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FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO Oct. 18 20 18
BY Sara Fashin ANALYST

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

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

13 **REHANA AZIZ, M.D.**
14 9607 N. Willey Ct.
Fresno, CA 93720-5414

15 Physician's and Surgeon's Certificate
No. A 54063

16 Respondent.

Case No. 800-2018-048569

PETITION TO REVOKE PROBATION

18 Complainant alleges:

19 **PARTIES**

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

23 2. On or about March 29, 1995, the Medical Board issued Physician's and Surgeon's
24 Certificate Number A 54063 to Rehana Aziz, M.D. (Respondent). The Physician's and Surgeon's
25 Certificate was on probationary status at all times relevant to the charges brought herein and will
26 expire on January 31, 2019, unless renewed.

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JURISDICTION

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2 3. This Petition to Revoke Probation is brought before the Board, under the authority of
3 the following laws. All section references are to the Business and Professions Code unless
4 otherwise indicated.

5 4. Section 2227 of the Code states:

6 “(a) A licensee whose matter has been heard by an administrative law judge of the Medical
7 Quality Hearing Panel as designated in Section 11371 of the Government Code, or whose default
8 has been entered, and who is found guilty, or who has entered into a stipulation for disciplinary
9 action with the board, may, in accordance with the provisions of this chapter:

10 “(1) Have his or her license revoked upon order of the board.

11 “(2) Have his or her right to practice suspended for a period not to exceed one year upon
12 order of the board.

13 “(3) Be placed on probation and be required to pay the costs of probation monitoring upon
14 order of the board.

15 “(4) Be publicly reprimanded by the board. The public reprimand may include a
16 requirement that the licensee complete relevant educational courses approved by the board.

17 “(5) Have any other action taken in relation to discipline as part of an order of probation, as
18 the board or an administrative law judge may deem proper.

19 “(b) Any matter heard pursuant to subdivision (a), except for warning letters, medical
20 review or advisory conferences, professional competency examinations, continuing education
21 activities, and cost reimbursement associated therewith that are agreed to with the board and
22 successfully completed by the licensee, or other matters made confidential or privileged by
23 existing law, is deemed public, and shall be made available to the public by the board pursuant to
24 Section 803.1.”

25 5. California Code of Regulations, Title 16, Section 1361.52, states:

26 “(a) A licensee who does any of the following shall be deemed to have committed a major
27 violation of his or her probation:

28 “(1) Fails to undergo a required clinical diagnostic evaluation;

- 1 “(2) Commits multiple minor violations of probation conditions and terms;
- 2 “(3) Treats a patient or patients while under the influence of a prohibited substance;
- 3 “(4) Engage in any drug or alcohol related act that is a violation of state or federal law or
- 4 regulation;
- 5 “(5) Fails to undergo biological fluid testing when ordered;
- 6 “(6) Uses, consumes, ingests, or administers to himself or herself a prohibited substance;
- 7 “(7) Knowingly uses, makes, alters, or possesses any object or product in such a way as to
- 8 defraud or attempt to defraud a biological fluid test designed to detect the presence of a prohibited
- 9 substance; or
- 10 “(8) Fails to comply with any term or condition of his or her probation that impairs public
- 11 safety.
- 12 “(b) If a licensee commits a major violation, the Board will take one or more of the
- 13 following actions:
- 14 “(1) Issue an immediate cease-practice order and order the licensee to undergo a clinical
- 15 diagnostic evaluation at the expense of the licensee. Any order issued by the Board pursuant to
- 16 this subsection shall state that the licensee must test negative for at least a month of continuous
- 17 biological fluid testing before being allowed to resume practice.
- 18 “(2) Increase the frequency of biological fluid testing.
- 19 “(3) Refer the licensee for further disciplinary action, such as suspension, revocation, or
- 20 other action as determined by the Board.
- 21 “(c) A licensee who does any of the following shall be deemed to have committed a minor
- 22 violation of his or her probation:
- 23 “(1) Fails to submit required documentation to the Board in a timely manner;
- 24 “(2) Has an unexcused absence at a required meeting;
- 25 “(3) Fails to contact a worksite monitor as required; or
- 26 “(4) Fails to comply with any term or condition of his or her probation that does not impair
- 27 public safety.
- 28

1 “(d) If a licensee commits a minor violation, the Board will take one or more of the
2 following actions:

3 “(1) Issue a cease-practice order;

4 “(2) Order practice limitations;

5 “(3) Order or increase supervision of licensee;

6 “(4) Order increased documentation;

7 “(5) Issue a citation and fine, or a warning letter;

8 “(6) Order the licensee to undergo a clinical diagnostic evaluation at the expense of the
9 licensee;

10 “(7) Take any other action as determined by the Board.

11 “(e) Nothing in this section shall be considered a limitation on the Board's authority to
12 revoke the probation of a licensee who has violated a term or condition of that probation.”

13 **PROBATION CASE**

14 6. In a prior disciplinary action entitled *In the Matter of the Accusation Against Rehana*
15 *Aziz, M.D.* before the Medical Board of California, in Case Number 800-2014-008996, the Board
16 issued a decision, effective June 16, 2017, in which Respondent's license to practice medicine
17 was revoked. However, the revocation was stayed and Respondent's license was placed on
18 probation for a period of four (4) years with numerous terms and conditions. That decision is
19 now final, and a copy of the decision is attached as Exhibit A, and is incorporated by reference
20 herein.

21 7. In a prior disciplinary action entitled *In the Matter of the First Amended Petition to*
22 *Revoke Probation Against Rehana Aziz, M.D.* before the Medical Board of California, in Case
23 Number 800-2017-034648, the Board issued a decision, effective April 27, 2018, in which
24 Respondent's license to practice medicine was revoked. However, the revocation was stayed and
25 Respondent's license was placed on probation for a period of six (6) years with numerous terms
26 and conditions (Probation Order). That decision is now final, and a copy of the decision is
27 attached as Exhibit B, and is incorporated by reference herein.

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1 8. Term and Condition 2 of the Probation Order states:

2 “2. BIOLOGICAL FLUID TESTING. Respondent shall immediately submit to
3 biological fluid testing, at respondent’s expense, upon request of the Board or its designee.
4 “Biological fluid testing” may include, but is not limited to, urine, blood, breathalyzer, hair
5 follicle testing, or similar drug screening approved by the Board or its designee. Respondent shall
6 make daily contact with the Board or its designee to determine whether biological fluid testing is
7 required. Respondent shall be tested on the date of the notification as directed by the Board or its
8 designee. The Board may order a respondent to undergo a biological fluid test on any day, at any
9 time, including weekends and holidays. Except when testing on a specific date as ordered by the
10 Board or its designee, the scheduling of biological fluid testing shall be done on a random basis.
11 The cost of biological fluid testing shall be borne by the respondent.

12 “During the first year of probation, respondent shall be subject to 52 to 104 random tests.
13 During the second year of probation and for the duration of the probationary term, up to five (5)
14 years, respondent shall be subject to 36 to 104 random tests per year. Only if there has been no
15 positive biological fluid tests in the previous five (5) consecutive years of probation, may testing
16 be reduced to one (1) time per month. Nothing precludes the Board from increasing the number
17 of random tests to the first-year level of frequency for any reason.

18 “Prior to practicing medicine, respondent shall contract with a laboratory or service,
19 approved in advance by the Board or its designee, that will conduct random, unannounced,
20 observed, biological fluid testing and meets all the following standards:

21 “(a) Its specimen collectors are either certified by the Drug and Alcohol Testing Industry
22 Association or have completed the training required to serve as a collector for the United States
23 Department of Transportation.

24 “(b) Its specimen collectors conform to the current United States Department of
25 Transportation Specimen Collection Guidelines.

26 “(c) Its testing locations comply with the Urine Specimen Collection Guidelines published
27 by the United States Department of Transportation without regard to the type of test administered.

28 “(d) Its specimen collectors observe the collection of testing specimens.

1 “(e) Its laboratories are certified and accredited by the United States Department of Health
2 and Human Services.

3 “(f) Its testing locations shall submit a specimen to a laboratory within one (1) business day
4 of receipt and all specimens collected shall be handled pursuant to chain of custody procedures.
5 The laboratory shall process and analyze the specimens and provide legally defensible test results
6 to the Board within seven (7) business days of receipt of the specimen. The Board will be
7 notified of non-negative results within one (1) business day and will be notified of negative test
8 results within seven (7) business days.

9 “(g) Its testing locations possess all the materials, equipment, and technical expertise
10 necessary in order to test respondent on any day of the week.

11 “(h) Its testing locations are able to scientifically test for urine, blood, and hair specimens
12 for the detection of alcohol and illegal and controlled substances.

13 “(i) It maintains testing sites located throughout California.

14 “(j) It maintains an automated 24-hour toll-free telephone system and/or a secure on-line
15 computer database that allows the respondent to check in daily for testing.

16 “(k) It maintains a secure, HIPAA-compliant website or computer system that allows staff
17 access to drug test results and compliance reporting information that is available 24 hours a day.

18 “(l) It employs or contracts with toxicologists that are licensed physicians and have
19 knowledge of substance abuse disorders and the appropriate medical training to interpret and
20 evaluate laboratory biological fluid test results, medical histories, and any other information
21 relevant to biomedical information.

22 “(m) It will not consider a toxicology screen to be negative if a positive result is obtained
23 while practicing, even if the respondent holds a valid prescription for the substance.

24 “Prior to changing testing locations for any reason, including during vacation or other
25 travel, alternative testing locations must be approved by the Board and meet the requirements
26 above.

27 “The contract shall require that the laboratory directly notify the Board or its designee of
28 non-negative results within one (1) business day and negative test results within seven (7)

1 business days of the results becoming available. Respondent shall maintain this laboratory or
2 service contract during the period of probation.

3 “A certified copy of any laboratory test result may be received in evidence in any
4 proceedings between the Board and respondent.

5 “If a biological fluid test result indicates respondent has used, consumed, ingested, or
6 administered to himself or herself a prohibited substance, the Board shall order respondent to
7 cease practice and instruct respondent to leave any place of work where respondent is practicing
8 medicine or providing medical services. The Board shall immediately notify all of respondent’s
9 employers, supervisors and work monitors, if any, that respondent may not practice medicine or
10 provide medical services while the cease-practice order is in effect.

11 “A biological fluid test will not be considered negative if a positive result is obtained while
12 practicing, even if the practitioner holds a valid prescription for the substance. If no prohibited
13 substance use exists, the Board shall lift the cease-practice order within one (1) business day.

14 “After the issuance of a cease-practice order, the Board shall determine whether the positive
15 biological fluid test is in fact evidence of prohibited substance use by consulting with the
16 specimen collector and the laboratory, communicating with the licensee, her treating physician(s),
17 other health care provider, or group facilitator, as applicable.

18 “For purposes of this condition, the terms ‘biological fluid testing’ and ‘testing’ mean the
19 acquisition and chemical analysis of a respondent’s urine, blood, breath, or hair.

20 “For purposes of this condition, the term ‘prohibited substance’ means an illegal drug, a
21 lawful drug not prescribed or ordered by an appropriately licensed health care provider for use by
22 respondent and approved by the Board, alcohol, or any other substance the respondent has been
23 instructed by the Board not to use, consume, ingest, or administer to himself or herself.

24 “If the Board confirms that a positive biological fluid test is evidence of use of a prohibited
25 substance, respondent has committed a major violation, as defined in section 1361.52(a), and the
26 Board shall impose any or all of the consequences set forth in section 1361.52(b), in addition to
27 any other terms or conditions the Board determines are necessary for public protection or to
28 enhance respondent’s rehabilitation.”

1 9. Term and Condition 8 of the Probation Order states:

2 “8. CONTROLLED SUBSTANCES - ABSTAIN FROM USE. Respondent shall abstain
3 completely from the personal use or possession of controlled substances as defined in the
4 California Uniform Controlled Substances Act, dangerous drugs as defined by Business and
5 Professions Code section 4022, and any drugs requiring a prescription. This prohibition does not
6 apply to medications lawfully prescribed to Respondent by another practitioner for a bona fide
7 illness or condition.

8 “Within 15 calendar days of receiving any lawfully prescribed medications, Respondent
9 shall notify the Board or its designee of the: issuing practitioner’s name, address, and telephone
10 number; medication name, strength, and quantity; and issuing pharmacy name, address, and
11 telephone number.

12 “If Respondent has a confirmed positive biological fluid test for any substance (whether or
13 not legally prescribed) and has not reported the use to the Board or its designee, Respondent
14 shall receive a notification from the Board or its designee to immediately cease the practice of
15 medicine. The Respondent shall not resume the practice of medicine until final decision on an
16 accusation and/or a petition to revoke probation. An accusation and/or petition to revoke
17 probation shall be filed by the Board within 15 days of the notification to cease practice. If the
18 Respondent requests a hearing on the accusation and/or petition to revoke probation, the Board
19 shall provide the Respondent with a hearing within 30 days of the request, unless the Respondent
20 stipulates to a later hearing. A decision shall be received from the Administrative Law Judge or
21 the Board within 15 days unless good cause can be shown for the delay. The cessation of practice
22 shall not apply to the reduction of the probationary time period.

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

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1 CAUSE FOR ACTION

2 **(Violation of Probation: Condition #8, Controlled Substances—Abstain from Use)**

3 10. Respondent's probation is subject to revocation, pursuant to probation condition eight
4 of the Probation Order, because she failed to abstain from the use of controlled substances. The
5 circumstances are as follows:

6 11. The Board has designated FirstSource Solutions to administer biological fluid testing
7 for probationers. On or about May 18, 2017, an analyst employed by the Board sent a letter to
8 Respondent informing her of the requirement that she enroll in biological fluid testing with
9 FirstSource no later than the effective date of her original disciplinary order, June 16, 2017. On
10 or about June 15, 2017, Respondent met with a Board probation inspector who discussed
11 Respondent's probation conditions with Respondent, and advised her to immediately enroll in
12 biological fluid testing with FirstSource Solutions. Respondent signed an Acknowledgment of
13 Decision indicating that she understood her probation conditions, including the biological fluid
14 testing requirement.

15 12. On or about September 19, 2018, Respondent submitted a urine sample which tested
16 positive for Tramadol, an opiate medication and Schedule IV controlled substance that was not
17 prescribed to Respondent. Respondent was unable to explain this positive test.

18 13. On or about September 24, 2018, Respondent submitted a urine sample which again
19 tested positive for Tramadol.

20 PRAYER

21 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
22 and that following the hearing, the Medical Board of California issue a decision:

23 1. Revoking the probation that was granted by the Medical Board of California in Case
24 No. 800-2017-034648 and imposing the disciplinary order that was stayed, thereby revoking
25 Physician's and Surgeon's Certificate No. A 54063 issued to Rehana Aziz, M.D.;

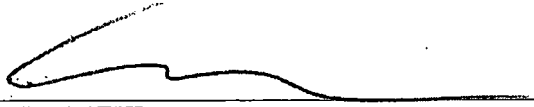
26 2. Revoking or suspending Physician's and Surgeon's Certificate No. A 54063, issued to
27 Rehana Aziz, M.D.;

1 3. Revoking, suspending or denying approval of Rehana Aziz, M.D.'s authority to
2 supervise physician assistants and advanced practice nurses;

3 4. Ordering Rehana Aziz, M.D., if placed on probation, to pay the Board the costs of
4 probation monitoring; and

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

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7 DATED: 10/18/18


8 STEVE DIEHL
9 Supervising Deputy Attorney General
10 for

11 KIMBERLY KIRCHMEYER
12 Executive Director
13 Medical Board of California
14 Department of Consumer Affairs
15 State of California
16 *Complainant*

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