

1 Heather E. Gibson, Esq. (SBN 240938)
Stanley L. Gibson, Esq. (SBN 47882)
2 **LAW OFFICES OF HEATHER GIBSON, P.C.**
1871 Martin Avenue
3 Santa Clara, CA 95050
Telephone: (408) 250-3502
4 hgibson@gibsonhealth-law.com

5 Attorney for Petitioner,
6 **SIMONE MELISSA GOLD, M.D.**

7 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
8 **FOR THE COUNTY OF SAN DIEGO**

9 **SIMONE MELISSA GOLD, M.D.**
10 **Petitioner,**

11 **v.**

12 **MEDICAL BOARD OF CALIFORNIA**
13 **Respondent.**

Case No.: 37-2024-00014174-CU-WM-CTL

~~PETITIONER SIMONE MELISSA GOLD~~
~~M.D.'s~~ **[PROPOSED]** ~~AMENDED~~
JUDGMENT

15 This matter came on regularly before the Court on November 8, 2024, Hon. Michael T.
16 Smyth, presiding. Heather Gibson, Esq. appeared on behalf of Petitioner Simone Melissa Gold,
17 M.D. Rob Bonta, Attorney General of the State of California, by and through Deputy Attorney
18 General Christin Rhee, appeared on behalf of Respondent Medical Board of California.

19 The Court heard arguments from parties on November 8, 2024, and took the case under
20 submission. By a minute order dated November 13, 2024, the Court invited the parties to submit
21 supplemental briefing, and the parties complied.

22 The Court, having considered the administrative record, the papers of the parties, and the
23 arguments of counsel, filed a Tentative Decision and Proposed Statement of Decision that reflected
24 that costs are awarded to Petitioner as the prevailing party. Neither party submitted objections to the
25 Tentative Decision and Proposed Statement of Decision.

26
27 ///

28

FILED
San Diego Superior Court

JAN 15 2025

Clerk of the Superior Court
By: H. Chavarin, Deputy

1 IT IS ORDERED, ADJUDGED, AND DECREED that:

- 2 1. A peremptory writ of administrative mandamus shall issue under seal of this Court,
3 remanding the matter to Respondent and commanding Respondent to ~~vacate~~ ^{set aside} its Decision
4 and Order dated January 4, 2024, in the Matter of the Accusation Against: Simone Melissa
5 Gold, M.D., Medical Board of California Case No. 800-2021-074424, ~~and to dismiss said~~
6 ~~Accusation~~
- 7 2. A true and correct copy of the Court's unopposed Tentative Decision and Proposed
8 Statement of Decision issued on December 10, 2024, attached as Exhibit A, shall serve as
9 the Court's Decision pursuant to California rules of Court, Rule 3.1590; and
- 10 3. Petitioner shall recover its costs as the prevailing party in this matter in an amount to be
11 determined by this Court pursuant to Rule 3.1700 of the Calif. Rules of Court.

12
13 Dated

January 15, 2025



MICHAEL T. SMYTH
Judge of the Superior Court

EXHIBIT A

FILED
San Diego Superior Court

DEC 10 2024

Clerk of the Superior Court
By: H. Chavarin, Deputy

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN DIEGO, CENTRAL DIVISION**

SIMONE GOLD, M.D.,

Plaintiff,

v.

MEDICAL BOARD OF CALIFORNIA, and
DOES 1 to 10, inclusive,

Defendants.

Case No.37-2024-00014174-CU-WM-CTL

**TENTATIVE DECISION AND PROPOSED
STATEMENT OF DECISION**

Judge: Hon. Michael T. Smyth
Dept.: C-67

I. BACKGROUND AND PROCEDURAL HISTORY

This is a petition for writ of administrative mandate brought by Petitioner Dr. Simone Melissa Gold against Defendant Medical Board of California ("Board").

The petitioner asks the court to vacate the Medical Board's decision to publicly reprimand her and require her to take a medical ethics course. The Medical Board based its decision on Petitioner's participation in the events at the U.S. Capitol building on January 6, 2021, for which Petitioner pleaded guilty to one count of a federal misdemeanor, finding that the misdemeanor was substantially related to the qualifications, functions, or duties of a licensed physician. Petitioner's core argument is that her participation in that event was untethered to her "fitness or competence to practice the profession or to the qualifications, functions, or duties of the profession in question." (See *Griffiths v. Superior Court* (2002) 96 Cal.App.4th 757, 769.)

1 Petitioner has been licensed to practice medicine by the Board since November 5, 1990.

2 Petitioner has been an outspoken critic of COVID-19 restrictions and vaccination protocols.
3 Additionally, she was a participant in the January 6, 2021, protest at the U.S. Capitol that
4 progressed into a riot. She attempts to relitigate the facts of that event but, on February 5, 2021, she
5 was charged with five federal crimes (obstructing an official proceeding, entering and remaining in
6 a restricted building or grounds, committing disorderly or disruptive conduct in a restricted building
7 or grounds, committing disorderly conduct in a Capitol building, and parading, demonstrating, or
8 picketing in a Capitol building). (OAH, Vol. VI, 2647-2649.) After being notified of the federal
9 criminal case, the Board opened an investigation on January 19, 2021.

10 On February 8, 2022, Petitioner signed an agreement in which she agreed to plead guilty to
11 one count of entering or remaining in a restricted building or grounds, a misdemeanor violation of
12 18 U.S.C. § 1752(a)(1). On March 3, 2022, Petitioner pleaded guilty in open court. At a hearing
13 on June 21, 2022, the District Court sentenced Petitioner to 60 days in federal custody with credit
14 for time served, followed by 12 months of supervised release with various terms and conditions.
15 While Petitioner was in federal custody, her Physician's and Surgeon's Certificate was placed on
16 inactive status from July to October 2022.

17 Petitioner had publicly called for the resignation of the Medical Board's President, Kristina
18 D. Lawson, including on one occasion on April 1, 2022, calling Lawson "corrupt" for her
19 investigation of medical doctors providing alternative treatments for COVID-19.

20 On January 30, 2023, the Board's Executive Director Reji Varghese ("Complainant") filed
21 Accusation No. 800-2021-074424 against Petitioner, alleging that she had been convicted of a
22 crime substantially related to the qualifications, functions, or duties of a physician or surgeon and
23 committed unprofessional conduct. The hearing was scheduled to take place before an ALJ in
24 November 2023.

25 Petitioner filed declarations and reports from three expert witnesses. Based on his written
26 report, Dr. Alexander Kon's anticipated testimony was that Petitioner neither committed
27 unprofessional conduct nor was convicted of a crime substantially related to the qualifications,
28 functions, or duties of a physician. Complainant objected and filed a motion in limine to exclude

1 the three expert witnesses. Petitioner opposed the motion in limine. On November 7, 2023, ALJ
2 Abraham Levy granted the motion in limine, determining that the expert opinions of Dr. Kon's
3 opinion regarding Petitioner's criminal conviction were "beyond the scope of permissible medical
4 expert testimony." From November 13 to 15, 2023, the administrative hearing took place.
5 Petitioner and three character witnesses testified in her defense.

6 Petitioner preserved her objections to the proceedings based on Board President Lawson's
7 bias, but the ALJ found that it did not have the authority to disqualify Board members and the
8 evidence appears to show that Lawson had no role in reviewing the disciplinary matter.

9 After the hearing, the ALJ found that Complainant had proven by clear and convincing
10 evidence that Petitioner had engaged in unprofessional conduct because she had been convicted of a
11 crime substantially related to the qualifications, functions, or duties of a physician. The ALJ
12 declined to revoke Petitioner's medical license, or to put her on probation, instead ordering that she
13 receive a public letter of reprimand with the condition that she complete a Board-approved
14 professionalism and ethics course. The Medical Board adopted the ALJ's Proposed Decision.

15 It is clear from the Proposed Decision of the Administrative Law Judge, prepared after an
16 extensive evidentiary hearing and subsequently adopted by the Medical Board, that Judge Shaw
17 presided over the hearing with great care and attention to the salient issues presented. Indeed, this
18 Court finds itself in agreement with nearly all of the ALJ's factual determinations and legal
19 conclusions, save for the exceptions addressed herein.

20 This Court considered the parties' pleadings and arguments at the hearing on the Petition,
21 the Proposed Decision of the Administrative Law Judge, the record of the administrative hearing
22 which included testimony of sworn witnesses, admitted documentary evidence, briefing of counsel,
23 and oral arguments. This is the Court's tentative decision and proposed statement of decision in
24 accordance with Code of Civil Procedure section 632 and California Rules of Court, Rule 3.1590. It
25 will become the final Statement of Decision (SOD) unless the steps required under CRC 3.1590 are
26 taken within the timeframes set forth therein.

1 **II. WRIT STANDARD**

2 A court's review of quasi-judicial or adjudicative agency action under Code of Civil Procedure
3 section 1094.5(b) examines three questions: (1) whether the agency has proceeded without, or in
4 excess of, jurisdiction; (2) whether there was any prejudicial abuse of discretion; and (3) whether
5 there was a fair trial. The standard of review was recently summarized in *Geffner v. Board of*
6 *Psychology*:

7
8 “When reviewing an agency’s findings in a professional licensing
9 discipline proceeding, the trial court exercises its independent
10 judgment on the facts, as well as the law. Under the independent
11 judgment standard the findings of the agency come before the court
12 with a strong presumption of their correctness, and the burden rests on
13 the complaining party to convince the court that the agency’s decision
14 is contrary to the weight of the evidence. Nonetheless, while the trial
court begins its review with a presumption that the administrative
findings are correct, it is only a presumption, and may be overcome.
Because the trial court ultimately must exercise its own independent
judgment, that court is free to substitute its own findings after first
giving due respect to the agency’s findings.”

15 (*Geffner v. Board of Psychology* (2024) 100 Cal.App.5th 19, 34 [cleaned up] [quoting *Fukuda v.*
16 *City of Angels* (1999) 20 Cal.4th 805, 811-812, 818]; see also *Bixby v. Pierno* (1971) 4 Cal.3d 130,
17 143 [where case implicates a petitioner’s fundamental vested rights, such as the right to continue
18 practicing one’s profession, courts exercise independent judgment on both questions of law and
19 fact].) Although the discipline imposed and now before the Court is a public reprimand, which
20 does not implicate the fundamental right to continue practicing one’s profession, the parties agreed
21 that because the discipline implicates Dr. Gold’s license, this Court should nevertheless exercise its
22 own independent judgment with respect to questions of both law and fact.

23 **III. DISCUSSION**

24 Petitioner argues (1) the Board was irrevocably biased against Petitioner; (2) the ALJ
25 violated Petitioner’s right to a fair hearing by excluding expert testimony; and (3) the record lacks
26 clear and convincing evidence for a disciplinary finding. The court considers each of these
27 arguments in turn.
28

1 **1. The Medical Board was not Irrevocably Biased against Petitioner**

2 Whether or not Board President Kristina Lawson was biased against Petitioner, there is no
3 evidence that Lawson participated in the review of Petitioner's disciplinary matter. Petitioner's
4 suggestion that Lawson's bias had "infiltrated other critical decision makers" such that
5 impermissible bias permeated her proceedings relies on speculation and assumption and is
6 unsupported by the record.

7 At hearing, Petitioner suggested that the entire Board was disqualified, and should have
8 simply been replaced by unbiased doctors, but Petitioner could cite no mechanism or procedural
9 rule in place that provides for such replacement, let alone who or what body would appoint those
10 replacements. In any event, there was no evidence supporting a finding that the panel members who
11 decided her matter were biased against Petitioner, and even if there were such evidence, the "rule of
12 necessity" would likely have required members of the board to decide the matter. Developed
13 originally at common law, the "rule of necessity" allows public officials to take actions they would
14 otherwise be disqualified from taking by operation of conflict of interest rules if their
15 disqualification would make it impossible for the public agency to fulfill one of its vital public
16 duties. (*Kunec v. Brea Redevelopment Agency* (1997) 55 Cal. App. 4th 511, 520.) For example, the
17 rule of necessity was applied in *Gonsalves v. City of Dairy Valley* (1968) 265 Cal. App. 2d 400 to
18 uphold the city council's decision granting a zoning permit to a local dairy cooperative in which all
19 of the council members held shares. The petition would be denied on this ground.

