

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

**In the Matter of the Petition to Revoke
Probation Against:**

Anup Janak Shah, M.D.

**Physician's and Surgeon's
Certificate No. A135157**

Respondent

Case No. 800-2020-069888

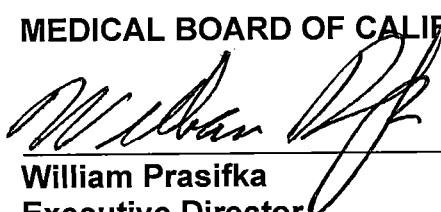
DECISION

The attached Stipulated Surrender of License 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 May 14, 2021.

IT IS SO ORDERED May 7, 2021.

MEDICAL BOARD OF CALIFORNIA



**William Prasifka
Executive Director**

MATTHEW RODRIQUEZ
Acting Attorney General of California
ALEXANDRA M. ALVAREZ
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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 Petition to Revoke
Probation Against:

**ANUP JANAK SHAH, M.D.
1150 NW Quimby Street, Unit 222
Portland, Oregon 97209-2488**

**Physician's and Surgeon's Certificate
No. A 135157,**

Respondent.

Case No. 800-2020-069888

**STIPULATED SURRENDER OF
LICENSE AND DISCIPLINARY ORDER**

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

PARTIES

1. William Prasifka (Complainant) is the Executive Director of the Medical Board of California (Board). He brought this action solely in his official capacity and is represented in this matter by Matthew Rodriquez, Acting Attorney General of the State of California, and by Joseph F. McKenna III, Deputy Attorney General.

2. Anup Janak Shah, M.D. (Respondent) is representing himself in this proceeding and has chosen not to exercise his right to be represented by counsel.

3. On or about March 19, 2015, the Board issued Physician's and Surgeon's Certificate No. A 135157 to Respondent. On or about June 30, 2020, the Physician's and Surgeon's Certificate issued to Respondent expired. On or about February 8, 2021, the Physician's and Surgeon's Certificate was renewed by Respondent and will expire on June 30, 2022, unless renewed.

PROCEDURAL HISTORY

4. On or about January 16, 2014, Respondent submitted to the Board an application for a Physician's and Surgeon's license in the State of California. During the application process, Respondent suffered a conviction for driving while under the influence of alcohol (DUI) in the State of Wyoming. On or about July 10, 2014, Respondent was convicted of violating section 31-5-233, subdivision (b) [misdemeanor DUI], Title 31 [Motor Vehicles] of the statutes of Wyoming. Respondent's blood alcohol concentration was measured to be 0.19 percent.

5. Notwithstanding Respondent's right to request a Statement of Issues and a hearing upon a denial of his application for a Physician's and Surgeon's license in the State of California, Respondent waived his right to a hearing and judicial review in favor of entering into an Amended Stipulation for a Probationary License with the Board.

6. On March 10, 2015, the Board signed its Decision and Order in the case entitled *In the Matter of the Application of Anup Janak Shah for a Physician's and Surgeon's License*, Case No. 800-2015-011886, and issued Physician's and Surgeon's Certificate No. A 135157 to Respondent on a probationary basis, subject to the terms and conditions of the Order, including a probation term of three (3) years, biological fluid testing, and abstaining from use of controlled substances and alcohol. The Decision and Order became effective March 17, 2015.

7. On June 2, 2016, the Board issued a Cease Practice Order in the case entitled *In the Matter of the Application of Anup Janak Shah, M.D.*, Case No. 800-2015-011886, prohibiting Respondent from engaging in the practice of medicine pending a final decision on an Accusation and Petition to Revoke Probation. The Cease Practice Order, which became effective June 5, 2016, was based on Respondent's failure to obey Probation Condition Nos. 2, 3, and 4 of the Board's Decision and Order in Case No. 800-2015-011886, in that he (a) failed to comply with

1 biological fluid testing conditions and (b) failed to abstain from use of controlled substances and
2 alcohol.

3 8. In a disciplinary action entitled *In the Matter of the Accusation and Petition to Revoke*
4 *Probation Against Anup Janak Shah, M.D.*, Case No. 800-2016-022714, the Board issued a
5 Decision, effective August 26, 2016, in which Respondent's Physician's and Surgeon's
6 Certificate No. A 135157 was revoked. However, the revocation was stayed and Respondent's
7 Physician's and Surgeon's Certificate was placed on probation for a period of five (5) years
8 subject to various terms and conditions. This order superseded all other terms and conditions of
9 probation previously ordered in Case No. 800-2015-011886. A true and correct copy of Decision
10 and Order No. 800-2016-022714 is attached as Exhibit A and hereby incorporated by reference as
11 if fully set forth herein.

12 JURISDICTION

13 9. On February 1, 2021, Petition to Revoke Probation No. 800-2020-069888 was filed
14 before the Board, and is currently pending against Respondent. The Petition to Revoke Probation
15 and all other statutorily required documents were properly served on Respondent. On February 9,
16 2021, Respondent timely filed his Notice of Defense contesting the Petition to Revoke Probation.
17 A true and correct copy of Petition to Revoke Probation No. 800-2020-069888 is attached hereto
18 as Exhibit B and hereby incorporated by reference as if fully set forth herein.

19 ADVISEMENT AND WAIVERS

20 10. Respondent has carefully read, and fully understands the charges and allegations
21 contained in Petition to Revoke Probation No. 800-2020-069888. Respondent also has carefully
22 read, and fully understands the effects of this Stipulated Surrender of License and Disciplinary
23 Order.

24 11. Respondent is fully aware of his legal rights in this matter, including the right to a
25 hearing on the charges and allegations contained in Petition to Revoke Probation No. 800-2020-
26 069888; the right to be represented by counsel in this matter at his own expense; the right to
27 confront and cross-examine any witnesses against him; the right to present evidence and to testify
28 on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses

1 and the production of documents; the right to reconsideration and court review of an adverse
2 decision; and all other rights accorded by the California Administrative Procedure Act and other
3 applicable laws.

4 12. In choosing to represent himself in this matter, Respondent voluntarily, knowingly,
5 and intelligently waives and gives up each and every right set forth above.

6 **CULPABILITY**

7 13. Respondent understands and agrees that the charges and allegations contained in
8 Petition to Revoke Probation No. 800-2020-069888, if proven at a hearing, constitute cause for
9 imposing discipline upon his Physician's and Surgeon's Certificate No. A 135157. Respondent
10 further agrees to be bound by the Board's imposition of discipline as set forth in the Disciplinary
11 Order below.

12 14. Respondent stipulates that, at a hearing, Complainant could establish a *prima facie*
13 case for the charges and allegations contained in the Petition to Revoke Probation; that he gives up
14 his right to contest those charges and allegations contained in the Petition to Revoke Probation;
15 and that he has thereby subjected his Physician's and Surgeon's Certificate to disciplinary action.

