

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

<b>In the Matter of the Petition to</b>	)	
<b>Revoke Probation:</b>	)	
	)	
<b>Jesse James Joplin, M.D.</b>	)	<b>Case No. D1-2009-202098</b>
	)	
<b>Physician's and Surgeon's</b>	)	
<b>Certificate No. G 41971</b>	)	
	)	
<b>Respondent</b>	)	
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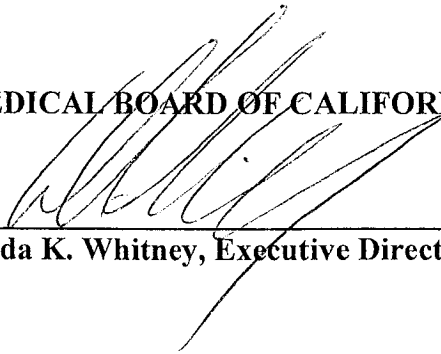
**DECISION**

The attached Stipulated Surrender of License 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 September 20, 2011.

IT IS SO ORDERED September 13, 2011.

**MEDICAL BOARD OF CALIFORNIA**

By:   
\_\_\_\_\_  
**Linda K. Whitney, Executive Director**

1 KAMALA D. HARRIS, Attorney General  
of the State of California  
2 JOSE R. GUERRERO  
Supervising Deputy Attorney General  
3 JANE ZACK SIMON  
Deputy Attorney General [SBN 111898]  
4 455 Golden Gate Avenue, Suite 11000  
San Francisco, CA 94102  
5 Telephone: (415) 703-5544  
Fax: (415) 703-5480  
6

7 Attorneys for Petitioner/Complainant  
8

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

11  
12 **In the Matter of the Petition to Revoke**  
**Probation:**

13 **JESSE JAMES JOPLIN, M.D.**  
14

15 Physician's and Surgeon's Certificate No. G41971  
16

Case No. D1-2009-202098

**STIPULATED SURRENDER OF**  
**LICENSE**

17 IT IS HEREBY STIPULATED AND AGREED by and between the parties in this  
18 proceeding that the following matters are true:

19 1. Linda K. Whitney (Petitioner/Complainant) is the Executive Director of the  
20 Medical Board of California. This action has at all times been maintained solely in the official  
21 capacity of the Executive Director of the Medical Board of California, who is represented by  
22 Kamala D. Harris, Attorney General of the State of California, by Jane Zack Simon, Deputy  
23 Attorney General.

24 2. Jesse James Joplin, M.D. (Respondent) is representing himself in this  
25 proceeding. His current address is P.O. Box 672, Santa Clara, CA 9052-0672.

26 3. Respondent has received, read and understands the Petition to Revoke  
27 Probation (Petition) which is presently on file and pending in case number D1-2009-202098,  
28

1 a copy of which is attached as Exhibit A.

2 4. Respondent has carefully read and understands the charges and allegations  
3 in the Petition. Respondent also has carefully read and understands the effects of this Stipulated  
4 Surrender of License.

5 5. Respondent is fully aware of his legal rights in this matter, including the  
6 right to a hearing on the charges and allegations in the Petition; the right to be represented by  
7 counsel, at his own expense; the right to confront and cross-examine the witnesses against him;  
8 the right to present evidence and to testify on his own behalf; the right to the issuance of  
9 subpoenas to compel the attendance of witnesses and the production of documents; the right to  
10 reconsideration and court review of an adverse decision; and all other rights accorded by the  
11 California Administrative Procedure Act and other applicable laws.

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

14 7. Respondent agrees that the Board has jurisdiction and cause to revoke the  
15 probation that was previously stayed by virtue of the allegations set forth in the Petition and  
16 pursuant to Business and Professions Code §822. Respondent is currently unable to practice  
17 medicine and is pursuing his recovery. He wishes to surrender his California license at this time.

