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

In the Matter of the Accusation Against: **Robert Aaron Glazer, M.D.** **Physician's and Surgeon's Certificate No. A 35818** **Respondent.**	**Case No. 800-2014-005625**

DECISION

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

This Decision shall become effective at 5:00 p.m. on December 17, 2021.

IT IS SO ORDERED November 17, 2021.

MEDICAL BOARD OF CALIFORNIA

Laurie Rose Lubiano, J.D., Chair
Panel A

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

In the Matter of the Accusation Against:

ROBERT AARON GLAZER, M.D.

Physician's and Surgeon's Certificate No. A 35818

Respondent.

Agency Case No. 800-2014-005625

OAH No. 2020120721.1

PROPOSED DECISION

Thomas Heller, Administrative Law Judge, Office of Administrative Hearings (OAH), State of California, heard this matter by videoconference and teleconference on August 2, 2021.

Jonathan Nguyen, Deputy Attorney General, represented complainant William Prasifka, Executive Director, Medical Board of California (Board), Department of Consumer Affairs.

Respondent Robert Aaron Glazer, M.D. represented himself.

The parties presented witness testimony and documentary evidence. After the hearing, respondent submitted ex parte correspondence to OAH that was marked for identification as exhibit A. On August 30, 2021, the administrative law judge reopened the record for briefing on whether respondent's criminal convictions were affirmed on appeal and are now final, and whether official notice could be taken of those facts. Complainant filed a brief and declaration attaching an unpublished appellate opinion affirming the criminal convictions, which were marked collectively for identification as exhibit 9. Respondent filed an ex parte brief that was marked for identification as exhibit B.

The record was closed and the matter was submitted for decision on October 8, 2021.

SUMMARY

Complainant requests that the Board take disciplinary action against respondent's physician's and surgeon's certificate due to his federal felony convictions in June 2019 for conspiracy to commit health care fraud and health care fraud. Respondent is serving a 120-month prison sentence for the criminal convictions, but he argues he was wrongly convicted and requests that the Board allow him to retain his certificate, which has been suspended since October 2019. The criminal convictions establish grounds for disciplinary action, and revocation is warranted in light of respondent's serious criminal offenses involving his medical practice.

FACTUAL FINDINGS

Background and Procedural History

1. On September 3, 1980, the Board issued respondent physician's and surgeon's certificate number A 35818. The certificate was renewed and current with an expiration date of May 31, 2020, but it was suspended by operation of law on October 21, 2019, due to respondent's incarceration for the federal felony convictions described below. (Bus. & Prof. Code, § 2236.1, subd. (a) ["A physician and surgeon's certificate shall be suspended automatically during any time that the holder of the certificate is incarcerated after conviction of a felony, regardless of whether the conviction has been appealed.....]")[1]

2. Before the suspension, respondent had one other disciplinary action against his certificate, in the form of a public letter of reprimand that the Board issued on March 8, 2012. Complainant alleges the letter of reprimand was for gross negligence (§ 2234, subd. (b)), repeated negligent acts (§ 2234, subd. (c)), and failing to maintain adequate and accurate records for a patient (§ 2262), but complainant did not present evidence proving those allegations.

3. On April 8, 2020, Christine J. Lally, complainant's predecessor as Interim Executive Officer of the Board, filed an Accusation in her official capacity requesting that the Board revoke or suspend respondent's certificate based on the felony criminal convictions. Respondent filed a Notice of Defense dated July 17, 2020.

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[1] Undesignated statutory references are to the Business and Professions Code.

Hearing

COMPLAINANT'S CASE

4. Complainant presented court records establishing that on June 6, 2019, in the United States District Court, Central District of California, Case No. 2:14-CR-00329-ODW, a jury found respondent guilty of one felony count of conspiracy to commit health care fraud (18 U.S.C. § 1349), and 12 felony counts of health care fraud (18 U.S.C. § 1347). On October 21, 2019, the court sentenced respondent to 120 months in prison plus two years of supervised release thereafter. The court also ordered respondent to pay $11,959,702.48 in restitution plus a $1,300 special assessment.

5. The court records reflect that the criminal convictions arose from respondent conspiring with others to commit health care fraud between January 2006 and May 2014. During that time, respondent owned and operated the Glazer Clinic, a one-physician medical clinic located in Los Angeles, California, and he wrote and signed fraudulent prescriptions and referrals for services and items that were billed to Medicare but never provided to patients and/or were not medically necessary for patients.

6. Further, two co-conspirators owned and operated Fifth Avenue Home Health Care Inc., a home health agency located next door to the Glazer Clinic. Respondent was the medical director of the clinic from approximately 2007 to 2012. Other co-conspirators traveled throughout southern California recruiting patients for respondent by soliciting individuals with Medicare benefits for the Glazer Clinic, Fifth Avenue Home Health Care Inc., and other Medicare providers. The co-conspirators received kickbacks for recruiting patients in the form of cash or checks drawn from

Fifth Avenue Home Health Care Inc. 's bank account or a bank account owned by Hollywood PS Inc., an entity owned and operated by another co-conspirator.

7. Once Medicare beneficiaries were brought to the Glazer Clinic, respondent used their Medicare information to bill Medicare for physician office services and tests that were medically unnecessary and/or not provided. Respondent also referred Medicare beneficiaries for a variety of services, including home health and hospice services, and ordered durable medical equipment such as power wheelchairs, that patients did not need or did not receive. In addition, the Medicare beneficiaries received numerous tests before ever meeting with respondent or sometimes with respondent completely absent from the clinic, including blood draws, ultrasounds, and electrocardiograms (EKGs). Even when respondent met with patients, he performed cursory examinations in his office, which had no medical equipment in it. Respondent's patient files also included duplicate EKGs for different patients, and investigators found pre-signed medical forms at the Glazer Clinic, including home health route sheets signed by patients, which are supposed to be signed at the time of each home health visit, not before.

8. The $11,959,702.48 in restitution that the court ordered respondent to pay is the approximate amount of the fraudulent claims that Medicare paid because of the conspiracy. Respondent appealed his criminal convictions, but the Ninth Circuit Court of Appeals affirmed them in March 2021, and they are now final. The administrative law judge takes official notice of these facts under Government Code section 11515.

RESPONDENT'S CASE

9. Respondent testified he practiced continuously for 40 years and wants to retain his physician's and surgeon's certificate. He believes he was wrongly convicted and only guilty of insufficient supervision of office staff. Respondent described the prosecution witnesses as "coached" and asserted that his former office manager and her boyfriend received all of the payments from Medicare. Respondent did not make large amounts of money from his practice, and he lived in a rented single room for many years. He does not have the financial ability to pay the $11,959,702.48 in restitution that the court ordered, and he never will.

10. Respondent has served about 24 months of his prison sentence. He is scheduled to be released from prison in 2029, but he is 75 years old and believes he may be released earlier due to his age.

LEGAL CONCLUSIONS

Legal Standards

1. "The board shall take action against any licensee who is charged with unprofessional conduct." (Bus. & Prof. Code, § 2234.)[2] With regard to criminal offenses of a licensee, "[t]he conviction of any offense substantially related to the qualifications, functions, or duties of a physician and surgeon constitutes unprofessional conduct. . . ." (§ 2236, subd. (a); see also § 490, subd. (a).) Unprofessional conduct also "includes, but is not limited to," "[t]he commission of any act involving dishonesty or corruption

[2] Undesignated statutory references are to the Business and Professions Code.

that is substantially related to the qualifications, functions, or duties of a physician and surgeon" (§ 2234, subd. (e)), and "[k]nowingly making or signing any certificate or other document directly or indirectly related to the practice of medicine or podiatry which falsely represents the existence or nonexistence of a state of facts..... " (§ 2261). The suspension or expiration of a license does not deprive the Board of authority to institute or continue a disciplinary proceeding. (§ 118, subd. (b).)

