

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
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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. 800-2021-079244

13 **LUIS ENRIQUE GONZALEZ, M.D.**
11301 Wilshire Blvd.
14 Bldg. 500, Room 6429D
Los Angeles, CA 90073

A C C U S A T I O N

15 **Physician's and Surgeon's Certificate**
16 **No. A 166700,**

17 Respondent.
18
19

20 **PARTIES**

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

24 2. On or about November 18, 2019, the Medical Board issued Physician's and Surgeon's
25 Certificate Number A 166700 to Luis Enrique Gonzalez, M.D. (Respondent). The Physician's
26 and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought
27 herein and will expire on November 30, 2023, unless renewed.

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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 5. Section 2234 of the Code, states:

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

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

(b) Gross negligence.

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

(1) An initial negligent diagnosis followed by an act or omission medically

1 appropriate for that negligent diagnosis of the patient shall constitute a single
negligent act.

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

5 (d) Incompetence.

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

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

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

11 6. Section 2236 of the Code states:

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

15 (b) The district attorney, city attorney, or other prosecuting agency shall notify
16 the Medical Board of the pendency of an action against a licensee charging a felony
or misdemeanor immediately upon obtaining information that the defendant is a
17 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
18 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.

19 (c) The clerk of the court in which a licensee is convicted of a crime shall,
20 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
21 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
22 duties of a physician and surgeon.

23 (d) A plea or verdict of guilty or a conviction after a plea of nolo contendere is
24 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.

25 7. Section 2239 of the Code states:

26 (a) The use or prescribing for or administering to himself or herself, of any
27 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
28 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

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

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

15 8. Section 490 of the Code states:

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

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

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

32 (d) The Legislature hereby finds and declares that the application of this section
33 has been made unclear by the holding in *Petropoulos v. Department of Real Estate*
34 (2006) 142 Cal.App.4th 554, and that the holding in that case has placed a significant
35 number of statutes and regulations in question, resulting in potential harm to the
36 consumers of California from licensees who have been convicted of crimes.
37 Therefore, the Legislature finds and declares that this section establishes an
38 independent basis for a board to impose discipline upon a licensee, and that the
39 amendments to this section made by Chapter 33 of the Statutes of 2008 do not
40 constitute a change to, but rather are declaratory of, existing law.

41 REGULATORY PROVISIONS

42 9. California Code of Regulations, title 16, section 1360, states:

43 For the purposes of denial, suspension or revocation of a license, certificate or
44 permit pursuant to Division 1.5 (commencing with Section 475) of the code, a crime
45 or act shall be considered to be substantially related to the qualifications, functions or

1 duties of a person holding a license, certificate or permit under the Medical Practice
2 Act if to a substantial degree it evidences present or potential unfitness of a person
3 holding a license, certificate or permit to perform the functions authorized by the
4 license, certificate or permit in a manner consistent with the public health, safety or
5 welfare.¹ Such crimes or acts shall include but not be limited to the following:
6 Violating or attempting to violate, directly or indirectly, or assisting in or abetting the
7 violation of, or conspiring to violate any provision of the Medical Practice Act.

8 COST RECOVERY

9 10. Section 125.3 of the Code states:

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

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

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

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

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

(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
reinstatement 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

¹ *Griffiths v. Superior Court* (2002) 11 Cal.App.5th 305, holds that convictions involving alcohol consumption have a logical connection or substantial relationship to a physician's fitness to practice medicine.

1 licensee who demonstrates financial hardship and who enters into a formal agreement
2 with the board to reimburse the board within that one-year period for the unpaid
3 costs.

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

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

9 (j) This section does not apply to any board if a specific statutory provision in
10 that board's licensing act provides for recovery of costs in an administrative
11 disciplinary proceeding.

12 FACTUAL ALLEGATIONS

13 11. On or about June 24, 2021, California Highway Patrol officers were dispatched to the
14 scene of a traffic collision with property damage. Upon arrival, an officer made contact with
15 Respondent who admitted to driving and owning the vehicle involved in the collision.
16 Respondent indicated that he was driving and suddenly lost control of the vehicle and hit the
17 concrete divider.

18 12. During the interview, the officer detected the odor of alcohol emitting from
19 Respondent's breath and person, and noticed that Respondent's eyes were red and watery. The
20 officer asked Respondent if he had consumed alcoholic beverages or drugs and Respondent stated
21 that he had one White Claw drink.

22 13. Subsequently, the officer asked Respondent additional questions and asked
23 Respondent to participate in Field Sobriety Tests (FSTs). Respondent completed several FSTs, in
24 which he performed poorly. Additionally, Respondent submitted to a chemical breath test and it
25 was determined that his blood alcohol concentration was .187% and .190%. Consequently,
26 Respondent was arrested for driving under the influence of alcohol, resulting in a collision, in
27 violation of Vehicle Code section 23152, subdivision (a).

28 14. On or about September 17, 2021, in the case of *The People of the State of California*
vs. Luis Enrique Gonzalez, Superior Court of California for the County of Los Angeles, case
number 1MN02510, Respondent was charged with driving a vehicle while being under the
influence of an alcoholic beverage, in violation of Vehicle Code section 23152, subdivision (a), a
misdemeanor. Respondent was also charged with driving a vehicle with 0.08 percent or more

1 blood alcohol content, in violation of Vehicle Code section 23152, subdivision (b), a
2 misdemeanor.

3 15. On or about December 16, 2021, Respondent pled no contest and was convicted of
4 driving under the influence while having a 0.08% or more blood alcohol, in violation of Vehicle
5 Code section 23152, subdivision (b). The first count of the complaint was dismissed.

6 16. Respondent was sentenced to 36 months of probation and ordered to complete a
7 three-month alcohol education program and the Mothers Against Drunk Driving (MADD) Victim
8 Impact Program. Respondent was also ordered to pay a fine or, in the alternative, serve two days
9 in jail, and pay additional fines and fees.

10 **FIRST CAUSE FOR DISCIPLINE**

11 **(Conviction of a Crime)**

12 17. Respondent is subject to disciplinary action under Code sections 2236 and 490, and
13 the California Code of Regulations, title 16, section 1360 in that he was convicted of a crime
14 substantially related to the qualifications, functions, or duties of a physician or surgeon, as more
15 particularly alleged in paragraphs 11 through 16, above, which are hereby incorporated by
16 reference as if fully set forth herein.

17 **SECOND CAUSE FOR DISCIPLINE**

18 **(Dangerous Use of Drugs or Alcohol)**

19 18. Respondent is subject to disciplinary action under Code section 2239 insofar as
20 Respondent used alcoholic beverages to the extent, or in such a manner, as to be dangerous or
21 injurious to himself and to the public, as more particularly alleged in paragraphs 11 through 16,
22 above, which are incorporated herein by reference as if fully set forth.

23 **THIRD CAUSE FOR DISCIPLINE**

24 **(Unprofessional Conduct)**

25 19. Respondent is subject to disciplinary action under Code section 2234 in that he
26 engaged in unprofessional conduct. The circumstances are as follows:

27 20. The allegations in the First and Second Causes for Discipline are incorporated herein
28 by reference as if fully set forth.

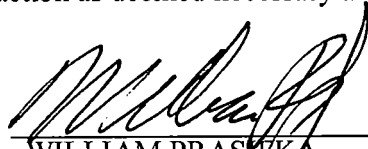
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PRAYER

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 A 166700, issued to Luis Enrique Gonzalez, M.D.;
2. Revoking, suspending or denying approval of Luis Enrique Gonzalez, M.D.'s authority to supervise physician assistants and advanced practice nurses;
3. Ordering Luis Enrique Gonzalez, 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: MAY 25 2022



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

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