16 **CONTINGENCY**

17 15. Business and Professions Code section 2224, subsection (b), provides that the
18 Medical Board "shall delegate to its executive director the authority to adopt a ... stipulation for
19 surrender of a license."

20 16. Respondent understands that by signing this stipulation he enables the Executive
21 Director of the Board to issue an Order, on behalf of the Board, accepting the surrender of his
22 Physician's and Surgeon's Certificate A 135157 without further notice to, or opportunity to be
23 heard by, Respondent.

24 17. This Stipulated Surrender of License and Disciplinary Order shall be subject to
25 approval of the Executive Director on behalf of the Medical Board. The parties agree that this
26 Stipulated Surrender of License and Disciplinary Order shall be submitted to the Executive
27 Director for his consideration in the above-entitled matter and, further, that the Executive Director
28 shall have a reasonable period of time in which to consider and act on this Stipulated Surrender

1 of License and Disciplinary Order after receiving it. By signing this stipulation, Respondent fully
2 understands and agrees that he may not withdraw his agreement or seek to rescind this stipulation
3 prior to the time the Executive Director, on behalf of the Board, considers and acts upon it.

4 18. The parties agree that this Stipulated Surrender of License and Disciplinary Order
5 shall be null and void and not binding upon the parties unless approved and adopted by the
6 Executive Director on behalf of the Board, except for this paragraph, which shall remain in full
7 force and effect. Respondent fully understands and agrees that in deciding whether or not to
8 approve and adopt this Stipulated Surrender of License and Disciplinary Order, the Executive
9 Director and/or the Board may receive oral and written communications from its staff and/or the
10 Attorney General's Office. Communications pursuant to this paragraph shall not disqualify the
11 Executive Director, the Board, any member thereof, and/or any other person from future
12 participation in this or any other matter affecting or involving Respondent. In the event that the
13 Executive Director on behalf of the Board does not, in his discretion, approve and adopt this
14 Stipulated Surrender of License and Disciplinary Order, with the exception of this paragraph, it
15 shall not become effective, shall be of no evidentiary value whatsoever, and shall not be relied
16 upon or introduced in any disciplinary action by either party hereto.

17 19. Respondent further agrees that should this Stipulated Surrender of License and
18 Disciplinary Order be rejected for any reason by the Executive Director on behalf of the Board,
19 Respondent will assert no claim that the Executive Director, the Board, or any member thereof,
20 was prejudiced by its/his/her review, discussion and/or consideration of this Stipulated Surrender
21 of License and Disciplinary Order or of any matter or matters related hereto.

22 **ADDITIONAL PROVISIONS**

23 20. This Stipulated Surrender of License and Disciplinary Order is intended by the parties
24 herein to be an integrated writing representing the complete, final, and exclusive embodiment of
25 the agreements of the parties in the above-entitled matter.

26 21. The parties agree that copies of this Stipulated Surrender of License and Disciplinary
27 Order, including signatures of the parties, may be used in lieu of original documents and
28 signatures and, further, that such copies shall have the same force and effect as originals.

22. In consideration of the foregoing admissions and stipulations, the parties agree the Executive Director of the Board may, without further notice to or opportunity to be heard by Respondent, issue and enter the following Order on behalf of the Board:

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. A 135157, issued to Respondent Anup Janak Shah, M.D., is surrendered and accepted by the Medical Board of California.

1. The surrender of Respondent's Physician's and Surgeon's Certificate No. A 135157 and the acceptance of the surrendered license by the Medical Board shall constitute the imposition of discipline against Respondent. This stipulation constitutes a record of the discipline and shall become a part of Respondent's license history with the Medical Board of California.

2. Respondent shall lose all rights and privileges as a Physician and Surgeon in California as of the effective date of the Medical Board's Decision and Order.

3. Respondent shall cause to be delivered to the Medical Board his pocket license and, if one was issued, his wall certificate on or before the effective date of the Medical Board's Decision and Order.

4. If Respondent ever files an application for licensure with the Medical Board of California, the Medical Board shall treat it as a petition for reinstatement of Physician's and Surgeon's Certificate No. A 135157. Respondent must comply with all the laws, regulations and procedures for reinstatement of a surrendered license in effect at the time the petition is filed, and all of the charges and allegations contained in Petition to Revoke Probation No. 800-2020-069888 shall be deemed to be true, correct, and admitted by Respondent when the Medical Board determines whether to grant or deny the petition.

5. If Respondent should ever apply or reapply for a new license or certification, or petition for reinstatement of a license, by any other health care licensing agency in the State of California, all of the charges and allegations contained in Petition to Revoke Probation No. 800-2020-069888 shall be deemed to be true, correct, and fully admitted by Respondent for the purpose of any Statement of Issues or any other proceeding seeking to deny or restrict licensure.

1 **ACCEPTANCE**

2 I have carefully read the Stipulated Surrender of License and Disciplinary Order. I fully
3 understand the stipulation and the effect it will have on my Physician's and Surgeon's Certificate
4 No. A 135157. I am representing myself in this proceeding and have chosen not to exercise my
5 right to be represented by counsel. I enter into this Stipulated Surrender of License and
6 Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the
7 Decision and Order of the Medical Board of California.

8
9 DATED: 4/15/2021


ANUP JANAK SHAH, M.D.
Respondent, In Propria Persona

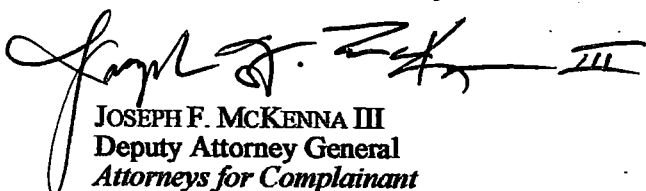
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12 **ENDORSEMENT**

13 The foregoing Stipulated Surrender of License and Disciplinary Order is hereby
14 respectfully submitted for consideration by the Medical Board of California of the Department of
15 Consumer Affairs.

16 DATED: April 16, 2021

Respectfully submitted,

17 MATTHEW RODRIQUEZ
18 Acting Attorney General of California
19 ALEXANDRA M. ALVAREZ
Supervising Deputy Attorney General

20 
21 JOSEPH F. MCKENNA III
22 Deputy Attorney General
23 Attorneys for Complainant

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28 SD2020800965
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Exhibit A

Decision and Order No. 800-2016-022714

**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:

ANUP JANAK SHAH, M.D.

Case No. 8002016022714

Physician's and Surgeon's
Certificate No. A 135157

Respondent

DECISION AND ORDER

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 August 26, 2016.

IT IS SO ORDERED: August 12, 2016.

MEDICAL BOARD OF CALIFORNIA

By: Howard Krauss, M.D.
Howard Krauss, M.D., Chair
Panel B

1 KAMALA D. HARRIS
Attorney General of California
2 ALEXANDRA M. ALVAREZ
Supervising Deputy Attorney General
3 JOSEPH F. MCKENNA III
Deputy Attorney General
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5 San Diego, CA 92101
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6 San Diego, CA 92186-5266
Telephone: (619) 738-9417
7 Facsimile: (619) 645-2061

8 *Attorneys for Complainant*

9
10 **BEFORE THE**
11 **MEDICAL BOARD OF CALIFORNIA**
12 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

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

14 **ANUP JANAK SHAH, M.D.**
15 1601 Barton Road, Apt. 1903
Redlands, California 92373-5343

16 Physician's and Surgeon's Certificate No.
17 A135157,

18 Respondent.

Case No. 800-2016-022714

OAH No. 2016-061258

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

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

21 **PARTIES**

22 1. Kimberly Kirchmeyer (Complainant) is the Executive Director of the Medical Board
23 of California. She brought this action solely in her official capacity and is represented in this
24 matter by Kamala D. Harris, Attorney General of the State of California, by Joseph F. McKenna
25 III, Deputy Attorney General.

26 2. Respondent Anup Janak Shah, M.D., is represented in this proceeding by attorney
27 Robert W. Stewart, Esq., whose address is: 24 Professional Center Pkwy., #100, San Rafael,
28 California, 94903.

3. On or about March 19, 2015, the Medical Board of California issued Physician's and Surgeon's Certificate No. A135157 to Anup Janak Shah, 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 Accusation and Petition to Revoke Probation No. 800-2016-022714, and expired on June 30, 2016.

JURISDICTION

4. On June 2, 2016, the Board issued a Cease Practice Order in the case entitled "*In the Matter of the Application of Anup Janak Shah, M.D.*," Case No. 800-2015-011886, prohibiting Respondent from engaging in the practice of medicine pending a final decision on an Accusation and Petition to Revoke Probation. The Cease Practice Order, which became effective June 5, 2016, was based on Respondent's failure to obey Probation Conditions Nos. 2, 3, and 4 of the Board's Decision and Order in Case No. 800-2015-011886, in that he (a) failed to comply with biological fluid testing conditions and (b) failed to abstain from use of controlled substances and alcohol. A true and correct copy of the Board's Decision and Order in Case No. 800-2015-011886 is attached hereto as Exhibit A and incorporated herein by reference as if fully set forth herein.

5. On June 16, 2016, Accusation and Petition to Revoke Probation No. 800-2016-022714 was filed before the Medical Board of California (Board), Department of Consumer Affairs, and is currently pending against Respondent. On June 16, 2016, a true and correct copy the Accusation and Petition to Revoke Probation and all other statutorily required documents were properly served on Respondent by certified mail at his address of record on file with the Board which was: 1601 Barton Road, Apt. 1903, Redlands, California 92373-5343. Respondent timely filed his Notice of Defense contesting the Accusation and Petition to Revoke Probation on June 23, 2016. A true and correct copy of Accusation and Petition to Revoke Probation No. 800-2016-022714 is attached hereto as Exhibit B and incorporated herein by reference as if fully set forth herein.

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1 understands and agrees that he may not withdraw his agreement or seek to rescind this stipulation
2 prior to the time the Board considers and acts upon it.

3 12. The parties agree that this Stipulated Settlement and Disciplinary Order shall be null
4 and void and not binding upon the parties unless approved and adopted by the Board, except for
5 this paragraph, which shall remain in full force and effect. Respondent fully understands and
6 agrees that in deciding whether or not to approve and adopt this Stipulated Settlement and
7 Disciplinary Order, the Board may receive oral and written communications from its staff and/or
8 the Attorney General's Office. Communications pursuant to this paragraph shall not disqualify
9 the Board, any member thereof, and/or any other person from future participation in this or any
10 other matter affecting or involving Respondent. In the event that the Board does not, in its
11 discretion, approve and adopt this Stipulated Settlement and Disciplinary Order, with the
12 exception of this paragraph, it shall not become effective, shall be of no evidentiary value
13 whatsoever, and shall not be relied upon or introduced in any disciplinary action by either party
14 hereto. Respondent further agrees that should this Stipulated Settlement and Disciplinary Order
15 be rejected for any reason by the Board, Respondent will assert no claim that the Board, or any
16 member thereof, was prejudiced by its/his/her review, discussion and/or consideration of this
17 Stipulated Settlement and Disciplinary Order or of any matter or matters related hereto.

18 **ADDITIONAL PROVISIONS**

19 13. This Stipulated Settlement and Disciplinary Order is intended by the parties herein
20 to be an integrated writing representing the complete, final and exclusive embodiment of the
21 agreements of the parties in the above-entitled matter.

22 14. The parties agree that copies of this Stipulated Settlement and Disciplinary Order,
23 including copies of the signatures of the parties, may be used in lieu of original documents and
24 signatures and, further, that such copies shall have the same force and effect as originals.

25 15. In consideration of the foregoing admissions and stipulations, the parties agree the
26 Board may, without further notice to or opportunity to be heard by Respondent, issue and enter
27 the following Disciplinary Order:

28 ////

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. A135157 issued to Respondent Anup Janak Shah, 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, which shall supersede all other terms and conditions of probation previously ordered in the Decision and Order in Case No. 800-2015-011886.

1. **ACTUAL SUSPENSION.** As part of probation, Respondent is suspended from the practice of medicine for thirty (30) days beginning on the same date that Respondent has completed a clinical diagnostic evaluation with a Board-appointed board certified physician and surgeon.

2. **CONTROLLED SUBSTANCES – TOTAL RESTRICTION.** Respondent shall not order, prescribe, dispense, administer, furnish, or possess any controlled substances as defined in the California Uniform Controlled Substances Act.

Respondent shall not issue an oral or written recommendation or approval to a patient or a patient's primary caregiver for the possession or cultivation of marijuana for the personal medical purposes of the patient within the meaning of Health and Safety Code section 11362.5.

If Respondent forms the medical opinion, after an appropriate prior examination and a medical indication, that a patient's medical condition may benefit from the use of marijuana, Respondent shall so inform the patient and shall refer the patient to another physician who, following an appropriate prior examination and a medical indication, may independently issue a medically appropriate recommendation or approval for the possession or cultivation of marijuana for the personal medical purposes of the patient within the meaning of Health and Safety Code section 11362.5. In addition, Respondent shall inform the patient or the patient's primary caregiver that Respondent is prohibited from issuing a recommendation or approval for the possession or cultivation of marijuana for the personal medical purposes of the patient and that the patient or the patient's primary caregiver may not rely on Respondent's statements to legally possess or cultivate marijuana for the personal medical purposes of the patient. Respondent shall fully document in the patient's chart that the patient or the patient's primary caregiver was so

1 informed. Nothing in this condition prohibits Respondent from providing the patient or the
2 patient's primary caregiver information about the possible medical benefits resulting from the use
3 of marijuana.

4 3. CONTROLLED SUBSTANCES - SURRENDER OF DEA PERMIT. Respondent
5 is prohibited from practicing medicine until Respondent provides documentary proof to the Board
6 or its designee that Respondent's DEA permit has been surrendered to the Drug Enforcement
7 Administration for cancellation, together with any state prescription forms and all controlled
8 substances order forms. Thereafter, Respondent shall not reapply for a new DEA permit without
9 the prior written consent of the Board or its designee.

10 4. CONTROLLED SUBSTANCES - ABSTAIN FROM USE. Respondent shall
11 abstain completely from the personal use or possession of controlled substances as defined in the
12 California Uniform Controlled Substances Act, dangerous drugs as defined by Business and
13 Professions Code section 4022, and any drugs requiring a prescription. This prohibition does not
14 apply to medications lawfully prescribed to Respondent by another practitioner for a bona fide
15 illness or condition.

16 Within fifteen (15) calendar days of receiving any lawfully prescribed medications,
17 Respondent shall notify the Board or its designee of the: issuing practitioner's name, address, and
18 telephone number; medication name, strength, and quantity; and issuing pharmacy name, address,
19 and telephone number.

20 If Respondent has a confirmed positive biological fluid test for any substance (whether or
21 not legally prescribed) and has not reported the use to the Board or its designee, Respondent shall
22 receive a notification from the Board or its designee to immediately cease the practice of
23 medicine. The Respondent shall not resume the practice of medicine until final decision on an
24 accusation and/or a petition to revoke probation. An accusation and/or petition to revoke
25 probation shall be filed by the Board within fifteen (15) days of the notification to cease practice.
26 If the Respondent requests a hearing on the accusation and/or petition to revoke probation, the
27 Board shall provide the Respondent with a hearing within thirty (30) days of the request, unless
28 the Respondent stipulates to a later hearing. A decision shall be received from the Administrative

1 Law Judge or the Board within fifteen (15) days unless good cause can be shown for the delay.

2 The cessation of practice shall not apply to the reduction of the probationary time period.

3 If the Board does not file an accusation or petition to revoke probation within fifteen (15)
4 days of the issuance of the notification to cease practice or does not provide Respondent with a
5 hearing within thirty (30) days of a such a request, the notification of cease practice shall be
6 dissolved.

7 5. ALCOHOL – ABSTAIN FROM USE. Respondent shall abstain completely from
8 the use of products or beverages containing alcohol.

9 If Respondent has a confirmed positive biological fluid test for alcohol, Respondent shall
10 receive a notification from the Board or its designee to immediately cease the practice of
11 medicine. The Respondent shall not resume the practice of medicine until final decision on an
12 accusation and/or a petition to revoke probation. An accusation and/or petition to revoke
13 probation shall be filed by the Board within fifteen (15) days of the notification to cease practice.
14 If the Respondent requests a hearing on the accusation and/or petition to revoke probation, the
15 Board shall provide the Respondent with a hearing within thirty (30) days of the request, unless
16 the Respondent stipulates to a later hearing. A decision shall be received from the Administrative
17 Law Judge or the Board within fifteen (15) days unless good cause can be shown for the delay.
18 The cessation of practice shall not apply to the reduction of the probationary time period.

19 If the Board does not file an accusation or petition to revoke probation within fifteen (15)
20 days of the issuance of the notification to cease practice or does not provide Respondent with a
21 hearing within thirty (30) days of a such a request, the notification of cease practice shall be
22 dissolved.

23 6. BIOLOGICAL FLUID TESTING. Respondent shall immediately submit to
24 biological fluid testing, at Respondent's expense, upon request of the Board or its designee.
25 "Biological fluid testing" may include, but is not limited to, urine, blood, breathalyzer, hair
26 follicle testing, or similar drug screening approved by the Board or its designee. Respondent shall
27 make daily contact with the Board or its designee to determine whether biological fluid testing is
28 required. Respondent shall be tested on the date of the notification as directed by the Board or its

1 designee. The Board may order a Respondent to undergo a biological fluid test on any day, at
2 any time, including weekends and holidays. Except when testing on a specific date as ordered by
3 the Board or its designee, the scheduling of biological fluid testing shall be done on a random
4 basis. The cost of biological fluid testing shall be borne by the Respondent.

5 During the first year of probation, Respondent shall be subject to fifty-two (52) to one
6 hundred and four (104) random tests. During the second year of probation and for the duration of
7 the probationary term, up to five (5) years, Respondent shall be subject to thirty-six (36) to one
8 hundred and four (104) random tests per year. Only if there has been no positive biological fluid
9 tests in the previous five (5) consecutive years of probation, may testing be reduced to one (1)
10 time per month. Nothing precludes the Board from increasing the number of random tests to the
11 first year level of frequency for any reason.

12 Prior to practicing medicine, Respondent shall contract with a laboratory or service,
13 approved in advance by the Board or its designee, that will conduct random, unannounced,
14 observed, biological fluid testing and meets all the following standards:

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

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

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

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

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

26 (f) Its testing locations shall submit a specimen to a laboratory within one (1)
27 business day of receipt and all specimens collected shall be handled pursuant to
28 chain of custody procedures. The laboratory shall process and analyze the

1 specimens and provide legally defensible test results to the Board within seven (7)
2 business days of receipt of the specimen. The Board will be notified of non-
3 negative results within one (1) business day and will be notified of negative test
4 results within seven (7) business days.

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

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

9 (i) It maintains testing sites located throughout California.

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

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

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

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

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

23 The contract shall require that the laboratory directly notify the Board or its designee of
24 non-negative results within one (1) business day and negative test results within seven (7)
25 business days of the results becoming available. Respondent shall maintain this laboratory or
26 service contract during the period of probation.

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

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

7 A biological fluid test will not be considered negative if a positive result is obtained while
8 practicing, even if the practitioner holds a valid prescription for the substance. If no prohibited
9 substance use exists, the Board shall lift the cease-practice order within one (1) business day.

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

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

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

20 If the Board confirms that a positive biological fluid test is evidence of use of a prohibited
21 substance, Respondent has committed a major violation, as defined in section 1361.52(a), and the
22 Board shall impose any or all of the consequences set forth in section 1361.52(b), in addition to
23 any other terms or conditions the Board determines are necessary for public protection or to
24 enhance Respondent's rehabilitation.

25 7. PROFESSIONALISM PROGRAM (ETHICS COURSE). Within sixty (60)
26 calendar days of the effective date of this Decision, Respondent shall enroll in a professionalism
27 program, that meets the requirements of Title 16, California Code of Regulations (CCR) section
28 1358. Respondent shall participate in and successfully complete that program. Respondent shall

1 provide any information and documents that the program may deem pertinent. Respondent shall
2 successfully complete the classroom component of the program not later than six (6) months after
3 respondent's initial enrollment, and the longitudinal component of the program not later than the
4 time specified by the program, but not later than one (1) year after attending the classroom
5 component. The professionalism program shall be at Respondent's expense and shall be in
6 addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

7 A professionalism program taken after the acts that gave rise to the charges in Accusation
8 and Petition to Revoke Probation No. 800-2016-022714, but prior to the effective date of the
9 Decision may, in the sole discretion of the Board or its designee, be accepted towards the
10 fulfillment of this condition if the program would have been approved by the Board or its
11 designee had the program been taken after the effective date of this Decision.

12 Respondent shall submit a certification of successful completion to the Board or its
13 designee not later than fifteen (15) calendar days after successfully completing the program or not
14 later than fifteen (15) calendar days after the effective date of the Decision, whichever is later.

15 8. CLINICAL DIAGNOSTIC EVALUATIONS AND REPORTS. Within thirty (30)
16 calendar days of the effective date of this Decision, and on whatever periodic basis thereafter as
17 may be required by the Board or its designee, Respondent shall undergo and complete a clinical
18 diagnostic evaluation, including any and all testing deemed necessary, by a Board-appointed
19 board certified physician and surgeon. The examiner shall consider any information provided by
20 the Board or its designee and any other information he or she deems relevant, and shall furnish a
21 written evaluation report to the Board or its designee.

22 The clinical diagnostic evaluation shall be conducted by a licensed physician and surgeon
23 who holds a valid, unrestricted license, has three (3) years' experience in providing evaluations of
24 physicians and surgeons with substance abuse disorders, and is approved by the Board or its
25 designee. The clinical diagnostic evaluation shall be conducted in accordance with acceptable
26 professional standards for conducting substance abuse clinical diagnostic evaluations. The
27 evaluator shall not have a current or former financial, personal, or business relationship with
28 Respondent within the last five (5) years. The evaluator shall provide an objective, unbiased, and

1 independent evaluation. The clinical diagnostic evaluation report shall set forth, in the
2 evaluator's opinion, whether Respondent has a substance abuse problem, whether Respondent is
3 a threat to himself or others, and recommendations for substance abuse treatment, practice
4 restrictions, or other recommendations related to Respondent's rehabilitation and ability to
5 practice safely. If the evaluator determines during the evaluation process that Respondent is a
6 threat to himself or others, the evaluator shall notify the Board within twenty-four (24) hours of
7 such a determination.

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

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

22 The Board shall review the clinical diagnostic evaluation report within five (5) business
23 days of receipt to determine whether Respondent is safe to return to either part-time or full-time
24 practice and what restrictions or recommendations shall be imposed on Respondent based on the
25 recommendations made by the evaluator. Respondent shall not be returned to practice until he
26 has at least thirty (30) days of negative biological fluid tests or biological fluid tests indicating
27 that he has not used, consumed, ingested, or administered to himself a prohibited substance, as
28 defined in section 1361.51, subdivision (e), of Title 16 of the California Code of Regulations.

1 Clinical diagnostic evaluations conducted prior to the effective date of this Decision shall
2 not be accepted towards the fulfillment of this requirement. The cost of the clinical diagnostic
3 evaluation, including any and all testing deemed necessary by the examiner, the Board or its
4 designee, shall be borne by the Respondent.

5 Respondent shall not engage in the practice of medicine until notified by the Board or its
6 designee that he is fit to practice medicine safely. The period of time that Respondent is not
7 practicing medicine shall not be counted toward completion of the term of probation. Respondent
8 shall undergo biological fluid testing as required in this Decision at least two (2) times per week
9 while awaiting the notification from the Board if he is fit to practice medicine safely.

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

13 9. PSYCHOTHERAPY. Within sixty (60) calendar days of the effective date of this
14 Decision, Respondent shall submit to the Board or its designee for prior approval the name and
15 qualifications of a California-licensed board certified psychiatrist or a licensed psychologist who
16 has a doctoral degree in psychology and at least five (5) years of postgraduate experience in the
17 diagnosis and treatment of emotional and mental disorders. Upon approval, Respondent shall
18 undergo and continue psychotherapy treatment, including any modifications to the frequency of
19 psychotherapy, until the Board or its designee deems that no further psychotherapy is necessary.

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

24 Respondent shall have the treating psychotherapist submit quarterly status reports to the
25 Board or its designee. The Board or its designee may require Respondent to undergo psychiatric
26 evaluations by a Board-appointed board certified psychiatrist. If, prior to the completion of
27 probation, Respondent is found to be mentally unfit to resume the practice of medicine without
28 restrictions, the Board shall retain continuing jurisdiction over Respondent's license and the

1 period of probation shall be extended until the Board determines that Respondent is mentally fit
2 to resume the practice of medicine without restrictions.

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

4 10. MEDICAL EVALUATION AND TREATMENT. Within thirty (30) calendar days
5 of the effective date of this Decision, and on a periodic basis thereafter as may be required by the
6 Board or its designee, Respondent shall undergo a medical evaluation by a Board-appointed
7 physician who shall consider any information provided by the Board or designee and any other
8 information the evaluating physician deems relevant and shall furnish a medical report to the
9 Board or its designee. Respondent shall provide the evaluating physician any information and
10 documentation that the evaluating physician may deem pertinent.

11 Following the evaluation, Respondent shall comply with all restrictions or conditions
12 recommended by the evaluating physician within fifteen (15) calendar days after being notified
13 by the Board or its designee. If Respondent is required by the Board or its designee to undergo
14 medical treatment, Respondent shall within thirty (30) calendar days of the requirement notice,
15 submit to the Board or its designee for prior approval the name and qualifications of a California
16 licensed treating physician of respondent's choice. Upon approval of the treating physician,
17 Respondent shall within fifteen (15) calendar days undertake medical treatment and shall
18 continue such treatment until further notice from the Board or its designee.

19 The treating physician shall consider any information provided by the Board or its designee
20 or any other information the treating physician may deem pertinent prior to commencement of
21 treatment. Respondent shall have the treating physician submit quarterly reports to the Board or
22 its designee indicating whether or not the Respondent is capable of practicing medicine safely.
23 Respondent shall provide the Board or its designee with any and all medical records pertaining to
24 treatment, the Board or its designee deems necessary.

25 If, prior to the completion of probation, Respondent is found to be physically incapable of
26 resuming the practice of medicine without restrictions, the Board shall retain continuing
27 jurisdiction over Respondent's license and the period of probation shall be extended until the
28 Board determines that Respondent is physically capable of resuming the practice of medicine

1 without restrictions. Respondent shall pay the cost of the medical evaluation(s) and treatment.

2 11. SOLO PRACTICE PROHIBITION. Respondent is prohibited from engaging in the
3 solo practice of medicine. Prohibited solo practice includes, but is not limited to, a practice
4 where: 1) Respondent merely shares office space with another physician but is not affiliated for
5 purposes of providing patient care, or 2) Respondent is the sole physician practitioner at that
6 location.

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

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

20 12. NOTICE OF EMPLOYER OR SUPERVISOR INFORMATION. Within seven
21 (7) days of the effective date of this Decision, Respondent shall provide to the Board the names,
22 physical addresses, mailing addresses, and telephone numbers of any and all employers and
23 supervisors. Respondent shall also provide specific, written consent for the Board, Respondent's
24 worksite monitor, and Respondent's employers and supervisors to communicate regarding
25 Respondent's work status, performance, and monitoring.

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

1 13. SUBSTANCE ABUSE SUPPORT GROUP MEETINGS. Within thirty (30) days
2 of the effective date of this Decision, Respondent shall submit to the Board or its designee, for its
3 prior approval, the name of a substance abuse support group which he shall attend for the duration
4 of probation. Respondent shall attend substance abuse support group meetings at least once per
5 week, or as ordered by the Board or its designee. Respondent shall pay all substance abuse
6 support group meeting costs.

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

14 The facilitator shall provide a signed document to the Board or its designee showing
15 Respondent's name, the group name, the date and location of the meeting, Respondent's
16 attendance, and Respondent's level of participation and progress. The facilitator shall report any
17 unexcused absence by Respondent from any substance abuse support group meeting to the Board,
18 or its designee, within twenty-four (24) hours of the unexcused absence.

19 14. WORKSITE MONITOR FOR SUBSTANCE-ABUSING LICENSEE. Within
20 thirty (30) calendar days of the effective date of this Decision, Respondent shall submit to the
21 Board or its designee for prior approval as a worksite monitor, the name and qualifications of one
22 (1) or more licensed physician and surgeons, other licensed health care professionals if no
23 physician and surgeon is available, or, as approved by the Board or its designee, a person in a
24 position of authority who is capable of monitoring the Respondent at work.

25 The worksite monitor shall not have a current or former financial, personal, or familial
26 relationship with Respondent, or any other relationship that could reasonably be expected to
27 compromise the ability of the monitor to render impartial and unbiased reports to the Board or its
28 designee. If it is impractical for anyone but Respondent's employer to serve as the worksite

1 monitor, this requirement may be waived by the Board or its designee, however, under no
2 circumstances shall Respondent's worksite monitor be an employee or supervisee of the licensee.

3 The worksite monitor shall have an active unrestricted license with no disciplinary action
4 within the last five (5) years, and shall sign an affirmation that he or she has reviewed the terms
5 and conditions of Respondent's disciplinary order and agrees to monitor Respondent as set forth
6 by the Board or its designee.

7 Respondent shall pay all worksite monitoring costs.

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

12 The worksite monitor shall verbally report any suspected substance abuse to the Board and
13 Respondent's employer or supervisor within one (1) business day of occurrence. If the suspected
14 substance abuse does not occur during the Board's normal business hours, the verbal report shall
15 be made to the Board or its designee within one (1) hour of the next business day. A written
16 report that includes the date, time, and location of the suspected abuse; Respondent's actions; and
17 any other information deemed important by the worksite monitor shall be submitted to the Board
18 or its designee within forty-eight (48) hours of the occurrence.

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

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

10 15. VIOLATION OF PROBATION CONDITION FOR SUBSTANCE ABUSING
11 LICENSEES. Failure to fully comply with any term or condition of probation is a violation of
12 probation.

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

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

26 (2) Increase the frequency of biological fluid testing.

27 (3) Refer Respondent for further disciplinary action, such as suspension,
28 revocation, or other action as determined by the Board or its designee. (Cal. Code

1 Regs., tit. 16, § 1361.52, subd. (b).)

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

5 (1) Issue a cease-practice order;

6 (2) Order practice limitations;

7 (3) Order or increase supervision of Respondent;

8 (4) Order increased documentation;

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

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

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

15 C. Nothing in this Decision shall be considered a limitation on the Board's authority to
16 revoke Respondent's probation if he has violated any term or condition of probation. (See Cal.
17 Code Regs., tit. 16, § 1361.52, subd. (e).) If Respondent violates probation in any respect, the
18 Board, after giving Respondent notice and the opportunity to be heard, may revoke probation and
19 carry out the disciplinary order that was stayed. If an Accusation, or Petition to Revoke
20 Probation, or an Interim Suspension Order is filed against Respondent during probation, the
21 Board shall have continuing jurisdiction until the matter is final, and the period of probation shall
22 be extended until the matter is final.

23 16. NOTIFICATION. Within seven (7) days of the effective date of this Decision,
24 the Respondent shall provide a true copy of this Stipulated Decision and Disciplinary Order and
25 Accusation and Petition to Revoke Probation No. 800-2016-022714 to the Chief of Staff or the
26 Chief Executive Officer at every hospital where privileges or membership are extended to
27 Respondent, at any other facility where Respondent engages in the practice of medicine,
28 including all physician and locum tenens registries or other similar agencies, and to the Chief

1 Executive Officer at every insurance carrier which extends malpractice insurance coverage to
2 Respondent. Respondent shall submit proof of compliance to the Board or its designee within
3 fifteen (15) calendar days.

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

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

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

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

14 Respondent shall submit quarterly declarations not later than ten (10) calendar days after
15 the end of the preceding quarter.

16 20. GENERAL PROBATION REQUIREMENTS.

17 Compliance with Probation Unit

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

20 Address Changes

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

26 License Renewal

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

1 Travel or Residence Outside California

2 Respondent shall immediately inform the Board or its designee, in writing, of travel to any
3 areas outside the jurisdiction of California which lasts, or is contemplated to last, more than thirty
4 (30) calendar days.