20 **2. Expert Testimony was Properly Excluded**

21 An ALJ is "empowered to control the litigation" and "has wide latitude as to all phases of
22 the conduct of the hearing, including the manner in which the hearing will proceed." (Cal. Code.
23 Regs., tit. 2, § 56.1.) Under Evidence Code sections 801 and 802, the trial court acts as a
24 gatekeeper "to exclude expert opinion testimony that is (1) based on matter of a type on which an
25 expert may not reasonably rely, (2) based on reasons unsupported by the material on which the
26 expert relies, or (3) speculative." (*Sargon Enterprises, Inc. v. Univ. of Southern Cal.* (2012) 55
27 Cal.4th 747, 771-772.) Expert opinion testimony is improper on matters of law that are ultimately
28 to be decided by the trier of fact. (*Summers v. A.L. Gilbert Co.* (1999) 69 Cal.App.4th 1155, 1178.)

1 The ALJ was within his authority to exclude expert testimony that would bear on whether
2 Petitioner's conviction was substantially related to the practice of medicine. Medical Board of
3 California Expert Reviewer Guidelines, November 2023 states:

4 "Regarding Business and Professions Code §2236 (conviction of a
5 crime), [an expert] opinion may be needed to relate the conviction to
6 the qualifications, functions, or duties of a physician and surgeon.
7 Here, it may be helpful to review and cross-reference ethical guidelines
8 in arriving at a conclusion. Although a particular conviction may not
9 directly be correlated to the practice of medicine, evaluate the behavior
10 in terms of the code of ethics in existence at the time."

11 First, this is guidance and not a legal requirement that the ALJ consider such expert
12 testimony. Second, the ALJ's decision to exclude the testimony seems reasonable where the expert
13 did not appear to have any better understanding of whether the conviction was sufficiently related
14 to the qualifications, functions, or duties of a physician or surgeon. Indeed, the ALJ could have
15 considered such testimony and still arrived at his decision.

16 At the hearing on the writ, both parties agreed that should this Court find that the expert
17 opinion offered by Dr. Hon should have been admitted and considered, it would be proper and
18 preferred that the court simply consider Dr. Hon's report in reaching its decision rather than send
19 the matter back for reconsideration by the ALJ and Medical Board.

20 Having reviewed Dr. Hon's curriculum vitae and report, the Court finds that Dr. Hon is a
21 very accomplished medical doctor, and highly qualified to opine on a broad range of issues related
22 to the practice of medicine, including what are the qualifications, functions, and duties of a
23 physician and surgeon. However, the Court finds that the determination of whether Dr. Gold's
24 conviction and the underlying conduct are substantially related to the qualifications, functions, and
25 duties of a physician and surgeon, are not sufficiently beyond common experience such that the
26 opinion would assist the trier of fact. The ALJ properly excluded Dr. Hon's testimony, and this
27 Court declines to consider it. Even if the Court were to consider the opinion, Dr. Hon's finding of a
28 substantial nexus would be found unconvincing and conclusory. The Petition would be denied on
this ground.

///////

1 **3. The ALJ's Decision is Not Supported by the Weight of the Evidence**

2 The ALJ's decision was based primarily on Business and Professions Code section 2236(a)
3 which provides "[t]he conviction of any offense substantially related to the qualifications,
4 functions, or duties of a physician and surgeon constitutes unprofessional conduct within the
5 meaning of this chapter." After a disciplinary hearing, the Board is authorized to, among other
6 measures, publicly reprimand the offending party and "include a requirement that the licensee
7 complete relevant educational courses approved by the board." (Bus. & Prof. Code, § 2227(a)(4).)

8 There is a split of authority among California Courts of Appeal as to whether, in exercising
9 its independent judgment of the underlying facts, a trial court is to apply the standard of proof
10 applicable in the underlying administrative adjudicatory proceeding, that is, clear and convincing
11 evidence in this case, or the lesser standard of substantial evidence to support the agency's decision.
12 (Compare *Li v. Super. Ct.* (2021) 69 Cal.App.5th 836, 844 with *Yazdi v. Dental Bd. of Cal.* (2020)
13 57 Cal.App.5th 25, 33-34.) However, the Court need not and does not resolve this issue, for
14 whichever burden applies Petitioner has demonstrated that the evidence falls short.