2. A verdict of guilty is deemed to be a conviction within the meaning of sections 490 and 2236. (§§ 490, subd. (c), 2236, subd. (d).) A crime, professional misconduct, or act is considered substantially related to the qualifications, functions or duties of a licensee "if to a substantial degree it evidences present or potential unfitness of a person holding a license to perform the functions authorized by the license in a manner consistent with the public health, safety or welfare." (Cal. Code Regs., tit. 16, § 1360, subd (a).) "Such crimes, professional misconduct, or acts shall include but not be limited to the following: Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate any provision of state or federal law governing the applicant's or licensee's professional practice." (*Ibid.*) "In making the substantial relationship determination required under subdivision (a) for a crime, the board shall consider the following criteria: [¶] (1) The nature and gravity of the crime; [¶] (2) The number of years elapsed since the date of the crime; and [¶] (3) The nature and duties of the profession." (Cal. Code Regs., tit. 16, § 1360, subd (b); see also § 493, subd. (b)(1).)

3. "A licensee whose matter has been heard by an administrative law judge of the Medical Quality Hearing Panel as designated in Section 11371 of the Government Code . . . and who is found guilty,.....may, in accordance with the provisions of this chapter: [¶] (1) Have his or her license revoked..... [¶] (2) Have his or

her right to practice suspended for a period not to exceed one year.....[¶] (3) Be placed on probation and be required to pay the costs of probation monitoring..... [¶] (4) Be publicly reprimanded.....[¶] (5) Have any other action taken in relation to discipline as part of an order of probation, as the board or an administrative law judge may deem proper." (§ 2227, subd. (a).)

4. Complainant bears the burden of proving the alleged grounds for disciplinary action by clear and convincing evidence to a reasonable certainty. (*Ettinger v. Board of Medical Quality Assurance* (1982) 135 Cal.App.3d 853, 856.) Clear and convincing evidence "requires a finding of high probability," and has been described as "requiring that the evidence be '"so clear as to leave no substantial doubt"; "sufficiently strong to command the unhesitating assent of every reasonable mind."' [Citation.]" (*In re Angelia P.* (1981) 28 Cal.3d 908, 919.) "Evidence of a charge is clear and convincing so long as there is a 'high probability' that the charge is true. [Citations.] The evidence need not establish the fact beyond a reasonable doubt." (*Broadman v. Commission on Judicial Performance* (1998) 18 Cal.4th 1079, 1090.)

Analysis

FIRST CAUSE FOR DISCIPLINE – CRIMINAL CONVICTIONS

5. In the First Cause for Discipline, complainant charges respondent with conviction of crimes substantially related to the qualifications, functions, or duties of a physician and surgeon.

6. Complainant proved this cause for discipline. Complainant presented the record of respondent's criminal convictions, which is conclusive evidence of the fact that the convictions occurred. (§§ 493, 2236.) The criminal convictions were affirmed on appeal and are now final, making them grounds for disciplinary action. (§§ 490, subd.

(c), 2236.1, subd. (d)(1).) The criminal convictions are for conspiracy to commit health care fraud and health care fraud, which are felony violations of federal law governing respondent's professional practice. While respondent committed the crimes between seven and 15 years ago, they were serious, long-running, and involved fraud in the practice of medicine. Further, the criminal convictions occurred much more recently in June 2019. Therefore, the crimes evidence respondent's present or potential unfitness to perform the functions authorized by the license in a manner consistent with the public health, safety, or welfare. These facts are clear and convincing evidence that the crimes are substantially related to the qualifications, functions, and duties of a physician and surgeon. (Cal. Code Regs., tit. 16, § 1360.)

7. Respondent argues he was wrongly convicted and guilty only of insufficient supervision of staff. But the criminal convictions "stand[] as conclusive proof of [his] guilt of the specific offense[s] charged....." (*Arneson v. Fox* (1980) 28 Cal.3d 440, 452.) "To hold otherwise would impose upon administrative boards extensive, time-consuming hearings aimed at relitigating criminal charges which had culminated in final judgments of conviction." (*Ibid.*) Respondent is not entitled to relitigate the issue of his guilt as to the underlying criminal convictions (*Robbins v. Davi* (2009)175 Cal.App.4th 118, 126), and "the inquiry into the circumstances of the offense 'should not form the basis of impeaching the prior conviction.' [Citation.]" (*Arneson v. Fox, supra*, 28 Cal.3d at p. 449.)

