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

In the Matter of the Accusation Against: Jennifer Louise Hellawell, M.D. Physician's and Surgeon's Certificate No. A 129864 Respondent.	Case No. 800-2018-047959

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 March 4, 2021.

IT IS SO ORDERED: February 2, 2021.

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 Against:

JENNIFER LOUISE HELLAWELL, M.D.,

Physician's and Surgeon's Certificate No. A 129864

Respondent.

Agency Case No. 800-2018-047959

OAH No. 2020080579

PROPOSED DECISION

Administrative Law Judge Juliet E. Cox, State of California, Office of Administrative Hearings, heard this matter on November 18, 2020, by videoconference and telephone.

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

Attorney Jeffrey S. Kravitz represented respondent Jennifer Louise Hellawell, M.D., who was present for the hearing.

The matter was submitted for decision on November 18, 2020.

FACTUAL FINDINGS

1. Respondent Jennifer Louise Hellawell, M.D., currently holds Physician's and Surgeon's Certificate No. A 129864. The Medical Board of California (Board) issued this certificate April 21, 2014, and it was current and active at the time of the hearing.

2. On February 3, 2020, acting in her official capacity as Interim Executive Director of the Board, Christine J. Lally filed an accusation against respondent. Complainant William J. Prasifka later replaced Lally as the Board's Executive Director.

3. Complainant seeks disciplinary action against respondent on the allegations that she has been convicted of an alcohol-related driving crime and that this crime reflects unprofessional and dangerous alcohol misuse. Respondent requested a hearing.

Education and Professional Experience

4. Respondent received her medical degree in 2008. She completed an internal medicine residency in 2011, a cardiovascular medicine residency in 2014, and a fellowship in pulmonary vascular disease in 2015.

5. Respondent is board-certified in internal medicine and cardiovascular disease.

6. Since 2014, respondent has worked regularly in the emergency department at the San Francisco Veterans' Administration (VA) hospital. She described her role as "moonlighting," filling in overnight or on weekends when other more regular emergency department physicians were unavailable. During 2018 she worked

only once every few months, but at the time of the hearing respondent was working about twice a week at the VA.

7. Since completing the fellowship described above in Finding 4, respondent's main employment has been in the biotechnology industry. She has supervised clinical research for several companies developing novel drug treatments for cardiovascular and pulmonary diseases.

8. Before undergoing treatment for an alcohol use disorder (as described more fully below in Findings 14 through 20), respondent occasionally had taken time off from her research positions because of alcohol use or its later effects. She testified credibly that she has never practiced medicine in a clinical setting while under the influence of alcohol.

9. Respondent recently has focused her continuing medical education on substance use disorders and their treatment. She has considered seeking additional formal training and clinical experience in addiction medicine.

Criminal Conviction

10. On March 8, 2019, respondent was convicted in Los Angeles County of a misdemeanor violation of Vehicle Code sections 23152, subdivision (b), and 23538, subdivision (b)(2) (driving with a blood alcohol concentration equal to or greater than 0.20 percent). The court placed respondent on criminal probation for three years, on conditions including a requirement that she take a nine-month drinking driver course and that she install an ignition interlock device in her car.

11. Respondent committed the crime described in Finding 10 on September 4 and 5, 2018. She left her home in San Francisco in the afternoon or early evening on

September 4, intending to drive to Thousand Oaks, spend the night, and work there the next day. On her way, she drank wine while driving. Shortly after midnight on September 5, in northern Los Angeles County, another driver saw her car moving erratically, used his car's hazard lights to persuade her to pull off the freeway, and called the California Highway Patrol. After a short investigation, the responding officers arrested respondent on suspicion of driving under the influence of alcohol.

12. Respondent has completed her court-ordered drinking driver course. In addition, the Department of Motor Vehicles recently has released her from the requirement that she maintain an ignition interlock device in her car. Respondent remains in compliance with the other conditions of her criminal probation.

Mental Health Treatment

13. After her arrest in Southern California on September 5, 2018, respondent returned to San Francisco. She continued consuming alcohol to excess, sometimes in secret. In late September and early October 2018, after combining alcohol with an overdose of sleeping medication, she spent about ten days in inpatient medical and psychiatric treatment.

14. Respondent entered a four-week daily intensive outpatient substance abuse treatment program through Ohlhoff Recovery Programs in San Francisco on October 8, 2018. Through this program, she began attending Alcoholics Anonymous (AA) meetings; she also participated in individual and group psychotherapy and in activities encouraging mindfulness and introspection.

