

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

In the Matter of the Accusation
Against:

Roman Modin Winter, M.D.

Physician's and Surgeon's
Certificate No. A 123848

Case No.: 800-2019-056978

Respondent.

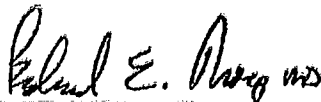
DECISION

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

This Decision shall become effective at 5:00 p.m. on July 14, 2023.

IT IS SO ORDERED: June 15, 2023.

MEDICAL BOARD OF CALIFORNIA



Richard E. Thorp, M.D., Chair
Panel B

1 ROB BONTA
Attorney General of California
2 JUDITH T. ALVARADO
Supervising Deputy Attorney General
3 LATRICE R. HEMPHILL
Deputy Attorney General
4 State Bar No. 285973
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Attorneys for Complainant
7

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

12 In the Matter of the Accusation Against:

13 **ROMAN MODIN WINTER, M.D.**
14 **1400 E. Church Street**
Santa Maria, CA 93454-5906

15 **Physician's and Surgeon's Certificate No. A**
16 **123848,**

17 Respondent.

Case No. 800-2019-056978

OAH No. 2022090210

STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER

18
19 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
20 entitled proceedings that the following matters are true:

21 **PARTIES**

22 1. Reji Varghese (Complainant) is the Interim Executive Director of the Medical Board
23 of California (Board). He brought this action solely in his official capacity and is represented in
24 this matter by Rob Bonta, Attorney General of the State of California, by Latrice R. Hemphill,
25 Deputy Attorney General.

26 2. Respondent Roman Modin Winter, M.D. (Respondent) is represented in this
27 proceeding by attorney Derek F. O'Reilly-Jones, Esq., whose address is: 355 South Grand Ave.,
28 Ste. 1750, Los Angeles, CA 90071-1562.

3. On or about December 5, 2012, the Board issued Physician's and Surgeon's Certificate No. A 123848 to Roman Modin Winter, M.D. The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought in Accusation No. 800-2019-056978, and will expire on July 31, 2024, unless renewed.

JURISDICTION

4. Accusation No. 800-2019-056978 was filed before the Board, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on August 9, 2022. Respondent timely filed his Notice of Defense contesting the Accusation.

5. A copy of Accusation No. 800-2019-056978 is attached as exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

6. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 800-2019-056978. Respondent has also carefully read, fully discussed with his counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

7. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

8. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

CULPABILITY

9. Respondent understands and agrees that the charges and allegations in Accusation No. 800-2019-056978, if proven at a hearing, constitute cause for imposing discipline upon his Physician's and Surgeon's Certificate.

10. Respondent does not contest that, at an administrative hearing, complainant could establish a prima facie case with respect to the charges and allegations in Accusation No. 800-2019-056978, a true and correct copy of which is attached hereto as Exhibit A, and that he has thereby subjected his Physician's and Surgeon's Certificate, No. A 123848 to disciplinary action.

11. Respondent agrees that his Physician's and Surgeon's Certificate is subject to discipline and he agrees to be bound by the Board's probationary terms as set forth in the Disciplinary Order below.

CONTINGENCY

12. This stipulation shall be subject to approval by the Medical Board of California. Respondent understands and agrees that counsel for Complainant and the staff of the Medical Board of California may communicate directly with the Board regarding this stipulation and settlement, without notice to or participation by Respondent or his counsel. By signing the stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

13. Respondent agrees that if he ever petitions for early termination or modification of probation, or if an accusation and/or petition to revoke probation is filed against him before the Board, all of the charges and allegations contained in Accusation No. 800-2019-056978 shall be deemed true, correct and fully admitted by respondent for purposes of any such proceeding or any other licensing proceeding involving Respondent in the State of California.

14. The parties understand and agree that Portable Document Format (PDF) and facsimile copies of this Stipulated Settlement and Disciplinary Order, including PDF and facsimile signatures thereto, shall have the same force and effect as the originals.

