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

In the Matter of the Accusation Against:
CARMEN ANTHONY PULIAFITO, M.D.
1365 South Los Robles Avenue
Pasadena, California 91106-4318
Physician and Surgeon’s Certificate G 88200,
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 January 4, 2008, the Board issued Physician and Surgeon’s Certificate number G
88200 to Carmen Anthony Puliafito, M.D. ("Respondent"). That license was in full force and
effect at all times relevant to the charges brought herein and will expire on January 31, 2018,
unless renewed.

///
///

Accusation No. 800-2017-034712
3. On September 22, 2017, an Order on Petition for Interim Suspension Order was issued pursuant to stipulation by Respondent. Pursuant to that Order, Respondent’s Physician & Surgeon’s Certificate G 88200 is suspended and Respondent is restrained and prohibited from practicing or attempting to practice as a physician and surgeon in California pending a final Decision by the Board. Respondent is immediately restrained and prohibited from the following:
   a. Practicing or attempting to practice as a physician and surgeon in California;
   b. Advertising, by any means, or holding himself out as practicing or available to practice medicine or to supervise physician assistants or advanced practice nurses;
   c. Being present in any location or office which is maintained for the practice of medicine, or at which medicine is practiced, for any purpose except as a patient or as a visitor of family or friends;
   d. Possessing, ordering, purchasing, receiving, prescribing, dispensing, furnishing, administering or otherwise distributing any controlled substance or any dangerous drug in California, as defined by federal or state law, except legally permitted drugs prescribed to Respondent by his treating physician and surgeon;
   e. Possessing or holding his California physician’s and surgeon’s wall and wallet certificates, possessing any and all prescription blanks.
   f. Respondent was further ordered to immediately deliver to the Board, or its agent, for safekeeping pending a final administrative order of the Board in this matter, all indicia of his licensure as a physician, as contemplated by Business and Professions Code Section 119, including but not limited to his wall certificate and wallet card issued by the Board, as well as all prescription forms, all prescription drugs not legally prescribed to Respondent by his treating physician and surgeon, all Drug Enforcement Administration Drug Order forms, and all Drug Enforcement Administration permits.

JURISDICTION

4. This Accusation is brought before the Board under the authority of the following laws. All section references are to the Business and Professions Code (“Code”) unless otherwise indicated.
5. Section 2004 of the Code states:
   “The board shall have the responsibility for the following:
   “(a) The enforcement of the disciplinary and criminal provisions of the Medical Practice
   Act.
   “(b) The administration and hearing of disciplinary actions.
   “(c) Carrying out disciplinary actions appropriate to findings made by a panel or an
   administrative law judge.
   “(d) Suspending, revoking, or otherwise limiting certificates after the conclusion of
   disciplinary actions.
   “(e) Reviewing the quality of medical practice carried out by physician and surgeon
   certificate holders under the jurisdiction of the board.
   “(f) Approving undergraduate and graduate medical education programs.
   “(g) Approving clinical clerkship and special programs and hospitals for the programs in
   subdivision (f).
   “(h) Issuing licenses and certificates under the board's jurisdiction.
   “(i) Administering the board's continuing medical education program.”
6. Section 2230.5 of the Code states:
   “(a) Except as provided in subdivisions (b) and (c), and (e), any accusation filed against a
   licensee pursuant to Section 11503 of the Government Code shall be filed within three years after
   the board, or a division thereof, discovers the act or omission alleged as the ground for
   disciplinary action, or within seven years after the act or omission alleged as the ground for
   disciplinary action occurs, whichever occurs first.
   “(b) An accusation filed against a licensee pursuant to Section 11503 of the Government
   Code alleging the procurement of a license by fraud or misrepresentation is not subject to the
   limitation provided for by subdivision (a).
   “(c) An accusation filed against a licensee pursuant to Section 11503 of the Government
   Code alleging unprofessional conduct based on incompetence, gross negligence, or repeated
   negligent acts of the licensee is not subject to the limitation provided for by subdivision (a) upon
proof that the licensee intentionally concealed from discovery his or her incompetence, gross negligence, or repeated negligent acts.”

“(d) If an alleged act or omission involves a minor, the seven-year limitations period provided for by subdivision (a) and the 10-year limitations period provided for by subdivision (e) shall be tolled until the minor reaches the age of majority.

“(e) An accusation filed against a licensee pursuant to Section 11503 of the Government Code alleging sexual misconduct shall be filed within three years after the board, or a division thereof, discovers the act or omission alleged as the ground for disciplinary action, or within 10 years after the act or omission alleged as the ground for disciplinary action occurs, whichever occurs first. This subdivision shall apply to a complaint alleging sexual misconduct received by the board on and after January 1, 2002.

“(f) The limitations period provided by subdivision (a) shall be tolled during any period if material evidence necessary for prosecuting or determining whether a disciplinary action would be appropriate is unavailable to the board due to an ongoing criminal investigation.”

7. Section 2234 of the Code, states:

“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.

“(b) Gross negligence.

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

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

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

“(d) Incompetence.

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

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

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

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

8. 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.”

9. 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.”

10. Section 2266 of the Code states:

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

11. 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.”

12. Section 822 of the Code states:

“If a licensing agency determines that its licentiate’s ability to practice his or her
profession safely is impaired because the licentiate is mentally ill, or physically ill affecting
competency, the licensing agency may take action by any one of the following methods:

“(a) Revoking the licentiate’s certificate or license.
“(b) Suspending the licentiate’s right to practice.
“(c) Placing the licentiate on probation.
“(d) Taking such other action in relation to the licentiate as the licensing agency in its discretion deems proper.

“The licensing agency shall not reinstate a revoked or suspended certificate or license until it has received competent evidence of the absence or control of the condition which caused its action and until it is satisfied that with due regard for the public health and safety the person’s right to practice his or her profession may be safely reinstated.”

**DRUG LAWS**

13. 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.”

14. 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 Medical Board may order discipline of the licensee in accordance with Section 2227 or the Medical Board 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.”

15. 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.

“(c) Notwithstanding subdivision (a), prescription drugs or controlled substances may also 
be administered or applied by a physician and surgeon, or by a registered nurse acting under his 
or her instruction and supervision, under the following circumstances:

“(1) Emergency treatment of a patient whose addiction is complicated by the presence of 
 incurable disease, acute accident, illness, or injury, or the infirmities attendant upon age.

“(2) Treatment of addicts in state-licensed institutions where the patient is kept under 
 restraint and control, or in city or county jails or state prisons.

“(3) Treatment of addicts as provided for by Section 11217.5 of the Health and Safety 
 Code.

“(d)(1) For purposes of this section and Section 2241.5, “addict” means a person whose 
 actions are characterized by craving in combination with one or more of the following:

“(A) Impaired control over drug use.

“(B) Compulsive use.

“(C) Continued use despite harm.
“(2) Notwithstanding paragraph (1), a person whose drug-seeking behavior is primarily due to the inadequate control of pain is not an addict within the meaning of this section or Section 2241.5.

16. 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.

“(b) No licensee shall be found to have committed unprofessional conduct within the meaning of this section if, at the time the drugs were prescribed, dispensed, or furnished, any of the following applies:

“(1) The licensee was a designated physician and surgeon or podiatrist serving in the absence of the patient's physician and surgeon or podiatrist, as the case may be, and if the drugs were prescribed, dispensed, or furnished only as necessary to maintain the patient until the return of his or her practitioner, but in any case no longer than 72 hours.

“(2) The licensee transmitted the order for the drugs to a registered nurse or to a licensed vocational nurse in an inpatient facility, and if both of the following conditions exist:

“(A) The practitioner had consulted with the registered nurse or licensed vocational nurse who had reviewed the patient's records.

“(B) The practitioner was designated as the practitioner to serve in the absence of the patient's physician and surgeon or podiatrist, as the case may be.

“(3) The licensee was a designated practitioner serving in the absence of the patient's physician and surgeon or podiatrist, as the case may be, and was in possession of or had utilized the patient's records and ordered the renewal of a medically indicated prescription for an amount not exceeding the original prescription in strength or amount or for more than one refill.

“(4) The licensee was acting in accordance with Section 120582 of the Health and Safety Code.”
17. Code section 4021 states:

"Controlled substance’ means any substance listed in chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code."

18. Code section 4022 provides:

"Dangerous drug’ or ‘dangerous device’ means any drug or device unsafe for self-use in humans or animals, and includes the following:

(a) Any drug that bears the legend: ‘Caution: federal law prohibits dispensing without prescription,’ ‘Rx only’ or words of similar import.

(b) Any device that bears the statement: ‘Caution: federal law restricts this device to sale by or on the order of a _________,’ ‘Rx only,’ or words of similar import.

(c) Any other drug or device that by federal or state law can be lawfully dispensed only on prescription or furnished pursuant to Section 4006.”

19. Health and Safety Code section 11153 states in pertinent part:

(a) A prescription for a controlled substance shall only be issued for a legitimate medical purpose by an individual practitioner acting in the usual course of his or her professional practice...

(b) Any person who knowingly violates this section shall be punished by imprisonment in the state prison or in a county jail not exceeding one year, or by a fine not exceeding twenty thousand ($20,000), or by both that fine and imprisonment…”

20. Health and Safety Code section 11157 states:

"No person shall issue a prescription that is false or fictitious in any respect."

21. Health and Safety Code section 11170 states:

"No person shall prescribe, administer, or furnish a controlled substance for himself."

22. Health and Safety Code section 11173, subdivision (a), states:

"No person shall obtain or attempt to obtain controlled substances, or procure or attempt to procure the administration of or prescription for controlled substances by (1) fraud, deceit, misrepresentation, or subterfuge; or (2) by the concealment of a material fact.”
23. Health and Safety Code section 11175 states:

“No person shall obtain or possess a prescription that does not comply with his division, nor shall any person obtain a controlled substance by means of a prescription which does not comply with this division or possess a controlled substance obtained by such a prescription.”

**DRUGS INVOLVED**

24. Gamma-Hydroxybutyrate (GHB), also referred to as a “club drug” or “date rape drug,” is a Schedule I controlled substance as defined by section 11054, subdivision (e)(3), of the Health and Safety Code and is a dangerous drug as defined in Section 4022 of the Code.

25. Heroin is a Schedule I controlled substance as defined by section 11054, subdivision (c)(11), of the Health and Safety Code and is a dangerous drug as defined in Section 4022 of the Code.

26. Ectasy (aka MDMA) is a Schedule I controlled substance as defined by section 11054, subdivision (d)(4), of the Health and Safety Code and is a dangerous drug as defined in Section 4022 of the Code.

27. Marijuana is a Schedule I controlled substance as defined by section 11054, subdivision (d)(13), of the Health and Safety Code and is a dangerous drug as defined in Section 4022 of the Code.

28. Amphetamine is a Schedule II controlled substance as defined by section 11055, subdivision (d)(1), of the Health and Safety Code and is a dangerous drug as defined in Section 4022 of the Code.

29. Methamphetamine is a Schedule II controlled substance as defined by section 11055, subdivision (d)(2), of the Health and Safety Code and is a dangerous drug as defined in Section 4022 of the Code.

30. Codeine is a Schedule II controlled substance as defined by section 11055, subdivision (b)(1)(G), of the Health and Safety Code and is a dangerous drug as defined in Section 4022 of the Code.

///

///
31. Morphine is a Schedule II controlled substance as defined by section 11055, subdivision (b)(1)(L), of the Health and Safety Code and is a dangerous drug as defined in Section 4022 of the Code.

32. Opiates are Schedule II controlled substances as defined by section 11055, subdivision (c), of the Health and Safety Code and are dangerous drugs as defined in Section 4022 of the Code.

33. Temazepam is a Schedule IV controlled substance as defined by section 11057, subdivision (d)(29), of the Health and Safety Code and is a dangerous drug as defined in Section 4022 of the Code.

34. Klonopin, also known by the generic name clonazepam, is a Schedule IV controlled substance as defined by section 11057, subdivision (d)(7), of the Health and Safety Code and is a dangerous drug as defined in Section 4022 of the Code. Klonopin is known as an anticonvulsant or antiepileptic drug. It is also used to treat panic attacks.

35. Xanax, also known by the generic name alprazolam, is a Schedule IV controlled substance as defined by section 11057, subdivision (d)(1), of the Health and Safety Code and is a dangerous drug as defined in Section 4022 of the Code.

36. Oxazepam is a Schedule IV controlled substance as defined by section 11057, subdivision (d)(23), of the Health and Safety Code and is a dangerous drug as defined in Section 4022 of the Code.

37. Benzodiazepines are classified as Schedule IV controlled substances as defined by section 11057, subdivision (d)(1), of the Health and Safety Code and are dangerous drugs as defined in Section 4022 of the Code.

**FACTUAL SUMMARY**

38. On July 17, 2017, the Medical Board of California received a complaint alleging that Respondent used methamphetamine and other illicit drugs of abuse and was involved in the drug overdose of a young woman (hereinafter referred to as “S.W.”) in a Pasadena hotel room rented to Respondent.
39. Investigation by the Health Quality Investigations Unit of the Department of Consumer Affairs revealed that Respondent had in fact: been present at the time of S.W.'s overdose situation in his hotel room on March 4, 2016; participated in illicit drug use with S.W., C.W. and D.S.; provided illicit drugs and alcohol to then-minor C.W.; prescribed scheduled and non-scheduled medications to S.W.; and, prescribed non-scheduled medications to then-minor C.W.¹

40. S.W. (presently 22-years of age) met Respondent in approximately February 2015. She met with Respondent to have sex and to use methamphetamine and other illegal drugs until approximately November 2016.

41. During S.W.'s relationship with Respondent from approximately February 2015 to November 2016, Respondent prescribed medications to S.W. as well as provided her with illegal drugs, money, and living expenses.

42. During S.W.'s relationship with Respondent from approximately February 2015 to November 2016, S.W. used illicit drugs in Respondent's car and academic/administrative office. Respondent introduced S.W. to work colleagues and staff as his niece.

43. During S.W.'s relationship with Respondent from approximately February 2015 to November 2016, Respondent would return to his medical office to see patients within hours of using methamphetamine with S.W.

44. During S.W.'s relationship with Respondent from approximately February 2015 to November 2016, S.W. saw Respondent nearly every day, often with him driving from Pasadena to Huntington Beach.

45. During S.W.'s relationship with Respondent from approximately February 2015 to November 2016, S.W. observed a supply of methamphetamine that Respondent kept in a special hidden compartment in his car.

46. As a result of unruly conduct and behavior, including room damage due to drug use, Respondent is not permitted to return to various hotels in Pasadena and other locations.

¹ Initials are used for privacy purposes.
47. During S.W.'s relationship with Respondent from approximately February 2015 to November 2016, S.W. witnessed Respondent using methamphetamines and heroin. S.W. documented Respondent's ingesting of illegal substances while in her presence in videos and digital images.

48. In February 2016, approximately three weeks prior to her March 4, 2016 overdosing incident, S.W. had completed a 30-day drug rehabilitation program and was about to begin an intensive outpatient program.

49. Respondent had paid for some of S.W.'s substance abuse rehabilitation programs but also sent her drugs of abuse to residential treatment.

50. In March 4, 2016, S.W. overdosed while using GHB in the presence of Respondent in a hotel room that had been paid for by Respondent.

51. While S.W. was unconscious, Respondent requested that hotel staff provide him with a wheelchair for transporting S.W. Hotel staff, upon learning that S.W. was unconscious, informed Respondent that the paramedics had to be called for S.W. Illicit drugs and drug paraphernalia were found inside the hotel room.

52. Following the request for paramedic assistance, S.W. was taken to Huntington Memorial Hospital ("hospital") by ambulance.

53. Respondent reported to the paramedics that he believed that S.W. drank too much alcohol. He had actually provided S.W. with methamphetamine, GHB and heroin the night of her overdose but did not inform the paramedics or any medical personnel at the hospital of the same.

54. S.W.'s medical records reflect that Respondent reported to the hospital social worker that he was a family friend and had rented a hotel room for S.W. It is also set forth in S.W.'s medical records that Respondent reported to the hospital social worker that S.W. recently completed a 30-day in-patient rehabilitation program.

55. Toxicology screening at the hospital revealed that S.W. had a minimal amount of alcohol in her system (less than 0.010 grams per deciliter). She tested positive for Opiates, Benzodiazepine, Amphetamine, Ecstasy, Methamphetamine, Codeine, Morphine, Nordiazepam, Oxazepam and Temazepam.
56. After being hospitalized in the emergency room for approximately four hours, S.W. was discharged and returned to the hotel with Respondent. They moved to a different room paid for by Respondent. Respondent told S.W. that at around the time of her overdose, he placed a bag of drugs and drug paraphernalia, including heroin, methamphetamine and GHB, in the hotel stairwell a couple of floors down from the hotel room that they had been staying in at the time of her overdose. When they returned to the hotel following S.W.’s hospital discharge, S.W. and Respondent picked up the bag of drugs and drug paraphernalia from the hotel stairwell and took them to the new hotel room where they continued to use the drugs.

57. On March 8, 2016, Respondent was involved in a single car accident sustaining minor injuries where he may have fallen asleep at the wheel and veered off the street onto the curb and bushes.

58. Respondent prescribed 30 tablets of Klonopin 2 mg to S.W. on three separate occasions: December 26, 2015, January 15, 2016 and February 19, 2016. In addition, he prescribed various non-scheduled medications to S.W. from August 18, 2015 through October 26, 2016, including but not limited to antibiotics, anti-fungal medications and birth control pills. He did not maintain medical records for S.W.

59. C.W. is the brother of S.W., and was approximately 17-years-old when he was introduced to Respondent during the approximate timeframe of February 2015 to November 2016. Both C.W. and S.W. told Respondent that C.W. was under-age.

60. Because C.W. was underage during the timeframe of S.W.’s relationship with Respondent, C.W. was unable to purchase glass pipes used to consume illicit drugs as well as alcohol. As such, Respondent bought glass pipes at smoke shops and alcohol at liquor stores for C.W.

61. During the timeframe of S.W.’s relationship with Respondent, Respondent provided then-minor, C.W. with alcohol, nitrous oxide, marijuana, methamphetamine and Xanax.

62. During the timeframe of S.W.’s relationship with Respondent, C.W. witnessed Respondent smoke methamphetamine.

///
63. Respondent prescribed an asthma inhaler for C.W. on December 30, 2015 to soothe C.W.’s lungs after smoking marijuana and methamphetamine. He did not maintain medical records for C.W.

64. In approximately August 2016, S.W. introduced D.S. to Respondent. D.S. spent approximately six to eight weeks with Respondent and S.W. drinking alcohol and doing drugs such as marijuana and methamphetamine. Respondent provided the drugs the majority of the time.

65. D.S., familiar with both methamphetamine and heroin, witnessed Respondent ingest methamphetamine and heroin during the approximately six to eight week period he spent with Respondent and S.W.

66. D.S. stopped spending time with Respondent because D.S. went into a drug rehabilitation program.

**FIRST CAUSE FOR DISCIPLINE**

(Mental Illness and/or Physical Illness Affecting Competency)

67. By reason of the facts set forth above in paragraphs 38 through 66, Respondent’s license is subject to disciplinary action pursuant to section 822 of the Code as a result of mental illness and/or physical illness affecting Respondent’s competency. The circumstances are as follows:

68. The fifth edition of the *Diagnostic and Statistical Manual of Mental Disorders* (DSM-5) provides eleven criteria for identifying substance use disorders as assessed by the individual’s own report, report of knowledgeable others, clinician’s observations, and biological testing. The severity of the substance use disorder ranges from mild to severe (mild when there are 2-3 symptoms present; moderate when there are 4-5 symptoms present and severe when there are 6 or more symptoms present). The 11 criteria are as follows:

a. Taking the substance in larger amounts or over a longer period than was intended;

b. Persistent desire or unsuccessful efforts to cut down or stop using the substance;
c. Spending a great deal of time in activities necessary to obtain use or recover from the effects of the use of the substance;

d. Cravings and urges to use the substance;

e. Failing to fulfill major role obligations at work, school, or home because of substance use;

f. Continued use despite having persistent or recurrent social or interpersonal problems caused or exacerbated by the substance use;

g. Important social, occupational, or recreational activities are given up or reduced because of substance use;

h. Recurrent substance use in situations in which it is physically hazardous;

i. Continued use despite knowledge of having a persistent or recurrent physical or psychological problem that is likely to have been caused or exacerbated by substance use;

j. Tolerance, by either a need for more of the substance to achieve the desired effect or a markedly diminished effect with continued use of the same amount;

k. Development of withdrawal symptoms, which can be relieved by taking more of the substance.

69. Respondent meets diagnostic criteria for substance use disorder from February 2015 through November 2016 and the presence of this condition significantly impacts his ability to safely practice medicine. More specifically, Respondent meets at least four of the diagnostic criteria for substance use disorder as follows:

a. A great deal of time was spent in activities necessary to obtain drugs, use the drugs, or recover from the drugs effects as evidenced by Respondent spending time driving to procure drugs and deliver drugs.

b. Important social, occupational or recreational activities were given up or reduced because of drug use as evidenced by Respondent spending nearly every day, including business days, using drugs and driving to see S.W.
c. Recurrent drug use in situations where it was physically hazardous, as evidenced by reports of Respondent driving with methamphetamine in his car or going back to work after having ingested illicit drugs and by using in his medical offices.

d. Continued drug use despite having persistent or recurrent social or interpersonal problems caused or exacerbated by the effects of drugs as evidenced by ongoing drug use after S.W. overdosed and repeated interactions with law enforcement related to drug use.

70. Respondent’s acts and/or omissions set forth in paragraphs 38 through 66 above, whether proven individually, jointly, or in any combination thereof, constitute mental illness and/or physical illness affecting Respondent’s competency in violation of section 822 of the Code. Therefore, cause for discipline exists.

SECOND CAUSE FOR DISCIPLINE
(Dishonest Act Substantially Related to the Qualifications, Functions or Duties of a Physician)

71. By reason of the facts set forth above in paragraphs 38 through 66, Respondent’s license is subject to disciplinary action pursuant to section 2234, subdivision (e), of the Code for dishonest acts substantially related to the qualifications, functions or duties of a physician. The circumstances are as follows:

72. From approximately February 2015 to November 2016, Respondent prescribed medications, including controlled substances, to persons with whom he had personal relations without a proper medical examination or diagnosis.

73. From approximately February 2015 to November 2016, Respondent practiced medicine on the same day as using drugs of abuse.

74. From approximately February 2015 to November 2016, Respondent showed a blatant disregard for S.W.’s welfare - it was known to him that she was suffering from a substance use disorder and he continued to provide her with drugs of abuse and even provided her drugs of abuse inside a treatment facility.

75. At the time of S.W.’s overdose on March 4, 2016, Respondent was not forthright with the treating medical personnel regarding S.W.’s drug consumption.
76. From approximately February 2015 to November 2016, Respondent provided alcohol and drugs of abuse to then-minor, C.W.

77. From approximately February 2015 to November 2016, Respondent purchased illicit drugs and transported drugs in his own vehicle.

78. Respondent's acts and/or omissions set forth in paragraphs 38 through 66 above, whether proven individually, jointly, or in any combination thereof, constitute dishonest acts in violation of section 2234, subdivision (e), of the Code. Therefore, cause for discipline exists.

THIRD CAUSE FOR DISCIPLINE

(Violation of Drug Statutes)

79. By reason of the facts set forth above in paragraphs 39 through 43, 45 through 47, 49 through 56 and 58 through 65, Respondent's license is subject to disciplinary action pursuant to section 2238 of the Code for violating drug statutes.

80. Respondent's acts and/or omissions set forth in paragraphs 39 through 43, 45 through 47, 49 through 56 and 58 through 65, above, whether proven individually, jointly, or in any combination thereof, constitute drug statute violations in violation of section 2238. Therefore, cause for discipline exists.

FOURTH CAUSE FOR DISCIPLINE

(Misuse of Controlled Substances)

81. By reason of the facts set forth above in paragraphs 39 through 43, 45 through 47, 49 through 56 and 58 through 65, Respondent's license is subject to disciplinary action pursuant to section 2239, subdivision (a), of the Code for the misuse of controlled substances.

82. Respondent's acts and/or omissions set forth in paragraphs 39 through 43, 45 through 47, 49 through 56 and 58 through 65 above, whether proven individually, jointly, or in any combination thereof, constitute misuse of controlled substances in violation of section 2239, subdivision (a), of the Code. Therefore, cause for discipline exists.

///

///

///
FIFTH CAUSE FOR DISCIPLINE

(Use or Prescribing or Administering to Himself a Controlled Substance or Dangerous Drug)

83. By reason of the facts set forth above in paragraphs 39, 40, 43, 45, 46, 47, 56, 62, 64 and 65, Respondent’s license is subject to disciplinary action pursuant to section 2239, subdivision (a), of the Code for using or prescribing or administering to himself a controlled substance or dangerous drug. The circumstances are as follows:

84. From approximately February 2015 to November 2016, Respondent practiced medicine on the same day as using drugs of abuse.

85. From approximately February 2015 to November 2016, Respondent purchased illicit drugs and transported drugs in his own vehicle.

86. Respondent’s acts and/or omissions set forth in paragraphs 39, 40, 43, 45, 46, 47, 56, 62, 64 and 65 above, whether proven individually, jointly, or in any combination thereof, constitute using or prescribing or administering to himself a controlled substance or dangerous drug in violation of section 2239, subdivision (a), of the Code. Therefore, cause for discipline exists.

SIXTH CAUSE FOR DISCIPLINE

(Prescribing, Dispensing, or Furnishing Dangerous Drugs Without an Appropriate Prior Examination and Medical Indication)

87. By reason of the facts set forth above in paragraphs 39, 40, 41, 49, 50, 51, 56, 57, 61, 63, and 64, Respondent’s license is subject to disciplinary action pursuant to section 2242, subdivision (a), of the Code for prescribing, dispensing, or furnishing dangerous drugs as defined in Section 4022 without an appropriate prior examination and medical indication.

88. Respondent’s acts and/or omissions set forth in paragraphs 39, 40, 41, 49, 50, 51, 56, 57, 61, 63, and 64 above, whether proven individually, jointly, or in any combination thereof, constitute prescribing, dispensing, or furnishing dangerous drugs as defined in Section 4022 without an appropriate prior examination and medical indication in violation of section 2242, subdivision (a), of the Code. Therefore, cause for discipline exists.
SEVENTH CAUSE FOR DISCIPLINE

(Knowingly Making or Signing Any Document Directly Related to the
Practice of Medicine that Falsely Represents an Existence of a State of Facts)

89. By reason of the facts set forth above in paragraphs 39, 41, 58 and 63, Respondent’s license is subject to disciplinary action pursuant to section 2261 of the Code for knowingly making or signing any document directly related to the practice of medicine that falsely represents an existence of a state of facts.

90. Respondent’s acts and/or omissions set forth in paragraphs 39, 41, 58 and 63 above, whether proven individually, jointly, or in any combination thereof, constitute knowingly making or signing any document directly related to the practice of medicine that falsely represents an existence of a state of facts in violation of section 2261 of the Code. Therefore, cause for discipline exists.

EIGHTH CAUSE FOR DISCIPLINE

(Failing to Maintain Adequate and Accurate Medical Records)

91. By reason of the facts set forth above in paragraphs 39, 41, 58 and 63, Respondent’s license is subject to disciplinary action pursuant to section 2266 of the Code for failing to maintain adequate and accurate medical records.

92. Respondent’s acts and/or omissions set forth in paragraphs 39, 41, 58 and 63 above, whether proven individually, jointly, or in any combination thereof, constitute failing to maintain adequate and accurate medical records in violation of section 2266 of the Code. Therefore, cause for discipline exists.

NINTH CAUSE FOR DISCIPLINE

(Unprofessional Conduct)

93. By reason of the facts set forth above in paragraphs 38 through 66, Respondent’s license is subject to disciplinary action pursuant to section 2234 of the Code for engaging in unprofessional conduct. The circumstances are as follows:

///

///
94. From approximately February 2015 to November 2016, Respondent prescribed medications, including controlled substances, to persons with whom he had personal relations without a proper medical examination or diagnosis.

95. From approximately February 2015 to November 2016, Respondent practiced medicine on the same day as using drugs of abuse.

96. From approximately February 2015 to November 2016, Respondent showed a blatant disregard for S.W.'s welfare - it was known to him that she was suffering from a substance use disorder and he continued to provide her with drugs of abuse and even provided her drugs of abuse inside a treatment facility.

97. At the time of S.W.'s overdose on March 4, 2016, Respondent was not forthright with the treating medical personnel regarding S.W.'s drug consumption.

98. From approximately February 2015 to November 2016, Respondent provided alcohol and drugs of abuse to then-minor, C.W.

99. From approximately February 2015 to November 2016, Respondent purchased illicit drugs and transported drugs in his own vehicle.

100. Respondent's acts and/or omissions set forth in paragraphs 38 through 66 above, whether proven individually, jointly, or in any combination thereof, constitute unprofessional conduct in violation of section 2234 of the Code. Therefore, cause for discipline exists.

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 88200, issued to Carmen Anthony Puliafito, M.D.;

2. Revoking, suspending or denying approval of his authority to supervise physician assistants pursuant to section 3527 of the Code and advanced practice nurses;

3. If placed on probation, ordering him to pay the Medical Board of California the costs of probation monitoring; and
4. Taking such other and further action as deemed necessary and proper.

DATED: October 13, 2017

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

Complainant