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:

AYTAC HILMI APAYDIN, M.D.,

Physician's and Surgeon's Certificate No. A 46632

Respondent.

Agency Case No. 800-2019-055363

OAH No. 2021010577

DECISION AFTER NON-ADOPTION

Administrative Law Judge (ALJ) Karen Reichmann, State of California, Office of Administrative Hearings, heard this matter on May 17 and 18, 2021, by videoconference.

Deputy Attorney General Hamsa M. Murthy represented complainant William Prasifka, Executive Director (Complainant) of the Medical Board of California (Board).

Attorney Michael Firestone represented respondent Aytac Hilmi Apaydin, M.D., (Respondent) who was present.

The record closed and the matter was submitted for decision on May 18, 2021. A proposed decision was issued on June 14, 2021.

On August 25, 2021, Panel A of the Board issued an Order of Non-Adoption of Proposed Decision. Oral argument on the matter was heard by Panel A on November 17, 2021, with ALJ Marcie Larson presiding. DAG Murthy appeared on behalf of the Complainant. Respondent was present and was represented by Michael Firestone, Attorney at Law. Panel A, having read and considered the entire record, including the transcript and the exhibits, and having considered the written and oral argument, hereby enters this Decision After Non-Adoption.

FACTUAL FINDINGS

Jurisdictional Matters

1. On October 23, 1989, the Board issued Physician's and Surgeon's Certificate No. A 46632 to Respondent Aytac Hilmi Apaydin, M.D. The certificate was in full force and effect at all times relevant to the charges in the accusation and petition to revoke probation. It is scheduled to expire on April 30, 2023, unless renewed.

Respondent's certificate has been on probation since January 19, 2018, pursuant to the Board's decision and order adopting a stipulated settlement in Board case no. 03-2013-234324. Respondent's certificate was placed on probation for five years for unprofessional conduct, gross negligence, incompetence, repeated negligent acts, excessive treatment, and failure to maintain adequate medical records, arising from his treatment of four patients. Condition 8 of Respondent's probation requires that Respondent obey all federal, state, and local laws.

2. On July 30, 2020, Complainant issued the accusation and petition to revoke probation solely in his official capacity as the Board's Executive Director. Respondent filed a timely notice of defense.

3. Complainant seeks to discipline Respondent's certificate and revoke probation based on Respondent's 2019 conviction for driving under the influence (DUI) and for Respondent's dangerous use of alcohol which resulted in the conviction.

2019 DUI

4. On April 23, 2019, Respondent attended a hockey game in San Jose. Respondent met a friend prior to the game and drank several glasses of wine with dinner, followed by an after-dinner glass of scotch. During the game, Respondent consumed several beers. At the conclusion of the exciting game, Respondent had a cocktail in celebration of the San Jose Sharks' victory. He then got into his car and drove towards his home in Monterey, a distance of approximately 70 miles.

Shortly after midnight on April 24, near the town of Seaside, a CHP officer observed Respondent speeding, tailgating, and straddling two lanes, and the officer pulled Respondent over. During the traffic stop, Respondent denied consuming alcohol. The officer observed that Respondent was disoriented, had red eyes and slurred speech, was slow to respond, and emitted the odor of alcoholic beverages. Respondent performed poorly on field sobriety tests. Respondent requested a blood test in lieu of a breath test. A blood sample taken more than an hour after he was pulled over revealed a blood alcohol content of 0.121 percent.

5. On July 17, 2019, Respondent was convicted in the Superior Court of California, County of Monterey, pursuant to a no contest plea, of violating Vehicle Code section 23152, subdivision (b) (driving with a blood alcohol content of 0.08 percent or higher), a misdemeanor. Imposition of sentence was suspended, and Respondent was placed on conditional probation for a period of five years, on terms and conditions including completing a first offender's program, installing an ignition interlock device for six months, and serving five days in county jail through the work alternative program.

Respondent's Evidence

RESPONDENT'S TESTIMONY

6. Respondent was born in Seattle to parents from Turkey. Respondent's father was a physician. Respondent attended medical school at the University of

Rochester and completed a six-year residency in urology at USC. After residency, he joined a urology practice with one other physician in Salinas and he has been a partner in this practice since 1995. He handles a wide variety of urology cases and his practice includes performing a significant number of surgical procedures. Respondent is affiliated with three different hospitals where he is on call for emergencies. He is the only urologist practicing in Hollister, an underserved farming community.

7. Respondent was board-certified in urology in 1996. He recertified in 2005. He passed the recertification examination in 2014; but in 2016, he was not allowed to re-certify due to an investigation that was underway by the Office of the Inspector General involving lease arrangements for radiation equipment by Respondent and other physicians. Respondent testified that his current status on Board probation renders him ineligible for recertification by the American Board of Urology, and this is one of the reasons he is eager for his Board probation to end.

8. Respondent is in compliance with all other conditions of his Board probation. He completed the required recordkeeping and ethics and professionalism courses and successfully completed the PACE clinical assessment program in San Diego. He meets quarterly with his practice monitor. Respondent had hoped to seek early termination of probation.

9. Respondent was forthright about the DUI incident at hearing, in contrast to his interview with the Board's investigator in which he was less candid about the amount of alcohol he consumed. He testified that at the time he drove home from the Sharks game, he felt he was "okay to drive," but acknowledged that his actions presented a risk of harm to himself and others.

10. Respondent is in compliance with the terms of his criminal probation. He completed the first offender program and has been released from the ignition interlock device requirement.

11. Respondent explained that he was embarrassed by his arrest and wanted to rebuild trust in the eyes of his colleagues, family, and the Board. Although

he does not believe he has ever had a problem with alcohol, he sought out an addiction specialist and stopped drinking alcohol in August 2019. He chose to have the addiction specialist perform random drug testing in order to replicate the Board's drug testing program and to demonstrate to the Board that he does not have a problem with alcohol.

Respondent has found that not drinking has had a positive effect on his health; he has lost weight and feels better. He plans on continuing to abstain from alcohol indefinitely, although he could envision a celebratory event, such as a wedding, at some point in the future at which he might join in a toast.

12. In addition to abstaining from alcohol, Respondent has made other healthy lifestyle changes since his arrest. He sought help from a therapist. He works out, walks his dogs, and performs breathing exercises daily.

13. Respondent believes the incident was an act of poor judgment and not reflective of an alcohol problem. He views it as a wake-up call that spurred him to take better care of his own health. He shared his experience with family and colleagues and notified them that he was abstaining from alcohol.

Respondent requests a letter of reprimand as discipline. He explained that ongoing drug testing would be onerous, especially because of his professional demands as surgeon. A drug testing requirement would also make it difficult for him to travel overseas to visit family.

PAUL ABRAMSON, M.D.

