

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

**In the Matter of the Petition to Revoke
Probation Against:**

Renee M. Dupont

**Physician's and Surgeon's
License No. A42799**

Respondent.

Case No. 800-2020-069880

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 24, 2021.

IT IS SO ORDERED: January 25, 2021.

MEDICAL BOARD OF CALIFORNIA

A handwritten signature in black ink, appearing to read "Ronald H. Lewis, M.D.", written over a horizontal line.

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

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

13 In the Matter of the Petition to Revoke
14 Probation Against:

15 **RENEE M. DUPONT, M.D.**
16 **162 S. Rancho Santa Fe Road, Suite B-60**
17 **Encinitas, CA 92024-4300**

18 **Physician's and Surgeon's Certificate**
19 **No. A 42799,**

20 Respondent.

Case No. 800-2020-069880

21 **STIPULATED SETTLEMENT AND**
22 **DISCIPLINARY ORDER**

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

25 **PARTIES**

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

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2. Respondent Renee M. Dupont, M.D. (Respondent) is represented in this proceeding by attorney David M. Balfour, Esq., whose address is: 1925 Palomar Oaks Way, Ste. 220, Carlsbad, CA 92008-6526.

3. On or about June 23, 1986, the Board issued Physician's and Surgeon's Certificate No. A 42799 to Respondent. Physician's and Surgeon's Certificate No. A 42799 was in full force and effect at all times relevant to the charges brought in Petition to Revoke Probation No. 800-2020-069880, and will expire on March 31, 2022, unless renewed.

JURISDICTION

4. Petition to Revoke Probation No. 800-2020-069880 was filed before the Board, and is currently pending against Respondent. The Petition to Revoke Probation and all other statutorily required documents were properly served on Respondent on October 8, 2020. Respondent timely filed her Notice of Defense contesting the Petition to Revoke Probation.

5. A true and correct copy of Petition to Revoke Probation No. 800-2020-069880 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 Petition to Revoke Probation No. 800-2020-069880. 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 Petition to Revoke Probation; 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. Having had the benefit of counsel, Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

1 **CULPABILITY**

2 9. Respondent admits the truth of each and every charge and allegation in Petition to
3 Revoke Probation No. 800-2020-069880.

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

7 **CONTINGENCY**

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

18 12. Respondent agrees that if she ever petitions for early termination or modification of
19 probation, or if an accusation and/or petition to revoke probation is filed against her before the
20 Board, all of the charges and allegations contained in Petition to Revoke Probation No. 800-2020-
21 069880 shall be deemed true, correct and fully admitted by Respondent for purposes of any such
22 proceeding or any other licensing proceeding involving Respondent in the State of California.

23 **ADDITIONAL PROVISIONS**

24 13. Pursuant to Business and Professions Code section 2307, Respondent is permitted to
25 file a petition to terminate probation based on the effective date of the probationary order in Case
26 No. 800-2016-025039.

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

15. The parties agree that copies of this Stipulated Settlement and Disciplinary Order, including copies of the signatures of the parties, may be used in lieu of original documents and signatures and, further, that such copies shall have the same force and effect as 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 Respondent, issue and enter the following Disciplinary Order:

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. A 42799 issued to Respondent Renee M. Dupont, M.D., is revoked. However, that revocation is stayed and Respondent is placed on probation for a period of six (6) months, upon the following terms and conditions. This Order is to run consecutive to the probationary order in Case No. 800-2016-025039, and extends the probationary term by six (6) months.

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

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

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

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

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

16 The psychotherapist shall consider any information provided by the Board or its designee
17 and any other information the psychotherapist deems relevant and shall furnish a written
18 evaluation report to the Board or its designee. Respondent shall cooperate in providing the
19 psychotherapist with any information and documents that the psychotherapist may deem
20 pertinent.

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

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

1 4. CLINICAL DIAGNOSTIC EVALUATIONS AND REPORTS: Within thirty (30)
2 calendar days of the effective date of this Decision, and on whatever periodic basis thereafter as
3 may be required by the Board or its designee, Respondent shall undergo and complete a clinical
4 diagnostic evaluation, including any and all testing deemed necessary, by a Board-appointed
5 board certified physician and surgeon. The examiner shall consider any information provided by
6 the Board or its designee and any other information he or she deems relevant, and shall furnish a
7 written evaluation report to the Board or its designee.

8 The clinical diagnostic evaluation shall be conducted by a licensed physician and surgeon
9 who holds a valid, unrestricted license, has three (3) years' experience in providing evaluations of
10 physicians and surgeons with substance abuse disorders, and is approved by the Board or its
11 designee. The clinical diagnostic evaluation shall be conducted in accordance with acceptable
12 professional standards for conducting substance abuse clinical diagnostic evaluations. The
13 evaluator shall not have a current or former financial, personal, or business relationship with
14 Respondent within the last five (5) years. The evaluator shall provide an objective, unbiased, and
15 independent evaluation. The clinical diagnostic evaluation report shall set forth, in the
16 evaluator's opinion, whether Respondent has a substance abuse problem, whether Respondent is a
17 threat to herself or others, and recommendations for substance abuse treatment, practice
18 restrictions, or other recommendations related to Respondent's rehabilitation and ability to
19 practice safely. If the evaluator determines during the evaluation process that Respondent is a
20 threat to herself or others, the evaluator shall notify the Board within twenty-four (24) hours of
21 such a determination.

22 In formulating his or her opinion as to whether Respondent is safe to return to either part-
23 time or full-time practice and what restrictions or recommendations should be imposed, including
24 participation in an inpatient or outpatient treatment program, the evaluator shall consider the
25 following factors: Respondent's license type; Respondent's history; Respondent's documented
26 length of sobriety (i.e., length of time that has elapsed since Respondent's last substance use);
27 Respondent's scope and pattern of substance abuse; Respondent's treatment history, medical
28 history and current medical condition; the nature, duration and severity of Respondent's

1 substance abuse problem or problems; and whether Respondent is a threat to herself or the public.

2 For all clinical diagnostic evaluations, a final written report shall be provided to the Board
3 no later than ten (10) days from the date the evaluator is assigned the matter. If the evaluator
4 requests additional information or time to complete the evaluation and report, an extension may
5 be granted, but shall not exceed thirty (30) days from the date the evaluator was originally
6 assigned the matter.

7 The Board shall review the clinical diagnostic evaluation report within five (5) business
8 days of receipt to determine whether Respondent is safe to return to either part-time or full-time
9 practice and what restrictions or recommendations shall be imposed on Respondent based on the
10 recommendations made by the evaluator. Respondent shall not be returned to practice until she
11 has at least thirty (30) days of negative biological fluid tests or biological fluid tests indicating
12 that she has not used, consumed, ingested, or administered to herself a prohibited substance, as
13 defined in section 1361.51, subdivision (e), of Title 16 of the California Code of Regulations.

14 Clinical diagnostic evaluations conducted prior to the effective date of this Decision shall
15 not be accepted towards the fulfillment of this requirement. The cost of the clinical diagnostic
16 evaluation, including any and all testing deemed necessary by the examiner, the Board or its
17 designee, shall be borne by the licensee.

18 Respondent shall not engage in the practice of medicine until notified by the Board or its
19 designee that she is fit to practice medicine safely. The period of time that Respondent is not
20 practicing medicine shall not be counted toward completion of the term of probation. Respondent
21 shall undergo biological fluid testing as required in this Decision at least two (2) times per week
22 while awaiting the notification from the Board if she is fit to practice medicine safely.

23 Respondent shall comply with all restrictions or conditions recommended by the examiner
24 conducting the clinical diagnostic evaluation within fifteen (15) calendar days after being notified
25 by the Board or its designee.

26 5. NOTICE OF EMPLOYER OR SUPERVISOR INFORMATION. Within seven (7)
27 days of the effective date of this Decision, Respondent shall provide to the Board the names,
28 physical addresses, mailing addresses, and telephone numbers of any and all employers and

1 supervisors. Respondent shall also provide specific, written consent for the Board, Respondent's
2 worksite monitor, and Respondent's employers and supervisors to communicate regarding
3 Respondent's work status, performance, and monitoring.

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

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

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

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

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

- 1 (b) Its specimen collectors conform to the current United States Department of
2 Transportation Specimen Collection Guidelines.
- 3 (c) Its testing locations comply with the Urine Specimen Collection Guidelines published
4 by the United States Department of Transportation without regard to the type of test
5 administered.
- 6 (d) Its specimen collectors observe the collection of testing specimens.
- 7 (e) Its laboratories are certified and accredited by the United States Department of Health
8 and Human Services.
- 9 (f) Its testing locations shall submit a specimen to a laboratory within one (1) business day
10 of receipt and all specimens collected shall be handled pursuant to chain of custody
11 procedures. The laboratory shall process and analyze the specimens and provide legally
12 defensible test results to the Board within seven (7) business days of receipt of the
13 specimen. The Board will be notified of non-negative results within one (1) business day
14 and will be notified of negative test results within seven (7) business days.
- 15 (g) Its testing locations possess all the materials, equipment, and technical expertise
16 necessary in order to test Respondent on any day of the week.
- 17 (h) Its testing locations are able to scientifically test for urine, blood, and hair specimens
18 for the detection of alcohol and illegal and controlled substances.
- 19 (i) It maintains testing sites located throughout California.
- 20 (j) It maintains an automated 24-hour toll-free telephone system and/or a secure on-line
21 computer database that allows the Respondent to check in daily for testing.
- 22 (k) It maintains a secure, HIPAA-compliant website or computer system that allows staff
23 access to drug test results and compliance reporting information that is available 24 hours a
24 day.
- 25 (l) It employs or contracts with toxicologists that are licensed physicians and have
26 knowledge of substance abuse disorders and the appropriate medical training to interpret
27 and evaluate laboratory biological fluid test results, medical histories, and any other
28 information relevant to biomedical information.

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

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

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

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

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

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

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

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

26 For purposes of this condition, the term "prohibited substance" means an illegal drug, a
27 lawful drug not prescribed or ordered by an appropriately licensed health care provider for use by

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1 Respondent and approved by the Board, alcohol, or any other substance Respondent has been
2 instructed by the Board not to use, consume, ingest, or administer to herself.

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

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

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

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

26 8. WORKSITE MONITOR FOR SUBSTANCE-ABUSING LICENSEE. Within thirty
27 (30) calendar days of the effective date of this Decision, Respondent shall submit to the Board or
28 its designee for prior approval as a worksite monitor, the name and qualifications of one or more

1 licensed physician and surgeon, other licensed health care professional if no physician and
2 surgeon is available, or, as approved by the Board or its designee, a person in a position of
3 authority who is capable of monitoring Respondent at work.

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

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

14 Respondent shall pay all worksite monitoring costs.

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

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

26 The worksite monitor shall complete and submit a written report monthly or as directed by
27 the Board or its designee which shall include the following: (1) Respondent's name and
28 Physician's and Surgeon's Certificate number; (2) the worksite monitor's name and signature; (3)

1 the worksite monitor's license number, if applicable; (4) the location or location(s) of the
2 worksite; (5) the dates Respondent had face-to-face contact with the worksite monitor; (6) the
3 names of worksite staff interviewed, if applicable; (7) a report of Respondent's work attendance;
4 (8) any change in Respondent's behavior and/or personal habits; and (9) any indicators that can
5 lead to suspected substance abuse by Respondent. Respondent shall complete any required
6 consent forms and execute agreements with the approved worksite monitor and the Board, or its
7 designee, authorizing the Board, or its designee, and worksite monitor to exchange information.

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

17 9. VIOlation OF PROBATION CONDITION FOR SUBSTANCE ABUSING
18 LICENSEES . Failure to fully comply with any term or condition of probation is a violation of
19 probation.

20 A. If Respondent commits a major violation of probation as defined by section
21 1361.52, subdivision (a), of Title 16 of the California Code of Regulations, the Board shall take
22 one or more of the following actions:

23 (1) Issue an immediate cease-practice order and order Respondent to undergo a clinical
24 diagnostic evaluation to be conducted in accordance with section 1361.5, subdivision (c)(1), of
25 Title 16 of the California Code of Regulations, at Respondent's expense. The cease-practice
26 order issued by the Board or its designee shall state that Respondent must test negative for at least
27 a month of continuous biological fluid testing before being allowed to resume practice. For
28 purposes of determining the length of time a Respondent must test negative while undergoing

1 continuous biological fluid testing following issuance of a cease-practice order, a month is
2 defined as thirty calendar (30) days. Respondent may not resume the practice of medicine until
3 notified in writing by the Board or its designee that he or she may do so.

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

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

7 B. If Respondent commits a minor violation of probation as defined by section
8 1361.52, subdivision (c), of Title 16 of the California Code of Regulations, the Board shall take
9 one or more of the following actions:

10 (1) Issue a cease-practice order;

11 (2) Order practice limitations;

12 (3) Order or increase supervision of Respondent;

13 (4) Order increased documentation;

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

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

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

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

26 10. NOTIFICATION. Within seven (7) days of the effective date of this Decision,
27 Respondent shall provide a true copy of this Decision and Petition to Revoke Probation to the
28 Chief of Staff or the Chief Executive Officer at every hospital where privileges or membership

are extended to Respondent, at any other facility where Respondent engages in the practice of medicine, including all physician and locum tenens registries or other similar agencies, and to the Chief Executive Officer at every insurance carrier which extends malpractice insurance coverage to Respondent. Respondent shall submit proof of compliance to the Board or its designee within 15 calendar days.

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

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

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

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

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

14. GENERAL PROBATION REQUIREMENTS.

Compliance with Probation Unit

Respondent shall comply with the Board's probation unit.

Address Changes

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

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1 Place of Practice

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

5 License Renewal

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

8 Travel or Residence Outside California

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

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

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

18 16. NON-PRACTICE WHILE ON PROBATION. Respondent shall notify the Board or
19 its designee in writing within 15 calendar days of any periods of non-practice lasting more than
20 30 calendar days and within 15 calendar days of Respondent's return to practice. Non-practice is
21 defined as any period of time Respondent is not practicing medicine as defined in Business and
22 Professions Code sections 2051 and 2052 for at least 40 hours in a calendar month in direct
23 patient care, clinical activity or teaching, or other activity as approved by the Board. If
24 Respondent resides in California and is considered to be in non-practice, Respondent shall
25 comply with all terms and conditions of probation. All time spent in an intensive training
26 program which has been approved by the Board or its designee shall not be considered non-
27 practice and does not relieve Respondent from complying with all the terms and conditions of
28 probation. Practicing medicine in another state of the United States or Federal jurisdiction while

1 on probation with the medical licensing authority of that state or jurisdiction shall not be
2 considered non-practice. A Board-ordered suspension of practice shall not be considered as a
3 period of non-practice.

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

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

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

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

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

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

27 19. LICENSE SURRENDER. Following the effective date of this Decision, if
28 Respondent ceases practicing due to retirement or health reasons or is otherwise unable to satisfy

1 the terms and conditions of probation, Respondent may request to surrender her license. The
2 Board reserves the right to evaluate Respondent's request and to exercise its discretion in
3 determining whether or not to grant the request, or to take any other action deemed appropriate
4 and reasonable under the circumstances. Upon formal acceptance of the surrender, Respondent
5 shall within 15 calendar days deliver Respondent's wallet and wall certificate to the Board or its
6 designee and Respondent shall no longer practice medicine. Respondent will no longer be subject
7 to the terms and conditions of probation. If Respondent re-applies for a medical license, the
8 application shall be treated as a petition for reinstatement of a revoked certificate.

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

14 21. FUTURE ADMISSIONS CLAUSE. If Respondent should ever apply or reapply for
15 a new license or certification, or petition for reinstatement of a license, by any other health care
16 licensing action agency in the State of California, all of the charges and allegations contained in
17 Petition to Revoke Probation No. 800-2020-069880 shall be deemed to be true, correct, and
18 admitted by Respondent for the purpose of any Statement of Issues or any other proceeding
19 seeking to deny or restrict license.

20 ACCEPTANCE

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

26
27 DATED: 12/29/20

Renée M. Dupont, MD
RENEE M. DUPONT, MD.
Respondent

1 I have read and fully discussed with Respondent Renee M. Dupont, M.D., the terms and
2 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.
3 I approve its form and content.

4
5 DATED: December 23, 2020


6 DAVID M. BALFOUR, ESQ.
7 *Attorney for Respondent*

8 **ENDORSEMENT**

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

11 DATED: _____

Respectfully submitted,

12 XAVIER BECERRA
13 Attorney General of California
14 ALEXANDRA M. ALVAREZ
Supervising Deputy Attorney General

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16 CHRISTINE A. RHEE
17 Deputy Attorney General
Attorneys for Petitioner

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1 I have read and fully discussed with Respondent Renee M. Dupont, M.D., the terms and
2 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.
3 I approve its form and content.

4
5 DATED: _____

6 DAVID M. BALFOUR, ESQ.
7 *Attorney for Respondent*

8 **ENDORSEMENT**

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

11 DATED: January 4, 2021

Respectfully submitted,

12 XAVIER BECERRA
13 Attorney General of California
14 ALEXANDRA M. ALVAREZ
15 Supervising Deputy Attorney General



16 CHRISTINE A. RHEE
17 Deputy Attorney General
18 *Attorneys for Petitioner*

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Exhibit A

Petition to Revoke Probation No. 800-2020-069880

1 XAVIER BECERRA
Attorney General of California
2 ALEXANDRA M. ALVAREZ
Supervising Deputy Attorney General
3 CHRISTINE A. RHEE
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4 State Bar No. 295656
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5 San Diego, CA 92101
P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 738-9455
7 Facsimile: (619) 645-2061

8 *Attorneys for Petitioner*

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

13 In the Matter of the Petition to Revoke
14 Probation Against:

Case No. 800-2020-069880

PETITION TO REVOKE PROBATION

15 **RENEE M. DUPONT, M.D.**
16 **162 S. Rancho Santa Fe Road, Suite B-60**
Encinitas, CA 92024-4300

17 **Physician's and Surgeon's Certificate**
No. A 42799,

18 Respondent.

19
20 **PARTIES**

21 1. William Prasifka (Petitioner) brings this Petition to Revoke Probation solely in his
22 official capacity as the Executive Director of the Medical Board of California, Department of
23 Consumer Affairs (Board).

24 2. On or about June 23, 1986, the Medical Board issued Physician's and Surgeon's
25 Certificate No. A 42799 to Renee M. Dupont, M.D. (Respondent). Physician's and Surgeon's
26 Certificate No. A 42799 was in full force and effect at all times relevant to the charges brought
27 herein and will expire on March 31, 2022, unless renewed.

28 ///

1 **DISCIPLINARY HISTORY**

2 3. In a disciplinary action entitled, "In the Matter of the Accusation Against: Renee M.
3 Dupont, M.D.," Case No. 800-2016-025039, the Board issued a decision, effective November 27,
4 2019, in which Respondent's Physician's and Surgeon's Certificate No. A 42799 was revoked.
5 However, the revocation was stayed and Respondent's Physician's and Surgeon's Certificate No.
6 A 42799 was placed on probation for a period of five (5) years with certain terms and conditions.
7 A true and correct copy of that decision is attached as Exhibit A, and is incorporated by reference
8 as if fully set forth herein.

9 **JURISDICTION**

10 4. This Accusation and Petition to Revoke Probation is brought before the Board, under
11 the authority of the following laws and the Board's Decision in Case No. 800-2016-025039. All
12 section references are to the Business and Professions Code (Code) unless otherwise indicated.

13 5. Section 2227 of the Code states, in pertinent part:

14 (a) A licensee whose matter has been heard by an administrative law judge of
15 the Medical Quality Hearing Panel as designated in Section 11371 of the Government
16 Code, or whose default has been entered, and who is found guilty, or who has entered
into a stipulation for disciplinary action with the board, may, in accordance with the
provisions of this chapter:

17 (1) Have his or her license revoked upon order of the board.

18 (2) Have his or her right to practice suspended for a period not to exceed one
19 year upon order of the board.

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

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

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

25 ...

26 6. At all times after the effective date of Respondent's probation in Case No. 800-2016-
27 025039, Condition No. 9 of respondent's probation provided the following, in pertinent part:

28 ///

1 9. Violation of Probation Condition for Substance Abusing Licensees. Failure
2 to fully comply with any term or condition of probation is a violation of probation.

3 A. If Respondent commits a major violation of probation as defined by section
4 1361.52, subdivision (a), of Title 16 of the California Code of Regulations, the Board
5 shall take one or more of the following actions:

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

8 7. At all times after the effective date of Respondent's probation in Case No. 800-2016-
9 025039, Condition No. 18 of Respondent's probation provided the following:

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

17 8. On or about August 7, 2020, the Board issued and served a Cease Practice Order
18 against Respondent, immediately prohibiting her from engaging in the practice of medicine. That
19 Cease Practice Order was based upon Respondent's failure to abide by Probationary Condition
20 No. 1 of the Board's Decision and Order in Case No. 800-2016-025039. The Cease Practice
21 Order was lifted on or about September 17, 2020.

22 **FIRST CAUSE TO REVOKE PROBATION**
23 **(Failure to Comply with Abstention from Alcohol)**

24 9. At all times after the effective date of Respondent's probation in Case No. 800-2016-
25 025039, Condition No. 1 of Respondent's probation provided the following:

26 1. Alcohol - Abstain from Use. Respondent shall abstain completely from the
27 use of products or beverages containing alcohol.

28 10. On or about July 24, 2020, Respondent provided a urine sample to the Board which
was positive for alcohol metabolites.

 11. On or about August 5, 2020, Respondent provided a blood sample to the Board which
was positive for phosphatidylethanol (PEth), indicating that Respondent ingested alcohol.

1 12. On or about August 2, 2020, Respondent admitted to drinking a beer to her biological
2 fluid testing monitor.

3 13. Respondent's probation is subject to revocation because she failed to comply with
4 Condition No. 1 of her probation in Case No. 800-2016-025039.

5 **SECOND CAUSE TO REVOKE PROBATION**
6 **(Failure to Comply with Required Biological Fluid Testing)**

7 14. At all times after the effective date of Respondent's probation in Case No. 800-2016-
8 025039, Condition No. 6 of Respondent's probation provided the following:

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

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

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

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

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

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

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

28 ///

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

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

10 (g) Its testing locations possess all the materials, equipment, and technical
11 expertise 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
13 specimens 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
16 on-line computer database that allows Respondent to check in daily for testing.

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

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

24 (m) It will not consider a toxicology screen to be negative if a positive result is
25 obtained while practicing, even if Respondent holds a valid prescription for the
26 substance. Prior to changing testing locations for any reason, including during
27 vacation or other travel, alternative testing locations must be approved by the Board
28 and meet the requirements above.

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

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

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

A biological fluid test will not be considered negative if a positive result is
obtained while practicing, even if the practitioner holds a valid prescription for the

1 substance. If no prohibited substance use exists, the Board shall lift the cease-
2 practice order within one (1) business day.

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

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

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

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

22 15. Respondent failed to check in to determine whether she had been selected to provide
23 a biological fluid sample on or about July 13, 2020 and July 30, 2020.

24 16. Respondent's probation is subject to revocation because she failed to comply with
25 Condition No. 6 of her probation in Case No. 800-2016-025039.

26 DISCIPLINARY CONSIDERATIONS

27 17. On or about August 25, 2020, the Board issued a citation to Respondent for failing to
28 abide by Probation Condition No. 6. More specifically, Respondent failed to provide a biological
fluid sample on or about May 22, 2020, May 31, 2020 and July 27, 2020, and failed to check in
on or about May 23, 2020, August 3, 2020, and August 4, 2020.

29 PRAYER

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

32 1. Revoking the probation that was granted by the Medical Board of California in Case
33 No. 800-2016-025039, and imposing the disciplinary order that was stayed, thereby revoking

34 ///

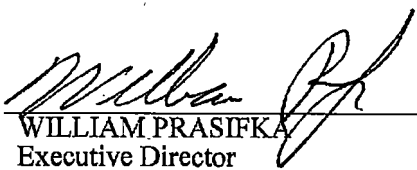
1 Physician's and Surgeon's Certificate No. A 42799, issued to Respondent Renee M. Dupont,
2 M.D.;

3 2. Revoking, suspending or denying approval of Respondent Renee M. Dupont, M.D.'s
4 authority to supervise physician assistants and advanced practice nurses;

5 3. Ordering Respondent Renee M. Dupont, M.D., if placed on probation, to pay the
6 Board the costs of probation monitoring; and

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

8
9 DATED: OCT 08 2020



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

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