15 Title 16, section 1360, subdivision (b), of the California Code of Regulations provides that a
16 crime is "substantially related" if it evidences present or potential unfitness of a person holding a
17 license to perform the functions authorized by the license in a manner consistent with the public
18 health, safety, or welfare. Factors to be considered are the nature and severity of the crime, the
19 number of years elapses since the commission of the crime, and the nature and duties of the
20 profession. Business and Professions Code section 2236(a) provides that the record of conviction is
21 conclusive evidence only of the fact that the conviction occurred.

22 As the ALJ noted, although the legislature in 2020 amended Business and Professions Code
23 section 493 and removed the language allowing the Board to inquire into the circumstance
24 surrounding the commission of the crime, section 493(b)(1) requires an agency to consider the
25 "nature and gravity of the offense" in assessing whether a crime is substantially related to the
26 qualifications, functions, or duties of (in this case) a doctor or physician. It is this provision that
27 ultimately provides for the consideration by the fact finder of the Statement of Offense admitted to
28 by Petitioner when she pleaded guilty.

1 There is no dispute that Petitioner pleaded guilty to and was convicted of a federal
2 misdemeanor crime of entering and remaining in a restricted building or grounds. The Statement of
3 Offense, which Petitioner signed as part of her plea deal, states in part:

4 “Directly in front of GOLD . . . a law enforcement officer was assaulted
5 and dragged to the ground. Shortly after, at approximately 2:27 p.m.,
6 GOLD and Strand breached the East Rotunda doors as part of a crowd
7 and entered the U.S. Capitol. At approximately 2:55 p.m. GOLD
8 began to give a speech in Statuary Hall where she stated her opposition
9 to the COVID-19 vaccine mandates and government-imposed
10 lockdowns. . . . Multiple law enforcement officers had to intervene
11 before GOLD stopped giving her speech, and GOLD and Strand left
12 Statuary Hall. . . . When defendant entered the U.S. Capitol Building
13 on January 6, it was a restricted building. The defendant knew at the
14 time she entered the U.S. Capitol Building that she did not have lawful
15 authority to enter the building.”

16 (Statement of Offense as quoted in the ALJ Decision, p. 9, ¶¶ 9, 12.)

17 As the Court acknowledged at the hearing, other evidence seems to contradict the portion of
18 the Statement of Offense that states “Directly in front of Dr. GOLD . . . a law enforcement officer
19 was assaulted and dragged to the ground.” Despite her having admitted to this fact in the Statement
20 of the Offense, Petitioner at the administrative hearing presented testimony and video evidence
21 seeming to show that the officer in question collapsed for some reason other than an assault and
22 was helped to his feet by other protesters and at least one fellow officer. There was some evidence
23 presented suggesting the officer may have passed out after some sort of pepper spray was released
24 in the vicinity. In any event, there is ambiguity with respect to what exactly occurred “directly in
25 front of” Petitioner. The Court finds this portion of the factual basis for Petitioner’s plea to be of
26 significance, in that ignoring an assault on anyone, let alone a peace officer, and then proceeding
27 unlawfully into the Capitol building, would be egregious conduct for a medical doctor. Because this
28 specific portion of the Statement of the Offense is of questionable accuracy, this Court gives it
limited weight.

 Both in her papers before this Court and in her testimony before the ALJ, Petitioner
attempts in various ways to minimize her role in the January 6th event, but none of that testimony
can materially contradict the sworn guilty plea and related Statement of Offense. Ultimately, the

1 primary disagreement between the parties, and the primary issue for this Court, is whether that
2 conviction and the conduct underlying it is "substantially related to [her] qualifications, functions,
3 or duties of a physician[.]"

4 Respondent and the underlying ALJ decision both cite to *Griffiths v. Superior Court* (2002)
5 96 Cal.App.4th 757. That case involved the revocation of a doctor's medical license for driving
6 under the influence of alcohol on three separate occasions. (*Id.* at 762-765.) At the time, former
7 Business and Professions Code section 2239(a) provided that "more than one misdemeanor . . .
8 involving the use, consumption, or self-administration of [alcohol] . . . constitutes unprofessional
9 conduct." (*Id.* at 768.) There, the ALJ issued a proposed decision to dismiss the accusation,
10 finding that there was no inherent nexus between driving under the influence and the practice of
11 medicine. (*Id.* at 762-763.) Under its rules and regulations, the Board issued a notice of
12 nonadoption of the ALJ's proposed decision, invited further briefing, and stated its intention to
13 decide the case. (*Id.* at 763.) After reviewing the additional briefing, the Board revoked the
14 doctor's license, but stayed the revocation and instead placed the doctor on three years' probation
15 with various terms and conditions, including community service, abstention from alcohol,
16 psychiatric evaluation, and treatment. (*Id.* at 766.) The Court of Appeal found that the Board was
17 within its authority to issue such a decision based on Business and Professions Code section
18 2239(a). (*Id.* at 769-771.) In relevant part, the court held that:

19
20 "[c]onvictions involving alcohol consumption reflect a lack of sound
21 professional and personal judgment that is relevant to a physician's
22 fitness and competence to practice medicine.... It further shows a
23 disregard of medical knowledge concerning the effects of alcohol on
24 vision, reaction time, motor skills, judgment, coordination and
25 memory, and the ability to judge speed, dimensions, and distance. ¶
26 Driving while under the influence of alcohol also shows an inability or
unwillingness to obey the legal prohibition against drinking and
driving and constitutes a serious breach of duty owed to society. . .
[R]epeated conduct by a physician, and particularly of its propensity to
endanger members of the public, tends to undermine public confidence
in and respect for the medical profession."

27 (*Id.* at 770 [citing *In re Lesansky* (2001) 25 Cal.4th 11, 14-16 [holding that an attorney may be
28 disbarred for criminal acts involving moral turpitude committed in a nonprofessional setting when

1 necessary to protect the public, promote confidence in the legal system, and maintain high
2 professional standards]].) Thus, “[f]or a nexus to exist between the misconduct and the fitness or
3 competence to practice medicine, *it is not necessary for the misconduct forming the basis for*
4 *discipline to have occurred in the actual practice of medicine.*” (*Id.* at 771 [emphasis added].)
5 There is no requirement of harm to patients. (*Ibid.*)

6 Considering Petitioner’s admissions in the Statement of Offense, there can be no doubt
7 whatsoever that Petitioner’s conduct that day reflected extraordinarily poor judgment. Petitioner
8 allowed herself to get caught up in the frenzy that seemed to have captured the surging crowd of
9 protestors, to the point of her joining that loud and increasingly hostile crowd as it forced its way
10 into the U.S. Capitol building and then refused to leave for over 30 minutes while she twice
11 delivered her speech. Even ignoring the resulting criminal conviction, this conduct reflects “poor
12 judgment” by clear and convincing evidence.

13 The court in *Griffith* makes clear that the conviction and underlying conduct need not be
14 directly related to or occur during the practice of medicine. In finding there was the required
15 substantial nexus, the *Griffith* court specifically relied upon and emphasized that Griffith’s conduct
16 included driving under the influence *multiple* times, that Griffith had special knowledge as a
17 medical doctor regarding the effects of alcohol on the human body, as well as a demonstrable
18 inability or unwillingness to follow the law (there having been three convictions), and its propensity
19 to endanger the public. The Court concluded that such *repeated* conduct by a physician and its
20 propensity to *endanger* the public constituted a serious breach of duty owed to society and
21 undermined public confidence in and respect for the medical profession. In short, the several
22 convictions and the conduct underlying them went straight to the core of Griffith’s qualifications,
23 functions, and duties as a physician. Many cases addressing this issue and finding a substantial
24 nexus involved what would be considered crimes of moral turpitude – a willingness to do evil, or
25 fundamental dishonesty - which very obviously relate to one’s qualifications, functions, and duties
26 as a physician.

27 For example, in *Davis v. Physician Assistant Bd.* (2021) 66 Cal.App.5th 227, where a
28 medical doctor disseminated false and misleading advertising, the court found that a governing

1 board "may conclude that intentional dishonesty, even toward persons outside the practice of
2 medicine, relates to the qualifications for practicing medicine and can be the basis for imposing
3 discipline." In *Pirouzian v. Superior Court*, (2016) 1 Cal.App.5th 438, a physician who committed
4 tax fraud, soliciting subornation of perjury, and filing false fraudulent insurance claims was found
5 to have been properly disciplined because such conduct showed dishonesty, poor character, a lack
6 of integrity, and an inability or unwillingness to follow the law, and therefore related to the
7 qualifications, functions, and duties of a physician. In *Krain v. Medical Bd.*, (1999) 71 Cal.App.4th
8 1416, a doctor's license was found properly revoked where the doctor pleaded guilty to subornation
9 of perjury, a misdemeanor. In *Foster v. Bd. Of Medical Quality Assurance* (1991) 227 Cal.App.3d
10 1606, the suspension of a physician's medical license was upheld where the physician falsified
11 documents to indicate that he had liability insurance, which was required by law.

12 Here, unlike in *Griffith* and the cases cited, there is not a clear or substantial nexus between
13 Petitioner's conduct on January 6, 2021, and her qualifications, functions, and duties as a physician.
14 The ALJ does correctly cite several instances of Petitioner exercising poor judgment that day, such
15 as entering the building, giving two speeches, refusing or failing to leave when directed to, and the
16 like. However, unlike in *Griffith*, these actions or inactions essentially constitute a single course of
17 action and not several discrete, temporally distant, unrelated instances of poor judgment as was the
18 case in *Griffith*. In addition, neither the crime nor the underlying conduct qualifies as a moral
19 turpitude offense, nor do they implicate Petitioner's special knowledge as a physician. And finally,
20 it was not repeated and distinct violations of the law for which Petitioner was convicted, but one
21 violation. Unlike in *Griffith*, it cannot be said that Petitioner has demonstrated an inability or
22 unwillingness to follow the law, or that she *personally* endangered the public in committing this
23 offense. That's not to say that the unruly, violent participants on January 6th were not emboldened
24 and, in some ways, enabled by the large number of protestors apparently there in support of them,
25 but Petitioner does not appear to have engaged in that endangering conduct personally.

26 The Court finds that Petitioner was not convicted of a crime substantially related to her
27 qualifications, functions, or duties as a physician.
28


1 **IV. CONCLUSION AND RULING**

2 The Court finds that Respondent has failed to show by either a preponderance or clear and
3 convincing evidence that Petitioner was convicted of a crime substantially related to the
4 qualifications, functions, or duties of a physician and surgeon pursuant to Business and Professions
5 Code section 2227, 2234(a), and 2236 due to her conviction for entering and remaining in a
6 restricted area in violation of Title 18, United States Code, section 1752(a)(1), a misdemeanor
7 offense. The Medical Board's Public Reprimand of Petitioner and its requirement that she take a
8 medical ethics course are vacated.

9 Costs are awarded to Petitioner as the prevailing party. Upon confirmation of this Proposed
10 Statement of Decision as the Final Statement of Decision, or upon the issuance of a Final Statement
11 of Decision after objections are timely filed and considered, Petitioner's counsel is ordered to
12 prepare and submit a form of judgment in conformance therewith.

13 IT IS SO ORDERED.

14
15 Dated: December 10, 2024


MICHAEL T. SMYTH
Judge of the Superior Court

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO <input type="checkbox"/> CENTRAL DIVISION, CENTRAL COURTHOUSE, 1100 UNION ST., SAN DIEGO, CA 92101 <input checked="" type="checkbox"/> CENTRAL DIVISION, HALL OF JUSTICE, 330 W. BROADWAY, SAN DIEGO, CA 92101 <input type="checkbox"/> CENTRAL DIVISION, KEARNY MESA, 8950 CLAIREMONT MESA BLVD., SAN DIEGO, CA 92123 <input type="checkbox"/> CENTRAL DIVISION, JUVENILE COURT, 2851 MEADOW LARK DR., SAN DIEGO, CA 92123 <input type="checkbox"/> EAST COUNTY DIVISION, 250 E. MAIN ST., EL CAJON, CA 92020 <input type="checkbox"/> NORTH COUNTY DIVISION, 325 S. MELROSE DR., VISTA, CA 92081 <input type="checkbox"/> NORTH COUNTY DIVISION, JUVENILE COURT, 325 S. MELROSE DR., VISTA, CA 92081 <input type="checkbox"/> SOUTH COUNTY DIVISION, 500 3RD AVE., CHULA VISTA, CA 91910		FOR COURT USE ONLY <div style="text-align: center;"> F I L E D <small>San Diego Superior Court</small> </div> <div style="text-align: center;"> DEC 10 2024 Clerk of the Superior Court By: H. Chavarin, Deputy </div>
PLAINTIFF(S)/PETITIONER(S) SIMONE GOLD MD	JUDGE: Michael T. Smyth DEPT: 67	
DEFENDANT(S)/RESPONDENT(S) MEDICAL BOARD OF CALIFORNIA	CASE NUMBER 37-2024-14174-CU-WM-CTL	
CLERK'S CERTIFICATE OF SERVICE BY MAIL		

