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

In the Matter of the Accusation and Petition to Revoke Probation Against: Mary Kay Marina Brewster, M.D. Physician's & Surgeon's Certificate No. G 84568 Respondent.	Case No.: 800-2020-063628

DENIAL BY OPERATION OF LAW
PETITION FOR RECONSIDERATION

No action having been taken on the petition for reconsideration, filed by Michael A. Firestone, Esq., on behalf of respondent, Mary Kay Marina Brewster, and the time for action having expired at 5:00 p.m. on April 5, 2021, the petition is deemed denied by operation of law.

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

In the Matter of the Accusation and Petition to Revoke Probation Against: **Mary Kay Marina Brewster, M.D.** Physician's & Surgeon's Certificate No. G 84568 Respondent.	Case No. 800-2020-063628 **ORDER GRANTING STAY** (Government Code Section 11521)

Michael A. Firestone, Esq., on behalf of respondent, Mary Kay Marina Brewster, has filed a Request for Stay of execution of the Decision in this matter with an effective date of February 25, 2021, at 5:00 p.m.

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

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

DATED: March 22, 2021

William Prasifka
Executive Director
Medical Board of California

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

In the Matter of the Accusation and Petition to Revoke Probation Against: **Mary Kay Marina Brewster, M.D.** Physician's & Surgeon's Certificate No. G 84568 Respondent.	Case No. 800-2020-063628 **ORDER GRANTING STAY** (Government Code Section 11521)

Michael A. Firestone, Esq., on behalf of respondent, Mary Kay Marina Brewster, M.D., has filed a Request for Stay of execution of the Decision in this matter with an effective date of February 25, 2021, at 5:00 p.m.

Execution is stayed until **March 26, 2021**, at 5:00 p.m.

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

DATED: February 25, 2021

William Prasifka
Executive Director
Medical Board of California

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

In the Matter of the Accusation and Petition to Revoke Probation Against: MARY KAY MARINA BREWSTER, M.D. 835 Cass Street Monterey, CA 93940 Physician's and Surgeon's Certificate No. G 84568, Respondent.	Case No. 800-2020-063628 **DEFAULT DECISION AND ORDER** [Gov. Code, §11520]

FINDINGS OF FACT

1. On or about November 4, 2020, Complainant William Prasifka, in his official capacity as the Executive Director of the Medical Board of California, Department of Consumer Affairs ("Board"), filed Accusation and Petition to Revoke Probation No. 800-2020-063628 against Mary Kay Marina Brewster, M.D. ("Respondent") before the Board.

2. On or about June 5, 1998, the Board issued Physician's and Surgeon's Certificate No. G 84568 to Respondent. That license was in full force and effect at all times relevant to the charges brought herein and will expire on September 30, 2021, unless renewed. A true and correct copy of Respondent's Certificate of Licensure is attached hereto as Exhibit 1 and is incorporated by reference.

3. On or about November 4, 2020, Kristen Barkley, an employee of the Board, served by Certified Mail a copy of the Accusation and Petition to Revoke Probation No. 800-2020-063628, Statement to Respondent, Notice of Defense, Request for Discovery, and Government Code sections 11507.5, 11507.6, and 11507.7 to Respondent's address of record with the Board, which was and is 835 Cass Street, Monterey, California 93940. A copy of the Accusation and Petition to Revoke Probation, the related documents, and Declaration of Service are attached as Exhibit 2, and are incorporated herein by reference.

4. Service of the Accusation and Petition to Revoke Probation was effective as a matter of law under the provisions of Government Code section 11505, subdivision (c).

5. On November 19, 2020, a Courtesy Notice of Default, to which a copy of the Accusation and Petition to Revoke Probation and a Notice of Defense (two copies) were attached, was sent by U.S. Mail to Respondent's address of record with the Board. A true and correct copy of said Courtesy Notice of Default and attachments is attached hereto as Exhibit 3, and is incorporated herein by reference.

6. Government Code section 11506 states, in pertinent part:

> (a) Within 15 days after service of the accusation, the respondent may file with the agency a notice of defense...
>
> ...
>
> (c) The respondent shall be entitled to a hearing on the merits if the respondent files a notice of defense, and the notice shall be deemed a specific denial of all parts of the accusation not expressly admitted. Failure to file a notice of defense shall constitute a waiver of respondent's right to a hearing, but the agency in its discretion may nevertheless grant a hearing.

7. Respondent failed to file a Notice of Defense within fifteen (15) days after service upon her of the Accusation and Petition to Revoke Probation, and therefore waived her right to a hearing on the merits of Accusation and Petition to Revoke Probation No. 800-2020-063628.

8. California Government Code section 11520 states, in pertinent part:

> (a) If the respondent either fails to file a notice of defense or to appear at the hearing, the agency may take action based upon the respondent's express admissions or upon other evidence and affidavits may be used as evidence without any notice to respondent.

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9. The Declaration of Deputy Attorney General Rebecca L. Smith attesting to the foregoing facts is attached hereto as Exhibit 4 and is incorporated herein by reference.

10. Pursuant to its authority under Government Code section 11520, the Board finds Respondent is in default. The Board will take action without further hearing and, based on Respondent's express admissions by way of default and the evidence before it, contained in Exhibits 1 through 14, finds that the allegations in Accusation and Petition to Revoke Probation No. 800-2020-063628 are true.

DETERMINATION OF ISSUES

1. Based on the foregoing findings of fact, Respondent Mary Kay Marina Brewster, M.D. has subjected her Physician's and Surgeon's Certificate No. G 84568 to discipline.

2. A copy of the Accusation and Petition to Revoke Probation and the related documents and Declaration of Service are attached as Exhibit 2.

3. The agency has jurisdiction to adjudicate this case by default.

4. The Medical Board of California is authorized to revoke Respondent's Physician's and Surgeon's Certificate based upon the following violations alleged in the Accusation and Petition to Revoke Probation:

(a) Repeated Negligent Acts: Respondent committed repeated negligent acts with respect to her care and treatment of Patients 1 and 2, pursuant to Business and Professions Code section 2234, subdivision (c). (See Exhibits 5, 6, and 7, attached hereto and incorporated herein);

(b) Failure to Maintain Adequate and Accurate Records: Respondent failed to maintain adequate and accurate records concerning the care and treatment of Patients 1 and 2, pursuant to Business and Professions Code section 2266. (See Exhibits 5, 6, and 7, attached hereto and incorporated herein);

(c) Conviction of a Crime: Respondent was convicted of a crime substantially related to the qualifications, functions, or duties of a physician and surgeon pursuant to Business and Professions Code sections 2234, subdivision (a), 2236, subdivision (a), 490 and California Code of Regulations, Title 16, section 1360. (See Exhibits 8 through 11, attached hereto and incorporated herein);

(d) Use of Alcohol in a Dangerous Manner: Respondent used alcoholic beverage to an extent or in a manner dangerous or injurious to herself, or to others pursuant to Business and Professions Code sections 2234, subdivision (a), 2239 and California Code of Regulations, Title 16, section 1360. (See Exhibits 8 through 11, attached hereto and incorporated herein);

(d) Unprofessional conduct: Respondent engaged in conduct which breaches the rules or ethical code of the medical profession, or conduct which is unbecoming to a member in good standing of the medical profession, and which demonstrates an unfitness to practice medicine pursuant to Business and Professions Code sections 2234, subdivision (a), and California Code of Regulations, Title 16, section 1360. (See Exhibits 8 through 11, attached hereto and incorporated herein);

(e) Unprofessional conduct: Respondent failed to cooperate in the Board's interview during its investigation pursuant to Business and Professions Code sections 2234, subdivision (g). (See Exhibits 12 through 14, attached hereto and incorporated herein);

(f) Failure to Comply with Probation Condition Number 8: Obey all Laws pursuant to Condition 8 of the January 31, 2017 Decision in the matter entitled *In the Matter of the Accusation against Mary Kay Marina Brewster, M.D.*, Medical Board Case No. 800-2014-005285. (See Exhibits 2, 8 through 11, attached hereto and incorporated herein);

(g) Failure to Comply with Probation Condition Number 11: Interview with the Board or its Designee pursuant to Condition 11 of the January 31, 2017 Decision in the matter entitled *In the Matter of the Accusation against Mary Kay Marina Brewster, M.D.*, Medical Board Case No. 800-2014-005285. (See Exhibits 2, and 12 through 14, attached hereto and incorporated herein).

ORDER

IT IS SO ORDERED THAT Physician's and Surgeon's Certificate No. G 84568, heretofore issued to Respondent Mary Kay Marina Brewster, M.D., is revoked.

If Respondent ever files an application for relicensure or reinstatement in the State of California, the Board shall treat it as a petition for reinstatement of a revoked license.

Respondent must comply with all laws, regulations, and procedures for reinstatement of a revoked license in effect at the time the petition for reinstatement is filed.

Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

This Decision shall become effective at 5:00 p.m. on February 25, 2021.

It is so ORDERED January 26, 2021.

WILLIAM PRASIFKA
EXECUTIVE DIRECTOR
FOR THE MEDICAL BOARD OF
CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS

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

In the Matter of the Accusation and Petition to Revoke Probation Against: MARY KAY MARINA BREWSTER, M.D. 835 Cass Street Monterey, CA 93940 Physician's and Surgeon's Certificate No. G 84568, Respondent.	Case No. 800-2020-063628 **ACCUSATION AND PETITION TO REVOKE PROBATION**

PARTIES

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

2. On or about June 5, 1998, the Medical Board issued Physician's and Surgeon's Certificate Number G 84568 to Mary Kay Marina Brewster, M.D. ("Respondent"). The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought herein and will expire on September 30, 2021, unless renewed.

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3. In a matter entitled *In the Matter of the Accusation against Mary Kay Marina Brewster, M.D.*, Medical Board Case No. 800-2014-005285, the Board, issued a decision, effective March 2, 2017, in which Respondent's Physician's and Surgeon's Certificate was revoked, for conviction of a crime and unprofessional conduct. However, the revocation was stayed and Respondent was placed on five years of probation, with requirements that she complete community services, an ethics course, psychotherapy, maintain a practice monitor, obey all laws and other standard terms and conditions. A copy of that Decision is attached as Exhibit A and is incorporated herein by this reference.

JURISDICTION

4. This Accusation and Petition to Revoke Probation is brought before the Board under the authority of the following provisions of the California Business and Professions Code ("Code") unless otherwise indicated.

5. Section 2004 of the Code states:

> The board shall have the responsibility for the following:
>
> (a) The enforcement of the disciplinary and criminal provisions of the Medical Practice Act.
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> (b) The administration and hearing of disciplinary actions.
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> (c) Carrying out disciplinary actions appropriate to findings made by a panel or an administrative law judge.
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> (d) Suspending, revoking, or otherwise limiting certificates after the conclusion of disciplinary actions.
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> (e) Reviewing the quality of medical practice carried out by physician and surgeon certificate holders under the jurisdiction of the board.
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> (f) Approving undergraduate and graduate medical education programs.
>
> (g) Approving clinical clerkship and special programs and hospitals for the programs in subdivision (f).
>
> (h) Issuing licenses and certificates under the board's jurisdiction.
>
> (i) Administering the board's continuing medical education program.

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 2234 of the Code, states:

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

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

(b) Gross negligence.

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

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

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

(d) Incompetence.

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

surgeon.

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

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

8. Section 2236 of the Code states:

(a) The conviction of any offense substantially related to the qualifications, functions, or duties of a physician and surgeon constitutes unprofessional conduct within the meaning of this chapter [Chapter 5, the Medical Practice Act]. The record of conviction shall be conclusive evidence only of the fact that the conviction occurred.

(b) The district attorney, city attorney, or other prosecuting agency shall notify the Medical Board of the pendency of an action against a licensee charging a felony or misdemeanor immediately upon obtaining information that the defendant is a licensee. The notice shall identify the licensee and describe the crimes charged and the facts alleged. The prosecuting agency shall also notify the clerk of the court in which the action is pending that the defendant is a licensee, and the clerk shall record prominently in the file that the defendant holds a license as a physician and surgeon.

(c) The clerk of the court in which a licensee is convicted of a crime shall, within 48 hours after the conviction, transmit a certified copy of the record of conviction to the board. The division may inquire into the circumstances surrounding the commission of a crime in order to fix the degree of discipline or to determine if the conviction is of an offense substantially related to the qualifications, functions, or duties of a physician and surgeon.

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

9. Section 2239 of the Code states:

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

(b) A plea or verdict of guilty or a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning of this section. The Medical Board may order discipline of the licensee in accordance with Section 2227 or the Medical Board may order the denial of the license when the time for appeal has elapsed or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code allowing such person to withdraw his or her plea of guilty and to enter a plea of not guilty, or

setting aside the verdict of guilty, or dismissing the accusation, complaint, information, or indictment.

10. Section 490 of the Code states:

(a) In addition to any other action that a board is permitted to take against a licensee, a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime, if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.

(b) Notwithstanding any other provision of law, a board may exercise any authority to discipline a licensee for conviction of a crime that is independent of the authority granted under subdivision (a) only if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the licensee's license was issued.

(c) A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. An action that a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of the Penal Code.

(d) The Legislature hereby finds and declares that the application of this section has been made unclear by the holding in *Petropoulos v. Department of Real Estate* (2006) 142 Cal.App.4th 554, and that the holding in that case has placed a significant number of statutes and regulations in question, resulting in potential harm to the consumers of California from licensees who have been convicted of crimes. Therefore, the Legislature finds and declares that this section establishes an independent basis for a board to impose discipline upon a licensee, and that the amendments to this section made by Chapter 33 of the Statutes of 2008 do not constitute a change to, but rather are declaratory of, existing law.

11. Section 2266 of the Code states: The failure of a physician and surgeon to maintain adequate and accurate records relating to the provision of services to their patients constitutes unprofessional conduct.

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

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

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FIRST CAUSE FOR DISCIPLINE

(Repeated Negligent Acts)

13. Respondent is subject to disciplinary action under section 2234, subdivision (c), of the Code in that she committed repeated negligent acts with respect to her care and treatment of Patients 1 and 2.[1] The circumstances are as follows:

Patient 1:

14. Patient 1, a then 73-year-old woman, presented to Respondent, a gynecologist, for recurrent postmenopausal bleeding. In a History and Physical Form dated July 8, 2017,[2] Respondent noted that Patient 1 was on Estrogen Pellet therapy and had undergone a painful endometrial biopsy with benign results one year prior. On ultrasound, Respondent noted that Patient 1's uterine lining was difficult to visualize due to fibroids. Respondent noted that Patient 1 desired definitive treatment. Respondent recommended dilation and curettage, hysteroscopy and endometrial ablation. There is no documentation of any discussion of risks, benefits and alternatives associated with performing dilation and curettage, hysteroscopy and endometrial ablation on Patient 1.

15. On July 7, 2017, Patient 1 executed a Disclosure and Consent at Monterey Peninsula Surgery Center acknowledging that Respondent would be performing a dilation and curettage hysteroscopy, polypectomy if found and endometrial ablation with Genesys device.[3]

16. That same day, Respondent performed a dilation and curettage, hysteroscopy and endometrial ablation with Genesys device. In the Operative Report, Respondent noted that "after discussing the risks, benefits and alternatives of the planned procedure with the patient, informed consent was obtained." There were no apparent complications from the procedure and Patient 1

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[1] For privacy purposes, the patients in this Accusation and Petition to Revoke Probation are referred to as Patients 1 and 2.

[2] It appears that the date set forth on the History and Physical Form is incorrect given that the surgery took place on July 7, 2017.

[3] Genesys is an ablation device that allows the surgeon to perform endometrial ablation on an outpatient basis.

was discharged home in stable condition following two hours of monitoring in the Post Anesthesia Care Unit ("PACU").

17. Endometrial ablation is relatively contraindicated in postmenopausal women and can impair the ability to adequately evaluate and sample the endometrium in the future. Prior to performing an endometrial ablation on a patient with abnormal uterine bleeding, the standard of care requires that the gynecologist obtain an endometrial sampling to rule out endometrial hyperplasia or carcinoma.

18. Respondent failed to obtain an endometrial sampling to rule out endometrial hyperplasia or carcinoma prior to performing an endometrial ablation on Patient 1. Patient 1 was a postmenopausal woman with abnormal bleeding on hormone replacement, whose last endometrial biopsy was one-year prior. Respondent was unable to visualize the patient's uterine lining on ultrasound prior to the procedure.

19. Respondent failed to document any informed consent discussion with the patient regarding the risks of endometrial ablation in a postmenopausal woman without obtaining an endometrial sampling to rule out endometrial hyperplasia or carcinoma.

Patient 2:

20. Patient 2, a then 23-year-old patient, with an intrauterine fetal demise at 14-weeks gestation, was scheduled for a dilation and curettage to take place by Respondent on October 18, 2017. Respondent noted that the patient had previously undergone an ultrasound a few days prior at the outpatient clinic and the fetus measured 10-weeks, 2-days. At that time, the patient was given misoprostol to induce a medical abortion and it was unsuccessful, necessitating the dilation and curettage.

21. On October 18, 2017, Patient 2 arrived at Monterey Peninsula Surgery Center at 12:50 p.m. Respondent arrived late to the surgery center from her office. The patient was taken to the operating room at 3:00 p.m. At 3:15 p.m., Respondent performed a suction dilation and

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curettage. She noted that the fetus was removed intact and appeared to have sirenomelia birth defect.[4]

22. In the operative report that Respondent dictated on November 3, 2017, she documented that the procedure was complicated due to the placenta and membranes being adherent and difficult to remove. This caused active bleeding which ultimately resolved when the uterine cavity was completely evacuated by sharp curettage. Respondent gave the patient 200 milligrams of Cytotec by rectum and noted good uterine contraction and cessation of bleeding. Respondent documented an estimated blood loss of 1,500 milliliters.

23. Surgery ended at 3:55 p.m., at which time Respondent left the facility for a meeting.[5]

24. The nursing staff took the patient to the PACU at 4:05 p.m. Respondent did not issue any postoperative orders prior to departing for her meeting.

25. Nurse B.P. left a voicemail message on Respondent's cell phone at 4:20 p.m. requesting a call back with discharge orders. The patient was noted to have had some dizziness and vaginal bleeding.

26. At 5:15 p.m., Respondent was noted to be at the patient's bedside.

27. At 6:00 p.m., Respondent discussed the surgical procedure and findings with the patient as well as reviewed the discharge instructions with the patient. Thereafter, Respondent left the PACU. The nursing staff further reviewed the discharge instructions with the patient and her husband. The patient was discharged at 6:24 p.m.

28. The standard of care requires that surgeons communicate with the nursing staff when care is being handed over and that the surgeon be readily available.

29. Respondent left the surgery center in a hurry for a meeting, without communicating with the nurses and was unavailable for a 55-minute period postoperatively.

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[4] Sirenomelia, also known as mermaid syndrome, is an extremely rare congenital developmental disorder characterized by anomalies of the lower spine and the lower limbs with partial or complete fusion of the legs.

[5] Respondent stated that she could not remember if she took the patient to the recovery room but that she had a very important meeting with her probation inspector with the Medical Board of California and did not want to arrive late to the meeting, as she had been late to her prior meeting with her probation inspector.

30. The standard of care requires that surgeons assess blood loss during a procedure as accurately as possible, with follow-up assessment of hemodynamic status by vital signs, laboratory studies and diagnostic studies when excessive blood loss is noted.

31. Respondent failed to appropriately assess and follow Patient 2 postoperatively. Despite Patient 2's estimated blood loss of 1,500 milliliters during surgery, Respondent failed to order serial hemograms or orthostatic vital signs to ensure that the patient was hemodynamically stable prior to being discharged.

32. Respondent's acts and/or omissions as set forth in paragraphs 14 through 31, above, whether proven individually, jointly, or in any combination thereof, constitute repeated negligent acts pursuant to section 2234, subdivision (c), of the Code. Therefore, cause for discipline exists.

SECOND CAUSE FOR DISCIPLINE

(Failure to Maintain Adequate and Accurate Records)

33. Respondent's license is subject to disciplinary action under section 2266 of the Code in that she failed to maintain adequate and accurate records concerning the care and treatment of Patients 1 and 2. Complainant refers to and, by this reference, incorporates Paragraphs 14, 19, 22 and 24, above, as though set forth fully herein.

THIRD CAUSE FOR DISCIPLINE

(Conviction of a Crime)

34. Respondent is subject to disciplinary action under section 2234, subdivision (a), section 2236, subdivision (a), and section 490 of the Code and California Code of Regulations, title 16, section 1360, in that she has been convicted of a crime substantially related to the qualifications, function, or duties of a physician and surgeon. The circumstances are as follows:

35. On April 17, 2020 at 4:50 p.m., Monterey Police Officer Richardson was dispatched to a report of a possibly intoxicated female driver who appeared unable to maintain her vehicle in its lane on Highway 68 Westbound. Officer Richardson saw the vehicle on Pacific, just south of Martin and conducted a traffic enforcement stop.

36. Officer Richardson noted a strong odor of an alcoholic beverage emanating from the passenger compartment of the vehicle and asked the driver, Respondent, if she used any alcohol.

Respondent denied drinking anything. Respondent had difficulty providing her driver's license to Officer Richardson upon his request. He again asked if she had any alcohol and she said no. Officer Richardson requested that Respondent exit her vehicle. She refused to do so screaming loudly that she would not get out of the car. Officer Richardson was required to forcibly remove Respondent from the vehicle with the assistance of Officer Phillips. Respondent, who was noted to be wearing blue scrubs, was placed on the ground and handcuffed. Respondent continued to scream loudly at the officers. Respondent was advised that she was under arrest for driving under the influence of alcohol. Officer Richardson then requested that Respondent voluntarily submit to a chemical test to determine her blood alcohol level. In response, Respondent stated "I would like to f*** you in your f***ing asshole." She then shoved herself backwards into Officer Richardson's chest, striking him with her right shoulder. Officer Richardson regained control of Respondent and she was placed in the rear seat of his patrol vehicle.

37. Officer Richardson then contacted the reporting party, M.D., who arrived on scene and stated that he had observed Respondent driving on Highway 68 into oncoming traffic, over-corrected and then left the roadway into the dirt. M.D. confirmed that he called the police and that Respondent was the driver he reported.

38. Officer Phillips drove Respondent to Community Hospital of Monterey Peninsula to await a blood draw while Officer Richardson obtained a search warrant to draw Respondent's blood. At the hospital, Respondent continued to scream, yell and stomp her feet in the back of the patrol vehicle. Respondent was asked if she would willingly walk into the hospital for the blood draw once the warrant was obtained, and she stated that she would not. Respondent refused to walk into the hospital on her own and had to be physically removed from the patrol vehicle and taken into the hospital. In the hospital, Respondent continued to scream and yell. She kicked Officer Phillips in the right thigh with her right foot. Due to her combativeness, she was placed in a wrap restraint for her own safety as well as officer safety prior to the blood draw taking place.

39. Officer Richardson obtained the search warrant for a blood draw. Thereafter, Respondent complied with the search warrant. After the blood draw, Respondent was transported

to the county jail and processed for driving under the influence of alcohol in violation of Vehicle Code section 23152, subdivision (a); driving with a blood alcohol level of .08% or greater, in violation of 23152, subdivision (b); obstructing and resisting a peace officer, in violation of Penal Code section 148, subdivision (a)(1); and battery on a peace officer, in violation of Penal Code section 243, subdivision (b).

40. Forensic Alcohol Analysis of Respondent's blood sample revealed a blood alcohol level of 0.314%.

41. On June 8, 2020, in a criminal complaint entitled *The People of the State of California v. Mary Kay Brewster*, case number 20CR004838, filed in the Monterey County Superior Court, Respondent was charged with the following four misdemeanor counts: (1) driving under the influence of alcohol, in violation of Vehicle Code section 23152, subdivision (a); (2) driving a vehicle while having 0.08% or higher blood alcohol, in violation of Vehicle Code section 23152, subdivision (b), with an excessive blood alcohol of greater than 20%, in violation of Vehicle Code section 23556, subdivision (b)(4), an enhancement, and a prior conviction within 10 years, in violation of Vehicle Code section 23540, an enhancement; (3) resisting an officer, in violation of Penal Code section 148, subdivision (a)(1); and (4) battery on a peace officer, in violation of Penal Code section 243, subdivision (b).

42. On August 20, 2020, in the Monterey County Superior Court, Respondent, upon her plea of no contest, was convicted of:

a. Count 2: driving a vehicle while having 0.08% or higher blood alcohol, in violation of Vehicle Code section 23152, subdivision (b), a misdemeanor, with an excessive blood alcohol of greater than 20%, in violation of Vehicle Code section 23556, subdivision (b)(4), an enhancement and a prior conviction within 10 years, in violation of Vehicle Code section 23540, an enhancement and

b. Count 4: battery on a peace officer, in violation of Penal Code section 243, subdivision (b).

43. As to the conviction for Count 2, driving a vehicle while having 0.08% or higher blood alcohol, in violation of Vehicle Code section 23152, subdivision (b), a misdemeanor, with

an excessive blood alcohol of greater than 20%, in violation of Vehicle Code section 23556, subdivision (b)(4), an enhancement and a prior conviction within 10 years, in violation of Vehicle Code section 23540, an enhancement, Respondent was placed on five years' conditional probation with the following conditions:

a. Obey all laws.

b. Not commit same or similar offense.

c. Totally abstain from the use of alcoholic beverages; not purchase or possess alcoholic beverages; and stay out of places where alcohol is the main item of sale.

d. Submit to and complete any field sobriety test or alcohol/narcotics testing of blood, breath, or urine at the request of any probation officer or peace officer.

e. Not operate a vehicle with any measurable amount of alcohol/drugs in blood.

f. Attend 30 self-help meetings, no more than one per day and no less than two per week.

g. Not operate a motor vehicle unless properly licensed, registered and insured.

h. Enroll in and complete a county approved 18-Month Multiple Offender Alcohol Program.

i. Have an Ignition Interlock Device installed, or file proof of non-ownership of a vehicle.

j. Serve 30 days in County Jail.

k. Pay fines and assessments.

44. As to the conviction for Count 4, battery on a peace officer, in violation of Penal Code section 243, subdivision (b), Respondent was placed on 3 years' conditional probation with the following conditions:

a. Obey all laws.

b. Not commit same or similar offense.

c. Not possess, receive or transport any firearm, ammunition or any deadly weapon for a period of 10 years.

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d. Immediately surrender any owned or possessed firearms or ammunition to law enforcement.

e. Pay fines and assessments.

45. Respondent's acts and/or omissions as set forth in paragraphs 34 through 44, above, whether proven individually, jointly, or in any combination thereof, constitute a conviction of a crime substantially related to the qualifications, function, or duties of a physician and surgeon pursuant to section 2234, subdivision (a), section 2236, subdivision (a), and section 490 of the Code and California Code of Regulations, title 16, section 1360.

FOURTH CAUSE FOR DISCIPLINE

(Use of Alcoholic Beverages in a Dangerous Manner)

46. By reason of the facts set forth above in paragraphs 34 through 45, Respondent's license is subject to disciplinary action under section 2234, subdivision (a) and section 2239 of the Code and California Code of Regulations, title 16, section 1360, in that she used alcoholic beverages, to the extent, or in such a manner as to be dangerous and injurious to Respondent, or to any other person or to the public.

47. Respondent's acts and/or omissions as set forth in paragraphs 34 through 46, above, whether proven individually, jointly, or in any combination thereof, constitute use of alcoholic beverages, to the extent, or in such a manner as to be dangerous and injurious to Respondent, or to any other person or to the public pursuant to section 2234, subdivision (a) and section 2239 of the Code and California Code of Regulations, title 16, section 1360.

FIFTH CAUSE FOR DISCIPLINE

(Unprofessional Conduct)

48. By reason of the facts set forth above in paragraphs 34 through 47, Respondent's license is subject to disciplinary action under section 2234, subdivision (a) of the Code and California Code of Regulations, title 16, section 1360, in that she engaged in conduct which breaches the rules or ethical code of the medical profession, or conduct which is unbecoming to a member in good standing of the medical profession, and which demonstrates an unfitness to practice medicine.

49. Respondent's acts and/or omissions as set forth in paragraphs 34 through 48, above, whether proven individually, jointly, or in any combination thereof, constitutes conduct which breaches the rules or ethical code of the medical profession, or conduct which is unbecoming to a member in good standing of the medical profession, and which demonstrates an unfitness to practice medicine pursuant to section 2234, subdivision (a) of the Code and California Code of Regulations, title 16, section 1360.

SIXTH CAUSE FOR DISCIPLINE

(Unprofessional Conduct – Failure to Cooperate in Board Investigation)

50. Respondent is subject to disciplinary action under section 2234, subdivision (g), of the Code, in that she committed unprofessional conduct by failing to participate in the Board's interview during its investigation. The circumstances are as follows:

51. On September 24, 2020 and September 29, 2020, Respondent was contacted by an investigator with the Department of Consumer Affairs, Division of Investigation, Health Quality Investigation Unit to schedule a Board interview relative to her criminal arrest and conviction. Respondent failed to respond to the requests for an interview.

52. Respondent's acts and/or omissions as set forth in paragraphs 34 through 51, above, whether proven individually, jointly, or in any combination thereof, constitute unprofessional conduct by failing to participate in an interview by the Board during its investigation, pursuant to section 2234, subdivision (g), of the Code. Therefore, cause for discipline exists.

FIRST CAUSE TO REVOKE PROBATION

(Failure to Comply with Probation Condition Number 8: Obey all Laws)

53. Condition 8 of the January 31, 2017 Decision states:

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

54. Respondent's probation is subject to revocation because she failed to comply with Condition 8 of the January 31, 2017 Decision, referenced above. The facts and circumstances

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regarding this violation are set forth in paragraphs 34 through 45 and 53, above, and incorporated herein by this reference.

SECOND CAUSE TO REVOKE PROBATION

(Failure to Comply with Probation Condition Number 11: Interview with the Board or its Designee)

55. Condition 11 of the January 31, 2017 Decision states:

"11. INTERVIEW WITH THE BOARD OR ITS DESIGNEE. Respondent shall be available in person upon request for interviews either at Respondent's place of business or at the probation unit office, with or without prior notice throughout the term of probation."

56. Respondent's probation is subject to revocation because she failed to comply with Condition 11 of the January 31, 2017 Decision, referenced above. The facts and circumstances regarding this violation are set forth in paragraphs 34 through 52 and 55, above, and incorporated herein by this reference.

DISCIPLINARY CONSIDERATIONS

57. To determine the degree of discipline, if any, to be imposed on Respondent, Complainant alleges that on or about June 6, 2012, in a prior criminal proceeding entitled *The People of the State of California v. Mary Kay Brewster*, case number MS302278A, in the Monterey County Superior Court, Respondent, upon her guilty plea, was convicted of driving a vehicle while having a .08% or higher blood alcohol content, in violation of Vehicle Code section 23152, subdivision (b), of the Vehicle Code, the record of which is incorporated as if fully set forth herein. Respondent was placed on probation for a period of five years under terms and conditions, including a three-month first offender alcohol program.

58. To determine the degree of discipline, if any, to be imposed on Respondent, Complainant alleges that on or about November 23, 2015, in a prior criminal proceeding entitled *The People of the State of California v. Mary Kay Brewster*, case number SS142474A, in the Monterey County Superior Court, Respondent was convicted of two felony counts of stalking, in violation of Penal Code section 646.9, subdivision (a); one felony count of vandalism over $400, in violation of Penal Code section 594, subdivision (b)(l); and one misdemeanor count of

unauthorized entry of a dwelling house, in violation of Penal Code section 602.5, subdivision (a). Respondent was placed on probation for a period of three years under terms and conditions, including serving 150 days in county jail, completing 40 hours of community service and completing a one-year domestic violence counseling program.

59. To determine the degree of discipline, if any, to be imposed on Respondent, Complainant alleges that in a matter entitled *In the Matter of the Accusation against Mary Kay Marina Brewster, M.D.*, Medical Board Case No. 800-2014-005285, the Board, issued a decision, effective March 2, 2017, in which Respondent's Physician's and Surgeon's Certificate was revoked, for unprofessional conduct and conviction of a crime. However, the revocation was stayed and Respondent was placed on five years of probation, with requirements that she complete community services, an ethics course, psychotherapy, maintain a practice monitor, obey all laws and other standard terms and conditions. That decision is now final and is incorporated by reference as if fully set forth herein.

60. To determine the degree of discipline, if any, to be imposed on Respondent, Complainant further alleges that on August 10, 2017, the Medical Board of California issued a Citation and Order of Abatement, number 8002017035353, for violation of Condition 9 of Respondent's probation: failing to timely submit a Quarterly Declaration. The Citation was resolved by way of compliance with the Order of Abatement on October 5, 2017.

61. To determine the degree of discipline, if any, to be imposed on Respondent, Complainant further alleges that on June 15, 2018, the Medical Board of California issued a Citation and Order of Abatement, number 8002018044319, for violation of Conditions 1 and 2 of Respondent's probation: failing to submit twenty annual hours of non-medical community service and failing to provide proof of completion of the six-month follow-up for her Ethics Course. The Citation was resolved by way of compliance with the Order of Abatement on August 3, 2018.

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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 Board in Case No. 800-2014-005285 and imposing the disciplinary order that was stayed, thereby revoking Physician's and Surgeon's Certificate Number G 84568, issued to Mary Kay Marina Brewster, M.D.;

2. Revoking or suspending Physician's and Surgeon's Certificate Number G 84568, issued to Mary Kay Marina Brewster, M.D.;

3. Revoking, suspending or denying approval of Mary Kay Marina Brewster, M.D.'s authority to supervise physician assistants and advanced practice nurses;

4. Ordering Mary Kay Marina Brewster, M.D., if placed on probation, to pay the Board the costs of probation monitoring; and

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

DATED: NOV 03 2020

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

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Exhibit A

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

In the Matter of the Second Amended Accusation Against:	)	
Mary Kay Marina Brewster, M.D.	)	**Case No. 800-2014-005285**
Physician's and Surgeon's Certificate No. G 84568	)	
Respondent	)	

DECISION

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

This Decision shall become effective at 5:00 p.m. on March 2, 2017.

IT IS SO ORDERED: January 31, 2017.

MEDICAL BOARD OF CALIFORNIA

Jamie Wright, J.D., Chair
Panel A

MEDICAL BOARD OF CALIFORNIA
I do hereby certify that this document is a true and correct copy of the original on file in this office.
Signature S. Wood
Title for Custodian of Records
Date 7/15/2020

KAMALA D. HARRIS
Attorney General of California
JANE ZACK SIMON
Supervising Deputy Attorney General
EMILY L. BRINKMAN
Deputy Attorney General
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Attorneys for Complainant

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

In the Matter of the Second Amended Accusation Against: **MARY KAY MARINA BREWSTER, M.D.** 172 El Dorado Street Monterey, CA 93940 **Physician's and Surgeon's Certificate No. G84568** Respondent.	Case No. 800-2014-005285 OAH No. 2016070131 **STIPULATED SETTLEMENT AND DISCIPLINARY ORDER**

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

PARTIES

1. Kimberly Kirchmeyer (Complainant) is the Executive Director of the Medical Board of California (Board). She brought this action solely in her official capacity and is represented in this matter by Kamala D. Harris, Attorney General of the State of California, by Emily L. Brinkman and Keith C. Shaw, Deputy Attorney Generals.

2. Respondent Mary Kay Marina Brewster, M.D. ("Respondent") is represented in this proceeding by attorney Michael A. Firestone, whose address is: 1700 South El Camino Real, Suite 204, San Mateo, CA 94402.

3. On or about June 5, 1998, the Board issued Physician's and Surgeon's Certificate No. G84568 to Mary Kay Marina Brewster, 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 the Second Amended Accusation No. 800-2014-005285 and will expire on September 30, 2017, unless renewed.

JURISDICTION

4. Accusation No. 800-2014-005285 and all other statutorily required documents were properly served on Respondent on March 4, 2016. Respondent timely filed her Notice of Defense contesting the Accusation.

5. First Amended Accusation No. 800-2014-005285 was filed before the Board, and is currently pending against Respondent. The First Amended Accusation and all other statutorily required documents were properly served on Respondent on September 15, 2016.

6. Second Amended Accusation No. 800-2014-005285 was filed before the Board, and is currently pending against Respondent. The Second Amended Accusation and all other statutorily required documents were properly served on Respondent on December 8, 2016.

7. A copy of Second Amended Accusation No. 800-2014-005285 is attached as exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

8. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in the Second Amended Accusation No. 800-2014-005285. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

9. Respondent is fully aware of her legal rights in this matter, including the right to a hearing on the charges and allegations in the Second Amended Accusation; 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.

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

CULPABILITY

11. For the purpose of resolving the Second Amended Accusation without the expense and uncertainty of further proceedings, Respondent does not contest that, at an administrative hearing, complainant could establish a prima facie case with respect to the charges and allegations contained in the Second Amended Accusation No. 800-2014-005285 and that she has thereby subjected her Physician's and Surgeon's Certificate No. G84568 to disciplinary action.

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 the Second Amended Accusation No. 800-2014-005285 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 or her counsel. 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 formal proceeding, issue and enter the following Disciplinary Order:

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. G84568 issued to Respondent Mary Kay Marina Brewster, M.D. is revoked. However, the revocation is stayed and Respondent is placed on probation for five (5) years on the following terms and conditions.

1. COMMUNITY SERVICE - FREE SERVICES (NON-MEDICAL). Within 60 calendar days of the effective date of this Decision, Respondent shall submit to the Board or its designee for prior approval a community service plan in which Respondent shall provide 20 hours of free services (nonmedical) to a community or non-profit organization each year of probation for the first three years of probation. If the term of probation is designated for 2 years or less, the community service hours must be completed not later than 6 months prior to the completion of probation.

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

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

2. PROFESSIONALISM PROGRAM (ETHICS COURSE). Within 60 calendar days of the effective date of this Decision, Respondent shall enroll in a professionalism program, that

meets the requirements of Title 16, California Code of Regulations (CCR) section 1358. Respondent shall participate in and successfully complete that program. Respondent shall provide any information and documents that the program may deem pertinent. Respondent shall successfully complete the classroom component of the program not later than six (6) months after Respondent'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 Respondent's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

A professionalism program taken after the acts that gave rise to the charges in the Accusation, but prior to the effective date of the 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.

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

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

Respondent shall have the treating psychotherapist submit quarterly status reports to the Board or its designee. The treating psychotherapist shall immediately notify the Board or its designee if Respondent fails to comply with treatment recommendations, or if Respondent is in any way unable to safely practice medicine.

During probation, the Board or its designee may require Respondent to undergo periodic psychiatric evaluations (and psychological testing, if deemed necessary) by a Board-appointed board certified psychiatrist, who shall consider any information provided by the Board or designee and any other information the evaluator deems relevant. Respondent shall cooperate fully with any evaluation, and shall provide prompt access to records or information deemed necessary by the evaluator. The evaluator shall furnish a written evaluation report to the Board or its designee.

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

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

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

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

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

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

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

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

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

5. 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 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. The Respondent shall not resume practice until an appropriate practice setting is established.

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

6. NOTIFICATION. Within seven (7) days of the effective date of this Decision, the 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 15 calendar days.

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

7. SUPERVISION OF PHYSICIAN ASSISTANTS. During probation, Respondent is

prohibited from supervising physician assistants.

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

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

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

10. GENERAL PROBATION REQUIREMENTS.

Compliance with Probation Unit

Respondent shall comply with the Board's probation unit and all terms and conditions of this Decision.

Address Changes

Respondent shall, at all times, keep the Board informed of Respondent's business and residence addresses, email address (if available), and telephone number. Changes of such addresses shall be immediately communicated in writing to the Board or its designee. Under no circumstances shall a post office box serve as an address of record, except as allowed by Business and Professions Code section 2021(b).

Place of Practice

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

License Renewal

Respondent shall maintain a current and renewed California physician's and surgeon's license.

Travel or Residence Outside California

Respondent shall immediately inform the Board or its designee, in writing, of travel to any

areas outside the jurisdiction of California which lasts, or is contemplated to last, more than thirty (30) calendar days.

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

11. INTERVIEW WITH THE BOARD OR ITS DESIGNEE. Respondent shall be available in person upon request for interviews either at Respondent's place of business or at the probation unit office, with or without prior notice throughout the term of probation.

12. NON-PRACTICE WHILE ON PROBATION. Respondent shall notify the Board or its designee in writing within 15 calendar days of any periods of non-practice lasting more than 30 calendar days and within 15 calendar days of Respondent's return to practice. Non-practice is defined as any period of time Respondent is not practicing medicine 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 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 as a period of non-practice.

In the event Respondent's period of non-practice while on probation exceeds 18 calendar months, Respondent shall successfully complete a clinical training 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 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; and General Probation Requirements.

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

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

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

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

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ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Michael A. Firestone. 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: 12/9/16

Mary Kay Marina Brewster MD

MARY KAY MARINA BREWSTER, M.D.
Respondent

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

DATED: 12/9/16

Michael A Firestone

Michael A. Firestone,
Attorney for Respondent

ENDORSEMENT

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

Dated: 12/9/16

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
JANE ZACK SIMON
Supervising Deputy Attorney General

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Exhibit A

Second Amended Accusation No. 800-2014-005285

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

In the Matter of the Second Amended Accusation Against: **MARY KAY MARINA BREWSTER, M.D.** 172 El Dorado Street Monterey, CA 93940 **Physician's and Surgeon's Certificate No. G84568,** Respondent.	Case No. 800-2014-005285 **SECOND AMENDED ACCUSATION**

Complainant alleges:

PARTIES

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

2. On or about June 5, 1998, the Medical Board issued Physician's and Surgeon's Certificate Number G84568 to Mary Kay Marina Brewster, M.D. (Respondent). Respondent's Physician's and Surgeon's Certificate expires September 30, 2017, unless renewed.

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JURISDICTION

3. This First Amended Accusation is brought before the Medical Board of California (Board),[1] Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

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

5. Section 490 of the Code provides, in pertinent part, that a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.

6. Section 2234 of the Code, states in relevant part:

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

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

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

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

7. Section 2236 of the Code states, in relevant part:

"(a) The conviction of any offense substantially related to the qualifications, functions, or duties of a physician and surgeon constitutes unprofessional conduct within the meaning of this

[1] The term "Board" means the Medical Board of California. "Division of Medical Quality" or "Division" shall also be deemed to refer to the Board. (Bus. & Prof. Code section 2002).

chapter [Chapter 5, the Medical Practice Act]. The record of conviction shall be conclusive evidence only of the fact that the conviction occurred.

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

FIRST CAUSE FOR DISCIPLINE

(Conviction of a Crime; Unprofessional Conduct)

8. Respondent Mary Kay Marina Brewster, M.D. is subject to disciplinary action under sections 490, and/or 2234, and/or 2234(e), and/or 2236(a) in that Respondent has engaged in unprofessional conduct and was convicted of a crime. The circumstances are as follows:

June 8, 2013 Monterey Police Report[2]:

9. On or about June 8, 2013, an officer with the Monterey Police Department was dispatched to the home of reporting party, Victim A,[3] regarding vandalism. Victim A told the officer that she left her home on June 1, 2013 around 7 a.m. and returned on June 7, 2013 at approximately 8 p.m. When she got home, she did not notice anything was wrong with her mailbox; however, at around noon on June 8, 2013 she noted that an unknown substance was sprayed on her copper mailbox causing discoloration and permanent damage. Victim A believed the damage was caused by a co-worker but was reluctant to provide the officer with a name. Victim A also reported that she noticed plants in her yard were starting to die and believed that the same person was responsible for this as well. Because there was no evidence of who caused this damage and Victim A would not provide the co-worker's name, the officer took no further action.

10. Because of ongoing vandalism to her plants and property, Victim A installed a gate, fence, and security cameras on her property.

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[2] For privacy reasons, the police report numbers will not be used; however, Respondent may learn this information through the discovery process.

[3] Names and initials will not be used in order to protect the victim's/witness's identities. Respondent may learn their names through the discovery process.

June 22, 2013 Monterey Police Report:

11. On or about June 22, 2013, an officer with the Monterey Police Department was dispatched to the home of Victim A regarding threats. Victim A reported to the officer that she was a registered nurse and had previously had an affair with Victim C, who is married to Respondent. Victim A reported that the affair with Victim C ended in May of 2012, but she continued to have problems with Respondent. Victims A, C and Respondent all work together at a local hospital. In November 2012, Victim A reported several problems with Respondent at work to the hospital. After the employer warned Respondent, Victim A had no further issues with Respondent at work.

12. Victim A reported that on June 22, 2013 at 3:00 p.m., Respondent drove past her house, and then a few minutes later drove by again. Victim A went outside because she believed it was Respondent who drove by. Respondent then pulled into Victim A's driveway and the two had a "semi-civilized" conversation. Victim A then made a comment to Respondent as she was leaving about whether she "got any DUI's lately?" Respondent said, "You're going to die, slut." Respondent got in her car and left.

13. Victim A was visibly upset and crying while recounting this to the officer. Victim A reported that when she returned to work on June 21, 2013 there was a note in her locker stating "we all hate you go!!" Victim A reported the note to her boss.

14. The officer then reviewed the surveillance video and noted that Respondent drove past Victim A's house at 2:56 p.m. and 2:58 p.m. Then at 3 p.m., Respondent pulled into Victim A's driveway. The officer observed a conversation between Victim A and Respondent but could not make out the discussion because of background noise. He was able to hear Respondent yell "You're going to die!" as she got into her car to leave. The officer advised Victim A on how to obtain a restraining order.

15. The officer then contacted Respondent via telephone. Respondent denied making any threats to Victim A, but did admit to going to her house. Respondent said she wanted to tell Victim A that she almost lost her job because of Victim A's complaint. She also wanted to make sure that Victim A knew Victim C was not faithful to her either. The officer advised Respondent

not to drive by Victim A's house and that Victim A might obtain a restraining order. Respondent became upset by that.

June 7, 2014 Monterey Police Report:

16. On or about June 7, 2014, Victim A called the Monterey Police Department to report thefts and vandalism over the past two years. Officers arrived at Victim A's home and took her statement. Victim A reported to the officers that on Saturday June 7, 2014 surveillance cameras recorded Respondent tampering with Victim A's vehicle and spraying Victim A's yard with insecticide. [4]

17. Victim A reported to the officer that she returned home after the Memorial Day weekend and noted that 15 plants had suddenly died. She checked the security cameras and noted a person walking around her yard with a sprayer; however, Victim A could not identify the subject. Victim A then installed a newer security camera system.

18. Victim A showed the security camera footage to the officer. The officer reported that between 4:35 a.m. and 4:50 a.m. on June 7, 2014, a suspect dressed in a hooded sweatshirt with the hood up and wearing tight pants, approached Victim A's vehicle. The suspect opened the car door to open the gas tank door but the suspect could not remove the gas cap. The officer then observed the suspect walk to the left front wheel area and lay down. The suspect was under the car for several minutes but it was not clear what the suspect was doing. The suspect then walked to the front yard with a four to five gallon sprayer in her hand. The suspect was then observed spraying Victim A's plants in the front yard. A short time later the suspect returned to the driveway and crawled around under Victim A's vehicle, at which time she activated a motion-sensor light over the garage door. The suspect hid in the front yard until the light went off. The suspect then picked up two potted plants and carried them down to the mailbox. At the mailbox area, the suspect then uprooted two more plants from two large planters. The officer compared pictures of Respondent and the suspect in the video and determined that Respondent was the suspect in the surveillance video.

[4] A sprayer cap for a pesticide was located on the victim's property.

19. The officer noted in his report that Victim A appeared very scared of Respondent. Victim A reported to the officer that at this time of year she usually travels to the Trinity Alps. The inn keeper where she usually stays called her and told her a female called the inn asking if Victim A was there.

20. On or about June 8, 2014, the officer attempted to call Respondent but she did not answer. He left her a voicemail explaining that he needed to speak with her. He called her again on June 9, 2014 and again left a voicemail instructing her to return his call.

June 11, 2014 Monterey Sheriff's Report:

21. On or about June 11, 2014, an officer with the Monterey County Sheriff's Office was dispatched to a home following a report of rats and feces in a residence. The reporting party, Victim B, was extremely upset and shaking. She reported that she was at her boyfriend's house, Victim C, who was away on vacation. She came by to water the plants. She immediately took the officer to the master bedroom. The officer observed two rats under the pillows on the bed. The rats were safely captured, but the officer believed they were pets because they did not try to run from people and were able to be handled. There were rat droppings on the bed and the carpet adjacent to the bed.

22. The officer searched the rest of the residence and when he returned to the master bedroom, heard Victim B scream "A snake!" and she ran out of the house. The officer observed a green and black colored snake on top of the window shutters. The snake was approximately two inches in diameter and three to four feet long. The snake was captured and later determined to be a ball-python. The officer conducted a more thorough search of the residence and located another rat in the bedding where the two other rats were found.

23. Victim B showed the officer food pellets in a white plastic bag closed with a white string. It had been located in the bedroom with the rats and the python. The officer asked Victim B how the rats and snakes got into the house and she replied that it was Respondent. Victim B stated that she and Victim C started dating in April 2014 and he was in the process of divorcing Respondent.

24. The officer then contacted Victim C by telephone. Victim C informed the officer that he rented the house after the divorce process started and that Respondent did not have permission to be on the property, nor keys to access the house or property. Victim C informed the officer that Respondent had trespassed on the property twice previously but that he did not report it. Victim C reported that he is deathly afraid of snakes and Respondent knew that. He was concerned for Victim B's safety because she often stays at the house. He further stated that he was afraid for his life. Victim C also reported that his house has a gate that would have required someone to climb over it in order to access the property unless they had the security code and he did not tell Respondent the code.

25. The officer re-contacted Victim B about where she lived. She indicated that she did not live with Victim C and was afraid of Respondent. She also stated that between May 16, 2014 and June 6, 2014, Respondent called her cell phone six times. Victim B did not answer the calls, but Respondent left two voicemails for her. Victim B also showed the officer letters written by Respondent where she referred to Victim B as a whore.

26. The officer attempted to determine the area of entry because it did not appear there was a forced entry. Victim B said all of the doors were locked and all the keys were located. Victim B did inform the officer that one of the bedroom windows does not lock. The officer obtained fingerprints from the bedroom window.

27. During the investigation into the incident, the officer located the pet store where the python and rats were purchased. The employees of the store recalled selling the python, three rats, and food pellets to a woman on June 10, 2014 and positively identified Respondent as the woman who purchased the python and rats. The animals and supplies were purchased in Victim B's name.

28. Officers interviewed Respondent on June 14, 2014, but she did not provide a statement about the incident.

<u>September 4, 2014 Monterey Sheriff's Office Report:</u>

29. On or about September 4, 2014, an officer with the Monterey County Sheriff's Office was dispatched to the Wells Fargo Bank to investigate allegations of stalking. The reporting

party. Victim B, said her boyfriend's soon to be ex-wife was stalking her. Victim B reported to the officer that while she was waiting for the officer, Respondent drove by her in the parking lot. The officer noted that Victim B was shaking and visibly upset as she gave her statement. Victim B reported that she had to move after the incident with the python and that her landlord asked her to move from her residence because Respondent drove by so frequently.

30. Victim B also reported that on August 22, 2014, she was at Cost Plus World Market at approximately 8:30 p.m. when she heard her name being called. When she looked she observed a woman she believed to be Respondent. A short time later, Victim B walked around a corner and came face to face with Respondent. Respondent was holding a towel and said "Aren't these towels pretty? Maybe you should buy some." Victim B responded that the towels were nice and broke contact. She then went to another area of the store. As Victim B looked at rugs, Respondent and another woman came over to the rugs and started looking at the same rug as Victim B. Victim B told them they could have the rug. The women then backed off. Victim B bought the rug and left.

31. On or about August 24, 2014 at approximately 2:30 to 3:00 p.m., Victim B was at an ATM with her house painter. She looked up from the ATM machine and Respondent was standing near her and staring at her. Victim B and Respondent exchanged a few words and then Victim B and her painter left the area. Victim B was afraid and wanted her painter to come with her to her car so that Respondent would not follow her.

Criminal Case Filings:

32. On or about July 25, 2014, the Monterey County District Attorney filed a criminal complaint against Respondent in the Superior Court of California, Monterey County, Salinas Division in *People v. Mary Kay Brewster*, Case NO. MS322548A. Respondent was charged with the following violations:

a. Count 1: Misdemeanor, Unauthorized Entry of a Dwelling House, Penal Code § 602.5(a)

b. Count 2: Failure to Care for an Animal, Penal Code § 597.1(a).

33. On or about July 25, 2014, the Monterey County District Attorney filed a criminal complaint against Respondent in the Superior Court of California, Monterey County, Salinas Division in *People v. Mary Kay Brewster*, Case NO. MS322547A. Respondent was charged with the following violations:

a. Count 1: Misdemeanor, Vandalism under $400, Penal Code § 594(b)(2)(A);

b. Count 2: : Misdemeanor, Unauthorized Entry of a Dwelling House, Penal Code § 602.5(a);

c. Count 3: Misdemeanor, Damage or Taking Part of a Vehicle, Vehicle Code § 10852.

34. On or about September 24, 2014, the Monterey County District Attorney filed a criminal complaint against Respondent in the Superior Court of California, Monterey County, Salinas Division in *People v. Mary Kay Brewster*, Case NO. SS142474A. Respondent was charged with the following violations:

a. Count 1: Felony, Stalking, Penal Code § 646.9(a);

b. Count 2: Felony, Stalking, Penal Code § 646.9(a);

c. Count 3: Felony, Stalking, Penal Code § 646.9(a);

d. Count 4: Felony, Vandalism over $400, Penal Code § 594(b)(1);

e. Count 5: Misdemeanor, Unauthorized Entry of a Dwelling House, Penal Code § 602.5(a);

f. Count 6: : Misdemeanor, Unauthorized Entry of a Dwelling House, Penal Code § 602.5(a);

g. Count 7: Misdemeanor, Damage or Taking Part of a Vehicle, Vehicle Code § 10852;

h. Count 8: Misdemeanor, Failure to Care for an Animal, Penal Code § 597.1(a);

i. Count 9: Misdemeanor, Vandalism under $400, Penal Code § 594(b)(2)(A).

35. Pending the criminal trial, the Superior Court issued Protective Orders prohibiting Respondent from contacting the three victims in the case.

36. The Monterey Superior Court filed an Information against Respondent charging her with the following charges after a preliminary hearing:

a. Count 1: Felony, Stalking, Penal Code § 646.9(a);

b. Count 2: Felony, Threatening Letter with Intent to Extort, Penal Code § 523;

c. Count 3: Felony, Stalking, Penal Code § 646.9(a);

d. Count 4: Felony, Vandalism over $400, Penal Code § 594(b)(1);

e. Count 5: Misdemeanor, Unauthorized Entry of a Dwelling House, Penal Code § 602.5(a);

f. Count 6: Misdemeanor, Unauthorized Entry of a Dwelling House, Penal Code § 602.5(a);

g. Count 7: Misdemeanor, Damage or Taking Part of a Vehicle, Vehicle Code § 10852; and

h. Count 8: Misdemeanor, Failure to Care for an Animal, Penal Code § 597.1(a).

37. On or about November 23, 2015, Respondent was convicted following a court trial in the *People v. Mary Kay Brewster*, Case No. SS142474A. The Court found Respondent guilty of the following violations:

a. Count 1, Felony, Stalking, Penal Code § 646.9(a);

b. Count 3: Felony, Stalking, Penal Code § 646.9(a);

c. Count 4: Felony, Vandalism over $400, Penal Code § 594(b)(1);

d. Count 5: Misdemeanor, Unauthorized Entry of a Dwelling House, Penal Code § 602.5(a).

The Court acquitted Respondent on Counts two and seven and dismissed Counts six, and eight.

38. On or about January 14, 2016, the Monterey County Superior Court sentenced Respondent to three years formal probation and ordered her to serve 150 days in county jail. Additionally, the Court ordered Respondent to complete 40 hours of community service; complete a one year domestic violence counseling program, which includes attending one two hour meeting each week; stay away from Victims A and C (including not to conduct any internet

searches or visit their social media accounts); not possess or obtain any firearms or ammunition; and pay various fines and fees. The Court did not assess the actual restitution amount to the victims, but set a restitution hearing for a later date. Respondent was required to turn herself in to begin her jail sentence on March 17, 2016.

39. Respondent is subject to disciplinary action for unprofessional conduct under sections 2234, and/or 2234(e), and/or 2236, in that Respondent was convicted of a crime as alleged in paragraphs 8 through 38.

PRAYER

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

1. Revoking or suspending Physician's and Surgeon's Certificate Number G84568, issued to Mary Kay Marina Brewster, M.D.;

2. Revoking, suspending or denying approval of Mary Kay Marina Brewster, M.D.'s authority to supervise physician assistants, pursuant to section 3527 of the Code;

3. Ordering Mary Kay Marina Brewster, M.D., if placed on probation, to pay the Board the costs of probation monitoring; and

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

DATED: December 8, 2016

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

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