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

In the Matter of the Petition for Reinstatement for: Austin Merritt Kooba Physician's and Surgeon's Certificate No. A 71262 Respondent.	Case No.: 800-2021-075672

DECISION

The attached Proposed Decision is hereby adopted by Operation of Law as the Decision 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 February 13, 2023.

IT IS SO ORDERED: January 13, 2023.

MEDICAL BOARD OF CALIFORNIA

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

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

In the Matter of the Petition for Reinstatement by:

AUSTIN MERRITT KOOBA, Petitioner.

Agency Case No. 800-2021-075672

OAH No. 2022040555

PROPOSED DECISION

Administrative Law Judge Juliet E. Cox, State of California, Office of Administrative Hearings, heard this matter on August 4 and 10, 2022, by videoconference.

Attorneys Dominique Pollara and Parysa Ghazizadeh represented petitioner Austin Merritt Kooba, who was present for the hearing.

Deputy Attorney General Harriet Newman represented the Department of Justice, Office of the Attorney General.

The matter was submitted for decision on August 10, 2022.

FACTUAL FINDINGS

1. Petitioner Austin Merritt Kooba received Physician's and Surgeon's Certificate No. A 71262 on April 7, 2000. Effective February 16, 2018, the Medical Board of California (Board) revoked this certificate, resolving a disciplinary proceeding described below in Findings 19 and 20.

2. In February 2021, more than three years after the Board had revoked petitioner's certificate, he petitioned the Board for reinstatement to medical licensure.

Education and Professional Experience

3. Petitioner received an undergraduate degree in psychology in 1987 and a graduate degree in behavioral science in 1989.

4. Rather than pursuing a career in psychology or psychotherapy, petitioner chose to become a physician. He attended medical school between 1992 and 1996. After receiving his medical degree in 1996, petitioner completed a one-year internship and then a three-year residency in obstetrics and gynecology, graduating from his residency in 2000.

5. Petitioner became board-certified in obstetrics and gynecology in 2003, and remained board-certified until the Board revoked his certificate in 2018.

6. Petitioner joined the Permanente Medical Group in Santa Rosa as an obstetrician and gynecologist in mid-2000. He saw outpatients in a clinic, and also served as a staff physician at the Kaiser Foundation Hospital in Santa Rosa.

7. Petitioner held increasingly responsible positions within his medical group and at the hospital, and garnered his colleagues' respect for his medical skills

and patient rapport. He mentored and trained medical students and residents; he participated in several hospital-wide and regional committees to improve safety and patient care, particularly in obstetrics; and he taught patient classes about various common concerns in gynecology such as contraception and menopause. Petitioner served as Medical Director for Maternal and Child Care at the Kaiser Foundation Hospital in Santa Rosa between 2007 and 2014.

8. The hospital suspended petitioner's hospital privileges in 2017, as a result of its investigation into the events summarized below in Findings 9 through 18. He left the Permanente Medical Group when the Board revoked his certificate. Petitioner has not practiced medicine in California anywhere except with Kaiser Permanente in Santa Rosa.

Disciplinary Action and Certificate Revocation

9. Petitioner met Patient A in 2002, when she became his patient. Over several years, petitioner provided gynecological and prenatal care to Patient A, and delivered two of her children.

10. Petitioner developed a personal, social relationship with Patient A. He encouraged her to pursue a nursing degree, and after she completed the degree in 2009 he helped her obtain nursing employment. In December 2010, Patient A began working at the Kaiser Foundation Hospital in Santa Rosa.

11. Patient A worked first in a post-partum care unit and then in the labor and delivery unit. She and petitioner interacted regularly as co-workers serving obstetric patients, and petitioner continued to serve as Patient A's gynecologist.

12. In 2012, Patient A experienced a family trauma that affected her ability to concentrate at work. Petitioner provided counseling to her; prescribed a medication to help Patient A sleep; and communicated with Patient A's supervisors and with the state Employment Development Department about her temporary mental health disability. Despite petitioner's pre-medical degrees in psychology and behavioral science, these actions, taken together, were a simple departure from the standard of care for an obstetrician and gynecologist, because they constituted care well outside petitioner's scope of medical knowledge or training.

13. In October 2013, petitioner and Patient A attended an out-of-town professional conference together. They began a sexual relationship at this conference. Patient A stopped seeing petitioner for medical care, and their sexual relationship continued until mid-2014. Engaging in a sexual relationship with a patient, and terminating the physician-patient relationship to continue a sexual relationship, are both extreme departures from the standard of care for any physician, and were extreme departures by petitioner. These acts also constituted sexual misconduct violating Business and Professions Code section 726, and sexual exploitation violating Business and Professions Code section 729.

14. In early 2014, despite having stopped serving as Patient A's physician, petitioner prescribed misoprostol[1] to Patient A. Prescribing medication to Patient A

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[1] Misoprostol can induce uterine contractions, and is in common use (alone or in combination with another drug) for pregnancy termination in early gestation. It has other effects and medical uses as well, however, including alleviating stomach discomfort by decreasing acid secretion.

while they had a sexual relationship but not a formal physician-patient relationship was a simple departure from the standard of care.

15. Moreover, the Board found that petitioner wrote Patient A's misoprostol prescription in February 2014, but dated the prescription as if he had written it in January 2014. The Board found that petitioner had written the prescription when he knew that Patient A was pregnant and wanted her to terminate the pregnancy. The Board found that petitioner had committed extreme departures from the standard of care by encouraging Patient A to use the misoprostol to terminate her pregnancy despite her ambivalence about doing so, and by backdating the prescription to conceal the coincidence between the prescription and Patient A's pregnancy.

16. In 2017, during the hearing on the accusation against him, petitioner admitted having prescribed misoprostol to Patient A. He also testified, however, that he truly had prescribed the medication in January 2014, for gastric distress, not in February 2014 for pregnancy termination. Petitioner had stated in an investigatory interview before the 2017 hearing that he understood in February 2014 that Patient A intended to terminate her pregnancy using the misoprostol he had prescribed to her in January 2014. He testified in 2017 that he understood Patient A to have terminated a pregnancy in February 2014 but that he had not pressured her to do so.

17. The Board made the findings described in Finding 15 because it found petitioner's testimony about these events at the 2017 hearing less credible than Patient A's testimony. Petitioner testified at the hearing on this reinstatement petition that he understood how the Board had reached these conclusions, and specifically why the Board had not found his hearing testimony to be credible. Nevertheless, he still denies having backdated the prescription, having prescribed the misoprostol at a time

when he knew Patient A was pregnant, or having pressured Patient A to use the drug to terminate her pregnancy.

18. Petitioner's sexual relationship with Patient A was notorious among their co-workers,[2] and caused tension in their workplace. When the relationship ended, Patient A made a complaint about petitioner to the hospital. After an investigation, the hospital took disciplinary action against petitioner, including asking him to resign as Medical Director for Maternal and Child Care.

19. Patient A also complained about petitioner to the Board. This complaint caused the Board to investigate petitioner's conduct, and resulted in an accusation against him by the Board's Executive Officer. In addition, after the Board's Executive Officer filed the accusation, Kaiser Permanente Santa Rosa undertook an additional investigation into petitioner's relationship and conduct with Patient A.

20. Petitioner was evasive and not fully candid with any of these investigators. He sought a hearing on the accusation, at which the Board found (in part as described above in Findings 15 through 17) that some of his testimony was false. Because the Board concluded that petitioner had committed multiple acts of unprofessional conduct, that he had little or no insight into the gravity of this misconduct, and that he had been dishonest and uncooperative in the Board's investigation and at hearing, the Board revoked petitioner's certificate as described above in Finding 1.

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[2] As many co-workers knew, both petitioner and Patient A were married to other people at this time. Petitioner is no longer married.

Petitioner's Rehabilitation

21. Petitioner's testimony and demeanor at the hearing on his reinstatement petition were utterly unlike the testimony and demeanor the Board described in its decision and order revoking petitioner's certificate.

a. Although he continues to dispute the matters summarized in Finding 15, petitioner acknowledges readily that he committed multiple acts of unprofessional conduct, some of them extreme departures from the standard of care, with Patient A.

b. He explained that he believes that his relationship with Patient A began its "drift" from a professional physician-patient relationship to a risky and potentially inappropriate social relationship when he encouraged Patient A to study nursing, several years before they began their sexual relationship. Petitioner now considers the power inequality inherent in physician-patient relationships and in relationships between physicians and their non-physician colleagues to give physicians special responsibility to avoid personal intimacy with patients or colleagues.

c. Petitioner refused in testimony to place any blame for their personally and professionally inappropriate social and sexual relationship on Patient A, stating that all fault was his own.

22. Petitioner has revised his understanding of his relationship with Patient A in part because of psychotherapy. He began seeing Melissa Staehle, Ph.D., in late 2014 and has continued individual psychotherapy with Dr. Staehle approximately weekly ever since. Petitioner testified that in psychotherapy he has considered how experiences in childhood and adolescence affected his adult decisions and relationships. He has gained insight into why he made such poor personal and professional decisions with respect to Patient A, to his former wife and his children,

and to his colleagues; and he has developed principles and strategies that he hopes will help him avoid similar errors in the future.

23. Dr. Staehle also testified, corroborating petitioner's description of their psychotherapeutic relationship. She observes that petitioner now pays greater conscious attention to his emotional and spiritual needs than he did when he first began psychotherapy, a change that has enabled petitioner to avoid unconsciously prioritizing himself over others in relationships. Dr. Staehle believes that petitioner has learned from his misconduct and is unlikely to repeat it.

24. In addition to individual psychotherapy, petitioner has used professionally facilitated groups to analyze his misconduct and to learn to recognize and avoid such risks in the future. Petitioner attended a three-day course on professional boundaries and ethics in October 2017. Since late 2020, petitioner has participated in several 12-week cycles of a follow-up Maintenance and Accountability Seminar. These seminars involve weekly teleconferences among health care professionals, moderated by a former member of the New Jersey Medical Board, to discuss and explore real-life challenges regarding professional boundaries and ethics. Petitioner values these seminars and intends to continue attending them.

25. Petitioner has relied heavily on his pastor and his church community for personal support since the Board revoked his certificate. At a friend's recommendation, petitioner participated in a 14-week "Wisdom School" through the Center for Action and Contemplation, a non-denominational Christian organization. This program involved readings, guided meditation, and an online class with discussion and shared reflection; petitioner found the contemplative practices he learned so valuable for combating anxiety and for acknowledging and addressing

errors without dwelling on them that he took the program a second time. He has incorporated mindfulness meditation into his daily routine.

26. In mid-2019, petitioner began volunteering his time in community service, primarily as a delivery driver for a local food bank. During the COVID-19 pandemic, he worked with the food bank to develop protocols for minimizing risks for COVID-19 transmission in deliveries. Petitioner also cooperated with his friend Gary Green, M.D., an infectious disease specialist, to develop and implement a pandemic safety plan for their church's worship activities.

27. Dr. Green also worked for many years with petitioner at Kaiser Permanente in Santa Rosa. They cooperated in patient care, and on petitioner's work to improve patient safety in labor and delivery. Dr. Green testified at the hearing on petitioner's reinstatement petition, describing petitioner as the "most talented obstetrician I have ever worked with." He believes as well that petitioner has examined his own behavior honestly and has accepted responsibility for his earlier professional misconduct.

28. Psychiatrist Virginia E. Hofmann, M.D., also testified at the hearing on petitioner's reinstatement petition. Dr. Hofmann met petitioner through mutual patients at Kaiser Permanente in Santa Rosa. She thought highly of his medical skill, and believes he had a strong reputation among their colleagues; she also notes that he always expressed professionalism and respect toward patients when discussing their care with her. Dr. Hofmann understood petitioner to have experienced the Board's revocation of his medical license as a "very serious blow" that motivated him toward introspection and self-improvement. She believes petitioner has used resources including psychotherapy and pastoral counseling to gain strength and insight, and that he can return safely and successfully to medical practice.

Petitioner's Plans If the Board Reinstates Him to Practice

29. Petitioner intends, if reinstated, to work as an obstetrician and gynecologist in a group medical practice, not a solo practice. He plans to seek reinstatement to board certification in obstetrics and gynecology if the Board makes him eligible by reinstating his California medical certificate.

30. Although petitioner completed considerable continuing medical education in 2020, 2021, and 2022, he acknowledges that his medical skills probably have weakened after about five years without active clinical practice.

31. Petitioner has moved from the Santa Rosa area to San Diego County. He would like to work in a medically underserved community. Petitioner has been studying Spanish to increase his ability to serve patients in such communities, and also has investigated the possibility of working for the federal Indian Health Service.

32. To avoid misconduct similar to the misconduct for which the Board revoked his certificate, petitioner has identified other steps, in addition to continuing both his individual psychotherapy and his participation in the Maintenance and Accountability Seminar, that he should take if he resumes medical practice. These steps include strictly limiting his working hours, and identifying appropriate alternate medical care for patients rather than making himself available to patients outside those hours; identifying a "peer monitor" in his workplace with whom to discuss "any concerns about professional boundaries"; seeking social relationships primarily outside the workplace; and choosing a workplace that supports and trains all employees in establishing and maintaining appropriate professional relationships and boundaries.

33. At the 2017 hearing on the accusation against him, petitioner had described the plan summarized in Finding 32, or a prior version of it. The Board found

then, however, that the plan would not protect the public sufficiently, in light of petitioner's poor insight at that time into his own misconduct. The matters stated above in Findings 21 through 25 increase the probability that petitioner's practice plan will be effective to guide him in maintaining professional relationships with patients and colleagues if he returns to medical practice.

34. Petitioner understands and expects that the Board will place him on probation if it reinstates his certificate. He states that he will abide by any reasonable probation conditions, to demonstrate his rehabilitation both to the Board and to himself. Petitioner notes specifically that he anticipates conditions including continuing in psychotherapy and having a practice monitor.

LEGAL CONCLUSIONS

1. The matters stated in Finding 2 establish petitioner's eligibility to apply for reinstatement of his medical certificate. (Bus. & Prof. Code, § 2307, subd. (b)(1).) In evaluating this petition, the Board may "consider all activities of the petitioner since the disciplinary action was taken, the offense for which the petitioner was disciplined, the petitioner's activities during the time the certificate was in good standing, and the petitioner's rehabilitative efforts, general reputation for truth, and professional ability." (*Id.*, subd. (e).) Petitioner bears the burden of proving, using clear and convincing evidence, that the Board may reinstate him without further threat to public safety.

2. The events that led the Board to revoke petitioner's certificate, as stated in Findings 8 through 20, were serious lapses in professional judgment, compounded by petitioner's failure to recognize those lapses before or during the Board's 2017 hearing. The matters stated in Findings 21 through 25 demonstrate, however, that

petitioner has taken multiple actions since that 2017 hearing to acknowledge his misconduct, to understand how he failed, and to avoid similar misconduct in the future. The matters stated in Findings 6, 7, 27, and 28 show that petitioner had strong medical skills and a good professional reputation before the Board revoked his certificate. The matters stated in Findings 26, 28, and 31 reflect a positive interest in community service. Finally, the matters stated in Findings 30 and 32 through 34 show petitioner's realistic understanding of the steps that will be necessary, if the Board reinstates him, to ensure that his reinstatement will serve rather than threaten public welfare.

3. Petitioner qualifies for reinstatement to medical licensure. His reinstatement will be probationary, on terms permitting the Board to ensure before petitioner resumes medical practice that he can do so safely, and permitting the Board to monitor his practice once he resumes to ensure that petitioner maintains professionalism. All standard conditions also will apply, except that (a) in light of the matters stated in Findings 8 through 20 and 31, a condition forbidding petitioner to supervise physician assistants and advanced practice nurses would unnecessarily restrict petitioner's employment; and (b) because petitioner will undergo a clinical competence assessment with potential remedial training if the assessment shows such training to be necessary, a requirement to undertake other additional continuing medical education during probation is unnecessary.

ORDER

Physician's and Surgeon's Certificate No. A 71262, issued to petitioner Austin Merritt Kooba, M.D., is reinstated, but immediately revoked. The revocation is stayed, however, and petitioner is placed on probation for five years, on the following terms and conditions.

1. Clinical Competence Assessment Program

Within 60 calendar days after the effective date of this decision, petitioner shall enroll in a clinical competence assessment program approved in advance by the Board or its designee. Petitioner shall successfully complete the program not later than six months after initial enrollment, unless the Board or its designee agrees in writing to extend that deadline.

The program shall consist of a comprehensive assessment of petitioner's physical and mental health and the six general domains of clinical competence, as defined by the Accreditation Council on Graduate Medical Education and American Board of Medical Specialties pertaining to petitioner's intended area of practice. The program shall take into account data obtained from the pre-assessment, self-report forms and interview, this decision, the accusation and decision resulting in petitioner's license revocation, and any other information that the Board or its designee deems relevant. The program shall require petitioner's on-site participation for a minimum of three but not more than five days, as determined by the program, for the assessment and clinical education evaluation. Petitioner shall pay all expenses associated with the clinical competence assessment program.

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

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

Petitioner shall not resume medical practice until he has successfully completed the clinical competence assessment program and has been so notified by the Board or its designee in writing.

2. Psychotherapy

Within 60 calendar days after 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, before completing probation, petitioner is found to be mentally unfit to resume or continue the practice of medicine without restrictions, the Board shall retain continuing jurisdiction over petitioner's license and the period of probation shall continue 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.

3. Practice Monitor

Within 30 calendar days after submission to the Board of petitioner's evaluation report from the clinical competence assessment program, 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 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 this decision, the accusation and decision resulting in petitioner's license revocation, and a proposed monitoring plan. Within 15 calendar days after receipt of the decisions, accusation, and proposed monitoring plan, the monitor shall submit a signed statement that the monitor has read the decisions 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.

When petitioner resumes medical practice, and continuing throughout probation, petitioner's medical practice 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 after submission to the Board of petitioner's evaluation report from the clinical competence assessment program, petitioner shall receive a notification from the Board or its designee to cease the practice of medicine within three calendar days. Petitioner shall not practice medicine until a monitor is approved and assumes 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 medical practice meets the standard of care, and whether petitioner is practicing medicine safely. It shall be petitioner's sole responsibility to ensure that the monitor submits 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 assume 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. Petitioner shall cease the practice of medicine until a replacement monitor is approved and assumes monitoring responsibility.

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

4. 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 a location.

If petitioner fails to establish a practice with another physician or secure employment in an appropriate practice setting within 60 calendar days after 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. 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 compliance with this decision, petitioner shall notify the Board or its 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. Petitioner shall not resume practice until an appropriate practice setting is established.

5. Notification

Within seven days after the effective date of this decision, petitioner shall provide a true copy of this decision, and of the accusation and decision resulting in revocation of his certificate, 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 that 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.

6. Obey All Laws

Petitioner shall obey all federal, state, and local laws, and all rules governing the practice of medicine in California.

7. 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 not later than 10 calendar days after the end of the preceding quarter.

8. General Probation Requirements

Compliance with Probation Unit: Petitioner shall comply with the Board's probation unit.

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

Place of Practice: 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 certificate.

Travel or Residence Outside California: Petitioner shall immediately inform the Board or its designee, in writing, of travel to any areas outside the jurisdiction of California that 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 medicine, petitioner shall notify the Board or its designee in writing 30 calendar days before the dates of departure and return.

9. 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.

10. 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 shall notify the Board or its designee in writing within 15 calendar days of petitioner's return to practice. Non-practice is defined as any period of time petitioner is not practicing medicine as defined in Business and Professions Code sections 2051 and 2052 for at least 40 hours in a calendar month in direct patient care, clinical activity or teaching, or other activity as approved by the Board. If petitioner resides in California and is

considered to be in non-practice, petitioner shall comply with all terms and conditions of probation. All time spent in an intensive training program that has been approved by the Board or its designee shall not be considered non-practice and does not relieve petitioner from complying with all the terms and conditions of probation. Practicing medicine in another state of the United States or Federal jurisdiction while on probation with the medical licensing authority of that state or jurisdiction shall not be considered non-practice. A Board-ordered suspension of practice shall not be considered as a period of non-practice.

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

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

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

Periods of non-practice while residing outside of California 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; General Probation Requirements; Quarterly Declarations.

11. Completion of Probation

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

12. 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 modify probation or may revoke probation and petitioner's certificate. If an accusation, petition to revoke probation, petition for interim suspension order, or immediate 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.

13. 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.

14. 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.

DATE: 09/02/2022

Juliet E. Cox

JULIET E. COX

Administrative Law Judge

Office of Administrative Hearings