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

In the Matter of the Accusation Against:

STEPHEN PATRICK KRICKL, M.D.,

Physician's and Surgeon's Certificate No. G 62551

Respondent

Agency Case No. 800-2019-051948

OAH No. 2020090022

DECISION AFTER NON-ADOPTION

Administrative Law Judge (ALJ) Diane Schneider, State of California, Office of Administrative Hearings, heard this matter on January 5, 2020, by telephone and videoconference.

Hamsa M. Murthy, Deputy Attorney General (DAG), represented complainant William Prasifka, Executive Director of the Medical Board of California (Board), Department of Consumer Affairs (Complainant).

John L. Fleer, Attorney at Law, represented respondent Stephen Patrick Krickl, M.D., (Respondent) who was present.

The ALJ issued a proposed decision on January 22, 2021.

On February 9, 2021, Panel A of the Board issued an Order of Non-Adoption of Proposed Decision. Oral argument on the matter was heard by Panel A on May 12, 2021, with ALJ Tiffany King presiding. DAG Murthy appeared on behalf of the complainant. Respondent was present and was represented by John Fleer, Attorney at Law. Panel A, having read and considered the entire record, including the transcript and the exhibits, and having considered the written and oral argument, hereby enters this Decision After Non-Adoption.

FACTUAL FINDINGS

1. Christine J. Lally, brought the Accusation in her official capacity as Interim Executive Director of the Board.

2. On March 28, 1988, the Board issued Physician's and Surgeon's Certificate No. G 62551 (Certificate) to respondent Stephen Patrick Krickl, M.D. The Certificate will expire on January 31, 2022, unless renewed.

Complainant's Evidence

3. On June 4, 2019, in the Superior Court of California, County of Sonoma, respondent was convicted, upon his plea of no contest, of violating Vehicle Code section 23152, subdivision (a) (driving with a blood alcohol content of .08 percent or more), a misdemeanor, with a penalty enhancement pursuant to California Vehicle Code section 23538, subdivision (b)(2), for driving with a blood alcohol level in excess of .20 percent. Imposition of sentence was suspended, and respondent was placed on informal probation for three years, on conditions that included payment of fines and

fees, service of 10 days in jail,[1] and completion of a First Offender Drinking Driver Program.

4. The facts and circumstances surrounding respondent's driving under the influence (DUI) conviction are that in the early evening of January 3, 2019, an employee of a Safeway gas station in Santa Rosa noticed that respondent's car was stopped at a fuel pump with its engine running. When the employee approached respondent, he observed that respondent had passed out. The employee was able to rouse respondent and told him to move his car to a parking stall. The employee also reported that when respondent moved his car, he collided into a concrete wall near the dumpster bins. After respondent moved his car, he appeared to continue sleeping for about 40 minutes.

Police and paramedic personnel were called to the gas station at about 7:00 p.m. Police contacted respondent, who was lying on the gurney in the ambulance. Respondent was unable to answer simple questions and did not know how he had gotten to the gas station. Respondent exhibited objective symptoms of intoxication. His breath strongly smelled of alcohol; his speech was slurred, slow and thick; and paramedic personnel observed that respondent was extremely unsteady on his feet as he made his way from his car to the gurney. Respondent also performed poorly on field sobriety tests.

Respondent was arrested for DUI. A blood sample taken pursuant to a search warrant, at about 8:30 p.m., revealed a blood alcohol content of .29 percent.

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[1] Respondent explained that he served his sentence by way of house arrest.

5. The facts and circumstances surrounding respondent's DUI offense described in Factual Finding 4 established that respondent used alcohol to an extent or in a manner dangerous to himself and the public.

6. Although a single DUI conviction, on its face, is not substantially related to the duties and functions of a physician and surgeon, respondent's conduct – passing out in his car with the motor running, with a blood alcohol level in excess of three times the legal limit – demonstrates respondent's potential unfitness to perform the functions authorized by his Certificate in a manner consistent with public safety. Accordingly, on the facts of this case, respondent's DUI conviction is substantially related to the duties and functions of a physician and surgeon.

Respondent's Evidence

CREDIBILITY FINDING

7. Respondent's testimony was forthright and credible in all respects.

EDUCATION AND TRAINING

8. Respondent completed medical school at Georgetown University School of Medicine, in 1985. He completed a three-year residency in family medicine at Scottsdale Memorial Hospital Family Practice Residency Program in 1988. Respondent has been licensed to practice medicine in California since 1988. For many years, respondent was board-certified in emergency medicine and family medicine. He is currently board-certified in family medicine.

WORK EXPERIENCE AND DISABILITY RETIREMENT

9. Respondent spent the majority of his career working as an emergency room physician at Petaluma Valley Hospital. Respondent enjoyed his work, but at the same time, it was extremely stressful. After 18 years at the hospital, the stress of work, and personal problems impaired respondent's ability to perform his job.

10. Respondent began therapy and received treatment from a psychiatrist to address his personal issues that were impacting his work performance. He was diagnosed with major depression, recurrent and severe; anxiety; insomnia; and post-traumatic stress disorder (PTSD). Respondent's psychiatrist and therapist repeatedly urged him to stop working.

