

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

In the Matter of the Petition to Revoke
Probation Against:

Arudra Bodepudi, M.D.

Physician's and Surgeon's
Certificate No. A 73676

Respondent.

Case No. 800-2022-087548

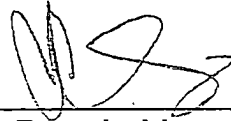
DECISION

The attached Proposed Decision is hereby adopted as the Decision and Order of the Medical Board of California, Department of Consumer Affairs, State of California.

This Decision shall become effective at 5:00 p.m. on November 27, 2023.

IT IS SO ORDERED October 27, 2023.

MEDICAL BOARD OF CALIFORNIA



Laurie Rose Lubiano, J.D., Chair
Panel A

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

**In the Matter of the Accusation and Petition to Revoke
Probation Against:**

ARUDRA BODEPUDI, M.D., Respondent

Agency Case No. 800-2022-087548

OAH No. 2022120210

PROPOSED DECISION

Marcie Larson, Administrative Law Judge, Office of Administrative Hearings (OAH), State of California, heard this matter by videoconference on September 25, 2023, from Sacramento, California.

Kalev Kaseoru, Deputy Attorney General, represented complainant Reji Varghese, Executive Director, Medical Board of California (Board), Department of Consumer Affairs.

Michael J. Khouri, Attorney at Law, represented respondent Arudra Bodepudi, M.D., who was present.

Evidence was received, the record was closed, and the matter was submitted for decision on September 25, 2023.

FACTUAL FINDINGS

1. On December 28, 2000, the Board issued Physician's and Surgeon's Certificate Number A 73676 (license) to respondent. The license will expire on June 30, 2024, unless renewed or revoked.

2. On August 30, 2022, William Prasifka, a former Executive Director of the Board, acting solely in his official capacity, signed and thereafter filed the Accusation and Petition to Revoke Probation. Complainant contends that grounds exist to revoke respondent's probation and impose the stayed order of revocation due to her unfitness to practice and failure to comply with the terms and conditions of her probation.

Generally, complainant alleges that respondent went into non-practice status when a Cease Practice Order was issued against respondent following her suspension from the University of California, San Diego (UCSD) Physician Enhancement Program (PEP). The suspension was a result of respondent's failure to provide PEP with billing records. Thereafter, she failed to successfully complete a clinical training program as required due to her non-practice for over 18 months, and she was found unfit to practice.

3. Respondent timely filed a Notice of Defense, pursuant to Government Code section 11506. The matter was set for an evidentiary hearing before an Administrative Law Judge of the OAH, an independent adjudicative agency of the State of California, pursuant to Government Code section 11500 et seq.

Prior Discipline History

2010 ACCUSATION

4. On July 13, 2010, a former Board Executive Director, in her official capacity, filed an Accusation (2010 Accusation) against respondent. The 2010 Accusation alleged cause to discipline respondent's license under Business and Professions Code section 2234, subdivisions (b) and (c). The 2010 Accusation alleged that while working as a physician specializing in geriatric psychiatry with the Permanente Medical Group (Kaiser) in Stockton, California, respondent committed gross negligence and repeated acts of negligence in her treatment of several patients.

5. Generally, respondent's conduct included failure to: properly manage her patients' medications, adequately assess a patient's psychosis in relation to her overall medical status, obtain adequate medical histories from patients and to adequately assess and manage patients with substance abuse issues.

2012 STIPULATED SETTLEMENT

6. Effective on February 16, 2012, respondent resolved the 2010 Accusation through a Stipulated Settlement and Disciplinary Order (2012 Disciplinary Order). Respondent admitted the truth of every charge and allegation in the 2010 Accusation. Respondent's license was revoked. The revocation was stayed, and respondent was placed on probation for four years under several terms and conditions, including that she obey all laws, retain a billing monitor, and complete a medical record keeping program and a prescribing practices course. Her probation was scheduled to end in February 2016.

