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8
9 **BEFORE THE**
MEDICAL BOARD OF CALIFORNIA
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the First Amended Accusation
12 Against:

Case No. 800-2015-014639

OAH No. 2019060742

13 **GARY GURSHARAN SANDHU, M.D.**
14 **840 Towne Center Drive**
Pomona, CA 91767

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

15 **Physician's and Surgeon's Certificate No. A**
16 **93748,**

17 Respondent.

18
19 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
20 entitled proceedings that the following matters are true:

21 **PARTIES**

22 1. Kimberly Kirchmeyer (Complainant) is the Executive Director of the Medical Board
23 of California (Board). She brought this action solely in her official capacity and is represented in
24 this matter by Xavier Becerra, Attorney General of the State of California, by Beneth A. Browne,
25 Deputy Attorney General.

26 2. Respondent Gary Gursharan Sandhu, M.D. (Respondent) is represented in this
27 proceeding by attorney Peter Osinoff, Esq., whose address is: 355 South Grand Avenue, Suite
28 1750, Los Angeles, CA 90071.

1 3. On or about January 6, 2006, the Board issued Physician's and Surgeon's Certificate
2 No. A 93748 to Gary Gursharan Sandhu, M.D. (Respondent). The Physician's and Surgeon's
3 Certificate was in full force and effect at all times relevant to the charges brought in Accusation
4 No. 800-2015-014639, and will expire on January 31, 2020, unless renewed.

5 **JURISDICTION**

6 Accusation No. 800-2015-014639 was filed before the Board, and is currently pending
7 against Respondent. The Accusation and all other statutorily required documents were properly
8 served on Respondent on August 3, 2018. Respondent timely filed his Notice of Defense
9 contesting the Accusation.

10 4. A copy of Accusation No. 800-2015-014639 is attached as exhibit A and incorporated
11 herein by reference.

12 **ADVISEMENT AND WAIVERS**

13 5. Respondent has carefully read, fully discussed with counsel, and understands the
14 charges and allegations in Accusation No. 800-2015-014639. Respondent has also carefully read,
15 fully discussed with counsel, and understands the effects of this Stipulated Settlement and
16 Disciplinary Order.

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

23 7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and
24 every right set forth above.

25 **CULPABILITY**

26 8. Respondent admits the truth of each and every charge and allegation in First
27 Amended Accusation No. 800-2015-014639.

28 9. Respondent agrees the Disciplinary Order below, requiring the disclosure of

1 probation pursuant to Business and Professions Code section 2228.1, serves to protect the public
2 interest.

3 10. Respondent agrees that his Physician's and Surgeon's Certificate is subject to
4 discipline and he agrees to be bound by the Board's probationary terms as set forth in the
5 Disciplinary Order below.

6 **CIRCUMSTANCES IN MITIGATION**

7 11. Respondent Gary Gursharan Sandhu, M.D. has never been the subject of any
8 disciplinary action. Subsequent to the events described in the First Amended Accusation, for
9 nearly four years, he has actively participated in an alcohol rehabilitation program requiring a
10 psychiatric evaluation, clinical diagnostic evaluations and reports, abstention from use of
11 controlled substances, abstention from use of alcohol, biological fluid testing, substance abuse
12 support group meetings and a worksite monitor. Due to his successful rehabilitation and
13 specialized knowledge, he was selected to serve on his hospital's Wellbeing Committee. He has
14 admitted responsibility at an early stage in the proceedings.

15 **CONTINGENCY**

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

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

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

4 **DISCIPLINARY ORDER**

5 IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. A 93748 issued
6 to Respondent GARY GURSHARAN SANDHU, M.D. is revoked. However, the revocation is
7 stayed and Respondent is placed on probation for four (4) years on the following terms and
8 conditions.

9 1. **CONTROLLED SUBSTANCES - ABSTAIN FROM USE.** Respondent shall abstain
10 completely from the personal use or possession of controlled substances as defined in the
11 California Uniform Controlled Substances Act, dangerous drugs as defined by Business and
12 Professions Code section 4022, and any drugs requiring a prescription. This prohibition does not
13 apply to medications lawfully prescribed to Respondent by another practitioner for a bona fide
14 illness or condition.

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

19 2. **ALCOHOL - ABSTAIN FROM USE.** Respondent shall abstain completely from the
20 use of products or beverages containing alcohol.

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

1 psychiatric evaluations and psychological testing.

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

4 4. PSYCHOTHERAPY. Within 60 calendar days of the effective date of this Decision,
5 Respondent shall submit to the Board or its designee for prior approval the name and
6 qualifications of a California-licensed board certified psychiatrist or a licensed psychologist who
7 has a doctoral degree in psychology and at least five years of postgraduate experience in the
8 diagnosis and treatment of emotional and mental disorders. Upon approval, Respondent shall
9 undergo and continue psychotherapy treatment, including any modifications to the frequency of
10 psychotherapy, until the Board or its designee deems that no further psychotherapy is necessary.

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

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

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

24 5. NOTICE OF EMPLOYER OR SUPERVISOR INFORMATION. Within seven (7)
25 days of the effective date of this Decision, Respondent shall provide to the Board the names,
26 physical addresses, mailing addresses, and telephone numbers of any and all employers and
27 supervisors. Respondent shall also provide specific, written consent for the Board, Respondent's
28 worksite monitor, and Respondent's employers and supervisors to communicate regarding

1 Respondent's work status, performance, and monitoring.

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

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

15 Respondent shall be subject to 36 to 104 random tests per year. Nothing precludes the
16 Board from increasing the number of random tests to the frequency of 52 to 104 random tests per
17 year for any reason.

18 Prior to practicing medicine, Respondent shall contract with a laboratory or service,
19 approved in advance by the Board or its designee, that will conduct random, unannounced,
20 observed, biological fluid testing and meets all of the following standards:

21 (a) Its specimen collectors are either certified by the Drug and Alcohol Testing Industry
22 Association or have completed the training required to serve as a collector for the United
23 States Department of Transportation.

24 (b) Its specimen collectors conform to the current United States Department of
25 Transportation Specimen Collection Guidelines.

26 (c) Its testing locations comply with the Urine Specimen Collection Guidelines published
27 by the United States Department of Transportation without regard to the type of test
28 administered.

1 (d) Its specimen collectors observe the collection of testing specimens.

2 (e) Its laboratories are certified and accredited by the United States Department of Health
3 and Human Services.

4 (f) Its testing locations shall submit a specimen to a laboratory within one (1) business day
5 of receipt and all specimens collected shall be handled pursuant to chain of custody
6 procedures. The laboratory shall process and analyze the specimens and provide legally
7 defensible test results to the Board within seven (7) business days of receipt of the
8 specimen. The Board will be notified of non-negative results within one (1) business day
9 and will be notified of negative test results within seven (7) business days.

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

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

14 (i) It maintains testing sites located throughout California.

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

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

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

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

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

28 The contract shall require that the laboratory directly notify the Board or its designee of

1 non-negative results within one (1) business day and negative test results within seven (7)
2 business days of the results becoming available. Respondent shall maintain this laboratory or
3 service contract during the period of probation.

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

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

12 A biological fluid test will not be considered negative if a positive result is obtained while
13 practicing, even if the practitioner holds a valid prescription for the substance. If no prohibited
14 substance use exists, the Board shall lift the cease-practice order within one (1) business day.

15 After the issuance of a cease-practice order, the Board shall determine whether the positive
16 biological fluid test is in fact evidence of prohibited substance use by consulting with the
17 specimen collector and the laboratory, communicating with the licensee, his or her treating
18 physician(s), other health care provider, or group facilitator, as applicable.

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

21 For purposes of this condition, the term "prohibited substance" means an illegal drug, a
22 lawful drug not prescribed or ordered by an appropriately licensed health care provider for use by
23 Respondent and approved by the Board, alcohol, or any other substance the Respondent has been
24 instructed by the Board not to use, consume, ingest, or administer to himself or herself.

25 If the Board confirms that a positive biological fluid test is evidence of use of a prohibited
26 substance, Respondent has committed a major violation, as defined in section 1361.52(a), and the
27 Board shall impose any or all of the consequences set forth in section 1361.52(b), in addition to
28 any other terms or conditions the Board determines are necessary for public protection or to

1 enhance Respondent's rehabilitation.

2 7. SUBSTANCE ABUSE SUPPORT GROUP MEETINGS. Within thirty (30) days of
3 the effective date of this Decision, Respondent shall submit to the Board or its designee, for its
4 prior approval, the name of a substance abuse support group which he or she shall attend for the
5 duration of probation. Respondent shall attend substance abuse support group meetings at least
6 once per week, or as ordered by the Board or its designee. Respondent shall pay all substance
7 abuse support group meeting costs.

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

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

20 8. WORKSITE MONITOR FOR SUBSTANCE-ABUSING LICENSEE. Within thirty
21 (30) calendar days of the effective date of this Decision, Respondent shall submit to the Board or
22 its designee for prior approval as a worksite monitor, the name and qualifications of one or more
23 licensed physician and surgeon, other licensed health care professional if no physician and
24 surgeon is available, or, as approved by the Board or its designee, a person in a position of
25 authority who is capable of monitoring the Respondent at work.

26 The worksite monitor shall not have a current or former financial, personal, or familial
27 relationship with Respondent, or any other relationship that could reasonably be expected to
28 compromise the ability of the monitor to render impartial and unbiased reports to the Board or its

1 designee. If it is impractical for anyone but Respondent's employer to serve as the worksite
2 monitor, this requirement may be waived by the Board or its designee, however, under no
3 circumstances shall Respondent's worksite monitor be an employee or supervisee of the licensee.

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

8 Respondent shall pay all worksite monitoring costs.

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

13 The worksite monitor shall verbally report any suspected substance abuse to the Board and
14 Respondent's employer or supervisor within one (1) business day of occurrence. If the suspected
15 substance abuse does not occur during the Board's normal business hours, the verbal report shall
16 be made to the Board or its designee within one (1) hour of the next business day. A written
17 report that includes the date, time, and location of the suspected abuse; Respondent's actions; and
18 any other information deemed important by the worksite monitor shall be submitted to the Board
19 or its designee within 48 hours of the occurrence.

20 The worksite monitor shall complete and submit a written report monthly or as directed by
21 the Board or its designee which shall include the following: (1) Respondent's name and
22 Physician's and Surgeon's Certificate number; (2) the worksite monitor's name and signature; (3)
23 the worksite monitor's license number, if applicable; (4) the location or location(s) of the
24 worksite; (5) the dates Respondent had face-to-face contact with the worksite monitor; (6) the
25 names of worksite staff interviewed, if applicable; (7) a report of Respondent's work attendance;
26 (8) any change in Respondent's behavior and/or personal habits; and (9) any indicators that can
27 lead to suspected substance abuse by Respondent. Respondent shall complete any required
28 consent forms and execute agreements with the approved worksite monitor and the Board, or its

1 designee, authorizing the Board, or its designee, and worksite monitor to exchange information.

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

11 9. VIOLATION OF PROBATION CONDITION FOR SUBSTANCE ABUSING
12 LICENSEES. Failure to fully comply with any term or condition of probation is a violation of
13 probation.

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

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

26 (2) Increase the frequency of biological fluid testing.

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

1 B. If Respondent commits a minor violation of probation as defined by section
2 1361.52, subdivision (c), of Title 16 of the California Code of Regulations, the Board shall take
3 one or more of the following actions:

- 4 (1) Issue a cease-practice order;
5 (2) Order practice limitations;
6 (3) Order or increase supervision of Respondent;
7 (4) Order increased documentation;
8 (5) Issue a citation and fine, or a warning letter;
9 (6) Order Respondent to undergo a clinical diagnostic evaluation to be conducted in
10 accordance with section 1361.5, subdivision (c)(1), of Title 16 of the California Code of
11 Regulations, at Respondent's expense;
12 (7) Take any other action as determined by the Board or its designee.

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

20 10. NOTIFICATION. Within seven (7) days of the effective date of this Decision, the
21 Respondent shall provide a true copy of this Decision and First Amended Accusation to the Chief
22 of Staff or the Chief Executive Officer at every hospital where privileges or membership are
23 extended to Respondent, at any other facility where Respondent engages in the practice of
24 medicine, including all physician and locum tenens registries or other similar agencies, and to the
25 Chief Executive Officer at every insurance carrier which extends malpractice insurance coverage
26 to Respondent. Respondent shall submit proof of compliance to the Board or its designee within
27 15 calendar days.

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

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

16 12. SUPERVISION OF PHYSICIAN ASSISTANTS AND ADVANCED PRACTICE
17 NURSES. During probation, Respondent is prohibited from supervising physician assistants and
18 advanced practice nurses.

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

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

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

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1 15. GENERAL PROBATION REQUIREMENTS.

2 Compliance with Probation Unit

3 Respondent shall comply with the Board's probation unit.

4 Address Changes

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

10 Place of Practice

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

14 License Renewal

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

17 Travel or Residence Outside California

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

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

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

27 17. NON-PRACTICE WHILE ON PROBATION. Respondent shall notify the Board or
28 its designee in writing within 15 calendar days of any periods of non-practice lasting more than

1 30 calendar days and within 15 calendar days of Respondent's return to practice. Non-practice is
2 defined as any period of time Respondent is not practicing medicine as defined in Business and
3 Professions Code sections 2051 and 2052 for at least 40 hours in a calendar month in direct
4 patient care, clinical activity or teaching, or other activity as approved by the Board. If
5 Respondent resides in California and is considered to be in non-practice, Respondent shall
6 comply with all terms and conditions of probation. All time spent in an intensive training
7 program which has been approved by the Board or its designee shall not be considered non-
8 practice and does not relieve Respondent from complying with all the terms and conditions of
9 probation. Practicing medicine in another state of the United States or Federal jurisdiction while
10 on probation with the medical licensing authority of that state or jurisdiction shall not be
11 considered non-practice. A Board-ordered suspension of practice shall not be considered as a
12 period of non-practice.

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

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

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

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

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

19. 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.

20. 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 his or 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.

21. 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.

ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Peter Osinoff, 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


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1 Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the
2 Decision and Order of the Medical Board of California.

3
4 DATED: 9/20/2019 
5 GARY GURSHARAN SANDHU, M.D.
Respondent

6 I have read and fully discussed with Respondent Gary Gursharan Sandhu, M.D. the terms
7 and conditions and other matters contained in the above Stipulated Settlement and Disciplinary
8 Order. I approve its form and content.

9 DATED: 9/23/19 
10 PETER OSINOFF, ESQ.
Attorney for Respondent

11
12 ENDORSEMENT /

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

15
16 DATED: 9/26/19

Respectfully submitted,

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

19 
20 BENETH A. BROWNE
21 Deputy Attorney General
22 Attorneys for Complainant

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24 53719855.docx

Exhibit A

Accusation No. 800-2015-014639

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FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO August 3 20 18
BY R. Fitzgerald ANALYST

8 **BEFORE THE**
9 **MEDICAL BOARD OF CALIFORNIA**
10 **DEPARTMENT OF CONSUMER AFFAIRS**

11 In the Matter of the First Amended Accusation
12 Against:

Case No. 800-2015-014639

13 **Gary Gursharan Sandhu, M.D.**
14 **840 Towne Center Drive**
15 **Pomona, CA 91767**

**FIRST AMENDED
ACCUSATION**

16 **Physician's and Surgeon's Certificate**
17 **No. A 93748,**

Respondent.

18 Complainant alleges:

19 **PARTIES**

20 1. Kimberly Kirchmeyer (Complainant) brings this First Amended Accusation solely in
21 her official capacity as the Executive Director of the Medical Board of California.

22 2. On or about January 6, 2006, the Medical Board issued Physician's and Surgeon's
23 Certificate Number A 93748 to Gary Gursharan Sandhu, M.D. (Respondent). The Physician's
24 and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought
25 herein and will expire on January 31, 2020, unless renewed.

26 **JURISDICTION**

27 3. This First Amended Accusation is brought before the Board, under the authority of
28 the following laws. All section references are to the Business and Professions Code unless

1 otherwise indicated.

2 4. Section 2229 of the Code states in relevant part:

3 “(a) Protection of the public shall be the highest priority for the Division of Medical
4 Quality,¹ the California Board of Podiatric Medicine, and administrative law judges of the
5 Medical Quality Hearing Panel in exercising their disciplinary authority.”

6 5. Section 2227 of the Code provides that a licensee who is found guilty under the
7 Medical Practice Act may have his or her license revoked, suspended for a period not to exceed
8 one year, placed on probation and required to pay the costs of probation monitoring, or such other
9 action taken in relation to discipline as the Board deems proper.

10 6. Section 2234 of the Code states:

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

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

16 “(b) Gross negligence.

17 “(c) Repeated negligent acts. To be repeated, there must be two or more negligent acts or
18 omissions. An initial negligent act or omission followed by a separate and distinct departure from
19 the applicable standard of care shall constitute repeated negligent acts.

20 “(1) An initial negligent diagnosis followed by an act or omission medically appropriate
21 for that negligent diagnosis of the patient shall constitute a single negligent act.

22 “(2) When the standard of care requires a change in the diagnosis, act, or omission that
23 constitutes the negligent act described in paragraph (1), including, but not limited to, a
24 reevaluation of the diagnosis or a change in treatment, and the licensee's conduct departs from the
25 applicable standard of care, each departure constitutes a separate and distinct breach of the
26 standard of care.

27
28 ¹ Pursuant to Business and Professions Code section 2002, the “Division of Medical
Quality” or “Division” shall be deemed to refer to the Medical Board of California.

1 “(d) Incompetence.

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

4 “(f) Any action or conduct that would have warranted the denial of a certificate.

5 “(g) The practice of medicine from this state into another state or country without meeting
6 the legal requirements of that state or country for the practice of medicine. Section 2314 shall
7 not apply to this subdivision. This subdivision shall become operative upon the implementation of
8 the proposed registration program described in Section 2052.5.

9 “(h) The repeated failure by a certificate holder, in the absence of good cause, to attend and
10 participate in an interview by the board. This subdivision shall only apply to a certificate holder
11 who is the subject of an investigation by the board.”

12 7. Section 2236 of the Code states:

13 (a) The conviction of any offense substantially related to the qualifications, functions, or
14 duties of a physician and surgeon constitutes unprofessional conduct within the meaning of this
15 chapter [Chapter 5, the Medical Practice Act]. The record of conviction shall be conclusive
16 evidence only of the fact that the conviction occurred.

17 “...”

18 (c) The clerk of the court in which a licensee is convicted of a crime shall, within 48 hours
19 after the conviction, transmit a certified copy of the record of conviction to the board. The
20 division may inquire into the circumstances surrounding the commission of a crime in order to fix
21 the degree of discipline or to determine if the conviction is of an offense substantially related to
22 the qualifications, functions, or duties of a physician and surgeon.

23 (d) A plea or verdict of guilty or a conviction after a plea of nolo contendere is deemed to
24 be a conviction within the meaning of this section and Section 2236.1. The record of conviction
25 shall be conclusive evidence of the fact that the conviction occurred.

26 8. Section 2239 of the Code states:

27 (a) The use or prescribing for or administering to himself or herself, of any controlled
28 substance; or the use of any of the dangerous drugs specified in Section 4022, or of alcoholic

1 beverages, to the extent, or in such a manner as to be dangerous or injurious to the licensee, or to
2 any other person or to the public, or to the extent that such use impairs the ability of the licensee
3 to practice medicine safely or more than one misdemeanor or any felony involving the use,
4 consumption, or self-administration of any of the substances referred to in this section, or any
5 combination thereof, constitutes unprofessional conduct. The record of the conviction is
6 conclusive evidence of such unprofessional conduct.

7 (b) A plea or verdict of guilty or a conviction following a plea of nolo contendere is
8 deemed to be a conviction within the meaning of this section. The Medical Board may order
9 discipline of the licensee in accordance with Section 2227 or the Medical Board may order the
10 denial of the license when the time for appeal has elapsed or the judgment of conviction has been
11 affirmed on appeal or when an order granting probation is made suspending imposition of
12 sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal
13 Code allowing such person to withdraw his or her plea of guilty and to enter a plea of not guilty,
14 or setting aside the verdict of guilty, or dismissing the accusation, complaint, information, or
15 indictment.

16 9. Section 2280 of the Code states: "No licensee shall practice medicine while under the
17 influence of any narcotic drug or alcohol to such an extent as to impair his or her ability to
18 conduct the practice of medicine with safety to the public and his or her patients. Violation of
19 this section constitutes unprofessional conduct and is a misdemeanor."

20 **FIRST CAUSE FOR DISCIPLINE**

21 **(Conviction of a Crime)**

22 10. Respondent is subject to disciplinary action under sections 2234 and 2236 in that he
23 was convicted of a crime substantially related to the qualifications, functions and duties of a
24 physician. The circumstances are as follows:

25 11. On or about July 27, 2015, in the Orange County Superior Court, case number
26 AN15NM10291, based on an incident on June 17, 2015, Respondent was criminally charged with
27 three misdemeanor violations: (1) Penal Code section 273a, subdivision (b), willfully causing and
28 permitting the person and health of a child to be injured, and willfully causing and permitting that

1 child to be placed in a situation where his or her person and health may be endangered; (2)
2 Vehicle Code section 23152, subdivision (a), willfully and unlawfully driving a vehicle under the
3 influence of an alcoholic beverage; and (3) willfully and unlawfully driving a vehicle upon a
4 highway and in an area open to the general public while having a 0.08 percent or more alcohol in
5 his blood. Additionally, Respondent was charged with committing these offenses at a time when,
6 within the previous ten years, on or about August 17, 2010, based on an offense on May 7, 2010,
7 he was previously convicted of violating Vehicle Code section 23152, subdivision (b).

8 12. On or about September 29, 2015, Respondent admitted that on June 17, 2015, while
9 in Orange County, he willfully and unlawfully drove a motor vehicle while under the influence of
10 alcohol and while his blood alcohol content was above 0.08 percent, to wit: 0.27 percent, and
11 with a passenger under the age of 14. The criminal complaint was amended to only include two
12 counts: (1) a misdemeanor violation of Vehicle Code 23152, subdivision (a); and (2) a
13 misdemeanor violation of Vehicle Code section 23152, subdivision (b). To each allegation, the
14 criminal complaint was amended to add Vehicle Code section 23572, subdivision (a)(3), driving a
15 vehicle with a minor under 14 years of age during the commission of the violations. Respondent
16 pled guilty to the charges and was convicted. The court stayed the sentence pursuant to Penal
17 Code section 654 as to the second count. The court found no legal cause why judgment should
18 not be pronounced. Respondent having pled guilty to count 1, imposition of sentence was
19 suspended and Respondent was placed on five years of informal probation on numerous terms
20 and conditions including paying numerous fees and fines and serving 120 days in the Orange
21 County Jail. He received credit for four days of time served including two actual days and two
22 days for good conduct. Respondent was also required to attend and complete 18 months Multiple
23 Offender Alcohol program and to not leave the program without court approval.

24 13. By way of background, on the afternoon of Wednesday, June 17, 2015, Respondent
25 drove a car while impaired with a blood alcohol content of 0.27 percent. Respondent's child was
26 a passenger in the car. Respondent collided with a new, white sport utility vehicle (SUV) that
27 was in the far left turn lane with such force that the SUV was pushed and collided with the car
28 waiting in front of it. Respondent's car was damaged in the hood, grill, bumper, lights and

1 driver's side quarter panel. The other vehicles were damaged to their rear bumpers and trunks.
2 The driver of the SUV reported head pain and the individual driving the car first in line to turn
3 left reported back pain after the multi-vehicle traffic collision caused by Respondent.²

4 **SECOND CAUSE FOR DISCIPLINE**

5 **(Under the Influence at Work)**

6 14. Respondent is subject to disciplinary action under Code section 2280 in that he
7 practiced medicine while under the influence of alcohol. The circumstances are as follows:

8 15. On or about July 16, 2015, while Respondent was working as a hospitalist at the
9 Pomona Valley Hospital Medical Center, the Chief of Staff and Vice President of Medical Affairs
10 observed Respondent's appearance to be disheveled and unprofessional. The Chief of Staff and
11 President of Medical Center met with Respondent and Respondent submitted to urine and blood
12 tests to measure his blood alcohol content. He tested positive for alcohol with a blood alcohol
13 content reported to be .27 percent. Respondent was directed to leave work.

14 **THIRD CAUSE FOR DISCIPLINE**

15 **(Use of Alcohol in a Dangerous Manner)**

16 16. Respondent is subject to disciplinary action under sections 2234 and 2239 in that
17 Respondent committed unprofessional conduct when he used alcoholic beverages to the extent
18 and in such a manner as to be dangerous and injurious to himself and others and, additionally, he
19 received more than one misdemeanor conviction involving the consumption of alcohol. The
20 circumstances are as follows:

21 17. The facts alleged in paragraphs 11 through 13 and 15 above are incorporated here as
22 if fully set forth.

23 **FOURTH CAUSE FOR DISCIPLINE**

24 **(Unprofessional Conduct)**

25 18. Respondent is subject to disciplinary action under section 2234 in that he committed

26 ² Respondent received an abrasion on his left wrist. The police report does not indicate
27 whether or to what extent Respondent's child was injured. According to the driver who was first
28 in line to turn left at the intersection, he immediately exited his car after the collision and heard a
child crying in the back seat of Respondent's car. Police were able to reach Respondent's spouse
and she responded and was able to pick up their child at the scene.

unprofessional conduct. The circumstances are as follows:

19. The facts alleged in paragraphs 10 through 17 above are incorporated here as if fully set forth.

DISCIPLINARY CONSIDERATION

20. To determine the degree of discipline, if any, to be imposed on Respondent, Complainant alleges that on or about August 17, 2010, in the criminal case of People vs. Gary Sandhu, Orange County Superior Court Case 10NM06141, Respondent pled guilty to and was convicted of violating Vehicle Code section 23152, subdivision (b). Respondent admitted to having driven on May 7, 2010, while under the influence of alcohol with a blood alcohol level of 0.23 percent. He was sentenced to three years of informal probation on numerous terms and conditions including: attending and completing a six-month, Level 2 First Offender Alcohol Program; paying numerous fines and fees; not driving with a measurable amount of alcohol or drugs in his blood; submitting to a chemical testing of his blood, breath or urine on demand of any peace officer or probation officer; and attending and completing Mothers Against Drunk Driving Victim's Impact Panel.

21. By way of background, shortly after midnight on the morning of Friday, May 7, 2010, Respondent was driving from Valencia to Anaheim Hills. A police officer driving directly behind Respondent on the SR-91 saw Respondent's car weave left and right out of the lane on both sides, once nearly colliding with another vehicle. Although the officer activated the patrol vehicle's overhead lights, Respondent merely slowed his vehicle; he failed to pull over until the officer instructed him with a loud speaker, using the patrol vehicle's public address system. The officer approached Respondent's car on the passenger side but Respondent did not open the window. The officer opened the passenger door, immediately smelled the odor of alcohol and instructed Respondent to get out of the car. After Respondent got out of his car, his car began rolling backwards toward the officer's patrol vehicle. The officer's partner was able to get to the car and place it into park without a collision. Respondent had urinated in his pants, his breath smelled of alcohol, and his eyes were bloodshot and watery. Respondent admitted that he had "a few Long Island Iced Tea's" but asked the officers to give him a break and let him go, repeatedly saying

1 that he was a doctor and did not want to lose his job. After submitting to a breathalyzer test, he
2 was transported to and booked into the Orange County Jail.

3 **PRAYER**

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

- 6 1. Revoking or suspending Physician's and Surgeon's Certificate Number A 93748,
7 issued to Gary Gursharan Sandhu, M.D.;
- 8 2. Revoking, suspending or denying approval of Gary Gursharan Sandhu, M.D.'s
9 authority to supervise physician assistants and advanced practice nurses;
- 10 3. Ordering Gary Gursharan Sandhu, M.D., if placed on probation, to pay the Board the
11 costs of probation monitoring; and
- 12 4. Taking such other and further action as deemed necessary and proper.

13 DATED: August 3, 2018


14 KIMBERLY KIRCHMEYER
15 Executive Director
16 Medical Board of California
17 State of California
18 Complainant

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