

**STATE OF CALIFORNIA
PHYSICIAN ASSISTANT BOARD**

**Manual of
DISCIPLINARY GUIDELINES
and
MODEL DISCIPLINARY ORDERS**

4th Edition 2016

**PHYSICIAN ASSISTANT BOARD
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

**DISCIPLINARY GUIDELINES AND
MODEL DISCIPLINARY ORDERS**

Introduction

This *Manual of Disciplinary Guidelines and Model Disciplinary Orders* is intended as a guide to persons involved in setting administrative disciplinary terms and conditions for violations by licensed physician assistants of the Physician Assistant Practice Act, and other laws and regulations. Use of these guidelines will help ensure that the selected terms and conditions are appropriate and consistent with decisions reached in comparable disciplinary actions.

Persons directly involved in the administrative disciplinary process of a California licensed physician assistant are the intended audience for this booklet. Appropriate users of these guidelines and model orders include administrative law judges, defense attorneys, physician assistant-respondents, trial attorneys from the Attorney General's Office, Board members (who review proposed decisions and make final decisions), the Board's executive officer, and others.

The Model Disciplinary Guidelines identify the recommended terms and conditions for each of the listed violations of the Business and Professions Code.

The Model Disciplinary Orders contain four sections of proposed language for the Disciplinary Order itself, for Optional Conditions, for the Conditions Applying the Uniform Standards Related to Substance Abusing Licensees (Conditions Applying the Uniform Standards) and for Standard Conditions. Optional Conditions should be relevant to the sustained violations and any significant mitigating or aggravating circumstances of the particular case. Conditions Applying the Uniform Standards must be included in all cases in which a licensee is placed on probation due to a violation that involved the use of drugs, alcohol or both. Standard Conditions should appear in all probation cases. All orders should place the Order(s) first, optional conditions second, Conditions Applying the Uniform Standards (if applicable) third and standard conditions fourth.

The Physician Assistant Board (PAB) recognizes that the penalties and conditions of probation contained in this booklet are merely guidelines. Selecting conditions of discipline appropriate to individual cases may necessitate variations from these guidelines, for taking into account particular mitigating or aggravating circumstances. However, absent significant extenuating circumstances, the penalty and probation provisions of these guidelines should be followed by those individuals representing the Board in disciplinary actions.

Whenever a Proposed Decision or stipulation varies from the conditions contained in the following guidelines, the Board encourages both the deputy attorney general who negotiated the stipulation or the administrative law judge who heard the case to explain any deviations or omissions from the guidelines. The Board will then be better informed and understand the circumstances and reasons for any changes or deviations from these disciplinary guidelines.

Pursuant to Business and Professions Code section 3504.1, the Board's highest priority in exercising its disciplinary functions is public protection. The Board and the ALJ are not prohibited from imposing additional terms or conditions of probation that would provide greater public protection.

Special Considerations

Violations Involving Sexual Contact or Offenses:

Pursuant to section 1399.523(b) of title 16, California Code of Regulations, a proposed decision that contains any finding of fact that the licensee engaged in any act of sexual contact, as defined in subdivision (c) of Section 729 of the Business and Professions Code, with a patient, or any finding that the licensee has committed a sex offense or been convicted of a sex offense as defined in Section 44010 of the Education Code, shall contain an order revoking the license. The proposed decision shall not contain an order staying the revocation of the license.

Violations Involving Drugs, Alcohol, or Both:

Pursuant to section 1399.523 of the Board's Regulations (title 16, California Code of Regulations, Division 13.8), if the conduct found to be a violation involves drugs, alcohol, or both, and the individual is permitted to practice under conditions of probation, a clinical diagnostic evaluation shall be ordered as a condition of probation in every case, without deviation. Each of the "Conditions Applying the Uniform Standards," as set forth in the model disciplinary orders, shall be included in any order subject to this subsection, but may be imposed contingent upon the outcome of the clinical diagnostic evaluation.

The Substance Abuse Coordination Committee's Uniform Standards Regarding Substance Abusing Healing Arts Licensees (4/2011) (Uniform Standards), forms the basis of those probationary conditions and will be consulted in the event of ambiguity.

See also information related to cases involving drug and alcohol use.

Violations of the Medical Practice Act:

All concerned individuals, and especially the trier of law, should be aware that any violation of the Medical Practice Act, which would constitute unprofessional conduct by a physician and surgeon is also grounds for a finding of unprofessional conduct for a physician assistant. Furthermore, in addition to the grounds set forth in Business and Professions Code, Chapter 7.7, Section 3527(a), other grounds for action are set forth in California Code of Regulations (CCR), Title 16, Chapter 13.8, section 1399.521.

Authority for the Board to establish disciplinary guidelines is contained in Government Code Section 11425.50(e). The disciplinary guidelines are incorporated as part of Title 16 CCR 1399.523 and Title 16 CCR 1399.523.5.

If you need additional information or clarification, please contact the Physician Assistant Board at (916) 561-8780.

Title 16, CCR § 1399.523. Disciplinary Guidelines.

- (a) In reaching a decision on a disciplinary action under the Administrative Procedure Act (Government Code Section 11400 et seq.), the Physician Assistant Board shall consider the disciplinary guidelines entitled "Physician Assistant Board Manual of Model Disciplinary Guidelines and Model Disciplinary Orders" 4th Edition 2015~~6~~, which are hereby incorporated by reference. Subject to the limitations of subsection (c), deviation from these guidelines and orders, including the standard terms of probation, is appropriate where the Physician Assistant Board, in its sole discretion, determines that the facts of the particular case warrant such a deviation-for example: the presence of mitigating factors; the age of the case; evidentiary problems.
- (b) Notwithstanding the disciplinary guidelines, any proposed decision issued in accordance with the procedures set forth in Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code that contains any finding of fact that the licensee engaged in any act of sexual contact, as defined in subdivision (c) of Section 729 of the Code, with a patient, or any finding

that the licensee has committed a sex offense or been convicted of a sex offense as defined in Section 44010 of the Education Code, shall contain an order revoking the license. The proposed decision shall not contain an order staying the revocation of the license.

- (c) If the conduct found to be a violation involves drugs, alcohol, or both, and the individual is permitted to practice under conditions of probation, a clinical diagnostic evaluation shall be ordered as a condition of probation in every case, without deviation.
 - (1) Each of the “Conditions Applying the Uniform Standards,” as set forth in the model disciplinary orders, shall be included in any order subject to this subsection, but may be imposed contingent upon the outcome of the clinical diagnostic evaluation.
 - (2) The Substance Abuse Coordination Committee’s *Uniform Standards Regarding Substance Abusing Healing Arts Licensees* (4/2011) (Uniform Standards), which are hereby incorporated by reference, shall be used in applying the probationary conditions imposed pursuant to this subsection.
- (d) Nothing in this section shall prohibit the Board from imposing additional terms or conditions of probation in any order that the Board determines would provide greater public protection.

INFORMATION RELATED TO CASES INVOLVING DRUGS AND ALCOHOL USE

Drug and Alcohol Recovery Monitoring Program

The Board does not consider licensees who have been ordered to participate in the Board's diversion program to be "in diversion," rather the Board considers these individuals to be in a drug and alcohol recovery monitoring program. As a result, the Board will not use the term "diversion" in these disciplinary guidelines to describe licensees on probation or terms and conditions of probation related to drug and alcohol recovery monitoring. Instead the phrase "drug and alcohol recovery monitoring program" will be used.

There are two pathways into the Board's drug and alcohol recovery monitoring program: 1) Participants with drug and/or alcohol addiction issues who have self-referred to the program and are not under a disciplinary order; and, 2) Participants who have been ordered into the Board's drug and alcohol recovery monitoring program as a result of violations of the Physician Assistant Practice Act or the Medical Practice Act related to drug and/or alcohol addiction.

Self-Referrals

When a licensee enrolls in the Board's drug and alcohol recovery monitoring program as a self-referral, the participation is confidential. However, if a self-referred participant is determined to be too great a risk to the public health, safety, and welfare to continue the practice as a physician assistant, the facts shall be reported to the Executive Officer of the Board and all documents and information pertaining to and supporting that conclusion shall be provided to the Executive Officer. The matter may be referred for investigation and disciplinary action by the Board. Each physician assistant who requests participation in a drug and/or alcohol addiction program shall agree to cooperate with the recovery program designed for him or her. Any failure to comply with the program may result in termination of participation in the program.

Probationary Participants

Probationary participants are required to comply with terms of probation or risk losing their license. A clinical diagnostic evaluation will be ordered as a term of probation and the conditions applying the Uniform Standards will be included.

While self-referred licensees are not subject to terms and conditions in these Guidelines, they are subject to nearly identical contractual terms of participation and the violation of those terms could lead to termination of participation in the drug and alcohol recovery monitoring program.

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Causes for Discipline and License Restriction

Unless otherwise indicated, all Section references are to the Business and Professions Code Sections.

§141, §2305 & §3527(a) DISCIPLINE BY ANOTHER STATE OR AGENCY

Minimum penalty: Same for similar offense in California

Maximum penalty: Revocation

§651, §2271, & §3527(a) DECEPTIVE ADVERTISING §2285 PRACTICE UNDER FALSE OR FICTITIOUS NAME

Minimum penalty: Stayed Revocation, at least 2 years probation

Maximum penalty: Revocation

1. Suspension of 30 days or more (5)
2. Ethics course (12)

§725 EXCESSIVE TREATMENTS

Minimum penalty: Stayed revocation, at least 5 years probation

Maximum penalty: Revocation

1. Suspension of 60 days or more (5)
2. Controlled drugs - partial restriction of drug order authority (6)
3. Controlled drugs – total restriction of drug order authority (6)
4. Controlled drugs – maintain record (7)
5. Medical record keeping course (9)
6. Education course (10)
7. Clinical training program (11)
8. Ethics course (12)
9. Prescribing practices course (14)
10. Prohibited practice areas (18)
11. Maintenance of patient medical records (19)
12. On-site supervision (20)

§726, §729, & §3527(a) SEXUAL MISCONDUCT

Minimum penalty: Stayed revocation, at least 7 years probation

Maximum penalty: Revocation

NOTES: If the individual is required to register as a sex offender pursuant to Section 290 of the Penal Code or the equivalent in another state or territory, or military or federal law, the decision must impose revocation of the license, denial of the application for licensure, or denial of the petition for reinstatement unless the individual who has been relieved under Section 290.5 of the Penal Code or his or her duty to register as a sex offender, or whose duty to register has otherwise been formally terminated under California law or the law of the jurisdiction that required registration or the individual who is required to register as a sex offender pursuant to Section 290 of the Penal Code solely because of a misdemeanor under Section 314 of the Penal Code, exposing his person or private parts in any public place.

In addition, a proposed decision that contains any finding of fact that the licensee engaged in any act of sexual contact, as defined in subdivision (c) of Section 729 of the Business and Professions Code, with a patient, or any finding that the licensee has committed a sex offense or been convicted of a sex offense as defined in Section 44010 of the Education Code, shall contain an order revoking the license. The proposed decision must not contain an order staying the revocation of the license.

1. Suspension of 60 days or more (5)
2. Controlled drugs – partial restriction of drug order authority (6)
3. Controlled drugs – total restriction of drug order authority (6)
4. Controlled drugs – maintain record (7)
5. Abstain from the use of controlled substances and dangerous drugs (23)
6. Abstain from the use of alcohol (22)
7. Biological fluid testing (25)
8. Clinical diagnostic evaluation (21)
9. Drug and alcohol recovery monitoring program (24)
10. Facilitated group support meetings (26)
11. Work site monitor (27)
12. Major violations (28)
13. Community service (8)
14. Education course (10)
15. Clinical training program (11)
16. Ethics course (12)
17. Prescribing practices course (14)
18. Professional boundaries program (13)
19. Psychological evaluation/treatment (15)
20. Medical evaluation/treatment (16)
21. Third party chaperone (17)
22. Prohibited practice areas (18)
23. Maintenance of patient medical record (19)
24. On-site supervision (20)

§820 MENTAL OR PHYSICAL ILLNESS

Minimum penalty: Stayed revocation, at least 5 years probation

Maximum penalty: Revocation

If a licensee has been identified as a substance abusing licensee, then the Conditions Applying the Uniform Standards must be imposed. If a licensee has not yet been identified as a substance-abusing licensee in a case involving drugs or alcohol, a clinical diagnostic evaluation shall be ordered and the remaining provisions of the Uniform Standards may, in the discretion of the Board, be made contingent upon a clinical diagnostic evaluator's report that the individual is a substance-abusing licensee.

1. Controlled drugs – partial restriction of drug order authority (6)
2. Controlled drugs – total restriction of controlled drug authority (6)
3. Controlled drugs – maintain record (7)
4. Abstain from the use of controlled substances and dangerous drugs (23)
5. Abstain from the use of alcohol (22)
6. Biological fluid testing (25)
7. Clinical diagnostic evaluation (21)
8. Drug and alcohol recovery monitoring program (24)
9. Facilitated group support meetings (26)
10. Work site monitor (27)
11. Major violations (28)
12. Psychological evaluation/treatment (15)

13. Medical evaluation/treatment (6)
14. Prohibited practice areas (18)
15. Maintenance of patient medical records (19)
16. On-site supervision (20)

§2054 & §2278 HOLDING ONESELF OUT AS A PHYSICIAN OR USE OF TITLE “DOCTOR” AND/OR “M.D.”

Minimum penalty: Stayed revocation, at least 1 year probation

Maximum penalty: Revocation

1. Suspension of at least 30 days (5)
2. Community service (8)
3. Education course (10)
4. Clinical training program (11)
5. Ethics course (12)
6. Psychological evaluation/treatment (15)
7. Prohibited practice areas (18)
8. Maintenance of patient medical records (19)
9. On-site supervision (20)

**§2234(b) GROSS NEGLIGENCE
§2234(c) REPEATED NEGLIGENT ACTS
§2234(d) INCOMPETENCE**

Minimum penalty: Stayed revocation, at least 5 years probation

Maximum penalty: Revocation

1. Suspension of 60 days or more (5)
2. Controlled drugs – partial restriction of drug order authority (6)
3. Controlled drugs – total restriction of drug order authority (6)
4. Controlled drugs – maintain record (7)
5. Medical record keeping course (9)
6. Education course (10)
7. Clinical training program (11)
8. Ethics course (12)
9. Prescribing practices course (14)
10. Psychological evaluation/treatment (15)
11. Medical evaluation/treatment (16)
12. Prohibited practice areas (18)
13. Maintenance of patient medical records (19)
14. On-site supervision (20)

§2234(e) & §3527(a) DISHONESTY

Minimum penalty: Stayed revocation, at least 5 years probation

Maximum penalty: Revocation

1. Suspension of 60 days or more (5)
2. Controlled drugs – partial restriction of drug order authority (6)
3. Controlled drugs – total restriction of order authority (6)
4. Controlled drugs – maintain record (7)
5. Community service (8)
6. Ethics course (12)

7. Prescribing practices course (14)
8. Psychological evaluation/treatment (15)
9. Prohibited practice areas (18)
10. Maintenance of patient medical records (19)
11. On-site supervision (20)

§2235 PROCURING LICENSE BY FRAUD

Minimum penalty: Revocation
 Maximum penalty: Revocation

§2236 & §3527(a) CRIMINAL CONVICTION

Minimum penalty: Stayed revocation, at least 5 years probation
 Maximum penalty: Revocation

1. Apply appropriate other guidelines depending on nature of criminal offense.
2. Suspension of 60 days or more (5)
3. Ethics course (12)
4. Psychological evaluation/treatment (15)

§2237 & §3527(a) CONVICTION RELATED TO DRUGS §2238 & §3527(a) VIOLATION OF DRUG STATUTES

Minimum penalty: Stayed revocation 7 years probation
 Maximum penalty: Revocation

NOTES: Illegal sales of controlled drugs or dispensing drugs without medical indications warrants revocation unless extensive mitigation appears.