15. Following the intensive outpatient program, respondent continued to attend AA meetings, but resumed drinking alcohol in late December 2018 or early January 2019. In late January 2019, some of respondent's friends and family members

asked counselors from Ohlhoff Recovery Programs to encourage respondent to return for inpatient treatment.

16. Respondent spent five days in an Ohlhoff residential program in late January 2019. She then entered an outpatient treatment program (three evenings per week) through Ohlhoff Recovery Programs. Respondent participated in the evening outpatient program for about eight weeks.

17. Since March 2019, respondent has continued to attend AA meetings, usually daily. During the COVID-19 pandemic, she has enjoyed attending meetings by videoconference, with groups all around the world. Respondent has an AA sponsor, and sponsors two other AA members as well. In fall 2020, respondent organized several other physicians she had met through AA to establish a weekly physicians' AA meeting in San Francisco. She describes AA as "transformational," and plans to continue relying on AA not only to maintain abstinence from alcohol but also to support her self-improvement.

18. Respondent also attends a one-hour weekly "aftercare" meeting with other Ohlhoff Recovery Programs alumni. She speaks occasionally to groups at Ohlhoff Recovery Programs events, and to individuals the program refers to her.

19. Mental health providers who treated respondent in late 2018 diagnosed her with major depressive disorder and alcohol use disorder. In addition to the support groups and relationships described in Findings 17 and 18, respondent also now uses anti-depressant medication and professional, individual psychotherapy to manage these mental illnesses. Respondent has been in treatment with her current therapist for about two years and plans to continue this relationship.

20. In an interview with a Board investigator, respondent stated that her quick relapse during late 2018 and early 2019 from "a glass of wine, here or there," into alcohol abuse convinced her that for her, alcohol "is not anything to play around with." The experience showed her that she is unable to use alcohol in moderation. Respondent testified credibly and without contradiction that she has been fully abstinent from alcohol and unprescribed psychoactive drugs since January 25, 2019.

References

21. Respondent's AA sponsor, Susan Stern, testified about respondent's participation in AA and provided a letter that was consistent with her testimony. Stern has been respondent's sponsor since January 2020. They speak to one another spontaneously several times per week, and have a scheduled weekly meeting (either in person or by telephone) during which they discuss respondent's work on AA's "12 steps." Respondent is one of five people Stern has sponsored during Stern's own 12 years in AA, and Stern testified credibly that respondent has impressed Stern with her dedication to recovery through service and self-improvement.

22. Matthew Morgan directed the intensive outpatient program described in Finding 14 when respondent participated in it, and has worked for many years as a substance abuse counselor. He testified about respondent, and provided letters confirming his testimony. Morgan now works elsewhere as a counselor, but has maintained a social and mentoring relationship with respondent since she left formal treatment at Ohlhoff Recovery Programs. They talk a few times most weeks, and Morgan considers respondent a "valuable resource" for others, especially professional women, in early sobriety. He trusts her word and believes that she has changed her life for the better through her commitment to AA.

23. Respondent presented a reference letter from Mark Langton, who was one of respondent's counselors and case managers at Ohlhoff Recovery Programs. Langton describes respondent as "thoughtful, compassionate, and inquisitive," and as having served as "a most effective speaker for our Ohlhoff Alumni Speaker series." Langton's letter expresses his confidence that respondent is "one of our happier success stories."

24. Respondent offered brief written statements from numerous people who have attended AA meetings with her since January 2019, all confirming her regular meeting attendance and her apparent commitment to the AA recovery program.

25. Adrian Albino has known respondent for more than 20 years, and knows that respondent stopped using alcohol in early 2019. In a reference letter, Albino describes respondent as "compassionate and conscientious," and as a "very active and engaged member of the recovery community."

26. Heather Nodelman also has known respondent for more than 20 years. Nodelman states in a letter that respondent is "fully committed" to recovery, and has advised another mutual friend to use AA to achieve sobriety.

27. Respondent's elder sister, Laura Wood, provided a letter stating that she believes respondent has "embraced recovery" through AA. Wood has observed "new depth, meaning, and purpose" in respondent's life, and believes she can continue serving people through medical practice.

28. Wood's daughter, Miranda Fornaro, wrote that respondent is a "role model and mentor," and that respondent has committed herself "wholeheartedly" to sobriety and service.

29. Respondent's aunt, Mary Pat Donelan, provided a letter describing respondent as "motivated, energetic, compassionate, and devoted to her life's work as a doctor." Donelan had "no idea" before respondent's late 2018 arrest and treatment that respondent abused alcohol, but believes that respondent now has "admitted the problem" and "turned her life around."

30. Jonathan Garber, M.D., is the chief of the emergency department at the San Francisco VA hospital. He knows respondent through her work at the VA, and testified about her in addition to writing a letter of support. Respondent is one of Dr. Garber's "pool of trusted moonlighters" because she is highly competent and reliable. Respondent has told Dr. Garber about her arrest, her conviction, and her alcohol use disorder; he testified credibly that he felt great surprise when she disclosed her arrest to him because he had never suspected that respondent abused alcohol. Dr. Garber believes that he would be unable because of VA policies to continue employing respondent if the Board placed her on probation, and would regret that outcome because of her high value to the VA's patients.

Diagnostic Evaluation and Recommendations

31. Respondent presented a clinical diagnostic evaluation by David Kan, M.D. Dr. Kan is board-certified in psychiatry and in addiction medicine, and is in private practice emphasizing treatment and forensic analysis of substance use disorders. Dr. Kan wrote a report about respondent, and testified at the hearing, after having examined her, reviewed her medical records, and interviewed several other people about her including Stern, Morgan, and several mental health professionals who had treated respondent.

32. Dr. Kan ordered laboratory testing that confirmed respondent's abstinence from alcohol and unprescribed psychoactive drugs during summer 2020. He concurs with her treatment providers' diagnoses of major depressive disorder and alcohol use disorder. He describes both disorders as being in remission, and he does not believe that respondent posed any threat to herself or the public at the time he evaluated her. These opinions are persuasive.

33. Dr. Kan reported and testified that he believes respondent to have an effective, sustainable recovery program that is likely to keep her from returning to alcohol abuse. He explained, "The only potential relapse factor would be her stopping her program participation." Dr. Kan considers this possibility unlikely, however, because respondent has made AA and related relapse prevention activities central to her life, and prioritizes personal relationships with people who support her in sobriety. In addition, Dr. Kan observed no tendency in respondent to minimize or deny her former alcohol abuse or its harm to her in daily life; this observation was consistent with respondent's own testimony at the hearing. His confidence in respondent was persuasive.

34. Because of the matters stated in Finding 33, Dr. Kan testified to his opinion that Board probation is not necessary to cement respondent's recovery or to protect the public against the possibility that she will relapse into substance abuse. The Board's Manual of Model Disciplinary Orders and Disciplinary Guidelines, 12th Edition 2016 (Disciplinary Guidelines, Cal. Code Regs., tit. 16, § 1361, subd. (a)), state a minimum probation term of five years for physicians who abuse alcohol, however. (Disciplinary Guidelines, at p. 26.) Dr. Kan's testimony that no probation is necessary even though respondent has been in recovery for less than two full years implies that respondent's circumstances and prognosis differ significantly from those of other

physicians in their first few years of sustained recovery after many years of escalating alcohol misuse. This implication, and Dr. Kan's resulting opinion that probation would serve no public safety purpose with respect to respondent, are not persuasive.

LEGAL CONCLUSIONS

1. The Board may discipline respondent's physician's and surgeon's certificate only upon clear and convincing proof, to a reasonable certainty, of the facts establishing cause for discipline. (*Ettinger v. Board of Medical Quality Assurance* (1982) 135 Cal.App.3d 853, 856.) The factual findings above reflect this standard.

2. The Board may discipline respondent's physician's and surgeon's certificate if she has engaged in unprofessional conduct. (Bus. & Prof. Code, § 2234.) Conviction of a crime that relates substantially to a physician's qualifications, functions, or duties is unprofessional conduct. (*Id.*, § 2236, subd. (a).) A crime relates substantially to a physician's qualifications, functions, or duties if it demonstrates "present or potential unfitness" to practice medicine. (Cal. Code Regs., tit. 16, § 1360.)

3. A single misdemeanor involving driving and alcohol does not, in and of itself, demonstrate a physician's present or potential unfitness to practice. (Cf. Bus. & Prof. Code, § 2239, subd. (a).) In this case, however, the matters stated in Findings 13 through 19 show that respondent's crime arose from a serious, then-untreated alcohol use disorder. In light of these matters, the conviction described in Finding 10 constitutes cause for discipline against respondent.

4. Use of alcohol to an extent that is dangerous for a physician, or for others around him or her, also is unprofessional conduct. (Bus. & Prof. Code, § 2239,

subd. (a).) The matters stated in Finding 11 establish cause for discipline against respondent under this statute.

5. The Board's Disciplinary Guidelines recommend at least five years' probation for licensees who have committed unprofessional conduct involving alcohol, on conditions including abstinence from alcohol and from unprescribed psychoactive drugs. In light of the matters stated in Findings 13 through 20 and 31 through 34, this period of probation is appropriate in this matter to permit the Board to confirm respondent's ability to maintain sobriety.

6. The matters stated in Legal Conclusions 3 and 4 require the Board to treat respondent as a "substance-abusing licensee" in evaluating appropriate discipline. (Cal. Code Regs., tit. 16, § 1361.5, subd. (a).) The Board has adopted Uniform Standards for Substance-Abusing Licensees that include optional and standard probation terms for such matters. (*Id.*, § 1361, subd. (b).)

a. A clinical diagnostic evaluation is optional. (Cal. Code Regs., tit. 16, § 1361.5, subd. (c)(1)(A).) Because of the matters stated in Findings 14, 16 through 19, 21, 22, and 31 through 34, no such evaluation presently is necessary. In the future, however, the Board reasonably may require respondent to undergo a further mental health evaluation, and to follow any therapeutic recommendations that arise from that evaluation.

b. Communication with respondent's employer and supervisor is a standard term. (Cal. Code Regs., tit. 16, § 1361.5, subd. (c)(2).)

c. Biological fluid testing to confirm abstinence from alcohol and from unprescribed psychoactive drugs is a standard term. (Cal. Code Regs., tit. 16, § 1361.5, subd. (c)(3)(A).)

d. Group support meetings are optional (Cal. Code Regs., tit. 16, § 1361.5, subd. (c)(4)) but are appropriate in this matter.

e. A worksite monitor also is optional (Cal. Code Regs., tit. 16, § 1361.5, subd. (c)(5)(A)), but is appropriate for respondent.

f. A term defining "major" and "minor" violations, and describing penalties for such violations, is standard. (Cal. Code Regs., tit. 16, §§ 1361.5, subd. (c)(6), 1361.52.)

ORDER

Physician's and Surgeon's Certificate No. A 129864, issued to respondent Jennifer Louise Hellawell, M.D., is revoked. The revocation is stayed, and respondent is placed on probation for five years upon the following terms and conditions.

1. Clinical Diagnostic Evaluations and Reports

If directed by the Board or its designee, respondent shall undergo and complete a clinical diagnostic evaluation, including any and all testing deemed necessary, by a board-certified physician and surgeon appointed by the Board. The examiner shall consider any information provided by the Board or its designee and any other information he or she deems relevant, and shall furnish a written evaluation report to the Board or its designee.

Any clinical diagnostic evaluation shall be conducted by a licensed physician and surgeon who holds a valid, unrestricted license, has three years' experience in providing evaluations of physicians and surgeons with substance use disorders, and is approved by the Board or its designee. The clinical diagnostic evaluation shall be

conducted in accordance with acceptable professional standards for conducting substance abuse clinical diagnostic evaluations. The evaluator shall not have a current or former financial, personal, or business relationship with respondent within the last five years. The evaluator shall provide an objective, unbiased, and independent evaluation. The clinical diagnostic evaluation report shall set forth, in the evaluator's opinion, whether respondent has an active substance abuse problem, whether respondent is a threat to herself or others, and recommendations for substance abuse treatment, practice restrictions, or other recommendations related to respondent's rehabilitation and ability to practice safely. If the evaluator determines during the evaluation process that respondent is a threat to herself or others, the evaluator shall notify the Board within 24 hours of such a determination.

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

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

The Board shall review the clinical diagnostic evaluation report within five business days of receipt to determine whether respondent is safe for either part-time or full-time practice and what restrictions or recommendations shall be imposed on respondent based on the recommendations made by the evaluator. If removed from practice following a clinical diagnostic evaluation, respondent shall not be returned to practice until she has at least 30 days of negative biological fluid tests or biological fluid tests indicating that she has not used, consumed, ingested, or administered to herself a prohibited substance, as defined in section 1361.51, subdivision (e), of title 16 of the California Code of Regulations.

The cost of the clinical diagnostic evaluation, including any and all testing deemed necessary by the examiner, the Board or its designee, shall be borne by the licensee.

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

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

2. Notice of Employer or Supervisor Information

Within seven days of the effective date of this decision, respondent shall provide to the Board the names, physical addresses, mailing addresses, and telephone

numbers of any and all employers and supervisors. Respondent shall also provide specific, written consent for the Board and respondent's employers and supervisors to communicate regarding respondent's work status, performance, and monitoring.

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

3. Controlled Substances: Abstain From Use

Respondent shall abstain completely from the personal use or possession of controlled substances as defined in the California Uniform Controlled Substances Act, dangerous drugs as defined by Business and Professions Code section 4022, and any drugs requiring a prescription. This prohibition does not apply to medications lawfully prescribed to respondent by another practitioner for a bona fide illness or condition.

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

If respondent has a confirmed positive biological fluid test for any substance (whether or not legally prescribed) and has not reported the use to the Board or its designee, respondent shall receive a notification from the Board or its designee to immediately cease the practice of medicine. Respondent shall not resume the practice of medicine until the final decision on an accusation and/or a petition to revoke probation is effective. An accusation and/or petition to revoke probation shall be filed by the Board within 30 days of the notification to cease practice. If respondent requests a hearing on the accusation and/or petition to revoke probation, the Board

shall provide respondent with a hearing within 30 days of the request, unless respondent stipulates to a later hearing. If the case is heard by an Administrative Law Judge alone, he or she shall forward a proposed decision to the Board within 15 days of submission of the matter. Within 15 days of receipt by the Board of the Administrative Law Judge's proposed decision, the Board shall issue its decision, unless good cause can be shown for the delay. If the case is heard by the Board, the Board shall issue its decision within 15 days of submission of the case, unless good cause can be shown for the delay. Good cause includes, but is not limited to, non-adoption of the proposed decision, request for reconsideration, remands and other interlocutory orders issued by the Board. The cessation of practice shall not apply to the reduction of the probationary time period.

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

4. Alcohol: Abstain From Use

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

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

on the accusation and/or petition to revoke probation, the Board shall provide respondent with a hearing within 30 days of the request, unless respondent stipulates to a later hearing. If the case is heard by an Administrative Law Judge alone, he or she shall forward a proposed decision to the Board within 15 days of submission of the matter. Within 15 days of receipt by the Board of the Administrative Law Judge's proposed decision, the Board shall issue its decision, unless good cause can be shown for the delay. If the case is heard by the Board, the Board shall issue its decision within 15 days of submission of the case, unless good cause can be shown for the delay. Good cause includes, but is not limited to, non-adoption of the proposed decision, request for reconsideration, remands and other interlocutory orders issued by the Board. The cessation of practice shall not apply to the reduction of the probationary time period.

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

5. Biological Fluid Testing

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

a specific date as ordered by the Board or its designee, the scheduling of biological fluid testing shall be done on a random basis. The cost of biological fluid testing shall be borne by the respondent.

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

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

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

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

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

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

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

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

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

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

(i) It maintains testing sites located throughout California.

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

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

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

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

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

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

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

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

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

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

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

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

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

6. Substance Abuse Support Group Meetings

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

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

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

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

7. Worksite Monitor

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

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

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

Respondent shall pay any and all worksite monitoring costs.

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

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

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

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

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

8. Notification

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

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

9. Supervision of Physician Assistants and Advanced Practice Nurses

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

10. Obey All Laws

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

11. Quarterly Declarations

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

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

12. General Probation Requirements

Compliance with Probation Unit: Respondent shall comply with the 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, subdivision (b).

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

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

Travel or Residence Outside California: Respondent shall immediately inform the Board or its designee, in writing, of travel to any areas outside the jurisdiction of California which lasts, or is contemplated to last, more than thirty calendar days.

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

13. 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.

14. 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 Board's 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 years.

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

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

15. Completion of Probation

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

16. Violation of Probation

Failure to comply fully with any term or condition of probation is a violation of probation.

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

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

(2) Increase the frequency of biological fluid testing.

(3) Refer respondent for further disciplinary action, such as suspension, revocation, or other action as determined by the Board or its designee. (Cal. Code Regs., tit. 16, § 1361.52, subd. (b).)

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

(1) Issue a cease-practice order;

(2) Order practice limitations;

(3) Order or increase supervision of respondent;

(4) Order increased documentation;

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

(6) Order respondent to undergo a clinical diagnostic evaluation to be conducted in accordance with section 1361.5, subdivision (c)(1), of title 16 of the California Code of Regulations, at respondent's expense;

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

C. Nothing in this decision shall be considered a limitation on the Board's authority to revoke respondent's probation if she has violated any term or condition of probation. (See Cal. Code Regs., tit. 16, § 1361.52, subd. (e).) If respondent violates probation in any respect, the 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.

17. License Surrender

Following the effective date of this decision, if respondent ceases practicing due to retirement or health reasons or is otherwise unable to satisfy the terms and conditions of probation, respondent may request to surrender 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.

18. 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.

DATE: 12/10/2020

Juliet E. Cox

JULIET E. COX
Administrative Law Judge
Office of Administrative Hearings

XAVIER BECERRA
Attorney General of California
JANE ZACK SIMON
Supervising Deputy Attorney General
455 Golden Gate Avenue, Suite 11000
San Francisco, CA 94102-7004
Telephone: (415) 510-3521
Facsimile: (415) 703-5480
E-mail: Janezack.simon@doj.ca.gov
Attorneys for Complainant

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO Feb 3 2020
BY [illegible] ANALYST

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

In the Matter of the Accusation Against:	Case No. 800-2018-047959
Jennifer Louise Hellawell, M.D. 156 Bonview Street San Francisco, CA 94110 Physician's and Surgeon's Certificate No. A 129864, Respondent.	**A C C U S A T I O N**

PARTIES

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

2. On April 12, 2014, the Medical Board issued Physician's and Surgeon's Certificate Number A 129864 to Jennifer Louise Hellawell, 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 January 31, 2022, unless renewed.

JURISDICTION

3. This Accusation is brought before the Board, under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

4. Section 2227 of the Code provides that a licensee who is found guilty under the Medical Practice Act may have his or her license revoked, suspended for a period not to exceed one year, placed on probation and required to pay the costs of probation monitoring, or such other action taken in relation to discipline as the Board deems proper.

5. Section 2234 of the Code requires the Board to take action against any licensee who is charged with unprofessional conduct.

6. Section 2236 of the Code provides that the conviction of any offense substantially related to the qualifications, functions, or duties of a physician and surgeon constitutes unprofessional conduct.

7. Section 2239 of the Code provides that the use of alcoholic beverages, to the extent, or in such a manner as to be dangerous or injurious to the licensee, or to any other person or to the public, or to the extent that such use impairs the ability of the licensee to practice medicine safely constitutes unprofessional conduct.

FIRST CAUSE FOR DISCIPLINE

(Unprofessional Conduct: Conviction of a Crime/Dangerous Use of Alcohol)

8. Shortly after 1:30 a.m. on September 5, 2018, California Highway Patrol officers observed two cars parked on the shoulder of Interstate 5 near Santa Clarita. Officers learned that one of the cars was driven by a Good Samaritan motorist who had observed a car driven by Respondent weaving unsafely across lanes, then coming to a sudden stop on the highway. With the assistance of a truck driver, the motorist was able to pull behind Respondent, activate his hazard lights, and instruct Respondent to pull to the shoulder of the road. The officers spoke with Respondent, who stated she was driving from San Francisco to Thousand Oaks. Officers observed objective signs of intoxication, but Respondent denied drinking anything other than half a beer earlier in the day. She performed poorly on field sobriety tests, and officers found two wine bottles under a blanket on the front seat floorboard of Respondent's car. One bottle was empty and the other half full. A breathalyzer test showed a blood alcohol level of .22/23%.

9. Criminal charges were filed charging Respondent with driving under the influence of alcohol, driving with a blood alcohol level greater than the legal limit, and driving with a blood

alcohol level of more than .20%. On March 8, 2019, Respondent entered into a plea agreement under which she was found guilty and convicted of driving with a blood alcohol level over the legal limit, and with a blood alcohol level of more than .20%.

10. Respondent's criminal conviction for drunk driving with a very high blood alcohol level constitutes a conviction substantially related to the qualifications, functions and duties of a physician and surgeon, and cause for discipline for unprofessional conduct pursuant to sections 2234 and/or 2236 of the Code.

11. Respondent's conduct in driving while under the influence of alcohol and driving in a clearly dangerous manner with a high blood alcohol content constitutes unprofessional conduct and the use of alcohol in a dangerous manner, and cause for discipline pursuant to sections 2234 and/or 2239 of the Code.

PRAYER

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

1. Revoking or suspending Physician's and Surgeon's Certificate Number A 129864, issued to Jennifer Louise Hellawell, M.D.;

2. Revoking, suspending or denying approval of Jennifer Louise Hellawell, M.D.'s authority to supervise physician assistants and advanced practice nurses;

3. Ordering Jennifer Louise Hellawell, 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: FEB 03 2020

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

SF2019202820
14315738.docx