

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

**In the Matter of the Accusation  
Against:**

**Timothy Rogers Mulligan, M.D.**

**Physician's and Surgeon's  
Certificate No. G85038**

**Respondent**

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**Case No. 800-2017-032499**

**DECISION**

**The attached Stipulated Settlement and Disciplinary 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 February 21, 2020.**

**IT IS SO ORDERED: January 24, 2020.**

**MEDICAL BOARD OF CALIFORNIA**



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**Kristina D. Lawson, J.D., Chair  
Panel B**

1 XAVIER BECERRA  
Attorney General of California  
2 MARY CAIN-SIMON  
Supervising Deputy Attorney General  
3 DAVID CARR  
Deputy Attorney General  
4 State Bar No. 131672  
455 Golden Gate Avenue, Suite 11000  
5 San Francisco, CA 94102-7004  
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*Attorneys for Complainant*  
7

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

12 In the Matter of the Accusation Against:

13 **TIMOTHY ROGERS MULLIGAN, M.D.**

14 1850 Sullivan Avenue, Suite 115  
15 Daly City, CA 94015-2209

16 Physician's and Surgeon's  
17 Certificate No. G 85038

18 Respondent.

Case No. 800-2017-032499

OAH No. 2019061218

**STIPULATED SETTLEMENT AND  
DISCIPLINARY ORDER**

19  
20 In the interest of a prompt and speedy settlement of this matter, consistent with the public  
21 interest and the responsibility of the Medical Board of California of the Department of Consumer  
22 Affairs, the parties hereby agree to the following Stipulated Settlement and Disciplinary Order  
23 which will be submitted to the Board for approval and adoption as the final disposition of the  
24 Accusation.

25 **PARTIES**

26 1. Kimberly Kirchmeyer (Complainant) is the Executive Director of the Medical Board  
27 of California (Board). She brought this action solely in her official capacity and is represented in  
28

1 this matter by Xavier Becerra, Attorney General of the State of California, by David Carr, Deputy  
2 Attorney General.

3 2. Timothy Rogers Mulligan, M.D. is represented in this proceeding by attorney Joseph  
4 Gharritty, Hassard Bonnington, LLP, whose address is: 275 Battery St., Suite 1600, San  
5 Francisco CA 94111.

6 3. On February 11, 1999, the Board issued Physician's and Surgeon's Certificate No. G  
7 85038 to Timothy Rogers Mulligan, M.D. (Respondent). The Physician's and Surgeon's  
8 Certificate was in full force and effect at all times relevant to the charges brought in Accusation  
9 No. 800-2017-032499, and will expire on June 30, 2020, unless renewed.

#### 10 **JURISDICTION**

11 Accusation No. 800-2017-032499 was filed before the Board and is currently pending  
12 against Respondent. The Accusation and all other statutorily required documents were properly  
13 served on Respondent on June 12, 2018. Respondent timely filed his Notice of Defense  
14 contesting the Accusation.

15 4. A copy of Accusation No. 800-2017-032499 is attached as Exhibit A and  
16 incorporated herein by reference.

#### 17 **ADVISEMENT AND WAIVERS**

18 5. Respondent has carefully read, fully discussed with counsel, and understands the  
19 charges and allegations in Accusation No. 800-2017-032499. Respondent has also carefully read,  
20 fully discussed with counsel, and understands the effects of this Stipulated Settlement and  
21 Disciplinary Order.

22 6. Respondent is fully aware of his legal rights in this matter, including the right to a  
23 hearing on the charges and allegations in the Accusation; the right to confront and cross-examine  
24 the witnesses against him; the right to present evidence and to testify on his own behalf; the right  
25 to the issuance of subpoenas to compel the attendance of witnesses and the production of  
26 documents; the right to reconsideration and court review of an adverse decision; and all other  
27 rights accorded by the California Administrative Procedure Act and other applicable laws.  
28

7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

## CULPABILITY

8. Respondent understands and agrees that the charges and allegations in Accusation No. 800-2017-032499, if proven at a hearing, constitute cause for imposing discipline upon his Physician's and Surgeon's Certificate.

9. For the purpose of resolving the Accusation without the expense and uncertainty of further proceedings, Respondent agrees that, at a hearing, Complainant could establish a factual basis for the charges in the Accusation, and that Respondent hereby gives up his right to contest those charges.

10. Respondent agrees that his Physician's and Surgeon's Certificate is subject to discipline and he agrees to be bound by the Board's probationary terms as set forth in the Disciplinary Order below.

## RESERVATION

11. The admissions made by Respondent herein are only for the purposes of this proceeding, or any other proceedings in which the Medical Board of California or other professional licensing agency is involved, and shall not be admissible in any other criminal or civil proceeding.

## CONTINGENCY

12. This stipulation shall be subject to approval by the Medical Board of California. Respondent understands and agrees that counsel for Complainant and the staff of the Medical Board of California may communicate directly with the Board regarding this stipulation and settlement, without notice to or participation by Respondent or his counsel. By signing the stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal

1 action between the parties, and the Board shall not be disqualified from further action by having  
2 considered this matter.

3 13. The parties understand and agree that Portable Document Format (PDF) and facsimile  
4 copies of this Stipulated Settlement and Disciplinary Order, including PDF and facsimile  
5 signatures thereto, shall have the same force and effect as the originals.

6 14. In consideration of the foregoing admissions and stipulations, the parties agree that  
7 the Board may, without further notice or formal proceeding, issue and enter the following  
8 Disciplinary Order:

9 **DISCIPLINARY ORDER**

10 IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. G 85038, issued  
11 to Respondent Timothy Rogers Mulligan, M.D., is revoked. However, the revocation is stayed  
12 and Respondent is placed on probation for three (3) years on the following terms and conditions:

13 1. CONTROLLED SUBSTANCES - SURRENDER OF DEA PERMIT. Respondent is  
14 prohibited from practicing medicine until Respondent provides documentary proof to the Board  
15 or its designee that Respondent's DEA permit has been surrendered to the Drug Enforcement  
16 Administration for cancellation, together with any state prescription forms and all controlled  
17 substances order forms. Thereafter, Respondent shall not reapply for a new DEA permit without  
18 the prior written consent of the Board or its designee.

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

27 Respondent shall keep these records in a separate file or ledger, in chronological order. All  
28 records and any inventories of controlled substances shall be available for immediate inspection

1 and copying on the premises by the Board or its designee at all times during business hours and  
2 shall be retained for the entire term of probation.

3       3.    EDUCATION COURSE. Within 60 calendar days of the effective date of this  
4 Decision, and on an annual basis thereafter, Respondent shall submit to the Board or its designee  
5 for its prior approval educational program(s) or course(s) which shall not be less than 40 hours  
6 per year, for each year of probation. The educational program(s) or course(s) shall be aimed at  
7 correcting any areas of deficient practice or knowledge and shall be Category I certified. The  
8 educational program(s) or course(s) shall be at Respondent's expense and shall be in addition to  
9 the Continuing Medical Education (CME) requirements for renewal of licensure. Following the  
10 completion of each course, the Board or its designee may administer an examination to test  
11 Respondent's knowledge of the course. Respondent shall provide proof of attendance for 65  
12 hours of CME of which 40 hours were in satisfaction of this condition.

13       4.    PRESCRIBING PRACTICES COURSE. Within 60 calendar days of the effective  
14 date of this Decision, Respondent shall enroll in a course in prescribing practices approved in  
15 advance by the Board or its designee. Respondent shall provide the approved course provider  
16 with any information and documents that the approved course provider may deem pertinent.  
17 Respondent shall participate in and successfully complete the classroom component of the course  
18 not later than six (6) months after Respondent's initial enrollment. Respondent shall successfully  
19 complete any other component of the course within one (1) year of enrollment. The prescribing  
20 practices course shall be at Respondent's expense and shall be in addition to the Continuing  
21 Medical Education (CME) requirements for renewal of licensure.

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

27       Respondent shall submit a certification of successful completion to the Board or its  
28 designee not later than 15 calendar days after successfully completing the course, or not later than

1 15 calendar days after the effective date of the Decision, whichever is later.

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

11 A medical record keeping 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 15 calendar days after successfully completing the course, or not later than  
18 15 calendar days after the effective date of the Decision, whichever is later.

19 6. MONITORING - PRACTICE/BILLING. Within 30 calendar days of the effective  
20 date of this Decision, Respondent shall submit to the Board or its designee for prior approval as a  
21 practice monitor, the name and qualifications of one or more licensed physicians and surgeons  
22 whose licenses are valid and in good standing and who are preferably American Board of Medical  
23 Specialties (ABMS) certified. A monitor shall have no prior or current business or personal  
24 relationship with Respondent, or other relationship that could reasonably be expected to  
25 compromise the ability of the monitor to render fair and unbiased reports to the Board, including  
26 but not limited to any form of bartering, shall be in Respondent's field of practice, and must agree  
27 to serve as Respondent's monitor. Respondent shall pay all monitoring costs.

28 The Board or its designee shall provide the approved monitor with copies of the Decision

1 and Accusation and a proposed monitoring plan. Within 15 calendar days of receipt of the  
2 Decision, Accusation, and proposed monitoring plan, the monitor shall submit a signed statement  
3 that the monitor has read the Decision and Accusation, fully understands the role of a monitor,  
4 and agrees or disagrees with the proposed monitoring plan. If the monitor disagrees with the  
5 proposed monitoring plan, the monitor shall submit a revised monitoring plan with the signed  
6 statement for approval by the Board or its designee.

7 Within 60 calendar days of the effective date of this Decision, and continuing throughout  
8 probation, Respondent's practice shall be monitored by the approved monitor. Respondent shall  
9 make all records available for immediate inspection and copying on the premises by the monitor  
10 at all times during business hours and shall retain the records for the entire term of probation.

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

16 The monitor shall submit a quarterly written report to the Board or its designee which  
17 includes an evaluation of Respondent's performance, indicating whether Respondent's practices  
18 are within the standards of practice of medicine and whether Respondent is practicing medicine  
19 safely, billing appropriately, or both. It shall be the sole responsibility of Respondent to ensure  
20 that the monitor submits the quarterly written reports to the Board or its designee within 10  
21 calendar days after the end of the preceding quarter.

22 If the monitor resigns or is no longer available, Respondent shall, within 5 calendar days of  
23 such resignation or unavailability, submit to the Board or its designee, for prior approval, the  
24 name and qualifications of a replacement monitor who will be assuming that responsibility within  
25 15 calendar days. If Respondent fails to obtain approval of a replacement monitor within 60  
26 calendar days of the resignation or unavailability of the monitor, Respondent shall receive a  
27 notification from the Board or its designee to cease the practice of medicine within three (3)  
28 calendar days after being so notified. Respondent shall cease the practice of medicine until a



1 replacement monitor is approved and assumes monitoring responsibility.

2 In lieu of a monitor, Respondent may participate in a professional enhancement program  
3 approved in advance by the Board or its designee that includes, at minimum, quarterly chart  
4 review, semi-annual practice assessment, and semi-annual review of professional growth and  
5 education. Respondent shall participate in the professional enhancement program at Respondent's  
6 expense during the term of probation.

7 STANDARD CONDITIONS

8 7. NOTIFICATION. Within seven (7) days of the effective date of this Decision, the  
9 Respondent shall provide a true copy of this Decision and Accusation to the Chief of Staff or the  
10 Chief Executive Officer at every hospital where privileges or membership are extended to  
11 Respondent, at any other facility where Respondent engages in the practice of medicine,  
12 including all physician and locum tenens registries or other similar agencies, and to the Chief  
13 Executive Officer at every insurance carrier which extends malpractice insurance coverage to  
14 Respondent. Respondent shall submit proof of compliance to the Board or its designee within 15  
15 calendar days.

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

17 8. SUPERVISION OF PHYSICIAN ASSISTANTS AND ADVANCED PRACTICE  
18 NURSES. During probation, Respondent is prohibited from supervising physician assistants and  
19 advanced practice nurses.

20 9. OBEY ALL LAWS. Respondent shall obey all federal, state and local laws, all rules  
21 governing the practice of medicine in California and remain in full compliance with any court  
22 ordered criminal probation, payments, and other orders.

23 10. QUARTERLY DECLARATIONS. Respondent shall submit quarterly declarations  
24 under penalty of perjury on forms provided by the Board, stating whether there has been  
25 compliance with all the conditions of probation.

26 Respondent shall submit quarterly declarations not later than 10 calendar days after the end  
27 of the preceding quarter.

28 ///

11. GENERAL PROBATION REQUIREMENTS.

Compliance with Probation Unit

Respondent shall comply with the Board's probation unit.

Address Changes

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

Place of Practice

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

License Renewal

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

Travel or Residence Outside California

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

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

12. INTERVIEW WITH THE BOARD OR ITS DESIGNEE. Respondent shall be available in person upon request for interviews either at Respondent's place of business or at the probation unit office, with or without prior notice throughout the term of probation.

13. NON-PRACTICE WHILE ON PROBATION. Respondent shall notify the Board or its designee in writing within 15 calendar days of any periods of non-practice lasting more than

1 30 calendar days and within 15 calendar days of Respondent's return to practice. Non-practice is  
2 defined as any period of time Respondent is not practicing medicine as defined in Business and  
3 Professions Code sections 2051 and 2052 for at least 40 hours in a calendar month in direct  
4 patient care, clinical activity or teaching, or other activity as approved by the Board. If  
5 Respondent resides in California and is considered to be in non-practice, Respondent shall  
6 comply with all terms and conditions of probation. All time spent in an intensive training  
7 program which has been approved by the Board or its designee shall not be considered non-  
8 practice and does not relieve Respondent from complying with all the terms and conditions of  
9 probation. Practicing medicine in another state of the United States or Federal jurisdiction while  
10 on probation with the medical licensing authority of that state or jurisdiction shall not be  
11 considered non-practice. A Board-ordered suspension of practice shall not be considered as a  
12 period of non-practice.

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

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

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

20 Periods of non-practice for a Respondent residing outside of California will relieve  
21 Respondent of the responsibility to comply with the probationary terms and conditions with the  
22 exception of this condition and the following terms and conditions of probation: Obey All Laws;  
23 General Probation Requirements; and Quarterly Declarations.

24 14. COMPLETION OF PROBATION. Respondent shall comply with all financial  
25 obligations (e.g., restitution, probation costs) not later than 120 calendar days prior to the  
26 completion of probation. Upon successful completion of probation, Respondent's certificate shall  
27 be fully restored.

28 15. VIOLATION OF PROBATION. Failure to fully comply with any term or condition

1 of probation is a violation of probation. If Respondent violates probation in any respect, the  
2 Board, after giving Respondent notice and the opportunity to be heard, may revoke probation and  
3 carry out the disciplinary order that was stayed. If an Accusation, or Petition to Revoke Probation,  
4 or an Interim Suspension Order is filed against Respondent during probation, the Board shall have  
5 continuing jurisdiction until the matter is final, and the period of probation shall be extended until  
6 the matter is final.

7 16. LICENSE SURRENDER. Following the effective date of this Decision, if  
8 Respondent ceases practicing due to retirement or health reasons or is otherwise unable to satisfy  
9 the terms and conditions of probation, Respondent may request to surrender his or her license.  
10 The Board reserves the right to evaluate Respondent's request and to exercise its discretion in  
11 determining whether or not to grant the request, or to take any other action deemed appropriate  
12 and reasonable under the circumstances. Upon formal acceptance of the surrender, Respondent  
13 shall within 15 calendar days deliver Respondent's wallet and wall certificate to the Board or its  
14 designee and Respondent shall no longer practice medicine. Respondent will no longer be subject  
15 to the terms and conditions of probation. If Respondent re-applies for a medical license, the  
16 application shall be treated as a petition for reinstatement of a revoked certificate.

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

### 22 23 ACCEPTANCE

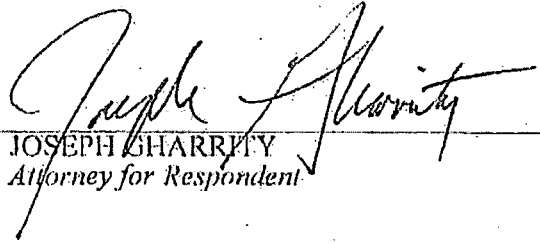
24 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully  
25 discussed it with my attorney, Joseph Gharrity. I understand the stipulation and the effect it will  
26 have on my Physician's and Surgeon's Certificate. I enter into this Stipulated Settlement and  
27 Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the  
28 Decision and Order of the Medical Board of California.

1  
2 DATED: 10/07/2019

  
TIMOTHY ROGERS MULLIGAN, M.D.  
Respondent

3  
4  
5 I have read and fully discussed with Respondent Timothy Rogers Mulligan, M.D. the terms  
6 and conditions and other matters contained in the above Stipulated Settlement and Disciplinary  
7 Order. I approve its form and content.

8  
9 DATED: 10/8/19

  
JOSEPH CHARRITY  
Attorney for Respondent


10  
11  
12 **ENDORSEMENT**

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

15  
16 DATED: October 10, 2019

Respectfully submitted,

17 XAVIER BECERRA  
Attorney General of California  
18 MARY CAIN-SIMON  
Supervising Deputy Attorney General

19  
20   
DAVID CARR  
21 Deputy Attorney General  
Attorneys for Complainant  
22  
23  
24

25 SF2018400678  
26 \*Stipulated Settlement and Discipline  
27  
28

**Exhibit A**

**Accusation No. 800-2017-032499**

1 XAVIER BECERRA  
Attorney General of California  
2 MARY CAIN-SIMON  
Supervising Deputy Attorney General  
3 DAVID CARR  
Deputy Attorney General  
4 State Bar No. 131672  
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*Attorneys for Complainant*

FILED  
STATE OF CALIFORNIA  
MEDICAL BOARD OF CALIFORNIA  
SACRAMENTO JUNE 12, 2018  
BY *[Signature]* ANALYST

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

12 In the Matter of the Accusation Against:

Case No. 800-2017-032499

13 **Timothy Rogers Mulligan, M.D.**

14 1850 Sullivan Avenue, Suite 115  
Daly City, CA 94015-2209

ACCUSATION

15 Physician's and Surgeon's  
16 Certificate No. G 85038,

17 Respondent.

18  
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 February 11, 1999, the Board issued Physician's and Surgeon's  
25 Certificate Number G 85038 to Timothy Rogers Mulligan, M.D. (Respondent). The Physician's  
26 and Surgeon's Certificate was in full force and effect at all times relevant to the allegations  
27 brought herein and will expire on June 30, 2020, unless renewed.

28 ///

## JURISDICTION

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

4. Section 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.

"...."

5. 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, or such other action taken in relation to discipline as the Board deems proper.

6. Section 2234 of the Code states, in relevant portion:

"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.



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

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

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

11 “(d) Incompetence.

12 “....”

13 7. The incidents described herein occurred in California.

14 **FIRST CAUSE FOR DISCIPLINE**

15 **(Negligence)**

16 8. Respondent's license is subject to disciplinary action for unprofessional conduct  
17 under section 2234(b) and/or 2234(c) in that his treatment and care provided to patient P-1<sup>1</sup>  
18 included departures from the standard of care constituting gross negligence and/or, in conjunction  
19 with the other departures from the standard of care alleged herein, repeated negligent acts.

20 9. Respondent first saw patient P-1 on November 22, 2013. P-1 stated that his primary  
21 care physician was retiring and that he had lost his medical insurance coverage. Respondent  
22 noted that P-1 had a ten-year history of debilitating back and knee pain incurred in a car accident.  
23 Respondent's notes of his physical examination describe abnormalities of the lower back and  
24 right hip. Respondent's review of an earlier imaging study showed P-1 suffering from discogenic  
25 disease.

26  
27  
28 <sup>1</sup> The patient is identified herein as patient P-1 to preserve patient confidentiality. The  
patient's full name will be provided to Respondent in discovery.

1           10. P-1 reportedly told Respondent that non-steroidal anti-inflammatory medications  
2 aggravated his gastric reflux disease and that other analgesic medications did not control his pain  
3 sufficiently to allow P-1 to work in his physically demanding trade. P-1 told Respondent that his  
4 pain had been tolerable only during the preceding year, during which he was taking a daily dose  
5 of ten 30 mg. oxycodone<sup>2</sup> tablets. In his chart notes for this initial visit, Respondent states that he  
6 informed P-1 that the amount of oxycodone he was taking "was a dangerous dose even if he is  
7 tolerant. Patient understands this and understands he may have to undergo detoxification to quit  
8 using opioids. Patient may require psychological counseling as well." Respondent's notes reflect  
9 a discussion of the terms under which he would continue to prescribe opiates to P-1; there was no  
10 written pain management agreement. There is no indication that P-1 was counseled on  
11 countermeasures to be taken in the event of opioid overdose nor any prescription for P-1 of an  
12 opioid overdose antidote kit. Respondent prescribed oxycodone at a reduced dose of six 30 mg.  
13 tablets per day for P-1 at this initial visit and directed P-1 to return in one month.

14           11. P-1 returned to Respondent only three weeks later, stating that the 6 tablets of  
15 oxycodone per day Respondent had allowed him was insufficient. Respondent increased the  
16 daily dosage to 7 tablets and added fentanyl transdermal patches<sup>3</sup>. P-1 saw Respondent regularly  
17 thereafter for the next three years, 40 documented visits in all. Respondent continued to prescribe  
18 oxycodone and fentanyl in varying amounts. Between February 2015 and February 2016,  
19 Respondent was prescribing opioids to P-1 that averaged 640 morphine milligram equivalents per  
20 day. Respondent referred P-1 to the Stanford pain management clinic but there is no indication  
21 that the patient acted on that referral. Over the three year course of his treatment, Respondent

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22  
23           <sup>2</sup> Oxycodone is a semisynthetic narcotic analgesic with multiple actions qualitatively  
24 similar to those of morphine. It is a dangerous drug as defined in section 4022 and a schedule II  
25 controlled substance as defined by section 11055, subdivision (b)(1) of the Health and Safety  
26 Code. Respiratory depression is a primary risk with opiates, particularly in combination with  
27 other drugs. Oxycodone can produce drug dependence of the morphine type and has the potential  
28 for being abused.

<sup>3</sup> Fentanyl is an opioid analgesic, a dangerous drug as defined in section 4022 and a  
schedule II controlled substance as defined by section 11055 of the Health and Safety Code.  
Fentanyl transdermal is indicated only for treatment of chronic pain (such as that of malignancy)  
that cannot be managed by lesser means and requires continuous opioid administration. Fentanyl  
presents a risk of life-threatening hypoventilation. Fentanyl can produce drug dependence similar  
to that produced by morphine and has the potential for abuse.

1 ordered one urine drug screen for P-1, which was collected on December 15, 2015; it was  
2 negative for all controlled substances tested, including opioids. Respondent continued to  
3 prescribe oxycodone and fentanyl to P-1, but did taper the oxycodone dose; between March 2016  
4 and March 2017 the average morphine milligram equivalents P-1 was receiving declined by about  
5 25%.

6 12. In January 2016 patient P-1 was seen in the emergency department of a local hospital  
7 and admitted for treatment of severe asthma. He was admitted twice again for asthmatic  
8 symptoms, in May and June of 2016. One of the hospital physicians documented his suspicions  
9 that P-1 was using illicit drugs during his hospital stay; the history portion of P-1's chart notes a  
10 "history of polysubstance abuse." A urine drug screen performed during the May 2016 admission  
11 was positive for methamphetamine and opiates. That laboratory result was included in the  
12 medical records of the hospital stay which were provided to Respondent at that time. In October  
13 2016, Respondent referred P-1 to a specialist for an asthma evaluation, but it does not appear that  
14 P-1 saw that specialist. In December of 2016, Respondent obtained a repeat diagnostic imaging  
15 study of P-1's back, which showed severe discogenic disease with associated nerve impingement.

16 13. Respondent saw P-1 for an office visit on March 14, 2017. His chart notes for that  
17 visit include reference to P-1's current prescriptions of oxycodone and fentanyl and that he  
18 discussed "issues regarding necessity of reducing use of narcotic analgesics." Respondent  
19 prescribed oxycodone and fentanyl to P-1 on this visit.

20 14. In the early morning hours of March 18, 2017, P-1 was having difficulty breathing.  
21 According to his mother, neither his inhaler nor nebulizer treatment afforded any relief. P-1  
22 collapsed and was taken to the hospital, where he died about 5 a.m. The coroner's report cites  
23 the cause of death as acute fentanyl, methamphetamine, amphetamine, and morphine intoxication.

24 15. Respondent has subjected his license to disciplinary action for unprofessional  
25 conduct, in that his failure to consider and pursue non-opioid pain management modalities with P-  
26 1 over a three year course of treatment with high-dose narcotics was a departure from the  
27 standard of care constituting gross negligence in violation of section 2234(b) or, in conjunction  
28 with the other departures alleged herein, repeated negligence in violation of section 2234(c).

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1           1.     Revoking or suspending Physician's and Surgeon's Certificate Number G 85038,  
2 issued to Timothy Rogers Mulligan, M.D.;

3           2.     Revoking, suspending or denying approval of Timothy Rogers Mulligan, M.D.'s  
4 authority to supervise physician assistants and advanced practice nurses;

5           3.     Ordering Timothy Rogers Mulligan, M.D., if placed on probation, to pay the Board  
6 the costs of probation monitoring; and

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

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9     DATED:     June 12, 2018

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

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