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

In the Matter of the Accusation Against: Donna Lynn Irwin, L.M. Licensed Midwife No. LM 544 Respondent.	Case No.: 800-2019-055350

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 October 7, 2022.

IT IS SO ORDERED: September 8, 2022.

MEDICAL BOARD OF CALIFORNIA

Laurie Rose Lubiano, J.D., Chair
Panel A

ROB BONTA
Attorney General of California
MATTHEW M. DAVIS
Supervising Deputy Attorney General
JASON J. AHN
Deputy Attorney General
State Bar No. 253172
600 West Broadway, Suite 1800
San Diego, CA 92101
P.O. Box 85266
San Diego, CA 92186-5266
Telephone: (619) 738-9433
Facsimile: (619) 645-2061

Attorneys for Complainant

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

In the Matter of the Accusation Against: **DONNA LYNN IRWIN, L.M.** **2603 Avenida De Anita APT 49** **Carlsbad, CA 92010** **Licensed Midwife No. LM 544** Respondent.	Case No. 800-2019-055350 OAH No. 2021090882 **STIPULATED SETTLEMENT AND DISCIPLINARY ORDER**

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

PARTIES

1. William Prasifka ("Complainant") is the Executive Director of the Medical Board of California, Department of Consumer Affairs ("Board"). The Board has sole regulatory authority over the Midwifery Program of the State of California through its Division of Licensing. He brought this action solely in his official capacity and is represented in this matter by Rob Bonta, Attorney General of the State of California, by Jason J. Ahn, Deputy Attorney General.

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2. Respondent Donna Lynn Irwin, L.M. (Respondent) is represented in this proceeding by attorney Nick Petruolo, Esq., whose address is: 10815 Rancho Bernardo Road, Suite 310 San Diego, CA 92127.

3. On or about October 23, 2018, the Board issued Midwife Certificate No. LM 544 to Respondent. The Midwife Certificate was in full force and effect at all times relevant to the charges brought in Accusation No. 800-2019-055350, and will expire on October 31, 2022, unless renewed.

JURISDICTION

4. On July 28, 2021, Accusation No. 800-2019-055350 was filed before the Board, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on or about July 28, 2021. Respondent timely filed her Notice of Defense contesting the Accusation.

5. A copy of Accusation No. 800-2019-055350 is attached as exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

6. Respondent has carefully read, and understands the charges and allegations in Accusation No. 800-2019-055350. Respondent has also carefully read, and fully understands the effects of this Stipulated Settlement and Disciplinary Order.

7. Respondent is fully aware of her legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to be represented by counsel at her own expense; 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.

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CULPABILITY

9. Respondent admits the truth of each and every charge and allegation in Accusation No. 800-2019-055350.

10. Respondent agrees that her Midwife Certificate No. LM 544 is subject to discipline and she agrees to be bound by the Board's probationary terms as set forth in the Disciplinary Order below.

CONTINGENCY

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

12. Respondent agrees that if she ever petitions for early termination or modification of probation, or if an accusation and/or petition to revoke probation is filed against him before the Board, all of the charges and allegations contained in Accusation No. 800-2017-029123 shall be deemed true, correct and fully admitted by respondent for purposes of any such proceeding or any other licensing proceeding involving Respondent in the State of California.

ADDITIONAL PROVISIONS

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

14. 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.

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

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Midwife Certificate No. LM 544 issued to Respondent Donna Lynn Irwin, L.M. is revoked. However, the revocation is stayed and Respondent's Midwife Certificate is placed on probation for four (4) years on the following terms and conditions:

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

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

If Respondent has a confirmed positive biological fluid test for any substance (whether or not legally prescribed) and has not reported the use to the Board or its designee, Respondent shall receive a notification from the Board or its designee to immediately cease the practice of medicine. The Respondent shall not resume the practice of medicine until the final decision on an accusation and/or a petition to revoke probation is effective. An accusation and/or petition to revoke probation shall be filed by the Board within 30 days of the notification to cease practice. If the Respondent requests a hearing on the accusation and/or petition to revoke probation, the Board shall provide the Respondent with a hearing within 30 days of the request, unless the Respondent stipulates to a later hearing. If the case is heard by an Administrative Law Judge alone, he or she shall forward a Proposed Decision to the Board within 15 days of submission of

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the matter. Within 15 days of receipt by the Board of the Administrative Law Judge's proposed decision, the Board shall issue its Decision, unless good cause can be shown for the delay. If the case is heard by the Board, the Board shall issue its decision within 15 days of submission of the case, unless good cause can be shown for the delay. Good cause includes, but is not limited to, non-adoption of the proposed decision, requests for reconsideration, remands and other interlocutory orders issued by the Board. The cessation of practice shall not apply to the reduction of the probationary time period.

If the Board does not file an accusation or petition to revoke probation within 30 days of the issuance of the notification to cease practice or does not provide Respondent with a hearing within 30 days of such a request, the notification of cease practice shall be dissolved.

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

If Respondent has a confirmed positive biological fluid test for alcohol, Respondent shall receive a notification from the Board or its designee to immediately cease the practice of medicine. The Respondent shall not resume the practice of medicine until the final decision on an accusation and/or a petition to revoke probation is effective. An accusation and/or petition to revoke probation shall be filed by the Board within 30 days of the notification to cease practice. If the Respondent requests a hearing on the accusation and/or petition to revoke probation, the Board shall provide the Respondent with a hearing within 30 days of the request, unless the Respondent stipulates to a later hearing. The case is heard by an Administrative Law Judge alone, he or she shall forward a Proposed Decision to the Board within 15 days of submission of the matter. Within 15 days of receipt by the Board of the Administrative Law Judge's proposed decision, the Board shall issues its Decision, unless good cause can be shown for the delay. If the case is heard by the Board, the Board shall issue its decision within 15 days of submission of the case, unless good cause can be shown for the delay. Good cause includes, but is not limited to, non-adoption of the proposed decision, requests for reconsideration, remands and other interlocutory orders issued by the Board. The cessation of practice shall not apply to the reduction of the probationary time period.

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If the Board does not file an accusation or petition to revoke probation within 30 days of the issuance of the notification to cease practice or does not provide Respondent with a hearing within 30 days of such a request, the notification of cease practice shall be dissolved.

3. BIOLOGICAL FLUID TESTING. Respondent shall immediately submit to biological fluid testing, at Respondent's expense, upon request of the Board or its designee. "Biological fluid testing" may include, but is not limited to, urine, blood, breathalyzer, hair follicle testing, or similar drug screening approved by the Board or its designee. Prior to practicing medicine, Respondent shall contract with a laboratory or service approved in advance by the Board or its designee that will conduct random, unannounced, observed, biological fluid testing. The contract shall require results of the tests to be transmitted by the laboratory or service directly to the Board or its designee within four hours 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 Respondent fails to cooperate in a random biological fluid testing program within the specified time frame, Respondent shall receive a notification from the Board or its designee to immediately cease the practice of medicine. The Respondent shall not resume the practice of medicine until the final decision on an accusation and/or a petition to revoke probation is effective. An accusation and/or petition to revoke probation shall be filed by the Board within 30 days of the notification to cease practice. If the Respondent requests a hearing on the accusation and/or petition to revoke probation, the Board shall provide the Respondent with a hearing within 30 days of the request, unless the Respondent stipulates to a later hearing. If the case is heard by an Administrative Law Judge alone, he or she shall forward a Proposed Decision to the Board within 15 days of submission of the matter. Within 15 days of receipt by the Board of the Administrative Law Judge's proposed decision, the Board shall issue its Decision, unless good cause can be shown for the delay. If the case is heard by the Board, the Board shall issue its decision within 15 days of submission of the case, unless good cause can be shown for the delay. Good cause includes, but is not limited to, non-adoption of the proposed decision, requests for

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reconsideration, remands and other interlocutory orders issued by the Board. The cessation of practice shall not apply to the reduction of the probationary time period.

If the Board does not file an accusation or petition to revoke probation within 15 days of the issuance of the notification to cease practice or does not provide Respondent with a hearing within 30 days of such a request, the notification of cease practice shall be dissolved.

4. 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 Education (CE) requirements for renewal of licensure.

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

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

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5. LIMITED SUPERVISION OF MIDWIFE ASSISTANTS During probation, Respondent shall be allowed to supervise and utilize midwife assistants as defined in Business and Probations Code section 2516.5 pursuant to limited disclosure requirements. During probation, Respondent shall provide a list of all midwife assistants, including their pertinent contact information that Respondent is currently supervising to the Board. The contact information shall include phone numbers, cell numbers, and e-mail addresses for the midwife assistants that Respondent is supervising. Respondent shall make the midwife assistants available to the Board's probation department upon request, at a reasonable time and date, to provide the Board's probation department with an update on the Respondent's practice and probation status. Upon the effective date of the Decision, Respondent shall inform any midwife assistants that she is supervising that they will be subject to the disclosure requirements contained in this provision.

6. NOTIFICATION. Within seven (7) days of the effective date of this Decision, the Respondent shall provide a true copy of this Decision and Accusation to the Chief of Staff or the Chief Executive Officer at every hospital where privileges or membership are extended to Respondent, at any other facility where Respondent engages in the practice of midwifery, including all 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.

7. COST RECOVERY. Respondent is ordered to reimburse the Board the actual and reasonable investigative and prosecutorial costs incurred by the Board in the amount of $10,000.00. The Board or its designee may establish a payment plan for cost recover; however, Respondent shall may the full amount of cost recovery at least 120 days prior to the completion of probation. Failure to pay the ordered reimbursement, or any agreed upon payment, constitutes a violation of the probation order and may result in revocation. If Respondent is in default of her responsibility to reimburse the Board, the Board will collect cost recovery from the Franchise Tax Board, the Internal Revenue Service, or by any other means of attachment of earned wages

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legally available to the Board.

Costs represent the actual investigative and prosecutorial costs of the Board.

8. 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.

9. 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.

10. 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).

License Renewal

Respondent shall maintain a current and renewed California Midwife Certificate.

Travel or Residence Outside California

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

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

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

12. NON-PRACTICE WHILE ON PROBATION. Respondent shall notify the Board or its designee in writing within 15 calendar days of any periods of non-practice lasting more than 30 calendar days and within 15 calendar days of Respondent's return to practice. Non-practice is defined as any period of time Respondent is not practicing midwifery as defined in Business and Professions Code section 2507 for at least 40 hours in a calendar month in direct patient care, clinical activity or teaching, or other activity as approved by the Board. If Respondent resides in California and is considered to be in non-practice, Respondent shall comply with all terms and conditions of probation. All time spent in an intensive training program which has been approved by the Board or its designee shall not be considered non-practice and does not relieve Respondent from complying with all the terms and conditions of probation. Practicing midwifery in another state of the United States or Federal jurisdiction while on probation with the licensing authority of that state or jurisdiction shall not be considered non-practice. A Board-ordered suspension of practice shall not be considered as a period of non-practice.

In the event Respondent's period of non-practice while on probation exceeds 18 calendar months, Respondent shall successfully complete an education and training program, at the discretion of the Board, that complies with the requirements for licensed qualification as set forth in Business and Professions Code 2512.

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

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

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

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13. COMPLETION OF PROBATION. Respondent shall comply with all financial obligations (e.g., restitution, probation costs) not later than 120 calendar days prior to the completion of probation. Upon successful completion of probation, Respondent's certificate shall be fully restored. Respondent's certificate will not be fully restored until all financial obligations have been satisfied and the Board shall retain continuing jurisdiction to ensure payment.

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

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

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

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17. FUTURE ADMISSIONS CLAUSE.

If Respondent should ever apply or reapply for a new license or certification, or petition for reinstatement of a license, by any other health care licensing action agency in the State of California, all of the charges and allegations contained in Accusation No. 800-2019-055350 shall be deemed to be true, correct, and admitted by Respondent for the purpose of any Statement of Issues or any other proceeding seeking to deny or restrict license.

ACCEPTANCE

I have carefully read the Stipulated Settlement and Disciplinary Order. I fully understand the stipulation and the effect it will have on my Licensed Midwife Certificate. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and fully agree to be bound by the Decision and Order of the Medical Board of California, Division of Licensing.

DATED: 02 / 28 / 2022

DONNA LYNN IRWIN, L.M.
Respondent

I have read and fully discussed with Respondent Donna Lynn Irwin, L.M. the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: 2/28/22

NICK PETRUOLO, ESQ.
Attorney for Applicant

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ENDORSEMENT

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

DATED: March 1, 2022

Respectfully submitted,

ROB BONTA
Attorney General of California
MATTHEW M. DAVIS
Supervising Deputy Attorney General

JASON J. AHN
Deputy Attorney General
Attorneys for Complainant

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ROB BONTA
Attorney General of California
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Deputy Attorney General
State Bar No. 253172
600 West Broadway, Suite 1800
San Diego, CA 92101
P.O. Box 85266
San Diego, CA 92186-5266
Telephone: (619) 738-9433
Facsimile: (619) 645-2061

Attorneys for Complainant

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

In the Matter of the Accusation Against: **DONNA LYNN IRWIN, L.M.** **2603 Avenida De Anita, Apt. 49** **Carlsbad, CA 92010-8370** **Licensed Midwife Certificate** **No. LM 544,** Respondent.	Case No. 800-2019-055350 **A C C U S A T I O N**

PARTIES

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

2. On or about October 23, 2018, the Division of Licensing issued Licensed Midwife Certificate No. LM 544 to Donna Lynn Irwin, L.M. (Respondent). The Midwife Certificate was in full force and effect at all times relevant to the charges brought herein and will expire on October 31, 2022, unless renewed.

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JURISDICTION

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

4. Section 2519 of the Code states:

> The board may suspend, revoke, or place on probation the license of a midwife for any of the following:
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> (a) Unprofessional conduct, which includes, but is not limited to, all of the following:
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> "...
>
> (2) Conviction of a violation of Section 2052, in which event, the record of the conviction shall be conclusive evidence thereof.
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> "...
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> (4) Obtaining or possessing in violation of law, or prescribing, or except as directed by a licensed physician and surgeon, dentist, or podiatrist administering to himself or herself, or furnishing or administering to another, any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code or any dangerous drug as defined in Article 8 (commencing with Section 4210) of Chapter 9 of Division 2 of the Business and Professions Code.
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> (5) The use of any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug as defined in Article 8 (commencing with Section 4210) of Chapter 9 of Division 2 of the Business and Professions Code, or alcoholic beverages, to an extent or in a manner dangerous or injurious to himself or herself, any other person, or the public or to the extent that this use impairs his or her ability to conduct with safety to the public the practice authorized by his or her license.
>
> "...
>
> (c) Conviction of a crime substantially related to the qualifications, functions, and duties of a midwife, as determined by the board.
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> "...
>
> (e) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate any provision or term of this chapter.
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> "..."

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COST RECOVERY

5. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case, with failure of the licentiate to comply subjecting the license to not being renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be included in a stipulated settlement.

FIRST CAUSE FOR DISCIPLINE

(Use of Drugs or Alcoholic Beverages in a Manner, or to an Extent, as to be Dangerous to Herself, to Another Person, or to the Public)

6. Respondent has subjected her Licensed Midwife Certificate No. LM 544 to disciplinary action under section 2519, subdivision (a)(5), in that she used or prescribed, or administered to herself, drugs or alcoholic beverages to the extent, or in such a manner, as to be dangerous or injurious to herself, to another person, or to the public, as more particularly alleged hereinafter:

(a) On or about April 19, 2019, at approximately 4:48 p.m., Deputy Sheriff Jehl, from San Diego County Sheriff's Department, was dispatched to the scene of a vehicle collision near the intersection of Galaxy Drive and Caren Road in the City of Vista, County of San Diego.

(b) Upon arrival, Deputy Jehl approached Respondent, who was seated in the driver's seat of her vehicle. Deputy Jehl noticed significant damage to the front passenger side of Respondent's car. The damage appeared to be recent and appeared to have disabled Respondent's car.

(c) According to a witness B.F., on or about April 19, 2019, he was sitting on his front porch when he saw Respondent's car speeding up the street at somewhere between 40 to 45 miles per hour. Respondent failed to negotiate a turn and struck a parked car. Respondent, put her car in reverse, and attempted to accelerate. Once Respondent's car became dislodged, Respondent drove away at a high rate of speed.

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(d) On or about April 19, 2019, witness B.R. was in his backyard when he heard a loud crash. He went out to the street and saw that Respondent's car had hit a parked car. Respondent began to flee the collision scene. Witness B.R. entered his own car and pursued Respondent. Witness B.R. eventually caught up to Respondent's car. Witness B.R. pulled up next to Respondent's car and told Respondent to stop driving. Respondent continued to drive away and witness B.R. pulled his car in front of Respondent, in an effort to stop Respondent from further driving.

(e) During Deputy Jehl's contact with Respondent, Deputy Jehl observed that Respondent displayed objective behavior of alcohol and/or drug intoxication symptoms, including watery/bloodshot eyes, droopy eyelids, and occasionally slurred speech. Deputy Jehl smelled the odor of an alcoholic beverage emitting from Respondent's breath and person. When Deputy Jehl asked Respondent if she had consumed alcoholic beverages recently, Respondent replied that she drank one Bud Light beer around 11:00 a.m. that day.

(f) Deputy Jehl administered a series of field sobriety tests (FSTs) on Respondent, who performed poorly. Respondent declined to provide samples for a Preliminary Alcohol Screen device (PAS). Respondent was arrested for driving under the influence of alcohol. Shortly after arresting Respondent, Deputy Jehl discovered that there were two minor children in Respondent's vehicle. The children were identified as L.A. (6 months old) and M.A. (20 months old). Deputy Jehl added a charge of child endangerment to his arrest report.

(g) Respondent refused to provide either a breath sample or a blood sample for testing in order to determine whether Respondent was driving over the legal limit of .08% blood alcohol concentration (BAC). Due to Respondent's refusal, Deputy Jehl obtained a search warrant from a Superior Court Judge in San Diego County, obtained Respondent's blood sample, and sent it to a laboratory for testing. The results of the laboratory testing showed that Respondent had a BAC of 0.117%.

(h) On or about April 24, 2019, the San Diego County District Attorney filed a Criminal Complaint against Respondent in the matter of *The People of the State of California v. Donna Lynn Irwin*, Superior Court Case No. CN399244. Count One charged Respondent with

Child Abuse, in violation of Penal Code section 273a(a), a felony, as to victim L.A. Count Two charged Respondent with Child Abuse, in violation of Penal Code section 273a(a), a felony, as to victim M.A. Count Three charged Respondent with Driving Under the Influence of drugs and/or alcohol, in violation of Vehicle Code section 23152, subdivision (a), a misdemeanor. Count Four charged Respondent with Driving With a Blood Alcohol Content Level of 0.08% or more, in violation of Vehicle Code section 23152, subdivision (b), a misdemeanor. Count Five charged Respondent with Hit and Run Driving, in violation of Vehicle Code section 20002(a), a misdemeanor.

(i) On or about July 2, 2019, Respondent was convicted upon her *guilty* plea to Count One, Child Abuse, a violation of Penal Code section 273(a), as a misdemeanor, Count Two Child Abuse, a violation of Penal Code section 273a(a), as a misdemeanor, Count Three Driving Under the Influence of drugs and/or alcohol, a violation of Vehicle Code section 23152, subdivision (a), a misdemeanor, Count Four, Driving with Blood Alcohol Content Level of 0.08% or more, a violation of Vehicle Code section 23152, subdivision (b), a misdemeanor, and Count Five, Hit and Run Driving, a violation of Vehicle Code section 20002(a), a misdemeanor.

(j) On or about January 7, 2020, Respondent was sentenced to, among other things, a four-year probationary term, including the following terms and conditions of probation, among others: 12 days of jail, credit for time served, first offender DUI program, and various fines and fees.

SECOND CAUSE FOR DISCIPLINE

(Conviction of a Crime Substantially Related to the Qualifications, Functions, or Duties of a Licensed Midwife)

7. Respondent has further subjected her Licensed Midwife Certificate No. LM 544 to disciplinary action under section 2519, subdivisions (b)(c) of the Code, in that she has been convicted of a crime substantially related to the qualifications, functions, or duties of a Licensed Midwife, as more particularly alleged hereinafter:

(a) Paragraph 6, above, is hereby incorporated by reference and realleged as if fully set forth herein.

THIRD CAUSE FOR DISCIPLINE

(Violation of the Medical Practice Act)

8. Respondent has further subjected her Licensed Midwife Certificate No. LM 544 to disciplinary action under section 2519, subdivision (e) of the Code, in that she has violated or attempted to violate, directly or indirectly, or assisted in or abetted the violation of, or conspired to violate a provision of this chapter, as more particularly alleged hereinafter:

(a) Paragraphs 6 and 7, above, are hereby incorporated by reference and realleged as if fully set forth herein.

FOURTH CAUSE FOR DISCIPLINE

(General Unprofessional Conduct)

9. Respondent has further subjected her Licensed Midwife Certificate No. LM 544 to disciplinary action under section 2519 of the Code, in that she has engaged in conduct which breaches the rules or ethical code of the medical profession, or conduct which is unbecoming to a member in good standing of the medical profession and which demonstrates an unfitness to practice medicine, as more particularly alleged hereinafter:

(a) Paragraphs 6 through 8, above, are hereby incorporated by reference and realleged as if fully set forth herein.

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PRAYER

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

1. Revoking or suspending Midwife Certificate No. LM 544, issued to Donna Lynn Irwin, L.M.;

2. Ordering Donna Lynn Irwin, L.M., to pay the Medical Board of California the reasonable costs of investigation and enforcement of this case, and, if placed on probation, to pay the Board the costs of probation monitoring; and

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

DATED: JUL 28 2021

WILLIAM PRASIFKA
Executive Director
Midwifery Program
Department of Consumer Affairs
State of California
Complainant