

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

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

Brian Glen Boatman, M.D.

**Physician's and Surgeon's
Certificate No. C 133563**

Respondent.

Case No. 800-2020-064852

DECISION

**The attached Stipulated Surrender of License and 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 24, 2023.

IT IS SO ORDERED October 17, 2023.

MEDICAL BOARD OF CALIFORNIA



**Reji Varghese
Executive Director**

1 ROB BONTA
Attorney General of California
2 EDWARD KIM
Supervising Deputy Attorney General
3 CHRISTINE FRIAR WALTON
Deputy Attorney General
4 State Bar No. 228421
Department of Justice
5 300 South Spring Street, Suite 1702
Los Angeles, CA 90013
6 Telephone: (213) 269-6472
Facsimile: (916) 731-2117
7 *Attorneys for Complainant*

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

11 In the Matter of the First Amended Accusation
Against:

Case No. 800-2020-064852

12 **BRIAN GLEN BOATMAN, M.D.**
13 **5620 E The Toledo**
Long Beach, CA 90803-4045

**STIPULATED SURRENDER OF
LICENSE AND ORDER**

14 **Physician's and Surgeon's Certificate**
15 **No. C 133563,**

16 Respondent.

17
18 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
19 entitled proceedings that the following matters are true:

20 **PARTIES**

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

25 2. Respondent Brian Glen Boatman, M.D. (Respondent) is representing himself in this
26 proceeding and has chosen not to exercise his right to be represented by counsel.

27 3. On December 3, 2014, the Board issued Physician's and Surgeon's Certificate No. C
28 133563 to Respondent. That Physician's and Surgeon's Certificate expired on July 31, 2022, and

1 has not been renewed.

2 **JURISDICTION**

3 4. Accusation No. 800-2020-064852 was filed before the Board on February 1, 2023,
4 and was properly served on Respondent along with all other statutorily required documents.
5 Respondent timely filed his Notice of Defense contesting the Accusation. Thereafter, First
6 Amended Accusation No. 800-2020-064852 was filed before the Board, and is currently pending
7 against Respondent. The First Amended Accusation and all other statutorily required documents
8 were properly served on Respondent.

9 5. A copy of First Amended Accusation No. 800-2020-064852 is attached as Exhibit A
10 and incorporated by reference.

11 **ADVISEMENT AND WAIVERS**

12 6. Respondent has carefully read, and understands the charges and allegations in First
13 Amended Accusation No. 800-2020-064852. Respondent also has carefully read, and
14 understands the effects of this Stipulated Surrender of License and Order.

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

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

24 **CULPABILITY**

25 9. Respondent admits the truth of the allegations contained in the Fifth Cause for
26 Discipline in First Amended Accusation No. 800-2020-064852, agrees that cause exists for Board
27 action, and hereby surrenders his Physician's and Surgeon's Certificate No. C 133563 for the
28 Board's formal acceptance. In addition, for the purpose of resolving First Amended Accusation

1 No. 800-2020-064852 without the expense and uncertainty of further proceedings, Respondent
2 agrees that, at a hearing, Complainant could establish a factual basis for the remaining charges in
3 First Amended Accusation No. 800-2020-064852 and that those charges also constitute cause for
4 discipline. Respondent hereby gives up his right to contest that cause for discipline exists based
5 on those charges.

6 10. Respondent understands that by signing this stipulation he enables the Board to issue
7 an order accepting the surrender of his Physician's and Surgeon's Certificate without further
8 process.

9 11. Respondent agrees that if he ever files an application for licensure or a petition for
10 reinstatement in the State of California, the Board shall treat it as a petition for reinstatement, and
11 all of the charges and allegations contained in First Amended Accusation No. 800-2020-064852
12 shall be deemed true, correct and fully admitted by Respondent for purposes of any such
13 proceeding or any other licensing proceeding involving Respondent in the State of California.

14 CONTINGENCY

15 12. Business and Professions Code section 2224, subdivision (b), provides, in pertinent
16 part, that the Medical Board "shall delegate to its executive director the authority to adopt a ...
17 stipulation for surrender of a license."

18 13. Respondent understands that, by signing this stipulation, he enables the Executive
19 Director of the Board to issue an order, on behalf of the Board, accepting the surrender of his
20 Physician's and Surgeon's Certificate No. C 133563 without further notice to, or opportunity to be
21 heard by, Respondent.

22 14. This Stipulated Surrender of License and Disciplinary Order shall be subject to the
23 approval of the Executive Director on behalf of the Board. The parties agree that this Stipulated
24 Surrender of License and Disciplinary Order shall be submitted to the Executive Director for his
25 consideration in the above-entitled matter and, further, that the Executive Director shall have a
26 reasonable period of time in which to consider and act on this Stipulated Surrender of License and
27 Disciplinary Order after receiving it. By signing this stipulation, Respondent fully understands
28 and agrees that he may not withdraw his agreement or seek to rescind this stipulation prior to the

1 time the Executive Director, on behalf of the Medical Board, considers and acts upon it.

2 15. The parties agree that this Stipulated Surrender of License and Disciplinary Order
3 shall be null and void and not binding upon the parties unless approved and adopted by the
4 Executive Director on behalf of the Board, except for this paragraph, which shall remain in full
5 force and effect. Respondent fully understands and agrees that in deciding whether or not to
6 approve and adopt this Stipulated Surrender of License and Disciplinary Order, the Executive
7 Director and/or the Board may receive oral and written communications from its staff and/or the
8 Attorney General's Office. Communications pursuant to this paragraph shall not disqualify the
9 Executive Director, the Board, any member thereof, and/or any other person from future
10 participation in this or any other matter affecting or involving respondent. In the event that the
11 Executive Director on behalf of the Board does not, in his discretion, approve and adopt this
12 Stipulated Surrender of License and Disciplinary Order, with the exception of this paragraph, it
13 shall not become effective, shall be of no evidentiary value whatsoever, and shall not be relied
14 upon or introduced in any disciplinary action by either party hereto. Respondent further agrees
15 that should this Stipulated Surrender of License and Disciplinary Order be rejected for any reason
16 by the Executive Director on behalf of the Board, Respondent will assert no claim that the
17 Executive Director, the Board, or any member thereof, was prejudiced by its/his/her review,
18 discussion and/or consideration of this Stipulated Surrender of License and Disciplinary Order or
19 of any matter or matters related hereto.

20 **ADDITIONAL PROVISIONS**

21 16. This Stipulated Surrender of License and Disciplinary Order is intended by the parties
22 herein to be an integrated writing representing the complete, final and exclusive embodiment of
23 the agreements of the parties in the above-entitled matter.

24 17. The parties agree that copies of this Stipulated Surrender of License and Disciplinary
25 Order, including copies of the signatures of the parties, may be used in lieu of original documents
26 and signatures and, further, that such copies shall have the same force and effect as originals.

27 18. In consideration of the foregoing admissions and stipulations, the parties agree the
28 Executive Director of the Board may, without further notice to or opportunity to be heard by

Respondent, issue and enter the following Disciplinary Order on behalf of the Board:

ORDER

IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. C 133563, issued to Respondent Brian Glen Boatman, M.D., is surrendered and accepted by the Board.

1. The surrender of Respondent's Physician's and Surgeon's Certificate and the acceptance of the surrendered license by the Board shall constitute the imposition of discipline against Respondent. This stipulation constitutes a record of the discipline and shall become a part of Respondent's license history with the Board.

2. Respondent shall lose all rights and privileges as a physician and surgeon in California as of the effective date of the Board's Decision and Order.

3. Respondent shall cause to be delivered to the Board his pocket license and, if one was issued, his wall certificate on or before the effective date of the Decision and Order.

4. If Respondent ever files an application for licensure or a petition for reinstatement in the State of California, the Board shall treat it as a petition for reinstatement. Respondent must comply with all the laws, regulations and procedures for reinstatement of a revoked or surrendered license in effect at the time the petition is filed, and all of the charges and allegations contained in First Amended Accusation No. 800-2020-064852 shall be deemed to be true, correct and admitted by Respondent when the Board determines whether to grant or deny the petition.

5. Respondent shall pay the agency its costs of investigation and enforcement in the amount of \$17,959.50 prior to issuance of a new or reinstated license.

6. If Respondent should ever apply or reapply for a new license or certification, or petition for reinstatement of a license, by any other health care licensing agency in the State of California, all of the charges and allegations contained in First Amended Accusation No. 800-2020-064852 shall be deemed to be true, correct, and admitted by Respondent for the purpose of any Statement of Issues or any other proceeding seeking to deny or restrict licensure.

ACCEPTANCE

I have carefully read the Stipulated Surrender of License and Order. I understand the stipulation and the effect it will have on my Physician's and Surgeon's Certificate. I enter into this

1 Stipulated Surrender of License and Order voluntarily, knowingly, and intelligently, and agree to
2 be bound by the Decision and Order of the Medical Board of California.

3
4 DATED: October 3, 2023



5 BRIAN GLEN BOATMAN, M.D.
6 *Respondent*

7 **ENDORSEMENT**

8 The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted
9 for consideration by the Medical Board of California of the Department of Consumer Affairs.

10
11 DATED: _____

Respectfully submitted,

12 ROB BONTA
13 Attorney General of California
14 EDWARD KIM
15 Supervising Deputy Attorney General

16 CHRISTINE FRIAR WALTON
17 Deputy Attorney General
18 *Attorneys for Complainant*
19
20
21
22
23
24
25
26
27
28

1 Stipulated Surrender of License and Order voluntarily, knowingly, and intelligently, and agree to
2 be bound by the Decision and Order of the Medical Board of California.

3
4 DATED: _____

BRIAN GLEN BOATMAN, M.D.
Respondent

6
7 **ENDORSEMENT**

8 The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted
9 for consideration by the Medical Board of California of the Department of Consumer Affairs.

10
11 DATED: October 4, 2023

Respectfully submitted,

12 ROB BONTA
13 Attorney General of California
14 EDWARD KIM
Supervising Deputy Attorney General

15 *Christine Friar Walton*

16 CHRISTINE FRIAR WALTON
17 Deputy Attorney General
Attorneys for Complainant

Exhibit A

First Amended Accusation No. 800-2020-064852

1 ROB BONTA
Attorney General of California
2 EDWARD KIM
Supervising Deputy Attorney General
3 CHRISTINE FRIAR WALTON
Deputy Attorney General
4 State Bar No. 228421
300 South Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 269-6472
6 Facsimile: (916) 731-2117
E-mail: Christine.Walton@doj.ca.gov
7 *Attorneys for Complainant*

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

12 In the Matter of the First Amended Accusation
Against:

Case No. 800-2020-064852

13 **BRIAN GLEN BOATMAN, M.D.**
14 **5620 E The Toledo**
Long Beach, CA 90803-4045

FIRST AMENDED ACCUSATION

15 **Physician's and Surgeon's Certificate**
16 **No. C 133563,**

17 Respondent.

18
19 **PARTIES**

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

23 2. On or about December 3, 2014, the Board issued Physician's and Surgeon's
24 Certificate Number C 133563 to Brian Glen Boatman, 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 expired on July 31, 2022, and has not been renewed. Subsequent to the expiration of
27 the license, Respondent placed his medical license in retired status.

28 ///

JURISDICTION

3. This First Amended 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 118, subdivision (b) of the Code provides:

The suspension, expiration, or forfeiture by operation of law of a license issued by a board in the department, or its suspension, forfeiture, or cancellation by order of the board or by order of a court of law, or its surrender without the written consent of the board, shall not, during any period in which it may be renewed, restored, reissued, or reinstated, deprive the board of its authority to institute or continue a disciplinary proceeding against the licensee upon any ground provided by law or to enter an order suspending or revoking the license or otherwise taking disciplinary action against the license on any such ground.

5. Section 2004 of the Code states:

The board shall have the responsibility for the following:

(a) The enforcement of the disciplinary and criminal provisions of the Medical Practice Act.

(b) The administration and hearing of disciplinary actions.

(c) Carrying out disciplinary actions appropriate to findings made by a panel or an administrative law judge.

(d) Suspending, revoking, or otherwise limiting certificates after the conclusion of disciplinary actions.

(e) Reviewing the quality of medical practice carried out by physician and surgeon certificate holders under the jurisdiction of the board.

(f) Approving undergraduate and graduate medical education programs.

(g) Approving clinical clerkship and special programs and hospitals for the programs in subdivision (f).

(h) Issuing licenses and certificates under the board's jurisdiction.

(i) Administering the board's continuing medical education program.

