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

In the Matter of the Petition to Revoke Probation Against: Shahper Khalid, M.D. Physician's & Surgeon's Certificate No. A 49816 Respondent.	Case No. 800-2019-057049

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 April 15, 2021.

IT IS SO ORDERED: March 16, 2021.

MEDICAL BOARD OF CALIFORNIA

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

XAVIER BECERRA
Attorney General of California
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BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Petition to Revoke Probation Against: **SHAHPER KHALID, M.D.** **1066 Coronet Drive** **Riverside, CA 92506** **Physician's and Surgeon's Certificate No. A 49816,** Respondent.	Case No. 800-2019-057049 OAH No. 2020090537 **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. William Prasifka (Complainant) is the Executive Director of the Medical Board of California (Board). He brought this action solely in his official capacity and is represented in this matter by Xavier Becerra, Attorney General of the State of California, by Rebecca L. Smith, Deputy Attorney General.

2. Respondent Shahper Khalid, M.D. (Respondent) is representing herself in this proceeding and has chosen not to exercise her right to be represented by counsel.

3. On or about August 6, 1991, the Board issued Physician's and Surgeon's Certificate No. A 49816 to Shahper Khalid, M.D. (Respondent). The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought in Petition to Revoke

Probation No. 800-2019-057049, and will expire on January 31, 2021, unless renewed.

JURISDICTION

4. Petition to Revoke Probation No. 800-2019-057049 was filed before the Board, and is currently pending against Respondent. The Petition to Revoke Probation and all other statutorily required documents were properly served on Respondent on August 31, 2020. Respondent timely filed her Notice of Defense contesting the Petition to Revoke Probation.

5. A copy of Petition to Revoke Probation No. 800-2019-057049 is attached as Exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

6. Respondent has carefully read, and understands the charges and allegations in Petition to Revoke Probation No. 800-2019-057049. Respondent has also carefully read, and understands the effects of this Stipulated Settlement and Disciplinary Order.

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

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

CULPABILITY

9. Respondent understands and agrees that the charges and allegations in Petition to Revoke Probation No. 800-2019-057049, if proven at a hearing, constitute cause for imposing discipline upon her Physician's and Surgeon's Certificate.

10. Respondent does not contest that, at an administrative hearing, complainant could establish a prima facie case with respect to the charges and allegations in Petition to Revoke Probation No. 800-2019-057049 and that she has thereby subjected her Physician's and Surgeon's

Certificate, No. A 49816 to disciplinary action.

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

12. Respondent agrees that if she ever petitions for early termination or modification of probation, or if an accusation and/or petition to revoke probation is filed against her before the Board, all of the charges and allegations contained in Petition to Revoke Probation No. 800-2019-057049 shall be deemed true, correct and fully admitted by respondent for purposes of any such proceeding or any other licensing proceeding involving Respondent in the State of California.

CONTINGENCY

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

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

15. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or opportunity to be heard by Respondent, 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. A 49816 issued to Respondent Shahper Khalid, M.D. is revoked. However, the revocation is stayed and Respondent is placed on probation for three (3) years to run consecutively from the conclusion of Respondent's probation term in the Board's Decision in Case No. 800-2014-006120, for a total of nine (9) years' probation, with the following terms and conditions:

1. CLINICAL COMPETENCE ASSESSMENT PROGRAM. Within sixty (60) calendar days of the effective date of this Decision, Respondent shall enroll in a clinical competence assessment program approved in advance by the Board or its designee. Respondent shall successfully complete the program not later than six (6) months after Respondent's initial enrollment unless the Board or its designee agrees in writing to an extension of that time.

The program shall consist of a comprehensive assessment of Respondent's physical and mental health and the six (6) general domains of clinical competence as defined by the Accreditation Council on Graduate Medical Education and American Board of Medical Specialties pertaining to Respondent's current or intended area of practice. The program shall take into account data obtained from the pre-assessment, self-report forms and interview, and the Decision(s), Accusation(s), and any other information that the Board or its designee deems relevant. The program shall require Respondent's on-site participation for a minimum of three (3) and no more than five (5) days as determined by the program for the assessment and clinical education evaluation. Respondent shall pay all expenses associated with the clinical competence assessment program.

At the end of the evaluation, the program will submit a report to the Board or its designee which unequivocally states whether Respondent has demonstrated the ability to practice safely and independently. Based on Respondent's performance on the clinical competence assessment, the program will advise the Board or its designee of its recommendation(s) for the scope and length of any additional educational or clinical training, evaluation or treatment for any medical condition or psychological condition, or anything else affecting Respondent's practice of medicine. Respondent shall comply with the program's recommendations.

Determination as to whether Respondent successfully completed the clinical competence assessment program is solely within the program's jurisdiction.

If Respondent fails to enroll, participate in, or successfully complete the clinical competence assessment program within the designated time period, 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 the practice of medicine until enrollment or participation in the outstanding portions of the clinical competence assessment program have been completed. If Respondent did not successfully complete the clinical competence assessment program, Respondent shall not resume the practice of medicine until a final decision has been rendered on the accusation and/or a petition to revoke probation. The cessation of practice shall not apply to the reduction of the probationary time period.

2. SOLO PRACTICE PROHIBITION. Respondent is prohibited from engaging in the solo practice of medicine. 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 sixty (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 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 sixty (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.

3. PROHIBITED PRACTICE. During probation, Respondent is prohibited from practicing in the area of obstetrics and from performing surgery as the primary surgeon. After the effective date of this Decision, all patients being treated by Respondent shall be notified that Respondent is prohibited from practicing in the area of obstetrics and from performing surgery as the primary surgeon. Any new patients must be provided this notification at the time of their initial appointment.

Respondent shall maintain a log of all patients to whom the required oral notification was made. The log shall contain the: 1) patient's name, address and phone number; 2) patient's medical record number, if available; 3) the full name of the person making the notification; 4) the date the notification was made; and 5) a description of the notification given. Respondent shall keep this log in a separate file or ledger, in chronological order, shall make the log available for immediate inspection and copying on the premises at all times during business hours by the Board or its designee, and shall retain the log for the entire term of probation.

4. 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 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 fifteen (15) calendar days.

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

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

6. 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.

7. 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 ten (10) calendar days after the end of the preceding quarter.

8. 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 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 thirty (30) calendar days prior to the

dates of departure and return.

9. 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.

10. NON-PRACTICE WHILE ON PROBATION. Respondent shall notify the Board or its designee in writing within fifteen (15) calendar days of any periods of non-practice lasting more than thirty (30) calendar days and within fifteen (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 forty (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 eighteen (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.

11. COMPLETION OF PROBATION. Respondent shall comply with all financial obligations (e.g., restitution, probation costs) not later than one-hundred twenty (120) calendar days prior to the completion of probation. Upon successful completion of probation, Respondent's certificate shall be fully restored.

12. 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.

13. 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 fifteen (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.

14. 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.

15. PETITION FOR EARLY TERMINATION OF PROBATION. Respondent shall not petition for early termination of probation for at least two (2) years from the effective date of this Decision.

16. FUTURE ADMISSIONS CLAUSE. If Respondent should ever apply or reapply for a new license or certification, or petition for reinstatement of a license, by any other health care licensing action agency in the State of California, all of the charges and allegations contained in Petition to Revoke Probation No. 800-2019-057049 shall be deemed to be true, correct, and admitted by Respondent for the purpose of any Statement of Issues or any other proceeding seeking to deny or restrict license.

ACCEPTANCE

I have carefully read the Stipulated Settlement and Disciplinary Order. 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: 1-7-2021

SHAHPER KHALID, M.D.
Respondent

ENDORSEMENT

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

DATED: Jan. 11, 2021

Respectfully submitted,

XAVIER BECERRA
Attorney General of California
JUDITH T. ALVARADO
Supervising Deputy Attorney General

REBECCA L. SMITH
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Petition to Revoke Probation No. 800-2019-057049

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

In the Matter of the Petition to Revoke Probation Against: **SHAHPER KHALID, M.D.** **1066 Coronet Drive** **Riverside, CA 92506** **Physician's and Surgeon's Certificate No. A 49816,** Respondent.	Case No. 800-2019-057049 **PETITION TO REVOKE PROBATION**

Complainant alleges:

PARTIES

1. William Prasifka (Complainant) brings this Petition to Revoke Probation solely in his official capacity as the Executive Director of the Medical Board of California, Department of Consumer Affairs.

