

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

**In the Matter of the Accusation  
Against:**

**Viktor Gabriel, M.D.**

**Physician's and Surgeon's  
Certificate No. A 138820**

**Respondent.**

**Case No.: 800-2020-063289**

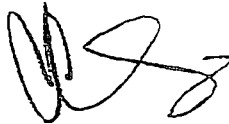
**DECISION**

**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 October 20, 2023.**

**IT IS SO ORDERED: September 22, 2023.**

**MEDICAL BOARD OF CALIFORNIA**



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

1 ROB BONTA  
Attorney General of California  
2 ALEXANDRA M. ALVAREZ  
Supervising Deputy Attorney General  
3 KALEV KASEORU  
Deputy Attorney General  
4 State Bar No. 331645  
1300 I Street, Suite 125  
5 P.O. Box 944255  
Sacramento, CA 94244-2550  
6 Telephone: (916) 210-7508  
Facsimile: (916) 327-2247  
7 E-mail: Kalev.Kaseoru@doj.ca.gov  
*Attorneys for Complainant*

8  
9 **BEFORE THE**  
**MEDICAL BOARD OF CALIFORNIA**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
11 **STATE OF CALIFORNIA**  
12

13 In the Matter of the Accusation Against:

14 **VIKTOR GABRIEL, M.D.**  
15 **1531 Esplanade**  
**Chico, CA 95926-3310**

16 **Physician's and Surgeon's Certificate**  
17 **No. A 138820**

18 Respondent.

Case No. 800-2020-063289

OAH No. 2023020831

**STIPULATED SETTLEMENT AND  
DISCIPLINARY ORDER**

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

23 **PARTIES**

24 1. Reji Varghese (Complainant) is the Executive Director of the Medical Board of  
25 California (Board). He brought this action solely in his official capacity and is represented in this  
26 matter by Rob Bonta, Attorney General of the State of California, by Kalev Kaseoru, Deputy  
27 Attorney General.

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2. Respondent Viktor Gabriel, M.D. (Respondent) is represented in this proceeding by attorney Raymond J. McMahon, Esq., whose address is: 5440 Trabuco Road Irvine, CA 92620.

3. On October 9, 2015, the Board issued Physician's and Surgeon's Certificate No. A 138820 to Viktor Gabriel, M.D. (Respondent). The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought in Accusation No. 800-2020-063289, and will expire on March 31, 2025, unless renewed.

#### **JURISDICTION**

4. Accusation No. 800-2020-063289 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 December 8, 2022. Respondent timely filed his Notice of Defense contesting the Accusation.

5. A copy of Accusation No. 800-2020-063289 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. 800-2020-063289. 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.

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1 CULPABILITY

2 9. Respondent understands and agrees that the charges and allegations in Accusation  
3 No. 800-2020-063289, if proven at a hearing, constitute cause for imposing discipline upon his  
4 Physician's and Surgeon's Certificate.

5 10. Respondent agrees that, at a hearing, Complainant could establish a prima facie case  
6 or factual basis for the charges in the Accusation, and that Respondent hereby gives up his right  
7 to contest those charges.

8 11. Respondent does not contest that, at an administrative hearing, Complainant could  
9 establish a prima facie case with respect to the charges and allegations in Accusation No. 800-  
10 2020-063289, a true and correct copy of which is attached hereto as Exhibit A, and that he has  
11 thereby subjected his Physician's and Surgeon's Certificate, No. A 138820 to disciplinary action.

12 12. Respondent agrees that his Physician's and Surgeon's Certificate is subject to  
13 discipline and he agrees to be bound by the Board's imposition of discipline as set forth in the  
14 Disciplinary Order below.

15 CONTINGENCY

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

26 14. Respondent agrees that if he ever petitions for early termination or modification of  
27 probation, or if an accusation and/or petition to revoke probation is filed against him before the  
28 Board, all of the charges and allegations contained in Accusation No. 800-2020-063289 shall be

1 deemed true, correct and fully admitted by respondent for purposes of any such proceeding or any  
2 other licensing proceeding involving Respondent in the State of California.

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

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

9 **DISCIPLINARY ORDER**

10 IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. A 138820 issued  
11 to Respondent Viktor Gabriel, M.D. is revoked. However, the revocation is stayed and  
12 Respondent is placed on probation for four (4) years from the effective date of the Decision on  
13 the following terms and conditions:

14 1. ALCOHOL - ABSTAIN FROM USE. Respondent shall abstain  
15 completely from the use of products or beverages containing alcohol.

16 2. CLINICAL DIAGNOSTIC EVALUATIONS AND REPORTS: Within  
17 thirty (30) calendar days of the effective date of this Decision, and on whatever periodic basis  
18 thereafter as may be required by the Board or its designee, Respondent shall undergo and  
19 complete a clinical diagnostic evaluation, including any and all testing deemed necessary, by a  
20 Board-appointed board certified physician and surgeon. The examiner shall consider any  
21 information provided by the Board or its designee and any other information he or she deems  
22 relevant, and shall furnish a written evaluation report to the Board or its designee.

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

1 Respondent within the last five (5) years. The evaluator shall provide an objective, unbiased, and  
2 independent evaluation. The clinical diagnostic evaluation report shall set forth, in the  
3 evaluator's opinion, whether Respondent has a substance abuse problem, whether Respondent is a  
4 threat to himself or herself or others, and recommendations for substance abuse treatment,  
5 practice restrictions, or other recommendations related to Respondent's rehabilitation and ability  
6 to practice safely. If the evaluator determines during the evaluation process that Respondent is a  
7 threat to himself or herself or others, the evaluator shall notify the Board within twenty-four (24)  
8 hours of such a determination.

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

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

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

26 Respondent may remain under the care of his current mental health counselor(s), however,  
27 Respondent shall comply with all restrictions or conditions recommended by the examiner

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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 a 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 the 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 (5) years, Respondent shall be subject to 36 to 104 random tests per year. Only if there has been no positive biological fluid tests in the previous five (5) consecutive years of probation, may testing be reduced to one (1) time per month. Nothing precludes the Board from increasing the number of random tests to the first-year level of frequency for any reason.

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1 Prior to beginning the probationary period, Respondent shall contract with a laboratory or  
2 service, approved in advance by the Board or its designee, that will conduct random,  
3 unannounced, observed, biological fluid testing and meets all of the following standards:

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

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

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

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

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

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

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

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

25 (i) It maintains testing sites located throughout California.

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

28 (k) It maintains a secure, HIPAA-compliant website or computer system that allows staff



1 access to drug test results and compliance reporting information that is available 24 hours a  
2 day.

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

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

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

11 The contract shall require that the laboratory directly notify the Board or its designee of  
12 non-negative results within one (1) business day and negative test results within seven (7)  
13 business days of the results becoming available. Respondent shall maintain this laboratory or  
14 service contract during the period of probation.

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

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

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

26 After the issuance of a cease-practice order, the Board shall determine whether the positive  
27 biological fluid test is in fact evidence of prohibited substance use by consulting with the

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specimen collector and the laboratory, communicating with the licensee, his or her 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 the Respondent has been instructed by the Board not to use, consume, ingest, or administer to himself or herself.

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 thirty (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 or she 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 (3) 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 (5) 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

1 attendance, and Respondent's level of participation and progress. The facilitator shall report any  
2 unexcused absence by Respondent from any substance abuse support group meeting to the Board,  
3 or its designee, within twenty-four (24) hours of the unexcused absence.

4 6. WORKSITE MONITOR FOR SUBSTANCE-ABUSING LICENSEE. Within  
5 thirty (30) calendar days of the effective date of this Decision, Respondent shall submit to the  
6 Board or its designee for prior approval as a worksite monitor, the name and qualifications of one  
7 or more licensed physician and surgeon, other licensed health care professional if no physician  
8 and surgeon is available, or, as approved by the Board or its designee, a person in a position of  
9 authority who is capable of monitoring the Respondent at work.

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

16 The worksite monitor shall have an active unrestricted license with no disciplinary action  
17 within the last five (5) years, and shall sign an affirmation that he or she has reviewed the terms  
18 and conditions of Respondent's disciplinary order and agrees to monitor Respondent as set forth  
19 by the Board or its designee.

20 Respondent shall pay all worksite monitoring costs.

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

25 The worksite monitor shall verbally report any suspected substance abuse to the Board and  
26 Respondent's employer or supervisor within one (1) business day of occurrence. If the suspected  
27 substance abuse does not occur during the Board's normal business hours, the verbal report shall  
28 be made to the Board or its designee within one (1) hour of the next business day. A written

1 report that includes the date, time, and location of the suspected abuse; Respondent's actions; and  
2 any other information deemed important by the worksite monitor shall be submitted to the Board  
3 or its designee within 48 hours of the occurrence.

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

14 If the worksite monitor resigns or is no longer available, Respondent shall, within five (5)  
15 calendar days of such resignation or unavailability, submit to the Board or its designee, for prior  
16 approval, the name and qualifications of a replacement monitor who will be assuming that  
17 responsibility within fifteen (15) calendar days. If Respondent fails to obtain approval of a  
18 replacement monitor within sixty (60) calendar days of the resignation or unavailability of the  
19 monitor, Respondent shall receive a notification from the Board or its designee to cease the  
20 practice of medicine within three (3) calendar days after being so notified. Respondent shall  
21 cease the practice of medicine until a replacement monitor is approved and assumes monitoring  
22 responsibility.

23 7. VIOLATION OF PROBATION CONDITION FOR SUBSTANCE ABUSING  
24 LICENSEES. Failure to fully comply with any term or condition of probation is a violation of  
25 probation.

26 A. If Respondent commits a major violation of probation as defined by section  
27 1361.52, subdivision (a), of Title 16 of the California Code of Regulations, the Board shall take  
28 one or more of the following actions:

1 (1) Issue an immediate cease-practice order and order Respondent to undergo a clinical  
2 diagnostic evaluation to be conducted in accordance with section 1361.5, subdivision (c)(1), of  
3 Title 16 of the California Code of Regulations, at Respondent's expense. The cease-practice  
4 order issued by the Board or its designee shall state that Respondent must test negative for at least  
5 a month of continuous biological fluid testing before being allowed to resume practice. For  
6 purposes of determining the length of time a Respondent must test negative while undergoing  
7 continuous biological fluid testing following issuance of a cease-practice order, a month is  
8 defined as thirty calendar (30) days. Respondent may not resume the practice of medicine until  
9 notified in writing by the Board or its designee that he or she may do so.

10 (2) Increase the frequency of biological fluid testing.

11 (3) Refer Respondent for further disciplinary action, such as suspension, revocation, or  
12 other action as determined by the Board or its designee.

13 B. If Respondent commits a minor violation of probation as defined by section  
14 1361.52, subdivision (c), of Title 16 of the California Code of Regulations, the Board shall take  
15 one or more of the following actions:

16 (1) Issue a cease-practice order;

17 (2) Order practice limitations;

18 (3) Order or increase supervision of Respondent;

19 (4) Order increased documentation;

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

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

24 (7) Take any other action as determined by the Board or its designee.

25 C. Nothing in this Decision shall be considered a limitation on the Board's authority  
26 to revoke Respondent's probation if he or she has violated any term or condition of probation. If  
27 Respondent violates probation in any respect, the Board, after giving Respondent notice and the  
28 opportunity to be heard, may revoke probation and carry out the disciplinary order that was

1 stayed. If an Accusation, or Petition to Revoke Probation, or an Interim Suspension Order is filed  
2 against Respondent during probation, the Board shall have continuing jurisdiction until the matter  
3 is final, and the period of probation shall be extended until the matter is final.

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

14 9. PROFESSIONALISM PROGRAM (ETHICS COURSE). Within 60 calendar  
15 days of the effective date of this Decision, Respondent shall enroll in a professionalism program,  
16 that meets the requirements of Title 16, California Code of Regulations (CCR) section 1358.1.  
17 Respondent shall participate in and successfully complete that program. Respondent shall  
18 provide any information and documents that the program may deem pertinent. Respondent shall  
19 successfully complete the classroom component of the program not later than six (6) months after  
20 Respondent's initial enrollment, and the longitudinal component of the program not later than the  
21 time specified by the program, but no later than one (1) year after attending the classroom  
22 component. The professionalism program shall be at Respondent's expense and shall be in  
23 addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

24 A professionalism program taken after the acts that gave rise to the charges in the  
25 Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board  
26 or its designee, be accepted towards the fulfillment of this condition if the program would have  
27 been approved by the Board or its designee had the program been taken after the effective date of  
28 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.

10. NOTIFICATION. Within seven (7) days of the effective date of this Decision, the Respondent shall provide a true copy of this Decision and Accusation 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(s) in hospitals, other facilities or insurance carrier.

11. 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.

12. INVESTIGATION/ENFORCEMENT COST RECOVERY. Respondent is hereby ordered to reimburse the Board its costs of investigation and enforcement, including, but not limited to, expert review, amended accusations, legal reviews, investigation(s), and subpoena enforcement, as applicable, in the amount of \$12,000 (twelve thousand dollars). Costs shall be payable to the Medical Board of California. Failure to pay such costs shall be considered a violation of probation.

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

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

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1           13.     QUARTERLY DECLARATIONS. Respondent shall submit quarterly  
2 declarations under penalty of perjury on forms provided by the Board, stating whether there has  
3 been compliance with all the conditions of probation.

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

6           14.     GENERAL PROBATION REQUIREMENTS.

7           Compliance with Probation Unit

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

9           Address Changes

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

15          Place of Practice

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

19          License Renewal

20          Respondent shall maintain a current and renewed California physician's and surgeon's  
21 license.

22          Travel or Residence Outside California

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

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



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

4           16.     NON-PRACTICE WHILE ON PROBATION. Respondent shall notify the Board  
5 or its designee in writing within 15 calendar days of any periods of non-practice lasting more than  
6 30 calendar days and within 15 calendar days of Respondent's return to practice. Non-practice is  
7 defined as any period of time Respondent is not practicing medicine as defined in Business and  
8 Professions Code sections 2051 and 2052 for at least 40 hours in a calendar month in direct  
9 patient care, clinical activity or teaching, or other activity as approved by the Board. If  
10 Respondent resides in California and is considered to be in non-practice, Respondent shall  
11 comply with all terms and conditions of probation. All time spent in an intensive training  
12 program which has been approved by the Board or its designee shall not be considered non-  
13 practice and does not relieve Respondent from complying with all the terms and conditions of  
14 probation. Practicing medicine in another state of the United States or Federal jurisdiction while  
15 on probation with the medical licensing authority of that state or jurisdiction shall not be  
16 considered non-practice. A Board-ordered suspension of practice shall not be considered as a  
17 period of non-practice.

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

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

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

25           Periods of non-practice for a Respondent residing outside of California will relieve  
26 Respondent of the responsibility to comply with the probationary terms and conditions with the  
27 exception of this condition and the following terms and conditions of probation: Obey All Laws;

28     ///

1 General Probation Requirements; Quarterly Declarations; Abstain from the Use of Alcohol and/or  
2 Controlled Substances; and Biological Fluid Testing.

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

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

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

26 20. PROBATION MONITORING COSTS. Respondent shall pay the costs associated  
27 with probation monitoring each and every year of probation, as designated by the Board, which  
28 may be adjusted on an annual basis. Such costs shall be payable to the Medical Board of


1 California and delivered to the Board or its designee no later than January 31 of each calendar  
2 year.

3 21. FUTURE ADMISSIONS CLAUSE. If Respondent should ever apply or reapply  
4 for a new license or certification, or petition for reinstatement of a license, by any other health  
5 care licensing action agency in the State of California, all of the charges and allegations contained  
6 in Accusation No. 800-2020-063289 shall be deemed to be true, correct, and admitted by  
7 Respondent for the purpose of any Statement of Issues or any other proceeding seeking to deny or  
8 restrict license.

9 ACCEPTANCE

10 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully  
11 discussed it with my attorney, Raymond J. McMahon, Esq.. I understand the stipulation and the  
12 effect it will have on my Physician's and Surgeon's Certificate. I enter into this Stipulated  
13 Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be  
14 bound by the Decision and Order of the Medical Board of California.

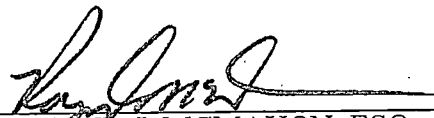
15  
16 DATED: 07/14/2023



17 VIKTOR GABRIEL, M.D.  
Respondent

18 I have read and fully discussed with Respondent Viktor Gabriel, M.D. the terms and  
19 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.  
20 I approve its form and content.

21 DATED: July 14, 2023



22 RAYMOND J. MCMAHON, ESQ.  
Attorney for Respondent  
23  
24  
25  
26  
27  
28

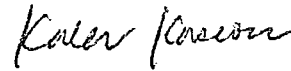
**ENDORSEMENT**

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

DATED: July 14, 2023

Respectfully submitted,

ROB BONTA  
Attorney General of California  
ALEXANDRA M. ALVAREZ  
Supervising Deputy Attorney General



KALEV KASEORU  
Deputy Attorney General  
*Attorneys for Complainant*

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**Exhibit A**

**Accusation No. 800-2020-063289**

1 ROB BONTA  
Attorney General of California  
2 STEVE DIEHL  
Supervising Deputy Attorney General  
3 KALEV KASEORU  
Deputy Attorney General  
4 State Bar No. 331645  
1300 I Street, Suite 125  
5 P.O. Box 944255  
Sacramento, CA 94244-2550  
6 Telephone: (916) 210-7508  
Facsimile: (916) 327-2247  
7 E-mail: Kalev.Kaseoru@doj.ca.gov  
*Attorneys for Complainant*

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

13 In the Matter of the Accusation Against:

Case No. 800-2020-063289

14 **VIKTOR GABRIEL, M.D.**  
333 City Blvd., W. Ste 1600  
Orange, CA 92868-5903

**A C C U S A T I O N**

15 **Physician's and Surgeon's Certificate**  
16 **No. A 138820,**

17 Respondent.

18  
19  
20 **PARTIES**

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

24 2. On or about October 9, 2015, the Medical Board issued Physician's and Surgeon's  
25 Certificate Number A 138820 to Viktor Gabriel, M.D. (Respondent). The Physician's and  
26 Surgeon's Certificate was in full force and effect at all times relevant to the charges brought  
27 herein and will expire on March 31, 2023, unless renewed.

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 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.

(c) A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of no lo contendere. An action that a board is permitted to take following the establishment of a conviction may be taken 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 the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of the Penal Code.

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

5. Section 493 of the Code states:

(a) Notwithstanding any other law, in a proceeding conducted by a board within the department pursuant to law to deny an application for a license or to suspend or revoke a license or otherwise take disciplinary action against a person who holds a license, upon the ground that the applicant or the licensee has been convicted of a crime substantially related to the qualifications, functions, and duties of the licensee in question, the record of conviction of the crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact.

(b)(1) Criteria for determining whether a crime is substantially related to the qualifications, functions, or duties of the business or profession the board regulates shall include all of the following:

(A) The nature and gravity of the offense.

(B) The number of years elapsed since the date of the offense.

(C) The nature and duties of the profession.

(2) A board shall not categorically bar an applicant based solely on the type of conviction without considering evidence of rehabilitation.

(c) As used in this section, "license" includes "certificate", "permit", "authority", and "registration".

(d) This section does not in any way modify or otherwise affect the existing authority of the following entities in regard to licensure:

(1) The State Athletic Commission.

(2) The Bureau for Private Postsecondary Education.

(3) The California Horse Racing Board.

(e) This section shall become operative on July 1, 2020.

6. Section 2227 of the Code provides that a licensee who is found guilty under the Medical Practice Act 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.

7. 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.

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

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

(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.

9. Section 2239 of the Code states:

(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 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

1 of Section 1203.4 of the Penal Code allowing such person to withdraw his or her plea of  
2 guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing  
the accusation, complaint, information, or indictment.<sup>1</sup>

3 10. California Code of Regulations, Title 16, Section 1360, states:

4 (a) For the purposes of denial, suspension or revocation of a license, certificate or  
5 permit pursuant to Division 1.5 (commencing with Section 475) of the code, a crime or act  
6 shall be substantially related to the qualifications, function or duties of a person holding a  
7 license, certificate or permit under the Medical Practice Act if to a substantial degree it  
8 evidences present or potential unfitness of a person holding a license, certificate or permit  
9 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.

10 (b) In making the substantial relationship determination required under subdivision  
11 (a) for a crime, the board shall consider the following criteria:

- 12 (1) The nature and gravity of the crime;  
13 (2) The number of years elapsed since the date of the crime; and  
14 (3) The nature and duties of the profession.

#### 15 COST RECOVERY

16 11. Section 125.3 of the Code states:

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

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

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

(d) The administrative law judge shall make a proposed finding of the amount  
of reasonable costs of investigation and prosecution of the case when requested  
pursuant to subdivision (a). The finding of the administrative law judge with regard to

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<sup>1</sup> The Legislature, in Section 2239, established a nexus between a physician's use of  
alcoholic beverages and their fitness to practice medicine "in all cases where a licensed physician  
used alcoholic beverages to the extent or in such a manner as to pose a danger to himself or  
others." (*Watson v. Superior Court (Medical Board)* (2009) 176 Cal.App.4th 1407, 1411.)

1 costs shall not be reviewable by the board to increase the cost award. The board may  
2 reduce or eliminate the cost award, or remand to the administrative law judge if the  
proposed decision fails to make a finding on costs requested pursuant to subdivision  
(a).

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

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

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

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

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

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

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

### 18 FACTUAL ALLEGATIONS

19 12. On or about January 4, 2020, at approximately 6:14 p.m., an officer of the Costa  
20 Mesa, California, Police Department was dispatched to the area of Newport Boulevard and  
21 Victoria Street in Costa Mesa, CA, for a report of a possibly intoxicated driver. The officer was  
22 advised that the driver was last seen heading north on Orange Avenue north of Santa Isabel  
23 Avenue in Costa Mesa, CA, in a black Toyota Camry. The party reporting the information to the  
24 officer was following the suspect vehicle. The reporting party informed the officer that the driver  
25 of the black Toyota Camry was swerving all over the road and failing to stop at posted stop signs.  
26 The Costa Mesa officer conducted a traffic stop of the suspect vehicle after he observed the  
27 vehicle, in front of the reporting party's vehicle, make a turn into the driveway of a private gated  
28

1 community on Admiral Way in Costa Mesa, CA. Respondent was the driver, and sole occupant,  
2 of the black Toyota Camry stopped by the officer.

3 13. Upon conducting the stop, the officer immediately smelled a moderate odor of an  
4 alcoholic beverage emitting from Respondent's person. The officer further observed Respondent  
5 to have heavily slurred speech and bloodshot, watery eyes. Respondent informed the stopping  
6 officer that he was returning from work at UCI Medical Center, and that he had not consumed  
7 any alcoholic beverages. The officer recorded that Respondent continued to repeatedly inform  
8 him that he was a surgeon, and pulled out his white medical coat from the backseat of his vehicle  
9 to show to the officer.

10 14. Respondent was asked to exit the vehicle and complied, but stumbled as he did so and  
11 was observed by the officer to have difficulty maintaining his balance. The officer administered  
12 Standard Field Sobriety Tests (SFST's) to Respondent which resulted in the officer recording that  
13 Respondent's eyes lacked smooth pursuit of a stimulus with sustained and distinct nystagmus at  
14 maximum deviation; that Respondent could not successfully complete a Walk and Turn test,  
15 namely by failing to stay in the starting position, stopping and pausing before completing the test,  
16 and missing heel to toe steps; that Respondent failed the One Leg Stand Test by putting his foot  
17 down several times and hopping to maintain his balance. Based on the SFST observations the  
18 officer placed Respondent under arrest for suspicion of driving under the influence of alcohol, a  
19 violation of 23152(a) of the California Vehicle Code, a misdemeanor.

20 15. After being placed under arrest, Respondent requested a voluntary blood test when  
21 asked to submit to either a breath or blood test. After Respondent was transported to the Costa  
22 Mesa Jail, his blood was drawn. On or about January 20, 2022, the result of the blood draw  
23 revealed Respondent to have had a blood alcohol content of .21%. The reporting officer spoke  
24 with the reporting party who further reported he observed Respondent's vehicle almost collide  
25 with his own, drive erratically in traffic lanes failing to maintain his lane position and cross the  
26 center dividing line, and almost collide with another vehicle after failing to stop at a stop sign.

27 16. On or about January 4, 2022, Respondent was charged in Costa Mesa, CA, with one  
28 count of violating Section 23152, subdivision (a) of the California Vehicle Code (Driving Under

1 the Influence of Alcohol), and one count of violating Section 23152, subdivision (b) of the  
2 California Vehicle Code (Driving with a Blood Alcohol Level .08% or more), both  
3 misdemeanors. It was further alleged that, as to both counts, Respondent had a blood alcohol  
4 concentration of .20 percent or more, by weight. On or about March, 2, 2022, Respondent pled  
5 guilty to both aforementioned counts with the further allegation of the .20 blood alcohol  
6 concentration dismissed. Respondent was sentenced to three years informal probation and paid  
7 \$1587.12 in court fines, fees, and restitution. He was ordered to complete a six-month first-  
8 offender program and attend victim impact counseling.

9 **FIRST CAUSE FOR DISCIPLINE**

10 **(Conviction of an Alcohol Related Offense)**

11 17. Respondent Viktor Gabriel, M.D. is subject to disciplinary action under sections 2227  
12 and 2234, as defined by section 2239, of the Code, and California Code of Regulations, Title 16,  
13 Section 1360, in that he used alcoholic beverages, to the extent, or in such a manner, as to be  
14 dangerous or injurious to himself, or to any other person or to the public. The circumstances set  
15 forth in paragraphs 12 through 16, and those paragraphs are incorporated by reference as if fully  
16 set forth herein.

17 **SECOND CAUSE FOR DISCIPLINE**

18 **(Conviction of a Crime Substantially Related to the Qualifications, Functions, or Duties of a**  
19 **Physician and Surgeon)**

20 18. Respondent is further subject to disciplinary action under sections 2227 and 2234, as  
21 defined by section 2236, of the Code, and California Code of Regulations, Title 16, Section 1360,  
22 in that he has been convicted of a crime, to wit: violation of Section 23152, subdivision (a), and  
23 23152, subdivision (b), of the California Vehicle Code, which is substantially related to the  
24 qualifications, functions or duties of a physician and surgeon, as more particularly alleged in  
25 paragraphs 12 to 16, above, which are hereby incorporated by reference as if fully set forth  
26 herein.

27 ///

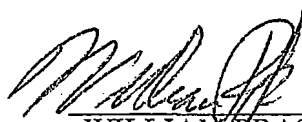
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**PRAYER**

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 A 138820, issued to Viktor Gabriel, M.D.;
2. Revoking, suspending or denying approval of Viktor Gabriel, M.D.'s authority to supervise physician assistants and advanced practice nurses;
3. Ordering Viktor Gabriel, M.D., to pay the Board the costs of the investigation and enforcement of this case, and if placed on probation, the costs of probation monitoring;
4. Taking such other and further action as deemed necessary and proper.

DATED: DEC 08 2022



WILLIAM PRASIFKA  
Executive Director  
Medical Board of California  
Department of Consumer Affairs  
State of California  
*Complainant*

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Revised Accusation.docx