

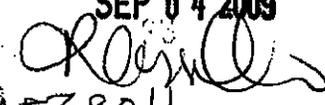
CASH BOND
RECOMMENDED \$ _____
CITE 09/09/09
ROD PACHECO
DISTRICT ATTORNEY

AGENCY#: MV092070250/MVFD

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF RIVERSIDE

SUPERIOR COURT OF CALIFORNIA
COUNTY OF RIVERSIDE
(Riverside)

SEP 04 2009



THE PEOPLE OF THE STATE OF CALIFORNIA,

Plaintiff,

CASE NO. RIM 538011

MISDEMEANOR COMPLAINT

v.

JOANNE MARIAN BENZOR
DOB: 10/29/1956

Defendant.

AJJ
SEP 08 2009

COUNT 1

The undersigned, under penalty of perjury upon information and belief, declares: That the above named defendant committed a violation of Vehicle Code section 23152, subdivision (a), a misdemeanor, in that on or about July 26, 2009, in the County of Riverside, State of California, she did wilfully and unlawfully drive a vehicle while under the influence of an alcoholic beverage and a drug and under their combined influence.

It is further alleged that in the commission of the violation of Vehicle Code section 23152 or 23153 the said defendant did have a blood alcohol concentration of 0.15 and more, by weight, within the meaning of Vehicle Code section 23578.

COUNT 2

That the above named defendant committed a violation of Vehicle Code section 23152, subdivision (b), a misdemeanor, in that on or about July 26, 2009, in the County of Riverside, State of California, she did wilfully and unlawfully drive a vehicle while having 0.08 percent and more, by weight, of alcohol in her blood and 0.08 grams and more of alcohol per 210 liters of her breath.

It is further alleged that in the commission of the violation of Vehicle Code section 23152 or 23153 the said defendant did have a blood alcohol concentration of 0.15 and more, by weight, within the meaning of Vehicle Code section 23578.

MARSY'S LAW

Information contained in the reports being distributed as discovery in this case may contain confidential information protected by Marsy's Law and the amendments to the California Constitution Section 28. Any victim(s) in any above referenced charge(s) is entitled to be free from intimidation, harassment, and abuse. It is unlawful for defendant(s), defense counsel, and any other person acting on behalf of the defendant(s) to use any information contained in the reports to locate or harass any victim(s) or the victim(s)'s family or to disclose any information that is otherwise privileged and confidential by law. Additionally, it is a misdemeanor violation of California Penal Code § 1054.2a(3) to disclose the address and telephone number of a victim or witness to a defendant, defendant's family member or anyone else. Note exceptions in California Penal Code § 1054.2a(a) and (2).

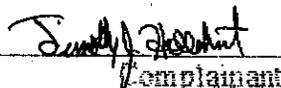
DISCOVERY REQUEST

Pursuant to Penal Code section 1054.5, subdivision (b), the People are hereby informally requesting that defense counsel provide discovery to the People as required by Penal Code section 1054.3.

I declare under penalty of perjury upon information and belief under the laws of the State of California that the foregoing is true and correct.

Dated: September 3, 2009

GLP:cp


Complainant

RIM538011

POLICE DEPARTMENT
CITY OF MORENO VALLEY
NOTICE TO APPEAR

MISDEMEANOR
 Nontraffic

421815

Date of Violation 07/26/09 Time 1:25 PM Day of Week F M T W T F S Case No. MV092070250
Name (First, Middle, Last) JOANNE MARIAN BENZOR Owner's Responsibility (Veh. Code, § 40001)

Address 15942 NINTA AVE
City MORENO VALLEY State CA ZIP Code 92551

Driver Lic. No. N2626423 State CA Class C Commercial Yes No Age 52 Birth Date 10/29/56
Sex F Hair BLK Eyes BRN Height 504 Weight 170 Race W Other Description

Veh. Lic. No. or VIN 4TST761 State CA Reg. MO/YR 08/09 COMMERCIAL VEHICLE (Veh. Code, § 15210(b))
Yr. of Veh. 01 Make TOYT Model SEQ Body Style UT Color WHT HAZARDOUS MATERIAL (Veh. Code, § 353)

Evidence of Financial Responsibility

Registered Owner or Lessee Same as Driver

Address Same as Driver

City State ZIP Code

Correctable Violation (Veh. Code, § 40610)		<input type="checkbox"/> Booking Required (see reverse)	Misdemeanor or Infraction (Circle)
Yes	No	Description	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	23152(A) CVC - DUT	M
<input type="checkbox"/>	<input checked="" type="checkbox"/>	23152(B) CVC - DUE (CAL 1.08%)	M
<input type="checkbox"/>	<input type="checkbox"/>		M
<input type="checkbox"/>	<input type="checkbox"/>		M

Speed Approx. P.F./Max. Spd. Veh. Lmt. Safe Radar Continuation Form Issued N

Location of violation(s) at CACTUS X SAYAN City/County of Occurrence MV/RTV W E

Comments (Weather, Road & Traffic Conditions) Accident S

EDP Code 1843-M EDP Code 1843-M EDP Code Report Dist.

Violations not committed in my presence, declared on information and belief. I declare, under penalty of perjury under the laws of the State of California the foregoing is true and correct.

D SALVAGES Arresting or Citing Officer 472 I.D. # VAG. DATES

Date Name of Arresting Officer, if different from Citing Officer I.D. # VAG. DATES

[Redacted Signature]

WHEN: 9:12 DAY OF SEPTEMBER 20 09 AT 0:30 AM

WHAT TO DO: FOLLOW THE INSTRUCTIONS ON THE REVERSE.

RIVERSIDE COURT 4100 Main Street, Riverside



421815
COURT COPY

SEE REVERSE TR-130

8510005186 ©2008, Moore Wallace. All Rights Reserved 0221

SUPERIOR COURT OF CALIFORNIA, COUNTY OF RIVERSIDE
MISDEMEANOR PLEA FORM

People v. Joanne M. Benzar M.D. Case Number RIMS38011

A. **ADVISEMENT OF RIGHTS:**

- Initials
- JM 1. I have the right to a speedy and public trial by a judge or jury.
 - JM 2. At my trial, I have the right to face and cross-examine any witnesses against me.
 - JM 3. I have the right to ask the court to compel witnesses to attend my trial at no expense to me.
 - JM 4. I have the right against self-incrimination. I cannot be forced to testify against myself, but I also have the right to testify in my own defense if I choose to do so.
 - JM 5. I have the right to be represented by a lawyer at all proceedings. If I cannot afford one, the court will appoint one to represent me at no cost to me.
 - JM 6. I have the right to have a court reporter at all proceedings. If I wish one, I will advise the court in advance. If I can not afford to pay for the court reporter, the court will provide one at no cost to me.

B. **CONSEQUENCES OF PLEA:**

- JM 1. I will be ordered to pay a restitution fine of at least \$100 and not more than \$1000. I may be ordered to pay restitution to the victim(s). The amount is yet to be determined or it is set in the amount of _____. If I disagree with the amount, I may request a hearing. There are several other fines and fees. They are set forth in the sentencing memorandum form.
- JM 2. If I am not a citizen of the United States, I understand that this conviction may have the consequences of deportation, exclusion from admission to the United States, or denial of naturalization pursuant to the laws of the United States.
- JM 3. Being under the influence of alcohol or drugs, or both, impairs your ability to safely operate a motor vehicle. Therefore, it is extremely dangerous to human life to drive while under the influence of alcohol or drugs, or both. If I drive while under the influence of alcohol or drugs, or both, and as a result of that driving, someone is killed, I can be charged with murder.
- JM 4. My driving privileges may be suspended or revoked by the Department of Motor Vehicles.
- JM 5. I may not be able to own or possess a firearm if I am convicted of a crime involving domestic violence, assault, or a firearm violation.
- JM 6. I understand that I will be ordered to register with law enforcement as a(n) _____ and that if I fail to register or to keep my registration current for any reason, new felony criminal charges may be filed against me. I understand that registration as a sex offender is a life long requirement.
- JM 7. I may be required to undergo AIDS testing if I am convicted of sex crimes or an assault.
- JM 8. I may be required to give a DNA sample.
- 9. Other _____

C. **DEFENDANT'S STATEMENT:**

- JM 1. All the promises made to me are written on this form, or stated in open court.
- JM 2. No one has made any threats to me or anyone close to me, or placed any pressure of any kind on me in order to make me plead guilty.
- JM 3. I understand that if I violate any of my probation terms, I could be sentenced to the maximum custody term possible under these charges as set forth under "Plea Agreement", Item 3.
- JM 4. If there are any dismissed charges, they may be considered in determining restitution and the appropriate sentence.
- JM 5. As part of this plea, I (circle one) do / do not waive any right to appeal that I may have.
- JM 6. Factual Basis: I agree that I did the things that are stated in the charges that I am admitting.

D. **PLEA AGREEMENT:**

- 1. Defendant in Pro Per: I will plead guilty as charged.
- 2. Defendant represented by an Attorney: The terms of the disposition are:

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COUNTY OF RIVERSIDE
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SEP 14 2009

3. The maximum possible custody commitment for the admitted charges may be; 1 year, 6 months, or 90 days, depending on the charge. These are per count.
4. My guilty pleas are conditional on receiving the following considerations as to sentence:
 - a) Probation will be granted. The terms are in the Sentencing Memorandum Form which is incorporated into this Plea Form.
 - b) Probation will be denied. The terms are in the Sentencing Memorandum Form which is incorporated into this Plea Form.

E. SIGNATURES:

District Attorney: The above is a correct statement of the Plea Agreement between defense and prosecution.

Date	Print Name	Sign Name
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Defendant: I have read and understand this entire document. I waive and give up all of the rights that I have initialed. I accept this Plea Agreement. An Attorney acting as a Judge Pro Tem or a Commissioner may act as a Judge in this case.

7.9.09 Joanne Benzoni [Signature]

Date	Print Name	Sign Name
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Defense Attorney: I am the attorney for the defendant. I am satisfied that (1) the defendant understands his/her constitutional rights and understand that a guilty plea would be a waiver of these rights; (2) the defendant has had an adequate opportunity to discuss his/her case with me, including any defenses he/she may have to the charges; and (3) the defendant understands the consequences of his/her guilty plea. I join in the decision of the defendant to enter a guilty plea.

Date	Print Name	Sign Name
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Interpreter: Having been duly sworn, I have translated this form to the defendant in the _____ language. The defendant has stated that he/she fully understood the contents of the form prior to signing.

Date	Print Name	Sign Name
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Driving Under the Influence

PENALTIES FOR VIOLATIONS OF VEHICLE CODE SECTIONS 23152 (a) or (b)

*****NOTE:** All base fines listed below do not include mandatory penalty assessments and fees, which increase the total fines by approximately 250 percent. Further, a mandatory restitution fine (from \$100 to \$1000), a jail booking fee, and a court security fee will be imposed.

CONVICTION	IF NO PROBATION	3-5 YEARS PROBATION
FIRST	Vehicle Code section 23536(a)(b) 96 hours to 6 months jail - (48 of the 96 hours must be continuous unless it would interfere with your work schedule.) 6 months license suspension. May require installation of Ignition Interlock Device. Fine of \$390 to \$1,000.***	Vehicle Code section 23538(a)(1) Alcohol/drug education program plus either (a) 48 hours to 6 months jail, possible 6 months license suspension, OR (Court's choice) IF NO CHEMICAL TEST REFUSAL; (b) no driving for 90 days except work and alcohol program. Fine of \$390 to \$1,000.*** May require installation of Ignition Interlock Device.
SECOND IN 10 YEARS	Vehicle Code section 23540 90 days to 1 year plus 96 hours additional jail if refused chemical test. 2 year license suspension. Fine \$390 to \$1,000.*** May require installation of Ignition Interlock Device.	Vehicle Code section 23542(a) (a) 10 days to 1 year jail and 2 year license suspension, CR (Court's choice); (b) 96 hours to 1 year jail, 18 or 30 month alcohol program during which no driving except for work and the alcohol program. Add 96 hours jail to (a) and (b) if refused chemical test. Fine \$390 to \$1,000.*** May require installation of Ignition Interlock Device.
THIRD IN 10 YEARS	Vehicle Code section 23546(a) 120 days to 1 year jail plus 10 days more jail if refused chemical test. 3 years license revocation - no reinstatement until complete 18 month alcohol program. Designation as Habitual Traffic Offender for 3 years. Possible forfeiture of vehicle. Fine \$390 to \$1,000.*** May require installation of Ignition Interlock Device.	Vehicle Code section 23548(a) Same as if no probation PLUS 18 month alcohol program if I have not completed one.
FOURTH IN 10 YEARS	Vehicle Code section 23550(a), Penal Code section 18 180 days to 1 year plus 18 days more jail if refused chemical test. 4 year license revocation - no reinstatement until complete 18 month alcohol program. Designation as Habitual Traffic Offender for 3 years. Possible forfeiture of vehicle. Fine \$390 to \$1,000.*** 16 months, 2 years or 3 years in state prison. May require installation of Ignition Interlock Device.	Vehicle Code section 23552(a) Same as if no probation PLUS 18 month alcohol program if I have not completed one.

A violation involving drugs requires a 6 month license suspension.

If under the age of 21 when the offense occurred, DMV will suspend your license an additional year.

If this is your third or subsequent conviction in 7 years you may ask this court for a restricted license after 24 months of license revocation if you have completed 18 months of an alcohol/drug program, have insurance, agree to use an Ignition Interlock Device and haven't received this relief on a prior conviction within 7 years or on this case.

To have a restricted license or have your driving privilege reinstated you must show proof of insurance to DMV and complete an alcohol/drug program.

On second or subsequent conviction sentence must include 48 consecutive hours imprisonment or not less than 10 days community service.

If you had a passenger under 14 years of age, you must serve additional time in jail as follows: First conviction - 48 continuous hours; Second conviction - 10 days; Third conviction - 30 days; Fourth or more convictions - 90 days.

If you were driving recklessly and 30 or more miles over the speed limit on a freeway or 20 or more miles over the speed limit on any street or highway, you must serve an additional 60 days in jail. You must complete an alcohol/drug program on your first conviction of this violation.

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

In the Matter of the Petition for Reinstatement
of Revoked Certificate of:

JOANNE MARIAN BENZOR

Petitioner

Case No. 800-2015-016022

OAH No. 2016021118

DECISION AFTER RECONSIDERATION

Administrative Law Judge (ALJ) Laurie R. Pearlman, Office of Administrative Hearings, State of California, heard this matter on April 28, 2016, in Los Angeles, California.

Pursuant to the provisions of Government Code section 11522, the Attorney General of the State of California was represented by Deputy Attorney General Trina L. Saunders.

Joanne Marian Benzor (Petitioner) was present and represented herself.

Oral and documentary evidence was received and the matter was submitted for decision on April 28, 2016. On May 2, 2016, without first seeking leave to do so, Petitioner submitted a letter in which she sought to offer further explanation of Exhibits A – C (marked for identification as Exhibit D.) Because the letter was filed after the record was closed and the matter submitted for decision, it was not admitted into evidence or considered.

A Proposed Decision was issued on May 27, 2016. On August 5, 2016, Panel A of the Medical Board of California (Board) issued an Order of Non-Adoption of Proposed Decision. Oral argument on the matter was heard by the Panel on October 27, 2016, with ALJ Roy W. Hewitt presiding. The Attorney General of the State of California was represented by Deputy Attorney General Trina L. Saunders. Petitioner was present and represented herself. Panel A, having read and considered the entire record, including the transcripts and the exhibits, and having considered the written and oral arguments presented by the parties, entered its decision on the matter on November 28, 2016, with an effective date of December 28, 2016.

Petitioner filed a timely Petition for Reconsideration, which was granted by Panel A. Oral argument on the matter was heard by the Panel on April 27, 2017, with ALJ Ralph B. Dash presiding. The Attorney General of the State of California was represented by Deputy Attorney General Trina L. Saunders. Petitioner was present and represented herself.

Panel A, having read and considered the entire record, including the transcripts and the exhibits, and having considered the written and oral arguments presented by the parties, hereby enters this decision after reconsideration.

FINDINGS OF FACT

1. Petitioner was previously the holder of Physician and Surgeon's Certificate Number G53502 (certificate), issued by the Medical Board of California (Board) on August 27, 1984.

Petitioner's History of Discipline

2. On May 18, 2006, an Accusation (Case No. 09-2005-165388) was filed against Petitioner by the Board, alleging violations of the Business and Professions Code for gross negligence, repeated negligent acts, failure to perform a good faith prior examination, failure to maintain adequate and accurate records, failure to supervise, and gross negligence in connection with issuing recommendations for the use of medical marijuana.

3. Effective May 7, 2007, pursuant to a Stipulated Decision and Disciplinary Order in case numbers 09-2005-165388 and 10-2006-176969, the Board revoked Petitioner's certificate, stayed the revocation, and placed her on probation, with certain terms and conditions, for a period of five years.

4. On July 17, 2008, Petitioner was issued a "Citation Order" for failing to enroll in, and complete Medical Record Keeping and Prescribing Courses, as ordered by the Board in probation condition numbers 2 and 3. Petitioner had been experiencing financial problems and did not have the ability to pay for the courses. Petitioner paid a \$350 fine for the probation violations.

5. On July 16, 2009, Petitioner was issued a "Citation Order" for failing to pay the Board's probation costs, as ordered by the Board in probation condition number 17. Petitioner had been experiencing financial problems and did not have the ability to pay the probation monitoring costs.

6. On July 26, 2009, Petitioner violated probation condition number 8, which required her to obey all laws. The Revocation Order, which adopted the Proposed Decision of Administrative Law Judge Roy W. Hewitt, contained factual findings, as follows: On that date, Riverside County Sheriff's Deputies responded to an assault with a deadly weapon call. The deputies were informed that someone driving a motor vehicle had attempted to run over another individual. When deputies arrived at the scene they interviewed witnesses including one of Petitioner's male friends (the friend). The friend told the deputies that he and Petitioner had been drinking all day, had gotten into an argument, and that Petitioner had driven away from the area. Petitioner drove past the deputies and side-swiped her friend's car. Petitioner was arrested. Her blood alcohol content was 0.18 percent, over two times the legal limit.

7. On September 9, 2009, in the Superior Court of California, County of Riverside, Case No. RIM538011, Petitioner was convicted, after pleading guilty, of one count of violating California Vehicle Code section 23152, subdivision (a) (driving under the influence of alcohol), and one count of violating California Vehicle Code section 23152, subdivision (b), (driving with a blood alcohol concentration of 0.08 percent or more), both misdemeanors. As a result of the September 9, 2009, convictions, Petitioner was placed on three years of summary probation under certain terms and conditions, including: actual custody for 10 days; a prohibition against driving with alcohol in her blood or within six hours of consuming alcohol; completion of a First Offender Driving Under the Influence (DUI) Program; payment of fines and penalties; and an order that she submit to chemical tests of blood, saliva, breath, or urine or any reasonable physical test upon request of any probation or law enforcement officer. Petitioner successfully completed her criminal probation.

8. On February 10, 2012, the Board filed a First Amended Accusation and Petition to Revoke Probation in Case No. D1-2005-165388. It alleged violations of the Business and Professions Code for excessive use of alcohol and unprofessional conduct, and probation violations for failure to obey all laws and failure to pay probation monitoring costs.

9. Effective May 18, 2012, the Board revoked Petitioner's certificate.

10. On June 22, 2015, Petitioner signed and subsequently filed a Petition for Reinstatement of Revoked/Surrendered Certificate, seeking reinstatement of her Physician and Surgeon's Certificate. This matter ensued.

Petitioner's Evidence

11. Petitioner is a divorced mother of four children, all of whom are now in their 20's. She practiced medicine for 28 years, without any patient complaints. She is bilingual and her practice was primarily in family medicine, treating an underserved, non-English speaking, Hispanic population. Petitioner enjoyed seeing a range of patients, from infants to the elderly, and treating all members of a family. She "truly misses having contact with patients" and "is more than ready" to return to the practice of medicine after four years of non-practice. Petitioner states that she has "kept up with changes in medicine." As soon as her finances allowed, she completed a "Prescribing Practices" course and a "Medical Record Keeping Course." Petitioner accesses videos and other educational materials on a daily basis from online medical sites, such as Medscape, QuantiaMD.com, and Sermo.com, and has taken continuing medical education courses. Petitioner, however, has not participated in a program of comprehensive review and evaluation to demonstrate to the Board that she has the medical knowledge and skills to return to the practice of medicine after having been out of practice since May 2012.

12. From November 2005 to December 2006, Petitioner worked at Medicann, a medical marijuana clinic (clinic), where she was an hourly employee. This was not her typical practice, and she regrets taking that position. She did so because, as a single parent, she was trying to limit her work hours in order to spend more time with her children, who had begun to have behavior problems and difficulties in school.

13. At the clinic, Petitioner worked with a physician assistant “who talked to [Petitioner] before giving out the pre-signed medical marijuana recommendations.” Petitioner was not at the clinic the day that the undercover operation was conducted, but she emphasized that medical marijuana recommendations were denied for three of the five undercover agents posing as patients that day.

14. Petitioner disagreed with the clinic owner’s policy of having doctors provide physician assistants with pre-signed medical marijuana recommendations, without performing physical examinations, and spending no more than 10 minutes with each patient. Nonetheless, she did comply with these policies, which led to her being placed on Board probation in 2007. Petitioner has “learned that [she] should always be in charge of how [she] practices medicine and not rely on an employer for that.” Petitioner wrote a personal essay which was published in 2013, discussing her “journey from being a respected physician to having [her] license revoked.” She denied that it was her intent to blame the Board, or anyone else, for the revocation of her certificate. Petitioner has “let go of all the anger [she] was carrying around,” including anger at herself. She demonstrated remorse for her conduct and the acceptance of responsibility.

15. As for the events of July 26, 2009, Petitioner is “very much embarrassed by [her] behavior that day.” She testified that it was a Sunday and she was “on vacation.” She called her friend to see if he wanted to go out to eat at a new restaurant in Moreno Valley. Only bar seating was available, and pomegranate martinis, which were “pure alcohol,” were “on special.” Petitioner drank three martinis and then “blacked-out.” She recalls being at the restaurant, and then it was “dark and [she] was at the police station.” Petitioner has had no subsequent criminal convictions.

16. Petitioner testified that she does “not have a drinking problem.” Coffee is her “beverage of choice.” As part of her criminal probation, she attended four months of DUI classes and 12 Alcoholics Anonymous meetings, but has not continued to attend meetings. Despite the gravity of her actions and her claims of “blacking-out,” Petitioner has never been evaluated to determine whether she has an alcohol use disorder. This is especially concerning, because her written statements and testimony were inconsistent as to whether she continues to drink. For instance, in her written Petition for Penalty relief, Petitioner stated, “...I haven’t had an alcoholic drink since the day I was arrested for a DUI.” (Exhibit 1) In contrast, during the hearing on April 28, 2016, she testified that, “[she] still enjoy[s] a beer now and then.” She further testified that she never drives after drinking alcohol.

