

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

In the Matter of the First Amended
Accusation Against:

James Benjamin Martel, M.D.

Physician's and Surgeon's
Certificate No. G 60544

Case No.: 800-2020-063898

Respondent.

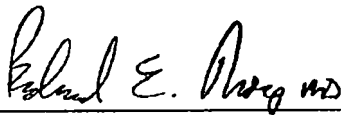
DECISION

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

This Decision shall become effective at 5:00 p.m. on February 16, 2024.

IT IS SO ORDERED: January 18, 2024.

MEDICAL BOARD OF CALIFORNIA



Richard E. Thorp, Chair
Panel B

1 ROB BONTA
Attorney General of California
2 STEVE DIEHL
Supervising Deputy Attorney General
3 JADE WOLANSKY
Deputy Attorney General
4 State Bar No. 349302
California Department of Justice
5 1300 I Street, Suite 125
P.O. Box 944255
6 Sacramento, CA 94244-2550
Telephone: (916) 210-7287
7 Facsimile: (916) 327-2247
Attorneys for Complainant
8

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

13 In the Matter of the First Amended Accusation
Against:

14 **JAMES BENJAMIN MARTEL, M.D.**
15 **P.O. Box 503**
Fair Oaks, CA 95628

16 **Physician's and Surgeon's Certificate No.**
17 **G 60544**

18 Respondent.
19

Case No. 800-2020-063898

OAH No. 2023040259

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

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

22 **PARTIES**

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

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2. Respondent James Benjamin Martel, M.D. (Respondent) is represented in this proceeding by attorney Steven B. Plessner, whose address is 765 University Avenue, Sacramento, CA 95825.

3. On or about July 6, 1987, the Board issued Physician's and Surgeon's Certificate No. G 60544 to James Benjamin Martel, 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 First Amended Accusation No. 800-2020-063898, and will expire on October 31, 2024, unless renewed.

JURISDICTION

4. First Amended Accusation No. 800-2020-063898 was filed before the Board, and is currently pending against Respondent. The First Amended Accusation and all other statutorily required documents were properly served on Respondent on October 30, 2023. The First Amended Accusation was deemed controverted pursuant to Government Code Section 11507 in light of the fact that Respondent timely filed his Notice of Defense contesting the original Accusation No. 800-2020-063898.

5. A copy of First Amended Accusation No. 800-2020-063898 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 First Amended Accusation No. 800-2020-063898. 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 First Amended 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;

1 and all other rights accorded by the California Administrative Procedure Act and other applicable
2 laws.

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

5 **CULPABILITY**

6 9. Respondent does not contest that, at an administrative hearing, complainant could
7 establish a prima facie case with respect to the charges and allegations contained in First
8 Amended Accusation No. 800-2020-063898 and that he has thereby subjected his license to
9 disciplinary action.

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

13 **CONTINGENCY**

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

24 12. Respondent agrees that if he ever petitions for early termination or modification of
25 probation, or if an accusation and/or petition to revoke probation is filed against him before the
26 Board, all of the charges and allegations contained in First Amended Accusation No. 800-2020-
27 063898 shall be deemed true, correct and fully admitted by respondent for purposes of any such
28 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. G 60544 issued, to Respondent James Benjamin Martel, M.D. is revoked. However, the revocation is stayed and Respondent is placed on probation for five (5) years on the following terms and conditions:

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

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

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

3. PROFESSIONALISM PROGRAM (Ethics Course). Within 60 calendar days of the effective date of this decision, Respondent shall enroll in a professionalism program, that meets the requirements of Title 16, California Code of Regulations (CCR) section 1358.1. Respondent shall participate in and successfully complete that program. Respondent shall provide any information and documents that the program may deem pertinent. Respondent shall successfully complete the classroom component of the program not later than six (6) months after

1 Respondent's initial enrollment, and the longitudinal component of the program no later than the
2 time specified by the program, but no later than one (1) year after attending the classroom
3 component. The professionalism program shall be at the Respondent's expense and shall be in
4 addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

5 A professionalism program taken after the acts that gave rise to the charges in the First
6 Amended Accusation No. 800-2020-063898, but prior to the effective date of the Decision may,
7 in the sole discretion of the Board or its designee, be accepted towards the fulfillment of this
8 condition if the program would have been approved by the Board or its designee had the program
9 been taken after the effective date of this Decision.

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

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

20 The clinical diagnostic evaluation shall be conducted by a licensed physician and surgeon
21 who holds a valid, unrestricted license, has 3 years' experience in providing evaluations of
22 physicians and surgeons with substance abuse disorders, and is approved by the Board or its
23 designee. The clinical diagnostic evaluation shall be conducted in accordance with acceptable
24 professional standards for conducting substance abuse clinical diagnostic evaluations. The
25 evaluator shall not have a current or former financial, personal, or business relationship with
26 Respondent within the last 5 years. The evaluator shall provide an objective, unbiased, and
27 independent evaluation. The clinical diagnostic evaluation report shall set forth, in the evaluator's
28 opinion, whether Respondent has a substance abuse problem, whether Respondent is a threat to

1 himself or others, and recommendations for substance abuse treatment, practice restrictions, or
2 other recommendations related to Respondent's rehabilitation and ability to practice safely. If the
3 evaluator determines during the evaluation process that Respondent is a threat to himself or
4 others, the evaluator shall notify the Board within 24 hours of such a determination.

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

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

19 The Board shall review the clinical diagnostic evaluation report within 5 business days of
20 receipt to determine whether Respondent is safe to continue to practice either part-time or full-
21 time and what restrictions or recommendations shall be imposed on Respondent based on the
22 recommendations made by the evaluator.

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

27 Respondent shall comply with all restrictions or conditions recommended by the examiner
28 conducting the clinical diagnostic evaluation within 15 calendar days after being notified by the

1 Board or its designee.

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

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

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

21 During the first year of probation, Respondent shall be subject to 52 to 104 random tests.
22 During the second year of probation and for the duration of the probationary term, up to five (5)
23 years, Respondent shall be subject to 36 to 104 random tests per year. Only if there has been no
24 positive biological fluid tests in the previous five (5) consecutive years of probation, may testing
25 be reduced to one (1) time per month. Nothing precludes the Board from increasing the number
26 of random tests to the first-year level of frequency for any reason.

27 Prior to practicing medicine, Respondent shall contract with a laboratory or service,
28 approved in advance by the Board or its designee, that will conduct random, unannounced,

1 observed, biological fluid testing and meets all of the following standards:

- 2 (a) Its specimen collectors are either certified by the Drug and Alcohol Testing Industry
3 Association or have completed the training required to serve as a collector for the United
4 States Department of Transportation.
- 5 (b) Its specimen collectors conform to the current United States Department of
6 Transportation Specimen Collection Guidelines.
- 7 (c) Its testing locations comply with the Urine Specimen Collection Guidelines published
8 by the United States Department of Transportation without regard to the type of test
9 administered.
- 10 (d) Its specimen collectors observe the collection of testing specimens.
- 11 (e) Its laboratories are certified and accredited by the United States Department of Health
12 and Human Services.
- 13 (f) Its testing locations shall submit a specimen to a laboratory within one (1) business day
14 of receipt and all specimens collected shall be handled pursuant to chain of custody
15 procedures. The laboratory shall process and analyze the specimens and provide legally
16 defensible test results to the Board within seven (7) business days of receipt of the
17 specimen. The Board will be notified of non-negative results within one (1) business day
18 and will be notified of negative test results within seven (7) business days.
- 19 (g) Its testing locations possess all the materials, equipment, and technical expertise
20 necessary in order to test Respondent on any day of the week.
- 21 (h) Its testing locations are able to scientifically test for urine, blood, and hair specimens
22 for the detection of alcohol and illegal and controlled substances.
- 23 (i) It maintains testing sites located throughout California.
- 24 (j) It maintains an automated 24-hour toll-free telephone system and/or a secure on-line
25 computer database that allows the Respondent to check in daily for testing.
- 26 (k) It maintains a secure, HIPAA-compliant website or computer system that allows staff
27 access to drug test results and compliance reporting information that is available 24 hours a
28 day.

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

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

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

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

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

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

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

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

28 For purposes of this condition, the terms "biological fluid testing" and "testing" mean the

1 acquisition and chemical analysis of a Respondent's urine, blood, breath, or hair.

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

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

11 7. GROUP SUPPORT MEETINGS. Within 30 days of the effective date of this
12 Decision, Respondent shall submit to the Board or its designee, for its prior approval, the name of
13 a substance abuse support group which he shall attend for the duration of probation. Respondent
14 shall attend substance abuse support group meetings at least once per week, or as ordered by the
15 Board or its designee. Respondent shall pay all substance abuse support group meeting costs.

16 The facilitator of the substance abuse support group meeting shall have a minimum of 3
17 years' experience in the treatment and rehabilitation of substance abuse, and shall be licensed or
18 certified by the state or nationally certified organizations. The facilitator shall not have a current
19 or former financial, personal, or business relationship with Respondent within the last 5 years.
20 Respondent's previous participation in a substance abuse group support meeting led by the same
21 facilitator does not constitute a prohibited current or former financial, personal, or business
22 relationship.

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

28 8. WORKSITE MONITOR. Within 30 calendar days of the effective date of this

1 Decision, Respondent shall submit to the Board or its designee for prior approval as a worksite
2 monitor, the name and qualifications of one or more licensed physicians and surgeons, other
3 licensed health care professional if no physician and surgeon is available, or, as approved by the
4 Board or its designee, a person in a position of authority who is capable of monitoring the
5 Respondent at work.

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

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

16 Respondent shall pay all worksite monitoring costs.

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

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

28 The worksite monitor shall complete and submit a written report monthly or as directed by

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

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

18 9. VIOlation OF PROBATION CONDITION FOR SUBSTANCE ABUSING
19 LICENSEES. Failure to fully comply with any term or condition of probation is a violation of
20 probation.

21 A. If Respondent commits a major violation of probation as defined by section
22 1361.52, subdivision (a), of Title 16 of the California Code of Regulations, the Board shall take
23 one or more of the following actions:

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

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

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

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

8 B. If Respondent commits a minor violation of probation as defined by section
9 1361.52, subdivision (c), of Title 16 of the California Code of Regulations, the Board shall take
10 one or more of the following actions:

11 (1) Issue a cease-practice order;

12 (2) Order practice limitations;

13 (3) Order or increase supervision of Respondent;

14 (4) Order increased documentation;

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

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

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

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

27 10. NOTIFICATION. Within seven (7) days of the effective date of this Decision, the
28 Respondent shall provide a true copy of this Decision and First Amended Accusation No. 800-

1 2020-063898 to the Chief of Staff or the Chief Executive Officer at every hospital where
2 privileges or membership are extended to Respondent, at any other facility where Respondent
3 engages in the practice of medicine, including all physician and locum tenens registries or other
4 similar agencies, and to the Chief Executive Officer at every insurance carrier which extends
5 malpractice insurance coverage to Respondent. Respondent shall submit proof of compliance to
6 the Board or its designee within 15 calendar days.

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

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

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

14 13. INVESTIGATION/ENFORCEMENT COST RECOVERY. Respondent is hereby
15 ordered to reimburse the Board its costs of investigation and enforcement, including, but not
16 limited to, expert review, amended accusations, legal reviews, joint investigations, and subpoena
17 enforcement, as applicable, in the amount of \$21,077.25 (twenty-one thousand and seventy-seven
18 dollars and twenty-five cents). Costs shall be payable to the Medical Board of California. Failure
19 to pay such costs shall be considered a violation of probation.

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

24 The filing of bankruptcy by Respondent shall not relieve Respondent of the responsibility
25 to repay investigation and enforcement costs, including expert review costs (if applicable).

26 14. QUARTERLY DECLARATIONS. Respondent shall submit quarterly declarations
27 under penalty of perjury on forms provided by the Board, stating whether there has been
28 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.

15. 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.

16. 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 17. 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 18. 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 19. 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 Probation,
9 or an Interim Suspension Order is filed against Respondent during probation, the Board shall have
10 continuing jurisdiction until the matter is final, and the period of probation shall be extended until
11 the matter is final.

12 20. 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.

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

27 22. FUTURE ADMISSIONS CLAUSE. If Respondent should ever apply or reapply for
28 a new license or certification, or petition for reinstatement of a license, by any other health care

1 licensing action agency in the State of California, all of the charges and allegations contained in
2 First Amended Accusation No. 800-2020-063898 shall be deemed to be true, correct, and
3 admitted by Respondent for the purpose of any Statement of Issues or any other proceeding
4 seeking to deny or restrict license.

5 **ACCEPTANCE**

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

11 DATED: 11/7/23



JAMES BENJAMIN MARTEL, M.D.
Respondent

13 I have read and fully discussed with Respondent James Benjamin Martel M.D. the terms
14 and conditions and other matters contained in the above Stipulated Settlement and Disciplinary
15 Order. I approve its form and content.

16 DATED: 11/07/23



STEVEN B. PLESSER
Attorney for Respondent

18 **ENDORSEMENT**

19
20 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully
21 submitted for consideration by the Medical Board of California.

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DATED: November 8, 2023

Respectfully submitted,

ROB BONTA
Attorney General of California
STEVE DIEHL
Supervising Deputy Attorney General


JADE WOLANSKY
Deputy Attorney General
Attorneys for Complainant

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1 ROB BONTA
Attorney General of California
2 STEVE DIEHL
Supervising Deputy Attorney General
3 JADE WOLANSKY
Deputy Attorney General
4 State Bar No. 349302
California Department of Justice
5 1300 I Street, Suite 125
P.O. Box 944255
6 Sacramento, CA 94244-2550
Telephone: (916) 210-7287
7 Facsimile: (916) 327-2247
Attorneys for Complainant

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

12 In the Matter of the First Amended Accusation
Against:

Case No. 800-2020-063898

13 **James Benjamin Martel, M.D.**
14 **P.O. Box 503**
15 **Fair Oaks, CA 95628-0503**

FIRST AMENDED ACCUSATION

16 **Physician's and Surgeon's Certificate**
No. G 60544,

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 July 6, 1987, the Medical Board issued Physician's and Surgeon's
24 Certificate Number G 60544 to James Benjamin Martel, 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 October 31, 2024, unless renewed.

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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 2227 of the Code states:

(a) A licensee whose matter has been heard by an administrative law judge of the Medical Quality Hearing Panel as designated in Section 11371 of the Government Code, or whose default has been entered, and who is found guilty, or who has entered into a stipulation for disciplinary action with the board, may, in accordance with the provisions of this chapter:

(1) Have his or her license revoked upon order of the board.

(2) Have his or her right to practice suspended for a period not to exceed one year upon order of the board.

(3) Be placed on probation and be required to pay the costs of probation monitoring upon order of the board.

(4) Be publicly reprimanded by the board. The public reprimand may include a requirement that the licensee complete relevant educational courses approved by the board.

(5) Have any other action taken in relation to discipline as part of an order of probation, as the board or an administrative law judge may deem proper.

(b) Any matter heard pursuant to subdivision (a), except for warning letters, medical review or advisory conferences, professional competency examinations, continuing education activities, and cost reimbursement associated therewith that are agreed to with the board and successfully completed by the licensee, or other matters made confidential or privileged by existing law, is deemed public, and shall be made available to the public by the board pursuant to Section 803.1.

STATUTORY PROVISIONS

5. Section 2234 of the Code states:

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

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

(b) Gross negligence.

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

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

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

9 (d) Incompetence.

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

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

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

17 6. Section 2236 of the Code states:

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

23 (b) The district attorney, city attorney, or other prosecuting agency shall notify
24 the Medical Board of the pendency of an action against a licensee charging a felony
25 or misdemeanor immediately upon obtaining information that the defendant is a
26 licensee. The notice shall identify the licensee and describe the crimes charged and
27 the facts alleged. The prosecuting agency shall also notify the clerk of the court in
28 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.

7. Section 2238 of the Code states:

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

1
2 8. Section 2239 of the Code states:

3 (a) The use or prescribing for or administering to himself or herself, of any
4 controlled substance; or the use of any of the dangerous drugs specified in Section
5 4022, or of alcoholic beverages, to the extent, or in such a manner as to be dangerous
6 or injurious to the licensee, or to any other person or to the public, or to the extent that
7 such use impairs the ability of the licensee to practice medicine safely or more than
8 one misdemeanor or any felony involving the use, consumption, or
9 self-administration of any of the substances referred to in this section, or any
10 combination thereof, constitutes unprofessional conduct. The record of the
11 conviction is conclusive evidence of such unprofessional conduct.

12 (b) A plea or verdict of guilty or a conviction following a plea of nolo
13 contendere is deemed to be a conviction within the meaning of this section. The
14 Medical Board may order discipline of the licensee in accordance with Section 2227
15 or the Medical Board may order the denial of the license when the time for appeal has
16 elapsed or the judgment of conviction has been affirmed on appeal or when an order
17 granting probation is made suspending imposition of sentence, irrespective of a
18 subsequent order under the provisions of Section 1203.4 of the Penal Code allowing
19 such person to withdraw his or her plea of guilty and to enter a plea of not guilty, or
20 setting aside the verdict of guilty, or dismissing the accusation, complaint,
21 information, or indictment.

22 9. Section 11170 of the Health & Safety Code states:

23 No person shall prescribe, administer, or furnish a controlled substance for
24 himself.

25 REGULATORY PROVISIONS

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

27 (a) For the purposes of denial, suspension or revocation of a license pursuant to
28 Section 141 or Division 1.5 (commencing with Section 475) of the code, a crime,
professional misconduct, or act shall be considered to be substantially related to the
qualifications, functions or duties of a person holding a license if to a substantial degree it
evidences present or potential unfitness of a person holding a license to perform the
functions authorized by the license in a manner consistent with the public health, safety or
welfare. Such crimes, professional misconduct, 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 state or federal law
governing the applicant's or licensee's professional practice.

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

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

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1 14. The CHP Officer arrested Respondent next to his vehicle. Respondent consented to a
2 blood test. Due to Respondent's high heart rate and altered state, the Sacramento Metropolitan
3 Fire Medic took Respondent to the hospital. At 1:58 PM, the CHP Officer observed the
4 phlebotomist obtain two vials of Respondent's blood out of his left arm in a medically approved
5 manner. The CHP Officer then immediately took custody of the blood. Afterwards, another CHP
6 Officer transported Respondent to the Sacramento County Jail. Respondent's blood sample was
7 placed in the Sacramento County blood evidence locker. During the intake process, the intake
8 Deputy discovered 5 pills in Respondent's right shoe. The pills were booked into the East
9 Sacramento CHP evidence locker. At 5:55 PM, Respondent was booked into the Sacramento
10 County Jail for DUI causing injury.

11 15. On or about November 19, 2019, Respondent's toxicology report showed levels of
12 diazepam,¹ nordiazepam,² carisoprodol,³ meprobamate,⁴ and zolpidem.⁵ In his investigative
13 interview, Respondent refused, on attorney's advice, to explain whether he was prescribed
14 diazepam, nordiazepam, carisoprodol, meprobamate, and zolpidem and where he obtained them,
15 and CURES reflects that he was not prescribed these medications by any provider in California.

16 16. On or about December 16, 2019, a criminal complaint was filed against Respondent
17 in the matter entitled *The People of the State of California v. James B Martel* in Sacramento
18

19 ¹ Diazepam (Valium), is a Schedule IV controlled substance as defined by section
20 11057(d) of the Health and Safety Code and section 1308.14(c) of Title 21 of the Code of Federal
21 Regulations, and is a dangerous drug as defined in Code section 4022. It is a benzodiazepine
22 medication used to treat anxiety and muscle spasms. Diazepam can produce psychological and
23 physical dependence.

24 ² Nordiazepam is a metabolite of diazepam. It is a Schedule IV controlled substance as
25 defined by section 11057(d) of the Health and Safety Code and section 1308.14(c) of Title 21 of
26 the Code of Federal Regulations, and is a dangerous drug as defined in Code section 4022.

27 ³ Carisoprodol (Soma), is a Schedule IV controlled substance as defined by section
28 1308.14(c) of Title 21 of the Code of Federal Regulations, and a dangerous drug pursuant to
Business and Professions Code section 4022. It is a muscle relaxant medication used to treat
short-term muscle pain. Carisoprodol can cause drowsiness.

⁴ Meprobamate is a metabolite of carisoprodol. It is a Schedule IV controlled substance as
defined by section 11057(d) of the Health and Safety Code and section 1308.14(c) of Title 21 of
the Code of Federal Regulations and is a dangerous drug as defined in Code section 4022.

⁵ Zolpidem (Ambien) is a Schedule IV controlled substance as defined by section
11057(d) of the Health and Safety Code and section 1308.14(c) of Title 21 of the Code of Federal
Regulations and is a dangerous drug as defined in Code section 4022. It is used short-term to treat
insomnia. Zolpidem can cause drowsiness.

1 County Superior Court, Case Number 19MI022348. Count one of the criminal complaint charged
2 Respondent with a misdemeanor violation of Vehicle Code section 23153, subdivision (f).

3 17. On or about July 27, 2022, Respondent pled no contest to and was convicted of
4 violating Vehicle Code section 23153, subdivision (f) in Sacramento Superior Court. He was
5 ordered to complete a three-month first-offender program and to pay fines and restitution. He was
6 sentenced to serve 50 days in County Jail, with 30-days suspended on the condition that he
7 complete a year of therapy sessions to include no fewer than 30 sessions.

8 **FIRST CAUSE FOR DISCIPLINE**

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

11 18. Respondent James Benjamin Martel, M.D. is subject to disciplinary action under
12 sections 2227 and 2234, as defined by section 2236, of the Code, and California Code of
13 Regulations, Title 16, section 1360, in that he was convicted of a crime substantially related to the
14 qualifications, functions, or duties of a physician or surgeon. The circumstances are set forth in
15 paragraphs 12 through 17, above, and are incorporated here by reference as if fully set forth
16 herein.

17 **SECOND CAUSE FOR DISCIPLINE**

18 **(Excessive Use of Drugs or Alcohol)**

19 19. Respondent James Benjamin Martel, M.D. is subject to disciplinary action under
20 sections 2227 and 2234, as defined by section 2239, subdivision (a), of the Code, and California
21 Code of Regulations, Title 16, section 1360, in that he has used controlled substances to the
22 extent, or in such a manner, as to be dangerous or injurious to himself, or to any other person or to
23 the public, as more particularly alleged in paragraphs 12 through 17, above, which are hereby
24 incorporated by reference and realleged as if fully set forth herein.

25 **THIRD CAUSE FOR DISCIPLINE**

26 **(Administering Controlled Substances to Himself)**

27 20. Respondent James Benjamin Martel, M.D. is subject to disciplinary action under
28 section 2238, which establishes that it is unprofessional conduct for a physician to violate state

1 law regulating dangerous drugs or controlled substances. Respondent committed unprofessional
2 conduct in violation of section 2238 in that he violated Health & Safety Code section 11170, by
3 furnishing and administering a controlled substance to himself. The circumstances are set forth in
4 Paragraphs 12 through 17, above, which are hereby incorporated by reference and realleged as if
5 fully set forth herein.

6 **FOURTH CAUSE FOR DISCIPLINE**

7 **(General Unprofessional Conduct)**

8 21. Respondent James Benjamin Martel, M.D. is subject to disciplinary action under
9 sections 2227 and 2234, as defined by section 2234, of the Code, in that he has engaged in
10 conduct which breaches the rules or ethical code of the medical profession, or conduct which is
11 unbecoming a member in good standing of the medical profession, and which demonstrates an
12 unfitness to practice medicine, as more particularly alleged in paragraphs 12 through 17, above,
13 which are hereby realleged and incorporated by reference as if fully set forth herein.

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PRAYER

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

1. Revoking or suspending Physician's and Surgeon's Certificate Number G 60544, issued to Respondent James Benjamin Martel, M.D.;


2. Revoking, suspending or denying approval of Respondent James Benjamin Martel, M.D.'s authority to supervise physician assistants and advanced practice nurses;

3. Ordering Respondent James Benjamin Martel, M.D., to pay the Board the costs of the investigation and enforcement of this case, and if placed on probation, the costs of probation monitoring;

4. Ordering Respondent James Benjamin Martel, M.D., if placed on probation, to provide patient notification in accordance with Business and Professions Code section 2228.1; and

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

DATED: **OCT 30 2023**


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

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