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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:  
12 **Daniel Mark Gordon, M.D.**  
13 **3780 Rosin Ct, Suite 110**  
14 **Sacramento, CA 95834**  
15 **Physician's and Surgeon's Certificate**  
16 **No. G42749,**  
17 Respondent.

Case No. 03-2013-230678

**A C C U S A T I O N**

18 Complainant alleges:

19 **PARTIES**

20 1. Kimberly Kirchmeyer ("Complainant") brings this Accusation solely in her official  
21 capacity as the Executive Director of the Medical Board of California, Department of Consumer  
22 Affairs ("Board").

23 2. On or about July 23, 1980, the Medical Board issued Physician's and Surgeon's  
24 Certificate Number G42749 to Daniel Mark Gordon, M.D. ("Respondent"). The Physician's and  
25 Surgeon's Certificate was in full force and effect at all times relevant to the charges brought  
26 herein and will expire on June 30, 2016, 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 unless otherwise indicated.

4 4. Section 2220 of the Code states:

5 “Except as otherwise provided by law, the board may take action against all persons guilty  
6 of violating this chapter [Chapter 5, the Medical Practice Act]. The board shall enforce and  
7 administer this article as to physician and surgeon certificate holders, including those who hold  
8 certificates that do not permit them to practice medicine, such as, but not limited to, retired,  
9 inactive, or disabled status certificate holders, and the board shall have all the powers granted in  
10 this chapter for these purposes... .”

11 5. Section 2234 of the Code, states:

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

15 “... ”

16 “(h) The repeated failure by a certificate holder, in the absence of good cause, to attend and  
17 participate in an interview by the board. This subdivision shall only apply to a certificate holder  
18 who is the subject of an investigation by the board.”

19 6. Section 2237 of the Code states:

20 “(a) The conviction of a charge of violating any federal statutes or regulations or any  
21 statute or regulation of this state, regulating dangerous drugs or controlled substances, constitutes  
22 unprofessional conduct. The record of the conviction is conclusive evidence of such  
23 unprofessional conduct. A plea or verdict of guilty or a conviction following a plea of nolo  
24 contendere is deemed to be a conviction within the meaning of this section.

25 “(b) Discipline may be ordered in accordance with Section 2227 or the Division of  
26 Licensing may order the denial of the license when the time for appeal has elapsed, or the  
27 judgment of conviction has been affirmed on appeal, or when an order granting probation is made  
28 suspending the imposition of sentence, irrespective of a subsequent order under the provisions of

1 Section 1203.4 of the Penal Code allowing such person to withdraw his or her plea of guilty and  
2 to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation,  
3 complaint, information, or indictment.”

4 7. Section 2238 of the Code states:

5 “A violation of any federal statute or federal regulation or any of the statutes or regulations  
6 of this state regulating dangerous drugs or controlled substances constitutes unprofessional  
7 conduct.”

8 8. Section 2239 of the Code states:

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

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

26 9. Section 2228 of the Code states:

27 “The authority of the board or the California Board of Podiatric Medicine to discipline a  
28 licensee by placing him or her on probation includes, but is not limited to, the following:



1 section 23152(a) [driving under the influence], a misdemeanor. The circumstances are as  
2 follows:

3 12. On or about September 3, 2012, Respondent was involved in a traffic collision. San  
4 Luis Obispo Police Officers (“officers”) reported to the scene of the collision. Upon questioning  
5 Respondent, he admitted that he took his eyes off the road, left the roadway, drove up onto the  
6 sidewalk, and collided with a fire hydrant. The officers observed Respondent’s objective signs of  
7 intoxication and administered the standard field sobriety tests, which Respondent failed.  
8 Respondent was then placed under arrest for driving under the influence. Respondent submitted  
9 to a blood draw, which tested positive for benzodiazepines<sup>1</sup> and opiates<sup>2</sup>, as well as alprazolam.<sup>3</sup>

10 13. On October 1, 2012, in a case filed in San Luis Obispo Superior Court entitled *The*  
11 *People of the State of California v. Daniel Mark Gordon*, case number M480306, Respondent  
12 was charged with violating VC section 23152(a).

13 14. On February 14, 2013, Respondent was convicted by plea of no contest of violating  
14 VC section 23152(a). He was sentenced as follows: three years probation, two days jail time,  
15 three month first offenders drinking drivers program, and \$2,383.00 in fines.

16 **SECOND CAUSE FOR DISCIPLINE**

17 **Dangerous Use of Drugs and/or Self-Prescribing)**

18 15. Paragraphs 11 through 14 are incorporated herein.

19 16. Respondent Daniel Mark Gordon, M.D. is subject to disciplinary action under Code  
20 section 2239 [dangerous use of drugs and/or self-prescribing], in that on February 14, 2013 he  
21 was convicted by plea of no contest of violating VC section 23152(a) for driving under the  
22

23 \_\_\_\_\_  
24 <sup>1</sup> Benzodiazepines are a class of psychoactive drugs known as tranquilizers, a dangerous  
25 drug as designated by the Business and Professions Code section 4022, and a Schedule IV  
26 controlled substance as designated by Health and Safety Code section 11057, subdivision (d).

27 <sup>2</sup> Opiates are a controlled substance as designated by the Business and Professions Code  
28 section 4021, and a Schedule I controlled substance as designated by Health and Safety Code  
section 11054, subdivision (b).

<sup>3</sup> Alprazolam, marketed under the trade name Xanax, is a dangerous drug as designated by  
the Business and Professions Code section 4022, and a Schedule IV controlled substance as  
designated by Health and Safety Code section 11057, subdivision (d)(1).

1 influence and/or because he has engaged in the self-prescribing of controlled substances. The  
2 circumstances are as follows:

3 17. On March 11, 2013, the Board commenced its investigation into this matter. During  
4 the investigation, a Controlled Substance Utilization Review and Evaluation System (“CURES”)  
5 Report was obtained, which indicated that Respondent had self-prescribed and filled prescriptions  
6 for suboxone,<sup>4</sup> lorazepam,<sup>5</sup> and buprenorphine hydrochloride.<sup>6</sup>

7 18. On January 9, 2014, a Morro Bay Drug & Gift patient pharmacy profile was obtained,  
8 which indicated that Respondent had self-prescribed and filled prescriptions for benzodiazepine,  
9 lorazepam, haloperidol,<sup>7</sup> suboxone and buprenorphine.

### 10 **THIRD CAUSE FOR DISCIPLINE**

#### 11 **(Failure to Participate in an Investigative Interview)**

12 19. Respondent Daniel Mark Gordon, M.D. is subject to disciplinary action under Code  
13 section 2234(h), in that he failed to participate in a Board interview absent a showing of good  
14 cause. The circumstances are as follows:

15 20. On or about September 16, 2013, September 18, 2013, and November 4, 2013, the  
16 Board submitted written requests to interview Respondent. Respondent failed to comply.

17 21. On or about December 9, 2013, the Board submitted a written request to interview  
18 Respondent on December 23, 2013. Respondent and his counsel appeared at the December 23,  
19 2013 interview; however, Respondent refused to answer any questions related to his drug and  
20 alcohol use or any arrests preceding his September 3, 2012 arrest, pleading the Fifth Amendment,  
21 despite the fact that the events in question had already resulted in a conviction and were outside

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22 <sup>4</sup> Suboxone, a trade name for Buprenorphine and naloxone, is a dangerous drug as  
23 designated by Business and Professions Code section 4022, and a Schedule III controlled  
substance as defined by Health and Safety Code section 11056.

24 <sup>5</sup> Lorazepam, marketed under the trade name Ativan, is a dangerous drug as defined in  
section 4022 and a Schedule IV controlled substance as defined by Health and Safety Code  
25 section 11057.

26 <sup>6</sup> Buprenorphine hydrochloride, marketed under the trade name Buprenex, is a dangerous  
drug as defined in Business and Professions Code section 4022, and a Schedule V controlled  
substance and narcotic as defined by Health and Safety Code section 11058.

27 <sup>7</sup> Haloperidol, marketed under the trade name Haldol, is a major tranquilizer used for the  
28 management of manifestations of psychotic disorders. It is a dangerous drug within the meaning  
of Business and Professions Code section 4022.


1 of the statute of limitations for criminal action. Respondent and his counsel were advised that a  
2 failure to comply with the interview process could result in additional causes for discipline.

3 **PRAYER**

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

- 6 1. Revoking or suspending Physician's and Surgeon's Certificate Number G42749,  
7 issued to Daniel Mark Gordon, M.D.;
- 8 2. Revoking, suspending or denying approval of Daniel Mark Gordon, M.D.'s authority  
9 to supervise physician assistants, pursuant to section 3527 of the Code;
- 10 3. Ordering Daniel Mark Gordon, M.D., if placed on probation, to pay the Board the  
11 costs of probation monitoring; and
- 12 4. Taking such other and further action as deemed necessary and proper.

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15  
16 DATED: June 30, 2015

  
17 KIMBERLY KIRCHMEYER  
18 Executive Director  
19 Medical Board of California  
20 Department of Consumer Affairs  
21 State of California  
22 *Complainant*

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