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

In the Matter of the Accusation Against:	)	
John William Annable, M.D.	)	**Case No. 800-2016-020208**
Physician's and Surgeon's Certificate No. C 30935	)	
Respondent	)	

DECISION

The attached Stipulated Decision 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 May 6, 2020.

IT IS SO ORDERED: April 6, 2020.

MEDICAL BOARD OF CALIFORNIA

Ronald H. Lewis, M.D., Chair
Panel A

XAVIER BECERRA
Attorney General of California
E. A. JONES III
Supervising Deputy Attorney General
CHRISTINE R. FRIAR
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Attorneys for Complainant

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

In the Matter of the Accusation Against: **JOHN WILLIAM ANNABLE, M.D.** **520 North Prospect Ave., Suite 103** **Redondo Beach, CA 90277** **Physician's and Surgeon's Certificate No. C 30935,** Respondent.	Case No. 800-2016-020208 OAH No. 2019040320 **STIPULATED SETTLEMENT AND DISCIPLINARY ORDER**

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

PARTIES

1. Christine J. Lally (Complainant) is the Interim Executive Director of the Medical Board of California (Board). She brings this action solely in her official capacity and is represented in this matter by Xavier Becerra, Attorney General of the State of California, by Christine R. Friar, Deputy Attorney General.

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2. Respondent John William Annable, M.D. (Respondent) is represented in this proceeding by attorneys Yuk K. Law and Greg R. Bunch of Law + Brandmeyer, LLP, located at 2 North Lake Avenue, Pasadena, California 91101.

3. On or about January 29, 1968, the Board issued Physician's and Surgeon's Certificate No. C 30935 to John William Annable, M.D. (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. 800-2016-020208, and will expire on February 28, 2021, unless renewed.

JURISDICTION

Accusation No. 800-2016-020208 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 February 8, 2019. Respondent timely filed his Notice of Defense contesting the Accusation.

4. A copy of Accusation No. 800-2016-020208 is attached as Exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 800-2016-020208. Respondent has also carefully read, fully discussed with counsel, and 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.

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

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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. 800-2016-020208 and that he has thereby subjected his license to disciplinary action.

9. Respondent agrees that if an accusation is ever filed against him before the Board, all of the charges and allegations contained in Accusation No. 800-2016-020208 shall be deemed true, correct and fully admitted by Respondent for purposes of any such proceeding or any other licensing proceeding involving Respondent in the State of California.

10. Respondent agrees to be bound by the Board's imposition of discipline as set forth in the Disciplinary Order below.

CONTINGENCY

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

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

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

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DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. C 30935 issued to Respondent John William Annable, M.D. is revoked. However, the revocation is stayed and Respondent is placed on probation for two (2) years on the following terms and conditions.

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

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

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

2. MEDICAL RECORD KEEPING COURSE. Within 60 calendar days of the effective date of this Decision, Respondent shall enroll in a course in medical record keeping approved in advance by the Board or its designee. Respondent shall provide the approved course provider with any information and documents that the approved course provider may deem pertinent. Respondent shall participate in and successfully complete the classroom component of the course not later than six (6) months after Respondent's initial enrollment. Respondent shall successfully complete any other component of the course within one (1) year of enrollment. The medical

record keeping course shall be at Respondent's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

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

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

3. CLINICAL COMPETENCE ASSESSMENT PROGRAM. Within 60 calendar days of the effective date of this Decision, Respondent shall enroll in a clinical competence assessment program approved in advance by the Board or its designee. Respondent shall successfully complete the program not later than six (6) months after Respondent's initial enrollment unless the Board or its designee agrees in writing to an extension of that time.

The program shall consist of a comprehensive assessment of Respondent's physical and mental health and the six general domains of clinical competence as defined by the Accreditation Council on Graduate Medical Education and American Board of Medical Specialties pertaining to Respondent's current or intended area of practice. The program shall take into account data obtained from the pre-assessment, self-report forms and interview, and the Decision(s), Accusation(s), and any other information that the Board or its designee deems relevant. The program shall require Respondent's on-site participation for a minimum of three (3) and no more than five (5) days as determined by the program for the assessment and clinical education evaluation. Respondent shall pay all expenses associated with the clinical competence assessment program.

At the end of the evaluation, the program will submit a report to the Board or its designee which unequivocally states whether the Respondent has demonstrated the ability to practice safely and independently. Based on Respondent's performance on the clinical competence

assessment, the program will advise the Board or its designee of its recommendation(s) for the scope and length of any additional educational or clinical training, evaluation or treatment for any medical condition or psychological condition, or anything else affecting Respondent's practice of medicine. Respondent shall comply with the program's recommendations.

Determination as to whether Respondent successfully completed the clinical competence assessment program is solely within the program's jurisdiction.

If Respondent fails to enroll, participate in, or successfully complete the clinical competence assessment program within the designated time period, Respondent shall receive a notification from the Board or its designee to cease the practice of medicine within three (3) calendar days after being so notified. The Respondent shall not resume the practice of medicine until enrollment or participation in the outstanding portions of the clinical competence assessment program have been completed. If the Respondent did not successfully complete the clinical competence assessment program, the Respondent shall not resume the practice of medicine until a final decision has been rendered on the accusation and/or a petition to revoke probation. The cessation of practice shall not apply to the reduction of the probationary time period.

4. SOLO PRACTICE PROHIBITION. Respondent is prohibited from engaging in the solo practice of medicine. Prohibited solo practice includes, but is not limited to, a practice where: 1) Respondent merely shares office space with another physician but is not affiliated for purposes of providing patient care, or 2) Respondent is the sole physician practitioner at that location.

If Respondent fails to establish a practice with another physician or secure employment in an appropriate practice setting within 60 calendar days of the effective date of this Decision, Respondent shall receive a notification from the Board or its designee to cease the practice of medicine within three (3) calendar days after being so notified. The Respondent shall not resume practice until an appropriate practice setting is established.

If, during the course of the probation, the Respondent's practice setting changes and the Respondent is no longer practicing in a setting in compliance with this Decision, the Respondent shall notify the Board or its designee within five (5) calendar days of the practice setting change.

If Respondent fails to establish a practice with another physician or secure employment in an appropriate practice setting within 60 calendar days of the practice setting change, Respondent shall receive a notification from the Board or its designee to cease the practice of medicine within three (3) calendar days after being so notified. The Respondent shall not resume practice until an appropriate practice setting is established.

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

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

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

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

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

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

9. 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.

10. 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.

11. 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 30 calendar days and within 15 calendar days of Respondent's return to practice. Non-practice is defined as any period of time Respondent is not practicing medicine as defined in Business and Professions Code sections 2051 and 2052 for at least 40 hours in a calendar month in direct

patient care, clinical activity or teaching, or other activity as approved by the Board. If Respondent resides in California and is considered to be in non-practice, Respondent shall comply with all terms and conditions of probation. All time spent in an intensive training program which has been approved by the Board or its designee shall not be considered non-practice and does not relieve Respondent from complying with all the terms and conditions of probation. Practicing medicine in another state of the United States or Federal jurisdiction while on probation with the medical licensing authority of that state or jurisdiction shall not be considered non-practice. A Board-ordered suspension of practice shall not be considered as a period of non-practice.

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

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

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

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

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

13. VIOLATION OF PROBATION. Failure to fully comply with any term or condition of probation is a violation of probation. If Respondent violates probation in any respect, the Board, after giving Respondent notice and the opportunity to be heard, may revoke probation and

carry out the disciplinary order that was stayed. If an Accusation, or Petition to Revoke Probation, or an Interim Suspension Order is filed against Respondent during probation, the Board shall have continuing jurisdiction until the matter is final, and the period of probation shall be extended until the matter is final.

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

15. 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 attorneys, Yuk K. Law and Greg R. Bunch of Law + Brandmeyer, LLP. I understand the stipulation and the effect it will have on my Physician's and Surgeon's Certificate. 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: 17 Jan 2020

JOHN WILLIAM ANNABLE, M.D.
Respondent

I have read and fully discussed with Respondent John William Annable, 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: January 17, 2020

Yuk K. Law
Greg R. Bunch
BRANDMEYER + LAW, LLP
Attorney for Respondent

ENDORSEMENT

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

DATED: JANUARY 21, 2020

Respectfully submitted,

XAVIER BECERRA
Attorney General of California
E. A. JONES III
Supervising Deputy Attorney General

CHRISTINE R. FRIAR
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 800-2016-020208

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

In the Matter of the Accusation Against: **JOHN WILLIAM ANNABLE, M.D.** **520 North Prospect Ave., Suite 103** **Redondo Beach, CA 90277** **Physician's and Surgeon's Certificate No. C 30935,** Respondent.	Case No. 800-2016-020208 **ACCUSATION**

Complainant alleges:

PARTIES

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

2. On or about January 29, 1968, the Medical Board issued Physician's and Surgeon's Certificate Number C 30935 to John William Annable, M.D. (Respondent). The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought herein and will expire on February 28, 2021, unless renewed.

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JURISDICTION

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

4. Section 2227 of the Code states:

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

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

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

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

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

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

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

5. 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:

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"(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."

6. Section 2241 of the Code provides:

"(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."

7. 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."

8. 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."

9. Section 725 of the Code states:

"(a) Repeated acts of clearly excessive prescribing, furnishing, dispensing, or administering of drugs or treatment, repeated acts of clearly excessive use of diagnostic procedures, or repeated acts of clearly excessive use of diagnostic or treatment facilities as determined by the standard of the community of licensees is unprofessional conduct for a physician and surgeon, dentist,

podiatrist, psychologist, physical therapist, chiropractor, optometrist, speech-language pathologist, or audiologist.

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

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

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

FIRST CAUSE FOR DISCIPLINE

(Gross Negligence)

10. Respondent is subject to disciplinary action under Business and Professions Code section 2234, subdivision (b), in that he committed gross negligence during his care, treatment and management of Patient 1[1] between March 6, 2013, and April 30, 2015. The circumstances are as follows:

11. Patient 1 initially treated with Respondent, a family practitioner, on March 6, 2013, for complaints of extreme anxiety and inability to perform at work. A physical examination was performed and was essentially normal except for an elevated pulse of 103. A psychiatric evaluation was arranged. Patient 1 denied complaints of pain, but gave a history of spine surgery. There is no documentation if Patient 1 took medications. He denied the use of alcohol or drugs. An EKG was ordered; no results are documented.

12. A post-visit message from Patient 1 dated March 13, 2013, states that his psychiatrist appointment is scheduled for March 15, 2013. He took Respondent's advice and stayed home

[1] In order to protect the patient's privacy, the patient is identified in this charging pleading as Patient 1. The true name of the referenced patient is known to Respondent and will be disclosed to him upon his timely Request for Discovery.

from work for three days, but his symptoms are worsening and he is suffering from severe anxiety, stress, frustration and physical discomfort at work and home.

13. Patient 1 returned to Respondent on March 19, 2013. He was complaining of chronic low back pain radiating to the left leg. The pain was related to a jet ski injury some ten years prior. Patient 1 described the pain as moderate, aching, in the lumbar area, sometimes causing left leg weakness, exacerbated by movement. He rated his pain as 8/10. Physical examination was positive for arthralgia, back pain and muscle weakness. His blood pressure was elevated at 140/89. Respondent made an assessment of low back pain likely secondary to herniated disc. His plan was to order an MRI without contrast and x-rays; referral to orthopedics after results of imaging. Respondent ordered hydrocodone-acetaminophen 10-325,[2] #30 and Zocor. Although anxiety and depression were noted as part of Patient 1's past medical history, there was no notation of Patient 1's stress or anxiety.

14. On April 3, 2013, Patient 1 sent Respondent a post-visit message requesting a refill of the pain medication, stating: "I promise to use it sparingly and only when absolutely necessary." Respondent denied the refill and instructed Patient 1 to schedule an appointment.

15. On April 5, 2013, Certified Medical Assistant C.M. left a message for Patient 1 advising him that his x-ray results were normal per Respondent.

16. Patient 1 returned to Respondent on April 18, 2014, with complaints of a left wrist fracture two days prior and requesting a refill of pain medication (Percocet). Respondent notes a fracture of the left radial head, splinted and stabilized. There is no documentation of a physical examination nor of the mechanism of injury or whom previously evaluated Patient 1 and prescribed the Percocet. A referral to orthopedics for urgent care was made. Respondent also ordered oxycodone-acetaminophen 5-325,[3] #60.

17. A report from orthopedist Dr. S.C. dated April 30, 2014, indicates that Patient 1 fell out of bed two weeks prior and injured his left wrist. Due to insurance issues the patient was referred to him two weeks after the injury. Patient 1 denied anxiety and depression and denied

[2] A Schedule III controlled substance, a narcotic and dangerous drug.
[3] A Schedule II controlled substance, a narcotic and dangerous drug.

substance abuse. The patient reported taking Norco. Dr. S.C. rendered an assessment of late effect of fracture of upper extremities and closed fracture of distal end of radius. The plan was for a CT scan of the wrist, and possible open reduction and internal fixation of the left wrist (surgery).

18. Patient 1 had wrist surgery on May 6, 2014. The closed reduction did not yield any changes in reduction. Dr. S.C. placed him in a short arm cast.

19. Patient 1 was next seen by Respondent on July 24, 2014, for pre-operative clearance for lumbar discectomy on July 31, 2014. Pain score was noted as 6/10. It was also noted that Patient 1 was taking oxycodone-acetaminophen 10-325, 1 pill every 8 hours as needed for pain, #90 prescriber not documented. Physical exam was normal, including back range of motion and strength, sensation and reflexes. EKG was normal. It was noted that known risk factors for perioperative complications were none, cardiac risk estimation was minimal and there were no current medications which may produce withdrawal symptoms if withheld perioperatively.

20. Patient 1 returned to Respondent on August 11, 2014 for a wound check and complaints of back pain. There are two notes written on this date. In the first note Respondent describes that Patient 1 was two weeks post-op and had severe pain since his surgery. He had been unable to see his surgeon. Respondent noted that he had cellulitis of the wound site, but did not describe the wound. Patient 1 did not have a fever. Respondent prescribed the antibiotic augmentin and oxycodone-acetaminophen 10-325, #120, one tablet every eight hours for severe pain. In the second note Respondent describes that Patient 1 presented for a wound check. He has a surgical incision on his back with fairly severe erythema and fairly severe pain. The patient's pain was noted to be 9/10. The patient's symptoms began seven days prior. The wound is described as erythema noted along wound margins extending 6 cm. Wound care was provided and the dressing was changed. Patient 1 was instructed on wound care, given antibiotics, Tylenol for fever, and told to return in one week or as needed.

21. Patient 1 called on August 12, 2014, stated that he was to get a cream for a rash on his thigh. There is no indication of a rash, in fact, the note for August 11, 2014 states "no rashes or lesions he has a cellulitis of the surgical incision." Despite documentation or supporting findings,

diagnosis or reason for intervention, econazole 1% cream, an antifungal, is prescribed.

22. Patient 1 sent an email request for a medication renewal on September 2, 2014. He states that he had been doing well, but had a major setback today, trying to do too much and strenuous exercise, resulting in his lower back stiffening up causing terrible pain. He states that he had not been taking his medication for a while, but would like a small refill of the oxycodone (no more than 20 pills). He states he is in "tremendous pain and that this will be his very last refill request, I promise." Had Patient 1 been taking the oxycodone-acetaminophen as prescribed on August 11, 2014, he should have had approximately 53 tablets remaining. The renewal request was denied. A message was left for Patient 1 advising that he needed to make an appointment.

23. Patient 1 sent a follow up email on September 3, 2014, inquiring why his refill request was declined. He stated that he just had major surgery and was experiencing a flare-up. He was only requesting a small amount of medication, now stating that 10-15 pills would be fine, as he is in tremendous pain.

24. Patient 1 was seen by Respondent on September 3, 2014. His history was significant for a laminectomy one month prior. Patient 1 complained of pain with radiation down right leg for the last week and sought Percocet for pain relief. An appointment [with surgeon] is scheduled for one month. Respondent recommended that Patient 1 call to see if he could be seen sooner. Patient 1 also complained of pain to his "right" wrist after fracture last March. Patient 1 requested referral to an orthopedist and x-ray. Respondent noted under exam, low back pain returned with radiation down right leg. Extremities: radicular pain. He refilled the oxycodone-acetaminophen 10-325, #120, one tablet every eight hours for severe pain. Referral was made to orthopedics and an x-ray of the left wrist was ordered. Patient 1 was told to follow up in 4 weeks.

25. On September 30, 2014, Patient 1 sent a message stating that he put in a refill request for a small amount of pain medication due to on-going issues with his recent surgeries. He had been doing well and exercising, but pushed way too hard and tweaked his back the past weekend and was having serious pain. "He had stopped using his pain medication mid-September and threw away the remainder as he didn't think he needed them anymore." Now he is at pain level 9.

He slipped in his bathroom and bruised his hip/pelvis and exacerbated the pain on his right side. His fractured left wrist was also acting up tremendously. He was requesting 30 pills of oxycodone to get him through the horrific pain. He added that he will "not be making any future requests for pain medication from here on out." The refill request was denied. Patient 1 was advised that he needed to make an appointment.

26. A progress report from hand specialist, orthopedist, Dr. A.B. dated October 2, 2014, states that following her consultation on Patient 1 she advised him that there was nothing she could do to correct the malunion of the left distal radius. Patient 1 asked her for pain medication and she refused. Dr. A.B. advised that pain medication was not indicated for his condition. She recommended a pain management specialist. Patient 1 was distressed that Dr. A.B. would not dispense a prescription for pain medication and he stated that he had recently undergone a laminectomy and offered to show her his scar. Dr. A.B. declined and stated that she does not treat back conditions and would not be able to prescribe pain medication to Patient 1 for his back pain.

27. Patient 1 requested a prescription from Respondent for hydrocodone-acetaminophen 10-325, #42 on November 13, 2014. The request was denied. Patient 1 was advised to schedule an appointment.

28. Patient 1 was seen by Respondent on February 27, 2015, for complaints of back pain. Patient 1 reported that he had a partial laminectomy of L4-L5 in July 2014. He had been in "therapy" until November and has not seen his neurosurgeon since. He has pain in a S-1 distribution with weakness of the right leg. He is not on any pain medication at this time. He is unable to obtain an urgent appointment with his neurosurgeon. Physical examination was significant for pain of the lumbar region, straight leg raising is mildly positive on the right, negative on the left. Neuro was grossly normal with exception of positive straight leg raising. Assessment was of low back pain radiating to right leg, herniated nucleus pulposus-lumbar. Respondent prescribed oxycodone extended release (ER), 30 mg, 1 tablet every 8 hours, #90 (oxycontin),[4] ordered an MRI of the lumbar spine without contrast and a referral to neurosurgery.

[4] A Schedule II controlled substance, a narcotic and dangerous drug.

29. Patient 1 left a message requesting a refill of the oxycontin on March 19, 2015, but only requested 30 tablets as that is what his insurance will cover. His request was denied. He was advised to schedule an appointment.

30. Patient 1 returned to see Respondent on March 20, 2015. Notably, alprazolam (Xanax) and temazepam (Restoril) have been added to Patient 1's medication list. Respondent noted that the patient has daily severe low back pain after laminectomy. Neurosurgery follow up ordered. Under physical exam it is noted daily severe low back pain, radiation down right leg. It appears no examination was performed. An assessment of herniated nucleus pulposus was rendered. Respondent prescribed oxycontin ER, 60 mg, 1 tablet every 8 hours, #90. However, the pharmacy only filled #30 due to insurance issues.

31. Once the insurance issue was resolved, Respondent requested a new prescription for the remaining 60 tablets. Respondent advised that the pharmacy would be able to fill the remainder of the prescription. He would not issue a new prescription until "the time is up."

32. On March 30, 2015, Patient 1 returned to Respondent with complaints of problems with his pain medication because the pharmacy did not dispense the prescribed amount. Respondent notes that it is "illegal for him to write for more [narcotic medication] with that prescription out." He discussed this with the patient and he understands. The patient still did not have authorization to see the neurosurgeon for treatment and he is in great pain. The physical exam note states, patient is "alert, appears stated age and cooperative." Apparently no examination was performed. Assessment was low back pain radiating to right leg. No prescription for medication was given.

33. Patient 1 presented to Respondent for the last time on April 30, 2015, with chronic low back pain. He had been seen by the neurosurgeon who prescribed physical therapy. Physical examination notes that the back is symmetric, no curvature. Range of motion was normal with no CVA (costovertebral angle) tenderness, chronic severe pain. Assessment was low back pain radiating to right leg, herniated nucleus pulposus-lumbar. There were no objective findings or supporting evidence to support a diagnosis of low back pain. Respondent prescribed oxycontin ER 60 mg, 1 tablet every 8 hours for pain, #90. Patient 1 was instructed to follow up in about 4

weeks or sooner if symptoms worsen or fail to improve. Listed on Patient 1's medication list was alprazolam and temazepam. There is no indication in the medical record whether Respondent ever inquired of Patient 1 who prescribed these medications or the indication for the medications.

34. On or about June 5, 2015, Patient 1's brother performed a welfare check on Patient 1 as he had not heard from Patient 1 since June 1, 2015. The brother entered Patient 1's residence with the manager's pass key at approximately 10:20 a.m. and found that Patient 1 had expired on his couch. Next to the body was a bottle of oxycontin #90; 6 pills were missing from the bottle.

35. An autopsy was performed on Patient 1 by the Los Angeles County Coroner's Office. The Deputy Medical Examiner rendered an opinion that Patient 1 died of the combined effects of alcohol and oxycodone.

36. Respondent committed the following acts and omissions during his care, treatment and management of Patient 1 which constitute extreme departures from the standard of care:

A. Respondent failed to recognize risk factors for drug abuse in Patient 1, including behavioral health diagnoses of anxiety and depression, work limitations due to health issues, telephone requests for controlled substance refills, complaints of ongoing pain after corrective surgery, repetitive requests for small quantity refills of controlled substances-after assertions that he will not be requiring further refills, requests for refills after stating that he discarded his medication, and distress after request for refill declined.

B. Respondent failed to ask Patient 1 if he was taking any medication from any other source. Respondent failed to check a CURES[5] report which would have revealed that Patient 1 was obtaining controlled substances from other physicians. Since March 20, 2015, it was noted in Patient 1's chart that he was receiving benzodiazepines (Xanax and Restroil).

C. Respondent repetitively prescribed excessive quantities of opioids to Patient 1. When Patient 1 was seen by Respondent 10 days after back surgery, with a documented history of oxycodone from another provider, it would be expected that Patient 1 would be needing less pain medication not more.

[5] Controlled Substance Utilization Review and Evaluation System. Maintained by the California DOJ which tracks all Schedule II-IV controlled substances dispensed to patients in California.

D. The morphine equivalent dose prescribed on February 27, 2015, was 145 MED, an increase of at least 100 MED over the last prescription issued on September 3, 2014, and according to Respondent's records, Patient 1 should have been opiate naïve as of February 27, 2015, as all requests for opiate refills had been denied. Again on March 20, 2015, Respondent increased Patient 1's opiate to 270 MED, a 100% increase over the prior prescription. When Respondent refilled the prescription for oxycodone ER, 60 mg, 1 tablet every 8 hours, #90, on April 30, 2015, according to Respondent's record, Patient 1 was again without access to opiates for weeks. Given that Respondent charted a normal physical examination of the patient's back, there was no indication to support the intensity of the prescription.

E. When discontinuing or decreasing doses of high potency opioids at elevated MED, dose decreases are limited to 25 to 50% every 2 to 4 days to avoid the risk of withdrawal. After Respondent prescribed oxycodone ER, 60 mg, 1 tablet every 8 hours, #90 to Patient 1 on March 30, 2015, at 270 MED, the patient advised that his insurance declined the full prescription and he received only 30 tablets. Respondent declined further refills or a new prescription and placed Patient 1 at risk for serious withdrawal.

F. On March 20, 2015, it was noted in Patient 1's chart that he was receiving benzodiazepines (Xanax and Restroil). Nevertheless, Respondent prescribed high dose opiate medication for Patient 1, which placed him at risk of serious toxicity including respiratory depression, hypotension, sedation and death.

G. During his investigative interview Respondent stated that he has managed pain management patients during the last five years. However, he was unable to describe the characteristics of a drug seeking patient, he was unfamiliar with the terms drug dependence and drug addiction, he could not define the term drug addicted, he did not know what a urine drug screen was used for in the context of pain management, and he did not know the morphine equivalent dose (MED) for oxycontin and does not consider the MED when prescribing opiates.

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SECOND CAUSE FOR DISCIPLINE

(Repeated Negligent Acts)

37. Respondent is subject to disciplinary action under Business and Professions Code section 2234, subdivision (c), in that he committed repeated negligent acts during his care, treatment and management of Patient 1. The circumstances are as follows:

38. Complainant refers to and, by this reference, incorporates herein Paragraphs 11 through 36, above, as though fully set forth.

39. Respondent was also negligent in his care, treatment and management of Patient 1 as follows:

A. Patient 1 presented for complaints of back pain following surgery for a herniated disc. Respondent continued to document his assessment of Patient 1's complaint as herniated disc without any supporting examination findings.

B. When Patient 1 presented with persistent low back pain radiating down his right leg, Respondent assessed him with another herniated disc and ordered an MRI without contrast. An MRI with contrast was needed to distinguish scar tissue from disc material.

C. Respondent chose to treat Patient 1's complaint of low back pain with an opioid analgesic and did not try conservative therapy first, such as non-steroidal drugs, physical therapy, chiropracty, home exercise program or pain management consultation for epidural steroid trial.

D. Respondent urgently referred Patient 1 to the orthopedist for an acute fracture. Patient 1 should have been urgently seen by the specialist within 96 hours, however, it took 11 days for the authorization to be approved. Respondent failed to take any action when the urgent referral was not achieved within 96 hours.

E. Respondent diagnosed Patient 1 with a post-operative wound infection. He failed to notify the surgeon of the infection and advise the surgeon of his intervention.

F. At Patient 1's visit of March 19, 2013, Respondent prescribed Zocor, presumably for an elevated LDL level of 152 from the prior laboratory testing. There was no diagnosis, no counseling or re-testing after the statin was prescribed.

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THIRD CAUSE FOR DISCIPLINE

(Incompetence)

40. Respondent is subject to disciplinary action under Business and Professions Code section 2234, subdivision (d), in that he was incompetent during his care, treatment and management of Patient 1. The circumstances are as follows:

41. Complainant refers to and, by this reference, incorporates herein Paragraphs 11 through 36, above, as though fully set forth.

42. Respondent was also incompetent in his care, treatment and management of Patient 1 in that he diagnosed Patient 1's left wrist fracture as a chronic fracture of left wrist lunate and head of radius, when the fracture was at the distal radius.

FOURTH CAUSE FOR DISCIPLINE

(Prescribing to an Addict)

43. Respondent is subject to disciplinary action under Business and Professions Code section 2241 in that he prescribed controlled substances to Patient 1, who he knew or should have known was a drug addict. The circumstances are as follows:

44. Complainant refers to and, by this reference, incorporates herein Paragraphs 11 through 36, above, as though fully set forth.

FIFTH CAUSE FOR DISCIPLINE

(Prescribing without Performing Physical Examination or Medical Indication)

45. Respondent is subject to disciplinary action under Business and Professions Code section 2242 in that he prescribed controlled substances to Patient 1 without performing a physical examination or determining a medical indication. The circumstances are as follows:

46. Complainant refers to and, by this reference, incorporates herein Paragraphs 11 through 36, above, as though fully set forth.

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SIXTH CAUSE FOR DISCIPLINE

(Excessive Prescribing)

47. Respondent is subject to disciplinary action under Business and Professions Code section 725 in that he excessively prescribed dangerous/addictive drugs to Patient 1. The circumstances are as follows:

48. Complainant refers to and, by this reference, incorporates herein Paragraphs 11 through 36, above, as though fully set forth.

SEVENTH CAUSE FOR DISCIPLINE

(Failure to Maintain Adequate and Accurate Medical Records)

49. Respondent is subject to disciplinary action under Business and Professions Code section 2266 in that he failed to prepare and maintain adequate and accurate records pertaining to his care, treatment and management of Patient 1. The circumstances are as follows:

50. Complainant refers to and, by this reference, incorporates herein Paragraphs 11 through 36 and 40 above, as though fully set forth.

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 C 30935, issued to John William Annable, M.D.;

2. Revoking, suspending or denying approval of Respondent's authority to supervise physician assistants and advanced practice nurses;

3. Ordering Respondent, if placed on probation, to pay the Board the costs of probation monitoring; and

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

DATED: February 8, 2019

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

LA2019500242