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

In the Matter of the Statement of Issues Against: **Raelene Dee Zospah** **Applicant.**	**Case No.: 800-2020-068444**

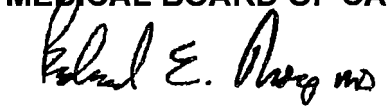
DECISION

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

This Decision shall become effective at 5:00 p.m. on May 31, 2022.

IT IS SO ORDERED: April 29, 2022.

MEDICAL BOARD OF CALIFORNIA



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

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

In the Matter of the Statement of Issues Against:

RAELENE DEE ZOSPAH, Applicant.

Case No. 800-2020-068444

OAH No. 2021040383

DECISION AFTER NON-ADOPTION

Ruth S. Astle, Administrative Law Judge, State of California, Office of Administrative Hearings, heard this matter on September 16, and October 1, 2021, as a virtual hearing.

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

Applicant Raelene Dee Zospah (applicant) was present and represented by Steven L. Simas, Attorney at Law.

Submission of the matter was deferred to October 8, 2021, for receipt of final argument and applicant's final exhibit list. The final argument was submitted, and applicant's final exhibit list was submitted. Complainant objected to certain exhibits. Exhibits H, J, K, L, M, R, and T were withdrawn by applicant. The two letters in Exhibit written by Cornelius Dyke, M.D., and Robert Sticca, M.D. are admitted. The rest of the letters in Exhibit B are admitted as Administrative Hearsay. Exhibit E is admitted as Administrative Hearsay for the limited purpose of establishing certain dates. The matter was submitted for decision on October 8, 2021. On October 31, 2021, Administrative Law Judge Astle issued the Proposed Decision.

On November 30, 2021, Panel B (Panel) of the Board issued an Order of Non-Adoption of the Proposed Decision and afforded the parties the opportunity to submit written and oral argument. On January 31, 2022, both the Office of the Attorney General

and respondent submitted written argument. On February 10, 2022, the Panel heard oral argument. The Board having read the administrative record and considered the submitted oral and written argument, the Panel now makes and enters its Decision after non-adoption as follows:

FACTUAL FINDINGS

Introduction

1. On October 29, 2019, the Medical Board of California (Board) received anon-line application for a physician's and surgeon's certificate from Raelene Dee Zospah (applicant). On November 1, 2019, applicant certified under penalty of perjury to the truthfulness of all statements, answers, and representations in the application.

2. The Board denied the application on June 10, 2020. The basis for the denial was unprofessional conduct due to incompetence, unprofessional conduct dueto incompetence/gross negligence or repeated negligent acts, and unprofessional conduct due to acts involving dishonesty.

3. Complainant William Prasifka, Executive Director of the Board, filed the first amended statement of issues in his official capacity on August 4, 2021. Applicant appealed the denial and this hearing followed.

Applicant's Education

4. Applicant attended the University of New Mexico School of Medicine from August 4, 2008, to May 17, 2014. On May 17, 2014, applicant graduated with a medical degree from the University of New Mexico School of Medicine.

5. Applicant was enrolled in the University of North Dakota School of Medicine and Health Sciences postgraduate training program in general surgery from July 1, 2014, to June 30, 2019. She was enrolled as a preliminary general resident from2014 to 2015.

6. During the second and third years that she was a postgraduate categorical resident (July 2016 to June 2018), applicant received poor testing scores.

7. Because of her failure to meet all academic standards, applicant

was promoted to third year categorical postgraduate resident on a conditional basis. ByJuly 2018, applicant had not met all requirements for full promotion to third year postgraduate resident in the program.

8. Applicant was enrolled in a remedial year of postgraduate training at theUniversity of North Dakota from July 2018 to June 2019. During the remedial year, applicant had special education and minimum academic requirements. She failed to meet those requirements and left the postgraduate training program as of June 3, 2019. Applicant did not complete the five years of postgraduate training required for general surgery. Applicant completed three years of a general surgical residency with full credit.

9. The North Dakota Board of Medicine issued to applicant a Resident's License on July 1, 2014. The validity of this license past June 30, 2019, was in question. This license was restricted and was not an unconditional license to practice medicine inNorth Dakota. Neither applicant nor the postgraduate training program notified the North Dakota Board that applicant had left the program as of June 30, 2019.

10. On March 27, 2020, applicant submitted a Request for Temporary Recognition of Out-of-State Medical Personnel During a State of Medical Emergency application to the California Emergency Medical Services Authority (EMSA) so that she could practice as a physician in California with Advantage Wound Care in Southern California during the COVID-19 emergency. Advantage Wound Care is a private entity. Applicant used her North Dakota Board of Medicine license to gain authorization fromEMSA to practice medicine in California beginning about April 1, 2020. Complainant contends that applicant unlawfully practiced medicine in California from April 2020 to July 2021.

