

1 ROB BONTA
Attorney General of California
2 MATTHEW M. DAVIS
Supervising Deputy Attorney General
3 GIOVANNI F. MEJIA
Deputy Attorney General
4 State Bar No. 309951
600 West Broadway, Suite 1800
5 San Diego, CA 92101
P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 738-9072
7 Facsimile: (619) 645-2061
E-mail: Giovanni.Mejia@doj.ca.gov

8 *Attorneys for Complainant*

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

13 In the Matter of the Accusation Against:

Case No. 800-2018-048376

14 **Fritz John Baumgartner, M.D.**
15 **3791 Katella Ave., #201**
Los Alamitos, CA 90720

A C C U S A T I O N

16 **Physician's and Surgeon's Certificate**
17 **No. G 55475,**

Respondent.

18
19 **PARTIES**

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

23 2. On or about July 29, 1985, the Medical Board issued Physician's and Surgeon's
24 Certificate No. G 55475 to Fritz John Baumgartner, 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 September 30, 2024, unless renewed.

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JURISDICTION

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

5 4. Section 2227, subdivision (a) of the Code states:

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

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

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

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

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

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

21 5. Section 2234 of the Code states, in pertinent part:

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

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

27

28 6. Section 2236 of the Code states, in pertinent part:

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

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1 (c) The clerk of the court in which a licensee is convicted of a crime shall,
2 within 48 hours after the conviction, transmit a certified copy of the record of
3 conviction to the board. The division may inquire into the circumstances surrounding
4 the commission of a crime in order to fix the degree of discipline or to determine if
5 the conviction is of an offense substantially related to the qualifications, functions, or
6 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 7. Section 2273, subdivision (b) of the Code states:

8 A licensee shall have the licensee's license revoked for a period of 10 years, or
9 shall stipulate to surrender of the license for 10 years, upon a second conviction for
10 violating any of the following provisions or upon being convicted of more than one
11 count of violating any of the following provisions in a single case: Section 650 of this
12 code, Section 750 or 1871.4 of the Insurance Code, or Section 549 or 550 of the Penal
13 Code. After the expiration of this 10-year period, an application for license
14 reinstatement may be made pursuant to Section 2307.

12 8. Section 550 of the Penal Code states, in pertinent part:

13 (a) It is unlawful to do any of the following, or to aid, abet, solicit, or conspire
14 with any person to do any of the following:

15 ...

16 (6) Knowingly make or cause to be made any false or fraudulent claim for
17 payment of a health care benefit.

18

18 9. Section 1360 of title 16, division 13 of the California Code of Regulations (the
19 Medical Practice Regulations) states:

20 (a) For the purposes of denial, suspension or revocation of a license pursuant to
21 Section 141 or Division 1.5 (commencing with Section 475) of the code, a crime,
22 professional misconduct, or act shall be considered to be substantially related to the
23 qualifications, functions or duties of a person holding a license if to a substantial
24 degree it evidences present or potential unfitness of a person holding a license to
25 perform the functions authorized by the license in a manner consistent with the public
26 health, safety or welfare. Such crimes, professional misconduct, or acts shall include
27 but not be limited to the following: Violating or attempting to violate, directly or
28 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;

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

3 **COST RECOVERY**

4 10. Section 125.3 of the Code states:

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

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

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

19 (d) The administrative law judge shall make a proposed finding of the amount
20 of reasonable costs of investigation and prosecution of the case when requested
21 pursuant to subdivision (a). The finding of the administrative law judge with regard to
22 costs shall not be reviewable by the board to increase the cost award. The board may
23 reduce or eliminate the cost award, or remand to the administrative law judge if the
24 proposed decision fails to make a finding on costs requested pursuant to
25 subdivision (a).

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

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

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

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

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

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

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

6 **FIRST CAUSE FOR DISCIPLINE**

7 **(Conviction of Crimes Substantially Related to the Qualifications, Functions or Duties of a
8 Physician and Surgeon)**

9 11. Respondent Fritz John Baumgartner, M.D. has subjected his Physician's and
10 Surgeon's Certificate No. G 55475 to disciplinary action under sections 2227, 2234 and 2236 of
11 the Code, and section 1360 of the Medical Practice Regulations, in that he was convicted of one
12 or more offenses substantially related to the qualifications, functions or duties of a physician and
13 surgeon. The circumstances are as follows:

14 12. On or about and between February 23, 2016 and March 30, 2017, Respondent owned,
15 and was medical director, at Doctor Surgery Center dba Guardian Surgery Center in Fountain
16 Valley, California where Respondent performed experimental surgeries by implanting Naltrexone
17 Pellets, a procedure, and use of Naltrexone, Respondent knew was not approved by the U.S. Food
18 and Drug Administration (FDA), on at least 85 of his patients with the specific intent, and
19 knowing, that coconspirators would submit insurance claims to Anthem Insurance on
20 Respondent's behalf, and on behalf of Doctor Surgery Center dba Guardian Surgery Center, for
21 payment without informing Anthem Insurance that the procedure Respondent performed was not
22 FDA approved. Respondent knew the claims billed were in excess of \$950,000. These acts
23 involved a pattern of conduct that resulted in the fraudulent taking of more than \$500,000.

24 13. On or about and between January 21, 2015 and July 18, 2018, Respondent owned,
25 and Respondent was medical director, at Community Surgery Center dba Guardian Surgery in
26 Fountain Valley, California where Respondent did willfully and unlawfully perform experimental
27 surgeries by implanting Naltrexone Pellets, a procedure, and use of Naltrexone, Respondent knew
28 was not approved by the FDA, on at least 70 of Respondent's patients with the specific intent, and
knowing, that coconspirators would submit insurance claims to United Health Care on

1 Respondent's behalf, and the behalf of Community Surgery Center dba Guardian Surgery Center,
2 for payment without informing United Health Care that the procedure Respondent performed was
3 not FDA approved. Respondent knew the claims billed were in excess of \$950,000. These acts
4 involved a pattern of conduct that resulted in the fraudulent taking of more than \$500,000.

5 14. On or about December 5, 2023, in the case entitled *The People of the State of*
6 *California v. Fritz John Baumgartner*, Superior Court of California, County of Orange, case
7 No. 18CF2717, a felony first amended criminal complaint was filed charging Respondent with
8 one felony count of violating Business and Professions Code section 2052, subdivision (b)
9 (Conspiring in the Unauthorized Practice of Medicine), four felony counts of violating Penal
10 Code section 650, subdivision (a) (Unlawful Compensation/Inducement for Patient Referrals),
11 five felony counts of violating Penal Code section 550, subdivision (a)(5) (Insurance Fraud –
12 Written Claim), four felony counts of violating Penal Code section 550, subdivision (a)(6)
13 (Conspiracy to Commit Medical Insurance Fraud), and one felony count of violating Penal Code
14 section 245, subdivision (a)(4) (Assault with Force Likely to Produce Great Bodily Injury).

15 15. On or about December 20, 2023, in the case entitled *The People of the State of*
16 *California v. Fritz John Baumgartner*, Superior Court of California, County of Orange, case
17 No. 18CF2717, Respondent was convicted, upon his plea of guilty, of two felony violations of
18 Penal Code section 550, subdivision (a)(6) (Conspiracy to Commit Medical Insurance Fraud).

19 16. On or about December 20, 2023, as a result of this conviction, Respondent was
20 sentenced to 180 days in county jail (which may be served as home confinement) and 10 years'
21 formal probation. The probation terms and conditions included, but were not limited to,
22 abstaining from receiving or possessing any dangerous or deadly weapon, and restitution in the
23 amount of approximately \$977,945 plus interest.

24 **SECOND CAUSE FOR DISCIPLINE**

25 **(Conviction of More than One Count of Violating Section 550 of the Penal Code)**

26 17. Respondent Fritz John Baumgartner, M.D. has further subjected his Physician's and
27 Surgeon's Certificate No. G 55475 to disciplinary action under sections 2227 and 2273,
28 subdivision (b) of the Code in that he was convicted of more than one count of violating section

1 550 of the Penal Code as more particularly alleged in paragraphs 14 through 16, above, which are
2 hereby incorporated by reference and realleged as if fully set forth herein.

3 **THIRD CAUSE FOR DISCIPLINE**

4 **(Violation of the Medical Practice Act)**

5 18. Respondent Fritz John Baumgartner, M.D. has further subjected his Physician's and
6 Surgeon's Certificate No. G 55475 to disciplinary action under sections 2227, 2234, and 2234,
7 subdivision (a) of the Code in that he violated or attempted to violate, directly or indirectly,
8 assisted in or abetted the violation of, or conspired to violate any provision of the Medical
9 Practice Act, as more particularly alleged in paragraphs 14 through 17, above, which are hereby
10 incorporated by reference and realleged as if fully set forth herein.

11 **PRAYER**

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

- 14 1. Revoking or suspending Physician's and Surgeon's Certificate No. G 55475, issued
15 to Respondent Fritz John Baumgartner, M.D.;
- 16 2. Revoking, suspending or denying approval of Respondent Fritz John
17 Baumgartner, M.D.'s authority to supervise physician assistants and advanced practice nurses;
- 18 3. Ordering Respondent Fritz John Baumgartner, M.D., to pay the Board the costs of the
19 investigation and enforcement of this case, and if placed on probation, the costs of probation
20 monitoring; and
- 21 4. Taking such other and further action as deemed necessary and proper.

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23 DATED: APR 18 2024

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25 REJI VARGHESE
26 Executive Director
27 Medical Board of California
28 Department of Consumer Affairs
State of California
Complainant

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