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

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| In the Matter of the First Amended Accusation Against:<br><br>Charles Michael Wilkinson, M.D.<br><br>Physician's and Surgeon's Certificate No. G 50289<br><br>Respondent. | Case No. 800-2017-035749 |

## DECISION

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

This Decision shall become effective at 5:00 p.m. on NOV 03 2020.

IT IS SO ORDERED OCT 27 2020.

MEDICAL BOARD OF CALIFORNIA

William Prasifka
Executive Director

XAVIER BECERRA
Attorney General of California
STEVEN D. MUNI
Supervising Deputy Attorney General
RYAN J. YATES
Deputy Attorney General
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*Attorneys for Complainant*

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

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|---|---|
| In the Matter of the First Amended Accusation Against:<br><br>**CHARLES MICHAEL WILKINSON, M.D.**<br>**618 5th Street**<br>**Marysville, CA 95901-5612**<br><br>**Physician's and Surgeon's Certificate No. G 50289**<br><br>Respondent. | Case No. 800-2017-035749<br><br>OAH No. 2020061007<br><br>**STIPULATED SURRENDER OF LICENSE AND ORDER** |

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

## PARTIES

1. William Prasifka (Complainant) is the Executive Director of the Medical Board of California (Board). He brought this action solely in his official capacity and is represented in this matter by Xavier Becerra, Attorney General of the State of California, by Ryan J. Yates, Deputy Attorney General.

2. Charles Michael Wilkinson, M.D. (Respondent) is represented in this proceeding by attorney Daniel Tatick, with Simas & Associates, LTD, whose address is: 354 Pacific Street, San Luis Obispo, CA 93401.

3. On or about March 16, 2012, the Board issued Physician's and Surgeon's Certificate No. G 50289 to Charles Michael Wilkinson, M.D. (Respondent). The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought in First Amended Accusation No. 800-2017-035749 and will expire on February 29, 2020, unless renewed.

## JURISDICTION

4. First Amended Accusation No. 800-2017-035749 was filed before the Board, and is currently pending against Respondent. The First Amended Accusation and all other statutorily required documents were properly served on Respondent on February 11, 2020. Respondent timely filed his Notice of Defense contesting the First Amended Accusation. A copy of First Amended Accusation No. 800-2017-035749 is attached as Exhibit A and incorporated by reference.

## ADVISEMENT AND WAIVERS

5. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in First Amended Accusation No. 800-2017-035749. Respondent also has carefully read, fully discussed with counsel, and understands the effects of this Stipulated Surrender of License and Order.

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

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

## CULPABILITY

8. Respondent understands that the charges and allegations in First Amended Accusation No. 800-2017-035749, if proven at a hearing, constitute cause for imposing discipline upon his Physician's and Surgeon's Certificate.

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9. For the purpose of resolving the First Amended Accusation without the expense and uncertainty of further proceedings, Respondent agrees that, at a hearing, Complainant could establish a factual basis for the charges in the First Amended Accusation and that those charges constitute cause for discipline. Respondent hereby gives up his right to contest that cause for discipline exists based on those charges.

10. Respondent understands that by signing this stipulation he enables the Board to issue an order accepting the surrender of his Physician's and Surgeon's Certificate without further process.

11. Respondent agrees that if he ever petitions for reinstatement before the Board, all of the charges and allegations contained in First Amended Accusation No. 800-2017-035749 shall be deemed true, correct, and fully admitted by Respondent for purposes of any such proceeding or any other licensing proceeding involving Respondent in the State of California.

**CONTINGENCY**

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

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

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14. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Order:

**ORDER**

IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. G 50289, issued to Respondent Charles Michael Wilkinson, M.D., is surrendered and accepted by the Board.

1. The surrender of Respondent's Physician's and Surgeon's Certificate and the acceptance of the surrendered license by the Board shall constitute the imposition of discipline against Respondent. This stipulation constitutes a record of the discipline and shall become a part of Respondent's license history with the Board.

2. Respondent shall lose all rights and privileges as a MEDICAL PROVIDER in California as of the effective date of the Board's Decision and Order.

3. Respondent shall cause to be delivered to the Board his pocket license and, if one was issued, his wall certificate on or before the effective date of the Decision and Order.

4. If Respondent ever files an application for licensure or a petition for reinstatement in the State of California, the Board shall treat it as a petition for reinstatement. Respondent must comply with all the laws, regulations and procedures for reinstatement of a revoked or surrendered license in effect at the time the petition is filed, and all of the charges and allegations contained in First Amended Accusation No. 800-2017-035749 shall be deemed to be true, correct and admitted by Respondent when the Board determines whether to grant or deny the petition.

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## ACCEPTANCE

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

DATED: 10/12/20

CHARLES MICHAEL WILKINSON, M.D.
*Respondent*

I have read and fully discussed with Respondent Charles Michael Wilkinson, M.D. the terms and conditions and other matters contained in this Stipulated Surrender of License and Order. I approve its form and content.

DATED: 10/15/2020

DANIEL TATICK
*Attorney for Respondent*

## ENDORSEMENT

The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted for consideration by the Medical Board of California of the Department of Consumer Affairs.

DATED: October ~~8~~ 15, 2020

Respectfully submitted,

XAVIER BECERRA
Attorney General of California
STEVEN D. MUNI
Supervising Deputy Attorney General

RYAN J. YATES
Deputy Attorney General
*Attorneys for Complainant*

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**Exhibit A**

**First Amended Accusation No. 800-2017-035749**

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*Attorneys for Complainant*

**BEFORE THE**
**MEDICAL BOARD OF CALIFORNIA**
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| In the Matter of the First Amended Accusation Against:<br><br>**Charles Michael Wilkinson, M.D.**<br>**618 5th Street**<br>**Marysville, CA 95901-5612**<br><br>**Physician's and Surgeon's Certificate No. G 50289,**<br><br>Respondent. | Case No. 800-2017-035749<br><br>**FIRST AMENDED ACCUSATION** |

## PARTIES

1. Christine J. Lally (Complainant) brings this First Amended 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 March 16, 2012, the Medical Board issued Physician's and Surgeon's Certificate Number G 50289 to Charles Michael Wilkinson, 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.

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## JURISDICTION

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

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

5. Section 2234 of the Code, states:

> "The board shall take action against any licensee who is charged with unprofessional conduct.[1] In addition to other provisions of this article, unprofessional conduct includes, but is not limited to, the following:
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> "(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. 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. 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 Division of Medical Quality 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.
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> "(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

[1] Unprofessional conduct under California 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.)

deemed to be a conviction within the meaning of this section and Section 2236.1. The record of conviction shall be conclusive evidence of the fact that the conviction occurred."

7. Section 2239 of the Code states:

"(a) The use or 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 of alcoholic beverages, to the extent, or in such a manner as to be dangerous or injurious to the licensee, or to any other person or to the public, or to the extent that such use impairs the ability of the licensee to practice medicine safely or more than one misdemeanor or any felony involving the use, consumption, or self-administration of any of the substances referred to in this section, or any combination thereof, constitutes unprofessional conduct. The record of the conviction is conclusive evidence of such unprofessional conduct.

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

8. 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."

## FIRST CAUSE FOR DISCIPLINE

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

9. Respondent is subject 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 he has been convicted of a crime, to wit: violation of Code of Federal Regulations section 4.23, subdivision (a)(1) [Operating a vehicle under the influence of alcohol or drugs], substantially

related to the qualifications, functions or duties of a physician and surgeon, as more particularly alleged hereinafter:

10. Respondent is a physician whose specialty is General Oncology. He is employed at Rideout Cancer Center in Marysville, California.

11. On about July 19, 2017, Respondent went to Sacramento International Airport, in Sacramento, California, for the purpose of travelling to Yellowstone National Park for a vacation. While at the airport, Respondent consumed three (3) alcoholic beverages. Respondent then flew to Salt Lake City International Airport, in Salt Lake City, Utah, for a brief layover, and then to Bozeman Yellowstone International Airport, in Bozeman, Montana. While en route, Respondent consumed alcoholic beverages throughout the trip and became intoxicated.

12. Respondent arrived in Bozeman, Montana, on July 20, 2017, at approximately 10:00 p.m. He rented a vehicle, and while intoxicated, drove the vehicle for approximately one hour, into Yellowstone National Park. Between leaving the airport and arriving at Yellowstone National Park, Respondent consumed at least one alcoholic beverage, while driving. After Respondent entered the interior of the park, Respondent lost control of the vehicle, which caused it to swerve off of the road, resulting in a rollover crash.

13. At or about 2:10 a.m., a Yellowstone National Park Ranger responded to a dispatch notification of a possible single vehicle crash, located on U.S. Highway 191, near milepost 17.5. The Ranger observed that the vehicle driven by Respondent had sustained major damage, consistent with a rollover crash. The Ranger contacted Respondent, who was still located in the driver's seat area of the vehicle, and instructed him to climb out through the rear broken window. The Ranger smelled an odor of an alcoholic beverage emanating from Respondent. He observed two loose unopened cans of "Mikes Hard Lemonade" within the vehicle. The Ranger additionally observed that Respondent swayed and stumbled as he walked from his vehicle towards the roadway and that Respondent's eyes were bloodshot.

14. Respondent told the Ranger that he left California on the evening of July 19, 2017, and flew by plane to Bozeman, Montana, where he arrived at approximately 10:00 p.m. Respondent stated he had two alcoholic beverages prior to boarding his plane, between 7:00 p.m. and 8:00 p.m.

Respondent additionally admitted to the Ranger that he had consumed two more alcoholic beverages while on the plane, prior to landing in Montana. Respondent further admitted to the Ranger that he had consumed one more alcoholic beverage in his rental vehicle after leaving Bozeman, Montana.

15. The Ranger administered a Preliminary Breath Test (PBT) on Respondent. It took Respondent two (2) tries before he was able to provide a sufficient sample. Respondent's breath registered a Blood Alcohol Content (BAC) level of 0.20. The Ranger then administered a series of Field Sobriety Tests (FST), which Respondent was unable to complete as explained and demonstrated.

16. At approximately 3:30 a.m., the Ranger placed Respondent under arrest for driving while under the influence of alcohol. At the West Yellowstone police department, Respondent consented to an additional PBT, which occurred shortly after. Respondent's BAC registered at 0.19.

17. Later that day, a Misdemeanor Complaint was filed against Respondent in the matter of *United States of America vs. Charles M. Wilkinson,* United States District Court for the District of Wyoming Court Case No. 5:17-PO-553-MLC. Count One (1) charged Respondent with a violation of the Code of Federal Regulations (CFR), section 4.23, subdivision (a)(1), operating [a vehicle] under the influence of alcohol or drugs. Count Two (2) charged Respondent with a violation of CFR, section 4.23, subdivision (a)(2), operating or in actual physical control of a motor vehicle while alcohol concentration is 0.08 grams or more per 210 liters of breath to wit. Count Three (3) charged Respondent with a violation of CFR, section 4.22, subdivision (b)(3), Failure to maintain control to the degree of control to avoid danger to persons/property/wildlife. Count Four (4) charged Respondent with a violation of CFR, section 4.14, subdivision (b), carry or store open container of an alcoholic beverage within a motor vehicle.

18. Respondent, while still in custody, pled guilty and was convicted of Count Two (2), a misdemeanor. Counts One (1), Three (3), and Four (4) were dismissed. The United States District Court sentenced Respondent to probation for a period of one (1) year, without supervision. Respondent was additionally charged a $750 fine and ordered to enroll in an alcohol treatment program.

## SECOND CAUSE FOR DISCIPLINE

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

19. Respondent is additionally subject 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 he has been convicted of a crime, to wit: violation of Code of Federal Regulations section 4.23, subdivision (a)(1) [Operating a vehicle under the influence of alcohol or drugs], substantially related to the qualifications, functions or duties of a physician and surgeon, as more particularly alleged hereinafter:

20. On or about November 18, 2018, Respondent was at a social gathering in Corvallis, Oregon. While there, Respondent consumed several alcoholic beverages. At approximately 8:00 p.m., Respondent got into his rental car and drove around the Oregon State University Campus, then went to a nearby bar and consumed approximately two (2) alcoholic beverages.

21. After leaving the bar, Respondent got back into his vehicle and resumed driving. At approximately 10:08 p.m., an Oregon State Police Officer observed Respondent travel outside of the road's fog line and then merge into the road's left lane without using the vehicle's turn signal. The officer then pulled over Respondent's vehicle.

22. The officer made contact with Respondent and questioned him regarding his driving. During the conversation, the officer observed that Respondent had multiple indicators of impairment, including bloodshot and watery eyes, slurred and broken speech, a nervous demeanor, and the odor of an alcoholic beverage emitting from the vehicle.

23. The officer then administered FST's on Respondent, which Respondent failed. Respondent was then placed under arrest and into the backseat of the officer's patrol car. The officer drove Respondent to the Benton County Law Enforcement Center, arriving at approximately 10:33 p.m.

24. At or about 10:51 p.m., Respondent consented to an intoxilyzer breathalyzer test, which occurred shortly after. Respondent's BAC registered at 0.12% (The legal limit in the State of Oregon is .08%). Respondent was cited for driving under the influence of alcohol [Oregon Revised

Statutes (ORS), chapter 813.010(4)] and reckless driving (ORS 811.140.)—both Class A Misdemeanors. At approximately 11:28 P.M., respondent was released from police custody.

25. On or about February 19, 2019, Respondent appeared in the Oregon Circuit Court of Benton County. Respondent pled guilty to Count 1: Driving Under the Influence of Intoxicants (ORS 813.010(4)). Count 2: Reckless Driving, was dismissed. Respondent's sentence was suspended and Respondent was placed on Bench Probation for 24 months, subject to the following conditions:

- Immediately surrender to the Court any licenses, tags and permits suspended or revoked in this case.
- Install an approved ignition interlock device in all vehicles you operate when you have driving privileges.
- Not operate a motor vehicle without a valid driver license or permit and insurance.
- Contact a representative with Benton County Department of Probation within 48 hours to schedule a substance abuse evaluation/screening interview. Enroll in, actively participate in and successfully complete an approved treatment program recommended by the evaluator. Pay all costs of evaluation and treatment fees and expenses as directed. Provide the Court proof of completion of treatment through a properly licensed treatment provider not later than 60 days prior to the expiration of probation.
- Sign any and all releases necessary for probation officer or the Court to ensure defendant's compliance with any and all terms of probation. Said release(s) shall include, but not be limited to, release(s) related to all details of the defendant's compliance with any probation officer directed or Court ordered evaluation or treatment. Waive all psychotherapist/patient, physician/patient and counselor/client privileges in regards to any treatment program ordered as a condition of probation.
- Submit to blood, breath, saliva and/or urinalysis tests at the direction of the treatment provider, probation officer or the Court to determine compliance with the conditions of probation or if probable cause exists to believe that defendant has consumed alcohol or controlled substances or upon request of a law enforcement officer having a reasonable suspicion defendant committed the offense of driving under the influence of intoxicants. Pay all costs of testing as directed.
- Not consume or possess alcoholic beverage.
- Not enter bars, taverns, OLCC outlets or other establishments where alcohol is the primary item of sale, unless actually employed and on duty therein.
- Not use or possess controlled substances or intoxicating inhalants unless lawfully prescribed by a licensed medical professional.
- Not use, possess or attempt to use or possess any drug paraphernalia.
- Not associate with any person known to use, sell, manufacture, deliver, or possess unlawful controlled substances or narcotics.

- Not knowingly be present at any place where unlawful controlled substances are used, kept, sold, grown, manufactured or distributed.
- Not serve as a "designated primary care giver" as that term is defined under the Oregon Medical Marijuana Act.
- Vehicle registration is suspended for 60 days.
- In lieu of 15 days jail, Defendant shall perform 120 hours of community service. Community service is to be completed by August 31, 2020. Provide written proof of completion from the agency to probation officer or the Court by the completion date. Community service is work done without pay and arranged through a non-profit organization or public entity.
- Successfully complete the Benton County Victim Impact Panel (VIP) and pay all costs. Report to the VIP on March 14, 2019. Provide proof of attending the VIP to probation officer or the Court within 10 days of completion.
- Respondent was additionally fined $1,855.00.

**THIRD CAUSE FOR DISCIPLINE**
**(Use of Alcohol in a Dangerous or Injurious Manner)**

26. Respondent is further subject to disciplinary action under sections 2227 and 2234, as defined by section 2239, of the Code, and California Code of Regulations, title 16, section 1360, in that he has used alcoholic beverages, to the extent, or in such a manner as to be dangerous or injurious to himself, or to any other person or to the public, as more particularly alleged in paragraphs 9 through 25, above, which are hereby realleged and incorporated by reference as if fully set forth herein.

**FOURTH CAUSE FOR DISCIPLINE**
**(General Unprofessional Conduct)**

27. Respondent is further subject to disciplinary action under sections 2227 and 2234, as defined by section 2234, of the Code, in that he 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 9 through 26, above, which are hereby realleged and incorporated by reference as if fully set forth herein.

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## FIFTH CAUSE FOR DISCIPLINE
**(Violation of the State Medical Practice Act)**

28. Respondent is further subject to disciplinary action under sections 2227 and 2234, as defined by section 2234, subdivision (a), of the Code, and California Code of Regulations, title 16, section 1360, in that he has violated a provision or provisions of the Medical Practice Act, as more particularly alleged in paragraphs 9 through 27, above, which are hereby realleged and incorporated by reference 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 Number G 50289, issued to Respondent Charles Michael Wilkinson, M.D.;

2. Revoking, suspending or denying approval of Respondent Charles Michael Wilkinson, M.D.'s authority to supervise physician's assistants, pursuant to section 3527 of the Code;

3. Ordering Respondent Charles Michael Wilkinson, M.D. to pay the Medical Board of California the costs of probation monitoring, if probation is imposed; and

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

DATED: MAR 17 2020

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

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