14. Respondent has consulted Paul Abramson, M.D., a specialist in family medicine and addiction medicine, since August 2019. Dr. Abramson evaluated Respondent and has been monitoring him. He wrote a series of reports and testified at the hearing. Dr. Abramson was a credible and persuasive witness, but his testimony must be placed in context with the fact that Respondent has been previously

disciplined by the Board and was (and is) on probation with the Board at the time of his excessive use of alcohol and his 2019 DUI conviction.

Dr. Abramson concluded that Respondent does not have a substance or alcohol use disorder (or any other DSM-5 diagnosis), that the 2019 DUI incident was an isolated event, that Respondent's risk of future alcohol-related problems is extremely low, and that Respondent's physical and mental health allow him to engage in the full scope of medical practice without restrictions.

15. At Respondent's request, Dr. Abramson has been monitoring Respondent through drug testing, to enable Respondent to demonstrate his abstinence. Nail samples were taken every three months from November 2019 through August 2020. Subsequently, Respondent has participated in a random urine testing regimen in which he is selected to provide a sample five times per month. Dr. Abramson confirmed that all samples have tested negative, signifying to Dr. Abramson that Respondent has demonstrated the ability to abstain and is at low risk of developing a substance or alcohol use disorder. Dr. Abramson believes that Respondent has good insight into his misconduct and is motivated to avoid this type of behavior in the future. Dr. Abramson views the DUI incident as a serious lack of judgment but not proof that Respondent suffered from alcohol use disorder. Dr. Abramson does not believe that further drug testing is necessary. Again, however, the Board must consider Dr. Abramson's testimony in context of Respondent's disciplinary history and active Board probation requiring him to comply with all laws or face revocation.

REFERENCES

16. Four physicians testified on behalf of Respondent. All were aware of the allegations in this disciplinary matter and of Respondent's current status on Board probation. All strongly support Respondent's continued licensure.

a. Stephen Worsham, M.D., has been Respondent's partner at Salinas Valley Urology Associates since Respondent joined the practice in 1995. They work closely together, share patients, consult with each other, and occasionally perform surgeries together.

Dr. Worsham described Respondent as dedicated to his patients, accessible, outgoing, ethical, reliable, accomplished, and as possessing very competent surgical skills. He has never observed Respondent engaging in any worrisome behaviors. Dr. Worsham socializes with Respondent occasionally and has not observed him consume more than one to two glasses of wine with dinner.

Respondent informed Dr. Worsham about his arrest and expressed shame and a plan to take corrective measures. Dr. Worsham corroborated that Respondent has not been drinking, and that Respondent has made it widely known to others that he is not drinking, including at social events.

b. Peter Coelho, M.D., is a family medicine doctor in Gilroy, who practiced in the Hollister area from 2000 through 2015. Dr. Coelho worked regularly with Respondent during this period and found him to be good with patients and reliable. He reported that Respondent has a reputation as a hardworking physician with excellent technical skills. He believes that Respondent overextends himself and maintains too busy a practice, but otherwise holds him in high regard.

Dr. Coelho described Respondent as a "cornerstone of the community" who has actively organized events for physicians over the years. Dr. Coelho and Respondent are part of a group of physicians who attend restaurant dinners three or four times a year to socialize and support each other. He has never observed Respondent to consume more than three glasses of wine at these events. Dr. Coelho was surprised and devastated when Respondent reported that he had been arrested for DUI. He confirmed that Respondent stopped drinking alcohol at the physicians' dinners after his arrest.

c. Suzanne Rosen, M.D., is a family medicine specialist in Salinas who has worked with Respondent for more than 15 years. She has consulted with him on numerous patients and regularly refers patients to his practice. She remarked that her patients are satisfied with his care and that she appreciates his good follow-up communication with her. Dr. Rosen has full confidence in Respondent, and she added that Respondent has a good reputation in the community as a competent, caring, hardworking surgeon who "takes all comers." She believes that he is an asset to the medical community and has no reservations about his fitness to practice.

Dr. Rosen is a regular attendee at the physicians' dinners with Respondent and others. She reported that Respondent no longer consumes wine at these dinners and explained to her that he is abstaining.

d. Kenneth Jiang, M.D., is an internal medicine specialist in Hollister. He has known Respondent since 1998. He regularly calls Respondent for hospital evaluations and refers patients to Respondent, and has himself been treated by Respondent. Dr. Jiang holds him in high esteem as a urologist, and described Respondent as hardworking, caring, and conscientious. He is aware of instances in which Respondent treated patients who were unable to pay.

Dr. Jiang also has a social relationship with Respondent and regularly joins Respondent and others for the physicians' dinners. Dr. Jiang was surprised to learn of Respondent's DUI. He had seen Respondent drink wine at meals, but had never seen him incapacitated. Dr. Jiang has extensive experience treating alcoholics and drug addicts; based on this experience he believes that Respondent was a social drinker and not an alcoholic. The attendees at the physicians' dinners, including Respondent, had a practice of waiting one to two hours after dinner before driving home. Dr. Jiang also confirmed that Respondent has been avoiding alcohol since the DUI incident.

17. Peter Oppenheim, M.D., a family physician in Salinas, wrote a letter in support of Respondent. Dr. Oppenheim first met Respondent when he had a medical emergency and Respondent was his treating urologist. They subsequently developed

a professional and personal relationship. Dr. Oppenheim has referred many patients to Respondent.

Dr. Oppenheim is aware that Respondent is on Board probation and is aware of Respondent's DUI offense. Dr. Oppenheim confirmed that Respondent has not been drinking alcohol when they have gotten together for dinner subsequent to his conviction. Dr. Oppenheim was disappointed with Respondent's poor judgment, but believes that Respondent has used the experience to improve his physical and mental wellbeing.

Disciplinary Considerations

18. On May 1, 2008, the Board issued a public letter of reprimand to Respondent. The reprimand stated, "An investigation by the Medical Board of California revealed that you altered a patient's records and failed to inform the patient of the side effects of Lupron."

19. On January 25, 2013, the Board adopted a stipulated settlement and disciplinary order providing that Respondent be publicly reprimanded and attend a medical recordkeeping course. The reprimand stated, "You failed to discover that a piece of wire was left in a patient's bladder following a cystoscopy and failed to maintain adequate records."

LEGAL CONCLUSIONS

Accusation

1. Business and Professions Code sections 2234 and 2236 provide that the Board may suspend or revoke the certificate of a licensee who is convicted of a crime that is substantially related to the qualifications, functions, or duties of a physician and surgeon. Pursuant to California Code of Regulations, title 16, section 1360, a crime is substantially related if it evidences present or potential unfitness of the licensee to

perform the functions authorized by the certificate in a manner consistent with the public health, safety, or welfare. Cause for discipline based on Respondent's 2019 DUI conviction was established in light of the matters set forth in Finding 5.

2. Business and Professions Code sections 2234 and 2239 provide that the Board may suspend or revoke the certificate of a licensee who uses alcohol to the extent or in such a manner as to be dangerous or injurious to himself, any other person, or the public. Cause for discipline based on Respondent's excessive use of alcohol was established in light of the matters set forth in Findings 4 and 5.

Petition to Revoke Probation

3. Condition 8 of Respondent's probation requires Respondent to obey all laws. Cause to revoke probation was established in light of Respondent's 2019 DUI conviction, as set forth in Finding 5.

Disciplinary Determination

4. Cause for discipline and revocation of probation having been established, the appropriate level of discipline must be determined. In exercising its disciplinary functions, protection of the public is the Board's paramount concern. (Bus. & Prof. Code, § 2229, subd. (a).) At the same time, the Board is directed to take disciplinary action that is calculated to aid the rehabilitation of the licensee whenever possible, as long as the Board's action is not inconsistent with public safety. (Bus. & Prof. Code, § 2229, subds. (b), (c).)

Respondent requests a letter of reprimand and no further discipline. Complainant recommends, at a minimum, imposition of a new five-year term of probation including the nine substance abuse related conditions recommended in the Board's Disciplinary Guidelines for licensees found to have engaged in the excessive use of alcohol. The Board's Manual of Disciplinary Orders and Disciplinary Guidelines

(12th ed., 2016),[1] recommends, at a minimum, stayed revocation and five years' probation, subject to appropriate terms and conditions, for Respondent's misconduct. Pursuant to the Disciplinary Guidelines, the maximum discipline for Respondent's misconduct is revocation of his certificate.

The Board's Disciplinary Guidelines and its "Disciplinary Guidelines and Exceptions for Uniform Standards Related to Substance-Abusing Licensees" (Substance Abuse Guidelines)[2] provide guidance regarding the appropriate terms and conditions of probation in matters involving substance abuse. When a licensee is disciplined for unprofessional conduct involving the abuse of drugs and/or alcohol, the licensee is presumed to be a "substance-abusing licensee" and subject to the mandatory terms and conditions of probation outlined in the Substance Abuse Guidelines. (Cal. Code Regs., tit. 16, § 1361, subd. (b), § 1361.5, subds. (a) & (c).) These terms and conditions must be imposed in such cases "without deviation." (Cal. Code Regs., tit. 16, § 1361, subd. (b), § 1361.5, subd. (c).)

Respondent presented evidence through the testimony and reports of an addiction specialist who concluded that Respondent does not suffer from an alcohol use disorder, in an attempt to rebut the presumption that he is a substance-abusing licensee. The fact is, however, that Respondent consumed an excessive amount of alcohol followed by an arrest and conviction for DUI in 2019. Respondent committed this offense while on Board probation, and with a history of two Board reprimands. Such conduct is aggravating in that, while being under the scrutiny of the Board, Respondent chose to drink an excessive amount of alcohol and then drive, thereby

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[1] The Board's Disciplinary Guidelines are incorporated in California Code of Regulations, title 16, section 1361.

[2] The Board's Substance Abuse Guidelines are contained in California Code of Regulations, title 16, section 1361.5.

putting the public and himself at risk. Thereafter, Respondent was not forthcoming with the officer interacting with him at the scene, nor the investigator during his Board interview regarding the amount of alcohol he drank before attempting the drive home. The fact that Respondent would not refrain from drinking excessive alcohol while on probation, and, further, refrain from driving under such circumstances, is grounds for revocation. Such conduct shows a disregard for the public, himself, and for the Board's oversight authority.

Respondent has presented evidence that demonstrates he is willing to maintain sobriety, and voluntarily submitted to biological fluid testing, in part, to have evidence to present in this case. Consequently, the Board has determined that he is capable of being rehabilitated, and that the public will be protected by imposing a new five-year term of probation under similar conditions to the current probation with the addition of the Uniform Standards for Substance-Abusing Licensees along with a practice monitor and education courses. These conditions are necessary to ensure that Respondent remains sober, and if he does not, to ensure that the Board can detect a violation of his probation at the earliest possible time. Respondent has already completed ethics and recordkeeping courses and a competency program and reimposition of these conditions is unnecessary.

ORDER

The petition to revoke probation imposed in Board case no. 03-2013-234324 on Physician's and Surgeon's Certificate No. A 46632, issued to Respondent Aytac Hilmi Apaydin, M.D., is granted pursuant to Legal Conclusion 3. The previously imposed probation is revoked and terminated, and the previously imposed revocation is reinstated. However, revocation is stayed, and Respondent is placed on probation for five (5) years, commencing on the effective date of this Decision, and to be served concurrently with and under the same terms and conditions to be imposed in Board case no. 800-2019-055363, with additional terms, as indicated.

Physician's and Surgeon's Certificate No. A 46632, issued to Respondent Aytac Hilmi Apaydin, M.D., is revoked pursuant to Legal Conclusions 1 and 2; however, revocation is stayed, and Respondent is placed on probation for five (5) years under the following terms and conditions:

1. Clinical Diagnostic Evaluations and Reports

Within 30 calendar days of the effective date of this Decision, and on whatever periodic basis thereafter as may be required by the Board or its designee, Respondent shall undergo and complete a clinical diagnostic evaluation, including any and all testing deemed necessary, by a Board-appointed board certified physician and surgeon. The examiner shall consider any information provided by the Board or its designee and any other information he or she deems relevant, and shall furnish a written evaluation report to the Board or its designee.

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

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

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

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

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

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

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

2. 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.

3. Controlled Substances - Abstain From Use

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

Within 15 calendar days of receiving any lawfully prescribed medications, Respondent shall notify the Board or its designee of the: issuing practitioner's name,

address, and telephone number; medication name, strength, and quantity; and issuing pharmacy name, address, and telephone number.

If Respondent has a confirmed positive biological fluid test for any substance (whether or not legally prescribed) and has not reported the use to the Board or its designee, Respondent shall receive a notification from the Board or its designee to immediately cease the practice of medicine. Respondent shall not resume the practice of medicine until the final decision on an Accusation and/or a petition to revoke probation is effective. An Accusation and/or Petition to Revoke Probation shall be filed by the Board within 30 days of the notification to cease practice. If Respondent requests a hearing on the Accusation and/or petition to revoke probation, the Board shall provide Respondent with a hearing within 30 days of the request, unless Respondent stipulates to a later hearing. If the case is heard by an Administrative Law Judge alone, he or she shall forward a Proposed Decision to the Board within 15 days of submission of the matter. Within 15 days of receipt by the Board of the Administrative Law Judge's proposed decision, the Board shall issue its Decision, unless good cause can be shown for the delay. If the case is heard by the Board, the Board shall issue its decision within 15 days of submission of the case, unless good cause can be shown for the delay. Good cause includes, but is not limited to, non-adoption of the proposed decision, request for reconsideration, remands and other interlocutory orders issued by the Board. The cessation of practice shall not apply to the reduction of the probationary time period.