11. It was not established by a preponderance of the evidence that applicant knew or should have known that the North Dakota License was no longer valid after June 30, 2019. In fact, it was renewed prior to applicant's separation from her postgraduate program for, albeit conditionally, one year to June 30, 2020. This is reflected in the North Dakota Board's website.

12. It was established through expert testimony that applicant committed unprofessional conduct due to incompetence. The evidence established that applicant's inadequacies and deficiencies in her performance in her postgraduate

training program constituted incompetence. While Applicant and the program mutuallyagreed that a surgical residency was not a good fit and that another direction of medical practice would be better for applicant Applicant failed to submit sufficient evidence of her competency in another area of medicine to overcome the expert testimony of Complainant's expert witness, as discussed below.

13. It was not established by a preponderance of evidence that applicant committed an act of dishonesty. In fact, applicant established that she is an honest andtrustworthy professional.

Expert Testimony

14. Robert Sticca, M.D., applicant's own witness and Program Director for applicant's surgical residency program at University of North Dakota School of Medicine, testified applicant did not meet the program's standard for successful completion of the third year. He also testified that he advised applicant to seek additional postgraduate training in a primary care specialty after termination from the surgical residency program.

15. Complainant presented expert testimony by Vijay Khatri, M.D. Dr. Khatri has been a licensed California physician since 1999. Dr. Khatri is the assistant dean of faculty affairs and development at California North State University College of Medicine (CNUCOM), and not the University of California Medical School at Davis as stated at the beginning of his first report. This was Dr. Khatri's first matter in which he was called to testify.

16. At complainant's request, Dr. Khatri reviewed applicant's application and documents received from the University of North Dakota. Dr. Khatri wrote a report dated May 12, 2020, of his opinions and testified at hearing. He opined applicant demonstrated academic difficulties during medical school and her medical training, and that applicant had deficiencies in professionalism and integrity. He also opined that applicant has exhibited consistent deficiencies with medical knowledge from medical school to residency, and that the current evidence concerning applicant's medical knowledge does not indicate she can safely function independently as a licensed physician. Dr. Khatri testified applicant failed to demonstrate her ability to practice medicine independently and that she should have sought some additional postgraduate training in an ACGME accredited

postgraduate training program before seeking a certificate from the Board.

17. In a supplemental report dated August 15, 2021, Dr Khatri further stated that applicant was dishonest in obtaining her emergency California license, citing that it was her responsibility to notify the North Dakota Medical Board that she had left her residency program. Dr. Khatri testified at the hearing that he did not know the definition of gross negligence, incompetence or repeated negligent acts as used under California law and did not apply this to his evaluation.

18. Dr. Khatri's analysis and conclusions concerning applicant's training requirements are persuasive. He established that applicant was incompetent based on her education and training.

19. Dr. Khatri noted areas of concern with applicant's education. She took longer than most residents to complete a full three years. Applicant had a number of personal issues that caused her to take time out of her training, including several unexpected deaths in her family and a difficult pregnancy and birth. Based on these personal issues, applicant and the program mutually decided she would take the credit for three full years of postgraduate training and leave the program. It was not established that applicant was required to inform the North Dakota Medical Board that she had left the program. The North Dakota Medical Board had renewed her licensure prior to her leaving the program. The program did not inform the North Dakota Medical Board of the separation. Applicant remained licensed until California brought it to their attention. The North Dakota Medical Board then retroactively corrected their reporting but stated that applicant was licensed through June 2020. He did not establish that applicant was incompetent or committed gross negligence, or repeated negligent acts based on her application for an emergency California medical license. And he did not establish that applicant committed an act of dishonesty related to the qualifications, functions, or duties of a licensee.

Applicant's Evidence

1. Applicant ended her time at the University of New Mexico as a fourth-year medical student. She then attended a preliminary year of postgraduate medical training at University of North Dakota in 2014/15. She then participated in a categorical residency in general surgery from 2015 to 2019. The full residency was to be five years.

Applicant established that she completed a full three years of the residency program. This is corroborated by the letter and testimony of Robert P. Sticca,M.D.

2. Applicant was employed by Advantage Wound Care under the direction of Robert Marriott, M.D. She worked there under the California Emergency Medical License from about April 2020 to July 2021. Dr. Marriott testified at the hearing and wrote a letter of recommendation for applicant. He found her patient care was excellent. Applicant's patient outcomes were statistically superior. Dr. Marriott would have no reservation in employing applicant in the future. Applicant expressed interest in continuing with wound care practice and pursuing certification in the area for wound care treatment.

