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

In the Matter of the Accusation Against **Amelia Marie Lindgren, M.D.** **Physician's and Surgeons** **License No. A 151051** **Respondent.**	**Case No. 800-2019-052955**

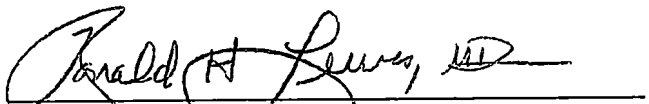
DECISION

The attached Proposed Decision 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 April 9, 2021.

IT IS SO ORDERED: March 11, 2021.

MEDICAL BOARD OF CALIFORNIA



Ronald H. Lewis, M.D., Chair
Panel A

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

In the Matter of the Accusation against:

AMELIA MARIE LINDGREN, M.D., Respondent

Agency Case No. 800-2019-052955

OAH No. 2020010588.1

PROPOSED DECISION

Robert Walker, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter on November 24 and 25, 2020. The hearing was conducted by videoconference.

Robert W. Lincoln, Deputy Attorney General, represented complainant, William J. Prasifka, Executive Director, Medical Board of California. (Mr. Prasifka was appointed executive director after the accusation was filed.)

David M. Balfour, Attorney at Law, represented respondent, Amelia Marie Lindgren, M.D.

The record was closed and the matter was submitted for decision on November 25, 2020.

FACTUAL FINDINGS

1. On August 9, 2017, the Medical Board of California issued Physician's and Surgeon's Certificate number A 151051 to Amelia Marie Lindgren, M.D. (respondent).

2. On May 3, 2019, in the Superior Court of California for the County of San Diego, respondent was convicted of driving under the influence of alcohol, a violation of Vehicle Code section 23152, subdivision (a), a misdemeanor. The conviction was on a plea of guilty. The court ordered an enhanced penalty pursuant to Vehicle Code section 23578 for a blood alcohol concentration of 0.15 percent or greater or refusal to take a breath or urine test. The court suspended the imposition of sentence and placed respondent on summary probation for five years. As conditions of probation, the court ordered respondent to complete a nine-month DUI First Conviction Program, enroll in and attend the Mothers Against Drunk Driving (MADD) class, perform 11 days of community service, and pay fines and fees totaling $2,133. The court imposed other standard conditions. The court retained jurisdiction over the issue of restitution. Further, at a hearing in March 2019, the court added a requirement that respondent wear a continuous alcohol monitoring ankle bracelet, a SCRAM, which automatically measures transdermal alcohol.

3. The incident that gave rise to the conviction occurred on January 26, 2019. Respondent and friends attended a birthday celebration. Respondent became intoxicated but, nevertheless, attempted to drive home.

Testimony of Bret Fuller

4. Bret Fuller is a deputy sheriff with the San Diego County Sheriff's Department. The following is a summary of his testimony. Deputy Fuller has been with the San Diego County Sheriff's Department for over 10 years. After he completed police

academy training, he worked at the county jail for over seven years. After further training, he started patrol duty. He has dealt with incidents of driving under the influence of alcohol or alcohol and drugs more than 50 times. He conducts field sobriety tests.

5. On Saturday, January 26, 2019, shortly before 9:00 p.m., Deputy Fuller received a dispatch call; a party was following a suspected intoxicated driver who had hit a parked vehicle in Encinitas. Deputy Fuller located the reporting party in Solana Beach and observed a vehicle swerving between lanes. He followed the vehicle into Cardiff by the Sea. He activated his lights, and the driver pulled over. Deputy Fuller observed damage to the front of the vehicle on the passenger side. Also, the front, passenger-side tire was flat. Respondent was driving the vehicle; there were no passengers. Deputy Fuller smelled alcohol, and respondent's speech was delayed and slurred. Respondent said she had consumed one beer. Deputy Fuller asked respondent about the damage to her vehicle and the flat tire. She said she did not know anything about that. She got out of her vehicle and leaned against it to brace herself. There was vomit on the inside of the driver's door. Respondent appeared to have been crying. Back-up deputies arrived and administered a field sobriety test. Respondent refused to take a breathalyzer test. Respondent appeared to be confused and annoyed, and she argued with Deputy Sundae Benton. Deputy David Arnold, Sr., arrested respondent for driving under the influence of alcohol and for hit and run property damage and took her to the North Coastal Station.

Arrest Report

6. Deputy Arnold wrote an arrest report. The following is a summary of excerpts from the report. On January 26, 2019, Deputy Arnold responded to assist Deputy Fuller. Respondent was unaware of the fact that she had been involved in a traffic accident and unaware of the fact that she had been driving on a flat tire. Respondent admitted that she consumed a 12-ounce beer at a friend's residence in the city of

Encinitas. She displayed signs and symptoms of being intoxicated. She had a strong odor of an alcoholic beverage emanating from her breath and person. She had watery, blood-shot eyes and slurred speech. She staggered. She performed poorly on the divided-attention test on the standardized field sobriety test. She declined to submit to a preliminary alcohol screening test. Deputy Arnold arrested respondent and obtained a warrant to draw blood for an alcohol test. A laboratory report showed a blood alcohol content (BAC) of 0.224 percent.

Testimony of Chris Jenson

7. Chris Jenson is a special investigator for the board. The following is a summary of his testimony. Mr. Jenson has been an investigator for the board for five years. He has had training in regulatory investigative techniques and interviewing techniques. His training included assessing credibility. In the course of his investigations for the board, he has conducted 168 interviews. Approximately 70 percent of them have been in driving-under-the-influence cases.

8. On August 13, 2019, Mr. Jenson interviewed respondent; the interview lasted approximately one hour. The following is a summary of excerpts from a transcript of the interview. Respondent told Mr. Jenson the following: She no longer consumes alcohol. She stopped drinking alcohol immediately after her arrest on January 26, 2019. Driving under the influence of alcohol was the biggest mistake she ever made. She is horrified that she did it. Because of all the problems it caused, she just does not have a desire to drink. Respondent has no history of illicit or recreational drug use. She has never received treatment for drug dependency. At the time of the interview, she was attending Alcoholics Anonymous (AA) meetings once per week.

9. Mr. Jenson testified that, in the interview, respondent was professional and courteous. Her demeanor indicated that she understood the seriousness of what she had

done. At no point in the interview did Mr. Jenson have a sense that respondent was not telling the truth. She referred to her terrible decision. She took responsibility and expressed remorse. She said she was in compliance with the conditions of her criminal probation and declared that she never again will drive under the influence of alcohol. In connection with her criminal probation, she was required to wear a SCRAM ankle bracelet, and she did that. But in addition to that, she had voluntarily participated in SoberLink, a remote alcohol monitoring program.

Respondent's Testimony

RESPONDENT'S BACKGROUND

10. Respondent attended the College of William and Mary. In 2009, she earned a Bachelor of Science degree in neuroscience, graduating *magna cum laude*. She then worked for three years in research at Brigham and Women's Hospital, a teaching affiliate of Harvard Medical School. The research involved genetic mapping and genome sequencing and focused on developmental disorders. The subjects of the research were children from throughout the United States, and one object was to identify genes that cause disabilities. Respondent worked in a laboratory, but she communicated with the subjects' counselors. Respondent decided to go to medical school, and she attended Columbia University College of Physicians and Surgeons. She graduated in 2016 as a member of the prestigious Alpha Omega Alpha Honor Medical Society. In medical school, respondent became interested in orthopedic surgery.

11. After medical school, respondent entered a six-year residency program for orthopedic surgery at the University of California San Diego (UCSD); currently, she is in the fourth year of her residency. Some of respondent's fellow residents are doing a five-year residency. Respondent added one additional year for research. Her research focuses

on hip dysplasia, a condition in which a hip socket does not fully cover the ball portion of the upper thighbone, which exposes one to the risk of hip dislocation. Respondent produced research papers and continues to write about that research.

12. Attending physicians regularly supervise and monitor residents. Residents observe attending physicians perform surgeries and move on to perform surgeries themselves under the observation of an attending physician. Periodically, all the attending physicians evaluate each resident and report to the program director. Most of respondent's evaluations have been "appropriate for her level." Some have been "superior to her peers." Also, the residents evaluate each other, and respondent's peers tend to give her higher evaluations. For example, in one aggregated evaluation, 36 percent evaluated respondent as "appropriate for her level;" eighteen percent, as superior to her peers; and 45 percent, as "outstanding."

13. Respondent has volunteered as a physician for a football team, served as a resident representative on the physician counsel, and made research presentations at national meetings of physicians.

14. Respondent will finish her residency on July 1, 2022. She has applied for a fellowship in pediatric orthopedics. Respondent wants to work in the field of pediatric orthopedics in an academic hospital. In order to be able to do that, she must complete a prestigious fellowship.

THE DUI INCIDENT

15. Respondent was invited to a birthday celebration that included a party at noon on January 26, 2019, a golf tournament that afternoon, dinner that evening, and brunch the next day. She anticipated there would be some drinking, so she planned to

drive to the party, take Uber home that evening, and take Uber back to the brunch the next day.

16. On Saturday, January 26, 2019, respondent drove to a home in Encinitas to attend the birthday celebration. She had a Bloody Mary. The party moved on to a golf tournament; the celebrants took Uber to Torrey Pines Golf Course. Between 1:30 p.m. and 5:30 p.m., respondent drank approximately one bottle of beer per hour. The celebrants took Uber back to the home in Encinitas. Respondent was feeling intoxicated, but she planned to take Uber home. She continued to drink approximately one bottle of beer per hour. She had a glass of wine with dinner. Contrary to her plan to leave her vehicle overnight and take Uber home, she got in her vehicle and started home. Respondent does not recall getting in her vehicle. She recalls not being able to find her cell phone and, while driving, reaching around in an attempt to locate her phone. She felt a bump but did not realize she had hit a parked vehicle. She does not recall a deputy pulling her over, but she does recall talking to the deputy. And she recalls crying. She refused a breathalyzer test. Respondent recalls realizing that she was very intoxicated. She was in jail overnight.

17. Respondent was scheduled to work Sunday night, the night after the DUI incident. On Sunday, she was distraught. She called a fellow resident and arranged for her to work Sunday night. Respondent called the director of the orthopedic residency program and told her what had happened. Respondent called her mother and called a college friend; she told each of them what had happened. Over the course of the next week, she told her fellow residents. Respondent had been seeing Luisa Fijman, M.D., a psychiatrist, once a month; respondent made an appointment to see Dr. Fijman.

18. When respondent read the arrest report and learned that her BAC had been 0.22 percent, she was shocked and disappointed in herself.

19. Respondent testified that she had never had an alcohol-related problem. She rarely drank, and when she did, she had one or two drinks with dinner. She had never before been in trouble. She had never driven while intoxicated, and she never will do that again. Respondent declared that she made a terrible decision.

20. Respondent testified about complying with the conditions of her criminal probation. She paid the fines and fees. She completed the MADD class, spent 11 days picking up trash from along highways, and completed a nine-month DUI First Conviction Program. She wore a SCRAM ankle bracelet for 50 days as required; it did not detect any alcohol.

21. Respondent found the MADD class and the DUI First Conviction Program to be educational and humbling. Hearing people's stories gave her insight and made her more empathetic.

22. Respondent testified that she was ashamed, angry with herself, and mortified. She worried about having put herself in a position in which she could have hurt other people. She was sickened. She decided that it would be best just not to consume alcohol. She plans to continue to abstain.

23. When she sees patients who have been injured in automobile accidents, she is appalled at recalling what she did and the injury she might have caused.

24. After respondent finished the requirement to wear a SCRAM, she learned about a portable breathalyzer device – SoberLink, and she voluntarily participated in the SoberLink program from July 9, 2019, through March 20, 2020. The SoberLink device randomly advises when one is required to take a test, i.e., breath into the device. At the time one breathes into the device, it takes the person's photograph. Between two and four times a day, the device advises the user to take a test. Between July 2019 and March

2020, the device advised respondent to take a test 731 times. In 2019, six of the test results were recorded as non-compliant. Respondent testified that none of them were because of consuming alcohol. Some were because she forgot to take a second test; some were because there was not enough light for the camera to take her photograph. Ann Glassmoyer, Clinical Social Worker, ACSD Health Professional Program, wrote a letter dated April 3, 2020, regarding respondent's use of SoberLink. She discussed the six results recorded as non-compliant. She wrote that respondent had been counseled on the process and has had no non-compliant results in 2020.

25. On August 11, 2020, respondent completed a 22-hour Continuing Medical Education course on Medical Ethics and Professionalism. The course was provided by Problem Based Instruction (PBI) Education and the University of California Irvine School of Medicine. The course consisted of eight hours of pre-course assignments and 14 hours of in-person instruction. All attendees were physicians. The materials emphasized the importance of doctors maintaining good behavior. Respondent will participate in two longitudinal follow ups – one six months after August 11, 2020, and one 12 months after.

Testimony of and Written Report by Kai MacDonald, M.D.

26. The following is a summary of Dr. MacDonald's testimony and report. Dr. MacDonald is a Diplomate, American Board of Psychiatry and Neurology. He is a practicing psychiatrist, engaged in psychotherapy and consulting. He is certified in addiction medicine. Dr. MacDonald has practiced medicine in California since 2001. He is a consultant for the University of San Diego, and for 15 years, has been a faculty member in UCSD's Physician Assessment and Clinical Education (PACE) program. Since 2008, Dr. MacDonald has been the medical director of an addiction treatment program, "Lasting Recovery." He has performed approximately 300 fitness-for-duty evaluations for PACE, and approximately 25 such evaluations in his private practice.

27. On February 14, 2020, just over one year after respondent's DUI incident, Dr. MacDonald performed a psychiatric and substance-use-disorder evaluation. He wrote a report dated March 26, 2020.

28. In performing fitness-for-duty evaluations, Dr. MacDonald performs an in-person evaluation; performs a physical examination; administers psychological tests; and if necessary, reviews laboratory tests. He refers to guidelines prepared by Stuart A. Anfang, M.D.; Larry R. Falkner, M.D.; John A. Fromson, and Michael H. Gendel, M.D.; the Guidelines for Fitness-for-Duty Evaluations were published in 2005 in the Journal of the American Academy of Psychiatry and the Law, Volume 33 at 85-8. Dr. MacDonald advised respondent that he and she had no doctor-patient relationship and that the evaluation was not being performed for treatment purposes. He advised respondent that he was obligated to both her and the public. He had a duty to her to perform a fair evaluation, but he also had a duty to the public to determine whether there was evidence that she was not fit for duty, i.e., whether her practicing medicine posed a risk to public safety.

29. In evaluating respondent, Dr. MacDonald spent a great deal of time learning about her personal and family history. Most disorders are chronic and related to a person's history. Knowing a person's history helps Dr. MacDonald determine the nature of a person's difficulties. He then spent time understanding respondent's current problem and her perspective regarding her problem. He regularly interviews other people or reads letters to determine whether the subject of the evaluation perceives his or her problem similarly to or differently from the way others perceive it. Respondent told Dr. MacDonald the DUI incident was completely uncharacteristic for her. She was not in the habit of drinking to excess. She was not in the habit of acting irresponsibly. Dr. MacDonald read a letter from Alexandra Schwartz, M.D., Clinical Professor and Orthopedic Surgery Residency Director, UCSD Medical School. Also, Dr. MacDonald had a directed, detailed conversation with Elise Britt, M.D., one of respondent's fellow residents.

Dr. MacDonald learned that Dr. Schwartz and Dr. Britt saw respondent's situation very much as respondent saw it. Neither of them had ever seen respondent impaired in any way. When things align like that, Dr. MacDonald can be more confident in his assessment and conclusions. Respondent's accomplishments provide additional corroboration. It would be very difficult for anyone with an alcohol related problem to accomplish what respondent has accomplished.

30. Dr. MacDonald performed a mental status examination. He testified about it and wrote about it in his report. The following are excerpts from his report:

> Dr. Lindgren was alert and cooperative, and she made appropriate eye contact. In general, she was collaborative and forthcoming . . . .
>
> [§] She appeared to be functioning at an appropriate intellectual level, with a good fund of knowledge for her age, education level, and life experiences.
>
> [§] She spoke with an average volume, rate, prosody, and rhythm. . . . Overall, her use of vocabulary and pronunciation was commensurate with her level of experience and education. . . . Dr. Lindgren was able to focus, attend, and concentrate over the time of the interview. She expressed an anxious mood. I found her observed affect to be occasionally intense in a tearful and shame-ridden direction (she was tearful and overwhelmed); her affective intensity and range were otherwise within normal limits.

> [§] Dr. Lindgren denied any current suicidal ideation. She denied any intention or thoughts about harming others.

31. Dr. MacDonald administered 16 psychological tests. His staff sent the tests to respondent, and she filled them out and returned them before the interview. Dr. MacDonald's staff scored the tests, and he evaluated them. Because the tests are self-reporting, the results must be evaluated with other information in mind.

32. Dr. MacDonald reviewed a number of laboratory tests. Alcohol is a toxin that affects the liver, pancreas, and bone marrow. Past laboratory tests can provide substantial information concerning misuse of alcohol.

33. Dr. MacDonald testified about and wrote about his diagnostic impressions. He referred to the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders (DSM) and explained why, regarding, psychiatric fitness-for-duty evaluations, he uses the DSM-IV for certain purposes and the more recent, DSM 5, for other purposes. He notes that the 11 criteria for diagnosing alcohol use disorder are essentially the same in the fifth edition as they are in the fourth.

34. Recurrent use of alcohol in spite of negative consequences is characteristic for people who have an addiction. An addict does not respond appropriately. Dr. MacDonald concluded that respondent does not have an alcohol use disorder, and he said he has a strong degree of medial certainty in his conclusion. Some cases are equivocal, but respondent's case is not.

35. The following are further excerpts from Dr. MacDonald's report:

> In brief, I do find Dr. Lindgren to have a psychiatric disorder (which does not cause impairment), but find she does not meet criteria for an alcohol use disorder. As an addiction

expert with extensive experience in physician impairment, I find her fit for duty without reservation.

[¶] . . . [¶]

[§] I do not find Dr. Lindgren meets the Diagnostic and Statistical Manual, 5th edition (DSM-5) criteria for an alcohol use disorder. Moreover, in my experience treating hundreds and hundreds of patients with alcohol use disorders – including many physicians – her relationship with alcohol does not resemble, in magnitude, severity, duration, or impact a clinical alcohol use disorder.

[¶] . . . [¶]

[¶] (C)ompared to the thousands of patients with clear alcohol use disorders I have seen over the years (where "persistence and recurrence" are baldly obvious), I don't think [Dr. Lindgren's] single incident involving driving meets "recurrent use" criteria.

Research on first-time DUI offenders also informs my opinion. Though Dr. Lindgren has been convicted of a single DUI, which is of course a serious matter in its own right, and though a single DUI does identify a population at increased risk of having a more serious alcohol use disorder [citation], a single alcohol-related driving incident does not by itself necessarily indicate an alcohol use disorder.

[¶] . . . [¶]

[§] I don't see that Dr. Lindgren meets the criteria for an alcohol use disorder. Her professional and academic achievements, lab testing, and the testimony of several others who have observed her over time contribute to my opinion. Moreover, regarding the possibility that she is being duplicitous about her use (a common finding among substance use disorders), I simply don't see evidence of defensiveness or other obfuscating psychological mechanisms or any factual or function-related incongruities between her report and that of others that tend to accompany substance use disorders.

I do, however, recommend Dr. Lindgren follow a simple rule: abstain from alcohol any day she may be driving or working and any day preceding a day she may be called on to work. This is not because I believe she has an alcohol use disorder but instead as the result of the fact that she now has a negative history with alcohol, and the scrutiny around her profession is such that any alcohol use increases the risk of an outcome she does not want (profound abridgment of her career). Dr. Lindgren has chosen to work in a profession with different obligations than many others and, therefore, has an increased responsibility for her personal behavior.

[¶] . . . [¶]

[§] I do not believe that Dr. Lindgren needs systematic or routine monitoring for alcohol use (though she has initiated

such on her own accord). I think ongoing monitoring would be an unnecessary intrusion and expense and should be reserved for people with clear evidence of a substance use disorder. Moreover, because I do not find that she has an alcohol use disorder, I do not think she needs to participate in a physician diversion program; to remand this would be to squander this valuable resource that is best used for physicians who suffer with substance use disorders.

Briefly, on a related note, anxiety and depression are common disorders that often precede problematic, high-risk drinking. Though she is currently asymptomatic from these disorders, I recommend that she continue with routine monitoring by a psychiatric physician who is aware of all the issues and history above.

[¶] Based on my interview with Dr. Lindgren, self-report questionnaires, documentation from other sources, and information from collateral informants, . . . I have also formulated the following opinions, with a reasonable degree of medical certainty: In terms of her fitness for duty, from a psychiatric perspective, and based on the preponderance of evidence, . . . I find Dr. Lindgren fit for duty without reservation. I don't find her an immediate risk of physical harm to staff or patients.

Andrew Pennock, M.D. Submitted a Letter and Testified

36. The following is a summary of Dr. Pennock's testimony. Dr. Pennock is an associate clinical professor at UCSD Medical School. He specializes in orthopedic surgery and pediatric sports medicine. In addition to teaching at UCSD Medical School, he practices at Rady Children's Hospital, where he is co-director of the sports medicine program. He works with medical students and residents approximately 80 percent of the time. He is very familiar with respondent and her work. Dr. Pennock has been respondent's faculty mentor in the orthopedic program and reviews her work quarterly. Also, he is familiar with respondent's research at Rady Children's Hospital.

37. Dr. Pennock and his colleagues were very surprised to learn of respondent's DUI. It was so out of character. Respondent is always good at decision making and always responsible. Since the incident, she has continued at a high level, working 60 to 80 hours per week.

38. Dr. Pennock's letter is dated April 14, 2020. The following are summaries of excerpts from his letter: In managing patients, there has never been a question about respondent's abilities, her maturity, or her clinical acumen. Since this incident, she has shown maturity, owning up to her mistake, expressing sincere remorse, and doing everything possible to continue with her medical education while staying engaged with all of her academic and clinical responsibilities. She is a talented physician and will be an asset to the community in which she decides to practice. The DUI was an isolated event. Respondent is deeply sorry for her actions and has taken full responsibility for what she did.

Alexandra Schwartz, M.D. Submitted a Letter and Testified

39. As noted above, Dr. Schwartz is the Orthopedic Surgery Residency Director at UCSD Medical School. Orthopedic surgeons can specialize in, e.g., trauma, joint replacement, or spine. Dr. Schwartz works in trauma. When respondent is doing a rotation in trauma, Dr. Schwartz sees her every day; when respondent is not in trauma service, Dr. Schwartz sees her often. The Clinical Competency Committee meets once every two months and reviews evaluations of residents, and on those occasions, Dr. Schwartz reviews respondent's evaluations and progress. As director of the orthopedic surgery residency program, Dr. Schwartz meets with each resident twice a year. Dr, Schwartz is very familiar with respondent.

40. On the morning after the DUI incident, respondent called Dr. Schwartz. Respondent was regretful, embarrassed, upset, and distraught. Dr. Schwartz was shocked. Respondent is kind, gentle, and responsible. Since the DUI incident, respondent has not missed work, call duties, or teaching sessions. She has continued to work incredibly hard. She is conscientious, caring, and dedicated. She is never impaired in any way. She is clinically excellent and should go into a fellowship program.

41. Dr. Schwartz's letter is dated March 10, 2020. The following are summaries of excerpts from her letter: Since respondent's DUI, she has continued to attend social, get-togethers for the orthopedic department, but she has abstained from drinking alcohol. Dr. Schwartz has talked with respondent many times since her DUI; she is ashamed, embarrassed, and humbled. Dr. Schwartz has 110 percent faith that respondent "will never do this again."

Elise Britt, M.D. Submitted a Letter and Testified

42. As noted above, Dr. Britt is one of respondent's fellow residents. The following is a summary of her testimony: When Dr. Britt was in medical school, two of her fellow students were killed, and three were severely injured in an accident caused by someone driving under the influence, so she agonized over whether to write a letter of support for respondent.

43. Respondent and Dr. Britt have worked closely together for four and one-half years. They work 60 to 80 hours per week. Before COVID 19 they often attended social events – barbecues, volleyball games, and residency related events.

44. Respondent called Dr. Britt the morning after the DUI incident. They met and talked. Dr. Britt was surprised. She had attended many social events with respondent, and respondent had never given Dr. Britt any reason to be concerned about respondent's use of alcohol. Dr. Britt had never seen respondent exercise poor judgment. Since the incident, respondent has gone to great lengths to address the issue of alcohol abuse. She attended AA meetings, met with a drug and alcohol abuse specialist, picked up trash along highways, complied with conditions of her criminal probation, wore a SCRAM, and used a SoberLink breathalyzer. She no longer drinks alcohol. Dr. Britt has not seen anything that would suggest that respondent currently has a problem with alcohol; if Dr. Britt were concerned about respondent's use of alcohol, Dr. Britt would be quick to speak out.

45. Respondent is regretful and embarrassed. She worries about the fact that she could have hurt someone badly.

46. Dr. Britt's letter is dated March 19, 2020. The following are summaries of excerpts from her letter: Respondent has always been generous, helpful, respectful, and

kind. She is extremely professional and always current on assignments and patient care matters. She teaches and supports newer residents and has continued to do that in spite of the added stress and responsibilities resulting from her conviction and criminal probation.

47. Respondent made a grave mistake, but Dr. Britt is confident respondent will not repeat her bad conduct. Dr. Britt has seen respondent at numerous social events and residency-related activities where alcohol was served, both before and after the DUI incident. Dr. Britt has never observed any reason to be concerned about respondent's drinking, and since the DUI incident, respondent has not consumed alcohol at any of these events. She has never been impaired at work. Dr. Britt is confident that respondent will never repeat her mistake.

Julie Dewberry Submitted a Letter and Testified

48. The following is a summary of Ms. Dewberry's testimony. Ms. Dewberry is an attorney, licensed in California and Virginia. She practices primarily in the field of international estate planning. Ms. Dewberry testified that she knows respondent well. She and respondent were in undergraduate school together at the College of William and Mary. They graduated in 2009. Ms. Dewberry lives in San Diego, and she and respondent get together socially two or three times per month. Ms. Dewberry has a six-year-old child, and the three of them often go to a park or a beach and then have dinner.

49. Respondent called Ms. Dewberry the day after the DUI incident. Ms. Dewberry went to see respondent, who was sad, remorseful, and overwhelmed. Ms. Dewberry was very surprised; abusing alcohol was so out of character for respondent; she always is very responsible. Since the DUI incident Ms. Dewberry and respondent have talked about it many times. Respondent has told Ms. Dewberry about how grateful she is that she did not injure someone.

50. Ms. Dewberry and respondent have socialized together for many years, and respondent was always responsible; if she drank alcohol, she used Uber. Since the DUI incident, they have continued to socialize in settings in which people are consuming alcohol, but respondent never consumes alcohol; she drinks Diet Coke. Respondent is complying with the conditions of her criminal probation.

51. Ms. Dewberry's letter is dated March 28, 2020. In her letter, Ms. Dewberry wrote: She saw respondent the day after the DUI incident, and respondent's remorse and embarrassment were overwhelming. Respondent has completely stopped drinking alcohol. This was a one-time lapse in judgment that respondent will never repeat.

Letters of Recommendation

52. Robin Seaberg, M.D., FASA, wrote a letter dated March 16, 2020. The following is a summary of her letter. Dr. Seaberg is Chair of the UCSD Physician Well-Being Committee (PWBC). She has been a member of the committee for over 20 years. Respondent self-referred to the PWBC in June 2019 seeking assistance in obtaining ongoing documentation of alcohol abstinence following a conviction for DUI. Respondent continues to perform well clinically and academically. She continues to exhibit a consistently high degree of professionalism and a commendable work ethic while completing the requirements of her criminal probation. The PWBC will continue to maintain contact with her throughout her residency to be sure her physical and mental health needs are being met and that she has the support she needs to meet the demands of her residency.

53. Victoria North, M.D., wrote a letter dated March 20, 2020. The following is a summary of her letter: Ms. North and respondent met when they began medical school. They became friends and studied together. Respondent was an incredibly dedicated medical student. She did extremely well on examinations. She was gentle and

encouraging with patients. She was singularly focused on caring for children. She will have a tremendous impact on the field of pediatric orthopedics. When respondent told Ms. North about driving under the influence, respondent was completely remorseful. She was mortified that she had done something that could have hurt someone. Ms. North and respondent have attended several weddings together since the DUI incident, and respondent has always abstained from consuming alcohol; it appears not to be difficult for her. She is committed to preventing a recurrence of her bad behavior, and she is capable of achieving any goal she sets for herself.

54. Kyle Marie Kearney wrote a letter dated March 23, 2020. The following is a summary of her letter: Ms. Kearney and respondent have been friends for 15 years. Respondent has been contrite about driving under the influence. Ms. Kearney wrote that the DUI was a one-time mistake and is not indicative of respondent's character. Ms. Kearney has never seen respondent do anything that would suggest she had a problem with alcohol.

55. Margaret Lindgren, respondent's mother, wrote a letter dated March 25, 2020. The following is a summary of her letter: Respondent's poor judgment was out of character for her, and she is tremendously relieved that no one was injured. Since the DUI incident, respondent's mother has spent time with respondent in the mother's home in Massachusetts, at social events in Massachusetts, and at respondent's home in San Diego. During those visits, respondent did not drink alcoholic beverages even though they often were available. Respondent and her mother have talked about respondent's abstinence. Respondent has said she does not miss drinking alcohol and continues to enjoy attending social events. In the past, when respondent consumed alcohol, she always did so responsibly. Her mother never saw her drive after drinking. The DUI incident was a one-time lapse in judgment.

LEGAL CONCLUSIONS

Burden and Standard of Proof

1. Complainant bears the burden of proof of establishing that the charges in the accusation are true. (*Martin v. State Personnel Board* (1972) 26 Cal.App.3d 573, 582; Evid. Code, § 500.)

2. The standard of proof in an administrative proceeding seeking to suspend or revoke a license that requires substantial education, training, and testing, is "clear and convincing proof to a reasonable certainty." (*Ettinger v. Board of Medical Quality Assurance* (1982) 135 Cal.App.3d 853.)

Grounds for Imposing Discipline

CONVICTION OF AN OFFENSE SUBSTANTIALLY RELATED TO THE QUALIFICATIONS, FUNCTIONS, OR DUTIES OF A PHYSICIAN AND SURGEON

3. Business and Professions Code section 2236 provides that the conviction of any offense substantially related to the qualifications, functions, or duties of a physician and surgeon constitutes unprofessional conduct. Business and Professions Code section 2236, subdivision (a), provides that 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 the Medial Practice Act. Business and Professions Code section 2236, subdivision (d), provides that 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 section 2236.

4. Business and Professions Code section 2234 provides that the board shall take action against any licensee who is charged with unprofessional conduct.

5. Business and Professions Code section 2227, subdivision (a), provides that the board may discipline the license of a licensee whose matter has been heard or whose default has been entered and who has been found guilty or a licensee who has entered into a stipulation for disciplinary action. The discipline may be revocation, suspension for a period not to exceed one year, probation, public reprimand, or other action taken in relation to an order of probation.

6. California Code of Regulations, title 16, section 1360, provides:

> 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.

7. On May 3, 2019, on respondent's plea of guilty, she was convicted of a misdemeanor violation of Vehicle Code section 23152, subdivision (a), driving under the

influence of alcohol. The court ordered an enhanced penalty pursuant to Vehicle Code section 23578 for a blood alcohol concentration of 0.15 percent or greater or refusal to take a breath or urine test. Within the terms of the statutes and regulation, the conviction amounts to unprofessional conduct.

USE 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

8. A second ground for imposing discipline is one part of the underlying conduct that gave rise to the criminal conviction, i.e., the use of alcohol in a manner that is dangerous.

9. As noted above, Business and Professions Code section 2234 provides that the board shall take action against any licensee who is charged with unprofessional conduct.

10. Business and Professions Code section 2239, subdivision (a), provides, in part:

> The use . . . 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 . . . constitutes unprofessional conduct. The record of the conviction is conclusive evidence of such unprofessional conduct.

11. From the findings of fact numbers 2, 4 through 9, and 15 and 16, it is determined that respondent used alcoholic beverages to the extent, or in such a manner as to be dangerous or injurious to the herself, another person, or the public.

GENERAL UNPROFESSIONAL CONDUCT

12. As a third ground for imposing discipline, complainant alleges that respondent engaged in conduct that breaches the rules or ethical code of the medical profession, or conduct that is unbecoming a member in good standing of the medical profession and that demonstrates an unfitness to practice medicine. The language comes from *Shea v. Board of Medical Examiners* (1978) 81 Cal.App.3d 564.

13. Complainant's third ground for imposing discipline is a different statement of complainant's second ground. As with the second ground, the code section complainant cites is Business and Professions Code section 2234. The *Shea* language, pled as a separate ground for imposing discipline, might suggest that a respondent had engaged in more than one act of misconduct. But it also can amount to an allegation that a single act of misconduct is unprofessional in both a specific way and a general way. The latter is the case here. In addition to the conviction itself, respondent's only act of unprofessional conduct was the dangerous use of alcohol. It is determined that the third ground for imposing discipline is similar to the second ground, and that respondent engaged in unprofessional conduct.

Evaluation

14. This is not a case that justifies outright revocation. This is respondent's first offense. There was no patient harm. The evidence establishes that respondent does not have a history of an alcohol use problem. Respondent is contrite and remorseful. She has made substantial progress toward rehabilitation. In managing patients, there has never

been a question about respondent's abilities, her maturity, or her clinical acumen. Since this incident, she has owned up to her bad conduct, expressed sincere remorse, and done everything possible to continue with her medical education. Respondent's license should be placed on probation with appropriate conditions to ensure public protection.

The Board's Recommended Range of Disciplines

CONVICTION OF A CRIME

15. For conviction of a crime substantially related to the qualifications, functions or duties of a physician and surgeon but not arising from or occurring during patient care, treatment, management, or billing, the board's recommended minimum discipline is: stayed revocation and five years' probation. The board's recommended maximum discipline is revocation.

EXCESSIVE USE OF ALCOHOL

16. For excessive use of alcohol, the board's recommended minimum discipline is: stayed revocation and five years' probation. The board's recommended maximum discipline is revocation.

Deviations from the Board's Recommended Guidelines

17. This case is unusual in a few respects, and the public can be well protected, which is the paramount consideration, without the imposition of all of the usual terms and conditions. Substantial deviations are required in order to do justice, promote rehabilitation, and avoid punitive measures.

LENGTH OF THE TERM OF PROBATION

18. Only a brief probationary term is necessary to provide the needed confidence that respondent will complete her rehabilitation and continue with her sobriety. As noted above, under the facts of this case, the board's standard recommended minimum probationary term is five years. But under the facts of this case, a modest term of one year is appropriate. The evidence is overwhelming that respondent has never had a drinking problem.

19. Respondent told Mr. Jenson, the board's investigator that she no longer consumes alcohol. She stopped drinking alcohol immediately after her arrest on January 26, 2019. Driving under the influence of alcohol was the biggest mistake she ever made. She is horrified that she did it. Because of all the problems it caused, she just does not have a desire to drink. Respondent has no history of illicit or recreational drug use. She has never received treatment for drug dependency. Mr. Jenson testified that, in the interview, respondent's demeanor indicated that she understood the seriousness of what she had done.

20. Respondent testified in the hearing as follows: She has never had an alcohol-related problem. Before the DUI incident, she rarely drank, and when she did, she had one or two drinks with dinner. She had never before been in trouble. She had never driven while intoxicated, and she never will do that again. She made a terrible decision. Respondent testified that she was ashamed, angry with herself, and mortified. She worried about having put herself in a position in which she could have hurt other people. She was sickened. She decided that it would be best just not to consume alcohol. She plans to continue to abstain. When she sees patients who have been injured in automobile accidents, she is appalled at recalling what she did and the injury she might have caused. Her testimony was compelling. She was calm, except when her testimony

touched on something that, appropriately, triggered an emotional reaction. Her testimony was internally consistent. She answered questions thoughtfully and without hesitation. Moreover, just as was true of her reporting to Dr. MacDonald, her testimony was completely consistent with what every other witness said.

21. Dr. MacDonald found that respondent does not meet the DSM-5 criteria for an alcohol use disorder. Respondent's relationship with alcohol does not resemble – in magnitude, severity, duration, or impact – a clinical alcohol use disorder. Respondent's single incident involving driving does not meet "recurrent use" criteria. Dr. MacDonald said respondent's professional and academic achievements, laboratory testing, and the testimony of others who have observed her over time contribute to his opinion. Dr. MacDonald saw no evidence that respondent was being dishonest, no evidence of defensiveness or other obfuscating psychological mechanisms. Based on Dr. MacDonald's interview with respondent, self-report questionnaires, documentation from other sources, and information from collateral informants, Dr. MacDonald found respondent fit for duty without reservation.

22. Five witnesses or letter writers told about being at social events with respondent since the DUI incident and respondent's refraining from drinking alcohol.

23. Also, the confidence that the witnesses and letter writers place in respondent is remarkable.

24. Residents work under extreme scrutiny, supervision, and monitoring. Respondent will continue under that condition until her residency ends July 1, 2022. Not only do residents' supervisors and attending physicians scrutinize them, their fellow residents scrutinize them. Dr. Britt, who lost two of her medical school classmates to an accident that an intoxicated driver caused, wrote that, if she had reason to be concerned about respondent's use of alcohol, she would be quick to speak out.

25. The DUI incident occurred January 26, 2019, almost two years ago. Respondent has spent two years working on her rehabilitation and has been enormously successful in that enterprise.

26. One additional year of scrutiny under the board's strict standards will be sufficient to provide confidence that respondent has been rehabilitated. Anything more than that would be simply punitive.

SIXTY-DAY SUSPENSION

27. For the reasons stated above, an actual suspension is not necessary to protect the public and would only be punitive.

MONITORING PRACTICE

28. Respondent is not in a practice than needs to be monitored. Respondent; Dr. Pennock; Dr. Britt; and especially, Dr. Schwartz emphasized the extent to which the residency program provides scrutiny, supervision, mentoring, and monitoring. Additional monitoring simply is not needed.

VICTIM RESTITUTION

29. The superior court retained jurisdiction over the issue of restitution, and the victim, the owner of the vehicle respondent sideswiped, can apply to the superior court for restitution. That does not mean the board could not impose a restitution requirement as a condition of an administrative probation, but complainant presented no evidence concerning the damages the victim suffered.

Application for Certain Matters to Be Accepted Towards the Satisfaction of Conditions of Probation

30. Respondent may apply to the board for a determination that certain matters she has accomplished be accepted towards the satisfaction of certain conditions of her probation. For example, she can request that the ethics course be credited against the board's ethics course condition. She can request that Dr. MacDonald's evaluation be credited against one or more of the board's conditions. These are only examples; there may be other accomplishments that tend to satisfy board probationary requirements. The fact that respondent works 60 to 80 hours per week causes a consideration of possible substitutions to be particularly important.

31. The suggestion that respondent might apply for these accommodations is not meant to suggest that she is entitled to them. Granting such accommodations is entirely within the board's discretion.

ORDER

Certificate A 151051 issued to respondent Amelia Marie Lindgren, M.D., is revoked pursuant to Legal Conclusions 3 through 13 separately and for all of them. However, revocation is stayed, and respondent is placed on probation for one year 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.

If respondent has a confirmed positive biological fluid test for any substance (whether or not legally prescribed) and has not reported the use to the Board or its designee, respondent shall receive a notification from the Board or its designee to immediately cease the practice of medicine. The respondent shall not resume the practice of medicine until the final decision on an accusation and/or a petition to revoke probation is effective. An accusation and/or petition to revoke probation shall be filed by the Board within 30 days of the notification to cease practice. If the respondent requests a hearing on the accusation and/or petition to revoke probation, the Board shall provide the respondent with a hearing within 30 days of the request, unless the respondent stipulates to a later hearing. If the case is heard by an Administrative Law Judge alone, he or she shall forward a Proposed Decision to the Board within 15 days of submission of the matter. Within 15 days of receipt by the Board of the Administrative Law Judge's proposed decision, the Board shall issue its Decision, unless good cause can be shown for the delay. If the case is heard by the Board, the Board shall issue its decision within 15 days of submission of the case, unless good cause can be shown for the delay. Good cause includes, but is not limited to, non-adoption of the proposed decision, request for reconsideration, remands and other interlocutory orders issued by the Board. The cessation of practice shall not apply to the reduction of the probationary time period.

If the Board does not file an accusation or petition to revoke probation within 30 days of the issuance of the notification to cease practice or does not provide respondent with a hearing within 30 days of a such a request, the notification of cease practice shall be dissolved.

2. Alcohol - Abstain from Use

Respondent shall abstain completely from the use of products or beverages containing alcohol.

If respondent has a confirmed positive biological fluid test for alcohol, respondent shall receive a notification from the Board or its designee to immediately cease the practice of medicine. The respondent shall not resume the practice of medicine until the final decision on an accusation and/or a petition to revoke probation is effective. An accusation and/or petition to revoke probation shall be filed by the Board within 30 days of the notification to cease practice. If the respondent requests a hearing on the accusation and/or petition to revoke probation, the Board shall provide the respondent with a hearing within 30 days of the request, unless the respondent stipulates to a later hearing. If the case is heard by an Administrative Law Judge alone, he or she shall forward a Proposed Decision to the Board within 15 days of submission of the matter. Within 15 days of receipt by the Board of the Administrative Law Judge's proposed decision, the Board shall issue its Decision, unless good cause can be shown for the delay. If the case is heard by the Board, the Board shall issue its decision within 15 days of submission of the case, unless good cause can be shown for the delay. Good cause includes, but is not limited to, non-adoption of the proposed decision, request for reconsideration, remands and other interlocutory orders issued by the Board. The cessation of practice shall not apply to the reduction of the probationary time period.

If the Board does not file an accusation or petition to revoke probation within 30 days of the issuance of the notification to cease practice or does not provide respondent with a hearing within 30 days of a such a request, the notification of cease practice shall be dissolved.

3. Biological Fluid Testing

Respondent shall immediately submit to biological fluid testing, at respondent's expense, upon request of the Board or its designee. "Biological fluid testing" may include, but is not limited to, urine, blood, breathalyzer, hair follicle testing, or similar drug screening approved by the Board or its designee. Prior to practicing medicine, respondent shall contract with a laboratory or service approved in advance by the Board or its designee that will conduct random, unannounced, observed, biological fluid testing. The contract shall require results of the tests to be transmitted by the laboratory or service directly to the Board or its designee within four hours of the results becoming available. Respondent shall maintain this laboratory or service contract during the period of probation.

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

If respondent fails to cooperate in a random biological fluid testing program within the specified time frame, respondent shall receive a notification from the Board or its designee to immediately cease the practice of medicine. The respondent shall not resume the practice of medicine until the final decision on an accusation and/or a petition to revoke probation is effective. An accusation and/or petition to revoke probation shall be filed by the Board within 30 days of the notification to cease practice. If the respondent requests a hearing on the accusation and/or petition to revoke probation, the Board shall provide the respondent with a hearing within 30 days of the

request, unless the respondent stipulates to a later hearing. If the case is heard by an Administrative Law Judge alone, he or she shall forward a Proposed Decision to the Board within 15 days of submission of the matter. Within 15 days of receipt by the Board of the Administrative Law Judge's proposed decision, the Board shall issue its Decision, unless good cause can be shown for the delay. If the case is heard by the Board, the Board shall issue its decision within 15 days of submission of the case, unless good cause can be shown for the delay. Good cause includes, but is not limited to, non-adoption of the proposed decision, request for reconsideration, remands and other interlocutory orders issued by the Board. The cessation of practice shall not apply to the reduction of the probationary time period.

If the Board does not file an accusation or petition to revoke probation within 30 days of the issuance of the notification to cease practice or does not provide respondent with a hearing within 30 days of a such a request, the notification of cease practice shall be dissolved.

4. Community Service - Free Services

Within 60 calendar days of the effective date of this Decision, respondent shall submit to the Board or its designee for prior approval a community service plan in which respondent shall within the first 2 years of probation, provide 10 hours of free medical or nonmedical services to a community or non-profit organization. If the term of probation is designated for 2 years or less, the community service hours must be completed not later than 6 months prior to the completion of probation.

Prior to engaging in any community service respondent shall provide a true copy of the Decision(s) to the chief of staff, director, office manager, program manager, officer, or the chief executive officer at every community or non-profit organization where respondent provides community service and shall submit proof of compliance to the

Board or its designee within 15 calendar days. This condition shall also apply to any change(s) in community service.

Community service performed prior to the effective date of the Decision shall not be accepted in fulfillment of this condition.

5. 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 respondent's initial enrollment, and the longitudinal component of the program not later than the time specified by the program, but no later than one (1) year after attending the classroom component. The professionalism program shall be at respondent's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

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

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

6. Psychiatric Evaluation

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

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

7. Psychotherapy

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

The psychotherapist shall consider any information provided by the Board or its designee and any other information the psychotherapist deems relevant and shall furnish

a written evaluation report to the Board or its designee. Respondent shall cooperate in providing the psychotherapist any information and documents that the psychotherapist may deem pertinent.

Respondent shall have the treating psychotherapist submit quarterly status reports to the Board or its designee. The Board or its designee may require respondent to undergo psychiatric evaluations by a Board-appointed board-certified psychiatrist. If, prior to the completion of probation, respondent is found to be mentally unfit to resume the practice of medicine without restrictions, the Board shall retain continuing jurisdiction over respondent's license and the period of probation shall be extended until the Board determines that respondent is mentally fit to resume the practice of medicine without restrictions.

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

8. Medical Evaluation and Treatment

Within 30 calendar days of the effective date of this Decision, and on a periodic basis thereafter as may be required by the Board or its designee, respondent shall undergo a medical evaluation by a Board-appointed physician who shall consider any information provided by the Board or designee and any other information the evaluating physician deems relevant and shall furnish a medical report to the Board or its designee. Respondent shall provide the evaluating physician any information and documentation that the evaluating physician may deem pertinent.

Following the evaluation, respondent shall comply with all restrictions or conditions recommended by the evaluating physician within 15 calendar days after being notified by the Board or its designee. If respondent is required by the Board or its designee to undergo medical treatment, respondent shall within 30 calendar days of the

requirement notice, submit to the Board or its designee for prior approval the name and qualifications of a California licensed treating physician of respondent's choice. Upon approval of the treating physician, respondent shall within 15 calendar days undertake medical treatment and shall continue such treatment until further notice from the Board or its designee.

The treating physician shall consider any information provided by the Board or its designee or any other information the treating physician may deem pertinent prior to commencement of treatment. Respondent shall have the treating physician submit quarterly reports to the Board or its designee indicating whether or not the respondent is capable of practicing medicine safely.

Respondent shall provide the Board or its designee with any and all medical records pertaining to treatment, the Board or its designee deems necessary.

If, prior to the completion of probation, respondent is found to be physically incapable of resuming the practice of medicine without restrictions, the Board shall retain continuing jurisdiction over respondent's license and the period of probation shall be extended until the Board determines that respondent is physically capable of resuming the practice of medicine without restrictions. Respondent shall pay the cost of the medical evaluation(s) and treatment.

9. 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.

10. Supervision of Physician Assistants and Advanced Practice Nurses

During probation, respondent is prohibited from supervising physician assistants and advanced practice nurses.

11. Obey All Laws

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

12. 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.

13. 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(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.

14. 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.

15. Non-practice While on Probation

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

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

Respondent's period of non-practice while on probation shall not exceed two (2) years. Periods of non-practice will not apply to the reduction of the probationary term.

Periods of non-practice for a respondent residing outside of California, will relieve respondent of the responsibility to comply with the probationary terms and conditions with the exception of this condition and the following terms and conditions of probation:

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

16. Completion of Probation

Respondent shall comply with all financial obligations (e.g., restitution, probation costs) not later than 120 calendar days prior to the completion of probation. Upon successful completion of probation, respondent's certificate shall be fully restored.

17. Violation of Probation

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

18. License Surrender

Following the effective date of this Decision, if respondent ceases practicing due to retirement or health reasons or is otherwise unable to satisfy the terms and conditions of probation, respondent may request to surrender his or her license. The Board reserves the right to evaluate respondent's request and to exercise its discretion in determining whether or not to grant the request, or to take any other action deemed appropriate and reasonable under the circumstances. Upon formal acceptance of the surrender, respondent shall within 15 calendar days deliver respondent's wallet and wall certificate to the Board or its designee and respondent shall no longer practice medicine. Respondent will no longer be subject to the terms and conditions of probation. If

respondent re-applies for a medical license, the application shall be treated as a petition for reinstatement of a revoked certificate.

19. Probation Monitoring Costs

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

DATE: December 24, 2020

Robert Walker
Robert Walker (Dec 24, 2020 11:53 PST)

ROBERT WALKER

Administrative Law Judge

Office of Administrative Hearings

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FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO December 9 2019
BY: Anna Regan ANALYST

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

In the Matter of the Accusation Against: **Amelia Marie Lindgren, M.D.** UCSD, Department of Orthopaedic Surgery 200 W. Arbor Drive, MC 8894 San Diego, CA 92103 Physician's and Surgeon's Certificate No. A 151051, Respondent.	Case No. 800-2019-052955 **ACCUSATION**

Complaint alleges:

PARTIES

1. Christine J. Lally (Complainant) brings this Accusation solely in her official capacity as the Interim Executive Director of the Medical Board of California, Department of Consumer Affairs (Board).

2. On or about August 9, 2017, the Medical Board issued Physician's and Surgeon's Certificate Number A 151051 to Amelia Marie Lindgren, M.D. (Respondent). The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought herein and will expire on November 30, 2020, unless renewed.

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 2227 of the Code States, in pertinent part:

> (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, 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 upon 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.
>
> ...

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.
>
> ...

6. Unprofessional conduct under Business and Professions Code section 2234 is conduct which breaches the rules or ethical code of the medical profession, or conduct which is unbecoming a member in good standing of the medical profession, and which demonstrates an unfitness to practice medicine. (*Shea v. Board of Medical Examiners* (1978) 81 Cal.App.3d 564, 575.)

7. Section 2236 of the Code states:

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

...

(d) A plea or verdict of guilty or 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.

8. Section 2239 of the Code states:

(a) The use of prescribing for or administering to himself or herself, of any controlled substance; or the use of any of the dangerous drugs specified in Section 4022, or 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.

...

9. 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.

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FIRST CAUSE FOR DISCIPLINE

(Conviction of an Offense Substantially Related to the Qualifications, Functions, or Duties of a Physician and Surgeon)

10. Respondent has subjected her Physician's and Surgeon's Certificate No. A151051 to disciplinary action under sections 2227 and 2234, as defined by section 2236, of the Code, and California Code of Regulations, title 16 section 1360, in that she has been convicted of an offense substantially related to the qualifications, functions, or duties of a physician and surgeon, as more particularly alleged hereinafter:

11. On or about January 26, 2019, an officer responded to a 911 caller who reported a suspected Driving Under the Influence driver which was failing to maintain lanes, impacted the curb line and collided with a parked vehicle at the intersection of South Coast Highway 101 and Chesterfield Drive in Cardiff, California. The officer located the suspected driver and observed Respondent's vehicle weaving within its lane of travel. The officer conducted a traffic stop of Respondent in her vehicle. Respondent was behind the wheel and appeared intoxicated. When questioned by the officer, Respondent was unaware she had been involved in a traffic collision and driving on a flat tire. The officers observed Respondent had a strong odor of an alcoholic beverage emanating from her breath and person, Respondent had watery blood shot eyes, slurred speech and staggered as she walked. Respondent performed poorly on the "divided attention test" on the Standardized Field Sobriety Test (SFST). Respondent declined to submit to a Preliminary Alcohol Screening (PAS) test. Based on the fact Respondent was involved in a vehicle collision where Respondent fled the scene and had objective symptoms of intoxication, Respondent was placed under arrest for driving under the influence of alcohol, driving under the influence of alcohol with a Blood Alcohol Content (BAC) of 0.08% or higher, and misdemeanor hit and run. Respondent's vehicle was impounded.

12. On or about February 7, 2019, the officer received the results of Respondent's blood sample from the San Diego County Sheriff's Crime Lab which resulted in a BAC of 0.224%.

13. On or about February 27, 2019, the San Diego County District Attorney's Office, North County Division, filed a criminal complaint in the matter of *The People of the State of*

California v. Amelia Lindgren, San Diego County Superior Court, North County Division Case No. CN397067. Respondent was charged with three misdemeanors including: (1) Driving Under the Influence of Alcohol, in violation of Vehicle Code section 23152(a); Driving Under the Influence of Alcohol with a 0.08% or Greater Blood Alcohol Content, in violation of Vehicle Code section 23152(b); and Hit and Run, in violation of Vehicle Code section 20002(a).

14. On or about May 3, 2019, Respondent was convicted upon her plea of guilty to count 1, Driving Under the Influence of Alcohol, in violation of Vehicle Code section 23152(a) with an enhanced penalty for Excessive Blood Alcohol or Refusal to Take Chemical Test, in violation of Vehicle Code section 23578. Respondent was sentenced to five (5) years of probation, ordered to attend and complete a nine (9) month DUI First Conviction Program, eleven (11) days of Community Service, and pay $2,133.00 in fines.

SECOND CAUSE FOR DISCIPLINE

(Use of Alcoholic Beverages to the Extent, or in Such a Manner, as to be Dangerous or Injurious to Herself, Another Person, or the Public)

15. Respondent has further subjected her Physician's and Surgeon's Certificate No. A151051 to disciplinary action under sections 2227 and 2234, as defined by section 2239, subdivision (a), of the Code, in that she has used alcoholic beverages to the extent, or in such a manner, as to be dangerous or injurious to herself, another person, or the public as more particularly alleged in paragraphs 10 through 14, above, which are hereby incorporated by reference and realleged as if fully set forth herein.

THIRD CAUSE FOR DISCIPLINE

(General Unprofessional Conduct)

16. Respondent has further subjected her Physician's and Surgeon's Certificate A151051 to disciplinary action under sections 2227 and 2234 of the Code, in that she has engaged in conduct which breaches the rules or ethical code of the medical profession, or conduct which is unbecoming a member in good standing of the medical profession, and which demonstrates an unfitness to practice medicine, as more particularly alleged in paragraphs 10 through 15, above, which are hereby incorporated by reference and realleged as if fully set forth herein.

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 No. A 151051, issued to Amelia Marie Lindgren, M.D.;

2. Revoking, suspending or denying approval of Amelia Marie Lindgren, M.D.'s authority to supervise physician assistants and advanced practice nurses;

3. Ordering Amelia Marie Lindgren, M.D., if placed on probation, to pay the Board the costs of probation monitoring; and

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

DATED: December 9, 2019

CHRISTINE J. LALLY
Interim Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant

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