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

In the Matter of the Accusation Against: Anna Michelle Bowling, M.D. Physician's & Surgeon's Certificate No. A 140558 Respondent.	Case No. 800-2022-088613

DECISION

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

This Decision shall become effective at 5:00 p.m. on March 08, 2024.

IT IS SO ORDERED: February 08, 2024.

MEDICAL BOARD OF CALIFORNIA

Laurie Rose Lubiano, Chair
Panel A

ROB BONTA
Attorney General of California
ALEXANDRA M. ALVAREZ
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BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against: **ANNA MICHELLE BOWLING, M.D.** **2918 Luciernaga Street, Apt. 202** **Carlsbad, California 92009** **Physician's and Surgeon's Certificate No. A 140558,** Respondent.	Case No. 800-2022-088613 OAH No. 2023090231 **STIPULATED SETTLEMENT AND DISCIPLINARY ORDER**

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

PARTIES

1. Reji Varghese (Complainant) is the Executive Director of the Medical Board of California (Board). He brought this action solely in his official capacity and is represented in this matter by Rob Bonta, Attorney General of the State of California, and by Joseph F. McKenna III, Deputy Attorney General.

2. Respondent Anna Michelle Bowling, M.D. (Respondent) is represented in this proceeding by attorney David M. Balfour, Esq., whose address is: 655 W. Broadway, Suite 1600, San Diego, California, 92101.

3. On or about February 2, 2016, the Board issued Physician's and Surgeon's Certificate No. A 140558 to Respondent. The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought in Accusation No. 800-2022-088613, and will expire on January 31, 2026, unless renewed.

JURISDICTION

4. On August 4, 2023, Accusation No. 800-2022-088613 was filed before the Board and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on August 4, 2023. Respondent timely filed her Notice of Defense contesting the Accusation. A true and correct copy of the Accusation is attached hereto as Exhibit A and hereby incorporated by reference as if fully set forth herein.

5. On May 10, 2023, a Stipulated Interim Suspension Order (ISO) was issued pursuant to Government Code section 11529 which imposed license restrictions on Respondent's ability to practice medicine. The ISO remains in full force and effect and Respondent is required to fully comply with the terms and conditions of the ISO until issuance of a final decision by the Board on the Accusation or until further order from the Office of Administrative Hearings.

ADVISEMENT AND WAIVERS

6. Respondent has carefully read, discussed with counsel, and fully understands the charges and allegations contained in Accusation No. 800-2022-088613. Respondent has also carefully read, discussed with her counsel, and fully understands the effects of this Stipulated Settlement and Disciplinary Order.

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

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8. Having the benefit of counsel, Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

CULPABILITY

9. Respondent understands and agrees that the charges and allegations contained in Accusation No. 800-2022-088613, if proven at a hearing, constitute cause for imposing discipline upon her Physician's and Surgeon's Certificate No. A 140558.

10. Respondent stipulates that, at a hearing, Complainant could establish a *prima facie* case or factual basis for the charges and allegations contained in the Accusation; that she gives up her right to contest those charges and allegations contained in the Accusation; and that she has thereby subjected her Physician's and Surgeon's Certificate to disciplinary action and agrees to be bound by the Board's probationary terms as set forth in the Disciplinary Order below.

ACKNOWLEDGMENT

11. Respondent acknowledges the Disciplinary Order below, requiring the disclosure of probation pursuant to Business and Professions Code section 2228.1, serves to protect the public interest.

CONTINGENCY

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

13. Respondent agrees that if she ever petitions for early termination or modification of probation, or if an accusation and/or petition to revoke probation is filed against her before the Board, all of the charges and allegations contained in Accusation No. 800-2022-088613 shall be

deemed true, correct and fully admitted by Respondent for purposes of any such proceeding or any other licensing proceeding involving Respondent in the State of California.

ADDITIONAL PROVISIONS

14. This Stipulated Settlement and Disciplinary Order is intended by the parties herein to be an integrated writing representing the complete, final and exclusive embodiment of the agreements of the parties in the above-entitled matter.

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

16. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or opportunity to be heard by the Respondent, issue and enter the following Disciplinary Order:

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. A 140558 issued to Respondent ANNA MICHELLE BOWLING, M.D., is revoked. However, the revocation is stayed and Respondent is placed on probation for 7 years from the effective date of the Decision on the following terms and conditions:

1. CONTROLLED SUBSTANCES – PARTIAL RESTRICTION.

Respondent shall not order, prescribe, dispense, administer, furnish, or possess any controlled substances as defined by the California Uniform Controlled Substances Act; however, Respondent may order, prescribe, dispense, administer, furnish, or possess any controlled substances as defined by the California Uniform Controlled Substances Act when each of the following 3 conditions are met:

(1) Respondent must be working in a hospital or ambulatory surgery center setting;

(2) Respondent must be working in her capacity as an anesthesiologist; and

(3) Respondent must be engaged in the peri-operative or peri-partum care of patients.

Respondent 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 Respondent forms the medical opinion, after an appropriate prior examination and medical indication, that a patient's medical condition may benefit from the use of marijuana, Respondent shall so inform the patient and shall refer the patient to another physician who, following an appropriate prior examination and 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, Respondent shall inform the patient or the patient's primary caregiver that Respondent 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 Respondent's statements to legally possess or cultivate marijuana for the personal medical purposes of the patient. Respondent 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 Respondent 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 – MAINTAIN RECORDS AND ACCESS TO RECORDS AND INVENTORIES.

Respondent shall maintain a record of all controlled substances ordered, prescribed, dispensed, administered, or possessed by Respondent, and any recommendation or approval which enables a patient or patient's primary caregiver to possess or cultivate marijuana for the personal medical purposes of the patient within the meaning of Health and Safety Code section 11362.5, during probation, showing all of the following:

(1) The name and address of the patient;

(2) The date;

(3) The character and quantity of controlled substances involved; and

(4) The indications and diagnosis for which the controlled substances were furnished.

Respondent shall keep these records in a separate file or ledger, in chronological order. All

records and any inventories of controlled substances shall be available for immediate inspection and copying on the premises by the Board or its designee at all times during business hours and shall be retained for the entire term of probation.

3. CONTROLLED SUBSTANCES – ABSTAIN FROM USE.

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

Within 15 calendar days of receiving any lawfully prescribed medications, Respondent shall notify the Board or its designee of the: issuing practitioner's name, address, and telephone number; medication name, strength, and quantity; and issuing pharmacy name, address, and telephone number.

4. ALCOHOL – ABSTAIN FROM USE.

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

5. PRESCRIBING PRACTICES COURSE.

Within sixty 60 calendar days of the effective date of this Decision, Respondent shall enroll in a course in prescribing practices approved in advance by the Board or its designee. Respondent shall provide the approved course provider with any information and documents that the approved course provider may deem pertinent. Respondent shall participate in and successfully complete the classroom component of the course not later than 6 months after Respondent's initial enrollment. Respondent shall successfully complete any other component of the course within 1 year of enrollment. The prescribing practices course shall be at Respondent's expense and shall be in addition to the Continuing Medical Education (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

or its designee, be accepted towards the fulfillment of this condition if the course would have been approved by the Board or its designee had the course been taken after the effective date of this Decision.

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

6. PROFESSIONALISM PROGRAM (ETHICS COURSE).

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

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

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

7. PSYCHOTHERAPY.

Within 60 calendar days of the effective date of this Decision, Respondent 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, Respondent 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. Respondent shall cooperate in providing the psychotherapist with any information and documents that the psychotherapist may deem pertinent.

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

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

8. MONITORING – PRACTICE.

Within 30 calendar days of the effective date of this Decision, Respondent shall submit to the Board or its designee for prior approval as a practice monitor, the name and qualifications of one or more licensed physicians and surgeons whose licenses are valid and in good standing, and who are preferably American Board of Medical Specialties (ABMS) certified. A monitor shall have no prior or current business or personal relationship with Respondent, or other relationship that could reasonably be expected to compromise the ability of the monitor to render fair and unbiased reports to the Board, including but not limited to any form of bartering. Unless prior approval is granted by the Board or its designee, the monitor shall be in Respondent's field of practice, and must agree to serve as Respondent's monitor. Respondent shall pay all monitoring costs.

The Board or its designee shall provide the approved monitor with copies of the Decision and Disciplinary Order and Accusation No. 800-2022-088613, and a proposed monitoring plan. Within 15 calendar days of receipt of the Decision and Disciplinary Order and Accusation, and proposed monitoring plan, the monitor shall submit a signed statement that the monitor has read the Decision and Disciplinary Order and the 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 throughout probation, Respondent's practice shall be monitored by the approved monitor. Respondent shall make all records available for immediate inspection and copying on the premises by the monitor at all times during business hours and shall retain the records for the entire term of probation.

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

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

If the monitor's quarterly written reports during the first 24 months of probation indicate that Respondent's practices are within the standards of practice of medicine and Respondent is practicing medicine safely, the practice monitor condition shall automatically terminate under this Disciplinary Order after 24 months from the effective date of this Decision.

If the monitor resigns or is no longer available, Respondent shall, within 5 calendar days of such resignation or unavailability, submit to the Board or its designee, for prior approval, the

name and qualifications of a replacement monitor who will be assuming that responsibility within 15 calendar days. If Respondent fails to obtain approval of a replacement monitor within 60 calendar days of the resignation or unavailability of the monitor, Respondent shall receive a notification from the Board or its designee to cease the practice of medicine within 3 calendar days after being so notified. Respondent shall cease the practice of medicine until a replacement monitor is approved and assumes monitoring responsibility.

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

9. SOLO PRACTICE PROHIBITION.

Respondent is prohibited from engaging in the solo practice of medicine. Prohibited solo practice includes, but is not limited to, a practice where:

(1) Respondent merely shares office space with another physician but is not affiliated for purposes of providing patient care, or

(2) Respondent is the sole physician practitioner at that location.

If Respondent 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, Respondent shall receive a notification from the Board or its designee to cease the practice of medicine within 3 calendar days after being so notified. The Respondent shall not resume practice until an appropriate practice setting is established.

If, during the course of the probation, the Respondent's practice setting changes and the Respondent is no longer practicing in a setting in compliance with this Decision, the Respondent shall notify the Board or its designee within 5 calendar days of the practice setting change. If Respondent 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, Respondent shall receive a notification from the Board or its designee to cease the practice of medicine within

3 calendar days after being so notified. The Respondent shall not resume practice until an appropriate practice setting is established.

10. PATIENT DISCLOSURE.

Before a patient's first visit following the effective date of this order and while the Respondent is on probation, the Respondent must provide all patients, or patient's guardian or health care surrogate, with a separate disclosure that includes the Respondent's probation status, the length of the probation, the probation end date, all practice restrictions placed on the Respondent by the board, the board's telephone number, and an explanation of how the patient can find further information on the Respondent's probation on the Respondent's profile page on the board's website. Respondent shall obtain from the patient, or the patient's guardian or health care surrogate, a separate, signed copy of that disclosure. Respondent shall not be required to provide a disclosure if any of the following applies: (1) The patient is unconscious or otherwise unable to comprehend the disclosure and sign the copy of the disclosure and a guardian or health care surrogate is unavailable to comprehend the disclosure and sign the copy; (2) The visit occurs in an emergency room or an urgent care facility or the visit is unscheduled, including consultations in inpatient facilities; (3) Respondent is not known to the patient until immediately prior to the start of the visit; (4) Respondent does not have a direct treatment relationship with the patient.

11. NOTICE OF EMPLOYER OR SUPERVISOR INFORMATION.

Within 7 days of the effective date of this Decision, Respondent shall provide the Board the names, physical addresses, mailing addresses, and telephone numbers of any and all employers and supervisors. Respondent shall also provide specific, written consent for the Board, Respondent's worksite monitor, and Respondent's employers and supervisors to communicate regarding Respondent's work status, performance, and monitoring.

For purposes of this section, "supervisors" shall include the Chief of Staff and Health or Well Being Committee Chair, or equivalent, if applicable, when the Respondent has medical staff privileges.

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12. BIOLOGICAL FLUID TESTING.

Respondent shall immediately submit to biological fluid testing, at Respondent's expense, upon request of the Board or its designee. "Biological fluid testing" may include, but is not limited to, urine, blood, breathalyzer, hair follicle testing, or similar drug screening approved by the Board or its designee. Respondent shall make daily contact with the Board or its designee to determine whether biological fluid testing is required. Respondent shall be tested on the date of the notification as directed by the Board or its designee. The Board may order a Respondent to undergo a biological fluid test on any day, at any time, including weekends and holidays. Except when testing on a specific date as ordered by the Board or its designee, the scheduling of biological fluid testing shall be done on a random basis. The cost of biological fluid testing shall be borne by the Respondent.

During the first year of probation, Respondent shall be subject to 52 to 104 random tests. During the second year of probation and for the duration of the probationary term, up to 5 years, Respondent shall be subject to 36 to 104 random tests per year. Only if there has been no positive biological fluid tests in the previous 5 consecutive years of probation, may testing be reduced to 1 time per month. Nothing precludes the Board from increasing the number of random tests to the first-year level of frequency for any reason.

Prior to practicing medicine, Respondent shall contract with a laboratory or service, approved in advance by the Board or its designee, that will conduct random, unannounced, observed, biological fluid testing and meets all of 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 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 1 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 7 business days of receipt of the specimen. The Board will be notified of non-negative results within 1 business day and will be notified of negative test results within 7 business days.

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

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

(i) It maintains testing sites located throughout California.

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

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

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

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

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

The contract shall require that the laboratory directly notify the Board or its designee of non-negative results within 1 business day and negative test results within 7 business days of the

results becoming available. Respondent shall maintain this laboratory or service contract during the period of probation.

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

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

A biological fluid test will not be considered negative if a positive result is obtained while practicing, even if the practitioner holds a valid prescription for the substance. If no prohibited substance use exists, the Board shall lift the cease-practice order within 1 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, her treating physician(s), other health care provider, or group facilitator, as applicable.

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

For purposes of this condition, the term "prohibited substance" means an illegal drug, a lawful drug not prescribed or ordered by an appropriately licensed health care provider for use by Respondent and approved by the Board, alcohol, or any other substance the Respondent 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, Respondent has committed a major violation, as defined in section 1361.52(a), and the Board shall impose any or all of the consequences set forth in section 1361.52(b), in addition to any other terms or conditions the Board determines are necessary for public protection or to enhance Respondent's rehabilitation.

13. SUBSTANCE ABUSE SUPPORT GROUP MEETINGS.

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

The facilitator of the substance abuse support group meeting shall have a minimum of 3 years' experience in the treatment and rehabilitation of substance abuse, and shall be licensed or certified by the state or nationally certified organizations. The facilitator shall not have a current or former financial, personal, or business relationship with Respondent within the last 5 years. Respondent's previous participation in a substance abuse group support meeting led by the same facilitator does not constitute a prohibited current or former financial, personal, or business relationship.

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

14. WORKSITE MONITOR FOR SUBSTANCE-ABUSING LICENSEE.

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

The worksite monitor shall not have a current or former financial, personal, or familial relationship with Respondent, or any other relationship that could reasonably be expected to compromise the ability of the monitor to render impartial and unbiased reports to the Board or its designee. If it is impractical for anyone but Respondent's employer to serve as the worksite

monitor, this requirement may be waived by the Board or its designee, however, under no circumstances shall Respondent's worksite monitor be an employee or supervisee of the licensee.

The worksite monitor shall have an active unrestricted license with no disciplinary action within the last 5 years, and shall sign an affirmation that he or she has reviewed the terms and conditions of Respondent's disciplinary order and agrees to monitor Respondent as set forth by the Board or its designee.

Respondent shall pay all worksite monitoring costs.

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

The worksite monitor shall verbally report any suspected substance abuse to the Board and Respondent's employer or supervisor within 1 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 1 hour of the next business day. A written report that includes the date, time, and location of the suspected abuse; Respondent's actions; and any other information deemed important by the worksite monitor shall be submitted to the Board or its designee within 48 hours of the occurrence.

The worksite monitor shall complete and submit a written report monthly or as directed by the Board or its designee which shall include the following:

(1) Respondent's name and Physician's and Surgeon's Certificate number;

(2) The worksite monitor's name and signature;

(3) The worksite monitor's license number, if applicable;

(4) The location or location(s) of the worksite;

(5) The dates Respondent had face-to-face contact with the worksite monitor;

(6) The names of worksite staff interviewed, if applicable;

(7) A report of Respondent's work attendance;

(8) Any change in Respondent's behavior and/or personal habits; and

(9) Any indicators that can lead to suspected substance abuse by Respondent. Respondent shall complete any required consent forms and execute agreements with the approved worksite monitor and the Board, or its designee, authorizing the Board, or its designee, and worksite monitor to exchange information.

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

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

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

(2) Increase the frequency of biological fluid testing.

(3) Refer Respondent for further disciplinary action, such as suspension, revocation, or other action as determined by the Board or its designee.

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

(1) Issue a cease-practice order;

(2) Order practice limitations;

(3) Order or increase supervision of Respondent;

(4) Order increased documentation;

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

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

(7) Take any other action as determined by the Board or its designee.

C. Nothing in this Decision shall be considered a limitation on the Board's authority to revoke Respondent's probation if she has violated any term or condition of probation. If Respondent violates probation in any respect, the Board, after giving Respondent notice and the opportunity to be heard, may revoke probation and carry out the disciplinary order that was stayed. If an Accusation, or Petition to Revoke Probation, or an Interim Suspension Order is filed against Respondent during probation, the Board shall have continuing jurisdiction until the matter is final, and the period of probation shall be extended until the matter is final.

16. NOTIFICATION.

Within 7 days of the effective date of this Decision, the Respondent shall provide true and correct copies of this Decision and Accusation No. 800-2022-088613 to the Chief of Staff or the Chief Executive Officer at every hospital where privileges or membership are extended to Respondent, at any other facility where Respondent engages in the practice of medicine, including all physician and locum tenens registries or other similar agencies, and to the Chief Executive Officer at every insurance carrier which extends malpractice insurance coverage to

Respondent. Respondent shall submit proof of compliance to the Board or its designee within 15 calendar days.

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

17. SUPERVISION OF PHYSICIAN ASSISTANTS AND ADVANCED PRACTICE NURSES.

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

18. OBEY ALL LAWS.

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

19. INVESTIGATION/ENFORCEMENT COST RECOVERY.

Respondent is hereby ordered to reimburse the Board its costs of investigation and enforcement, including legal review and expert review, as applicable, fifty-six thousand five hundred eight dollars and twenty cents ($56,508.20). Costs shall be payable to the Board. Failure to pay such costs shall be considered a violation of this agreement and shall be deemed an act of unprofessional conduct and a separate and distinct basis for discipline.

Any requests for a payment plan shall be submitted in writing by Respondent to the Board.

The filing of bankruptcy by Respondent shall not relieve Respondent of the responsibility to repay investigation and enforcement costs, including expert review costs (if applicable).

20. QUARTERLY DECLARATIONS.

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

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

21. GENERAL PROBATION REQUIREMENTS.

Compliance with Probation Unit

Respondent shall comply with the Board's probation unit.

Address Changes

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

Place of Practice

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

License Renewal

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

Travel or Residence Outside California

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

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

22. INTERVIEW WITH THE BOARD OR ITS DESIGNEE.

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

23. NON-PRACTICE WHILE ON PROBATION.

Respondent shall notify the Board or its designee in writing within 15 calendar days of any periods of non-practice lasting more than 30 calendar days and within 15 calendar days of her return to practice. Non-practice is defined as any period of time Respondent is not practicing medicine as defined in Bus. and Prof. Code sections 2051 and 2052 for at least 40 hours in a calendar month in direct patient care, clinical activity, teaching, or other activity as approved by

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

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

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

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

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

24. COMPLETION OF PROBATION.

Respondent shall comply with all financial obligations (e.g., probation costs) not later than 120 calendar days prior to the completion of probation. This term does not include cost recovery, which is due within 30 calendar days of the effective date of the Order, or by a payment plan approved by the Medical Board and timely satisfied. Upon successful completion of probation, Respondent's certificate shall be fully restored.

25. VIOLATION OF PROBATION.

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

opportunity to be heard, may revoke probation and carry out the disciplinary order that was stayed. If an Accusation, or Petition to Revoke Probation, or an Interim Suspension Order is filed against Respondent during probation, the Board shall have continuing jurisdiction until the matter is final, and the period of probation shall be extended until the matter is final.

26. LICENSE SURRENDER.

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

27. PROBATION MONITORING COSTS.

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

28. FUTURE ADMISSIONS CLAUSE.

If Respondent should ever apply or reapply for a new license or certification, or petition for reinstatement of a license, by any other health care licensing action agency in the State of California, all of the charges and allegations contained in Accusation No. 800-2022-088613 shall be deemed to be true, correct, and fully admitted by Respondent for the purpose of any Statement of Issues or any other proceeding seeking to deny or restrict license.

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ACCEPTANCE

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

DATED: 12/21/2023

ANNA MICHELLE BOWLING, M.D.
Respondent

I have read and fully discussed with Respondent Anna Michelle Bowling, M.D., the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: 12/21/2023

DAVID M. BALFOUR, ESQ.
Attorney for Respondent

ENDORSEMENT

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

DATED: December 22, 2023

Respectfully submitted,

ROB BONTA
Attorney General of California
ALEXANDRA M. ALVAREZ
Supervising Deputy Attorney General

JOSEPH F. MCKENNA III
Deputy Attorney General
Attorneys for Complainant

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Doc.No.84265793

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Attorneys for Complainant

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

In the Matter of the Accusation Against: **ANNA MICHELLE BOWLING, M.D.** **2918 Luciernaga Street, Apt. 202** **Carlsbad, California 92009** **Physician's and Surgeon's Certificate No. A 140558,** Respondent.	Case No. 800-2022-088613 **ACCUSATION**

PARTIES

1. Reji Varghese (Complainant) brings this Accusation solely in his official capacity as the Executive Director of the Medical Board of California, Department of Consumer Affairs (Board).

2. On or about February 2, 2016, the Board issued Physician's and Surgeon's Certificate No. A 140558 to Anna Michelle Bowling, M.D. (Respondent). The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought herein and will expire on January 31, 2024, unless renewed.

PROCEDURAL HISTORY REGARDING INTERIM ORDER

3. On May 10, 2023, pursuant to the provisions of California Government Code section 11529, an administrative law judge issued an Interim Order Imposing License Restrictions (Interim Order) restricting Physician's and Surgeon's Certificate No. A 140558, and requiring Respondent to comply with multiple license restrictions including: abstain from use of controlled substances; abstain from use of alcohol; biological fluid testing; substance abuse support group meetings; psychotherapy; and have a worksite monitor. The Interim Order will remain in effect, pending a full determination whether Respondent has violated the Medical Practice Act or upon further order by the Medical Board in this matter. As part of the "Stipulation of the Parties re Interim Order Imposing License Restrictions and Order," Respondent agreed to and has waived all of her rights under California Government Code section 11529, subsections (f) and (g), including, waived the right to have the Interim Order dissolved if an Accusation was not filed within 30 days of the date that the Interim Order was issued.

JURISDICTION

4. This Accusation is brought before the Board under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

5. Section 2220 of the Code states, in relevant part:

> Except as otherwise provided by law, the board may take action against all persons guilty of violating this chapter. The board shall enforce and administer this article as to physician and surgeon certificate holders, including those who hold certificates that do not permit them to practice medicine, such as, but not limited to, retired, inactive, or disabled status certificate holders, and the board shall have all the powers granted in this chapter for these purposes ...

STATUTORY PROVISIONS

6. Section 2227 of the Code states:

> (a) A licensee whose matter has been heard by an administrative law judge of the Medical Quality Hearing Panel as designated in Section 11371 of the Government Code, or whose default has been entered, and who is found guilty, or who has entered into a stipulation for disciplinary action with the board, may, in accordance with the provisions of this chapter:
>
> (1) Have his or her license revoked upon order of the board.
>
> (2) Have his or her right to practice suspended for a period not to exceed one year upon order of the board.

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

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

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

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

7. Section 2228.1 of the Code states, in relevant part:

(a) On and after July 1, 2019, except as otherwise provided in subdivision (c), the board ... shall require a licensee to provide a separate disclosure that includes the licensee's probation status, the length of the probation, the probation end date, all practice restrictions placed on the licensee by the board, the board's telephone number, and an explanation of how the patient can find further information on the licensee's probation on the licensee's profile page on the board's online license information internet website, to a patient or the patient's guardian or health care surrogate before the patient's first visit following the probationary order while the licensee is on probation pursuant to a probationary order made on and after July 1, 2019, in any of the following circumstances:

(1) A final adjudication by the board following an administrative hearing or admitted findings or prima facie showing in a stipulated settlement establishing any of the following:

...

(B) Drug or alcohol abuse directly resulting in harm to patients or the extent that such use impairs the ability of the licensee to practice safely.

...

8. Section 2234 of the Code states, in relevant part:

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

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

...

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

...

9. Unprofessional conduct under Business and Professions Code section 2234 is conduct which breaches the rules or ethical code of the medical profession, or conduct which is unbecoming to a member in good standing of the medical profession, and which demonstrates an unfitness to practice medicine. (*Shea v. Board of Medical Examiners* (1978) 81 Cal.App.3d 564, 575.)

10. Section 2238 of the Code states:

> A violation of any federal statute or federal regulation or any of the statutes or regulations of this state regulating dangerous drugs or controlled substances constitutes unprofessional conduct.

11. Section 2239 of the Code states, in relevant part:

> (a) The use or prescribing for or administering to himself or herself, of any controlled substance; or the use of any of the dangerous drugs specified in Section 4022, or of alcoholic beverages, to the extent, or in such a manner as to be dangerous or injurious to the licensee, or to any other person or to the public, or to the extent that such use impairs the ability of the licensee to practice medicine safely ... constitutes unprofessional conduct. ...
>
> ...

12. Section 2280 of the Code states:

> No licensee shall practice medicine while under the influence of any narcotic drug or alcohol to such an extent as to impair his or her ability to conduct the practice of medicine with safety to the public and his or her patients. Violation of this section constitutes unprofessional conduct and is a misdemeanor.

13. Section 11170 of the Health and Safety Code states:

> No person shall prescribe, administer, or furnish a controlled substance for himself.

14. Section 11171 of the Health and Safety Code states:

> No person shall prescribe, administer, or furnish a controlled substance except under the conditions and in the manner provided by this division.

15. Section 11173 of the Health and Safety Code states:

> (a) No person shall obtain or attempt to obtain controlled substances, or procure or attempt to procure the administration of or prescription for controlled substances, (1) by fraud, deceit, misrepresentation, or subterfuge; or (2) by the concealment of a material fact.
>
> ...

GENERAL STATUTORY PROVISIONS

16. Section 820 of the Code states:

Whenever it appears that any person holding a license, certificate or permit under this division or under any initiative act referred to in this division may be unable to practice his or her profession safely because the licentiate's ability to practice is impaired due to mental illness, or physical illness affecting competency, the licensing agency may order the licentiate to be examined by one or more physicians and surgeons or psychologists designated by the agency. The report of the examiners shall be made available to the licentiate and may be received as direct evidence in proceedings conducted pursuant to Section 822.

17. Section 822 of the Code states:

If a licensing agency determines that its licentiate's ability to practice his or her profession safely is impaired because the licentiate is mentally ill, or physically ill affecting competency, the licensing agency may take action by any one of the following methods:

(a) Revoking the licentiate's certificate or license.

(b) Suspending the licentiate's right to practice.

(c) Placing the licentiate on probation.

(d) Taking such other action in relation to the licentiate as the licensing agency in its discretion deems proper.

The licensing agency shall not reinstate a revoked or suspended certificate or license until it has received competent evidence of the absence or control of the condition which caused its action and until it is satisfied that with due regard for the public health and safety the person's right to practice his or her profession may be safely reinstated.

18. Section 4021 of the Code states:

"Controlled substance" means any substance listed in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code.

19. Section 4022 of the Code states:

"Dangerous drug" or "dangerous device" means any drug or device unsafe for self-use in humans or animals, and includes the following:

(a) Any drug that bears the legend: "Caution: federal law prohibits dispensing without prescription," "Rx only," or words of similar import.

(b) Any device that bears the statement: 'Caution: federal law restricts this device to sale by or on the order of a _____,' 'Rx only,' or words of similar import, the blank to be filled in with the designation of the practitioner licensed to use or order use of the device.

(c) Any other drug or device that by federal or state law can be lawfully dispensed only on prescription or furnished pursuant to Section 4006.

REGULATORY PROVISIONS

20. California Code of Regulations, title 16, section 1360 states, in relevant part:

(a) For the purposes of denial, suspension or revocation of a license pursuant to Section 141 or Division 1.5 (commencing with Section 475) of the code, a crime, professional misconduct, or act shall be considered to be substantially related to the qualifications, functions or duties of a person holding a license if to a substantial degree it evidences present or potential unfitness of a person holding a license to perform the functions authorized by the license in a manner consistent with the public health, safety or welfare. Such crimes, professional misconduct, or acts shall include but not be limited to the following: Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate any provision of state or federal law governing the applicant's or licensee's professional practice.

...

21. California Code of Regulations, title 16, section 1361 states, in relevant part:

...

(b) Notwithstanding subsection (a), the Board shall use the Uniform Standards for Substance-Abusing Licensees as provided in section 1361.5, without deviation, for each individual determined to be a substance-abusing licensee.

...

22. California Code of Regulations, title 16, section 1361.5 states, in relevant part:

(a) If the licensee is to be disciplined for unprofessional conduct involving the use of illegal drugs, the abuse of drugs and/or alcohol, or the use of another prohibited substance as defined herein, the licensee shall be presumed to be a substance-abusing licensee for purposes of section 315 of the [Business and Professions] Code.

...

COST RECOVERY

23. Section 125.3 of the Code states:

(a) Except as otherwise provided by law, in any order issued in resolution of a disciplinary proceeding before any board within the department or before the Osteopathic Medical Board, upon request of the entity bringing the proceeding, the administrative law judge may direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

(b) In the case of a disciplined licensee that is a corporation or a partnership, the order may be made against the licensed corporate entity or licensed partnership.

(c) A certified copy of the actual costs, or a good faith estimate of costs where actual costs are not available, signed by the entity bringing the proceeding or its designated representative shall be prima facie evidence of reasonable costs of

investigation and prosecution of the case. The costs shall include the amount of investigative and enforcement costs up to the date of the hearing, including, but not limited to, charges imposed by the Attorney General.

(d) The administrative law judge shall make a proposed finding of the amount of reasonable costs of investigation and prosecution of the case when requested pursuant to subdivision (a). The finding of the administrative law judge with regard to costs shall not be reviewable by the board to increase the cost award. The board may reduce or eliminate the cost award, or remand to the administrative law judge if the proposed decision fails to make a finding on costs requested pursuant to subdivision (a).

(e) If an order for recovery of costs is made and timely payment is not made as directed in the board's decision, the board may enforce the order for repayment in any appropriate court. This right of enforcement shall be in addition to any other rights the board may have as to any licensee to pay costs.

(f) In any action for recovery of costs, proof of the board's decision shall be conclusive proof of the validity of the order of payment and the terms for payment.

(g) (1) Except as provided in paragraph (2), the board shall not renew or reinstate the license of any licensee who has failed to pay all of the costs ordered under this section.

(2) Notwithstanding paragraph (1), the board may, in its discretion, conditionally renew or reinstate for a maximum of one year the license of any licensee who demonstrates financial hardship and who enters into a formal agreement with the board to reimburse the board within that one-year period for the unpaid costs.

(h) All costs recovered under this section shall be considered a reimbursement for costs incurred and shall be deposited in the fund of the board recovering the costs to be available upon appropriation by the Legislature.

(i) Nothing in this section shall preclude a board from including the recovery of the costs of investigation and enforcement of a case in any stipulated settlement.

(j) This section does not apply to any board if a specific statutory provision in that board's licensing act provides for recovery of costs in an administrative disciplinary proceeding.

PERTINENT DRUG INFORMATION

24. Propofol is a short acting intravenous anesthetic and is available as a prescription medication for use in human and veterinary medicine. Propofol is used in hospital settings by trained anesthetists for the induction, maintenance of general anesthesia, and sedation of ventilated adults receiving intensive care, for a period of up to 72 hours. Propofol is a prescription medication and is a dangerous drug pursuant to Business and Professions Code

section 4022. The Drug Enforcement Administration (DEA) has identified propofol as a drug with illicit uses and that it is "mostly abused by health care staff including anesthetists, practitioners, nurses and technicians." (DEA, Diversion Control Division, Drug & Chemical Evaluation Section: Propofol; www.deadiversion.usdoj.gov/drug_chem_info/index.html (April 2023)). "Case reports and surveys published in scientific literature indicate that propofol (commonly referred to as 'milk of amnesia') is abused for recreational purpose, mostly by anesthetists, practitioners, nurses and other health care staff. ... The mortality among anesthesiologists abusing propofol was 28% (7 deaths in 25)." Ibid. Propofol is not scheduled under the Controlled Substances Act (CSA). Ibid.

25. Opioids are Schedule II controlled substances pursuant to Health and Safety Code section 11055, and are a dangerous drug pursuant to Business and Professions Code section 4022. The DEA has identified opioids as a drug of abuse. (Drugs of Abuse, DEA Resource Guide (2022 Edition), at pp. 50-51.)

(a) Fentanyl is a potent synthetic opioid drug used as an analgesic and anesthetic. Fentanyl is "approximately 100 times more potent than morphine and 50 times more potent than heroin as an analgesic." (Drugs of Abuse, DEA Resource Guide (2022 Edition), at p. 52.) Fentanyl poses a high risk for addiction and dependence.

(b) Hydromorphone is a potent opioid drug used as an analgesic in the management and treatment of moderate to severe acute pain as well as severe chronic pain. Hydromorphone is "approximately two to eight times greater than that of morphine and has a rapid onset of action." (Drugs of Abuse, DEA Resource Guide (2022 Edition), at p. 56.) Hydromorphone poses a high risk for addiction and dependence.

26. Benzodiazepines are Schedule IV controlled substances pursuant to Health and Safety Code section 11057, and are a dangerous drug pursuant to Business and Professions Code section 4022. The DEA has identified benzodiazepines as a drug of abuse. (Drugs of Abuse, DEA Resource Guide (2022 Edition), at p. 73.)

(a) Midazolam is a benzodiazepine and is used to produce sleepiness or drowsiness and relieve anxiety before surgery or certain procedures. When midazolam injection is used before surgery, the patient will not remember some of the details about the procedure. Midazolam injection is also used as an anesthesia to produce loss of consciousness before and during surgery. (Note: Versed is the brand name for midazolam.)

FACTUAL ALLEGATIONS

27. On or about May 24, 2022, the Board received a Business and Professions Code section 805, Health Facility/Peer Review Reporting Form, (805 report) from Scripps Memorial Hospital, Encinitas (SMHE) informing the Board of allegations involving Respondent and concerns about her physical and/or mental impairment due to an incident that occurred on May 5, 2022; and that SMHE had suspended Respondent and taken her off of its work schedule pending the hospital's investigation.[1]

28. On May 5, 2022, Respondent, an anesthesiologist, was working a 12-hour shift (0700 to 1900 hours) in the labor and delivery unit at SMHE.

29. On that same date, Respondent is scheduled to be relieved by Dr. P.C.[2] at 1900 hours.

30. At approximately 1850 hours, Dr. P.C. arrives in the physician's on-call suite at SMHE, but he does not immediately see Respondent.

31. Dr. P.C. leaves the on-call suite and walks to the charge desk to check-in and speak to the charge nurse on duty, (RN C.W.) as well as locate Respondent before the beginning of his labor and delivery shift. RN C.W. reports that she saw Respondent leave an operating room near her desk at approximately 1720 hours but had not seen her since. RN C.W. also reports that another anesthesiologist asked her where Respondent was because she went "missing" during the shift and missed an assignment. Dr. P.C. texts Respondent on her mobile phone to locate her, but she does not reply.

32. At approximately 1900 hours, Dr. P.C. returns to the physician's on-call suite and sees Respondent emerge from the bathroom located inside the on-call suite. Dr. P.C. immediately observes that Respondent looks disheveled, glassy-eyed, and staggers as she walks. Dr. P.C. repeatedly asks Respondent what is wrong with her, but she does not answer. After Dr. P.C.'s repeated attempts to get a response from Respondent, she responds and slurs her words while

[1] On or about May 11, 2022, Respondent requested a leave of absence from SMHE for "medical reasons." Respondent was previously notified that taking a leave of absence after she was notified of "an investigation undertaken for medical disciplinary cause or reason" would result in the filing of an 805 report with the Board.

[2] Dr. P.C. was the Department Chair of Anesthesiology at SMHE when the allegations in this pleading occurred.

answering his questions. Respondent tells Dr. P.C. that she is sick, dehydrated, and alleges that she put an IV into herself during her shift. At this point, Respondent appears clearly impaired to Dr. P.C., but he does not smell the odor of alcohol on her person.

33. Prior to leaving the on-call suite, Respondent attempts to sign-out on the physician's shift log and Dr. P.C. observes that she has difficulty writing and illegibly scribbles her sign-out information.

34. Upon leaving the on-call suite, Respondent staggers as she slowly walks down the hospital hallway and repeatedly walks into walls towards the exit to the physician's parking lot. Due to concern for her safety, Dr. P.C. remains with Respondent the entire time and continues to engage her with questions as she walks to her car.

35. Upon reaching her car, Respondent gets in the car and starts its engine. Dr. P.C. tells Respondent that he is concerned for her safety and that she could get into an accident if she attempts to drive. While talking to Respondent seated in her car, Dr. P.C. stood inside of the open car door to prevent her from shutting it and driving away. Dr. P.C. also calls another physician with his mobile phone for assistance in preventing Respondent from driving. Shortly thereafter, Dr. W.M. arrives in the parking lot in his car and parks directly behind Respondent's car preventing her from backing up. Respondent becomes increasingly agitated and Dr. P.C. calls hospital security for assistance with the situation. After observing that Respondent is clearly impaired and appears under the influence of an unknown substance, hospital security calls law enforcement for further assistance with the situation.

36. At this point, Respondent refuses a request to visit the emergency department for drug testing and evaluation and walks away from her car towards the front of the hospital. Dr. P.C., Dr. W.M., and hospital security then follow Respondent and continue to engage her in conversation but she remains agitated, and continues staggering and slurring her words. Approximately 30 minutes later, Respondent walks back to her car to leave, but Dr. P.C. and Dr. W.M. again advise her against driving due to her obvious impairment. Respondent then calls for a rideshare service to pick her up at the hospital. Shortly thereafter, San Diego County sheriffs arrive on scene at the hospital and contact Respondent to assess the situation.

37. After talking with Respondent, the sheriffs determine that she is impaired and under the influence of a controlled substance as they do not detect the odor of alcohol on her person. After talking with Respondent, the sheriffs then talk separately with Dr. P.C., Dr. W.M., and hospital security and advise them that she can leave in a rideshare service, but if she attempts to drive her car she will be arrested for driving under the influence. Subsequently, Respondent leaves the hospital campus in a rideshare service.

38. On February 3, 2023, Respondent, with her attorney present, voluntarily attended an interview as part of the Board's investigation into the allegations contained in the 805 report. During the interview, Respondent made a number of admissions that are relevant to the allegations and charges brought in this Accusation, including the following:

(a) On May 5, 2022, Respondent was working a 12-hour shift (0700 to 1900 hours) in the labor and delivery unit at SMHE.

(b) During Respondent's shift, sometime between "5:45 p.m. - 6:00 p.m.," she self-administered propofol intravenously while in the physician's on-call suite at SMHE.

(c) Respondent felt the onset of the propofol, and impairment, within "30 seconds."

(d) After self-administering the propofol intravenously, Respondent said it made her feel "drowsy" which this condition would last for approximately 15 to 20 minutes.

(e) Respondent self-administered propofol "to decrease the emotional pain" she was feeling on May 5, 2022.

(f) Respondent admitted that she was impaired for purposes of doing her job as an anesthesiologist after she self-administered the propofol intravenously on May 5, 2022.

(g) Respondent admitted that there is a "risk for error ... risk of harming a patient" when an anesthesiologist takes propofol during their shift, and that it presents "a definite risk" to patient safety.

(h) Respondent agreed that she could have been called to report to an operating room after she self-administered the propofol intravenously on May 5, 2022.

(i) Respondent also admitted to taking a syringe of propofol from SMHE's operating room and using it "on one other occasion ... at home" prior to the events that occurred on May 5, 2022. Respondent stated, "[i]t was something I'd drawn up for a case that was canceled and I didn't throw away the syringe." Respondent further stated, "[a]t our facility, propofol is not a controlled substance."

(j) Respondent also admitted to stealing other narcotics from SMHE's operating room, namely fentanyl, hydromorphone, and midazolam. According to Respondent, she stole drugs from the operating room "11 or 12 times" during the month of April 2022. These narcotics were contained in glass vials that Respondent placed in her pocket and took home after her shifts at SMHE. These glass vials contained excess narcotic medication not entirely used during surgical procedures; and because hospital staff did not track disposal of "empty" glass vials Respondent was able to divert them without being detected.

(k) At home after work, Respondent self-administered intravenously the excess narcotic medication that she was able to extract from the glass vials.. In her explanation as to why she was using the narcotics at home, Respondent stated "I was trying to dull some of the emotional pain that I was feeling."

SECTION 822 CAUSE FOR ACTION

(Mental Impairment)

39. Respondent has subjected her Physician's and Surgeon's Certificate No. A 140558 to Board action under section 822 of the Code in that her ability to practice medicine safely is impaired because she has a mental illness that affects her competency as a physician. The circumstances are as follows:

(a) Paragraphs 27 through 38, above, are hereby incorporated by reference and realleged as if fully set forth herein.

(b) On or about November 18, 2022, Respondent voluntarily submitted to a mental evaluation by Board appointed psychiatrist, Walter W. Strauser, M.D. (Dr. Strauser). After conducting an extensive review of materials and a face-to-face evaluation, Dr. Strauser opined that Respondent suffers from an opioid use disorder complicated by major depression. In his report to the Board, dated December 16, 2022, Dr. Strauser concluded that Respondent's practice of medicine would pose a danger or threat to public health, welfare, or safety.

(c) On or about March 21, 2023, Dr. Strauser submitted an addendum report to the Board. The addendum report contained Dr. Strauser's revised opinion regarding Respondent, based upon his review of additional materials provided to him by the Board, after he had prepared his initial report in the underlying investigation. The additional materials had been provided to the Board by Respondent, and included reports and documentation from other medical providers treating Respondent. In his addendum report, Dr. Strauser concluded that Respondent would be able to resume practicing medicine but only with restrictions, including, random biological fluid testing for drugs and alcohol, ongoing monitoring in her practice, and continued treatment for substance use disorder and mental health concerns.

FIRST CAUSE FOR DISCIPLINE

(Practice of Medicine While Under the Influence of Any Narcotic Drug)

40. Respondent has subjected her Physician's and Surgeon's Certificate No. A 140558 to disciplinary action under sections 2227 and 2234, as defined by section 2280, of the Code, in that while practicing medicine she was under the influence of a narcotic drug, as more particularly alleged hereinafter:

(a) Paragraphs 27 through 38, above, are hereby incorporated by reference and realleged as if fully set forth herein.

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SECOND CAUSE FOR DISCIPLINE

(Use of Controlled Substances and/or Dangerous Drugs to an Extent or in a Manner Dangerous or Injurious to Herself, Others, or the Public)

41. Respondent has further subjected her Physician's and Surgeon's Certificate No. A 140558 to disciplinary action under sections 2227 and 2234, as defined by section 2239, subdivision (a), of the Code, in that she used controlled substances and/or dangerous drugs to an extent, or in such a manner as to be dangerous or injurious to herself, another person, or the public, as more particularly alleged hereinafter:

(a) Paragraphs 27 through 38, above, are hereby incorporated by reference and realleged as if fully set forth herein.

THIRD CAUSE FOR DISCIPLINE

(Use of Controlled Substances and/or Dangerous Drugs to an Extent Such Use Impairs Her Ability to Practice Medicine Safely)

42. Respondent has further subjected her Physician's and Surgeon's Certificate No. A 140558 to disciplinary action under sections 2227 and 2234, as defined by section 2239, subdivision (a), of the Code, in that she used controlled substances and/or dangerous drugs to an extent that such use impaired her ability to practice medicine safely, as more particularly alleged hereinafter:

(a) Paragraphs 27 through 38, above, are hereby incorporated by reference and realleged as if fully set forth herein.

FOURTH CAUSE FOR DISCIPLINE

(Self-Administration of Controlled Substances)

43. Respondent has further subjected her Physician's and Surgeon's Certificate No. A 140558 to disciplinary action under sections 2227, 2234, and 2238, as defined by section 11170 of the Health and Safety Code, in that she self-administered controlled substances to herself, as more particularly alleged hereinafter:

(a) Paragraphs 27 through 38, above, are hereby incorporated by reference and realleged as if fully set forth herein.

FIFTH CAUSE FOR DISCIPLINE

(Commission of Dishonest or Corrupt Acts)

44. Respondent has further subjected her Physician's and Surgeon's Certificate No. A 140558 to disciplinary action under sections 2227 and 2234, as defined by section 2234, subdivision (e), of the Code, in that she stole controlled substances from SMHE, as more particularly alleged hereinafter:

(a) Paragraphs 27 through 38, above, are hereby incorporated by reference and realleged as if fully set forth herein.

SIXTH CAUSE FOR DISCIPLINE

(Violation of State Statutes Regulating Dangerous Drugs or Controlled Substances)

45. Respondent has further subjected her Physician's and Surgeon's Certificate No. A 140558 to disciplinary action under sections 2227 and 2234, as defined by section 2238 of the Code, in that she has violated state statutes regulating dangerous drugs or controlled substances, including, but not limited to, Health and Safety Code section 11170 [administering controlled substances for self-use]; Health and Safety Code section 11171 [administering controlled substances in manner not provided by law], and Health and Safety Code section 11173, subdivision (a) [obtaining controlled substances by fraud, deceit, misrepresentation, or subterfuge], as more particularly alleged hereinafter:

(a) Paragraphs 27 through 38, above, are hereby incorporated by reference and realleged as if fully set forth herein.

SEVENTH CAUSE FOR DISCIPLINE

(Violation of Provisions of the Medical Practice Act)

46. Respondent has further subjected her Physician's and Surgeon's Certificate No. A 140558 to disciplinary action under sections 2227 and 2234, as defined by section 2234, subsections (a) and (e), 2238, 2239, and 2280 of the Code, in that she violated provisions of the Medical Practice Act, as more particularly alleged hereinafter:

(a) Paragraphs 27 through 38, above, are hereby incorporated by reference and realleged as if fully set forth herein.

EIGHTH CAUSE FOR DISCIPLINE

(Unprofessional Conduct)

47. Respondent has further subjected her Physician's and Surgeon's Certificate No. A 140558 to disciplinary action under sections 2227 and 2234, as defined by section 2234, subsections (a) and (e), 2238, 2239, and 2280 of the Code, in that she has engaged in conduct which breaches the rules or ethical code of the medical profession, or conduct which is unbecoming to a member in good standing of the medical profession, and which demonstrates an unfitness to practice medicine, as more particularly alleged hereinafter:

(a) Paragraphs 27 through 38, above, are hereby incorporated by reference and realleged as if fully set forth herein.

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PRAYER

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

1. Revoking or suspending Physician's and Surgeon's Certificate No. A 140558, issued to Respondent Anna Michelle Bowling, M.D.;

2. Revoking, suspending or denying approval of Respondent Anna Michelle Bowling, M.D.'s authority to supervise physician assistants and advanced practice nurses;

3. Taking action as authorized by section 822 of the Code, as the Board in its discretion deems necessary and proper;

4. Ordering Respondent Anna Michelle Bowling, M.D., to pay the Board the costs of the investigation and enforcement of this case;

5. Ordering Respondent Anna Michelle Bowling, M.D., if placed on probation, to pay the Board the costs of probation monitoring;

6. Ordering Respondent Anna Michelle Bowling, M.D., if placed on probation, and upon a finding that the extent of Respondent's drug use impaired her ability to practice medicine safely, to provide patient notification in accordance with Business and Professions Code section 2228.1; and

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

DATED: AUG 04 2023

REJI VARGHESE
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant

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