In the Matter of the Accusation Against:

Steven Wayne Schick, M.D.
21 Skygate
Aliso Viejo, CA 92656-1820

Physician’s and Surgeon’s Certificate
No. G 59024,

Respondent.

Complainant alleges:

PARTIES

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

2. On or about October 27, 1986, the Medical Board issued Physician’s and Surgeon’s Certificate Number G 59024 to Steven Wayne Schick, M.D. (Respondent). The Physician’s and Surgeon’s Certificate was in full force and effect at all times relevant to the charges brought

(STEVEN WAYNE SCHICK, M.D.) ACCUSATION NO. 800-2016-027944
herein and will expire on April 30, 2020, unless renewed.

**JURISDICTION**

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

4. Section 2227 of the Code states:

   "(a) A licensee whose matter has been heard by an administrative law judge of the Medical Quality Hearing Panel as designated in Section 11371 of the Government Code, or whose default has been entered, and who is found guilty, or who has entered into a stipulation for disciplinary action with the board, may, in accordance with the provisions of this chapter:

   "(1) Have his or her license revoked upon order of the board.

   "(2) Have his or her right to practice suspended for a period not to exceed one year upon order of the board.

   "(3) Be placed on probation and be required to pay the costs of probation monitoring upon order of the board.

   "(4) Be publicly reprimanded by the board. The public reprimand may include a requirement that the licensee complete relevant educational courses approved by the board.

   "(5) Have any other action taken in relation to discipline as part of an order of probation, as the board or an administrative law judge may deem proper.

   "(b) Any matter heard pursuant to subdivision (a), except for warning letters, medical review or advisory conferences, professional competency examinations, continuing education activities, and cost reimbursement associated therewith that are agreed to with the board and successfully completed by the licensee, or other matters made confidential or privileged by existing law, is deemed public, and shall be made available to the public by the board pursuant to Section 803.1."

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5. Section 2234 of the Code, states, in pertinent part:

"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.
"...

6. Unprofessional conduct under Business and Professions Code section 2234 is conduct
which breaches the rules or ethical code of the medical profession, or conduct which is
unbecoming a member in good standing of the medical profession, and which demonstrates an
unfitness to practice medicine. (Shea v. Board of Medical Examiners (1978) 81 Cal.App.3d 564, 575.)

7. Section 2236 of the Code states, in pertinent part:

"(a) The conviction of any offense substantially related to the qualifications,
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
of conviction shall be conclusive evidence only of the fact that the conviction
occurred.
"...

"(d) A plea or verdict of guilty or a conviction after a plea of nolo contendere
is 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."
8. Section 2239 of the Code states:

“(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.

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

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1 California Business and Professions Code section 2002, as amended and effective January 1, 2008, provides that, unless otherwise expressly provided, the term “board” as used in the State Medical Practice Act (Cal. Bus. & Prof. Code, sections 2000, et seq.) mean the “Medical Board of California,” and references to the “Division of Medical Quality” and “Division of Licensing” in the Act or any other provision of law shall be deemed to refer to the Board.

2 There is a nexus between a physician’s use of alcoholic beverages and his or her fitness to practice medicine, established by the Legislature in section 2239, “in all cases where a licensed physician used alcoholic beverages to the extent or in such a manner as to pose a danger to himself or others.” (Watson v. Superior Court (Medical Board) (2009) 176 Cal.App.4th 1407, 1411.)
9. California Code of Regulations, title 16, section 1360, states:

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

   **FIRST CAUSE FOR DISCIPLINE**

   **(Conviction of a Crime Substantially Related to the Qualifications, Functions, or Duties of a Physician and Surgeon)**

10. Respondent has subjected his Physician’s and Surgeon’s Certificate No. G 59024 to disciplinary action under sections 2227 and 2234, as defined by section 2236, subdivision (a), of the Code, in that he has been convicted of a crime substantially related to the qualifications, functions, or duties of a physician and surgeon, as more particularly alleged hereinafter:

11. On or about September 26, 2016, Deputies from Orange County Sheriff’s Department (deputies) were dispatched to the area of Aliso Creek and Westwing, in Orange County, California, for a traffic collision investigation.

12. Upon arrival, the deputies contacted Respondent, the driver at fault for the traffic collision. Upon contact with Respondent, the deputies smelled a strong odor of alcoholic beverage emanating from the Respondent. The deputies observed that Respondent’s eyes were bloodshot and watery and that Respondent’s speech was slurred. Respondent told the deputies that the collision was Respondent’s fault and that he drank “five” low ball glasses of vodka/grapefruit cocktail earlier that day. Respondent was traveling eastbound on Westwing and was approaching the intersection with Aliso Creek to make a right turn and instead of stepping on the brake pedal in
order to slow down, Respondent stepped on the accelerator. Respondent remembers colliding into
the white truck and ending up stopped against the curb.

13. Witness S. stated that he was traveling northbound Aliso Creek and was preparing to
make a left turn at the intersection with Westwing. As the left turn arrow changed to green, he
approached the intersection and saw Respondent’s car (Hummer) to his left entering the intersection
and not stopping. Respondent’s car was out of control, came across to opposite traffic, made an
abrupt u-turn and collided into another vehicle (Chevy), causing it to spin around. Witness S.
luckily came to an abrupt stop and avoided being in the path of Respondent’s car as it passed by
his car.

14. Witness J. stated that he was traveling northbound on Aliso Creek to make a right turn
onto Westwing. As he approached the intersection, the traffic light facing him turned green and he
saw Respondent’s car coming straight at him. At that point, Witness J. sped up and Respondent’s
car just missed clipping his truck. As he made a right turn onto Westwing, Witness J. looked back
and saw Respondent’s car swerve back and collide into the passenger side of Chevy.

15. Witness T. stated that she was stopped in the #2 lane of southbound Aliso Creek at the
intersection with Westwing. When the light turned green, Witness T. hesitated and looked to her
right and saw Respondent’s car entering the intersection, out of control, then over-correct back into
the Chevy.

16. The deputies observed that as a result of this collision, the Chevy sustained moderate
damage to the entire right truck bed. The Hummer (car Respondent was driving) sustained
moderate damage to the right front fender and the right front wheel assembly was worn off as a
result of this collision.

17. Due to the fact that Respondent had surgery to his left hip about eight months ago and
uses a walker to stand, the deputies were unable to administer Field Sobriety Tests. Respondent
agreed to perform a Preliminary Alcohol Screening (PAS) test to assist the deputies in their
evaluation of Respondent’s level of sobriety. The results of the PAS test showed 0.294% Blood
Alcohol Concentration (BAC) and 0.294% BAC. The deputies arrested Respondent for driving
under the influence of alcohol. After the arrest, Respondent provided a blood sample which was
sent to Orange County Crime Lab for testing. The blood sample showed that Respondent’s blood alcohol concentration was 0.257 % BAC.

18. On or about September 28, 2016, the Orange County District Attorney filed a criminal complaint against Respondent in the matter of The People of the State of California v. Steven Wayne Schick, Superior Court Case No. 16HM11175. Count one charged Respondent with driving under the influence of alcohol with one prior, in violation of Vehicle Code section 23152, subdivision (a), a misdemeanor. Count two charged Respondent with driving with blood alcohol .08% or more with one prior, in violation of Vehicle Code section 23152, subdivision (b), a misdemeanor. Count three charged Respondent with unsafe turning movement, in violation of Vehicle Code section 22107, an infraction. As to counts 1 and 2 it was further alleged that Respondent had a blood alcohol concentration of .20 percent or more, by weight, in violation of Vehicle Code section 23538(b)(2). In addition, as to counts 1 and 2, it was further alleged that on or about May 12, 2008, Respondent was convicted of violating Vehicle Code Section 23152 (a), driving under the influence of alcohol, a misdemeanor, case number 08HM04558, in the Superior Court of the State of California, in and for the County of Orange.

19. On or about September 26, 2016, Respondent was convicted upon his guilty plea to counts 1, 2, and 3 and admitted all of the other allegations. After his plea, Respondent was given a five (5) year informal probation, with terms and conditions including, but not limited to, 120 days in jail with 90 days stayed on the condition Respondent participates in 120 days in Cornerstone in-patient program and 90 days in an out-patient program, 18-month multiple offender alcohol program, and various fines and fees.

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(STEVEN WAYNE SCHICK, M.D.) ACCUSATION NO. 800-2016-927944
SECOND CAUSE FOR DISCIPLINE
(Use of Alcohol to the Extent, or in a Manner, as to be Dangerous to Respondent, Another Person, or the Public)

20. Respondent has further subjected his Physician’s and Surgeon’s Certificate No. G 59024 to disciplinary action under sections 2227 and 2234, as defined by section 2239, subdivision (a), of the Code, in that he used alcohol, to the extent, or in such a manner as to be dangerous or injurious to respondent, another person or the public, as more particularly alleged in paragraphs 10 through 19, above, which are hereby incorporated by reference and realleged as if fully set forth herein.

THIRD CAUSE FOR DISCIPLINE
(General Unprofessional Conduct)

21. Respondent has further subjected his Physician’s and Surgeon’s Certificate No. G 59024 to disciplinary action under sections 2227 and 2234, as defined by section 2234, of the Code, in that he has engaged in conduct which breaches the rules or ethical code of the medical profession, or conduct which is unbecoming a member in good standing of the medical profession, and which demonstrates an unfitness to practice medicine, as more particularly alleged in paragraphs 10 through 20, above, which are hereby incorporated by reference and realleged as if fully set forth herein.

FACTORS IN AGGRAVATION

22. Respondent has at least one additional criminal conviction related to driving under the influence of alcohol:

23. On or about May 12, 2008, in the case entitled People of the State of California v. Steven Wayne Schick, Superior Court of California, County of Orange, Case No. 08HM04558, Respondent was convicted of one misdemeanor violation of California Vehicle Code section 23152(a), driving under the influence of alcohol.

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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 G 59024, issued to Steven Wayne Schick, M.D.;

2. Revoking, suspending or denying approval of Steven Wayne Schick, M.D.’s authority to supervise physician assistants and advanced practice nurses;

3. Ordering Steven Wayne Schick, M.D., if placed on probation, to pay the Board the costs of probation monitoring; and

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

DATED: November 15, 2018

KIMBERLY KIRCHMEYER
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant