

1 XAVIER BECERRA
Attorney General of California
2 ALEXANDRA M. ALVAREZ
Supervising Deputy Attorney General
3 KAROLYN M. WESTFALL
Deputy Attorney General
4 State Bar No. 234540
600 West Broadway, Suite 1800
5 San Diego, CA 92101
P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 738-9465
7 Facsimile: (619) 645-2061

8 *Attorneys for Complainant*

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

12 In the Matter of the First Amended Accusation
13 Against:

14 **Jay Amin, M.D.**
6027 E. West View Drive
15 Orange, CA 92869

16 **Physician's and Surgeon's Certificate**
No. A 40490,

17
18 Respondent.

Case No. 800-2016-023665

OAH No. 2019090390

19 **STIPULATED SETTLEMENT AND**
DISCIPLINARY ORDER

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

22 **PARTIES**

23 1. This action was brought by Complainant Kimberly Kirchmeyer in her official
24 capacity as the then Executive Director of the Medical Board of California (Board). Kimberly
25 Kirchmeyer became the Director of the Department of Consumer Affairs on October 28, 2019.
26 On that date, Christine J. Lally became the Interim Executive Director of the Board, and the
27 Complainant in this action. She is represented in this matter by Xavier Becerra, Attorney General
of the State of California, by Karolyn M. Westfall, Deputy Attorney General.

28 ///

2. Respondent Jay Amin, M.D. (Respondent) is represented in this proceeding by Raymond J. McMahon, Esq., of Doyle Schafer McMahon, whose address is 5440 Trabuco Road, Irvine, California 92620.

3. On or about October 24, 1983, the Board issued Physician's and Surgeon's Certificate No. A 40490 to Jay Amin, 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 First Amended Accusation No. 800-2016-023665, and will expire on December 31, 2020, unless renewed.

JURISDICTION

4. First Amended Accusation No. 800-2016-023665 was filed before the Board, and is currently pending against Respondent. The First Amended Accusation and all other statutorily required documents were properly served on Respondent on August 12, 2019. Respondent timely filed his Notice of Defense contesting the First Amended Accusation. A true and correct copy of First Amended Accusation No. 800-2016-023665 is attached hereto as Exhibit A and is incorporated by reference as if fully set forth herein.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in First Amended Accusation No. 800-2016-023665. 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 First Amended 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. Having the benefit of counsel, Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

CULPABILITY

8. Respondent does not contest that, at an administrative hearing, Complainant could establish a *prima facie* case with respect to the charges and allegations contained in First Amended Accusation No. 800-2016-023665, and agrees that he has thereby subjected his Physician's and Surgeon's Certificate No. A 40490 to disciplinary action.

9. Respondent further agrees that if he ever petitions for modification or early termination of probation, or if an accusation and/or petition to revoke probation is filed against him before the Medical Board of California, all of the charges and allegations contained in First Amended Accusation No. 800-2016-023665, 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 that his Physician's and Surgeon's Certificate No. A 40490 is subject to discipline and he agrees to be bound by the Board's imposition of discipline as set forth in the Disciplinary Order below.

CONTINGENCY

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

12. The parties agree that this Stipulated Settlement and Disciplinary Order shall be null and void and not binding upon the parties unless approved and adopted by the Board, except for this paragraph, which shall remain in full force and effect. Respondent fully understands and agrees that in deciding whether or not to approve and adopt this Stipulated Settlement and Disciplinary Order, the Board may receive oral and written communications from its staff and/or the Attorney General's office. Communications pursuant to this paragraph shall not disqualify

1 the Board, any member thereof, and/or any other person from future participation in this or any
2 other matter affecting or involving Respondent. In the event that the Board, in its discretion, does
3 not approve and adopt this Stipulated Settlement and Disciplinary Order, with the exception of
4 this paragraph, it shall not become effective, shall be of no evidentiary value whatsoever, and
5 shall not be relied upon or introduced in any disciplinary action by either party hereto.
6 Respondent further agrees that should the Board reject this Stipulated Settlement and Disciplinary
7 Order for any reason, Respondent will assert no claim that the Board, or any member thereof, was
8 prejudiced by its/his/her review, discussion and/or consideration of this Stipulated Settlement and
9 Disciplinary Order or of any matter or matters related hereto.

10 **ADDITIONAL PROVISIONS**

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

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

18 15. In consideration of the foregoing admissions and stipulations, the parties agree the
19 Board may, without further notice to or opportunity to be heard by Respondent, issue and enter
20 the following Disciplinary Order:

21 **DISCIPLINARY ORDER**

22 IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. A 40490 issued
23 to Respondent Jay Amin, M.D., is revoked. However, the revocation is stayed and Respondent is
24 placed on probation for four (4) years from the date of the Decision on the following terms and
25 conditions.

26 1. **CONTROLLED SUBSTANCES - MAINTAIN RECORDS AND ACCESS TO**
27 **RECORDS AND INVENTORIES.** Respondent shall maintain a record of all controlled
28 substances ordered, prescribed, dispensed, administered, or possessed by Respondent, and any

1 recommendation or approval which enables a patient or patient's primary caregiver to possess or
2 cultivate marijuana for the personal medical purposes of the patient within the meaning of Health
3 and Safety Code section 11362.5, during probation, showing all of the following: 1) the name and
4 address of the patient; 2) the date; 3) the character and quantity of controlled substances involved;
5 and 4) the indications and diagnosis for which the controlled substances were furnished.

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

10 2. EDUCATION COURSE. Within 60 calendar days of the effective date of this
11 Decision, and on an annual basis thereafter, Respondent shall submit to the Board or its designee
12 for its prior approval educational program(s) or course(s) which shall not be less than 40 hours
13 per year, for each year of probation, comprised of twenty (20) hours in the area of Mandated
14 Reporting Requirements and twenty (20) hours in the area of Patient Confidentiality. The
15 educational program(s) or course(s) shall be at Respondent's expense and shall be in addition to
16 the Continuing Medical Education (CME) requirements for renewal of licensure. Following the
17 completion of each course, the Board or its designee may administer an examination to test
18 Respondent's knowledge of the course. Respondent shall provide proof of attendance for 65
19 hours of CME of which 40 hours were in satisfaction of this condition.

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

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

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

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

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

23 Respondent shall submit a certification of successful completion to the Board or its
24 designee not later than 15 calendar days after successfully completing the course, or not later than
25 15 calendar days after the effective date of the Decision, whichever is later.

26 5. PROFESSIONALISM PROGRAM (ETHICS COURSE). Within 60 calendar days of
27 the effective date of this Decision, Respondent shall enroll in a professionalism program, that
28 meets the requirements of Title 16, California Code of Regulations (CCR) section 1358.1.

Respondent shall participate in and successfully complete that program. Respondent shall provide any information and documents that the program may deem pertinent. Respondent shall successfully complete the classroom component of the program not later than six (6) months after Respondent's initial enrollment, and the longitudinal component of the program not later than the time specified by the program, but no later than one (1) year after attending the classroom component. The professionalism program shall be at Respondent's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

A professionalism program 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 program would have been approved by the Board or its designee had the program 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 program or not later than 15 calendar days after the effective date of the Decision, whichever is later.

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

The Board or its designee shall provide the approved monitor with copies of the Decision and First Amended Accusation, and a proposed monitoring plan. Within 15 calendar days of receipt of the Decision, First Amended Accusation, and proposed monitoring plan, the monitor shall submit a signed statement that the monitor has read the Decision and First Amended

1 Accusation, fully understands the role of a monitor, and agrees or disagrees with the proposed
2 monitoring plan. If the monitor disagrees with the proposed monitoring plan, the monitor shall
3 submit a revised monitoring plan with the signed statement for approval by the Board or its
4 designee.

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

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

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

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

28 In lieu of a monitor, Respondent may participate in a professional enhancement program

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

5 7. PROHIBITED PRACTICE. During probation, Respondent is prohibited from
6 providing treatment for chronic pain. After the effective date of this Decision, all patients seeking
7 chronic pain management from Respondent shall be notified that Respondent is prohibited from
8 providing treatment for chronic pain. Any new patients seeking chronic pain treatment must be
9 provided this notification at the time of their initial appointment.

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

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

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

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

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

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

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

9 12. GENERAL PROBATION REQUIREMENTS.

10 Compliance with Probation Unit

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

12 Address Changes

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

18 Place of Practice

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

22 License Renewal

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

25 Travel or Residence Outside California

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

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

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

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

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

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

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

28 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..

15. 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.

16. 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.

17. 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.

18. PROBATION MONITORING COSTS. Respondent shall pay the costs associated with probation monitoring each 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

1 delivered to the Board or its designee no later than January 31 of each calendar year.

2 ACCEPTANCE

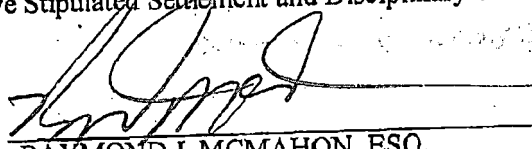
3 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
4 discussed it with my attorney, Raymond J. McMahon, Esq. I understand the stipulation and the
5 effect it will have on my Physician's and Surgeon's Certificate. I enter into this Stipulated
6 Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be
7 bound by the Decision and Order of the Medical Board of California.

8
9 DATED: 3/2/20


JAY AMIN, M.D.
Respondent

11 I have read and fully discussed with Respondent, Jay Amin, M.D., the terms and conditions
12 and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve
13 its form and content.

14 DATED: 3/2/2020


RAYMOND J. MCMAHON, ESQ.
Attorney for Respondent

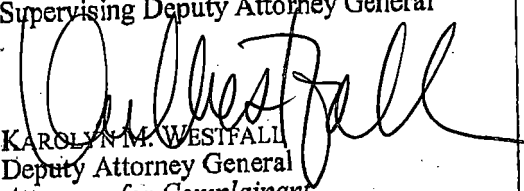
17 ENDORSEMENT

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

20 DATED: 3/2/20

Respectfully submitted,

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


CAROLYN M. WESTFALL
Deputy Attorney General
Attorneys for Complainant

27 SD2019800389
72164145.docx

1 XAVIER BECERRA
Attorney General of California
2 ALEXANDRA M. ALVAREZ
Supervising Deputy Attorney General
3 KAROLYN M. WESTFALL
Deputy Attorney General
4 State Bar No. 234540
600 West Broadway, Suite 1800
5 San Diego, CA 92101
P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 738-9465
7 Facsimile: (619) 645-2061

8 *Attorneys for Complainant*

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

13 In the Matter of the First Amended Accusation
Against:

14 Jay Amin, M.D.
15 6027 E. West View Drive
Orange, CA 92869

16 Physician's and Surgeon's Certificate
17 No. A 40490,

18 Respondent.

Case No. 800-2016-023665

FIRST AMENDED ACCUSATION

19
20 **PARTIES**

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

24 2. On or about October 24, 1983, the Board issued Physician's and Surgeon's Certificate
25 No. A40490 to Jay Amin, M.D. (Respondent). The Physician's and Surgeon's Certificate was, in
26 full force and effect at all times relevant to the charges brought herein and will expire on
27 December 31, 2020, unless renewed.

28 ///

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO AUGUST 6 20 19
BY ANDREA PEREZ **ANALYST**

1 JURISDICTION

2 3. This First Amended Accusation, which supersedes the Accusation filed on May 30,
3 2019, is brought before the Board, under the authority of the following laws. All section
4 references are to the Business and Professions Code (Code) unless otherwise indicated.

5 4. Section 2227 of the Code states, in pertinent part:

6 (a) A licensee whose matter has been heard by an administrative law judge of
7 the Medical Quality Hearing Panel as designated in Section 11371 of the Government
8 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:

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

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

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

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

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

17 ...

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

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

21 ...

22 (b) Gross negligence.

23 (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
24 separate and distinct departure from the applicable standard of care shall constitute
repeated negligent acts.

25 ...

26 6. Section 2238 of the Code states:

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

1 7. Section 2242 of the Code states, in pertinent part:

2 (a) Prescribing, dispensing, or furnishing dangerous drugs as defined in Section
3 4022 without an appropriate prior examination and a medical indication, constitutes
4 unprofessional conduct.

5 ...

6 8. Section 2263 of the Code states: The willful, unauthorized violation of professional
7 confidence constitutes unprofessional conduct.

8 9. Section 2266 of the Code states: The failure of a physician and surgeon to maintain
9 adequate and accurate records relating to the provision of services to their patients constitutes
10 unprofessional conduct.

11 10. Section 4021 of the Code states: 'Controlled substance' means any substance listed in
12 Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code.

13 11. Section 4022 of the Code states in pertinent part:

14 'Dangerous drug' or 'dangerous device' means any drug or device unsafe for
15 self-use in humans or animals, and includes the following:

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

18 ...

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

21 ...

22 12. Section 4081 of the Code states, in pertinent part:

23 (a) All records of manufacture and of sale, acquisition, receipt, shipment, or
24 disposition of dangerous drugs or dangerous devices shall be at all times during
25 business hours open to inspection by authorized officers of the law, and shall be
26 preserved for at least three years from the date of making. A current inventory shall
27 be kept by every ... physician...who maintains a stock of dangerous drugs or
28 dangerous devices.

...

13. Section 4105 of the Code states, in pertinent part:

(a) All records or other documentation of the acquisition and disposition of dangerous drugs and dangerous devices by any entity licensed by the board shall be retained on the licensed premises in a readily retrievable form.

///

1 (b) The licensee may remove the original records or documentation from the
2 licensed premises on a temporary basis for license-related purposes. However, a
3 duplicate set of those records or other documentation shall be retained on the licensed
4 premises.

5 (c) The records required by this section shall be retained on the licensed
6 premises for a period of three years from the date of making.

7 ...
8 14. Section 4170 of the Code states, in pertinent part:

9 (a) No prescriber shall dispense drugs or dangerous devices to patients in his or
10 her office or place of practice unless all of the following conditions are met:

11 (4) The prescriber fulfills all of the labeling requirements imposed upon
12 pharmacists by Section 4076, all of the recordkeeping requirements of this chapter,
13 and all of the packaging requirements of good pharmaceutical practice, including the
14 use of childproof containers.

15 ...
16 15. Section 11165.7 of the Penal Code states, in pertinent part,

17 (a) As used in this article, "mandated reporter" is defined as any of the
18 following:

19 ...
20 (21) A physician and surgeon...

21 ...
22 16. Section 11165.9 of the Penal Code states, in pertinent part:

23 Reports of suspected child abuse or neglect shall be made by mandated
24 reporters, or in the case of reports pursuant to Section 11166.05, may be made, to any
25 police department or sheriff's department, not including a school district police or
26 security department, county probation department, if designated by the county to
27 receive mandated reports, or the county welfare department...

28 17. Section 11166 of the Penal Code states, in pertinent part,

(a) Except as provided in subdivision (d), and in Section 11166.05, a mandated
reporter shall make a report to an agency specified in Section 11165.9 whenever the
mandated reporter, in his or her professional capacity or within the scope of his or her
employment, has knowledge of or observes a child whom the mandated reporter
knows or reasonably suspects has been the victim of child abuse or neglect. The
mandated reporter shall make an initial report by telephone to the agency immediately
or as soon as is practicably possible, and shall prepare and send, fax, or electronically
transmit a written followup report within 36 hours of receiving the information
concerning the incident. The mandated reporter may include with the report any

1 nonprivileged documentary evidence the mandated reporter possesses relating to the
2 incident.

3 (1) For purposes of this article, "reasonable suspicion" means that it is
4 objectively reasonable for a person to entertain a suspicion, based upon facts that
5 could cause a reasonable person in a like position, drawing, when appropriate, on his
6 or her training and experience, to suspect child abuse or neglect. "Reasonable
7 suspicion" does not require certainty that child abuse or neglect has occurred nor does
8 it require a specific medical indication of child abuse or neglect; any "reasonable
9 suspicion" is sufficient. For purposes of this article, the pregnancy of a minor does
10 not, in and of itself, constitute a basis for a reasonable suspicion of sexual abuse.

11 ...
12
13 (c) A mandated reporter who fails to report an incident of known or reasonably
14 suspected child abuse or neglect as required by this section is guilty of a misdemeanor
15 punishable by up to six months confinement in a county jail or by a fine of one
16 thousand dollars (\$1,000) or by both that imprisonment and fine. If a mandated
17 reporter intentionally conceals his or her failure to report an incident known by the
18 mandated reporter to be abuse or severe neglect under this section, the failure to
19 report is a continuing offense until an agency specified in Section 11165.9 discovers
20 the offense.

21 FIRST CAUSE FOR DISCIPLINE

22 (Gross Negligence)

23 18. Respondent has subjected his Physician's and Surgeon's Certificate No. A40490 to
24 disciplinary action under sections 2227 and 2234, as defined by section 2234, subdivision (b), of
25 the Code, in that he was grossly negligent in his care and treatment of Patients A, B, and C,¹ as
26 more particularly alleged hereinafter:

27 19. Respondent is Board Certified in Internal Medicine. For approximately twenty-five
28 (25) years, he owned a private practice clinic called, Tustin Place Medical Group. Respondent
maintained a locked cabinet at this practice containing medications he dispensed to patients,
including controlled substances. In or around January 2019, Respondent sold Tustin Place
Medical Group to another practitioner.

20 20. On or about March 6, 2017, investigators from the Division of Investigations
21 conducted an unannounced inspection at Tustin Place Medical Group. During that inspection,
22 Respondent showed the investigators a cabinet fitted with a combination lock that contained
23

24
25
26
27
28 ¹ To protect the privacy of the patients involved, patient names have not been included in this
pleading. Respondent is aware of the identity of the patients referred to herein.

1 various medications including, but not limited to, Atenolol, Carisprodol,² Toradol,³ and Botox.⁴
2 When asked to produce his medication log, Respondent indicated that the log was "missing," and
3 claimed he had not dispensed medications directly to patients "in a while."

4 **PATIENT A**

5 21. Sometime prior to January 14, 2014, Patient A and her husband, Patient D, were
6 experiencing marital issues, and a friend referred them to Respondent for marriage counseling.

7 22. On or about January 14, 2014, Patients A and D presented to Respondent at Tustin
8 Place Medical Group for treatment.⁵ At this first visit, Respondent met with both parties and
9 discussed their marital issues. Respondent obtained Patient A's vital signs and a brief medical
10 history, and diagnosed her with obesity. Patient A's chart note for this clinical encounter does not
11 reference the fact that the couple were seen together for marriage counseling, and contains no
12 review of systems, detailed physical examination, or assessment/plan. Respondent did not
13 prepare any chart notes for Patient D for this clinical encounter.

14 23. On or about January 21, 2014, Patient A and Patient D returned to see Respondent for
15 marriage counseling. At this second visit, Respondent met with both parties and discussed their
16 marital issues. Patient A's chart note for this visit identifies the reason for the appointment to be
17 "walk-in." The documented treatment rendered was, "If you think you are stressed out, you can
18 take Seroquel⁶ at night. Do not discuss sensitive things. They are in the past. It will not help to
19 discuss it now. Work on maximizing happiness at each moment. Most important thing is to take

20 ² Carisprodol (brand name Soma), is a muscle relaxant medication, a Schedule IV controlled
21 substance pursuant to Health and Safety Code section 11057, subdivision (d), and a dangerous drug
pursuant to Business and Professions Code section 4022.

22 ³ Toradol (brand name for Ketorolac), is a nonsteroidal anti-inflammatory drug used for the
23 treatment of pain, and is a dangerous drug pursuant to Business and Professions Code section 4022.

24 ⁴ Botox (Botulinum Toxin Type-A) is a purified protein produced by Clostridium botulinum
25 bacterium, used to treat frown lines and wrinkles, and is a dangerous drug pursuant to Business and
Professions Code section 4022.

26 ⁵ At his subject interview, Respondent referred to this visit as a "curbside consult," but admitted to
charging the couple for his services.

27 ⁶ Seroquel (brand name for Quetiapine) is an antipsychotic medication used to treat schizophrenia,
28 bipolar, and depression, and is a dangerous drug pursuant to Business and Professions Code section 4022.

1 care of the child.” During this visit, Respondent prescribed Patient A with sixty (60) tabs of
2 Atenolol,⁷ but did not document the clinical reason for this medication, the dosage prescribed, or
3 administration instruction. Patient A’s chart note for this clinical encounter does not reference the
4 fact that the couple were seen together for marriage counseling, and contains no vital signs,
5 review of systems, physical examination, or assessment/plan. Respondent did not prepare any
6 chart notes for Patient D for this clinical encounter.

7 24. On or about April 9, 2014, Patient A and Patient D returned to see Respondent for
8 marriage counseling. At this third and final visit, Respondent met with both parties and discussed
9 their marital issues. Patient A’s chart note for this visit identifies the reason for the appointment
10 to be “walk-in.” Respondent obtained Patient A’s vital signs, identified her history of present
11 illness to be “back pain for 2 months,” and diagnosed her with obesity. Patient A’s chart note for
12 this clinical encounter does not reference the fact that the couple were seen together for marriage
13 counseling, and contains no review of systems, detailed physical examination, or assessment/plan.
14 Respondent did not prepare any chart notes for Patient D for this clinical encounter.

15 25. Sometime between on or about January 14, 2014, and on or about July 1, 2014,
16 Patient D met with Respondent alone, and informed him that Patient A abused their young child.
17 Respondent did not document this discussion in Patient A’s chart, and did not report this alleged
18 abuse to law enforcement or child welfare services at any time.

19 26. On or about July 14, 2014, in the Superior Court of San Bernardino County, Patient D
20 separated from Patient A and petitioned for physical and legal custody of their child. In support
21 of his Petition, Patient D filed a declaration signed by Respondent under penalty of perjury. In
22 this declaration, Respondent indicated that he examined and treated Patient A, observed severe
23 anger issues, diagnosed her with severe bipolar syndrome, prescribed her “Seracol,” and believed
24 she was in need of further treatment. Respondent further declared that Patient A was non-
25 compliant with his recommended treatment and opined that her medical condition created a risk

26 ///

27
28 ⁷ Atenolol (brand name Tenormin) is a beta blocker medication used to treat high blood pressure
and chest pain, and is a dangerous drug pursuant to Business and Professions Code section 4022.

1 of injury to the child. Respondent did not obtain consent from Patient A to release her personal
2 medical information prior to signing this declaration.

3 **PATIENT B**

4 27. On or about February 2, 2011,⁸ Patient B, a then seventeen (17) year old female,
5 presented to Respondent with complaints of pain and trouble sleeping after experiencing a fall
6 while ice skating. Respondent performed a physical examination and diagnosed the patient with,
7 among other things, lumbar sprain and strain. At the conclusion of the visit, Respondent
8 prescribed Patient B Hydrocodone-APAP⁹ for her pain.

9 28. Between in or around February 2011, and in or around June 2014, Respondent
10 provided pharmacologic treatment for Patient B's persistent back pain, which included but was
11 not limited to, Hydrocodone, Vicodin, Norco, Tramadol,¹⁰ Gabapentin,¹¹ Percocet, Roxicet,¹² and
12 Oxycontin.¹³ In addition, Respondent diagnosed Patient B with major depressive disorder and
13 provided her pharmacologic treatment that included, but was not limited to, Lexapro.¹⁴

14
15 ⁸ Conduct occurring more than seven years before the filing of this Accusation is for informational
16 purposes only and is not alleged as a basis for disciplinary action. (Bus. & Prof. Code, § 2230.5.)

17 ⁹ Hydrocodone-APAP (brand names Vicodin, Lortab, Norco) is a Schedule III controlled
18 substance pursuant to Health and Safety Code section 11056, subdivision (e), and a dangerous drug
19 pursuant to Business and Professions Code section 4022. It is a combination medication used to treat pain
20 that contains an opioid (hydrocodone) and a non-opioid (acetaminophen).

21 ¹⁰ Tramadol (brand name Ultram) is a Schedule IV controlled substance pursuant to Health and
22 Safety Code section 11057, and a dangerous drug pursuant to Business and Professions Code section 4022.
23 It is an opioid medication used to treat pain.

24 ¹¹ Gabapentin is a dangerous drug pursuant to Business and Professions Code section 4022. It is
25 an anticonvulsant medication used to treat pain.

26 ¹² Roxicet / Percocet (brand names for oxycodone/acetaminophen) is a Schedule II controlled
27 substance pursuant to Health and Safety Code section 11055, subdivision (b), and a dangerous drug
28 pursuant to Business and Professions Code section 4022. It is a combination medication used to treat pain
that contains an opioid (oxycodone) and a non-opioid (acetaminophen).

¹³ Oxycontin (brand name for oxycodone) is a Schedule II controlled substance pursuant to Health
and Safety Code section 11055, subdivision (b), and a dangerous drug pursuant to Business and
Professions Code section 4022.

¹⁴ Lexapro (brand name for escitalopram) is a dangerous drug pursuant to Business and
Professions Code section 4022. It is a selective serotonin reuptake inhibitor used to treat depression and
generalized anxiety disorder.

1 29. On or about June 2, 2014, Patient B presented to Respondent approximately two
2 weeks after having back surgery. The patient had been prescribed Dilaudid¹⁵ 4mg and MS Contin
3 30mg, but complained of continued pain. At the conclusion of the visit, Respondent prescribed
4 the patient Fentanyl,¹⁶ increased her MS Contin¹⁷ dose, and discontinued Dilaudid. The patient's
5 chart does not indicate the amount or strength of the medications Respondent prescribed the
6 patient on that date.

7 30. On or about June 9, 2014, Patient B presented to Respondent for a follow-up
8 appointment with complaints of back pain, sore throat, and cough. At that visit, Respondent
9 advised the patient to increase her Lazanda¹⁸ nasal spray, and prescribed her 30 tabs of Amrix¹⁹
10 15mg, 120 Subsys Sublingual²⁰ 800mcg, an unknown number of Fentanyl 50 MCG patches, and
11 60 capsules of Nortriptyline HCl²¹ 10mg. Respondent instructed the patient to return in two (2)
12 weeks for a follow-up. Under "current medications," the patient's chart does not reference the
13 MS Contin Respondent prescribed one week earlier, and does not indicate whether he
14 discontinued that medication at this visit.

15 31. On or about June 13, 2014, Patient B presented to Respondent for a clinical
16 appointment. The patient's chart does not indicate that Respondent discontinued any
17 medications, but under "current medications," the patient's chart lists, "none."

18 ¹⁵ Dilaudid (brand name for Hydromorphone) is a Schedule II controlled substance pursuant to
19 Health and Safety Code section 11055, subdivision (b), and a dangerous drug pursuant to Business and
Professions Code section 4022. It is an opioid medication used to treat pain.

20 ¹⁶ Fentanyl is a Schedule II controlled substance under Health and Safety Code section
21 11055(c)(8) and a dangerous drug within the meaning of California Business and Professions Code section
4022. It is an opioid medication used to treat pain.

22 ¹⁷ MS Contin (brand name for morphine) is a Schedule II controlled substance pursuant to Health
23 and Safety Code section 11055, subdivision (b), and a dangerous drug pursuant to Business and
Professions Code section 4022.

24 ¹⁸ Lazanda is a nasal spray containing fentanyl used for the treatment of pain.

25 ¹⁹ Amrix or Flexeril (brand names for Cyclobenzaprine) is a dangerous drug pursuant to Business
26 and Professions Code section 4022. It is a muscle relaxant used to treat pain and muscle spasms.

27 ²⁰ Subsys Sublingual is a mouth spray containing fentanyl used for the treatment of pain.

28 ²¹ Nortriptyline is a tricyclic antidepressant used to treat depression, and a dangerous drug pursuant
to Business and Professions Code section 4022.

1 32. On or about June 18, 2014, Patient B presented to Respondent for a clinical
2 appointment related to her depression. The patient's chart does not indicate that Respondent
3 discontinued any medications, but under "current medications," the patient's chart lists, "none."

4 33. On or about June 19, 2014, Respondent completed a progress note for treatment he
5 provided Patient B for varicose veins. During a later interview with an investigator from the
6 Division of Investigations that occurred on or about March 4, 2019, Respondent admitted that
7 Patient B did not have varicose veins, and that this specific chart entry was intended for a
8 different patient.

9 34. On or about July 2, 2014, Patient B presented to Respondent for a follow-up
10 appointment with complaints of back, leg, and nerve pain. At the conclusion of this visit,
11 Respondent prescribed the patient 60 tabs of MS Contin 100mg. The patient's chart does not
12 indicate that Respondent discontinued any medications, but under "current medications," the
13 patient's chart only lists Percocet and Cymbalta.²²

14 35. On or about July 9, 2014, Patient B presented to Respondent for a follow-up
15 appointment with complaints of pain. At the conclusion of this visit, Respondent prescribed the
16 patient 120 tabs of Percocet 10/325mg. The patient's chart does not indicate that Respondent
17 discontinued any medications, but under "current medications," the patient's chart only lists
18 Percocet and Cymbalta.

19 36. On or about July 16, 2014, Patient B presented to Respondent for a follow-up
20 appointment with complaints of her whole body jerking. At the conclusion of this visit,
21 Respondent prescribed the patient 90 tabs of MS Contin 100 MG, 120 tabs of Percocet 10-325mg,
22 and 60 tabs of Clonazepam²³ 1mg.

23 ///

24 ///

25 ²² Cymbalta (brand name for Duloxetine) is a dangerous drug pursuant to Business and
26 Professions Code section 4022. It is used to treat depression and anxiety.

27 ²³ Clonazepam is a Schedule IV controlled substance pursuant to Health and Safety Code section
28 11057, subdivision (d), and a dangerous drug pursuant to Business and Professions Code section 4022. It
is an anti-anxiety medication in the benzodiazepine family.

1 37. On or about July 29, 2014, Respondent prescribed Patient B 60 tabs of Diazepam²⁴
2 10mg, and 120 tabs of Robaxin²⁵ 750mg. The patient's chart does not contain a clinical note for a
3 visit that date, any documented reason for these prescribed medications, or a notation that he
4 discontinued any medications.

5 **PATIENT C**

6 38. On or about December 10, 2013, Patient C, a then sixty-six (66) year old female,
7 presented to Respondent for the first time for an initial check-up, and complained of allergy
8 symptoms. Respondent performed a physical exam and diagnosed the patient with hypertension,
9 allergic rhinitis, coronary arteriosclerosis of artery bypass graft, asthma, chronic rhinitis, and
10 shortness of breath. Allergy testing was performed at this visit, and although the results were
11 reviewed with the patient, the chart notes do not contain the results of the test. Respondent did
12 not prescribe the patient any medication on that date.

13 39. On or about December 12, 2013, Patient C presented to Respondent for a follow-up
14 visit. At this visit, Respondent noted that the patient had a morphine pump installed in 2009. The
15 chart note for this visit indicates that the patient's current medications were Lipitor, Amlodipine,
16 Ambien, Albuterol, Fexeril, Citalopram, Oxycodone, and Bystolic. Respondent did not prescribe
17 the patient any medication on that date.

18 40. On or about February 20, 2014, Patient C presented to Respondent for a follow-up
19 and for a refill of medications. At the conclusion of this visit, Respondent prescribed the patient
20 various medications, including but not limited to, an unknown number of Oxycodone HCl 10mg.
21 The chart notes for this visit do not indicate a clinical indication for this medication.

22 41. On or about March 24, 2014, Patient C presented to Respondent for a follow-up on
23 medications. At this visit, Patient C complained of back pain, and informed Respondent that
24 when she went to have her morphine pump checked at the pain clinic, she was provided

25 ²⁴ Diazepam (brand name Valium) is a Schedule IV controlled substance pursuant to Health and
26 Safety Code section 11057, subdivision (d), and a dangerous drug pursuant to Business and Professions
Code section 4022. It is an anti-anxiety medication in the benzodiazepine family.

27 ²⁵ Robaxin (brand name for Methocarbamol) is a central nervous system (CNS) depressant and
28 muscle relaxant used to treat muscle spasms, tension, and pain. It is a dangerous drug pursuant to
Business and Professions Code section 4022

1 additional medication that she believed caused her to have an allergic reaction. Respondent did
2 not perform and/or document the results of a physical examination of the patient's back, but he
3 diagnosed her with spinal stenosis of the lumbar region, lumbar radiculopathy, bursitis of the left
4 hip, and lower back pain. X-rays of the patient's left hip and lower back were taken in the office,
5 the results of which were not included in the patient's chart. The patient's chart for this visit
6 indicates that an x-ray arthrogram²⁶ of the left hip was taken. During a later interview with an
7 investigator from the Division of Investigations that occurred on or about March 4, 2019,
8 Respondent admitted that the chart was probably "misquoting" the procedure, as only a normal
9 x-ray was performed on that date. At the conclusion of the visit, Respondent prescribed the
10 patient Zofran²⁷ and Flector.²⁸ Under "current medications," approximately fifteen (15) other
11 medications were listed in the patient's chart on that date.

12 42. On or about April 8, 2014, Patient C presented to Respondent with complaints of
13 increasing blood pressure and requested a change in medication. The patient's chart does not
14 indicate that Respondent discontinued any medications, but under "current medications," the
15 patient's chart lists, "none."

16 43. On or about April 29, 2014, Patient C presented to Respondent for a follow-up. At
17 the conclusion of the visit, Respondent prescribed various medications to Patient C, including but
18 not limited to, 120 tabs of Oxycodone HCl 10mg. The chart notes for this visit do not indicate a
19 clinical indication for this medication. The patient's chart also does not indicate that Respondent
20 discontinued any medications, but under "current medications," the patient's chart lists only
21 Spironolactone and Citalopram.

22 ///

23 ///

24 ///

25 ²⁶ An arthrogram is a series of images of a joint after injection of a contrast medium, usually done
26 by fluoroscopy or MRI.

27 ²⁷ Zofran (brand name for Ondansetron) is a dangerous drug pursuant to Business and Professions
Code section 4022. It is used to treat nausea and vomiting.

28 ²⁸ Flector (name brand for diclofenac) is a nonsteroidal anti-inflammatory drug used to treat pain.

1 44. Respondent committed gross negligence in his care and treatment of Patients A, B,
2 and C, which included, but was not limited to, the following:

3 A. Failing to obtain written consent from Patient A authorizing the release of her
4 personal sensitive health information;

5 B. Failing to obtain and document a review of systems, physical examination, and
6 assessment/plan at each clinical visit with Patient A;

7 C. Prescribing medication to Patient A without documenting clinical indication,
8 dosage, or administration instruction;

9 D. Inappropriately prescribing concomitant high dose opiates, benzodiazepines,
10 and a CNS muscle relaxant to Patient B in or around July 2014; and

11 E. Failing to appropriately document care provided to Patient C, including clinical
12 diagnoses, medications prescribed, procedures performed, and imaging results.

13 **SECOND CAUSE FOR DISCIPLINE**

14 **(Repeated Negligent Acts)**

15 45. Respondent has further subjected his Physician's and Surgeon's Certificate No.
16 A40490 to disciplinary action under sections 2227 and 2234, as defined by section 2234,
17 subdivision (c), of the Code, in that he committed repeated negligent acts in his care and
18 treatment of Patients A, B, and C, as more particularly alleged in paragraphs 18 through 44,
19 above, which are hereby incorporated by reference and realleged as if fully set forth herein.

20 **THIRD CAUSE FOR DISCIPLINE**

21 **(Unauthorized Violation of Professional Confidence)**

22 46. Respondent has further subjected his Physician's and Surgeon's Certificate No.
23 A40490 to disciplinary action under sections 2227 and 2234, as defined by section 2263, of the
24 Code, in that Respondent engaged in the willful, unauthorized violation of professional
25 confidence of Patient A, as more particularly alleged in paragraphs 18 through 44, above, which
26 are hereby incorporated by reference and realleged as if fully set forth herein.

27 ///

28 ///

1. **FOURTH CAUSE FOR DISCIPLINE**

2. **(Failure to Maintain Adequate and Accurate Records)**

3. 47. Respondent has further subjected his Physician's and Surgeon's Certificate No.
4. A40490 to disciplinary action under sections 2227 and 2234, as defined by section 2266, of the
5. Code, in that Respondent failed to maintain adequate and accurate records regarding his care and
6. treatment of Patients A, B, and C, as more particularly alleged in paragraphs 18 through 44,
7. above, which are hereby incorporated by reference and realleged as if fully set forth herein.

8. **FIFTH CAUSE FOR DISCIPLINE**

9. **(Prescribing, Dispensing, or Furnishing Dangerous Drugs without Appropriate Prior
10. Examination and Medical Indication)**

11. 48. Respondent has further subjected his Physician's and Surgeon's Certificate No.
12. A40490 to disciplinary action under sections 2227 and 2242, subdivision (a), of the Code, in that
13. he prescribed, dispensed, or furnished dangerous drugs without an appropriate prior examination
14. and medical indication as more particularly alleged in paragraphs 18 through 44 above, which are
15. incorporated by reference and realleged, as if fully set forth herein.

16. **SIXTH CAUSE FOR DISCIPLINE**

17. **(Violation of any Federal Statute or Federal Regulation or any State Statute or Regulation
18. Regulating Dangerous Drugs or Controlled Substances)**

19. 49. Respondent has further subjected his Physician's and Surgeon's Certificate No.
20. A40490 to disciplinary action under sections 2227 and 2238, as defined by sections 4081, 4105,
21. and 4170, of the Code, in that he has violated Federal or State statutes or regulations regulating
22. dangerous drugs or controlled substances, as more particularly alleged in paragraphs 18 through
23. 44 above, which are incorporated by reference and realleged, as if fully set forth herein.

24. **SEVENTH CAUSE FOR DISCIPLINE**

25. **(Failure to Comply with Mandated Reporting Requirements)**

26. 50. Respondent has further subjected his Physician's and Surgeon's Certificate No.
27. A40490 to disciplinary action under sections 2227 and 2234, of the Code, as defined by sections
28. 11165.7, 11165.9, and 11166 of the Penal Code, in that he failed to comply with mandated

1 reporting requirements, as more particularly alleged in paragraphs 18 through 44 above, which
2 are incorporated by reference and realleged, as if fully set forth herein.

3 PRAYER

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


6 1. Revoking or suspending Physician's and Surgeon's Certificate No. A 40490, issued
7 to Respondent, Jay Amin, M.D.;

8 2. Revoking, suspending or denying approval of Respondent, Jay Amin, M.D.'s
9 authority to supervise physician assistants and advanced practice nurses;

10 3. Ordering Respondent, Jay Amin, M.D., if placed on probation, to pay the Board the
11 costs of probation monitoring; and

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

13
14 DATED: August 12, 2019


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

15
16
17
18
19 SD2019800389
20 71919681.docx
21
22
23
24
25
26
27
28