

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

**In the Matter of the Accusation
Against:**

Usha Kiran Sunkara, M.D.

**Physician's and Surgeon's
Certificate No. A 86102**

Respondent

Case No. 800-2019-059172


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 June 16, 2021.

IT IS SO ORDERED: May 17, 2021.

MEDICAL BOARD OF CALIFORNIA



**Richard E. Thorp, M.D., Chair
Panel B**

1 XAVIER BECERRA
Attorney General of California
2 MARY CAIN-SIMON
Supervising Deputy Attorney General
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7

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

12 In the Matter of the Accusation Against:

Case No. 800-2019-059172

13 **USHA KIRAN SUNKARA, M.D.**
14 **17891 Lower Rd.**
Sonoma CA 95476-4700

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

15 **Physician's and Surgeon's Certificate No. A**
16 **86102**

17 Respondent.

18
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. William Prasifka (Complainant) is the Executive Director of the Medical Board of
23 California (Board). He brought this action solely in his official capacity and is represented in this
24 matter by Xavier Becerra, Attorney General of the State of California, by Hansa M. Murthy,
25 Deputy Attorney General.
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2. Respondent Usha Kiran Sunkara, M.D. (Respondent) is represented in this proceeding by attorney Robert Hahn, whose address is: 2550 9th Street, Suite 101, Berkeley, California, 94710.

3. On February 25, 2004, the Board issued Physician's and Surgeon's Certificate No. A 86102 to Usha Kiran Sunkara, 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 No. 800-2019-059172, and will expire on September 30, 2021, unless renewed.

JURISDICTION

4. Accusation No. 800-2019-059172 was filed before the Board, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on February 14, 2020. Respondent timely filed her Notice of Defense contesting the Accusation.

5. A copy of Accusation No. 800-2019-059172 is attached as exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

6. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 800-2019-059172. Respondent has also carefully read, fully discussed with her counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

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

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

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1 CULPABILITY

2 9. Respondent admits the truth of each and every charge and allegation in Accusation
3 No. 800-2019-059172.

4 10. Respondent acknowledges the Disciplinary Order below, requiring the disclosure of
5 probation pursuant to Business and Professions Code section 2228.1, serves to protect the public
6 interest.

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

10 CONTINGENCY

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

21 13. Respondent agrees that if she ever petitions for early termination or modification of
22 probation, or if an accusation and/or petition to revoke probation is filed against her before the
23 Board, all of the charges and allegations contained in Accusation No. 800-2019-059172 shall be
24 deemed true, correct and fully admitted by respondent for purposes of any such proceeding or any
25 other licensing proceeding involving Respondent in the State of California.

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

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

4 **DISCIPLINARY ORDER**

5 IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. A 86102 issued
6 to Respondent USHA KIRAN SUNKARA, M.D. is revoked. However, the revocation is stayed
7 and Respondent is placed on probation for five (5) years on the following terms and conditions:

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

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

18 2. **ALCOHOL - ABSTAIN FROM USE.** Respondent shall abstain completely from the
19 use of products or beverages containing alcohol.

20 3. **PROFESSIONALISM PROGRAM (ETHICS COURSE).** Within 60 calendar days of
21 the effective date of this Decision, Respondent shall enroll in a professionalism program, that
22 meets the requirements of Title 16, California Code of Regulations (CCR) section 1358.1.
23 Respondent shall participate in and successfully complete that program. Respondent shall
24 provide any information and documents that the program may deem pertinent. Respondent shall
25 successfully complete the classroom component of the program not later than six (6) months after
26 Respondent's initial enrollment, and the longitudinal component of the program not later than the
27 time specified by the program, but no later than one (1) year after attending the classroom
28 component. The professionalism program shall be at Respondent's expense and shall be in

1 addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

2 A professionalism program taken after the acts that gave rise to the charges in the
3 Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board
4 or its designee, be accepted towards the fulfillment of this condition if the program would have
5 been approved by the Board or its designee had the program been taken after the effective date of
6 this Decision.

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

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

17 The clinical diagnostic evaluation shall be conducted by a licensed physician and surgeon
18 who holds a valid, unrestricted license, has three (3) years' experience in providing evaluations of
19 physicians and surgeons with substance abuse disorders, and is approved by the Board or its
20 designee. The clinical diagnostic evaluation shall be conducted in accordance with acceptable
21 professional standards for conducting substance abuse clinical diagnostic evaluations. The
22 evaluator shall not have a current or former financial, personal, or business relationship with
23 Respondent within the last five (5) years. The evaluator shall provide an objective, unbiased, and
24 independent evaluation. The clinical diagnostic evaluation report shall set forth, in the
25 evaluator's opinion, whether Respondent has a substance abuse problem, whether Respondent is a
26 threat to herself or others, and recommendations for substance abuse treatment, practice
27 restrictions, or other recommendations related to Respondent's rehabilitation and ability to
28 practice safely. If the evaluator determines during the evaluation process that Respondent is a

1 threat to herself or others, the evaluator shall notify the Board within twenty-four (24) hours of
2 such a determination.

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

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

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

25 Clinical diagnostic evaluations conducted prior to the effective date of this Decision shall
26 not be accepted towards the fulfillment of this requirement. The cost of the clinical diagnostic
27 evaluation, including any and all testing deemed necessary by the examiner, the Board or its
28 designee, shall be borne by the licensee.

1 Respondent shall not engage in the practice of medicine until notified by the Board or its
2 designee that he or she is fit to practice medicine safely. The period of time that Respondent is
3 not practicing medicine shall not be counted toward completion of the term of probation.

4 Respondent shall undergo biological fluid testing as required in this Decision at least two (2)
5 times per week while awaiting the notification from the Board if she is fit to practice medicine
6 safely.

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

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

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

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

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

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

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

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

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

Prior to practicing medicine, Respondent shall contract with a laboratory or service, approved in advance by the Board or its designee, which will conduct random, unannounced,

1 observed, biological fluid testing and meets all of the following standards:

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

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

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

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

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

13 (f) Its testing locations shall submit a specimen to a laboratory within one (1) business day
14 of receipt and all specimens collected shall be handled pursuant to chain of custody
15 procedures. The laboratory shall process and analyze the specimens and provide legally
16 defensible test results to the Board within seven (7) business days of receipt of the
17 specimen. The Board will be notified of non-negative results within one (1) business day
18 and will be notified of negative test results within seven (7) business days.

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

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

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

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

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

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

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

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

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

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

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

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

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

28 For purposes of this condition, the terms "biological fluid testing" and "testing" mean the

1 acquisition and chemical analysis of a Respondent's urine, blood, breath, or hair.

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

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

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

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

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

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

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

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

17 Respondent shall pay all worksite monitoring costs.

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

22 The worksite monitor shall verbally report any suspected substance abuse to the Board and
23 Respondent's employer or supervisor within one (1) business day of occurrence. If the suspected
24 substance abuse does not occur during the Board's normal business hours, the verbal report shall
25 be made to the Board or its designee within one (1) hour of the next business day. A written
26 report that includes the date, time, and location of the suspected abuse; Respondent's actions; and
27 any other information deemed important by the worksite monitor shall be submitted to the Board
28 or its designee within 48 hours of the occurrence.

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

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

20 10. PATIENT DISCLOSURE. Before a patient's first visit following the effective date
21 of this order and while Respondent is on probation, Respondent must provide all patients, or
22 patient's guardian or health care surrogate, with a separate disclosure that includes Respondent's
23 probation status, the length of the probation, the probation end date, all practice restrictions
24 placed on Respondent by the Board, the Board's telephone number, and an explanation of how
25 the patient can find further information on Respondent's probation on Respondent's profile page
26 on the Board's website. Respondent shall obtain from the patient, or the patient's guardian or
27 health care surrogate, a separate, signed copy of that disclosure. Respondent shall not be required
28 to provide a disclosure if any of the following applies: (1) The patient is unconscious or

1 otherwise unable to comprehend the disclosure and sign the copy of the disclosure and a guardian
2 or health care surrogate is unavailable to comprehend the disclosure and sign the copy; (2) The
3 visit occurs in an emergency room or an urgent care facility or the visit is unscheduled, including
4 consultations in inpatient facilities; (3) Respondent is not known to the patient until immediately
5 prior to the start of the visit; (4) Respondent does not have a direct treatment relationship with the
6 patient.

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

10 A. If Respondent commits a major violation of probation as defined by section
11 1361.52, subdivision (a), of Title 16 of the California Code of Regulations, the Board shall take
12 one or more of the following actions:

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

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

23 (3) Refer Respondent for further disciplinary action, such as suspension, revocation, or
24 other action as determined by the Board or its designee.

25 B. If Respondent commits a minor violation of probation as defined by section
26 1361.52, subdivision (c), of Title 16 of the California Code of Regulations, the Board shall take
27 one or more of the following actions:

28 (1) Issue a cease-practice order;

- 1 (2) Order practice limitations;
2 (3) Order or increase supervision of Respondent;
3 (4) Order increased documentation;
4 (5) Issue a citation and fine, or a warning letter;
5 (6) Order Respondent to undergo a clinical diagnostic evaluation to be conducted in
6 accordance with section 1361.5, subdivision (c)(1), of Title 16 of the California Code of
7 Regulations, at Respondent's expense;
8 (7) Take any other action as determined by the Board or its designee.

9 C. Nothing in this Decision shall be considered a limitation on the Board's authority
10 to revoke Respondent's probation if he or she has violated any term or condition of probation. If
11 Respondent violates probation in any respect, the Board, after giving Respondent notice and the
12 opportunity to be heard, may revoke probation and carry out the disciplinary order that was
13 stayed. If an Accusation, or Petition to Revoke Probation, or an Interim Suspension Order is filed
14 against Respondent during probation, the Board shall have continuing jurisdiction until the matter
15 is final, and the period of probation shall be extended until the matter is final.

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

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

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

28 14. 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.

15. 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.

16. GENERAL PROBATION REQUIREMENTS.

Compliance with Probation Unit

Respondent shall comply with the Board's probation unit.

Address Changes

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

Place of Practice

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

License Renewal

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

Travel or Residence Outside California

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

In the event Respondent should leave the State of California to reside or to practice,

1 Respondent shall notify the Board or its designee in writing 30 calendar days prior to the dates of
2 departure and return.

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

6 18. NON-PRACTICE WHILE ON PROBATION. Respondent shall notify the Board or
7 its designee in writing within 15 calendar days of any periods of non-practice lasting more than
8 30 calendar days and within 15 calendar days of Respondent's return to practice. Non-practice is
9 defined as any period of time Respondent is not practicing medicine as defined in Business and
10 Professions Code sections 2051 and 2052 for at least 40 hours in a calendar month in direct
11 patient care, clinical activity or teaching, or other activity as approved by the Board. If
12 Respondent resides in California and is considered to be in non-practice, Respondent shall
13 comply with all terms and conditions of probation. All time spent in an intensive training
14 program which has been approved by the Board or its designee shall not be considered non-
15 practice and does not relieve Respondent from complying with all the terms and conditions of
16 probation. Practicing medicine in another state of the United States or Federal jurisdiction while
17 on probation with the medical licensing authority of that state or jurisdiction shall not be
18 considered non-practice. A Board-ordered suspension of practice shall not be considered as a
19 period of non-practice.

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

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

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

27 Periods of non-practice for a Respondent residing outside of California will relieve
28 Respondent of the responsibility to comply with the probationary terms and conditions with the

1 exception of this condition and the following terms and conditions of probation: Obey All Laws;
2 General Probation Requirements; Quarterly Declarations; Abstain from the Use of Alcohol and/or
3 Controlled Substances; and Biological Fluid Testing..

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

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

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

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

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1 DATED: Feb. 19, 2021
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Respectfully submitted,

XAVIER BECERRA
Attorney General of California
MARY CAIN-SIMON
Supervising Deputy Attorney General

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HAMSA M. MURTHY
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 800-2019-059172

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6 Facsimile: (415) 703-5480
Attorneys for Complainant

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

12 In the Matter of the Accusation Against:

Case No. 800-2019-059172

13 **Usha Kiran Sunkara, M.D.**
14 **17891 Lower Rd.**
Sonoma CA 95476-4700

A C C U S A T I O N

15 **Physician's and Surgeon's Certificate**
16 **No. A 86102,**

17 Respondent.

18
19 Complainant alleges:

20 **PARTIES**

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

24 2. On or about February 25, 2004, the Medical Board issued Physician's and Surgeon's
25 Certificate Number A 86102 to Usha Kiran Sunkara, M.D. (Respondent). The Physician's and
26 Surgeon's Certificate was in full force and effect at all times relevant to the charges brought
27 herein and will expire on September 30, 2021, unless renewed.
28

JURISDICTION

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

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

5. Section 2234 of the Code provides that the Board shall take action against any licensee who is charged with "unprofessional conduct," which includes but is not limited to, "[v]iolating . . . any provision of this chapter."