11. In July 2014, respondent came to terms with the fact that his multiple psychiatric conditions rendered him unable to work. In his words, he "fell apart." Respondent stopped work in July 2014 and was placed on disability retirement in December 2014. Respondent felt guilty for leaving his partners at the hospital with an increased workload. Respondent is currently on disability retirement and has not practiced medicine since 2014.

12. Respondent has changed for the better since he stopped working. He explained that since leaving work, he takes care of himself instead of serving others to his own detriment.

RESPONDENT'S HISTORY OF ALCOHOL USE

13. Respondent has a history of self-medicating with alcohol, in varying degrees, dating back to 2005. Respondent has had multiple stressors in his life. In

addition to work stress, respondent's marriage was problematic for many years.[2] Respondent also struggled with insomnia, and he found that alcohol helped him sleep.

14. Respondent lost his home and everything he owned in the Tubbs fire in October 2017. Following this loss, his use of alcohol increased. Respondent began drinking on a daily basis in October 2018, after his brother-in-law died. (Respondent had attended grade school with his brother-in-law.) Several months later, respondent's stress increased due to issues related to his wife. Respondent explained that he "overused" alcohol beginning in October or December 2018, when he started consuming between two and four alcoholic drinks daily.

15. Respondent was interviewed by Board Investigator Eric Berumen on September 17, 2019. He was open and honest with Investigator Berumen regarding his problems with alcohol.

16. Respondent acknowledged that by the time of his DUI offense, he was overusing alcohol. In respondent's words, he "needs [alcohol] to be out of [my] life."

FACTS AND CIRCUMSTANCES SURROUNDING DUI OFFENSE

17. On the day of his arrest, respondent dropped off his wife's keys at her workplace because she had locked her keys in her car. After leaving his wife's office, he went to a grocery store and purchased a 750-milliliter bottle of tequila. At around 2:00 or 3:00 p.m., respondent headed up to the site where his home had burned. This was an emotional experience for him. He became sad and began consuming the tequila.

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[2] Respondent and his wife separated on March 21, 2019, and divorce proceedings are pending.

Respondent does not remember how much he drank. He left the site around sunset and drove about two miles to purchase gas at the Safeway gas station.

18. Respondent does not remember making a conscious decision to drive from the site of his former residence to buy gas. He remembers approaching the gas station, but he does not remember much about what happened after he arrived.

ABSTINENCE, RECOVERY ACTIVITIES AND CURRENT PSYCHIATRIC TREATMENT

19. Respondent is extremely remorseful for committing the DUI offense. He has "major regrets" about his actions and "will never do it again." Respondent's offense provided a catalyst for respondent to address his problematic use of alcohol. Following his arrest, he stopped consuming alcohol and began attending Alcoholics Anonymous (AA) meetings. He continues to attend AA meetings, presently via Zoom, and he recently achieved two years of sobriety.

20. In February 2019, respondent completed a Chemical Dependency Recovery Program at Kaiser, which lasted two weeks. Next, respondent completed an Intensive Recovery Program. Respondent also participated in a weekly long-term recovery program at Kaiser. Respondent attended this program until the outbreak of COVID-19.

21. Respondent has continued to receive treatment from his therapist and psychiatrist. Respondent is prescribed various medications by his psychiatrist, including anti-depressants and Naltrexone, which respondent explained helps inhibit his cravings for alcohol. Respondent stated that although he does not crave alcohol, he continues to take Naltrexone because his psychiatrist prescribes it. Respondent is also under the care a psychologist and a marriage and family therapist; he receives treatment from each provider on a weekly basis.

OTHER MATTERS

22. This is respondent's first disciplinary matter before the Board.

23. Respondent has complied with the conditions of probation that were imposed in connection with his DUI. Pursuant to the terms of respondent's criminal probation, he will remain on probation until June 2022.

24. Respondent wishes to return to the practice of medicine as a family medicine practitioner. He believes that practicing in family medicine will be less stressful than working in an emergency room. In his words, "being a doctor is who I am."

PSYCHOLOGICAL EVALUATION PERFORMED BY MARTIN H. WILLIAMS, PH.D.

25. Martin H. Williams, Ph.D., has been licensed to practice psychology since 1976. He practiced at Kaiser Permanente Medical Group for 27 years, beginning in 1980. Dr. Williams has performed forensic assessments in multiple settings for about 12 years, and his current private practice is solely focused on performing forensic assessments.

26. Dr. Williams performed a psychological evaluation of respondent on November 18, 2020, and issued a report on December 1, 2020. His evaluation lasted about two hours and focused on assessing whether respondent's use of alcohol impairs his ability to safely practice medicine. Prior to the evaluation, Dr. Williams reviewed the Accusation and related documents, as well as documents identified in his report as the Board's statement to respondent, and a retired physician application to the Board. Dr. Williams did not review any criminal court documents, records from respondent's therapists or psychiatrist, or the Board's interview with respondent.

27. Dr. Williams opined that respondent did not have an ongoing problem with alcohol at the time of his DUI in January 2019. In Dr. Williams' view, respondent's conduct of drinking and driving with an extremely high blood alcohol level "was a unique reaction to the PTSD-trigger of [respondent's] revisiting his destroyed home and possessions."

28. Dr. Williams acknowledged that respondent believes that he used alcohol to self-medicate. In Dr. Williams' view, aside from respondent's consumption of a large amount tequila on the day of his DUI arrest, respondent's drinking habits were within the range of acceptable drinking. For this reason, Dr. Williams' believes that respondent's use of the term "self-medicate" unduly pathologizes his use of alcohol. Dr. Williams also believes that respondent's commitment to AA stems from the fact that meetings have proven beneficial to respondent's emotional well-being rather than "deriving from a need to stem problematic alcohol use."

29. Dr. Williams concluded that respondent is fit to safely practice medicine "with or without any alcohol treatment program." Dr. Williams opined that

> Dr. Krickl experienced a significant episode of alcohol abuse in reaction to a traumatic life event in January of 2019. This one episode was not associated with a problematic pattern of alcohol use. Dr. Krickl has met no criteria for Alcohol Use Disorder at any point in his life. A single DUI arrest, with no other recurrent life problems associated with alcohol use, does not meet the criterial for Alcohol Use Disorder.

30. In light of respondent's acknowledged history regarding his problematic use of alcohol and his ongoing participation in treatment and support groups to

maintain his sobriety, the opinions expressed by Dr. Williams are unsupported by the evidence.[3] As such, his opinions are unpersuasive and accorded little weight.

LEGAL CONCLUSIONS

1. The standard of proof in an administrative hearing to discipline a physician's license is clear and convincing proof to a reasonable certainty. (*Ettinger v. Board of Medical Quality Assurance* (1982) 135 Cal.App.3d 853, 856.) Complainant has the burden of proof as to each fact the existence or nonexistence of which is essential to establishing cause for discipline. (Evid. Code, § 500.)

First Cause for Discipline (Criminal Conviction)

2. Pursuant to Business and Professions Code section 2234, the Board may take disciplinary action against a licensee's Certificate for unprofessional conduct. Business and Professions Code section 2236, subdivision (a), provides that the conviction of an offense that is substantially related to the qualifications, functions, or duties of a physician and surgeon constitutes unprofessional conduct. Pursuant to California Code of Regulations, title 16, section 1360, a conviction is considered substantially related "if to a substantial degree it evidences the present or potential unfitness of a person holding a license, certificate or permit to perform the functions authorized by the license, certificate or permit in a manner consistent with the public health safety or welfare to practice in a manner consistent with the public health, safety, or welfare." The matters set forth in Factual Findings 3, 4, and 6 establish that respondent's DUI offense is substantially related to the qualifications, functions and

[3] See Factual Findings 13 through 16 and 19 through 21.

duties of a physician and surgeon. Accordingly, cause for discipline exists under Business and Professions Code sections 2234 and 2236, subdivision (a).

Second Cause for Discipline (Dangerous Use of Alcohol)

3. Pursuant to Business and Professions Code section 2239, subdivision (a), a licensee's use of alcohol or controlled substances in a manner that is dangerous to the licensee or the public, constitutes unprofessional conduct. The matters set forth in Factual Findings 4 and 5 establish that respondent has used alcohol in a manner that is dangerous to himself and the public. Accordingly, cause exists to take disciplinary action against respondent's Certificate pursuant to Business and Professions Code sections 2234 and 2239, subdivision (a).

Disciplinary Determination

4. As cause for discipline has been established, the appropriate level of discipline must be determined. In exercising its disciplinary functions, protection of the public is the Board's paramount concern. (Bus. & Prof. Code, § 2229, subd. (a).) At the same time, the Board is charged with taking disciplinary action that is calculated to aid the rehabilitation of the licensee whenever possible, as long as the Board's action is not inconsistent with public safety. (Bus. & Prof. Code, § 2229, subds. (b), (c).)

The Board's Manual of Disciplinary Orders and Disciplinary Guidelines (Disciplinary Guidelines) (12th ed., 2016),[4] recommends, at a minimum, stayed revocation and five years' probation, subject to appropriate terms and conditions, for

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[4] The Board's Disciplinary Guidelines are incorporated in California Code of Regulations, title 16, section 1361.

respondent's misconduct. Although complainant has not suggested that revocation would be appropriate in this matter, it is noted that under the Disciplinary Guidelines, the maximum discipline for respondent's misconduct is revocation of his Certificate.

The Board's Disciplinary Guidelines and its "Disciplinary Guidelines and Exceptions for Uniform Standards Related to Substance-Abusing Licensees" (Substance Abuse Guidelines)[5] provide guidance regarding the appropriate terms and conditions of probation. When a licensee is disciplined for unprofessional conduct involving the abuse of drugs and/or alcohol, the licensee is presumed to be a "substance-abusing licensee" and subject to the mandatory terms and conditions of probation outlined in the Substance Abuse Guidelines. (Cal. Code Regs., tit. 16, § 1361, subd. (b), § 1361.5, subds. (a) & (c).) As the regulations make clear, these terms and conditions must be imposed in such cases, "without deviation." (Cal. Code Regs., tit. 16, § 1361, subd. (b), § 1361.5, subd. (c).)