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15. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or opportunity to be heard by the Respondent, issue and enter the following Disciplinary Order:

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. A 123848 issued to Respondent ROMAN MODIN WINTER, M.D. is revoked. However, the revocation is stayed and Respondent is placed on probation for three (3) years on the following terms and conditions:

1. EDUCATION COURSE. Within 60 calendar days of the effective date of this Decision, and on an annual basis thereafter, Respondent shall submit to the Board or its designee for its prior approval educational program(s) or course(s), which shall not be less than 40 hours per year, for each year of probation. The educational program(s) or course(s) shall be aimed at correcting any areas of deficient practice or knowledge and shall be Category I certified. The educational program(s) or course(s) shall be at Respondent's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure. Following the completion of each course, the Board or its designee may administer an examination to test Respondent's knowledge of the course. Respondent shall provide proof of attendance for 65 hours of CME of which 40 hours were in satisfaction of this condition.

2. PRESCRIBING PRACTICES COURSE. Within 60 calendar days of the effective date of this Decision, Respondent shall enroll in a course in prescribing practices approved in advance by the Board or its designee. Respondent shall provide the approved course provider with any information and documents that the approved course provider may deem pertinent. Respondent shall participate in and successfully complete the classroom component of the course not later than six (6) months after Respondent's initial enrollment. Respondent shall successfully complete any other component of the course within one (1) year of enrollment. The prescribing practices course shall be at Respondent's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

A prescribing practices course 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

1 or its designee, be accepted towards the fulfillment of this condition if the course would have
2 been approved by the Board or its designee had the course been taken after the effective date of
3 this Decision.

4 Respondent shall submit a certification of successful completion to the Board or its
5 designee not later than 15 calendar days after successfully completing the course, or not later than
6 15 calendar days after the effective date of the Decision, whichever is later.

7 3. MEDICAL RECORD KEEPING COURSE. Within 60 calendar days of the effective
8 date of this Decision, Respondent shall enroll in a course in medical record keeping approved in
9 advance by the Board or its designee. Respondent shall provide the approved course provider
10 with any information and documents that the approved course provider may deem pertinent.
11 Respondent shall participate in and successfully complete the classroom component of the course
12 not later than six (6) months after Respondent's initial enrollment. Respondent shall successfully
13 complete any other component of the course within one (1) year of enrollment. The medical
14 record keeping course shall be at Respondent's expense and shall be in addition to the Continuing
15 Medical Education (CME) requirements for renewal of licensure.

16 A medical record keeping course taken after the acts that gave rise to the charges in the
17 Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board
18 or its designee, be accepted towards the fulfillment of this condition if the course would have
19 been approved by the Board or its designee had the course been taken after the effective date of
20 this Decision.

21 Respondent shall submit a certification of successful completion to the Board or its
22 designee not later than 15 calendar days after successfully completing the course, or not later than
23 15 calendar days after the effective date of the Decision, whichever is later.

24 4. PROFESSIONALISM PROGRAM (ETHICS COURSE). Within 60 calendar days of
25 the effective date of this Decision, Respondent shall enroll in a professionalism program, that
26 meets the requirements of Title 16, California Code of Regulations (CCR) section 1358.1.
27 Respondent shall participate in and successfully complete that program. Respondent shall
28 provide any information and documents that the program may deem pertinent. Respondent shall

1 successfully complete the classroom component of the program not later than six (6) months after
2 Respondent's initial enrollment, and the longitudinal component of the program not later than the
3 time specified by the program, but no later than one (1) year after attending the classroom
4 component. The professionalism program shall be at Respondent's expense and shall be in
5 addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

6 A professionalism program taken after the acts that gave rise to the charges in the
7 Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board
8 or its designee, be accepted towards the fulfillment of this condition if the program would have
9 been approved by the Board or its designee had the program been taken after the effective date of
10 this Decision.

