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

In the Matter of the Petition for Reinstatement of: Deborah Fones Wong, M.D. Physician's and Surgeon's Certificate No. G 64641 Petitioner.	Case No. 800-2021-074590

DECISION

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

This Decision shall become effective at 5:00 p.m. on June 20, 2022.

IT IS SO ORDERED: May 20, 2022.

MEDICAL BOARD OF CALIFORNIA

Richard E. Thorp, Chair
Panel B

BEFORE THE
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DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Petition for Reinstatement of:

DEBORAH FONES WONG, M.D., Petitioner

Agency Case No. 800-2021-074590

OAH No. 2021070079

PROPOSED DECISION

Danette C. Brown, Administrative Law Judge (ALJ), Office of Administrative Hearings (OAH), State of California, heard this matter by telephone and videoconference on December 15, 2021, and March 7, 2022, from Sacramento, California.

Jannsen Tan, Deputy Attorney General, appeared pursuant to Government Code section 11522.

Deborah Fones Wong, M.D. (petitioner) was present and represented by Amit Singh, Attorney at Law, Rothschild, Wishek and Sands, LLP.

Evidence was received, the record closed and the matter was submitted for decision on March 7, 2022.

FACTUAL FINDINGS

License and Disciplinary History

1. On November 21, 1988, the Medical Board of California (Board) issued petitioner Physician's and Surgeon's Certificate No. G 64641 (certificate). The Board revoked the certificate on April 7, 2017.

February 2016 Interim Suspension

2. On February 2, 2016, an ALJ of the OAH issued an Order Granting Petition for Ex Parte Interim Suspension of petitioner's certificate. After reviewing the documentary evidence, briefs, declarations, a letter written on petitioner's behalf by her treating physician, and oral argument, the court concluded that petitioner: (1) suffered from an "ineffectively treated Anxiolytic Use Disorder and Anxiolytic Intoxication, with Use Disorder, which has produced a sufficient number and variety of impairments as to make her unable to practice medicine safely"; (2) permitting [petitioner] to engage in the practice of medicine "will endanger the public health, safety and welfare"; (3) "the likelihood of injury to the public if the instant order is not issued outweighs the likelihood of injury to petitioner in issuing the order"; and (4) "serious injury will result to the public before the matter may be heard on regular notice."

3. On February 22, 2016, petitioner signed a stipulated interim order of suspension of her certificate, pending the Board's issuance of an Accusation within six months.

May 2016 Accusation

4. On May 24, 2016, a former Board Executive Officer acting solely in her official capacity filed an Accusation against petitioner, alleging that cause existed to revoke petitioner's certificate based upon: (1) mental and/or physical illness affecting competency; (2) use of controlled substances and dangerous drugs; (3) gross negligence in the care of patients RC and RJ; (4) prescribing dangerous drugs without appropriate examination or medical indication; (5) creating a false medical record for patient RC; (6) unlawfully dispensing dangerous drugs; (7) prescribing controlled substances for an illegitimate purpose; (8) failing to report controlled substances dispensed; (9) self-prescribing controlled substances; (10) committing acts of dishonesty or corruption substantially related to the qualifications, functions, and duties of a physician and surgeon; and (11) general unprofessional conduct that breached the rules or ethical code of the medical profession, or conduct that demonstrated an unfitness to practice medicine.

5. The circumstances underlying the Accusation are that in 2013, petitioner was arrested and charged on several occasions for driving offenses, including an arrest on May 23, 2013, for driving under the influence of alcohol (DUI) and Xanax, a controlled substance for which she had no prescription. In February 2014, she was convicted of multiple criminal offenses, including reckless driving and driving while her privileges were suspended. The court placed petitioner on criminal probation for 18 months and ordered her to complete 100 hours of community service and a first-offender DUI program. In December 2013, petitioner admitted to the Board that she self-administered Xanax and phentermine that she prescribed to her husband RJ. She also prescribed oxycodone to RJ and could not explain the large quantities of

controlled substances she prescribed for him. Petitioner prescribed high doses of controlled substances for patient RC but could not produce RC's medical records.

6. In September 2014, petitioner admitted to the Board that she ordered large quantities of Xanax, Norco, and phentermine from drug wholesalers without keeping an inventory of her purchases. She filled RJ's prescriptions from her wholesale supplies, often giving him the entire bottles of Xanax and phentermine, containing 500 pills each, for his personal use. Petitioner denied knowing that RJ went to the pharmacy with RC and took RC's prescriptions for his own use. Petitioner provided a urine sample, which tested positive for alcohol and Xanax metabolites.

7. Petitioner filed a Notice of Defense to the charges, and the matter was heard on January 17 and 19, 2017. On February 17, 2017, the ALJ issued her proposed decision revoking petitioner's certificate, concluding that all causes for discipline, except cause for discipline five (creating a false medical record for patient RC), were established, and that petitioner was unsafe to practice medicine and acted unprofessionally in a multitude of areas. On March 9, 2017, the Board issued its Decision and Order adopting the proposed decision revoking petitioner's certificate, effective April 7, 2017.

Petition for Reinstatement of Certificate

8. On January 10, 2021, petitioner signed and thereafter filed a Petition for Penalty Relief (petition), seeking reinstatement of her revoked certificate. In support of her petition, she provided a narrative statement, curriculum vitae, continuing medical education certificates of completion, letters from her therapist, proof of enrollment and completion of the Pacific Assistance Group Drug Treatment Program, letters of recommendation from medical practitioners, letters of support from family, friends,

and her sponsor, and certificates of completion from the Salvation Army Adult Rehabilitation Center Program. Petitioner seeks reinstatement of her certificate because she believes that "after three years following the loss of [her] license," she is "fit, able and ready to return to service as a practicing outpatient physician and embraces the "opportunity to demonstrate this to the Medical Board."

9. In her written personal narrative, petitioner provided a detailed explanation of what led to her downward spiral as an alcoholic, the toll of her alcoholism on her professional life, her homelessness, and her road to recovery through the Salvation Army Adult Rehabilitation Center in San Francisco beginning on April 25, 2016, a date which began her "turning point."

10. Petitioner explained that she began drinking to relax after a busy, hectic day. Her alcohol consumption increased and became a coping mechanism for her increasing stress and insomnia. She was in an addictive cycle that caused her to make "poor, impulsive decisions, such as marrying another serious addict/alcoholic, then closing [her] office and staying home, where suddenly it was okay to start drinking earlier and more frequently during the day." In May 2013, she was arrested for DUI. Four months later, petitioner and her husband were evicted from their home, stayed in motels, and she depleted her savings. She was "forced to take several locums positions over the next year, stayed with a dear friend in Oakdale to regroup, then moved to a small place in Ceres." Petitioner's last job was at a clinic in Modesto, where she worked for six months until her interim suspension in February 2016.

11. Petitioner did not realize that she was an alcoholic and credits the Board for being her "intervention." Initially she resented surrendering her certificate, quitting her job, and becoming homeless. She did not think that her dire circumstances were her fault. After two months of "imposing on [her] friend," she asked him to take her to

a homeless shelter, an event that was "one of the lowest points" of her life. Petitioner spent "one intolerable night there," then called her friend Karen Peterson in Oakdale, California. Ms. Peterson allowed petitioner to stay in her home. There, petitioner "detoxed" for two weeks. Ms. Peterson found a free rehabilitation program for petitioner at the Salvation Army Adult Rehabilitation Center in San Francisco (Salvation Army). Petitioner, still in denial of her alcohol addiction, began her first day at the Salvation Army on April 25, 2016, saying to herself, "I don't belong here." Nevertheless, she reluctantly engaged in the program despite struggling with the "brain fog" of post-acute withdrawal syndrome. The program kept petitioner very busy with constant cleaning, kitchen, and yardwork chores, sorting and hanging donated clothes, attending chapel services, group counseling sessions, bible study, individual counseling, and Alcoholics Anonymous meetings five to 10 times per week.

The Salvation Army required petitioner to find a sponsor within 30 days and meet with her sponsor once a week. Petitioner met her sponsor, "Christina," an attorney and fellow professional who also faced discipline of her license. Christina helped petitioner through the 12 steps, which petitioner described as her "first break through the wall of denial."

12. After five months at the Salvation Army, petitioner's brain was "recalibrating," she extended her program there for an additional six months, and she began therapy and treatment at Mission Mental Health, which helped her ability to sleep at night. Petitioner worked at the intake desk at the Salvation Army screening potential clients and speaking to families. She watched many clients return to their addictions and learned from clients' stories and experiences. She found her experience at the Salvation Army "humbling," and on April 12, 2017, she completed her program at the Salvation Army and transitioned to a sober living home for three months. It was

during that time that petitioner learned that her certificate was revoked. Petitioner felt "devastated, betrayed and deeply resentful at first," but accepted her circumstances.

13. While in sober living, petitioner "rekindled" her relationship with her daughters, who were concerned about the health of their father, who was petitioner's first husband. Her daughters asked petitioner to become involved with his care, and petitioner became his in-home support service provider in Sonora, which is her current employment. Petitioner's ex-husband has made a "near full recovery," is "cancer-free, though still requires assistive care."

14. Petitioner also became a member of International Doctors in Alcoholics Anonymous (IDAA) and attended IDAA's annual meeting in August 2018, where she met other medical professionals "from across the globe" whose licenses were affected by their addictions. She learned of the Pacific Assistance Group (PAG) for physicians with substance abuse disorders, and contacted Francine Farrell, LMFT, the director and head facilitator of PAG's recovery groups. Petitioner began participating in a PAG recovery group, as well as in one or more AA meetings per day, serving as a sponsor and secretary for her home group. Petitioner has an AA sponsor in Sonora, as well as a "virtual sponsor" who texts petitioner every day. Petitioner has also kept in touch with Christina, her San Francisco sponsor.

15. In addition to her AA sponsors, PAG recovery group sessions through IDAA, and her daughters, petitioner's support system also includes her therapist, with whom she has weekly sessions. Petitioner's therapist is also a clinical psychologist and a registered nurse who specializes in addictions, and who petitioner credits as being "instrumental" in petitioner's recovery. Petitioner has also served as a volunteer worker for the program Give Someone a Chance (GSAC), an organization that provides a shower bus for the homeless.

16. Petitioner stays current with medical developments by reviewing and studying "new guidelines, diagnostics, and treatments through various CME sites, journals and sources of medical news....." She has a subscription for UpToDate, which aids her in researching clinical topics. Petitioner would like the opportunity to take the Special Purpose Examination (SPEX) should her certificate be reinstated.

17. Petitioner has some employment opportunities if reinstated. She explained that her local hospital, Adventist Health Sonora, has a Physician Wellness Committee whose Chair oversees the urgent care and outpatient clinics, and who is receptive to working with physicians in recovery. The Chair of the Physician Wellness Committee is willing monitor petitioner should she be granted reinstatement. Petitioner has also been encouraged by her local Native American MACT clinic to apply for a position if reinstated.

CONTINUING MEDICAL EDUCATION

18. Petitioner submitted 951 course completion certificates, for continuing medical education courses completed from February 2018 to September 2021. In January 2021 alone, she completed 31 courses totaling over 15 hours, covering a broad range of medical topics. In September 2021, she completed a 100-hour SPEX review course offered by Wayne State University School of Medicine.

LETTER FROM THERAPIST FRANCINE FARRELL, MS, LFMT

19. Francine Farrell is a licensed Marriage and Family Therapist and Certified Alcohol and Drug Counselor, and Area Administrator for PAG. Ms. Farrell wrote in her November 14, 2020 letter that petitioner enrolled in the PAG program on August 28, 2018, and has been monitored and actively supported by Ms. Farrell since that date. The PAG program required petitioner to: (1) attend facilitated support/monitoring

group meetings twice a week; (2) regularly attend community-based self-help meetings three to four times a week; and (3) comply with random testing check-ins and random bodily fluid testing 30 times per year. Ms. Farrell described petitioner's participation and compliance in the program as "outstanding." Petitioner has provided "a recovery-oriented leadership role in the group, always encouraging newcomers and providing support and feedback to peers." Petitioner's "humility and gratitude are without a doubt two of the traits that have allowed [petitioner] to examine her past honestly and share her lessons openly with the group."

20. Ms. Farrell assured the Board that petitioner's PAG program requirements are closely monitored, that petitioner is actively working a 12-step program, and is an active and valued member of the Health Professional Support Group. Ms. Farrell has frequent and direct contact with petitioner both in the support group and outside of the group, and described petitioner as compliant with her recovery activities, motivated to maintain abstinence, and dedicated to continued personal and professional growth. Ms. Farrell believes that petitioner's prognosis for ongoing sobriety is "excellent."

21. In the two years that Ms. Farrell has known petitioner, she has not observed petitioner to demonstrate any cognitive deficits. Petitioner has the ability to "meticulously comply with all program requirements," "track and respond to interpersonal communications in and out of the group," and "empathize with peers and provide meaningful feedback," which Ms. Farrell sees as strong indicators that petitioner "is functioning at a very high level." Ms. Farrell trusts petitioner to provide care to a loved one.

LETTER FROM PSYCHIATRIST RANDOLPH B. ROXAS, M.D.

22. Randolph B. Roxas, M.D., wrote in his letter dated September 8, 2020, that he is petitioner's current treating psychiatrist. Dr. Roxas is board certified in Psychiatry, Neurology, and Child, Adolescent and Adult Psychiatry. He evaluated petitioner on June 14, 2019, describing her symptoms as "depression, anxiety, [and] insomnia likely related to anxiety and depression." He wrote, "[c]urrently, she is in long term remission from depression and anxiety," and that "[i]mportantly as well, she continues to be sober." He described petitioner's cognitive abilities as "logical, coherent and well organized in her thought process with good memory and recall."

23. Dr. Roxas read the decision leading to the revocation of petitioner's certificate and did not observe any of the symptoms witnessed by the Board's experts. He opined that "this is likely a reflection of her continued abstinence and sobriety." Petitioner experienced "several stressors throughout the year," and addressed those stressors by appropriately addressing and problem-solving, including setting clear boundaries as needed. Petitioner is dedicated to her community at large through her volunteer service, and to the recovery community. Petitioner has been compliant with her follow up visits with Dr. Roxas, participates actively with her treatment plan, and takes her medications as prescribed. Dr. Roxas concluded that petitioner is "cognitively fit, emotionally well and stable at this time." He supports petitioner's reinstatement.

LETTER FROM PSYCHOTHERAPIST TERRY ANN GARCIA, R.N., PH.D.