17. Petitioner is currently self-employed. She purchases items from estate sales and thrift stores, which she resells on eBay and Amazon. Petitioner also does custom re-upholstery and refinishes furniture for clients.

18. Ruben Ruiz, M.D., submitted a character reference letter supporting reinstatement of Petitioner’s certificate. Dr. Ruiz is the medical director of Clinica Medica Familiar Clinics, where Petitioner was employed as a physician from 2000 to 2005. He is aware of the events which led to revocation of Petitioner’s certificate, and states that she accepts responsibility and “knows she screwed up.” Petitioner was “beloved” for her ability to communicate with patients for whom she

was able to offer “culturally appropriate advice and recommendations. It was a shock when she was taken away from her patients and the Pico Rivera clinic has still not recovered.” Dr. Ruiz has a position waiting for Petitioner in his Ontario clinic, where she would be able to “start right away” once her certificate is reinstated (Exhibit 1.)

19. Surya Reddy, M.D., submitted a character reference letter supporting reinstatement of Petitioner’s certificate. Dr. Reddy is the medical director of Apple Medical Center and Urgent Care, where Petitioner was employed as a physician from February 2007 to July 2010. He is aware of the events which led to revocation of Petitioner’s certificate. Petitioner “is an excellent clinician” who “provided excellent care” to “seniors who typically have a long list of medical problems and can be quite difficult to manage.” She is “comfortable and competent in treating a wide range of ailments.” Dr. Reddy “never detected any behavior on her part that would make [him] suspect that Petitioner had a drinking problem.” (Exhibit 1.)

LEGAL CONCLUSIONS

1. Cause exists to grant the Petition pursuant to the provisions of Business and Professions Code section 2307 by reason of Findings 11 through 19, provided the newly reinstated certificate is accompanied by a probationary Order requiring satisfaction of specific terms and conditions.

2. Petitioner bore the burden of proving both her rehabilitation and her fitness to practice medicine. (*Houseman v. Board of Medical Examiners* (1948) 84 Cal.App.2d 308.) The standard of proof is clear and convincing evidence to a reasonable certainty. (*Hippard v. State Bar* (1989) 49 Cal.3d 1084; *Feinstein v. State Bar* (1952) 39 Cal.2d 541.) Petitioner’s burden required a showing that she was no longer deserving of the adverse character judgment associated with the discipline imposed against her certificate. (*Tardiff v. State Bar* (1980) 27 Cal.3d 395.)

3. Protection of the public is the Board’s highest priority (Business and Professions Code sections 2001.1 and 2229.) The Board “shall, wherever possible, take action that is calculated to aid in the rehabilitation of the licensee, or where, due to a lack of continuing education or other reasons, restriction on scope of practice is indicated, to order restrictions as are indicated by the evidence.” (Bus. & Prof. Code, § 2229, subd. (b).) “Where rehabilitation and protection are inconsistent, protection shall be paramount.” (Bus. & Prof. Code, § 2229, subd. (c).)

4. Title 16, California Code of Regulations, section 1360.2, lists the criteria for rehabilitation to be examined in evaluating the merits of a petition for reinstatement of a revoked license. That regulation provides:

When considering a petition for reinstatement of a license, certificate or permit holder pursuant to the provisions of Section 11522 of the Government Code, the division or panel shall evaluate evidence of rehabilitation submitted by the petitioner considering the following criteria:

- (a) The nature and severity of the act(s) or crime(s) under consideration as grounds for denial.
- (b) Evidence of any act(s) or crime(s) committed subsequent to act(s) or crime(s) under consideration as grounds for denial which also could be considered as grounds for denial under Code Section 480.
- (c) The time that has elapsed since commission of the act(s) or crime(s) referred to in subdivision (a) or (b) above.
- (d) In the case of a suspension or revocation based upon the conviction of a crime, the criteria set forth in Section 1360.1, subsections (b), (d) and (e).
- (e) Evidence, if any, of rehabilitation submitted by the applicant.

5. It is well-established that remorse for one's conduct and the acceptance of responsibility are the cornerstones of rehabilitation. Rehabilitation is a "state of mind" and the law looks with favor upon rewarding with the opportunity to serve one who has achieved "reformation and regeneration." (*Pacheco v. State Bar* (1987) 43 Cal.3d 1041, 1058.) Fully acknowledging the wrongfulness of past actions is an essential step towards rehabilitation. (*Seide v. Committee of Bar Examiners* (1989) 49 Cal.3d 933, 940.) Mere remorse does not demonstrate rehabilitation. A truer indication of rehabilitation is sustained conduct over an extended period of time. (*In re Menna* (1995) 11 Cal.4th 975, 991.) Finally, the evidentiary significance of misconduct is greatly diminished by the passage of time and by the absence of similar, more recent misconduct. (*Kwasnik v. State Bar* (1990) 50 Cal.3d 1061, 1070.)

6. It is undisputed that the DUI conviction and the events surrounding that incident are extremely serious, as were the allegations regarding Petitioner's conduct at Medicann. However, both are remote in time: the conduct at Medicann took place in March 2005, and the event which led to the DUI conviction occurred in July 2009. Petitioner completed her criminal probation, and has had no subsequent convictions. Prior to these events, Petitioner had a long and successful career as a family physician, with no history of patient complaints, or intoxication in the workplace.

7. In light of Petitioner's disciplinary history, and the long period of time that she has been out of practice, Petitioner's argument that her license should be restored with no conditions is rejected. While Petitioner has met her burden in establishing that her petition should be granted, public protection requires that it be restored on restricted basis, and with conditions precedent in place to demonstrate that she has the medical knowledge, skills, and readiness to return to practice. The goal of public protection is further served by a period of probation, with terms and conditions including, but not limited to: requiring abstention from alcohol and drugs, biological fluid testing, no solo practice, and a practice monitor.

ORDER

The Petition of Joanne Marian Benzor for reinstatement of her revoked Physician's and Surgeon's Certificate No. G53502 is granted, subject to the following:

The newly reinstated certificate is hereby revoked. However, the revocation is stayed and Petitioner is placed on probation for five (5) years upon the following terms and conditions:

1. Clinical Competence Assessment Program – Condition Precedent

Within 60 calendar days of the effective date of this Decision, Petitioner shall enroll in a clinical competence assessment program approved in advance by the Board or its designee. Petitioner shall successfully complete the program no later than six (6) months after Petitioner's initial enrollment unless the Board or its designee agrees in writing to an extension of that time.

The program shall consist of a comprehensive assessment of Petitioner's physical and mental health and the six general domains of clinical competence as defined by the Accreditation Council on Graduate Medical Education and American Board of Medical Specialties pertaining to Petitioner's current or intended area of practice. The program shall take into account data obtained from the pre-assessment, self-report forms and interview, and the Decision(s), Accusation(s), and any other information that the Board or its designee deems relevant. The program shall require Petitioner's on-site participation for a minimum of 3 and no more than 5 days as determined by the program for the assessment and clinical education evaluation. Petitioner shall pay all expenses associated with the clinical competence assessment program.

At the end of the evaluation, the program will submit a report to the Board or its designee which unequivocally states whether the Petitioner has demonstrated the ability to practice safely and independently. Based on Petitioner's performance on the clinical competence assessment, the program will advise the Board or its designee of its recommendation(s) for the scope and length of any additional educational or clinical training, evaluation or treatment for any medical condition or psychological condition, or anything else affecting Petitioner's practice of medicine. Petitioner shall comply with the program's recommendations.

Determination as to whether Petitioner successfully completed the clinical competence assessment program is solely within the program's jurisdiction.

Petitioner shall not practice medicine until Petitioner has successfully completed the program and has been so notified by the Board or its designee in writing.

2. Psychiatric Evaluation – Condition Precedent

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, Petitioner 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 the Decision shall not be accepted towards the fulfillment of this requirement. Petitioner shall pay the cost of all psychiatric evaluations and psychological testing.

Petitioner 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.

Petitioner shall not engage in the practice of medicine until notified by the Board or its designee that Petitioner is mentally fit to practice medicine safely. The period of time that Petitioner is not practicing medicine shall not be counted toward completion of the term of probation.

3. Alcohol -Abstain From Use

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

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

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

This condition shall be in place only for the first two years of probation, unless Petitioner tests positive for alcohol/controlled substances during that period, in which case the condition shall continue for the entire period of probation.

4. Controlled Substances - Abstain From Use

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

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

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

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

This condition shall be in place only for the first two years of probation, unless Petitioner tests positive for alcohol/controlled substances during that period, in which case the condition shall continue for the entire period of probation.

5. Biological Fluid Testing

Petitioner shall immediately submit to biological fluid testing, at Petitioner's expense, upon request of the Board or its designee. "Biological fluid testing" may include, but is not limited to, urine, blood, breathalyzer, hair follicle testing, or similar drug screening approved by the Board or its designee. Prior to practicing medicine, Petitioner shall contract with a laboratory or service approved in advance by the Board or its designee that will conduct random, unannounced, observed, biological fluid testing. The contract shall require results of the tests to be transmitted by the laboratory or service directly to the Board or its designee within four hours of the results becoming available. Petitioner shall maintain this laboratory or service contract during the period of probation.

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

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

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

This condition shall be in place only for the first two years of probation, unless Petitioner tests positive for alcohol/controlled substances during that period, in which case the condition shall continue for the entire period of probation.

6. Solo Practice Prohibition

Petitioner is prohibited from engaging in the solo practice of medicine. Prohibited solo practice includes, but is not limited to, a practice where: 1) Petitioner merely shares office space with another physician but is not affiliated for purposes of providing patient care, or 2) Petitioner is the sole physician practitioner at that location.

If Petitioner fails to establish a practice with another physician or secure employment in an appropriate practice setting within 60 calendar days of the effective date of this Decision, Petitioner shall receive a notification from the Board or its designee to cease the practice of medicine within three (3) calendar days after being so notified. The Petitioner shall not resume practice until an appropriate practice setting is established.

If, during the course of the probation, the Petitioner's practice setting changes and the Petitioner is no longer practicing in a setting in compliance with this Decision, the Petitioner shall notify the Board or its designee within 5 calendar days of the practice setting change. If Petitioner fails to establish a practice with another physician or secure employment in an appropriate practice setting within 60 calendar days of the practice setting change, Petitioner shall receive a notification from the Board or its designee to cease the practice of medicine within three (3) calendar days after being so notified. The Petitioner shall not resume practice until an appropriate practice setting is established.

7. Monitoring -Practice

Within 30 calendar days of the effective date of this Decision, Petitioner 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 Petitioner, 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 Petitioner's field of practice, and must agree to serve as Petitioner's monitor. Petitioner shall pay all monitoring costs.

The Board or its designee shall provide the approved monitor with copies of the Decision(s) and Accusation(s), and a proposed monitoring plan. Within 15 calendar days of receipt of the Decision(s), Accusation(s), and proposed monitoring plan, the monitor shall submit a signed statement that the monitor has read the Decision(s) and Accusation(s), 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 for approval by the Board or its designee.

Within 60 calendar days of the effective date of this Decision, and continuing throughout probation, Petitioner's practice shall be monitored by the approved monitor. Petitioner 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.

If Petitioner fails to obtain approval of a monitor within 60 calendar days of the effective date of this Decision, Petitioner shall receive a notification from the Board or its designee to cease the practice of medicine within three (3) calendar days after being so notified. Petitioner shall cease the practice of medicine until a monitor is approved to provide monitoring responsibility.

The monitor(s) shall submit a quarterly written report to the Board or its designee which includes an evaluation of Petitioner's performance, indicating whether Petitioner's practices are within the standards of practice medicine, and whether Petitioner is practicing medicine safely. It shall be the sole responsibility of Petitioner 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, Petitioner shall, within 5 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 Petitioner fails to obtain approval of a replacement monitor within 60 calendar days of the resignation or unavailability of the monitor, Petitioner shall receive a notification from the Board or its designee to cease the practice of medicine within three (3) calendar days after being so notified. Petitioner shall cease the practice of medicine until a replacement monitor is approved and assumes monitoring responsibility.

In lieu of a monitor, Petitioner may participate in a professional enhancement program approved in advance by the Board or its designee that includes, at minimum, quarterly chart review, semi-annual practice assessment, and semi-annual review of professional growth and education. Petitioner shall participate in the professional enhancement program at respondent's expense during the term of probation.

8. Notification

Within seven days of the effective date of this Decision, Petitioner shall provide a true copy of this Decision and Accusation to the Chief of Staff or the Chief Executive Officer at every hospital where privileges or membership are extended to Petitioner, at any other facility where Petitioner 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 Petitioner. Petitioner 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.

9. Supervision of Physician Assistants and Advanced Practice Nurses

During probation, Petitioner is prohibited from supervising physician assistants and advanced practice nurses.

10. Obey All Laws

Petitioner 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.

11. Quarterly Declarations

Petitioner 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.

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

12. General Probation Requirements

Compliance with Probation Unit

Petitioner shall comply with the Board's probation unit.

Address Changes

Petitioner shall, at all times, keep the Board informed of Petitioner's business and residence addresses, email address (if available), and telephone number. Changes of such addresses shall be immediately communicated in writing to the Board or its designee. Under no circumstances shall a

post office box serve as an address of record, except as allowed by Business and Professions Code section 2021(b).

Place of Practice

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

License Renewal

Petitioner shall maintain a current and renewed California physician's and surgeon's license.

Travel or Residence Outside California

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

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

13. Interview with the Board or its Designee

Petitioner shall be available in person upon request for interviews either at Petitioner's place of business or at the probation unit office, with or without prior notice throughout the term of probation.

14. Non-Practice While on Probation

Petitioner shall notify the Board or its designee in writing within 15 calendar days of any periods of non-practice lasting more than 30 calendar days and within 15 calendar days of Petitioner's return to practice. Non-practice is defined as any period of time Petitioner is not practicing medicine as defined in Business and Professions Code sections 2051 and 2052 for at least 40 hours in a calendar month in direct patient care, clinical activity or teaching, or other activity as approved by the Board. If Petitioner resides in California and is considered to be in non-practice, Petitioner shall comply with all terms and conditions of probation. All time spent in an intensive training program which has been approved by the Board or its designee shall not be considered non-practice and does not relieve Petitioner from complying with all the terms and conditions of probation. Practicing medicine in another state of the United States or Federal jurisdiction while on probation with the medical licensing authority of that state or jurisdiction shall not be considered

non-practice. A Board-ordered suspension of practice shall not be considered as a period of non-practice.

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

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

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

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

15. Violation of Probation

Failure to fully comply with any term or condition of probation is a violation of probation. If Petitioner violates probation in any respect, the Board, after giving Petitioner notice and the opportunity to be heard, may revoke probation and carry out the disciplinary order that was stayed. If an Accusation, Petition to Revoke Probation, or an Interim Suspension Order is filed against Petitioner 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.

16. License Surrender

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

17. Probation Monitoring Costs

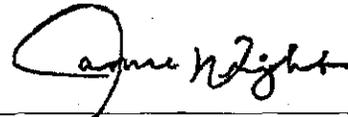
Petitioner shall pay the costs associated with probation monitoring each and every year of probation, as designated by the Board, which may be adjusted on an annual basis. Such costs shall be payable to the Medical Board of California and delivered to the Board or its designee no later than January 31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

18. Completion of Probation

Petitioner 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, Petitioner's certificate shall be fully restored.

This Decision shall become effective at 5:00 p.m. on June 16, 2017.

IT IS SO ORDERED May 19, 2017.



Jamie Wright, J.D., Chair
Panel A
Medical Board of California

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

In the Matter of the Petition for)	
Reinstatement of Revoked Certificate of:)	
)	MBC File No. 800-2015-016022
Joanne Marian Benzor)	
)	OAH No: 2016021118
Physician's and Surgeon's)	
Certificate No. G 53502)	
)	
_____)	
Petitioner.)	

ORDER GRANTING RECONSIDERATION

The proposed decision of the administrative law judge in the above captioned matter was adopted by the Board on November 28, 2016, and was to become effective on December 28, 2016. A Petition for Reconsideration under Government Code Section 11521 was filed in a timely manner by petitioner. Thereafter, an Order Granting Stay was issued and execution was stayed until January 5, 2017.

The petition for reconsideration having been read and considered, the Board hereby orders reconsideration. The Board itself will reconsider the case based upon the entire record of the proceeding, including the transcript. Both complainant and petitioner will be afforded the opportunity to present written argument to the Board. You will be notified of the time for submitting written argument. **In addition to written argument, oral argument may be scheduled if any party files with the Board, a written request for oral argument within 20 days from the date of this notice.** If a timely request is filed, the Board will serve all parties with written notice of the time, date and place of oral arguments. The Board directs the parties attention to Title 16 of the California Code of Regulations, Sections 1364.30 and 1364.32 for additional requirements regarding the submission of oral and written argument.

Your right to argue any matter is not limited, however, no new evidence will be heard. The Board is particularly interested in the reconsideration of the penalty order.

The decision with an effective date of January 5, 2017 is stayed. This stay shall remain in effect until the Board issues its decision after reconsideration. For its own use, the Board has ordered a copy of the hearing transcript and exhibits. At your own expense, you may order a copy of the transcript by contacting the transcript clerk at:

Kennedy Court Reporters
920 West 17th Street, Second Floor
Santa Ana, CA 92706

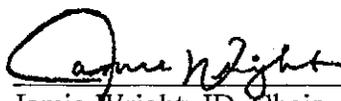
To order a copy of the exhibits, please submit a written request to this Board.

The address for serving written argument on the Board is:

Dianne Richards, Discipline Coordination Unit
Medical Board of California
2005 Evergreen Street, Suite 1200
Sacramento, CA 95815-3831

Please submit an original and 1 copy.

IT IS SO ORDERED: January 5, 2017

A handwritten signature in black ink, appearing to read "Jamie Wright", is written over a horizontal line.

Jamie Wright, JD, Chair
Panel A
Medical Board of California

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

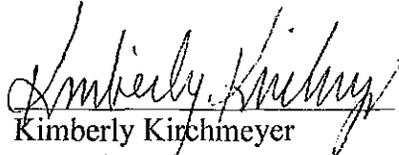
In the Matter of the Petition for Reinstatement of)	
Revoked Certificate of:)	
Joanne Marian Benzor)	MBC No. 800-2015-016022
Physician's and Surgeon's)	
Certificate No. G 53502)	ORDER GRANTING STAY
_____)	(Government Code Section 11521)
Petitioner)	

Joanne Marian Benzor, has filed a Petition for Reconsideration of the Decision in this matter with an effective date of December 28, 2016.

Execution is stayed until January 5, 2017.

This stay is granted solely for the purpose of allowing the Board time to review and consider the Petition for Reconsideration.

DATED: December 23, 2016


Kimberly Kirchmeyer
Executive Director
Medical Board of California

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

In the Matter of the Petition for Reinstatement
of Revoked Certificate of:

JOANNE MARIAN BENZOR

Petitioner

Case No. 800-2015-016022

OAH No. 2016021118

DECISION AFTER NON-ADOPTION

Administrative Law Judge (ALJ) Laurie R. Pearlman, Office of Administrative Hearings, State of California, heard this matter on April 28, 2016, in Los Angeles, California.

Pursuant to the provisions of Government Code section 11522, the Attorney General of the State of California was represented by Deputy Attorney General Trina L. Saunders.

Joanne Marian Benzor (Petitioner) was present and represented herself.

Oral and documentary evidence was received and the matter was submitted for decision on April 28, 2016. On May 2, 2016, without first seeking leave to do so, Petitioner submitted a letter in which she sought to offer further explanation of Exhibits A – C (marked for identification as Exhibit D.) Because the letter was filed after the record was closed and the matter submitted for decision, it was not admitted into evidence or considered.

A Proposed Decision was issued on May 27, 2016. On August 5, 2016, Panel A of the Medical Board of California (Board) issued an Order of Non-Adoption of Proposed Decision. Oral argument on the matter was heard by the Panel on October 27, 2016, with ALJ Roy W. Hewitt presiding. The Attorney General of the State of California was represented by Deputy Attorney General Trina L. Saunders. Petitioner was present and represented herself. Panel A, having read and considered the entire record, including the transcripts and the exhibits, and having considered the written and oral arguments presented by the parties, hereby makes and enters this decision on the matter.

FINDINGS OF FACT

1. Petitioner was previously the holder of Physician and Surgeon's Certificate Number G53502 (certificate), issued by the Medical Board of California (Board) on August 27, 1984.

Petitioner's History of Discipline

2. On May 18, 2006, an Accusation (Case No. 09-2005-165388) was filed against Petitioner by the Board, alleging violations of the Business and Professions Code for gross negligence, repeated negligent acts, failure to perform a good faith prior examination, failure to maintain adequate and accurate records, failure to supervise, and gross negligence in connection with issuing recommendations for the use of medical marijuana.

3. Effective May 7, 2007, pursuant to a Stipulated Decision and Disciplinary Order in case numbers 09-2005-165388 and 10-2006-176969, the Board revoked Petitioner's certificate, stayed the revocation, and placed her on probation, with certain terms and conditions, for a period of five years.

4. On July 17, 2008, Petitioner was issued a "Citation Order" for failing to enroll in, and complete Medical Record Keeping and Prescribing Courses, as ordered by the Board in probation condition numbers 2 and 3. Petitioner had been experiencing financial problems and did not have the ability to pay for the courses. Petitioner paid a \$350 fine for the probation violations.

5. On July 16, 2009, Petitioner was issued a "Citation Order" for failing to pay the Board's probation costs, as ordered by the Board in probation condition number 17. Petitioner had been experiencing financial problems and did not have the ability to pay the probation monitoring costs.

6. On July 26, 2009, Petitioner violated probation condition number 8, which required her to obey all laws. The Revocation Order, which adopted the Proposed Decision of Administrative Law Judge Roy W. Hewitt, contained factual findings, as follows: On that date, Riverside County Sheriff's Deputies responded to an assault with a deadly weapon call. The deputies were informed that someone driving a motor vehicle had attempted to run over another individual. When deputies arrived at the scene they interviewed witnesses including one of Petitioner's male friends (the friend). The friend told the deputies that he and Petitioner had been drinking all day, had gotten into an argument, and that Petitioner had driven away from the area. Petitioner drove past the deputies and side-swiped her friend's car. Petitioner was arrested. Her blood alcohol content was 0.18 percent, over two times the legal limit.

7. On September 9, 2009, in the Superior Court of California, County of Riverside, Case No. RIM538011, Petitioner was convicted, after pleading guilty, of one count of violating California Vehicle Code section 23152, subdivision (a) (driving under the influence of alcohol), and one count of violating California Vehicle Code section 23152, subdivision (b), (driving with a blood alcohol concentration of 0.08 percent or more), both misdemeanors. As a result of the September 9, 2009, convictions, Petitioner was placed on three years of summary probation under certain terms and conditions, including: actual custody for 10 days; a prohibition against driving with alcohol in her blood or within six hours of consuming alcohol; completion of a First Offender Driving Under the Influence (DUI) Program; payment of fines and penalties; and an order that she submit to chemical tests of blood, saliva, breath, or urine or any reasonable physical test upon request of any probation or law enforcement officer. Petitioner successfully completed her criminal probation.

8. On February 10, 2012, the Board filed a First Amended Accusation and Petition to Revoke Probation in Case No. D1-2005-165388. It alleged violations of the Business and Professions Code for excessive use of alcohol and unprofessional conduct, and probation violations for failure to obey all laws and failure to pay probation monitoring costs.

9. Effective May 18, 2012, the Board revoked Petitioner's certificate.

10. On June 22, 2015, Petitioner signed and subsequently filed a Petition for Reinstatement of Revoked/Surrendered Certificate, seeking reinstatement of her Physician and Surgeon's Certificate. This matter ensued.

Petitioner's Evidence

11. Petitioner is a divorced mother of four children, all of whom are now in their 20's. She practiced medicine for 28 years, without any patient complaints. She is bilingual and her practice was primarily in family medicine, treating an underserved, non-English speaking, Hispanic population. Petitioner enjoyed seeing a range of patients, from infants to the elderly, and treating all members of a family. She "truly misses having contact with patients" and "is more than ready" to return to the practice of medicine after four years of non-practice. Petitioner states that she has "kept up with changes in medicine." As soon as her finances allowed, she completed a "Prescribing Practices" course and a "Medical Record Keeping Course." Petitioner accesses videos and other educational materials on a daily basis from online medical sites, such as Medscape, QuantiaMD.com, and Sermo.com, and has taken continuing medical education courses. Petitioner has not participated in a program of comprehensive review and evaluation to demonstrate to the Board that she has the medical knowledge and skills to return to the practice of medicine after having been out of practice since May 2012.

12. From November 2005 to December 2006, Petitioner worked at Medicann, a medical marijuana clinic (clinic), where she was an hourly employee. This was not her typical practice, and she regrets taking that position. She did so because, as a single parent, she was trying to limit her work hours in order to spend more time with her children, who had begun to have behavior problems and difficulties in school.

13. At the clinic, Petitioner worked with a physician assistant "who talked to [Petitioner] before giving out the pre-signed medical marijuana recommendations." Petitioner was not at the clinic the day that the undercover operation was conducted, but she emphasized that medical marijuana recommendations were denied for three of the five undercover agents posing as patients that day.

14. Petitioner disagreed with the clinic owner's policy of having doctors provide physician assistants with pre-signed medical marijuana recommendations, without performing physical examinations, and spending no more than 10 minutes with each patient. Nonetheless, she did comply with these policies, which led to her being placed on Board probation in 2007. Petitioner has "learned that [she] should always be in charge of how [she] practices medicine and not rely on an employer for that." Petitioner wrote a personal essay which was published in 2013, discussing

her "journey from being a respected physician to having [her] license revoked." She denied that it was her intent to blame the Board, or anyone else, for the revocation of her certificate. Petitioner has "let go of all the anger [she] was carrying around," including anger at herself. She demonstrated remorse for her conduct and the acceptance of responsibility

15. As for the events of July 26, 2009, Petitioner is "very much embarrassed by [her] behavior that day." She testified that it was a Sunday and she was "on vacation." She called her friend to see if he wanted to go out to eat at a new restaurant in Moreno Valley. Only bar seating was available, and pomegranate martinis, which were "pure alcohol," were "on special." Petitioner drank three martinis and then "blacked-out." She recalls being at the restaurant, and then it was "dark and [she] was as the police station." Petitioner has had no subsequent criminal convictions.

16. Petitioner testified that she does "not have a drinking problem." Coffee is her "beverage of choice." As part of her criminal probation, she attended four months of DUI classes and 12 Alcoholics Anonymous meetings, but has not continued to attend meetings. Despite the gravity of her actions and her claims of "blacking-out," Petitioner has never been evaluated to determine whether she has an alcohol use disorder. This is especially concerning, because her written statements and testimony were inconsistent as to whether she continues to drink. For instance, in her written Petition for Penalty relief, Petitioner stated, "...I haven't had an alcoholic drink since the day I was arrested for a DUI." (Exhibit 1) In contrast, during the hearing on April 28, 2016, she testified that, "[she] still enjoy[s] a beer now and then." She further testified that she never drives after drinking alcohol.

17. Petitioner is currently self-employed. She purchases items from estate sales and thrift stores, which she resells on eBay and Amazon. Petitioner also does custom re-upholstery and refinishes furniture for clients.

18. Ruben Ruiz, M.D., submitted a character reference letter supporting reinstatement of Petitioner's certificate. Dr. Ruiz is the medical director of Clinica Medica Familiar Clinics, where Petitioner was employed as a physician from 2000 to 2005. He is aware of the events which led to revocation of Petitioner's certificate, and states that she accepts responsibility and "knows she screwed up." Petitioner was "beloved" for her ability to communicate with patients for whom she was able to offer "culturally appropriate advice and recommendations. It was a shock when she was taken away from her patients and the Pico Rivera clinic has still not recovered." Dr. Ruiz has a position waiting for Petitioner in his Ontario clinic, where she would be able to "start right away" once her certificate is reinstated (Exhibit 1.)

19. Surya Reddy, M.D., submitted a character reference letter supporting reinstatement of Petitioner's certificate. Dr. Reddy is the medical director of Apple Medical Center and Urgent Care, where Petitioner was employed as a physician from February 2007 to July 2010. He is aware of the events which led to revocation of Petitioner's certificate. Petitioner "is an excellent clinician" who "provided excellent care" to "seniors who typically have a long list of medical problems and can be quite difficult to manage." She is "comfortable and competent in treating a wide range of ailments." Dr. Reddy "never detected any behavior on her part that would make [him] suspect that Petitioner

had a drinking problem.” (Exhibit 1.)

LEGAL CONCLUSIONS

1. Cause exists to grant the Petition pursuant to the provisions of Business and Professions Code section 2307 by reason of Findings 11 through 19, provided the newly reinstated certificate is accompanied by a probationary Order requiring satisfaction of specific terms and conditions.
2. Petitioner bore the burden of proving both her rehabilitation and her fitness to practice medicine. (*Houseman v. Board of Medical Examiners* (1948) 84 Cal.App.2d 308.) The standard of proof is clear and convincing evidence to a reasonable certainty. (*Hippard v. State Bar* (1989) 49 Cal.3d 1084; *Feinstein v. State Bar* (1952) 39 Cal.2d 541.) Petitioner’s burden required a showing that she was no longer deserving of the adverse character judgment associated with the discipline imposed against her certificate. (*Tardiff v. State Bar* (1980) 27 Cal.3d 395.)
3. Protection of the public is the Board’s highest priority (Business and Professions Code sections 2001.1 and 2229.) The Board “shall, wherever possible, take action that is calculated to aid in the rehabilitation of the licensee, or where, due to a lack of continuing education or other reasons, restriction on scope of practice is indicated, to order restrictions as are indicated by the evidence.” (Bus. & Prof. Code, § 2229, subd. (b).) “Where rehabilitation and protection are inconsistent, protection shall be paramount.” (Bus. & Prof. Code, § 2229, subd. (c).)
4. Title 16, California Code of Regulations, section 1360.2, lists the criteria for rehabilitation to be examined in evaluating the merits of a petition for reinstatement of a revoked license. That regulation provides:
 - “When considering a petition for reinstatement of a license, certificate or permit holder pursuant to the provisions of Section 11522 of the Government Code, the division or panel shall evaluate evidence of rehabilitation submitted by the petitioner considering the following criteria:
 - (a) The nature and severity of the act(s) or crime(s) under consideration as grounds for denial.
 - (b) Evidence of any act(s) or crime(s) committed subsequent to act(s) or crime(s) under consideration as grounds for denial which also could be considered as grounds for denial under Code Section 480.
 - (c) The time that has elapsed since commission of the act(s) or crime(s) referred to in subdivision (a) or (b) above.
 - (d) In the case of a suspension or revocation based upon the conviction of a crime, the criteria set forth in Section 1360.1, subsections (b), (d) and (e).

(e) Evidence, if any, of rehabilitation submitted by the applicant.”

5. It is well-established that remorse for one’s conduct and the acceptance of responsibility are the cornerstones of rehabilitation. Rehabilitation is a “state of mind” and the law looks with favor upon rewarding with the opportunity to serve one who has achieved “reformation and regeneration.” (*Pacheco v. State Bar* (1987) 43 Cal.3d 1041, 1058.) Fully acknowledging the wrongfulness of past actions is an essential step towards rehabilitation. (*Seide v. Committee of Bar Examiners* (1989) 49 Cal.3d 933, 940.) Mere remorse does not demonstrate rehabilitation. A truer indication of rehabilitation is sustained conduct over an extended period of time. (*In re Menna* (1995) 11 Cal.4th 975, 991.) Finally, the evidentiary significance of misconduct is greatly diminished by the passage of time and by the absence of similar, more recent misconduct. (*Kwasnik v. State Bar* (1990) 50 Cal.3d 1061, 1070.)

6. It is undisputed that the DUI conviction and the events surrounding that incident are extremely serious, as were the allegations regarding Petitioner’s conduct at Medicann. However, both are remote in time: the conduct at Medicann took place in March 2005, and the event which led to the DUI conviction occurred in July 2009. Petitioner completed her criminal probation, and has had no subsequent convictions. Prior to these events, Petitioner had a long and successful career as a family physician, with no history of patient complaints, or intoxication in the workplace.

7. Petitioner has met her burden in establishing that her petition should be granted, albeit on a restricted basis, and with conditions precedent in place to demonstrate she has the medical knowledge, skills, and readiness to return to practice. The goal of public protection is further served by a period of probation, with terms and conditions including, but not limited to: requiring abstention from alcohol and drugs, biological fluid testing, no solo practice, and a practice monitor.

ORDER

The Petition of Joanne Marian Benzor for reinstatement of her revoked Physician’s and Surgeon’s Certificate No. G53502 is granted, subject to the following:

The newly reinstated certificate is hereby revoked. However, the revocation is stayed and Petitioner is placed on probation for five (5) years upon the following terms and conditions:

1. **Clinical Training Program – Condition Precedent**

Within 60 calendar days of the effective date of this Decision, Petitioner shall enroll in a clinical training or educational program equivalent to the Physician Assessment and Clinical Education Program (PACE) offered at the University of California - San Diego School of Medicine (“Program”). Petitioner shall successfully complete the program not later than six (6) months after Petitioner’s initial enrollment unless the Board or its designee agrees in writing to an extension of that time.

The program shall consist of a comprehensive assessment program comprised of a two-day assessment of Petitioner's physical and mental health; basic clinical and communication skills common to all clinicians; and medical knowledge, skill and judgment pertaining to Petitioner's area of practice in which Petitioner was alleged to be deficient, and at minimum, a 40 hour program of clinical education in the area of practice in which Petitioner was alleged to be deficient and which takes into account data obtained from the assessment, Decision(s), Accusation(s), and any other information that the Board or its designee deems relevant. Petitioner shall pay all expenses associated with the clinical training program.

Based on Petitioner's performance and test results in the assessment and clinical education, the program will advise the Board or its designee of its recommendation(s) for the scope and length of any additional educational or clinical training, treatment for any medical condition, treatment for any psychological condition, or anything else affecting Petitioner's practice of medicine. Petitioner shall comply with program recommendations.

At the completion of any additional educational or clinical training, Petitioner shall submit to and pass an examination. Determination as to whether Petitioner successfully completed the examination or successfully completed the program is solely within the program's jurisdiction.

Petitioner shall not practice medicine until Petitioner has successfully completed the program and has been so notified by the Board or its designee in writing, except that Petitioner may practice in a clinical training program approved by the Board or its designee. Petitioner's practice of medicine shall be restricted only to that which is required by the approved training program.

2. Psychiatric Evaluation – Condition Precedent

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, Petitioner 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 addressing the issue as to whether Petitioner has an alcohol or substance use disorder. Psychiatric evaluations conducted prior to the effective date of the Decision shall not be accepted towards the fulfillment of this requirement. Petitioner shall pay the cost of all psychiatric evaluations and psychological testing.

Petitioner 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.

Petitioner shall not engage in the practice of medicine until notified by the Board or its designee that Petitioner is mentally fit to practice medicine safely. The period of time that Petitioner is not practicing medicine shall not be counted toward completion of the term of probation.

3. Alcohol -Abstain From Use

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

If Petitioner has a confirmed positive biological fluid test for alcohol, Petitioner shall receive a notification from the Board or its designee to immediately cease the practice of medicine. The Petitioner shall not resume the practice of medicine until final decision on an accusation and/or a petition to revoke probation. An accusation and/or petition to revoke probation shall be filed by the Board within 15 days of the notification to cease practice. If the Petitioner requests a hearing on the accusation and/or petition to revoke probation, the Board shall provide the Petitioner with a hearing within 30 days of the request, unless the Petitioner stipulates to a later hearing. A decision shall be received from the Administrative Law Judge or the Board within 15 days unless good cause can be shown for the delay. The cessation of practice shall not apply to the reduction of the probationary time period.

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

This condition shall be in place only for the first two years of probation, unless Petitioner tests positive for alcohol during that period, in which case the condition shall continue for the entire period of probation.

4. Controlled Substances - Abstain From Use

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

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

If Petitioner has a confirmed positive biological fluid test for any substance (whether or not legally prescribed) and has not reported the use to the Board or its designee, Petitioner shall receive a notification from the Board or its designee to immediately cease the practice of medicine. The Petitioner shall not resume the practice of medicine until final decision on an accusation and/or a petition to revoke probation. An accusation and/or petition to revoke probation shall be filed by the Board within 15 days of the notification to cease practice. If the Petitioner requests a hearing on the accusation and/or petition to revoke probation, the Board shall provide the respondent with a hearing within 30 days of the request, unless the respondent stipulates to a later hearing. A decision

shall be received from the Administrative Law Judge or the Board within 15 days unless good cause can be shown for the delay. The cessation of practice shall not apply to the reduction of the probationary time period.

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

This condition shall be in place only for the first two years of probation, unless Petitioner tests positive for an unauthorized controlled substance during that period, in which case the condition shall continue for the entire period of probation.

5. Biological Fluid Testing

Petitioner shall immediately submit to biological fluid testing, at Petitioner's expense, upon request of the Board or its designee. "Biological fluid testing" may include, but is not limited to, urine, blood, breathalyzer, hair follicle testing, or similar drug screening approved by the Board or its designee. Prior to practicing medicine, Petitioner shall contract with a laboratory or service approved in advance by the Board or its designee that will conduct random, unannounced, observed, biological fluid testing. The contract shall require results of the tests to be transmitted by the laboratory or service directly to the Board or its designee within four hours of the results becoming available. Petitioner shall maintain this laboratory or service contract during the first two years of probation, unless Petitioner tests positive for a prohibited substance during that period, in which case the contract shall be maintained for the entire period of probation.

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

If Petitioner fails to cooperate in a random biological fluid testing program within the specified time frame, Petitioner shall receive a notification from the Board or its designee to immediately cease the practice of medicine. The Petitioner shall not resume the practice of medicine until final decision on an accusation and/or a petition to revoke probation. An accusation and/or petition to revoke probation shall be filed by the Board within 15 days of the notification to cease practice. If the Petitioner requests a hearing on the accusation and/or petition to revoke probation, the Board shall provide the Petitioner with a hearing within 30 days of the request, unless the Petitioner stipulates to a later hearing. A decision shall be received from the Administrative Law Judge or the Board within 15 days unless good cause can be shown for the delay. The cessation of practice shall not apply to the reduction of the probationary time period.

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

6. Solo Practice Prohibition

Petitioner is prohibited from engaging in the solo practice of medicine. Prohibited solo practice includes, but is not limited to, a practice where: 1) Petitioner merely shares office space with another physician but is not affiliated for purposes of providing patient care, or 2) Petitioner is the sole physician practitioner at that location.

If Petitioner fails to establish a practice with another physician or secure employment in an appropriate practice setting within 60 calendar days of the effective date of this Decision, Petitioner shall receive a notification from the Board or its designee to cease the practice of medicine within three (3) calendar days after being so notified. The Petitioner shall not resume practice until an appropriate practice setting is established.

If, during the course of the probation, the Petitioner's practice setting changes and the Petitioner is no longer practicing in a setting in compliance with this Decision, the Petitioner shall notify the Board or its designee within 5 calendar days of the practice setting change. If Petitioner fails to establish a practice with another physician or secure employment in an appropriate practice setting within 60 calendar days of the practice setting change, Petitioner shall receive a notification from the Board or its designee to cease the practice of medicine within three (3) calendar days after being so notified. The Petitioner shall not resume practice until an appropriate practice setting is established.

7. Monitoring -Practice

Within 30 calendar days of the effective date of this Decision, Petitioner 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 Petitioner, 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 Petitioner's field of practice, and must agree to serve as Petitioner's monitor. Petitioner shall pay all monitoring costs.

The Board or its designee shall provide the approved monitor with copies of the Decision(s) and Accusation(s), and a proposed monitoring plan. Within 15 calendar days of receipt of the Decision(s), Accusation(s), and proposed monitoring plan, the monitor shall submit a signed statement that the monitor has read the Decision(s) and Accusation(s), 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 for approval by the Board or its designee.

Within 60 calendar days of the effective date of this Decision, and continuing throughout probation, Petitioner's practice shall be monitored by the approved monitor. Petitioner 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.

If Petitioner fails to obtain approval of a monitor within 60 calendar days of the effective date of this Decision, Petitioner shall receive a notification from the Board or its designee to cease the practice of medicine within three (3) calendar days after being so notified. Petitioner shall cease the practice of medicine until a monitor is approved to provide monitoring responsibility.

The monitor(s) shall submit a quarterly written report to the Board or its designee which includes an evaluation of Petitioner's performance, indicating whether Petitioner's practices are within the standards of practice medicine, and whether Petitioner is practicing medicine safely. It shall be the sole responsibility of Petitioner 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, Petitioner shall, within 5 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 Petitioner fails to obtain approval of a replacement monitor within 60 calendar days of the resignation or unavailability of the monitor, Petitioner shall receive a notification from the Board or its designee to cease the practice of medicine within three (3) calendar days after being so notified. Petitioner shall cease the practice of medicine until a replacement monitor is approved and assumes monitoring responsibility.

In lieu of a monitor, Petitioner may participate in a professional enhancement program equivalent to the one offered by the Physician Assessment and Clinical Education Program at the University of California, San Diego School of Medicine, that includes, at minimum, quarterly chart review, semi-annual practice assessment, and semi-annual review of professional growth and education. Petitioner shall participate in the professional enhancement program at Petitioner's expense during the term of probation.

8. Notification

Within seven days of the effective date of this Decision, Petitioner shall provide a true copy of this Decision and Accusation to the Chief of Staff or the Chief Executive Officer at every hospital where privileges or membership are extended to Petitioner, at any other facility where Petitioner 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 Petitioner. Petitioner 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.

9. Supervision of Physician Assistants

During probation, Petitioner is prohibited from supervising physician assistants.

10. Obey All Laws

Petitioner 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.

11. Quarterly Declarations

Petitioner 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.

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

12. General Probation Requirements

Compliance with Probation Unit

Petitioner shall comply with the Board's probation unit and all terms and conditions of this Decision.

Address Changes

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

Place of Practice

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

License Renewal

Petitioner shall maintain a current and renewed California physician's and surgeon's license.

Travel or Residence Outside California

Petitioner 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.

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

13. Interview with the Board or its Designee

Petitioner shall be available in person upon request for interviews either at Petitioner's place of business or at the probation unit office, with or without prior notice throughout the term of probation.

14. Non-Practice While on Probation

Petitioner shall notify the Board or its designee in writing within 15 calendar days of any periods of non-practice lasting more than 30 calendar days and within 15 calendar days of Petitioner's return to practice. Non-practice is defined as any period of time Petitioner is not practicing medicine in California as defined in Business and Professions Code sections 2051 and 2052 for at least 40 hours in a calendar month in direct patient care, clinical activity or teaching, or other activity as approved by the Board. All time spent in an intensive training program which has been approved by the Board or its designee shall not be considered non-practice. Practicing medicine in another state of the United States or Federal jurisdiction while on probation with the medical licensing authority of that state or jurisdiction shall not be considered non-practice. A Board-ordered suspension of practice shall not be considered as a period of non-practice.

In the event Petitioner's period of non-practice while on probation exceeds 18 calendar months, Petitioner shall successfully complete a clinical training program that meets the criteria of Condition 18 of the current version of the Board's "Manual of Model Disciplinary Orders and Disciplinary Guidelines" prior to resuming the practice of medicine.

Petitioner's period of non-practice while on probation shall not exceed two years.

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

Periods of non-practice will relieve Petitioner 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; and General Probation Requirements.

15. Violation of Probation

Failure to fully comply with any term or condition of probation is a violation of probation. If Petitioner violates probation in any respect, the Board, after giving Petitioner notice and the opportunity to be heard, may revoke probation and carry out the disciplinary order that was stayed. If an Accusation, Petition to Revoke Probation, or an Interim Suspension Order is filed against Petitioner 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.

16. License Surrender

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

17. Probation Monitoring Costs

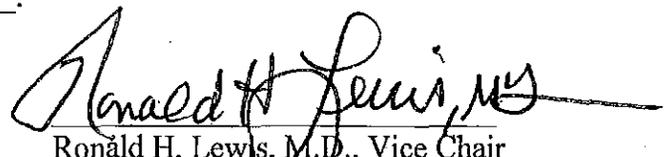
Petitioner shall pay the costs associated with probation monitoring each and every year of probation, as designated by the Board, which may be adjusted on an annual basis. Such costs shall be payable to the Medical Board of California and delivered to the Board or its designee no later than January 31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

18. Completion of Probation

Petitioner 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, Petitioner's certificate shall be fully restored.

This Decision shall become effective at 5:00 p.m. on December 28, 2016.

IT IS SO ORDERED November 28, 2016.


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

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

In the Matter of the Reinstatement of Revoked) Certificate of:)) Joanne Marian Benzor) Case No.: 800-2015-016022) Physician's & Surgeon's) OAH No.: 2016021118 Certificate No: G 53502)) Respondent)) _____)

**ORDER OF NON-ADOPTION
OF PROPOSED DECISION**

The Proposed Decision of the Administrative Law Judge in the above-entitled matter has been **non-adopted**. A panel of the Medical Board of California (Board) will decide the case upon the record, including the transcript and exhibits of the hearing, and upon such written argument as the parties may wish to submit directed to the question of whether the proposed penalty should be modified. The parties will be notified of the date for submission of such argument when the transcript of the above-mentioned hearing becomes available.

To order a copy of the transcript, please contact Kennedy Court Reporters, 920 West 17th Street Second Floor, Santa Ana, California 92706. The telephone number is 800.231.2682.

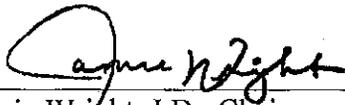
To order a copy of the exhibits, please submit a written request to this Board.

In addition, oral argument will only be scheduled if a party files a request for oral argument with the Board within 20 days from the date of this notice. If a timely request is filed, the Board will serve all parties with written notice of the time, date and place for oral argument. Oral argument shall be directed only to the question of whether the proposed penalty should be modified. Please do not attach to your written argument any documents that are not part of the record as they cannot be considered by the Panel. The Board directs the parties attention to Title 16 of the California Code of Regulations, sections 1364.30 and 1364.32 for additional requirements regarding the submission of oral and written argument.

Please remember to serve the opposing party with a copy of your written argument and any other papers you might file with the Board. The mailing address of the Board is as follows:

MEDICAL BOARD OF CALIFORNIA
2005 Evergreen Street, Suite 1200
Sacramento, CA 95815-3831
916-263-2451
Attention: Dianne Richards

Date: August 5, 2016



Jamie Wright, J.D., Chair
Panel A

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

In the Matter of the Petition for Reinstatement
of Revoked Certificate of:

JOANNE MARIAN BENZOR,

Petitioner,

Case No. 800-2015-016022

OAH No. 2016021118

PROPOSED DECISION

Administrative Law Judge Laurie R. Pearlman, Office of Administrative Hearings, State of California, heard this matter on April 28, 2016, in Los Angeles, California.

Pursuant to the provisions of Government Code section 11522, the Attorney General of the State of California was represented by Deputy Attorney General Trina L. Saunders.

Joanne Marian Benzor (Petitioner) was present and represented herself.

Oral and documentary evidence was received and the matter was submitted for decision on April 28, 2016. On May 2, 2016, without first seeking leave to do so, Petitioner submitted a letter in which she sought to offer further explanation of Exhibits A – C (marked for identification as Exhibit D.) Because the letter was filed after the record was closed and the matter submitted for decision, it was not admitted into evidence or considered.

FINDINGS OF FACT

1. Petitioner was previously the holder of Physician and Surgeon's Certificate Number G53502 (certificate), issued by the Medical Board of California (Board) on August 27, 1984.

Petitioner's History of Discipline

2. On May 18, 2006, an Accusation (Case No. 09-2005-165388) was filed against Petitioner by the Board, alleging violations of the Business and Professions Code for gross negligence, repeated negligent acts, failure to preform a good faith prior examination, failure to maintain adequate and accurate records, failure to supervise, and gross negligence in connection with issuing recommendations for the use of medical marijuana.

3. Effective May 7, 2007, pursuant to a Stipulated Decision and Disciplinary Order in case numbers 09-2005-165388 and 10-2006-176969, the Board revoked Petitioner's certificate, stayed the revocation, and placed her on probation, with certain terms and conditions, for a period of five years.

4. On July 17, 2008, Petitioner was issued a "Citation Order" for failing to enroll in, and complete Medical Record Keeping and Prescribing Courses, as ordered by the Board in probation condition numbers 2 and 3. Petitioner had been experiencing financial problems and did not have the ability to pay for the courses. Petitioner paid a \$350 fine for the probation violations.

5. On July 16, 2009, Petitioner was issued a "Citation Order" for failing to pay the Board's probation costs, as ordered by the Board in probation condition number 17. Petitioner had been experiencing financial problems and did not have the ability to pay the probation monitoring costs.

6. On July 26, 2009, Petitioner violated probation condition number 8, which required her to obey all laws. The Revocation Order, which adopted the Proposed Decision of Administrative Law Judge Roy W. Hewitt, contained factual findings, as follows: On that date, Riverside County Sheriff's Deputies responded to an assault with a deadly weapon call. The deputies were informed that someone driving a motor vehicle had attempted to run over another individual. When deputies arrived at the scene they interviewed witnesses including one of petitioner's male friends (the friend). The friend told the deputies that he and petitioner had been drinking all day, had gotten into an argument, and that petitioner had driven away from the area. Petitioner drove past the deputies and side-swiped her friend's car. Petitioner was arrested. Her blood alcohol content was 0.18 percent, over two times the legal limit.

7. On September 9, 2009, in the Superior Court of California, County of Riverside, Case No. RIM538011, Petitioner was convicted, after pleading guilty, of one count of violating California Vehicle Code section 23152, subdivision (a) (driving under the influence of alcohol), and one count of violating California Vehicle Code section 23152, subdivision (b), (driving with a blood alcohol concentration of 0.08 percent or more), both misdemeanors. As a result of the September 9, 2009, convictions, Petitioner was placed on three years of summary probation under certain terms and conditions, including: actual custody for 10 days; a prohibition against driving with alcohol in her blood or within six hours of consuming alcohol; completion of a First Offender Driving Under the Influence (DUI) Program; payment of fines and penalties; and an order that she submit to chemical tests of blood, saliva, breath, or urine or any reasonable physical test upon request of any probation or law enforcement officer. Petitioner successfully completed her criminal probation.

8. On February 10, 2012, the Board filed a First Amended Accusation and Petition to Revoke Probation in Case No. D1-2005-165388. It alleged violations of the

Business and Professions Code for excessive use of alcohol and unprofessional conduct, and probation violations for failure to obey all laws and failure to pay probation monitoring costs.

9. Effective May 18, 2012, the Board revoked Petitioner's certificate.

10. On June 22, 2015, Petitioner signed and subsequently filed a Petition for Reinstatement of Revoked/Surrendered Certificate, seeking reinstatement of her Physician and Surgeon's Certificate. This matter ensued.

Petitioner's Evidence

11. Petitioner is a divorced mother of four children, all of whom are now in their 20's. She practiced medicine for 28 years, without any patient complaints. She is bilingual and her practice was primarily in family medicine, treating an underserved, non-English speaking, Hispanic population. Petitioner enjoyed seeing a range of patients, from infants to the elderly, and treating all members of a family. She "truly misses having contact with patients" and "is more than ready" to return to the practice of medicine after four years of non-practice. Petitioner states that she has "kept up with changes in medicine." As soon as her finances allowed, she completed a "Prescribing Practices" course and a "Medical Record Keeping Course." Petitioner accesses videos and other educational materials on a daily basis from online medical sites, such as Medscape, QuantiaMD.com, and Sermo.com, and has taken continuing medical education courses.

12. From November 2005 to December 2006, Petitioner worked at Medicann, a medical marijuana clinic (clinic), where she was an hourly employee. This was not her typical practice, and she regrets taking that position. She did so because, as a single parent, she was trying to limit her work hours in order to spend more time with her children, who had begun to have behavior problems and difficulties in school.

13. At the clinic, Petitioner worked with a physician assistant "who talked to [Petitioner] before giving out the pre-signed medical marijuana recommendations." Petitioner was not at the clinic the day that the undercover operation was conducted, but she emphasized that medical marijuana recommendations were denied for three of the five undercover agents posing as patients that day.

14. Petitioner disagreed with the clinic owner's policy of having doctors provide physician assistants with pre-signed medical marijuana recommendations, without performing physical examinations, and spending no more than 10 minutes with each patient. Nonetheless, she did comply with these policies, which led to her being placed on Board probation in 2007. Petitioner has "learned that [she] should always be in charge of how [she] practices medicine and not rely on an employer for that." Petitioner wrote a personal essay which was published in 2013, discussing her "journey from being a respected physician to having [her] license revoked." She denied that it was her intent to blame the Board, or anyone else, for the revocation of her certificate. Petitioner has "let go of all the anger [she]

was carrying around,” including anger at herself. She demonstrated remorse for her conduct and the acceptance of responsibility

15. As for the events of July 26, 2009, Petitioner is “very much embarrassed by [her] behavior that day.” She testified that it was a Sunday and she was “on vacation.” She called her friend to see if he wanted to go out to eat at a new restaurant in Moreno Valley. Only bar seating was available, and pomegranate martinis, which were “pure alcohol,” were “on special.” Petitioner drank three martinis and then “blacked-out.” She recalls being at the restaurant, and then it was “dark and [she] was as the police station.” Petitioner has had no subsequent criminal convictions.

16. Petitioner testified that she does “not have a drinking problem.” Coffee is her “beverage of choice.” As part of her criminal probation, she attended four months of DUI classes and 12 Alcoholics Anonymous meetings, but has not continued to attend meetings. She does not keep any alcohol in her home, but “still enjoys a beer now and then.” She never drives after drinking alcohol.

17. Petitioner is currently self-employed. She purchases items from estate sales and thrift stores, which she resells on eBay and Amazon. Petitioner also does custom reupholstery and refinishes furniture for clients.

18. Ruben Ruiz, M.D., submitted a character reference letter supporting reinstatement of Petitioner’s certificate. Dr. Ruiz is the medical director of Clinica Medica Familiar Clinics, where Petitioner was employed as a physician from 2000 to 2005. He is aware of the events which led to revocation of Petitioner’s certificate, and states that she accepts responsibility and “knows she screwed up.” Petitioner was “beloved” for her ability to communicate with patients for whom she was able to offer “culturally appropriate advice and recommendations. It was a shock when she was taken away from her patients and the Pico Rivera clinic has still not recovered.” Dr. Ruiz has a position waiting for Petitioner in his Ontario clinic, where she would be able to “start right away” once her certificate is reinstated (Exhibit 1.)

19. Surya Reddy, M.D., submitted a character reference letter supporting reinstatement of Petitioner’s certificate. Dr. Reddy is the medical director of Apple Medical Center and Urgent Care, where Petitioner was employed as a physician from February 2007 to July 2010. He is aware of the events which led to revocation of Petitioner’s certificate. Petitioner “is an excellent clinician” who “provided excellent care” to “seniors who typically have a long list of medical problems and can be quite difficult to manage.” She is “comfortable and competent in treating a wide range of ailments.” Dr. Reddy “never detected any behavior on her part that would make [him] suspect that Petitioner had a drinking problem.” (Exhibit 1.)

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LEGAL CONCLUSIONS

1. Cause exists to grant the Petition pursuant to the provisions of Business and Professions Code section 2307 by reason of Findings 11 through 19, provided the newly reinstated certificate is accompanied by a probationary Order requiring satisfaction of specific terms and conditions.

2. Petitioner bore the burden of proving both her rehabilitation and her fitness to practice medicine. (*Houseman v. Board of Medical Examiners* (1948) 84 Cal.App.2d 308.) The standard of proof is clear and convincing evidence to a reasonable certainty. (*Hippard v. State Bar* (1989) 49 Cal.3d 1084; *Feinstein v. State Bar* (1952) 39 Cal.2d 541.) Petitioner's burden required a showing that she was no longer deserving of the adverse character judgment associated with the discipline imposed against her certificate. (*Tardiff v. State Bar* (1980) 27 Cal.3d 395.)

3. Protection of the public is the Board's highest priority (Business and Professions Code sections 2001.1 and 2229.)

4. Title 16, California Code of Regulations, section 1360.2, lists the criteria for rehabilitation to be examined in evaluating the merits of a petition for reinstatement of a revoked license. That regulation provides:

"When considering a petition for reinstatement of a license, certificate or permit holder pursuant to the provisions of Section 11522 of the Government Code, the division or panel shall evaluate evidence of rehabilitation submitted by the petitioner considering the following criteria:

(a) The nature and severity of the act(s) or crime(s) under consideration as grounds for denial.

(b) Evidence of any act(s) or crime(s) committed subsequent to act(s) or crime(s) under consideration as grounds for denial which also could be considered as grounds for denial under Code Section 480.

(c) The time that has elapsed since commission of the act(s) or crime(s) referred to in subdivision (a) or (b) above.

(d) In the case of a suspension or revocation based upon the conviction of a crime, the criteria set forth in Section 1360.1, subsections (b), (d) and (e).

(e) Evidence, if any, of rehabilitation submitted by the applicant."

5. It is well-established that remorse for one's conduct and the acceptance of responsibility are the cornerstones of rehabilitation. Rehabilitation is a "state of mind" and the law looks with favor upon rewarding with the opportunity to serve one who has achieved

“reformation and regeneration.” (*Pacheco v. State Bar* (1987) 43 Cal.3d 1041, 1058.) Fully acknowledging the wrongfulness of past actions is an essential step towards rehabilitation. (*Seide v. Committee of Bar Examiners* (1989) 49 Cal.3d 933, 940.) Mere remorse does not demonstrate rehabilitation. A truer indication of rehabilitation is sustained conduct over an extended period of time. (*In re Menna* (1995) 11 Cal.4th 975, 991.) Finally, the evidentiary significance of misconduct is greatly diminished by the passage of time and by the absence of similar, more recent misconduct. (*Kwasnik v. State Bar* (1990) 50 Cal.3d 1061, 1070.)

6. It is undisputed that a DUI conviction is extremely serious, as were the allegations regarding Petitioner’s conduct at Medicann. However, both are remote in time: the conduct at Medicann took place in March 2005, and the event which led to the DUI conviction occurred in July 2009. Petitioner completed her criminal probation, and has had no subsequent convictions. She has gained insight into the reasons behind the problems and errors that led to the accusations made against her. Petitioner has had a long and successful career as a family physician, with no history of patient complaints, or intoxication in the workplace.

7. Petitioner has met her burden in establishing that her petition should be granted, albeit on a restricted basis. The goal of public protection is served by a period of probation, with terms and conditions requiring abstention from alcohol, a practice monitor, and the requirement of a psychiatric evaluation with further therapy, if deemed necessary.

ORDER

The Petition of Joanne Marian Benzor for reinstatement of her revoked Physician’s and Surgeon’s Certificate No. G53502 is granted, subject to the following:

The newly reinstated certificate is hereby revoked. However, the revocation is stayed and Petitioner is placed on probation for five years upon the following terms and conditions:

1. Alcohol - Abstain From Use

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

If Petitioner has a confirmed positive biological fluid test for alcohol, Petitioner shall receive a notification from the Board or its designee to immediately cease the practice of medicine. The Petitioner shall not resume the practice of medicine until final decision on an accusation and/or a petition to revoke probation. An accusation and/or petition to revoke probation shall be filed by the Board within 15 days of the notification to cease practice. If the Petitioner requests a hearing on the accusation and/or petition to revoke probation, the Board shall provide the Petitioner with a hearing within 30 days of the request, unless the Petitioner stipulates to a later hearing. A decision shall be received from the Administrative

Law Judge or the Board within 15 days unless good cause can be shown for the delay. The cessation of practice shall not apply to the reduction of the probationary time period.

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

2. 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, Petitioner 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 the Decision shall not be accepted towards the fulfillment of this requirement. Petitioner shall pay the cost of all psychiatric evaluations and psychological testing.

Petitioner 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.

3. Monitoring - Practice

Within 30 calendar days of the effective date of this Decision, Petitioner 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 Petitioner, 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 Petitioner's field of practice, and must agree to serve as Petitioner's monitor. Petitioner shall pay all monitoring costs.

The Board or its designee shall provide the approved monitor with copies of the Decision(s) and Accusation(s), and a proposed monitoring plan. Within 15 calendar days of receipt of the Decision(s), Accusation(s), and proposed monitoring plan, the monitor shall submit a signed statement that the monitor has read the Decision(s) and Accusation(s), 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 for approval by the Board or its designee.

Within 60 calendar days of the effective date of this Decision, and continuing throughout probation, Petitioner's practice shall be monitored by the approved monitor.

Petitioner 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.

If Petitioner fails to obtain approval of a monitor within 60 calendar days of the effective date of this Decision, Petitioner shall receive a notification from the Board or its designee to cease the practice of medicine within three (3) calendar days after being so notified. Petitioner shall cease the practice of medicine until a monitor is approved to provide monitoring responsibility.

The monitor(s) shall submit a quarterly written report to the Board or its designee which includes an evaluation of Petitioner's performance, indicating whether Petitioner's practices are within the standards of practice medicine, and whether Petitioner is practicing medicine safely. It shall be the sole responsibility of Petitioner 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, Petitioner shall, within 5 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 Petitioner fails to obtain approval of a replacement monitor within 60 calendar days of the resignation or unavailability of the monitor, Petitioner shall receive a notification from the Board or its designee to cease the practice of medicine within three (3) calendar days after being so notified. Petitioner shall cease the practice of medicine until a replacement monitor is approved and assumes monitoring responsibility.

In lieu of a monitor, Petitioner may participate in a professional enhancement program equivalent to the one offered by the Physician Assessment and Clinical Education Program at the University of California, San Diego School of Medicine, that includes, at minimum, quarterly chart review, semi-annual practice assessment, and semi-annual review of professional growth and education. Petitioner shall participate in the professional enhancement program at Petitioner's expense during the term of probation.

4. Notification

Within seven days of the effective date of this Decision, Petitioner shall provide a true copy of this Decision and Accusation to the Chief of Staff or the Chief Executive Officer at every hospital where privileges or membership are extended to Petitioner, at any other facility where Petitioner 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 Petitioner. Petitioner 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.

5. Supervision of Physician Assistants

During probation, Petitioner is prohibited from supervising physician assistants.

6. Obey All Laws

Petitioner 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.

7. Quarterly Declarations

Petitioner 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.

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

8. General Probation Requirements

Compliance with Probation Unit

Petitioner shall comply with the Board's probation unit and all terms and conditions of this Decision.

Address Changes

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

Place of Practice

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

License Renewal

Petitioner shall maintain a current and renewed California physician's and surgeon's license.

Travel or Residence Outside California

Petitioner 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.

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

9. Interview with the Board or its Designee

Petitioner shall be available in person upon request for interviews either at Petitioner's place of business or at the probation unit office, with or without prior notice throughout the term of probation.

10. Non-practice While on Probation

Petitioner shall notify the Board or its designee in writing within 15 calendar days of any periods of non-practice lasting more than 30 calendar days and within 15 calendar days of Petitioner's return to practice. Non-practice is defined as any period of time Petitioner is not practicing medicine in California as defined in Business and Professions Code sections 2051 and 2052 for at least 40 hours in a calendar month in direct patient care, clinical activity or teaching, or other activity as approved by the Board. All time spent in an intensive training program which has been approved by the Board or its designee shall not be considered non-practice. Practicing medicine in another state of the United States or Federal jurisdiction while on probation with the medical licensing authority of that state or jurisdiction shall not be considered non-practice. A Board-ordered suspension of practice shall not be considered as a period of non-practice.

In the event Petitioner's period of non-practice while on probation exceeds 18 calendar months, Petitioner shall successfully complete a clinical training program that meets the criteria of Condition 18 of the current version of the Board's "Manual of Model Disciplinary Orders and Disciplinary Guidelines" prior to resuming the practice of medicine.

Petitioner's period of non-practice while on probation shall not exceed two years.

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

Periods of non-practice will relieve Petitioner 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; and General Probation Requirements.

11. Violation of Probation

Failure to fully comply with any term or condition of probation is a violation of probation. If Petitioner violates probation in any respect, the Board, after giving Petitioner notice and the opportunity to be heard, may revoke probation and carry out the disciplinary order that was stayed. If an Accusation, Petition to Revoke Probation, or an Interim Suspension Order is filed against Petitioner 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.

12. License Surrender

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

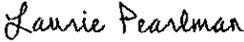
13. Probation Monitoring Costs

Petitioner 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.

14. Completion of Probation

Petitioner 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, Petitioner's certificate shall be fully restored.

Dated: May 27, 2016

DocuSigned by:

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LAURIE R. PEARLMAN
Administrative Law Judge
Office of Administrative Hearings



TOBY DOUGLAS
Director

State of California—Health and Human Services Agency
Department of Health Care Services



EDMUND G. BROWN JR.
Governor

DEC 03 2012

Dr. Joanne Benzor
15942 Ninya Avenue
Moreno Valley, CA 92551

**Re: Medical Doctor;
License No. G 53502;
Provider Nos. 00G535020, 00G535021, & 170977220**

Dear Dr. Benzor:

The Deputy Director and Chief Counsel of the State Department of Health Care Services (Department) has been notified that your license to practice medicine has been revoked, effective May 18, 2012. Pursuant to Welfare and Institutions Code section 14043.6, the Department shall automatically suspend, as a provider in the Medi-Cal program, any individual who, or any entity that, has a license, certificate, or other approval to provide health care which is revoked or suspended by a federal or state licensing, certification, or approval authority, has otherwise lost that license, certificate, or approval, or has surrendered that license, certificate, or approval while a disciplinary hearing on that license, certificate, or approval was pending. This suspension is non-discretionary, and shall be effective on the date that the license, certificate, or approval was revoked, lost, or surrendered. In addition, California Code of Regulations, title 22, section 51228 requires that you must be licensed in order to participate in the Medi-Cal program. Furthermore, pursuant to Business and Professions Code section 2050, et seq., it is unlawful to practice medicine without a license.

In addition, the Department has been notified of your September 9, 2009, misdemeanor convictions in the Riverside County Superior Court (No. RIM538011) for violation of Vehicle Code sections 23152, subdivisions (a) and (b). Pursuant to Welfare and Institutions Code section 14123, subdivision (a), the Director is required to suspend a provider of service for conviction of any felony or any misdemeanor involving fraud, abuse of the Medi-Cal program or any patient, or otherwise substantially related to the qualifications, functions, or duties of a provider of service. (See 42 CFR § 1001.101(a); Welf. & Inst. Code, § 14123.25.)

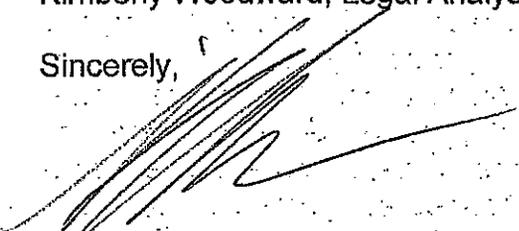
Therefore, pursuant to the authority delegated to me by the Director of the Department, you are hereby notified that you are prohibited from participating in the Medi-Cal program for an indefinite period of time, effective May 18, 2012. Your name will be

DEC 03 2012

posted on the "Medi-Cal Suspended and Ineligible Provider List," available on the Internet. During the period of your suspension, no person or entity, including an employer, may submit any claims to the Medi-Cal program for items or services rendered by you. Additionally, no provider numbers may be issued to you or to any other person, entity, or employer on your behalf prior to your reinstatement to the Medi-Cal program by the Department. Any involvement by you directly or indirectly (i.e., as an office manager, administrator, billing clerk processing or preparing claims for payment, salesperson for medical equipment, etc., or utilizing any other provider number or group or clinic number for services rendered by you) will result in nonpayment of the claim(s) submitted. Any person who presents or causes to be presented a claim for equipment or services rendered by a person suspended from participation in the Medi-Cal program shall be subject to suspension from participation in the Medi-Cal program, the assessment of civil money penalties, and/or criminal prosecution. (See Welf. & Inst. Code, §§ 14043.61, 14107, 14123.2; Cal. Code Regs., tit. 22, §§ 51458.1, 51484, 51485.1.) The Department will seek recoupment of any monies paid for claims presented to the Medi-Cal program for services or supplies provided by you during the duration of your suspension.

If you have any questions about this action, please submit your concerns, in writing, to Kimberly Woodward, Legal Analyst, at the above address.

Sincerely,



Vince J. Blackburn
Senior Attorney

cc: See next page.

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MS 2303

MS 2200

MS 4704

MS 4704

MS 7203

MS 4504

MS 8400