If the Board does not file an Accusation or petition to revoke probation within 30 days of the issuance of the notification to cease practice or does not provide Respondent with a hearing within 30 days of a such a request, the notification of cease practice shall be dissolved.

4. Alcohol - Abstain From Use

Respondent shall abstain completely from the use of products or beverages containing alcohol.

If Respondent has a confirmed positive biological fluid test for alcohol, Respondent shall receive a notification from the Board or its designee to immediately cease the practice of medicine. Respondent shall not resume the practice of medicine until the final decision on an Accusation and/or a Petition to Revoke Probation is effective. An Accusation and/or Petition to Revoke Probation shall be filed by the Board within 30 days of the notification to cease practice. If Respondent requests a hearing on the Accusation and/or petition to revoke probation, the Board shall provide Respondent with a hearing within 30 days of the request, unless Respondent stipulates to a later hearing. If the case is heard by an Administrative Law Judge alone, he or she shall forward a Proposed Decision to the Board within 15 days of submission of the matter. Within 15 days of receipt by the Board of the Administrative Law Judge's proposed decision, the Board shall issue its Decision, unless good cause can be shown for the delay. If the case is heard by the Board, the Board shall issue its decision within 15 days of submission of the case, unless good cause can be shown for the delay. Good cause includes, but is not limited to, non-adoption of the proposed decision, request for reconsideration, remands and other interlocutory orders issued by the Board. The cessation of practice shall not apply to the reduction of the probationary time period.

If the Board does not file an Accusation or Petition to Revoke Probation within 30 days of the issuance of the notification to cease practice or does not provide Respondent with a hearing within 30 days of such a request, the notification of cease practice shall be dissolved.

5. 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 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 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 years, Respondent shall be subject to 36 to 104 random tests per year. Only if there have been no positive biological fluid tests in the previous five consecutive years of probation, may testing be reduced to one 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, that will conduct random, unannounced, observed, biological fluid testing and meets all the following standards:

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

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

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

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

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

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

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

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

(i) It maintains testing sites located throughout California.

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

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

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

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

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

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

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

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

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

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

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

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

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

6. Substance Abuse Support Group Meetings

Within 30 days of the effective date of this Decision, Respondent shall submit to the Board or its designee, for its prior approval, the name of a substance abuse support group which he shall attend for the duration of probation. Respondent shall attend substance abuse support group meetings at least once per week, or as ordered by the Board or its designee.

Respondent shall pay all substance abuse support group meeting costs.

The facilitator of the substance abuse support group meeting shall have a minimum of three years' experience in the treatment and rehabilitation of substance abuse, and shall be licensed or certified by the state or nationally certified organizations. The facilitator shall not have a current or former financial, personal, or business relationship with Respondent within the last five years. Respondent's previous participation in a substance abuse group support meeting led by the same

facilitator does not constitute a prohibited current or former financial, personal, or business relationship.

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

7. Worksite Monitor for Substance-Abusing Licensee

Within 30 calendar days of the effective date of this Decision, Respondent shall submit to the Board or its designee for prior approval as a worksite monitor, the name and qualifications of one or more licensed physician and surgeon, other licensed health care professional if no physician and surgeon is available, or, as approved by the Board or its designee, a person in a position of authority who is capable of monitoring Respondent at work.

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

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

Respondent shall pay all worksite monitoring costs.

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

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

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

If the worksite monitor resigns or is no longer available, Respondent shall, within five calendar days of such resignation or unavailability, submit to the Board or its designee, for prior approval, the name and qualifications of a replacement monitor who will be assuming that responsibility within 15 calendar days. If Respondent fails to

obtain approval of a replacement monitor within 60 calendar days of the resignation or unavailability of the monitor, Respondent shall receive a notification from the Board or its designee to cease the practice of medicine within three calendar days after being so notified. Respondent shall cease the practice of medicine until a replacement monitor is approved and assumes monitoring responsibility.

8. Violation of Probation Condition for Substance Abusing Licensee

Failure to fully comply with any term or condition of probation is a violation of probation.

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

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

(2) Increase the frequency of biological fluid testing.

(3) Refer Respondent for further disciplinary action, such as suspension, revocation, or other action as determined by the Board or its designee. (Cal. Code Regs., tit. 16, § 1361.52, subd. (b).)

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

(1) Issue a cease-practice order;

(2) Order practice limitations;

(3) Order or increase supervision of Respondent;

(4) Order increased documentation;

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

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

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

C. Nothing in this Decision shall be considered a limitation on the Board's authority to revoke Respondent's probation if he has violated any term or condition of probation. (See Cal. Code Regs., tit. 16, § 1361.52, subd. (e).) 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.

9. Monitoring - Practice

Within 30 calendar days of the effective date of this Decision, Respondent shall submit to the Board or its designee for prior approval as a practice monitor, the name

and qualifications of one or more licensed physicians and surgeons whose licenses are valid and in good standing, and who are preferably American Board of Medical Specialties (ABMS) certified. A monitor shall have no prior or current business or personal relationship with Respondent, or other relationship that could reasonably be expected to compromise the ability of the monitor to render fair and unbiased reports to the Board, including but not limited to any form of bartering, shall be in Respondent's field of practice, and must agree to serve as Respondent's monitor. Respondent shall pay all monitoring costs.

The Board or its designee shall provide the approved monitor with copies of the Decision(s) and Accusation(s), and a proposed monitoring plan. Within 15 calendar days of receipt of the Decision(s), Accusation(s), and proposed monitoring plan, the monitor shall submit a signed statement that the monitor has read the Decision(s) and Accusation(s), fully understands the role of a monitor, and agrees or disagrees with the proposed monitoring plan. If the monitor disagrees with the proposed monitoring plan, the monitor shall submit a revised monitoring plan with the signed statement for approval by the Board or its designee.

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

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

The monitor(s) shall submit a quarterly written report to the Board or its designee which includes an evaluation of Respondent's performance, indicating

whether Respondent's practices are within the standards of practice of medicine, and whether Respondent is practicing medicine safely. It shall be the sole responsibility of Respondent to ensure that the monitor submits the quarterly written reports to the Board or its designee within 10 calendar days after the end of the preceding quarter.

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

In lieu of a monitor, Respondent may participate in a professional enhancement program approved in advance by the Board or its designee, that includes, at minimum, quarterly chart review, semi-annual practice assessment, and semi-annual review of professional growth and education. Respondent shall participate in the professional enhancement program at Respondent's expense during the term of probation.

10. Education Course

Within 60 calendar days of the effective date of this Decision, and on an annual basis thereafter, Respondent shall submit to the Board or its designee for its prior approval educational program(s) or course(s) which shall not be less than 40 hours per year, for each year of probation. The educational program(s) or course(s) shall be aimed at correcting any areas of deficient practice or knowledge and shall be Category I certified. The educational program(s) or course(s) shall be at Respondent's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure. Following the completion of each course, the Board or its designee may administer an examination to test Respondent's knowledge

of the course. Respondent shall provide proof of attendance for 65 hours of CME of which 40 hours were in satisfaction of this condition.

11. Notification

Within seven days of the effective date of this Decision, Respondent shall provide a true copy of this Decision and Order to the Chief of Staff or the Chief Executive Officer at every hospital where privileges or membership are extended to Respondent, at any other facility where Respondent engages in the practice of medicine, including all physician and locum tenens registries or other similar agencies, and to the Chief Executive Officer at every insurance carrier which extends malpractice insurance coverage to Respondent. Respondent shall submit proof of compliance to the Board or its designee within 15 calendar days. This condition shall apply to any change in hospitals, other facilities, or insurance carrier.

12. Supervision of Physician Assistants and Advanced Practice Nurses

During probation, Respondent is prohibited from supervising physician assistants and advanced practice nurses.

13. 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.

14. 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.

15. 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 and telephone number. Changes of such addresses shall be immediately communicated in writing to the Board or its designee. Under no circumstances shall a post office box serve as an address of record, except as allowed by Business and Professions Code section 2021(b).

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

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

Travel or Residence Outside California. Respondent shall immediately inform the Board or its designee, in writing, of travel to any areas outside the jurisdiction of California which lasts, or is contemplated to last, more than 30 calendar days. In the event Respondent should leave the State of California to reside or to practice Respondent shall notify the Board or its designee in writing 30 calendar days prior to the dates of departure and return.

16. Interview with the Board or Its Designee

Respondent shall be available in person for interviews either at Respondent's place of business or at the probation unit office, with the Board or its designee upon request at various intervals and either with or without prior notice throughout the term of probation.

17. Non-Practice While on Probation

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

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

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

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

Periods of non-practice for a Respondent residing outside of California, will relieve Respondent of the responsibility to comply with the probationary terms and conditions with the exception of this condition and the following terms and conditions of probation: Obey All Laws; General Probation Requirements; Quarterly Declarations.

18. Violation of Probation

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

19. License Surrender

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

20. Probation Monitoring Costs

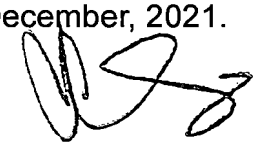
Respondent shall pay the costs associated with probation monitoring each and every year of probation, as designated by the Board, which may be adjusted on an annual basis. Such costs shall be payable to the Medical Board of California and delivered to the Board or its designee no later than January 31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

21. Completion of Probation

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

The Decision shall become effective at 5:00 p.m. on January 28, 2022.

IT IS SO ORDERED this 31st day of December, 2021.



Laurie Rose Lubiano, J.D., Chair
Panel A
Medical Board of California

XAVIER BECERRA
Attorney General of California
MARY CAIN-SIMON
Supervising Deputy Attorney General
HAMSA M. MURTHY
Deputy Attorney General
State Bar No. 274745
455 Golden Gate Avenue, Suite 11000
San Francisco, CA 94102-7004
Telephone: (415) 510-3495
Facsimile: (415) 703-5480
E-mail: Hamsa.Murthy@doj.ca.gov
Attorneys for Complainant

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: **Aytac Hilmi Apaydin, M.D.** **1115 Los Palos Drive** **Salinas, CA 93901** **Physician's and Surgeon's Certificate No. A 46632,** Respondent.	Case No. 800-2019-055363 **ACCUSATION AND PETITION TO REVOKE PROBATION**

PARTIES

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

2. On October 23, 1989, the Medical Board issued Physician's and Surgeon's Certificate Number A 46632 to Aytac Hilmi Apaydin, 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 April 30, 2021, unless renewed.

JURISDICTION

3. On January 19, 2018, the Medical Board of California's Decision in case number 03-2013-234324 became effective. The Decision adopted a Stipulated Settlement and Disciplinary Order, whereby Respondent's Physician's and Surgeon's Certificate was revoked. However, the revocation of the certificate was immediately stayed, and Respondent was placed on probation for five years, with a number of terms and conditions. A condition of Respondent's probation was that he obey all state laws. The January 19, 2018 Decision constitutes current, ongoing discipline against Respondent's Physician's and Surgeon's Certificate, and it is incorporated herein by reference. A true and correct copy is attached hereto as Exhibit A.

4. This Accusation and Petition to Revoke Probation 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. Section 2227 of the Code provides that a licensee who is found guilty under the Medical Practice 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 [Chapter 5, the Medical Practice Act]. The record of conviction shall be conclusive evidence only of the fact that the conviction occurred . . . .
>
> (d) A plea or verdict of guilty or a conviction after a plea of nolo contendere is deemed to be a conviction within the meaning of this section and Section 2236.1. The record of conviction shall be conclusive evidence of the fact that the conviction occurred.

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 [Medical Board] may order discipline of the licensee in accordance with Section 2227. . . .

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

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.

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

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

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

CAUSE FOR REVOCATION OF PROBATION

(Failure to Obey State Law)

10. Respondent's Physician's and Surgeon's Certificate is subject to revocation pursuant to the Stipulated Settlement and Disciplinary Order in case number 03-2013-234324 (Exhibit A), which became effective on January 19, 2018. The Stipulated Settlement and Disciplinary Order revoked Respondent's certificate, immediately stayed the revocation, and placed Respondent on probation for five years with particular terms and conditions (Exhibit A at p. 4.) Term 8 of Respondent's five-year probation, beginning on January 19, 2018, is that Respondent "shall obey all federal, state and local laws . . . ." (Exhibit A at p. 9.) Moreover, term 14 of the Stipulated Settlement and Disciplinary Order provides that if Respondent violates his probation in any respect, the Medical Board of California may revoke Respondent's probation and his Physician's and Surgeon's Certificate. (Exhibit A at p. 11.)

11. Respondent failed to obey state law, and accordingly, violated a term of his probation. On April 24, 2019, while on probation in case number 03-2013-234324, Respondent was arrested for driving while under the influence of alcohol. He drove while his blood alcohol content was .121%, nearly twice the legal limit for driving. Furthermore, by a plea of "no contest," entered on July 17, 2019, in Case Number 19CR006427 in the Superior Court of California, County of Monterey, Respondent was convicted of violating California Vehicle Code section 23152, subdivision (b). Because Respondent was convicted of violating the above-referenced state law while on probation in case number 03-2013-234324, he violated the terms and conditions of his probation, as set forth in the Stipulated Settlement and Disciplinary Order (Exhibit A).

FIRST CAUSE FOR DISCIPLINE

(Criminal Conviction as Unprofessional Conduct)

12. Respondent's certificate is subject to disciplinary action under Code sections 2234 and/or 2236, and/or California Code of Regulations, title 16, section 1360. By a plea of "no contest," entered on July 17, 2019 in Case Number 19CR006427 in the Superior Court of California, County of Monterey, Respondent was convicted of violating California Vehicle Code section 23152, subdivision (b).

SECOND CAUSE FOR DISCIPLINE

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

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

14. Shortly after midnight on April 24, 2019, California Highway Patrol (CHP) officers observed Respondent driving his vehicle at seventy-five miles per hour on a highway. The officers also observed that Respondent: traveled over a solid yellow line that separated the left lane from the left shoulder for approximately thirty feet; tailgated a vehicle traveling in front of him; drove over the broken white lines separating two lanes for approximately fifty feet before returning to a single lane; and straddled the broken white lines separating two lanes on the highway, for four hundred feet.

15. The CHP officers then pulled Respondent over on a shoulder of the highway. After speaking with Respondent through the open right front window of his vehicle, an officer observed that Respondent appeared disoriented and had red eyes, and that a moderate odor of alcohol was being emitted from the vehicle. Moreover, Respondent was observed to exhibit slurred speech and impaired motor skills.

16. When the CHP officer asked Respondent if he had consumed any alcohol that evening, Respondent said that he had not. When asked to exit his vehicle, Respondent stumbled and had an unsteady gait. Again, Respondent denied having consumed alcohol that evening, but the CHP officer continued to detect the odor of alcohol on him. Consequently, the officer administered a series of Field Sobriety Tests to Respondent. Respondent was unable to perform the tests as explained and demonstrated.

17. Respondent was then placed under arrest and transported to a medical center, where a sample of his blood was taken. The blood test indicated that Respondent's blood alcohol content was .121%, nearly twice the legal limit for driving an automobile.

DISCIPLINARY CONSIDERATIONS

18. To determine the degree of discipline to be imposed on Respondent, Complainant alleges that Respondent has additional prior discipline, which is set forth below.

19. On May 1, 2008, the Medical Board of California issued a Public Letter of Reprimand to Respondent in investigation case number 03-2006-174314. The Public Letter of Reprimand constitutes discipline against Respondent's certificate, and it is incorporated herein by reference. A true and correct copy of the May 1, 2008 Public Letter of Reprimand is attached hereto as Exhibit B.

20. On January 25, 2013, the Medical Board of California adopted a Decision in investigation case number 03-2010-211094. The Decision provided for entry of a Stipulated Settlement and Disciplinary Order, which provided that Respondent be publically reprimanded and ordered to enroll in a medical record keeping course. The Decision constitutes discipline against Respondent's certificate, and it is incorporated herein by reference. A true and correct copy of the January 25, 2013 Decision is attached hereto as Exhibit C.

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 number 03-2013-234324 and imposing the discipline that was stayed, thereby revoking Physician's and Surgeon's Certificate Number A 46632 issued to Aytac Hilmi Apaydin, M.D.

2. Revoking or suspending Physician's and Surgeon's Certificate Number A 46632, issued to Aytac Hilmi Apaydin, M.D.;

3. Revoking, suspending or denying approval of Aytac Hilmi Apaydin, M.D.'s authority to supervise physician assistants and advanced practice nurses;

4. Ordering Aytac Hilmi Apaydin, M.D., if placed on probation, to pay the Board the costs of probation monitoring; and

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

DATED: July 30, 2020

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

Exhibit A

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

In the Matter of the First Amended Accusation Against:	)	
AYTAC HILMI APAYDIN, M.D.	)	**Case No. 03-2013-234324**
Physician's and Surgeon's Certificate No. A 46632	)	
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 January 19, 2018.

IT IS SO ORDERED: December 22, 2017.

MEDICAL BOARD OF CALIFORNIA

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

MEDICAL BOARD OF CALIFORNIA
I do hereby certify that this document is a true and correct copy of the original on file in this office.
S. Woods
Signature
for Custodian of Records
Title
2/17/2020
Date

XAVIER BECERRA
Attorney General of California
JANE ZACK SIMON
Supervising Deputy Attorney General
State Bar No. 116564
455 Golden Gate Avenue, Suite 11000
San Francisco, CA 94102-7004
Telephone: (415) 703-5544
Facsimile: (415) 703-5480
Attorneys for Complainant

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

In the Matter of the First Amended Accusation Against: **AYTAC HILMI APAYDIN, M.D.** **1115 Los Palos Drive** **Salinas, CA 93901** **Physician's and Surgeon's Certificate No. A 46632** Respondent.	Case No. 03-2013-234324 **STIPULATED SETTLEMENT AND DISCIPLINARY ORDER**

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

PARTIES

1. Kimberly Kirchmeyer (Complainant) is the Executive Director of the Medical Board of California (Board). She brought this action solely in her official capacity and is represented in this matter by Xavier Becerra, Attorney General of the State of California, by Jane Zack Simon, Supervising Deputy Attorney General.

2. Respondent Aytac Hilmi Apaydin, M.D. (Respondent) is represented in this proceeding by attorney Thomas E. Still, Esq., whose address is: Hinshaw, Marsh, Still & Hinshaw, LLP, 12901 Saratoga Avenue, Saratoga, CA 95070-9988.

3. On or about October 23, 1989, the Board issued Physician's and Surgeon's Certificate No. A 46632 to Aytac Hilmi Apaydin, 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 First Amended Accusation No. 03-2013-234324 (hereinafter "Accusation"), and will expire on April 30, 2019, unless renewed.

JURISDICTION

4. Accusation No. 03-2013-234324 was filed before the Board, and is currently pending against Respondent. The original Accusation and all other statutorily required documents were properly served on Respondent on November 17, 2015. Respondent timely filed his Notice of Defense contesting the Accusation. The First Amended Accusation was properly served on Respondent on November 1, 2017.

5. A copy of Accusation No. 03-2013-234324 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. 03-2013-234324. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

7. Respondent is fully aware of his 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 him; the right to present evidence and to testify on his 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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///

CULPABILITY

9. Respondent understands and agrees that the charges and allegations in Accusation No. 03-2013-234324, if proven at a hearing, constitute cause for imposing discipline upon his Physician's and Surgeon's Certificate.

10. For purpose of resolving the Accusation without the expense and uncertainty of further proceedings, Respondent agrees that, at a hearing, Complainant could establish a factual basis for the charges in the Accusation, and that Respondent hereby gives up his right to contest those charges.

11. Respondent agrees that his Physician's and Surgeon's Certificate is subject to discipline and he agrees to be bound by the Board's imposition of discipline as set forth in the Disciplinary Order below.

CONTINGENCY

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

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

14. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Disciplinary Order:

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. A 46632 issued to Respondent Aytac Hilmi Apaydin, M.D. is revoked. However, the revocation is stayed and Respondent is placed on probation for five (5) years on the following terms and conditions.

1. EDUCATION COURSE. Within 60 calendar days of the effective date of this Decision, and on an annual basis thereafter, Respondent shall submit to the Board or its designee for its prior approval educational program(s) or course(s) which shall not be less than 40 hours per year, for each year of probation. The educational program(s) or course(s) shall be aimed at correcting any areas of deficient practice or knowledge and shall be Category I certified. The educational program(s) or course(s) shall be at Respondent's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure. Following the completion of each course, the Board or its designee may administer an examination to test Respondent's knowledge of the course. Respondent shall provide proof of attendance for 65 hours of CME of which 40 hours were in satisfaction of this condition.

2. MEDICAL RECORD KEEPING COURSE. Within 60 calendar days of the effective date of this Decision, Respondent shall enroll in a course in medical record keeping approved in advance by the Board or its designee. Respondent shall provide the approved course provider with any information and documents that the approved course provider may deem pertinent. Respondent shall participate in and successfully complete the classroom component of the course not later than six (6) months after Respondent's initial enrollment. Respondent shall successfully complete any other component of the course within one (1) year of enrollment. The medical record keeping course shall be at Respondent's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

A medical record keeping course taken after the acts that gave rise to the charges in the Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board or its designee, be accepted towards the fulfillment of this condition if the course would have been approved by the Board or its designee had the course been taken after the effective date of this Decision.

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

3. PROFESSIONALISM PROGRAM (ETHICS COURSE). Within 60 calendar days of the effective date of this Decision, Respondent shall enroll in a professionalism program that meets the requirements of Title 16, California Code of Regulations (CCR) section 1358.1. Respondent shall participate in and successfully complete that program. Respondent shall provide any information and documents that the program may deem pertinent. Respondent shall successfully complete the classroom component of the program not later than six (6) months after Respondent's initial enrollment, and the longitudinal component of the program not later than the time specified by the program, but no later than one (1) year after attending the classroom component. The professionalism program shall be at Respondent's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

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

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

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

The program shall consist of a comprehensive assessment of Respondent's physical and mental health and the six general domains of clinical competence as defined by the Accreditation

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

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

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

If Respondent fails to enroll, participate in, or successfully complete the clinical competence assessment program within the designated time period, Respondent shall receive a notification from the Board or its designee to cease the practice of medicine within three (3) calendar days after being so notified. The Respondent shall not resume the practice of medicine until enrollment or participation in the outstanding portions of the clinical competence assessment program have been completed. If Respondent did not successfully complete the clinical competence assessment program, Respondent shall not resume the practice of medicine until a final decision has been rendered on the accusation and/or a petition to revoke probation. The cessation of practice shall not apply to the reduction of the probationary time period.

5. MONITORING - PRACTICE. Within 30 calendar days of the effective date of this Decision, Respondent shall submit to the Board or its designee for prior approval as a practice

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

The Board or its designee shall provide the approved monitor with copies of the Decision(s) and Accusation(s), and a proposed monitoring plan. Within 15 calendar days of receipt of the Decision(s), Accusation(s), and proposed monitoring plan, the monitor shall submit a signed statement that the monitor has read the Decision(s) and Accusation(s), fully understands the role of a monitor, and agrees or disagrees with the proposed monitoring plan. If the monitor disagrees with the proposed monitoring plan, the monitor shall submit a revised monitoring plan with the signed statement for approval by the Board or its designee.

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

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

The monitors shall submit a quarterly written report to the Board or its designee which includes an evaluation of Respondent's performance, indicating whether Respondent's practices are within the standards of practice of medicine, and whether Respondent is practicing medicine safely. It shall be the sole responsibility of Respondent to ensure that the monitor submits the

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quarterly written reports to the Board or its designee within 10 calendar days after the end of the preceding quarter.

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

In lieu of a monitor, Respondent may participate in a professional enhancement program approved in advance by the Board or its designee that includes, at minimum, quarterly chart review, semi-annual practice assessment, and semi-annual review of professional growth and education. Respondent shall participate in the professional enhancement program at Respondent's expense during the term of probation.

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

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

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

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

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

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

10. GENERAL PROBATION REQUIREMENTS.

Compliance with Probation Unit

Respondent shall comply with the Board's probation unit.

Address Changes

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

Place of Practice

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

License Renewal

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

Travel or Residence Outside California

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

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

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

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

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

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

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

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Periods of non-practice for a Respondent residing outside of California will relieve Respondent of the responsibility to comply with the probationary terms and conditions with the exception of this condition and the following terms and conditions of probation: Obey All Laws; General Probation Requirements; Quarterly Declarations; Abstain from the Use of Alcohol and/or Controlled Substances; and Biological Fluid Testing.

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

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

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

16. PROBATION MONITORING COSTS. Respondent shall pay the costs associated with probation monitoring each and every year of probation, as designated by the Board, which

may be adjusted on an annual basis. Such costs shall be payable to the Medical Board of California and delivered to the Board or its designee no later than January 31 of each calendar year.

ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Thomas E. Still, Esq. I understand the stipulation and the effect it will have on my Physician's and Surgeon's Certificate. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Medical Board of California.

DATED: 11/13/17

AYTAC HILMI APAYDIN, M.D.
Respondent

I have read and fully discussed with Respondent Aytac Hilmi Apaydin, 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: 11-13-2017

THOMAS E. STILL, Esq.
Attorney for Respondent

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ENDORSEMENT

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

Dated: 11/14/17

Respectfully submitted,

XAVIER BECERRA
Attorney General of California

JANE ZACK SIMON
Supervising Deputy Attorney General
Attorneys for Complainant

SF2015401386

Exhibit B

MEDICAL BOARD OF CALIFORNIA
Executive Office

May 1, 2008

Aytac H. Apaydin, M.D.
Salinas Valley Urology Associates
1115 Los Palos Drive
Salinas, CA 93901

Re: Physician's and Surgeon's Certificate #A 46632
Case number 03-2006-174314

PUBLIC LETTER OF REPRIMAND

An investigation by the Medical Board of California revealed that you altered a patient's medical records and failed to inform the patient of the side effects of Lupron. This action is in violation of California Business and Professions Code sections 2234 and 2266, unprofessional conduct and failure to maintain adequate and accurate medical records.

Pursuant to the authority of the California Business and Professions Code section 2233, you are hereby issued this Public Letter of Reprimand by the Medical Board of California.