24. Terry Ann Garcia is a licensed clinical psychologist with a private practice in Sonora, California. Petitioner began psychotherapeutic treatment with Dr. Garcia in April 2018. Petitioner presented as "well kept, well nourished and in no immediate distress" other than petitioner's moderate depression. Dr. Garcia described petitioner

as "engaging, forthcoming and articulate," with clear thinking and organized thoughts, which was in sharp contrast to her presentation to the Board's experts in 2015. In her two years of treating petitioner, Dr. Garcia has not observed any evidence of cognitive or behavioral deficits due to her sustained sobriety. Dr. Garcia opined petitioner is fit to practice medicine and supports petitioner's reinstatement.

LETTER FROM THERAPIST SUZANNE CHEN-HARDING, LMFT

25. Suzanne Chen-Harding is a licensed Marriage and Family Therapist employed by the City and County of San Francisco's Department of Public Health as a Behavioral Clinician. She works at Mission Mental Health, an outpatient mental health clinic. She provides individual psychotherapy to public health clients. Ms. Chen-Harding provided individual mental health treatment to petitioner from November 2016, to June 2017, when petitioner was referred to her through the Salvation Army. During that time, Ms. Chen-Harding provided weekly individual psychotherapy treatment to petitioner, who was consistent in her attendance and engagement in their appointments.

26. Ms. Chen-Harding's clinical assessment of petitioner at the time was "major depressive disorder, generalized anxiety disorder and chronic and severe alcohol use disorder and an addiction to prescription drugs for many years prior to entering treatment." Ms. Chen-Harding believed that petitioner was a well-respected doctor in her community, but her "substance use difficulties and underlying mental health problems" caused her to make "a series of grave errors in professional judgment" resulting in the loss of her certificate. Petitioner presented as honest and remorseful of her poor choices, open to self-reflection, and committed to recovery. Petitioner expressed at that time her resoluteness and desire to return to the practice of medicine and dedicated herself to continue with psychiatric care and supports for

her recovery. Petitioner provides Ms. Chen-Harding with periodic updates regarding her recovery. Ms. Chen-Harding believes that petitioner continues to be sober and is regularly engaged in therapy and psychiatric care to support her mental health. She supports petitioner's reinstatement.

LETTERS OF RECOMMENDATION

Alan Levine, M.D.

27. Alan Levine, M.D., Chief, Wellness Committee, Adventist Health Sonora, wrote in support of petitioner's reinstatement, stating that petitioner has previously worked "in our community," and he knows petitioner to be a "valuable asset." His hospital "welcomes practitioners with a history of substance abuse who have a good recovery and relapse prevention in place," and Dr. Levine believes petitioner is such a person. The hospital's Wellness Committee provides an on-site monitor, frequent face-to-face meetings, and drug screening, and has worked closely with PAG, formerly known as the diversion program. Dr. Levine looks forward to petitioner applying for privileges at the hospital should her certificate be reinstated.

Carol Lewis, M.D.

28. Carol Lewis, M.D., wrote enthusiastically in support of petitioner's reinstatement. Dr. Lewis is board certified in General Adult Psychiatry, Addiction Psychiatry, and Addiction Medicine. She met petitioner in August 2018 at the IDAA Annual Conference, when Dr. Lewis spoke about her personal experience with alcohol addiction. Petitioner introduced herself, which was the beginning of a mentor/mentee relationship "that has flourished over the years and across the miles." Dr. Lewis is aware that petitioner "endured a rigorous, yearlong rehabilitation at the Salvation Army," gave back to the community through volunteering, and became "humble and

teachable." Petitioner also shared with Dr. Lewis that she drove several hours twice a week to meet with other physicians in recovery, demonstrating that petitioner is "willing to go to any length to maintain her recovery" and determined to become a member in good standing of the medical profession.

29. Dr. Lewis experienced the 2005 suspension and subsequent revocation of her certificate due to relapse, and spent several years in recovery before petitioning for reinstatement in Ohio. Dr. Lewis was granted reinstatement in 2011 under a consent agreement, and in 2015, she was released from the agreement and granted an unrestricted license. As of the date of her September 14, 2020 letter, Dr. Lewis has been "continually abstinent for the last fifteen years."

30. Dr. Lewis has observed petitioner demonstrate the same "stamina, mental fitness, insight and sheer determination" that she possessed when petitioning for reinstatement in Ohio. Petitioner "acknowledges and deeply respects the role of the medical board," "examined her shortcomings," "is a stronger woman for having done so," "regained the trust of her beloved family and rebuilt her self-worth," and "truly realizes that the practice of medicine is a profound privilege that she will never again jeopardize or take for granted."

Rodney Faucett, D.O.

31. Rodney Faucett, D.O., is board certified in Internal Medicine and Nephrology. He "fully and unconditionally" supports petitioner's reinstatement. Dr. Faucett has known petitioner since the early 2000's, when they were both in separate private medical practices in Vallejo, California. Dr. Faucett is aware of the allegations that led to the revocation of petitioner's certificate. Dr. Faucett shared in his August 23, 2020 letter, that he is "finishing the fifth year of a 5-year probation imposed" upon him

by the Osteopathic Medical Board related to substance abuse. He attended a biweekly clinical support group of peers with similar issues, where he reacquainted himself with petitioner. Dr. Faucett indicated that petitioner's sobriety date is April 10, 2016, and that she has dedicated herself "to a life of abstinence; now practicing a solid and disciplined, 12-Step recovery program." Petitioner's program of sobriety and compliance "have been documented with random, and frequent biologic testing for illicit substances and alcohol."

32. Dr. Faucett is impressed with petitioner's desire to help others, particularly with her volunteer services for GSAC in Sonora, serving as a board member, case management assistant, and volunteer on the shower bus. Dr. Faucett, like Dr. Lewis, stated that petitioner has accepted and understands why her certificate was revoked. She realizes that holding a certificate is a "valuable privilege that is not to be taken for granted." Petitioner's experiences throughout her journey of recovery have allowed petitioner to be "patient, steady, and resentment-free."

LETTERS OF SUPPORT

33. Petitioner submitted seven letters of support from: (1) Karen Henson, petitioner's former account executive with Quest Diagnostics Laboratory (Quest); (2) Megan Mills, petitioner's AA sponsor; (3) F. Joan Baker, Ph.D., a former patient whom petitioner refers to as her "virtual sponsor;" (4) Christina Sava, a lawyer in recovery and petitioner's AA sponsor during the time she was in the Salvation Army program; (5) Karen Peterson, a long-time friend who has known petitioner for 55 years; (6) Samantha Goodman, petitioner's adult daughter; and (7) Linda Johnstone, a board director of GSAC and fellow volunteer. All of the authors support the petitioner's reinstatement.

34. Ms. Henson wrote that she serviced petitioner's account throughout the years, and they became friends. Petitioner shared her financial and personal challenges, but Ms. Henson was unaware of petitioner's alcoholism. Petitioner and her husband RJ were involved in a car accident in December 2015. Petitioner was driving and broke her femur. A week later, RJ died. Petitioner "floundered," and Ms. Henson assisted petitioner in finding the Salvation Army rehabilitation program. Petitioner successfully graduated from the program after one year, and was "tenacious, humble, courageous and strong." Ms. Henson described petitioner as a person of good character, who is determined to be a talented, compassionate and dedicated physician.

35. Ms. Mills is petitioner's AA sponsor who has known petitioner since 2018. As of the date of Ms. Mills letter of August 30, 2020, Ms. Mills had been sponsoring petitioner for 11 months. Their work together consists of a weekly one-hour meeting, during which they read AA literature. Ms. Mills provides written assignments on the readings, and they engage in discussions on what they have read. They attend AA meetings most days of the week. She described petitioner as "committed, intelligent, diligent, and serious about her sobriety."

36. Ms. F. Joan Baker met petitioner in 2012, when she was petitioner's patient. Ms. Baker is an alcoholic with a sobriety date of July 10, 1985. She noticed changes in petitioner's behavior after a year of seeing petitioner. Petitioner appeared distracted and did not appear for scheduled appointments. Ms. Baker decided to see another doctor, and learned that petitioner had "a big problem with alcohol." Ms. Baker did not see petitioner until 2019, when petitioner came to an AA meeting where Ms. Baker was the secretary. Petitioner looked younger and healthier. They became friends, and petitioner calls Ms. Baker her "virtual sponsor" because they text each

other every day, discussing recovery. She described petitioner as receptive, gracious, grateful, and a joy to work with.

37. Ms. Sava is an attorney who met petitioner while they were both participating in the Salvation Army's rehabilitation program. Petitioner asked Ms. Sava to be her sponsor, and they worked together every Tuesday for their entire year in the program. During their meetings, they discussed petitioner's closest relationships and her relationship to drugs and alcohol within the framework of the 12 steps. Petitioner was committed to understanding herself better and embarking on a life of recovery. After the program, petitioner participated in a sober living program, and they have kept in touch since that time. Despite the revocation of petitioner's certificate, petitioner found ways to serve others in her community. Commitment to service is a major component of recovery.

38. Ms. Peterson has been petitioner's friend since childhood. They kept in touch over the years, and petitioner did not hesitate to speak with and console Ms. Peterson's husband when he was diagnosed with pancreatic cancer. During those years, petitioner would call Ms. Peterson frequently to discuss her problems with her medical practice, daughters, and financial struggles. Ms. Peterson did not learn of petitioner's addiction until petitioner began making "wrong choices" and put herself into a rehabilitation program. Despite petitioner's mistakes, Ms. Peterson described petitioner has having the passion and commitment to reinstate her certificate.

39. Ms. Goodman, petitioner's daughter, wrote that her father and petitioner divorced when Ms. Goodman was 18 years old. Petitioner quickly remarried, and her new husband suddenly passed away when they were still newlyweds. Petitioner decided to move to northern California, then petitioner and her daughters settled in Sonora where petitioner found a good job at a hospital. The hospital shut down, and

petitioner found a job at a Native American clinic in Tuolumne, then left and opened her own practice. Ms. Goodman worked for petitioner and observed petitioner's dedication to her patients. Petitioner began having financial issues because she was not getting paid by Medicare despite many claims. When petitioner's house went into foreclosure, she became depressed and lost hope. She stopped coming to work, and Ms. Goodman quit her job working for her mother. They lost touch for over one year. Ms. Goodman learned that petitioner was dating RJ and eventually married RJ. Ms. Goodman described RJ as a person who was "always on a controlled substance," who was "always hitting on my sisters and me." She learned about petitioner's car accident and RJ's death, and petitioner's resolve to complete the rehabilitation program at the Salvation Army. Petitioner is now a caretaker for Ms. Goodman's father, who has cancer. Petitioner and Ms. Goodman's father are "now back together," and Ms. Goodman is glad they have each other. She described petitioner as a person who "still loves helping people" and "still loves medicine."

40. Ms. Johnstone met petitioner in September 2019 when petitioner began volunteering for GSAC, a non-profit organization "serving the marginalized of Tuolumne County." GSAC's mobile shower bus program served the homeless population, and petitioner served first as a volunteer working on the shower bus and later joined the board of directors. Petitioner also served as the shower bus manager when Ms. Johnstone was out of town for two months in January and February 2020, overseeing daily operations, training and scheduling volunteers, maintaining records, ordering supplies, and keeping the warehouse stocked and orderly. Petitioner's active participation in GSAC demonstrated her enthusiasm for helping the marginalized. Petitioner also shared her recovery journey with Ms. Johnstone, and their friendship has grown over the past year. Ms. Johnstone feels blessed to know petitioner and values their friendship.

Petitioner's Testimony

41. Petitioner testified consistent with the contents of her detailed written narrative provided with her petition. She further testified about her education and work history, personal life, and history of drug and alcohol use.

42. Petitioner received her medical degree from the University of California, San Diego School of Medicine in 1987. She completed her residency at the Santa Monica Hospital Medical Center in family practice in 1990. She worked as the Medical Director for U.S. Familycare in Temecula, California, then had a solo practice at the Wong Medical Clinic in Temecula until 2004. She then practiced as a family medicine physician for several employers until 2008, when she formed her own practice, the Deborah Wong M.D. Health Center in Sonora, California. In 2014 to 2015, petitioner worked as a locums tenens physician at Stockton Urgent Care, Doctors on Duty in Watsonville, Ryan Ranch Medical Group in Monterey, Athena Medical Group in Salinas, Glynn Medical Group in Brentwood, and Sierra Health Center in Modesto.

43. Petitioner is 67 years old, and currently works as a home care provider for the In-Home Support Services Program administered by the Department of Social Services. She last worked as a physician from the summer of 2015 to February 1, 2016, for Sierra Health Center in Modesto. She described this time as the end of her "active period of addiction."

44. Petitioner has been married three times. Her first husband, for whom she now provides in-home support, was a "very severe alcoholic" with current health problems. At the urging of her daughters, petitioner left sober living in Chico and began caring for her first husband in July 2017. Petitioner's second husband died suddenly of a pulmonary embolism after three years of marriage. Petitioner was

devastated, received grief counseling, and relocated to northern California. Petitioner married a third time in March 2013 to RJ, her patient. RJ died of an overdose in 2015. At the time, petitioner was abusing Xanax and alcohol. Petitioner used Xanax to relieve her insomnia, which she now knows is an inappropriate medication for sleep, and very addictive. Petitioner began drinking alcohol as an undergraduate, an activity that continued throughout her life. She began drinking alcohol daily as a coping mechanism after her second husband passed away.

45. Petitioner admitted to the fact of her past arrests and convictions. On December 15, 2021, she first learned of an outstanding warrant stemming from her December 25, 2015 car accident. On that evening, petitioner consumed Xanax, drove with RJ as her passenger, collided with another vehicle, broke her femur, and caused injury to others. On April 28, 2016, petitioner was criminally charged with various offenses, and on May 26, 2016, the court issued a felony arrest warrant for three counts of DUI causing bodily injury. On January 12, 2022, the warrant was recalled, and on February 2, 2022, the criminal case was dismissed.

46. On February 28, 2016, petitioner became homeless. Through the compassion of her friend Ms. Peterson, petitioner found the Salvation Army rehabilitation program. During her stay there, petitioner finally accepted that she was powerless over her addiction. Her denial was so strong prior to that time because she did not want to admit that she was ashamed and a failure. Petitioner began practicing abstention and recovery. She stated, "recovery is when you are free to live a healthy life, mind, body and spirit, realizing the cause of addiction, new hope, a balanced lifestyle." Further, "the opposite of addiction is connection."

47. After graduating from the Salvation Army Program on April 12, 2017, petitioner transitioned to a sober living community and began "reacclimating to the

real world" by reconnecting with her daughters, establishing therapy treatment with Dr. Garcia, finding an AA sponsor in her community, regularly attending AA meetings, and establishing her support system of friends and colleagues.

48. Petitioner found it "painful" to read the Board's Decision, and agrees with the Board's findings, although she asserted that she is no longer the person that the Board's experts evaluated. She is ashamed of her actions. Petitioner does not resent losing her medical license. She realizes now that the Board's disciplinary action was the "vehicle that got [her] sober." She now has gratitude for her experiences, because "that is the purpose of the 12 steps."

49. Petitioner intends to see Dr. Garcia indefinitely for continued therapy, as well as Dr. Rojas for continued psychiatric treatment. Her supports also include her active participation in IDAA, and she has signed a contract with PAG, requiring her to attend two 90-minute meetings per week, check in monthly with her case manager, submit monthly self-reports, and submit to random drug and alcohol testing. She will remain in the PAG program regardless of the outcome of the instant hearing.

50. Petitioner has worked the 12 steps four times. The most difficult step is Step 1, where she admits she is powerless over alcohol and her life has become unmanageable. Petitioner currently has an AA sponsor, and she has served as a sponsor for one year.

51. Petitioner's assurances to the Board that she will not engage in the same conduct that led to the revocation of her certificate are that she now has "clarity of mind," and she recognizes that it was a bad idea to use alcohol and drugs to cope with her problems. She has studied the neuropathology of addiction, a topic that she is interested in. She learned that alcohol and drugs are very addictive, and that the only

way to heal is to accept the underlying issues that led to her addiction, seek help, accept responsibility, and maintain sobriety. She will maintain a "lifelong commitment" to AA, as well as a strong support system. Petitioner believes that she is ready for reinstatement of her certificate. Four prospective employers have indicated an interest to hire her as a physician. Petitioner has no intention of opening her own medical practice, which was one of the major stressors in her life prior to becoming sober.

Petitioner's Witnesses

52. Ms. Farrell, Ms. Henson, Dr. Garcia, and Ms. Johnstone testified on petitioner's behalf. Their testimonies mirrored the contents of their letters of support to the Board. In addition, Dr. Garcia added that she did not perform a battery of cognitive tests on petitioner, asserting that clinical psychologists sometimes, but not always, perform these tests.

Analysis

53. The objective of an administrative proceeding relating to licensing is to protect the public. Such proceedings are not for the primary purpose of punishment. (*Fahmy v. Medical Bd. of California* (1995) 38 Cal.App.4th 810, 817.) The Board found that petitioner was not safe to practice medicine, did not practice within the standard of care for prescribing controlled substances to patients RC and RJ, and repeatedly acted in an unprofessional manner. The Board needs assurances that she can be a safe medical practitioner, if her petition is granted.

54. California Code of Regulations, title 16, section 1360.2, subdivision (b), sets forth the following criteria by which evidence of rehabilitation must be evaluated when considering a petition for reinstatement of a revoked or surrendered certificate:

(1) The nature and severity of the acts or crimes under consideration as grounds for denial.

(2) Evidence of any acts or crimes committed subsequent to the acts or crimes under consideration as grounds for denial which also could be considered as grounds for denial under Business and Professions Code section 480.

(3) The time that has elapsed since the commission of the acts or crimes under consideration.

[¶] . . . [¶]

(6) Evidence, if any, of rehabilitation submitted by the applicant.

55. Petitioner's acts were serious and caused harm to herself, her patients, and others. However, she has not committed any other acts or crimes that could be considered as grounds for denial of a certificate, and the incidents that led to the revocation of her certificate occurred over seven years ago.

56. In rehabilitation, petitioner presented overwhelming evidence that she has continued to satisfy the Board's continuing medical education requirements despite the revocation of her certificate. She submitted 951 course completion certificates for courses completed from February 2018 to September 2021. She also reads online medical news and journals to stay current with medical developments.

57. Petitioner described in detail her long and arduous journey in recovery. Her addictions caused her to lose her home and livelihood. With the help of a good friend, she found the Salvation Army rehabilitation program. She began the program

on April 25, 2016, and graduated on April 12, 2017. She found an AA sponsor who helped her through the 12 steps, worked very hard doing menial tasks, actively attended AA meetings and group counseling sessions five to 10 times per week, and began therapy. After graduation, she transitioned to a sober living home, and eventually became an in-home support provider for her ex-husband. She also joined IDAA and began participating in PAG, a recovery group for physicians with substance abuse disorders. She found an AA sponsor in Sonora, and has a "virtual sponsor" whom she texts every day. She also sees Dr. Garcia for her psychotherapy appointments. Petitioner's support group is strong and fully support her petition for reinstatement. Petitioner has prospective employers willing to hire her as a physician.

58. Petitioner presented compelling and persuasive letters from Francine Farrell, Dr. Roxas, Dr. Garcia, Ms. Chen-Harding, and Drs. Levine, Lewis, and Faucett. All the authors know of petitioner's Board discipline and journey of recovery. Petitioner's friends and family also wrote persuasive letters in support of her petition.

59. Petitioner's testimony was sincere and credible, as was the testimony of her witnesses. She has had over five years to reflect on her actions since the revocation of her certificate. Her sobriety date as noted by Dr. Faucett is April 10, 2016. Petitioner has established rehabilitation by accepting responsibility for her conduct, gaining insight into her addiction, completing a one-year in-patient rehabilitation program, embracing AA and repeating the 12 steps multiple times, establishing a strong support system, and seeking continued therapy, psychiatric treatment, and counseling. Petitioner's active and committed engagement in her recovery provide adequate assurances that she is safe to return to medical practice. Petitioner has prospective employers, including working for Dr. Levine at Adventist Health Sonora. The hospital's

wellness committee provides an on-site monitor, frequent face-to-face meetings, and drug screening should petitioner be reinstated and apply for privileges.

60. It is undisputed that petitioner is highly intelligent and is motivated to return to medical practice. It is further undisputed that petitioner has worked hard to improve her medical knowledge by completing over 900 continuing medical education courses, reviewing medical journals, and completing a 100-hour SPEX review course. Although the public may believe that petitioner needs more time for rehabilitation, and should be subjected to a complete psychological evaluation, including standard cognitive tests, the lack of such an assessment is not fatal to petitioner's reinstatement. Her psychotherapist Dr. Garcia, did not observe evidence of any cognitive or behavioral deficits in the two years she has treated petitioner. Previous therapists noted the same. Petitioner's verbal assurances that she is strongly committed to her sobriety and recovery program, coupled with her clear and convincing rehabilitation evidence, warrant reinstatement, but not without restrictions.

61. Based upon all the facts and circumstances, the public protection is safeguarded by granting the petition with standard and optional terms and conditions, as well as Uniform Standards for Substance-Abusing Licensees (Uniform Standards).

62. The Board's Disciplinary Guidelines provide the recommended minimum and maximum penalties for Business and Professions Code violations. For violations of Business and Professions Code sections 822 (unable to practice medicine safely), 2234 (using alcohol/Xanax to the extent or in such a manner as to be dangerous or injurious to herself and to the public by DUI), 2234, subdivision (b) (committing grossly negligent acts), 2234 (prescribing, dispensing, and furnishing dangerous drugs without a prior examination and medical indication to patient RJ), 2238 (failing to follow section 4170 when dispensing dangerous drugs to RJ and failing to keep records),

2238 (failing to report to CURES all information required by section 11165 for all controlled substances prescriptions for RC and RJ), 2238 (prescribing controlled substances for an illegitimate purpose), and 2234 (engaging in conduct unbecoming a member in good standing of the medical profession), the minimum penalty is a stayed revocation and five years of probation with conditions designed to protect the public.

For violations of Business and Professions Code section 2234, subdivision (e) (dishonesty in procuring controlled substances for herself and RJ, through patient RC and wholesale pharmaceutical companies), the minimum penalty is seven years of probation with conditions designed to protect the public.

63. The Board's Uniform Standards contain a presumption that if the licensee is to be disciplined for unprofessional conduct involving the abuse of alcohol, the licensee is presumed to be a substance-abusing licensee. (Cal. Code Regs., tit. 16, § 1361.5.) Petitioner has not rebutted this presumption. The Uniform Standards require the following probationary terms and conditions without deviation in the case of a substance-abusing licensee: clinical diagnostic evaluations and reports; notice of employer or supervisor information; biological fluid testing; worksite monitor; and substance abuse support group meetings.

64. Because petitioner has not practiced medicine since the revocation of her certificate, further assurances are provided by passing a written examination. Despite petitioner's limited financial resources to pay for the costs of probation, successful completion of a written examination prior to the practice of medicine, and a seven-year probation will provide to the Board the necessary assurances that petitioner is a safe, sober, committed, and competent medical practitioner.

LEGAL CONCLUSIONS

1. A person whose certificate was revoked may petition the Board for reinstatement. (Bus. & Prof. Code, § 2307, subd. (a).) The burden is on petitioner to prove rehabilitation and that she is entitled to have his certificate restored. (*Flanzer v. Board of Dental Examiners* (1990) 220 Cal.App.3d 1392, 1398.)

2. A petition for reinstatement of a revoked license must be filed after at least three years have elapsed from the effective date of the decision ordering that disciplinary action. (Bus. & Prof. Code, § 2307, subd. (b).) A petition must be accompanied by at least two verified recommendations from licensed physicians with personal knowledge of the petitioner's activities since the disciplinary penalty was imposed. (Bus. & Prof. Code, § 2307, subd. (c).) The standard of proof is clear and convincing evidence. (*Housman v. Board of Medical Examiners* (1948) 84 Cal.App.2d, 308, 315-316.)

3. Petitioner filed her petition on or about January 10, 2021, over three years after the decision revoking her certificate. Thus, her petition is timely. In addition, she submitted with her petition at least two verified recommendations from licensed physicians with knowledge of her activities since her certificate was revoked.

4. Cases authorizing reinstatement of a professional practice commonly involve a substantial period of exemplary conduct following the misdeeds. The more serious the misconduct, the stronger the showing of rehabilitation must be. (*In re Gossage* (2000) 23 Cal.4th 1080, 1098.) Rehabilitative efforts presuppose an admission to the problem. A failure to recognize the problem and its potential effect on a professional practice heighten the need for discipline. (*In re Kelley* (1990) 52 Cal.3d 487.) Petitioner proved by clear and convincing evidence that she is entitled to penalty

relief under Business and Professions Code section 2307, as set forth in the Factual Findings as a whole. Petitioner admitted her past wrongdoings, exhibited insight into the Board's allegations, completed continuing medical education since her certificate was revoked, and has stayed active in her recovery.

5. Protection of the public is the highest priority for the Board in exercising its disciplinary authority and is paramount over other interests in conflict with that objective. (Bus. & Prof. Code, § 2001.1.) Accordingly, the request for reinstatement is granted, subject to probationary terms and conditions.

ORDER

The petition of Deborah Fones Wong, M.D., for reinstatement of her revoked certificate is GRANTED. Petitioner's Physician's and Surgeon's Certificate No. G 64641 (certificate) is REINSTATED. However, the reinstated certificate is revoked, the revocation is stayed, and petitioner is placed on probation for seven years on the following terms and conditions:

1. Controlled Substances – Total Restriction

Petitioner shall not order, prescribe, dispense administer, furnish, or possess any controlled substances as defined in the California Uniform Controlled Substances Act.

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

If petitioner forms the medical opinion, after an appropriate prior examination and a medical indication, that a patient's medical condition may benefit from the use of marijuana, petitioner shall so inform the patient and shall refer the patient to another physician who, following an appropriate prior examination and a medical indication, may independently issue a medically appropriate recommendation or approval for the possession or cultivation of marijuana for the personal medical purposes of the patient within the meaning of Health and Safety Code section 11362.5. In addition, petitioner shall inform the patient or the patient's primary caregiver that petitioner is prohibited from issuing a recommendation or approval for the possession or cultivation of marijuana for the personal medical purposes of the patient and that the patient or the patient's primary caregiver may not rely on petitioner's statements to legally possess or cultivate marijuana for the personal medical purposes of the patient. Petitioner shall fully document in the patient's chart that the patient or the patient's primary caregiver was so informed. Nothing in this condition prohibits petitioner from providing the patient or the patient's primary caregiver information about the possible medical benefits resulting from the use of marijuana.

2. Controlled Substances – Surrender of DEA Permit

Petitioner is prohibited from practicing medicine until she provides documentary proof to the Board or its designee that her DEA permit has been surrendered to the Drug Enforcement Administration for cancellation, together with any state prescription forms and all controlled substances order forms. Thereafter, petitioner shall not reapply for a new DEA permit without the prior written consent of the Board or its designee.

3. Controlled Substances – Abstain from Use

Petitioner 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 petitioner by another practitioner for a bona fide illness or condition

Within 15 calendar days of receiving any lawfully prescribed medications, petitioner 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 petitioner 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, petitioner shall receive a notification from the Board or its designee to immediately cease the practice of medicine. Petitioner 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 petitioner requests a hearing on the accusation and/or petition to revoke probation, the Board shall provide petitioner with a hearing within 30 days of the request, unless petitioner 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 petitioner with a hearing within 30 days of a such a request, the notification of cease practice shall be dissolved.

4. Alcohol – Abstain from Use

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

If petitioner has a confirmed positive biological fluid test for alcohol, petitioner shall receive a notification from the Board or its designee to immediately cease the practice of medicine. Petitioner 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 petitioner requests a hearing on the accusation and/or petition to revoke probation, the Board shall provide petitioner with a hearing within 30 days of the request, unless petitioner 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, nonadoption 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 petitioner with a hearing within 30 days of a such a request, the notification of cease practice shall be dissolved.

5. Education Course

Within 60 calendar days of the effective date of this Decision, and on an annual basis thereafter, petitioner shall submit to the Board or its designee for its prior approval education programs(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 petitioner'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 petitioner's knowledge of the course. Petitioner shall provide proof of attendance for 65 hours of CME of which 40 hours were in satisfaction of this condition.

6. Prescribing Practices Course

Within 60 calendar days of the effective date of this Decision, petitioner shall enroll in a course in prescribing practices approved in advance by the Board or its

designee. Petitioner shall provide the approved course provider with any information and documents that the approved course provider may deem pertinent. Petitioner shall participate in and successfully complete the classroom component of the course not later than six months after petitioner's initial enrollment. Petitioner shall successfully complete any other component of the course within one year of enrollment. The prescribing practices course shall be at petitioner's expense and shall be in addition to the CME requirements for renewal of licensure.

A prescribing practices 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 of 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.

Petitioner 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.

7. Medical Record Keeping Course

Within 60 calendar days of the effective date of this Decision, petitioner shall enroll in a course in medical record keeping approved in advance by the Board or its designee. Petitioner shall provide the approved course provider with any information and documents that the approved course provider may deem pertinent. Petitioner shall participate in and successfully complete the classroom component of the course not later than six months after petitioner's initial enrollment. Petitioner shall successfully complete any other component of the course within one year of

enrollment. The medical record keeping course shall be at petitioner's expense and shall be in addition to the 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.

Petitioner 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.

8. Professionalism Program (Ethics Course)

Within 60 calendar days of the effective date of this Decision, petitioner shall enroll in a professionalism program, that meets the requirements of Title 16, California Code of Regulations (CCR) section 1358.1. Petitioner shall participate in and successfully complete that program. Petitioner shall provide any information and documents that the program may deem pertinent. Petitioner shall successfully complete the classroom component of the program not later than six (6) months after petitioner's initial enrollment, and the longitudinal component of the program not later than the time specified by the program, but no later than one year after attending the classroom component. The professionalism program shall be at petitioner'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.

9. Professional Boundaries Program

Within 60 calendar days from the effective date of this Decision, petitioner shall enroll in a professional boundaries program approved in advance by the Board or its designee. Petitioner, at the program's discretion, shall undergo and complete the program's assessment of petitioner 's competency, mental health and/or neuropsychological performance, and at minimum, a 24-hour program of interactive education and training in the area of boundaries, which takes into account data obtained from the assessment and from the Decision(s), Accusation(s) and any other information that the Board or its designee deems relevant. The program shall evaluate petitioner at the end of the training and the program shall provide any data from the assessment and training as well as the results of the evaluation to the Board or its designee.

Failure to complete the entire program not later than six (6) months after petitioner's initial enrollment shall constitute a violation of probation unless the Board or its designee agrees in writing to a later time for completion. Based on petitioner's performance in and evaluations from the assessment, education, and training, the program shall advise the Board or its designee of its recommendation(s) for additional education, training, psychotherapy and other measures necessary to ensure that petitioner can practice medicine safely. Petitioner shall comply with program recommendations. At the completion of the program, petitioner shall submit to a final

evaluation. The program shall provide the results of the evaluation to the Board or its designee. The professional boundaries program shall be at petitioner's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure. The program has the authority to determine whether or not petitioner successfully completed the program.

A professional boundaries 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.

10. Written Examination

Within 60 calendar days of the effective date of this Decision petitioner shall take and pass the Special Purpose Examination (SPEX) or an equivalent examination as determined by the Board or its designee.

Failure to pass the required written examination within 180 calendar days after the effective date of this Decision is a violation of probation. Petitioner shall pay the costs of all examinations. If petitioner fails to pass the written examination, petitioner 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. Petitioner shall not practice medicine until petitioner successfully passes the examination, as evidenced by written notice to petitioner from the Board or its designee.

Petitioner shall not practice medicine until she has passed the required examination and has been so notified by the Board or its designee in writing. This

prohibition shall not bar petitioner from participating in a clinical competence assessment program approved by the Board or its designee.

11. Psychiatric Evaluation

Within 30 calendar days of the effective date of this Decision, and on whatever periodic basis thereafter may be required by the Board or its designee, petitioner shall undergo and complete a psychiatric evaluation (and psychological testing, if deemed necessary) by a Board appointed board certified psychiatrist, who shall consider any information provided by the Board or designee and any other information the psychiatrist deems relevant, and shall furnish a written evaluation report to the Board or its designee. Psychiatric evaluations conducted prior to the effective date of the Decision shall not be accepted towards the fulfillment of this requirement. Petitioner shall pay the cost of all psychiatric evaluations and psychological testing.

Petitioner shall comply with all restrictions or conditions recommended by the evaluating psychiatrist within 15 calendar days after being notified by the Board or its designee.

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

12. Psychotherapy

Within 60 calendar days of the effective date of this Decision, petitioner shall submit to the Board or its designee for prior approval the name and qualifications of a California-licensed board certified psychiatrist or a licensed psychologist who has a

doctoral degree in psychology and at least five years of postgraduate experience in the diagnosis and treatment of emotional and mental disorders. Upon approval, petitioner shall undergo and continue psychotherapy treatment, including any modifications to the frequency of psychotherapy, until the Board or its designee deems that no further psychotherapy is necessary.

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

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

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

13. Monitoring-Practice/Billing

Within 30 calendar days of the effective date of this Decision, petitioner 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 petitioner, or other relationship that could be 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 petitioner's field of practice, and must agree to serve as petitioner's monitor. Petitioner shall pay all monitoring costs.

The Board or its designee shall provide the approved monitor with copies of the Decision, Accusation, and proposed monitoring plan, the monitor shall submit a signed statement that the monitor has read the Decision and Accusation, 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 for the first year of probation, petitioner's practice monitor shall be monitored by the approved monitor. Petitioner 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 petitioner fails to obtain approval of a monitor within 60 calendar days of the effective date of this Decision, petitioner shall receive a notification from the Board or its designee to cease the practice of medicine within three calendar days after being so notified. Petitioner shall cease the practice of medicine until a monitor is approved to provide monitoring responsibility.

The monitor shall submit a quarterly written report to the Board or its designee which includes an evaluation of petitioner's performance, indicating whether petitioner's practices are within the standards of practice of medicine, and whether petitioner is practicing medicine safely, billing appropriately, or both. It shall be the sole responsibility of petitioner 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, petitioner 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 petitioner fails to obtain approval of a replacement monitor within 60 calendar days of the resignation or unavailability of the monitor, petitioner shall receive a notification from the Board or its designee to cease the practice of medicine within three calendar days after being so notified petitioner shall cease the practice of medicine until a replacement monitor is approved and assumes monitoring responsibility.

In lieu of a monitor, petitioner may participate in a professional enhancement program (PEP) equivalent to one offered by the Physician Assessment and Clinical Education Program at the University of California, San Diego School of Medicine, that includes, at a minimum, quarterly chart review, semi-annual practice assessment, and semi-annual review of professional growth and education. Petitioner shall participate in the professional enhancement program at petitioner's expense during the term of probation.

14. Solo Practice Prohibition

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

If petitioner 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, petitioner shall receive a notification from the Board or its designee to cease the practice of medicine within three calendar days after being so notified. Petitioner shall not resume practice until an appropriate practice setting is established.

If, during the course of the probation, petitioner's practice setting changes and petitioner is no longer practicing in a setting in compliance with this Decision, petitioner shall notify the Board or tis designee within five calendar days of the practice setting change. If petitioner 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, petitioner shall receive a notification from the Board or its designee to cease the practice of medicine within three calendar days after being so notified. Petitioner shall not resume practice until an appropriate practice setting is established.

15. Notification

Within seven days of the effective date of this Decision, petitioner shall provide a true copy of this Decision to the Chief of Staff or the Chief Executive Officer at every

hospital where privileges or membership are extended to petitioner, at any other facility where petitioner 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 petitioner. Petitioner 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.

16. Supervision of Physician Assistants

During probation, petitioner is prohibited from supervising physician assistants.

17. Obey All Laws

Petitioner 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.

18. Quarterly Declarations

Petitioner 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.

Petitioner shall submit quarterly declarations no later than 10 calendar days after the end of the preceding quarter.

19. General Probation Requirements

Compliance with Probation Unit

Petitioner shall comply with the Board's probation unit and all terms and conditions of this Decision, including:

Address Changes

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

Place of Practice

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

License Renewal

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

Travel or Residence Outside of California

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

20. Interview with the Board or its Designee

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

21. Non-Practice While on Probation

Petitioner 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 petitioner's return to practice. Non-practice is defined as any period of time petitioner is not practicing medicine in California 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 or its designee shall not be considered non-practice. Practicing medicine in another state of the United States or Federal jurisdiction while on probation with the medical licensing authority of that state or jurisdiction shall not be considered non-practice. A Board-ordered suspension of practice shall not be considered as a period of non-practice.

In the event petitioner's period of non-practice while on probation exceeds 18 calendar months, petitioner shall successfully complete a clinical training 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.

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

Periods of non-practice will relieve petitioner 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; and General Probation Requirement.

22. Completion of Probation

Petitioner shall comply with all financial obligations (e.g., restitution, probation costs) no later than 120 calendar days prior to the completion of probation. Upon successful completion of probation, petitioner's certificate shall be fully restored.

23. Violation of Probation

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

24. License Surrender

Following the effective date of this Decision, if petitioner ceases practicing due to retirement or health reasons or is otherwise unable to satisfy the terms and conditions of probation, petitioner may request to surrender his license. The Board reserves the right to evaluate petitioner'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, petitioner shall within 15 calendar days deliver petitioner's wallet and wall certificate to the Board or its designee and petitioner shall no longer practice medicine. Petitioner will no longer be subject to the terms and conditions of probation. If petitioner re-applies for a medical license, the application shall be treated as a petition for reinstatement of a revoked certificate.

25. Probation Monitoring Costs

Petitioner 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.

26. Clinical Diagnostic Evaluations and Reports[1]

Within thirty 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, petitioner 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.

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[1] Probation Conditions 26 through 31 are the Uniform Standards for Substance-Abusing Licensees.

The clinical diagnostic evaluation shall be conducted by a licensed physician and surgeon who holds a valid, unrestricted license, has three 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 petitioner within the last five 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 petitioner has a substance abuse problem, whether petitioner is a threat to herself or others, and recommendations for substance abuse treatment, practice restrictions, or other recommendations related to petitioner's rehabilitation and ability to practice safely. If the evaluator determines during the evaluation process that petitioner is a threat to herself or others, the evaluator shall notify the Board within twenty-four hours of such a determination.

In formulating his or her opinion as to whether petitioner 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: petitioner's license type; petitioner's history; petitioner's documented length of sobriety (i.e., length of time that has elapsed since petitioner's last substance use); petitioner's scope and pattern of substance abuse; petitioner's treatment history, medical history and current medical condition; the nature, duration and severity of petitioner's substance abuse problem or problems; and whether petitioner is a threat to herself or the public.

For all clinical diagnostic evaluations, a final written report shall be provided to the Board no later than ten 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 business days of receipt to determine whether petitioner is safe to return to either part-time or full-time practice and what restrictions or recommendations shall be imposed on petitioner based on the recommendations made by the evaluator. Petitioner shall not be returned to practice until she has at least thirty days of negative biological fluid tests or biological fluid tests indicating that she 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 petitioner.

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

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

27. Notice of Employer or Supervisor Information

Within seven days of the effective date of this Decision, petitioner shall provide to the Board the names, physical addresses, mailing addresses, and telephone numbers of any and all employers and supervisors. Petitioner shall also provide specific, written consent for the Board, petitioner's worksite monitor, and petitioner's employers and supervisors to communicate regarding petitioner'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 petitioner has medical staff privileges.

28. Biological Fluid Testing

Petitioner shall immediately submit to biological fluid testing, at her 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. Petitioner shall make daily contact with the Board or its designee to determine whether biological fluid testing is required. Petitioner shall be tested on the date of the notification as directed by the Board or its designee. The Board may order petitioner 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 petitioner.

During the first year of probation, petitioner 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, petitioner 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, petitioner 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 petitioner 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 petitioner 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 petitioner 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 nonnegative results within one business day and negative test results within seven business days of the results becoming available. Petitioner 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 petitioner.

If a biological fluid test result indicates petitioner has used, consumed, ingested, or administered to himself a prohibited substance, the Board shall order petitioner to cease practice medicine and instruct petitioner to leave any place of work where petitioner is practicing medicine. The Board shall immediately notify all of petitioner's employers, supervisors and work monitors, if any, that petitioner may not practice medicine 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 medicine, 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 petitioner'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 petitioner and approved by the Board, alcohol, or any other substance petitioner has been instructed by the Board not to use, consume, ingest, or administer to herself.

If the Board confirms that a positive biological fluid test is evidence of use of a prohibited substance, petitioner has committed a major violation, as defined in [California Code of Regulations, title 16, section 1361.52, subdivision (a)], and the Board shall impose any or all of the consequences set forth in section 1361.52, subdivision (b), in addition to any other terms or conditions the Board determines are necessary for public protection or to enhance petitioner s rehabilitation.

29. Substance Abuse Support Group Meetings

Within thirty days of the effective date of this Decision, petitioner shall submit to the Board or its designee, for its prior approval, the name of a substance abuse support group which she shall attend for the duration of probation. Petitioner shall attend substance abuse support group meetings at least once per week, or as ordered by the Board or its designee. Petitioner 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 petitioner within the last five years. Petitioner'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 petitioner's name, the group name, the date and location of the meeting, petitioner's attendance, and petitioner's level of participation and progress. The facilitator shall report any unexcused absence by petitioner from any substance abuse support group meeting to the Board, or its designee, within twenty-four hours of the unexcused absence.

30. Worksite Monitor for Substance-Abusing Licensee

Within thirty (30) calendar days of the effective date of this Decision, petitioner 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 petitioner at work.

The worksite monitor shall not have a current or former financial, personal, or familial relationship with petitioner, 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 petitioner's employer to serve as the worksite monitor, this requirement may be waived by the

Board or its designee, however, under no circumstances shall petitioner'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 petitioner's disciplinary order and agrees to monitor petitioner as set forth by the Board or its designee.

Petitioner shall pay all worksite monitoring costs.

The worksite monitor shall have face-to-face contact with petitioner 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 petitioner's behavior, if requested by the Board or its designee; and review petitioner's work attendance.

The worksite monitor shall verbally report any suspected substance abuse to the Board and petitioner'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; petitioner'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) petitioner'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 petitioner had face-to-face contact with the worksite monitor; (6) the names of worksite staff interviewed, if applicable; (7) a report of petitioner's work attendance; (8) any change in petitioner's behavior and/or personal habits; and (9) any indicators that can lead to suspected substance abuse by petitioner. Petitioner 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, petitioner 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 fifteen calendar days. If petitioner fails to obtain approval of a replacement monitor within sixty calendar days of the resignation or unavailability of the monitor, petitioner shall receive a notification from the Board or its designee to cease the practice of [polysomnography] within three calendar days after being so notified. Petitioner shall cease the practice of medicine until a replacement monitor is approved and assumes monitoring responsibility.

31. Violation of Probation Condition for Substance-Abusing Licensees

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

A. If petitioner 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 petitioner 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 petitioner's expense. The cease-practice order issued by the Board or its designee shall state that petitioner must test negative for at least a month of continuous biological fluid testing before being allowed to resume practice. For purposes of the determining the length of time a petitioner must test negative while undergoing continuous biological fluid testing following issuance of a cease-practice order, a month is defined as thirty calendar days. Petitioner may not resume the practice of medicine until notified in writing by the Board or its designee that she may do so.

(2) Increase the frequency of biological fluid testing.

(3) Refer petitioner 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 petitioner 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 petitioner;

(4) Order increased documentation;

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

(6) Order petitioner 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 petitioner'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 petitioner's probation if she has violated any term or condition of probation. (See Cal. Code Regs., tit. 16, § 1361.52, subd. (e).) If petitioner violates probation in any respect, the Board, after giving petitioner 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 petitioner 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.

DATE: April 14, 2022

Danette C. Brown

DANETTE C. BROWN
Administrative Law Judge
Office of Administrative Hearings