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

14 5. NOTIFICATION. Within seven (7) days of the effective date of this Decision, the
15 Respondent shall provide a true copy of this Decision and Accusation to the Chief of Staff or the
16 Chief Executive Officer at every hospital where privileges or membership are extended to
17 Respondent, at any other facility where Respondent engages in the practice of medicine,
18 including all physician and locum tenens registries or other similar agencies, and to the Chief
19 Executive Officer at every insurance carrier which extends malpractice insurance coverage to
20 Respondent. Respondent shall submit proof of compliance to the Board or its designee within 15
21 calendar days.

22 This condition shall apply to any change(s) in hospitals, other facilities or insurance carrier.

23 6. OBEY ALL LAWS. Respondent shall obey all federal, state and local laws, all rules
24 governing the practice of medicine in California and remain in full compliance with any court
25 ordered criminal probation, payments, and other orders.

26 7. INVESTIGATION/ENFORCEMENT COST RECOVERY. Respondent is hereby
27 ordered to reimburse the Board its costs of investigation and enforcement, in the amount of
28 \$15,710.25 (fifteen thousand seven hundred and ten dollars and twenty-five cents). Costs shall be

1 payable to the Medical Board of California. Failure to pay such costs shall be considered a
2 violation of probation.

3 Payment must be made in full within 30 calendar days of the effective date of the Order, or
4 by a payment plan approved by the Medical Board of California. Any and all requests for a
5 payment plan shall be submitted in writing by respondent to the Board. Failure to comply with
6 the payment plan shall be considered a violation of probation.

7 The filing of bankruptcy by respondent shall not relieve respondent of the responsibility to
8 repay investigation and enforcement costs.

9 8. QUARTERLY DECLARATIONS. Respondent shall submit quarterly declarations
10 under penalty of perjury on forms provided by the Board, stating whether there has been
11 compliance with all the conditions of probation.

12 Respondent shall submit quarterly declarations not later than 10 calendar days after the end
13 of the preceding quarter.

14 9. GENERAL PROBATION REQUIREMENTS.

15 Compliance with Probation Unit

16 Respondent shall comply with the Board's probation unit.

17 Address Changes

18 Respondent shall, at all times, keep the Board informed of Respondent's business and
19 residence addresses, email address (if available), and telephone number. Changes of such
20 addresses shall be immediately communicated in writing to the Board or its designee. Under no
21 circumstances shall a post office box serve as an address of record, except as allowed by Business
22 and Professions Code section 2021, subdivision (b).

23 Place of Practice

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

27 License Renewal

28 Respondent shall maintain a current and renewed California physician's and surgeon's

1 license.

2 Travel or Residence Outside California

3 Respondent shall immediately inform the Board or its designee, in writing, of travel to any
4 areas outside the jurisdiction of California which lasts, or is contemplated to last, more than thirty
5 (30) calendar days.

6 In the event Respondent should leave the State of California to reside or to practice
7 Respondent shall notify the Board or its designee in writing 30 calendar days prior to the dates of
8 departure and return.

9 10. INTERVIEW WITH THE BOARD OR ITS DESIGNEE. Respondent shall be
10 available in person upon request for interviews either at Respondent's place of business or at the
11 probation unit office, with or without prior notice throughout the term of probation.

12 11. NON-PRACTICE WHILE ON PROBATION. Respondent shall notify the Board or
13 its designee in writing within 15 calendar days of any periods of non-practice lasting more than
14 30 calendar days and within 15 calendar days of Respondent's return to practice. Non-practice is
15 defined as any period of time Respondent is not practicing medicine as defined in Business and
16 Professions Code sections 2051 and 2052 for at least 40 hours in a calendar month in direct
17 patient care, clinical activity or teaching, or other activity as approved by the Board. If
18 Respondent resides in California and is considered to be in non-practice, Respondent shall
19 comply with all terms and conditions of probation. All time spent in an intensive training
20 program which has been approved by the Board or its designee shall not be considered non-
21 practice and does not relieve Respondent from complying with all the terms and conditions of
22 probation. Practicing medicine in another state of the United States or Federal jurisdiction while
23 on probation with the medical licensing authority of that state or jurisdiction shall not be
24 considered non-practice. A Board-ordered suspension of practice shall not be considered as a
25 period of non-practice.

