

**BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation)	
Against:)	
)	
NAGA RAJA THOTA, M.D.)	Case No. 8002015018418
)	
Physician's and Surgeon's)	
Certificate No. A 53526)	
)	
Respondent)	
_____)	

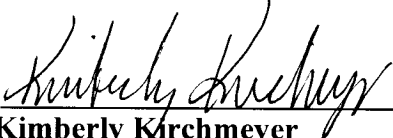
DECISION AND ORDER

The attached Stipulated Surrender of License and Order is hereby adopted as the Decision and Order of the Medical Board of California, Department of Consumer Affairs, State of California.

This Decision shall become effective at 5:00 p.m. on March 22, 2017.

IT IS SO ORDERED March 15, 2017.

MEDICAL BOARD OF CALIFORNIA

By: 
Kimberly Kirchmeyer
Executive Director

1 XAVIER BECERRA
Attorney General of California
2 MATTHEW M. DAVIS
Supervising Deputy Attorney General
3 MARTIN W. HAGAN
Deputy Attorney General
4 State Bar No. 155553
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8 *Attorneys for Complainant*

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

13 In the Matter of the Accusation Against:

Case No. 800-2015-018418

14 **NAGA RAJA THOTA, M.D.**
2732 Navajo Road
15 El Cajon, CA 92020

**STIPULATED SURRENDER OF
LICENSE AND ORDER**

16 **Physician's and Surgeon's Certificate**
17 **No. A53526**

18 Respondent.

19 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
20 entitled proceedings that the following matters are true:

21 **PARTIES**

22 1. Kimberly Kirchmeyer (Complainant) is the Executive Director of the Medical Board
23 of California (Board). She brought this action solely in her official capacity and is represented in
24 this matter by Xavier Becerra, Attorney General of the State of California, by Martin W. Hagan,
25 Deputy Attorney General.

26 2. Naga Raja Thota, M.D. (respondent) is represented in this proceeding by Robert W.
27 Frank, Esq., whose address is Neil, Dymott, Frank, McFall & Trexler, APLC, 1010 Second Ave.,
28 Ste. 2500, San Diego CA 92101.

1 applicable laws.

2 8. Having the benefit of counsel, respondent hereby voluntarily, knowingly and
3 intelligently waives and gives up each and every right set forth above.

4 **CULPABILITY**

5 9. Respondent admits the complete truth and accuracy of all of the allegations in
6 paragraph 32 in Accusation No. 800-2015-018418, and that his guilty plea in the criminal matter
7 as to Counts 1-7 was accepted by the Court on December 27, 2016, and, further, does not contest
8 that, at an administrative hearing, complainant could establish a prima facie case with respect to
9 all of the remaining charges and allegations in Accusation No. 800-2015-018418, a true and
10 correct copy of which is attached hereto as Exhibit "A" and incorporated by reference as if fully
11 set forth herein. Respondent further admits that he has thereby subjected his Physician's and
12 Surgeon's Certificate No. A53526 to disciplinary action and hereby surrenders his Physician's
13 and Surgeon's Certificate No. A53526 for the Board's formal acceptance.

14 10. The admissions made by respondent in paragraph 9, above, are solely for the purposes
15 of this Stipulated Surrender and Disciplinary Order and shall not be used in any other criminal or
16 civil proceeding.

17 11. Respondent agrees that his Physician's and Surgeon's Certificate No. A53526 is
18 subject to discipline and he agrees to be bound by the Board's imposition of discipline as set forth
19 in the Disciplinary Order below.

20 12. Respondent further agrees that if he ever petitions for reinstatement of his Physician's
21 and Surgeon's Certificate No. A53526, or petitions to revoke probation or if an accusation is ever
22 filed against him before the Medical Board of California, all of the charges and allegations
23 contained in Accusation No. 800-2015-018418 shall be deemed true, correct, and fully admitted
24 by respondent for purposes of any such proceeding or any other licensing proceeding involving
25 respondent in the State of California or elsewhere.

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13. Respondent understands that by signing this stipulation he enables the Executive Director of the Board to issue an order, on behalf of the Board, accepting the surrender of his Physician's and Surgeon's Certificate No. A53526 without further notice to, or opportunity to be heard by, respondent.

CONTINGENCY

14. Business and Professions Code section 2224, subdivision (b), provides, in pertinent part, that the Medical Board "shall delegate to its executive director the authority to adopt a . . . stipulation for surrender of a license."

15. This Stipulated Surrender of License and Disciplinary Order shall be subject to approval of the Executive Director on behalf of the Medical Board. The parties agree that this Stipulated Surrender of License and Disciplinary Order shall be submitted to the Executive Director for her consideration in the above-entitled matter and, further, that the Executive Director shall have a reasonable period of time in which to consider and act on this Stipulated Surrender of License and Disciplinary Order after receiving it. By signing this stipulation, respondent fully understands and agrees that he may not withdraw his agreement or seek to rescind this stipulation prior to the time the Executive Director, on behalf of the Medical Board, considers and acts upon it.

16. The parties agree that this Stipulated Surrender of License and Disciplinary Order shall be null and void and not binding upon the parties unless approved and adopted by the Executive Director on behalf of the Board, except for this paragraph, which shall remain in full force and effect. Respondent fully understands and agrees that in deciding whether or not to approve and adopt this Stipulated Surrender of License and Disciplinary Order, the Executive Director and/or the Board may receive oral and written communications from its staff and/or the Attorney General's Office. Communications pursuant to this paragraph shall not disqualify the Executive Director, the Board, any member thereof, and/or any other person from future participation in this or any other matter affecting or involving respondent. In the event that the Executive Director on behalf of the Board does not, in her discretion, approve and adopt this

1 Stipulated Surrender of License and Disciplinary Order, with the exception of this paragraph, it
2 shall not become effective, shall be of no evidentiary value whatsoever, and shall not be relied
3 upon or introduced in any disciplinary action by either party hereto. Respondent further agrees
4 that should this Stipulated Surrender of License and Disciplinary Order be rejected for any reason
5 by the Executive Director on behalf of the Board, respondent will assert no claim that the
6 Executive Director, the Board, or any member thereof, was prejudiced by its/his/her review,
7 discussion and/or consideration of this Stipulated Surrender of License and Disciplinary Order or
8 of any matter or matters related hereto.

9 **ADDITIONAL PROVISIONS**

10 17. This Stipulated Surrender of License and Disciplinary Order is intended by the parties
11 herein to be an integrated writing representing the complete, final and exclusive embodiment of
12 the agreements of the parties in the above-entitled matter.

13 18. The parties agree that copies of this Stipulated Surrender of License and Disciplinary
14 Order, including copies of the signatures of the parties, may be used in lieu of original documents
15 and signatures and, further, that such copies shall have the same force and effect as originals.

16 19. In consideration of the foregoing admissions and stipulations, the parties agree the
17 Executive Director of the Medical Board may, without further notice to or opportunity to be heard
18 by respondent, issue and enter the following Disciplinary Order on behalf of the Board:

19 **ORDER**

20 IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. A53526, issued
21 to respondent Naga Raja Thota, M.D., is surrendered and accepted by the Medical Board of
22 California.

23 1. The surrender of respondent's Physician's and Surgeon's Certificate No. A53526 and
24 the acceptance of the surrendered license by the Board shall constitute the imposition of
25 discipline against respondent. This stipulation constitutes a record of the discipline and shall
26 become a part of respondent's license history with the Medical Board of California.

27 2. Respondent shall lose all rights and privileges as a Physician and Surgeon in
28 California as of the effective date of the Board's Decision and Order.

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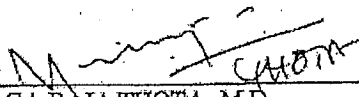
3. Respondent shall cause to be delivered to the Board his pocket license and, if one was issued, his wall certificate on or before the effective date of the Decision and Order.

4. If Respondent ever files an application for licensure or a petition for reinstatement in the State of California, the Board shall treat it as a petition for reinstatement. Respondent must comply with all the laws, regulations and procedures for reinstatement of a revoked license in effect at the time the petition is filed, and all of the charges and allegations contained in Accusation No. 800-2015-018418 shall be deemed to be true, correct and admitted by respondent when the Board determines whether to grant or deny the petition.

5. If respondent should ever apply or reapply for a new license or certification, or petition for reinstatement of a license, by any other health care licensing agency in the State of California, all of the charges and allegations contained in Accusation No. 800-2015-018418 shall be deemed to be true, correct, and admitted by respondent for the purpose of any Statement of Issues or any other proceeding seeking to deny or restrict licensure.

ACCEPTANCE

I have carefully read the above Stipulated Surrender of License and Disciplinary Order and have fully discussed it with my attorney Robert W. Frank, Esq. I understand the stipulation and the effect it will have on my Physician's and Surgeon's Certificate No. A53526. I enter into this Stipulated Surrender of License and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Disciplinary Order of the Medical Board of California.

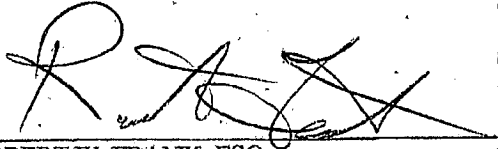
DATED: Feb 14th 2017 
NAGA RAJA THOTA, M.D.
Respondent

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I have read and fully discussed with respondent Naga Raja Thota, M.D., the terms and conditions and other matters contained in this Stipulated Surrender of License and Disciplinary Order. I approve its form and content.

DATED: 2-14-17



ROBERT W. FRANK, ESQ.
Attorney for respondent

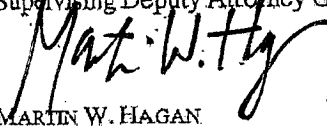
ENDORSEMENT

The foregoing Stipulated Surrender of License and Disciplinary Order is hereby respectfully submitted for consideration by the Medical Board of California of the Department of Consumer Affairs.

Dated: 2-15-17

Respectfully submitted,

XAVIER BECERRA
Attorney General of California
MATTHEW M. DAVIS
Supervising Deputy Attorney General



MARTIN W. HAGAN
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 800-2015-018418

1 KATHLEEN A. KENEALY
Acting Attorney General of California
2 MATTHEW M. DAVIS
Supervising Deputy Attorney General
3 MARTIN W. HAGAN
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8 *Attorneys for Complainant*

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO January 31 20 17
BY R. Firdaus ANALYST

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

13 In the Matter of the Accusation Against:

Case No. 800-2015-018418

14 **Naga Raja Thota, M.D.**
15 **2732 Navajo Road**
El Cajon, CA 92020

ACCUSATION

16 **Physician's and Surgeon's Certificate**
17 **No. A 53526,**

18 Respondent.

19 Complainant alleges:

20 **PARTIES**

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

24 2. On or about September 14, 1994, the Medical Board issued Physician's and Surgeon's
25 Certificate Number A 53526 to Naga Raja Thota, M.D. (Respondent). The Physician's and
26 Surgeon's Certificate was in full force and effect at all times relevant to the charges brought
27 herein and will expire on August 31, 2018, unless renewed.

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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 unless otherwise indicated.

4 4. Section 2227 of the Code provides that a licensee who is found guilty under
5 the Medical Practice Act may have his or her license revoked, suspended for a
6 period not to exceed one year, placed on probation and required to pay the costs of
7 probation monitoring, be publicly reprimanded which may include a requirement
8 that the licensee complete relevant educational courses, or have such other action
9 taken in relation to discipline as the Board deems proper.

10 5. Section 725 of the Code states:

11 “(a) Repeated acts of clearly excessive prescribing, furnishing, dispensing, or
12 administering of drugs or treatment, repeated acts of clearly excessive use of
13 diagnostic procedures, or repeated acts of clearly excessive use of diagnostic or
14 treatment facilities as determined by the standard of the community of licensees is
15 unprofessional conduct for a physician and surgeon, dentist, podiatrist,
16 psychologist, physical therapist, chiropractor, optometrist, speech-language
17 pathologist, or audiologist.

18 “(b) Any person who engages in repeated acts of clearly excessive
19 prescribing or administering of drugs or treatment is guilty of a misdemeanor and
20 shall be punished by a fine of not less than one hundred dollars (\$100) nor more
21 than six hundred dollars (\$600), or by imprisonment for a term of not less than 60
22 days nor more than 180 days, or by both that fine and imprisonment.

23 “(c) A practitioner who has a medical basis for prescribing, furnishing,
24 dispensing, or administering dangerous drugs or prescription controlled substances
25 shall not be subject to disciplinary action or prosecution under this section.

26 “(d) No physician and surgeon shall be subject to disciplinary action
27 pursuant to this section for treating intractable pain in compliance with Section
28 2241.5.”

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6. Section 726 of the Code states:
“(a) The commission of any act of sexual abuse, misconduct, or relations with a patient, client, or customer constitutes unprofessional conduct and grounds for disciplinary action for any person licensed under this division or under any initiative act referred to in this division.

“(b) This section shall not apply to consensual sexual contact between a licensee and his or her spouse or person in an equivalent domestic relationship when that licensee provides medical treatment, other than psychotherapeutic treatment, to his or her spouse or person in an equivalent domestic relationship.”

7. Section 729 of the Code states:

“(a) Any physician and surgeon, psychotherapist, alcohol and drug abuse counselor or any person holding himself or herself out to be a physician and surgeon, psychotherapist, or alcohol and drug abuse counselor, who engages in an act of sexual intercourse, sodomy, oral copulation, or sexual contact with a patient or client, or with a former patient or client when the relationship was terminated primarily for the purpose of engaging in those acts, unless the physician and surgeon, psychotherapist, or alcohol and drug abuse counselor has referred the patient or client to an independent and objective physician and surgeon, psychotherapist, or alcohol and drug abuse counselor recommended by a third-party physician and surgeon, psychotherapist, or alcohol and drug abuse counselor for treatment, is guilty of sexual exploitation by a physician and surgeon, psychotherapist, or alcohol and drug abuse counselor.

“...”

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1 8. Section 2234 of the Code, states:

2 "The board shall take action against any licensee who is charged with
3 unprofessional conduct.¹ In addition to other provisions of this article,
4 unprofessional conduct includes, but is not limited to, the following:

5 "(a) Violating or attempting to violate, directly or indirectly, assisting in or
6 abetting the violation of, or conspiring to violate any provision of this chapter.

7 "(b) Gross negligence.

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

12 "(1) An initial negligent diagnosis followed by an act or omission medically
13 appropriate for that negligent diagnosis of the patient shall constitute a single
14 negligent act.

15 "(2) When the standard of care requires a change in the diagnosis, act, or
16 omission that constitutes the negligent act described in paragraph (1), including,
17 but not limited to, a reevaluation of the diagnosis or a change in treatment, and the
18 licensee's conduct departs from the applicable standard of care, each departure
19 constitutes a separate and distinct breach of the standard of care.

20 "(d) Incompetence.

21 "(e) The commission of any act involving dishonesty or corruption which is
22 substantially related to the qualifications, functions, or duties of a physician and
23 surgeon.

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26 ¹ Unprofessional conduct has been defined as conduct which breaches the rules or ethical
27 code of the medical profession, or conduct which is unbecoming a member in good standing of
28 the medical profession, and which demonstrates an unfitness to practice medicine. (*Shea v.*
Board of Medical Examiners (1978) 81 Cal.App.3d 654.)

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

3 “ . . . ”

4 9. Section 2236 of the Code states:

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

10 “(b) The district attorney, city attorney, or other prosecuting agency shall notify
11 the Medical Board of the pendency of an action against a licensee charging a
12 felony or misdemeanor immediately upon obtaining information that the defendant
13 is a licensee. The notice shall identify the licensee and describe the crimes charged
14 and the facts alleged. The prosecuting agency shall also notify the clerk of the
15 court in which the action is pending that the defendant is a licensee, and the clerk
16 shall record prominently in the file that the defendant holds a license as a physician
17 and surgeon.

18 “(c) The clerk of the court in which a licensee is convicted of a crime shall, within
19 48 hours after the conviction, transmit a certified copy of the record of conviction
20 to the board. The division may inquire into the circumstances surrounding the
21 commission of a crime in order to fix the degree of discipline or to determine if the
22 conviction is of an offense substantially related to the qualifications, functions, or
23 duties of a physician and surgeon.

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

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10. Section 2238 of the Code states:

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

11. Section 2241 of the Code states:

“(a) A physician and surgeon may prescribe, dispense, or administer prescription drugs, including prescription controlled substances, to an addict under his or her treatment for a purpose other than maintenance on, or detoxification from, prescription drugs or controlled substances.

“(b) A physician and surgeon may prescribe, dispense, or administer prescription drugs or prescription controlled substances to an addict for purposes of maintenance on, or detoxification from, prescription drugs or controlled substances only as set forth in subdivision (c) or in Sections 11215, 11217, 11217.5, 11218, 11219, and 11220 of the Health and Safety Code. Nothing in this subdivision shall authorize a physician and surgeon to prescribe, dispense, or administer dangerous drugs or controlled substances to a person he or she knows or reasonably believes is using or will use the drugs or substances for a nonmedical purpose.

“...”

12. Section 2242 of the Code states:

“(a) Prescribing, dispensing, or furnishing dangerous drugs as defined in Section 4022 without an appropriate prior examination and a medical indication, constitutes unprofessional conduct.

“...”

13. Section 2261 of the Code states:

“Knowingly making or signing any certificate or other document directly or indirectly related to the practice of medicine or podiatry which falsely represents the existence or nonexistence of a state of facts, constitutes unprofessional conduct.”

1 14. Section 2266 of the Code states:

2 “The failure of a physician and surgeon to maintain adequate and accurate records
3 relating to the provision of services to their patients constitutes unprofessional
4 conduct.”

5 **FIRST CAUSE FOR DISCIPLINE**

6 **(Furnishing Dangerous Drugs Without Conducting an Appropriate**

7 **Prior Examination and a Medical Indication)**

8 15. Respondent is subject to disciplinary action under sections 2227 and 2234, as defined
9 by section 2242, of the Code, in that respondent prescribed dangerous drugs to patient J.S., J.S.’s
10 brother, J.S.’s father, patient L.E., and patient M.R. without an appropriate prior examination and
11 a medical indication, as more particularly alleged herein.

12 16. On or about December 2012, respondent had his first consultation with patient M.R.,
13 a then-20 year old female who had been admitted to the hospital after suffering a seizure related
14 to her abuse of controlled substances. A review of respondent’s prescribing history, as
15 documented through her Controlled Substances Utilization and Evaluation System (CURES)
16 report, indicated that she received a total of 3,952 pills during the period of December 18, 2012,
17 to February 20, 2014, which included prescriptions for methadone hydrochloride,² alprazolam,³
18 and Suboxone.

19 17. On or about February 6, 2013, respondent had his initial visit with patient J.S., a then-
20 25 year old female, who had been referred to respondent’s pain management clinic by another
21 physician for management of her alleged neck and right upper extremity pain. During the period
22 of March 1, 2013, to October 3, 2013, respondent had an additional ten (10) office visits with
23 respondent. A review of respondent’s prescribing history, as documented through a CURES

24 _____
25 ² Methadone (Dolophine Hydrochloride) is a Schedule II Controlled Substance under
Health and Safety Code section 11055(c) (14) and a dangerous drug under Code section 4022 (a).

26 ³ Alprazolam (Xanax) is a Schedule IV controlled substance pursuant to Health and Safety
27 Code section 11057, subdivision (d), and a dangerous drug pursuant to Business and Professions
Code section 4022. When properly prescribed and indicated, it is used for the treatment of
28 anxiety and panic attacks.

1 report for patient J.S., indicated that she received a total of 5,230 pills during the period of
2 February 6, 2013, to February 2, 2014, which included prescriptions for hydrocodone,⁴
3 oxycodone,⁵ methadone hydrochloride and alprazolam.

4 18. At some time in 2014, the United States Drug Enforcement Administration (DEA)
5 opened an investigation regarding respondent. The DEA opened its investigation after being
6 informed that respondent was having sex with one of his patients, patient J.S., and was writing
7 her prescriptions for controlled substances without any medical justification.

8 19. On or about December 6, 2014, patient J.S.'s brother was interviewed by the DEA
9 regarding three prescriptions that were written in his name by respondent as indicated on a
10 CURES report. Specifically, a prescription for hydrocodone/APAP 10/325 mg (#150) filled on
11 March 11, 2013; a prescription for oxycodone HCL 15 mg (#180) filled on April 1, 2013; and
12 another prescription for oxycodone HCL 30 mg (#120) filled on April 25, 2013. When
13 questioned, J.S.'s brother stated he was not respondent's patient and never received any of the
14 prescriptions.

15 20. On or about December 6, 2014, the DEA interview interviewed patient J.S.'s father
16 regarding two prescriptions that were written by respondent in his name. Specifically, two
17 prescriptions for hydrocodone/APAP 10/325 mg (#150) filled on March 9, 2013, and March 19,
18 2013. When questioned, patient J.S.'s father stated he wasn't aware of the prescriptions and he
19 was not respondent's patient. Patient J.S.'s father also stated he was aware his daughter had been

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21 ⁴ Hydrocodone bitartrate (Lorcet, Lortab, Vicodin, Vicoprofen, Tussionex and Norco) is a
22 hydrocodone combination of hydrocodone bitartrate and acetaminophen which is a Schedule III
23 controlled substance pursuant to Health and Safety Code section 11056, subdivision (e), and a
24 dangerous drug pursuant to Business and Professions Code section 4022. When properly
25 prescribed and indicated, it is used for the treatment of moderate to severe pain.

26 ⁵ Oxycodone hydrochloride (Oxycodone, Oxycontin, Roxicodone) is a Schedule II
27 controlled substance pursuant to Health and Safety Code section 11055, subdivision (b), and a
28 dangerous drug pursuant to Business and Professions Code section 4022. When properly
prescribed and indicated, it is used for the treatment of moderate to severe pain. Oxycodone has
been identified as a drug of abuse by the DEA. According to the DEA, "Oxycodone is abused
orally or intravenously. The tablets are crushed and sniffed or dissolved in water and injected.
Others heat a tablet that has been placed on a piece of foil and inhale the vapors...Euphoria and
feelings of relaxation are the most common effects of oxycodone on the brain, which explains its
high potential for abuse." (Drugs of Abuse – A DEA Resource Guide (2011), at p. 41.)

1 romantically involved with respondent and his daughter admitted that respondent was providing
2 her with "pills."

3 21. On or about December 9, 2014, patient J.S. was interviewed by the DEA regarding
4 the nature of her relationship with respondent. Among other things, patient J.S. advised the DEA
5 that during her initial consultation with respondent on February 6, 2013, respondent was "super
6 friendly," "flirty," and "kinda unprofessional." During the course of her initial consultation,
7 respondent asked patient J.S. about her nipple rings and commented that he would be really
8 excited if his girlfriend had nipple rings.⁶ At the end of the initial visit, respondent wrote patient
9 J.S. a prescription for hydrocodone. According to patient J.S., three days later, respondent called
10 her, told her it was a personal call, and then asked if she had a date for Valentine's Day. Patient
11 J.S. told the DEA that this was the beginning of her intimate relationship with respondent, which
12 became sexual, and thereafter they began communicating regularly through telephone calls and
13 text messages.⁷ Patient J.S. informed the DEA that shortly after respondent became her
14 physician, he switched her from hydrocodone to oxycodone 15 milligrams (mg) and then
15 increased the oxycodone to 30 mg without advising her of the increase. Patient J.S. stated she
16 liked how she felt when taking the oxycodone and became addicted to the oxycodone. According
17 to patient J.S., after she became addicted to the oxycodone 30 mg, she would ask for early refills.
18 In order to avoid possible detection associated with early refills, patient J.S. requested that
19 respondent write her prescriptions in the name of her father, brother and friend, L.E., that would
20 be used to divert additional controlled substances to her. Thereafter, respondent wrote her some
21

22
23 ⁶ Respondent's electronic medical record for his initial visit with patient J.S. on February
24 6, 2013, indicated "[t]he patient was multiple piercings" with respondent recommending
25 "[r]emoval of the [n]ipple piercing" because "I think these piercing[s] may be responsible for
26 lymph node enlargement and abscess formation."

27 ⁷ Respondent voluntarily appeared for an investigatory interview before the DEA and the
28 federal prosecutor assigned to his case on or about June 4, 2015, where he, among other things,
"volunteered that he had become emotionally and physically involved with J.S." Respondent
stated that he put J.S.'s cell phone on his phone plan, and then bought her a new cell phone when
her cell phone broke. According to the report of investigation. "THOTA admitted that he knew
his relationship with [patient J.S.] was inappropriate and crossed boundaries..."

1 prescriptions in the name of her father, brother, and her friend, L.E., without medical indication,
2 and with the knowledge that the controlled substances would be taken by J.S.

3 22. During the course of their investigation, the DEA reviewed J.S.'s cell phone which
4 contained numerous text message exchanges between respondent and J.S. The text message
5 exchanges between J.S. and respondent confirmed their sexual relationship, that respondent was
6 providing money and controlled substances to J.S., and that J.S. was, at times, struggling with
7 withdrawal symptoms.

8 23. On or about December 14, 2014, patient J.S.'s brother was interviewed by the DEA
9 regarding the prescriptions from respondent written in his name. According to J.S.'s brother, he
10 had no knowledge of the prescriptions. During a subsequent execution of a search warrant at
11 respondent's office, the DEA was unable to find a patient file for J.S.'s brother.

12 24. On or about November 20, 2015, the DEA received a phone call from M.B., the
13 mother of patient M.R., who reported she believed her daughter was involved in, or had been
14 involved in, a sexual relationship with respondent while he was prescribing her controlled
15 substances, and that respondent also gave her daughter expensive gifts. At a subsequent
16 interview with the DEA on December 14, 2015, M.B. told the DEA that respondent had first met
17 her daughter, who was then 20 years old, at a local hospital in December 2012, after she had a
18 seizure following her abuse of controlled substances. According to M.B., respondent commented
19 that patient M.R. was "going to be my next wife" when respondent first saw her daughter, M.R.,
20 at the hospital. The mother, M.B., thought the comment was odd and believed respondent was
21 just joking. A few days after her daughter was released from the hospital, respondent called
22 M.B.'s cell phone and told her that he was trying to reach M.R. to see how she was doing.
23 Respondent provided M.B. with his personal cell phone number and asked her to have M.R. give
24 him a call on his personal cell phone. M.B. advised the DEA that she was aware of at least two
25 occasions where respondent personally delivered prescriptions for controlled substances to her
26 daughter along with money to pay for the prescriptions; that respondent prescribed methadone to
27 her daughter even though she didn't have any pain issues; that respondent had provided her
28 daughter with money to make car payments, purchased her an Apple laptop, and other gifts; that

1 her other daughter (M.R.'s sister) had reported seeing sexually explicit text messages on her
2 daughter's cell phone; and that there were numerous times when M.R. did not come home for the
3 evening and later told her she had fallen asleep at respondent's medical office where she had
4 spent the night.

5 25. On or about January 6, 2016, the DEA interviewed patient M.R.'s sister. M.R.'s sister
6 confirmed many of the details that had been reported to the DEA by her mother, M.B. Among
7 other things, M.R.'s sister reported she and her sister started abusing hydrocodone in 2010. The
8 sister told the DEA that she stopped abusing opiates but her sister continued to abuse opiates and
9 would get prescriptions from respondent. M.R. told her sister that respondent prescribed her
10 methadone for alleged chronic pain, even though she had no pain issues, and respondent had
11 informed M.R. that it "could cause problems if it was not for pain and [M.R.] would be 'on a
12 list.'" The sister also informed the DEA of two occasions when respondent delivered
13 prescriptions to M.R. and provided her with money to purchase the controlled substances. The
14 sister further informed the DEA that respondent made car payments for M.R. and had also sent
15 her sexually explicit messages.

16 26. On or about January 6, 2016, the DEA interviewed L.E., one of patient J.S.'s friends,
17 and asked her about prescriptions for controlled substances in her name that were issued by
18 respondent. Specifically, one prescription for oxycodone/APAP 10/325 mg (#180) filled on April
19 3, 2013, and one prescription for oxycodone hydrochloride 30 mg (#240) filled on April 18, 2013.
20 L.E. advised the DEA, among other things, that she only had one appointment with respondent
21 but never received a prescription from respondent. L.E. told the DEA that J.S. said she was
22 romantically involved with respondent and she had received a prescription from respondent in
23 L.E.'s name.

24 27. On or about January 12, 2016, the DEA interviewed patient M.R. who indicated that
25 she first met respondent in a local hospital after she had suffered a seizure related to her
26 withdrawal from controlled substances. According to M.R., she wanted to get on a Suboxone⁸

27 ⁸ Suboxone (buprenorphine hydrochloride and naloxone hydrochloride) is clinically
28 indicated for maintenance treatment for opioid dependence and should be used as part of a

(continued...)

1 program to treat her addiction and to help with withdrawal symptoms. However, she did not have
2 health insurance, so respondent prescribed her methadone instead of the Suboxone because it was
3 cheaper. M.R. stated respondent told her that he would be documenting that the methadone was
4 for pain instead of addiction treatment so she would not be denied a job later if someone were to
5 review her medical records and see that she was an addict. M.R. indicated that she had no pain,
6 had never been in any accidents, and she had no serious medical problems which caused any pain.
7 M.R. also told the DEA, among other things, that respondent would provide her prescriptions for
8 methadone and provide her with money often in excess of the prescription costs, that she was
9 allowed to keep; that she would have lunch with respondent at a nearby Denny's restaurant and
10 that would be her 'consultation' for the controlled substances that she was being prescribed; she
11 was only seen in respondent's exam room on two occasions; and that there were several times
12 when she fell asleep in respondent's private office where she would spend the night. According to
13 M.R., when respondent would meet her in a parking lot to deliver her prescriptions for the
14 Methadone and Xanax prescriptions, she would give him "hand jobs" and they would also engage
15 in sexual acts in his private office.⁹ M.R. stated that respondent told her the sexual contact was
16 good for her and made statements such as "[t]his is good for you," "it's introducing you back into
17 the world," "[i]t's healthy for you," and "[e]veryone should be like sleeping with each other."
18 M.R. confirmed that respondent bought her expensive gifts including an Apple laptop computer,
19 and gave her a check for her car payment.¹⁰ M.R. further informed the DEA that she felt that if
20 she did not engage in the sexual acts with respondent, he would not provide her with the
21 prescriptions for controlled substances. According to M.R., she ended her relationship with

22 _____
23 (...continued)

complete treatment program to include counseling and psychosocial support. One of the active ingredients, buprenorphine, is a schedule III controlled substance.

24 ⁹ According to the DEA's investigative report, "[M.R.] estimated that she engaged in
25 sexual activity eight out of ten times when she received prescriptions from THOTA."

26 ¹⁰ According to the DEA's investigative report, M.R. informed them that "[Respondent]
27 also purchased expensive gifts for her such as an Apple MacBook, purchased via the credit card
28 at the Apple Store in Fashion Valley, diamond earrings, Burberry perfume, a Galaxy phone,
shopping sprees at Victoria's Secret, and Aeropostale, a check for \$675.00 to pay off her car loan
and a weekly card for \$50.00 at Starbucks."

1 respondent around the time he provided her with the \$675.00 check dated January 23, 2016, for a
2 "car payment," and when she was no longer getting prescriptions from respondent, she began
3 using heroin. M.R. provided one image from her cell phone of a check from respondent in the
4 amount of \$675.00 written to her with the memo line indicating "car payment" and two images of
5 her and respondent taken inside a restroom in respondent's office. According to the DEA's
6 investigative report, "[a] review of phone tolls previously obtained for [respondent's] cellular
7 phone identified 2460 contacts between [respondent's] cellular phone and [M.R.'s] cellular phone
8 number...between the dates of 02/01/2013 and 12/31/2013."

9 28. On or about June 21, 2016, DEA Special Agent T.H. prepared a report of
10 investigation which summarized her "[r]eview of Dr. Thota's medical records and prescription
11 records for [patient M.R.]" for the schedule II controlled substances that had been prescribed to
12 her." The Report of Investigation indicates, in pertinent part:

13 "[Special Agent T.H.] found 32 separate dates THOTA wrote prescriptions [for]
14 Methadone 10 mg tablets, a schedule II controlled substance to [patient M.R.] The
15 dates were obtained from [patient M.R.'s] CURES report and previously obtained
16 pharmacy records. In comparison, the medical file for [patient M.R.] obtained by
17 THOTA had 13 dates with office visit notes and indicated prescriptions for
18 prescriptions [for] Methadone schedule II prescriptions were written by THOTA for
19 [patient M.R.]. There were 4 copies of Methadone prescriptions in [patient M.R.'s]
20 name in the chart with the corresponding office notes. In addition, there were only 9
21 copies of the Methadone prescriptions written for [patient M.R.] in [her] chart.

22 "[Special Agent T.H.] reviewed the appointment schedule maintained by THOTA's
23 medical practice. The appointment schedule documents 5 appointments for [patient
24 M.R.] during the time period the 32 prescriptions for the schedule II controlled
25 substances were written by THOTA for [patient M.R.]."

26 29. On or about November 30, 2016, the DEA received an expert report from Dr. W.S.,
27 who was retained to offer his expert opinions regarding respondent's prescribing of controlled
28 substances to patient J.S. (which included the prescriptions for controlled substances written in
the name of J.S.'s brother, J.S.'s father, and patient L.E., which were diverted to patient J.M.)
After his expert review, Dr. W.S., found multiple violations of the standard of care pertaining to
the proper prescribing on controlled substances. Dr. W.S. subsequently wrote a supplemental
report in which he opined that the prescriptions, referenced above, and the prescriptions to patient

1 M.R. "were not for a legitimate medical purpose and were written outside the usual course of
2 medical practice."

3 30. On or about August 3, 2016, a seven-count criminal complaint was filed against
4 respondent in the United States District Court, Southern District of California, in the action
5 entitled *United States of America v. Naga Raja Thota*. The criminal complaint charged
6 respondent with seven counts of Distributing and Dispensing Controlled Substances Without
7 Legitimate Medical Purpose in violation of Title 21, United States Code (U.S.C.), Section 841,
8 subdivision (a)(1). The complaint generally alleged that respondent issued prescriptions to a
9 friend and/or relatives of patient J.S., that were diverted back to patient J.S.

10 31. The criminal complaint, above, included a supporting affidavit that from Drug
11 Enforcement Administration (DEA) Special Agent D.R. which set forth the results of the DEA's
12 investigation concerning respondent which resulted in the filing of the criminal complaint against
13 him. Among other things, the affidavit alleged that respondent was engaged in a sexual
14 relationship with his female patient J.S., and had improperly prescribed and/or diverted controlled
15 substances to her in 2013. According to the affidavit, during the period of March 5, 2013, to
16 April 30, 2013, respondent issued multiple prescriptions to patient J.S., and also issued
17 prescriptions in the name of her brother, her father, and her friend (L.E.)¹¹ that were, in truth and
18 fact, diverted back to J.S. for her own use. The total amount of controlled substances prescribed
19 during this period was approximately 1,460 tablets of oxycodone and 660 tablets of hydrocodone.
20 The affidavit accompanying the criminal complaint also alleged that respondent had numerous
21 cell phone communications with another female patient, patient D.H., during the 2015 timeframe
22 and that "Thota had text messaged her on numerous occasions, asking D.H. to have sex with him
23 and stating he would pay her \$100.00." The affidavit alleged that patient D.H. advised the DEA
24 "that on one occasion Thota told her to come by his office after hours for a 'procedure' ... some

25
26 ¹¹ Paragraph 25 of the affidavit provided that "J.S. said she also asked Thota to give her
27 prescriptions in the name of a friend, L.E. According to J.S., she made a deal with L.E. to split
28 Thota's CPD [controlled pharmaceutical drug] prescriptions with her. J.S. would again meet
Thota in the parking lot of his practice where he would give her the CPD prescriptions. J.S. said
Thota insisted that L.E. come in to see him for a consult after he gave J.S. the prescription."

1 kind of injection..." and the next thing she recalled was waking up in Thota's surgical center at
2 4:00 a.m. with an IV in her arm [with] D.H. stat[ing] she had no idea what was going on."¹² The
3 supporting affidavit also alleged that another female patient, patient M.R., advised the DEA that,
4 among other things, respondent prescribed methadone and alprazolam to her, assisted her in
5 obtaining early prescriptions, purchased gifts for her, and engaged in sexual acts with her during
6 the time he was prescribing her controlled substances.

7 32. On or about November 29, 2016, respondent, who was represented by counsel,
8 entered into a written plea agreement to resolve the criminal charges against him. In executing
9 the written plea agreement, respondent, among other things, agreed to plead guilty to criminal
10 counts 1 through 7, for Distributing and Dispensing Controlled Substances Without Legitimate
11 Medical Purpose in violation of Title 21, United States Code (U.S.C.), Section 841, subdivision
12 (a)(1). In doing so, respondent admitted, among other things, that he committed each element of
13 the crime¹³ and that there was a factual basis for his guilty plea. Respondent further admitted that
14 certain facts were true and undisputed including that:

15 (a) While he was a physician licensed in the State of California, he wrote
16 three prescriptions in the name of patient J.S.'s brother that "were made to J.S.'s
17 Brother without any valid doctor patient relationship existing between J.S.'s
18 Brother and Thota[,]" that the "prescriptions were written with the intent of
19 fraudulently and illegally providing [patient] J.S. with SPDs [Scheduled
20

21 ¹² Paragraph 55 of the supporting affidavit provides, "Thota was asked [by the DEA] if
22 D.H.'s treatment had ever required an IV. Thota responded negatively. Thota was asked what
23 happened that caused D.H. to wake up at 4 a.m. in Thota's surgical center with an IV in her arm.
24 Thota stated that he had gone to dinner at BJ's restaurant located at Grossmont Center. Thota
25 explained that D.H. drank too much wine and complained of dizziness. Thota then stated that
26 D.H. couldn't walk and he had to physically support her. Thota added that D.H. complained she
27 was too dizzy to go home and she asked Thota to take her to his office and 'check her out' and he
28 agreed. Thota stated D.H.'s blood pressure had been pretty low, so he started her on an IV."

26 ¹³ The admitted elements were that (1) the practitioner distributed controlled substances;
27 (2) the distribution of those controlled substances was outside the usual course of professional
28 practice and without a legitimate medical purpose; and (3) the practitioner acted with intent to
distribute the controlled substance and with the intent to distribute them outside the course of
professional practice.

1 pharmaceutical drugs]" and that the "prescriptions were made outside the usual and
2 course of professional practice and without a legitimate medical purpose[;]"

3 (b) While he was a physician licensed in the State of California, he wrote two
4 prescriptions in the name of patient J.S.'s father that "were made to J.S.'s Father
5 without any valid doctor patient relationship existing between J.S.'s Father and
6 Thota[;]" that the "prescriptions were written with the intent of fraudulently and
7 illegally providing [patient] J.S. with SPDs" and that the "prescriptions were made
8 outside the usual and course of professional practice and without a legitimate
9 medical purpose[;]"

10 (c) While he was a physician licensed in the State of California, he wrote two
11 prescriptions in the name of L.E. that "were made to L.E. without any valid doctor
12 patient relationship existing between L.E. and Thota[;]" that the "prescriptions were
13 written with the intent of fraudulently and illegally providing [patient] J.S. with
14 SPDs" and that the "prescriptions were made outside the usual and course of
15 professional practice and without a legitimate medical purpose[;]" and

16 (d) "Between February 06, 2013 and February 20, 2014, Thota engaged in
17 sexual acts with two patients (one of whom was J.S.) that were under his care and to
18 whom he was prescribing SPDs."

19 As part of his plea agreement, respondent also agreed that he shall no longer prescribe or
20 dispense any controlled substances and that he "shall cooperate with and not contest or oppose
21 any administrative action to revoke or suspend any professional license or professional
22 registration held by [respondent], including by the Medical Board of California or the United
23 States Drug Enforcement Administration."

24 **SECOND CAUSE FOR DISCIPLINE**

25 **(Gross Negligence)**

26 33. Respondent is subject to disciplinary action under sections 2227 and 2234, as defined
27 by section 2234, subdivision (b) of the Code, in that he committed gross negligence in his care
28 and treatment of patient J.S., J.S.'s brother, J.S.'s father, patient L.E., patient M.R., as more

1 particularly alleged in paragraphs 15 through 32, above, which are hereby incorporated by
2 reference and realleged as if fully set forth herein.

3 **PATIENT J.S.**

4 (a) Respondent prescribed narcotics and controlled substances to patient
5 J.S. without adequate justification and outside the course of his professional
6 practice; and

7 (b) Respondent repeatedly prescribed narcotics and controlled substances
8 to patient J.S. without adequately monitoring her use of the narcotics and
9 controlled substances that were being prescribed.

10 **PATIENT J.S.'s BROTHER**

11 (a) Respondent prescribed narcotics and controlled substances to patient
12 J.S.'s brother without adequate justification and outside the course of his
13 professional practice;

14 (b) Respondent prescribed narcotics and controlled substances to patient
15 J.S.'s brother without adequately monitoring his use of the narcotics and controlled
16 substances that were prescribed under his name; and

17 (c) Respondent prescribed narcotics and controlled substances to patient
18 J.S.'s brother without maintaining adequate and accurate medical records.

19 **PATIENT J.S.'s FATHER**

20 (a) Respondent prescribed narcotics and controlled substances to patient
21 J.S.'s father without adequate justification and outside the course of his
22 professional practice; and

23 (b) Respondent prescribed narcotics and controlled substances to patient
24 J.S.'s father without adequately monitoring his use of the narcotics and controlled
25 substances that were prescribed under his name.

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28 ////

1 **PATIENT L.E.**

2 (a) Respondent prescribed narcotics and controlled substances to patient
3 L.E. without adequate justification and outside the course of his professional
4 practice; and

5 (b) Respondent prescribed narcotics and controlled substances to patient
6 L.E. without adequately monitoring his use of the narcotics and controlled
7 substances that were prescribed under her name.

8 **PATIENT J.M.S.**

9 34. On or about January 18, 2012, respondent started treating patient J.M.S., a then sixty-
10 eight (68) year old female, who had been referred to him by another physician, for treatment of
11 her multifocal pain that was noted to be progressive. After obtaining a medical and social history,
12 conducting a physical examination, and obtaining vital signs, respondent diagnosed patient J.M.S.
13 as suffering from thoracic or lumbar sacral neurotosis or radiculitis (not otherwise specified); lumbar
14 or lumbosacral disc degeneration; and generalized osteoarthritis of multiple sites. Respondent's
15 treatment plan was to add methadone to "improve pain control" to the patient's medication
16 regiment, "decrease all acetaminophen product" and for the patient to "conduct all activities of
17 daily living as normally as possible, walk for exercise as tolerated, continue healthy diet, exercise
18 as tolerated, increase her water intake and take medications as directed" with respondent to
19 provide "medical management only" at this point in time. Respondent was prescribed Methadone
20 HCL 10 mg (#60) one tablet to be taken twice daily for pain management; and Norco 10/325 mg
21 (#180) one tablet every 4-6 hours.

22 35. During the period of February 16, 2012, to September 9, 2012, respondent saw
23 patient J.M.S. on a near-monthly basis for follow up and medication management. Respondent
24 discontinued the methadone prescription at his visit with the patient of March 29, 2012, and
25 changed the Norco prescription to Oxycodone HCL IR 5 mg (#120) one tablet four times a day at
26 his visit with the patient on July 25, 2012.¹⁴

27 ¹⁴ According to respondent's electronic medical record, the Norco was discontinued due to
28 the patient having Hepatitis B and based on concerns over the acetaminophen in the Norco.

1 36. On or about October 17, 2012, respondent examined patient J.M.S. and he noted a
2 new diagnosis of "closed fracture of lumbar vertebra without spinal cord injury." Respondent
3 discontinued patient J.M.S.'s previously prescribed medications because "according to patient
4 medications are less effective now." The electronic medical record for this visit indicates
5 "[c]onsideration being given for Kyphoplasty¹⁵ in the future" and it was noted that "[p]atient
6 would benefit from procedure/injections, initiating authorization process for – Kyphoplasty."

7 37. On or about October 30, 2012, respondent performed the kyphoplasty procedure on
8 patient J.M.S. on an outpatient basis. Respondent noted patient J.M.S.'s "[p]ain level has
9 increased since last visit." According to the electronic medical record for this date, the diagnosis
10 was "[c]ompressed fracture of the L1 vertebral body" and the "clinical data" was noted as
11 follows:

12 "CLINICAL DATA: The patient had a pathological fracture at L1 level. The patient
13 was refractory for any medical treatment. The pain continues to be originating from
14 L1. The pressure on the L1 gives raise (sic) to severe pain. All conservative
15 measures failed hence planned kyphoplasty at that level. Patient also has
16 osteoporosis."

17 The electronic medical record for the procedure noted that there was difficulty with a right
18 side approach as follows:

19 "On the right side a similar approach was made unable to enter the body with
20 pedicular approach. New skin incision was given. 2-3 cm of the lateral through the
21 midline and a paramedian approach was made to the vertebral body. With the (sic)
22 great difficulty the vertebral body could be entered. The entrance was between
23 posterior one third and middle one third of the vertebral body. The cavity creation
24 was done without any difficulty. The cement was mixed. Before injecting cement
25 the contrast was injected. Because of the excessive bleeding from the right sided
26 needle, the contrast was diffused and it was not confined to the vertebral body so it
27 was decided not to inject any cement through the right sided cannula. The flow of
28 cement was satisfactory."

 According to the electronic medical record for the kyphoplasty procedure, "there was little
excess bleeding than usual" after the needle from the right side was removed and "[p]ressure was
applied and the bleeding could be stopped without any difficulty." Staples were applied for the

¹⁵ Kyphoplasty is typically a minimally invasive procedure that is performed to treat
vertebral compressions fractures of the spine that can be caused by osteoporosis, spinal tumors or
injuries. By restoring the vertebral height with a balloon and injecting cement into the fractured
bone, patients can potentially recover faster and reduce the risk of future fractures.

1 incisions, dressings were applied, and the patient was transferred to a recovery room. After being
2 provided with post-procedure instructions, the patient was discharged.

3 38. On or about October 31, 2012, respondent was advised in the afternoon that patient
4 J.M.S. had been transferred to the intensive care unit (ICU) for a retroperitoneal hematoma and
5 that she was being given blood transfusions. Respondent went to the hospital where patient
6 J.M.S. was admitted and reviewed her CT scan which "indicate[d] that retroperitoneal bleeding
7 possibly bleeding from inferior vena cavity on the right side when the needle went through the
8 body, possibly went through the wall of the inferior vena cavity." According to his electronic
9 medical record, respondent "spoke with [Dr. S.] and explained to her the procedure I did and I
10 told her that this is possibly the complication of the procedure with inferior vena caval bleeding."
11 The hospital records noted that patient J.M.S. "had outpatient procedure of kyphoplasty when the
12 patient had possible iatrogenic injury to the inferior vena cavity." Over the next few days, patient
13 J.M.S. remained in critical condition.

14 39. On or about November 5, 2012, patient J.M.S.'s condition declined and she
15 began experiencing multisystem organ failure. After further consultation, and discussion with
16 Patient J.M.S.'s family, she was placed on "comfort care" measures and expired later in the
17 evening, without further intervention. The coroner's autopsy report listed the cause of death as
18 "retroperitoneal and peritoneal hemorrhage" due to "injury of inferior vena cavity during
19 kyphoplasty for the treatment of lumbar vertebral compression fracture" with a contributing
20 factor being patient J.M.S.'s "hepatic cirrhosis due to chronic ethanolism; hypertensive and
21 atherosclerotic cardiovascular disease."

22 40. Respondent committed gross negligence in his care and treatment of J.M.S., which
23 included, but was not limited to, the following:

24 (a) Respondent not performing an adequate work-up on patient J.M.S.
25 prior to proceeding with the kyphoplasty procedure and/or proceeding with the
26 kyphoplasty procedure that was not indicated;

27 (b) Respondent failed to actively seek out basic lab values before
28 proceeding with the kyphoplasty procedure on patient J.M.S.; and

1 (c) Respondent failed to actively communicate with personnel from patient
2 J.M.S.'s skilled nursing facility and/or her other treating physicians to confirm
3 whether patient J.M.S. was competent to sign a consent for proceeding with the
4 kyphoplasty procedure prior to proceeding with the procedure.

5 **THIRD CAUSE FOR DISCIPLINE**

6 **(Repeated Negligent Acts)**

7 41. Respondent is further subject to disciplinary action under sections 2227 and 2234, as
8 defined by section 2234, subdivision (c), of the Code, in that he committed repeated negligent
9 acts in her care and treatment of patient J.S., J.S.'s brother, J.S.'s father, patient L.E., patient M.R.
10 and patient J.M.S., as more particularly alleged in paragraphs 15 through 40, above, which are
11 hereby incorporated by reference and realleged as if fully set forth herein. The repeated negligent
12 acts included, but were not limited to the following:

13 **PATIENT J.S.**

14 (a) Respondent prescribed narcotics and controlled substances to patient
15 J.S. without adequate justification and outside the course of his professional
16 practice; and

17 (b) Respondent repeatedly prescribed narcotics and controlled substances
18 to patient J.S. without adequately monitoring her use of the narcotics and
19 controlled substances that were being prescribed.

20 **PATIENT J.S.'s BROTHER**

21 (a) Respondent prescribed narcotics and controlled substances to patient
22 J.S.'s brother without adequate justification and outside the course of his
23 professional practice;

24 (b) Respondent prescribed narcotics and controlled substances to patient
25 J.S.'s brother without adequately monitoring his use of the narcotics and controlled
26 substances that were prescribed under his name; and

27 (c) Respondent prescribed narcotics and controlled substances to patient
28 J.S.'s brother without maintaining adequate and accurate medical records;

1 **FOURTH CAUSE FOR DISCIPLINE**

2 **(Violation of Statutes Regulating Dangerous Drugs and Controlled Substances)**

3 42. Respondent is also subject to disciplinary action under sections 2227 and
4 2234, as defined by section 2238, of the Code, as defined by section 2238 of the Code, in
5 that respondent has violated various statutes regulating dangerous drugs and controlled
6 substances, including, but not limited to, sections 725, 2241 and 2242 of the Code; Health
7 and Safety Code sections 11153, subdivision (a) [unlawful controlled substance
8 prescriptions], 11154, subdivision (a) [prescribing to person not under practitioner's
9 care], 11157 [false prescriptions], and Title 21, U.S.C., section 841, subdivision (a)(1)
10 [distributing and dispensing controlled substances without legitimate medical purpose] as
11 more particularly alleged in paragraphs 15 through 33, above, which are hereby
12 incorporated by reference and realleged as if fully set forth herein.

13 **FIFTH CAUSE FOR DISCIPLINE**

14 **(Furnishing Drugs To Addict)**

15 43. Respondent is also subject to disciplinary action under sections 2227 and 2234, as
16 defined by section 2241 of the Code, in that respondent prescribed controlled substances and
17 dangerous drugs to patients J.S. and M.R. whom he knew or reasonably should have known were
18 addicts and/or were using or would be using the controlled substances and dangerous drugs for a
19 nonmedical purpose, as more particularly alleged in paragraphs 15 through 33, above, which are
20 hereby incorporated by reference and realleged as if fully set forth herein.

21 **SIXTH CAUSE FOR DISCIPLINE**

22 **(Repeated Acts of Clearly Excessive Prescribing)**

23 44. Respondent is further subject to disciplinary action under sections 2227 and 2234, as
24 defined by section 725, of the Code, in that he has committed repeated acts of clearly excessive
25 prescribing drugs or treatment to patients J.S. and M.R., as determined by the standard of the
26 community of physicians, as more particularly alleged in paragraphs 15 through 33, above, which
27 are hereby incorporated by reference and realleged as if fully set forth herein.

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1 **SEVENTH CAUSE FOR DISCIPLINE**

2 **(Commission of an Act or Acts of Sexual Abuse, Misconduct or Relations with Patient)**

3 45. Respondent is further subject to disciplinary action under section 726 of the Code, in
4 that he engaged in an act or acts of sexual abuse, misconduct or relations with patients J.S. and
5 M.R., as more fully particularly alleged in paragraphs 15 through 33, above, which are
6 incorporated by reference and realleged as if fully set forth herein.

7 **EIGHTH CAUSE FOR DISCIPLINE**

8 **(Sexual Exploitation of a Patient)**

9 46. Respondent is further subject to disciplinary action under section 729 of the Code, in
10 that he committed an act or acts of sexual intercourse, sodomy, oral copulation and/or sexual
11 contact with patients J.S. and M.R., as more fully particularly alleged in paragraphs 15 through
12 33, above, which are incorporated by reference and realleged as if fully set forth herein

13 **NINTH CAUSE FOR DISCIPLINE**

14 **(Failure to Maintain Adequate and Accurate Medical Record)**

15 47. Respondent is further subject to disciplinary action under sections 2227 and 2234, as
16 defined by section 2266, of the Code, in that she failed to maintain adequate and accurate records
17 in her care and treatment of patient J.S., J.S.'s brother, J.S.'s father, patient L.E., and patient
18 M.R., as more particularly alleged in paragraphs 15 through 33, and paragraph 41, above, which
19 are hereby incorporated by reference and realleged as if fully set forth herein.

20 **TENTH CAUSE FOR DISCIPLINE**

21 **(Signing a Document that Falsely Represents the Existence
22 or Non-Existence of a State of Facts)**

23 48. Respondent is further subject to disciplinary action under sections 2227 and 2234, as
24 defined by sections 2261 of the Code, in that respondent signed documents for patient J.S., J.S.'s
25 brother, J.S.'s father, patient L.E., and patient M.R. that falsely represented the existence or non-
26 existence of a state of facts, as more particularly alleged in paragraphs 15 through 41, above,
27 which are incorporated by reference and realleged as if fully set forth herein.

28 ////

1 ELEVENTH CAUSE FOR DISCIPLINE

2 (Dishonesty or Corruption)

3 49. Respondent is further subjected to disciplinary action under sections 2227 and 2234, as
4 defined by section 2234, subdivision (e), of the Code, in that he has engaged in an act or acts of
5 dishonesty or corruption substantially related to the qualifications, functions, or duties of a
6 physician, as more particularly alleged in paragraphs 15 through 41, above, which are hereby
7 incorporated by reference and realleged as if fully set forth herein.

8 TWELFTH CAUSE FOR DISCIPLINE

9 (General Unprofessional Conduct)

10 50. Respondent is further subject to disciplinary action under sections 2227 and 2234, as
11 defined by section 2234, of the Code, in that Respondent engaged in conduct which breaches the
12 rules or ethical code of the medical profession, or conduct which is unbecoming to a member in
13 good standing of the medical profession, and which demonstrates an unfitness to practice
14 medicine, as more particularly alleged in paragraphs 15 through 49, above, which are hereby
15 incorporated by reference and realleged as if fully set forth herein, and as more particularly
16 alleged hereinafter regarding J.J.

17 PATIENT J.J.

18 51. On or about January 14, 2014, respondent had her initial appointment with patient
19 J.J., a then fifty-seven (57) year old female, who stated she had been referred by another
20 physician to determine whether she was a candidate for Suboxone treatment. Patient J.J. was
21 accompanied by her mother. According to patient J.J., at some time during the office visit
22 respondent "began to rant and rave." Among other things, respondent called himself the "shit,"
23 told patient J.J. he (respondent) was going to hell and asked patient J.J. if she wanted to go with
24 him. Respondent also used speech that was "peppered with the f--- word," called himself a
25 "lesbian" and indicated he had several girlfriends and told patient J.J. she "could be one also."
26 Patient J.J.'s mother witnessed respondent's behavior and noted that shortly after the visit began,
27 respondent started acting "weird." Patient J.J.'s mother indicated that respondent was "being
28 very vulgar, saying bad words, nasty words," making comments with sexual innuendo.

1 According to patient J.J.'s mother, her daughter got up to leave the exam room but came back and
2 sat down again. Respondent continued yelling at patient J.J. and made the statement that
3 "sometimes you have to get them mad."¹⁶ After the visit ended, patient informed her primary
4 care physician about the encounter with respondent. Patient had no additional visits with
5 respondent.

6 DISCIPLINARY CONSIDERATIONS

7 52. To determine the degree of discipline, if any, to be imposed on respondent,
8 complainant alleges that an Accusation was filed against respondent on or about September 4,
9 2014, in a prior disciplinary action entitled *In the Matter of the Accusation against: Naga Raja*
10 *Thota, M.D.*, Medical Board of California Case No. 10-2012-224091. The aforementioned
11 Accusation alleged that respondent engaged in unprofessional conduct when he violated the
12 standard of care in his prescribing of controlled substances to six patients, engaged in excessive
13 prescribing of controlled substances as to three of the six patients, and failed to maintain adequate
14 and accurate medical records as to each of the six patients. On March 2, 2016, respondent's
15 medical license was revoked, the revocation was stayed, and respondent was placed on probation
16 for seven (7) years probation, on various terms and conditions, including suspension of his
17 medical license for thirty (30) days; partial restriction of his ability to prescribe controlled
18 substances (limited to prescribing Schedule IV and V controlled substances); successful
19 completion of additional education course requirements, a prescribing practices course, a medical
20 record keeping course; successful completion of a clinical training program; appointment of a
21 practice monitor; a prohibition about engaging in the solo practice of medicine; and the other
22 standard terms and conditions of probation. That decision is now final and is incorporated by
23 reference as if fully set forth herein.

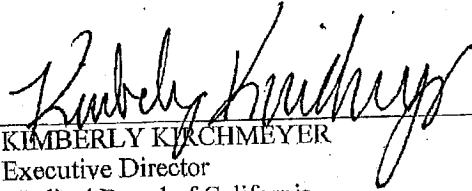
24 _____
25 ¹⁶ During the course of his interview with a Health Quality Investigation Unit (HQIU)
26 investigator, respondent stated he would sometimes provoke patients to get them angry in order to
27 see how they will react. When asked why he sometimes provoked his patients, respondent stated
28 his intention was to see the patient's commitment to the treatment protocol he was suggesting.
According to respondent, if the patient gets angry after being provoked it tends to show that the
patient will potentially have a greater chance for success for the treatment protocol that is being
recommended.

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 A53526, issued to respondent Naga Raja Thota, M.D.;
2. Revoking, suspending or denying approval of Naga Raja Thota, M.D.'s authority to supervise physician assistants, pursuant to section 3527 of the Code;
3. Ordering respondent Naga Raja Thota, 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: January 31, 2017


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

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