Barbara Johnston
Executive Director

MEDICAL BOARD OF CALIFORNIA
I do hereby certify that this document is a true and correct copy of the original on file in this office.
S. Woods
Signature
For Custodian of Records
Title
2/13/2020
Date

2005 Evergreen Street, Sacramento, CA 95815 (916) 263-2389 Fax: (916) 263-2387 www.mbc.ca.gov

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

In the Matter of the Public Letter of Reprimand Issued to: **AYTAC HILMI APAYDIN, M.D.** Physician's and Surgeon's Certificate No. A-46632 Respondent.	Case No. 03-2006-174314

ORDER ISSUING PUBLIC LETTER OF REPRIMAND

The above named respondent was issued a Public Letter of Reprimand on May 1, 2008 pursuant to Section 2233 of the Business and Professions Code.

WHEREFORE, THE ABOVE IS SO ORDERED by the Medical Board of California.

So ordered July 25, 2008.

MEDICAL BOARD OF CALIFORNIA

Richard Fantozzi, M.D.
President

MEDICAL BOARD OF CALIFORNIA
I do hereby certify that this document is a true and correct copy of the original on file in this office.
S. Woods
Signature
For Custodian of Records
Title
2/13/2020
Date

Exhibit C

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

In the Matter of the Accusation Against:	)	
	)	
AYTAC APAYDIN, M.D.	)	Case No. 03-2010-211094
	)	
Physician's and Surgeon's	)	
Certificate No. A 46632	)	
	)	
Respondent.	)	
	)	

DECISION

The attached Proposed Decision is hereby adopted by the Medical Board of California, Department of Consumer Affairs, State of California, as its Decision in this matter.

This Decision shall become effective at 5:00 p.m. on January 25, 2013.

IT IS SO ORDERED December 28, 2012.

MEDICAL BOARD OF CALIFORNIA

By: Barbara Yaroslavsky
Barbara Yaroslavsky, Chair
Panel A

MEDICAL BOARD OF CALIFORNIA
I do hereby certify that this document is a true and correct copy of the original on file in this office.
S. Woods
Signature
for Custodian of Records
Title
2/13/2020
Date

KAMALA D. HARRIS
Attorney General of California
JOSE R. GUERRERO
Supervising Deputy Attorney General
LYNNE K. DOMBROWSKI
Deputy Attorney General
State Bar No. 128080
455 Golden Gate Avenue, Suite 11000
San Francisco, CA 94102-7004
Telephone: (415) 703-5578
Facsimile: (415) 703-5480
Attorneys for Complainant

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

In the Matter of the Accusation Against: **AYTAC APAYDIN, M.D.** Salinas Valley Urology Associates 1115 Los Palos Drive Salinas, CA 93901 Physician's and Surgeon's Certificate No. A46632 Respondent.	Case No. 03-2010-211094 **STIPULATED SETTLEMENT AND DISCIPLINARY ORDER**

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

PARTIES

1. Linda K. Whitney (Complainant) is the Executive Director of the Medical Board of California (the "Board" or the "Medical Board). She brought this action solely in her official capacity and is represented in this matter by Kamala D. Harris, Attorney General of the State of California, by Lynne K. Dombrowski, Deputy Attorney General.

2. Respondent Aytac Apaydin, M.D. (Respondent) is represented in this proceeding by attorney Thomas E. Still, whose address is: Hinshaw, Marsh, Still & Hinshaw, 12901 Saratoga Avenue, Saratoga, CA 95070-9998.

3. On or about October 23, 1989, the Medical Board of California issued Physician's and Surgeon's Certificate Number A46632 to Aytac Apaydin, 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 April 30, 2013, unless renewed.

JURISDICTION

4. Accusation No. 03-2010-211094 was filed before the Medical Board of California, Department of Consumer Affairs, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on August 8, 2011. Respondent timely filed his Notice of Defense contesting the Accusation.

5. A copy of Accusation No. 03-2010-211094 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. 03-2010-211094. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

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

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

CULPABILITY

9. Respondent does not contest that, at an administrative hearing, Complainant could establish a prima facie case with respect to the charges and allegations contained in Accusation No. 03-2010-211094 and that he has thereby subjected his license to disciplinary action.

10. Respondent stipulates that the Board has jurisdiction to impose a public reprimand upon his certificate to practice medicine pursuant to section 2227 of the Business and Professions Code. Respondent agrees to be bound by the Board's imposition of discipline as set forth in the Disciplinary Order below.

CONTINGENCY

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

12. The parties understand and agree that facsimile copies of this Stipulated Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same force and effect as the originals.

13. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Disciplinary Order:

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DISCIPLINARY ORDER

A. PUBLIC REPRIMAND

IT IS HEREBY ORDERED that Respondent Aytac Apaydin, M.D., Physician's and Surgeon's Certificate No. A46632, shall be and hereby is publicly reprimanded pursuant to California Business and Professions Code section 2227, subdivision (a)(4). This public reprimand, which is issued in connection with Respondent's care and treatment of patient J.P. as set forth in Accusation No. 12-2010-211094, is as follows:

> You failed to discover that a piece of wire was left in a patient's bladder following a cystoscopy and failed to maintain adequate records, in violation of Business and Professions Code sections 2234 and 2266.

B. MEDICAL RECORD KEEPING COURSE

Within 60 calendar days of the effective dated of this Decision, Respondent shall enroll in a course in medical record keeping equivalent to the Medical Record Keeping Course offered by the Physician Assessment and Clinical Education Program, University of California, San Diego School of Medicine (Program), approved in advance by the Board or its designee. Respondent shall provide the program with any information and documents that the Program may deem pertinent. Respondent shall participate in and successfully complete the classroom component of the course not later than six (6) months after Respondent's initial enrollment. Respondent shall successfully complete any other component of the course within one (1) year of enrollment. The medical record keeping course shall be at Respondent's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

A medical record keeping course taken after the acts that gave rise to the charges in the Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board or its designee, be accepted towards the fulfillment of this condition if the course would have been approved by the Board or its designee had the course been taken after the effective date of this Decision.

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

ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Thomas Still. I understand the stipulation and the effect it will have on my Physician's and Surgeon's Certificate. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Medical Board of California.

DATED: 11/15/12

AYTAC APAYDIN, M.D.
Respondent

I have read and fully discussed with Respondent Aytac Apaydin, 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: 11/15/12

THOMAS STILL
Hinshaw, Marsh, Still & Hinshaw
Attorneys for Respondent

ENDORSEMENT

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

DATED: 11/29/2012

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
JOSE R. GUERRERO
Supervising Deputy Attorney General

Lynne K. Dombrowski

LYNNE K. DOMBROWSKI
Deputy Attorney General
Attorneys for Complainant

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