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

In the Matter of the Third Amended Accusation Against Thomas Benedict Bryan, M.D. Physician's and Surgeon's Certificate No. A30069 Respondent.	Case No. 800-2016-021547

DECISION

The attached Stipulated Surrender of License 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 APR 30 2020.

IT IS SO ORDERED APR 23 2020.

MEDICAL BOARD OF CALIFORNIA

By: Christine J. Lally
Christine J. Lally
Interim Executive Director

XAVIER BECERRA
Attorney General of California
STEVE DIEHL
Supervising Deputy Attorney General
MICHAEL C. BRUMMEL
Deputy Attorney General
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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 Third Amended Accusation Against: **THOMAS BENEDICT BRYAN, M.D.** **3351 M St., Ste. 120** **Merced, CA 95348** **Physician's and Surgeon's Certificate No. A 30069** Respondent.	Case No. 800-2016-021547 OAH No. 2019070592 **STIPULATED SURRENDER OF LICENSE AND 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 brought this action solely in her official capacity and is represented in this matter by Xavier Becerra, Attorney General of the State of California, by Michael C. Brummel, Deputy Attorney General.

2. Thomas Benedict Bryan, M.D. (Respondent) is represented in this proceeding by attorney Daniel L. Wainwright, Esq., whose address is: 7647 North Fresno Street, Fresno, CA 93720.

3. On or about April 14, 1976, the Board issued Physician's and Surgeon's Certificate No. A 30069 to Thomas Benedict Bryan, 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 Third Amended Accusation No. 800-2016-021547 and will expire on April 30, 2022, unless renewed.

JURISDICTION

4. Third Amended Accusation No. 800-2016-021547 was filed before the Board, and is currently pending against Respondent. The Third Amended Accusation and all other statutorily required documents were properly served on Respondent on April 20, 2020. Respondent timely filed his Notice of Defense contesting the Third Amended Accusation. A copy of Third Amended Accusation No. 800-2016-021547 is attached as Exhibit A and incorporated by reference.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Third Amended Accusation No. 800-2016-021547. Respondent also has carefully read, fully discussed with counsel, and understands the effects of this Stipulated Surrender of License and 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 Third 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. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

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CULPABILITY

8. Respondent understands that the charges and allegations in Third Amended Accusation No. 800-2016-021547, if proven at a hearing, constitute cause for imposing discipline upon his Physician's and Surgeon's Certificate.

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

10. Respondent understands that by signing this stipulation he enables the Board to issue an order accepting the surrender of his Physician's and Surgeon's Certificate without further process.

CONTINGENCY

11. Business and Professions Code section 2224, subdivision (b), provides, in pertinent part, that the Medical Board "shall delegate to its executive director the authority to adopt a ... stipulation for surrender of a license."

12. Respondent understands that, by signing this stipulation, he enables the Interim Executive Director of the Board to issue an order, on behalf of the Board, accepting the surrender of his Physician's and Surgeon's Certificate No. A 30069 without further notice to, or opportunity to be heard by, Respondent.

13. This stipulation shall be subject to approval Interim Executive Director on behalf of the Board. The parties agree that this Stipulated Surrender of License and Disciplinary Order shall be submitted to the Interim Executive Director for her consideration in the above-entitled matter and, further, that the Interim Executive Director shall have a reasonable period of time in which to consider and act on this Stipulated Surrender of License 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 Interim Executive Director, on behalf of the Medical Board, considers and acts upon it.

14. The parties agree that this Stipulated Surrender of License and Disciplinary Order shall be null and void and not binding upon the parties unless approved and adopted by the Interim Executive Director on behalf of 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 Surrender of License and Disciplinary Order, the Interim Executive Director and/or the Board may receive oral and written communications from its staff and/or the Attorney General's Office. Communications pursuant to this paragraph shall not disqualify the Interim Executive Director, the Board, any member thereof, and/or any other person from future participation in this or any other matter affecting or involving respondent. In the event that the Interim Executive Director on behalf of the Board does not, in her discretion, approve and adopt this Stipulated Surrender of License and Disciplinary Order, with the exception of this paragraph, it shall not become effective, shall be of no evidentiary value whatsoever, and shall not be relied upon or introduced in any disciplinary action by either party hereto. Respondent further agrees that should this Stipulated Surrender of License and Disciplinary Order be rejected for any reason by the Interim Executive Director on behalf of the Board, Respondent will assert no claim that the Interim Executive Director, the Board, or any member thereof, was prejudiced by its/his/her review, discussion and/or consideration of this Stipulated Surrender of License and Disciplinary Order or of any matter or matters related hereto.

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

16. In consideration of the foregoing admissions and stipulations, the parties agree that the Interim Executive Director of the Board may, without further notice to or opportunity to be heard by Respondent, issue and enter the following Disciplinary Order on behalf of the Board:

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ORDER

IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. A 30069, issued to Respondent Thomas Benedict Bryan, M.D., is surrendered and accepted by the Board.

1. Respondent shall lose all rights and privileges as a physician and surgeon in California as of the effective date of the Board's Decision and Order.

2. Respondent shall cause to be delivered to the Board his pocket license and, if one was issued, his wall certificate on or before the effective date of the Decision and Order.

3. If Respondent ever files an application for licensure or a petition for reinstatement in the State of California, the Board shall treat it as a petition for reinstatement. Respondent must comply with all the laws, regulations and procedures for reinstatement of a revoked or surrendered license in effect at the time the petition is filed, and all of the charges and allegations contained in Third Amended Accusation No. 800-2016-021547 shall be deemed to be true, correct and admitted by Respondent when the Board determines whether to grant or deny the petition.

4. If Respondent should ever apply or reapply for a new license or certification, or petition for reinstatement of a license, by any other health care licensing agency in the State of California, all of the charges and allegations contained in Third Amended Accusation, No. 800-2016-021547 shall be deemed to be true, correct, and admitted by Respondent for the purpose of any Statement of Issues or any other proceeding seeking to deny or restrict licensure.

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ACCEPTANCE

I have carefully read the above Stipulated Surrender of License and Order and have fully discussed it with my attorney Daniel L. Wainwright, Esq. I understand the stipulation and the effect it will have on my Physician's and Surgeon's Certificate. I enter into this Stipulated Surrender of License and Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Medical Board of California.

DATED: 4/21/2020

THOMAS BENEDICT BRYAN, M.D.
Respondent

I have read and fully discussed with Respondent Thomas Benedict Bryan, M.D. the terms and conditions and other matters contained in this Stipulated Surrender of License and Order. I approve its form and content.

DATED: 4/21/2020

DANIEL L. WAINWRIGHT, ESQ.
Attorney for Respondent

ENDORSEMENT

The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted for consideration by the Medical Board of California of the Department of Consumer Affairs.

DATED: _____

Respectfully submitted,

XAVIER BECERRA
Attorney General of California
STEVE DIETL
Supervising Deputy Attorney General

MICHAEL C. BRUMMEL
Deputy Attorney General
Attorneys for Complainant

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ACCEPTANCE

I have carefully read the above Stipulated Surrender of License and Order and have fully discussed it with my attorney Daniel L. Wainwright, Esq. I understand the stipulation and the effect it will have on my Physician's and Surgeon's Certificate. I enter into this Stipulated Surrender of License and Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Medical Board of California.

DATED: _____

THOMAS BENEDICT BRYAN, M.D.
Respondent

I have read and fully discussed with Respondent Thomas Benedict Bryan, M.D. the terms and conditions and other matters contained in this Stipulated Surrender of License and Order. I approve its form and content.

DATED: _____

DANIEL L. WAINWRIGHT, ESQ.
Attorney for Respondent

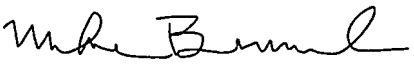
ENDORSEMENT

The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted for consideration by the Medical Board of California of the Department of Consumer Affairs.

DATED: April 22, 2020

Respectfully submitted,

XAVIER BECERRA
Attorney General of California
STEVE DIEHL
Supervising Deputy Attorney General



MICHAEL C. BRUMMEL
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Third Amended Accusation No. 800-2016-021547

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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 Third Amended Accusation Against: **Thomas Benedict Bryan, M.D.** **3351 M St., Ste. 120** **Merced, CA 95348** **Physician's and Surgeon's Certificate No. A 30069,** Respondent.	Case No. 800-2016-021547 OAH No. 2019070592 **THIRD AMENDED ACCUSATION**

PARTIES

1. Christine J. Lally (Complainant) brings this Third Amended Accusation solely in her official capacity as the Interim Executive Director of the Medical Board of California, Department of Consumer Affairs (Board).