In the instant case, respondent faces discipline for unprofessional conduct involving the abuse of alcohol. By respondent's own admission, he has had ongoing difficulties with his use of alcohol. He began using alcohol to self-medicate in order to cope with life stressors in 2005. Respondent's use of alcohol gradually increased in the latter part of 2017, following the loss of his house in the Tubbs fire. After several additional stressful events occurred in the latter part of 2018, he began consuming between two and four drinks on a daily basis. Respondent's DUI offense in January 2019 provided a wake-up call to respondent and motivated him to take substantial steps towards addressing his alcohol problem. Against this background, there is no

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[5] The Board's Substance Abuse Guidelines are contained in California Code of Regulations, title 16, section 1361.5.

basis to find that respondent has rebutted the presumption that he is a substance abusing licensee. Indeed, by respondent's forthright testimony, he agrees that he has a problem with alcohol and has engaged in recovery activities on an ongoing basis to ensure his continued sobriety. Under these circumstances, the probation conditions contained in the Substance Abuse Guidelines are required pursuant to California Code of Regulations, title 16, sections 1361, subdivision (b), 1361.5, subdivisions (a) & (c).

Additionally, consistent with the Board's Disciplinary Guidelines for a violation of Business and Professions Code sections 2234, and because respondent has not practiced medicine since 2014, public protection requires that respondent attend a clinical competence assessment program as a condition precedent to returning to the practice of medicine. Consistent with his forthright testimony regarding his problem with alcohol, respondent acknowledged during oral argument on May 12, 2021, that he understood the Board's concern about the length of time he has been out of practice. He further testified that he had no qualms about attending a clinical competence assessment program and would welcome it.

Although respondent's counsel suggested that a public reprimand would be sufficient to protect the public, the facts in this matter simply do not support the view that the mandatory substance abuse probation conditions are unwarranted. That said, respondent is commended for the significant strides that he has made in his recovery. He has been sober for almost two years; he completed multiple recovery programs at Kaiser; he attends weekly therapy sessions; and he is under the care of a psychiatrist and takes medications as prescribed.

The probation conditions set forth below are designed to protect the public and aid in respondent's rehabilitation, and are consistent with the Disciplinary Guidelines and the Substance Abuse Guidelines.

ORDER

Physician's and Surgeon's Certificate No. G 62551, issued to respondent Stephen Patrick Krickl, M.D., is revoked; however, revocation is stayed, and respondent is placed on probation for five years under the following terms and conditions.

1. Clinical Competence Assessment Program (Condition Precedent)

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

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

At the end of the evaluation, the program will submit a report to the Board or its designee which unequivocally states whether the respondent has demonstrated the

ability to practice safely and independently. Based on respondent's performance on the clinical competence assessment, the program will advise the Board or its designee of its recommendation(s) for the scope and length of any additional educational or clinical training, evaluation or treatment for any medical condition or psychological condition, or anything else affecting respondent's practice of medicine. Respondent shall comply with the program's recommendations.

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

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

2. Clinical Diagnostic Evaluations and Reports

Within 30 calendar days of the effective date of this Decision, and on whatever periodic basis thereafter as may be required by the Board or its designee, respondent shall undergo and complete a clinical diagnostic evaluation, including any and all testing deemed necessary, by a Board-appointed board certified physician and surgeon. The examiner shall consider any information provided by the Board or its designee and any other information he or she deems relevant, and shall furnish a written evaluation report to the Board or its designee.

The clinical diagnostic evaluation shall be conducted by a licensed physician and surgeon who holds a valid, unrestricted license, has three (3) years' experience in providing evaluations of physicians and surgeons with substance abuse disorders, and is approved by the Board or its designee. The clinical diagnostic evaluation shall be conducted in accordance with acceptable professional standards for conducting substance abuse clinical diagnostic evaluations. The evaluator shall not have a current

or former financial, personal, or business relationship with respondent within the last five (5) years. The evaluator shall provide an objective, unbiased, and independent evaluation. The clinical diagnostic evaluation report shall set forth, in the evaluator's opinion, whether respondent has a substance abuse problem, whether respondent is a threat to himself others, and recommendations for substance abuse treatment, practice restrictions, or other recommendations related to respondent's rehabilitation and ability to practice safely. If the evaluator determines during the evaluation process that respondent is a threat to himself or others, the evaluator shall notify the Board within 24 hours of such a determination.

In formulating his or her opinion as to whether respondent is safe to return to either part-time or full-time practice and what restrictions or recommendations should be imposed, including participation in an inpatient or outpatient treatment program, the evaluator shall consider the following factors: respondent's license type; respondent's history; respondent's documented length of sobriety (i.e., length of time that has elapsed since respondent's last substance use); respondent's scope and pattern of substance abuse; respondent's treatment history, medical history and current medical condition; the nature, duration and severity of respondent's substance abuse problem or problems; and whether respondent is a threat to himself or the public.

For all clinical diagnostic evaluations, a final written report shall be provided to the Board no later than 10) days from the date the evaluator is assigned the matter. If the evaluator requests additional information or time to complete the evaluation and report, an extension may be granted, but shall not exceed thirty (30) days from the date the evaluator was originally assigned the matter.

The Board shall review the clinical diagnostic evaluation report within five (5) business days of receipt to determine whether respondent is safe to return to either part-time or full-time practice and what restrictions or recommendations shall be imposed on respondent based on the recommendations made by the evaluator. Respondent shall not be returned to practice until he has at least thirty (30) days of negative biological fluid tests or biological fluid tests indicating that he has not used, consumed, ingested, or administered to himself a prohibited substance, as defined in section 1361.51, subdivision (e), of Title 16 of the California Code of Regulations.

Clinical diagnostic evaluations conducted prior to the effective date of this Decision shall not be accepted towards the fulfillment of this requirement. The cost of the clinical diagnostic evaluation, including any and all testing deemed necessary by the examiner, the Board or its designee, shall be borne by the licensee.

Respondent shall not engage in the practice of medicine until notified by the Board or its designee that he is fit to practice medicine safely. The period of time that respondent is not practicing medicine shall not be counted toward completion of the term of probation. Respondent shall undergo biological fluid testing as required in this Decision at least two (2) times per week while awaiting the notification from the Board if he is fit to practice medicine safely.

Respondent shall comply with all restrictions or conditions recommended by the examiner conducting the clinical diagnostic evaluation within fifteen (15) calendar days after being notified by the Board or its designee.

3. Notice of Employer or Supervisor Information

Within seven (7) days of the effective date of this Decision, respondent shall provide to the Board the names, physical addresses, mailing addresses, and telephone

numbers of any and all employers and supervisors. Respondent shall also provide specific, written consent for the Board, respondent's worksite monitor, and respondent's employers and supervisors to communicate regarding respondent's work status, performance, and monitoring. For purposes of this section, "supervisors" shall include the Chief of Staff and Health or Well Being Committee Chair, or equivalent, if applicable, when the respondent has medical staff privileges.

4. Biological Fluid Testing

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

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

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

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

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

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

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

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

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

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

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

(i) It maintains testing sites located throughout California.

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

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

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

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

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

The contract shall require that the laboratory directly notify the Board or its designee of non-negative results within one business day and negative test results within seven business days of the results becoming available. Respondent shall maintain this laboratory or service contract during the period of probation.

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

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

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

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

For purposes of this condition, the terms "biological fluid testing" and "testing" mean the acquisition and chemical analysis of a respondent's urine, blood, breath, or hair.

For purposes of this condition, the term "prohibited substance" means an illegal drug, a lawful drug not prescribed or ordered by an appropriately licensed health care provider for use by respondent and approved by the Board, alcohol, or any other

substance respondent has been instructed by the Board not to use, consume, ingest, or administer to himself.

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

5. Substance Abuse Support Group Meetings

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 of a substance abuse support group which he shall attend for the duration of probation. Respondent shall attend substance abuse support group meetings at least once per week, or as ordered by the Board or its designee.

Respondent shall pay all substance abuse support group meeting costs.

The facilitator of the substance abuse support group meeting shall have a minimum of three years' experience in the treatment and rehabilitation of substance abuse, and shall be licensed or certified by the state or nationally certified organizations. The facilitator shall not have a current or former financial, personal, or business relationship with respondent within the last five years. Respondent's previous participation in a substance abuse group support meeting led by the same facilitator does not constitute a prohibited current or former financial, personal, or business relationship.

The facilitator shall provide a signed document to the Board or its designee showing respondent's name, the group name, the date and location of the meeting, respondent's attendance, and respondent's level of participation and progress. The facilitator shall report any unexcused absence by respondent from any substance abuse support group meeting to the Board, or its designee, within 24 hours of the unexcused absence.

6. Worksite Monitor for Substance-Abusing Licensee

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 worksite monitor, the name and qualifications of one or more licensed physician and surgeon, other licensed health care professional if no physician and surgeon is available, or, as approved by the Board or its designee, a person in a position of authority who is capable of monitoring respondent at work.

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

The worksite monitor shall have an active unrestricted license with no disciplinary action within the last five years, and shall sign an affirmation that he or she has reviewed the terms and conditions of respondent's disciplinary order and agrees to monitor respondent as set forth by the Board or its designee.

Respondent shall pay all worksite monitoring costs.

The worksite monitor shall have face-to-face contact with respondent in the work environment on as frequent a basis as determined by the Board or its designee, but not less than once per week; interview other staff in the office regarding respondent's behavior, if requested by the Board or its designee; and review respondent's work attendance.

The worksite monitor shall verbally report any suspected substance abuse to the Board and respondent's employer or supervisor within one business day of occurrence. If the suspected substance abuse does not occur during the Board's normal business hours, the verbal report shall be made to the Board or its designee within one hour of the next business day. A written report that includes the date, time, and location of the suspected abuse; respondent's actions; and any other information deemed important by the worksite monitor shall be submitted to the Board or its designee within 48 hours of the occurrence.

The worksite monitor shall complete and submit a written report monthly or as directed by the Board or its designee which shall include the following: (1) respondent's name and Physician's and Surgeon's Certificate number; (2) the worksite monitor's name and signature; (3) the worksite monitor's license number, if applicable; (4) the location or location(s) of the worksite; (5) the dates respondent had face-to-face contact with the worksite monitor; (6) the names of worksite staff interviewed, if applicable; (7) a report of respondent's work attendance; (8) any change in respondent's behavior and/or personal habits; and (9) any indicators that can lead to suspected substance abuse by respondent. Respondent shall complete any required consent forms and execute agreements with the approved worksite monitor and the

Board, or its designee, authorizing the Board, or its designee, and worksite monitor to exchange information.

If the worksite monitor resigns or is no longer available, respondent shall, within five 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 calendar days after being so notified. Respondent shall cease the practice of medicine until a replacement monitor is approved and assumes monitoring responsibility.

7. Violation of Probation Condition for Substance Abusing Licensee

Failure to fully comply with any term or condition of probation is a violation of probation.

A. If respondent commits a major violation of probation as defined by section 1361.52, subdivision (a), of Title 16 of the California Code of Regulations, the Board shall take one or more of the following actions:

(1) Issue an immediate cease-practice order and order respondent to undergo a clinical diagnostic evaluation to be conducted in accordance with section 1361.5, subdivision (c)(1), of Title 16 of the California Code of Regulations, at respondent's expense. The cease-practice order issued by the Board or its designee shall state that respondent must test negative for at least a month of continuous biological fluid testing before being allowed to resume practice. For purposes of determining the

length of time respondent must test negative while undergoing continuous biological fluid testing following issuance of a cease-practice order, a month is defined as 30 calendar days. Respondent may not resume the practice of medicine until notified in writing by the Board or its designee that he may do so.

(2) Increase the frequency of biological fluid testing.

(3) Refer respondent for further disciplinary action, such as suspension, revocation, or other action as determined by the Board or its designee. (Cal. Code Regs., tit. 16, § 1361.52, subd. (b).)

B. If respondent commits a minor violation of probation as defined by section 1361.52, subdivision (c), of Title 16 of the California Code of Regulations, the Board shall take one or more of the following actions:

(1) Issue a cease-practice order;

(2) Order practice limitations;

(3) Order or increase supervision of respondent;

(4) Order increased documentation;

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

(6) Order respondent to undergo a clinical diagnostic evaluation to be conducted in accordance with section 1361.5, subdivision (c)(1), of title 16 of the California Code of Regulations, at respondent's expense;

(7) Take any other action as determined by the Board or its designee. (Cal. Code Regs., tit. 16, § 1361.52, subd. (d).)

C. Nothing in this Decision shall be considered a limitation on the Board's authority to revoke respondent's probation if he has violated any term or condition of probation. (See Cal. Code Regs., tit. 16, § 1361.52, subd. (e).) 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.

8. Controlled Substances - Abstain From Use

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

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

If respondent has a confirmed positive biological fluid test for any substance (whether or not legally prescribed) and has not reported the use to the Board or its designee, respondent shall receive a notification from the Board or its designee to

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

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

9. Alcohol - Abstain From Use

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

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

If the Board does not file an Accusation or Petition to Revoke Probation within 30 days of the issuance of the notification to cease practice or does not provide respondent with a hearing within 30 days of a such a request, the notification of cease practice shall be dissolved.

10. Professionalism Program (Ethics Course)

Within 60 calendar days of the effective date of this Decision, respondent shall enroll in a professionalism program, that meets the requirements of Title 16, California

Code of Regulations (CCR) section 1358.1. Respondent shall participate in and successfully complete that program. Respondent shall provide any information and documents that the program may deem pertinent. Respondent shall successfully complete the classroom component of the program not later than six (6) months after respondent's initial enrollment, and the longitudinal component of the program not later than the time specified by the program, but no later than one (1) year after attending the classroom component. The professionalism program shall be at respondent's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

A professionalism program taken 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 this condition if the program would have been approved by the Board or its designee had the program been taken after the effective date of this Decision.

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

11. Monitoring Practice

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 practice monitor, the name and qualifications of one or more licensed physicians and surgeons whose licenses are valid and in good standing, and who are preferably American Board of Medical Specialties (ABMS) certified. A monitor shall have no prior or current business or

personal relationship with respondent, or other relationship that could reasonably be expected to compromise the ability of the monitor to render fair and unbiased reports to the Board, including but not limited to any form of bartering, shall be in respondent's field of practice, and must agree to serve as respondent's monitor. Respondent shall pay all monitoring costs.

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

Within 60 calendar days of the effective date of this Decision, and continuing throughout probation, respondent's practice 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.

The monitor(s) shall submit a quarterly written report to the Board or its designee which includes an evaluation of respondent performance, indicating whether respondent's practices are within the standards of practice of medicine, and whether respondent is practicing medicine safely. It shall be the sole responsibility of respondent to ensure that the monitor submits the quarterly written reports to the Board or its designee within 10 calendar days after the end of the preceding quarter.

If the monitor resigns or is no longer available, 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 approved in advance by the Board or its designee, that includes, at minimum, quarterly chart review, semi-annual practice assessment, and semi-annual review of professional growth and education. Respondent shall participate in the professional enhancement program at respondent's expense during the term of probation.