18 8. Pursuant to section 2224(b) of the Business and Professions Code, this  
19 Stipulation for Surrender of License shall be subject to the approval of the Board. Respondent  
20 understands and agrees that the Medical Board's staff and counsel for Petitioner/Complainant  
21 may communicate directly with the Board regarding this stipulation and settlement, without  
22 notice to or participation by Respondent. By signing this stipulation, Respondent understands  
23 and agrees that he may not withdraw his agreement or seek to rescind the stipulation prior to the  
24 time the Board considers and acts upon it. In the event that this stipulation is rejected for any  
25 reason by the Board, it will be of no force or effect for either party. The Board will not be  
26 disqualified from further action in this matter by virtue of its consideration of this stipulation.

27 ///

28 ///

1 9. Upon acceptance of this stipulation by the Board, Respondent understands  
2 that he will no longer be permitted to practice as a physician and surgeon in California, and also  
3 agrees to surrender and cause to be delivered to the Board any license and wallet certificate in his  
4 possession before the effective date of the decision.

5 10. The admissions made by Respondent herein are only for the purposes of  
6 this proceeding, or any other proceedings in which the Medical Board or other professional  
7 licensing agency is involved, and shall not be admissible in any other criminal or civil  
8 proceeding.

9 11. Respondent fully understands and agrees that if he ever files an application  
10 for relicensure or reinstatement in the State of California, the Board shall treat it as a petition for  
11 reinstatement, and Respondent must comply with all laws, regulations and procedures for  
12 reinstatement of a revoked license in effect at the time the petition is filed.

13 12. Respondent understands that because this surrender of license is based on  
14 Section 822 of the Code, he may not petition for reinstatement as a physician and surgeon for a  
15 period of one (1) year from the effective date of his surrender. Information gathered in  
16 connection with the Petition may be considered by the Board in determining whether or not to  
17 grant the petition for reinstatement. For the purposes of the reinstatement hearing, the allegations  
18 in Petition to Revoke Probation No. D1-2009-202098, along with all investigative materials  
19 obtained in that proceeding, shall be deemed to be admitted by Respondent, and Respondent  
20 waives any and all defenses based on a claim of laches or the statute of limitations.


21 13. The parties understand and agree that facsimile or electronic copies of this  
22 Stipulated Surrender of License, including facsimile or electronic signatures thereto, shall have  
23 the same force and effect as the originals.

24 **ACCEPTANCE**

25 I have carefully read the above Stipulated Surrender of License. I enter into it  
26 freely and voluntarily and with full knowledge of its force and effect, do hereby surrender my  
27 Physician's and Surgeon's Certificate Number G41971 to the Medical Board of California, for its  
28 formal acceptance. By signing this stipulation to surrender my license, I recognize that upon its

1 formal acceptance by the Board, I will lose all rights and privileges to practice as a physician and  
2 surgeon in the State of California and I also will cause to be delivered to the Board any license  
3 and wallet certificate in my possession before the effective date of the decision.

4 DATED: August 23, 2011.

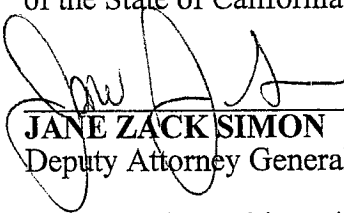
5   
6 **JESSE JAMES JOPLIN, M.D.**  
7 Respondent

8 **ENDORSEMENT**

9 The foregoing Stipulated Surrender of License is hereby respectfully submitted for  
10 consideration by the Medical Board of California.

11 DATED: August 29, 2011.

12  
13 KAMALA D. HARRIS., Attorney General  
14 of the State of California

15   
16 **JANE ZACK SIMON**  
17 Deputy Attorney General  
18 Attorneys for Petitioner/Complainant

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27  
28

# EXHIBIT A

1 EDMUND G. BROWN JR.  
Attorney General of California  
2 JOSE R. GUERRERO  
Supervising Deputy Attorney General  
3 JANE ZACK SIMON  
Deputy Attorney General  
4 State Bar No. 116564  
455 Golden Gate Avenue, Suite 11000  
5 San Francisco, CA 94102-7004  
Telephone: (415) 703-5544  
6 Facsimile: (415) 703-5480

7 *Attorneys for Complainant/Petitioner*

FILED  
STATE OF CALIFORNIA  
MEDICAL BOARD OF CALIFORNIA  
SACRAMENTO AUGUST 9 2011  
BY: K. MONTALBANO ANALYST

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

11  
12 In the Matter of the Petition to Revoke  
13 Probation:

14 **JESSE JAMES JOPLIN, M.D.**  
15 **P.O. Box 672**  
**Santa Clara, CA 95052-0672**

16 Physician's and Surgeon's Certificate No. G41971

17 Respondent.

Primary Case No. D1-2009-202098  
Consolidated Case No. 19-2011-216423

**PETITION TO REVOKE PROBATION**

18 Complainant alleges:

19 **PARTIES**

20 1. Linda K. Whitney (Complainant/Petitioner) brings this Petition to Revoke  
21 Probation solely in her official capacity as the Executive Director of the Medical Board of  
22 California, Department of Consumer Affairs.

23 2. On June 11, 1980, the Medical Board of California issued Physician's and  
24 Surgeon's Certificate Number G41971 to Jesse James Joplin, M.D. (Respondent). On April 17,  
25 1995 an Accusation was filed against Respondent's certificate; on January 29, 1997 a Decision  
26 became effective under which Respondent's certificate was revoked, stayed, subject to five years  
27 probation with terms and conditions. Respondent completed his probation on April 29, 2002. On  
28 June 7, 2010 the primary disciplinary case was filed in Accusation No. 03-2009-202098; a First

1 amended Accusation was filed on June 14, 2010. Following a hearing, a Decision was issued,  
2 effective April 22, 2011, revoking Respondent's license, stayed, and placing his certificate on  
3 probation for seven years, with terms and conditions. Respondent's certificate will expire on  
4 February 29, 2012, unless renewed. The certificate is SUSPENDED by virtue of an Interim  
5 Suspension Order issued on July 25, 2011 pursuant to Government Code section 11529.

### 6 JURISDICTION

7 3. This Petition to Revoke Probation is brought before the Medical Board of  
8 California (Board<sup>1</sup>) under the authority of the following laws. All section references are to the  
9 Business and Professions Code unless otherwise indicated.

10 4. Section 2004 of the Code provides that the Medical Board is responsible for the  
11 administration and hearing of disciplinary action involving enforcement of the Medical Practice  
12 Act (section 2000 *et seq.*) and the carrying out disciplinary actions appropriate to findings made  
13 by a panel or an administrative law judge.

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

18 6. Section 2234 of the Code directs the Board to take action against any licensee who  
19 is charged with unprofessional conduct. Unprofessional conduct includes, but is not limited to,  
20 the following:

21 (a) Violating or attempting to violate, directly or indirectly, assisting in or abetting  
22 the violation of, or conspiring to violate any provision of this chapter [Chapter 5, the Medical  
23 Practice Act].

24 (f) Any action or conduct which would have warranted the denial of a certificate.

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26  
27 <sup>1</sup> The term "Board" means the Medical Board of California; "Division of Medical  
28 Quality" also refers to the Board.



1           7.       Section 2239 of the Code provides that the use or prescribing for or administering  
2 to himself of any controlled substance; or the use of any of the dangerous, or of alcoholic  
3 beverages, to the extent or in such a manner as to be dangerous or injurious to the licensee, or to  
4 any other person or to the public, or to the extent that such use impairs the ability of the licensee  
5 to practice medicine safely or more than one misdemeanor or any felony involving the use,  
6 consumption or self-administration of any of the substances referred to in this section, or any  
7 combination thereof, constitutes unprofessional conduct.

8                               **CAUSE FOR REVOCATION OF PROBATION**

9           8.       As stated above, an Accusation and First Amended Accusation were filed before  
10 the Board, in which it was alleged that Respondent engaged in unprofessional conduct in that he  
11 consumed alcohol to excess and to an extent that he endangered himself and others, and that he  
12 had been criminally convicted on two separate occasions of offenses related to the use and  
13 consumption of alcohol. A hearing was held on the allegations set forth in the First Amended  
14 Accusation on January 31, 2011; thereafter the Board issued its Decision effective April 22, 2011  
15 under which Respondent's license was revoked, stayed, with seven years probation. The terms  
16 and conditions of probation were directed primarily to Respondent's substance abuse, and  
17 required him to abstain completely from the use of products or beverages containing alcohol,  
18 submit to biological fluid testing, undergo a psychiatric evaluation, participate in psychotherapy,  
19 have a practice monitor, and not engage in the solo practice of medicine. The Decision  
20 specifically provided that failure to fully comply with any term or condition of probation would  
21 be a violation of probation and would authorize the Board to take action to carry out the  
22 disciplinary order that was stayed. A copy of the Decision is attached to this Petition to Revoke  
23 Probation as Exhibit A .

24           9.       Respondent's probationary terms, which took effect on April 22, 2011, and which  
25 continue to be in effect, include the following terms and conditions:

26                   A.       ALCOHOL - ABSTAIN FROM USE: Under the terms and conditions of  
27 his probation, Respondent was required to abstain completely from the use of alcoholic  
28 beverages. Respondent failed to comply with this term of his probation in that multiple bodily

1 fluid tests resulted in a positive test result for the presence of alcohol. A urine sample collected  
2 June 30, 2011 had a positive Ethyl Glucuronide (EtG) of 778 and a positive Ethyl Sulfate (EtS) of  
3 298; a sample collected on July 6, 2011 had a positive EtG of 2,879 and a positive EtS of 789; a  
4 sample collected on July 11, 2011 had a positive EtG of 37,295 and a positive EtS of 9,330; and,  
5 a sample collected on July 12, 2011 had a positive EtG of 9,848 and a positive EtS of 3,020  
6 Respondent admitted during an interview with Board investigative and probation staff on June 20,  
7 2011 that he had "slipped" and had been drinking. A sample collected at the June 20, 2011  
8 meeting had a positive EtG of 79,944 and a positive EtS of 22,612. The cutoff value (used to  
9 rule out incidental exposure to alcohol) for EtG is 250 ng/mL and EtS is 50 ng/mL.

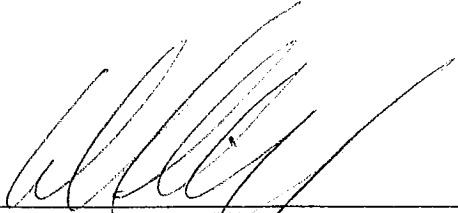
10 10. Grounds exist to revoke probation and to reimpose the order of revocation  
11 in that respondent has failed to fully comply with the terms of his probation, as alleged above, and  
12 the Board is therefore authorized to take further disciplinary action and to obtain the relief  
13 requested herein.

14 **PRAYER**

15 WHEREFORE, Complainant prays that a hearing be held and that the Board issue an  
16 order:

- 17 1. Revoking Physician's and Surgeon's Certificate Number G41971, issued to  
18 Jesse James Joplin, M.D.;
- 19 2. Revoking Respondent's current probation, and carrying out the disciplinary  
20 order that was stayed;
- 21 3. Taking such other and further action as deemed necessary and proper.

22 DATED: August 8, 2011

23  
24  
25   
26 LINDA K. WHITNEY  
27 Executive Director  
28 Medical Board of California  
Department of Consumer Affairs  
State of California  
Complainant

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

In the Matter of the Accusation )  
of: ) File No. 03-2009-202098  
)  
) OAH No: 2010100927  
JESSE JAMES JOPLIN, M.D. )  
)  
Physician's & Surgeon's )  
Certificate No. G 41971 )  
)  
)  
Respondent. )  
\_\_\_\_\_ )

DECISION

The attached Proposed Decision of the Administrative Law Judge is hereby accepted and adopted as the Decision and Order by the Medical Board of California, Department of Consumer Affairs, State of California.

This Decision shall become effective at 5:00 p.m. on April 22, 2011.

ORDERED March 24, 2011

MEDICAL BOARD OF CALIFORNIA



Shelton Duruisseau, Ph.D.  
Chair, Panel A

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

In the Matter of the Accusation Against:

JESSE JAMES JOPLIN, M.D.

Physician's & Surgeon's  
Certificate No. G 41971

Respondent.

Case No. 03-2009-202098

OAH No. 2010100927

**PROPOSED DECISION**

Administrative Law Judge Mary-Margaret Anderson, Office of Administrative Hearings, State of California, heard this matter on January 31, 2011, in Oakland, California.

Jane Zack Simon, Deputy Attorney General, represented Complainant Linda K. Whitney, Executive Director of the Medical Board of California.

Respondent Jesse James Joplin, M.D., represented himself.

The record closed on January 31, 2011.

**FACTUAL FINDINGS**

1. Complainant Linda K. Whitney issued the Accusation in her official capacity as Executive Director of the Medical Board of California (Board).

2. On June 11, 1980, the Board issued Physician's and Surgeon's Certificate No. G 41971 to Jesse James Joplin, M.D. (Respondent). Respondent's certificate will expire on February 29, 2012, unless renewed.

*Criminal convictions*

3. On December 12, 2007, in the Santa Clara County Superior Court, Respondent was convicted by his plea of nolo contendere of a misdemeanor violation of Vehicle Code section 23103, subdivision (a), reckless driving involving alcohol, drugs, or both. Respondent

was placed on probation for two years under conditions that included completing a first offender drinking driving program.

4. The 2007 conviction followed Respondent's arrest on July 4, 2007, at approximately 8:00 p.m. He was stopped by a California Highway Patrol officer for speeding. The officer observed a plastic baggie of marijuana in the center console area. He also smelled alcohol on Respondent and coming from the vehicle, as well as other signs of alcohol use. Respondent eyes were red and watery and his speech was thick. Two hours later, a breath test administered to Respondent revealed .09 percent blood alcohol.

5. On March 5, 2010, in the Santa Clara County Superior Court, Respondent was convicted of a misdemeanor violation of Vehicle Code section 23152, subdivision (b), driving with a blood alcohol content of .08 percent or higher. This conviction was enhanced by Respondent's prior conviction for a DUI offense and by a blood alcohol content in excess of .18 percent, in violation of Vehicle Code section 23578. Respondent was placed on probation for two years pursuant to conditions that included completing a multiple offender drinking driving program.

6. The 2010 conviction followed Respondent's arrest on September 14, 2009, at approximately 9:00 a.m. Respondent's erratic driving drew the attention of another motorist, who called 911. The responding police officer also observed Respondent to be driving erratically, including weaving and following another vehicle too closely. After the stop, the officer observed Respondent's speech to be slurred and a strong odor of alcohol. The officer assisted Respondent out of his car and found him disoriented as to time and place. A blood test revealed Respondent's blood alcohol content to be .24 percent.

#### *Respondent's evidence*

7. Respondent was driving home from parties both of the times he was arrested. He testified that he made a lot of poor choices in his personal life during that time period. He also said that deaths in his family and other family matters were causing a lot of stress. At that time in his life, he did not go out very much, but when he did, he liked to enjoy himself with "rowdy friends." Respondent did not recall learning previously that when he was arrested in 2009 his blood alcohol level was .24 percent. He had been up all night drinking with friends. But after his second conviction, Respondent deliberately chose to go to jail instead of utilizing the alternative work program, in order to "learn a lesson."

8. Respondent was a bit unclear in describing his relationship with alcohol. He said that any problem drinker can be an alcoholic, and that he is a problem drinker in that he makes bad decisions when he drinks. Respondent was still drinking occasionally after the 2009 arrest, but stopped completely at the time he served his jail sentence. He identified his sobriety date as "about May 2010." Respondent initially attended Alcoholics Anonymous meetings only occasionally, but for the past year or so, has attended three times each week.

9. Presently, Respondent is doing everything he can think of to take care of himself. He believes that his problems were rooted in part in the fact that he was trying to take care of everyone else, but not himself. After a divorce, he isolated himself by moving to San Mateo County. Respondent was concerned about depression, and his internist prescribed anti-depressants, which helped for about two months. They made him tired, so he stopped taking them, and “things have been fine.” Respondent is in the process of moving back to San Jose, where he will be closer to people who care about him. He has mended fences with his ex-wife and his children and is trying to keep himself “on an even keel” by exercising and just taking better care of himself in general. He has lost 30 pounds in the last year and is taking medication for his high blood pressure.

10. Respondent is a supervising physician for Planned Parenthood. He has worked for that company pursuant to a contract for 27 years, mainly as a gynecologist in a clinic setting. Respondent mainly works with nurse practitioners and physician assistants, but on most days another physician is present as well.

12. Respondent does not want to go to jail again. He loves practicing medicine and does everything he can to keep his patients safe. Respondent is aware that his drinking put himself and others in jeopardy. He is “willing to do anything to keep” his license to practice medicine.

13. Respondent submitted no evidence except his testimony.

## LEGAL CONCLUSIONS

1. Business and Professions Code section 2234 provides that unprofessional conduct is grounds for discipline of a physician’s certificate. Respondent committed unprofessional conduct by driving his vehicle while intoxicated and in a dangerous manner on two occasions. Cause for license discipline exists by reason of the matters set forth in Findings 3 through 6.

2. Pursuant to Business and Professions Code section 2239, unprofessional conduct includes the use “of alcoholic beverages, to the extent, or in such a manner as to be dangerous or injurious to the licensee, or to any other person or to the public . . . .” Respondent used alcoholic beverages in a manner dangerous to himself and the public on two occasions. Cause for license discipline exists under section 2239 by reason of the matters set forth in Findings 3 through 6.

3. Pursuant to Business and Professions Code section 2236, subdivision (a), “the conviction of any offense substantially related to the qualifications, functions, or duties of a physician and surgeon constitutes unprofessional conduct within the meaning of this chapter.”

Respondent was convicted twice in a three-year period of alcohol-related crimes. The second offense was enhanced due to the prior conviction and a very high blood alcohol content. Driving after ingesting alcohol placed Respondent’s own life and the lives of others in real

danger. The offenses were thus substantially related to his profession as a physician. Cause for license discipline exists pursuant to Business and Professions Code section 2236, subdivision (a), as that section interacts with section 2234, by reason of the matters as set forth in Findings 3 through 6.

4. It appears that Respondent is, at best, in the early stages of recovery from a serious problem with alcohol. Respondent's attempts to deal with the problem are commendable, but insufficient to ensure public safety. The circumstances require that he complete a term of probation that includes appropriate conditions designed to address his alcohol problem.

## ORDER

Physician's and Surgeon's Certificate No. G 41971 issued to Respondent Jesse James Joplin, M.D., is revoked; however, revocation is stayed and Respondent is placed on probation for seven years upon the following terms and conditions.

### **1. Alcohol - Abstain From Use**

Respondent shall abstain completely from the use of products or beverages containing alcohol.

### **2. Biological Fluid Testing**

Respondent shall immediately submit to biological fluid testing, at Respondent's expense, upon request of the Board or its designee. Prior to practicing medicine, Respondent shall, at Respondent's expense, contract with a laboratory or service - approved in advance by the Board or its designee - that will conduct random, unannounced, observed, urine testing a minimum of four times each month. The contract shall require results of the urine tests to be transmitted by the laboratory or service directly to Board or its designee within four hours of the results becoming available. Failure to maintain this laboratory or service during the period of probation is a violation of probation. A certified copy of any laboratory test result may be received in evidence in any proceedings between the Board and Respondent. Failure to submit to or comply with the time frame for submitting to, or failure to complete the required biological fluid testing, is a violation of probation.

### **3. Psychiatric Evaluation**

Within 30 calendar days of the effective date of this Decision, and on whatever periodic basis thereafter may be required by the Board or its designee, Respondent shall undergo and complete a psychiatric evaluation (and psychological testing, if deemed necessary) by a Board-appointed board certified psychiatrist, who shall consider any information provided by the Board or designee and any other information the psychiatrist deems relevant, and shall furnish a written evaluation report to the Board or its designee. Psychiatric evaluations conducted prior to the effective date of this Decision shall not be accepted towards the

fulfillment of this requirement. Respondent shall pay the cost of all psychiatric evaluations and psychological testing.

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

Failure to undergo and complete a psychiatric evaluation and psychological testing, or comply with the required additional conditions or restrictions, is a violation of probation.

#### **4. Psychotherapy**

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

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

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

Respondent shall pay the cost of all psychotherapy and psychiatric evaluations. Failure to undergo and continue psychotherapy treatment, or comply with any required modification in the frequency of psychotherapy, is a violation of probation.

#### **5. Solo Practice**

Respondent is prohibited from engaging in the solo practice of medicine.

#### **6. Monitoring – Practice**

Within 30 calendar days of the effective date of this Decision, Respondent shall submit to the Board or its designee for prior approval as a practice monitor, the name, and qualifications



of one or more licensed physicians and surgeons whose licenses are valid and in good standing, and who are preferably American Board of Medical Specialties (ABMS) certified. A monitor shall have no prior or current business or personal relationship with Respondent, or other relationship that could reasonably be expected to compromise the ability of the monitor to render fair and unbiased reports to the Board, including but not limited to any form of bartering, shall be in Respondent's field of practice, and must agree to serve as Respondent's monitor. Respondent shall pay all monitoring costs.

The Board or its designee shall provide the approved monitor with copies of the Decision, and Accusation, and a proposed monitoring plan. Within 15 calendar days of receipt of the Decision, Accusation, and proposed monitoring plan, the monitor shall submit a signed statement that the monitor has read the Decision and Accusation, fully understands the role of a monitor, and agrees or disagrees with the proposed monitoring plan. If the monitor disagrees with the proposed monitoring plan, the monitor shall submit a revised monitoring plan with the signed statement.

Within 60 calendar days of the effective date of this Decision, and continuing throughout probation, Respondent's practice shall be monitored by the approved monitor. Respondent shall make all records available for immediate inspection and copying on the premises by the monitor at all times during business hours and shall retain the records for the entire term of probation.

The monitor shall submit a quarterly written report to the Board or its designee which includes an evaluation of Respondent's performance, indicating whether Respondent's practices are within the standards of practice of medicine and whether Respondent is practicing medicine safely, billing appropriately or both. It shall be the sole responsibility of Respondent to ensure that the monitor submits the quarterly written reports to the Board or its designee within 10 calendar days after the end of the preceding quarter.

If the monitor resigns or is no longer available, Respondent shall, within five calendar days of such resignation or unavailability, submit to the Board or its designee, for prior approval, the name and qualifications of a replacement monitor who will be assuming that responsibility within 15 calendar days. If Respondent fails to obtain approval of a replacement monitor within 60 days of the resignation or unavailability of the monitor, Respondent shall be suspended from the practice of medicine until a replacement monitor is approved and prepared to assume immediate monitoring responsibility. Respondent shall cease the practice of medicine within three calendar days after being so notified by the Board or designee.

Failure to maintain all records, or to make all appropriate records available for immediate inspection and copying on the premises, or to comply with this condition as outlined above is a violation of probation.

## **7. Notification**

Prior to engaging in the practice of medicine Respondent shall provide a true copy of the 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 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.

## **8. Supervision of Physician Assistants**

During probation, Respondent is prohibited from supervising physician assistants.

## **9. 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.

## **10. 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.

## **11. Probation Unit Compliance**

Respondent shall comply with the Board's probation unit. Respondent shall, at all times, keep the Board informed of Respondent's business and residence addresses. 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).

Respondent shall not engage in the practice of medicine in Respondent's place of residence. Respondent shall maintain a current and renewed California physician's and surgeon's certificate.

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 30 calendar days.

## **12. Interview with the Board or its Designee**

Respondent shall be available in person for interviews either at Respondent's place of business or at the probation unit office, with the Board or its designee upon request at various intervals and either with or without prior notice throughout the term of probation.

## **13. Residing or Practicing Out-of-State**

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. Non-practice is defined as any period of time exceeding thirty calendar days in which Respondent is not engaging in any activities defined in sections 2051 and 2052 of the Business and Professions Code.

All time spent in an intensive training program outside the State of California which has been approved by the Board or its designee shall be considered as time spent in the practice of medicine within the State. A Board-ordered suspension of practice shall not be considered as a period of non-practice. Periods of temporary or permanent residence or practice outside California will not apply to the reduction of the probationary term. Periods of temporary or permanent residence or practice outside 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; Probation Unit Compliance; and Probation Monitoring Costs.

Respondent's certificate shall be automatically cancelled if Respondent's periods of temporary or permanent residence or practice outside California total two years. However, Respondent's certificate shall not be cancelled as long as Respondent is residing and practicing medicine in another state of the United States and is on active probation with the medical licensing authority of that state, in which case the two-year period shall begin on the date probation is completed or terminated in that state.

## **14. Failure to Practice Medicine - California Resident**

In the event Respondent resides in the State of California and for any reason Respondent stops practicing medicine in California, Respondent shall notify the Board or its designee in writing within 30 calendar days prior to the dates of non-practice and return to practice. Any period of non-practice within California, as defined in this condition, will not apply to the reduction of the probationary term and does not relieve Respondent of the responsibility to comply with the terms and conditions of probation. Non-practice is defined as any period of time exceeding thirty calendar days in which Respondent is not engaging in any activities defined in sections 2051 and 2052 of the Business and Professions Code.

All time spent in an intensive training program which has been approved by the Board or its designee shall be considered time spent in the practice of medicine. For purposes of this condition, non-practice due to a Board-ordered suspension or in compliance with any other condition of probation, shall not be considered a period of non-practice.

Respondent's certificate shall be automatically cancelled if Respondent resides in California and for a total of two years, fails to engage in California in any of the activities described in Business and Professions Code sections 2051 and 2052.

### **15. Completion of Probation**

Respondent shall comply with all financial obligations (e.g., 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.

### **16. 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.

### **17. License Surrender**

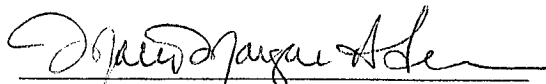
Following the effective date of this Decision, if Respondent ceases practicing due to retirement, health reasons or is otherwise unable to satisfy the terms and conditions of probation, Respondent may request the voluntary surrender of Respondent's license. The Board reserves the right to evaluate Respondent's request and to exercise its discretion 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 and the surrender of Respondent's license shall be deemed disciplinary action. If Respondent re-applies for a medical license, the application shall be treated as a petition for reinstatement of a revoked certificate.

### **18. 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. Failure to pay costs within 30 calendar days of the due date is a violation of probation.

DATED: February 17, 2011



MARY-MARGARET ANDERSON

Administrative Law Judge

Office of Administrative Hearings