Because the violation involves drugs, alcohol, or both, a clinical diagnostic evaluation must be ordered and the remaining provisions of the Conditions Applying the Uniform Standards may, in the discretion of the Board, be made contingent upon the a clinical diagnostic evaluator's report finding that the individual is a substance-abusing licensee.

1. Suspension of 60 days or more (5)
2. Controlled drugs – partial restriction of drug order authority (6)
3. Controlled drugs – total restriction of drug order authority (6)
4. Controlled drugs – maintain record (7)
5. Abstain from the use of controlled substances and dangerous drugs (23)
6. Abstain from the use of alcohol (22)
7. Biological fluid testing (25)
8. Clinical diagnostic evaluation (21)
9. Drug and alcohol recovery monitoring program (24)
10. Facilitated group support meetings (26)
11. Work site monitor (27)
12. Major violations (28)
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16. Clinical training program (11)
17. Prescribing practices course (14)
18. Psychological evaluation/treatment (15)
19. Medical evaluation/treatment (6)

20. Prohibited practice areas (18)
21. Maintenance of patient medical records (19)
22. On-site supervision (20)

§2239 & §3527(a) DRUG OR ALCOHOL ABUSE §2280 INTOXICATION WHILE TREATING PATIENTS

Minimum penalty: Stayed revocation, at least 7 years probation

Maximum penalty: Revocation

NOTE: Because the violation involves drugs, alcohol, or both, a clinical diagnostic evaluation must be ordered and the remaining provisions of the Conditions Applying the Uniform Standards may, in the discretion of the Board, be made contingent upon the a clinical diagnostic evaluator's report finding that the individual is a substance-abusing licensee.

1. If warranted, suspension of 60 days or more (5)
2. Controlled drugs – partial restriction of drug order authority (6)
3. Controlled drugs – total restriction of drug order authority (6)
4. Controlled drugs – maintain record (7)
5. Abstain from the use of controlled substances and dangerous drugs (23)
6. Abstain from the use of alcohol (22)
7. Biological fluid testing (25)
8. Clinical diagnostic evaluation (21)
9. Drug and alcohol recovery monitoring program (24)
10. Facilitated group support meetings (26)
11. Work site monitor (27)
12. Major violations (28)
13. Community service (8)
14. Medical record keeping course (9)
15. Education course (10)
16. Clinical training program (11)
17. Ethics course (12)
18. Prescribing practices course (14)
19. Psychological evaluation/treatment (15)
20. Medical evaluation/treatment (16)
21. Prohibited practice areas (18)
22. Maintenance of patient medical records (19)
23. On-site supervision (20)

§2241 & §3527(a) FURNISHING DRUGS OR TRANSMITTING DRUG ORDERS TO ADDICT

NOTES: Illegal sales of controlled drugs or dispensing drugs without medical indications warrants revocation unless extensive mitigation appears.

Because the violation involves drugs, alcohol, or both, a clinical diagnostic evaluation must be ordered and the remaining provisions of the Conditions Applying the Uniform Standards may, in the discretion of the Board, be made contingent upon the a clinical diagnostic evaluator's report finding that the individual is a substance-abusing licensee.

Minimum penalty: Stayed revocation, 5 years probation

Maximum penalty: Revocation

1. Suspension of 60 days or more (5)

2. Controlled drugs – partial restriction of drug order authority (6)
3. Controlled drugs – total restriction of order authority (6)
4. Controlled drugs - maintain record (7)
5. Abstain from the use of controlled substances and dangerous drugs (23)
6. Abstain from the use of alcohol (22)
7. Biological fluid testing (25)
8. Clinical diagnostic evaluation (21)
9. Drug and alcohol recovery monitoring program (24)
10. Facilitated group support meetings (26)
11. Work site monitor (27)
12. Major violations (28)
13. Community service (8)
14. Education course (10)
15. Clinical training program (11)
16. Ethics course (12)
17. Prescribing practices course (14)
18. Prohibited practice areas (18)
19. Maintenance of patient medical records (19)
20. On-site supervision (20)

§2242 & §3527(a) ADMINISTERING OR FURNISHING DRUGS, OR TRANSMITTING DRUG ORDERS, WITHOUT PRIOR GOOD FAITH EXAMINATION

NOTE: Because the violation involves drugs, alcohol, or both, a clinical diagnostic evaluation must be ordered and the remaining provisions of the Conditions Applying the Uniform Standards may, in the discretion of the Board, be made contingent upon the a clinical diagnostic evaluator's report finding that the individual is a substance-abusing licensee.

Minimum penalty: Stayed revocation, at least 5 years probation

Maximum penalty: Revocation

1. Suspension of 60 days or more (5)
2. Controlled drugs – partial restriction of drug order authority (6)
3. Controlled drugs – total restriction of drug order authority (6)
4. Controlled drugs - maintain record (7)
5. Abstain from the use of controlled substances and dangerous drugs (23)
6. Abstain from the use of alcohol (22)
7. Biological fluid testing (25)
8. Clinical diagnostic evaluation (21)
9. Drug and alcohol recovery monitoring program (24)
10. Facilitated group support meetings (26)
11. Work site monitor (27)
12. Major violations (28)
13. Education course (10)
14. Clinical training program (11)
15. Ethics course (12)
16. Prescribing practices course (14)
17. Prohibited practice areas (18)
18. Maintenance of patient medical records (19)
19. On-site supervision (20)

§2252 & 3527(a) ILLEGAL CANCER TREATMENT

Minimum penalty: Stayed revocation, at least 5 years probation

Maximum penalty: Revocation

1. Suspension of 60 days or more (5)
2. Controlled drugs – partial restriction of drug order authority (6)
3. Controlled drugs – total restriction of drug order authority (6)
4. Controlled drugs – maintain record (7)
5. Community service (8)
6. Education course (10)
7. Clinical training program (11)
8. Ethics course (12)
9. Prescribing practices course (14)
10. Prohibited practice areas (18)
11. Maintenance of patient medical records (19)
12. On-site supervision (20)

§2261 & §3527(a) MAKING OR SIGNING FALSE DOCUMENTS §2262 ALTERATION OF MEDICAL RECORDS

Minimum penalty: Stayed revocation, at least 3 years probation

Maximum penalty: Revocation

1. Suspension of 30 days or more (5)
2. Controlled drugs – partial restriction of drug order authority (6)
3. Controlled drugs – total restriction of drug order authority (6)
4. Controlled drugs – maintain record (7)
5. Community service (8)
6. Medical record keeping course (9)
7. Ethics course (12)
8. Prescribing practices course (14)
9. Prohibited practice areas (18)
10. Maintenance of patient medical records (19)
11. On-site supervision (20)
12. If fraud involved, see “Dishonesty” guidelines

§2264 & §3527(a) AIDING AND ABETTING UNLICENSED PRACTICE

Minimum penalty: Stayed revocation, at least 3 years probation

Maximum penalty: Revocation

1. Suspension of 60 days or more (5)
2. Ethics course (12)
3. Prohibited practice areas (18)
4. On-site supervision (20)

2266 FAILURE TO MAINTAIN ADEQUATE RECORDS 3527(a) FAILURE TO MAINTAIN REQUIRED PATIENT RECORDS

Minimum penalty: Stayed revocation, at least 3 years probation

Maximum penalty: Revocation

1. Suspension of 30 days or more (5)

2. Controlled drugs – partial restriction of drug order authority (6)
3. Controlled drugs – total restriction of drug order authority (6)
4. Controlled drugs – maintain record (7)
5. Medical record keeping course (9)
6. Maintenance of patient medical records (19)
7. On-site supervision (20)

§2288 IMPERSONATION OF APPLICANT IN EXAM

Minimum penalty: Revocation
 Maximum penalty: Revocation

§2306 & §3527(a) PRACTICE DURING SUSPENSION

Minimum penalty: Revocation
 Maximum penalty: Revocation

§3502.1 DRUG ORDER AUTHORITY

§3527(a) ADMINISTERING, FURNISHING, OR TRANSMITTING DRUG ORDERS NOT PRESCRIBED BY SUPERVISING PHYSICIAN

NOTE: Because the violation involves drugs, alcohol, or both, a clinical diagnostic evaluation must be ordered and the remaining provisions of the Conditions Applying the Uniform Standards may, in the discretion of the Board, be made contingent upon the a clinical diagnostic evaluator's report finding that the individual is a substance-abusing licensee.