3. Applicant presented numerous letters of recommendation from University of North Dakota professors, supervisors, and fellow residents all dated in 2021 (with two undated). She also submitted a letter from Cornelius Dyke, M.D., datedFebruary 24, 2021. He testified at the hearing that he is chair of the Department of Surgery and Associate Dean. He was one of applicant's teachers. He states that applicant completed three years of postgraduate residency successfully. Dr. Dyke felt applicant's personal issues including the tragic death of her brother, made it impossible for applicant to complete the five year general surgery program, but that she would be successful as an emergency or urgent care physician.

4. Dr. Sticca, testified at the hearing and wrote a letter of recommendation of applicant's behalf. He was the program director of the residency program at North Dakota University from April 2003 to July 1, 2019, including the years that applicant attended the program. He knew applicant as a resident. He found applicant to be a hardworking, caring, and conscientious physician. He acknowledged that applicant did not do well on standardized tests. However, he testified that applicant successfully completed three years of her residency program. Sonia Arango testified at the hearing. She is manager of credentialling coordinator at the Advantage Wound Care practice. She works with 23 states. She did the credentialling for applicant on March 30, 2020. She checked with the North DakotaBoard website and determined that applicant had a current valid license. She then facilitated applicant's application for an emergency license in California. Applicant was never dishonest with her. Ms. Arango relied on the on-line verification, which she took at

face value.

5. Applicant presented numerous MCLE credits for 2020, in Wound Care medical education. Applicant intends to continue in this area and become certified asa Certified Wound Specialist Physician according to the American Board of Wound Management.

Applicant credibly testified that she believed she was licensed in North Dakota when she applied for the California Emergency license. It was not established that she knew or should have known that she was not licensed in North Dakota at thetime the application for an emergency license was submitted. It was not established that applicant was dishonest.

6. While applicant technically completed the requirements of California law to be licensed as a Physician and Surgeon in California by completing the required three years of residency, she was dismissed from her surgical residency for repeated failure to meet the program's academic and clinical standards for a third-year resident. Applicant did not complete her surgical residency and did not pursue any other formal postgraduate training in another area. Both Dr. Khatri and Dr. Sticca are of the opinion that she should have pursued further postgraduate training before seeking her certificate. As such, Applicant failed to establish by a preponderance of the evidence that she is safe to practice medicine in California.

LEGAL CONCLUSIONS

1. The purpose of the Medical Practice Act is to assure the high quality of medical practice. (*Shea v. Board of Medical Examiners* (1978) 81 Cal.App.3d 564, 574-575.) The protection of the public is the Board's highest priority. (Bus. & Prof. Code, § 2001.1.)

2. The burden of proof is on the applicant to establish that he or she meets the requirements for licensure and is safe to practice. (*Breakzone Billiards v. City of Torrance* (2000) 81 Cal.App.4th 1205, 1224; *Martin v. Alcoholic Beverage Control Appeals Bd.* (1959) 52 Cal.2d 259, 264.) The standard of proof is a preponderance of the evidence. (Evid. Code, § 115.)

3. Business and Professions Code section 2096 has been amended effective January 1, 2020, to require completion of at least 36 months of Board-approved postgraduate training. Applicant applied for a physician's and surgeon's

certificate pursuant to Business and Professions Code section 2096, after the effective date of thepostgraduate training license provision, therefore the new provisions apply to applicant. Applicant completed the required three years of postgraduate training. See Factual Findings 4, 5, 6 7, 8, 9, 12, 19, 21, 22, and 26.

4. Business and Professions Code sections 475, subdivision (a)(4), and 2221, subdivision (a), provide that a license may be denied if an applicant has committed an act, which if done by a licentiate, would be grounds for disciplinary action.

Business and Professions Code section 2234 authorizes the Board to impose discipline on a licensee for unprofessional conduct. Business and Professions Code section 2234, subdivision (d), authorizes the Board to impose discipline on a licensee for incompetence. Complainant alleges that applicant's license should be denied because she demonstrated unprofessional conduct and incompetence during her residency training, conduct which if done by a licentiate would be grounds for license discipline. It was established by a preponderance of the evidence that applicant committed unprofessional conduct due to incompetence.

5. While applicant technically successfully completed three years of postgraduate training, completion of the required training is not a guarantee of licensure, but rather is a condition precedent to licensure. Both Dr. Khatri and Dr. Sticca were of the opinion that applicant should have pursued additional postgraduate training before seeking licensure, which applicant has not done. Applicant has not established that she is safe to practice medicine independently in California.Cause was therefore established to deny the application for a physician's and surgeon's certificate pursuant to Business and Professions Code sections 475, 2221, subdivision (a) (unprofessional conduct) and 2234 (unprofessional conduct) and 2234, subdivision (d) (incompetence). (Factual Findings 4 through 26.)