6. Section 2220 of the Code states:

Except as otherwise provided by law, the board may take action against all persons guilty of violating this chapter. The board shall enforce and administer this article as to physician and surgeon certificate holders, including those who hold certificates that do not permit them to practice medicine, such as, but not limited to, retired, inactive, or disabled status certificate holders, and the board shall have all the

1 powers granted in this chapter for these purposes including, but not limited to:

2 (a) Investigating complaints from the public, from other licensees, from health
3 care facilities, or from the board that a physician and surgeon may be guilty of
4 unprofessional conduct. The board shall investigate the circumstances underlying a
5 report received pursuant to Section 805 or 805.01 within 30 days to determine if an
interim suspension order or temporary restraining order should be issued. The board
shall otherwise provide timely disposition of the reports received pursuant to Section
805 and Section 805.01.

6 (b) Investigating the circumstances of practice of any physician and surgeon
7 where there have been any judgments, settlements, or arbitration awards requiring the
8 physician and surgeon or his or her professional liability insurer to pay an amount in
9 damages in excess of a cumulative total of thirty thousand dollars (\$30,000) with
respect to any claim that injury or damage was proximately caused by the physician's
and surgeon's error, negligence, or omission.

10 (c) Investigating the nature and causes of injuries from cases which shall be
11 reported of a high number of judgments, settlements, or arbitration awards against a
physician and surgeon.

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

16 STATUTORY PROVISIONS

17 8. Section 2234 of the Code states:

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

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

22 (b) Gross negligence.

23 (c) Repeated negligent acts. To be repeated, there must be two or more
24 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.

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

27 (2) When the standard of care requires a change in the diagnosis, act, or
28 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.

9. 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.

10. Section 2236.1 of the Code states:

(a) A physician and surgeon's certificate shall be suspended automatically during any time that the holder of the certificate is incarcerated after conviction of a felony, regardless of whether the conviction has been appealed. The Division of Medical Quality shall, immediately upon receipt of the certified copy of the record of conviction, determine whether the certificate of the physician and surgeon has been automatically suspended by virtue of the physician and surgeon's incarceration, and if so, the duration of that suspension. The division shall notify the physician and surgeon of the license suspension and of the right to elect to have the issue of penalty heard as provided in this section.

1 (b) Upon receipt of the certified copy of the record of conviction, if after a
2 hearing it is determined therefrom that the felony of which the licensee was convicted
3 was substantially related to the qualifications, functions, or duties of a physician and
4 surgeon, the Division of Medical Quality shall suspend the license until the time for
5 appeal has elapsed, if an appeal has not been taken, or until the judgment of
conviction has been affirmed on appeal or has otherwise become final, and until
further order of the division. The issue of substantial relationship shall be heard by an
administrative law judge from the Medical Quality Hearing Panel sitting alone or
with a panel of the division, in the discretion of the division.

6 (c) Notwithstanding subdivision (b), a conviction of any crime referred to in
7 Section 2237, or a conviction of Section 187, 261, 288, or former Section 262, of the
8 Penal Code, shall be conclusively presumed to be substantially related to the
9 qualifications, functions, or duties of a physician and surgeon and a hearing shall not
10 be held on this issue. Upon its own motion or for good cause shown, the division may
decline to impose or may set aside the suspension when it appears to be in the interest
of justice to do so, with due regard to maintaining the integrity of and confidence in
the medical profession.

11 (d) (1) Discipline may be ordered in accordance with Section 2227, or the
12 Division of Licensing may order the denial of the license when the time for appeal
13 has elapsed, the judgment of conviction has been affirmed on appeal, or an order
14 granting probation is made suspending the imposition of sentence, irrespective of a
subsequent order under Section 1203.4 of the Penal Code allowing the person to
withdraw the plea of guilty and to enter a plea of not guilty, setting aside the verdict
of guilty, or dismissing the accusation, complaint, information, or indictment.

15 (2) The issue of penalty shall be heard by an administrative law judge from the
16 Medical Quality Hearing Panel sitting alone or with a panel of the division, in the
17 discretion of the division. The hearing shall not be had until the judgment of
18 conviction has become final or, irrespective of a subsequent order under Section
19 1203.4 of the Penal Code, an order granting probation has been made suspending the
20 imposition of sentence; except that a licensee may, at the licensee's option, elect to
21 have the issue of penalty decided before those time periods have elapsed. Where the
licensee so elects, the issue of penalty shall be heard in the manner described in this
section at the hearing to determine whether the conviction was substantially related to
the qualifications, functions, or duties of a physician and surgeon. If the conviction of
a licensee who has made this election is overturned on appeal, any discipline ordered
pursuant to this section shall automatically cease. This subdivision does not prohibit
the division from pursuing disciplinary action based on any cause other than the
overturned conviction.