Minimum penalty: Stayed Revocation, at least 1 year probation
 Maximum penalty: Revocation

1. Suspension of 30 days or more (5)
2. Controlled drugs – partial restriction of drug order authority (6)
3. Controlled drugs – total restriction of drug order authority (6)
4. Controlled drugs - maintain record (7)
5. Abstain from the use of controlled substances and dangerous drugs (23)
6. Abstain from the use of alcohol (22)
7. Biological fluid testing (25)
8. Clinical diagnostic evaluation (21)
9. Drug and alcohol recovery monitoring program (24)
10. Facilitated group support meetings (26)
11. Work site monitor (27)
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§3527(a) PRACTICING MEDICINE WITHOUT DELEGATED AUTHORITY FROM A SUPERVISING PHYSICIAN

§3527(a) EXCEEDING DELEGATED SCOPE OF PRACTICE

§3527(a) PRACTICING WITHOUT ADEQUATE SUPERVISION

Minimum penalty: Stayed revocation, at least 3 years probation

Maximum penalty: Revocation

1. Suspension of 60 days or more (5)
2. Controlled drugs – partial restriction of drug order authority (6)
3. Controlled drugs – total restriction of drug order authority (6)
4. Controlled drugs – maintain record (7)
5. Education course (10)
6. Clinical training program (11)
7. Ethics course (12)
8. Prescribing practices course (14)
9. Prohibited practice areas (18)
10. Maintenance of patient medical records (19)
11. On-site supervision (20)

§3527(a) FAILURE TO REPORT CHILD/ELDER/SPOUSAL ABUSE OR OTHER FAILURE TO REPORT UNDER PENAL CODE SECTIONS 11160 OR 11166

Minimum penalty: Stayed revocation, at least 1 year probation

Maximum penalty: Revocation

1. Suspension of 30 days or more (5)
2. Education course (10)
3. Clinical training program (11)
4. Ethics course (12)
5. Prohibited practice areas (18)
6. Maintenance of patient medical records (19)
7. On-site supervision (20)

§3527 (a) FAILURE TO FOLLOW GUIDELINES FOR PREVENTION OF BLOOD BORNE PATHOGENS

Minimum penalty: Stayed revocation, at least 1 year probation

Maximum penalty: Revocation

1. Suspension of 30 days or more (5)
2. Education course (10)
3. Clinical training program (11)
4. Ethics course (12)
5. Prohibited practice areas (18)
6. Maintenance of patient medical records (19)
7. On-site supervision (20)

§3527(a) & CCR 1399.541(i) PERFORMANCE OF SURGICAL PROCEDURES REQUIRING ANESTHESIA OTHER THAN LOCAL ANESTHESIA WITHOUT PERSONAL PRESENCE OF THE SUPERVISING PHYSICIAN

Minimum penalty: Stayed revocation, 5 years probation

Maximum penalty: Revocation

1. Suspension of 60 days or more (5)
2. Education course (10)
3. Clinical training program (11)
4. Ethics course (12)
5. Prohibited practice areas (18)
6. Maintenance of patient medical records (19)
7. On-site supervision (20)

Government Code 11519(b) VIOLATION OF PROBATION

Minimum penalty: Impose an extension of probation

Maximum penalty: Impose penalty that was stayed

The maximum penalty should be given for repeated similar offenses or for probation violations revealing a cavalier or recalcitrant attitude. Other violations of probation should draw an extension of probation and/or a period of actual suspension.

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Model Disciplinary Orders

1. Revocation - single cause

License number _____ issued to respondent _____ is revoked.

2. Revocation - multiple causes

License number _____ issued to respondent _____ is revoked pursuant to Determination of Issues (e.g. I, II, and III), separately and for all of them.

3. Initial Probationary License

A. Standard Model Probationary Order

The application of _____ for an unrestricted license as a physician assistant is hereby denied. However, a probationary license shall be issued to respondent subject to the following terms and conditions:

1. Respondent is placed on probation for ___ years; beginning on the date respondent is issued a probationary license.

NOTES: A probationary license may only be issued for an initial license. Distinguish a probationary license from a license issued on probation. The former is not a disciplinary license although the terms of the probationary license would always be disclosed. The latter is a disciplinary action and, even after the term of probation is completed, will be reported as a prior disciplinary action.

Where a license is being issued (or reinstated), some conditions may need to be modified to reflect that a deadline commences from issuance of the license rather than issuance of the decision. This is particularly important where there is a condition precedent to issuance of a license.

B. Model Order for Granting Application and Placing License on Probation after Applicant Completes Conditions Precedent

The application filed by _____ for initial licensure is hereby granted and a license shall be issued upon the following conditions precedent (list conditions precedent such as restitution, completion of CME, completion of rehabilitation program, take and pass licensing exam (National Commission on Certification of Physician Assistants) within ___(months/year) of the effective date of this decision, etc.):

Upon completion of the conditions precedent above and successful completion of all licensing requirements, Respondent shall be issued a license. However, the license shall be immediately revoked, the revocation shall be stayed, and Respondent shall be placed on probation for a period of ___ years under the following terms and conditions (list standard and applicable optional conditions of probation):

4. Standard Stay Order

However, the revocation is stayed and respondent is placed on probation for ___ years upon the following terms and conditions.

Optional Conditions

5. Actual Suspension

As part of probation, respondent is suspended from the practice of medicine as a physician assistant for _____ beginning the effective date of this decision.

6. Controlled Drugs – Drug Order Authority

Option 1 Total Restriction

Respondent shall not administer, issue a drug order, or hand to a patient or possess any controlled substances as defined by the California Uniform Controlled Substances Act.

Respondent is prohibited from practicing as a physician assistant until respondent provides documentary proof to the Board or its designee that respondent's DEA permit has been surrendered to the Drug Enforcement Administration for cancellation. Respondent shall surrender all controlled substance order forms to the supervising physician. Thereafter, respondent shall not reapply for a new DEA permit without the prior written consent of the Board or its designee.

Option 2 Partial Restriction

Respondent shall not administer, issue a drug order, or hand to a patient or possess any controlled substances as defined by the California Uniform Controlled Substances Act, except for those drugs listed in Schedules(s) _____ of the Act.

Respondent shall immediately surrender respondent's current DEA permit to the Drug Enforcement Administration for cancellation and re-apply for a new DEA permit limited to those Schedules authorized by this order. Within 15 calendar days after the effective date of this Decision, respondent shall submit proof that respondent has surrendered respondent's DEA permit to the Drug Enforcement Administration for cancellation and re-issuance. Within 15 calendar days after the effective date of issuance of a new DEA permit, the respondent shall submit a true copy of the permit to the Board or its designee.

7. Controlled Drugs - Maintain Record

Respondent shall maintain a record of all controlled substances administered, transmitted orally or in writing on a patient's record or handed to a patient by the respondent during probation showing all the following: 1) the name and address of the patient, 2) the date, 3) the character and quantity of controlled substances involved, and 4) the indications and diagnosis for which the controlled substance was furnished, 5) the name of supervising physician prescriber.

Respondent shall keep these records at the worksite in a separate file or ledger, in chronological order, and shall make them available for immediate inspection and copying by the Board or its designee on the premises at all times during business hours, upon request and without charge.

Option

The supervising physician shall review, sign, and date the controlled substances record _____ (e.g., daily, weekly, monthly).

8. Community Service

Within 60 days of the effective date of this decision, respondent shall submit to the Board or its designee for its prior approval a community service program in which respondent shall, within the first 2 years of probation, provide _____ hours of free services (medical or non-medical) to a community or non-profit organization.

Prior to engaging in any community service, respondent shall provide a true copy of the Decision to the chief of staff, director, office manager, program manager, officer, or the chief executive officer at every community or non-profit organization where respondent provides community service. Respondent shall submit proof of compliance to the Board or its designee within 15 calendar days of completion of the community service. This condition shall also apply to any change(s) in community service.

(NOTE: In quality of care cases, only non-medical community service is allowed.)

9. Medical Record Keeping Course

Within 60 calendar days of the effective date of this decision, respondent shall enroll in a course in medical record keeping approved in advance by the Board or its designee. The course shall be Category I certified, limited to classroom, conference, or seminar settings. Respondent shall successfully complete the course within the first 6 months of probation.

Respondent shall pay the cost of the course.

Respondent shall submit a certification of successful completion to the Board or its designee within 15 days after completing the course.

10. Education Course

Within 60 days of the effective date of the decision, respondent shall submit to the Board or its designee for its prior approval an educational program or course from an accredited program which shall not be less than ___ hours of Category 1 CME. The education course shall be aimed at correcting any areas of deficient practice or knowledge. The course shall be Category I certified, limited to classroom, conference, or seminar settings. Respondent shall successfully complete the course within the first year of probation.

Respondent shall pay the cost of the course.

Respondent shall submit a certification of successful completion to the Board or its designee within 15 days after completing the course.

(NOTE: If violations include drug orders, at least one course shall be required in pharmacology and appropriate drug orders.)

11. Clinical Training Program

Within 60 days of the effective date of this decision, respondent shall submit to the Board or its designee for prior approval, a clinical training or educational program such as the Physician Assessment and Clinical Education Program (PACE) offered by the University of California – San Diego School of Medicine or equivalent program as approved by the Board or its designee. The exact number of hours and specific content of the program shall be determined by the Board or its designee. The program shall determine whether respondent has successfully completed and passed the program.

Respondent shall pay the cost of the program.

If the program makes recommendations for the scope and length of any additional educational or clinical training, treatment for any medical or psychological condition, or anything else affecting respondent's practice as a physician assistant, respondent shall comply with the program recommendations and pay all associated costs.

Respondent shall successfully complete and pass the program not later than six months after respondent's initial enrollment. The program determines whether or not the respondent successfully completes the program.

If respondent fails to either 1) complete the program within the designated time period, or 2) to pass the program, as determined by the program, respondent shall cease practicing as a physician assistant immediately after being notified by the Board or its designee.

Option 1: Condition Precedent

Respondent shall not practice as a physician assistant until respondent has successfully completed the program and has been so notified by the Board or its designee in writing, except that respondent may practice only in the program.

Option 2: Condition Precedent (Applicant, including Reinstatement)

Respondent shall not be issued a license to practice as a physician assistant until respondent has successfully completed and passed the program, as determined by the program, and has been so notified by the Board or its designee in writing, except that respondent may practice only in the program.

(NOTE: This program is for physician assistants who have demonstrated deficiencies in medical skills or knowledge.)

12. Ethics Course

Within 60 days of the effective date of this decision, respondent shall submit to the Board or its designee for its prior approval a course in ethics. The course shall be limited to classroom, conference, or seminar settings. Respondent shall successfully complete the course within the first year of probation.

Respondent shall pay the cost of the course.

Respondent shall submit a certification of successful completion to the Board or its designee within 15 days after completing the course.

13. Professional Boundaries Program

Within 60 calendar days from the effective date of this decision, respondent shall enroll in a professional boundaries program equivalent to the Professional Boundaries Program, Physician Assessment and Clinical Education Program at the University of California, San Diego School of Medicine ("program").

Respondent shall pay the cost of the program.

Respondent shall, at the program's discretion, undergo and complete the program's assessment of respondent's competency, mental health and/or neuropsychological performance, and at a minimum, a 24 hour program of interactive education and training in the area of boundaries, which takes into account data obtained from the assessment and from the decision, accusation, and any other information that the Board or its designee deems relevant. The program shall

evaluate respondent at the end of the training and the program shall provide any data from the assessment and training as well as the results of the evaluation to the Board or its designee.

Respondent shall successfully complete the entire program not later than six months after respondent's initial enrollment. Based on respondent's performance in and evaluations from the assessment, education, and training, the program shall advise the Board or its designee of its recommendation(s) for additional education, training, psychotherapy and other measures necessary to ensure that respondent can practice medicine safely. Respondent shall comply with the program recommendations. At the completion of the program, respondent shall submit to a final evaluation. The program shall provide the results of the evaluation to the Board or its designee.

The program determines whether or not the respondent successfully completes the program.

If respondent fails to complete the program within the designated time period, respondent shall cease practicing as a physician assistant immediately after being notified by the Board or its designee.

Option 1: Condition Precedent

Respondent shall not practice as a physician assistant until respondent has successfully completed the program and has been so notified by the Board or its designee in writing.

14. Prescribing Practices Course

Within 60 calendar days of the effective date of this decision, respondent shall enroll in a course in prescribing practices equivalent to the Prescribing Practices Course at the Physician Assessment and Clinical Education Program, University of California, San Diego School of Medicine (program), approved in advance by the Board or its designee. Respondent shall provide the program with any information and documents that the program may deem pertinent. Respondent shall participate in and successfully complete the classroom component of the course not later than six (6 months) after respondent's initial enrollment. Respondent shall successfully complete any other component of the course within one (1) year of enrollment. The prescribing practices course shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

Respondent shall pay the cost of the course. The program shall determine whether respondent successfully completes the course.

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

15. Psychological Evaluation/Treatment

Within 60 days of the effective date of this decision, and on a periodic basis thereafter as may be required by the Board or its designee, respondent shall undergo a psychological evaluation by a Board appointed psychological evaluator who shall furnish a psychological report and recommendations to the Board or its designee.

Following the evaluation, respondent shall comply with all restrictions or conditions recommended by the evaluating physician within 15 calendar days after notification by the Board or its designee.

Respondent may, based on the evaluator's report and recommendations, be required by the Board or its designee to undergo psychological treatment. Upon notification, respondent shall within 30 days submit for prior approval the name and qualifications of a psychological

practitioner of respondent's choice. Upon approval of the treating psychological practitioner, respondent shall undergo and continue psychological treatment until further notice from the Board or its designee. Respondent shall have the treating psychological practitioner submit quarterly status reports to the Board or its designee indicating whether the respondent is capable of practicing medicine safely.

Respondent shall pay the cost of all psychological evaluations and treatment.

If the evaluator or treating practitioner determines that the respondent is a danger to the public, upon notification, respondent shall immediately cease practicing as a physician assistant until notified in writing by the Board or its designee that respondent may resume practice.

Option: Condition Precedent

Respondent shall not practice as a physician assistant until a psychological evaluation has been conducted and respondent is notified in writing by the Board or its designee that respondent may resume practice. The period of time that respondent is not practicing shall not be counted toward completion of the term of probation.

(NOTE: This condition is for those cases where the evidence demonstrates that mental illness or disability was a contributing cause of the violations.)

16. Medical Evaluation/Treatment

Within 60 days of the effective date of this decision, and on a periodic basis thereafter as may be required by the Board or its designee, respondent shall undergo a medical evaluation by a Board appointed physician who shall furnish a medical report and recommendations to the Board or its designee.

Following the evaluation, respondent shall comply with all restrictions or conditions recommended by the evaluating physician within 15 calendar days after notification by the Board or its designee.

Respondent may, based on the evaluator's report and recommendations, be required by the Board or its designee to undergo medical treatment. Upon notification, respondent shall within 30 days submit for prior approval the name and qualifications of a physician of respondent's choice. Upon approval of the treating physician, respondent shall undergo and continue medical treatment until further notice from the Board or its designee. Respondent shall have the treating physician submit quarterly reports to the Board or its designee.

Respondent shall pay the cost of all evaluations and treatment.

Option: Condition Precedent

Respondent shall not practice as a physician assistant until the medical evaluation has been conducted and respondent has been notified in writing by the Board or its designee that respondent may resume practice. The period of time that respondent is not practicing shall not be counted toward completion of the term of probation.

(NOTE: This condition is for those cases where the evidence demonstrates that medical illness or disability was a contributing cause of the violations.)

17. Third Party Chaperone

During probation, respondent shall have a third party present at all time while consulting, examining or treating _____ (e.g. male, female, minor) patients.

It shall be recorded in the patient record that the third party was present at all times during the consultation, treatment and examination of a patient. The notation shall be signed by both the respondent and the third party. The respondent shall also maintain a separate log at the worksite, to be available for immediate inspection on a random and unannounced basis by the Board or its designee. The log shall include the names of all patients that the respondent consults, examines and/or treats, the date of examination and/or treatment, and the name of the third party present in the room during the examination and/or treatment. Each entry in the log shall be signed and dated by the respondent and the third party.

(NOTE: *This provision should be included where violations found had a sexual component*)

18. Prohibited Practice Areas

During probation, respondent is prohibited from _____(e.g., practicing, performing, or treating)_____ (e.g. a specific medical procedure; surgery; on a specific population).

19. Maintenance of Patient Medical Records

Option 1

Respondent shall keep written medical records for each patient contact (including all visits and phone calls) at the worksite and shall make them available for immediate inspection by the Board or its designee on the premises at all times during business hours.

Option 2

All medical records originated by the respondent shall be reviewed, initialed, and dated daily by supervising physician.

This condition shall be required for _____(e.g. first/etc. year of probation).

20. On-Site Supervision

Option 1

The supervising physician shall be on site at all times respondent is practicing.

Option 2

The supervising physician shall be on site at least 50% of the time respondent is practicing.

Option

Patient's condition shall be reviewed by supervising physician prior to patient leaving facility.

This condition shall be required for _____(e.g., first/etc. year of probation).

Conditions Applying the Uniform Standards Related to Substance Abuse

(TO BE INCLUDED IN ALL CASES RELATED TO SUBSTANCE ABUSE PROBATION)

NOTE: Pursuant to Section 315 of the Business and Professions Code and its regulations, the Physician Assistant Board uses the standards developed by the Substance Abuse Coordination Committee (SACC) for substance abusing licensees. On April 11, 2011, the SACC's Uniform Standards for Substance Abusing Licensees (Uniform Standards) were issued. Administrative law judges, parties and staff are therefore required to use the language below when the violation involved the licensee's use of drugs, alcohol, or both.

To that end, unless the condition is permissive in the Uniform Standards and noted below, each of the following probationary terms and conditions must be used in every case where the violation involved the use of drugs, alcohol, or both. Despite this requirement, appropriate additional optional conditions should still be used in formulating the penalty and in considering additional optional terms or conditions of probation appropriate for greater public protection.

If the violation did not involve the use of drugs or alcohol, but the facts of the case suggest that the terms are warranted, the conditions may be applied to ensure the public is protected. In a case involving drugs or alcohol, a clinical diagnostic evaluation shall be ordered and the remaining provisions of the Uniform Standards may be made waived upon the clinical diagnostic evaluator's report finding that the individual is not a substance-abusing licensee.

21. Clinical Diagnostic Evaluation (CDE)

Within 30 days from the effective date of the Decision and Order and thereafter as required by the Board, Respondent shall undergo a CDE from a licensed practitioner who holds a valid, unrestricted license to conduct CDEs, has three (3) years' experience in providing evaluations of health care professionals with substance abuse disorders, and is approved by the Board. The evaluations shall be conducted in accordance with accepted professional standards for conducting a substance abuse CDE.

Respondent shall undergo a CDE to determine whether the respondent has a substance abuse problem and whether the respondent is a threat to himself or herself or others. The evaluator shall make recommendations for substance abuse treatment, practice restrictions, or other recommendations related to the respondent's rehabilitation and safe practice.

Respondent shall not be evaluated by an evaluator that has a financial, personal, or business relationship with the respondent within the last five (5) years. The evaluator shall provide an objective, unbiased, and independent evaluation.

During the evaluation, if respondent is determined to be a threat to himself or herself or others, the evaluator shall notify the Board within 24 hours of such a determination.

For all evaluations, a final written report shall be provided to the Board no later than ten (10) days from the date the evaluator is assigned the matter unless the evaluator requests additional information to complete the evaluation, not to exceed thirty (30) days.

Respondent may return to either full-time or part-time work if the Board determines he or she is fit to do so based upon consideration of the CDE report and the following criteria:

- License type;
- Licensee's history;
- Documented length of sobriety/time that has elapsed since last substance use;

- Scope and pattern of use;
- Treatment history;
- Medical history and current medical condition;
- Nature, duration and severity of substance abuse; and,
- Whether the licensee is a threat to himself or herself or others.

The Board shall determine whether or not the respondent is safe to return to full-time or part-time work, and what restrictions shall be imposed on the respondent. However, respondent shall not return to practice until he or she has thirty days of negative drug tests.

If respondent is required to participate in inpatient, outpatient, or any other type of treatment, the Board shall take into consideration the recommendation of the CDE, license type, licensee's history, length of sobriety, scope and pattern of substance abuse, treatment history, medical history, current medical condition, nature, duration and severity of substance abuse and whether the licensee is a threat to himself or herself or others.

In the event that any Condition Applying the Uniform Standards requires interpretation or clarification, the Uniform Standards shall be controlling.

22. Abstain from the Use of Alcohol

Respondent shall abstain completely from the use of alcoholic beverages.

[Optional language: This condition may be waived by the Board upon a written finding by the CDE that respondent is not a substance abusing licensee.]

And

23. Abstain from the Use of Controlled Substances and Dangerous Drugs

Respondent shall abstain completely from personal use, possession, injection, consumption by any route, including inhalation of all controlled substances as defined in the California Uniform, Controlled Substances Act. This prohibition does not apply to medications lawfully prescribed to respondent for a bona fide illness or condition by a practitioner licensed to prescribe such medications. Within fifteen (15) calendar days of receiving any lawful prescription medications, respondent shall notify the recovery program in writing of the following: prescriber's name, address, and telephone number; medication name and strength, issuing pharmacy name, address, and telephone number. Respondent shall also provide a current list of prescribed medication with the prescriber's name, address, and telephone number on each quarterly report submitted. Respondent shall provide the probation monitor with a signed and dated medical release covering the entire probation period.

Respondent shall identify for the Board's approval a single coordinating physician and surgeon who shall be aware of respondent's history of substance abuse and who will coordinate and monitor any prescriptions for respondent for dangerous drugs, and controlled substances. Once a Board-approved physician and surgeon has been identified, respondent shall provide a copy of the Initial Probationary License Decision and Order, Statement of Issues or Accusation, Decision and Order, or Stipulated Decision and Order to the physician and surgeon. The coordinating physician and surgeon shall report to the Board or its designee on a quarterly basis respondent's compliance with this condition.

The Board may require that only a physician and surgeon who is a specialist in addictive medicine be approved as the coordinating physician and surgeon.

If Respondent has a positive drug screen for any substance not legally authorized, respondent shall be contacted and instructed to leave work and ordered by the Board to cease any practice and may not practice unless and until notified by the Board. The Board will notify respondent's employer, if any, and worksite monitor, if any, that respondent may not practice. If the Board files a petition to revoke probation or an accusation based upon the positive drug screen, respondent shall be automatically suspended from practice pending the final decision on the petition to revoke probation or accusation. This period of suspension will not apply to the reduction of this probationary period.

OPTIONAL LANGUAGE: This condition may be waived or modified by the Board upon a written finding by the CDE that respondent is not a substance abusing licensee.

24. Drug and Alcohol Recovery Monitoring Program

Within fifteen (15) calendar days from the effective date of this Decision and Order, Respondent shall enroll, participate in , and successfully complete the Board's drug and alcohol recovery monitoring program at Respondent's cost until the drug and alcohol recovery monitoring program determines that participation in the drug and alcohol recovery monitoring program is no longer necessary.

Respondent shall comply with all components of the drug and alcohol recovery monitoring program. Respondent shall sign a release authorizing the drug and alcohol recovery monitoring program to report all aspects of participation of the drug and alcohol recovery monitoring program as requested by the Board or its designee.

Failure to comply with requirements of the drug and alcohol recovery monitoring program, terminating the program without permission or being expelled for cause shall constitute a violation of probation by respondent and shall be immediately suspended from the practice as a physician assistant.

Probation shall be automatically extended until respondent successfully completes the program.

OPTIONAL LANGUAGE: This condition may be waived or modified by the Board or its designee upon a written finding by the CDE that respondent is not a substance abusing licensee.

25. Biological Fluid Testing

Respondent shall immediately submit to and pay for any random and directed biological fluid or hair sample, breath alcohol or any other mode of testing required by the Board or its designee.

Respondent shall be subject to a minimum of fifty-two (52) random tests per year within the first year of probation and a minimum of thirty six (36) random tests per year, for the duration of the probationary term up to five years and a minimum of one (1) test per month in each year of probation after the fifth year provided that there have been no positive test results during the previous five (5) years.

The Board or its designee may require less frequent testing if any of the following applies:

- Where respondent has previously participated in a treatment or monitoring program requiring testing, the board or its designee may consider that prior testing record in applying the testing frequency schedule described above;
- Where the basis for probation or discipline is a single incident or conviction involving alcohol or drugs, or two incidents or convictions involving alcohol or drugs that were at least seven (7) years apart, that did not occur at work or on the way to or from work, the Board or its

designee may skip the first-year testing frequency requirement(s) of a minimum of fifty-two (52) random tests per year and participate in the second year of testing frequency requirement of a minimum of thirty-six (36) random tests per year;

- Where respondent is not employed in any health care field, frequency of testing may be reduced to a minimum of twelve (12) tests per year. If respondent wishes to thereafter return to employment in a health care field, respondent shall be required to test at least once a week for a period of sixty (60) days before commencing such employment, and shall thereafter be required to test at least once a week for a full year, before respondent may be reduced to a testing frequency of no less than twenty-four (24) tests per year;
- Where respondent has a demonstrated period of sobriety and/or non-use, the Board or its designee may reduce the testing frequency to no less than twenty-four (24) tests per year

Respondent shall make daily contact as directed by the Board to determine if he or she must submit to drug testing. Respondent shall have the test performed by a Board-approved laboratory certified and accredited by the U.S. Department of Health and Human Services on the same day that he or she is notified that a test is required. This shall ensure that the test results are sent immediately to the Board. Failure to comply within the time specified shall be considered an admission of a positive drug screen and constitute a violation of probation. If the test results in a determination that the urine was too diluted for testing, the result shall be considered an admission of a positive urine screen and constitutes a violation of probation. If a positive result is obtained, the Board may require respondent to immediately undergo a physical examination and to complete laboratory or diagnostic testing to determine if any underlying physical condition has contributed to the diluted result and to suspend respondent's license to practice. Any such examination or laboratory and testing costs shall be paid by respondent. If it is determined respondent altered the test results, the result shall be considered an admission of a positive urine screen and constitutes a violation of probation and respondent must cease practicing. Respondent shall not resume practice until notified by the Board. If respondent tests positive for a banned substance, respondent shall be contacted and instructed to leave work and ordered to cease all practice. Respondent shall not resume practice until notified by the Board. All alternative drug testing sites due to vacation or travel outside of California must be approved by the Board prior to the vacation or travel.

OPTIONAL: This condition may be waived or modified by the Board or its designee upon a written finding by the CDE that respondent is not a substance abusing licensee.

26. Facilitated Group Support Meetings

Within fifteen (15) days from the effective date of the decision, respondent shall submit to the Board or its designee for prior approval the name of one or more meeting facilitators. Respondent shall participate in facilitated group support meetings within fifteen (15) days after notification of the Board's or designee's approval of the meeting facilitator. When determining the type and frequency of required facilitated group support meeting attendance, the Board or its designee shall give consideration to the following:

- The licensee's history;
- The documented length of sobriety/time that has elapsed since substance abuse;
- The recommendation of the clinical evaluator;
- The scope and pattern of use;
- The licensee's treatment history; and ,
- The nature, duration, and severity of substance abuse.

Verified documentation of attendance shall be submitted by respondent with each quarterly report. Respondent shall continue attendance in such a group for the duration of probation unless notified by the Board that attendance is no longer required.

If a facilitated group support meeting is ordered, the group facilitator shall meet the following qualifications and requirements:

1. The group meeting facilitator shall have a minimum of three (3) years experience in the treatment and rehabilitation of substance abuse, and shall be licensed or certified by the state or other nationally certified organizations.
2. The group meeting facilitator shall not have a financial relationship, personal relationship, or business relationship with the licensee in the last one (1) year.
3. The group facilitator shall provide to the Board or its designee a signed document showing the licensee's name, the group name, the date and location of the meeting, the licensee's attendance, and the licensee's level of participation and progress.
4. The group meeting facilitator shall report any unexcused absence to the Board or its designee within twenty-four (24) hours.

Optional language: This condition may be waived or modified by the Board upon a written finding by the CDE that respondent is not a substance abusing licensee.]

27. Work Site Monitor

Respondent shall have a worksite monitor as required by this term. The worksite monitor shall not have any current or former financial, personal, or familial relationship with the licensee, or other relationship that could reasonably be expected to compromise the ability of the monitor to render impartial and unbiased reports to the Board. If it is impractical for anyone but the licensee's employer or supervising physician to serve as the worksite monitor, this requirement may be waived by the Board. However, under no circumstances shall a licensee's worksite monitor be an employee of the licensee.

The worksite monitor's license scope of practice shall include the scope of practice of the licensee who is being monitored or be another health care professional if no monitor with like scope of practice is available.

The worksite monitor shall have an active unrestricted license, with no disciplinary action within the last five (5) years.

The worksite monitor shall sign an affirmation that he or she has reviewed the terms and conditions of the licensee's disciplinary order and agrees to monitor the licensee as set forth by the Board.

The worksite monitor must adhere to the following required methods of monitoring the licensee:

- a) Have face-to-face contact with the licensee at least once per week in the work environment or more frequently if required by the Board.
- b) Interview other staff in the office regarding the licensee's behavior, if applicable.
- c) Review the licensee's work attendance.

The worksite monitor shall report to the Board as follows:

Any suspected substance abuse must be verbally reported to the Board and the licensee's employer within one (1) business day of occurrence. If occurrence is not during the Board's normal business hours the verbal report must be within one (1) hour of the next business day. A written report shall be submitted to the Board within 48 hours of occurrence.

The worksite monitor shall complete and submit a written report monthly or as directed by the Board. The report shall include: the licensee's name; license number; worksite monitor's name and signature; worksite monitor's license number; worksite location(s); dates licensee had face-

to-face contact with monitor; staff interviewed if applicable; attendance report; any change in behavior and/or personal habits; any indicators leading to suspected substance abuse. The licensee shall complete the required consent forms and sign an agreement with the worksite monitor and the Board to allow the Board to communicate with the worksite monitor. If Respondent tests positive for a banned substance, the Board will immediately notify Respondent's employer that the Respondent's license has been ordered to cease practice.

[Optional language: This condition may be waived or modified by the Board upon a written finding by the CDE that respondent is not a substance abusing licensee.]

28. Major Violations

This provision applies if the licensee commits a violation of the drug and alcohol recovery monitoring program or any other condition applying the uniform standards specific to controlled substance.

If respondent commits a major violation, respondent shall immediately upon notification by the Board, cease practice until notified otherwise in writing by the Board.

Major Violations include, but are not limited to, the following:

1. Failure to complete a Board-ordered program;
2. Failure to undergo a required CDE;
3. Committing multiple minor violations of probation conditions;
4. Treating a patient while under the influence of drugs or alcohol;
5. Committing any drug or alcohol offense that is a violation of the Business and Professions Code or state or federal law;
6. Failure to obtain biological testing for substance abuse;
7. Testing positive for a banned substance; and
8. Knowingly using, making, altering, or possessing any object or product in such a way as to defraud a drug test designed to detect the presence of alcohol or a controlled substance.

Standard Conditions (TO BE INCLUDED IN ALL CASES OF PROBATION)

29. Approval of Supervising Physician

Within 30 days of the effective date of this decision, respondent shall submit to the Board or its designee for its prior approval the name and license number of the supervising physician and a practice plan detailing the nature and frequency of supervision to be provided. Respondent shall not practice until the supervising physician and practice plan are approved by the Board or its designee.

Respondent shall have the supervising physician submit quarterly reports to the Board or its designee.

If the supervising physician resigns or is no longer available, respondent shall, within 15 days, submit the name and license number of a new supervising physician for approval. Respondent shall not practice until a new supervising physician has been approved by the Board or its designee.

30. Notification of Employer and Supervising Physician

Respondent shall notify his/her current and any subsequent employer and supervising physician(s) of the discipline and provide a copy of the accusation, decision, and order to each employer and supervising physician(s) during his/her period of probation, before accepting or continuing employment. Respondent shall ensure that each employer informs the Board or its designee, in writing within 30 days, verifying that the employer and supervising physician(s) have received a copy of Accusation, Decision, and Order.

This condition shall apply to any change(s) in place of employment.

The respondent shall provide to the Board or its designee the names, physical addresses, mailing addresses, and telephone numbers of all employers, supervising physicians, and work site monitor, and shall inform the Board or its designee in writing of the facility or facilities at which the person practices as a physician assistant.

Respondent shall give specific, written consent to the Board or its designee to allow the Board or its designee to communicate with the employer, supervising physician, or work site monitor regarding the licensee's work status, performance, and monitoring.

31. Obey All Laws

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

32. Quarterly Reports

Respondent shall submit quarterly declarations under penalty of perjury on forms provided by the Board or its designee, stating whether there has been compliance with all the conditions of probation.

33. Other Probation Requirements

Respondent shall comply with the Board's probation unit. Respondent shall, at all times, keep the Board and probation unit informed of respondent's business and residence addresses. Changes of such addresses shall be immediately communicated in writing to the Board and probation unit. Under no circumstances shall a post office box serve as an address of record, except as allowed by California Code of Regulations 1399.511.

Respondent shall appear in person for an initial probation interview with Board or its designee within 90 days of the decision. Respondent shall attend the initial interview at a time and place determined by the Board or its designee.

Respondent shall, at all times, maintain a current and renewed physician assistant license.

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

34. Interview with Medical Consultant

Respondent shall appear in person for interviews with the Board's medical or expert physician assistant consultant upon request at various intervals and with reasonable notice.

35. Non-practice While on Probation

Respondent shall notify the Board or its designee in writing within 15 calendar days of any periods of non-practice lasting more than 30 calendar days. Non-practice is defined as any period of time exceeding 30 calendar days in which respondent is not practicing as a physician assistant. Respondent shall not return to practice until the supervising physician is approved by the Board or its designee.

If, during probation, respondent moves out of the jurisdiction of California to reside or practice elsewhere, including federal facilities, respondent is required to immediately notify the Board in writing of the date of departure, and the date of return, if any.

Practicing as a physician assistant in another state of the United States or federal jurisdiction while on active probation with the physician assistant licensing authority of that state or jurisdiction shall not be considered non-practice.

All time spent in a clinical training program that has been approved by the Board or its designee, shall not be considered non-practice. Non-practice due to a Board ordered suspension or in compliance with any other condition or probation, shall not be considered a period of non-practice.

Any period of non-practice, as defined in this condition, will not apply to the reduction of the probationary term. Periods of non-practice do not relieve respondent of the responsibility to comply with the terms and conditions of probation.

It shall be considered a violation of probation if for a total of two years, respondent fails to practice as a physician assistant. Respondent shall not be considered in violation for non-practice as long as respondent is residing and practicing as a physician assistant in another state of the United States and is on active probation with the physician assistant licensing authority of that state, in which case the two year period shall begin on the date probation is completed or terminated in that state.

36. Unannounced Clinical Site Visit

The Board or its designee may make unannounced clinical site visits at any time to ensure that respondent is complying with all terms and conditions of probation.

37. Condition Fulfillment

A course, evaluation, or treatment completed after the acts that gave rise to the charges in the Accusation but prior to the effective date of the Decision may, in the sole discretion of the Board or its designee, be accepted towards the fulfillment of the condition.

38. Completion of Probation

Respondent shall comply with all financial obligations (e.g., cost recovery, probation costs) no later than 60 calendar days prior to the completion of probation. Upon successful completion of probation, respondent's license will be fully restored.

39. Violation of Probation

If respondent violates probation in any respect, the Board after giving respondent notice and the opportunity to be heard, may revoke probation and carry out the disciplinary order that was stayed. If an accusation or petition to revoke probation is filed against respondent during probation, the Board shall have continuing jurisdiction until the matter is final, and the period of probation shall be extended until the matter is final.

40. Cost Recovery

The respondent is hereby ordered to reimburse the Physician Assistant Board the amount of \$_____ within 90 days from the effective date of this decision for its investigative costs. Failure to reimburse the Board costs for its investigation shall constitute a violation of the probation order, unless the Board agrees in writing to payment by an installment plan because of financial hardship. The filing of bankruptcy by the respondent shall not relieve the respondent of his/her responsibility to reimburse the Board for its investigative costs.

(NOTE: Most physician assistant cost recovery orders are paid on an installment plan.)

41. Probation Monitoring Costs

Respondent shall pay the costs associated with probation monitoring each and every year of probation, as designated by the Board, which may be adjusted on an annual basis. The costs shall be made payable to the Physician Assistant Board and delivered to the Board no later than January 31 of each calendar year.

42. Voluntary License Surrender

Following the effective date of this probation, if respondent ceases practicing due to retirement, health reasons, or is otherwise unable to satisfy the terms and conditions of probation, respondent may request, in writing, the voluntary surrender of respondent's license to the Board. Respondent's written request to surrender his or her license shall include the following: his or her name, license number, case number, address of record, and an explanation of the reason(s) why Respondent seeks to surrender his or her license. The Board reserves the right to evaluate the respondent's request and to exercise its discretion whether to grant the request or to take any other action deemed appropriate and reasonable under the circumstances. Respondent shall not be relieved of the requirements of his or her probation unless the Board or its designee notifies respondent in writing that respondent's request to surrender his or her license has been accepted. Upon formal acceptance of the surrender, respondent shall, within 15 days, deliver respondent's wallet and wall certificate to the Board or its designee and shall no longer practice as a physician assistant. Respondent will no longer be subject to the terms and conditions of probation and the surrender of respondent's license shall be deemed disciplinary action. If respondent re-applies for a physician assistant license, the application shall be treated as a petition for reinstatement of a revoked license.

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