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

In the Matter of the Accusation Against: Gil Tepper, M.D. Physician's and Surgeon's Certificate No. G 68053 Respondent.	Case No. 800-2017-033082

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 September 17, 2021.

IT IS SO ORDERED: August 18, 2021.

MEDICAL BOARD OF CALIFORNIA

Richard E. Thorp, M.D., Chair
Panel B

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

In the Matter of the Accusation against:

GIL TEPPER, M.D.

Physician's and Surgeon's Certificate No. G 68053

Respondent.

Agency Case No. 800-2017-033082

OAH No. 2020120621

PROPOSED DECISION

Howard W. Cohen, Administrative Law Judge, Office of Administrative Hearings (OAH), State of California, heard this matter on May 26, 2021, by video and teleconference.

Jonathan Nguyen, Deputy Attorney General, represented complainant William Prasifka, Executive Director, Medical Board of California (Board), Department of Consumer Affairs.

Michael J. Khouri, Attorney at Law, represented respondent Gil Tepper, M.D.

Oral and documentary evidence was received. The record was closed and the matter was submitted for decision on May 26, 2021.

SUMMARY

Respondent was criminally convicted for insurance fraud. Complainant brought four causes for discipline against respondent: conviction of a substantially related crime, making false statements and dishonesty, insurance fraud, and unprofessional conduct. Respondent admitted the conviction and introduced evidence of mitigation and rehabilitation. Based on the evidentiary record, respondent's certificate shall be revoked, the revocation shall be stayed, and respondent shall be placed on three years' probation.

FACTUAL FINDINGS

Jurisdiction

1. The Board issued Physician's and Surgeon's Certificate No. G 68053 to respondent on February 13, 1990. The certificate is scheduled to expire on February 28, 2022.

2. Complainant brought the Accusation against respondent in his official capacity as Executive Director of the Board. Respondent filed a Notice of Defense. This hearing ensued.

Respondent's Criminal Conviction

3. On January 28, 2020, in the case of *People v. Tepper* (Super. Ct. L.A. County, 2017, No. BA456262), respondent pled guilty to and was convicted of two counts of violating Insurance Code section 1871.4, subdivision (a)(1) (insurance fraud), both misdemeanors. The court suspended imposition of sentence and placed respondent on one year's summary probation on terms and conditions including that he perform 300 hours of community service and pay restitution to various workers' compensation insurers in the amount of $1,877,768.51. The court noted in its minute order that:

> The defendant has completed 300 hours of community service and paid the $1,877,768.51 in restitution per the plea agreement. The People's oral motion to reduce [the] matter to a misdemeanor is granted.
>
> The defendant stipulates that he shall permanently disqualify from participating as a provider in the Worker's [*sic*] Compensation system pursuant to Labor Code section 139.21. The defendant agrees to not operate Metalink or any physician-owned distributorship from the date of the plea forward.

(Ex. 8, pp. 86-88.)

4. The plea agreement to which the court referred, executed on January 24, 2019, provided that respondent would plead guilty to two of 11 felony counts of insurance fraud filed against him on April 12, 2017, and would immediately pay partial restitution in the amount of $1,103,976.73 to nine insurance companies. After the

court accepted and entered the plea, sentencing would be continued for one year, during which time respondent would serve six months under electronic monitoring, complete 300 hours of community service, and pay the balance of restitution owing to the insurance companies in the amount of $773,792.18. Respondent agreed never to participate as a provider in the Workers' Compensation system under Labor Code section 139.21 and never to operate Metalink or any physician-owned distributorship.

5. The plea agreement further provided:

> At the time of sentencing, if all conditions of release have been met, and no violation of the conditions of release has occurred, defendant Gil Tepper shall be permitted to withdraw his felony pleas, and enter pleas to the same substantive charges, as misdemeanors. The remaining counts and all special allegations as to defendant Gil Tepper will be dismissed pursuant to Penal Code Section 1385. Defendant Gil Tepper will be sentenced to six months of electronic monitoring and 300 hours of community service, with credit for those conditions already met, and will be placed on summary probation for an additional year.

(Ex. 7, pp. 81-84.)

6. On January 28, 2019, the court was presented with the plea agreement and heard respondent's plea of guilty to two felony charges, stated at Counts 2 and 6. The court found a factual basis for and accepted the plea, entered a disposition of "convicted," postponed sentencing for one year, as the plea agreement contemplated, and ordered that, "If the defendant pay[s] all of the restitution, he can withdraw his

plea and plea[d] to a misdemeanor." (Ex. D, p. 37.) The court told respondent, "You understand what you've got to do to earn the misdemeanor. See you back here on January 28th [2020] for sentencing to see if you earn that misdemeanor." (Ex. 9, p. 101.) On February 13, 2019, the court clarified the plea agreement, recited the terms of the agreement, and represented that, when respondent returns to court on January 28, 2020, if he has "no material violations of the terms of release, he may withdraw the felony plea and enter new plea to the same counts as misdemeanors. If the defendant materially violates the terms of release, the pleas shall be deemed open and he faces a maximum of 6 years in prison." (Ex. D, p. 39.)

7. The facts and circumstances leading to respondent's conviction, i.e., the acts respondent engaged in at various times between July 24, 2006, and May 30, 2013, were stipulated to by the parties in the plea agreement, as follows:

> [T]he criminal charges arise from defendant's acquisition and use of medical devices for which he caused inflated billing to be issued and paid without disclosing his dual role as owner of the supply company, Metalink, and as physician purchasing and utilizing the medical devices in his practice treating patients with industrial injuries. The parties further stipulate that quality of care was not the subject of the investigation or the criminal charges in this case.

(Ex. 7, p. 81.)

8. Respondent explicitly agreed with the court, on January 28, 2019, that the facts related by Senior Investigator Ruby Kazmirski, Bureau of Investigation, Fraud Interdiction Section, Los Angeles County District Attorney's Office, in her investigation

report "are the factual basis for this case." (Ex. 9, pp. 97-98.) Senior Investigator Kazmirski's investigation report, dated April 12, 2017, contains a detailed account of respondent's billing practices.

9. Respondent timely complied with all terms of probation, which expired by its terms on January 28, 2021.

Mitigation and Rehabilitation

10. Respondent is an orthopedic surgeon specializing in spinal surgery. He received his medical degree from Chicago Medical School in 1986. He completed a general medical residency at Albert Einstein School of Medicine from in 1987, and an orthopedic surgery residency there from in 1991. Respondent then completed a fellowship in lumbar spine surgery at the Leon Wiltse Institute in 1993. The last six months of the fellowship were at the University of California, Irvine, and the Long Beach Veterans' Administration (VA) hospital. Respondent remained on the VA faculty for six years.

11. In 1993, respondent joined a group practice in Westchester, and over the course of six years performed over 2,000 spinal surgeries there, in addition to general surgeries for trauma patients. He was on staff at Centinela Hospital, the Long Beach VA, Daniel Freeman Hospital (in Inglewood and Marina del Rey), and Harbor UCLA Medical Center. Respondent was never disciplined by any hospital during those six years. There were no issues regarding his billing and he was continually credentialed by major health insurance companies. He had and still has a Medicare provider number and was never disciplined for any Medicare billing issues. Respondent has always delegated or outsourced his billing, which is based on respondent's operative

reports; there have been no claims that his operative reports are inaccurate. The Board has never disciplined respondent's certificate.

12. In 1999, respondent moved his sole practice to Santa Monica and obtained privileges at UCLA Santa Monica Orthopedic Hospital, Encino Hospital, Tarzana Medical Center, and Valley Presbyterian Medical Center. Respondent was in Santa Monica until 2006, performing 2,500-3,000 spinal surgeries and general orthopedic surgeries in about seven years. No hospital ever took disciplinary action against him. His complication rate was extremely low. Then he opened an office in the Miracle Mile area and obtained privileges at Olympia Hospital, formerly known as Midway Hospital, and at Miracle Mile Medical Center (MMMC), a general hospital in which he was a part owner, on San Vicente Boulevard.

13. At MMMC and Olympia Hospital, over 14 years, respondent performed 250 surgeries per year. Respondent's surgeries involved the use of spinal implants, which respondent purchased from numerous distributorships.

14. Respondent, struggling with acknowledging his wrongdoing, testified that in 2005 or 2006 he "obtained an interest in" a company, Metalink Distributors, Inc. (MDI) that distributed spinal implants. Respondent admitted later in the hearing, however, that he was the sole owner of MDI, he did not merely "obtain an interest." Respondent began ordering implants from MDI for use in surgeries at MMMC involving workers' compensation patients. Respondent believed he was obligated by law to disclose his ownership in the distributorship to his patients, but professed ignorance of any legal requirement that he disclose his ownership interest to workers' compensation insurance companies.

15. Even after respondent learned in 2014 or 2015 that the law had changed to require his disclosure to workers' compensation carriers, respondent continued not to disclose his interest in MDI to them. In an unrelated case, respondent was deposed on August 7, 2012, by an insurance company. While under oath in the deposition, respondent was asked whether he owned MDI, and he answered that he did not. At this hearing, respondent admitted that was a false statement, and that, in hindsight, "it wasn't accurate." But he attempted to justify making the false statement by testifying that he was not sure "who owned what piece" of MDI at the time of the deposition, and "we" were discussing selling or having partners join MDI. Respondent admitted, however, that he owned 100 percent of MDI at the time and did not sell his ownership interest in 2012.

16. Respondent explained that he was an advocate for his patients, so he told them of his ownership in MDI, but he was adversarial to the workers' compensation carriers. They "slow paid" his claims, he testified, so he did not disclose his ownership in MDI to them. He acknowledged that he had an obligation to disclose and he failed. He wrongfully felt "it was a game we played. It was wrong."

17. Respondent, however, appeared to try to justify his acts when he testified that his overall charges to the carriers were normal for the industry. He believes, had he disclosed his ownership of MDI, the carriers would not have paid him less money for the procedures he performed. The prices he charged were high only in relation to his low purchase price for the hardware, due to buying it at a discount from MDI and then marking up the price up when billing the carriers. Some implants were marked up 300 percent. Respondent claims he billed the same overall amount for each surgery that he would have billed if he had obtained the hardware at a higher cost from

another company. All the surgeries respondent performed were medically necessary, he testified, and his billing was, overall, reasonable for the services performed.

18. Respondent left MMMC in early 2019, after a search warrant was served, his offices were searched, and items were confiscated. He continued to perform surgeries on workers' compensation patients, however. Workers' compensation carriers continued to send him patients, allowing him to continue his practice. The income derived from billing for surgeries from January 2019 to January 2020 allowed respondent to pay the carriers the restitution the court ordered in January 2019. Respondent complained that the amount of restitution he paid included not only the markup on the appliances but the actual cost respondent paid to MDI to buy the hardware.

19. Respondent now regrets not informing the carriers of his ownership of MDI when he learned he was legally obligated to do so, and lying during his deposition testimony. "It was my fault," he testified. His failure has caused respondent "a lot of grief," affecting his family life and causing financial loss, reputational loss, and spiritual loss. Respondent has "been paying for [his] wrongdoing for 10 years."

20. Respondent satisfied all the pre-sentencing terms the court imposed in 2019, including submitting to six months' electronic monitoring, paying $1,877,768.51 in restitution, agreeing never to bill a workers' compensation insurance company again, and completing 300 hours of community service. In January 2020, respondent withdrew his guilty plea to the two felony charges and pled guilty to two misdemeanors. His one-year summary probation terminated as of February 2021. Respondent intends to petition the court to "expunge" his conviction.

21. Respondent founded, in conjunction with the L.A. Free Clinic, a non-profit organization, L.A. Free Spine Care, which provides free major spinal surgeries at MMMC. Respondent has donated the implants for those surgeries, and plans to devote more time to the non-profit now that his career has slowed down. Respondent also volunteers at synagogues; at a food pantry where he prepares, packages, and distributes meals; at schools; at the Midnight Mission; and at community health screening fairs. During COVID, respondent has provided about 10 telemedicine consultations per week without charge, for existing and new patients.

22. Two physicians, Ersno Eromo, M.D., and John Patrick Johnson, M.D., as well as business colleagues Roy Musgrove and James Coyle, testified on respondent's behalf.

23. Dr. Eromo is a board-certified orthopedic spine surgeon licensed in California since 2016. Respondent mentored Dr. Eromo and tried to help him achieve his dream of providing service in Ethiopia. In 2000, respondent helped Dr. Eromo study for his board exams for the American Board of Orthopedic Surgery, and introduced him to others in the field. Respondent became a family friend, especially over the past four years. Dr. Eromo testified that respondent has an excellent reputation for being highly skilled and honest. Dr. Eromo's personal opinion is that respondent is one of the most competent spine surgeons in the community, who takes on the most complex spine cases and orthopedic cases. Dr. Eromo trusts respondent. Respondent informed him of the issue leading to his conviction, and they have discussed it. Dr Eromo testified he would never have allowed respondent to spend time with his children if he had any reservations about respondent's integrity. Respondent learned a tremendous amount from what occurred, and is sincerely contrite. Dr. Eromo wrote a character reference letter for respondent, and adopted it at hearing. He testified he

wrote it with full knowledge of respondent's criminal acts, but he would not be testifying at hearing if respondent had not fully accepted that what he did was wrong.

24. Dr. Johnson is a board-certified neurosurgeon licensed in California since 1986. He teaches at Cedars-Sinai as President and CEO of the Spine Institute Foundation and as director of the Spine Fellowship program and the Spine Residency program in the Department of Neurosurgery. Dr. Johnson has published over 100 spinal neurosurgery research papers in peer reviewed publications. He has been on staff at Cedars-Sinai for 22 yrs. Dr. Johnson has known respondent since he was a young faculty member at UCLA in the early 1990's and respondent was a young surgeon working in the community. They have remained in contact since then, and have collaborated on 100 to 200 surgical cases. Dr. Johnson believes respondent is a skilled and conscientious surgeon who always has the patient's best interest in mind; he shows good judgment in treating patients, and is a compassionate, quality human being. Respondent is also a superb technical surgeon, something Dr. Johnson says about very few surgeons. He has found respondent to be honest in his charting and in his relationships with patients; respondent's clinical assessment skills are at the highest level. Respondent told Dr. Johnson he had been charged with felony insurance fraud, which was reduced eventually to a misdemeanor, that he made amends, and that he is "getting his ducks back in a row." Upon learning at hearing that respondent lied in his deposition, Dr. Johnson testified his opinion of respondent is unchanged.

25. Mr. Musgrove is the Managing Director for Hub Healthcare, which offers medical professional liability and other risk management products. Mr. Musgrove is a licensed insurance broker in California. He has known respondent for over 15 years, first professionally and then personally. Mr. Musgrove holds respondent in high esteem. As a physician, respondent has a reputation as a highly skilled surgeon

working very difficult cases successfully. Mr. Musgrove has contact with many physicians, and has never heard a physician disparage respondent. Respondent also has a strong relationship with his employees and makes certain they are all well-insured. Respondent's policies are renewed annually; he is vetted, underwritten by risk management, claims, and underwriting reviews, and passes every year, in every area of insurance. Mr. Musgrove has never seen any irregularity in the financial documents respondent submits annually. Mr. Musgrove wrote a character reference letter for respondent, and adopted it as true. Mr. Musgrove's opinion of respondent stems from the way he conducts himself in his medical business as a surgeon and as an employer. What Mr. Musgrove has learned of respondent's conduct does not change his opinion.

26. Mr. Coyle has been in the medical device business for the last 32 years. He met respondent during respondent's fellowship at the Wiltse Spine Institute in Long Beach. They talk at least once every four to six months, sometimes more often when respondent is helping Mr. Coyle develop technologies to help patients. Mr. Coyle has dealt with thousands of surgeons at every hospital on the west coast as a sales manager and Executive Vice President managing sales teams. Respondent is in "the very top tier of compassion" for patients; he is so nice to everyone "it's shocking." Mr. Coyle has observed respondent in operating rooms 300 to 400 times; respondent never loses his temper, and is never in a rush with his patients. Mr. Coyle testified he would send his mother or his 11-year-old son to respondent for surgery if they needed it. Mr. Coyle learned from observing respondent what it is to be a fine human being. He consistently listens to his patients and tailors his care to their needs, both physical and psychological. He treats the whole patient. Mr. Coyle knows how much respondent had to pay in restitution, and knows that respondent lied about his ownership interest in the distributorship. This does not change Mr. Coyle's high opinion of respondent, "not at all."

27. Respondent also offered numerous character reference letters from surgeons, patients, colleagues, friends, and employees. In addition to the letters from Dr. Eromo, Dr. Johnson, Mr. Musgrove, and Mr. Coyle, respondent offered letters from Christine Prantil, Butch and Susann Ventzke (patients), Lesli Kay, (a colleague), Drs. Farshad Malekmehr and Troy Mounts (surgeons), Cynthia Jean Herzog (an employee), and Zecharia Oren (a friend). The authors were aware of respondent's criminal conviction. They wrote of respondent's extraordinary effectiveness and reputation as a surgeon, his skill and devotion as a mentor, his energy, his honesty, generosity and loyalty, his kindness and calm demeanor, and his concern and compassion for his patients.

LEGAL CONCLUSIONS

Applicable Authority

1. The Board is responsible for enforcing the disciplinary provisions of the Medical Practice Act. (Bus. & Prof. Code, § 2004, subd. (a)). The Board's highest priority is to protect the public. (Bus. & Prof. Code, § 2229.) A certificated practitioner who violates the Medical Practice Act may have his or her certificate revoked or suspended or placed on probation, be publicly reprimanded, or have "other action taken in relation to discipline" as the Board deems proper. (Bus. & Prof. Code, § 2227.)

2. The Board may discipline a practitioner's certificate for unprofessional conduct, which includes, among other things, a criminal conviction for an offense substantially related to the qualifications, functions, or duties of a physician and surgeon (Bus. & Prof. Code, §§ 490, subd. (a), 2236, subd. (a).)

3. A crime or act is substantially related to the qualifications, functions, or duties of a physician and surgeon if to a substantial degree it evidences present or potential unfitness of a person holding a certificate to perform licensed activities in a manner consistent with public health, safety, and welfare. (Cal. Code Regs., tit. 16, § 1360.) Respondent's fraudulent billing convictions were substantially related to his profession under Business and Professions Code section 2236.

4. The rigorous educational, training, and testing requirements for obtaining a physician's license justify imposing on complainant a burden of proof of clear and convincing evidence. (Evid. Code, § 115; see *Ettinger v. Bd. of Medical Quality Assurance* (1982) 135 Cal.App.3d 853, 856; *Imports Performance v. Dept. of Consumer Affairs, Bur. of Automotive Repair* (2011) 201 Cal.App.4th 911.)

Causes for Discipline

5. Cause exists to suspend or revoke respondent's license under Business and Professions Code sections 2236, subdivision (a), and 490, and California Code of Regulations, title 16, section 1360, in that clear and convincing evidence established respondent was convicted of a crime substantially related to the qualifications, functions, or duties of a physician and surgeon, as set forth in Factual Findings 3 through 19.

6. Cause exists to suspend or revoke respondent's license under Business and Professions Code sections 2261 and 2234, subdivision (e), in that clear and convincing evidence established respondent knowingly made or signed documents related to the practice of medicine that falsely represented a state of facts and engaged in dishonest and corrupt conduct, as set forth in Factual Findings 3 through 19.

7. Cause exists to suspend or revoke respondent's license under Business and Professions Code section 810, subdivision (a)(2), in that clear and convincing evidence established respondent engaged in insurance fraud, as set forth in Factual Findings 3 through 19.

8. Cause exists to suspend or revoke respondent's license under Business and Professions Code section 2234, in that clear and convincing evidence established respondent engaged in unprofessional conduct, as forth in Factual Findings 3 through 19.

Appropriate Discipline

9. In addition to prioritizing public protection, Business and Professions Code section 2229 specifies that, "to the extent not inconsistent with public protection, disciplinary actions shall be calculated to aid in the rehabilitation of licensees. To implement the mandates of section 2229, the Board has adopted the Manual of Model Disciplinary Orders and Disciplinary Guidelines (guidelines), 12th Edition." (Guidelines, p. 2.)

10. For engaging in dishonesty in billing for services, and for conviction of a substantially related crime arising out of billing practices, the Guidelines recommend a minimum penalty of stayed revocation and seven years' probation. The Guidelines may be departed from based on mitigating evidence and rehabilitation factors including early acceptance of responsibility and demonstrated willingness to undertake Board-ordered rehabilitation.

11. The Board's criteria for rehabilitation are found at California Code of Regulations, title 16, section 1360.1. The regulation states:

When considering the suspension or revocation of a license, certificate or permit on the ground that a person holding a license, certificate or permit under the Medical Practice Act has been convicted of a crime, the division, in evaluating the rehabilitation of such person and his or her eligibility for a license, certificate or permit shall consider the following criteria:

(a) The nature and severity of the act(s) or offense(s).

(b) The total criminal record.

(c) The time that has elapsed since commission of the act(s) or offense(s).

(d) Whether the licensee, certificate or permit holder has complied with any terms of parole, probation, restitution or any other sanctions lawfully imposed against such person.

(e) If applicable, evidence of expungement proceedings pursuant to Section 1203.4 of the Penal Code.

(f) Evidence, if any, of rehabilitation submitted by the licensee, certificate or permit holder.

12. It was established by clear and convincing evidence that respondent repeatedly made fraudulent and dishonest billing claims, over a period of years, to workers' compensation insurance carriers, for which he was criminally convicted. Respondent complied with the court's pre-sentencing conditions, paid nearly $2

million in restitution, and successfully completed one year of summary probation. He has expressed regret and admitted the wrongful nature of his fraudulent and dishonest acts; on the other hand, he continues to struggle to justify and explain away those acts. (See Factual Findings 3-19.)

13. The purpose of a disciplinary action such as this is to protect the public, and not to punish the licensee. (*Camacho v. Youde* (1979) 95 Cal.App.3d 161, 164; *Small v. Smith* (1971) 16 Cal.App.3d 450, 457.) On this record, and in view of all the evidence, including evidence of respondent's reputation in the medical community for his technical skills and patient skills, evidence of rehabilitation and community service, and the strong unlikelihood of the offense being repeated, the safety of the public will be protected if respondent is placed on three years' probation with appropriate terms and conditions.

ORDER

Physician's and Surgeon's Certificate No. G 68053, issued to respondent Gil Tepper, M.D., is revoked pursuant to determination of the first, second, third, and fourth causes for discipline, separately and for all of them. The revocation is stayed, however, and respondent's certificate is placed on probation for three years on the following terms and conditions:

1. Notification

Within seven days of the effective date of this Decision, 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.

2. Supervision of Physician Assistants and Advanced Practice Nurses

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

3. 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.

4. 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.

5. 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 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.

6. 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.

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7. 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 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; and Quarterly Declarations.

8. 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.

9. 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.

10. 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 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.

11. 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.

12. Education Course

Within 60 calendar days of the effective date of this Decision, and on an annual basis thereafter, respondent shall submit to the Board or its designee for its prior approval educational program(s) or course(s) which shall not be less than 40 hours per year, for each year of probation. The educational program(s) or course(s) shall be aimed at correcting any areas of deficient practice or knowledge and shall be Category I certified. The educational program(s) or course(s) shall be at respondent's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure. Following the completion of each course, the Board or its designee may administer an examination to test respondent's knowledge of the course. Respondent shall provide proof of attendance for 65 hours of CME of which 40 hours were in satisfaction of this condition.

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13. 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.

14. Monitoring - Billing

Within 30 calendar days of the effective date of this Decision, respondent shall submit to the Board or its designee for prior approval as a billing monitor, the name

and qualifications of one or more licensed physicians and surgeons whose licenses are valid and in good standing, and who are preferably American Board of Medical Specialties (ABMS) certified. A monitor shall have no prior or current business or personal relationship with respondent, or other relationship that could reasonably be expected to compromise the ability of the monitor to render fair and unbiased reports to the Board, including but not limited to any form of bartering, shall be in respondent's field of practice, and must agree to serve as respondent's monitor. Respondent shall pay all monitoring costs.

The Board or its designee shall provide the approved monitor with copies of the Decision(s) and Accusation(s), and a proposed monitoring plan. Within 15 calendar days of receipt of the Decision(s), Accusation(s), and proposed monitoring plan, the monitor shall submit a signed statement that the monitor has read the Decision(s) and Accusation(s), fully understands the role of a monitor, and agrees or disagrees with the proposed monitoring plan. If the monitor disagrees with the proposed monitoring plan, the monitor shall submit a revised monitoring plan with the signed statement for approval by the Board or its designee.

Within 60 calendar days of the effective date of this Decision, and continuing throughout probation, respondent's billing shall be monitored by the approved monitor. Respondent shall make all records available for immediate inspection and copying on the premises by the monitor at all times during business hours and shall retain the records for the entire term of probation.

If respondent fails to obtain approval of a monitor within 60 calendar days of the effective date of this Decision, respondent shall receive a notification from the Board or its designee to cease the practice of medicine within three (3) calendar days

after being so notified. Respondent shall cease the practice of medicine until a monitor is approved to provide monitoring responsibility.

The monitor(s) shall submit a quarterly written report to the Board or its designee which includes an evaluation of respondent's performance, indicating whether respondent's practices are within the standards of practice of billing, and whether respondent is billing appropriately. It shall be the sole responsibility of respondent to ensure that the monitor submits the quarterly written reports to the Board or its designee within 10 calendar days after the end of the preceding quarter.

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

In lieu of a monitor, respondent may participate in a professional enhancement program approved in advance by the Board or its designee, that includes, at minimum, quarterly chart review, semi-annual practice assessment, and semi-annual review of professional growth and education. Respondent shall participate in the professional enhancement program at respondent's expense during the term of probation.

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15. Prohibited Practice

During probation, respondent is prohibited from (a) participating as a provider in the Workers' Compensation system under Labor Code section 139.21, and (b) operating any physician-owned distributorship. After the effective date of this Decision, all patients being treated by the respondent shall be notified that the respondent is prohibited from (a) participating as a provider in the Workers' Compensation system under Labor Code section 139.21, and (b) operating any physician-owned distributorship. Any new patients must be provided this notification at the time of their initial appointment.

Respondent shall maintain a log of all patients to whom the required oral notification was made. The log shall contain the: 1) patient's name, address and phone number; patient's medical record number, if available; 3) the full name of the person making the notification; 4) the date the notification was made; and 5) a description of the notification given. Respondent shall keep this log in a separate file or ledger, in chronological order, shall make the log available for immediate inspection and copying on the premises at all times during business hours by the Board or its designee, and shall retain the log for the entire term of probation.

DATE: Jun 25, 2021

Howard W. Cohen (Jun 25, 2021 09:22 PDT)

HOWARD W. COHEN

Administrative Law Judge

Office of Administrative Hearings

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

In the Matter of the Accusation Against: **Gil Tepper, M.D.** **400 Spectrum Center Drive, #280** **Irvine, CA 92618** **Physician's and Surgeon's Certificate No. G 68053,** Respondent.	Case No. 800-2017-033082 **ACCUSATION**

PARTIES

1. William Prasifka (Complainant) brings this Accusation solely in his official capacity as the Executive Director of the Medical Board of California, Department of Consumer Affairs (Board).

2. On or about February 13, 1990, the Medical Board issued Physician's and Surgeon's Certificate Number G 68053 to Gil Tepper, 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 February 28, 2022, 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 2234 of the Code, states:

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

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

(b) Gross negligence.

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

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

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

(d) Incompetence.

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

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

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

5. Section 2236 of the Code states:

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

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

which the action is pending that the defendant is a licensee, and the clerk shall record prominently in the file that the defendant holds a license as a physician and surgeon.

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

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

6. Section 2261 of the Code states:

Knowingly making or signing any certificate or other document directly or indirectly related to the practice of medicine or podiatry which falsely represents the existence or nonexistence of a state of facts, constitutes unprofessional conduct.

7. Section 490 of the Code states:

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

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

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

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

8. Section 810 of the Code states:

(a) It shall constitute unprofessional conduct and grounds for disciplinary action, including suspension or revocation of a license or certificate, for a health care

professional to do any of the following in connection with his or her professional activities:

(1) Knowingly present or cause to be presented any false or fraudulent claim for the payment of a loss under a contract of insurance.

(2) Knowingly prepare, make, or subscribe any writing, with intent to present or use the same, or to allow it to be presented or used in support of any false or fraudulent claim.

(b) It shall constitute cause for revocation or suspension of a license or certificate for a health care professional to engage in any conduct prohibited under Section 1871.4 of the Insurance Code or Section 549 or 550 of the Penal Code.

(c) (1) It shall constitute cause for automatic suspension of a license or certificate issued pursuant to Chapter 4 (commencing with Section 1600), Chapter 5 (commencing with Section 2000), Chapter 6.6 (commencing with Section 2900), Chapter 7 (commencing with Section 3000), or Chapter 9 (commencing with Section 4000), or pursuant to the Chiropractic Act or the Osteopathic Act, if a licensee or certificate holder has been convicted of any felony involving fraud committed by the licensee or certificate holder in conjunction with providing benefits covered by worker's compensation insurance, or has been convicted of any felony involving Medi-Cal fraud committed by the licensee or certificate holder in conjunction with the Medi-Cal program, including the Denti-Cal element of the Medi-Cal program, pursuant to Chapter 7 (commencing with Section 14000), or Chapter 8 (commencing with Section 14200), of Part 3 of Division 9 of the Welfare and Institutions Code. The board shall convene a disciplinary hearing to determine whether or not the license or certificate shall be suspended, revoked, or some other disposition shall be considered, including, but not limited to, revocation with the opportunity to petition for reinstatement, suspension, or other limitations on the license or certificate as the board deems appropriate.

(2) It shall constitute cause for automatic suspension and for revocation of a license or certificate issued pursuant to Chapter 4 (commencing with Section 1600), Chapter 5 (commencing with Section 2000), Chapter 6.6 (commencing with Section 2900), Chapter 7 (commencing with Section 3000), or Chapter 9 (commencing with Section 4000), or pursuant to the Chiropractic Act or the Osteopathic Act, if a licensee or certificate holder has more than one conviction of any felony arising out of separate prosecutions involving fraud committed by the licensee or certificate holder in conjunction with providing benefits covered by worker's compensation insurance, or in conjunction with the Medi-Cal program, including the Denti-Cal element of the Medi-Cal program pursuant to Chapter 7 (commencing with Section 14000), or Chapter 8 (commencing with Section 14200), of Part 3 of Division 9 of the Welfare and Institutions Code. The board shall convene a disciplinary hearing to revoke the license or certificate and an order of revocation shall be issued unless the board finds mitigating circumstances to order some other disposition.

(3) It is the intent of the Legislature that paragraph (2) apply to a licensee or certificate holder who has one or more convictions prior to January 1, 2004, as provided in this subdivision.

(4) Nothing in this subdivision shall preclude a board from suspending or revoking a license or certificate pursuant to any other provision of law.

(5) "Board," as used in this subdivision, means the Dental Board of California, the Medical Board of California, the California Board of Podiatric Medicine, the

Board of Psychology, the State Board of Optometry, the California State Board of Pharmacy, the Osteopathic Medical Board of California, and the State Board of Chiropractic Examiners.

(6) "More than one conviction," as used in this subdivision, means that the licensee or certificate holder has one or more convictions prior to January 1, 2004, and at least one conviction on or after that date, or the licensee or certificate holder has two or more convictions on or after January 1, 2004. However, a licensee or certificate holder who has one or more convictions prior to January 1, 2004, but who has no convictions and is currently licensed or holds a certificate after that date, does not have "more than one conviction" for the purposes of this subdivision.

(d) As used in this section, health care professional means any person licensed or certified pursuant to this division, or licensed pursuant to the Osteopathic Initiative Act, or the Chiropractic Initiative Act.

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.

FACTUAL ALLEGATIONS

10. On or about January 28, 2019, in the case entitled *People of the State of California v. Gil Tepper*, Case Number BA456262, in Superior Court in the County of Los Angeles, Respondent entered a plea of guilty to two violations of Insurance Code section 1871.4, subdivision (a)(1), knowingly making a false or fraudulent material statement or material representation for the purpose of obtaining or denying any compensation, as felonies. As part of the plea agreement with prosecutors, Respondent agreed to pay restitution in the amount of $1,877,768.91 to eight victim insurance companies.

11. On or about January 28, 2020, Respondent was sentenced to the following terms and conditions:

A. 1 year of summary probation.

B. Complete 300 hours of community service.

12. The circumstances leading to the above-referenced convictions are as follows:

A. Respondent was part of the Miracle Mile Medical Center's (MMMC) personnel, along with Jorge Vital.

B. In or around April of 2012, the Los Angeles County District Attorney's Office, Healthcare Fraud Division, received a Suspected Fraud Claim Referral Form from Senior Special Investigations Unit Investigator Jennifer Conner, from American Claims Management (ACM). ACM is a third party administrator that handles workers' compensation claims for Everest National Insurance Company (Everest). Investigator Conner alleged MMMC intentionally and fraudulently inflated the costs of surgical hardware devices that were implanted into claimants during surgeries pursuant to workers' compensation claims. The inflated costs of the surgical hardware devices were reflected on invoices in the name of Metalink Distributors, Inc. (Metalink) that were submitted to Everest on a patient claim.

C. On or about December 18, 2013, the Los Angeles County District Attorney's Office, Healthcare Fraud Division, opened a case against MMMC based on allegations that Respondent, Jorge Vital, and other MMMC personnel conspired to create false and misleading invoices for implantable medical devices. MMMC submitted fraudulent purchase invoices that had grossly inflated costs for surgical hardware devices, when in fact MMMC had purchased the devices at significantly lower prices. MMMC falsified invoices making it appear that they purchased the medical devices from Metalink, when they did not. MMMC would then submit these fraudulent Metalink invoices to numerous workers' compensation insurance companies from 2005 to 2014 for reimbursement per Labor Code section 5318.

D. During the course of the investigation of MMMC, Investigator Conner discovered several instances of Metalink invoices submitted to an insurance company that had higher than normal prices for surgical hardware devices implanted into a patient. When Investigator Conner subpoenaed the surgical implant logs from MMMC, it showed that the supplier for the implant hardware devices was another medical device company and not Metalink.

E. On or about August 7, 2012, Respondent was deposed. During the deposition, Respondent was asked if he had any ownership interest in Metalink, to which he answered, "No." An investigation was conducted on the business addresses of Metalink listed on

the Metalink invoices. The Fictitious Business Names Statement for Metalink was obtained from the Los Angeles County Registrar Recorder's Office. Respondent's name and signature appeared on the Fictitious Business Name Statement. A search warrant was executed on a bank account at 1st Century Bank in the name of Metalink. A review of the Master Signature Card and Agreement to Open Account on the bank account revealed Respondent as the sole signer for the account.

F. An extensive investigation into the fraudulent invoices, surgical implant logs, and the insurance claims exposed an ongoing elaborate medical billing fraud scheme by Respondent and Jorge Vital. From 2005 to 2014, Respondent and Mr. Vital conspired to exploit Labor Code section 5318 by creating Metalink invoices which contained grossly inflated costs for implantable medical devices by as much as 300% to 600% of the actual cost. Metalink was a sham distribution company created by Respondent for the purpose of conducting fraudulent billing by inflating the cost of surgical hardware devices and other materials used in surgeries purchased from legitimate vendors at a significantly lower price. MMMC made it appear they purchased the medical devices and materials from Metalink when in fact they purchased them from legitimate vendors. These fraudulent Metalink invoices were then submitted to insurance companies on numerous occasions between 2005 to 2014. Respondent lied under oath during a deposition when he denied having any ownership interest in Metalink, when in fact he did. As a direct result of Respondent's participation in the fraudulent billing scheme, he caused $1,877,768.91 to be fraudulently billed to various insurance companies.

FIRST CAUSE FOR DISCIPLINE

(Conviction of a Substantially Related Crime)

13. By reason of the facts set forth in paragraphs 10 through 12, Respondent is subject to disciplinary action under section 2236, subdivision (a), and section 490 of the Code, as well as California Code of Regulations, title 16, Section 1360, in that Respondent has been convicted of crimes substantially related to the qualifications, function or duties of a physician and surgeon.

14. Respondent's acts and/or omissions as set forth in paragraphs 10 through 12, whether proven individually, jointly, or in any combination thereof, constitute convictions of crimes

substantially related to the qualifications, function or duties of a physician and surgeon pursuant to section 2236, subdivision (a), and section 490 of the Code, as well as California Code of Regulations, title 16, Section 1360.

SECOND CAUSE FOR DISCIPLINE

(Making False Statements and Dishonesty)

15. By reason of the facts set forth in paragraphs 10 through 12, Respondent is subject to disciplinary action under Code sections 2261 and 2234, subdivision (e), in that Respondent knowingly made or signed any certificate or other document directly or indirectly related to the practice of medicine which falsely represented the existence or nonexistence of a state of facts and engaged in dishonest and corrupt conduct.

16. Respondent's acts and/or omissions as set forth in paragraphs 10 through 12, whether proven individually, jointly, or in any combination thereof, constitute knowingly making or signing any certificate or other documents directly or indirectly related to the practice of medicine which falsely represents the existence or nonexistence of a state of facts and thereby engaged in dishonest and corrupt conduct pursuant to sections 2261 and 2234, subdivision (e), of the Code.

THIRD CAUSE FOR DISCIPLINE

(Insurance Fraud)

17. By reason of the facts and allegations set forth in paragraphs 10 through 12, Respondent is subject to disciplinary action under section 810, subdivision (a)(2) of the Code, in that he engaged insurance fraud.

18. Respondent's acts and/or omissions as set forth in paragraphs 10 through 12, whether proven individually, jointly, or in any combination thereof, constitute insurance fraud pursuant to section 810, subdivision (a)(2) of the Code.

FOURTH CAUSE FOR DISCIPLINE

(Unprofessional Conduct)

19. By reason of the facts and allegations set forth in paragraphs 10 through 18, Respondent is subject to disciplinary action under section 2234 of the Code, in that Respondent engaged in unprofessional conduct.

20. Respondent's acts and/or omissions as set forth in paragraphs 10 through 18, whether proven individually, jointly, or in any combination thereof, constitute unprofessional conduct pursuant to section 2234 of the Code.

PRAYER

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

1. Revoking or suspending Physician's and Surgeon's Certificate Number G 68053, issued to Gil Tepper, M.D.;

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

3. Ordering Gil Tepper, 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: SEP 30 2020

WILLIAM PRASIFKA
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant

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