2015 ACCUSATION AND PETITION TO REVOKE PROBATION

7. On June 22, 2015, a former Board Executive Director, in her official capacity, filed an Accusation and Petition to Revoke Probation (2015 Accusation) against respondent. The 2015 Accusation alleged cause for discipline of respondent's license under Business and Professions Code sections 2227, 2234, subdivision (c), and 2266. Generally, the 2015 Accusation alleged that while working in private practice, respondent engaged in repeated acts of negligence and unprofessional conduct and failed to maintain accurate medical records related to her treatment of three patients. Respondent's conduct included pressuring patients to pay for multiple sessions to perform assessments, failing to keep records of a patient examination, and failing to have written policies regarding insurance, billing, payments, and receipts.

2016 STIPULATED SETTLEMENT

8. Effective on August 25, 2016, respondent resolved the 2015 Accusation, through a Stipulated Settlement and Disciplinary Order (2016 Disciplinary Order). Respondent agreed that if a Petition to Revoke Probation were filed against her the allegations in the 2015 Accusation would be deemed true, correct, and fully admitted. Respondent's license was revoked. The revocation was stayed, and respondent was placed on probation for 35 months under several terms and conditions, including the following:

[¶] ... [¶]

3. MONITORING - BILLING. Within 30 calendar days of the effective date of this Decision, Respondent shall submit to the Board or its designee for prior approval as a billing monitor(s), the name and qualifications of a billing service

who will monitor Respondent's billing or one or more licensed physicians and surgeons whose licenses are valid and in good standing, and who are preferably American Board of Medical Specialties (ABMS). [¶...¶]

[¶] ... [¶]

Within 60 calendar days of the effective date of this Decision, and continuing throughout probation, Respondent's billing shall be monitored by the approved monitor. Respondent shall make all records available for immediate inspection and copying on the premises by the monitor at all times during business hours and shall retain the records for the entire term of probation.

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

[¶] ... [¶]

If the monitor resigns or is no longer available, Respondent shall, within 5 calendar days of such resignation or unavailability, submit to the Board or its designee, for prior approval, the name and qualifications of a replacement

monitor who will be assuming that responsibility within 15 calendar days. If Respondent fails to obtain approval of a replacement monitor within 60 calendar days of the resignation or unavailability of the monitor, Respondent shall receive a notification from the Board or its designee to cease the practice of medicine within three (3) calendar days after being so notified Respondent shall cease the practice of medicine until a replacement monitor is approved and assumes monitoring responsibility.

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

8. GENERAL PROBATION REQUIREMENTS: Compliance with Probation Unit. Respondent shall comply with the Board's probation unit and all terms and conditions of this Decision.

[¶] ... [¶]

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

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

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

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

Periods of non-practice will relieve Respondent of the responsibility to comply with the probationary terms and conditions with the exception of this condition and the following terms and conditions of probation; Obey All Laws; and General Probation Requirements.

[¶] ... [¶]

12. VIOLATION OF PROBATION. Failure to fully comply with any term or condition of probation is a 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, or an Interim Suspension Order 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.

Current Probation Violations

9. On or about August 12, 2016, respondent met with Board Inspector Bryan Joelson, her probation monitor. The purpose of the meeting was an "intake interview" with respondent to discuss all terms and conditions of her probation set

forth in the 2016 Disciplinary Order. Respondent signed the "Acknowledgement of Decision" form stating that she understood the terms of her probation.

10. Between August 2016 and February 2017, respondent failed to have a billing monitor. Inspector Joelson extended the deadline to allow respondent additional time to find a monitor. On February 23, 2017, respondent enrolled in the PEP billing monitor program. On March 22, 2017, respondent met with Inspector Joelson to discuss deadlines and reminders regarding probation compliance issues. Inspector Joelson wrote a letter to respondent dated April 11, 2017, memorializing their meeting. Inspector Joelson confirmed that respondent enrolled in the PEP billing monitor program.

Respondent was not practicing medicine. Her probation was tolled during non-practice. Inspector Joelson reminded respondent that she was required to notify the Board and the PEP program when she returned to practice. Respondent did not return to practice until 2018.

11. By letter dated August 26, 2019, Nate Floyd, Administrative Director of the PEP program, notified respondent that effective immediately she was suspended from the PEP program. Mr. Floyd explained that respondent had not submitted any patient lists since March 2019. She also had not submitted any chart notes or billing information for 2019. On November 15, 2019, the Board issued respondent a Cease Practice Order for failure to comply with Probation Condition No. 3.

12. In August 2021, Inspector Ralph Correa, Probation Monitor for the Board, was assigned to monitor respondent's probation. Inspector Correa prepared a "Non-Compliance Report" and testified at hearing. Inspector Correa explained that on November 19, 2021, respondent exceeded two years of non-practice. She had not

practiced medicine since the Cease Practice Order was issued on November 15, 2019. Pursuant to Probation Condition No. 10, respondent was required to complete a clinical competency training program. On November 19, 2021, respondent provided Inspector Correa proof of enrollment in the UCSD program, Physician Assessment and Clinical Education (PACE), which meets the criteria of Condition 18 of the Board's "Manual of Model Disciplinary Orders and Disciplinary Guidelines." She also requested that Mark Chofla, D.O., be approved as her new billing monitor.

13. By letter dated December 3, 2021, Inspector Correa approved Dr. Chofla as respondent's billing monitor. As a result of respondent's compliance with Probation Condition No. 3, effective December 6, 2021, the Board terminated the November 15, 2021 Cease Practice Order. However, pursuant to Probation Condition No. 10, respondent could not resume her medical practice until she successfully completed a clinical training program.

14. The PACE program determined that respondent should undergo a psychiatric fitness for duty evaluation before proceeding with the physician competency assessment. On January 20, 2022, respondent participated in a psychiatric fitness for duty evaluation, which consisted of an interview of respondent, a mental status examination, interviews with PACE staff regarding their interactions with respondent, and a review of records. The evaluators, William A. Norcross, M.D., Clinical Professor of Family Medicine, and Patricia Smith, M.P.H., Case Manager for PACE, opined respondent is not fit for duty. Neither Dr. Norcross, nor Ms. Smith testified at hearing regarding their opinions.

15. On or about April 13, 2022, the Board received PACE's report stating respondent was not fit for duty. As a result of the PACE findings, respondent did not

successfully complete a clinical training program, as required by Probation Condition No. 10.

Respondent's Evidence

16. Respondent completed her undergraduate and medical degrees in India. She moved to the United States to be with her husband. She volunteered at hospitals in Louisiana. By 1992, respondent passed all parts of the medical licensure examination. Respondent completed her internship and psychiatric residency at the University of Texas at Houston Health Science Center. She then completed a 12-month fellowship in geriatric psychiatry at Case Western Reserve University in Cleveland, Ohio.

17. In 2000, respondent obtained her license. In January 2001, she began working as a physician specializing in geriatric psychiatry at Kaiser in Stockton, California. Respondent worked for Kaiser until she was terminated from her position in May 2010. The reason for her termination was her conduct set forth in the 2012 Accusation. However, respondent denies any wrongdoing. Rather a "computer glitch" caused patient medication errors.

18. After respondent was terminated from Kaiser, she began a private practice. Respondent explained that she had a difficult time complying with her Board probation while operating her private practice, because she had seven or eight probation monitors. Respondent was not clear what was expected of her regarding the submission of billing records to the PEP program.

19. Respondent contends that she is fit for duty. She has not been diagnosed with mental illness. She has never had issues with drugs or alcohol. She has never been in trouble with the law. On August 15, 2023, respondent was evaluated by Nathan E.

Lavid, M.D. The evaluation included an interview of respondent, review of records, and psychological testing. Dr. Lavid opined respondent is fit to practice medicine. Dr. Lavid did not testify at hearing concerning his opinions.

20. Respondent wants to continue to practice psychiatry. Helping her clients is her passion and gives her purpose. Respondent believes the help she provides her clients helps to improve their lives.

Analysis

21. Complainant established by a preponderance of the evidence that respondent violated the terms of her probation set forth in the 2016 Disciplinary Order. On or about November 15, 2019, respondent was ordered to cease her practice due to her suspension from the PEP program. Respondent failed to provide the PEP program with billing records as required. Respondent's conduct violated Probation Condition No. 3. Respondent spent two years in non-practice status. As a result, pursuant to Probation Condition No. 10, she was required to complete a clinical competency training program. She enrolled in the PACE program. However, she failed to complete the program, which is a violation of her probation.

22. Complainant did not establish by clear and convincing evidence that respondent is unsafe to practice medicine. Complainant's only evidence to support this cause for discipline is the PACE fitness for duty evaluation. Neither of the evaluators testified at hearing regarding their opinions. As a result, their opinions and findings were admitted as administrative hearsay to supplement or explain other evidence, and are not sufficient standing alone to support a factual finding. (Gov. Code, § 11513, subd. (d).)

23. Respondent has been on probation for over 10 years. During that time, she has engaged in repeated violations of her probation. She has been given many opportunities to comply with probation. She has repeatedly failed to do so. Most concerning is that she took no responsibility for her conduct. Respondent denied she engaged in the conduct which resulted in the 2010 Accusation. She also blamed her probation monitors for her failure to comply with probation. Respondent gave no assurances that she would comply with probation should she be allowed to return to practice. When all the evidence is considered, revocation of her license is necessary to protect the public health, safety, and welfare.

LEGAL CONCLUSIONS

1. "Protection of the public shall be the highest priority for the Medical Board of California in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount." (Bus. & Prof. Code, § 2001.1.)

Accusation

2. In an Accusation seeking to revoke, suspend, or otherwise discipline respondent's professional license, the Board has the burden of proof to establish the allegations in the Accusation by "clear and convincing evidence." (*Ettinger v. Board of Medical Quality Assurance* (1982) 135 Cal.App.3d 853, 855-856.) The clear and convincing evidence standard requires a finding of high probability, or evidence "so clear as to leave no substantial doubt" and "sufficiently strong to command the

unhesitating assent of every reasonable mind." (*Katie V. v. Superior Court* (2005) 130 Cal.App.4th 586, 594.)

3. Business and Professions Code section 822 provides:

If a licensing agency determines that its licentiate's ability to practice his or her profession safely is impaired because the licentiate is mentally ill, or physically ill affecting competency, the licensing agency may take action by any one of the following methods:

(a) Revoking the licentiate's certificate or license.

(b) Suspending the licentiate's right to practice.

(c) Placing the licentiate on probation.

(d) Taking such other action in relation to the licentiate as the licensing agency in its discretion deems proper.

The licensing agency shall not reinstate a revoked or suspended certificate or license until it has received competent evidence of the absence or control of the condition which caused its action and until it is satisfied that with due regard for the public health and safety the person's right to practice his or her profession may be safely reinstated.

4. As explained in Factual Finding 22, complainant failed to establish by clear and convincing evidence that respondent is not fit for duty. Therefore, no cause

exists to discipline respondent's license pursuant to Business and Professions Code section 822.

Petition to Revoke Probation

5. In a petition to revoke probation, complainant must show by a preponderance of evidence that respondent's license should be revoked. (*Sandarg v. Dental Board of California* (2010) 184 Cal.App.4th 1434). This evidentiary standard requires complainant to produce evidence of such weight that, when balanced against evidence to the contrary, is more persuasive. (*People ex rel. Brown v. Tri-Union Seafoods, LLC* (2009) 171 Cal.App.4th 1549, 1567.) In other words, complainant must prove it is more likely than not that respondent violated the conditions of her probation. (*Lillian F. v. Superior Court* (1984) 160 Cal.App.3d 314, 320.)

6. Respondent violated Probation Condition 3 of the 2016 Disciplinary Order when she failed to comply with the billing monitor requirements of her probation. Therefore, cause exists to set aside the stay order and impose the stayed discipline of revocation of respondent's license, pursuant to Condition 12 of the 2016 Disciplinary Order.

7. Respondent violated Probation Condition 10 of the 2016 Disciplinary Order when she failed to successfully complete a clinical training program. Therefore, cause exists to set aside the stay order and impose the stayed discipline of revocation of respondent's license, pursuant to Condition 12 of the 2016 Disciplinary Order.

Conclusion

8. When all the evidence is considered, to protect the health, safety, and welfare of the public, respondent's license must be revoked.

ORDER

1. The Accusation filed against respondent Arudra Bodepudi, M.D., is DISMISSED.

2. The Petition to Revoke Probation is GRANTED. Physician's and Surgeon's Certificate No. A 73676 issued to Arudra Bodepudi, M.D., is REVOKED.

DATE: October 6, 2023

Marcie Larson

Marcie Larson (Oct 6, 2023 09:54 PDT)

MARCIE LARSON

Administrative Law Judge

Office of Administrative Hearings