6. Cause for denial was not established pursuant to Business and Professions Code sections 2221, subdivision (a) (unprofessional conduct), 2234, and 2234, subdivisions (a), (b), and (c) (general unprofessional conduct and incompetence, gross negligence and repeated negligent acts) in that it was not established that applicant knew or should have known that she could not use her North Dakota licenseto obtain an emergency license in California. (See Factual Findings 11 through 25, above.)

7. Cause for denial was not established pursuant to Business and Professions Code sections 2221, subdivision (a) (unprofessional conduct), 2234, and 2234, subdivision(e) (unprofessional conduct due to an act involving dishonesty). Applicant established that she is honest and trustworthy. (See Factual Findings, 11, 13, and 25, above.)

8. The purpose of a disciplinary action such as this is to protect the public, and not to punish the applicant. (*Camacho v. Youde* (1979) 95 Cal.App.3d 161, 164; *Small v. Smith* (1971) 16 Cal.App.3d 450, 457.).

9. The objective of an administrative proceeding relating to licensing is to protect the public. Such proceedings are not for the primary purpose of punishment. (See *Fahmy v. Medical Board of California* (1995) 38 Cal.App.4th 810, 817.) The evidence on the whole establishes that cause for denial was established with respect to applicant's competency to practice medicine independently but cause was not established with respect to applicant's honesty.

ORDER

Raelene Dee Zospah's application for a full and unrestricted Physician's and Surgeon'scertificate is denied. However, Applicant shall be issued a probationary license for two (2) years and eleven (11) months with the following terms and conditions:

1. Clinical Competence Assessment Program

Within 60 calendar days of the effective date of this Decision, Applicant shall enroll in a clinical competence assessment program approved in advance by the Board or its designee. Applicant shall successfully complete the program not later than six months after Applicant'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 Applicant'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 Applicant'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 Applicant's on-site participation for a minimum of three and no more than five days as determined by the program for the assessment and clinical education evaluation.

Applicant 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 Applicant has demonstrated the ability to practice safely and independently. Based on Applicant'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 Applicant's practice of medicine. Applicant shall comply with the program's recommendations.

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

Applicant shall not practice medicine until Applicant has successfully completed the program and has been so notified by the Board or its designee in writing.

2. Solo Practice Prohibition

Applicant is prohibited from engaging in the solo practice of medicine.

Prohibited solo practice includes, but is not limited to, a practice where: 1) Applicant merely shares office space with another physician but is not affiliated for purposes of providing patient care, or 2) Applicant is the sole physician practitioner at that location.

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

If, during the course of the probation, the Applicant's practice setting changes and the Applicant is no longer practicing in a setting in compliance with this Decision,

Applicant shall notify the Board or its designee within five calendar days of the practice setting change. If Applicant fails to establish a practice with another physician or secure employment in an appropriate practice setting within 60 calendar days of the practice setting change, Applicant shall receive a notification from the Board or its designee to cease the practice of medicine within 3 calendar days after being so notified. Applicant shall not resume practice until an appropriate practice setting is established.

3. Obey All Laws

Applicant 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.

4. Quarterly Declarations

Applicant 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.

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

5. General Probation Requirements

COMPLIANCE WITH PROBATION UNIT

Applicant shall comply with the Board's probation unit.

ADDRESS CHANGES

Applicant shall, at all times, keep the Board informed of Applicant'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

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

LICENSE RENEWAL

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

TRAVEL OR RESIDENCE OUTSIDE CALIFORNIA

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

6. Interview with the Board or its Designee

Applicant shall be available in person upon request for interviews either at Applicant's place of business or at the probation unit office, with or without prior notice throughout the term of probation.

7. Non-practice While on Probation

Applicant 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 Applicant's return to practice. Non-practice is defined as any period of time Applicant 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 Applicant resides in California and is considered to be in non-practice, Applicant 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 Applicant 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 Applicant's period of non-practice while on probation exceeds 18 calendar months, Applicant 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.

Applicant'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 Applicant residing outside of California, will relieve Applicant 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.

8. Completion of Probation

Applicant 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, Applicant's certificate shall be fully restored.

9. Violation of Probation

Failure to fully comply with any term or condition of probation is a violation of probation. If Applicant violates probation in any respect, the Board, after giving Applicant 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 Applicant 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.

