

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

**In the Matter of the First Amended
Accusation Against:**

Kathryn Morris Gunnison, M.D.

**Physician's and Surgeons
Certificate No. A 124321**

Case No. 800-2019-057930

Respondent.

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 February 19, 2021.

IT IS SO ORDERED: January 21, 2021.

MEDICAL BOARD OF CALIFORNIA



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

1 XAVIER BECERRA
Attorney General of California
2 MARY CAIN-SIMON
Supervising Deputy Attorney General
3 CAROLYNE EVANS
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8 **BEFORE THE**
9 **MEDICAL BOARD OF CALIFORNIA**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the First Amended Accusation
Against:

Case No. 800-2019-057930

13 **KATHRYN MORRIS GUNNISON, M.D.**
14 **10 Harris Court**
15 **Monterey, CA 93940**

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

16 **Physician's and Surgeon's Certificate No. A**
17 **124321**

Respondent.

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

23 **PARTIES**

24 1. William Prasifka (Complainant) is the Executive Director of the Medical Board of
25 California (Board). He brought this action solely in his official capacity and is represented in this
26 matter by Xavier Becerra, Attorney General of the State of California, by Carolyn Evans,
27 Deputy Attorney General.
28

2. Respondent Kathryn Morris Gunnison, M.D. (Respondent) is represented in this proceeding by attorney Marvin Firestone, whose address is: 1700 South El Camino Real, Suite 408, San Mateo, CA 94402.

3. On or about January 25, 2013, the Board issued Physician's and Surgeon's Certificate No. A 124321 Respondent. The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought in First Amended Accusation No. 800-2019-057930, and will expire on September 30, 2022, unless renewed.

JURISDICTION

4. First Amended Accusation No. 800-2019-057930 was filed before the Board, and is currently pending against Respondent. The First Amended Accusation and all other statutorily required documents were properly served on Respondent on December 3, 2020. Respondent timely filed her Notice of Defense contesting the First Amended Accusation.

5. A copy of the First Amended Accusation No. 800-2019-057930 is attached as exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

6. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in First Amended Accusation No. 800-2019-057930. Respondent has also carefully read, fully discussed with her counsel, and 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 in the First Amended 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.

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

1 **CULPABILITY**

2 9. Respondent understands and agrees that the charges and allegations in Accusation
3 No. 800-2019-057930, if proven at a hearing, constitute cause for imposing discipline upon her
4 Physician's and Surgeon's Certificate.

5 10. Respondent does not contest that, at an administrative hearing, Complainant could
6 establish a prima facie case with respect to the charges and allegations in Accusation No. 800-
7 2019-057930, and that she has thereby subjected her Physician's and Surgeon's Certificate, No. A
8 124321 to disciplinary action.

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

12 12. Respondent agrees that her Physician's and Surgeon's Certificate is subject to
13 discipline and she agrees to be bound by the Board's probationary terms as set forth in the
14 Disciplinary Order below.

15 **CONTINGENCY**

16 13. 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 her counsel. By signing the
20 stipulation, Respondent understands and agrees that she may not withdraw her 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 14. Respondent agrees that if she ever petitions for early termination or modification of
27 probation, or if an accusation and/or petition to revoke probation is filed against her before the
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Board, all of the charges and allegations contained in First Amended Accusation No. 800-2019-057930 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.

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 124321 issued to Respondent KATHRYN MORRIS GUNNISON, M.D. is revoked. However, the revocation is stayed and Respondent is placed on probation for six (6) years on the following terms and conditions:

1. **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

1 treatment relationship with the patient.

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

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

12 3. ALCOHOL - ABSTAIN FROM USE. Respondent shall abstain completely from the
13 use of products or beverages containing alcohol.

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

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

24 If, during the course of the probation, the Respondent's practice setting changes and the
25 Respondent is no longer practicing in a setting in compliance with this Decision, the Respondent
26 shall notify the Board or its designee within five (5) calendar days of the practice setting change.
27 If Respondent fails to establish a practice with another physician or secure employment in an
28 appropriate practice setting within 60 calendar days of the practice setting change, Respondent

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

4 5. 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 6. CLINICAL DIAGNOSTIC EVALUATIONS AND REPORTS: Respondent has
25 undergone a Clinical Diagnostic Evaluation, and will not be required to undergo another complete
26 Clinical Diagnostic at this time. However, at the Board's discretion, and on whatever periodic
27 basis that may be required by the Board or its designee, Respondent shall undergo and complete a
28 psychiatric and/or substance abuse evaluation (and psychological testing, if deemed necessary) by

1 a Board-appointed evaluator, who shall consider any information provided by the Board or its
2 designee and any other information the evaluator deems relevant, and shall furnish a written
3 evaluation report to the Board or its designee. Respondent shall cooperate fully with any
4 evaluation, and shall pay the cost of all psychiatric evaluations and psychological testing.
5 Respondent shall comply with all restrictions or conditions recommended by the evaluator within
6 15 calendar days after being notified by the Board or its designee.

7 7. NOTICE OF EMPLOYER OR SUPERVISOR INFORMATION. Within seven
8 (7) days of the effective date of this Decision, Respondent shall provide to the Board the names,
9 physical addresses, mailing addresses, and telephone numbers of any and all employers and
10 supervisors. Respondent shall also provide specific, written consent for the Board, Respondent's
11 worksite monitor, and Respondent's employers and supervisors to communicate regarding
12 Respondent's work status, performance, and monitoring.

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

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

26 During the first year of probation, Respondent shall be subject to 52 to 104 random tests.
27 During the second year of probation and for the duration of the probationary term, up to five (5)
28 years, Respondent shall be subject to 36 to 104 random tests per year. Only if there has been no

1 positive biological fluid tests in the previous five (5) consecutive years of probation, may testing
2 be reduced to one (1) time per month. Nothing precludes the Board from increasing the number
3 of random tests to the first-year level of frequency for any reason.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

14 The contract shall require that the laboratory directly notify the Board or its designee of
15 non-negative results within one (1) business day and negative test results within seven (7)
16 business days of the results becoming available. Respondent shall maintain this laboratory or
17 service contract during the period of probation.

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

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

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

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

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

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

11 If the Board confirms that a positive biological fluid test is evidence of use of a prohibited
12 substance, Respondent has committed a major violation, as defined in section 1361.52(a), and the
13 Board shall impose any or all of the consequences set forth in section 1361.52(b), in addition to
14 any other terms or conditions the Board determines are necessary for public protection or to
15 enhance Respondent's rehabilitation.

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

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

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

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

12 The worksite monitor shall not have a current or former financial, personal, or familial
13 relationship with Respondent, or any other relationship that could reasonably be expected to
14 compromise the ability of the monitor to render impartial and unbiased reports to the Board or its
15 designee. If it is impractical for anyone but Respondent's employer to serve as the worksite
16 monitor, this requirement may be waived by the Board or its designee, however, under no
17 circumstances shall Respondent's worksite monitor be an employee or supervisee of the licensee.

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

22 Respondent shall pay all worksite monitoring costs.

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

27 The worksite monitor shall verbally report any suspected substance abuse to the Board and
28 Respondent's employer or supervisor within one (1) business day of occurrence. If the suspected

1 substance abuse does not occur during the Board's normal business hours, the verbal report shall
2 be made to the Board or its designee within one (1) hour of the next business day. A written
3 report that includes the date, time, and location of the suspected abuse; Respondent's actions; and
4 any other information deemed important by the worksite monitor shall be submitted to the Board
5 or its designee within 48 hours of the occurrence.

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

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

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

28 A. If Respondent commits a major violation of probation as defined by section

1 1361.52, subdivision (a), of Title 16 of the California Code of Regulations, the Board shall take
2 one or more of the following actions:

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

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

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

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

18 (1) Issue a cease-practice order;

19 (2) Order practice limitations;

20 (3) Order or increase supervision of Respondent;

21 (4) Order increased documentation;

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

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

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

27 C. Nothing in this Decision shall be considered a limitation on the Board's authority
28 to revoke Respondent's probation if he or she has violated any term or condition of probation. If

1 Respondent violates probation in any respect, the Board, after giving Respondent notice and the
2 opportunity to be heard, may revoke probation and carry out the disciplinary order that was
3 stayed. If an Accusation, or Petition to Revoke Probation, or an Interim Suspension Order is filed
4 against Respondent during probation, the Board shall have continuing jurisdiction until the matter
5 is final, and the period of probation shall be extended until the matter is final.

6 12. NOTIFICATION. Within seven (7) days of the effective date of this Decision, the
7 Respondent shall provide a true copy of this Decision and First Amended Accusation to the Chief
8 of Staff or the Chief Executive Officer at every hospital where privileges or membership are
9 extended to Respondent, at any other facility where Respondent engages in the practice of
10 medicine, including all physician and locum tenens registries or other similar agencies, and to the
11 Chief Executive Officer at every insurance carrier which extends malpractice insurance coverage
12 to Respondent. Respondent shall submit proof of compliance to the Board or its designee within
13 15 calendar days.

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

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

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

21 15. QUARTERLY DECLARATIONS. Respondent shall submit quarterly
22 declarations under penalty of perjury on forms provided by the Board, stating whether there has
23 been compliance with all the conditions of probation. Respondent shall submit quarterly
24 declarations not later than 10 calendar days after the end of the preceding quarter.

25 16. GENERAL PROBATION REQUIREMENTS.

26 Compliance with Probation Unit

27 Respondent shall comply with the Board's probation unit.
28

1 Address Changes

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

7 Place of Practice

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

11 License Renewal

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

14 Travel or Residence Outside California

15 Respondent shall immediately inform the Board or its designee, in writing, of travel to any
16 areas outside the jurisdiction of California which lasts, or is contemplated to last, more than thirty
17 (30) calendar days. In the event Respondent should leave the State of California to reside or to
18 practice, Respondent shall notify the Board or its designee in writing 30 calendar days prior to the
19 dates of departure and return.

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

23 18. NON-PRACTICE WHILE ON PROBATION. Respondent shall notify the Board
24 or its designee in writing within 15 calendar days of any periods of non-practice lasting more than
25 30 calendar days and within 15 calendar days of Respondent's return to practice. Non-practice is
26 defined as any period of time Respondent is not practicing medicine as defined in Business and
27 Professions Code sections 2051 and 2052 for at least 40 hours in a calendar month in direct
28 patient care, clinical activity or teaching, or other activity as approved by the Board. If

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

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

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

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

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

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

25 20. VIOLATION OF PROBATION. Failure to fully comply with any term or
26 condition of probation is a violation of probation. If Respondent violates probation in any
27 respect, the Board, after giving Respondent notice and the opportunity to be heard, may revoke
28 probation and carry out the disciplinary order that was stayed. If an Accusation, or Petition to

1 Revoke Probation, or an Interim Suspension Order is filed against Respondent during probation,
2 the Board shall have continuing jurisdiction until the matter is final, and the period of probation
3 shall be extended until the matter is final.

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

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

19 23. FUTURE ADMISSIONS CLAUSE. If Respondent should ever apply or reapply
20 for a new license or certification, or petition for reinstatement of a license, by any other health
21 care licensing action agency in the State of California, all of the charges and allegations contained
22 in First Amended Accusation No. 800-2019-057930 shall be deemed to be true, correct, and
23 admitted by Respondent for the purpose of any Statement of Issues or any other proceeding
24 seeking to deny or restrict license.

25 24. Respondent must report any future criminal arrests to the Board in writing within
26 24 hours of the arrest.

1 **ACCEPTANCE**

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

7
8 DATED: 12/7/20


KATHRYN MORRIS GUNNISON, M.D.
Respondent

10 I have read and fully discussed with Respondent Kathryn Morris Gunnison, M.D. the terms
11 and conditions and other matters contained in the above Stipulated Settlement and Disciplinary
12 Order. I approve its form and content.

13 DATED: 12/7/20


MARVIN FIRESTONE
Attorney for Respondent

16
17 **ENDORSEMENT**

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

20
21 DATED: December 7, 2020

Respectfully submitted,

22 XAVIER BECERRA
Attorney General of California
23 MARY CAIN-SIMON
Supervising Deputy Attorney General

24 

25 CAROLYNE EVANS
26 Deputy Attorney General
Attorneys for Complainant

Exhibit A

First Amended Accusation No. 800-2019-057930

1 XAVIER BECERRA
Attorney General of California
2 MARY CAIN-SIMON
Supervising Deputy Attorney General
3 CAROLYNE EVANS
Deputy Attorney General
4 State Bar No. 289206
455 Golden Gate Avenue, Suite 11000
5 San Francisco, CA 94102-7004
Telephone: (415) 510-3448
6 Facsimile: (415) 703-5480
Attorneys for Complainant

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

12 In the Matter of the First Amended Accusation
Against:

Case No. 800-2019-057930

13 **Kathryn Morris Gunnison, M.D.**
14 **10 Harris Ct.**
15 **Monterey, CA 93940**

FIRST AMENDED ACCUSATION

16 **Physician's and Surgeon's Certificate**
17 **No. A 124321,**

Respondent.

18
19
20
21 **PARTIES**

22
23 1. William Prasifka (Complainant) brings this First Amended Accusation solely in his
24 official capacity as the Executive Director of the Medical Board of California, Department of
25 Consumer Affairs (Board).

26 2. On or about January 25, 2013, the Medical Board issued Physician's and Surgeon's
27 Certificate Number A 124321 to Kathryn Morris Gunnison, M.D. (Respondent). The Physician's
28 and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought

1 herein and will expire on September 30, 2022, unless renewed. On October 26, 2020, an
2 administrative law judge issued an Interim Order of Suspension in Medical Board Case No. 800-
3 2019-057930, which became effective on October 26, 2020.

4 JURISDICTION

5 3. This First Amended Accusation is brought before the Board, under the authority of
6 the following laws. All section references are to the Business and Professions Code (Code)
7 unless otherwise indicated.

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

12 5. Section 2234 of the Code provides that the board shall take action against any
13 licensee who is charged with unprofessional conduct.

14 6. Section 2239 of the Code provides that it is unprofessional conduct for a licensee to
15 use alcohol, dangerous drugs, or controlled substances to the extent or in such a manner as to be
16 dangerous or injurious to the licensee, or to any other person or to the public, or to the extent that
17 such use impairs the ability of the licensee to practice medicine safely.

18 7. Section 2280 of the Code provides that it is unprofessional conduct for a licensee to
19 practice medicine while under the influence of alcohol to such an extent as to impair his or her
20 ability to safely practice.

21 8. Section 820 of the Code states: "Whenever it appears that any person holding a
22 license, certificate or permit under this division or under any initiative act referred to in this
23 division may be unable to practice his or her profession safely because the licentiate's ability to
24 practice is impaired due to mental illness, or physical illness affecting competency, the licensing
25 agency may order the licentiate to be examined by one or more physicians and surgeons or
26 psychologists designated by the agency. The report of the examiners shall be made available to
27 the licentiate and may be received as direct evidence in proceedings conducted pursuant to
28 Section 822."

9. 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 licensee 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."

10. Section 2228.1 of the Code provides, in pertinent part, that the Board shall require a licensee who is disciplined based on drug or alcohol abuse to the extent that such use impairs the ability of the licensee to practice safely to disclose to his or her patients information regarding his or her probation status. The licensee is required to disclose: Probation status, the length of the probation, the probation end date, all practice restrictions placed on the license 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 Board's Internet Web site.

FACTS

11. Respondent is an obstetrician/gynecologist.

12. This case was initiated after the Board received a Code Section 805 Business and Professions Health Facility/Peer Review Reporting Form (805 Report) from Santa Clara Valley Medical Center (SCVMC). Respondent began working at SCVMC on or about June 4, 2019. The 805 Report indicated that between June 18 and June 22, 2019, Respondent did not show up for work due to a relapse in alcohol use. Respondent informed SCVMC that she had a history of

1 severe alcohol abuse disorder and had relapsed. Respondent informed SCVMC that she was
2 hospitalized after her relapse and that her blood alcohol level was .37 percent.

3 13. On December 10, 2019, Respondent met with a Medical Board Investigator and
4 agreed to undergo a voluntary mental examination evaluation. A board-certified psychiatrist
5 conducted the examination on January 14, 2020, with the goal of determining whether
6 Respondent was safe to practice medicine.

7 14. In a report dated January 16, 2020, the examining psychiatrist diagnosed Respondent
8 with severe alcohol use disorder and bipolar II disorder.¹ In determining that Respondent had a
9 severe alcohol use disorder, the examining psychiatrist noted Respondent's prior history of
10 "frequent severe relapses," Respondent's prior attempts to treat her alcohol dependency with at
11 least three alcohol rehabilitation programs (including a sober living environment program and 42
12 day out-patient program), and Respondent's September 18, 2018 wet reckless driving conviction,
13 where her blood alcohol content level was .07 percent.

14 15. The Board's physician examiner concluded that Respondent's practice of medicine
15 was impaired by virtue of her alcohol use disorder and undertreated bipolar disorder, and that if
16 not properly treated, Respondent could well be a danger to herself, her patients, or the public.

17 16. On December 14, 2019, Dr. Gunnison was arrested for entering her former spouse's
18 house without permission, kicking her ex-husband in the stomach, and kicking and spitting on
19 police officers.² Respondent was intoxicated when she was arrested and a police officer had to
20 pry a wine bottle out of her hands because he feared that she could use the bottle as a weapon.
21 Respondent also made suicidal statements during the arrest, asked the police to shoot her, and was
22 subsequently placed on a 72-hour mental health hold (involuntary psychiatric hold).

23
24
25 ¹ Bipolar II disorder is a form of the psychiatric condition known as bipolar disorder.
26 Bipolar II disorder is characterized by cycles of depressive episodes followed by hypomanic
periods.

27 ² At the time the Board expert issued his January 16, 2020 report, the expert was not
28 aware of Respondent's December 14, 2019 arrest as Respondent did not disclose her arrest to the
expert.

1 17. On February 5, 2020, Respondent was criminally charged with two misdemeanors for
2 her December 14, 2019 conduct: (1) aggravated trespass in violation of Penal Code section
3 602.5(b); and (2) battery on a former spouse in violation of Penal Code section 234(e)(1).

4 18. On May 5, 2020, Respondent was arrested for violating a criminal protective order
5 that was issued to protect Respondent's former spouse. In addition, Respondent was arrested for
6 a new incident of domestic violence, in that she scratched her former spouse's back. At the time
7 of the arrest, Respondent grabbed wine bottles from her former spouse's home and placed them in
8 the trunk of her car. After the police arrived, Respondent attempted to leave the scene, and
9 crashed her car into a tree. Respondent also held a knife against her wrist and threatened to kill
10 herself, in front of not only her ex-spouse, but also her eight-year-old son.

11 19. On May 7, 2020, Respondent was criminally charged with two misdemeanors for her
12 conduct on May 5, 2020: (1) battery on a former spouse in violation of Penal Code section
13 234(e)(1); and (2) contempt of court for violating a criminal protective order in violation of Penal
14 Code section 166(c)(1).

15 20. On July 30, 2020, the Board's expert issued an amended report based on
16 Respondent's December 2019 and May 2020 conduct, arrests, and criminal charges. The Board's
17 expert stated:

18 Given the occurrence of these two episodes of alcohol intoxication leading to significant
19 domestic violence and out of control behavior, I would conclude that Dr. Gunnison's
20 alcoholism is much more malignant than previously thought and may require yet another 28
21 day inpatient treatment program for her to get more control over her bipolar disorder and its
22 concomitant impulsivity and temptation to self-medicate with alcohol.

23 The expert concluded that in light of the two incidents of intoxication and domestic violence:

24 Dr. Gunnison is **currently unable to practice medicine safely** at this time as a result [of]
25 two mental illnesses and or conditions namely bipolar disorder and alcoholism [alcohol use
26 disorder]... Dr. Gunnison's **continued practice of medicine does pose a present danger**
27 **and threat to the public health, welfare, and safety** because of the severity and
28 unpredictability of her behavior when under the influence of alcohol and complicated by
her bipolar disorder, which can affect her impulse control and clinical judgment.

(Emphasis added).

1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Mental Impairment)**

3 21. The allegations of paragraphs 11 through 20 above are incorporated by reference as if
4 set out in full. Respondent is subject to disciplinary action under Sections 822 and 2227 of the
5 Code in that, due to a mental and/or physical illness, Respondent is unable, and/or impaired in her
6 ability, to practice medicine with safety to the public.

7 **SECOND CAUSE FOR DISCIPLINE**

8 **(Excessive Use of Alcohol)**

9 22. The allegations of paragraphs 11 through 20 above are incorporated by reference as if
10 set out in full. Respondent's certificate is subject to disciplinary action for unprofessional
11 conduct pursuant to sections 2234 and/or 2239 of the Code, in that she used alcoholic beverages
12 to such an extent or in a manner as to be dangerous to herself, others and the public, or to the
13 extent that such use compromises Respondent's ability to practice medicine safely.

14
15 **PRAYER**

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

18 1. Revoking or suspending Physician's and Surgeon's Certificate Number A 124321,
19 issued to Kathryn Morris Gunnison, M.D.;

20 2. Revoking, suspending or denying approval of Kathryn Morris Gunnison, M.D.'s
21 authority to supervise physician assistants and advanced practice nurses;

22 3. Ordering Kathryn Morris Gunnison, M.D., if placed on probation, to pay the Board
23 the costs of probation monitoring;

24 4. Ordering Kathryn Morris Gunnison, M.D., if placed on probation, to provide patient
25 notification in accordance with Business and Professions Code section 2228.1; and

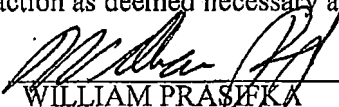
26 ///

27 ///

28 ///

1 5. Taking such other and further action as deemed necessary and proper.

2 DATED: **DEC 03 2020**



WILLIAM PRASIFKA
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant

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