

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

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

Daniel Michael Diamond, M.D.

**Physician's and Surgeon's
Certificate No. A 134320**

Case No.: 800-2020-070509

Respondent.

DECISION

The attached Stipulated Settlement 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 January 12, 2024.

IT IS SO ORDERED: December 13, 2023.

MEDICAL BOARD OF CALIFORNIA



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

1 ROB BONTA
Attorney General of California
2 JUDITH T. ALVARADO
Supervising Deputy Attorney General
3 CATHERINE B. KIM
Deputy Attorney General
4 State Bar No. 201655
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 269-6246
6 Facsimile: (916) 731-2117
E-mail: Catherine.Kim@doj.ca.gov
7 *Attorneys for Complainant*

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

12 In the Matter of the Accusation Against:

13 **DANIEL MICHAEL DIAMOND, M.D.**
14 **4716 Rockbluff Drive**
15 **Rolling Hills Estates, CA 90274-1516**

16 **Physician's and Surgeon's Certificate**
17 **No. A 134320,**

18 Respondent.

Case No. 800-2020-070509

OAH No. 2023060198

19 **STIPULATED SETTLEMENT AND**
20 **DISCIPLINARY ORDER**

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 Catherine B. Kim, Deputy
27 Attorney General.

28 2. Respondent Daniel Michael Diamond, M.D. (Respondent) is represented in this
proceeding by attorney Benjamin J. Fenton, Esq., whose address is: 1990 S. Bundy Drive, Suite
777, Los Angeles, CA 90025.

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3. On or about January 15, 2015, the Board issued Physician's and Surgeon's Certificate No. A 134320 to Daniel Michael Diamond, 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. 800-2020-070509, and will expire on June 30, 2024, unless renewed.

JURISDICTION

4. Accusation No. 800-2020-070509 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 April 25, 2023. Respondent timely filed his Notice of Defense contesting the Accusation.

5. A copy of Accusation No. 800-2020-070509 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. 800-2020-070509. Respondent has also carefully read, fully discussed with his counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

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

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

CULPABILITY

9. Respondent admits the truth of each and every charge and allegation in Accusation No. 800-2020-070509.

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

CONTINGENCY

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

12. Respondent agrees that if he ever petitions for early termination or modification of probation, or if an accusation and/or petition to revoke probation is filed against him before the Board, all of the charges and allegations contained in Accusation No. 800-2020-070509 shall be deemed true, correct and fully admitted by Respondent for purposes of any such proceeding or any other licensing proceeding involving Respondent in the State of California.

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

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

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. A 134320 issued to Respondent DANIEL MICHAEL DIAMOND, M.D. is revoked. However, the revocation is

1 stayed and Respondent is placed on probation for five (5) years on the following terms and
2 conditions:

3 1. CONTROLLED SUBSTANCES - ABSTAIN FROM USE. Respondent shall abstain
4 completely from the personal use or possession of controlled substances as defined in the
5 California Uniform Controlled Substances Act, dangerous drugs as defined by Business and
6 Professions Code section 4022, and any drugs requiring a prescription. This prohibition does not
7 apply to medications lawfully prescribed to Respondent by another practitioner for a bona fide
8 illness or condition.

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

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

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

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

1 this Decision.

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

5 4. PSYCHIATRIC EVALUATION. Within 30 calendar days of the effective date of
6 this Decision, and on whatever periodic basis thereafter may be required by the Board or its
7 designee, Respondent shall undergo and complete a psychiatric evaluation (and psychological
8 testing, if deemed necessary) by a Board-appointed board certified psychiatrist, who shall
9 consider any information provided by the Board or designee and any other information the
10 psychiatrist deems relevant, and shall furnish a written evaluation report to the Board or its
11 designee. Psychiatric evaluations conducted prior to the effective date of the Decision shall not
12 be accepted towards the fulfillment of this requirement. Respondent shall pay the cost of all
13 psychiatric evaluations and psychological testing.

14 Respondent shall comply with all restrictions or conditions recommended by the evaluating
15 psychiatrist within 15 calendar days after being notified by the Board or its designee.

16 5. PSYCHOTHERAPY. Within 60 calendar days of the effective date of this Decision,
17 Respondent shall submit to the Board or its designee for prior approval the name and
18 qualifications of a California-licensed board certified psychiatrist or a licensed psychologist who
19 has a doctoral degree in psychology and at least five years of postgraduate experience in the
20 diagnosis and treatment of emotional and mental disorders. Upon approval, Respondent shall
21 undergo and continue psychotherapy treatment, including any modifications to the frequency of
22 psychotherapy, until the Board or its designee deems that no further psychotherapy is necessary.

23 The psychotherapist shall consider any information provided by the Board or its designee
24 and any other information the psychotherapist deems relevant and shall furnish a written
25 evaluation report to the Board or its designee. Respondent shall cooperate in providing the
26 psychotherapist with any information and documents that the psychotherapist may deem
27 pertinent.

28 Respondent shall have the treating psychotherapist submit quarterly status reports to the

1 Board or its designee. The Board or its designee may require Respondent to undergo psychiatric
2 evaluations by a Board-appointed board certified psychiatrist. If, prior to the completion of
3 probation, Respondent is found to be mentally unfit to resume the practice of medicine without
4 restrictions, the Board shall retain continuing jurisdiction over Respondent's license and the
5 period of probation shall be extended until the Board determines that Respondent is mentally fit
6 to resume the practice of medicine without restrictions.

7 Respondent shall pay the cost of all psychotherapy and psychiatric evaluations.

8 6. NOTICE OF EMPLOYER OR SUPERVISOR INFORMATION. Within seven (7)
9 days of the effective date of this Decision, Respondent shall provide to the Board the names,
10 physical addresses, mailing addresses, and telephone numbers of any and all employers and
11 supervisors. Respondent shall also provide specific, written consent for the Board, Respondent's
12 worksite monitor, and Respondent's employers and supervisors to communicate regarding
13 Respondent's work status, performance, and monitoring.

14 For purposes of this section, "supervisors" shall include the Chief of Staff and Health or
15 Well Being Committee Chair, or equivalent, if applicable, when the Respondent has medical staff
16 privileges.

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

27 During the first year of probation, Respondent shall be subject to 52 to 104 random tests.
28 During the second year of probation and for the duration of the probationary term, up to five (5)

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

5 Respondent shall contract with a laboratory or service, approved in advance by the Board or
6 its designee, that will conduct random, unannounced, observed, biological fluid testing and meets
7 all of the following standards:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

27 A biological fluid test will not be considered negative if a positive result is obtained while
28 practicing, even if the practitioner holds a valid prescription for the substance. If no prohibited

1 substance use exists, the Board shall lift the cease-practice order within one (1) business day.

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

6 For purposes of this condition, the terms “biological fluid testing” and “testing” mean the
7 acquisition and chemical analysis of a Respondent’s urine, blood, breath, or hair.

8 For purposes of this condition, the term “prohibited substance” means an illegal drug, a
9 lawful drug not prescribed or ordered by an appropriately licensed health care provider for use by
10 Respondent and approved by the Board, alcohol, or any other substance the Respondent has been
11 instructed by the Board not to use, consume, ingest, or administer to himself or herself.

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

17 8. ALCOHOLICS ANONYMOUS (“AA”) PROGRAM MEETINGS. Within five (5)
18 days of the effective date of this Decision, Respondent shall begin attendance at Alcoholics
19 Anonymous meetings. Respondent shall attend AA meetings at least once per week and
20 verification of attendance shall be submitted by the Respondent with each quarterly written report
21 by either providing a copy of the sign-in sheet or electronic screen capture of the Zoom meetings
22 to the Board or its designee. Verification of attendance shall identify Respondent’s attendance,
23 the group/chapter name, the date, and location of the meeting. Respondent shall continue to
24 attend AA meetings for the duration of probation.

25 Failure to attend AA meetings at least once per week may be deemed a violation of
26 probation unless the Board or its designee provides Respondent with prior approval to be absent
27 from the meeting(s). Respondent agrees that it is his responsibility to ensure that he attends at
28 least one meeting per week and provide proof of that attendance to the Board or its designee.

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

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

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

17 Respondent shall pay all worksite monitoring costs.

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

22 The worksite monitor shall verbally report any suspected substance abuse to the Board and
23 Respondent's employer or supervisor within one (1) business day of occurrence. If the suspected
24 substance abuse does not occur during the Board's normal business hours, the verbal report shall
25 be made to the Board or its designee within one (1) hour of the next business day. A written
26 report that includes the date, time, and location of the suspected abuse; Respondent's actions; and
27 any other information deemed important by the worksite monitor shall be submitted to the Board
28 or its designee within 48 hours of the occurrence.

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

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

20 10. VIOLATION OF PROBATION CONDITION FOR SUBSTANCE ABUSING
21 LICENSEES. Failure to fully comply with any term or condition of probation is a violation of
22 probation.

23 A. If Respondent commits a major violation of probation as defined by section
24 1361.52, subdivision (a), of Title 16 of the California Code of Regulations, the Board shall take
25 one or more of the following actions:

26 (1) Issue an immediate cease-practice order and order Respondent to undergo a clinical
27 diagnostic evaluation to be conducted in accordance with section 1361.5, subdivision (c)(1), of
28 Title 16 of the California Code of Regulations, at Respondent's expense. The cease-practice

1 order issued by the Board or its designee shall state that Respondent must test negative for at least
2 a month of continuous biological fluid testing before being allowed to resume practice. For
3 purposes of determining the length of time a Respondent must test negative while undergoing
4 continuous biological fluid testing following issuance of a cease-practice order, a month is
5 defined as thirty calendar (30) days. Respondent may not resume the practice of medicine until
6 notified in writing by the Board or its designee that he or she may do so.

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

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

10 B. If Respondent commits a minor violation of probation as defined by section
11 1361.52, subdivision (c), of Title 16 of the California Code of Regulations, the Board shall take
12 one or more of the following actions:

13 (1) Issue a cease-practice order;

14 (2) Order practice limitations;

15 (3) Order or increase supervision of Respondent;

16 (4) Order increased documentation;

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

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

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

22 C. Nothing in this Decision shall be considered a limitation on the Board's authority
23 to revoke Respondent's probation if he or she has violated any term or condition of probation. If
24 Respondent violates probation in any respect, the Board, after giving Respondent notice and the
25 opportunity to be heard, may revoke probation and carry out the disciplinary order that was
26 stayed. If an Accusation, or Petition to Revoke Probation, or an Interim Suspension Order is filed
27 against Respondent during probation, the Board shall have continuing jurisdiction until the matter
28 is final, and the period of probation shall be extended until the matter is final.

11. 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.

12. SUPERVISION OF PHYSICIAN ASSISTANTS AND ADVANCED PRACTICE NURSES. During probation, Respondent is prohibited from supervising physician assistants and advanced practice nurses.

13. 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.

14. INVESTIGATION/ENFORCEMENT COST RECOVERY. Respondent is hereby ordered to reimburse the Board its costs of investigation and enforcement in the amount of \$20,070.00 (Twenty thousand seventy 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, including expert review costs (if applicable).

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

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

16. GENERAL PROBATION REQUIREMENTS.

Compliance with Probation Unit

Respondent shall comply with the Board's probation unit.

Address Changes

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

Place of Practice

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

License Renewal

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

Travel or Residence Outside California

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

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

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

1 18. NON-PRACTICE WHILE ON PROBATION. Respondent shall notify the Board or
2 its designee in writing within 15 calendar days of any periods of non-practice lasting more than
3 30 calendar days and within 15 calendar days of Respondent's return to practice. Non-practice is
4 defined as any period of time Respondent is not practicing medicine as defined in Business and
5 Professions Code sections 2051 and 2052 for at least 40 hours in a calendar month in direct
6 patient care, clinical activity or teaching, or other activity as approved by the Board. If
7 Respondent resides in California and is considered to be in non-practice, Respondent shall
8 comply with all terms and conditions of probation. All time spent in an intensive training
9 program which has been approved by the Board or its designee shall not be considered non-
10 practice and does not relieve Respondent from complying with all the terms and conditions of
11 probation. Practicing medicine in another state of the United States or Federal jurisdiction while
12 on probation with the medical licensing authority of that state or jurisdiction shall not be
13 considered non-practice. A Board-ordered suspension of practice shall not be considered as a
14 period of non-practice.

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

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

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

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

27 19. COMPLETION OF PROBATION. Respondent shall comply with all financial
28 obligations (e.g., restitution, probation costs) not later than 120 calendar days prior to the

1 completion of probation. This term does not include cost recovery, which is due within 30
2 calendar days of the effective date of the Order, or by a payment plan approved by the Medical
3 Board and timely satisfied. Upon successful completion of probation, Respondent's certificate
4 shall be fully restored.

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

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

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23 22. PROBATION MONITORING COSTS. Respondent shall pay the costs associated
24 with probation monitoring each and every year of probation, as designated by the Board, which
25 may be adjusted on an annual basis. Such costs shall be payable to the Medical Board of
26 California and delivered to the Board or its designee no later than January 31 of each calendar
27 year.

28 23. FUTURE ADMISSIONS CLAUSE. If Respondent should ever apply or reapply for

1 a new license or certification, or petition for reinstatement of a license, by any other health care
2 licensing action agency in the State of California, all of the charges and allegations contained in
3 Accusation No. 800-2020-070509 shall be deemed to be true, correct, and admitted by
4 Respondent for the purpose of any Statement of Issues or any other proceeding seeking to deny or
5 restrict license.

6 ACCEPTANCE

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

12
13 DATED: 8/29/23


14 DANIEL MICHAEL DIAMOND, M.D.
15 Respondent

16 I have read and fully discussed with Respondent Daniel Michael Diamond, M.D. the terms
17 and conditions and other matters contained in the above Stipulated Settlement and Disciplinary
18 Order. I approve its form and content.

19
20 DATED: 8/29/23


21 BENJAMIN J. FENTON, ESQ.
22 Attorney for Respondent

23 ///

24 ///

25 ///

26 ///

27 ///

28 ///

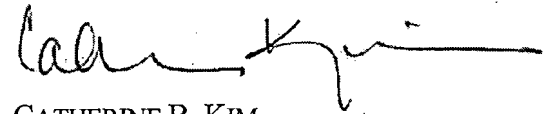
ENDORSEMENT

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

DATED: August 30, 2023

Respectfully submitted,

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



CATHERINE B. KIM
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 800-2020-070509

1 ROB BONTA
Attorney General of California
2 JUDITH T. ALVARADO
Supervising Deputy Attorney General
3 CATHERINE B. KIM
Deputy Attorney General
4 State Bar No. 201655
300 South Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 269-6246
6 Facsimile: (916) 731-2117
E-mail: Catherine.Kim@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 Accusation Against:

Case No. 800-2020-070509

13 **DANIEL MICHAEL DIAMOND, M.D.**
14 4716 Rockbluff Drive
Rolling Hills Estates, CA 90274-1516

A C C U S A T I O N

15 **Physician's and Surgeon's Certificate**
16 **No. A 134320,**

17 **Respondent.**

18
19 **PARTIES**

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

23 2. On or about January 15, 2015, the Board issued Physician's and Surgeon's Certificate
24 Number A 134320 to Daniel Michael Diamond, M.D. (Respondent). The Physician's and
25 Surgeon's Certificate was in full force and effect at all times relevant to the charges brought
26 herein and will expire on June 30, 2024, unless renewed.

27 ///

28 ///

JURISDICTION

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

4. Section 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.

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

(a) Investigating complaints from the public, from other licensees, from health care facilities, or from the board that a physician and surgeon may be guilty of unprofessional conduct. The board shall investigate the circumstances underlying a 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.

(b) Investigating the circumstances of practice of any physician and surgeon where there have been any judgments, settlements, or arbitration awards requiring the

1 physician and surgeon or his or her professional liability insurer to pay an amount in
2 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.

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

5
6 6. Section 2227 of the Code provides that a licensee who is found guilty under the
7 Medical Practice Act may have his or her license revoked, suspended for a period not to exceed
8 one year, placed on probation and required to pay the costs of probation monitoring, or such other
9 action taken in relation to discipline as the Board deems proper.

10 STATUTORY PROVISIONS

11 7. Section 2234 of the Code, states:

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

14 (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.

15 (b) Gross negligence.

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

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

21 (2) When the standard of care requires a change in the diagnosis, act, or
22 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
23 licensee's conduct departs from the applicable standard of care, each departure
constitutes a separate and distinct breach of the standard of care.

24 (d) Incompetence.

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

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

28 (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

1 certificate holder who is the subject of an investigation by the board.

2 8. Section 2236 of the Code states:

3 (a) The conviction of any offense substantially related to the qualifications,
4 functions, or duties of a physician and surgeon constitutes unprofessional conduct
5 within the meaning of this chapter [Chapter 5, the Medical Practice Act]. The record
6 of conviction shall be conclusive evidence only of the fact that the conviction
7 occurred.

8 (b) The district attorney, city attorney, or other prosecuting agency shall notify
9 the Medical Board of the pendency of an action against a licensee charging a felony
10 or misdemeanor immediately upon obtaining information that the defendant is a
11 licensee. The notice shall identify the licensee and describe the crimes charged and
12 the facts alleged. The prosecuting agency shall also notify the clerk of the court in
13 which the action is pending that the defendant is a licensee, and the clerk shall record
14 prominently in the file that the defendant holds a license as a physician and surgeon.

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

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

25 9. Section 2239 of the Code states:

26 (a) The use or prescribing for or administering to himself or herself, of any
27 controlled substance; or the use of any of the dangerous drugs specified in Section
28 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 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.

///

1 10. Section 490 of the Code states:

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

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

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

18 (d) The Legislature hereby finds and declares that the application of this section
19 has been made unclear by the holding in *Petropoulos v. Department of Real Estate*
20 (2006) 142 Cal.App.4th 554, and that the holding in that case has placed a significant
21 number of statutes and regulations in question, resulting in potential harm to the
22 consumers of California from licensees who have been convicted of crimes.
23 Therefore, the Legislature finds and declares that this section establishes an
24 independent basis for a board to impose discipline upon a licensee, and that the
25 amendments to this section made by Chapter 33 of the Statutes of 2008 do not
26 constitute a change to, but rather are declaratory of, existing law.

27 REGULATORY PROVISIONS

28 11. 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.

25 COST RECOVERY

26 12. Section 125.3 of the Code states:

27 (a) Except as otherwise provided by law, in any order issued in resolution of a
28 disciplinary proceeding before any board within the department or before the
Osteopathic Medical Board, upon request of the entity bringing the proceeding, the

1 administrative law judge may direct a licensee found to have committed a violation or
2 violations of the licensing act to pay a sum not to exceed the reasonable costs of the
3 investigation and enforcement of the case.

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

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

12 (d) The administrative law judge shall make a proposed finding of the amount
13 of reasonable costs of investigation and prosecution of the case when requested
14 pursuant to subdivision (a). The finding of the administrative law judge with regard
15 to costs shall not be reviewable by the board to increase the cost award. The board
16 may reduce or eliminate the cost award, or remand to the administrative law judge if
17 the proposed decision fails to make a finding on costs requested pursuant to
18 subdivision (a).

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

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

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

28 (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.

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1 FACTUAL ALLEGATIONS

2 March 19, 2019 Conviction

3 13. At approximately 2:08 a.m. on or about July 18, 2018, Respondent, driving a 2010
4 Lexus IS 250C (CA License No. 6PDL964), was stopped by the Palos Verdes Estates Police for
5 traveling at a high rate of speed and for continuing through a stop limit line before coming to a
6 stop in the center of the intersection. Respondent was described as having slurred speech, red and
7 glassy eyes and there was a strong odor of alcohol emitting from inside of the vehicle.
8 Respondent first denied having consumed alcohol but later admitted to having one pint of beer.
9 Respondent also admitted to taking Adderall 20 mg twice a day. Respondent was administered
10 standardized field sobriety tests, which he did not pass, and was arrested for violation of Vehicle
11 Code section 23152(a). Respondent submitted to a breath test that resulted in readings of 0.23
12 percent blood alcohol concentration ("BAC") levels at 3:07 a.m. and at 3:10 a.m., approximately
13 one hour after the initial stop. The charge of violation of Vehicle Code section 23152(b) was
14 added.

15 14. On or about September 25, 2018, a misdemeanor criminal complaint was filed
16 charging two counts, Vehicle Code sections 23152(a) and 23152(b) respectively, and seeking
17 enhanced penalties under Vehicle Code section 23538(b)(2) on the grounds that Respondent had a
18 BAC of 0.20 percent or more.

19 15. On or about March 19, 2019, in the case entitled *The People of the State of California*
20 *v. Daniel Michael Diamond*, case number 8TR05376, in the Superior Court of California, County
21 of Los Angeles, Respondent, upon his plea of no contest, was convicted of reckless driving in
22 violation of Vehicle Code section 23103, a misdemeanor. The remaining criminal charges for
23 violation of Vehicle Code sections 23152(a) and 23152(b) were dismissed as part of the plea
24 agreement with the Los Angeles County District Attorney's Office. Respondent was placed on a
25 36-month probation with the following terms and conditions:

- 26 A. Serve one day in Los Angeles County jail with credit for one day served;
27 B. Perform 40 hours of community service;

- 1 C. Complete a 9-month first-offender alcohol and other drug education and counseling
2 program;
- 3 D. Complete a Hospital and Morgue Program;
- 4 E. Complete a Victim Impact Program of Mothers Against Drunk Driving;
- 5 F. Not drive a motor vehicle with any measurable amount of alcohol in his system;
- 6 G. Not drive a motor vehicle unless properly licensed;
- 7 H. Not drive a motor vehicle unless properly insured;
- 8 I. Pay fines, restitution and fees;
- 9 J. Obey all laws.

10 **June 30, 2022 Conviction**

11 16. At approximately 2:03 a.m. on or about August 27, 2020, still under probation for the
12 March 19, 2019 conviction, Respondent was stopped by an officer of the Glendale Police
13 Department for traveling at 60 mph in a 25-mph zone while driving a 2020 Lexus NX 300H SUV
14 (CA License No. 8PYO212). Respondent was described with watery eyes and slow and slurred
15 speech, and strong odor of alcohol was detected from within the vehicle. During the preliminary
16 interview, Respondent denied consuming alcohol or drugs and answered "1100 pm" when asked
17 what time it was at 2:11 a.m. Respondent was administered standardized field sobriety tests,
18 which he failed, and placed under arrest for violations of Vehicle Code sections 23152(a) and
19 23152(b). Respondent submitted to a breath test at the Glendale Police Department that resulted
20 in findings of 0.21 percent BAC level at 3:03 a.m. and 0.22 percent BAC level at 3:06 a.m.,
21 approximately one hour after the initial stop.

22 17. On or about September 4, 2020, a criminal complaint was filed charging two counts,
23 Vehicle Code sections 23152(a) and 23152(b) respectively, with allegations of a prior conviction
24 for violation of Vehicle Code section 23103 for sentencing enhancement.

25 18. On or about June 30, 2022, in the case entitled *The People of the State of California v.*
26 *Daniel Michael Diamond*, case number 0GD02392, in the Superior Court of California, County
27 of Los Angeles, Respondent, upon his plea of no contest, was convicted of Vehicle Code section
28 23152(b), for driving with BAC level at or greater than 0.08 percent, a misdemeanor, with

1 enhanced sentencing for the prior conviction of Vehicle Code section 23103. The remaining
2 criminal charge for violation of Vehicle Code section 23152(a) was dismissed as part of the plea
3 agreement with the Los Angeles County District Attorney's Office. Respondent was given a
4 suspended sentence to serve 96 hours in jail and was placed on a 48-month probation with the
5 following terms and conditions:

- 6 A. Perform 40 hours of community service;
- 7 B. Complete an 18-month alcohol and other drug education and counseling program
8 pursuant to Health and Safety Code Section 11837;
- 9 C. Complete a Hospital and Morgue Program;
- 10 D. Complete a Victim Impact Program of Mothers Against Drunk Driving;
- 11 E. Comply if ordered by DMV to install an ignition interlock device as a condition of
12 probation.
- 13 F. Not drive a motor vehicle with any measurable amount of alcohol in his system;
- 14 G. Not drive a motor vehicle unless properly licensed;
- 15 H. Not drive a motor vehicle unless properly insured;
- 16 I. Not drink or possess any alcoholic beverage and stay out of places where they are the
17 chief item of sale;
- 18 J. Pay fines, restitution and fees;
- 19 K. Obey all laws.

20 **FIRST CAUSE FOR DISCIPLINE**

21 **(Conviction of A Substantially Related Crime)**

22 19. Respondent Daniel Michael Diamond, M.D. is subject to disciplinary action under
23 sections 490 and 2236, subdivision (a) of the Code, and California Code of Regulations, title 16,
24 Section 1360, in that Respondent has been convicted of a crime substantially related to the
25 qualifications, functions or duties of a physician, as more particularly alleged in paragraphs 16
26 through 18, which are incorporated herein by reference as if fully set forth.

27 ///

28 ///

1 **SECOND CAUSE FOR DISCIPLINE**

2 **(Dangerous Use of Alcohol)**

3 20. Respondent Daniel Michael Diamond, M.D. is subject to disciplinary action under
4 section 2239 of the Code, in that Respondent consumed alcoholic beverages to the extent, or in
5 such a manner, as to be dangerous and injuries to himself or to the public, as more particularly
6 alleged in paragraphs 16 through 18, which are incorporated herein by reference as if fully set
7 forth.

8 **THIRD CAUSE FOR DISCIPLINE**

9 **(Unprofessional Conduct)**

10 21. Respondent Daniel Michael Diamond, M.D. is subject to disciplinary action under
11 section 2234 of the Code in that Respondent has engaged in unprofessional Conduct. The
12 circumstances are as follows:

13 22. The allegations of the First and Second Causes for Discipline are incorporated herein
14 by reference as if fully set forth,

15 **DISCIPLINARY CONSIDERATIONS**

16 23. To determine the degree of discipline, if any, to be imposed on Respondent Daniel
17 Michael Diamond, M.D., Complainant alleges that on or about March 19, 2019, in a prior
18 criminal proceeding titled *The People of the State of California v. Daniel Michael Diamond* in
19 Los Angeles Superior Court, Case Number 8TR05376, Respondent was convicted for violating
20 Vehicle Code Section 23103, a misdemeanor, and was placed on a 36-month probation with the
21 following terms and conditions:

- 22 A. Serve one day in Los Angeles County jail with credit for one day served;
23 B. Perform 40 hours of community service;
24 C. Complete a 9-month first-offender alcohol and other drug education and counseling
25 program;
26 D. Complete a Hospital and Morgue Program;
27 E. Complete a Victim Impact Program of Mothers Against Drunk Driving;
28 F. Not drive a motor vehicle with any measurable amount of alcohol in his system;

1 G. Not drive a motor vehicle unless properly licensed;

2 H. Not drive a motor vehicle unless properly insured;

3 I. Pay fines, restitution and fees;

4 J. Obey all laws.

5 The record of the criminal proceeding is incorporated as if fully set forth herein.

6 PRAYER

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

9 1. Revoking or suspending Physician's and Surgeon's Certificate Number A 134320,
10 issued to Respondent Daniel Michael Diamond, M.D.;

11 2. Revoking, suspending or denying approval of Respondent Daniel Michael Diamond,
12 M.D.'s authority to supervise physician assistants and advanced practice nurses;

13 3. Ordering Respondent Daniel Michael Diamond, M.D., to pay the Board the costs of
14 the investigation and enforcement of this case, and if placed on probation, the costs of probation
15 monitoring; and

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

17 DATED: **APR 25 2023**

18 REJNA KAVES FOR
19 REJ VARGHESE
20 Interim Executive Director
21 Medical Board of California
22 Department of Consumer Affairs
23 State of California
24 Complainant

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