2. On or about August 6, 1991, the Medical Board of California issued Physician's and Surgeon's Certificate Number A 49816 to Shahper Khalid, M.D. (Respondent). The Physician's and Surgeon's Certificate was revoked, effective March 13, 2009, and reinstated, effective November 6, 2015. The Physician's and Surgeon's Certificate was in effect and on probationary

status at all times relevant to the charges brought herein and will expire on January 31, 2021, unless renewed.

3. In an administrative action entitled *In the Matter of the Petition for Reinstatement of Shahper Khalid, M.D.*, Case No. 800-2014-006120, the Medical Board of California issued a decision granting Respondent's petition to reinstate Physician's and Surgeon's Certificate No. A49816. However, the certificate was immediately revoked, the revocation was stayed, and Respondent's certificate was placed on probation for six years from the effective date with certain terms and conditions. The decision became effective on November 6, 2015.[1] A copy of the decision is attached as Exhibit A and is incorporated by reference.

JURISDICTION

4. This Petition to Revoke Probation is brought before the Medical Board of California (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

5. Section 2229 of the Code states:

> (a) Protection of the public shall be the highest priority for the Division of Medical Quality, the California Board of Podiatric Medicine, and administrative law judges of the Medical Quality Hearing Panel in exercising their disciplinary authority.
>
> (b) In exercising his or her disciplinary authority an administrative law judge of the Medical Quality Hearing Panel, the division, or the California Board of Podiatric Medicine, shall, wherever possible, take action that is calculated to aid in the rehabilitation of the licensee, or where, due to a lack of continuing education or other reasons, restriction on scope of practice is indicated, to order restrictions as are indicated by the evidence.
>
> (c) It is the intent of the Legislature that the division, the California Board of Podiatric Medicine, and the enforcement program shall 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. Where rehabilitation and protection are inconsistent, protection shall be paramount.

[1] The decision was issued September 28, 2015, and was to become effective October 28, 2015. (Exh. A.) However, it was stayed until November 6, 2015, to allow the Board time to review and consider the Petition for Reconsideration. (Order dated October 26, 2015.) Reconsideration was ultimately denied. (Order dated November 3, 2015.)

6. Section 2227 of the Code states:

(a) A licensee whose matter has been heard by an administrative law judge of the Medical Quality Hearing Panel as designated in Section 11371 of the Government Code, or whose default has been entered, and who is found guilty, or who has entered into a stipulation for disciplinary action with the board, may, in accordance with the provisions of this chapter:

(1) Have his or her license revoked upon order of the board.

(2) Have his or her right to practice suspended for a period not to exceed one year upon order of the board.

(3) Be placed on probation and be required to pay the costs of probation monitoring upon order of the board.

(4) Be publicly reprimanded by the board. The public reprimand may include a requirement that the licensee complete relevant educational courses approved by the board.

(5) Have any other action taken in relation to discipline as part of an order of probation, as the board or an administrative law judge may deem proper.

(b) Any matter heard pursuant to subdivision (a), except for warning letters, medical review or advisory conferences, professional competency examinations, continuing education activities, and cost reimbursement associated therewith that are agreed to with the board and successfully completed by the licensee, or other matters made confidential or privileged by existing law, is deemed public, and shall be made available to the public by the board pursuant to Section 803.1.

7. Section 2220 of the Code states, in pertinent part:

Except as otherwise provided by law, the board may take action against all persons guilty of violating this chapter. The board shall enforce and administer this article as to physician and surgeon certificate holders, including those who hold certificates that do not permit them to practice medicine, such as, but not limited to, retired, inactive, or disabled status certificate holders, and the board shall have all the powers granted in this chapter for these purposes....

FIRST CAUSE TO REVOKE PROBATION

(Non-Practice While on Probation)

8. At all times after the effective date of Respondent's probation, Condition 12 stated, in relevant part:

Failure to fully comply with any term or condition of probation is a violation of probation. If petitioner violates probation, after giving petitioner notice and the opportunity to be heard, the Board may revoke probation and carry out the disciplinary order that was stayed.

9. At all times after the effective date of Respondent's probation, Condition 11 stated:

> Non-practice is defined as any period of time petitioner is not practicing medicine in California, 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. . . Petitioner's period of non-practice while on probation shall not exceed two (2) consecutive years.

10. Respondent's probation is subject to revocation for violation of Probation Condition 11, referenced above, in that Respondent's period of non-practice while on probation has exceeded two (2) consecutive years. The facts and circumstances regarding this violation are as follows:

11. On or about November 6, 2015, Respondent's probationary period became effective.

12. On or about October 27, 2016, the Board received notification that Respondent had completed the UC San Diego PACE program, as required by the terms of her probation, on August 5, 2016.

13. On or about April 28, 2017, the Board received a Probation Quarterly Report from Respondent for the Fourth Quarter of 2016, wherein Respondent checked "No" when asked "Did you cease practicing since your last report? If yes, give the date you ceased practice." However, in the spaces provided for "Primary Place of Practice," work hours, and work schedule, Respondent left the form blank. The Board received another Probation Quarterly Report from Respondent the same day, for the First Quarter of 2017, wherein Respondent also checked "No" when asked whether she had ceased practicing. Respondent again left the space for "Primary Place of Practice" blank, wrote "N/A" in the space for work hours, and "I have been in the hospital" in the space for work schedule. The same day, the Board received a letter from another physician stating that Respondent "has been hospitalized since 12/9/16 due to devastating medical illness. She remains hospitalized at this time and will remain medically disabled for the foreseeable future."

14. On or about August 2, 2017, Respondent submitted a Probation Quarterly Report for the Second Quarter of 2017, on which she left blank the space provided for "Primary Place of Practice," and wrote "N/A" in the spaces for work hours and work schedule. She again checked

"No" to the question "Did you cease practicing since your last report? If yes, give the date you ceased practice."

15. On or about November 6, 2017, Respondent submitted a Probation Quarterly Report for the Third Quarter of 2017, on which she left blank the spaces provided for "Primary Place of Practice" and work schedule, and wrote "N/A" in the space for work hours. She wrote "N/A" in response to the question "Did you cease practicing since your last report? If yes, give the date you ceased practice."

16. On or about January 16, 2018, Respondent submitted a Probation Quarterly Report for the Fourth Quarter of 2017, in which she wrote "N/A" in the spaces provided for "Primary Place of Practice," work schedule, and work hours. She checked the "No" box and wrote in "On Medical Leave" in response to the question "Did you cease practicing since your last report? If yes, give the date you ceased practice."

17. On or about April 12, 2018, Respondent submitted a Probation Quarterly Report for the First Quarter of 2018, in which she wrote "Still recovering at home" in the space provided for "Primary Place of Practice," and left blank the spaces for work hours and work schedule. She wrote "N/A" in response to the question regarding whether she had ceased practice.

18. On or about July 9, 2018, Respondent submitted a Probation Quarterly Report for the Second Quarter of 2018, in which she wrote "N/A" in the space provided for "Primary Place of Practice," she wrote "still recovering" in the space provided for work hours, and left blank the space for work schedule. Respondent checked "No" to the question regarding whether she had ceased practice.

19. On or about October 5, 2018, Respondent submitted a Probation Quarterly Report for the Third Quarter of 2018, in which she wrote "N/A" in the spaces provided for "Primary Place of Practice," work schedule, and work hours. She checked the "No" box in response to the question regarding whether she had ceased practice. In the space provided for any other locations where she had practiced, Respondent wrote "N/A still recovering at home."

20. On or about January 14, 2019, Respondent submitted a Probation Quarterly Report for the Fourth Quarter of 2018, in which she wrote "N/A" in the spaces provided for "Primary

Place of Practice," work schedule, and work hours. She checked the "No" box in response to the question regarding whether she had ceased practice. In the space provided for any other locations where she had practiced, Respondent wrote "still recovering at home."

21. On or about March 13, 2019, the Board notified Respondent that her non-practice while on probation had exceeded two years, and disciplinary action would be processed to revoke her license.

22. Respondent's period of non-practice has continued to the date of the filing of this pleading.

DISCIPLINARY CONSIDERATIONS

23. To determine the degree of discipline, if any, to be imposed on Respondent, Complainant alleges that on or about September 7, 2005, effective October 7, 2005, in a prior disciplinary action entitled *In the Matter of the Accusation Against Shahper Khalid, M.D.* before the Medical Board of California, in Case No. 09-2002-135694, Respondent's license was revoked. However, revocation was stayed and Respondent was placed on probation for four (4) years, with terms and conditions requiring successful completion of a prescribing practices course, medical record keeping course, ethics course, clinical training program, practice monitor and prohibition of solo practice. Respondent admitted that a *prima facie* case supported causes for discipline for gross negligence, repeated negligent acts and incompetence in her delivery of five patients' babies. That decision is now final and is incorporated by reference as if fully set forth.

24. To further determine the degree of discipline, if any, to be imposed on Respondent, Complainant alleges that on or about February 5, 2009, effective March 13, 2009, in a prior disciplinary action entitled *In the Matter of the Accusation and Petition to Revoke Probation Against Shahper Khalid, M.D.* before the Medical Board of California, in Case No. D2-2002-135694, Respondent's license was revoked. The Board adopted an Administrative Law Judge's proposed decision following hearing which found that Respondent violated her probation by failing to obey all laws, and that Respondent committed repeated negligent acts and failed to maintain adequate and accurate medical records in her delivery of a patient's baby. Finally, the decision found it to be aggravating that Respondent's misconduct was similar to the misconduct

for which she had previously been disciplined and was on probation. Specifically, Respondent failed to enter into a meaningful dialog with her patient and obtain an adequate and accurate patient history. Instead, similar to prior misconduct, Respondent had improperly delegated her own responsibility to engage in a meaningful dialog with the patient and obtain an adequate and accurate patient history. This led to miscalculation of the patient's expected date of confinement and delivery of the patient's baby by caesarian section four to six weeks prematurely. That decision is now final and is incorporated by reference as if fully set forth.

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 the probation that was granted by the Medical Board of California in Case No. 800-2014-006120 and imposing the disciplinary order that was stayed thereby revoking Physician's and Surgeon's Certificate No. A 49816 issued to Shahper Khalid, M.D.;

2. Revoking or suspending Physician's and Surgeon's Certificate No. A 49816, issued to Shahper Khalid, M.D.;

3. Revoking, suspending or denying approval of Shahper Khalid, M.D.'s authority to supervise physician's assistants, pursuant to section 3527 of the Code, and advanced practice nurses;

4. Ordering Shahper Khalid, M.D., to pay the Medical Board of California the reasonable costs of the investigation and enforcement of this case, and, if placed on probation, the costs of probation monitoring;

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

DATED: AUG 3 1 2020

WILLIAM PRASIEKA
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant

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Khalid PRP with Edits.docx

Exhibit A

Decision and Order

Medical Board of California Case No. 800-2014-006120

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

In the Matter of the Petition for Reinstatement of:	)	
SHAHPER KHALID	)	Case No. 800-2014-006120
Physician's and Surgeon's Certificate No. A 49816	)	OAH No. 2014120753
Petitioner.	)	

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 October 28, 2015.

IT IS SO ORDERED: September 28, 2015.

MEDICAL BOARD OF CALIFORNIA

Jamie Wright, JD, Chair
Panel A

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

In the Matter of the Petition for Reinstatement of: SHAHPER KHALID, Petitioner.	Case No. 8002014006120 OAH No. 2014120753

PROPOSED DECISION

Beth Faber Jacobs, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter in San Diego, California, on April 2, 2015.

Alexandra Alvarez, Supervising Deputy Attorney General, Department of Justice, State of California, represented the Office of the Attorney General.

Steven Zeigen, Attorney at Law, Rosenberg & Shpall & Associates, represented petitioner, Shahper Khalid, who was present throughout the proceeding.

The record remained open until May 5, 2015, for the filing of additional evidence. By Order issued May 12, 2015, the record was reopened. Pursuant to a stipulation of the parties, additional exhibits were received between July 23, 2015, and August 3, 2015. The matter was submitted on August 3, 2015.

FACTUAL FINDINGS

Background and License History

1. On August 6, 1991, the Medical Board of California (the board) issued Physician's and Surgeon's Certificate[1] No. A49816 to petitioner Shahper Khalid.

[1] At times the parties have referred to petitioner's "license" to practice medicine; at other times the reference was to his "certificate." The terms are synonymous. (Bus. & Prof. Code, §23.7.)

2. On September 15, 2004, the board's executive officer filed a first amended accusation against petitioner. As part of a stipulated settlement, petitioner admitted some of the charges in the first amended accusation – that in August and September 2000, she was grossly and repeatedly negligent in her care and treatment of patient HP and HP's fetus when she inappropriately attempted a vacuum extraction, failed to review the infant's monitoring strips, left the hospital, and inappropriately evaluated her patient. The infant was stillborn. Also, petitioner admitted that if the matter had proceeded to a hearing, complainant could establish a prima facie case with respect to four other obstetrics patients for whom she provided care.

3. Based on the stipulation, the board issued its Decision against petitioner, effective October 7, 2005. It revoked petitioner's medical license, stayed the revocation, and placed her on probation for four years with various terms and conditions. In part, the probationary terms and conditions required petitioner to:

a. Enroll in and successfully complete a clinical training or educational program equivalent to that offered by the Physician's Assessment and Clinical Education Program (PACE);

b. Attend and successfully complete a medical record keeping course;

c. Complete an ethics course;

d. Have a monitored, non-solo practice;

e. Comply with the standard terms and conditions of probation, and

f. Notify the Chiefs of Staff at all affiliated hospitals about her discipline.

4. Petitioner attended and successfully completed the PACE medical record keeping and clinical education programs.

5. On December 11, 2008, the board's executive director filed a first amended accusation and petition to revoke petitioner's probation. Following the administrative hearing, the board found that petitioner was repeatedly negligent in her care and treatment of MH, an obstetrics patient, by scheduling an elective caesarian section, despite a lack of clarity about the patient's due date, which resulted in the baby's delivery four to six weeks prematurely; by failing to obtain necessary medical records regarding the patient; and by failing to accurately chart her medical concerns about the patient. The board concluded that petitioner's conduct violated the Medical Practice Act and the terms and conditions of her probation. It revoked her medical license, effective March 5, 2009.

The Petition for Penalty Relief

6. On April 20, 2014, petitioner completed a petition for penalty relief for reinstatement of her medical license. She included a narrative statement prepared under penalty of perjury and attached other documents. In her narrative statement, petitioner acknowledged that she had failed to adequately read patient MH's records and, as a result, misjudged the gestation period. She stated that she "had to live with her oversight" for the past five years, that she has "endeavored to keep current with the latest in gynecological care, and [has] shadowed a physician and a PA at clinic catering to women's issues." She wrote of her work at a women's shelter. She concluded by stating:

> I have missed working at my passion, which is helping women deal with the special physical and emotional issues they face because of their gender.
>
> I yearn to return to the practice of medicine so I can continue this endeavor. I will never again take a "short cut" with regard to any issued confronted by one of my patients.

She asked for the "opportunity to again help the women of my community."

7. The petition included letters from two licensed physicians, Alonso R. Ojeda, M.D., and Gurvinder S. Uppal, M.D.

DR. OJEDA'S LETTER

8. The unverified letter from Alonso Ojeda, M.D., dated June 9, 2014, stated that Dr. Ojeda had known petitioner for over twenty years, and that he found her to be a "hardworking professional," "excellent surgeon," and an "invaluable assistant surgeon" to him. Dr. Ojeda, an OB-GYN, recommended that petitioner's license be reinstated.

As part of the investigation of the petition package, Sean Cogan, a special investigator with the Department of Consumer Affairs, Division of Investigation, interviewed Dr. Ojeda concerning his letter. Dr. Ojeda told Mr. Cogan that petitioner had not provided a copy of her prior discipline to him when she requested that he write the letter in support of reinstatement, and he had not known the specific findings of misconduct against petitioner. When he wrote his letter in support of petitioner, he had no personal knowledge of her activities since the revocation of her license.

Dr. Ojeda testified at the hearing, and his testimony is addressed below, in paragraphs 25 through 28.

DR. UPPAL'S LETTER

9. According to the June 17, 2014, unverified letter from Gurvinder Uppal, M.D., Dr. Uppal, an orthopedic surgeon, has known petitioner for 20 years, and when petitioner was licensed, he practiced medicine with her at two hospitals, Riverside Community Hospital and Parkview Community Hospital. Petitioner cared for Dr. Uppal's wife and delivered their daughter, who is now in college. According to his letter, Dr. Uppal was surprised to learn about petitioner's "problems" with the board but would have "no hesitation" in recommending that she provide care for his wife or daughter if she were relicensed. He supported petitioner's request for reinstatement.

Petitioner showed the board's disciplinary documents to Dr. Uppal before she asked him to write a letter in support of her petition. During an interview of Dr. Uppal during the investigation of the petition, Dr. Uppal indicated that after reading the initial charges against petitioner, he spoke with petitioner about them, and she conveyed regret and remorse. In Dr. Uppal's opinion, petitioner has taken full responsibility for her actions.

Dr. Uppal's letter did not mention anything about petitioner's activities since her revocation, and he did not state that he had knowledge of her post-revocation activities.

JORGE BAUTISTA, P.A.

10. The petition included a letter addressed to the board, dated November 30, 2013, from Jorge Bautista, a physician assistant (PA). PA Bautista stated that he met petitioner in 2012; petitioner had told him that she had been licensed previously as a physician; and she began volunteering in the medical clinic he operated with Luis Bautista, M.D. For 13 months, petitioner volunteered in the clinic two to three times each week to observe, stay current in medicine, and provide emotional support to the clinic's teenage female patients. Petitioner did not treat patients at the clinic. According to PA Bautista, petitioner repeatedly emphasized to him the importance of taking the time to listen to his patients, and that she "helped [him] see how important it is to reassure our patients, especially our elderly ones, that someone has understood them, and knows how to deal with their issues." He felt that petitioner "really cares about patients," and his letter requested that the board reinstate her license so she could "get back to helping the patients of California."

In August 2014, Investigator Cogan contacted PA Bautista concerning his letter. PA Bautista confirmed having written the letter of support. Investigator Cogan sent PA Bautista a copy of the public documents that showed the disciplinary actions taken against petitioner in 2005 and 2009, which PA Bautista had not seen before. According to Investigator Cogan, the documents caused PA Bautista to have "second thoughts" and to "withdraw" his "affiliation and recommendation."

LETTERS FROM INDIVIDUALS WHO ARE NOT IN THE MEDICAL FIELD

11. The petition also included a letter of support from Robert Warford, an attorney at law, who represented petitioner in a malpractice case and in both of her disciplinary actions. Mr. Warford testified at the hearing, and his testimony is addressed below, in paragraphs 23 and 24.

12. The petition included letters from individuals who were not in the medical field. Two were from representatives from the Society of St. Vincent de Paul, who wrote letters of recommendation regarding petitioner's fundraising and volunteer work with the homeless shelter. The letters were not addressed to a particular recipient. In one, Robert I. Cruz, President of the Ventura District Council, Society of St. Vincent de Paul, praised petitioner for the "countless hours" she donated as a "tenacious and relentless" volunteer to raise funds for the winter warming shelter. The letter stated that petitioner "has a wonderful spirit about her in that she directly has shown the caring for the less fortunate, the needy, the poor and marginalized of our community."

In his letter dated November 16, 2013, Sal Gonzalez, President of the Society of St. Vincent de Paul, Santa Clara, stated that his letter had been unsolicited. He stated that he had been "impressed" by petitioner's "dedication, commitment, skills, abilities, and energy," as well as the "integrity, sense of social justice, and moral commitment" she brought to the organization and its efforts to provide shelter to those in need.

13. Investigator Cogan interviewed Mr. Gonzales and Mr. Cruz. He sent them both copies of public documents, which consisted of 129 pages and included the board's disciplinary actions imposed in 2005 and 2009. He asked if it changed their opinions. The information took both individuals by surprise. Neither had been aware that petitioner had been a physician, that she was seeking reinstatement, or that she used their letters in support of her petition for reinstatement.

As a result of his review of the documents, Mr. Cruz told Investigator Cogan that he wished to withdraw his letter of recommendation. Mr. Gonzales indicated that he had a limited understanding of the material he received and therefore did not have a position on her petition for reinstatement.

14. The petition also included a letter dated November 22, 2013, from Carolyn Mason, a personal friend petitioner met when they served on a committee for a non-profit organization. The letter was addressed "to whom it may concern." Ms. Mason stated that she found petitioner to be "dependable, reliable, hard-working, conscientious, honest, non-judgmental and courteous." In Ms. Mason's opinion, petitioner "would be a good addition to any organization."

Investigator Cogan contacted Ms. Mason as part of his investigation of the petition package. He advised Ms. Mason that petitioner had previously been a physician; Ms. Mason was unaware of this but was "not surprised" to learn she was formerly a physician because of

her intelligence and work ethic. When asked, she could think of no reason to deny petitioner's reinstatement request. Investigator Cogan told Ms. Mason he would provide public documents to her and asked if she would review them and determine if it would change her opinion about recommending reinstatement. He sent the documents and attempted to contact her, but he did not hear back from her.

Evidence Presented at the Hearing

PETITIONER'S TESTIMONY

15. Petitioner is 63 years old. She is married and has step-children. She was born in Pakistan, where she received her early education and initial medical training. She graduated from the Fatima Jinnah Medical College in Lahore, Pakistan, in 1975. She completed internships and residencies at various hospitals in Pakistan until 1982, when she came to the United States. From 1986 through 1988, petitioner participated in a pediatric residency program through the University of New Mexico in Albuquerque. Petitioner changed her focus to obstetrics and gynecology. From 1988 through 1991, she was an OB/GYN resident at the University of New Mexico. Petitioner passed all necessary examinations on the first round.

Petitioner became licensed to practice medicine in New Mexico in 1987, and she became licensed to practice medicine in California in 1991. She opened a private practice in Riverside.

In 1996, petitioner became board certified in OB/GYN. That board certification ended with the revocation of her license in 2009.

16. Petitioner testified about the incidents that resulted in discipline taken against her license in California.

With respect to HP, the patient in the case resulting in her initially being placed on probation in 2005, petitioner stated: the patient was admitted to labor and delivery in the morning. At about 10:00 p.m., petitioner was informed the patient was ready to deliver. Without first checking the patient, petitioner attempted a vacuum extraction. Realizing the patient was not ready to deliver, petitioner told the nursing staff to call her if she was needed, and she left the hospital. "I normally don't go home, and I don't know why I decided to go home," she testified. According to petitioner, she fell asleep at home, was not contacted by nursing staff, but when she woke up at 5:00 a.m., decided to go to the hospital because she thought the patient would likely be ready for delivery. Petitioner delivered the baby, who was stillborn and had an umbilical cord wrapped around its neck. She had been shocked; apparently the nurses called her home about the decelerations after she had already left home for the hospital. According to petitioner, she had not known about the decelerations until she returned to the hospital.

With respect to MH, she interviewed the 27 year-old patient, using an interpreter, during the patient's first visit with petitioner. The patient was already in her third trimester. She glanced at the five pages of medical records the patient brought with her, but did not read them carefully or call the patient's former treating physician. She took no action to learn about the patient's former prenatal care, which was substantial. Had petitioner done so, she would have known her estimation of gestation was wrong, and she would not have conducted the elective caesarian four to six weeks before the baby was due.

17. Petitioner explained that, as a result of the disciplinary actions taken against her, there are things she would do differently in the future. She will no longer rely on a nurse's examination of a patient in labor but would do the examination herself. She would never again leave the hospital with a patient in active labor or rely on nurses to tell her if there was a problem; she began that change in her own procedures when she was on probation. "With a patient in active labor, I stay at the hospital" and personally observe the monitoring strip and the patient, she stated. As to patient MH, for whom she misjudged the gestation date, she learned that she needs to read records more carefully, and she would not rely on the first document she reads in a chart or what the patient says about her LMP (last menstrual period) to establish the patient's due date. She would ask her patient more questions about her prior care and "document better why I'm doing what I'm doing." When she treated MH, she inadequately scanned over the few pages the patient brought in about her prior prenatal care; in the future, she would personally call the prior physician before determining her plan.

18. Petitioner agreed that the board's actions against her were warranted. After her license was revoked in 2009, she spent months trying to get her patients transferred to an appropriate physician. She had her office number transferred to her home so she could make sure former patients were immediately transferred to a licensed physician if they called her office for care.

19. Petitioner participated in the training she was required to take until she was revoked; this included successfully completing full PACE, the PACE prescribing and records courses, and completing the ethics course in 2006.

20. Since the revocation of her license, petitioner has tried to keep her medical education up-to-date by taking additional course work. In 2010 and 2011, she participated in four-day programs in primary care sponsored by Harvard University. She took courses through the Long Beach Medical Center in 2013. She reads CME medical journal and continues to subscribe to an obstetrics journal.

21. Petitioner has actively engaged in substantial volunteer work. She returned to Pakistan, where she volunteered her services in poor areas and helped patients in the areas of birth control and STDs. In the United States, she volunteered at winter warming shelters that provided shelter and food to the poor, including women and children. There she met Mr. Cruz and Mr. Gonzales, with the St. Vincent de Paul Society, and Ms. Mason, who became

her friend. She helped fundraise for the shelters and spoke with women about birth control, finding a job, and quitting smoking.

She had not told the staff at St. Vincent de Paul nor her friend Michelle Mason that she had been a physician. She asked for letters from them so she could have verification as to her being a volunteer and as to "what kind of volunteer" she was.

In 2012, she began volunteering at the Bautista Medical Center two to three times a week, and continued to do so for about two years. She told PA Bautista that she had been a revoked physician. She shadowed him and spoke with young female patients and elderly to reassure them. She counseled the teenaged patients about sex and drugs. She felt they "listened to [her] more than they listened to their moms." PA Bautista advised her that they needed a female OB/GYN and offered to hire her at the clinic if she were reinstated. The last time she spoke with PA Bautista was in 2014, before Mr. Cogan spoke with him.

In 2014 she moved to Riverside and began looking for a physician to shadow in that area. She began shadowing with a family practitioner, Roswitha Breuer, M.D. in April 2014, a few weeks before the hearing.

22. If petitioner's license is reinstated, she intends to join a private practice and focus on gynecology. She is particularly interested in women's health and in helping young women. She likes assisting in surgery but does not intend to practice obstetrics. In emotional and candid testimony, petitioner conveyed that "medicine means the world" to her and that "it is the only thing I live for and I think about it every day." She described medicine as being her "whole life" and stated that she missed caring for patients and guiding them. She tearfully explained that she would try to not make mistakes again. "I know I can be a safe physician," she said. Petitioner's testimony appeared sincere and credible.

ROBERT WARFORD, ESQ.

23. Robert Warford has been licensed as an attorney in California since 1977. Mr. Warford is an experienced trial attorney whose legal skills have been acknowledged by his membership in several "invitation only" legal organizations. He has been a partner in a major law firm since 2002. Mr. Warford has known petitioner for about 15 years; he represented her in a medical malpractice case, which resulted in a binding arbitration award in her favor, and in each of the board cases filed against her.

24. On December 2, 2013, Mr. Warford wrote a letter of support that was included in the petition package. Mr. Warford also testified during the hearing. This was the first time Mr. Warford has ever written a letter recommending that a former client be reinstated or testified on that client's behalf in a reinstatement proceeding. Based on his extensive experience representing medical malpractice clients (both defendants and plaintiffs) and representing physicians and other health care providers in disciplinary matters, Mr. Warford felt that he was in a unique position to share his observations about petitioner. He recalled many of the physicians he represented over the years, some of whom he felt might pose a

danger to patients. "Petitioner was not one of them," he wrote. In Mr. Warford's opinion, petitioner would be a "valuable asset" to the medical community, and he "encouraged" the board to reinstate her license.

ALONZO OJEDA, M.D.

25. Alonzo Ojeda is a licensed physician who has been board certified in OB/GYN since 1987. Dr. Ojeda has a private practice and is chair of the OB/GYN department at the Riverside Medical Clinic. He has known petitioner since 1991, when they worked together at Parkview Community Hospital. Over the years she has assisted him in hundreds of surgeries. Dr. Ojeda considered petitioner's surgical skills to be "superb" and called her "one of the finest surgeons" he has ever worked with.

26. Dr. Ojeda testified that he would welcome petitioner's return to medicine, as there is a shortage of female physicians who specialize in OB/GYN.

27. After writing a letter on petitioner's behalf, Dr. Ojeda was contacted by Investigator Cogan. Dr. Ojeda was aware that petitioner lost her license but had not asked petitioner for a copy of the disciplinary documents. Investigator Cogan provided a copy of public documents regarding petitioner's prior discipline. Dr. Ojeda testified that he was "probably taken aback" by the extent of the accusations against her. Nonetheless, his opinion did not change; he considered her one of the "best surgeons" he has ever worked with. In his opinion, she has a "good attitude" about her discipline and revocation; she would be a "valuable asset" to the Riverside community, and she "deserves" to be given an opportunity to return to medicine.

28. The last time Dr. Ojeda spoke with petitioner was in March 2014, when she asked him to write the letter of recommendation. Before that, it had been "years" since they spoke. During his testimony he candidly acknowledged that when he wrote the letter on her behalf, he was not aware of and had no personal knowledge of the activities she engaged in since her revocation in 2009.

ADDITIONAL EVIDENCE

29. At the close of the hearing, petitioner offered into evidence a declaration, dated March 31, 2015, from Roswitha Breuer, M.D., the physician who petitioner began to shadow a few weeks before. The Attorney General's Office objected to the introduction of the document on the grounds that it was untimely in that it had not been produced until the morning of the hearing, and because the board had not had an opportunity to review or investigate it as it did with other documents submitted with the petition. Dr. Breuer's declaration was admitted as administrative hearsay, and the record remained open to give the agency an opportunity to conduct its investigation.

30. According to the declaration, Dr. Breuer has known petitioner for many years, from when they worked together at Parkview Community Hospital. Petitioner gave Dr.

Breuer a copy of her prior disciplinary documents. The information contained in these documents surprised Dr. Breuer; in the past, she always found petitioner to be thorough in her assessments. Nonetheless Dr. Breuer had no hesitation in allowing petitioner to "shadow" her in an effort to make sure her skills were up-to-date as she pursued reinstatement. Dr. Breuer's declaration stated that she was confident that "once her license is reinstated that she can help many young girls with such issues as pregnancy prevention, prevention of sexually transmitted diseases, and other issues faced by young women because she knows how to get through to them." In Dr. Breuer's opinion, since starting to shadow her, petitioner has provided "good recommendations" for patient care.

Closing Arguments

31. The Office of the Attorney General opposed petitioner's petition for reinstatement of her medical license. The supervising deputy attorney general argued that petitioner did not meet her high burden of proof. She argued that petitioner did not fully acknowledge her misconduct. She also contended that petitioner failed to satisfy the provisions of Business and Professions Code section 2307, subdivision (c), which requires a petition for reinstatement to be accompanied by two verified recommendations from physicians and surgeons licensed in any state who have personal knowledge of the activities of the petitioner since the disciplinary penalty was imposed. She noted that the petition included two licensee letters (from Dr. Uppal and Dr. Ojeda), but neither of the physicians had contact with petitioner after her revocation (other than when she requested the letters), and neither knew of her activities since her revocation.

32. Petitioner's counsel emphasized that the purpose of physician discipline is not to punish but to protect the public. He argued that every person who testified and wrote letters had positive things to say about her, and that she had demonstrated rehabilitation. He objected to the board having sent the disciplinary record to individuals who wrote letters on petitioner's behalf about her volunteer work, without knowing she had been a revoked physician, and without having recommended she be reinstated as a physician. He felt these actions "poisoned the well" and that the authors of the volunteer-based letters felt pressure from a government agency to retract their letters. He noted that PA Bautista never said that what he wrote was false, and he was not an attorney or doctor. Petitioner's counsel also argued that it was unfair to expect a physician writing a letter of recommendation to personally know about a petitioner's activities since that petitioner's revocation.

33. Following the hearing, petitioner filed additional documents without leave of court. The Attorney General's Office objected. In the interest of resolving matters on the merits and obtaining all relevant evidence, the filing was treated as a motion to reopen the record. By Order, issued May 12, 2015, the matter was reopened. The Attorney General's Office was permitted to review and investigate petitioner's newly served documents. Based on a stipulation of the parties, filed July 23, 2015, additional evidence was received and admitted as administrative hearsay.

Additional, Post-Hearing Evidence

34. On April 14, 2015, a board investigator interviewed Dr. Roswitha Breuer, whose declaration was received during the hearing, as noted in paragraphs 29 and 30, above. Dr. Breuer has been a physician for over 40 years and maintains a family practice. She has known petitioner since 1991. In March 2015, petitioner began shadowing Dr. Breuer for five hours, once a week, to keep her skills and knowledge current as she seeks reinstatement. Petitioner does not have patient contact, but they discuss Dr. Breuer's cases.

During an interview with the board's investigator, Dr. Breuer related knowledge of petitioner's activities since the revocation, including petitioner's volunteer work, medical work in Pakistan, and the activities she has engaged in to remain current in medicine (including the shadowing she was providing for petitioner.) Dr. Breuer opined that petitioner is rehabilitated and is an excellent physician, and she "unequivocally" recommended that petitioner be reinstated as a physician. Re-reading the disciplinary documents did not alter her opinion that petitioner will "again be a competent, caring physician" if given the opportunity.

35. In a letter dated April 16, 2015, Touraj Shafai, M.D., Ph.D., Dr. Touraj praised petitioner's "dedication, compassion, and knowledge to care for her patients" and recommended that the board reinstate petitioner's license. According to the unverified letter, Dr. Shafai, a board certified pediatrician, previously cared for babies petitioner delivered. He has known petitioner for over 24 years, and he wrote that "[i]n the past five years, [petitioner] has taken medical education courses, volunteered in medical clinics by shadowing providers, as well as charity works to help the poor."

During a June 2015 interview with the board's investigator, Dr. Shafai explained that he had not spoken with petitioner after she lost her license until a few weeks before he wrote the letter of recommendation. He was generally aware of the grounds for her previous discipline but did not know the specifics of each case until he read the disciplinary records provided by the investigator. Dr. Shafai supported petitioner's reinstatement, but suggested that she needs additional training and a practice monitor, and that she should not practice obstetrics.

36. A letter dated April 16, 2015, prepared by Monika Mustafa, M.D., a board certified pediatrician, was also received as administrative hearsay. Dr. Mustafa was the pediatrician who cared for the baby born prematurely in 2007 after petitioner misjudged the gestation. According to the letter, Dr. Mustafa has known petitioner for over 18 years. She called petitioner "a dedicated doctor who wants to give her patients the best care she can possibly give them and is willing to work as hard as possible to ensure that happens." Her letter indicated knowledge of petitioner's post-revocation volunteer work during the past five years, including petitioner's volunteer work in medical clinics and help to the poor. She noted petitioner's continued medical education after her revocation, and she recommended that the board reinstate petitioner's medical license.

The board's investigator provided Dr. Mustafa with a copy of the prior disciplinary actions taken against petitioner and interviewed Dr. Mustafa. Dr. Mustafa advised the investigator that she began working with petitioner in 1997, and she described petitioner as "a colleague and friend." Although Dr. Mustafa recommended that petitioner be reinstated, she suggested that petitioner needed additional training in obstetrics, and perhaps should not work in that field.

Findings Regarding the Board's Investigation and Letters written by Non-Physicians

37. As noted above, petitioner objected to the board's action of providing the 129 pages of her public disciplinary history to every person whose letter of recommendation was included in the petition package and to having an investigator ask if the information "changed" the author's opinion about reinstatement or if the author still "supports the petitioner."

38. When a licensee or health care professional prepares a letter or declaration that specifically supports reinstatement of a former licensed physician's request for reinstatement, it is appropriate for the board, as part of its investigation, to determine if the author is aware of the details of the prior discipline, and whether review of the information would alter his or her recommendation. Business and Professions Code section 2307 requires support by at least two other licensees (physicians and surgeons) who have personal knowledge about a petitioner's actions since revocation, and the face sheet of the petition specifically states that these individuals should have "personal knowledge of the reasons for the disciplinary action taken against your license." The board's providing public disciplinary records to these individuals is appropriate so that the board can determine if the licensee supporting reinstatement has knowledge about the discipline that was taken, and whether, having that knowledge, the supporter continues to recommend that the board reinstate petitioner.

39. Similarly, it was appropriate for the board to send the public disciplinary information to Mr. Bautista, the physician assistant who directed his November 30, 2013, letter to the attention of the board and specifically titled it "Re: Reinstatement of Physician's and Surgeon's Certificate of Shaper Khalid." Petitioner solicited PA Bautista's recommendation for reinstatement after she volunteered in the medical clinic where he worked. As a physician assistant, he is subject to the Medical Practice Act and works closely with physicians. His letter was not a generalized letter about her volunteer work that had no reference to the practice of medicine; he reported his discussions with petitioner about general patient care and his observations of her as a caring professional. The board's submission of public information to PA Bautista and the investigator's questions about whether the information caused him to change his opinion were appropriate because his letter was offered as a health care professional specifically recommending that petitioner be reinstated as a physician.

40. The same is not true with respect to the authors of general letters of recommendation about petitioner's volunteer work, particularly when the authors were not physicians or allied health care providers, did not address their letters to the board, failed to

indicate knowledge that petitioner was ever a physician, and failed to recommend that she be reinstated as a physician. The value of a general recommendation letter that does not specifically recommend reinstatement as a physician is inherently limited to what the letter purports to address. These letters were offered to show respondent's charity work and character and to corroborate petitioner's testimony about her volunteer work.

41. Mr. Cruz, Mr. Gonzalez, and Ms. Mason praised petitioner's volunteer work for the less fortunate in letters addressed "to whom it may concern." The board acted properly in confirming that the purported authors prepared the letters and that the content of each letter was accurate. However, it was unnecessary (and teetered on the unfair) for the board to send over 100 pages of petitioner's disciplinary record to these authors and ask if it "changed their opinion" or if they "still supported petitioner," particularly because the authors had not discussed or advocated her reinstatement as a physician. The investigator's actions, while perhaps unintended, caused the authors unnecessarily alarm. Given the circumstances, including the fact that none of these authors testified and there was no evidence that the representations in the letters were untrue, any purported "change of heart" by Mr. Cruz, confusion by Mr. Gonzales, or non-responsiveness by Ms. Mason occasioned by their interaction with the board's investigator or from having reviewed the disciplinary decisions against petitioner has been disregarded.

LEGAL CONCLUSIONS

The Burden and Standard of Proof

1. In a proceeding for the restoration of a license, the burden rests on the petitioner to prove that he has rehabilitated himself and that he is entitled to have his license restored. (*Flanzer v. Board of Dental Examiners* (1990) 220 Cal.App.3d 1392, 1398.) A person seeking reinstatement must present strong proof of rehabilitation, and the showing of rehabilitation must be sufficient to overcome the former adverse determination. The standard of proof is clear and convincing evidence. (*Housman v. Board of Medical Examiners* (1948) 84 Cal.App.2d, 308, 315-316.)

Statutory and Regulatory Authority

2. Business and Professions Code section 2307 provides in part:

> (a) A person whose certificate has been . . . revoked . . . may petition the board for reinstatement . . . .
>
> (b) The person may file the petition after a period of not less than the following minimum periods have elapsed from the effective date of . . . the decision ordering that disciplinary action:

(1) At least three years for reinstatement of a license surrendered or revoked for unprofessional conduct, ...

[¶] . . . [¶]

(c) The petition shall state any facts as may be required by the board. The petition shall be accompanied by at least two verified recommendations from physicians and surgeons licensed in any state who have personal knowledge of the activities of the petitioner since the disciplinary penalty was imposed.

[¶] . . . [¶]

(e) The . . . administrative law judge hearing the petition may consider all activities of the petitioner since the disciplinary action was taken, the offense for which the petitioner was disciplined, the petitioner's activities during the time the certificate was in good standing, and the petitioner's rehabilitative efforts, general reputation for truth, and professional ability. . . .

Compliance with Statutory Requirements for Reinstatement

3. The Attorney General's Office raised an appropriate question about whether petitioner satisfied one of the statutory prerequisites for seeking reinstatement – that the "petition shall be accompanied" by "at least two verified recommendations from physicians and surgeons licensed in any state who have personal knowledge of the activities of the petitioner since the disciplinary penalty was imposed." (Bus. & Prof. Code, § 2307, subd. (c).) The supervising deputy attorney general argued, in part, that petitioner did not meet this requirement. Petitioner's counsel argued that the requirement was "unfair."

4. The requirement is statutory and reflects the Legislature's intent to require that two knowledgeable colleagues support the petition before an application for reinstatement (or modification of some other disciplinary term) is considered by the board. Moreover, because the Legislature used the word "shall" in stating the requirement that the petition be accompanied by two verified recommendations of licensed physicians with personal knowledge of petitioner's post-revocation activities, the requirement is considered mandatory and not permissive. (*People v. Standish* (2006) 38 Cal.4th 858, 869.)

5. In this case, when the petition was filed, it was not accompanied by recommendations from at least two physicians and surgeons who had personal knowledge of petitioner's activities since her revocation in 2009. The physician recommendations attached to the petition were from Dr. Uppal and Dr. Ojeda. Dr. Ojeda testified that he had not

spoken to petitioner in years until she requested that he write a letter of recommendation, and he had no personal knowledge of her activities since she was revoked. Dr. Uppal's letter addressed his assessment of petitioner's skills and knowledge while she was licensed and failed to mention any of petitioner's post-revocation activities or whether he had knowledge of them. As a result, the initially filed petition failed to meet the requirements of Business and Professions Code section 2307.

6. At the conclusion of the hearing, petitioner submitted the declaration of Dr. Breuer, whom petitioner had begun shadowing a few weeks before the hearing began. The record was kept open for the purpose of permitting the board to conduct its investigation of the information in Dr. Breuer's declaration. Although it would have been preferential for petitioner to have submitted Dr. Breuer's declaration with the petition when it was initially filed, Dr. Breuer's post-revocation involvement with petitioner did not begin until after the petition was filed. The declaration was received in the interest of learning all relevant evidence and because there was no prejudice to the board or the Attorney General's Office as long as they were given an opportunity to complete an investigation before Dr. Breuer's declaration was considered.

7. During closing argument, petitioner's counsel argued that the requirements in section 2307, subdivision (c) were not "fair" and that he had not known about them until the supervising deputy attorney general argued at the close of the hearing that petitioner failed to satisfy the provision. Counsel's argument is rejected. Section 2307 is not a new provision, and it was referenced on the petition form petitioner completed. In addition, a few weeks after the hearing ended and the record was closed except as to the anticipated investigation report on petitioner's newly submitted letter from Dr. Breuer, petitioner's counsel filed two additional physician recommendation letters. The letters were from Doctors Shafai and Mustafa, and the submission was treated as a request to reopen the record. Over the Attorney General's objections, the record was reopened. The board and the Attorney General's Office were given an opportunity to complete an investigation regarding the letters. Ultimately, the parties offered the letters and investigation reports concerning them into evidence by stipulation.

8. Dr. Breuer's declaration and her interview with the investigator confirmed that Dr. Breuer had personal knowledge of some of petitioner's activities since the revocation, and corroborated petitioner's testimony. Dr. Breuer's declaration is deemed to have "accompanied" the petition and to have complied with Business and Professions Code section 2307, subdivision (c).

9. The letters from Dr. Shafai and Dr. Mustafa should have been filed with the petition and written in declaration or affidavit form so as to be "verified recommendations" under section 2307, subdivision (c). The post-hearing stipulation filed by the parties characterized these letters as declarations, and stipulated that they would be received in evidence and admitted as administrative hearsay. In light of the stipulation having characterized the letters as declarations, the letters are deemed verified for the purpose of meeting the "verified" requirement of section 2307.

10. Based on the totality of the evidence, the purpose of section 2307, and the lack of prejudice to the board in having considered them, Dr. Shafai's and Dr. Mustafa's letters, taken in conjunction with Dr. Breuer's declaration, satisfy the threshold statutory requirement of section 2307, subdivision (c), and are sufficient to permit petitioner's request for reinstatement to be considered. However, because Dr. Shafai's and Dr. Mustafa's letters were unsupported by any non-hearsay evidence, they are accorded little weight.

Rehabilitation

11. Business and Professions Code section 2229, subdivision (a), emphasizes that the board's highest priority in licensing and disciplinary matters is protection of the public. The section provides that, whenever possible, action should be taken "that is calculated to aid in the rehabilitation of the licensee, or where, due to a lack of continuing education or other reasons, restriction on scope of practice is indicated, to order restrictions as are indicated by the evidence." (Bus. & Prof. Code, § 2229, subd. (b).) The board should seek out licensees who have demonstrated deficiencies in competency, and take the actions indicated, giving priority to the measures "including further education, restrictions from practice, or other means, that will remove those deficiencies. Where rehabilitation and protection are inconsistent, protection shall be paramount." (Bus. & Prof. Code, § 2229, subd. (c).)

12. Rehabilitation is a state of mind. The law looks with favor upon rewarding with the opportunity to serve, one who has achieved reformation and regeneration. (*Hightower v. State Bar* (1983) 34 Cal.3d 150, 157.) Fully acknowledging the wrongfulness of past actions is an essential step towards rehabilitation. (*Seide v. Committee of Bar Examiners* (1989) 49 Cal.3d 933, 940.) The amount of evidence of rehabilitation required to justify admission varies according to the seriousness of the misconduct at issue. (*Kwasnik v. State Bar* (1990) 50 Cal.3d 1061, 1086.)

13. The mere expression of remorse does not demonstrate rehabilitation. A truer indication of rehabilitation is presented by sustained conduct over an extended period of time. (*In re Menna* (1995) 11 Cal.4th 975, 987, 991.)

14. In *Housman v. Board of Medical Examiners* (1948) 84 Cal.App.2d 308, the court emphasized the heightened level of rehabilitation required for reinstatement of a revoked medical license by reference to strong language applicable to a disbarred lawyer:

> 'One who has been disbarred for acts involving a high degree of moral turpitude – and those committed by petitioner were of that character – "should not be reinstated in the ranks of the legal profession except upon the most clear and convincing, nay, we will say, upon overwhelming, proof of reform – proof which we could with confidence lay before the world in justification of a judgment again installing him in the profession . . . "' [Citing cases.]" (*Wettlin v. State Bar*, 24 Cal.2d 862, 869 [151 P.2d 255].) It goes without saying that the same rule would apply to

a person seeking reinstatement in the medical profession. (*Housman, Supra,* at 315-316.)

Evaluation

15. Petitioner was licensed as physician in California for almost 18 years until her revocation in 2009. While licensed, she practiced in the fields of obstetrics and gynecology. In 2005 she was placed on probation based on her grossly negligent, repeatedly negligent, and incompetent treatment of HP, an obstetrics patient, and based on her care and treatment of four other obstetrics patients. Despite having completed a full PACE program as part of her probation, petitioner again engaged in unprofessional conduct with an obstetrics patient in 2007, when she delivered an infant by caesarian section after failing to accurately determine the gestation period, resulting in the child being born almost two months premature. Her actions violated the Medical Practice Act and the terms and conditions of her probation, and resulted in the board revoking her license in March 2009.

16. Over six years have now passed. During this period, petitioner has taken numerous steps toward rehabilitation. She has accepted responsibility for her prior misconduct and has learned from it. She has shown remorse for her prior mistakes. She has been law-abiding. She has given back to the community, helping those less fortunate by raising funds for homeless shelters and giving of her time and energy. She went to Pakistan and provided care to the impoverished in her native country. She has tried to remain current in her field by taking coursework and continuing to read appropriate journals. More importantly, she has actively sought out opportunities to shadow health care professionals to refresh or improve her skills. At the Bautista Medical Clinic, she provided guidance and emotional support to the elderly and teens for almost two years as she shadowed a physician assistant. When she moved, she took it upon herself to find another physician to shadow, Dr. Breuer. Those working with her in the past five years praised her compassion, desire to help, and kindness. Those who knew her when she was licensed praised her surgical and medical skills. Although petitioner engaged in conduct that demonstrated she was not qualified to continue in the practice of medicine in 2007, she has demonstrated sufficient rehabilitation to warrant reinstatement of her medical license.

17. In this case, rehabilitation and public protection are not inconsistent. Petitioner's deficiencies were in the area of obstetrics. While it would not be in the public interest to permit petitioner to resume practicing in the area of obstetrics, the public can be protected if she is permitted to resume a practice of medicine that has oversight and does not involve obstetrics and delivering babies. Petitioner has a long-standing interest and commitment to assisting women in the areas of reproductive health that do not involve pregnancy, and she has a great deal to offer patients in that area. A lengthy probationary license with appropriate terms and conditions, including conditions precedent and limitations on her practice, will adequately protect the public. These terms should include mechanisms that ensure petitioner's medical knowledge and skills are up-to-date in the areas of general medicine and gynecology. Prior to resuming the practice of medicine, petitioner should be required to successfully complete a full PACE program in gynecology, verify that her

general medical and gynecological knowledge and skills are current, and that her surgical skills, to the extent they are used in gynecology, are up-to-date as well. Given the years that petitioner has not practiced medicine, the length of the clinical education portion of PACE should be increased over that typically ordered for physicians currently practicing medicine. If the PACE Program determines that additional testing or clinical training is required, petitioner will be required to satisfy those requirements. Although a probation term for full PACE typically requires the licensee to have training in the area in which the former licensee was found to be deficient, it is more important, in this case, that the focus of the PACE program be in the field of gynecology, rather than obstetrics, because petitioner's practice will be limited to exclude obstetrics and to permit performing surgery only where petitioner is assisting another surgeon and is not serving as the primary surgeon. Petitioner should be required to practice with other professionals and have her practice monitored. These focused terms, coupled with the standard terms and conditions of probation, should adequately protect the public as petitioner re-enters the field of medicine, is monitored by the board, and is given an opportunity to demonstrate her continued rehabilitation through successful completion of probation.

ORDER

The petition for penalty relief filed by Shahper Khalid to reinstate Physician's and Surgeon's Certificate No. A49816 is granted. However, the certificate shall be immediately revoked, the revocation is stayed, and petitioner's certificate is placed on probation for six years from the effective date of this Decision, on the following terms and conditions:

1. **Clinical Training Program.** Within 60 calendar days of the effective date of this Decision, petitioner shall enroll in a clinical training or educational program equivalent to the Physician Assessment and Clinical Education Program (PACE) offered at the University of California - San Diego School of Medicine ("Program"). Respondent shall successfully complete the Program not later than six (6) months after petitioner's initial enrollment unless the board or its designee agrees in writing to an extension of that time.

The Program shall consist of a Comprehensive Assessment program comprised of a two-day assessment of petitioner's physical and mental health; basic clinical and communication skills common to all clinicians; and medical knowledge, skill and judgment pertaining to the field of gynecology and petitioner's area of practice in which petitioner was alleged to be deficient; and at a minimum, a sixty (60)-hour program of clinical education in the areas of gynecology (including surgical issues in gynecology) that takes into account data obtained from the assessment, prior Decisions, Accusations, and any other information that the board or its designee deems relevant. Petitioner shall pay all expenses associated with the clinical training program.

Based on respondent's performance and test results in the assessment and clinical education, the Program will advise the board or its designee of its recommendation or recommendations for the scope and length of any additional educational or clinical training,

treatment for any medical condition, treatment for any psychological condition, or anything else affecting petitioner's practice of medicine. Petitioner shall comply with all Program recommendations.

At the completion of any additional educational or clinical training, petitioner shall submit to and pass an examination. Determination as to whether petitioner successfully completed the examination or successfully completed the Program is solely within the Program's jurisdiction.

Petitioner shall not practice medicine until petitioner has successfully completed the Program and has been so notified by the board or its designee in writing, except that petitioner may practice in a clinical training program approved by the board or its designee. Petitioner's practice of medicine shall be restricted only to that which is required by the approved training program.

No later than 60 calendar days after petitioner has successfully completed the clinical training program, petitioner shall participate in a professional enhancement program equivalent to the one offered by PACE at the University of California, San Diego School of Medicine, which shall include quarterly chart review, semi-annual practice assessment, and semi-annual review of professional growth and education. Petitioner shall participate in the professional enhancement program at petitioner's expense during the term of probation, or until the board or its designee determines that further participation is no longer necessary

2. **Professionalism Program (Ethics Course).** No later than 60 calendar days of the effective date of this Decision, petitioner shall enroll in a professionalism program, that meets the requirements of Title 16, California Code of Regulations (CCR) section 1358. Petitioner shall participate in and successfully complete that program. Petitioner shall provide any information and documents that the program may deem pertinent. Petitioner shall successfully complete the classroom component of the program not later than six (6) months after petitioner's initial enrollment, and the longitudinal component of the program not later than the time specified by the program, but no later than one (1) year after attending the classroom component. The professionalism program shall be at petitioner's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

A professionalism program taken after the revocation of petitioner's license in 2009 but prior to the effective date of this Decision may, in the sole discretion of the board or its designee, be accepted towards the fulfillment of this condition if the program would have been approved by the board or its designee had the program been taken after the effective date of this Decision.

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

3. **Prohibited Practice**. During probation, petitioner is prohibited from practicing in the area of obstetrics and from performing surgery as the primary surgeon. Petitioner may assist in a surgical procedure if she is not the primary surgeon. After the effective date of this Decision, all patients being treated by the petitioner shall be notified that the petitioner is prohibited from practicing obstetrics and serving as the primary surgeon on a case. Any new patients must be provided this notification at the time of their initial appointment.

Petitioner shall maintain a log of all patients to whom the required oral notification was made. The log shall contain the: 1) patient's name, address and phone number; patient's medical record number, if available; 3) the full name of the person making the notification; 4) the date the notification was made; and 5) a description of the notification given. Petitioner shall keep this log in a separate file or ledger, in chronological order, shall make the log available for immediate inspection and copying on the premises at all times during business hours by the board or its designee, and shall retain the log for the entire term of probation.

4. **Solo Practice Prohibition**. Petitioner is prohibited from engaging in the solo practice of medicine. Prohibited solo practice includes, but is not limited to, a practice where: 1) petitioner merely shares office space with another physician but is not affiliated for purposes of providing patient care, or 2) petitioner is the sole physician practitioner at that location.

If petitioner 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, petitioner 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. Petitioner shall not resume practice until an appropriate practice setting is established.

If, during the course of the probation, petitioner's practice setting changes and petitioner is no longer practicing in a setting in compliance with this Decision, petitioner shall notify the board or its designee within five (5) calendar days of the practice setting change. If petitioner 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, petitioner 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. Petitioner shall not resume practice until an appropriate practice setting is established

5. **Notification**. Within seven (7) days of the effective date of this Decision, petitioner shall provide a true copy of this Decision to the Chief Executive Officer at every hospital where privileges or membership are extended to petitioner, at any other facility where petitioner 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 that extends malpractice insurance coverage to petitioner. Petitioner 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.

6. **Supervision of Physician Assistants**. During probation, petitioner is prohibited from supervising physician assistants.

7. **Obey All Laws**. Petitioner 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.

8. **Quarterly Declarations**. Petitioner 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. Petitioner shall submit quarterly declarations not later than 10 calendar days after the end of the preceding quarter.

9. **General Probation Requirements**.

Compliance with Probation Unit. Petitioner shall comply with the board's probation unit and all terms and conditions of this decision.

Address Changes. Petitioner shall, at all times, keep the board informed of her 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. Petitioner shall not engage in the practice of medicine in petitioner's or a patient's place of residence, unless the patient resides in a skilled nursing facility or other similar licensed facility.

License Renewal. Petitioner shall maintain a current and renewed California physician's and surgeon's license.

Travel or Residence Outside California. In the event petitioner should leave the State of California to reside or to practice, petitioner shall notify the board or its designee in writing 30 calendar days prior to the dates of departure and return.

10. **Interview With The Board, or Its Designee**. Petitioner shall be available in person for interviews either at petitioner's place of business or at the probation unit office, with or without prior notice throughout the term of probation.

11. **Non-Practice While on Probation**. Petitioner 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 petitioner's return to practice. Non-practice is defined as any period of time petitioner is not practicing medicine in California, 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. All time spent in an intensive training program outside the State of California, which has been approved by the board or its designee, shall not be considered non-practice. 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 a period of non-practice.

In the event petitioner's period of non-practice while on probation exceeds 18 calendar months, petitioner shall successfully complete a clinical training program that meets the criteria of Condition 1, above, prior to resuming the practice of medicine.

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

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

Periods of non-practice will relieve petitioner 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 (Condition 7) and General Probation Requirements (Condition 9.)

12. **Violation of Probation**. Failure to fully comply with any term or condition of probation is a violation of probation. If petitioner violates probation, after giving petitioner notice and the opportunity to be heard, the board may revoke probation and carry out the disciplinary order that was stayed. If an Accusation, Petition to Revoke Probation, or an Interim Suspension Order is filed against petitioner 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.

13. **License Surrender**. Following the effective date of this Decision, if petitioner ceases practicing due to retirement, health reasons or is otherwise unable to satisfy the terms and conditions of probation, petitioner may request the voluntary surrender of her license. The board reserves the right to evaluate petitioner's request and to exercise its discretion 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, petitioner shall, within 15 calendar days, deliver her wallet and wall certificate to the board or its designee, and petitioner shall no longer practice medicine. Petitioner will no longer be subject to the terms and conditions of probation and the surrender of petitioner's license shall be deemed disciplinary action. If petitioner re-applies for a medical license, the application shall be treated as a petition for reinstatement of a revoked certificate.

14. **Probation Monitoring Costs**. Petitioner 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. Failure to pay costs within 30 calendar days of the due date is a violation of probation.

15. **Completion of Probation**. Petitioner shall comply with all financial obligations (e.g., probation costs) not later than 120 calendar days prior to the completion of probation. Upon successful completion of probation, petitioner's certificate shall be fully restored.

DATED: September 2, 2015

BETH FABER JACOBS
Administrative Law Judge
Office of Administrative Hearings