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

12 In the Matter of the Accusation Against,

Case No. 800-2021-081527

13 **LARRY MICHAEL GENTILELLO, M.D.**
14 **1938 Centro West St.**
Tiburon, CA 94920

**DEFAULT DECISION
AND ORDER**

15 **Physician's and Surgeon's Certificate**
16 **No. G 89113**

[Gov. Code, §11520]

17 Respondent

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19 **FINDINGS OF FACT**

20 1. On or about February 23, 2023, Complainant Reji Varghese, in his official capacity as
21 the Interim Executive Director of the Medical Board of California, Department of Consumer
22 Affairs, filed Accusation No. 800-2021-081527 against Larry Michael Gentilello, M.D.
23 (Respondent) before the Medical Board of California.

24 2. On or about February 15, 2012, the Medical Board of California (Board) issued
25 Physician's and Surgeon's Certificate No. G 89113 to Respondent. The Physician's and Surgeon's
26 Certificate was in full force and effect at all times relevant to the charges brought herein and will
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1 expire on August 31, 2023, unless renewed. (Exhibit Package¹, Exhibit 1, Certificate of
2 Licensure.)

3 3. On July 25, 2022, in the *People of the State of California v. Larry Michael Gentilello*,
4 Marin County Superior Court Case No. SC217435A, Respondent pled guilty to violating Vehicle
5 Code section 23153(b), a misdemeanor, for driving a vehicle with a BAC of .08% or more and
6 causing bodily injury to another person. (Exhibit Package, Exhibit 2, Certified Conviction.)

7 4. On or about February 23, 2023, an employee of the Board, served by certified mail a
8 copy of the Accusation No. 800-2021-081527, Statement to Respondent, Request for Discovery,
9 two copies of the Notice of Defense, and Government Code sections 11507.5, 11507.6, and
10 11507.7 to Respondent's address of record with the Board, which was and is 1938 Centro West
11 Street, Tiburon, CA 94920. (Exhibit Package, Exhibit 3, a copy of the Accusation, the related
12 documents, and Declaration of Service.)

13 5. A review of the U.S. Postal Service Tracking System shows that on or about February
14 25, 2023, U.S. Postal Service attempted delivery of the aforementioned documents and a notice
15 was left because an authorized recipient was not available. A copy of the United States Postal
16 Service Tracking History for this package was drawn from the following location,
17 [https://tools.usps.com/go/TrackConfirmAction?tRef=fullpage&tLc=2&text28777=&tLabels=702](https://tools.usps.com/go/TrackConfirmAction?tRef=fullpage&tLc=2&text28777=&tLabels=70211970000139299978%2C&tABt=false)
18 [11970000139299978%2C&tABt=false](https://tools.usps.com/go/TrackConfirmAction?tRef=fullpage&tLc=2&text28777=&tLabels=70211970000139299978%2C&tABt=false). (Exhibit Package, Exhibit 4, U.S.P.S. Tracking History
19 and a Copy of the Returned Mail.)

20 6. On or about March 13, 2023, an employee of the Attorney General's Office sent a
21 Courtesy Notice of Default upon Respondent at Respondent's address of record by certified mail
22 and E-mail. The address of record was and is 1938 Centro West Street, Tiburon, CA 94290. The
23 Courtesy Notice of Default advised Respondent of the service of the Accusation and provided
24 Respondent with an opportunity to file a Notice of Defense and request relief from default. The
25 Courtesy Notice of Default provided Respondent with a copy of the Accusation, the Statement to
26 Respondent, a Notice of Defense, Request for Discovery, and discovery statutes, and advised

27
28 ¹ The evidence in support of this Default Decision and Order is submitted herewith as the
"Exhibit Package."

1 Respondent that he was in default. (Exhibit Package, Exhibit 5, copy of the Courtesy Notice of
2 Default and Declaration of Service.)

3 7. A review of the United States Postal Service Tracking System shows that on March
4 17, 2023, a Courtesy Notice of Default was left at Respondent's address. A copy of the United
5 States Postal Service history for this package, was drawn from the following location,
6 [https://tools.usps.com/go/TrackConfirmAction?tRef=fullpage&tLc=2&text28777=fullpage&tLc=](https://tools.usps.com/go/TrackConfirmAction?tRef=fullpage&tLc=2&text28777=fullpage&tLc=2&text28777=&tLabels=9414726699042197669379%2C&tABt=false)
7 [2&text28777=&tLabels=9414726699042197669379%2C&tABt=false](https://tools.usps.com/go/TrackConfirmAction?tRef=fullpage&tLc=2&text28777=&tLabels=9414726699042197669379%2C&tABt=false). (Exhibit Package, Exhibit
8 6, U.S.P.S. Tracking History.)

9 8. Service of the Accusation was effective as a matter of law under the provisions of
10 Government Code section 11505, subdivision (c).

11 9. Respondent has not responded to service of the Accusation or the Notice of Default.
12 He has not filed a Notice of Defense. As a result, Respondent has waived his right to a hearing
13 on the merits to contest the allegations contained in the Accusation.

14 10. On or about May 23, 2023, an employee of the Attorney General's Office received a
15 document entitled "Cost of Suit Summary," and a document entitled "Default Costs," which
16 showed that the Department of Justice has billed the Medical Board of California \$6,242.50 for
17 the time spent working in the above entitled case through May 22, 2023. (Exhibit Package,
18 Exhibit 7, Certification of Prosecution Costs: Declaration of Kendra S. Rivas.)

19 **STATUTORY AUTHORITY**

20 11. California Government Code section 11506 states, in pertinent part:

21 "(c) The respondent shall be entitled to a hearing on the merits if the respondent files
22 a notice of defense, and the notice shall be deemed a specific denial of all parts of the accusation
23 not expressly admitted. Failure to file a notice of defense shall constitute a waiver of respondent's
24 right to a hearing, but the agency in its discretion may nevertheless grant a hearing."

25 12. Respondent failed to file a Notice of Defense within 15 days after service upon him
26 of the Accusation, and therefore waived his right to a hearing on the merits of Accusation
27 No. 800-2021-081527.

28 13. California Government Code section 11520 states, in pertinent part:

“(a) If the respondent either fails to file a notice of defense or to appear at the hearing, the agency may take action based upon the respondent's express admissions or upon other evidence and affidavits may be used as evidence without any notice to respondent.”

14. Pursuant to its authority under Government Code section 11520, the Board finds Respondent is in default. The Board will take action without further hearing and, based on Respondent's express admissions by way of default and the evidence before it, contained in Exhibits **1, 2, 3, 4, 5, 6 and 7**, finds that the allegations in Accusation No. 800-2021-081527 are true.

15. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licensee found to have violated the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case. Licensee's failure to comply will result in the license not being renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be included in a stipulated settlement.

DETERMINATION OF ISSUES

1. Based on the foregoing findings of fact, Respondent Larry Michael Gentilello, M.D. has subjected his Physician's and Surgeon's Certificate No. G 89113 to discipline.

2. A copy of the Accusation and the related documents and Declaration of Service are attached.

3. The agency has jurisdiction to adjudicate this case by default.

4. Pursuant to its authority under Government Code section 11520, the Board finds Respondent is in default. The Board will take action without further hearing and, based on Respondent's express admissions by way of default and the evidence before it, contained in the Exhibit Package, finds that the allegations in Accusation No. 800-2021-081527 are true:

a. On July 25, 2022, in the *People of the State of California v. Larry Michael Gentilello*, Marin County Superior Court Case No. SC217435A, Respondent pled guilty to violating Vehicle Code section 23153(b), a misdemeanor, for driving a vehicle with a blood alcohol content (BAC) of .08% or more and causing bodily injury to another person.

1 b. Respondent committed unprofessional conduct under Business and Professions
2 Code sections 2234(f) and 2236, and California Code of Regulations, title 16, section 1360.

3 c. Respondent's use of alcoholic beverages to the extent, or in such a manner, as
4 to be dangerous or injurious to himself or to the public was a violation of Business and
5 Professions Code section 2239(a).

6 **ORDER**

7 IT IS SO ORDERED that Physician's and Surgeon's Certificate No. G 89113, heretofore
8 issued to Respondent LARRY MICHAEL GENTILELLO, M.D., is revoked.

9 Respondent LARRY MICHAEL GENTILELLO, M.D. is ordered to pay the Board the
10 costs of the investigation and enforcement of this case in the amount of \$6,242.50.

11 **Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a**
12 **written motion requesting that the Decision be vacated and stating the grounds relied on**
13 **within seven (7) days after service of the Decision on Respondent.** The agency in its discretion
14 may vacate the Decision and grant a hearing on a showing of good cause, as defined in the
15 statute.

16 This Decision shall become effective on JUL 07 2023.

17 It is so ORDERED JUN 08 2023
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20 JENNA JONES FOR
21 Reji Varghese
22 For the Medical Board of California
23 Department of Consumer Affairs
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9 **MEDICAL BOARD OF CALIFORNIA**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 800-2021-081527

13 **Larry Michael Gentilello, M.D.**
14 **1938 Centro West St.**
Tiburon, CA 94920

A C C U S A T I O N

15 **Physician's and Surgeon's Certificate**
16 **No. G 89113,**

Respondent.

17
18 **PARTIES**

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

22 2. On or about February 15, 2012, the Medical Board issued Physician's and Surgeon's
23 Certificate Number G 89113 to Larry Michael Gentilello, M.D. (Respondent). The Physician's
24 and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought
25 herein and will expire on August 31, 2023, unless renewed.

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JURISDICTION

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

4. Section 2227 of the Code provides that a licensee 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, or such other action taken in relation to discipline as the Board deems proper.

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

...

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

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

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

...

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

7. Section 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

1 to practice medicine safely or more than one misdemeanor or any felony involving the use,
2 consumption, or self-administration of any of the substances referred to in this section, or any
3 combination thereof, constitutes unprofessional conduct. The record of the conviction is
4 conclusive evidence of such unprofessional conduct.

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

14 8. California Code of Regulations, title 16, section 1360, states:

15 For the purposes of denial, suspension or revocation of a license, certificate or permit
16 pursuant to Division 1.5 (commencing with Section 475) of the code, a crime or act shall be
17 considered to be substantially related to the qualifications, functions or duties of a person holding
18 a license, certificate or permit under the Medical Practice Act if to a substantial degree it
19 evidences present or potential unfitness of a person holding a license, certificate or permit to
20 perform the functions authorized by the license, certificate or permit in a manner consistent with
21 the public health, safety or welfare. Such crimes or acts shall include but not be limited to the
22 following: Violating or attempting to violate, directly or indirectly, or assisting in or abetting the
23 violation of, or conspiring to violate any provision of the Medical Practice Act.

24 **COST RECOVERY**

25 9. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
26 administrative law judge to direct a licensee found to have violated the licensing act to pay a sum
27 not to exceed the reasonable costs of the investigation and enforcement of the case. Licensee's
28

1 failure to comply will result in the license not being renewed or reinstated. If a case settles,
2 recovery of investigation and enforcement costs may be included in a stipulated settlement.

3 **FACTUAL ALLEGATIONS**

4 10. On or about September 9, 2021, at approximately 6:54 p.m., Respondent was arrested
5 for driving under the influence of alcohol after crashing into another vehicle in which the other
6 driver was injured. Respondent had a blood alcohol content (BAC) of 0.20% at the scene.

7 11. On or about July 25, 2022, in the *People of the State of California v. Larry Michael*
8 *Gentilello*, Marin County Superior Court Case No. SC217435, Respondent pled guilty to
9 violating Vehicle Code section 23153(b), a misdemeanor, for driving a vehicle with a BAC of
10 .08% or more and causing bodily injury to another person. Respondent was placed on 5 years'
11 probation with standard DUI terms, such as participating and successfully completing the First
12 Offender Program, driver's license suspension for 1 year, shall not drive any vehicle without an
13 ignition interlock device, and payment of fees and fines.

14 12. On or about August 1, 2022, Respondent was ordered to appear before the court for
15 remand, and Respondent failed to appear. On August 3, 2022, the court issued a bench warrant
16 for Respondent. The court revoked the conditional sentence. On August 4, 2022, the ordered
17 warrant issued for Respondent was forwarded to the Sheriff's Department.

18 **FIRST CAUSE FOR DISCIPLINE**

19 **(Unprofessional Conduct: Criminal Conviction/Dangerous Use of Alcohol)**

20 13. Paragraphs 10 through 12 are incorporated by reference as if fully set forth.

21 14. Respondent is subject to disciplinary action under sections 2234, subdivision (f)
22 [unprofessional conduct], and 2239 of the Code [dangerous use of alcohol], and California Code
23 of Regulations, title 16, section 1360 [criminal conviction] because Respondent engaged in
24 unprofessional conduct in that on or about July 25, 2022, in a criminal proceeding entitled *People*
25 *of the State of California v. Larry Gentilello*, in the Marin County Superior Court, Case No.
26 SC217435A, Respondent was convicted by plea of "no contest" to violating California Vehicle
27 Code section 23153(b), driving on September 9, 2021, with a blood alcohol content (BAC) in
28 excess of .08% that caused bodily injury to another person.

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:

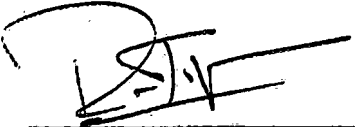
1. Revoking or suspending Physician's and Surgeon's Certificate Number G 89113, issued to Larry Michael Gentilello, M.D.;

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

3. Ordering Larry Michael Gentilello, M.D., to pay the Board the costs of the investigation and enforcement of this case, and if placed on probation, the costs of probation monitoring; and,

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

DATED: FEB 23 2023


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

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