22 (e) The record of the proceedings resulting in the conviction, including a
23 transcript of the testimony therein, may be received in evidence.

24 (f) The other provisions of this article setting forth a procedure for the
25 suspension or revocation of a physician and surgeon's certificate shall not apply to
26 proceedings conducted pursuant to this section.

27 11. Section 2237 of the Code states:

28 (a) The conviction of a charge of violating any federal statutes or regulations or
any statute or regulation of this state, regulating dangerous drugs or controlled
substances, constitutes unprofessional conduct. The record of the conviction is

1 conclusive evidence of such unprofessional conduct. A plea or verdict of guilty or a
2 conviction following a plea of nolo contendere is deemed to be a conviction within
the meaning of this section.

3 (b) Discipline may be ordered in accordance with Section 2227 or the Medical
4 Board may order the denial of the license when the time for appeal has elapsed, or the
5 judgment of conviction has been affirmed on appeal, or when an order granting
6 probation is made suspending the imposition of sentence, irrespective of a subsequent
7 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.

8 12. Section 2238 of the Code states:

9 A violation of any federal statute or federal regulation or any of the statutes or
10 regulations of this state regulating dangerous drugs or controlled substances
constitutes unprofessional conduct.

11 13. Section 490 of the Code states:

12 (a) In addition to any other action that a board is permitted to take against a
13 licensee, a board may suspend or revoke a license on the ground that the licensee has
14 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.

15 (b) Notwithstanding any other provision of law, a board may exercise any
16 authority to discipline a licensee for conviction of a crime that is independent of the
17 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.

18 (c) A conviction within the meaning of this section means a plea or verdict of
19 guilty or a conviction following a plea of nolo contendere. Any action that a board is
20 permitted to take following the establishment of a conviction may be taken when the
21 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 the provisions of Section 1203.4 of
the Penal Code.

22 (d) The Legislature hereby finds and declares that the application of this section
23 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
24 number of statutes and regulations in question, resulting in potential harm to the
consumers of California from licensees who have been convicted of crimes.
25 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
26 amendments to this section made by Chapter 33 of the Statutes of 2008 do not
constitute a change to, but rather are declaratory of, existing law.

27 14. Section 822 of the Code states:

28 If a licensing agency determines that its licensee's ability to practice his or her

profession safely is impaired because the licentiate is mentally ill, or physically ill affecting competency, the licensing agency may take action by any one of the following methods:

- (a) Revoking the licentiate's certificate or license.
- (b) Suspending the licentiate's right to practice.
- (c) Placing the licentiate on probation.
- (d) Taking such other action in relation to the licentiate as the licensing agency in its discretion deems proper.

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

15. Health and Safety Code section 11378 states:

Except as otherwise provided in Article 7 (commencing with Section 4110) of Chapter 9 of Division 2 of the Business and Professions Code, a person who possesses for sale a controlled substance that meets any of the following criteria shall be punished by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code:

(1) The substance is classified in Schedule III, IV, or V and is not a narcotic drug, except the substance specified in subdivision (g) of Section 11056.¹

(2) The substance is specified in subdivision (d) of Section 11054, except paragraphs (13), (14), (15), (20), (21), (22), and (23) of subdivision (d).

(3) The substance is specified in paragraph (11) of subdivision (c) of Section 11056.

(4) The substance is specified in paragraph (2) or (3) of subdivision (f) of Section 11054.²

(5) The substance is specified in subdivision (d), (e), or (f), except paragraph (3) of subdivision (e) and subparagraphs (A) and (B) of paragraph (2) of subdivision (f), of Section 11055.³

16. Health and Safety Code section 11366 states:

Every person who opens or maintains any place for the purpose of unlawfully selling, giving away, or using any controlled substance which is (1) specified in subdivision (b), (c), or (e), or paragraph (1) of subdivision (f) of Section 11054, specified in paragraph (13), (14), (15), or (20) of subdivision (d) of Section 11054, or specified in subdivision (b), (c), paragraph (1) or (2) of subdivision (d), or paragraph (3) of subdivision (e) of Section 11055, or (2) which is a narcotic drug classified in

¹ Health and Safety Code section 11056 defines Schedule III controlled substances.

² Health and Safety Code section 11054 defines Schedule I controlled substances.

³ Health and Safety Code section 11055 defines Schedule II controlled substances.

Schedule III, IV, or V, shall be punished by imprisonment in the county jail for a period of not more than one year or the state prison.

REGULATORY PROVISIONS

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

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

COST RECOVERY

18. Section 125.3 of the Code states:

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

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

(c) A certified copy of the actual costs, or a good faith estimate of costs where actual costs are not available, signed by the entity bringing the proceeding or its designated representative shall be prima facie evidence of reasonable costs of 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 costs shall not be reviewable by the board to increase the cost award. The board may 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).

(e) If an order for recovery of costs is made and timely payment is not made as 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 the board may have as to any licensee to pay costs.

(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.

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

(2) Notwithstanding paragraph (1), the board may, in its discretion, 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 with the board to reimburse the board within that one-year period for the unpaid costs.

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

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

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

FIRST CAUSE FOR DISCIPLINE

(Conviction of a Substantially Related Crime)

19. Respondent Brian Glen Boatman, M.D. is subject to disciplinary action under sections 490 and 2236 of the Code, in that he was convicted of a crime substantially related to the qualifications, functions, or duties of a physician. The circumstances are as follows:

20. Respondent alleges he last practiced medicine in 2010 or 2011 as an interventional cardiologist. Respondent has never practiced medicine in California.

21. On or about February 20, 2020, in the case of *The People of the State of California v. Brian Glen Boatman*, California Superior Court, Los Angeles County case number SA102237, Respondent was charged with violating Health and Safety Code section 11378 (possession for sale), a felony.

22. On or about July 31, 2020, Respondent was charged in Count 2 of the Complaint, by interlineation, of violating Health and Safety Code section 11366 (opening or maintenance of unlawful places for the selling or use of controlled substances), a felony. Respondent was convicted by way of a plea of nolo contendere, of Count 2 of the Complaint.

23. On or about February 4, 2022, Respondent was given a suspended sentence to serve

1 two days in jail, credit given for time served; he was placed on summary probation for twelve
2 months; ordered to complete 104 Narcotics Anonymous or Alcoholics Anonymous meetings,
3 completed; complete 300 hours of community service, deemed completed; submit himself and his
4 property to search and seizure to any peace officer or probation officer at any time; use his true
5 name; obey all laws; and pay an assessment, fees and fines. Count 1 of the Complaint was
6 dismissed and Count 2 was reduced to a misdemeanor.

7 24. By reason of the facts set forth in paragraphs 20 through 23, Respondent is subject to
8 disciplinary action under Code sections 490 and 2236 in that he was convicted, by way of a plea
9 of nolo contendere, of a crime substantially related to the qualifications, functions, or duties of a
10 physician.

11 **SECOND CAUSE FOR DISCIPLINE**

12 **(Conviction of a Drug Related Crime)**

13 25. Respondent Brian Glen Boatman, M.D. is subject to disciplinary action under section
14 2237 of the Code, in that he violated a state statute regulating controlled substances. The
15 circumstances are as follows:

16 26. By reason of the facts set forth in the First Cause for Discipline, which is incorporated
17 herein by reference as if set forth fully, Respondent is subject to disciplinary action under Code
18 section 2237 in that he was convicted, by way of a plea of nolo contendere, of a drug related
19 crime.

20 **THIRD CAUSE FOR DISCIPLINE**

21 **(Violation of a Drug Related Statute)**

22 27. Respondent Brian Glen Boatman, M.D. is subject to disciplinary action under section
23 2238 of the Code, in that he violated a state statute regulating drugs. The circumstances are as
24 follows:

25 28. By reason of the facts set forth in the First Cause for Discipline, which is incorporated
26 herein by reference as if set forth fully, Respondent is subject to disciplinary action under Code
27 section 2238 in that he was convicted, by way of a plea of nolo contendere, of violating a drug
28 related statute.

1 **FOURTH CAUSE FOR DISCIPLINE**

2 **(Unprofessional Conduct: Dishonest and Corrupt Acts)**

3 29. Respondent Brian Glen Boatman, M.D. is subject to disciplinary action under section
4 2234, subdivision (e), of the Code, in that he engaged in dishonest and corrupt acts. The
5 circumstances are as follows:

6 30. By reason of the facts set forth in the First, Second and Third Causes for Discipline,
7 which are incorporated herein by reference as if set forth fully, Respondent is subject to
8 disciplinary action under Code section 2234, subdivision (e), in that he committed dishonest and
9 corrupt acts.

10 **FIFTH CAUSE FOR DISCIPLINE**

11 **(Inability to Safely Practice Medicine Due to Physical and Mental Impairment)**

12 31. Respondent Brian Glen Boatman, M.D. is subject to disciplinary action under section
13 822 of the Code, in that he is unable to safely practice medicine due to mental and physical
14 impairments, which affect his competency. The circumstances are as follows:

15 32. On or about March 21, 2022, a Board investigator requested that Respondent provide
16 a written explanation regarding Respondent's arrest on or about February 20, 2020, with a
17 deadline to respond of April 11, 2022. In response, Respondent sent an email to the investigator,
18 dated April 11, 2022, requesting an extension to respond. Respondent stated that he has not been
19 practicing medicine since 2014. He added that he has not worked since March 2018 after
20 receiving a diagnosis of malignant glomus vagale paraganglioma, a malignant brain stem tumor.
21 Respondent further stated that this brain stem tumor has disabled him, due to frequent falls,
22 frequent aspiration pneumonia, autonomic dysfunction, and multiple other symptoms.
23 Respondent also indicated that he required the assistance of his spouse to write the responsive
24 email.

25 33. In Respondent's undated letter of explanation, which was received by the Board's
26 investigator on or about May 2, 2022, Respondent stated that he has never practiced medicine in
27 California. He also stated that his brain stem tumor has caused him adrenal failure, hyper-
28 somnolence, and extreme fatigue.

34. On or about October 26, 2022, Respondent was interviewed by a Board investigator. Respondent again advised that he had a malignant brain stem tumor. Respondent stated that he takes 34 medications a day. As a result of the brain stem tumor, he has a multitude of ailments including: adrenal failure, partial pituitary failure, Sjogren's Syndrome, antiphospholipid antibody syndrome, secondary immune syndrome, history of DVT (deep vein thrombosis), history of colon cancer, history of ARDS (acute respiratory distress syndrome), chronic recurrent pneumonia, obstructive sleep apnea on C-PAP, history of vasovagal falls with rib fractures, recent cracked skull with concussion and contrecoup contusion, tremor, obesity from the medications, PTSD (post-traumatic stress disorder), and drug-resistant depression.

35. Respondent told the Board investigator that he has spoken with physicians and he has been told that he is never going to be able to work again; he is permanently disabled.

36. On or about August 9, 2023, Respondent's primary care physician wrote a letter on Respondent's behalf stating that, in 2019, Respondent was diagnosed with a catecholamine secreting glomus vagale paraganglioma (GVP) tumor near the base of his skull (left) encapsulating his carotid bundle. Respondent has seen multiple specialists, including several endocrinologists and surgeons, about treatment options. The letter further stated that Respondent is not a surgical candidate given the location of his tumor and his risk of a catastrophic stroke. As a result of his tumor, Respondent has suffered from symptoms including dysphagia, recurrent aspiration pneumonias/pneumonitis, recurrent syncopal episodes, and chronic fatigue symptoms. Respondent's physician stated that, "I worry that without treatment, [Respondent's] prognosis for recovery remains poor."

37. By reason of the facts set forth in paragraphs 20, 32 through 36, Respondent is subject to disciplinary action under Code section 822 in that he suffers from mental and physical disabilities which render him unsafe to practice medicine.

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 C 133563,

1 issued to Respondent Brian Glen Boatman, M.D.;

2 2. Revoking, suspending or denying approval of Respondent Brian Glen Boatman,
3 M.D.'s authority to supervise physician assistants and advanced practice nurses;

4 3. Ordering Respondent Brian Glen Boatman, M.D., to pay the Board the costs of the
5 investigation and enforcement of this case, and if placed on probation, the costs of probation
6 monitoring; and

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

8
9 DATED: OCT 03 2023



REJI VARGHESE
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant