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

In the Matter of the Statement of Issues Against:	)	File No. 800-2018-050915
OSCAR DANIEL LAZCANO	)	
Applicant.	)	

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby accepted and 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 **December 4, 2019**, although the probation will not commence until the applicant completes any remaining requirements for licensure and the license is issued.

ORDERED: November 27, 2019

MEDICAL BOARD OF CALIFORNIA

By: Ronald H. Lewis, MD

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

XAVIER BECERRA
Attorney General of California
STEVE DIEHL
Supervising Deputy Attorney General
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BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Statement of Issues Against: **OSCAR DANIEL LAZCANO** Applicant.	Case No. 800-2018-050915 OAH No. 2019060215 **STIPULATED SETTLEMENT AND DISCIPLINARY ORDER**

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

PARTIES

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

2. Applicant Oscar Daniel Lazcano (Applicant) is represented in this proceeding by attorney Dennis R. Thelen, Esq., whose address is: P.O. Box 12092, Bakersfield, CA 93389-2092

3. On or about April 29, 2018, Applicant filed an application dated that same day with the Medical Board of California to obtain Physician's and Surgeon's license.

JURISDICTION

4. Statement of Issues No. 800-2018-050915 was filed before the Board, and is currently pending against Applicant. The Statement of Issues and all other statutorily required documents were properly served on Applicant on May 9, 2019.

5. A copy of Statement of Issues No. 800-2018-050915 is attached as Exhibit A and is incorporated herein by reference.

ADVISEMENT AND WAIVERS

6. Applicant has carefully read, fully discussed with counsel, and understands the charges and allegations in Statement of Issues No. 800-2018-050915. Applicant has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

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

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

CULPABILITY

9. Applicant admits the truth of each and every charge and allegation in Statement of Issues No. 800-2018-050915.

10. Applicant agrees that his application for a Physician's and Surgeon's license is subject to denial and he agrees to be bound by the Board's probationary terms as set forth in the Disciplinary Order below.

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CONTINGENCY

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

12. The parties understand and agree that 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.

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

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Applicant Oscar Daniel Lazcano's application for a full and unrestricted Physician's and Surgeon's license is denied. However, Applicant shall be issued a probationary license for four (4) years pursuant to the following terms and conditions.

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

completion of each course, the Board or its designee may administer an examination to test Applicant's knowledge of the course. Applicant shall provide proof of attendance for 65 hours of CME of which 40 hours were in satisfaction of this condition.

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

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

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

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

Applicant shall not practice medicine until Applicant has successfully completed the

program and has been so notified by the Board or its designee in writing.

Within 60 days after Applicant has successfully completed the clinical competence assessment program, Applicant shall participate in a Professional Enhancement Program (PEP) approved in advance by the Board or its designee, which shall include quarterly chart review, semi-annual practice assessment, and semi-annual review of professional growth and education. Applicant shall participate in the professional enhancement program at Applicant's expense during the term of probation, or until the Board or its designee determines that further participation is no longer necessary.

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

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

If, during the course of the probation, the Applicant's practice setting changes and the Applicant is no longer practicing in a setting in compliance with this Decision, the Applicant shall notify the Board or its designee within five (5) calendar days of the practice setting change. If Applicant fails to establish a practice with another physician or secure employment in an appropriate practice setting within 60 calendar days of the practice setting change, Applicant shall receive a notification from the Board or its designee to cease the practice of medicine within three (3) calendar days after being so notified. The Applicant shall not resume practice until an appropriate practice setting is established.

4. NOTIFICATION. Within seven (7) days of the effective date of this Decision, the Applicant shall provide a true copy of this Decision and Accusation to the Chief of Staff or the

Chief Executive Officer at every hospital where privileges or membership are extended to Applicant, at any other facility where Applicant 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 Applicant. Applicant 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.

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

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

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

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

8. GENERAL PROBATION REQUIREMENTS.

Compliance with Probation Unit

Applicant shall comply with the Board's probation unit.

Address Changes

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

Place of Practice

Applicant shall not engage in the practice of medicine in Applicant's or patient's place of

residence, unless the patient resides in a skilled nursing facility or other similar licensed facility.

License Renewal

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

Travel or Residence Outside California

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

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

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

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

In the event Applicant's period of non-practice while on probation exceeds 18 calendar

months, Applicant shall successfully complete the Federation of State Medical Boards's Special Purpose Examination, or, at the Board's discretion, a clinical competence assessment program that meets the criteria of Condition 18 of the current version of the Board's "Manual of Model Disciplinary Orders and Disciplinary Guidelines" prior to resuming the practice of medicine.

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

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

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

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

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

13. LICENSE SURRENDER. Following the effective date of this Decision, if Applicant ceases practicing due to retirement or health reasons or is otherwise unable to satisfy the terms and conditions of probation, Applicant may request to surrender his or her license. The Board reserves the right to evaluate Applicant's request and to exercise its discretion in determining whether or not to grant the request, or to take any other action deemed appropriate and reasonable under the circumstances. Upon formal acceptance of the surrender, Applicant shall within 15

calendar days deliver Applicant's wallet and wall certificate to the Board or its designee and Applicant shall no longer practice medicine. Applicant will no longer be subject to the terms and conditions of probation. If Applicant re-applies for a medical license, the application shall be treated as a petition for reinstatement of a revoked certificate.

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

ACCEPTANCE

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

DATED: 9/20/19

OSCAR DANIEL LAZCANO
Applicant

I have read and fully discussed with Applicant Oscar Daniel Lazcano the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: 9-21-19

DENNIS R. THELEN, ESQ.
Attorney for Applicant

ENDORSEMENT

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

DATED: 9-27-19

Respectfully submitted,

XAVIER BECERRA
Attorney General of California
STEVE DIEHL
Supervising Deputy Attorney General

SARAH J. JACOBS
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Statement of Issues No. 800-2018-050915

XAVIER BECERRA
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FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO May 9 2019
BY K. Vong ANALYST

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

In the Matter of the Statement of Issues Against: **OSCAR DANIEL LAZCANO** Applicant.	Case No. 800-2018-050915 **STATEMENT OF ISSUES**

Complainant alleges:

PARTIES

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

2. On or about April 29, 2018, the Medical Board of California, Department of Consumer Affairs received an application for a Physician's and Surgeon's License from Oscar Daniel Lazcano (Applicant). On or about June 3, 2018, Oscar Daniel Lazcano certified under penalty of perjury to the truthfulness of all statements, answers, and representations in the application.

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3. On or about October 25, 2018, the Board denied Applicant's application for a Physician's and Surgeon's License.

4. On or about December 4, 2018, Application requested an administrative hearing to contest the denial of his application.

JURISDICTION

5. This Statement of Issues is brought before the Medical Board of California (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code[1] unless otherwise indicated.

6. Section 475 of the Code provides the grounds of the denial of licenses, which provides in pertinent part:

"(a) Notwithstanding any other provisions of this code, the provisions of this division shall govern the denial of licenses on the grounds of:

"[¶] . . .[¶]"

"(4) Commission of any act which, if done by a licentiate of the business or profession in question, would be grounds for suspension or revocation of license.

"[¶] . . .[¶]"

7. Section 480 of the Code provides the acts disqualifying an applicant, which states:

"(a) A board may deny a license regulated by this code on the grounds that the applicant has one of the following:

"[¶] . . .[¶]"

(3)(A) Done any act that if done by a licentiate of the business or profession in question, would be grounds for suspension or revocation of license.

8. Section 2234 of the Code states, in pertinent 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:

[1] All further statutory references are to the Business and Professions Code, unless otherwise indicated.

"(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.

"[¶] . . .[¶]"

"(d) Incompetence.

"[¶] . . .[¶]"

9. Section 2221 of the Codes provides the denial of a physician's and surgeon's certificate, which states, in pertinent part:

"(a) The board may deny a physician's and surgeon's certificate to an applicant guilty of unprofessional conduct or of any cause that would subject a licensee to revocation or suspension of his or her license. The board in its sole discretion, may issue a probationary physician's and surgeon's certificate to an applicant subject to terms and conditions, including, but not limited to, any of the following conditions of probation:

"(1) Practice limited to a supervised, structured environment where the licensee's activities shall be supervised by another physician and surgeon.

"(2) Total or partial restrictions on drug prescribing privileges for controlled substances.

"(3) Continuing medical or psychiatric treatment.

"(4) Ongoing participation in a specified rehabilitation program.

"(5) Enrollment and successful completion of a clinical training program.

"(6) Abstention from the use of alcohol or drugs.

"(7) Restrictions against engaging in certain types of medical practice.

"(8) Compliance with all provisions of this chapter.

"(9) Payment of the cost of probation monitoring.

"(b) The board may modify or terminate the terms and conditions imposed on the probationary certificate upon receipt of a petition from the licensee. The board may assign the petition to an administrative law judge designated in Section 11371 of the Government Code. After a hearing on the petition, the administrative law judge shall provide a proposed decision to the board.

"[¶] . . .[¶]"

"(d) An applicant shall not be eligible to reapply for a physician's and surgeon's certificate for a minimum of three years from the effective date of the denial of his or her application, except that the board may, in its discretion and for good cause demonstrated, permit reapplication after not less than one year has elapsed from the effective date of the denial."

10. Section 2004 of the Code provides the responsibility of the Board, which states, in pertinent part:

"The board shall have the responsibility for the following:

"[¶] . . .[¶]"

"(h) Issuing licenses and certificates under the board's jurisdiction.

"[¶] . . .[¶]"

FIRST CAUSE FOR DENIAL OF APPLICATION

(Unprofessional Conduct)

11. Applicant's Physician's and Surgeon's License application is subject to denial under sections 480, subdivision (a)(3)(A), section 2234, and section 2234, subdivision (d), on the grounds that the Applicant has demonstrated conduct which, if done by a licentiate, would be grounds for suspension or revocation of a license, i.e., unprofessional conduct and/or conduct which indicates an unfitness to practice medicine. The circumstances are as follows:

12. On March 12, 2015, during Applicant's Anesthesiology Residency Program, the Clinical Competence Committee Chair sent a letter to Applicant placing him "On Review," and thereby more closely scrutinizing his performance. The letter described Applicant's performance in the Residency program being evaluated as below what was expected for his level of training. The letter noted Applicant's potential compromises to patient safety centering on his lack of vigilance.

13. In a letter dated August 21, 2015, Dr. J.S., described meeting with Applicant to discuss areas of concern about his residency performance. Specifically, Applicant placed an epidural at 22:46, however there was no epidural check until the next morning at 06:24, after the patient complained of discomfort. Next, Applicant administered a bolus of ropivacaine, but failed

to do an evaluation of the epidural's functioning, such as sensory levels or checking the patient's pain level prior to administration of the local anesthetic bolus. Applicant admitted his failure to do any additional assessment. After he was confronted, Applicant admitted that he did not discuss the procedure with faculty. Applicant also was reported by a patient's family member for failing to wear gloves when he removed the patient's dressing in order to assess the epidural and failed to wear gloves when he removed of the epidural.

14. On October 22, 2015, the Clinical Competence Committee Chair sent a letter to Applicant describing a September 23, 2015, meeting discussing Applicant's performance in the Residency program. The letter described Applicant's missing or incomplete items including: 49 delinquent evaluations from his assigned faculty members, missing his Journal Club and Grand Round attendance logs, failing to complete the Safety and Cultural Competency courses, and failing to submit the hand-off card. The letter further detailed Applicant's six month milestones regarding his skills and attributes in each level, and noted CA-2 residents are expected to achieve a level of 2.5. Of Applicant's 16 milestones, none of them were at a level of 2.5 or greater. Only three of Applicant's milestones were at a 1.5 level and the remainder were at the level of 1. The letter also noted that Applicant's milestone achievements had regressed in the past six months in a number of areas of previous achievement. The letter noted numerous areas of concern including: inadequate preoperative evaluation (e.g., patients going to the OR without a pre-op being completed, lack of awareness regarding patient history), inadequate preparation for cases, lack of appropriate documentation (e.g., placing an epidural and not documenting the procedure), performance of procedures without faculty knowledge, clinical care concerns (e.g., concerns regarding Applicant's sterile technique), and unresponsiveness to feedback (e.g., impression that Applicant is apathetic and not motivated to improve patient skills).

15. On November 5, 2015, the Anesthesiology Residency Program Director sent a letter to Applicant informing him that he was being placed on academic probation. This was based on Applicant's inadequate preoperative evaluation, inadequate preparation for cases, lack of appropriate documentation, performance of procedures without faculty knowledge, clinical care concerns, and unresponsiveness to feedback. Applicant was required to meet with his advisor

every week for the first month, and then every two weeks thereafter for the duration of his academic probation.

16. On January 20, 2016, the Clinical Competence Committee Chair signed a Clinical Competency Committee Report of Applicant's Residency program training period during July 1, 2015 to December 31, 2015. The report identified several deficiencies and areas of concern in Applicant's performance related to inadequate and incomplete preoperative evaluations, inadequate preparation for cases that included failing to provide necessary equipment for patient care despite discussion with faculty prior to the procedure, a lack of appropriate documentation related to patient care, and clinical care concerns.

17. On February 3, 2016, the Clinical Competency Committee met to discuss Applicant's performance and continued his term of academic probation for another three months. On February 17, 2016, the Committee wrote a letter to Applicant summarizing the meeting and noting Applicant's continued knowledge deficits in failing to synthesize information into an anesthetic plan and suboptimal preparation of cases. It was determined that Applicant failed to follow the probationary terms of initiating and meeting with his advisor every week for the first month and then every two weeks thereafter for the duration of his probation. Based on this schedule, Applicant should have met with his advisor eight times; however, only four meetings occurred. They found that Applicant failed to complete the terms of his academic probation.

18. On March 1, 2016, the Residency Program Director/Resident conducted a meeting regarding Applicant. The minutes stated that the faculty voiced concerns over Applicant's level of performance and assessments. Applicant was reported to be distracted and underperforming.

19. On March 1, 2016, the University sent a letter to Applicant, formally notifying him of continuation of his probationary status for another three months. This was due to Applicant's lack of demonstration of medical knowledge and his inability to synthesize it for patient care consistent with a resident at his stage of training. It further described Applicant's not demonstrating the ability to consistently and accurately assess patients and provide safe patient care and Applicant's failure to meet the requirements from his previous academic probation.

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20. On March 24, 2016, the American Board of Anesthesiology sent a letter to Applicant's program director noting that Applicant received an unsatisfactory certificate of clinical competence report for the term of July 1, 2015 to December 31, 2015.

21. On April 27, 2016, the Clinical Competence Committee sent a letter to Applicant describing its March 23, 2016, meeting discussing Applicant's performance in the Residency program. The letter described Applicant's missing or incomplete items including as follows: update of case logs, completion of hand-off card, completion of attendance logs, and a plan for his academic project. The letter further detailed Applicant's six month milestones regarding his skills and attributes in each level, and noted CA-3 residents are expected to achieve a level of 3. Of Applicant's 25 milestones, none of them were at a level of 3 or greater; only one milestone was at the neighboring level of 2.5, and all other milestones were at or below 2.

22. In an email on May 13, 2016, the Department of Anesthesiology described Applicant's failure to do a pre-operative evaluation on two complicated inpatient cardiac cases, as well as his failure to delegate the evaluations. When questioned, Applicant stated that he did not get a chance to see the patients. When asked why, Applicant responded, "Well, I guess I should have." The cardiac patients were inpatient for two weeks and were placed on the anesthesiology schedule the day before.

23. On June 3, 2016, the program director explained that the Clinical Competence Committee recommended Applicant to be removed from probationary status and returned to regular resident status in the Department of Anesthesiology.

24. On June 8, 2016, the program director sent an email noting that Applicant had failed his CT rotation.

25. On June 14, 2016, the program director removed Applicant from academic probation status.

26. On September 19, 2016, the program's Clinical Competence Committee Chair wrote a letter to Applicant regarding their August 31, 2016 meeting discussing his performance in the Anesthesiology Residency Program. The letter described Applicant's missing or incomplete items including as follows: an academic project, update of case logs, BLS/ACLS certification

expiration, Blackboard Safety Module, Journal Club and Grand Rounds attendance logs. The letter further detailed Applicant's six month milestones regarding his skills and attributes in each level, and noted CA-3 residents are expected to achieve a 3.5 level. Of Applicant's 25 milestones, only one (Professionalism 4: Receiving and Giving Feedback) was at the expected level of 3.5 or greater. However, the letter noted that Applicant had greatly improved in the past six months, but still remained below the goal of 3.5. Several faculty evaluations commented on specific areas for improvement including knowledge base, communication in the OR, and critical thinking in terms of being more proactive and less reactive. Due to concerns noted on some faculty evaluations, the Committee noted it would reassess Applicant's overall performance over several months.

27. During that residency program, on or about October 3, 2016, Applicant was working with his attending physician. Applicant prepared a patient and was setting up the instruments to perform an anesthetic nerve block. The attending physician reviewed the patient's chart prior to joining Applicant and the patient and noticed that the patient was taking a blood-thinner medication. While Applicant was setting up his tray, the attending physician asked the patient if she was taking any blood-thinner medication and she immediately responded affirmatively that she was taking Plavix. Applicant admitted that he was not aware of the patient's blood-thinner medication and he was unaware that the patient had taken the medication the day before. On October 4, 2016, the faculty reported this incident.

28. On October 7, 2016, Applicant resigned from his residency program.

29. The Board received an application for a Physician's and Surgeon's Certificate from Applicant, dated April 29, 2018. In the application, Applicant answered "yes" to questions 17, 20, and 22, which were in the Accreditation Counsel for Graduate Medical Education (ACGME) section and dealt with Applicant's receiving partial or no credit during a postgraduate training program, being placed on probation for any reason, and the use of limitations of special requirements put in place for clinical professionalism, medical knowledge, discipline or any other reason.

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30. On or about June 4, 2018, Applicant submitted to the Board a form entitled "Explanation for Application Question." The form provided Applicant's detailed written explanation to question number 17 on the application – "Have you ever received partial or no credit for a postgraduate training program?" Applicant included his own explanation of his probationary period during his Anesthesiology program. Applicant stated that during his CA-3 year, he resigned from the program for personal reasons. The form also provided Applicant's detailed written explanation to question number 20 on the application – "Have you ever been placed on probation for any reason?" Applicant included his own explanation of his academic probation. Applicant's further detailed his written explanation to question number 22 on the application – "Have you ever had any limitations or special requirements placed upon you for clinical performance professionalism, medical knowledge, discipline, or for any other reason?" Applicant included his own explanation or his performance and limitations placed on him during his probation period.

SECOND CAUSE FOR DENIAL OF APPLICATION

(Incompetence)

31. Applicant's application is subject to denial under section 475, subdivision (a)(4), section 480, subdivision (a)(3), section 2221, and section 2234, subdivision (d), on the grounds that Applicant has demonstrated conduct which, if done by a licentiate, would be grounds for suspension or revocation of a license, i.e., unprofessional conduct and/or conduct which indicated an unfitness to practice medicine, and incompetence. The circumstances are set forth in paragraphs 11 through 31, which are incorporated as if set forth fully herein.

32. Applicant's acts and/or omissions set forth in paragraphs 11 through 30, inclusive, above, whether proven individually, jointly, or in any combination thereof, constitute incompetence, in violation of section 475, subdivision (a)(4), section 480, subdivision (a)(3), section 2221, and section 2234, subdivision (d). Therefore, cause for denial of the Application exists.

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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. Denying the application of Oscar Daniel Lazcano for a Physician's and Surgeon's License;

2. If issued a probationary license, ordering Applicant to pay the Medical Board of California the costs of probation monitoring;

3. If placed on probation, revoking, suspending or denying approval of the Applicant's authority to supervise physician assistants and advanced practice nurses; and

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

DATED:

May 9, 2019

KIMBERLY KIRCHMEYER
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant

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