2. On or about April 14, 1976, the Medical Board issued Physician's and Surgeon's Certificate Number A 30069 to Thomas Benedict Bryan, 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 April 30, 2022, unless renewed.

JURISDICTION

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

4. Business and Professions Code Section 820 of the Code states:

> Whenever it appears that any person holding a license, certificate or permit under this division or under any initiative act referred to in this division may be unable to practice his or her profession safely because the licentiate's ability to practice is impaired due to mental illness, or physical illness affecting competency, the licensing agency may order the licentiate to be examined by one or more physicians and surgeons or psychologists designated by the agency. The report of the examiners shall be made available to the licentiate and may be received as direct evidence in proceedings conducted pursuant to Section 822.

5. Section 821 of the Code provides that the licentiate's failure to comply with an order issued under section 820 shall constitute grounds for the suspension or revocation of the licentiate's certificate or license.

6. 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.

7. Section 2234 of the Code, states:

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

(a) Violating or attempting to violate, directly or indirectly, assisting in or abetting the violation of, or conspiring to violate any provision of this chapter.

(b) Gross negligence.

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

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

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

(d) Incompetence.

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

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

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

8. Section 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.

PERTINENT DRUGS AND DEFINITIONS

9. Controlled Substance Utilization Review and Evaluation System 2.0 (CURES) is a database of Schedule II, III, and IV controlled substance prescriptions dispensed in California serving the public health, regulatory and oversight agencies and law enforcement. CURES 2.0 is

committed to the reduction of prescription drug abuse and diversion without affecting legitimate medical practice or patient care.

10. Controlled Substances Agreement, also known as a pain management contract or pain management agreement. A pain management agreement is recommended for patients on short-acting opioids at the time of the third visit; on long acting opioids; or expected to require more than three months of opioids. A pain management agreement outlines the responsibilities of the physician and patient during the time that controlled substances are prescribed. See Medical Board of California: Guidelines for Prescribing Controlled Substances for Pain, November 2014.

11. Acetaminophen (Tylenol®) is a pain reliever and a fever reducer. It is used to treat many conditions including headache, muscle aches, arthritis, backache, toothaches, colds, and fevers. Acetaminophen is not a controlled substance.

12. Acetaminophen and hydrocodone bitartrate (Vicodin® and Norco®) is an opioid pain medication used for relief from moderate to moderately severe pain and has a high potential for abuse. Norco is a Schedule II controlled substance pursuant to Health and Safety Code section 11055, subdivision (e), and a dangerous drug pursuant to Business and Professions Code section 4022.

13. Acetaminophen and oxycodone (Endocet®, Percocet®, Roxicet®) is a combination of two medicines used to treat moderate to severe pain. Oxycodone is an opioid pain medication, commonly referred to as a narcotic. Acetaminophen is a less potent pain reliever that increases the effects of oxycodone. Oxycodone has a high potential for abuse. Oxycodone is a Schedule II controlled substance and narcotic as defined by section 11055, subdivision (b)(1) of the Health and Safety Code, and a Schedule II controlled substance as defined by Section 1308.12 (b)(1) of Title 21 of the code of Federal Regulations and a dangerous drug as defined in Business and Professions Code section 4022. Respiratory depression is the chief hazard from all opioid agonist preparations. Oxycodone should be used with caution and started in a reduced dosage (1/3 to 1/2 of the usual dosage) in patients who are concurrently receiving other central nervous system depressants including sedatives or hypnotics, general anesthetics, phenothiazines, other tranquilizers and alcohol.

14. Belsomra® (suvorexant) is a sleep medicine used to treat insomnia that has some potential for abuse. Belsomra® is a Schedule IV controlled substance pursuant to Health and Safety Code section 11057, subdivision (d), and a dangerous drug pursuant to Business and Professions Code section 4022.

15. Benzodiazepines are a class of agents that work on the central nervous system, acting on select receptors in the brain that inhibit or reduce the activity of nerve cells within the brain. Valium, diazepam, alprazolam and temazepam are all examples of benzodiazepines. All benzodiazepines are Schedule IV controlled substances and have the potential for abuse, addiction and diversion.

16. Fentanyl is an opioid skin patch that is used to treat severe chronic pain. Fentanyl has a high potential for abuse. Fentanyl is a Schedule II controlled substance and narcotic as defined by section 11055, subdivision (b)(1) of the Health and Safety Code, and a Schedule II controlled substance as defined by Section 1308.12 (b)(1) of Title 21 of the code of Federal Regulations and a dangerous drug as defined in Business and Professions Code section 4022.

17. Flurazepam is in the class of benzodiazepine medications. It affects chemicals in the brain that may be unbalanced in people with anxiety. Flurazepam is used to treat anxiety disorders, panic disorders and anxiety caused by depression. Flurazepam has the potential for abuse. Flurazepam is a Schedule IV controlled substance pursuant to health and Safety Code section 11057, subdivision (d), and a dangerous drug pursuant to Business and Professions Code section 4022.

18. Hydromorphone (Dilaudid®) is an opioid pain medication commonly called a narcotic that is used to treat moderate to severe pain. Dilaudid can slow or stop your breathing and should not be used in larger amounts or longer periods than prescribed. Dilaudid may be habit-forming and can cause addiction, overdose or death if misused. Dilaudid has a high potential for abuse. Dilaudid is a Schedule II controlled substance under Health and Safety Code section 11055, and a Schedule II controlled substance under section 1308.12 of Title 21 of the Code of Federal Regulations and a dangerous drug as defined in Business and Professions Code section 4022.

19. Kenalog® (triamcinolone) is a steroid that prevents the release of substances in the body that cause inflammation. It is used to treat many different types of inflammatory conditions, including severe allergic reactions, skin disorders, severe colitis, inflammation of the joints or tendons, blood cell disorders, inflammatory eye disorers, lung disorders, and problems caused by low adrenal gland hormones. It is a dangerous drug as defined in Business and Professions Code section 4022.

20. Marcaine HCl® (bupivacaine) is an anesthetic that blocks nerve impulses in the body, used as a local anesthetic. It is given as an epidural injection into the spinal column to produce numbness during labor, surgery, or certain medical procedures. It is also used during dental procedures. It is a dangerous drug as defined in Business and Professions Code section 4022.

21. Methadone is an opioid medication that has a high potential for abuse. It is a dangerous drug as defined in section 4022 and a Schedule II controlled substance and narcotic as defined by section 11055 of the Health and Safety Code. Methadone is used as a pain reliever and as part of drug addiction detoxification and maintenance programs. It may cause a prolonged QT interval (a rare heart problem that may cause irregular heartbeat, fainting, or sudden death).

22. "MME" is an abbreviation for the Morphine Milligram Equivalents used to evaluate the levels of opioids prescribed to a patient. The CDC recommends avoiding or carefully justifying any dosage greater than 90 MME/day.

23. Morphine (MS Contin®) is an opioid pain medication or narcotic that is used to treat pain. It can be taken as needed for pain in short acting formulations or as an extended-release form for constant pain depending upon the formulation. Morphine has a high potential for abuse. Morphine is a Schedule II controlled substance under Health and Safety Code section 11055, and a Schedule II controlled substance under section 1308.12 of Title 21 of the Code of Federal Regulations and a dangerous drug as defined in Business and Professions Code section 4022.

24. Nucynta® (tapentadol hydrochloride) is an opioid pain medication or narcotic that is used to treat moderate to severe pain. Nucynta® has a high potential for abuse. Nucynta® is a Schedule II controlled substance and narcotic as defined by section 11055, subdivision (b)(1) of the Health and Safety Code, and a Schedule II controlled substance as defined by Section 1308.12

(b)(1) of Title 21 of the Code of Federal Regulations and a dangerous drug as defined in Business and Professions Code section 4022.

25. Oxycodone (Oxaydo®, OxyCONTIN®, Oxyfast®, Roxicodon®, Xtampza ER®) is a white odorless crystalline power derived from an opium alkaloid. It is a pure agonist opioid whose principal therapeutic action is analgesia. Other therapeutic effects of Oxycodone include anxiolysis, euphoria and feelings of relaxation. Oxycodone has a high potential for abuse. Oxycodone is a Schedule II controlled substance and narcotic as defined by section 11055, subdivision (b)(1) of the Health and Safety Code, and a Schedule II controlled substance as defined by Section 1308.12 (b)(1) of Title 21 of the code of Federal Regulations and a dangerous drug as defined in Business and Professions Code section 4022. Respiratory depression is the chief hazard from all opioid agonist preparations. Oxycodone should be used with caution and started in a reduced dosage (1/3 to 1/2 of the usual dosage) in patients who are concurrently receiving other central nervous system depressants including sedatives or hypnotics, general anesthetics, phenothiazines, other tranquilizers and alcohol.