6. Section 2236 of the Code provides, in pertinent parts:

(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. 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.

7. Section 2239 of the Code provides, in pertinent parts:

(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 Division of Medical Quality may order discipline of the licensee in accordance with Section 2227. . . .

8. California Code of Regulations, title 16, section 1360, provides:

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

11 9. California Vehicle Code section 23152 provides, in pertinent parts:

12 (a) It is unlawful for a person who is under the influence of any alcoholic
13 beverage to drive a vehicle.

14 (b) It is unlawful for a person who has a 0.08 percent or more, by weight, of
15 alcohol in his or her blood to drive a vehicle

16 **FIRST CAUSE FOR DISCIPLINE**

17 **(Criminal Conviction as Unprofessional Conduct)**

18 10. Respondent's certificate is subject to disciplinary action under Code sections 2234
19 and/or 2236, and/or California Code of Regulations, title 16, section 1360. By a plea of "no
20 contest," entered on June 24, 2019 in Case Number SCR-727433-1 in the Superior Court of
21 California, County of Sonoma, Respondent was convicted of violating California Vehicle Code
22 section 23152, subdivision (b).

23 **SECOND CAUSE FOR DISCIPLINE**

24 **(Use of Alcohol in a Dangerous Manner as Unprofessional Conduct)**

25 11. Respondent's certificate is subject to disciplinary action under Code sections 2234
26 and/or 2239 in that she used alcoholic beverages to such an extent, or in a manner, as to be
27 dangerous to herself, others, and the public. The circumstances are as follows:

28 12. On the evening of March 4, 2019, a police officer responded to a report of an
automobile accident. The vehicle had sustained a major roll-over and damage to all sides.
Respondent was the driver of the overturned vehicle. No other vehicles were involved in the
accident.

13 13. A witness, who was driving behind Respondent, observed that before the accident,
14 Respondent was going only ten to fifteen miles per hour on the two lane road, but then sped up
15 significantly and began weaving. Respondent went into a ditch on the right, and then veered left,

1 over the double yellow lines, before finally straightening out. The witness also observed that
2 Respondent did not slow down when she approached a right-side curve in the road, that she
3 veered left in the right-side curve, and that her vehicle ultimately overturned in the road around
4 the curve. After calling 911, the witness attempted to help Respondent out of her vehicle but was
5 unable to do so because Respondent could not focus on any single task related to getting out.
6 Respondent was eventually extricated from the vehicle by fire department personnel.

7 14. Subsequently, when Respondent was laying on a gurney in the back of an ambulance,
8 the police officer observed that Respondent smelled of alcohol, that her eyes were red and watery,
9 and that her speech was slurred. After administering a field sobriety test, the officer arrested
10 Respondent, who was then taken to a local hospital.

11 15. At the hospital, the officer administered a breath test to Respondent. The breath test
12 indicated a blood alcohol content of .18% and .17%, more than twice the legal limit for driving an
13 automobile.

14 **PRAYER**

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

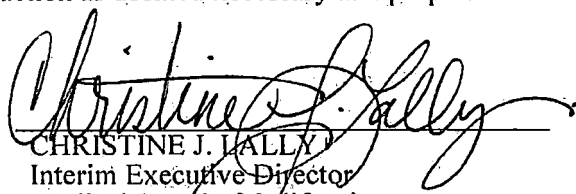
17 1. Revoking or suspending Physician's and Surgeon's Certificate Number A 86102,
18 issued to Usha Kiran Sunkara, M.D.;

19 2. Revoking, suspending or denying approval of Usha Kiran Sunkara, M.D.'s authority
20 to supervise physician assistants and advanced practice nurses;

21 3. Ordering Usha Kiran Sunkara, M.D., if placed on probation, to pay the Board the
22 costs of probation monitoring; and

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

24
25 DATED: MAR 11 2020

26 
27 CHRISTINE J. LALLY
28 Interim Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant