructions and recommendations shall constitute terms of this Order for so long as this Order remains in effect. Nothing in this agreement shall limit the ability of CPHP to impose any other instruction or recommendation as part of its treatment monitoring of Respondent.

23. If at any time, CPHP believes that any of the above terms are no longer necessary, CPHP may relax the terms as it deems appropriate and, at CPHP's direction, the Respondent may comply with this Order as determined by CPHP. CPHP shall inform the Panel of any such action relaxing the above terms in its quarterly report. All such reports shall be reviewed by the Board's staff and, at the staff's discretion, may be reviewed by the Panel. Following receipt and review of such a quarterly report, the Panel reserves the right to reject and nullify CPHP's decision regarding the relaxing of such terms. If the Panel nullifies CPHP's decision regarding the relaxing of any of the above terms, the Respondent specifically agrees to comply with the Order as set forth above in accordance with the Panel's directions.

24. It is the responsibility of the Respondent to provide information to CPHP in a timely and complete manner and to assure that all CPHP written reports are timely transmitted to the Panel.

TERMINATION OF TREATMENT MONITORING

25. After successful completion of five (5) years of monitoring by CPHP, including any time CPHP has monitored Respondent prior to the effective date of this Order, Respondent may petition the panel to terminate the Treatment Monitoring terms set forth in this Order. With any request, Respondent must provide the Panel with a report from CPHP finding Respondent safe to practice with skill and safety to patients. The Parties agree that the Panel's decision regarding such a petition shall be made at the sole discretion of the Panel. Respondent hereby waives any right to appeal the Panel's decision on this issue. The Parties agree that any decision the Panel may make to terminate treatment monitoring will not also terminate the probationary period.

CPEP EDUCATION PROGRAM

26. Within 30 days of the effective date of this Order, Respondent shall contact CPEP to schedule a competence assessment ("CPEP Assessment"). Respondent shall complete and review the CPEP Assessment within 120 days of the effective date of this Order.

27. The CPEP Assessment will determine whether CPEP recommends that Respondent undergo any education intervention plan or other remedial education or training program. Hereinafter, the term "Education Program" shall refer to any education intervention plan or other remedial education or training program recommended by CPEP, including the "Post-Education Evaluation" component.

28. If the CPEP Assessment indicates Respondent should undergo an Education Program, Respondent shall enroll in the recommended Education Program within 180 days of the effective date of this Order. If the CPEP Assessment indicates that Respondent need not undergo any Education Program,

Respondent shall be deemed to have satisfied fully the CPEP Education Program requirement of this Order.

29. Respondent shall timely commence and successfully complete any CPEP recommended Education Program including the Post-Education Evaluation component, within the time required by CPEP. However, the Respondent shall have no more than two years from the effective date of this Order to complete the entire CPEP Education Program unless the Panel determines, in its discretion, that more time is necessary. Any delay in Respondent's completion of the recommended Education Program, including the post-education evaluation, will delay the Respondent's successful completion of the probationary period.

30. Respondent understands and acknowledges that in order to complete the Education Program successfully, the Respondent must demonstrate to CPEP and the Panel's satisfaction that the Respondent has satisfactorily accomplished all CPEP Education Program objectives and has integrated this learning into Respondent's medical practice.

31. Within 30 days of the effective date of this Order, Respondent shall sign any and all releases necessary to allow CPEP to communicate with the Panel. Within 60 days of the effective date of this Order, Respondent shall provide the Panel with a copy of such releases. Respondent shall not revoke such releases prior to successful completion of the probationary period as set forth in this Order. Any failure to execute such a release, failure to provide copies to the Panel, or any revocation of such a release shall constitute a violation of this Order.

32. Respondent shall provide or cause CPEP to provide a copy of the Assessment Report, Education Plan and any other reports regarding the Respondent's participation in the Education Program to the Panel within 30 days of the report's completion.

33. Respondent shall ensure that all reports from CPEP are complete and timely submitted to the Board. Respondent understands that the Board may accept a report, reject a report, refer the matter for additional disciplinary proceedings or take any further action authorized by law.

34. Respondent shall provide the Panel with written proof from CPEP upon successful completion of the recommended Education Program, including successful completion of the Post-Education Evaluation as defined above.

35. The Parties acknowledge that most CPEP Assessments include a computer-based cognitive function screening test. If CPEP determines that Respondent's results on the cognitive function screen suggest the need for further neuropsychological testing, the Respondent shall directly notify or ensure that CPEP notifies, the Panel of such a determination. The Panel may, in its discretion, order

Respondent to undergo a comprehensive neuropsychological examination with its peer assistance, or other delegated provider, pursuant to an Order or other written instruction of the Panel. The Respondent understands and agrees to undergo neuropsychological examination as directed by the Panel.

36. All CPEP recommendations and instructions shall constitute terms of this Order. Respondent shall comply with all CPEP recommendations and instructions within the time periods set out by CPEP and the Panel. Respondent's failure to comply with CPEP recommendations and instructions shall constitute a violation of this Order.

TOLLING OF THE PROBATIONARY PERIOD

37. If at any time, Respondent ceases the active clinical practice of medicine, defined for the purposes of this Order as evaluating or treating a minimum of five patients per month, the probationary period shall be tolled for the time the Order is in effect and Respondent is not engaged in the active clinical practice of medicine.

38. Respondent must comply with all other terms of the Order and all other terms of probation. Unless otherwise specified, all terms of the Order and all terms of probation shall remain in effect, regardless of whether the probationary period has been tolled, from the effective date of this Order until probation is terminated. The probationary period shall be tolled for any time Respondent is not in compliance with any term of this Order.

OUT OF STATE PRACTICE

39. Respondent may wish to leave Colorado and practice in another state. At any time other than during a period of suspension imposed by this Order, and whether to practice out of state or for any other reason, Respondent may request, in writing, that the Board place Respondent's License on inactive status as set forth in Section 12-36-137, C.R.S. Respondent's request to place his License on inactive status must include written evidence that Respondent has reported this Order to all other jurisdictions in which Respondent is licensed, as required by the "Other Terms" section of this Order. Upon the approval of such request, Respondent may cease to comply with the terms of this Order. Failure to comply with the terms of this Order while inactive shall not constitute a violation of this Order. While inactive, Respondent shall not perform any act in the state of Colorado that constitutes the practice of medicine, nor shall Respondent perform any act in any other jurisdiction pursuant to the authority of a license to practice medicine granted by the state of Colorado. Unless Respondent's License is inactive, Respondent must comply with all terms of this Order, irrespective of Respondent's location. The probationary period will be tolled for any period of time Respondent's License is inactive.

40. Respondent may resume the active practice of medicine at any time pursuant to written request and as set forth in Section 12-36-137(5), C.R.S. With such written request, Respondent shall cause CPHP to perform an updated evaluation of

Respondent. Respondent shall be permitted to resume the active practice of medicine only after approval of the treatment monitor, and only after submission of and approval of an updated evaluation from CPHP.

TERMINATION OF PROBATION

41. Upon the expiration of the probationary period, Respondent may submit a written request for restoration of Respondent's License to unrestricted status. If Respondent has complied with the terms of probation, and if Respondent's probationary period has not been tolled, such release shall be granted by the Panel in the form of written notice.

OTHER TERMS

42. The terms of this Order were mutually negotiated and determined.

43. Both Parties acknowledge that they understand the legal consequences of this Order; both Parties enter into this Order voluntarily; and both Parties agree that no term or condition of this Order is unconscionable.

44. All costs and expenses incurred by Respondent to comply with this Order shall be the sole responsibility of Respondent, and shall in no way be the obligation of the Board or Panel.

45. If Respondent is licensed by any other jurisdiction, Respondent shall report this Order to all other jurisdictions in which Respondent is licensed.

46. During the probationary period or any period in which a physician is subject to prescribing restrictions, no physician shall perform an assessment of a patient's medical history and current medical condition, including a personal physical examination, for the purpose of concluding that a patient may benefit from the use of medical marijuana, recommending the use of medical marijuana or certifying a debilitating medical condition for an applicant to the Colorado Medical Marijuana Program. Respondent hereby understands and agrees that he shall not certify to the state health agency that a patient has a debilitating medical condition or that the patient may benefit from the use of medical marijuana.

47. Respondent shall obey all state and federal laws while the terms of this Order are in effect.

48. So that the Board may notify hospitals of this agreement pursuant to Section 12-36-118(13), C.R.S., Respondent presently holds privileges at or is employed by the following hospitals and facilities:

NO COLORADO PRIVILEGES

49. This Order and all its terms shall have the same force and effect as an order entered after a formal disciplinary hearing pursuant to Section 12-36-118(5)(g)(III), C.R.S., except that it may not be appealed. Failure to comply with the terms of this Order may be sanctioned by the Inquiry Panel as set forth in Section 12-36-118(5)(g)(IV), C.R.S. This Order and all its terms also constitute a valid board order for purposes of Section 12-36-117(1)(u), C.R.S.

50. This Order shall be admissible as evidence at any proceeding or future hearing before the Board.

51. Invalidation of any portion of this Order by judgment or court order shall in no way affect any other provision, which shall remain in full force and effect.

52. During the pendency of any action arising out of this Order, the terms of this Order shall be deemed to be in full force and effect and shall not be tolled.

53. Respondent acknowledges that the Panel may choose not to accept the terms of this Agreement and that if the Agreement is not approved by the Panel and signed by a Panel member or other authorized person, it is void.

54. This Order shall be effective upon (a) mailing by first-class mail to Respondent at Respondent's address of record with the Board, or (b) service by electronic means on Respondent at Respondent's electronic address of record with the Board. Respondent hereby consents to service by electronic means if Respondent has an electronic address on file with the Board.

55. Upon becoming effective, this Order shall be open to public inspection and shall be publicized pursuant to the Board's standard policies and procedures. This Order constitutes discipline against Respondent's License. Additionally, this Order shall be reported the Federation of State Medical Boards, the National Practitioner Data Bank, and as otherwise required by law.

JEFFREY DOUGLAS LOVIN, M.D.

THE FOREGOING was acknowledged before me this ___ day of _____, 2016, by Jeffrey Douglas Lovin, M.D., in the County of _____, State of _____.

NOTARY PUBLIC

My commission expires

THE FOREGOING Stipulation and Final Agency Order is approved this 14th day of July, 2016.

FOR THE COLORADO MEDICAL BOARD
INQUIRY PANEL B

BROCK M. BORDELON, M.D.
Chair, Inquiry Panel A

THE FOREGOING Stipulation and Final Agency Order is effective upon service to Respondent, on July 14, 2016.

JEFFREY DOUGLAS LOVIN, M.D.

THE FOREGOING was acknowledged before me this ___ day of _____, 2016, by Jeffrey Douglas Lovin, M.D., in the County of _____, State of _____.

NOTARY PUBLIC

My commission expires

See attached California All-Purpose Certified of Acknowledgement dated 6/16/2016 stamped and signed by Melissa M. Elkin Notary Public.

THE FOREGOING Stipulation and Final Agency Order is approved this ____ day of _____, 2016.

FOR THE COLORADO MEDICAL BOARD
INQUIRY PANEL B

BROCK M. BORDELON, M.D.
Chair, Inquiry Panel A

THE FOREGOING Stipulation and Final Agency Order is effective upon service to Respondent, on July 14, 2016.

See attached

CALIFORNIA ALL- PURPOSE CERTIFICATE OF ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California }

County of Riverside

On 06/16/2016 before me, Kimberly Martinez Notary Public (Here insert name and title of the officer)

personally appeared Jeffrey Douglas Lovin

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s)/is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Kimberly Martinez

Notary Public Signature (Notary Public Seal)

KIMBERLY MARTINEZ
COMM. #2028089
NOTARY PUBLIC - CALIFORNIA
RIVERSIDE COUNTY
My Comm. Expires June 21, 2017

ADDITIONAL OPTIONAL INFORMATION

DESCRIPTION OF THE ATTACHED DOCUMENT

Stipulation and Final Agency Order

(Title or description of attached document)

(Title or description of attached document continued)

Number of Pages _____ Document Date _____

CAPACITY CLAIMED BY THE SIGNER

- ☐ Individual (s)
- ☐ Corporate Officer

_____ (Title)

- ☐ Partner(s)
- ☐ Attorney-in-Fact
- ☐ Trustee(s)
- ☐ Other _____

INSTRUCTIONS FOR COMPLETING THIS FORM

This form complies with current California statutes regarding notary wording and, if needed, should be completed and attached to the document. Acknowledgments from other states may be completed for documents being sent to that state so long as the wording does not require the California notary to violate California notary law.

- State and County information must be the State and County where the document signer(s) personally appeared before the notary public for acknowledgment.
- Date of notarization must be the date that the signer(s) personally appeared which must also be the same date the acknowledgment is completed.
- The notary public must print his or her name as it appears within his or her commission followed by a comma and then your title (notary public).
- Print the name(s) of document signer(s) who personally appear at the time of notarization.
- Indicate the correct singular or plural forms by crossing off incorrect forms (i.e. he/she/they, is /are) or circling the correct forms. Failure to correctly indicate this information may lead to rejection of document recording.
- The notary seal impression must be clear and photographically reproducible. Impression must not cover text or lines. If seal impression smudges, re-seal if a sufficient area permits, otherwise complete a different acknowledgment form.
- Signature of the notary public must match the signature on file with the office of the county clerk.
  - Additional information is not required but could help to ensure this acknowledgment is not misused or attached to a different document.
  - Indicate title or type of attached document, number of pages and date.
  - Indicate the capacity claimed by the signer. If the claimed capacity is a corporate officer, indicate the title (i.e. CEO, CFO, Secretary).
- Securely attach this document to the signed document with a staple.

2015 Version www.NotaryClasses.com 800-873-9865

APPROVED AS TO FORM

FOR RESPONDENT

Eric L. Steiner, M.D., J.D.
Gerash Steiner
1775 Sherman Street, Suite 1650
Denver, Colorado 80203