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8 *Attorneys for Complainant*

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

12 In the Matter of the Accusation Against:

13 **MARTIN LOUIS ROCHA, M.D.**
14 **P.O. Box 716**
Cedar Glen, California 92321

15 **Physician's and Surgeon's Certificate No.**
16 **A54355,**

17 **Respondent.**

Case No. 800-2017-037812

OAH No. 2019050938

STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER

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

20 **PARTIES**

- 21 1. Christine J. Lally (Complainant) is the Interim Executive Director of the Medical Board
22 of California (Board). This action was brought by then Complainant Kimberly Kirchmeyer,¹
23 solely in her official capacity. Complainant is represented in this matter by Xavier Becerra,
24 Attorney General of the State of California, and Joseph F. McKenna III, Deputy Attorney General.
- 25 2. Respondent Martin Louis Rocha, M.D. (Respondent) is represented in this proceeding
26 by attorney Thomas M. Stefanelli, Esq., whose address is: 777 E. Tahquitz Canyon Way, Suite
27 200-157, Palm Springs, California, 92262.

28 ¹ Ms. Kirchmeyer became the Director of the Department of Consumer Affairs on October 28, 2019.

3. On or about June 21, 1995, the Board issued Physician's and Surgeon's Certificate No. A54355 to Respondent. The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought in Accusation No. 800-2017-037812, and will expire on October 31, 2020, unless renewed.

JURISDICTION

4. On January 3, 2019, Accusation No. 800-2017-037812 was filed before the Board, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on January 3, 2019. Respondent timely filed his Notice of Defense contesting the Accusation. A true and correct copy of the Accusation is attached hereto as Exhibit A and hereby incorporated by reference as if fully set forth herein.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, discussed with counsel, and fully understands the charges and allegations in the Accusation. Respondent has also carefully read, discussed with counsel, and fully understands the effects of this Stipulated Settlement and Disciplinary Order.

6. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws, having been fully advised of same by his counsel.

7. Having the benefit of counsel, Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

CULPABILITY

8. Respondent does not contest that, at an administrative hearing, Complainant could establish a *prima facie* case with respect to the charges and allegations contained in Accusation No. 800-2017-037812, and that he has thereby subjected his Physician's and Surgeon's Certificate No. A54355 to disciplinary action.

9. Respondent agrees that if he ever petitions for early termination or modification of probation, or if an accusation and/or petition to revoke probation is filed against him before the Board, all of the charges and allegations contained in Accusation No. 800-2017-037812 shall be deemed true, correct and fully admitted by Respondent for purposes of any such proceeding.

CONTINGENCY

10. This Stipulated Settlement and Disciplinary Order shall be subject to approval of the Board. The parties agree that this Stipulated Settlement and Disciplinary Order shall be submitted to the Board for its consideration in the above-entitled matter and, further, that the Board shall have a reasonable period of time in which to consider and act on this Stipulated Settlement 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 Board considers and acts upon it.

11. The parties agree that this Stipulated Settlement and Disciplinary Order shall be null and void and not binding upon the parties unless approved and adopted by 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 Settlement and Disciplinary Order, 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 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 Board does not, in its discretion, approve and adopt this Stipulated Settlement and Disciplinary Order, with the exception of this paragraph, it shall not become effective, shall be of no evidentiary value whatsoever, and shall not be relied upon or introduced in any disciplinary action by either party hereto. Respondent further agrees that should this Stipulated Settlement and Disciplinary Order be rejected for any reason by the Board, Respondent will assert no claim that the Board, or any member thereof, was prejudiced by its/his/her review, discussion and/or consideration of this Stipulated Settlement and Disciplinary Order or of any matter or matters related hereto.

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1 **ADDITIONAL PROVISIONS**

2 12. This Stipulated Settlement and Disciplinary Order is intended by the parties herein
3 to be an integrated writing representing the complete, final and exclusive embodiment of the
4 agreements of the parties in the above-entitled matter.

5 13. The parties agree that copies of this Stipulated Settlement and Disciplinary Order,
6 including copies of the signatures of the parties, may be used in lieu of original documents and
7 signatures and, further, that such copies shall have the same force and effect as originals.

8 14. In consideration of the foregoing admissions and stipulations, the parties agree the
9 Board may, without further notice to or opportunity to be heard by Respondent, issue and enter
10 the following Disciplinary Order:

11 **DISCIPLINARY ORDER**

12 IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. A54355 issued
13 to Respondent Martin Louis Rocha, M.D., is revoked. However, the revocation is stayed and
14 Respondent is placed on probation for thirty-five (35) months from the effective date of the
15 Decision on the following terms and conditions:

16 1. **CONTROLLED SUBSTANCES – MAINTAIN RECORDS AND ACCESS TO**
17 **RECORDS AND INVENTORIES.**

18 Respondent shall maintain a record of all controlled substances ordered, prescribed,
19 dispensed, administered, or possessed by Respondent, and any recommendation or approval
20 which enables a patient or patient's primary caregiver to possess or cultivate marijuana for the
21 personal medical purposes of the patient within the meaning of Health and Safety Code section
22 11362.5, during probation, showing all of the following: 1) the name and address of the patient;
23 2) the date; 3) the character and quantity of controlled substances involved; and 4) the indications
24 and diagnosis for which the controlled substances were furnished.

25 Respondent shall keep these records in a separate file or ledger, in chronological order. All
26 records and any inventories of controlled substances shall be available for immediate inspection
27 and copying on the premises by the Board or its designee at all times during business hours and
28 shall be retained for the entire term of probation.

1 2. PREScribing PRACTICES COURSE.

2 Within sixty (60) calendar days of the effective date of this Decision, Respondent shall
3 enroll in a course in prescribing practices approved in advance by the Board or its designee.
4 Respondent shall provide the approved course provider with any information and documents that
5 the approved course provider may deem pertinent. Respondent shall participate in and
6 successfully complete the classroom component of the course not later than six (6) months after
7 Respondent's initial enrollment. Respondent shall successfully complete any other component of
8 the course within one (1) year of enrollment. The prescribing practices course shall be at
9 Respondent's expense and shall be in addition to the Continuing Medical Education (CME)
10 requirements for renewal of licensure.

11 A prescribing practices course taken after the acts that gave rise to the charges in the
12 Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board
13 or its designee, be accepted towards the fulfillment of this condition if the course would have
14 been approved by the Board or its designee had the course been taken after the effective date of
15 this Decision.

16 Respondent shall submit a certification of successful completion to the Board or its
17 designee not later than fifteen (15) calendar days after successfully completing the course, or not
18 later than fifteen (15) calendar days after the effective date of the Decision, whichever is later.

19 3. MEDICAL RECORD KEEPING COURSE.

20 Within sixty (60) calendar days of the effective date of this Decision, Respondent shall
21 enroll in a course in medical record keeping approved in advance by the Board or its designee.
22 Respondent shall provide the approved course provider with any information and documents that
23 the approved course provider may deem pertinent. Respondent shall participate in and
24 successfully complete the classroom component of the course not later than six (6) months after
25 Respondent's initial enrollment. Respondent shall successfully complete any other component
26 of the course within one (1) year of enrollment. The medical record keeping course shall be at
27 Respondent's expense and shall be in addition to the CME requirements for renewal of licensure.

28 ////

1 A medical record keeping course taken after the acts that gave rise to the charges in the
2 Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board
3 or its designee, be accepted towards the fulfillment of this condition if the course would have
4 been approved by the Board or its designee had the course been taken after the effective date of
5 this Decision.

6 Respondent shall submit a certification of successful completion to the Board or its
7 designee not later than fifteen (15) calendar days after successfully completing the course, or not
8 later than fifteen (15) calendar days after the effective date of the Decision, whichever is later.

9 4. MONITORING – PRACTICE.

10 Within thirty (30) calendar days of the effective date of this Decision, Respondent shall
11 submit to the Board or its designee for prior approval as a practice monitor, the name and
12 qualifications of one or more licensed physicians and surgeons whose licenses are valid and in
13 good standing, and who are preferably American Board of Medical Specialties (ABMS) certified.
14 A monitor shall have no prior or current business or personal relationship with Respondent, or
15 other relationship that could reasonably be expected to compromise the ability of the monitor to
16 render fair and unbiased reports to the Board, including but not limited to any form of bartering.
17 Unless prior approval is granted by the Board or its designee, the monitor shall be in
18 Respondent's field of practice, and must agree to serve as Respondent's monitor. Respondent
19 shall pay all monitoring costs.

20 The Board or its designee shall provide the approved monitor with copies of the Decision
21 and Disciplinary Order and Accusation No. 800-2017-037812, and a proposed monitoring plan.
22 Within fifteen (15) calendar days of receipt of the Decision and Disciplinary Order and
23 Accusation, and proposed monitoring plan, the monitor shall submit a signed statement that the
24 monitor has read the Decision and Disciplinary Order and the Accusation, fully understands the
25 role of a monitor, and agrees or disagrees with the proposed monitoring plan. If the monitor
26 disagrees with the proposed monitoring plan, the monitor shall submit a revised monitoring plan
27 with the signed statement for approval by the Board or its designee.

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1 Within sixty (60) calendar days of the effective date of this Decision, and continuing
2 throughout probation, Respondent's practice shall be monitored by the approved monitor.
3 Respondent shall make all records available for immediate inspection and copying on the
4 premises by the monitor at all times during business hours and shall retain the records for the
5 entire term of probation.

6 If Respondent fails to obtain approval of a monitor within sixty (60) calendar days of the
7 effective date of this Decision, Respondent shall receive a notification from the Board or its
8 designee to cease the practice of medicine within three (3) calendar days after being so notified.
9 Respondent shall cease the practice of medicine until a monitor is approved to provide monitoring
10 responsibility.

11 The monitor shall submit a quarterly written report to the Board or its designee which
12 includes an evaluation of Respondent's performance, indicating whether Respondent's practices
13 are within the standards of practice of medicine and whether Respondent is practicing medicine
14 safely. It shall be the sole responsibility of Respondent to ensure that the monitor submits the
15 quarterly written reports to the Board or its designee within ten (10) calendar days after the end of
16 the preceding quarter.

17 If the monitor resigns or is no longer available, Respondent shall, within five (5) calendar
18 days of such resignation or unavailability, submit to the Board or its designee, for prior approval,
19 the name and qualifications of a replacement monitor who will be assuming that responsibility
20 within fifteen (15) calendar days. If Respondent fails to obtain approval of a replacement monitor
21 within sixty (60) calendar days of the resignation or unavailability of the monitor, Respondent
22 shall receive a notification from the Board or its designee to cease the practice of medicine within
23 three (3) calendar days after being so notified. Respondent shall cease the practice of medicine
24 until a replacement monitor is approved and assumes monitoring responsibility.

25 In lieu of a monitor, Respondent may participate in a professional enhancement program
26 approved in advance by the Board or its designee that includes, at minimum, quarterly chart
27 review, semi-annual practice assessment, and semi-annual review of professional growth and

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1 education. Respondent shall participate in the professional enhancement program at Respondent's
2 expense during the term of probation.

3 5. PROHIBITED PRACTICE.

4 During probation, Respondent is prohibited from performing any surgical procedures.
5 After the effective date of this Decision, all patients being treated by the Respondent shall be
6 notified that the Respondent is prohibited from performing any surgical procedures. Any new
7 patients must be provided this notification at the time of their initial appointment.

8 Respondent shall maintain a log of all patients to whom the required oral notification was
9 made. The log shall contain the: 1) patient's name, address and phone number; 2) patient's
10 medical record number, if available; 3) the full name of the person making the notification; 4) the
11 date the notification was made; and 5) a description of the notification given. Respondent shall
12 keep this log in a separate file or ledger, in chronological order, shall make the log available for
13 immediate inspection and copying on the premises at all times during business hours by the Board
14 or its designee, and shall retain the log for the entire term of probation.

15 6. NOTIFICATION.

16 Within seven (7) days of the effective date of this Decision, the Respondent shall provide a
17 true copy of this Decision and Disciplinary Order and Accusation No. 800-2017-037812 to the
18 Chief of Staff or the Chief Executive Officer at every hospital where privileges or membership
19 are extended to Respondent, at any other facility where Respondent engages in the practice of
20 medicine, including all physician and locum tenens registries or other similar agencies, and to the
21 Chief Executive Officer at every insurance carrier which extends malpractice insurance coverage
22 to Respondent. Respondent shall submit proof of compliance to the Board or its designee within
23 fifteen (15) calendar days.

24 This condition shall apply to any change(s) in hospitals, other facilities or insurance carrier.

25 7. SUPERVISION OF PHYSICIAN ASSISTANTS AND ADVANCED PRACTICE
26 NURSES.

27 During probation, Respondent is prohibited from supervising physician assistants and
28 advanced practice nurses.

1 8. OBEY ALL LAWS.

2 Respondent shall obey all federal, state and local laws, all rules governing the practice of
3 medicine in California and remain in full compliance with any court ordered criminal probation,
4 payments, and other orders.

5 9. QUARTERLY DECLARATIONS.

6 Respondent shall submit quarterly declarations under penalty of perjury on forms provided
7 by the Board, stating whether there has been compliance with all the conditions of probation.

8 Respondent shall submit quarterly declarations not later than ten (10) calendar days after
9 the end of the preceding quarter.

10 10. GENERAL PROBATION REQUIREMENTS.

11 Compliance with Probation Unit

12 Respondent shall comply with the Board's probation unit.

13 Address Changes

14 Respondent shall, at all times, keep the Board informed of Respondent's business and
15 residence addresses, email address (if available), and telephone number. Changes of such
16 addresses shall be immediately communicated in writing to the Board or its designee. Under no
17 circumstances shall a post office box serve as an address of record, except as allowed by Business
18 and Professions Code section 2021(b).

19 Place of Practice

20 Respondent shall not engage in the practice of medicine in Respondent's or patient's place
21 of residence, unless the patient resides in a skilled nursing facility or other similar licensed facility

22 License Renewal

23 Respondent shall maintain a current and renewed California physician's and surgeon's
24 license.

25 Travel or Residence Outside California

26 Respondent shall immediately inform the Board or its designee, in writing, of travel to any
27 areas outside the jurisdiction of California which lasts, or is contemplated to last, more than thirty
28 (30) calendar days.

1 In the event Respondent should leave the State of California to reside or to practice,
2 Respondent shall notify the Board or its designee in writing thirty (30) calendar days prior to the
3 dates of departure and return.

4 11. INTERVIEW WITH THE BOARD OR ITS DESIGNEE.

5 Respondent shall be available in person upon request for interviews either at Respondent's
6 place of business or at the probation unit office, with or without prior notice throughout the term
7 of probation.

8 12. NON-PRACTICE WHILE ON PROBATION.

9 Respondent shall notify the Board or its designee in writing within fifteen (15) calendar
10 days of any periods of non-practice lasting more than thirty (30) calendar days and within fifteen
11 (15) calendar days of Respondent's return to practice. Non-practice is defined as any period of
12 time Respondent is not practicing medicine as defined in Business and Professions Code sections
13 2051 and 2052 for at least forty (40) hours in a calendar month in direct patient care, clinical
14 activity or teaching, or other activity as approved by the Board. If Respondent resides in
15 California and is considered to be in non-practice, Respondent shall comply with all terms and
16 conditions of probation. All time spent in an intensive training program which has been approved
17 by the Board or its designee shall not be considered non-practice and does not relieve Respondent
18 from complying with all the terms and conditions of probation. Practicing medicine in another
19 state of the United States or Federal jurisdiction while on probation with the medical licensing
20 authority of that state or jurisdiction shall not be considered non-practice. A Board-ordered
21 suspension of practice shall not be considered as a period of non-practice.

22 In the event Respondent's period of non-practice while on probation exceeds eighteen (18)
23 calendar months, Respondent shall successfully complete the Federation of State Medical
24 Boards's Special Purpose Examination, or, at the Board's discretion, a clinical competence
25 assessment program that meets the criteria of Condition 18 of the current version of the Board's
26 "Manual of Model Disciplinary Orders and Disciplinary Guidelines" prior to resuming the
27 practice of medicine.

28 Respondent's period of non-practice while on probation shall not exceed two (2) years.

1 Periods of non-practice will not apply to the reduction of the probationary term.

2 Periods of non-practice for a Respondent residing outside of California will relieve
3 Respondent of the responsibility to comply with the probationary terms and conditions with the
4 exception of this condition and the following terms and conditions of probation: Obey All Laws;
5 General Probation Requirements; Quarterly Declarations; Abstain from the Use of Alcohol and/or
6 Controlled Substances; and Biological Fluid Testing..

7 13. COMPLETION OF PROBATION.

8 Respondent shall comply with all financial obligations (e.g., restitution, probation costs) not
9 later than one hundred twenty (120) calendar days prior to the completion of probation. Upon
10 successful completion of probation, Respondent's certificate shall be fully restored.

11 14. VIOLATION OF PROBATION.

12 Failure to fully comply with any term or condition of probation is a violation of probation.
13 If Respondent violates probation in any respect, the Board, after giving Respondent notice and the
14 opportunity to be heard, may revoke probation and carry out the disciplinary order that was
15 stayed. If an Accusation, Petition to Revoke Probation, or an Interim Suspension Order is filed
16 against Respondent during probation, the Board shall have continuing jurisdiction until the matter
17 is final, and the period of probation shall be extended until the matter is final.

18 15. LICENSE SURRENDER.

19 Following the effective date of this Decision, if Respondent ceases practicing due to
20 retirement or health reasons or is otherwise unable to satisfy the terms and conditions of
21 probation, Respondent may request to surrender his license. The Board reserves the right to
22 evaluate Respondent's request and to exercise its discretion in determining whether or not to
23 grant the request, or to take any other action deemed appropriate and reasonable under the
24 circumstances. Upon formal acceptance of the surrender, Respondent shall within fifteen (15)
25 calendar days deliver Respondent's wallet and wall certificate to the Board or its designee and
26 Respondent shall no longer practice medicine. Respondent will no longer be subject to the terms
27 and conditions of probation. If Respondent re-applies for a medical license, the application shall
28 be treated as a petition for reinstatement of a revoked certificate.

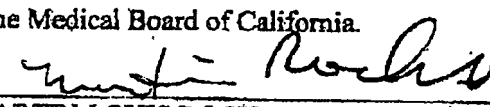
16. PROBATION MONITORING COSTS.

Respondent shall pay the costs associated with probation monitoring each and every year of probation, as designated by the Board, which may be adjusted on an annual basis. Such costs shall be payable to the Medical Board of California and delivered to the Board or its designee no later than January 31 of each calendar year.

ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Thomas M. Stefanelli, Esq. I fully understand the stipulation and the effect it will have on my Physician's and Surgeon's Certificate No. A54355. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Medical Board of California.

DATED: 12/13/19


MARTIN LOUIS ROCHA, M.D.,
Respondent

I have read and fully discussed with Respondent Martin Louis Rocha, M.D., the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: 12/13/19


THOMAS M. STEFANELLI, ESQ.
Attorney for Respondent

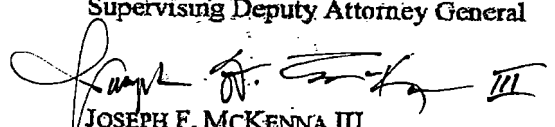
ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Medical Board of California.

DATED: December 17, 2019

Respectfully submitted,

XAVIER BECERRA
Attorney General of California
ALEXANDRA M. ALVAREZ
Supervising Deputy Attorney General


JOSEPH F. MCKENNA III
Deputy Attorney General
Attorneys for Complainant

SD2018702013 / Doc.No.73057934

Exhibit A

Accusation No. 800-2017-037812

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

14 In the Matter of the Accusation Against:

Case No. 800-2017-037812

15 **MARTIN LOUIS ROCHA, M.D.**
16 **P.O. Box 716**
Cedar Glen, California 92321

A C C U S A T I O N

17 **Physician's and Surgeon's Certificate**
18 **No. A54355,**

19 **Respondent.**

20 Complainant alleges:

21 **PARTIES**

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

25 2. On or about June 21, 1995, the Medical Board issued Physician's and Surgeon's
26 Certificate No. A54355 to Martin Louis Rocha, M.D. (Respondent). The Physician's and
27 Surgeon's Certificate was in full force and effect at all times relevant to the charges brought
28 herein and will expire on October 31, 2020, unless renewed.

JURISDICTION

3. This Accusation is brought before the Medical Board of California (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

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

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

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

“... ”

“(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.

“... ”

6. 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.”

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1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Gross Negligence)**

3 7. Respondent has subjected his Physician's and Surgeon's Certificate No. A54355
4 to disciplinary action under sections 2227 and 2234, as defined in section 2234, subdivision (b),
5 of the Code, in that Respondent committed gross negligence in his care and treatment of Patients
6 A, B, C, and D, as more particularly alleged hereinafter:

7 8. **Patient A**

8 (a) On or about November 16, 2016, Patient A presented to Respondent's
9 clinic for the first time. Patient A's "chief complaint" was for refill of his
10 medications. Respondent performed a brief physical examination of Patient A and
11 diagnosed him with chronic pain syndrome. In the progress note for this visit,
12 many of the headings pertinent to the diagnosis were left blank including, pain
13 quality, duration, timing, context, radiation, and severity. Respondent issued a
14 prescription for Norco to Patient A at this visit.

15 (b) Between in or around November 2016, and in or around April 2017,
16 Respondent periodically saw Patient A at his clinic for check ups and prescription
17 refills of Ambien,¹ Norco,² and clonazepam.³

18 (c) On or about December 15, 2016, Patient A presented to Respondent's
19 clinic with a "chief complaint" of "medication for sleeping." Respondent

20 ¹ Ambien, a brand name for zolpidem tartrate, is a Schedule IV controlled substance
21 pursuant to Health and Safety Code section 11057, subdivision (d), and a dangerous drug
22 pursuant to Business and Professions Code section 4022. Ambien is a sedative used for the *short-*
term treatment of insomnia, typically two to three (2 to 3) weeks.

23 ² Norco, a brand name for Hydrocodone APAP, is a Schedule II controlled substance
24 pursuant to Health and Safety Code section 11056, subdivision (e), and a dangerous drug
25 pursuant to Business and Professions Code section 4022. Schedule II controlled substances are
26 substances that have a currently accepted medical use in the United States, but also have a high
potential for abuse, and the abuse of which may lead to severe psychological or physical
dependence. When properly prescribed and indicated, it is used for the treatment of moderate to
severe pain.

27 ³ Clonazepam, a benzodiazepine, is a centrally acting hypnotic-sedative that is a Schedule
28 IV controlled substance pursuant to Health and Safety 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 to treat seizure disorders and panic disorders.

1 diagnosed Patient A with "insomnia, unspecified." Respondent then issued Patient
2 A a prescription for Ambien without documenting any information regarding this
3 patient's history of sleep disorders. In addition, Respondent continued to refill
4 Patient A's prescription of Ambien, over a period of several months, without ever
5 documenting any history of sleep disorder for this patient.

6 (d) On or about February 23, 2017, Patient A presented to Respondent's
7 clinic for a refill of his medications. Respondent documented a past medical
8 history, a physical examination, vital signs, current and past diagnoses, and a care
9 plan for refilling Patient A's controlled medications. Significantly, however,
10 Respondent did not sign the progress note for this visit until a year later, on or
11 about February 22, 2018.

12 9. **Patient B**

13 (a) On or about October 13, 2015, Respondent prescribed methylphenidate⁴
14 to his daughter, Patient B. Significantly, Respondent did not sign the progress
15 note for this visit until June 11, 2018. Furthermore, the note included only scant
16 information about past history and history of present illness.

17 10. **Patient C**

18 (a) Respondent routinely prescribed methylphenidate to his niece, Patient C.
19 Significantly, Respondent signed progress notes for six (6) different charted visits
20 with Patient C all with the same date of January 17, 2018.⁵ Furthermore, the notes
21 were either missing significant information or included only scant information about
22 past history and/or history of present illness.

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25 ⁴ Methylphenidate is a central nervous system stimulant primarily used to treat attention
26 deficit hyperactivity disorder (ADHD).

27 ⁵ Respondent charted seeing Patient C on the following dates: February 26, 2017; April 4,
28 2017; June 13, 2017; September 28, 2017; November 4, 2017; and December 20, 2017.

1 **11. Patient D**

2 (a) Between in or around March 2016, and in or around July 2017,
3 Respondent periodically saw his brother-in-law, Patient D, at his clinic for check-ups
4 and prescription refills of Soma.⁶ Significantly, Respondent electronically signed
5 progress notes for five (5) different charted visits with Patient D all with the same date
6 of June 11, 2018.⁷ Furthermore, the notes were either missing significant information
7 or included only scant information about past history and/or history of present illness.

8 12. On July 19, 2018, Respondent was interviewed at the Health Quality Investigation
9 Unit (HQIU) San Bernardino field office regarding the care and treatment he had provided to
10 Patients A, B, C, and D. During the subject interview, Respondent admitted that he had
11 completed some of the medical records for these patients more than a year after the care had been
12 rendered. Respondent further admitted that he did not write and/or complete some of the
13 patients' medical records until 2018, and only after he had been asked by HQIU to produce the
14 records during its investigation of Respondent.

15 13. Respondent committed gross negligence in his care and treatment of Patients
16 A, B, C, and D, including, but not limited to, the following:

17 (a) Respondent failed to maintain complete and accurate medical records.

18 **SECOND CAUSE FOR DISCIPLINE**

19 **(Repeated Negligent Acts)**

20 14. Respondent has further subjected his Physician's and Surgeon's Certificate
21 No. A54355 to disciplinary action under sections 2227 and 2234, as defined in section 2234,
22 subdivision (c), of the Code, in that Respondent committed repeated negligent acts in his care
23 and treatment of Patients A, B, C, and D, as more particularly alleged hereinafter:

24

25 ⁶ Soma, a brand name for carisoprodol, is a Schedule IV controlled substance pursuant to
26 Health and Safety Code section 11057, subdivision (d), and a dangerous drug pursuant to
27 Business and Professions Code section 4022. When properly prescribed and indicated, it is used
28 for the short-term treatment of acute and painful musculoskeletal conditions.

⁷ Respondent charted seeing Patient D on the following dates: March 12, 2016; April 23,
2016; May 21, 2016; May 31, 2016; and July 14, 2016.

1 15. **Patient A**

2 (a) Paragraphs 8, 12, and 13, above, are hereby incorporated by reference
3 and realleged as if fully set forth herein; and

4 (b) Respondent inappropriately prescribed Ambien to Patient A wherein
5 there was no documentation of any information in the progress notes
6 that justified the ongoing use of this drug by this patient.

7 16. **Patient B**

8 (a) Paragraphs 9, 12, and 13, above, are hereby incorporated by reference
9 and realleged as if fully set forth herein.

10 17. **Patient C**

11 (a) Paragraphs 10, 12, and 13, above, are hereby incorporated by reference
12 and realleged as if fully set forth herein.

13 18. **Patient D**

14 (a) Paragraphs 11, 12, and 13, above, are hereby incorporated by reference
15 and realleged as if fully set forth herein.

16 **THIRD CAUSE FOR DISCIPLINE**

17 **(Failure to Maintain Adequate and Accurate Medical Records)**

18 19. Respondent has further subjected his Physician's and Surgeon's Certificate
19 No. A54355 to disciplinary action under sections 2227 and 2234, as defined in section 2266, of
20 the Code, in that Respondent failed to maintain adequate and accurate records in connection with
21 his care and treatment of Patients A, B, C, and D, as more particularly alleged hereinafter:

22 20. **Patient A**

23 (a) Paragraphs 8, 12, and 13, above, are hereby incorporated by reference
24 and realleged as if fully set forth herein.

25 21. **Patient B**

26 (a) Paragraphs 9, 12, and 13, above, are hereby incorporated by reference
27 and realleged as if fully set forth herein.

28 ////

1 22. Patient C

2 (a) Paragraphs 10, 12, and 13, above, are hereby incorporated by reference
3 and realleged as if fully set forth herein.

4 23. Patient D

5 (a) Paragraphs 11, 12, and 13, above, are hereby incorporated by reference
6 and realleged as if fully set forth herein.

7 PRAYER

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


10 1. Revoking or suspending Physician's and Surgeon's Certificate No. A54355, issued to
11 Respondent Martin Louis Rocha, M.D.;

12 2. Revoking, suspending or denying approval of Respondent Martin Louis Rocha,
13 M.D.'s, authority to supervise physician assistants pursuant to section 3527 of the Code, and
14 advanced practice nurses;

15 3. Ordering Respondent Martin Louis Rocha, M.D., to pay the Medical Board of
16 California the costs of probation monitoring, if placed on probation; and

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

18
19 DATED: January 3, 2019

20 
21 KIMBERLY KIRCHMEYER
22 Executive Director
23 Medical Board of California
24 Department of Consumer Affairs
25 State of California
26 Complainant

27
28 SD2018702013
 Doc.No.71687295