26 In the event Respondent's period of non-practice while on probation exceeds 18 calendar
27 months, Respondent shall successfully complete the Federation of State Medical Boards' Special
28 Purpose Examination, or, at the Board's discretion, a clinical competence assessment program

1 that meets the criteria of Condition 18 of the current version of the Board's "Manual of Model
2 Disciplinary Orders and Disciplinary Guidelines" prior to resuming the practice of medicine.

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

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

5 Periods of non-practice for a Respondent residing outside of California will relieve
6 Respondent of the responsibility to comply with the probationary terms and conditions with the
7 exception of this condition and the following terms and conditions of probation: Obey All Laws;
8 General Probation Requirements; Quarterly Declarations; Abstain from the Use of Alcohol and/or
9 Controlled Substances; and Biological Fluid Testing.

10 12. COMPLETION OF PROBATION. Respondent shall comply with all financial
11 obligations (e.g., restitution, probation costs) not later than 120 calendar days prior to the
12 completion of probation. This term does not include cost recovery, which is due within 30
13 calendar days of the effective date of the Order, or by a payment plan approved by the Medical
14 Board and timely satisfied. Upon successful completion of probation, Respondent's certificate
15 shall be fully restored.

16 13. VIOLATION OF PROBATION. Failure to fully comply with any term or condition
17 of probation is a violation of probation. If Respondent violates probation in any respect, the
18 Board, after giving Respondent notice and the opportunity to be heard, may revoke probation and
19 carry out the disciplinary order that was stayed. If an Accusation, or Petition to Revoke
20 Probation, or an Interim Suspension Order is filed against Respondent during probation, the
21 Board shall have continuing jurisdiction until the matter is final, and the period of probation shall
22 be extended until the matter is final.

23 14. LICENSE SURRENDER. Following the effective date of this Decision, if
24 Respondent ceases practicing due to retirement or health reasons or is otherwise unable to satisfy
25 the terms and conditions of probation, Respondent may request to surrender his or her license.
26 The Board reserves the right to evaluate Respondent's request and to exercise its discretion in
27 determining whether or not to grant the request, or to take any other action deemed appropriate
28 and reasonable under the circumstances. Upon formal acceptance of the surrender, Respondent

1 shall within 15 calendar days deliver Respondent's wallet and wall certificate to the Board or its
2 designee and Respondent shall no longer practice medicine. Respondent will no longer be subject
3 to the terms and conditions of probation. If Respondent re-applies for a medical license, the
4 application shall be treated as a petition for reinstatement of a revoked certificate.

5 15. PROBATION MONITORING COSTS. Respondent shall pay the costs associated
6 with probation monitoring each and every year of probation, as designated by the Board, which
7 may be adjusted on an annual basis. Such costs shall be payable to the Medical Board of
8 California and delivered to the Board or its designee no later than January 31 of each calendar
9 year.

10 16. FUTURE ADMISSIONS CLAUSE. If Respondent should ever apply or reapply for
11 a new license or certification, or petition for reinstatement of a license, by any other health care
12 licensing action agency in the State of California, all of the charges and allegations contained in
13 Accusation No. 800-2019-056978 shall be deemed to be true, correct, and admitted by
14 Respondent for the purpose of any Statement of Issues or any other proceeding seeking to deny or
15 restrict license.

16 ACCEPTANCE

17 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
18 discussed it with my attorney, Derek F. O'Reilly-Jones, Esq. I understand the stipulation and the
19 effect it will have on my Physician's and Surgeon's Certificate. I enter into this Stipulated
20 Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be
21 bound by the Decision and Order of the Medical Board of California.

22
23 DATED: 4/21/23

Roman Modin Winter
24 ROMAN MODIN WINTER, M.D.
25 Respondent


26 ///

27 ///

28 ///

1 I have read and fully discussed with Respondent Roman Modin Winter, M.D. the terms and
2 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.
3 I approve its form and content.

4 DATED: 04/23/2023


DEREK F. O'REILLY-JONES, ESQ.
Attorney for Respondent

6
7 **ENDORSEMENT**

8 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully
9 submitted for consideration by the Medical Board of California.

10 DATED: _____

Respectfully submitted,

11
12 ROB BONTA
Attorney General of California
13 JUDITH T. ALVARADO
Supervising Deputy Attorney General
14

15 LATRICE R. HEMPHILL
Deputy Attorney General
16 Attorneys for Complainant
17

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1 I have read and fully discussed with Respondent Roman Modin Winter, M.D. the terms and
2 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.
3 I approve its form and content.

4 DATED: _____

DEREK F. O'REILLY-JONES, ESQ.
Attorney for Respondent

6
7 **ENDORSEMENT**

8 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully
9 submitted for consideration by the Medical Board of California.

10 DATED: 4/24/2023

Respectfully submitted,

11
12 ROB BONTA
Attorney General of California
13 JUDITH T. ALVARADO
Supervising Deputy Attorney General

14 

15 LATRICE R. HEMPHILL
16 Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 800-2019-056978

1 ROB BONTA
Attorney General of California
2 JUDITH T. ALVARADO
Supervising Deputy Attorney General
3 LATRICE R. HEMPHILL
Deputy Attorney General
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5 Los Angeles, CA 90013
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6 Facsimile: (916) 731-2117
Attorneys for Complainant

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

12 In the Matter of the Accusation Against:

Case No. 800-2019-056978

13 **ROMAN MODIN WINTER, M.D.**
14 **1400 E Church Street**
Santa Maria, CA 93454-5906

A C C U S A T I O N

15 **Physician's and Surgeon's Certificate**
16 **No. A 123848,**

Respondent.

17
18
19 **PARTIES**

20 1. William Prasifka (Complainant) brings this Accusation solely in his official capacity
21 as the Executive Director of the Medical Board of California, Department of Consumer Affairs
22 (Board).

23 2. On or about December 5, 2012, the Medical Board issued Physician's and Surgeon's
24 Certificate Number A 123848 to Roman Modin Winter, M.D. (Respondent). The Physician's and
25 Surgeon's Certificate was in full force and effect at all times relevant to the charges brought
26 herein and will expire on July 31, 2024, unless renewed.

27 ///

28 ///

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 2234 of the Code, states:

The board shall take action against any licensee who is charged with unprofessional conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not limited to, the following:

(a) Violating or attempting to violate, directly or indirectly, assisting in or abetting the violation of, or conspiring to violate any provision of this chapter.

(b) Gross negligence.

(c) Repeated negligent acts. To be repeated, there must be two or more negligent acts or omissions. An initial negligent act or omission followed by a separate and distinct departure from the applicable standard of care shall constitute repeated negligent acts.

(1) An initial negligent diagnosis followed by an act or omission medically appropriate for that negligent diagnosis of the patient shall constitute a single negligent act.

(2) When the standard of care requires a change in the diagnosis, act, or omission that constitutes the negligent act described in paragraph (1), including, but not limited to, a reevaluation of the diagnosis or a change in treatment, and the licensee's conduct departs from the applicable standard of care, each departure constitutes a separate and distinct breach of the standard of care.

(d) Incompetence.

(e) The commission of any act involving dishonesty or corruption that is substantially related to the qualifications, functions, or duties of a physician and surgeon.

(f) Any action or conduct that would have warranted the denial of a certificate.

(g) The failure by a certificate holder, in the absence of good cause, to attend and participate in an interview by the board. This subdivision shall only apply to a certificate holder who is the subject of an investigation by the board.

5. Section 2236 of the Code states:

(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.

(b) The district attorney, city attorney, or other prosecuting agency shall notify

1 the Medical Board of the pendency of an action against a licensee charging a felony
2 or misdemeanor immediately upon obtaining information that the defendant is a
3 licensee. The notice shall identify the licensee and describe the crimes charged and
4 the facts alleged. The prosecuting agency shall also notify the clerk of the court in
5 which the action is pending that the defendant is a licensee, and the clerk shall record
6 prominently in the file that the defendant holds a license as a physician and surgeon.

7 (c) The clerk of the court in which a licensee is convicted of a crime shall,
8 within 48 hours after the conviction, transmit a certified copy of the record of
9 conviction to the board. The division may inquire into the circumstances surrounding
10 the commission of a crime in order to fix the degree of discipline or to determine if
11 the conviction is of an offense substantially related to the qualifications, functions, or
12 duties of a physician and surgeon.

13 (d) A plea or verdict of guilty or a conviction after a plea of nolo contendere is
14 deemed to be a conviction within the meaning of this section and Section 2236.1.
15 The record of conviction shall be conclusive evidence of the fact that the conviction
16 occurred.

17 6. Section 2239 of the Code states:

18 (a) The use or prescribing for or administering to himself or herself, of any
19 controlled substance; or the use of any of the dangerous drugs specified in Section
20 4022, or of alcoholic beverages, to the extent, or in such a manner as to be dangerous
21 or injurious to the licensee, or to any other person or to the public, or to the extent that
22 such use impairs the ability of the licensee to practice medicine safely or more than
23 one misdemeanor or any felony involving the use, consumption, or
24 self-administration of any of the substances referred to in this section, or any
25 combination thereof, constitutes unprofessional conduct. The record of the
26 conviction is conclusive evidence of such unprofessional conduct.

27 (b) A plea or verdict of guilty or a conviction following a plea of nolo
28 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
or the Medical Board may order the denial of the license when the time for appeal has
elapsed or the judgment of conviction has been affirmed on appeal or when an order
granting probation is made suspending imposition of sentence, irrespective of a
subsequent order under the provisions of Section 1203.4 of the Penal Code allowing
such person to withdraw his or her plea of guilty and to enter a plea of not guilty, or
setting aside the verdict of guilty, or dismissing the accusation, complaint,
information, or indictment.

7. Section 490 of the Code states:

(a) In addition to any other action that a board is permitted to take against a
licensee, a board may suspend or revoke a license on the ground that the licensee has
been convicted of a crime, if the crime is substantially related to the qualifications,
functions, or duties of the business or profession for which the license was issued.

(b) Notwithstanding any other provision of law, a board may exercise any
authority to discipline a licensee for conviction of a crime that is independent of the
authority granted under subdivision (a) only if the crime is substantially related to the
qualifications, functions, or duties of the business or profession for which the
licensee's license was issued.

1 (c) A conviction within the meaning of this section means a plea or verdict of
2 guilty or a conviction following a plea of nolo contendere. Any action that a board is
3 permitted to take following the establishment of a conviction may be taken when the
4 time for appeal has elapsed, or the judgment of conviction has been affirmed on
5 appeal, or when an order granting probation is made suspending the imposition of
6 sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of
7 the Penal Code.

8 (d) The Legislature hereby finds and declares that the application of this section
9 has been made unclear by the holding in *Petropoulos v. Department of Real Estate*
10 (2006) 142 Cal.App.4th 554, and that the holding in that case has placed a significant
11 number of statutes and regulations in question, resulting in potential harm to the
12 consumers of California from licensees who have been convicted of crimes.
13 Therefore, the Legislature finds and declares that this section establishes an
14 independent basis for a board to impose discipline upon a licensee, and that the
15 amendments to this section made by Chapter 33 of the Statutes of 2008 do not
16 constitute a change to, but rather are declaratory of, existing law.

