

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

**In the Matter of the Accusation)
Against:)**

Jyotsna Sahni, M.D.)

Case No. 800-2017-033002

**Physician's and Surgeon's)
Certificate No. C54647)**

Respondent)

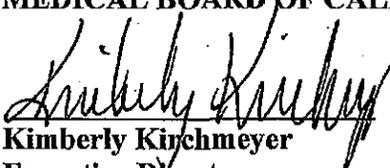
DECISION

The attached Stipulated Surrender of License and 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 September 15, 2017.

IT IS SO ORDERED September 8, 2017.

MEDICAL BOARD OF CALIFORNIA

By: 

**Kimberly Kirchmeyer
Executive Director**

1 XAVIER BECERRA
Attorney General of California
2 JANE ZACK SIMON
Supervising Deputy Attorney General
3 KEITH C. SHAW
Deputy Attorney General
4 State Bar No. 227029
455 Golden Gate Avenue, Suite 11000
5 San Francisco, CA 94102-7004
Telephone: (415) 703-5385
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Attorneys for Complainant

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

10 In the Matter of the Accusation Against:

Case No. 800-2017-033002

11 **Jyotsna Sahni, M.D.**

**STIPULATED SURRENDER OF
LICENSE AND ORDER**

12 5051 E. Mission Hill Dr.
13 Tucson, AZ 85718

14 **Physician's and Surgeon's Certificate**
15 **No. C 54647,**

16 Respondent.

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

19 PARTIES

20 1. Kimberly Kirchmeyer (Complainant) is the Executive Director of the Medical Board
21 of California (Board). She brought this action solely in her official capacity and is represented in
22 this matter by Xavier Becerra, Attorney General of the State of California, by Keith C. Shaw,
23 Deputy Attorney General.

24 2. Jyotsna Sahni, M.D. (Respondent) is representing herself in this proceeding and has
25 chosen not to exercise her right to be represented by counsel.

26 3. On or about April 13, 2011, the Board issued Physician's and Surgeon's Certificate
27 No. C 54647 to Jyotsna Sahni, M.D. The Physician's and Surgeon's Certificate was in full force
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1 and effect at all times relevant to the charges brought in Accusation No. 800-2017-033002, and
2 will expire on February 28, 2019, unless renewed.

3 JURISDICTION

4 4. Accusation No. 800-2017-033002 was filed before the Medical Board of California
5 (Board), Department of Consumer Affairs, and is currently pending against Respondent. The
6 Accusation and all other statutorily required documents were properly served on Respondent on
7 August 2, 2017. Respondent filed her Notice of Defense in response to the Accusation. A copy
8 of Accusation No. 800-2017-033002 is attached as Exhibit A and incorporated herein by
9 reference.

10 ADVISEMENT AND WAIVERS

11 5. Respondent has carefully read and understands the charges and allegations in
12 Accusation No. 800-2017-033002. Respondent has also carefully read and understands the
13 effects of this Stipulated Surrender of License and Order.

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

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

22 CULPABILITY

23 8. Respondent understands and agrees that the charges and allegations in Accusation
24 No. 800-2017-033002, if proven at a hearing, constitute cause for imposing discipline upon her
25 Physician's and Surgeon's Certificate.

26 9. For the purpose of resolving the Accusation without the expense and uncertainty of
27 further proceedings, Respondent agrees that, at a hearing, Complainant could establish a factual
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1 basis for the charges in the Accusation, and that Respondent hereby gives up her right to contest
2 those charges.

3 10. Respondent understands that by signing this stipulation she enables the Board to issue
4 an order accepting the surrender of her Physician's and Surgeon's Certificate without further
5 process.

6 CONTINGENCY

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

17 11. The parties understand and agree that facsimile copies of this Stipulated Surrender of
18 License and Order, including facsimile signatures thereto, shall have the same force and effect as
19 the originals.

20 12. In consideration of the foregoing admissions and stipulations, the parties agree that
21 the Board may, without further notice or formal proceeding, issue and enter the following
22 Disciplinary Order:

23 ORDER

24 IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. C 54647, issued
25 to Respondent Jyotsna Sahni, M.D. is surrendered and accepted by the Medical Board of
26 California.