SECOND CAUSE FOR DISCIPLINE – FALSE STATEMENTS AND DISHONESTY

8. In the Second Cause for Discipline, complainant charges respondent with "knowingly mak[ing] or sign[ing] a[] certificate or other document.....related to the practice of medicine which falsely represented the existence or nonexistence of a state

of facts," thereby engaging in dishonest and corrupt conduct subjecting him to disciplinary action under sections 2234, subdivision (e), and 2261.

9. Complainant proved this cause for discipline. The criminal convictions are conclusive proof of respondent's guilt of the crimes of conspiracy to commit health care fraud and health care fraud. (*Arneson v. Fox, supra*, 28 Cal.3d at p. 449.) A knowing and willful scheme or artifice to defraud is an essential element of those crimes. (see 18 U.S.C. §§ 1347, 1349.) Respondent knowingly and willfully made and signed medical documents that falsely represented the existence or nonexistence of facts about Medicare patients. This clear and convincing evidence of dishonest and corrupt conduct is grounds for disciplinary action.

THIRD CAUSE FOR DISCIPLINE – UNPROFESSIONAL CONDUCT

10. In the Third Cause for Discipline, complainant charges respondent with general unprofessional conduct under section 2234 based on the same allegations as in the First and Second Causes for Discipline. Complainant proved respondent committed specific forms of unprofessional conduct as charged in the First and Second Causes for Discipline under sections 2234, 2236, and 2261. That proof of unprofessional conduct also proves the charge of general unprofessional conduct in the Third Cause for Discipline.

DISCIPLINARY ACTION

11. With causes for disciplinary action established, the Board has discretion to determine the suitable discipline, "subject to the Legislative mandate that the Board's highest priority be protection of the public; and, secondarily, discipline should 'aid in the rehabilitation of the licensee.' (§ 2229, subds. (a) & (b).)" (*Pirouzian v. Superior Court* (2016) 1 Cal.App.5th 438, 448.) In exercising its discretion, the Board

considers the Manual of Model Disciplinary Orders and Disciplinary Guidelines (12th Edition 2016) (Guidelines) that it has adopted. (Cal. Code Regs., tit. 16, § 1361, subd. (a).) "Deviation from these orders and guidelines, including the standard terms of probation, is appropriate where the Board in its sole discretion determines by adoption of a proposed decision or stipulation that the facts of the particular case warrant such a deviation – for example: the presence of mitigating factors; the age of the case; evidentiary problems." (*Ibid.*) Respondent's criminal convictions involve dishonesty and arise from patient care, treatment, management, or billing. The Guidelines recommend a minimum disciplinary action of stayed revocation, a one-year suspension, and at least seven years' probation for such unprofessional conduct. (*Id.* at pp. 24-25.) The maximum disciplinary action is license revocation. (*Id.* at pp. 23, 25.)

12. When considering the suspension or revocation of a license on the ground of a criminal conviction, the board has identified specific criteria of rehabilitation to consider under California Code of Regulations, title 16, section 1360.1. Respondent has not completed the criminal sentence at issue, and the criteria of rehabilitation in subdivision (b) of the regulation therefore apply. The evidence about those criteria is as follows:

(1) The nature and gravity of the act(s), professional misconduct, or crime(s). Respondent's crimes were felony violations of federal law involving dishonesty and fraud in his medical practice. The federal court determined respondent's crimes caused over $11 million in losses to the Medicare program.

(2) The total criminal record, or record of professional misconduct. Respondent was not shown to have any other criminal convictions. He has a record of one other instance of professional misconduct for which he received a public letter of reprimand in 2012.