12. Solo Practice Prohibition

Respondent is prohibited from engaging in the solo practice of medicine. Prohibited solo practice includes, but is not limited to, a practice where: 1) respondent merely shares office space with another physician but is not affiliated for purposes of

providing patient care, or 2) respondent is the sole physician practitioner at that location.

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

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

13. Notification

Within seven days of the effective date of this Decision, respondent shall provide a true copy of this Decision and Order to the Chief of Staff or the Chief Executive Officer at every hospital where privileges or membership are extended to respondent, at any other facility where respondent engages in the practice of medicine, including all physician and locum tenens registries or other similar agencies, and to the Chief Executive Officer at every insurance carrier which extends malpractice

insurance coverage to respondent. Respondent shall submit proof of compliance to the Board or its designee within 15 calendar days. This condition shall apply to any change in hospitals, other facilities, or insurance carrier.

14. Supervision of Physician Assistants and Advanced Practice Nurses

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

15. Obey All Laws

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

16. Quarterly Declarations

Respondent shall submit quarterly declarations under penalty of perjury on forms provided by the Board, stating whether there has been compliance with all the conditions of probation. Respondent shall submit quarterly declarations not later than 10 calendar days after the end of the preceding quarter.

17. General Probation Requirements

Compliance with Probation Unit. Respondent shall comply with the Board's probation unit.

Address Changes. Respondent shall, at all times, keep the Board informed of respondent's business and residence addresses, email address and telephone number. Changes of such addresses shall be immediately communicated in writing to the Board

or its designee. Under no circumstances shall a post office box serve as an address of record, except as allowed by Business and Professions Code section 2021(b).

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

License Renewal. Respondent shall maintain a current and renewed California physician's and surgeon's license.

Travel or Residence Outside California. Respondent shall immediately inform the Board or its designee, in writing, of travel to any areas outside the jurisdiction of California which lasts, or is contemplated to last, more than 30 calendar days. In the event respondent should leave the State of California to reside or to practice respondent shall notify the Board or its designee in writing 30 calendar days prior to the dates of departure and return.

18. Interview with the Board or Its Designee

Respondent shall be available in person for interviews either at respondent's place of business or at the probation unit office, with the Board or its designee upon request at various intervals and either with or without prior notice throughout the term of probation.

19. 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 as defined in Business and Professions

Code sections 2051 and 2052 for at least 40 hours in a calendar month in direct patient care, clinical activity or teaching, or other activity as approved by the Board. If respondent resides in California and is considered to be in non-practice, respondent shall comply with all terms and conditions of probation. All time spent in an intensive training program which has been approved by the Board or its designee shall not be considered non-practice and does not relieve respondent from complying with all the terms and conditions of probation. Practicing medicine in another state of the United States or Federal jurisdiction while on probation with the medical licensing authority of that state or jurisdiction shall not be considered non-practice. A Board-ordered suspension of practice shall not be considered as a period of non-practice.

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

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

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

Periods of non-practice for a respondent residing outside of California, 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; General Probation Requirements; Quarterly Declarations.

20. 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.

21. License Surrender

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

22. 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. Such costs shall be payable to the Medical Board of California and delivered to the Board or its designee no later than January 31 of each calendar year.

23. Completion of Probation

Respondent shall comply with all financial obligations (e.g., restitution, probation costs) not later than 120 calendar days prior to the completion of probation. Upon successful completion of probation, respondent's certificate shall be fully restored.

The Decision shall become effective at 5:00 p.m. on July 2, 2021

IT IS SO ORDERED this 3rd day of June, 2021.

Ronald H. Lewis, M.D., Chair
Panel A
Medical Board of California

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

In the Matter of the Accusation Against: **Stephen Patrick Krickl, M.D.** **2058 Stonefield Lane** **Santa Rosa, CA 95403-0951** **Physician's and Surgeon's Certificate** **No. G 62551,** Respondent.	Case No. 800-2019-051948 **A C C U S A T I O N**

Complainant alleges:

PARTIES

1. Christine J. Lally (Complainant) brings this Accusation solely in her official capacity as the Interim Executive Director of the Medical Board of California, Department of Consumer Affairs (Board).

2. On March 28, 1988, the Medical Board issued Physician's and Surgeon's Certificate Number G 62551 to Stephen Patrick Krickl, M.D. (Respondent). The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought herein and expired on January 31, 2020.

JURISDICTION

3. This Accusation is brought before the Board, under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

4. Section 2227 of the Code provides that a licensee who is found guilty under the Medical Practice may have his or her license revoked, suspended for a period not to exceed one year, placed on probation and required to pay the costs of probation monitoring, or such other action taken in relation to discipline as the Board deems proper.

5. Section 2234 of the Code provides that the Board shall take action against any licensee who is charged with "unprofessional conduct," which includes but is not limited to, "[v]iolating . . . any provision of this chapter."

6. Section 2236 of the Code provides, in pertinent parts:

> (a) The conviction of any offense substantially related to the qualifications, functions, or duties of a physician and surgeon constitutes unprofessional conduct within the meaning of this chapter [Chapter 5, the Medical Practice Act]. The record of conviction shall be conclusive evidence only of the fact that the conviction occurred . . . .
>
> (d) A plea or verdict of guilty or a conviction after a plea of nolo contendere is deemed to be a conviction within the meaning of this section and Section 2236.1. The record of conviction shall be conclusive evidence of the fact that the conviction occurred.

7. Section 2239 of the Code provides, in pertinent parts:

> (a) The use or prescribing for or administering to himself or herself, of any controlled substance; or the use of any of the dangerous drugs specified in Section 4022, or of alcoholic beverages, to the extent, or in such a manner as to be dangerous or injurious to the licensee, or to any other person or to the public, or to the extent that such use impairs the ability of the licensee to practice medicine safely or more than one misdemeanor or any felony involving the use, consumption, or self-administration of any of the substances referred to in this section, or any combination thereof, constitutes unprofessional conduct. The record of the conviction is conclusive evidence of such unprofessional conduct.
>
> (b) A plea or verdict of guilty or a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning of this section. The [Medical Board] may order discipline of the licensee in accordance with Section 2227. . . .

8. California Code of Regulations, title 16, section 1360, provides:

> For the purposes of denial, suspension or revocation of a license, certificate or

permit pursuant to Division 1.5 (commencing with Section 475) of the code, a crime or act shall be considered to be substantially related to the qualifications, functions or duties of a person holding a license, certificate or permit under the Medical Practice Act if to a substantial degree it evidences present or potential unfitness of a person holding a license, certificate or permit to perform the functions authorized by the license, certificate or permit in a manner consistent with the public health, safety or welfare. Such crimes or acts shall include but not be limited to the following: Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate any provision of the Medical Practice Act.

9. California Vehicle Code section 23152 provides, in pertinent parts:

(a) It is unlawful for a person who is under the influence of any alcoholic beverage to drive a vehicle.

(b) It is unlawful for a person who has a 0.08 percent or more, by weight, of alcohol in his or her blood to drive a vehicle . . . .

10. California Vehicle Code section 23538 provides, in pertinent part:

The court shall refer a first offender whose blood-alcohol concentration was 0.20 percent or more, by weight, or who refused to take a chemical test, to participate for at least nine months or longer, as ordered by the court, in a licensed program that consists of at least 60 hours of program activities, including those education, group counseling, and individual interview sessions described in Chapter 9 (commencing with Section 11836) of Part 2 of Division 10.5 of the Health and Safety Code.

FIRST CAUSE FOR DISCIPLINE

(Criminal Conviction as Unprofessional Conduct)

11. Respondent's certificate is subject to disciplinary action under Code sections 2234 and/or 2236, and/or California Code of Regulations, title 16, section 1360. By a plea of "no contest," entered on June 4, 2019 in Case Number SCR-725929 in the Superior Court of California, County of Sonoma, Respondent was convicted of violating California Vehicle Code section 23152, subdivision (b), with a penalty enhancement pursuant to California Vehicle Code section 23538, subdivision (b)(2).

SECOND CAUSE FOR DISCIPLINE

(Use of Alcohol in a Dangerous Manner as Unprofessional Conduct)

12. Respondent's certificate is subject to disciplinary action under Code sections 2234 and/or 2239 in that he used alcoholic beverages to such an extent, or in a manner, as to be dangerous to himself, other, and the public. The circumstances are as follows:

13. On the evening of January 3, 2019, a gas station employee observed a vehicle stopped in the center of the fuel pump islands with its engine running. The employee approached

the vehicle and observed that the driver, later identified as Respondent, had passed out in his seat. The employee advised Respondent to move his vehicle to a parking stall at the end of a gas station, and the employee observed that when Respondent parked, he collided into a concrete wall. The employee observed that Respondent continued to sleep in his parked car.

14. A responding police officer arrived on the scene but did not observe damage to the wall or Respondent's car. The police officer contacted paramedics, who determined that while Respondent was not having a medical emergency, he smelled of alcohol and was extremely unsteady on his feet as he went from his vehicle to the paramedics' gurney.

15. The police officer observed that Respondent appeared confused and lethargic, exhibited slow, slurred speech, and reeked of alcohol. Respondent was unable explain how he had gotten to the gas station or how long he had been there. When asked by the police officer if he had been drinking alcohol prior to driving, Respondent stated that he had consumed some vodka. Respondent performed poorly on field sobriety tests, and he did not submit to a voluntary breath test.

16. The police officer arrested Respondent and transported him to the police station. When asked several more times if he would provide a breath or blood test, Respondent did not consent. A search warrant issued, and a blood sample was taken. The blood analysis showed a blood alcohol content of .296%, more than three times the legal limit for driving an automobile.

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PRAYER

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

1. Revoking or suspending Physician's and Surgeon's Certificate Number G 62551, issued to Stephen Patrick Krickl, M.D.;

2. Revoking, suspending, or denying approval of Stephen Patrick Krickl, M.D.'s authority to supervise physician assistants and advanced practice nurses;

3. Ordering Stephen Patrick Krickl, M.D., if placed on probation, to pay the Board the costs of probation monitoring; and

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

DATED: APR 0 1 2020

CHRISTINE J. LALLY
Interim Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant