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

13 In the Matter of the Accusation Against:

Case No. 800-2022-092720

14 **Wojciech Zolcik, M.D.**  
2635 East Cedar Avenue  
15 Denver, CO 80209-3205

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

16 **Physician's and Surgeon's Certificate**  
No. C 146992,

17 Respondent.

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19  
20  
21 **PARTIES**

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

25 2. On January 12, 2017, the Medical Board issued Physician's and Surgeon's Certificate  
26 Number C 146992 to Wojciech Zolcik, M.D. (Respondent). The Physician's and Surgeon's  
27 Certificate was in full force and effect at all times relevant to the charges brought herein and will  
28 expire on April 30, 2024, unless renewed.

**JURISDICTION**

1  
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 provides that a licensee who is found guilty under the  
6 Medical Practice Act may have his or her license revoked, suspended for a period not to exceed  
7 one year, placed on probation and required to pay the costs of probation monitoring, or such other  
8 action taken in relation to discipline as the Board deems proper.

9           5.    Section 2234 of the Code, states:

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

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

15                   “...”

16           6.    Section 2236 of the Code states:

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

22                   “...”

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.  
25 The record of conviction shall be conclusive evidence of the fact that the conviction  
26 occurred.

27           7.    Section 2239 of the Code states:

28                   (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  
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  
one misdemeanor or any felony involving the use, consumption, or  
self-administration of any of the substances referred to in this section, or any  
combination thereof, constitutes unprofessional conduct. The record of the  
conviction is conclusive evidence of such unprofessional conduct.

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

11 8. California Code of Regulations, title 16, section 1360, states:

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

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

- 25 (1) The nature and gravity of the crime;  
26 (2) The number of years elapsed since the date of the crime; and  
27 (3) The nature and duties of the profession.

### 28 COST RECOVERY

9. Section 125.3 of the Code provides, in pertinent part, that the Board may request the  
administrative law judge to direct a licensee found to have committed a violation or violations of  
the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
enforcement of the case, with failure of the licensee to comply subjecting the license to not being  
renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be  
included in a stipulated settlement.

### FACTUAL ALLEGATIONS

10. On June 28, 2022, in the case entitled the *People of the State of Colorado v. Zolcik,*  
*Wojciech*, case number 2022T 000178, in the District Court of Colorado, Clear Creek County,  
Respondent pleaded guilty and was convicted of a single misdemeanor count of the crime of

1 driving under the influence in violation of Colorado Revised Statutes § 42-4-1301(2)(a)<sup>1</sup> [driving  
2 under the influence per se].

3 11. The conviction followed Respondent's drunk driving arrest on April 17, 2022, when a  
4 peace officer found Respondent driving a pick-up truck that was missing one tire, in the  
5 mountains near Denver. Respondent denied to the officer that he had been drinking, but the  
6 officer found an open bottle of vodka in Respondent's truck; and Respondent failed to  
7 successfully complete field sobriety tests. Respondent ultimately took an evidentiary breath test  
8 that showed he had a .269% blood alcohol content.

9 12. By Respondent's own account, he had been drinking the night before and the morning  
10 of April 17, when he drank several shots of alcohol while eating brunch. After drinking alcohol,  
11 Respondent decided to drive home to Denver, and was arrested at approximately 3:00 p.m.

12 13. After his DUI conviction, Respondent admitted himself for a comprehensive  
13 assessment by a professional addiction treatment facility. The psychiatric evaluation included  
14 Respondent's medical history; in which he reported a prior history of problem drinking in around  
15 2017.

#### 16 **FIRST CAUSE FOR DISCIPLINE**

##### 17 **(Dangerous Use of Alcohol/Unprofessional Conduct)**

18 14. By reason of the facts set forth in paragraphs 10 through 13 above, Respondent is  
19 subject to disciplinary action under Code sections 2234, subdivision (a) [unprofessional conduct]  
20 and/or 2239 [dangerous use of alcoholic beverages], in that Respondent used alcoholic beverages  
21 to such an extent, or in a manner, as to be dangerous to himself, others, and the public.

#### 22 **SECOND CAUSE FOR DISCIPLINE**

##### 23 **(Criminal Conviction)**

24 15. By reason of the facts set forth in paragraphs 10 through 13 above, Respondent is  
25 subject to disciplinary action under Code section 2236, subdivision (a) [conviction of offense  
26 related to qualification, function, or duties], and/or California Code of Regulations, title 16,

27 <sup>1</sup> Colorado Revised Statutes § 42-4-1301(2)(a) states, in part: "A person who drives a  
28 motor vehicle or vehicle when the person's BAC is 0.08 or more at the time of driving or within  
two hours after driving commits DUI per se."

1 section 1360 [substantial relationship criteria] in that he was convicted of driving while under the  
2 influence of alcohol on June 28, 2022, in Case No. 2022T 000178, in the District Court of  
3 Colorado, Clear Creek County.

4 **PRAYER**

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

- 7 1. Revoking or suspending Physician's and Surgeon's Certificate Number C 146992,  
8 issued to Wojciech Zolcik, M.D.;
- 9 2. Revoking, suspending or denying approval of Wojciech Zolcik, M.D.'s authority to  
10 supervise physician assistants and advanced practice nurses;
- 11 3. Ordering Wojciech Zolcik, M.D., to pay the Board the costs of the investigation and  
12 enforcement of this case, and if placed on probation, to pay the costs of probation monitoring; and
- 13 5. Taking such other and further action as deemed necessary and proper.

14  
15 DATED:           **MAY 22 2023**          

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

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