26. Temazepam (Restoril®) is a benzodiazepine medication that affects chemicals in the brain that may be unbalanced in people with sleep problems. Temazepam is used to treat insomnia symptoms and has the potential for abuse. Temazepam is a Schedule IV controlled substance pursuant to Health and Safety Code section 11057, subdivision (d), and a dangerous drug pursuant to Business and Professions Code section 4022.

27. Tramadol (Ultram®) is a narcotic like pain reliever used to treat severe pain. Tramadol has the potential for abuse. Tramadol is a Schedule IV controlled substance pursuant to Health and Safety Code section 11057, subdivision (d), and a dangerous drug pursuant to Business and Professions Code section 4022.

28. Xanax® (alprazolam) is in the class of benzodiazepine medications. It affects chemicals in the brain that may be unbalanced in people with anxiety. Xanax is used to treat anxiety disorders, panic disorders and anxiety caused by depression. Xanax has the potential for abuse. Xanax is a Schedule IV controlled substance pursuant to health and Safety Code section

11057, subdivision (d), and a dangerous drug pursuant to Business and Professions Code section 4022.

29. Zolpidem tartrate (Ambien®) is a Schedule IV controlled substance pursuant to Health and Safety Code section 11057, subdivision (d), and a dangerous drug pursuant to Business and Professions Code section 4022. It is a sedative used to treat insomnia and has potential for abuse.

FIRST CAUSE FOR DISCIPLINE

(Gross Negligence)

30. Respondent's Physician's and Surgeon's Certificate No. A 30069 is subject to disciplinary action under section 2227, as defined by section 2234, subdivision (b), in that he committed act(s) and/or omission(s) constituting gross negligence. The circumstances are as follows:

31. Respondent practices in a solo practice medical office. Respondent practices neurology, but the majority of his patients see him for pain management.

32. On or about October 29, 2019, Respondent participated in a subject interview regarding his care of Patient B[1], and Patient C. Respondent stated that he did not think he had ever read the Medical Board of California's Pain Management Guidelines that were issued in 2014. When asked if he calculated MME's for his patients, Respondent said "I don't think it's that important, to be honest with you." Respondent said that he provided patients pain injections by filling a 10 cc syringe with 1 cc of 40 mg Kenalog and "fill[s] out the rest with Marcaine..." Respondent admitted that he does not have his patients complete a written informed consent form prior to injection procedures. When asked if he discussed the risks of an injection with patients prior to providing the procedure, Respondent said that he has never had a problem with injections and he believes the "risks are negligible," and that he always makes sure he is "not in a blood vessel" when administering injections. Respondent admitted that he does not utilize any specific consistent benchmarks for evaluating a patient's functional limitations and/or the effectiveness of

[1] To protect the privacy of the patient, names are not identified in this Third Amended Accusation.

the pain medications. Respondent stated that he simply asks the patients how much pain they are experiencing and trusts them to tell him the truth.

33. Respondent admitted that he did not perform a fully history and physical on Patient B prior to prescribing controlled substances, and that he only relied on an examination done by Patient B's primary care physician. Respondent admitted that he did not obtain an EKG prior to prescribing Methadone to Patient B, even though the patient had a history of Marfans Syndrome and aortic valve replacement. Respondent said that he presumed Patient B's primary care physician was "doing EKGs" and "following him very closely."

34. Respondent admitted that he did not obtain an EKG prior to prescribing Methadone to Patient C.

Patient B

35. On or about October 30, 2012, Patient B first presented to Respondent for care at 22 years old. Respondent's medical records contain a paragraph referral note from Patient B's referring physician that identifies some preexisting conditions, and states that Patient B is becoming tolerant to morphine. The referral note does not document a full history and physical examination of Patient B prior to Respondent's decision to initiate opiate therapy. Respondent documented a limited evaluation of Patient B, and prescribed him Oxycodone, Sumatriptan and Hydromorphone. Respondent's medical records for Patient B include a controlled substance agreement signed by both Respondent and Patient B, dated October 30, 2012. Respondent continued to see Patient B on a nearly monthly basis thereafter, commonly prescribing Patient B controlled substances. Respondent did not document a full history and physical for Patient B prior to prescribing controlled substances, including a history of present illness, past medical history, family history, social history, allergies, mental health status, physical examination findings, and any functional limitations. Respondent did not document an assessment of Patient B's pain, his physical and psychological function, substance abuse history, history of prior pain treatment, assessment of underlying or coexisting diseases or conditions, or document the presence of a recognized medical indication for the prescription of a controlled substance. Respondent did not document a pain management agreement.

36. On or about January 7, 2013, Respondent provided Patient B an injection of Marcaine 10 mg. Respondent did not document a corresponding procedure note related to the injection, or document providing Patient B with informed consent regarding the risks of the injection.

37. On or about October 15, 2013, Respondent began prescribing Patient B Methadone. Respondent did not obtain a baseline EKG with Respondent prior to prescribing methadone. Despite Patient B's increased risk of cardiac arrhythmias due to his diagnosis of Marfan's syndrome, Respondent did not document a discussion of the risks of prescribing Methadone with Patient B, including the increased cardiac risks. Patient B returned to Respondent for appointments to refill his medication approximately thirteen times in 2013. Respondent's medical records for Patient B were handwritten, sparse, difficult to read, and failed to include documentation required for a typical office visit. The records did not document a treatment plan, informed consent, physical examination or pain management agreement.

38. During the period of on or about December 24, 2013 through December 30, 2013, Patient B filled the following prescriptions for controlled substances:

Date Filled	Drug Name	Form	Drug Strength	Qty	Prescriber Name
12/24/2013	FLURAZEPAM HCL	CAP	30 MG	30	M.I., M.D.
12/30/2013	ALPRAZOLAM	TAB	1 MG	120	M.I., M.D.

39. On or about July 1, 2014, Patient B returned to Respondent for refills on his medications. Respondent's only documentation in the medical record related to a right wrist drop with intact sensations. Despite failing to perform a full physical examination, Respondent prescribed Patient B Methadone 10 mg, and Fentanyl Patches 100 mcg.

40. Patient B returned to Respondent for appointments to refill his medication approximately thirteen times in 2014. Respondent's medical records for Patient B were handwritten, sparse, difficult to read, and failed to include documentation required for a typical office visit. The records did not document a treatment plan, informed consent, physical examination or pain management agreement.

41. During the period of on or about January 8, 2014, through on or about December 27, 2014, Patient B filled the following prescriptions for controlled substances:

Date Filled	Drug Name	Form	Drug Strength	Qty	Prescriber Name
1/8/2014	METHADONE HCL	TAB	10 MG	120	THOMAS BRYAN, M.D.
1/8/2014	FENTANYL	TDM	100 MCG/1 HR	10	THOMAS BRYAN, M.D.
1/28/2014	ALPRAZOLAM	TAB	1 MG	120	M.I., M.D.
2/5/2014	METHADONE HCL	TAB	10 MG	120	THOMAS BRYAN, M.D.
2/5/2014	FENTANYL	TDM	100 MCG/1 HR	10	THOMAS BRYAN, M.D.
2/5/2014	FLURAZEPAM HCL	CAP	30 MG	30	M.I., M.D.
3/5/2014	FENTANYL	TDM	100 MCG/1 HR	10	THOMAS BRYAN, M.D.
3/5/2014	METHADONE HCL	TAB	10 MG	120	THOMAS BRYAN, M.D.
3/5/2014	ALPRAZOLAM	TAB	1 MG	120	M.I., M.D.
3/5/2014	FLURAZEPAM HCL	CAP	30 MG	30	M.I., M.D.
4/1/2014	ALPRAZOLAM	TAB	1 MG	120	M.I., M.D.
4/4/2014	FENTANYL	TDM	100 MCG/1 HR	10	THOMAS BRYAN, M.D.
4/4/2014	METHADONE HCL	TAB	10 MG	120	THOMAS BRYAN, M.D.
4/17/2014	FLURAZEPAM HCL	CAP	30 MG	30	M.I., M.D.
5/5/2014	FENTANYL	TDM	100 MCG/1 HR	10	THOMAS BRYAN, M.D.
5/5/2014	METHADONE HCL	TAB	10 MG	120	THOMAS BRYAN, M.D.
5/5/2014	ALPRAZOLAM	TAB	1 MG	120	M.I., M.D.
5/19/2014	FLURAZEPAM HCL	CAP	30 MG	30	M.I., M.D.
5/28/2014	ALPRAZOLAM	TAB	1 MG	120	M.I., M.D.
6/2/2014	FENTANYL	TDM	100 MCG/1 HR	10	THOMAS BRYAN, M.D.
6/2/2014	METHADONE HCL	TAB	10 MG	120	THOMAS BRYAN, M.D.
6/15/2014	FLURAZEPAM HCL	CAP	30 MG	30	M.I., M.D.
6/23/2014	ALPRAZOLAM	TAB	1 MG	120	M.I., M.D.
7/1/2014	FENTANYL	TDM	100 MCG/1 HR	10	THOMAS BRYAN, M.D.
7/1/2014	METHADONE HCL	TAB	10 MG	120	THOMAS BRYAN, M.D.
7/1/2014	FLURAZEPAM HCL	CAP	30 MG	60	M.I., M.D.
7/17/2014	ALPRAZOLAM	TAB	1 MG	120	M.I., M.D.
7/28/2014	FLURAZEPAM HCL	CAP	30 MG	60	M.I., M.D.
7/30/2014	METHADONE HCL	TAB	10 MG	120	THOMAS BRYAN, M.D.
7/30/2014	FENTANYL	TDM	100 MCG/1 HR	10	THOMAS BRYAN, M.D.
8/17/2014	ALPRAZOLAM	TAB	1 MG	120	M.I., M.D.
8/27/2014	FENTANYL	TDM	100 MCG/1 HR	10	THOMAS BRYAN, M.D.
8/27/2014	HYDROMORPHONE HCL	TER	16 MG	30	THOMAS BRYAN, M.D.
9/10/2014	TEMAZEPAM	CAP	30 MG	30	M.I., M.D.
9/10/2014	ALPRAZOLAM	TAB	1 MG	120	M.I., M.D.
9/20/2014	FLURAZEPAM HCL	CAP	15 MG	120	M.I., M.D.
9/24/2014	HYDROMORPHONE HCL	TER	16 MG	30	THOMAS BRYAN, M.D.
9/24/2014	FENTANYL	TDM	100 MCG/1 HR	10	THOMAS BRYAN, M.D.
10/4/2014	ALPRAZOLAM	TAB	1 MG	120	M.I., M.D.
10/22/2014	FENTANYL	TDM	100 MCG/1 HR	10	THOMAS BRYAN, M.D.
10/22/2014	HYDROMORPHONE HCL	TER	12 MG	60	THOMAS BRYAN, M.D.
10/31/2014	TEMAZEPAM	CAP	30 MG	30	M.I., M.D.

Date Filled	Drug Name	Form	Drug Strength	Qty	Prescriber Name
11/1/2014	ALPRAZOLAM	TAB	1 MG	120	M.I., M.D.
11/6/2014	FLURAZEPAM HCL	CAP	15 MG	60	M.I., M.D.
11/21/2014	FENTANYL	TDM	100 MCG/1 HR	10	THOMAS BRYAN, M.D.
11/21/2014	HYDROMORPHONE HCL	TER	12 MG	60	R.T., M.D.
11/25/2014	TEMAZEPAM	CAP	30 MG	30	M.I., M.D.
11/25/2014	ALPRAZOLAM	TAB	1 MG	120	M.I., M.D.
12/4/2014	FLURAZEPAM HCL	CAP	15 MG	60	M.I., M.D.
12/17/2014	HYDROMORPHONE HCL	TER	12 MG	60	THOMAS BRYAN, M.D.
12/17/2014	FENTANYL	TDM	100 MCG/1 HR	10	THOMAS BRYAN, M.D.
12/18/2014	TEMAZEPAM	CAP	30 MG	30	M.I., M.D.
12/19/2014	ALPRAZOLAM	TAB	1 MG	120	M.I., M.D.
12/27/2014	FLURAZEPAM HCL	CAP	15 MG	60	M.I., M.D.

42. On or about February 20, 2015, Patient B presented to Respondent for care following a recent hospitalization for a suicide attempt. Respondent documented that another physician was treating Patient B for depression, and that Patient B reported that he threw his Fentanyl refill away. Respondent did not document any assessment or consideration of the effect that the Fentanyl could have on Patient B's mental health. Respondent did not document any consideration and/or attempt to coordinate care with the physician treating Patient B's depression. Despite failing to document a physical examination, treatment plan or coordinate care with Patient B's other physician, Respondent prescribed Patient B Hydromorphone and Fentanyl again.

43. On or about March 20, 2015, Patient B returned to Respondent for refills on his medications. Respondent documented that Patient B was recently an inpatient at a psychiatric hospital due to suicidal ideations. Respondent's medical records for Patient B include a controlled substance agreement signed by both Respondent and Patient B, dated October 30, 2012. Respondent noted that Patient B exhibited a right wrist drop with loss of sensation, and planned to refer him for an MRI. Despite failing to perform a full physical examination, Respondent prescribed Patient B Fentanyl patches.

44. Patient B returned to Respondent for appointments to refill his medication approximately eleven times in 2015. Respondent's medical records for Patient B were handwritten, sparse, difficult to read, and failed to include documentation required for a typical

office visit. The records did not document a treatment plan, informed consent, physical examination or pain management agreement.

45. During the period of on or about January 14, 2015, through on or about December 29, 2015, Patient B filled the following prescriptions for controlled substances:

Date Filled	Drug Name	Form	Drug Strength	Qty	Prescriber Name
1/14/2015	FENTANYL	TDM	100 MCG/1 HR	10	THOMAS BRYAN, M.D.
1/15/2015	TEMAZEPAM	CAP	30 MG	30	M.I., M.D.
1/16/2015	HYDROMORPHONE HCL	TER	12 MG	60	THOMAS BRYAN, M.D.
1/17/2015	ALPRAZOLAM	TAB	1 MG	120	M.I., M.D.
1/19/2015	FLURAZEPAM HCL	CAP	15 MG	60	M.I., M.D.
2/6/2015	FENTANYL	TDM	75 MCG/1 HR	3	M.M., M.D.
2/6/2015	HYDROMORPHONE HCL	TER	16 MG	5	M.M., M.D.
2/9/2015	LORAZEPAM	TAB	2 MG	120	M.I., M.D.
2/19/2015	TEMAZEPAM	CAP	30 MG	30	M.C., M.D.
2/20/2015	FENTANYL	TDM	75 MCG/1 HR	5	THOMAS BRYAN, M.D.
2/20/2015	HYDROMORPHONE HCL	TER	12 MG	60	THOMAS BRYAN, M.D.
2/24/2015	FLURAZEPAM HCL	CAP	30 MG	30	M.I., M.D.
3/6/2015	LORAZEPAM	TAB	2 MG	120	M.I., M.D.
3/14/2015	FENTANYL TRANSDERMAL SYSTEM	TDM	100 MCG/1 HR	2	M.L.M., M.D.
3/20/2015	FENTANYL	TDM	75 MCG/1 HR	10	THOMAS BRYAN, M.D.
3/20/2015	HYDROMORPHONE HCL	TER	12 MG	60	THOMAS BRYAN, M.D.
3/23/2015	FLURAZEPAM HCL	CAP	30 MG	30	M.I., M.D.
3/23/2015	TEMAZEPAM	CAP	30 MG	30	M.I., M.D.
4/23/2015	LORAZEPAM	TAB	2 MG	120	M.I., M.D.
5/4/2015	FLURAZEPAM HCL	CAP	30 MG	30	M.I., M.D.
5/4/2015	TEMAZEPAM	CAP	30 MG	30	M.I., M.D.
5/11/2015	FENTANYL	TDM	50 MCG/1 HR	10	THOMAS BRYAN, M.D.
5/19/2015	FENTANYL	TDM	25 MCG/1 HR	10	THOMAS BRYAN, M.D.
6/1/2015	LORAZEPAM	TAB	2 MG	120	M.I., M.D.
6/2/2015	HYDROCODONE BITARTRATE-ACETAMINOPHEN	TAB	325 MG-7.5 MG	14	J.K., M.D.
6/11/2015	FLURAZEPAM HCL	CAP	30 MG	30	M.I., M.D.
6/11/2015	TEMAZEPAM	CAP	30 MG	30	M.I., M.D.
6/17/2015	FENTANYL	TDM	50 MCG/1 HR	10	THOMAS BRYAN, M.D.
7/1/2015	TEMAZEPAM	CAP	15 MG	30	M.I., M.D.
7/1/2015	LORAZEPAM	TAB	2 MG	90	M.I., M.D.
7/11/2015	FLURAZEPAM HCL	CAP	30 MG	30	M.I., M.D.
7/15/2015	FENTANYL	TDM	50 MCG/1 HR	10	THOMAS BRYAN, M.D.
7/26/2015	TEMAZEPAM	CAP	30 MG	30	M.I., M.D.
7/31/2015	LORAZEPAM	TAB	2 MG	90	M.I., M.D.

Date Filled	Drug Name	Form	Drug Strength	Qty	Prescriber Name
8/23/2015	TEMAZEPAM	CAP	30 MG	30	M.I., M.D.
8/24/2015	TESTOSTERONE CYPIONATE	OIL	200 MG/1 ML	1	L.L. (NP)
8/28/2015	LORAZEPAM	TAB	2 MG	90	M.I., M.D.
9/1/2015	BELSOMRA	TAB	20 MG	30	R.T., M.D.
9/17/2015	FLURAZEPAM HCL	CAP	30 MG	30	M.I., M.D.
9/23/2015	OXYCODONE HCL-ACETAMINOPHEN	TAB	325 MG-5 MG	90	THOMAS BRYAN, M.D.
9/23/2015	FENTANYL	TDM	50 MCG/1 HR	10	THOMAS BRYAN, M.D.
9/23/2015	TESTOSTERONE CYPIONATE	OIL	200 MG/1 ML	1	L.L. (NP)
9/25/2015	LORAZEPAM	TAB	2 MG	90	M.I., M.D.
9/29/2015	TEMAZEPAM	CAP	30 MG	30	M.I., M.D.
10/17/2015	FLURAZEPAM HCL	CAP	30 MG	30	M.I., M.D.
10/20/2015	TESTOSTERONE CYPIONATE	OIL	200 MG/1 ML	1	L.L. (NP)
10/22/2015	FENTANYL	TDM	50 MCG/1 HR	10	THOMAS BRYAN, M.D.
10/22/2015	OXYCODONE HCL-ACETAMINOPHEN	TAB	325 MG-5 MG	90	R.T., M.D.
10/25/2015	LORAZEPAM	TAB	2 MG	90	M.I., M.D.
10/28/2015	TEMAZEPAM	CAP	30 MG	30	M.I., M.D.
11/15/2015	FLURAZEPAM HCL	CAP	30 MG	30	M.I., M.D.
11/18/2015	TESTOSTERONE CYPIONATE	OIL	200 MG/1 ML	1	L.L. (NP)
11/19/2015	OXYCODONE HCL-ACETAMINOPHEN	TAB	325 MG-10 MG	90	THOMAS BRYAN, M.D.
11/19/2015	FENTANYL	TDM	50 MCG/1 HR	10	THOMAS BRYAN, M.D.
11/22/2015	LORAZEPAM	TAB	2 MG	90	M.I., M.D.
11/28/2015	TEMAZEPAM	CAP	30 MG	30	M.I., M.D.
12/14/2015	FLURAZEPAM HCL	CAP	30 MG	30	M.I., M.D.
12/19/2015	LORAZEPAM	TAB	2 MG	90	M.I., M.D.
12/24/2015	TESTOSTERONE CYPIONATE	OIL	200 MG/1 ML	1	L.L. (NP)
12/29/2015	TEMAZEPAM	CAP	30 MG	30	M.I., M.D.

46. On or about September 16, 2016, Respondent received a notice from Patient B's pharmacy indicating that the patient was obtaining controlled substances from multiple physicians simultaneously. Respondent did not document any attempts to coordinate care with the other physicians prescribing controlled substances to Patient B. Respondent did not document any discussion with Patient B regarding the fact that he was obtaining controlled substances from other physicians.

47. On or about October 18, 2016, Patient B returned to Respondent for refills on his medications. Respondent documented under the subjective section of the note that Patient B's

mother believes that he is addicted to drugs. At the bottom of the note, Respondent simply inserted a question mark followed by the word "suboxone." Despite the report of possible drug addiction, Respondent continued to prescribe controlled substances to Patient B.

48. Patient B returned to Respondent for appointments to refill his medication approximately twelve times in 2016. Respondent's medical records for Patient B were handwritten, sparse, difficult to read, and failed to include documentation required for a typical office visit. The records did not document a treatment plan, informed consent, physical examination or pain management agreement. Respondent did not document any toxicology tests for Patient B during the time period that he was taking controlled substances.

49. During the period of on or about January 19, 2016, through on or about December 19, 2016, Patient B filled the following prescriptions for controlled substances:

Date Filled	Drug Name	Form	Drug Strength	Qty	Prescriber Name
1/19/2016	LORAZEPAM	TAB	2 MG	90	M.I., M.D.
1/19/2016	FLURAZEPAM HCL	CAP	30 MG	30	M.I., M.D.
1/25/2016	TEMAZEPAM	CAP	30 MG	30	M.I., M.D.
1/25/2016	TESTOSTERONE CYPIONATE	OIL	200 MG/1 ML	1	L.L. (NP)
2/5/2016	FENTANYL	TDM	75 MCG/1 HR	10	THOMAS BRYAN, M.D.
2/16/2016	FLURAZEPAM HCL	CAP	30 MG	30	M.I., M.D.
2/18/2016	LORAZEPAM	TAB	2 MG	90	M.I., M.D.
2/24/2016	TEMAZEPAM	CAP	30 MG	30	M.I., M.D.
2/25/2016	TESTOSTERONE CYPIONATE	OIL	200 MG/1 ML	1	L.L. (NP)
3/4/2016	FENTANYL	TDM	75 MCG/1 HR	10	THOMAS BRYAN, M.D.
3/20/2016	LORAZEPAM	TAB	2 MG	90	M.I., M.D.
3/23/2016	FLURAZEPAM HCL	CAP	30 MG	30	M.I., M.D.
3/23/2016	TEMAZEPAM	CAP	30 MG	30	M.I., M.D.
3/27/2016	TESTOSTERONE CYPIONATE	OIL	200 MG/1 ML	10	L.L. (NP)
4/5/2016	FENTANYL	TDM	75 MCG/1 HR	10	THOMAS BRYAN, M.D.
4/28/2016	LORAZEPAM	TAB	2 MG	90	M.I., M.D.
5/2/2016	TEMAZEPAM	CAP	30 MG	30	M.I., M.D.
5/2/2016	FLURAZEPAM HCL	CAP	30 MG	30	M.I., M.D.
5/5/2016	HYDROMORPHONE HCL	TER	12 MG	60	THOMAS BRYAN, M.D.
5/25/2016	LORAZEPAM	TAB	2 MG	90	M.I., M.D.
6/1/2016	FLURAZEPAM HCL	CAP	30 MG	30	M.I., M.D.
6/1/2016	TEMAZEPAM	CAP	30 MG	30	M.I., M.D.
6/2/2016	HYDROMORPHONE HCL	TER	32 MG	60	THOMAS BRYAN, M.D.
6/28/2016	LORAZEPAM	TAB	2 MG	90	M.I., M.D.
6/28/2016	TEMAZEPAM	CAP	30 MG	30	M.I., M.D.

Date Filled	Drug Name	Form	Drug Strength	Qty	Prescriber Name
6/28/2016	FLURAZEPAM HCL	CAP	30 MG	30	M.I., M.D.
6/30/2016	HYDROMORPHONE HCL	TER	32 MG	60	THOMAS BRYAN, M.D.
6/30/2016	OXYCODONE HCL-ACETAMINOPHEN	TAB	325 MG-10 MG	90	THOMAS BRYAN, M.D.
7/6/2016	TESTOSTERONE CYPIONATE	OIL	200 MG/1 ML	2	L.L. (NP)
7/27/2016	TEMAZEPAM	CAP	30 MG	30	M.I., M.D.
7/27/2016	LORAZEPAM	TAB	2 MG	90	M.I., M.D.
7/27/2016	FLURAZEPAM HCL	CAP	30 MG	30	M.I., M.D.
7/30/2016	HYDROMORPHONE HCL	TER	32 MG	60	THOMAS BRYAN, M.D.
7/30/2016	OXYCODONE HCL-ACETAMINOPHEN	TAB	325 MG-10 MG	90	THOMAS BRYAN, M.D.
8/4/2016	TESTOSTERONE CYPIONATE	OIL	200 MG/1 ML	10	V.V. (MSN)
8/8/2016	OXYCODONE HCL	TAB	20 MG	60	THOMAS BRYAN, M.D.
8/26/2016	OXYCODONE HCL	TAB	30 MG	120	THOMAS BRYAN, M.D.
8/26/2016	LORAZEPAM	TAB	2 MG	90	M.I., M.D.
8/26/2016	TEMAZEPAM	CAP	30 MG	30	M.I., M.D.
8/30/2016	HYDROMORPHONE HCL	TER	32 MG	30	THOMAS BRYAN, M.D.
9/12/2016	FLURAZEPAM HCL	CAP	30 MG	30	M.I., M.D.
9/21/2016	LORAZEPAM	TAB	2 MG	90	M.I., M.D.
9/23/2016	OXYCODONE HCL	TAB	30 MG	120	THOMAS BRYAN, M.D.
9/26/2016	HYDROMORPHONE HCL	TER	32 MG	30	THOMAS BRYAN, M.D.
9/26/2016	TEMAZEPAM	CAP	30 MG	30	M.I., M.D.
10/6/2016	ACETAMINOPHEN-CODEINE PHOSPHATE	TAB	300 MG-30 MG	12	M.C., M.D.
10/10/2016	FLURAZEPAM HCL	CAP	30 MG	30	M.I., M.D.
10/30/2016	HYDROMORPHONE HCL	TAB	4 MG	50	D.L., M.D.
10/30/2016	OXYCONTIN	TER	30 MG	45	D.L., M.D.
10/31/2016	DEPO-TESTOSTERONE	OIL	200 MG/1 ML	4	K.N., M.D.
11/1/2016	TEMAZEPAM	CAP	30 MG	15	M.G., M.D.
11/3/2016	HYDROMORPHONE HCL	TAB	4 MG	50	D.L., M.D.
11/13/2016	HYDROMORPHONE HCL	TAB	4 MG	200	D.L., M.D.
11/15/2016	OXYCONTIN	TER	30 MG	90	THOMAS BRYAN, M.D.
11/18/2016	FLURAZEPAM HCL	CAP	30 MG	30	M.I., M.D.
11/18/2016	LORAZEPAM	TAB	2 MG	90	M.I., M.D.
11/21/2016	TEMAZEPAM	CAP	30 MG	30	M.I., M.D.
12/7/2016	HYDROCODONE BITARTRATE-ACETAMINOPHEN	TAB	325 MG-10 MG	20	B.D., M.D.
12/17/2016	FLURAZEPAM HCL	CAP	30 MG	30	M.I., M.D.
12/19/2016	LORAZEPAM	TAB	2 MG	90	M.I., M.D.

Patient C

50. On or about June 7, 2013, Patient C first presented to Respondent for care and treatment at 21 years old. Patient C complained of major depression, suicidal ideation, and anxiety. The record does not contain any past medical or surgical history, drug allergies, review of systems, family history, social history, or drug and alcohol history. Respondent's medical record for Patient C contains a physical examination performed by her referring physician on May 10, 2013. Respondent documented an informed consent and pain management agreement dated June 7, 2013, signed by both Respondent and Patient C. Respondent diagnosed Patient C with anxiety, major depression, and suicidal ideation, and prescribed Savella, Lorazepam, Topamax and Trazodone. Respondent provided Patient C injections of Marcaine 10 mg, and Kenalog 10 mg. Respondent did not document a corresponding procedure note related to the injections, or document providing Patient C with informed consent regarding the risks of the injections.

51. On or about June 26, 2013, Respondent provided Patient C injections of Marcaine 10 mg, and Kenalog 10 mg. Respondent did not document a corresponding procedure note related to the injections, or document providing Patient C with informed consent regarding the risks of the injections.

52. On or about August 30, 2013, Respondent provided Patient C injections of Marcaine 10 mg, and Kenalog 10 mg. Respondent did not document a corresponding procedure note related to the injections, or document providing Patient C with informed consent regarding the risks of the injections.

53. Patient C returned to Respondent for appointments to refill her medications approximately one time in 2014. Respondent's medical records for Patient C were handwritten, sparse, difficult to read, and failed to include documentation required for a typical office visit. Respondent did not document a treatment plan, informed consent, physical examination or pain management agreement.

54. During the period of on or about June 12, 2014, through on or about December 3, 2014, Patient C filled the following prescriptions for controlled substances:

Date Filled	Drug Name	Form	Drug Strength	Qty	Prescriber Name
6/12/14	HYDROCODONE BITARTRATE-ACETAMINOPHEN	TAB	325 MG-5 MG	20	E.S. DDS
6/16/14	HYDROCODONE BITARTRATE-ACETAMINOPHEN	TAB	325 MG-5 MG	12	E.S. DDS
8/8/14	HYDROCODONE BITARTRATE-ACETAMINOPHEN	TAB	325 MG-7.5 MG	12	E.S. DDS
10/24/14	BUTALBITAL-APAP-CAFFEINE-CODEINE	CAP	300 MG-50 MG-40 MG-30 MG	100	THOMAS BRYAN M.D.
12/3/14	BUTALBITAL-APAP-CAFFEINE-CODEINE	CAP	300 MG-50 MG-40 MG-30 MG	100	THOMAS BRYAN M.D.

55. Respondent's medical records for Patient C do not contain any records of office visits during 2015.

56. During the period of on or about January 6, 2015, through on or about December 31, 2015, Patient C filled the following prescriptions for controlled substances:

Date Filled	Drug Name	Form	Drug Strength	Qty	Prescriber Name
1/6/15	HYDROCODONE BITARTRATE-ACETAMINOPHEN	TAB	325 MG-5 MG	20	L.K. PA-C
1/13/15	BUTALBITAL-APAP-CAFFEINE-CODEINE	CAP	300 MG-50 MG-40 MG-30 MG	100	THOMAS BRYAN M.D.
1/17/15	HYDROCODONE BITARTRATE-ACETAMINOPHEN	TAB	325 MG-10 MG	90	E.W. (NP)
2/9/15	DIAZEPAM	TAB	5 MG	42	E.W. (NP)
2/28/15	BUTALBITAL-APAP-CAFFEINE-CODEINE	CAP	300 MG-50 MG-40 MG-30 MG	100	THOMAS BRYAN M.D.
3/11/15	HYDROCODONE BITARTRATE-ACETAMINOPHEN	TAB	325 MG-10 MG	28	E.W. (NP)
4/15/15	BUTALBITAL-APAP-CAFFEINE-CODEINE	CAP	300 MG-50 MG-40 MG-30 MG	100	THOMAS BRYAN M.D.
4/22/15	ACETAMINOPHEN-HYDROCODONE BITARTRATE	TAB	325 MG-10 MG	30	E.W. (NP)
4/22/15	CARISOPRODOL	TAB	350 MG	7	E.W. (NP)
9/22/15	ACETAMINOPHEN-HYDROCODONE BITARTRATE	TAB	325 MG-10 MG	14	M.K. (NP)
12/9/15	OXYCODONE HCL	TAB	10 MG	21	J.N. M.D.
12/16/15	MORPHINE SULFATE	TER	15 MG	14	J.N. M.D.
12/23/15	ACETAMINOPHEN-HYDROCODONE BITARTRATE	TAB	325 MG-10 MG	14	J.B. (NP-C)
12/31/15	ACETAMINOPHEN-HYDROCODONE BITARTRATE	TAB	325 MG-10 MG	28	J.B. (NP-C)

57. On or about March 14, 2016, Patient C was prescribed Fentanyl by another physician. Respondent did not document any discussion of Patient C receiving prescriptions for controlled substances from other physicians in the medical records.

58. On or about March 15, 2016, Patient C returned to Respondent complaining of pain. Respondent documented an informed consent and pain management agreement dated June 7, 2013, signed by both Respondent and Patient C. Despite not documenting a complete patient history and physical, Respondent prescribed Patient C oxycodone. Respondent did not document Patient C's prior pain treatments, substance abuse history or physical function prior to prescribing her oxycodone. Respondent provided Patient C injection of Kenalog 10 mg. Respondent did not document a corresponding procedure note related to the injection, or document providing Patient C with informed consent regarding the risks of the injection.

59. On or about May 11, 2016, Respondent provided Patient C injection of Kenalog 10 mg. Respondent did not document a corresponding procedure note related to the injection, or document providing Patient C with informed consent regarding the risks of the injection.

60. On or about July 15, 2016, Respondent began prescribing methadone to Patient C. Respondent did not obtain a baseline EKG with Respondent prior to prescribing methadone. Despite the increased risk of prolonged QT interval and cardiac arrhythmias, Respondent initiated methadone without discussing and/or documenting a discussion of the increased cardiac risks while taking methadone with Patient C. Respondent did not provide or document providing Patient C with informed consent regarding the risks associated with methadone prior to prescribing. Respondent provided Patient C injection of Kenalog 10 mg. Respondent did not document a corresponding procedure note related to the injection, or document providing Patient C with informed consent regarding the risks of the injection.

61. On or about September 9, 2016, Respondent provided Patient C injection of Kenalog 10 mg. Respondent did not document a corresponding procedure note related to the injection, or document providing Patient C with informed consent regarding the risks of the injection.

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62. On or about November 7, 2016, Respondent provided Patient C injection of Marcaine 10 mg. Respondent did not document a corresponding procedure note related to the injection, or document providing Patient C with informed consent regarding the risks of the injection.

63. On or about December 8, 2016, Patient C completed a urine toxicology test. The test was positive for amphetamine, hydrocodone and marijuana. Respondent did not document any discussion of the results of the positive toxicology test with Patient C during subsequent appointments. Respondent did not document any discussion related to Patient C's use of marijuana while also taking controlled substances.

64. Patient C returned to Respondent for appointments to refill her medications approximately nine times in 2016. Respondent's medical records for Patient C were handwritten, sparse, difficult to read, and failed to include documentation required for a typical office visit. The records did not document a treatment plan, informed consent, physical examination or pain management agreement.

65. During the period of on or about January 13, 2016, through on or about December 13, 2016, Patient C filled the following prescriptions for controlled substances:

Date Filled	Drug Name	Form	Drug Strength	Qty	Prescriber Name
1/13/16	ACETAMINOPHEN-HYDROCODONE BITARTRATE	TAB	325 MG-10 MG	21	J.B. (NP-C)
1/21/16	ACETAMINOPHEN-HYDROCODONE BITARTRATE	TAB	325 MG-10 MG	42	J.B. (NP-C)
2/3/16	FENTANYL TRANSDERMAL SYSTEM	TDM	12 MCG/1 HR	5	J.B. (NP-C)
2/17/16	FENTANYL TRANSDERMAL SYSTEM	TDM	25 MCG/1 HR	5	J.B. (NP-C)
2/28/16	FENTANYL TRANSDERMAL SYSTEM	TDM	25 MCG/1 HR	5	J.N. M.D.
3/14/16	FENTANYL TRANSDERMAL SYSTEM	TDM	25 MCG/1 HR	5	J.N. M.D.
3/15/16	CARISOPRODOL	TAB	350 MG	90	THOMAS BRYAN M.D.
3/18/16	OXYCODONE HCL	TAB	30 MG	90	THOMAS BRYAN M.D.
4/12/16	HYDROCODONE BITARTRATE-ACETAMINOPHEN	TAB	325 MG-10 MG	120	THOMAS BRYAN M.D.
4/20/16	CARISOPRODOL	TAB	350 MG	90	THOMAS BRYAN M.D.
5/12/16	HYDROCODONE BITARTRATE-ACETAMINOPHEN	TAB	325 MG-10 MG	120	THOMAS BRYAN M.D.
5/26/16	CARISOPRODOL	TAB	350 MG	90	THOMAS BRYAN M.D.
6/10/16	HYDROCODONE BITARTRATE-ACETAMINOPHEN	TAB	325 MG-10 MG	120	THOMAS BRYAN M.D.
7/15/16	METHADONE HCL	TAB	10 MG	30	THOMAS BRYAN M.D.

Date Filled	Drug Name	Form	Drug Strength	Qty	Prescriber Name
7/25/16	HYDROCODONE BITARTRATE-ACETAMINOPHEN	TAB	325 MG-10 MG	120	THOMAS BRYAN M.D.
8/23/16	ACETAMINOPHEN-CODEINE PHOSPHATE	TAB	300 MG-30 MG	20	C.C. M.D.
9/11/16	HYDROCODONE BITARTRATE-ACETAMINOPHEN	TAB	325 MG-10 MG	120	THOMAS BRYAN M.D.
9/12/16	CARISOPRODOL	TAB	350 MG	90	THOMAS BRYAN M.D.
10/12/16	HYDROCODONE BITARTRATE-ACETAMINOPHEN	TAB	325 MG-10 MG	180	THOMAS BRYAN M.D.
10/21/16	MIXED AMPHETAMINE SALT	CER	20 MG	30	THOMAS BRYAN M.D.
11/27/16	HYDROCODONE BITARTRATE-ACETAMINOPHEN	TAB	325 MG-10 MG	120	THOMAS BRYAN M.D.
11/28/16	CARISOPRODOL	TAB	350 MG	60	THOMAS BRYAN M.D.
11/28/16	MIXED AMPHETAMINE SALT	CER	20 MG	30	THOMAS BRYAN M.D.
12/13/16	NUCYNTA	TAB	50 MG	30	THOMAS BRYAN M.D.

66. On or about January 10, 2017, Patient C presented to Respondent complaining of numbness in her left leg. Respondent did not document a physical examination, or any consideration of the possible differential diagnosis for her leg pain. Respondent provided Patient C injection of Kenalog 10 mg. Respondent did not document a corresponding procedure note related to the injection, or document providing Patient C with informed consent regarding the risks of the injection.

67. On or about February 7, 2017, Respondent provided Patient C injection of Marcaine 10 mg. Respondent did not document a corresponding procedure note related to the injection, or document providing Patient C with informed consent regarding the risks of the injection.

68. On or about January 3, 2018, Respondent documented an informed consent and pain management agreement, signed by both Respondent and Patient C.

Standard of Care

69. The standard of care for a general practitioner for prescribing controlled substances for chronic pain conditions is consistent with the Medical Board of California Guidelines for Prescribing Controlled Substances. The Guidelines are consistent with the standard of care in the community and include a medical history and physical examination prior to prescribing controlled substances, a treatment plan and objectives, informed consent, periodic review, consultations, and adequate and accurate medical records.

70. Medical History and Physical Examination. A prescriber must complete a medical history and physical examination prior to prescribing controlled substances to a patient. This includes an assessment of the pain, physical and psychological function, a substance abuse history, history of prior pain treatment, an assessment of underlying or coexisting diseases or conditions, and documentation of the presence of a recognized medical indication for the use of controlled substances.

71. Treatment Plan and Objectives. The treatment plan and objectives should state objectives by which the treatment plan can be evaluated, such as pain relief and/or improved physical and psychosocial function, and indicate if any further diagnostic evaluations or other treatments are planned. The physician and surgeon should tailor pharmacological therapy to the individual medical needs of each patient. Multiple treatment modalities and/or a rehabilitation program may be necessary if the pain is complex or is associated with physical and psychosocial impairment.

72. Informed Consent. The physician and surgeon should discuss the risks and benefits of the use of controlled substances and other treatment modalities with the patient, caregiver or guardian.

73. Informed Consent Prior to Prescribing Methadone. The standard of care for prescribing methadone is for a physician to provide informed consent to the patient prior to prescribing the medication. Patients taking methadone have an increased risk for a prolonged QT interval and cardiac arrhythmias. The physician should discuss the risks of methadone with the patient, and document the discussion in the patient's medical records. In addition to providing informed consent, the physician should obtain a baseline EKG for the patient prior to initiating therapy with methadone.

74. Informed Consent Related to Intramuscular Injections. The standard of care for a physician and surgeon is to discuss the risks and benefits of any procedure, including intramuscular injections with a patient prior to the procedure. A physician and surgeon should provide information to the patient prior to administering an injection about the risks and potential benefits, including the possible risk of a pneumothorax. Patients must be informed about

potential risks from procedure so that they are aware of what signs and complications require them to seek additional medical treatment after a procedure.

75. Maintenance of Medical Records. The physician and surgeon should keep accurate and complete records relating to the prescribing of controlled substances, including the medical history and physical examination, other evaluations and consultations, treatment plan objectives, informed consent, treatments, medications, rationale for changes in the treatment plan or medications, agreements with the patients, and periodic reviews of the treatment plan.

Departures

Patient B

76. Respondent failed to perform and/or document an adequate history and physical examination prior to prescribing controlled substances to Patient B. Respondent failed to document an adequate history and physical examination that included a history of his illness, past medical history, social history, allergies, mental health status, physical examination findings, and any functional limitations. Respondent failed to perform and/or document an adequate medical history and physical examination prior to prescribing controlled substances, which constitutes an extreme departure from the standard of care.

77. Respondent's treatment plan for Patient B as documented in the records, typically consists of a list of medications that he was personally prescribing to the patient. The medical records fail to contain an adequate treatment plan reviewing the purpose of initiating opiate therapy or continuing to prescribe opiates to Patient B. The medical records do not contain a basic treatment plan, or the objectives for treatment with controlled substances. Respondent did not document a justification to support the prescription of Fentanyl, oxycodone, and Xanax in the treatment of patient B. Respondent failed to document an adequate treatment plan for Patient B related to the prescription of controlled substances, which constitutes an extreme departure from the standard of care.

78. Respondent did not document any discussion of the risks and benefits of the use of controlled substances with Patient B. Respondent did not document any discussion of the consideration of other non-opiate treatment modalities to treat Patient B's pain. Respondent

failed to obtain a baseline EKG for Patient B prior to prescribing methadone. Despite Patient B's increased risk for cardiac arrhythmias, Respondent failed to provide him informed consent related to the increased risk of cardiac events while taking methadone. Respondent failed to provide Patient B with informed consent prior to administering an intramuscular injection of Marcaine 10 mg. Respondent failed to provide and/or document informed consent to Patient B related to controlled substances, which constitutes an extreme departure from the standard of care.

Patient C

79. Respondent's treatment plan for Patient C, as documented in the medical records, typically consists of a list of medications that he was personally prescribing to the patient. The medical records fail to contain an adequate treatment plan reviewing the purpose of initiating opiate therapy or continuing to prescribe opiates to Patient C. The medical records do not contain a basic treatment plan, or the objectives for treatment with controlled substances. Respondent did not document a justification to support the prescription of Fentanyl, oxycodone, and Xanax in the treatment of patient C. Respondent failed to document an adequate treatment plan for Patient C related to the prescription of controlled substances, which constitutes an extreme departure from the standard of care.

80. Respondent did not document any discussion of the risks and benefits of the use of controlled substances with Patient C. Respondent did not document any discussion of the consideration of other non-opiate treatment modalities to treat Patient C's pain. Respondent failed to perform and/or document providing Patient C with informed consent prior to prescribing controlled substances, which constitutes a departure from the standard of care. Respondent failed to obtain a baseline EKG for Patient C prior to prescribing methadone. Despite the increased risk of cardiac arrhythmias and a prolonged QT interval associated with methadone, Respondent failed to discuss and/or document a discussion of the risks of taking methadone with Patient C prior to initiating therapy with methadone. Respondent failed to provide Patient C with informed consent prior to administering intramuscular injections of Marcaine 10 mg and Kenalog 10 mg.

81. Respondent failed to maintain adequate and accurate medical records relating to the care and treatment of Patient C, which constitutes a departure from the standard of care.

SECOND CAUSE FOR DISCIPLINE

(Repeated Negligent Acts)

82. Respondent has subjected his Physician's and Surgeon's Certificate No. A 30069 to disciplinary action under section 2227, as defined by section 2234, subdivision (c), of the Code, in that he committed repeated acts of negligence in connection with his care and treatment of Patient B, and Patient C, as more particularly alleged in paragraphs 30 through 81, which are hereby incorporated by reference and realleged as if fully set forth herein.

THIRD CAUSE FOR DISCIPLINE

(Failure to Maintain Adequate Medical Records)

83. Respondent has subjected his Physician's and Surgeon's Certificate No. A 30069 to disciplinary action under section 2227, as defined by section 2266, of the Code, in that he failed to maintain adequate and accurate records in connection with his care and treatment of Patient C, as more particularly alleged in paragraphs 30 through 81, which are hereby incorporated by reference and realleged as if fully set forth herein.

FOURTH CAUSE FOR DISCIPLINE

(Failure to Comply with and Order for Examination Pursuant to Section 820)

84. Respondent has subjected his Physician's and Surgeon's Certificate No. A 30069 to disciplinary action under section 2227, as defined by section 821, of the Code, in that he failed to comply with an Order for Examination issued by the Board. The circumstances are as follows:

85. On February 18, 2020, the Board issued an Order pursuant to Section 820, requiring Respondent to submit to mental and physical examinations by a physician or surgeon selected by the Board or its designee, to determine whether Respondent is mentally ill to such an extent as to affect his ability to practice medicine. The examination is required to be conducted no later than thirty (30) days from the date of the Order for Examination. The Order for Examination stated that any failure to comply, either by refusing or failing to submit to the examination or any part thereof or by refusing to cooperate with the examiner shall constitute grounds for disciplinary action pursuant to Business and Professions Code section 821. The same day, the Order for Examination was served on Respondent at his address of record, by U.S.P.S. Certified Mail.

U.S.P.S. Certified mail tracking reveals that the Order was delivered to Respondent's address of record on February 21, 2020.

86. On or about February 25, 2020, Respondent spoke to Investigator Baker, and acknowledged his receipt of the Order for Examination issued by the Board. Respondent said that he was not going to do the exam, but was willing to get his own physician to examine him. Investigator Baker explained that the Board selects the examining physicians, but that he would try to select examiners that were closer to Respondent to minimize any travel required for the examination. Respondent stated that he was not totally opposed to the examination, but would not commit to participating in the examination at this time. Respondent then stated that he hired an attorney, and was advised by Investigator Baker to speak to his attorney about the matter.

87. On or about March 2, 2020, Respondent's attorney contacted Investigator Baker regarding the Order for Examination requesting that the examinations be continued out past the required thirty days. Investigator Baker explained that this was not possible, unless the examiners were unavailable to perform the examination within that time frame.

88. On or about March 16, 2020 Investigator Baker confirmed that Respondent's examinations had been scheduled for a physical examination on April 9, 2020, and a neuropsychological examination on April 10, 2020. The same day, Investigator Baker immediately provided the examination dates to Respondent's counsel by email.

89. On or about March 23, 2020, Respondent's counsel contacted Investigator Baker to notify him that Respondent was refusing to participate in the scheduled examinations. Respondent's counsel explained that due to his age, and the Covid-19 pandemic, he did not feel that it was safe for him to attend and participate in the scheduled examinations, as he needed to limit his travel, personal contact with others, and practice social distancing. Respondent's counsel informed Investigator Baker, that Respondent treated his last in person patient on March 20, 2020. He represented that Respondent is only practicing telemedicine at this time.

90. On or about April 1, 2020, counsel for Complainant spoke with Respondent's counsel regarding the Order for Examination. Counsel for Complainant explained to Respondent's counsel that Investigator Baker had made special accommodations for Respondent's

neuropsychological examination scheduled for April 10, 2020 to address his concerns. The examiners office agreed that they would limit any interaction with individuals other than the examining psychologist, and would send all but one other employee home during the time of the examination to address Respondent's concerns regarding social distancing. In addition, the parties discussed continuing the physical examination to a later date, if needed. Respondent's counsel agreed to discuss the accommodations with Respondent, and contact Investigator Baker if he was willing to participate in the ordered examinations no later than Monday, April 6, 2020. Respondent failed to reply by the April 6, 2020, deadline, and Investigator Baker cancelled the appointment.

91. On or about April 7, 2020, Respondent's counsel confirmed in writing that Respondent had agreed to participate in the ordered examinations. Respondent's counsel explained that Respondent found the accommodations acceptable, and would attend the neuropsychological examination scheduled for April 10, 2020. Investigator Baker contacted the examiner, and put the ordered examination back on calendar.

92. On or about April 8, 2020, Respondent's counsel sent an email to counsel for Complainant and Investigator Baker notifying the Board that Respondent had a "change of heart" and would not participate in the Board's ordered examination.

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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 A 30069, issued to Thomas Benedict Bryan, M.D.;

2. Revoking, suspending or denying approval of Thomas Benedict Bryan, M.D.'s authority to supervise physician assistants and advanced practice nurses;

3. Ordering Thomas Benedict Bryan, M.D., if placed on probation, to pay the Board the costs of probation monitoring; and

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

DATED: APR 20 2020

CHRISTINE J. LALLY
Interim Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant

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