27 1. Respondent shall lose all rights and privileges as a physician and surgeon in
28 California as of the effective date of the Board's Decision and Order.

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ENDORSEMENT

The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted for consideration by the Medical Board of California of the Department of Consumer Affairs.

Dated: August 28, 2017

Respectfully submitted,

XAVIER BECERRA
Attorney General of California
JANE ZACK SIMON
Supervising Deputy Attorney General



KEITH C. SHAW
Deputy Attorney General
Attorneys for Complainant

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Exhibit A
Accusation No. 800-2017-033002

1 XAVIER BECERRA
Attorney General of California
2 JANE ZACK SIMON
Supervising Deputy Attorney General
3 KEITH C. SHAW
Deputy Attorney General
4 State Bar No. 227029
455 Golden Gate Avenue, Suite 11000
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Attorneys for Complainant
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FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO AUGUST 2, 2017
BY DARA PASHAN ANALYST

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

12 In the Matter of the Accusation Against:

Case No. 800-2017-033002

13 **Jyotsna Sahni, M.D.**

ACCUSATION

14 5051 E. Mission Hill Dr.
15 Tucson, AZ 85718

16 **Physician's and Surgeon's Certificate**
No. C 54647,

Respondent.

17 Complainant alleges:

18 **PARTIES**

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

21 2. On or about April 13, 2011, the Medical Board issued Physician's and Surgeon's
22 Certificate Number C 54647 to Jyotsna Sahni, M.D. (Respondent). The Physician's and
23 Surgeon's Certificate was in full force and effect at all times relevant to the charges brought
24 herein and will expire on February 28, 2019, unless renewed.

25 **JURISDICTION**

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

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- b. G.N. was an employee of the Medical Spa who held himself out to have qualifications for performing injections and fillers in patients, when in fact G.N. had no such qualifications. Respondent did not verify G.N.'s training or certificates when she became Medical Director. Respondent permitted G.N. to actively participate in liposuction procedures, administer medications, and occasionally left G.N. alone with liposuction patients;
- c. Respondent wrote prescriptions for her immediate family, the Medical Spa owner, and G.N. without conducting a physical examination or maintaining medical records;
- d. During the course of the DEA investigation, Respondent voluntarily surrendered her DEA certificate and agreed to testify against G.N. in exchange for immunity. Respondent reapplied after one year, and her DEA certificate was reinstated;
- e. Respondent applied for renewal of her Arizona medical license in 2016, and did not disclose that her DEA certificate had previously been surrendered as required to do so on the renewal application;
- f. An Arizona Board medical consultant reviewed the matter and noted that prior to Respondent's tenure at the Medical Spa, she had insufficient training and background in both surgical procedures and operating room sterile procedures. Consequently, Respondent was found to have deviated from the standard of care by performing surgical procedures for which she had not received adequate training;
- g. Respondent was found to have deviated from the standard of care by prescribing medications without examining or knowing the individual, and without keeping adequate medical records;
- h. Respondent was found to have deviated from the standard of care by failing to provide adequate supervision of medical staff, failing to use proper safety protocols, and failing to verify staff credentials and training.

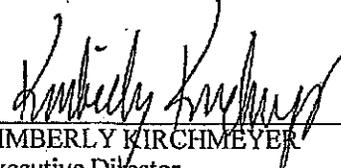
A true and correct copy of the Order issued by the Arizona Board is attached as Exhibit A.

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3. Ordering Jyotsna Sahni, M.D., if placed on probation, to pay the Board the costs of probation monitoring; and

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

DATED: August 2, 2017



KIMBERLY KIRCHMEYER
Executive Director
Medical Board of California
State of California
Complainant

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EXHIBIT A

1 BEFORE THE ARIZONA MEDICAL BOARD

2 In the Matter of

3 JYOTSNA SAHNI, M.D.

4 Holder of License No. 35720
5 For the Practice of Allopathic Medicine
6 In the State of Arizona.

Case No. MD-16-0054A

ORDER FOR LETTER OF
REPRIMAND AND PROBATION;
AND CONSENT TO THE SAME

7 Jyotsna Sahni, M.D. ("Respondent") elects to permanently waive any right to a
8 hearing and appeal with respect to this Order for a Letter of Reprimand and Probation;
9 admits the jurisdiction of the Arizona Medical Board ("Board"); and consents to the entry of
10 this Order by the Board.

11 FINDINGS OF FACT

12 1. The Board is the duly constituted authority for the regulation and control of
13 the practice of allopathic medicine in the State of Arizona.

14 2. Respondent is the holder of license number 35720 for the practice of
15 allopathic medicine in the State of Arizona.

16 3. The Board initiated case number MD-16-0054A after receiving information
17 indicating that Respondent had surrendered her DEA controlled substances prescribing
18 certificate and that she had allowed an unlicensed individual to perform and/or assist with
19 medical procedures at the Medical Spa where Respondent served as Medical Director
20 from May, 2012 through August, 2013.

21 4. During her tenure at the Medical Spa, Respondent was the only employed
22 individual who held a DEA certificate. The Medical Spa Owner was a clinical aesthetician
23 and a licensed, certified medical laser technician. At the time Respondent became
24 Medical Director, Gustavo Nunez was an employee of the Medical Spa who held himself
25 out to have qualifications for performing Botox injections and fillers in patients. In fact, Mr.

1 Nunez had no such qualifications. Respondent did not verify Mr. Nunez's training or
2 certifications at the time she became Medical Director.

3 5. Respondent allowed Mr. Nunez to actively participate in liposuction
4 procedures, administer medications and at times, left Mr. Nunez alone with liposuction
5 patients.

6 6. Respondent wrote prescriptions to the Medical Spa Owner, Mr. Nunez, and
7 her immediate family members without conducting a physical examination, and without
8 maintaining a medical record.

9 7. During the course of an investigation into Mr. Nunez that was conducted by
10 the DEA, Respondent voluntarily surrendered her DEA certificate and agreed to testify
11 against Mr. Nunez in exchange for immunity from prosecution. Respondent reapplied after
12 approximately one year, and her DEA certificate was reinstated.

13 8. Respondent applied for renewal of her medical license in 2016, and did not
14 disclose her DEA certificate surrender as required to do so on her renewal application.
15 Respondent asserts that she discovered that a staff member submitted her renewal
16 application without her final review. Respondent provided an affidavit to the Board from
17 the member of her staff who took responsibility for the failure to report the DEA surrender
18 on Respondent's renewal application.

19 9. The Board's Medical Consultant ("MC") reviewed the matter and noted that
20 prior to her tenure at the Medical Spa, Respondent had insufficient training and
21 background in surgical procedures or operating room sterile procedure.

22 10. The standard of care required Respondent to see or know the individual to
23 whom the physician is prescribing medication while maintaining an adequate medical
24 record. Respondent deviated from this standard of care by prescribing medications
25 without seeing or knowing the individual, and without keeping adequate medical records.

1 11. The standard of care for performing surgical procedures required
2 Respondent to have adequate training to do so. Respondent deviated from this standard
3 of care by performing surgical procedures for which she has not received adequate
4 training.

5 12. The standard of care for a Medical Director required Respondent to provide
6 adequate supervision of medical staff, including use of proper safety protocols as well as
7 credential verification and training for staff. Respondent deviated from this standard of
8 care in her role as Medical Director by failing to provide adequate supervision of medical
9 staff, by failing to use proper safety protocols, and by failing to verify staff credentials and
10 training.

11 13. There was the potential for patient harm in that, when a physician does not
12 have the required background, or training for a particular surgical procedure, anything from
13 permanent deformities to death are possible.

14 CONCLUSIONS OF LAW

15 a. The Board possesses jurisdiction over the subject matter hereof and over
16 Respondent.

17 b. The conduct and circumstances described above constitute unprofessional
18 conduct pursuant to A.R.S. § 32-1401(27)(e) ("Failing or refusing to maintain adequate
19 records on a patient.").

20 c. The conduct and circumstances described above constitute unprofessional
21 conduct pursuant to A.R.S. § 32-1401(27)(q) ("Any conduct or practice that is or might be
22 harmful or dangerous to the health of the patient or the public.").

23 d. The conduct and circumstances described above constitute unprofessional
24 conduct pursuant to A.R.S. § 32-1401(27)(t) ("Knowingly making any false or fraudulent
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1 statement, written or oral, in connection with the practice of medicine or if applying for
2 privileges or renewing an application for privileges at a health care institution.").

3 e. The conduct and circumstances described above constitute unprofessional
4 conduct pursuant to A.R.S. § 32-1401(27)(cc)("Maintaining a professional connection with
5 or lending one's name to enhance or continue the activities of an illegal practitioner of
6 medicine.").

7 f. The conduct and circumstances described above constitute unprofessional
8 conduct pursuant to A.R.S. § 32-1401(27)(ii)("Lack of or inappropriate direction,
9 collaboration or direct supervision of a medical assistant or a licensed, certified or
10 registered health care provider employed by, supervised by or assigned to the physician.").

11 g. The conduct and circumstances described above constitute unprofessional
12 conduct pursuant to A.R.S. § 32-1401(27)(jj)("Knowingly making a false or misleading
13 statement to the board or on a form required by the board or in a written correspondence,
14 including attachments, with the board.").

15 h. The conduct and circumstances described above constitute unprofessional
16 conduct pursuant to A.R.S. § 32-1401(27)(ss)("Prescribing, dispensing or furnishing a
17 prescription medication or a prescription-only device as defined in section 32-1901 to a
18 person unless the licensee first conducts a physical or mental health status examination of
19 that person or has previously established a doctor-patient relationship.").

20 ORDER

21 IT IS HEREBY ORDERED THAT:

- 22 1. Respondent is issued a Letter of Reprimand.
- 23 2. Respondent is placed on Probation for a period of 2 years with the following
24 terms and conditions:
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a. Practice Restriction

Respondent shall be restricted from performing cosmetic surgical procedures, including liposuction, until she applies to the Board and receives permission to do so. Respondent's request for the Board to terminate the Practice Restriction shall be accompanied by documentation demonstrating that she has the ability to adequately perform cosmetic surgical procedures, including liposuction.

Respondent shall not be employed or otherwise serve as a Medical Director in any practice setting during the term of this Probation.

b. Continuing Medical Education

Respondent shall within 6 months of the effective date of this Order obtain no less than 15 hours of Board Staff pre-approved Category I Continuing Medical Education ("CME") in an intensive, in-person course regarding medical recordkeeping. Respondent shall within thirty days of the effective date of this Order submit her request for CME to the Board for pre-approval. Upon completion of the CME, Respondent shall provide Board staff with satisfactory proof of attendance. The CME hours shall be in addition to the hours required for the biennial renewal of medical licensure.

c. ProBE/ProBE PLUS

Within 12 months of the effective date of this Order, Respondent shall complete the Professional/Problem-Based Ethics ("ProBE") program offered by the Center for Personalized Education for Physicians ("CPEP") for Ethics and Boundaries. The CME hours shall be in addition to the hours required for the biennial renewal of medical licensure. Respondent shall obtain an unconditional or conditionally passing grade.

Upon completion of the ProBE course, Respondent shall enroll in ProBE Plus (also offered by CPEP) within two months after completion of the ProBE course. Respondent

1 shall comply with all assignments, requests, and recommendations of the ProBE Plus
2 evaluator.

3 Respondent shall sign any and all consents or releases necessary to allow CPEP to
4 communicate to the Board directly. Respondent shall not revoke any releases prior to
5 successful completion and final assessment by her ProBE Plus evaluator.

6 Respondent shall be responsible for the expenses of participation in ProBE and
7 ProBE Plus.

8 d. Chart Reviews

9 Board staff or its agents shall conduct periodic chart reviews. Respondent shall
10 bear all costs associated with the chart reviews. Based upon the chart review, the Board
11 retains jurisdiction to take additional disciplinary or remedial action. The chart reviews shall
12 commence upon proof of Respondent's successful completion of the medical
13 recordkeeping CME, and shall involve current patients' charts.

14 e. Obey All Laws

15 Respondent shall obey all state, federal and local laws, all rules governing the
16 practice of medicine in Arizona, and remain in full compliance with any court ordered
17 criminal probation, payments and other orders.

18 f. Tolling

19 In the event Respondent should leave Arizona to reside or practice outside the
20 State or for any reason should Respondent stop practicing medicine in Arizona,
21 Respondent shall notify the Executive Director in writing within ten days of departure and
22 return or the dates of non-practice within Arizona. Non-practice is defined as any period of
23 time exceeding thirty days during which Respondent is not engaging in the practice of
24 medicine. Periods of temporary or permanent residence or practice outside Arizona or of
25 non-practice within Arizona, will not apply to the reduction of the probationary period.

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g. Probation Termination

Prior to the termination of Probation, Respondent must submit a written request to the Board for release from the terms of this Order. Respondent's request for release will be placed on an upcoming Board agenda, provided a complete submission is received by Board Staff no less than 14 days prior to the scheduled Board meeting. Respondent's request for release must provide the Board with evidence establishing that she has successfully satisfied all of the terms and conditions of this Order, including receiving a passing grade in ProBE Plus. The Board has the sole discretion to determine whether all of the terms and conditions of this Order have been met or whether to take any other action that is consistent with its statutory and regulatory authority.

3. The Board retains jurisdiction and may initiate new action against Respondent based upon any violation of this Order. A.R.S. § 32-1401(27)(r).

DATED AND EFFECTIVE this 5th day of May, 2017.

ARIZONA MEDICAL BOARD

By Patricia E. McSorley
Patricia E. McSorley
Executive Director

CONSENT TO ENTRY OF ORDER

1. Respondent has read and understands this Consent Agreement and the stipulated Findings of Fact, Conclusions of Law and Order ("Order"). Respondent acknowledges she has the right to consult with legal counsel regarding this matter.

2. Respondent acknowledges and agrees that this Order is entered into freely and voluntarily and that no promise was made or coercion used to induce such entry.

1 3. By consenting to this Order, Respondent voluntarily relinquishes any rights to
2 a hearing or judicial review in state or federal court on the matters alleged, or to challenge
3 this Order in its entirety as issued by the Board, and waives any other cause of action
4 related thereto or arising from said Order.

5 4. The Order is not effective until approved by the Board and signed by its
6 Executive Director.

7 5. All admissions made by Respondent are solely for final disposition of this
8 matter and any subsequent related administrative proceedings or civil litigation involving
9 the Board and Respondent. Therefore, said admissions by Respondent are not intended
10 or made for any other use, such as in the context of another state or federal government
11 regulatory agency proceeding, civil or criminal court proceeding, in the State of Arizona or
12 any other state or federal court.

13 6. Upon signing this agreement, and returning this document (or a copy thereof)
14 to the Board's Executive Director, Respondent may not revoke the consent to the entry of
15 the Order. Respondent may not make any modifications to the document. Any
16 modifications to this original document are ineffective and void unless mutually approved
17 by the parties.

18 7. This Order is a public record that will be publicly disseminated as a formal
19 disciplinary action of the Board and will be reported to the National Practitioner's Data
20 Bank and on the Board's web site as a disciplinary action.

21 8. If any part of the Order is later declared void or otherwise unenforceable, the
22 remainder of the Order in its entirety shall remain in force and effect.

23 9. If the Board does not adopt this Order, Respondent will not assert as a
24 defense that the Board's consideration of the Order constitutes bias, prejudice,
25 prejudgment or other similar defense.

1 10. Any violation of this Order constitutes unprofessional conduct and may result
2 in disciplinary action. A.R.S. § 32-1401(27)(r) ("violating a formal order, probation,
3 consent agreement or stipulation issued or entered into by the board or its executive
4 director under this chapter.") and 32-1451.

5 11. Respondent acknowledges that, pursuant to A.R.S. § 32-2501(16), she
6 cannot act as a supervising physician for a physician assistant while her license is on
7 probation.

8 12. *Respondent has read and understands the conditions of probation.*

9
10 Jyotsna Sahni

DATED: 4/3/17

11 JYOTSNA SAHNI, M.D.

12 EXECUTED COPY of the foregoing mailed
13 this 5th day of May, 2017 to:

14 Mark D. Lammers
15 Rusing Lopez & Lizardi, PLLC
16 6363 North Swan Road, Suite 151
Tucson, AZ 85718
Attorney for Respondent

17 ORIGINAL of the foregoing filed
18 this 5th day of May, 2017 with:

19 Arizona Medical Board
20 9545 E. Doubletree Ranch Road
Scottsdale, AZ 85258

21 Michelle Rebus
22 Board Staff

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24
25