(3) The time that has elapsed since commission of the act(s), professional misconduct, or crime(s). Respondent committed the crimes between seven and 15 years ago. He was convicted of the crimes just over two years ago.

(4) Whether the licensee has complied with any terms of parole, probation, restitution or any other sanctions lawfully imposed against such person. Respondent has not completed his criminal sentence and has not started parole or probation. He has not complied with the restitution order against him.

(5) The criteria in subdivisions (a)(1)-(5), as applicable. Subdivision (a)(1) of the regulation concerns the nature and gravity of the crime, which is addressed above. Subdivisions (a)(2)-(5) concern parole or probation and do not apply because respondent is still incarcerated.

(6) If applicable, evidence of dismissal proceedings pursuant to Section 1203.4 of the Penal Code. This criterion is in inapplicable.

(7) Evidence, if any, of rehabilitation submitted by the licensee. Respondent did not submit evidence of rehabilitation. He denied guilt apart from insufficient supervision of staff, and he blamed others for his crimes.

13. Considering this evidence, respondent has not made a showing of rehabilitation. Further, the maximum disciplinary action of revocation is warranted on these facts, even though it is a "drastic penalty." (*Cooper v. State Board of Medical Examiners* (1950) 35 Cal.2d 242, 252.) Respondent committed serious crimes involving a long-running conspiracy to commit health care fraud in his medical practice. He presented no evidence of any mitigating circumstances. His criminal convictions are recent, and he has served only about 24 months of a 120-month prison sentence. A lesser disciplinary action of a stayed revocation with probation would be insufficient,

and probation while respondent is incarcerated and not practicing medicine would be unworkable in any event. A suspension of up to one year under section 2227 would also be insufficient and would end long before respondent is scheduled to be released.

14. In *Matanky v. Board of Medical Examiners* (1978) 79 Cal.App.3d 293, the Board revoked the medical license of a physician who had been convicted of 39 counts of Medicare fraud arising from the physician's fraudulent statements concerning services to 13 convalescent hospital patients. (*Id.* at pp. 297–298.) The court held the revocation was neither manifestly arbitrary nor an abuse of discretion considering that the physician "submitted intentionally false and fraudulent claims inferably for purpose of personal gain." (*Id.* at p. 305.) The physician attempted to defraud the federal government and "also defrauded the patient [because] the federal government only pays on behalf of the patient." (*Id.* at p. 306.) Here, respondent's similar unprofessional conduct in his practice similarly warrants revocation of his medical license.

ORDER

Physician's and Surgeon's Certificate No. A 35818 issued to respondent Robert Aaron Glazer. M.D. is revoked.

DATE: 11/03/2021

Thomas Heller (Nov 3, 2021 13:19 PDT)

THOMAS HELLER

Administrative Law Judge

Office of Administrative Hearings

XAVIER BECERRA
Attorney General of California
E. A. JONES III
Supervising Deputy Attorney General
JONATHAN NGUYEN
Deputy Attorney General
State Bar No. 263420
California Department of Justice
300 So. Spring Street, Suite 1702
Los Angeles, CA 90013
Telephone: (213) 269-6434
Facsimile: (916) 731-2117
Attorneys for Complainant

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

In the Matter of the Accusation Against:	Case No. 800-2014-005625
Robert Aaron Glazer, M.D. **8896 Lookout Mountain Ave** **Los Angeles, CA 90046** **Physician's and Surgeon's Certificate** **No. A 35818,** Respondent.	**ACCUSATION**

PARTIES

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

2. On or about September 3, 1980, the Medical Board issued Physician's and Surgeon's Certificate Number A 35818 to Robert Aaron Glazer, M.D. (Respondent). The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought herein and will expire on May 31, 2020, unless renewed.

JURISDICTION

3. This Accusation is brought before the Board, under the authority of the following

laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

4. Section 2001.1 of the Code states:

"Protection of the public shall be the highest priority for the Medical Board of California in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount."

5. Section 2227 of the Code states:

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

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

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

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

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

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

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

6. Section 2234 of the Code states:

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

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

"(b) Gross negligence.

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

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

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

"(d) Incompetence.

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

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

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

7. Section 2236 of the Code states:

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

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

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

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

8. Section 2261 of the Code states:

"Knowingly making or signing any certificate or other document directly or indirectly related to the practice of medicine or podiatry which falsely represents the existence or nonexistence of a state of facts, constitutes unprofessional conduct."

9. Section 490 of the Code states:

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

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

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

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

10. Section 493 of the Code states:

"(a) Notwithstanding any other provision of law, in a proceeding conducted by a board within the department pursuant to law to deny an application for a license or to suspend or revoke a license or otherwise take disciplinary action against a person who holds a license, upon the ground that the applicant or the licensee has been convicted of a crime substantially related to the qualifications, functions, and duties of the licensee in question, the record of conviction of the crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact, and the board may inquire into the circumstances surrounding the commission of the crime in order to fix the degree of discipline or to determine if the conviction is substantially related to the qualifications, functions, and duties of the licensee in question.

"(b) As used in this section, 'license' includes 'certificate,' 'permit,' 'authority,' and 'registration.'

"(c) This section shall become inoperative on July 1, 2020, and, as of January 1, 2021, is repealed."

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

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

FACTUAL SUMMARY

12. On June 5, 2019, in a case entitled *United States of America v. Robert Aaron Glazer*, case number 2:14-cr-00329-ODW, in United States District Court for the Central District of California, Respondent, upon jury verdict was convicted of a violation of Title 18, United States Code, section 1349, conspiracy to commit health care fraud, and twelve violations of Title 18, United States Code, section 1347, health care fraud.

Respondent was sentenced to the following terms and conditions:

A. 120 months of imprisonment.

B. Two years of supervised release.

C. Pay restitution in the amount of $11,959,702.48.

13. The circumstances leading to the above-referenced convictions are as follows:

A. Between January 2006 and May 2014, Respondent conspired with others to commit health care fraud. Respondent owned and operated the Glazer Clinic, a one-physician medical clinic located in Los Angeles, California.

B. Respondent wrote out and signed countless fraudulent prescriptions and referrals for services and items that either were never provided to patients, and/or were not medically necessary for patients.

C. Respondent's role as a physician was key in the conspiracy because a physician

was necessary to sign test orders, prescriptions, and referrals, without which, Medicare could not be billed and would not pay. Respondent was responsible for all claims for office services and tests that the Glazer Clinic submitted for reimbursement to Medicare.

D. Two co-conspirators owned and operated Fifth Avenue Home Health Care Inc., a home health agency located in the office next door to the Glazer Clinic. Respondent was the Medical Director of Fifth Avenue Home Health Care Inc. from approximately 2007 to 2012.

E. Other co-conspirators recruited patients for Respondent by soliciting individuals with Medicare benefits for the Glazer Clinic, Fifth Avenue Home Health Care Inc., and other Medicare providers. The co-conspirators traveled throughout Southern California to recruit and bring Medicare beneficiaries to the Glazer Clinic. The co-conspirators were paid kickbacks in the form of cash or checks drawn from Fifth Avenue Home Health Care Inc.'s bank account or a bank account owned by Hollywood PS Inc., an entity owned and operated by another co-conspirator.

F. Once Medicare beneficiaries were brought to the Glazer Clinic, Respondent used their Medicare information to bill Medicare for physician office services and tests that were medically unnecessary and/or not provided. Respondent also referred Medicare beneficiaries for a variety of services, including home health and hospice services, and ordered Durable Medical Equipment (DME), such as power wheelchairs, that patients did not need or did not receive.

G. Medicare beneficiaries were brought to the Glazer Clinic and received a litany of tests before ever meeting with Respondent or sometimes with Respondent completely absent from the clinic, including blood draws, ultrasounds, and electrocardiograms (EKGs). Even when Respondent met with patients, he performed cursory examinations in his office, which had a desk and two chairs, but no medical equipment inside it. Respondent did not physically examine patients.

H. Further evidence of Respondent's fraudulent acts were Respondent's patient files and pre-signed medical forms found in the Glazer Clinic. The patient files had duplicated EKGs in different patient files, meaning that the EKGs in two separate patient files reflected two different patients sharing the exact same heart rhythm and numeric vital signs, such as heart rate.

The only difference in these duplicated EKG print-outs were the patient names, which were often handwritten in. The pre-signed medical forms included home health route sheets signed by patients. These home health route sheets are supposed to be signed at the time of each home health visit, not before.

I. As a direct result of Respondent's conduct, Respondent and his co-conspirators submitted or caused the submission of false and fraudulent claims to Medicare totaling approximately $13,849,630.48. Medicare paid approximately $11,959,702.48 of the fraudulent claims.

FIRST CAUSE FOR DISCIPLINE

(Conviction of Substantially Related Crime)

14. By reason of the facts set forth in paragraphs 12 and 13, Respondent is subject to disciplinary action under section 2236, subdivision (a), and section 490 of the Code, as well as California Code of Regulations, title 16, Section 1360, in that Respondent has been convicted of crimes substantially related to the qualifications, function or duties of a physician and surgeon.

15. Respondent's acts and/or omissions as set forth in paragraphs 12 and 13, whether proven individually, jointly, or in any combination thereof, constitute convictions of crimes substantially related to the qualifications, function or duties of a physician and surgeon pursuant to section 2236, subdivision (a), and section 490 of the Code, as well as California Code of Regulations, title 16, Section 1360.

SECOND CAUSE FOR DISCIPLINE

(Making False Statements and Dishonesty)

16. By reason of the facts set forth in paragraphs 12 and 13, Respondent is subject to disciplinary action under Code sections 2261 and 2234, subdivision (e), in that Respondent knowingly made or signed any certificate or other document directly or indirectly related to the practice of medicine which falsely represented the existence or nonexistence of a state of facts and thereby engaged in dishonest and corrupt conduct.

17. Respondent's acts and/or omissions as set forth in paragraphs 12 and 13, whether proven individually, jointly, or in any combination thereof, constitute knowingly making or

signing any certificate or other documents directly or indirectly related to the practice of medicine which falsely represents the existence or nonexistence of a state of facts and thereby engaged in dishonest and corrupt conduct pursuant to sections 2261 and 2234, subdivision (e), of the Code.

THIRD CAUSE FOR DISCIPLINE

(Unprofessional Conduct)

18. By reason of the facts and allegations set forth in paragraphs 12 through 17, Respondent is subject to disciplinary action under section 2234 of the Code, in that Respondent engaged in unprofessional conduct.

19. Respondent's acts and/or omissions as set forth in paragraphs 12 through 17, whether proven individually, jointly, or in any combination thereof, constitute unprofessional conduct pursuant to section 2234 of the Code.

DISCIPLINARY CONSIDERATIONS

20. To determine the degree of discipline, if any, to be imposed on Respondent Robert Aaron Glazer, M.D., Complainant alleges that on or about March 12, 2012, in a prior disciplinary action before the Medical Board of California in Case Number 17-2010-204872, Respondent's license was publicly reprimanded for failing to properly manage a patient's complaint of dizziness, memory problems, and prescribing of Methotrexate; and failing to adequately obtain a complete history and physical examination of a patient with chronic pain. These actions constituted violations of Business and Professions Code section 2234, subdivision (b), Gross Negligence; 2234, subdivision (c), Repeated Negligence; and 2266, Failure to Maintain Adequate and Accurate Medical Records. That decision is now final and is incorporated by reference as if fully set forth herein.

PRAYER

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

1. Revoking or suspending Physician's and Surgeon's Certificate Number A 35818, issued to Robert Aaron Glazer, M.D.;

2. Revoking, suspending or denying approval of Robert Aaron Glazer, M.D.'s authority to supervise physician assistants and advanced practice nurses;

3. Ordering Robert Aaron Glazer, M.D., if placed on probation, to pay the Board the costs of probation monitoring; and

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

DATED: April 8, 2020

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

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