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

11 In the Matter of the Accusation Against:

Case No. 800-2021-083872

12 **JONATHAN JUDE WHITFIELD, M.D.**
13 **16055 Ventura Blvd, Suite 601**
Encino, CA 91436-2618

A C C U S A T I O N

14 **Physician's and Surgeon's Certificate**
15 **No. A 67730,**

Respondent.

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17 **PARTIES**

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

21 2. On or about March 5, 1999, the Board issued Physician's and Surgeon's Certificate
22 Number A 67730 to Jonathan Jude Whitfield, M.D. (Respondent). The Physician's and Surgeon's
23 Certificate was in full force and effect at all times relevant to the charges brought herein and will
24 expire on March 31, 2025, unless renewed.

25 **JURISDICTION**

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

1 4. Section 2004 of the Code states:

2 The board shall have the responsibility for the following:

3 (a) The enforcement of the disciplinary and criminal provisions of the Medical
4 Practice Act.

5 (b) The administration and hearing of disciplinary actions.

6 (c) Carrying out disciplinary actions appropriate to findings made by a panel or
7 an administrative law judge.

8 (d) Suspending, revoking, or otherwise limiting certificates after the conclusion
9 of disciplinary actions.

10 (e) Reviewing the quality of medical practice carried out by physician and
11 surgeon certificate holders under the jurisdiction of the board.

12 (f) Approving undergraduate and graduate medical education programs.

13 (g) Approving clinical clerkship and special programs and hospitals for the
14 programs in subdivision (f).

15 (h) Issuing licenses and certificates under the board's jurisdiction.

16 (i) Administering the board's continuing medical education program.

17 5. Section 2220 of the Code states:

18 Except as otherwise provided by law, the board may take action against all
19 persons guilty of violating this chapter. The board shall enforce and administer this
20 article as to physician and surgeon certificate holders, including those who hold
21 certificates that do not permit them to practice medicine, such as, but not limited to,
22 retired, inactive, or disabled status certificate holders, and the board shall have all the
23 powers granted in this chapter for these purposes including, but not limited to:

24 (a) Investigating complaints from the public, from other licensees, from health
25 care facilities, or from the board that a physician and surgeon may be guilty of
26 unprofessional conduct. The board shall investigate the circumstances underlying a
27 report received pursuant to Section 805 or 805.01 within 30 days to determine if an
28 interim suspension order or temporary restraining order should be issued. The board
29 shall otherwise provide timely disposition of the reports received pursuant to Section
30 805 and Section 805.01.

31 (b) Investigating the circumstances of practice of any physician and surgeon
32 where there have been any judgments, settlements, or arbitration awards requiring the
33 physician and surgeon or his or her professional liability insurer to pay an amount in
34 damages in excess of a cumulative total of thirty thousand dollars (\$30,000) with
35 respect to any claim that injury or damage was proximately caused by the physician's
36 and surgeon's error, negligence, or omission.

37 (c) Investigating the nature and causes of injuries from cases which shall be
38 reported of a high number of judgments, settlements, or arbitration awards against a
39 physician and surgeon.

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

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

11 10. Section 2239 of the Code states:

12 (a) The use or prescribing for or administering to himself or herself, of any
13 controlled substance; or the use of any of the dangerous drugs specified in Section
14 4022, or of alcoholic beverages, to the extent, or in such a manner as to be dangerous
15 or injurious to the licensee, or to any other person or to the public, or to the extent that
16 such use impairs the ability of the licensee to practice medicine safely or more than
17 one misdemeanor or any felony involving the use, consumption, or
18 self-administration of any of the substances referred to in this section, or any
19 combination thereof, constitutes unprofessional conduct. The record of the
20 conviction is conclusive evidence of such unprofessional conduct.

21 (b) A plea or verdict of guilty or a conviction following a plea of nolo
22 contendere is deemed to be a conviction within the meaning of this section. The
23 Medical Board may order discipline of the licensee in accordance with Section 2227
24 or the Medical Board may order the denial of the license when the time for appeal has
25 elapsed or the judgment of conviction has been affirmed on appeal or when an order
26 granting probation is made suspending imposition of sentence, irrespective of a
27 subsequent order under the provisions of Section 1203.4 of the Penal Code allowing
28 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.

11. Section 490 of the Code states:

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

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

(c) A conviction within the meaning of this section means a plea or verdict of
guilty or a conviction following a plea of nolo contendere. Any action that a board is
permitted to take following the establishment of a conviction may be taken when the
time for appeal has elapsed, or the judgment of conviction has been affirmed on

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1 appeal, or when an order granting probation is made suspending the imposition of
2 sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of
3 the Penal Code.

4 (d) The Legislature hereby finds and declares that the application of this section
5 has been made unclear by the holding in *Petropoulos v. Department of Real Estate*
6 (2006) 142 Cal.App.4th 554, and that the holding in that case has placed a significant
7 number of statutes and regulations in question, resulting in potential harm to the
8 consumers of California from licensees who have been convicted of crimes.
9 Therefore, the Legislature finds and declares that this section establishes an
10 independent basis for a board to impose discipline upon a licensee, and that the
11 amendments to this section made by Chapter 33 of the Statutes of 2008 do not
12 constitute a change to, but rather are declaratory of, existing law.

13 12. Section 493 of the Code states:

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

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

- 24 (A) The nature and gravity of the offense.
- 25 (B) The number of years elapsed since the date of the offense.
- 26 (C) The nature and duties of the profession.

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

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

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

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

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

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1 **REGULATORY PROVISIONS**

2 13. California Code of Regulations, title 16, section 1360, states:

3 (a) For the purposes of denial, suspension or revocation of a license pursuant to
4 Section 141 or Division 1.5 (commencing with Section 475) of the code, a crime,
5 professional misconduct, or act shall be considered to be substantially related to the
6 qualifications, functions or duties of a person holding a license if to a substantial
7 degree it evidences present or potential unfitness of a person holding a license to
8 perform the functions authorized by the license in a manner consistent with the public
9 health, safety or welfare. Such crimes, professional misconduct, or acts shall include
10 but not be limited to the following: Violating or attempting to violate, directly or
11 indirectly, or assisting in or abetting the violation of, or conspiring to violate any
12 provision of state or federal law governing the applicant's or licensee's professional
13 practice.

9 (b) In making the substantial relationship determination required under subdivision (a) for a
10 crime, the board shall consider the following criteria:

- 11 (1) The nature and gravity of the crime;
- 12 (2) The number of years elapsed since the date of the crime; and
- 13 (3) The nature and duties of the profession.

14 **COST RECOVERY**

15 14. Section 125.3 of the Code states:

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

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

21 (c) A certified copy of the actual costs, or a good faith estimate of costs where
22 actual costs are not available, signed by the entity bringing the proceeding or its
23 designated representative shall be prima facie evidence of reasonable costs of
24 investigation and prosecution of the case. The costs shall include the amount of
25 investigative and enforcement costs up to the date of the hearing, including, but not
26 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).

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

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

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

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

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

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

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

15 **FIRST CAUSE FOR DISCIPLINE**

16 **(Conviction of a Substantially Related Crime)**

17 15. Respondent Jonathan Jude Whitfield, M.D. is subject to disciplinary action under
18 sections 490, 493, 2234, and 2236 of the Code, in that Respondent was convicted of a crime
19 substantially related to the qualifications, functions, or duties of a physician. The circumstances
20 are as follows:

21 16. On or about November 27, 2021, at approximately 1515 hours, Respondent was
22 involved in a motor vehicle accident while under the influence of alcohol, resulting in bodily
23 harm to the other driver. Officers from the Los Angeles Police Department (LAPD) responded to
24 the scene and arrested Respondent for violation of Vehicle Code section 23153, subdivision (a),
25 driving under the influence of alcohol. At the LAPD Metro Detention Center, Respondent
26 performed two breath tests revealing a blood alcohol content of 0.26 at 1844 and 0.263 at 1848.
27 Respondent was booked on November 27, 2021, and released on November 28, 2021.

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1 3. Ordering Jonathan Jude Whitfield, M.D., to pay the Board the costs of the
2 investigation and enforcement of this case, and if placed on probation, the costs of probation
3 monitoring; and

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

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6 DATED: **AUG 30 2023**

Jenna Jones on behalf of
REJI VARGHESE
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant

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