I certify that I am not a party to the above-entitled cause, that I placed a copy of the following document(s):
TENTATIVE DECISION AND PROPOSED STATEMENT OF DECISION

in a sealed envelope addressed to the parties shown with postage prepaid, and deposited it in the United States mail at
☐ Chula Vista ☐ El Cajon ☒ San Diego ☐ Vista, California.

NAME & ADDRESS

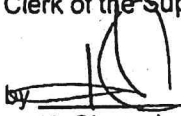
Heather Gibson, Esq.
LAW OFFICES OF HEATHER GIBSON, P.C.
1871 Martin Avenue
Santa Clara, CA 95050

NAME & ADDRESS

ROB BONTA
Attorney General of California
CHRISTINE A. RHEE
Deputy Attorney General
P.O. Box 85266
San Diego, CA 92186-5266

Clerk of the Superior Court

Date: December 10, 2024

by  Deputy
H. Chavarin

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO <input type="checkbox"/> CENTRAL DIVISION, CENTRAL COURTHOUSE, 1100 UNION ST., SAN DIEGO, CA 92101 <input checked="" type="checkbox"/> CENTRAL DIVISION, HALL OF JUSTICE, 330 W. BROADWAY, SAN DIEGO, CA 92101 <input type="checkbox"/> CENTRAL DIVISION, KEARNY MESA, 8950 CLAIREMONT MESA BLVD., SAN DIEGO, CA 92123 <input type="checkbox"/> CENTRAL DIVISION, JUVENILE COURT, 2851 MEADOW LARK DR., SAN DIEGO, CA 92123 <input type="checkbox"/> EAST COUNTY DIVISION, 250 E. MAIN ST., EL CAJON, CA 92020 <input type="checkbox"/> NORTH COUNTY DIVISION, 325 S. MELROSE DR., VISTA, CA 92081 <input type="checkbox"/> NORTH COUNTY DIVISION, JUVENILE COURT, 325 S. MELROSE DR., VISTA, CA 92081 <input type="checkbox"/> SOUTH COUNTY DIVISION, 500 3RD AVE., CHULA VISTA, CA 91910		FOR COURT USE ONLY FILED San Diego Superior Court JAN 16 2025 Clerk of the Superior Court By: H. Chavarin, Deputy
PLAINTIFF(S)/PETITIONER(S) SIMONE GOLD MD		JUDGE: Michael T. Smyth DEPT: 67
DEFENDANT(S)/RESPONDENT(S) MEDICAL BOARD OF CALIFORNIA		CASE NUMBER 37-2024-14174-CU-WM-CTL
CLERK'S CERTIFICATE OF SERVICE BY MAIL		

I certify that I am not a party to the above-entitled cause, that I placed a copy of the following document(s):
JUDGMENT

in a sealed envelope addressed to the parties shown with postage prepaid, and deposited it in the United States mail at
☐ Chula Vista ☐ El Cajon ☒ San Diego ☐ Vista, California.

NAME & ADDRESS

Heather Gibson, Esq.
LAW OFFICES OF HEATHER GIBSON, PC
1871 Martin Avenue
Santa Clara, CA 95050

NAME & ADDRESS

Rob Bonta
Attorney General of California
Christine A. Rhe, Deputy Attorney General
P.O. Box 85266
San Diego, CA 92186-5266

Clerk of the Superior Court

Date: January 16, 2025

by H. Chavarin, Deputy