10. License Surrender

Following the effective date of this Decision, if Applicant ceases practicing due to retirement or health reasons or is otherwise unable to satisfy the terms and conditions of probation, Applicant may request to surrender his or her license. The Board reserves the right to evaluate Applicant'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, Applicant shall within 15 calendar days deliver Applicant's wallet and wall certificate to the Board or its designee and Applicant

shall no longer practice medicine. Applicant will no longer be subject to the terms and conditions of probation. If Applicant re-applies for a medical license, the application shall be treated as a petition for reinstatement of a revoked certificate.

11. Probation Monitoring Costs

Applicant 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.

This Decision shall become effective at 5:00 pm on May 31, 2022 .

IT IS SO ORDERED this 29th day of April 2022.

MEDICAL BOARD OF CALIFORNIA

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

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 Statement of Issues Against: **RAELENE DEE ZOSPAH,** Applicant.	Case No. 800-2020-068444 **STATEMENT OF ISSUES**

PARTIES

1. William Prasifka (Complainant) brings this Statement of Issues solely in his official capacity as the Executive Director of the Medical Board of California, Department of Consumer Affairs (Board).

2. On October 29, 2019, the Medical Board of California, Department of Consumer Affairs received an on-line application for a physician's and surgeon's certificate from Raelene Zospah (Applicant). On November 1, 2019, Applicant certified under penalty of perjury to the truthfulness of all statements, answers, and representations in the application. The Board denied the application on June 10, 2020.

//

//

JURISDICTION

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

4. Section 475, subdivision (a) (4), of the Code states that "[n]otwithstanding any other provisions of this code, the provisions of this division shall govern the denial of licenses on the grounds of . . . [c]ommission of any act which, if done by a licentiate of the business or profession in question, would be grounds for suspension or revocation of license."

5. Section 2221, subdivision (a), of the Business and Professions Code provides that the Medical Board of California "may deny a physician's and surgeon's certificate to an applicant guilty of unprofessional conduct or of any cause that would subject a licensee to revocation or suspension of his or her license. The board, in its sole discretion, may issue a probationary physician's and surgeon's certificate to an applicant subject to terms and conditions . . . ."

6. Section 2234 of the Code requires the Board to take action against any licensee charged with unprofessional conduct, and it provides that unprofessional conduct includes, but is not limited to, incompetence.

FACTS

7. Applicant attended the University of New Mexico School of Medicine from August 4, 2008 to May 17, 2014. On May 17, 2014, Applicant was awarded a doctor of medicine degree. During the fall 2009 semester, Applicant enrolled in the same courses in which she had previously enrolled during the fall 2008 semester, after withdrawing from medical school during the spring 2009 semester.

8. Applicant was enrolled in the University of North Dakota School of Medicine and Health Sciences post-graduate training program in general surgery as a preliminary general resident from 2014 to 2015.

9. Applicant continued to be enrolled in the University of North Dakota School of Medicine and Health Sciences post-graduate training program in general surgery from June 24, 2015 to June 30, 2019. During the second and third years that she was a post-graduate categorical

resident (July 2016- July 2018), Applicant's performance reflected lack of required medical knowledge and poor testing scores.

10. Because of her failure to meet academic standards, Applicant was promoted to third year categorical post-graduate resident in July 2017 on a conditional basis only. By July 2018, she had still not met all the requirements for full promotion to third year post-graduate resident in the program.

11. Accordingly, from July 2018 to June 2019, Applicant was enrolled in a remedial year of post-graduate training at the University of North Dakota School of Medicine and Health Sciences. During the remedial year, Applicant had special education and minimum academic requirements. She failed to meet those requirements, and she was therefore dismissed from the post-graduate training program, effective June 30, 2019. Applicant has thus failed to complete the minimum five years of post-graduate training for general surgery.

CAUSE FOR DENIAL OF APPLICATION
(Unprofessional Conduct)

12. Applicant's application for a physician's and surgeon's certificate is subject to denial under Business and Professions Code sections 2221, subdivision (a) (license may be denied for unprofessional conduct) and 2234 (general unprofessional conduct, including incompetence) for unprofessional conduct as demonstrated by Applicant's inadequacies and deficiencies in her performance in her post-graduate training program, and her failure to achieve required competence, as described above.

//

//

//

//

//

//

//

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. Denying the application of Raelene Zospah, M.D. for a physician's and surgeon's certificate;

2. If issued a probationary license, ordering RAELENE DEE ZOSPAH to pay the Medical Board the costs of probation monitoring;

3. If placed on probation, revoking, suspending, or denying approval to RAELENE DEE ZOSPAH to supervise physician assistants and advanced practice nurses; and

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

DATED: Dec. 7, 2020

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