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

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

11 22. NON-PRACTICE WHILE ON PROBATION. Respondent shall notify the Board
12 or its designee in writing within fifteen (15) calendar days of any periods of non-practice lasting
13 more than thirty (30) calendar days and within fifteen (15) calendar days of Respondent's return
14 to practice. Non-practice is defined as any period of time Respondent is not practicing medicine
15 in California as defined in Business and Professions Code sections 2051 and 2052 for at least
16 forty (40) hours in a calendar month in direct patient care, clinical activity or teaching, or other
17 activity as approved by the Board. All time spent in an intensive training program which has
18 been approved by the Board or its designee shall not be considered non-practice. Practicing
19 medicine in another state of the United States or Federal jurisdiction while on probation with the
20 medical licensing authority of that state or jurisdiction shall not be considered non-practice. A
21 Board-ordered suspension of practice shall not be considered as a period of non-practice.

22 In the event Respondent's period of non-practice while on probation exceeds eighteen (18)
23 calendar months, Respondent shall successfully complete a clinical training program that meets
24 the criteria of Condition 18 of the current version of the Board's "Manual of Model Disciplinary
25 Orders and Disciplinary Guidelines" prior to resuming the practice of medicine.

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

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

28 Periods of non-practice will relieve Respondent of the responsibility to comply with the

1 probationary terms and conditions with the exception of this condition and the following terms
2 and conditions of probation: Obey All Laws; and General Probation Requirements.

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

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

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

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

ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Robert W. Stewart, Esq. I understand the stipulation and the effect it will have on my Physician's and Surgeon's Certificate No. A135157. 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: 7/6/16

ANUP JANAK SHAH, M.D.
Respondent

I have read and fully discussed with Respondent Anup Janak Shah, 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: 7/6/16

ROBERT W. STEWART, ESQ.
Attorney for Respondent

ENDORSEMENT

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

Date: July 7, 2016

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
ALEXANDRA M. ALVAREZ
Supervising Deputy Attorney General

JOSEPH K. MCKENNA, III
Deputy Attorney General
Attorneys for Complainant

612201-0001247
CMA.NC.21589617

Exhibit B

Petition to Revoke Probation No. 800-2020-069888

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8 *Attorneys for Complainant*

9
10
11 **BEFORE THE**
12 **MEDICAL BOARD OF CALIFORNIA**
13 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

14 In the Matter of the Petition to Revoke
15 Probation Against:

16 **ANUP JANAK SHAH, M.D.**
17 **1150 NW Quimby Street, Unit 222**
Portland, OR 97209-2488

18 **Physician's and Surgeon's Certificate**
No. A 135157,

19 Respondent.

Case No. 800-2020-069888

PETITION TO REVOKE PROBATION

20
21 **PARTIES**

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

25 2. On or about March 19, 2015, the Medical Board issued Physician's and Surgeon's
26 Certificate No. A 135157 to Anup Janak Shah, M.D. (Respondent). The Physician's and
27 Surgeon's Certificate expired on June 30, 2020, and has not been renewed.

28 ///

PRIOR DISCIPLINARY HISTORY

3. On January 16, 2014, Respondent submitted to the Medical Board of California (Board) an application for a physician's and surgeon's license in the State of California. During the application process, Respondent suffered a conviction for driving while under the influence of alcohol (DUI) in the State of Wyoming. On July 10, 2014, Respondent was convicted of violating section 31-5-233, subdivision (b) [misdemeanor DUI], Title 31 [Motor Vehicles] of the statutes of Wyoming. Respondent's blood alcohol concentration was measured to be 0.19 percent.

4. Notwithstanding Respondent's right to request a Statement of Issues and a hearing upon a denial of his application for a physician's and surgeon's license in the State of California, Respondent waived his right to a hearing and judicial review in favor of entering into an Amended Stipulation for a Probationary License with the Board.

5. On March 10, 2015, the Board signed its Decision and Order in the case entitled *In the Matter of the Application of Anup Janak Shah for a Physician's and Surgeon's License*, Case No. 800-2015-011886, and issued Physician's and Surgeon's Certificate No. A 135157 to Respondent on a probationary basis, subject to the terms and conditions of the Order, including a probation term of three (3) years, biological fluid testing, and abstaining from use of controlled substances and alcohol. The Decision and Order became effective March 17, 2015.

6. On June 2, 2016, the Board issued a Cease Practice Order in the case entitled *In the Matter of the Application of Anup Janak Shah, M.D.*, Case No. 800-2015-011886, prohibiting Respondent from engaging in the practice of medicine pending a final decision on an Accusation and Petition to Revoke Probation. The Cease Practice Order, which became effective June 5, 2016, was based on Respondent's failure to obey Probation Condition Nos. 2, 3, and 4 of the Board's Decision and Order in Case No. 800-2015-011886, in that he (a) failed to comply with biological fluid testing conditions and (b) failed to abstain from use of controlled substances and alcohol.

7. In a disciplinary action entitled *In the Matter of the Accusation and Petition to Revoke Probation Against Anup Janak Shah, M.D.*, Case No. 800-2016-022714, the Board issued a

1 Decision, effective August 26, 2016, in which Respondent's Physician's and Surgeon's
2 Certificate was revoked. However, the revocation was stayed and Respondent's Physician's and
3 Surgeon's Certificate was placed on probation for a period of five (5) years subject to various
4 terms and conditions. This order superseded all other terms and conditions of probation
5 previously ordered in Case No. 800-2015-011886. A true and correct copy of Decision and Order
6 No. 800-2016-022714 is attached as Exhibit A and is incorporated by reference.

7 **JURISDICTION**

8 8. Petition to Revoke Probation Case No. 800-2020-069888 is brought before the Board
9 under the authority of the following laws and the Board's Decision and Order in the case entitled
10 *In the Matter of Accusation and Petition to Revoke Probation Against Anup Janak Shah, M.D.*,
11 Case No. 800-2016-022714. All section references are to the Business and Professions Code
12 (Code) unless otherwise indicated.

13 9. Section 2227 of the Code states, in pertinent part:

14 (a) A licensee whose matter has been heard by an administrative law judge of
15 the Medical Quality Hearing Panel as designated in Section 11371 of the Government
16 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:

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

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

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

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

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

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10. Section 118, of the Code, states, in pertinent part:

...

(b) The suspension, expiration, or forfeiture by operation of law of a license issued by a board in the department, or its suspension, forfeiture, or cancellation by order of the board or by order of a court of law, or its surrender without the written consent of the board, shall not, during any period in which it may be renewed, restored, reissued, or reinstated, deprive the board of its authority to institute or continue a disciplinary proceeding against the licensee upon any ground provided by law or to enter an order suspending or revoking the license or otherwise taking disciplinary action against the licensee on any such ground.

(c) As used in this section, "board" includes an individual who is authorized by any provision of this code to issue, suspend, or revoke a license, and "license" includes "certificate," "registration," and "permit."

11. At all times after the effective date of the Decision and Order in Case No. 800-2016-022714, Probation Condition No. 24 states:

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.

FIRST CAUSE TO REVOKE PROBATION

(Non-Practice While on Probation)

12. At all times after the effective date of the Decision and Order in Case No. 800-2016-022714, Probation Condition No. 22 states:

NON-PRACTICE WHILE ON PROBATION. Respondent shall notify the Board or its designee in writing within fifteen (15) calendar days of any periods of non-practice lasting more than thirty (30) calendar days and within fifteen (15) calendar days of Respondent's return to practice. Non-practice is defined as any period of time Respondent is not practicing medicine in California as defined in Business and Professions Code sections 2051 and 2052 for at least forty (40) hours in a calendar month in direct patient care, clinical activity or teaching, or other activity as approved by the Board. 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 eighteen (18) calendar months, Respondent shall successfully complete a clinical training program that meets the criteria of Condition 18 of the current version of the

1 Board's "Manual of Model Disciplinary Orders and Disciplinary Guidelines" prior to
2 resuming the practice of medicine.

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

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

6 Periods of non-practice will relieve Respondent of the responsibility to comply
7 with the probationary terms and conditions with the exception of this condition and
8 the following terms and conditions of probation: Obey All Laws; and General
9 Probation Requirements.

10 13. Respondent's probation is subject to revocation because he failed to comply with
11 Probation Condition No. 22 referenced above. The facts and circumstances regarding this
12 violation are as follows:

13 14. On or about June 14, 2108, Respondent emailed his assigned probation inspector his
14 intent to enter into a period of non-practice beginning June 15, 2018.

15 15. On or about April 2, 2019, Respondent submitted a Quarterly Declaration to his
16 probation inspector, which indicated that he had last practiced medicine in June 2018, he had not
17 worked any hours that quarter, and he did not have a primary place of practice.

18 16. On or about June 11, 2019, Respondent's assigned probation inspector mailed him a
19 letter to his address of record. This letter, among other things, requested Respondent inform her
20 in writing at least 15 days before returning to practice.

21 17. On or about July 1, 2019, Respondent submitted a Quarterly Declaration to his
22 probation inspector, which indicated that he had not worked any hours that quarter and he did not
23 have a primary place of practice.

24 18. On or about September 16, 2019, Respondent's assigned probation inspector mailed
25 him a letter to his address of record. This letter informed Respondent that on December 15, 2019,
26 his period of non-practice while on probation will exceed 18 months, and at that time he will be
27 required to successfully complete a clinical training program prior to resuming to the practice of
28 medicine. In addition, that his period of non-practice will exceed two (2) years on June 15, 2020.
This letter requested Respondent inform her in writing at least 15 days before returning to
practice.

1 19. On or about October 1, 2019, Respondent submitted a Quarterly Declaration to his
2 probation inspector, which indicated that he had not worked any hours that quarter and he did not
3 have a primary place of practice.

4 20. On or about December 12, 2019, Respondent's assigned probation inspector mailed
5 him a letter to his address of record. This letter informed Respondent that on December 15, 2019,
6 his period of non-practice while on probation will exceed 18 months, and at that time he will be
7 required to successfully complete a clinical training program prior to resuming to the practice of
8 medicine. In addition, that his period of non-practice will exceed two (2) years on June 15, 2020.
9 This letter requested Respondent inform her in writing at least 15 days before returning to
10 practice.

11 21. On or about January 1, 2020, Respondent submitted a Quarterly Declaration to his
12 probation inspector, which indicated that he had not worked any hours that quarter and he did not
13 have a primary place of practice.

14 22. On or about March 13, 2020, Respondent's assigned probation inspector mailed him a
15 letter to his address of record. This letter informed Respondent that on December 15, 2019, his
16 period of non-practice while on probation exceeded 18 months, and thus he is required to
17 successfully complete a clinical training program prior to resuming to the practice of medicine.
18 In addition, that his period of non-practice will exceed two (2) years on June 15, 2020, at which
19 time his medical license will be subject to revocation. This letter requested Respondent inform
20 her in writing at least 15 days before returning to practice.

21 23. On or about April 2, 2020, Respondent submitted a Quarterly Declaration to his
22 probation inspector, which indicated that he had not worked any hours that quarter and did not
23 have a primary place of practice. On that same date, Respondent submitted a Notice of Change of
24 Address/Email form providing a current address of record in Oregon.

25 24. On or about June 12, 2020, Respondent's assigned probation inspector mailed him a
26 letter to his address of record in Oregon. This letter informed Respondent that on December 15,
27 2019, his period of non-practice while on probation exceeded 18 months, and thus he is required
28 to successfully complete a clinical training program prior to resuming to the practice of medicine.

1 In addition, that his period of non-practice will exceed two (2) years on June 15, 2020, at which
2 time his medical license will be subject to revocation. This letter requested Respondent inform
3 her in writing at least 15 days before returning to practice.

4 25. On or about August 12, 2020, and thereafter, Respondent had not returned to practice
5 medicine in California.

6 26. Respondent's probation is subject to revocation because he failed to comply with
7 Probation Condition No. 22, referenced above, in that Respondent has exceeded two (2) years of
8 non-practice from the effective date of the Decision and Order in Case No. 800-2016-022714.

9 **SECOND CAUSE TO REVOKE PROBATION**

10 **(Failure to Maintain Current License)**

11 27. At all times after the effective date of the Decision and Order in Case No. 800-2016-
12 022714, Probation Condition No. 20 states, in pertinent part,

13 ...

14 **License Renewal**

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

17 ...

18 28. Respondent's probation is subject to revocation because he failed to comply with
19 Probation Condition No. 20 referenced above. The facts and circumstances regarding this
20 violation are as follows:

21 29. On or about June 30, 2020, Physician's and Surgeon's Certificate No. A 135157,
22 issued to Respondent expired and has not been renewed.

23 30. Respondent's probation is subject to revocation because he failed to maintain a
24 current and renewed California physician's and surgeon's license.

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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:

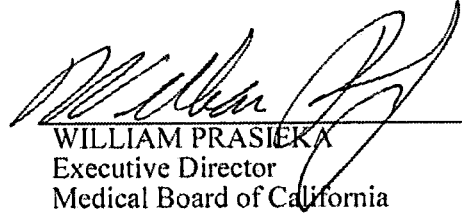
1. Revoking the probation that was granted by the Medical Board of California in Case No. 800-2016-022714 and imposing the disciplinary order that was stayed thereby revoking Physician's and Surgeon's Certificate No. A 135157, issued to Respondent, Anup Janak Shah, M.D.;

2. Revoking or suspending Physician's and Surgeon's Certificate No. A 135157, issued to Respondent, Anup Janak Shah, M.D.;

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

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

DATED: **FEB 01 2021**


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

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