17 REGULATORY PROVISIONS

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

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

1 COST RECOVERY

2 9. Section 125.3 of the Code states:

3 (a) Except as otherwise provided by law, in any order issued in resolution of a
4 disciplinary proceeding before any board within the department or before the
5 Osteopathic Medical Board, upon request of the entity bringing the proceeding, the
6 administrative law judge may direct a licensee found to have committed a violation or
7 violations of the licensing act to pay a sum not to exceed the reasonable costs of the
8 investigation and enforcement of the case.

9 (b) In the case of a disciplined licensee that is a corporation or a partnership, the
10 order may be made against the licensed corporate entity or licensed partnership.

11 (c) A certified copy of the actual costs, or a good faith estimate of costs where
12 actual costs are not available, signed by the entity bringing the proceeding or its
13 designated representative shall be prima facie evidence of reasonable costs of
14 investigation and prosecution of the case. The costs shall include the amount of
15 investigative and enforcement costs up to the date of the hearing, including, but not
16 limited to, charges imposed by the Attorney General.

1 (d) The administrative law judge shall make a proposed finding of the amount
2 of reasonable costs of investigation and prosecution of the case when requested
3 pursuant to subdivision (a). The finding of the administrative law judge with regard
4 to costs shall not be reviewable by the board to increase the cost award. The board
5 may reduce or eliminate the cost award, or remand to the administrative law judge if
6 the proposed decision fails to make a finding on costs requested pursuant to
7 subdivision (a).

8 (e) If an order for recovery of costs is made and timely payment is not made as
9 directed in the board's decision, the board may enforce the order for repayment in any
10 appropriate court. This right of enforcement shall be in addition to any other rights
11 the board may have as to any licensee to pay costs.

12 (f) In any action for recovery of costs, proof of the board's decision shall be
13 conclusive proof of the validity of the order of payment and the terms for payment.

14 (g) (1) Except as provided in paragraph (2), the board shall not renew or
15 reinstate the license of any licensee who has failed to pay all of the costs ordered
16 under this section.

17 (2) Notwithstanding paragraph (1), the board may, in its discretion,
18 conditionally renew or reinstate for a maximum of one year the license of any
19 licensee who demonstrates financial hardship and who enters into a formal agreement
20 with the board to reimburse the board within that one-year period for the unpaid
21 costs.

22 (h) All costs recovered under this section shall be considered a reimbursement
23 for costs incurred and shall be deposited in the fund of the board recovering the costs
24 to be available upon appropriation by the Legislature.

25 (i) Nothing in this section shall preclude a board from including the recovery of
26 the costs of investigation and enforcement of a case in any stipulated settlement.

27 (j) This section does not apply to any board if a specific statutory provision in
28 that board's licensing act provides for recovery of costs in an administrative
disciplinary proceeding.

19 FACTUAL ALLEGATIONS

20 10. On or about December 9, 2017, officers from the Stockton Police Department
21 conducted a driving under the influence (DUI) checkpoint. During the checkpoint, one officer
22 was summoned over by a driver. The driver stated that the individual in the car in front of hers,
23 later identified as Respondent, stopped his car prior to making contact with the police and poured
24 something out of a bottle.

25 11. The officer made contact with Respondent's vehicle and observed that Respondent
26 appeared sluggish and almost asleep. The officer asked Respondent if he had been drinking.
27 Respondent responded, "No," and indicated that he had just left the gym. The officer observed
28 Respondent to have on pajama bottoms and wearing flip-flop shoes.

1 12. The officer asked Respondent twice to produce his license, but he did not comply.
2 The officer asked Respondent to exit the vehicle and he did. Respondent was taken to the DUI
3 trailer and was asked the DUI investigation interview questions. The officer explained and
4 demonstrated the Standardized Field Sobriety Tests (SFSTs) to Respondent. Respondent
5 performed the SFSTs, but the officer noted that his performance was consistent with someone
6 who is impaired. Based on his performance, Respondent was placed under arrest for driving
7 under the influence.

8 13. The officer administered a breath test, which showed Respondent's blood alcohol
9 concentration was 0.00%.

10 14. Officers searched Respondent's vehicle and found a pill bottle for zolpidem,¹ which
11 is generic for Ambien. The bottle showed Respondent as the prescribing doctor, and M.S. as the
12 patient. The bottle indicated that the prescription was filled on December 9, 2017, with a quantity
13 of 30 pills. However, only eight (8) pills remained in the bottle.

14 15. Respondent was transported to the police station and a drug evaluation was
15 conducted. An officer determined that Respondent was under the influence of a central nervous
16 system depressant. Respondent provided a urine sample, which was sent to the Department of
17 Justice Bureau of Forensic Services for a toxicology screening. The sample yielded a positive
18 result for zolpidem.

19 16. On or about April 9, 2018, in the case of *The People of the State of California v.*
20 *Roman Winter*, Superior Court of California for the County of San Joaquin, case number CR-
21 2018-4168427, Respondent was charged with driving under the influence of drugs, in violation of
22 Vehicle Code section 23152, subdivision (f), a misdemeanor.

23 17. On or about August 27, 2021, Respondent pled nolo contendere and was convicted of
24 Vehicle Code section 23103 wet reckless, pursuant to Vehicle Code section 23103.5, a
25 misdemeanor.

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28 ¹ Zolpidem is a sedative, also known as a hypnotic. It affects chemicals in the brain that
may be unbalanced in people with sleep problems. Zolpidem is used to treat insomnia.

1 18. Respondent was sentenced to one (1) year of informal probation and ordered to
2 complete a 12-hour DUI program. Respondent was also ordered to pay standard fines and fees.

3 **FIRST CAUSE FOR DISCIPLINE**

4 **(Conviction of a Crime)**

5 19. Respondent is subject to disciplinary action under sections 2236 and 490, and the
6 California Code of Regulations, title 16, section 1360 in that he was convicted of a crime
7 substantially related to the qualifications, functions, or duties of a physician or surgeon, as more
8 particularly alleged in paragraphs 10 through 18, above, which are hereby incorporated by
9 reference as if fully set forth herein.

10 **SECOND CAUSE FOR DISCIPLINE**

11 **(Dangerous Use of Drugs)**

12 20. Respondent is subject to disciplinary action under Code section 2239 insofar as
13 Respondent used drugs to the extent, or in such a manner, as to be dangerous or injurious to
14 himself and to the public, as more particularly alleged in paragraphs 10 through 18, above, which
15 are incorporated herein by reference as if fully set forth.

16 **THIRD CAUSE FOR DISCIPLINE**

17 **(Unprofessional Conduct)**

18 21. Respondent is subject to disciplinary action under section 2234 in that he engaged in
19 unprofessional conduct. The circumstances are as follows:

20 22. The allegations in the First and Second Causes for Discipline are incorporated herein
21 by reference as if fully set forth.

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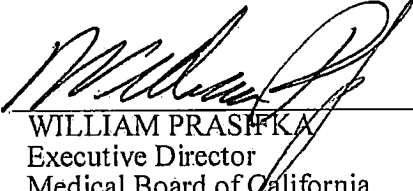
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1 PRAYER

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

- 4 1. Revoking or suspending Physician's and Surgeon's Certificate Number A 123848,
5 issued to Roman Modin Winter, M.D.;
- 6 2. Revoking, suspending or denying approval of Roman Modin Winter, M.D.'s authority
7 to supervise physician assistants and advanced practice nurses;
- 8 3. Ordering Roman Modin Winter, M.D., to pay the Board the costs of the investigation
9 and enforcement of this case, and if placed on probation, the costs of probation monitoring; and
- 10 4. Taking such other and further action as deemed necessary and proper.

11 DATED: AUG 09 2022

12 
13 WILLIAM PRASHKA
14 Executive Director
15 Medical Board of California
16 Department of Consumer Affairs
17 State of California
18 Complainant

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