

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

In the Matter of the Accusation
Against:

John Nathaniel Alvarez, M.D.

Physician's and Surgeon's
Certificate No. A 155288

Respondent.

Case No.: 800-2021-076670

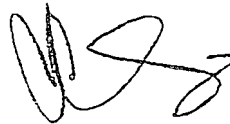
DECISION

The attached Stipulated Settlement and Disciplinary 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 January 5, 2024.

IT IS SO ORDERED: December 7, 2023.

MEDICAL BOARD OF CALIFORNIA



Laurie Rose Lubiano, J.D., Chair
Panel A

1 ROB BONTA
Attorney General of California
2 JUDITH T. ALVARADO
Supervising Deputy Attorney General
3 LATRICE R. HEMPHILL
Deputy Attorney General
4 State Bar No. 285973
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 269-6198
6 Facsimile: (916) 731-2117
Attorneys for Complainant
7

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:

13 **JOHN NATHANIEL ALVAREZ, M.D.**
14 **401 East Imperial Highway**
Fullerton, CA 92835

15 **Physician's and Surgeon's Certificate**
16 **No. A 155288,**

17 Respondent.

Case No. 800-2021-076670

OAH No. 2023040097

18 **STIPULATED SETTLEMENT AND**
19 **DISCIPLINARY ORDER**

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

21 **PARTIES**

22 1. Reji Varghese (Complainant) is the Executive Director of the Medical Board of
23 California (Board). He brought this action solely in his official capacity and is represented in this
24 matter by Rob Bonta, Attorney General of the State of California, by Latrice R. Hemphill, Deputy
25 Attorney General.

26 2. Respondent John Nathaniel Alvarez, M.D. (Respondent) is represented in this
27 proceeding by attorney Kevin D. Cauley, Esq., whose address is: 225 South Lake Avenue, Suite
28 300, Pasadena, CA 91101-3009.

1 3. On or about April 9, 2018, the Board issued Physician's and Surgeon's Certificate No.
2 A 155288 to John Nathaniel Alvarez, M.D. The Physician's and Surgeon's Certificate was in full
3 force and effect at all times relevant to the charges brought in Accusation No. 800-2021-076670,
4 and will expire on July 31, 2025, unless renewed.

5 **JURISDICTION**

6 4. Accusation No. 800-2021-076670 was filed before the Board, and is currently
7 pending against Respondent. The Accusation and all other statutorily required documents were
8 properly served on Respondent on March 3, 2023. Respondent timely filed his Notice of Defense
9 contesting the Accusation.

10 5. A copy of Accusation No. 800-2021-076670 is attached as exhibit A and incorporated
11 herein by reference.

12 **ADVISEMENT AND WAIVERS**

13 6. Respondent has carefully read, fully discussed with counsel, and understands the
14 charges and allegations in Accusation No. 800-2021-076670. Respondent has also carefully read,
15 fully discussed with his counsel, and understands the effects of this Stipulated Settlement and
16 Disciplinary Order.

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

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

25 **CULPABILITY**

26 9. Respondent understands and agrees that the charges and allegations in Accusation
27 No. 800-2021-076670, if proven at a hearing, constitute cause for imposing discipline upon his
28 Physician's and Surgeon's Certificate.

1 10. Respondent does not contest that, at an administrative hearing, complainant could
2 establish a prima facie case with respect to the charges and allegations in Accusation No. 800-
3 2021-076670, a true and correct copy of which is attached hereto as Exhibit A, and that he has
4 thereby subjected his Physician's and Surgeon's Certificate, No. A 155288 to disciplinary action.

5 11. Respondent agrees that his Physician's and Surgeon's Certificate is subject to
6 discipline and he agrees to be bound by the Board's probationary terms as set forth in the
7 Disciplinary Order below.

8 **CONTINGENCY**

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

19 13. Respondent agrees that if he ever petitions for early termination or modification of
20 probation, or if an accusation and/or petition to revoke probation is filed against him before the
21 Board, all of the charges and allegations contained in Accusation No. 800-2021-076670 shall be
22 deemed true, correct and fully admitted by respondent for purposes of any such proceeding or any
23 other licensing proceeding involving Respondent in the State of California.

24 14. The parties understand and agree that Portable Document Format (PDF) and facsimile
25 copies of this Stipulated Settlement and Disciplinary Order, including PDF and facsimile
26 signatures thereto, shall have the same force and effect as the originals.

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1 15. In consideration of the foregoing admissions and stipulations, the parties agree that
2 the Board may, without further notice or opportunity to be heard by the Respondent, issue and
3 enter the following Disciplinary Order:

4 **DISCIPLINARY ORDER**

5 IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. A 155288 issued
6 to Respondent JOHN NATHANIEL ALVAREZ, M.D. is revoked. However, the revocation is
7 stayed and Respondent is placed on probation for three (3) years on the following terms and
8 conditions:

9 1. CONTROLLED SUBSTANCES - ABSTAIN FROM USE. Respondent shall abstain
10 completely from the personal use or possession of controlled substances as defined in the
11 California Uniform Controlled Substances Act, dangerous drugs as defined by Business and
12 Professions Code section 4022, and any drugs requiring a prescription. This prohibition does not
13 apply to medications lawfully prescribed to Respondent by another practitioner for a bona fide
14 illness or condition.

15 Within 15 calendar days of receiving any lawfully prescribed medications, Respondent
16 shall notify the Board or its designee of the: issuing practitioner's name, address, and telephone
17 number; medication name, strength, and quantity; and issuing pharmacy name, address, and
18 telephone number.

19 If Respondent has a confirmed positive biological fluid test for any substance (whether or
20 not legally prescribed) and has not reported the use to the Board or its designee, Respondent shall
21 receive a notification from the Board or its designee to immediately cease the practice of
22 medicine. The Respondent shall not resume the practice of medicine until the final decision on an
23 accusation and/or a petition to revoke probation is effective. An accusation and/or petition to
24 revoke probation shall be filed by the Board within 30 days of the notification to cease practice.
25 If the Respondent requests a hearing on the accusation and/or petition to revoke probation, the
26 Board shall provide the Respondent with a hearing within 30 days of the request, unless the
27 Respondent stipulates to a later hearing. If the case is heard by an Administrative Law Judge
28 alone, he or she shall forward a Proposed Decision to the Board within 15 days of submission of

1 the matter. Within 15 days of receipt by the Board of the Administrative Law Judge's proposed
2 decision, the Board shall issue its Decision, unless good cause can be shown for the delay. If the
3 case is heard by the Board, the Board shall issue its decision within 15 days of submission of the
4 case, unless good cause can be shown for the delay. Good cause includes, but is not limited to,
5 non-adoption of the proposed decision, requests for reconsideration, remands and other
6 interlocutory orders issued by the Board. The cessation of practice shall not apply to the
7 reduction of the probationary time period.

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

11 2. ALCOHOL - ABSTAIN FROM USE. Respondent shall abstain completely from the
12 use of products or beverages containing alcohol.

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

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

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

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

15 If Respondent fails to cooperate in a random biological fluid testing program within the
16 specified time frame, Respondent shall receive a notification from the Board or its designee to
17 immediately cease the practice of medicine. The Respondent shall not resume the practice of
18 medicine until the final decision on an accusation and/or a petition to revoke probation is
19 effective. An accusation and/or petition to revoke probation shall be filed by the Board within 30
20 days of the notification to cease practice. If the Respondent requests a hearing on the accusation
21 and/or petition to revoke probation, the Board shall provide the Respondent with a hearing within
22 30 days of the request, unless the Respondent stipulates to a later hearing. If the case is heard by
23 an Administrative Law Judge alone, he or she shall forward a Proposed Decision to the Board
24 within 15 days of submission of the matter. Within 15 days of receipt by the Board of the
25 Administrative Law Judge's proposed decision, the Board shall issue its Decision, unless good
26 cause can be shown for the delay. If the case is heard by the Board, the Board shall issue its
27 decision within 15 days of submission of the case, unless good cause can be shown for the delay.
28 Good cause includes, but is not limited to, non-adoption of the proposed decision, requests for

1 reconsideration, remands and other interlocutory orders issued by the Board. The cessation of
2 practice shall not apply to the reduction of the probationary time period.

3 If the Board does not file an accusation or petition to revoke probation within 15 days of the
4 issuance of the notification to cease practice or does not provide Respondent with a hearing
5 within 30 days of such a request, the notification of cease practice shall be dissolved.

6 4. PROFESSIONALISM PROGRAM (ETHICS COURSE). Within 60 calendar days of
7 the effective date of this Decision, Respondent shall enroll in a professionalism program, that
8 meets the requirements of Title 16, California Code of Regulations (CCR) section 1358.1.
9 Respondent shall participate in and successfully complete that program. Respondent shall
10 provide any information and documents that the program may deem pertinent. Respondent shall
11 successfully complete the classroom component of the program not later than six (6) months after
12 Respondent's initial enrollment, and the longitudinal component of the program not later than the
13 time specified by the program, but no later than one (1) year after attending the classroom
14 component. The professionalism program shall be at Respondent's expense and shall be in
15 addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

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

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

24 5. NOTIFICATION. Within seven (7) days of the effective date of this Decision, the
25 Respondent shall provide a true copy of this Decision and Accusation to the Chief of Staff or the
26 Chief Executive Officer at every hospital where privileges or membership are extended to
27 Respondent, at any other facility where Respondent engages in the practice of medicine,
28 including all physician and locum tenens registries or other similar agencies, and to the Chief

1 Executive Officer at every insurance carrier which extends malpractice insurance coverage to
2 Respondent. Respondent shall submit proof of compliance to the Board or its designee within 15
3 calendar days.

4 This condition shall apply to any change(s) in hospitals, other facilities or insurance carrier.

5 6. SUPERVISION OF PHYSICIAN ASSISTANTS AND ADVANCED PRACTICE
6 NURSES. During probation, Respondent is prohibited from supervising physician assistants and
7 advanced practice nurses.

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

11 8. INVESTIGATION/ENFORCEMENT COST RECOVERY. Respondent is hereby
12 ordered to reimburse the Board its costs of investigation and enforcement in the amount of
13 \$10,045.00 (ten thousand forty five dollars). Costs shall be payable to the Medical Board of
14 California. Failure to pay such costs shall be considered a violation of probation.

15 Payment must be made in full within 30 calendar days of the effective date of the Order, or
16 by a payment plan approved by the Medical Board of California. Any and all requests for a
17 payment plan shall be submitted in writing by respondent to the Board. Failure to comply with
18 the payment plan shall be considered a violation of probation.

19 The filing of bankruptcy by respondent shall not relieve respondent of the responsibility to
20 repay investigation and enforcement costs.

21 9. QUARTERLY DECLARATIONS. Respondent shall submit quarterly declarations
22 under penalty of perjury on forms provided by the Board, stating whether there has been
23 compliance with all the conditions of probation.

24 Respondent shall submit quarterly declarations not later than 10 calendar days after the end
25 of the preceding quarter.

26 10. GENERAL PROBATION REQUIREMENTS.

27 Compliance with Probation Unit

28 Respondent shall comply with the Board's probation unit.

1 Address Changes

2 Respondent shall, at all times, keep the Board informed of Respondent's business and
3 residence addresses, email address (if available), and telephone number. Changes of such
4 addresses shall be immediately communicated in writing to the Board or its designee. Under no
5 circumstances shall a post office box serve as an address of record, except as allowed by Business
6 and Professions Code section 2021, subdivision (b).

7 Place of Practice

8 Respondent shall not engage in the practice of medicine in Respondent's or patient's place
9 of residence, unless the patient resides in a skilled nursing facility or other similar licensed
10 facility.

11 License Renewal

12 Respondent shall maintain a current and renewed California physician's and surgeon's
13 license.

14 Travel or Residence Outside California

15 Respondent shall immediately inform the Board or its designee, in writing, of travel to any
16 areas outside the jurisdiction of California which lasts, or is contemplated to last, more than thirty
17 (30) calendar days.

18 In the event Respondent should leave the State of California to reside or to practice
19 Respondent shall notify the Board or its designee in writing 30 calendar days prior to the dates of
20 departure and return.

21 11. INTERVIEW WITH THE BOARD OR ITS DESIGNEE. Respondent shall be
22 available in person upon request for interviews either at Respondent's place of business or at the
23 probation unit office, with or without prior notice throughout the term of probation.

24 12. NON-PRACTICE WHILE ON PROBATION. Respondent shall notify the Board or
25 its designee in writing within 15 calendar days of any periods of non-practice lasting more than
26 30 calendar days and within 15 calendar days of Respondent's return to practice. Non-practice is
27 defined as any period of time Respondent is not practicing medicine as defined in Business and
28 Professions Code sections 2051 and 2052 for at least 40 hours in a calendar month in direct

1 patient care, clinical activity or teaching, or other activity as approved by the Board. If
2 Respondent resides in California and is considered to be in non-practice, Respondent shall
3 comply with all terms and conditions of probation. All time spent in an intensive training
4 program which has been approved by the Board or its designee shall not be considered non-
5 practice and does not relieve Respondent from complying with all the terms and conditions of
6 probation. Practicing medicine in another state of the United States or Federal jurisdiction while
7 on probation with the medical licensing authority of that state or jurisdiction shall not be
8 considered non-practice. A Board-ordered suspension of practice shall not be considered as a
9 period of non-practice.

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

15 Respondent's period of non-practice while on probation shall not exceed two (2) years.

16 Periods of non-practice will not apply to the reduction of the probationary term.

17 Periods of non-practice for a Respondent residing outside of California will relieve
18 Respondent of the responsibility to comply with the probationary terms and conditions with the
19 exception of this condition and the following terms and conditions of probation: Obey All Laws;
20 General Probation Requirements; Quarterly Declarations; Abstain from the Use of Alcohol and/or
21 Controlled Substances; and Biological Fluid Testing..

22 13. COMPLETION OF PROBATION. Respondent shall comply with all financial
23 obligations (e.g., restitution, probation costs) not later than 120 calendar days prior to the
24 completion of probation. This term does not include cost recovery, which is due within 30
25 calendar days of the effective date of the Order, or by a payment plan approved by the Medical
26 Board and timely satisfied. Upon successful completion of probation, Respondent's certificate
27 shall be fully restored.

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

8 15. LICENSE SURRENDER. Following the effective date of this Decision, if
9 Respondent ceases practicing due to retirement or health reasons or is otherwise unable to satisfy
10 the terms and conditions of probation, Respondent may request to surrender his or her license.
11 The Board reserves the right to evaluate Respondent's request and to exercise its discretion in
12 determining whether or not to grant the request, or to take any other action deemed appropriate
13 and reasonable under the circumstances. Upon formal acceptance of the surrender, Respondent
14 shall within 15 calendar days deliver Respondent's wallet and wall certificate to the Board or its
15 designee and Respondent shall no longer practice medicine. Respondent will no longer be subject
16 to the terms and conditions of probation. If Respondent re-applies for a medical license, the
17 application shall be treated as a petition for reinstatement of a revoked certificate.

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

23 17. FUTURE ADMISSIONS CLAUSE. If Respondent should ever apply or reapply for
24 a new license or certification, or petition for reinstatement of a license, by any other health care
25 licensing action agency in the State of California, all of the charges and allegations contained in
26 Accusation No. 800-2021-076670 shall be deemed to be true, correct, and admitted by
27 Respondent for the purpose of any Statement of Issues or any other proceeding seeking to deny or
28 restrict license.

ACCEPTANCE

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

DATED: 8/8/2023 John Alvarez
JOHN NATHANIEL ALVAREZ, M.D.
Respondent

I have read and fully discussed with Respondent John Nathaniel Alvarez, M.D. the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: August 9, 2023 Kevin Cauley
KEVIN D. CAULEY, ESQ.
Attorney for Respondent

ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Medical Board of California.

DATED: _____
Respectfully submitted,
ROB BONTA
Attorney General of California
JUDITH T. ALVARADO
Supervising Deputy Attorney General

LATRICE R. HEMPHILL
Deputy Attorney General
Attorneys for Complainant

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ACCEPTANCE

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

DATED: _____
JOHN NATHANIEL ALVAREZ, M.D.
Respondent

I have read and fully discussed with Respondent John Nathaniel Alvarez, M.D. the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: _____
KEVIN D. CAULEY, ESQ.
Attorney for Respondent

ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Medical Board of California.

DATED: August 9, 2023

Respectfully submitted,
ROB BONTA
Attorney General of California
JUDITH T. ALVARADO
Supervising Deputy Attorney General



LATRICE R. HEMPHILL
Deputy Attorney General
Attorneys for Complainant

Exhibit A

Accusation No. 800-2021-076670

1 ROB BONTA
Attorney General of California
2 JUDITH T. ALVARADO
Supervising Deputy Attorney General
3 LATRICE R. HEMPHILL
Deputy Attorney General
4 State Bar No. 285973
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
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6 Facsimile: (916) 731-2117
Attorneys for Complainant
7

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. 800-2021-076670

13 **JOHN NATHANIEL ALVAREZ, M.D.**
14 **401 East Imperial Highway**
Fullerton, CA 92835-1145

A C C U S A T I O N

15 **Physician's and Surgeon's Certificate**
16 **No. A 155288,**

17 Respondent.

18
19 **PARTIES**

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

23 2. On or about April 9, 2018, the Medical Board issued Physician's and Surgeon's
24 Certificate Number A 155288 to John Nathaniel Alvarez, M.D. (Respondent). The Physician's
25 and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought
26 herein and will expire on July 31, 2023, unless renewed.

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28 ///

1 **JURISDICTION**

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

5 4. Section 2227 of the Code states:

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

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

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

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

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

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

21 (b) Any matter heard pursuant to subdivision (a), except for warning letters,
22 medical review or advisory conferences, professional competency examinations,
23 continuing education activities, and cost reimbursement associated therewith that are
24 agreed to with the board and successfully completed by the licensee, or other matters
25 made confidential or privileged by existing law, is deemed public, and shall be made
26 available to the public by the board pursuant to Section 803.1.

27 **STATUTORY PROVISIONS**

28 5. Section 2234 of the Code, states:

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

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

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

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

9 (d) Incompetence.

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

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

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

17 6. Section 2236 of the Code states:

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

23 (b) The district attorney, city attorney, or other prosecuting agency shall notify
24 the Medical Board of the pendency of an action against a licensee charging a felony
25 or misdemeanor immediately upon obtaining information that the defendant is a
26 licensee. The notice shall identify the licensee and describe the crimes charged and
27 the facts alleged. The prosecuting agency shall also notify the clerk of the court in
28 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.

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

1 or injurious to the licensee, or to any other person or to the public, or to the extent that
2 such use impairs the ability of the licensee to practice medicine safely or more than
3 one misdemeanor or any felony involving the use, consumption, or
4 self-administration of any of the substances referred to in this section, or any
5 combination thereof, constitutes unprofessional conduct. The record of the
6 conviction is conclusive evidence of such unprofessional conduct.

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

17 8. Section 490 of the Code states:

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

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

27 (c) A conviction within the meaning of this section means a plea or verdict of
28 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.

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1 9. Section 493 of the Code states:

2 (a) Notwithstanding any other law, in a proceeding conducted by a board within
3 the department pursuant to law to deny an application for a license or to suspend or
4 revoke a license or otherwise take disciplinary action against a person who holds a
5 license, upon the ground that the applicant or the licensee has been convicted of a
6 crime substantially related to the qualifications, functions, and duties of the licensee
7 in question, the record of conviction of the crime shall be conclusive evidence of the
8 fact that the conviction occurred, but only of that fact.

9 (b) (1) Criteria for determining whether a crime is substantially related to the
10 qualifications, functions, or duties of the business or profession the board regulates
11 shall include all of the following:

- 12 (A) The nature and gravity of the offense.
- 13 (B) The number of years elapsed since the date of the offense.
- 14 (C) The nature and duties of the profession.

15 (2) A board shall not categorically bar an applicant based solely on the type of
16 conviction without considering evidence of rehabilitation.

17 (c) As used in this section, "license" includes "certificate," "permit,"
18 "authority," and "registration."

19 (d) This section does not in any way modify or otherwise affect the existing
20 authority of the following entities in regard to licensure:

- 21 (1) The State Athletic Commission.
- 22 (2) The Bureau for Private Postsecondary Education.
- 23 (3) The California Horse Racing Board.

24 (e) This section shall become operative on July 1, 2020.

25 REGULATORY PROVISIONS

26 10. California Code of Regulations, title 16, section 1360, states:

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

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1 COST RECOVERY

2 11. Section 125.3 of the Code states:

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

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

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

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

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

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

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

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

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

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

(j) This section does not apply to any board if a specific statutory provision in

1 that board's licensing act provides for recovery of costs in an administrative
disciplinary proceeding.

2 **FACTUAL ALLEGATIONS**

3 12. On or about March 28, 2021, officers with the San Luis Obispo Police Department
4 observed a vehicle driving the wrong way on a one-way street, at a high rate of speed. Officers
5 also observed the vehicle run through stop signs. Officers began pursuing the vehicle but soon
6 lost sight of the vehicle. The vehicle was eventually located parked.

7 13. Officers approached the vehicle and found two passengers inside, but the driver's seat
8 was empty. The passengers indicated that the driver, later identified as Respondent, parked the
9 car and fled on foot. Soon thereafter, Respondent returned to the scene and indicated that he was
10 the driver of the vehicle. Respondent denied drinking any alcohol before, during, or after driving.
11 Officers detected of the odor of alcohol emitting from Respondent's person and noticed that
12 Respondent's eyes were watery and unfocused, his speech was slurred, and his gait was unsteady
13 as he walked.

14 14. Officers administered a series of Field Sobriety Tests (FSTs), to which Respondent
15 performed poorly and failed to follow instructions. Officers attempted to retrieve Respondent's
16 blood alcohol concentration, by using a Preliminary Alcohol Screen device, but Respondent
17 avoided blowing into the machine and stated that he did not want to provide a sample.

18 15. Respondent was placed under arrest and a non-consensual blood draw warrant was
19 obtained. Respondent was transported to French Hospital for the blood draw. Respondent
20 continually pulled away from the staff trying to draw his blood. Officers admonished
21 Respondent's behavior, but he repeatedly pulled the needle out of his arm and hand, flailed his
22 arms, and yelled. The hospital staff tried three times to obtain Respondent's blood but was
23 unable to do so.

24 16. Respondent was transported to the jail, where he began crying and made threats
25 against himself. Officers placed Respondent in a padded safety cell.

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1 17. On or about July 12, 2021, in the case of *The People of the State of California vs.*
2 *John Nathaniel Alvarez*, Superior Court of California for the County of San Luis Obispo, case
3 number 21M-04572, Respondent was charged with driving under the influence of alcohol, in
4 violation of Vehicle Code section 23152, subdivision (a), a misdemeanor. Respondent was also
5 charged with obstruction and resisting a public officer, in violation of Penal Code section 148,
6 subdivision (a)(1), a misdemeanor.

7 18. On or about March 7, 2022, Respondent pled no contest to driving under the
8 influence, in violation of Vehicle Code section 23152, subdivision (a). The other count was
9 dropped as a result of the plea agreement. The parties agreed to stipulate to a blood alcohol
10 concentration of .08%.

11 19. Respondent was sentenced on March 7, 2022, to three years' supervised probation
12 and a two-day jail sentence. Respondent was also ordered to complete a three-month alcohol
13 education program and ordered to pay fines and court fees.

14 **FIRST CAUSE FOR DISCIPLINE**

15 **(Conviction of a Crime)**

16 20. Respondent John Nathaniel Alvarez, M.D. is subject to disciplinary action under
17 Code sections 2236 and 490, and the California Code of Regulations, title 16, section 1360 in that
18 he was convicted of a crime substantially related to the qualifications, functions, or duties of a
19 physician or surgeon, as more particularly alleged in paragraphs 12 through 19 above, which are
20 hereby incorporated by reference as if fully set forth herein.

21 **SECOND CAUSE FOR DISCIPLINE**

22 **(Use of Alcohol in a Dangerous Manner)**

23 21. Respondent John Nathaniel Alvarez, M.D. is subject to disciplinary action under
24 Code section 2239 insofar as Respondent used alcoholic beverages to the extent, or in such a
25 manner, as to be dangerous or injurious to himself and to the public, as more particularly alleged
26 in paragraphs 12 through 19, above, which are incorporated herein by reference as if fully set
27 forth.

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1 THIRD CAUSE FOR DISCIPLINE

2 (Unprofessional Conduct)

3 22. Respondent John Nathaniel Alvarez, M.D. is subject to disciplinary action under
4 Code section 2234 in that he engaged in unprofessional conduct. The circumstances are as
5 follows:

6 23. The allegations in the First and Second Causes for Discipline are incorporated herein
7 by reference as if fully set forth.

8 PRAYER

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

- 11 1. Revoking or suspending Physician's and Surgeon's Certificate Number A 155288,
12 issued to Respondent John Nathaniel Alvarez, M.D.;
- 13 2. Revoking, suspending or denying approval of Respondent John Nathaniel Alvarez,
14 M.D.'s authority to supervise physician assistants and advanced practice nurses;
- 15 3. Ordering Respondent John Nathaniel Alvarez, M.D., to pay the Board the costs of the
16 investigation and enforcement of this case, and if placed on probation, the costs of probation
17 monitoring; and
- 18 4. Taking such other and further action as deemed necessary and proper.

19
20 DATED: MAR 03 2023



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

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