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

In the Matter of the Accusation
Against:

Jyotsna Sahni, M.D.
Physician's and Surgeon's
Certificate No. C54647
Respondent

Case No. 800-2017-033002

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
ATTORNEYS FOR COMPLAINANT

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

In the Matter of the Accusation Against:

Jyotsna Sahni, M.D.
5051 E. Mission Hill Dr.
Tucson, AZ 85718

Physician's and Surgeon's Certificate No. C 54647,
Respondent.

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

PARTIES

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

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

3. On or about April 13, 2011, the Board issued Physician's and Surgeon's Certificate No. C 54647 to Jyotsna Sahni, M.D. The Physician's and Surgeon's Certificate was in full force and effect.

STIPULATED SURRENDER OF LICENSE AND ORDER

Case No. 800-2017-033002

Stipulated Surrender of License (Case No. 800-2017-033002)
and effect at all times relevant to the charges brought in Accusation No. 800-2017-033002, and will expire on February 28, 2019, unless renewed.

JURISDICTION

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

ADVISEMENT AND WAIVERS

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

6. 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 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.

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

CULPABILITY

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

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

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

CONTINGENCY

11. This stipulation shall be subject to approval by the Medical Board of California. Respondent understands and agrees that counsel for Complainant and the staff of the Medical Board of California may communicate directly with the Board regarding this stipulation and surrender, 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 Surrender and 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.

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

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

ORDER

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

1. Respondent shall lose all rights and privileges as a physician and surgeon in California as of the effective date of the Board’s Decision and Order.
2. On or before the effective date of the Decision and Order, Respondent shall cause to be delivered to the Board her pocket license and, if one was issued, her wallet certificate.

3. If Respondent ever files an application for licensure or a petition for reinstatement in the State of California, the Board shall treat it as a petition for reinstatement. Respondent must comply with all the laws, regulations and procedures for reinstatement of a revoked license in effect at the time the petition is filed, and all of the charges and allegations contained in Accusation No. 800-2017-033002 shall be deemed to be true, correct and admitted by Respondent when the Board determines whether to grant or deny the petition.

4. 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 agency in the State of California, all of the charges and allegations contained in Accusation No. 800-2017-033002 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 licensure.

ACCEPTANCE

I have carefully read the above Stipulated Surrender of License and Order. I enter into it freely and voluntarily and with full knowledge of its force and effect do hereby surrender the Physician's and Surgeon's Certificate No. C 54647 for Jyotsna Sahni, M.D. to the Medical Board of California, for its formal acceptance. By signing this stipulation to surrender Respondent's license, I recognize that upon its formal acceptance by the Board, Respondent will lose all rights and privileges to practice as a physician and surgeon in the State of California and I also will cause to be delivered to the Board any license and wallet certificate in my possession before the effective date of the decision.

DATED: 8/25/17

JYOTSNA SAHNI, M.D
Respondent
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
Exhibit A

Accusation No. 800-2017-033002
In the Matter of the Accusation Against:  

Jyotsna Sahni, M.D.  

5051 E. Mission Hill Dr.  
Tucson, AZ 85718  

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

Respondent.  

Complainant alleges:  

PARTIES  

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

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

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.
A. Section 2227 of the Code provides in part that the Board may revoke, suspend for a period not to exceed one year, or place on probation, the license of any licensee who has been found guilty under the Medical Practice Act, and may recover the costs of probation monitoring.

B. Section 2305 of the Code provides, in part, that the revocation, suspension, or other discipline, restriction, or limitation imposed by another state upon a license or certificate to practice medicine issued by that state, or the revocation, suspension, or restriction of the authority to practice medicine by any agency of the federal government, that would have been grounds for discipline in California of a licensee under this chapter, shall constitute grounds for disciplinary action for unprofessional conduct against the licensee in this state.

C. Section 141 of the Code provides:

“(a) For any licensee holding a license issued by a board under the jurisdiction of the department, a disciplinary action taken by another state, by any agency of the federal government, or by another country for any act substantially related to the practice regulated by the California license, may be a ground for disciplinary action by the respective state licensing board. A certified copy of the record of the disciplinary action taken against the licensee by another state, an agency of the federal government, or another country shall be conclusive evidence of the events related therein.

“(b) Nothing in this section shall preclude a board from applying a specific statutory provision in the licensing act administered by that board that provides for discipline based upon a disciplinary action taken against the licensee by another state, an agency of the federal government, or another country.”

**CAUSE FOR DISCIPLINE**

(Discipline, Restriction, or Limitation Imposed by Another State)

4. On May 5, 2017, the Arizona Medical Board (Arizona Board) issued an Order for a Letter of Reprimand and Probation; and Consent to the Same (Order) regarding Respondent’s license to practice medicine in the State of Arizona. The Order contains the following factual findings:

a. The Drug Enforcement Agency (DEA) conducted an investigation into the Medical Spa, where Respondent served as Medical Director from May 2012 through August 2013, and she was the only employee with a DEA certificate;
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.
5. Respondent's license to practice medicine in the State of Arizona is subject to the following terms:
   a. Respondent is issued a Letter of Reprimand;
   b. Respondent is placed on probation for two years, with the following terms and conditions:
      i. Respondent is restricted from performing cosmetic surgical procedures until receiving permission from the Arizona Board to do so, and only after providing documentation that she has the ability to adequately perform cosmetic surgical procedures, including liposuction;
      ii. Respondent must complete no less than 15 hours of a pre-approved Continuing Medical Education in an intensive, in-person course regarding medical recordkeeping;
      iii. Respondent must complete a Professional/Problem-Based Ethics (ProBe) program, followed by a ProBe Plus program, offered by the Center for Personalized Education for Physicians (CPEP) for Ethics and Boundaries;
      iv. Respondent is subject to periodic chart reviews;
      v. Respondent must obey all laws.

6. Respondent's conduct and the action of the Arizona Board, as set forth in paragraphs 4 and 5 above, constitute cause for discipline pursuant to sections 2305 and/or 141 of the Code.

**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 Physician's and Surgeon's Certificate Number C 54647, issued to Jyotsna Sahni, M.D.;
2. Revoking, suspending or denying approval of Jyotsna Sahni, M.D.'s authority to supervise physician assistants and advanced practice nurses;
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
BEFORE THE ARIZONA MEDICAL BOARD

Case No. MD-16-0054A
ORDER FOR LETTER OF
REPRIMAND AND PROBATION;
AND CONSENT TO THE SAME

In the Matter of

JYOTSNA SAHNI, M.D.

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

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

FINDINGS OF FACT

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

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

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

4. During her tenure at the Medical Spa, Respondent was the only employed
   individual who held a DEA certificate. The Medical Spa Owner was a clinical aesthetician
   and a licensed, certified medical laser technician. At the time Respondent became
   Medical Director, Gustavo Nunez was an employee of the Medical Spa who held himself
   out to have qualifications for performing Botox injections and fillers in patients. In fact, Mr.
Nunez had no such qualifications. Respondent did not verify Mr. Nunez’s training or certifications at the time she became Medical Director.

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

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

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

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

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

10. The standard of care required Respondent to see or know the individual to whom the physician is prescribing medication while maintaining an adequate medical record. Respondent deviated from this standard of care by prescribing medications without seeing or knowing the individual, and without keeping adequate medical records.
11. The standard of care for performing surgical procedures required Respondent to have adequate training to do so. Respondent deviated from this standard of care by performing surgical procedures for which she has not received adequate training.

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

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

CONCLUSIONS OF LAW:

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

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

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

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

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

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

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

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

ORDER

IT IS HEREBY ORDERED THAT:

1. Respondent is issued a Letter of Reprimand.

2. Respondent is placed on Probation for a period of 2 years with the following terms and conditions:
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
shall comply with all assignments, requests, and recommendations of the ProBE Plus evaluator.

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

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

d. Chart Reviews

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

e. Obey All Laws

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

f. Tolling

In the event Respondent should leave Arizona to reside or practice outside the State or for any reason should Respondent stop practicing medicine in Arizona, Respondent shall notify the Executive Director in writing within ten days of departure and return or the dates of non-practice within Arizona. Non-practice is defined as any period of time exceeding thirty days during which Respondent is not engaging in the practice of medicine. Periods of temporary or permanent residence or practice outside Arizona or of non-practice within Arizona, will not apply to the reduction of the probationary period.
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
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.
3. By consenting to this Order, Respondent voluntarily relinquishes any rights to a hearing or judicial review in state or federal court on the matters alleged, or to challenge this Order in its entirety as issued by the Board, and waives any other cause of action related thereto or arising from said Order.

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

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

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

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

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

9. If the Board does not adopt this Order, Respondent will not assert as a defense that the Board’s consideration of the Order constitutes bias, prejudice, prejudgment or other similar defense.
10. Any violation of this Order constitutes unprofessional conduct and may result in disciplinary action. A.R.S. § § 32-1401(27)(i) ("violating a formal order, probation, consent agreement or stipulation issued or entered into by the board or its executive director under this chapter.") and 32-1451.

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

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

[Signature]
Jyotsna Sahni, M.D.

DATED: 4/3/17

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

Mark D. Lammera
Rusing Lopez & Lizardi, PLLC
6963 North Swan Road, Suite 151
Tucson, AZ 85718
Attorney for Respondent

ORIGINAl of the foregoing filed this 5th day of May, 2017 with:

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

[Signature]
Board Staff