

1 XAVIER BECERRA
Attorney General of California
2 ROBERT MCKIM BELL
Supervising Deputy Attorney General
3 CHRIS LEONG
Deputy Attorney General
4 State Bar No. 141079
California Department of Justice
5 300 So. Spring Street, Suite 1702
Los Angeles, CA 90013
6 Telephone: (213) 897-2575
Facsimile: (213) 897-9395
7 *Attorneys for Complainant*

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO September 20, 2017
BY *[Signature]* ANALYST

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

11 In the Matter of the First Amended Accusation
12 Against:

Case No. 800-2015-018616

13 **AKIKUR REZA MOHAMMAD, M.D.**
14 **7018 Elmsbury Lane**
West Hills, CA 91307

FIRST AMENDED ACCUSATION

15 **Physician's and Surgeon's Certificate**
16 **No. A 64769,**

Respondent.

17
18 Complainant alleges:

19 **PARTIES**

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

23 2. On or about April 3, 1998, the Medical Board issued Physician's and Surgeon's
24 Certificate Number A 64769 to Akikur Reza Mohammad, 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 August 31, 2019, unless renewed.

27 **JURISDICTION**

28 3. This First Amended Accusation is brought before the Medical Board of California

1 (Board), Department of Consumer Affairs, under the authority of the following laws. All section
2 references are to the Business and Professions Code unless otherwise indicated.

3 4. Section 802.1, of the Code provides as follows:

4 “(a)(1) A physician and surgeon, osteopathic physician and surgeon, a doctor of podiatric
5 medicine, and a physician assistant shall report either of the following to the entity that issued his
6 or her license:

7 “(A) The bringing of an indictment or information charging a felony against the licensee.

8 “(B) The conviction of the licensee, including any verdict of guilty, or plea of guilty or no
9 contest, of any felony or misdemeanor.

10 “(2) The report required by this subdivision shall be made in writing within 30 days of the
11 date of the bringing of the indictment or information or of the conviction.

12 “(b) Failure to make a report required by this section shall be a public offense punishable by
13 a fine not to exceed five thousand dollars (\$5,000).”

14 5. Section 2227 of the Code provides that a licensee who is found guilty under the
15 Medical Practice Act may have his or her license revoked, suspended for a period not to exceed
16 one year, placed on probation and required to pay the costs of probation monitoring, or such other
17 action taken in relation to discipline as the Board deems proper.

18 6. Section 2234 of the Code states:

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

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

24 “(b) Gross negligence.

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

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

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

7 “(d) Incompetence.

8 “(e) The commission of any act involving dishonesty or corruption which is substantially
9 related to the qualifications, functions, or duties of a physician and surgeon.

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

11 “(g) The practice of medicine from this state into another state or country without meeting
12 the legal requirements of that state or country for the practice of medicine. Section 2314 shall not
13 apply to this subdivision. This subdivision shall become operative upon the implementation of
14 the proposed registration program described in Section 2052.5.

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

18 7. Section 2236 of the Code states:

19 “(a) The conviction of any offense substantially related to the qualifications, functions, or
20 duties of a physician and surgeon constitutes unprofessional conduct within the meaning of this
21 chapter. The record 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 the
24 Division of Medical Quality^[1] of the pendency of an action against a licensee charging a felony
25 or misdemeanor immediately upon obtaining information that the defendant is a licensee. The
26 notice shall identify the licensee and describe the crimes charged and the facts alleged. The

27 _____
28 ¹ Pursuant to Business and Professions Code section 2002, “Division of Medical Quality”
or “Division” shall be deemed to refer to the Medical Board of California.

1 prosecuting agency shall also notify the clerk of the court in which the action is pending that the
2 defendant is a licensee, and the clerk shall record prominently in the file that the defendant holds
3 a license as a physician and surgeon.

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

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

12 8. Section 2239 of the Code states:

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

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

1 information, or indictment.”

2 9. Section 490 of the Code states, in pertinent part:

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

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

11 “. . .”

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

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

22 **FACTUAL ALLEGATIONS**

23 **Arrest and Conviction – October 19, 2015**

24 11. On or about July 12, 2012, Respondent was driving a 2001 Black Mercedes Benz
25 S550 in the area of Calabasas Road and the 101 Freeway at approximately 1:21 a.m. Los Angeles
26 County Sheriff’s Deputy W. observed Respondent turn left (eastbound) onto Calabasas Road and
27 then rapidly accelerate. Deputy W. followed the vehicle as it turned left (northbound) onto
28 Valley Circle Boulevard and then it again rapidly accelerated to 71 m.p.h. in a posted 40 m.p.h.

1 zone. Respondent's vehicle then swerved from the number 1 lane to the number 2 lane and
2 dangerously accelerated past a vehicle which was in lane number 1. Respondent continued to
3 accelerate. Deputy W. measured Respondent's vehicle speed at 78 m.p.h. in a posted 45 m.p.h.
4 zone.

5 12. Deputy W. conducted a traffic stop and noticed Respondent's eyes were red and
6 watery and his speech was slurred. Deputy W. smelled the odor of an alcoholic beverage
7 emanating from inside the vehicle. Deputy W. looked at Respondent's eyes and noticed they
8 displayed a pronounced horizontal gaze nystagmus and a lack of smooth pursuit. Respondent
9 agreed and attempted to perform field sobriety tests (FSTs), but he could not perform them.
10 Respondent agreed to and submitted to preliminary alcohol screening (PAS) testing: the results
11 were .147% at 1:53 a.m., .164% at 1:57 a.m., and .158% at 2:00 a.m. Respondent was
12 transported to Los Robles Hospital where he submitted to a blood draw. The result of the blood
13 draw showed a Blood Alcohol Content of .17%. Respondent was placed under arrest for
14 violations of Vehicle Code section 23152, subdivision (a), (driving a vehicle while being under
15 the influence of an alcoholic beverage), and Vehicle Code section 23154, subdivision (a)
16 (probationer with a BAC of .01% or greater).

17 13. On or about August 14, 2012, in Los Angeles Superior Court in case number
18 MB01716, entitled *People v. Akikur Reza Mohammad*, Respondent was charged with two
19 misdemeanor counts of 1) violation of Vehicle Code section 23152, subdivision (a), (driving a
20 vehicle while being under the influence of an alcoholic beverage), and 2) violation of Vehicle
21 Code section 23152, subdivision (b) (driving a vehicle with .08 percent or more of alcohol in his
22 blood).

23 14. On or about October 19, 2015, Respondent pled nolo contendere to a misdemeanor
24 violation of Vehicle Code section 23103 (alcohol related reckless driving). Respondent was
25 sentenced to two (2) years of informal probation, with terms and conditions, including, among
26 other things, successfully complete an 18 month second offender alcohol and other drug
27 education and counseling program, and fines in the amount of \$2,445.00.

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1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Dangerous Use of Alcohol)**

3 15. Respondent is subject to disciplinary action under section 2239 of the Code, in that he
4 used alcoholic beverages to the extent, or in such a manner as to be dangerous or injurious to
5 himself, or to any other person or to the public. The circumstances are as follows:

6 16. The allegations in paragraphs 11 through 14, inclusive, above are incorporated herein
7 by reference as if fully set forth.

8 **SECOND CAUSE FOR DISCIPLINE**

9 **(Conviction of Substantially Related Crimes)**

10 17. Respondent is subject to disciplinary action under sections 2236 and 490, of the
11 Code, in that he was convicted of offenses substantially related to the qualifications, functions, or
12 duties of a physician. The circumstances are as follows:

13 18. The allegations in paragraphs 11 through 14, inclusive, are incorporated herein by
14 reference as if fully set forth.

15 **THIRD CAUSE FOR DISCIPLINE**

16 **(General Unprofessional Conduct)**

17 19. Respondent is subject to disciplinary action under section 2234 of the Code,
18 generally, in that he committed unprofessional conduct. The circumstances are as follows:

19 20. The allegations of the set forth in paragraphs 11 through 18, inclusive, above are
20 incorporated herein by reference as if fully set forth.

21 **DISCIPLINARY CONSIDERATIONS**

22 21. On or about September 25, 2009, in Los Angeles Superior Court in case number
23 9VY04022, entitled *People v. Akikur Reza Mohammad*, Respondent was charged with two
24 misdemeanor counts of: 1) violation of Vehicle Code section 23152, subdivision (a), (driving a
25 vehicle while being under the influence of an alcoholic beverage), and 2) violation of Vehicle
26 Code section 23152, subdivision (b) (driving a vehicle with .08 percent or more of alcohol in his
27 blood). On or about May 17, 2010, Respondent pled nolo contendere to Count 2, a violation of
28 Vehicle Code section 23152, subdivision (b) (driving a vehicle with .08 percent or more of

1 alcohol in his blood).

2 **PRAYER**

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


5 1. Revoking or suspending Physician's and Surgeon's Certificate Number A 64769,
6 issued to Akikur Reza Mohammad, M.D.;

7 2. Revoking, suspending or denying approval of Akikur Reza Mohammad, M.D.'s
8 authority to supervise physician assistants and advanced practice nurses;

9 3. Ordering Akikur Reza Mohammad, M.D., if placed on probation, to pay the Board
10 the costs of probation monitoring; and

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

12
13 DATED: September 20, 2017


14 KIMBERLY KIRCHMEYER
15 Executive Director
16 Medical Board of California
17 Department of Consumer Affairs
18 State of California
19 Complainant

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