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8 *Attorneys for Complainant*

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

14 In the Matter of the Accusation Against:

Case No. 800-2018-044327

15 **JOSEPH FRANCIS HUMENIK, M.D.**  
16 **PO BOX 293177**  
**PHELAN CA 92329-3177**

**DEFAULT DECISION AND ORDER**

[Gov. Code, §11520]

17 **Physician's and Surgeon's Certificate**  
18 **No. G 27240,**

**Respondent.**

19  
20 **FINDINGS OF FACT**

21 1. On or about February 2, 2021, Complainant William Prasifka, in his official capacity  
22 as the Executive Director of the Medical Board of California, Department of Consumer Affairs,  
23 filed Accusation No. 800-2018-044327 against Joseph Francis Humenik, M.D. (Respondent)  
24 before the Medical Board of California.

25 2. On or about July 15, 1974, the Medical Board of California (Board) issued  
26 Physician's and Surgeon's Certificate No. G 27240 to Respondent. The Physician's and  
27 Surgeon's Certificate was in full force and effect at all times relevant to the charges brought  
28 herein and will expire on July 31, 2022, unless renewed. A true and correct copy of a Certificate

1 of Licensure for Respondent, including his address of record with the Board, is attached to the  
2 simultaneously submitted "Default Decision Evidence Packet" as **Exhibit A** and is incorporated  
3 herein by reference.

4 3. On or about February 2, 2021, an employee of the Board, served by Certified Mail  
5 (tracking number 7020 1290 0001 8787 1555) and First Class Mail a true and correct copy of the  
6 Accusation No. 800-2018-044327, Statement to Respondent, Notice of Defense (two copies),  
7 Request for Discovery, and Government Code sections 11507.5, 11507.6, and 11507.7  
8 (collectively, referred to as "the Accusation Package"), at Respondent's address of record with  
9 the Board, which was and is P.O. Box 293177, Phelan CA 92329-3177 ("Phelan address"). A  
10 true and correct copy of the Accusation Package, and Declaration of Service are attached to the  
11 Default Decision Evidence Packet as **Exhibit B** and incorporated herein by reference.

12 4. Service of the Accusation was effective as a matter of law under the provisions of  
13 Government Code section 11505, subdivision (c).

14 5. On or about February 8, 2021, the Certified Mail Return Receipt ("green card") was  
15 returned by the U.S. Postal Service confirming that the Accusation Package described in  
16 paragraph 3 above, was delivered to Respondent at his address of record with the Board. A copy  
17 of the certified mail green card returned by the post office is attached as **Exhibit C**, to the  
18 accompanying Default Decision Evidence Packet, and are hereby incorporated herein by  
19 reference as if fully set forth herein.

20 6. On or about February 24, 2021, Deputy Attorney General Jason J. Ahn directed a  
21 search of Accurint for Law Enforcement database (Accurint LE) for Respondent's current  
22 address. Based upon matching information for Respondent including, full name, date of birth and  
23 social security number, Accurint LE indicated that a possible additional address for Respondent  
24 was P.O. Box 98, Idyllwild, CA 92549-0098 ("Idyllwild address"). On or about February 24,  
25 2021, through his support staff, Deputy Attorney General Jason J. Ahn mailed a courtesy Notice  
26 of Default to the two (2) known addresses for Respondent – Phelan address and Idyllwild address  
27 – informing Respondent that if he failed to submit a Notice of Defense, within 15 days, a Default  
28 would be filed. A copy of the courtesy Notice of Default is attached as **Exhibit D**, to the

1 accompanying Default Decision Evidence Packet, and are hereby incorporated herein by  
2 reference as if fully set forth herein. (Declaration of Deputy Attorney General Jason J. Ahn, ¶ 7  
3 and 8, **Exhibit G**)

4 7. On or about March 15, 2021, the certified mail packet sent to Idyllwild address,  
5 containing the Courtesy Notice of Default was returned to Deputy Attorney General Jason J. Ahn  
6 by the U.S. Postal Service. A copy of the envelope stamped “Returned to Sender, Unable to  
7 Forward” by the post office is attached as **Exhibit E**. Significantly, however, the courtesy notice  
8 of default mailed to respondent to the Phelan address, was not and has not been returned to  
9 Deputy Attorney General Jason J. Ahn. (Declaration of Deputy Attorney General Jason J. Ahn,  
10 ¶ 9, **Exhibit G**.)

11 8. On or about March 16, 2021 Deputy Attorney General Jason J. Ahn, instructed,  
12 Senior Legal Analyst, Lucia Rincon, to e-mail Respondent at his potential e-mail address,  
13 requesting his current contact information. A copy of said e-mail is attached as **Exhibit F**, to the  
14 accompanying Default Decision Evidence Packet, and are hereby incorporated herein by  
15 reference as if fully set forth herein. As of the date of the filing of this request for Default  
16 Decision and Order, Respondent has not sent a Notice of Defense nor responded in any form, to  
17 Deputy Attorney General Jason J. Ahn. (Declaration of Deputy Attorney General Jason J. Ahn, ¶  
18 10, **Exhibit G**)

19 9. Government Code section 11506 states, in pertinent part:

20 (c) The respondent shall be entitled to a hearing on the merits if the respondent  
21 files a notice of defense, and the notice shall be deemed a specific denial of all parts  
22 of the accusation not expressly admitted. Failure to file a notice of defense shall  
constitute a waiver of respondent's right to a hearing, but the agency in its discretion  
may nevertheless grant a hearing.

23 Respondent failed to file a Notice of Defense within 15 days after service upon him of the  
24 Accusation, and therefore waived his right to a hearing on the merits of Accusation No. 800-  
25 2018-044327.

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10. California Government Code section 11520 states, in pertinent part:

(a) If the respondent either fails to file a notice of defense or to appear at the hearing, the agency may take action based upon the respondent's express admissions or upon other evidence and affidavits may be used as evidence without any notice to respondent.

11. Pursuant to its authority under Government Code section 11520, the Board finds Respondent is in default. The Board will take action without further hearing and, based on Respondent's express admissions by way of default and the evidence before it, contained in exhibits A-I, finds that the allegations in Accusation No. 800-2018-044327 are true and correct:

12. 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.

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

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

(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.

“ ... ”

14. 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.

15. Section 2225 of the Code states:

“ ... ”

(e) If documents are lawfully requested from licensees in accordance with this section by the Attorney General or his or her agents or deputies, or investigators of the board or the California Board of Podiatric Medicine, the documents shall be provided within 15 business days of receipt of the request, unless the licensee is unable to provide the documents within this time period for good cause, including, but not limited to, physical inability to access the records in the time allowed due to illness or travel. Failure to produce requested documents or copies thereof, after being informed of the required deadline, shall constitute unprofessional conduct. The board may use its authority to cite and fine a physician and surgeon for any violation of this section. This remedy is in addition to any other authority of the board to sanction a licensee for a delay in producing requested records.

“ ... ”

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1 16. Section 2225.5 of the Code provides:

2 (a)(1) A licensee who fails or refuses to comply with a request for the certified  
3 medical records of a patient, that is accompanied by that patient's written authorization for  
4 release of records to the board, within 15 days of receiving the request and authorization,  
5 shall pay to the board a civil penalty of one thousand dollars (\$1,000) per day for each day  
6 that the documents have not been produced after the 15th day, up to ten thousand dollars  
7 (\$10,000), unless the licensee is unable to provide the documents within this time period for  
8 good cause.

9 "...

10 (e) Imposition of the civil penalties authorized by this section shall be in accordance  
11 with the Administrative Procedure Act (Chapter 5 (commencing with Section 11500) of  
12 Division 3 of Title 2 of the Government Code).

13 (f) For purposes of this section, "certified medical records" means a copy of the  
14 patient's medical records authenticated by the licensee or health care facility, as  
15 appropriate, on a form prescribed by the board.

16 "..."

17 17. Unprofessional conduct under Business and Professions Code section 2234 is conduct  
18 which breaches the rules or ethical code of the medical profession, or conduct which is  
19 unbecoming a member in good standing of the medical profession, and which demonstrates an  
20 unfitness to practice medicine. (*Shea v. Board of Medical Examiners* (1978) 81 Cal.App.3d 564,  
21 575.)

22 18. Respondent is subject to disciplinary action under sections 2227 and 2234, as defined  
23 by section 2234, subdivision (b), of the Code, in that he committed gross negligence in his care  
24 and treatment of Patients A, B, and C,<sup>1</sup> as more particularly alleged hereinafter:

25 **Patient A**

26 19. On or about November 19, 2013<sup>2</sup>, Patient A first presented to Respondent. At the  
27 time of this visit, Patient A was a sixty-eight (68) year-old female who had a history of chronic  
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<sup>1</sup> References to "Patient A, B, and C" are used to protect patient privacy.

<sup>2</sup> Conduct occurring more than seven (7) years from the filing date of this Accusation is for informational purposes only and is not alleged as a basis for disciplinary action.

1 low back pain with lower extremity sciatica<sup>3</sup>, interstitial cystitis<sup>4</sup>, hypertension<sup>5</sup>, frequent  
2 falls/gait ataxia<sup>6</sup> and insomnia. Patient A had long history of opioid dependency and history of  
3 experiencing severe withdrawals whenever she stopped consuming opiates. (See Exh. I, Dr. Jain  
4 Decl., ¶ 7.)

5 20. Between on or about January 1, 2014, through February 24, 2018, Respondent  
6 prescribed controlled substances to Patient A as reflected in Exhibit B, attached hereto.

7 21. From on or about January 1, 2014, through February 24, 2018, Respondent prescribed  
8 to Patient A numerous opiates, benzodiazepines, and CNS depressant medications, despite Patient  
9 A's known contraindications including, but not limited to, opioid dependency and frequent falls.  
10 Respondent also failed to adequately utilize and/or failed to document having adequately utilized  
11 alternative treatment modalities, including, but not limited to, physical therapy, NSAIDs<sup>7</sup>,  
12 heat/ice treatment, and home exercise program(s). (See Exh. I, Dr. Jain Decl., ¶ 9.)

13 22. From on or about January 1, 2014, through February 24, 2018, Respondent prescribed  
14 for Patient's concomitant use, opiates, CNS depressant muscle relaxants, and benzodiazepines.  
15 (See Exh. I, Dr. Jain Decl., ¶ 10.)

16 23. From on or about January 1, 2014 through February 24, 2018, Respondent failed to  
17 utilize and/or failed to document having utilized a pain management agreement with Patient A;  
18 Respondent failed to adequately utilize urine toxicology screens and/or failed to document having  
19 adequately utilized urine toxicology screens; Respondent failed to adequately review CURES  
20 reports and/or failed to document having adequately reviewed CURES reports. (See Exh. I, Dr.  
21 Jain Decl., ¶ 11.)

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23 <sup>3</sup> Sciatica refers to pain radiating along the sciatic nerve, which runs down one or both  
24 legs from the lower back.

25 <sup>4</sup> Interstitial cystitis refers to a chronic, painful bladder condition.

26 <sup>5</sup> Hypertension refers to high blood pressure.

27 <sup>6</sup> Gait ataxia refers to an unsteady, staggering gait.

28 <sup>7</sup> NSAIDs (Nonsteroidal Anti-inflammatory drugs) are medications that relieve or reduce  
pain. The most popular examples of this group of drugs are aspirin and ibuprofen.

1           24. Respondent committed gross negligence in his care and treatment of Patient A, which  
-2 included, but was not limited to, the following:

3           (a) Respondent prescribed opiates, benzodiazepines, and CNS depressants to  
4 Patient A, despite Patient A's contraindications of history of opioid dependence and  
5 frequent falls;

6           (b) Respondent prescribed opiates, CNS depressants, and benzodiazepines to  
7 Patient A for Patient A's concomitant use; and

8           (c) Respondent failed to use a signed pain management and/or failed to document  
9 having used a pain management agreement; Respondent failed to periodically check  
10 CURES reports and/or failed to document having periodically checked CURES reports;  
11 Respondent failed to periodically use urine toxicology screens and/or failed to document  
12 having periodically used urine toxicology screens.

13 (See Exh. I, Dr. Jain Decl., ¶ 12.)

14 **Patient B**

15           25. On or about January 20, 2018, Patient B first presented to Respondent. At that time,  
16 Patient B was a twenty-three (23) year-old man who had a history of chronic low back pain from  
17 spinal stenosis<sup>8</sup> and chronic shoulder pain. (See Exh. I, Dr. Jain Decl., ¶ 13.)

18           26. From on or about February 2, 2018, through January 29, 2019, Respondent prescribed  
19 controlled substances to Patient B as reflected in Exhibit B, attached hereto.

20           27. From on or about February 2, 2018, through January 29, 2019, Respondent prescribed  
21 to Patient B's concomitant use, a high dose of opiates with CNS depressant muscle relaxants, and  
22 benzodiazepines. (See Exh. I, Dr. Jain Decl., ¶ 15.)

23           28. From on or about February 2, 2018, through January 29, 2019, Respondent failed to  
24 periodically review CURES reports and/or failed to document having conducted a periodic  
25 review of CURES reports; Respondent failed to check and/or failed to document having  
26 conducted urine toxicology screens of Patient B. (See Exh. I, Dr. Jain Decl., ¶ 16.)

27 <sup>8</sup> Spinal stenosis refers to a narrowing of the spinal canal, which can put pressure on the  
28 spinal cord and the nerves within the spine.



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

3           (a) Respondent prescribed opiates, CNS depressants, and benzodiazepines to  
4 Patient B for Patient B's concomitant use; and

5           (b) Respondent failed to periodically check CURES reports and/or failed to  
6 document having periodically checked CURES reports; Respondent failed to periodically  
7 use urine toxicology screens and/or failed to document having periodically used urine  
8 toxicology screens.

9           (See Exh. I, Dr. Jain Decl., ¶ 17.)

10           **Patient C**

11           30. Respondent began treating Patient C in or around 1997.<sup>9</sup> At the time, she was a  
12 thirty-eight (38) year-old female with a history of multiple sclerosis<sup>10</sup>, chronic obstructive  
13 pulmonary disease (COPD)<sup>11</sup>, and chronic hip pain, despite a total hip replacement. (See Exh. I,  
14 Dr. Jain Decl., ¶ 18.)

15           31. From January 1, 2014, through February 19, 2018, Respondent prescribed controlled  
16 substances to Patient C as reflected in Exhibit B, attached hereto.

17           32. From on or about January 1, 2014, through February 24, 2018, Respondent prescribed  
18 to Patient C's concomitant use, opiates with CNS depressant muscle relaxants, and  
19 benzodiazepines. (See Exh. I, Dr. Jain Decl., ¶ 20.)

20           33. From on or about January 1, 2014 through February 24, 2018, Respondent failed to  
21 periodically review CURES reports and/or failed to document having conducted a periodic  
22 review of CURES reports; Respondent failed to check and/or failed to document having  
23 conducted urine toxicology screens of Patient C; Respondent failed to utilize and/or failed to

24           <sup>9</sup> Conduct occurring more than seven (7) years from the filing date of the Accusation in  
25 this matter is for informational purposes only and is not alleged as a basis for disciplinary action.

26           <sup>10</sup> Multiple sclerosis (MS) is a disease in which the immune system eats away at the  
protective covering of the nerves.

27           <sup>11</sup> Chronic Obstructive Pulmonary Disease (COPD) is a group of lung diseases that block  
28 airflow and make it difficult to breathe.

1 document having utilized an opiate agreement form. (See Exh. I, Dr. Jain Decl., ¶ 21.)

2 34. Respondent committed gross negligence in his care and treatment of Patient C, which  
3 included, but was not limited to, the following:

4 (a) Respondent prescribed opiates, CNS depressants, and benzodiazepines to  
5 Patient C for Patient C's concomitant use; and

6 (b) Respondent failed to use a signed pain management and/or failed to document  
7 having used a pain management agreement; Respondent failed to periodically check  
8 CURES reports and/or failed to document having periodically checked CURES reports;  
9 Respondent failed to periodically use urine toxicology screens and/or failed to document  
10 having periodically used urine toxicology screens.

11 (See Exh. I, Dr. Jain Decl., ¶ 22.)

12 35. Respondent is further subject to disciplinary action under sections 2227 and 2234, as  
13 defined by section 2234, subdivision (c), of the Code, in that he committed repeated negligent  
14 acts in his care and treatment of Patients A, B, and C, as more particularly alleged hereinafter:

15 **Patient A**

16 36. Respondent committed repeated negligence in his care and treatment of Patient A,  
17 which included, but was not limited to, the following:

18 (a) Paragraphs 11 through 16, above, are hereby incorporated by reference and  
19 realleged as if fully set forth herein;

20 (b) Respondent prescribed opiates, benzodiazepines, and CNS depressants to  
21 Patient A, despite Patient A's contraindications of history of opioid dependence and  
22 frequent falls;

23 (c) Respondent prescribed opiates, CNS depressants, and benzodiazepines to  
24 Patient A for Patient A's concomitant use; and

25 (d) Respondent failed to use a signed pain management and/or failed to document  
26 having used a pain management agreement; Respondent failed to periodically check  
27 CURES reports and/or failed to document having periodically checked CURES reports;  
28 Respondent failed to periodically use urine toxicology screens and/or failed to document

1 having periodically used urine toxicology screens.

2 **Patient B**

3 37. Respondent committed repeated negligent acts in his care and treatment of Patient B,  
4 which included, but was not limited to, the following:

5 (a) Paragraphs 17 through 21, above, are hereby incorporated by reference and  
6 realleged as if fully set forth herein;

7 (b) Respondent prescribed opiates, CNS depressants, and benzodiazepines to  
8 Patient B for Patient B's concomitant use; and

9 (c) Respondent failed to periodically check CURES reports and/or failed to  
10 document having periodically checked CURES reports; Respondent failed to periodically  
11 use urine toxicology screens and/or failed to document having periodically used urine  
12 toxicology screens.

13 **Patient C**

14 38. Respondent committed repeated negligent acts in his care and treatment of Patient C,  
15 which included, but was not limited to, the following:

16 (a) Paragraphs 22 through 26, above, are hereby incorporated by reference and  
17 realleged as if fully set forth herein;

18 (b) Respondent prescribed opiates, CNS depressants, and benzodiazepines to  
19 Patient C for Patient C's concomitant use; and

20 (c) Respondent failed to use a signed pain management and/or failed to document  
21 having used a pain management agreement; Respondent failed to periodically check  
22 CURES reports and/or failed to document having periodically checked CURES reports;  
23 Respondent failed to periodically use urine toxicology screens and/or failed to document  
24 having periodically used urine toxicology screens.

25 39. Respondent is further subject to disciplinary action under sections 2227 and 2234, as  
26 defined by section 2266, of the Code, in that Respondent failed to maintain adequate and/or  
27 accurate records regarding his care and treatment of Patients A, B, and C, as more particularly  
28 alleged in paragraphs 18 through 38, above, which are hereby incorporated by reference and

1 realleged as if fully set forth herein.

2 40. Respondent is further subject to disciplinary action under sections 2227 and 2234,  
3 as defined by section 2225, subdivision (e) and section 2225.5, subdivision (a)(1), of the Code, in  
4 that Respondent failed and/or refused to produce medical records, as more particularly alleged  
5 hereinafter.

6 **Patient D**<sup>12</sup>

7 41. On or about August 12, 2019, on behalf of the Board, an investigator from  
8 California Department of Consumer Affairs, Division of Investigation, Health Quality  
9 Investigation Unit, San Bernardino District Office (HQIU), sent Respondent a request for  
10 certified medical records of Patient D, accompanied by Patient D's authorization for release of  
11 her medical records. The request contained a deadline of August 27, 2019, by which date  
12 Respondent had to produce the requested certified medical records of Patient D to HQIU.

13 (Declaration of Investigator Kathryn Ochi-Norman, ¶ 5, **Exhibit H**)

14 42. Respondent failed to produce Patient D's certified medical records to HQIU within  
15 the specified deadline of August 27, 2019. (Declaration of Investigator Kathryn Ochi-Norman, ¶  
16 6, **Exhibit H**)

17 43. On or about September 5, 2019, Respondent requested an extension of the  
18 deadline within which to produce Patient D's certified medical records to HQIU. HQIU extended  
19 the deadline to September 26, 2019. (Declaration of Investigator Kathryn Ochi-Norman, ¶ 7,  
20 **Exhibit H**)

21 44. Respondent failed to produce Patient D's certified medical records to HQIU within  
22 the extended deadline of September 26, 2019. (Declaration of Investigator Kathryn Ochi-Norman,  
23 ¶ 8, **Exhibit H**)

24 45. Thereafter, HQIU inquired with Respondent multiple times regarding  
25 Respondent's failure and/or refusal to produce Patient D's certified medical records. Respondent  
26 has failed and/or refused to produce the certified medical records of Patient D to HQIU.

27 (Declaration of Investigator Kathryn Ochi-Norman, ¶ 9, **Exhibit H**)

28 <sup>12</sup> References to "Patient D" are used to protect patient privacy.

1           46.    Respondent is further subject to disciplinary action under sections 2227 and 2234  
2 of the Code, in that he engaged in conduct which breaches the rules or ethical code of the medical  
3 profession, or conduct which is unbecoming of a member in good standing of the medical  
4 profession, and which demonstrates an unfitness to practice medicine, as more particularly  
5 alleged in paragraphs 40 through 45, above, which are hereby incorporated by reference as if fully  
6 set forth herein.

#### 7   DETERMINATION OF ISSUES

8           1.    Pursuant to California Government Code section 11520, the Board hereby takes this  
9 action based upon respondent's express admissions and other evidence contained in the separate  
10 accompanying Default Decision Evidence Packet filed herewith.

11           2.    Pursuant to its authority under Government Code Section 11520, and based on the  
12 evidence before it, the Board hereby finds that the charges and allegations in Accusation No. 800-  
13 2018-044327, and the Findings of Fact 1 through 46, above and each of them, severally and  
14 separately, are true and correct.

15           3.    Pursuant to its authority under Government Code Section 11520, and based on the  
16 evidence before it, the Board hereby finds that the charges and allegations in Accusation No. 800-  
17 2018-044327, and the Findings of Fact 1 through 46, above, and the Determination of Issues 1  
18 and 2, above, the Board hereby finds that Respondent Joseph Francis Humenik, M.D., has  
19 subjected his Physician's and Surgeon's Certificate No. G 27240, to disciplinary action under  
20 sections 2227 and 2234, as defined by section 2234, subdivision (b), subdivision (c), subdivision  
21 (e) and section 2225.5, subdivision (a)(1), of the Code, in that:

22                   (a) Respondent committed gross negligence in his care and treatment of Patients A,  
23 B, and C;

24                   (b) Respondent committed repeated negligent acts in his care and treatment of  
25 Patients A, B, and C;

26                   (c) Respondent failed to maintain adequate and/or accurate records regarding his care  
27 and treatment of Patients A, B, and C; and

28                   (d) Respondent failed and/or refused to produce medical records of Patient D.

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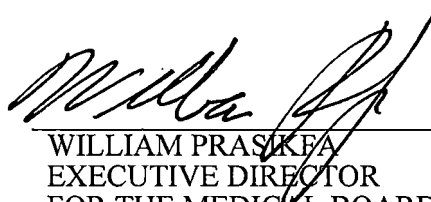
**ORDER**

IT IS SO ORDERED that Physician's and Surgeon's Certificate No. G 27240, heretofore issued to respondent Joseph Francis Humenik, M.D., is revoked for each of the violations, separately and severally, of the California and Business and Professions Code found in the Determination of Issues, above.

Pursuant to Government Code section 11520, subdivision (c), respondent, Joseph Francis Humenik, M.D., may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

This Decision shall become effective at 5:00 p.m. on April 29, 2021.

It is so ORDERED March 30, 2021.



WILLIAM PRASKIN  
EXECUTIVE DIRECTOR  
FOR THE MEDICAL BOARD OF CALIFORNIA  
DEPARTMENT OF CONSUMER AFFAIRS

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8 *Attorneys for Complainant*

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

In the Matter of the Accusation Against:	Case No. 800-2018-044327
<b>Joseph Francis Humenik, M.D.</b> <b>PO BOX 293177</b> <b>PHELAN, CA 92329-3177</b>	<b>A C C U S A T I O N</b>
<b>Physician's and Surgeon's Certificate</b> <b>No. G 27240,</b>	
Respondent.	

**PARTIES**

1. William Prasifka (Complainant) brings this Accusation solely in his official capacity as the Executive Director of the Medical Board of California, Department of Consumer Affairs (Board).
2. On or about July 15, 1974, the Medical Board issued Physician's and Surgeon's Certificate No. G 27240 to Joseph Francis Humenik, 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 July 31, 2022, unless renewed.

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1 JURISDICTION

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

5 4. Section 2227 of the Code states:

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  
9 into a stipulation for disciplinary action with the board, may, in accordance with the  
10 provisions of this chapter:

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

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

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

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

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

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

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

28 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.

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

3               (2) When the standard of care requires a change in the diagnosis, act, or  
4 omission that constitutes the negligent act described in paragraph (1), including, but  
5 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.

6               “...”

7               6.    Section 2266 of the Code states:

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

10            7.    Section 2225 of the Code states:

11            “...”

12            (e) If documents are lawfully requested from licensees in accordance with  
13 this section by the Attorney General or his or her agents or deputies, or investigators  
of the board or the California Board of Podiatric Medicine, the documents shall be  
14 provided within 15 business days of receipt of the request, unless the licensee is  
unable to provide the documents within this time period for good cause, including,  
15 but not limited to, physical inability to access the records in the time allowed due to  
illness or travel. Failure to produce requested documents or copies thereof, after being  
informed of the required deadline, shall constitute unprofessional conduct. The board  
16 may use its authority to cite and fine a physician and surgeon for any violation of this  
section. This remedy is in addition to any other authority of the board to sanction a  
17 licensee for a delay in producing requested records.

18            “...”

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1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Gross Negligence)**

3 10. Respondent has subjected his Physician's and Surgeon's Certificate No. G 27240 to  
4 disciplinary action under sections 2227 and 2234, as defined by section 2234, subdivision (b), of  
5 the Code, in that he committed gross negligence in his care and treatment of Patients A, B, and  
6 C,<sup>1</sup> as more particularly alleged hereinafter:

7 **Patient A**

8 11. On or about November 19, 2013<sup>2</sup>, Patient A first presented to Respondent. At the  
9 time of this visit, Patient A was a sixty-eight (68) year-old female who had a history of chronic  
10 low back pain with lower extremity sciatica<sup>3</sup>, interstitial cystitis<sup>4</sup>, hypertension<sup>5</sup>, frequent  
11 falls/gait ataxia<sup>6</sup> and insomnia. Patient A had long history of opioid dependency and history of  
12 experiencing severe withdrawals whenever she stopped consuming opiates.

13 12. Between January 1, 2014, through February 24, 2018, Respondent prescribed the  
14 following controlled substances to Patient A:

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Date	Medication	Quantity	Days of Supply
02/24/18	TEMAZEPAM <sup>7</sup> 30 MG	60	30

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18 <sup>1</sup> References to "Patient A, B, and C" are used to protect patient privacy.

19 <sup>2</sup> Conduct occurring more than seven (7) years from the filing date of this Accusation is  
20 for informational purposes only and is not alleged as a basis for disciplinary action.

21 <sup>3</sup> Sciatica refers to pain radiating along the sciatic nerve, which runs down one or both  
22 legs from the lower back.

23 <sup>4</sup> Interstitial cystitis refers to a chronic, painful bladder condition.

24 <sup>5</sup> Hypertension refers to high blood pressure.

25 <sup>6</sup> Gait ataxia refers to an unsteady, staggering gait.

26 <sup>7</sup> Restoril® (temazepam), a benzodiazepine, is a centrally acting hypnotic-sedative that is  
27 a Schedule IV controlled substance pursuant to Health and Safety Code section 11057,  
28 subdivision (d), and a dangerous drug pursuant to Business and Professions Code section 4022.  
When properly prescribed and indicated, it is used to treat seizure disorders and panic disorders.  
Concomitant use of Restoril® with opioids "may result in profound sedation, respiratory  
depression, coma, and death." The Drug Enforcement Administration (DEA) has identified

02/19/18	OXYCODONE HCL <sup>8</sup> 30 MG	120	30
02/19/18	ALPRAZOLAM <sup>9</sup> 2 MG	90	30
02/19/18	HYDROCODONE BITARTRATE- ACETAMINOPHEN <sup>10</sup> 325 MG-10MG	220	30
02/02/18	CARISOPRODOL <sup>11</sup> 350 MG	120	30

benzodiazepines, such as Restoril®, as drug of abuse. (Drugs of Abuse, DEA Resource Guide (2011 Edition), at p. 53.)

<sup>8</sup> Oxycodone HCL (OxyContin®) is a Schedule II controlled substances pursuant to Health and Safety Code section 11055, subdivision (b), and a dangerous drug pursuant to Business and Professions Code section 4022. When properly prescribed and indicated, oxycodone HCL is used for the management of pain severe enough to require daily, around-the-clock, long term opioid treatment for which alternative treatment options are inadequate. The Drug Enforcement Administration (DEA) has identified oxycodone, as a drug of abuse. (Drugs of Abuse, A DEA Resource Guide (2011 Edition), at p. 41.) The risk of respiratory depression and overdose is increased with the concomitant use of benzodiazepines or when prescribed to patients with pre-existing respiratory depression.

<sup>9</sup> Xanax® (alprazolam), a benzodiazepine, is a centrally acting hypnotic-sedative that 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. When properly prescribed and indicated, it is used for the management of anxiety disorders. Concomitant use of Xanax® with opioids “may result in profound sedation, respiratory depression, coma, and death.” The Drug Enforcement Administration (DEA) has identified benzodiazepines, such as Xanax®, as a drug of abuse. (Drugs of Abuse, DEA Resource Guide (2011 Edition), at p. 53.)

<sup>10</sup> Hydrocodone APAP (Vicodin®, Lortab® and Norco®) is a hydrocodone combination of hydrocodone bitartrate and acetaminophen which was formerly a Schedule III controlled substance pursuant to Health and Safety Code section 11056, subdivision (e), and a dangerous drug pursuant to Business and Professions Code section 4022. On August 22, 2014, the DEA published a final rule rescheduling hydrocodone combination products (HCPs) to Schedule II of the Controlled Substances Act, which became effective October 6, 2014. Schedule II controlled substances are substances that have a currently accepted medical use in the United States, but also have a high potential for abuse, and the abuse of which may lead to severe psychological or physical dependence. When properly prescribed and indicated, it is used for the treatment of moderate to severe pain. In addition to the potential for psychological and physical dependence there is also the risk of acute liver failure which has resulted in a black box warning being issued by the Federal Drug Administration (FDA). The FDA black box warning provides that “Acetaminophen has been associated with cases of acute liver failure, at times resulting in liver transplant and death. Most of the cases of liver injury are associated with use of the acetaminophen at doses that exceed 4000 milligrams per day, and often involve more than one acetaminophen containing product.”

<sup>11</sup> Soma® (carisoprodol) 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. When properly prescribed and indicated, it is used for the short-term treatment of acute and painful musculoskeletal conditions. Soma® is commonly used by those who abuse opioids to potentiate the euphoric effect of opioids, to create a better “high.” According to the DEA, Office of Diversion Control, “[c]arisoprodol abuse has escalated in the last decade in the United States. According to Diversion Drug Trends, published by the DEA on

1	01/23/18	ALPRAZOLAM 2 MG	60	30
2	01/23/18	OXYCODONE HCL 30 MG	120	30
3	01/23/18	TEMAZEPAM 30 MG	60	30
4	01/23/18	HYDROCODONE BITARTRATE- ACETAMINOPHEN 325 MG-10MG	220	30
5	01/08/18	CARISOPRODOL 350 MG	120	30
6	12/11/17	CARISOPRODOL 350 MG	120	30
7	11/29/17	TEMAZEPAM 30 MG	60	30
8	11/29/17	ALPRAZOLAM 2 MG	60	30
9	11/28/17	HYDROCODONE BITARTRATE- ACETAMINOPHEN 325 MG-10MG	220	25
10	11/28/17	OXYCODONE HCL 30 MG	120	30
11	11/14/17	CARISOPRODOL 350 MG	120	30
12	11/13/17	CARISOPRODOL 350 MG	120	30
13	11/02/17	ALPRAZOLAM 2 MG	60	30
14	10/30/17	TEMAZEPAM 30 MG	60	30
15	10/30/17	HYDROCODONE BITARTRATE- ACETAMINOPHEN 325 MG-10MG	220	25
16	10/30/17	OXYCODONE HCL 30 MG	120	30
17	10/17/17	CARISOPRODOL 350 MG	120	30
18	10/07/17	ALPRAZOLAM 2 MG	60	30
19	10/04/17	TEMAZEPAM 30 MG	60	30
20	10/02/17	HYDROCODONE BITARTRATE- ACETAMINOPHEN 325 MG-10MG	220	25
21	10/02/17	OXYCODONE HCL 30 MG	120	30
22	09/20/17	CARISOPRODOL 350 MG	180	30
23	09/11/17	ALPRAZOLAM 2 MG	60	30
24	09/05/17	TEMAZEPAM 30 MG	60	30
25	09/05/17	HYDROCODONE BITARTRATE- ACETAMINOPHEN 325 MG-10MG	220	19
26	09/05/17	OXYCODONE HCL 30 MG	120	30
27	08/28/17	CARISOPRODOL 350 MG	180	30

the trends in diversion of controlled and noncontrolled pharmaceuticals, carisoprodol continues to be one of the most commonly diverted drugs. Diversion and abuse of carisoprodol is prevalent throughout the country. As of March 2011, street prices for [carisoprodol] Soma® ranged from \$1 to \$5 per tablet. Diversion methods include doctor shopping for the purposes of obtaining multiple prescriptions and forging prescriptions.”

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08/19/17	ALPRAZOLAM 2 MG	60	30
07/31/17	CARISOPRODOL 350 MG	180	30
07/31/17	TEMAZEPAM 30 MG	60	30
07/22/17	ALPRAZOLAM 2 MG	60	30
07/11/17	HYDROCODONE BITARTRATE- ACETAMINOPHEN 325 MG-10MG	220	19
07/11/17	OXYCODONE HCL 30 MG	120	30
07/10/17	CARISOPRODOL 350 MG	180	30
07/08/17	OXYCODONE HCL 30 MG	120	30
07/08/17	HYDROCODONE BITARTRATE- ACETAMINOPHEN 325 MG-10MG	220	19
07/03/17	TEMAZEPAM 30 MG	60	30
06/26/17	ALPRAZOLAM 2 MG	60	30
06/13/17	HYDROCODONE BITARTRATE- ACETAMINOPHEN 325 MG-10MG	220	19
06/13/17	OXYCODONE HCL 30 MG	120	30
06/12/17	CARISOPRODOL 350 MG	180	30
05/30/17	TEMAZEPAM 30 MG	60	30
05/26/17	ALPRAZOLAM 2 MG	60	30
05/17/17	OXYCODONE HCL 30 MG	120	30
05/17/17	CARISOPRODOL 350 MG	180	30
05/17/17	HYDROCODONE BITARTRATE- ACETAMINOPHEN 325 MG-10MG	220	19
04/27/17	TEMAZEPAM 30 MG	60	30
04/20/17	OXYCODONE HCL 30 MG	120	30
04/20/17	ALPRAZOLAM 2 MG	60	30
04/20/17	HYDROCODONE BITARTRATE- ACETAMINOPHEN 325 MG-10MG	220	19
04/19/17	CARISOPRODOL 350 MG	180	30
03/27/17	TEMAZEPAM 30 MG	60	30
03/25/17	HYDROCODONE BITARTRATE- ACETAMINOPHEN 325 MG-10MG	220	19
03/24/17	CARISOPRODOL 350 MG	180	30
03/22/17	ALPRAZOLAM 2 MG	60	30
03/22/17	OXYCODONE HCL 30 MG	120	30
02/28/17	CARISOPRODOL 350 MG	180	30

1	02/25/17	HYDROCODONE BITARTRATE- ACETAMINOPHEN 325 MG-10MG	220	19
2	02/21/17	TEMAZEPAM 30 MG	60	30
3	02/20/17	OXYCODONE HCL 30 MG	120	30
4	02/16/17	ALPRAZOLAM 2 MG	60	30
5	01/31/17	CARISOPRODOL 350 MG	180	30
6	01/30/17	TEMAZEPAM 30 MG	30	30
6	01/30/17	CARISOPRODOL 350 MG	180	30
7	01/27/17	HYDROCODONE BITARTRATE- ACETAMINOPHEN 325 MG-10MG	220	30
8	01/20/17	ALPRAZOLAM 2 MG	60	30
9	01/20/17	TEMAZEPAM 30 MG	30	30
10	01/18/17	OXYCODONE HCL 30 MG	120	30
11	12/29/16	HYDROCODONE BITARTRATE- ACETAMINOPHEN 325 MG-10MG	220	30
12	12/28/16	CARISOPRODOL 350 MG	180	30
13	12/22/16	TEMAZEPAM 30 MG	60	30
14	12/22/16	ALPRAZOLAM 2 MG	60	30
14	12/19/16	OXYCODONE HCL 30 MG	120	30
15	11/30/16	HYDROCODONE BITARTRATE- ACETAMINOPHEN 325 MG-10MG	220	30
16	11/30/16	CARISOPRODOL 350 MG	180	30
17	11/25/16	ALPRAZOLAM 2 MG	60	30
18	11/15/16	TEMAZEPAM 30 MG	60	30
19	11/12/16	OXYCODONE HCL 30 MG	120	30
20	11/02/16	CARISOPRODOL 350 MG	180	30
21	11/01/16	HYDROCODONE BITARTRATE- ACETAMINOPHEN 325 MG-10MG	220	30
22	10/27/16	ALPRAZOLAM 2 MG	60	30
23	10/18/16	TEMAZEPAM 30 MG	60	30
24	10/15/16	OXYCODONE HCL 30 MG	120	30
24	10/06/16	CARISOPRODOL 350 MG	180	30
25	10/02/16	ACETAMINOPHEN-HYDROCODONE BITARTRATE 325MG-10MG	220	19
26	09/30/16	ALPRAZOLAM 2 MG	60	30
27	09/17/16	OXYCODONE HCL 30 MG	120	30
28	09/16/16	TEMAZEPAM 30 MG	60	30

1	09/10/16	CARISOPRODOL 350 MG	180	30
2	09/07/16	HYDROCODONE BITARTRATE- ACETAMINOPHEN 325 MG-10MG	220	30
3	08/30/16	ALPRAZOLAM 2 MG	60	30
4	08/20/16	OXYCODONE HCL 30 MG	120	30
5	08/15/16	TEMAZEPAM 30 MG	60	30
6	08/11/16	CARISOPRODOL 350 MG	180	30
7	08/08/16	HYDROCODONE BITARTRATE- ACETAMINOPHEN 325 MG-10MG	220	30
8	08/02/16	TEMAZEPAM 30 MG	60	30
9	08/01/16	ALPRAZOLAM 2 MG	60	30
10	07/23/16	OXYCODONE HCL 30 MG	120	30
11	07/13/16	CARISOPRODOL 350 MG	180	30
12	07/11/16	TEMAZEPAM 30 MG	60	30
13	07/11/16	HYDROCODONE BITARTRATE- ACETAMINOPHEN 325 MG-10MG	220	19
14	07/02/16	ALPRAZOLAM 2 MG	60	30
15	06/25/16	OXYCODONE HCL 30 MG	120	30
16	06/15/16	CARISOPRODOL 350 MG	180	30
17	06/14/16	HYDROCODONE BITARTRATE- ACETAMINOPHEN 325 MG-10MG	220	27
18	06/13/16	TEMAZEPAM 30 MG	60	30
19	06/04/16	ALPRAZOLAM 2 MG	60	30
20	05/28/16	OXYCODONE HCL 30 MG	90	30
21	05/18/16	CARISOPRODOL 350 MG	120	30
22	05/17/16	HYDROCODONE BITARTRATE- ACETAMINOPHEN 325 MG-10MG	220	30
23	05/09/16	TEMAZEPAM 30 MG	60	30
24	05/05/16	ALPRAZOLAM 2 MG	60	30
25	05/05/16	ALPRAZOLAM 2 MG	60	30
26	04/30/16	OXYCODONE HCL 30 MG	90	30
27	04/21/16	CARISOPRODOL 350 MG	120	30
28	04/05/16	ALPRAZOLAM 2 MG	60	30
	04/01/16	MORPHINE SULFATE <sup>12</sup> 30 MG	120	30

<sup>12</sup> MS Contin® (morphine sulfate), an opioid analgesic, 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. When properly prescribed and



1	03/24/16	CARISOPRODOL 350 MG	120	30
2	03/21/16	HYDROCODONE BITARTRATE- ACETAMINOPHEN 325 MG-10MG	220	27
3	03/11/16	TEMAZEPAM 30 MG	45	30
4	03/09/16	ALPRAZOLAM 2 MG	60	30
5	03/05/16	MORPHINE SULFATE 30 MG	120	30
6	02/24/16	HYDROCODONE BITARTRATE- ACETAMINOPHEN 325 MG-10MG	220	27
7	02/23/16	CARISOPRODOL 350 MG	120	30
8	02/11/16	ALPRAZOLAM 2 MG	60	30
9	02/11/16	TEMAZEPAM 30 MG	45	30
10	02/08/16	MORPHINE SULFATE 30 MG	120	30
11	01/27/16	HYDROCODONE BITARTRATE- ACETAMINOPHEN 325 MG-10MG	220	19
12	01/25/16	CARISOPRODOL 350 MG	120	30
13	01/12/16	TEMAZEPAM 30 MG	45	30
14	01/12/16	ALPRAZOLAM 2 MG	60	30
15	01/11/16	MORPHINE SULFATE 30 MG	120	30
16	12/14/15	MORPHINE SULFATE 30 MG	120	30
17	12/12/15	TEMAZEPAM 30 MG	45	30
18	12/12/15	ALPRAZOLAM 2 MG	60	30
19	12/04/15	HYDROCODONE BITARTRATE- ACETAMINOPHEN 325 MG-10MG	220	28
20	11/23/15	LORAZEPAM <sup>13</sup> 1 MG	120	30

indicated, it is used for the management of pain that is severe enough to require daily, around-the-clock, long-term opioid treatment and for which alternative treatment options are inadequate. The Federal Drug Administration has issued a black box warning for MS Contin® which warns about, among other things, addiction, abuse and misuse, and the possibility of life-threatening respiratory distress. The warning also cautions about the risks associated with concomitant use of MS Contin® with benzodiazepines or other central nervous system (CNS) depressants.

<sup>13</sup> Ativan® (lorazepam), a benzodiazepine, is a centrally acting hypnotic-sedative that 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. When properly prescribed and indicated, it is used for the management of anxiety disorders or for the short term relief of anxiety or anxiety associated with depressive symptoms. Concomitant use of Ativan® with opioids “may result in profound sedation, respiratory depression, coma, and death.” The Drug Enforcement Administration (DEA) has identified benzodiazepines, such as Ativan®, as a drug of abuse. (Drugs of Abuse, DEA Resource Guide (2011 Edition), at p. 53.)

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11/23/15	CARISOPRODOL 350 MG	120	30
11/17/15	MORPHINE SULFATE 30 MG	120	30
11/12/15	ALPRAZOLAM 2 MG	60	30
11/06/15	HYDROCODONE BITARTRATE- ACETAMINOPHEN 325 MG-10MG	220	20
11/06/15	TEMAZEPAM 30 MG	45	30
10/22/15	CARISOPRODOL 350 MG	120	30
10/20/15	MORPHINE SULFATE 30 MG	120	20
10/15/15	ALPRAZOLAM 2 MG	60	30
10/10/15	HYDROCODONE BITARTRATE- ACETAMINOPHEN 325 MG-10MG	220	19
10/08/15	TEMAZEPAM 30 MG	45	23
10/07/15	LORAZEPAM 1 MG	120	30
09/25/15	CARISOPRODOL 350 MG	120	30
09/24/15	MORPHINE SULFATE 30 MG	120	20
09/15/15	ALPRAZOLAM 2 MG	60	30
09/14/15	HYDROCODONE BITARTRATE- ACETAMINOPHEN 325 MG-10MG	220	27
09/08/15	TEMAZEPAM 30 MG	45	23
08/27/15	MORPHINE SULFATE 30 MG	120	20
08/26/15	CARISOPRODOL 350 MG	120	30
08/26/15	LORAZEPAM 1 MG	120	30
08/14/15	ALPRAZOLAM 2 MG	60	30
08/14/15	HYDROCODONE BITARTRATE- ACETAMINOPHEN 325 MG-10MG	220	19
08/06/15	TEMAZEPAM 30 MG	45	23
08/03/15	OXYCODONE HCL 30 MG	60	15
07/27/15	CARISOPRODOL 350 MG	120	30
07/27/15	LORAZEPAM 1 MG	120	30
07/16/15	HYDROCODONE BITARTRATE- ACETAMINOPHEN 325 MG-10MG	220	27
07/07/15	TEMAZEPAM 30 MG	45	23
07/06/15	OXYCODONE HCL 30 MG	60	30
06/29/15	LORAZEPAM 1 MG	120	30
06/29/15	CARISOPRODOL 350 MG	120	30
06/19/15	HYDROCODONE BITARTRATE- ACETAMINOPHEN 325 MG-10MG	220	27

1	06/09/15	TEMAZEPAM 30 MG	45	23
2	06/08/15	OXYCODONE HCL 30 MG	60	20
3	06/04/15	CARISOPRODOL 350 MG	120	30
4	06/04/15	LORAZEPAM 1 MG	120	30
5	05/28/15	HYDROCODONE BITARTRATE- ACETAMINOPHEN 325 MG-10MG	210	26
6	04/30/15	HYDROCODONE BITARTRATE- ACETAMINOPHEN 325 MG-10MG	180	30
7	04/13/15	CARISOPRODOL 350 MG	120	30
8	04/13/15	LORAZEPAM 1 MG	120	30
9	04/11/15	TEMAZEPAM 30 MG	45	23
10	04/11/15	OXYCODONE HCL 30 MG	60	15
11	04/04/15	HYDROCODONE BITARTRATE- ACETAMINOPHEN 325 MG-10MG	180	30
12	03/19/15	OXYCODONE HCL 30 MG	60	15
13	03/18/15	LORAZEPAM 1 MG	120	30
14	03/18/15	CARISOPRODOL 350 MG	120	30
15	03/13/15	TEMAZEPAM 30 MG	45	23
16	03/11/15	HYDROCODONE BITARTRATE- ACETAMINOPHEN 325 MG-10MG	180	30
17	02/23/15	CARISOPRODOL 350 MG	120	30
18	02/23/15	LORAZEPAM 1 MG	120	30
19	02/12/15	HYDROCODONE BITARTRATE- ACETAMINOPHEN 325 MG-10MG	150	25
20	02/12/15	OXYCODONE HCL 30 MG	60	15
21	02/03/15	TEMAZEPAM 30 MG	45	23
22	01/26/15	LORAZEPAM 1 MG	120	30
23	01/26/15	CARISOPRODOL 350 MG	120	30
24	01/16/15	HYDROCODONE BITARTRATE- ACETAMINOPHEN 325 MG-10MG	180	30
25	01/09/15	OXYCODONE HCL 30 MG	30	8
26	01/02/15	TEMAZEPAM 30 MG	45	23
27	12/30/14	LORAZEPAM 1 MG	120	30
28	12/30/14	CARISOPRODOL 350 MG	120	30
	12/23/14	HYDROCODONE BITARTRATE- ACETAMINOPHEN 325 MG-10MG	180	30
	12/16/14	OXYCODONE HCL 30 MG	30	7

1	12/05/14	TEMAZEPAM 30 MG	45	23
2	12/01/14	LORAZEPAM 1 MG	120	30
3	12/01/14	HYDROCODONE BITARTRATE- ACETAMINOPHEN 325 MG-10MG	180	30
4	12/01/14	CARISOPRODOL 350 MG	120	30
5	11/28/14	ACETAMINOPHEN-CODEINE PHOSPHATE <sup>14</sup> 300MG-60MG	40	10
6	11/07/14	TEMAZEPAM 30 MG	45	23
7	11/07/14	HYDROCODONE BITARTRATE- ACETAMINOPHEN 325 MG-10MG	180	30
8	11/04/14	CARISOPRODOL 350 MG	120	30
9	11/03/14	LORAZEPAM 1 MG	120	30
10	10/13/14	TEMAZEPAM 30 MG	30	30
11	10/13/14	HYDROCODONE BITARTRATE- ACETAMINOPHEN 325 MG-10MG	180	30
12	10/10/14	CARISOPRODOL 350 MG	120	30
13	10/09/14	LORAZEPAM 1 MG	120	30
14	09/16/14	TEMAZEPAM 30 MG	30	30
15	09/16/14	HYDROCODONE BITARTRATE ACETAMINOPHEN 325 MG-10MG	180	30
16	09/11/14	CARISOPRODOL 350 MG	120	30
17	08/20/14	TEMAZEPAM 30 MG	30	30
18	08/20/14	HYDROCODONE BITARTRATE- ACETAMINOPHEN 325 MG-10MG	180	30
19	08/13/14	CARISOPRODOL 350 MG	120	30
20	07/23/14	HYDROCODONE BITARTRATE- ACETAMINOPHEN 325 MG-10MG	180	30
21	07/23/14	TEMAZEPAM 30 MG	30	30
22	07/15/14	CARISOPRODOL 350 MG	120	30
23	06/28/14	TEMAZEPAM 30 MG	30	30
24	06/28/14	HYDROCODONE BITARTRATE- ACETAMINOPHEN 325 MG-10MG	180	30
25	06/18/14	CARISOPRODOL 350 MG	120	30

<sup>14</sup> Acetaminophen and codeine phosphate is a combination of a narcotic pain reliever and a non-salicylate analgesic and antipyretic (fever reducer) used to relieve moderate to severe pain. Codeine in combination with acetaminophen is a Schedule III controlled substance.

1	06/04/14	HYDROCODONE BITARTRATE- ACETAMINOPHEN 325 MG-10MG	180	30
2	06/03/14	TEMAZEPAM 30 MG	30	30
3	05/20/14	CARISOPRODOL 350 MG	120	30
4	05/07/14	HYDROCODONE BITARTRATE- ACETAMINOPHEN 325 MG-10MG	180	30
5	05/06/14	TEMAZEPAM 30 MG	30	30
6	04/22/14	CARISOPRODOL 350 MG	120	30
7	04/08/14	HYDROCODONE BITARTRATE- ACETAMINOPHEN 325 MG-10MG	180	30
8	04/01/14	TEMAZEPAM 30 MG	30	30
9	03/25/14	CARISOPRODOL 350 MG	120	30
10	03/10/14	HYDROCODONE BITARTRATE- ACETAMINOPHEN 325 MG-10MG	180	30
11	03/01/14	TEMAZEPAM 30 MG	30	30
12	02/27/14	CARISOPRODOL 350 MG	120	30
13	02/13/14	HYDROCODONE BITARTRATE- ACETAMINOPHEN 325 MG-10MG	180	30
14	01/30/14	CARISOPRODOL 350 MG	120	30
15	01/29/14	TEMAZEPAM 30 MG	30	30
16	01/22/14	HYDROCODONE BITARTRATE- ACETAMINOPHEN 325 MG-10MG	20	5
17				
18	01/15/14	HYDROCODONE BITARTRATE- ACETAMINOPHEN 325 MG-10MG	180	30
19				
20	01/13/14	HYDROCODONE BITARTRATE- ACETAMINOPHEN 325 MG-10MG	15	4
21	01/07/14	TEMAZEPAM 30 MG	30	30
22				
23	///			
24	///			
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26	///			
27	///			
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1           13. From on or about January 1, 2014, through February 24, 2018, Respondent prescribed  
2 to Patient A numerous opiates, benzodiazepines, and CNS depressant medications, despite Patient  
3 A's known contraindications including, but not limited to, opioid dependency and frequent falls.  
4 Respondent also failed to adequately utilize and/or failed to document having adequately utilized  
5 alternative treatment modalities, including, but not limited to, physical therapy, NSAIDs<sup>15</sup>,  
6 heat/ice treatment, and home exercise program(s).

7           14. From on or about January 1, 2014, through February 24, 2018, Respondent prescribed  
8 for Patient's concomitant use, opiates, CNS depressant muscle relaxants, and benzodiazepines.

9           15. From on or about January 1, 2014 through February 24, 2018, Respondent failed to  
10 utilize and/or failed to document having utilized a pain management agreement with Patient A;  
11 Respondent failed to adequately utilize urine toxicology screens and/or failed to document having  
12 adequately utilized urine toxicology screens; Respondent failed to adequately review CURES  
13 reports and/or failed to document having adequately reviewed CURES reports.

14           16. Respondent committed gross negligence in his care and treatment of Patient A, which  
15 included, but was not limited to, the following:

16           (a) Respondent prescribed opiates, benzodiazepines, and CNS depressants to  
17 Patient A, despite Patient A's contraindications of history of opioid dependence and  
18 frequent falls;

19           (b) Respondent prescribed opiates, CNS depressants, and benzodiazepines to  
20 Patient A for Patient A's concomitant use; and

21           (c) Respondent failed to use a signed pain management and/or failed to document  
22 having used a pain management agreement; Respondent failed to periodically check  
23 CURES reports and/or failed to document having periodically checked CURES reports;  
24 Respondent failed to periodically use urine toxicology screens and/or failed to document  
25 having periodically used urine toxicology screens.

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27 \_\_\_\_\_  
28 <sup>15</sup> NSAIDs (Nonsteroidal Anti-inflammatory drugs) are medications that relieve or  
reduce pain. The most popular examples of this group of drugs are aspirin and ibuprofen.

1           **Patient B**

2           17. On or about January 20, 2018, Patient B first presented to Respondent. At that time,  
3 Patient B was a twenty-three (23) year-old man who had a history of chronic low back pain from  
4 spinal stenosis<sup>16</sup> and chronic shoulder pain.

5           18. From February 2, 2018, through January 29, 2019, Respondent prescribed the  
6 following controlled substances to Patient B:

7

8           Date	Medication	Quantity	Days of Supply
9           01/29/19	OXYCODONE HCL 30 MG	180	30
10          01/29/19	HYDROMORPHONE <sup>17</sup> HCL 8 MG	120	30
11          12/30/18	OXYCODONE HCL 30 MG	180	30
12          12/30/18	HYDROMORPHONE HCL 8 MG	120	30
13          12/01/18	OXYCODONE HCL 30 MG	180	30
14          12/01/18	HYDROMORPHONE HCL 8 MG	120	30
15          10/27/18	OXYCODONE HCL 30 MG	180	30
16          10/27/18	HYDROMORPHONE HCL 8 MG	120	30
17          09/29/18	HYDROMORPHONE HCL 8 MG	120	30
18          09/29/18	OXYCODONE HCL 30 MG	180	30
19          09/05/18	OXYCODONE HCL 30 MG	180	30
20          09/05/18	HYDROMORPHONE HCL 8 MG	120	30
21          08/06/18	OXYCODONE HCL 30 MG	180	30
22          08/06/18	HYDROMORPHONE HCL 8 MG	120	30
23          07/07/18	OXYCODONE HCL 30 MG	180	30

24                   <sup>16</sup> Spinal stenosis refers to a narrowing of the spinal canal, which can put pressure on the  
25 spinal cord and the nerves within the spine.

26                   <sup>17</sup> Hydromorphone (Dilaudid®); an opioid analgesic, is a Schedule II controlled substance  
27 pursuant to Health and Safety Code section 11055, subdivision (b), and a dangerous drug  
28 pursuant to Business and Professions Code section 4022. When properly prescribed and  
indicated, it is used for the treatment of moderate to severe pain. The Drug Enforcement  
Administration (DEA) has identified hydromorphone, such as Dilaudid®, as a drug of abuse.  
(Drugs of Abuse, DEA Resource Guide (2011 Edition), at p. 37.) The Federal Drug  
Administration has issued black box warnings for Dilaudid® which warn about, among other  
things, addiction, abuse and misuse, and the possibility of life-threatening respiratory distress.  
The warnings also caution about the risks associated with concomitant use of Dilaudid® with  
benzodiazepines or other central nervous system (CNS) depressants.

07/02/18	HYDROMORPHONE HCL 8 MG	120	30
06/07/18	OXYCODONE HCL 30 MG	180	30
05/31/18	HYDROMORPHONE HCL 8 MG	120	30
05/29/18	DIAZEPAM 10 MG	60	30
04/30/18	HYDROMORPHONE HCL 8 MG	120	30
04/30/18	DIAZEPAM 10 MG	60	30
04/30/18	OXYCODONE HCL 30 MG	180	30
04/05/18	OXYCODONE HCL 30 MG	180	30
04/01/18	HYDROMORPHONE HCL 8 MG	120	30
03/09/18	OXYCODONE HCL 30 MG	180	30
03/08/18	DIAZEPAM 10 MG	60	30
03/02/18	HYDROMORPHONE HCL 8 MG	120	30
02/09/18	DIAZEPAM 10 MG	60	30
02/08/18	OXYCODONE HCL 30 MG	180	30
02/02/18	HYDROMORPHONE HCL 8 MG	120	30

19. From on or about February 2, 2018, through January 29, 2019, Respondent prescribed to Patient B's concomitant use, a high dose of opiates with CNS depressant muscle relaxants, and benzodiazepines.

20. From on or about February 2, 2018, through January 29, 2019, Respondent failed to periodically review CURES reports and/or failed to document having conducted a periodic review of CURES reports; Respondent failed to check and/or failed to document having conducted urine toxicology screens of Patient B.

21. Respondent committed gross negligence in his care and treatment of Patient B, which included, but was not limited to, the following:

(a) Respondent prescribed opiates, CNS depressants, and benzodiazepines to Patient B for Patient B's concomitant use; and

(b) Respondent failed to periodically check CURES reports and/or failed to document having periodically checked CURES reports; Respondent failed to periodically use urine toxicology screens and/or failed to document having periodically used urine toxicology screens.

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1 **Patient C**

2 22. Respondent began treating Patient C in or around 1997.<sup>18</sup> At the time, she was a  
3 thirty-eight (38) year-old female with a history of multiple sclerosis<sup>19</sup>, chronic obstructive  
4 pulmonary disease (COPD)<sup>20</sup>, and chronic hip pain, despite a total hip replacement.

5 23. From January 1, 2014, through February 19, 2018, Respondent prescribed the  
6 following controlled substances to Patient C.

7

8 Date	Medication	Quantity	Days of Supply
9 02/19/18	LORAZEPAM 2 MG	102	26
10 02/07/18	HYDROCODONE BITARTRATE ACETAMINOPHEN 11 325MG-10MG	180	30
12 02/07/18	OXYCODONE HCL 15 MG	180	30
13 02/06/18	CARISPRODOL 350 MG	180	30
14 02/06/18	TRAMADOL <sup>21</sup> HCL 50 MG	240	45
15 02/06/18	TEMAZEPAM 30 MG	30	30
16 01/24/18	LORAZEPAM 2 MG	102	26
17 01/19/18	TEMAZEPAM 15 MG	90	30
18 01/10/18	HYDROCODONE BITARTRATE- ACETAMINOPHEN 325MG-10MG	180	30
19 01/10/18	OXYCODONE HCL 15 MG	180	30

20 <sup>18</sup> Conduct occurring more than seven (7) years from the filing date of this Accusation is  
21 for informational purposes only and is not alleged as a basis for disciplinary action.

22 <sup>19</sup> Multiple sclerosis (MS) is a disease in which the immune system eats away at the  
23 protective covering of the nerves.

24 <sup>20</sup> Chronic Obstructive Pulmonary Disease (COPD) is a group of lung diseases that block  
25 airflow and make it difficult to breathe.

26 <sup>21</sup> Tramadol hydrochloride (Ultram®, Ultracet®), an opioid analgesic, is a Schedule IV  
27 controlled substance pursuant to Health and Safety Code section 11057, subdivision (d), and a  
28 dangerous drug pursuant to Business and Professions Code section 4022. When properly  
prescribed and indicated, it is used for the treatment of moderate to severe pain. The FDA-  
approved labeling under the Drug Abuse and Dependence section provides warns, among other  
things, that “[t]ramadol hydrochloride may induce psychic and physical dependence ...  
Dependence and abuse, including drug-seeking behavior and taking illicit actions to obtain the  
drug are not limited to those patients with prior history of opioid dependence. The risk in patients  
with substance abuse has been observed to be higher. Tramadol hydrochloride is associated with  
craving and tolerance development. Withdrawal symptoms may occur if tramadol hydrochloride  
is discontinued abruptly.”

1	01/09/18	TRAMADOL HCL 50 MG	240	30
2	01/09/18	TEMAZEPAM 30 MG	30	30
3	01/09/18	CARISPRODOL 350 MG	180	45
4	12/12/17	OXYCODONE HCL 15 MG	150	30
5	12/12/17	HYDROCODONE BITARTRATE- ACETAMINOPHEN 325MG-10MG	180	30
6	12/08/17	TEMAZEPAM 30 MG	30	30
7	12/08/17	TRAMADOL HCL 50 MG	240	30
8	12/08/17	CARISPRODOL 350 MG	180	45
9	12/01/17	LORAZEPAM 2 MG	102	26
10	12/01/17	TEMAZEPAM 15 MG	90	30
11	11/13/17	HYDROCODONEBITARTRATE ACETAMINOPHEN325MG-10MG	180	30
12	11/13/17	OXYCODONE HCL 15 MG	180	30
13	11/09/17	LORAZEPAM 2 MG	102	26
14	11/09/17	TEMAZEPAM 30 MG	30	30
15	11/09/17	CARISPRODOL 350 MG	180	45
16	11/09/17	TRAMADOL HCL 50 MG	240	30
17	10/12/17	TRAMADOL HCL 50 MG	240	30
18	10/12/17	TEMAZEPAM 30 MG	30	30
19	10/12/17	CARISPRODOL 350 MG	180	45
20	10/12/17	LORAZEPAM 2 MG	102	26
21	10/07/17	HYDROCODONE BITARTRATE- ACETAMINOPHEN 325MG-10MG	180	30
22	10/07/17	OXYCODONE HCL 15 MG	180	30
23	09/19/17	TEMAZEPAM 15 MG	90	30
24	09/09/17	CARISPRODOL 350 MG	180	45
25	09/09/17	OXYCODONE HCL 15 MG	180	30
26	09/09/17	TEMAZEPAM 30 MG	30	30
27	09/09/17	TRAMADOL HCL 50 MG	240	30
28	09/09/17	HYDROCODONE BITARTRATE- ACETAMINOPHEN 325MG-10MG	180	30
	09/09/17	LORAZEPAM 2 MG	102	26
	07/10/17	CARISPRODOL 350 MG	180	45
	07/10/17	TEMAZEPAM 30 MG	30	30
	07/10/17	TRAMADOL HCL 50 MG	240	30
	07/10/17	LORAZEPAM 2 MG	102	26
	07/10/17	HYDROCODONE BITARTRATE- ACETAMINOPHEN 325MG-10MG	180	30

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07/10/17	OXYCODONE HCL 15 MG	180	30
06/27/17	TEMAZAPAM 15 MG	90	30
06/13/17	TEMAZAPAM 30 MG	30	30
06/13/17	LORAZEPAM 2 MG	102	26
06/13/17	CARISPRODOL 350 MG	180	45
06/13/17	TRAMADOL HCL 50 MG	240	30
06/08/17	OXYCODONE HCL 15 MG	180	30
06/08/17	HYDROCODONE BITARTRATE- ACETAMINOPHEN 325MG-10MG	180	30
05/12/17	CARISPRODOL 350 MG	180	45
05/12/17	LORAZEPAM 2 MG	102	26
05/12/17	TEMAZAPAM 30 MG	30	30
05/12/17	TRAMADOL HCL 50 MG	240	30
04/22/17	OXYCODONE HCL 15 MG	180	30
04/22/17	HYDROCODONE BITARTRATE- ACETAMINOPHEN 325MG-10MG	180	30
04/11/17	TEMAZAPAM 30 MG	30	30
04/11/17	LORAZEPAM 2 MG	102	26
04/11/17	CARISPRODOL 350 MG	180	45
04/11/17	TRAMADOL HCL 50 MG	240	30
03/29/17	TEMAZAPAM 15 MG	90	30
03/15/17	HYDROCODONE BITARTRATE- ACETAMINOPHEN 325MG-10MG	180	30
03/09/17	CARISPRODOL 350 MG	180	45
03/09/17	OXYCODONE HCL 15 MG	180	30
03/09/17	LORAZEPAM 2 MG	102	26
03/09/17	TRAMADOL HCL 50 MG	240	30
03/09/17	TEMAZEPAM 30 MG	30	30
02/16/17	HYDROCODONE BITARTRATE- ACETAMINOPHEN 325MG-10MG	180	30
02/07/17	TEMAZEPAM 30 MG	30	30
02/07/17	LORAZEPAM 2 MG	102	26
02/07/17	CARISPRODOL 350 MG	180	45
02/07/17	TRAMADOL HCL 50 MG	240	30
01/18/17	OXYCODONE HCL 15 MG	180	30
01/12/17	TRAMADOL HCL 50 MG	240	30
01/12/17	TEMAZEPAM 30 MG	30	30
01/12/17	LORAZEPAM 2 MG	102	26

1	01/12/17	CARISPRODOL 350 MG	180	45
2	01/09/17	HYDROCODONE BITARTRATE- ACETAMINOPHEN 325MG-10MG	180	30
3	12/28/16	TEMAZEPAM 15 MG	90	30
4	12/19/16	CARISPRODOL 350 MG	180	45
5	12/16/16	TRAMADOL HCL 50 MG	240	30
6	12/06/16	TEMAZEPAM 30 MG	30	30
7	12/06/16	LORAZEPAM 2 MG	102	26
8	12/05/16	HYDROCODONE BITARTRATE- ACETAMINOPHEN 325MG-10MG	180	30
9	12/05/16	OXYCODONE HCL 15 MG	180	30
10	11/16/16	TRAMADOL HCL 50 MG	240	30
11	11/15/16	CARISPRODOL 350 MG	180	45
12	11/09/16	TEMAZEPAM 30 MG	30	30
13	11/04/16	LORAZEPAM 2 MG	102	26
14	10/14/16	HYDROCODONE BITARTRATE- ACETAMINOPHEN 325MG-10MG	180	30
15	10/14/16	TRAMADOL HCL 50 MG	240	30
16	10/14/16	CARISPRODOL 350 MG	180	45
17	10/14/16	TEMAZEPAM 15 MG	90	30
18	10/14/16	OXYCODONE HCL 15 MG	180	30
19	10/06/16	LORAZEPAM 2 MG	102	26
20	09/19/16	HYDROCODONE BITARTRATE- ACETAMINOPHEN 325MG-10MG	180	30
21	09/15/16	TEMAZEPAM 15 MG	90	30
22	09/15/16	CARISPRODOL 350 MG	180	45
23	09/15/16	TRAMADOL HCL 50 MG	240	30
24	09/02/16	LORAZEPAM 2 MG	102	26
25	08/19/16	HYDROCODONE BITARTRATE- ACETAMINOPHEN 325MG-10MG	180	30
26	08/19/16	TEMAZEPAM 30 MG	30	30
27	08/19/16	OXYCODONE HCL 15 MG	180	30
28	08/15/16	CARISPRODOL 350 MG	180	45
	08/15/16	TEMAZEPAM 15 MG	90	30
	08/15/16	TRAMADOL HCL 50 MG	240	30
	08/01/16	LORAZEPAM 2 MG	102	26
	07/22/16	TEMAZEPAM 15 MG	90	30
	07/11/16	HYDROCODONE BITARTRATE- ACETAMINOPHEN 325MG-10MG	180	30

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07/06/16	TEMAZEPAM 30 MG	30	30
07/06/16	TRAMADOL HCL 50 MG	240	30
07/06/16	CARISPRODOL 350 MG	180	30
07/06/16	CARISPRODOL 350 MG	180	45
06/29/16	LORAZEPAM 2 MG	102	26
06/17/16	OXYCODONE HCL 15 MG	180	30
06/11/16	HYDROCODONE BITARTRATE- ACETAMINOPHEN 325MG-10MG	180	30
06/07/16	TRAMADOL HCL 50 MG	240	30
06/07/16	TEMAZEPAM 30 MG	30	30
06/01/16	CARISPRODOL 350 MG	180	30
05/31/16	LORAZEPAM 2 MG	102	26
05/13/16	TEMAZEPAM 30 MG	30	30
05/13/16	HYDROCODONE BITARTRATE- ACETAMINOPHEN 325MG-10MG	180	30
05/13/16	OXYCODONE HCL 15 MG	180	30
05/11/16	TRAMADOL HCL 50 MG	240	30
05/09/16	CARISPRODOL 350 MG	180	30
05/09/16	TRAMADOL HCL 50 MG	240	30
05/09/16	CARISPRODOL 350 MG	180	30
05/04/16	LORAZEPAM 2 MG	102	26
04/15/16	HYDROCODONE BITARTRATE- ACETAMINOPHEN 325MG-10MG	180	30
04/08/16	LORAZEPAM 2 MG	102	26
04/06/16	TRAMADOL HCL 50 MG	240	30
04/06/16	CARISPRODOL 350 MG	180	30
03/19/16	OXYCODONE HCL 15 MG	180	23
03/19/16	HYDROCODONE BITARTRATE- ACETAMINOPHEN 325MG-10MG	180	30
03/11/16	TRAMADOL HCL 50 MG	240	30
03/11/16	LORAZEPAM 2 MG	102	26
03/11/16	CARISPRODOL 350 MG	180	30
02/17/16	HYDROCODONE BITARTRATE- ACETAMINOPHEN 325MG-10MG	180	30
02/10/16	TRAMADOL HCL 50 MG	240	30
02/10/16	LORAZEPAM 2 MG	102	26
02/06/16	OXYCODONE HCL 15 MG	180	23
01/22/16	LORAZEPAM 2 MG	102	26

1	01/20/16	HYDROCODONE BITARTRATE- ACETAMINOPHEN 325MG-10MG	180	30
2	01/14/16	CARISPRODOL 350 MG	180	30
3	12/18/15	HYDROCODONE BITARTRATE- ACETAMINOPHEN 325MG-10MG	180	30
4	12/09/15	OXYCODONE HCL 15 MG	180	30
5	11/30/15	LORAZEPAM 2 MG	102	26
6	11/30/15	CARISPRODOL 350 MG	180	30
7	11/30/15	TRAMADOL HCL 50 MG	240	30
8	11/20/15	HYDROCODONE-BITARTRATE ACETAMINOPHEN 325MG-10MG	180	30
9	11/03/15	LORAZEPAM 2 MG	102	26
10	11/02/15	CARISPRODOL 350 MG	180	30
11	11/02/15	TRAMADOL HCL 50.MG	240	30
12	10/10/15	HYDROCODONE BITARTRATE- ACETAMINOPHEN 325MG-10MG	180	30
13	10/07/15	LORAZEPAM 2 MG	102	26
14	10/07/15	CARISPRODOL 350 MG	180	30
15	10/07/15	TRAMADOL HCL 50 MG	240	30
16	09/18/15	OXYCODONE HCL 15 MG	180	30
17	09/18/15	HYDROCODONE BITARTRATE- ACETAMINOPHEN 325MG-10MG	180	30
18	09/10/15	TRAMADOL HCL 50 MG	240	30
19	09/10/15	LORAZEPAM 2 MG	102	26
20	09/10/15	CARISPRODOL 350 MG	180	30
21	08/19/15	LORAZEPAM 2 MG	102	26
22	08/12/15	HYDROCODONE BITARTRATE- ACETAMINOPHEN 325MG-10MG	180	30
23	08/06/15	CARISPRODOL 350 MG	180	30
24	08/06/15	TRAMADOL HCL 50 MG	240	30
25	07/25/15	LORAZEPAM 2 MG	102	26
26	07/10/15	OXYCODONE HCL 15 MG	180	30
27	07/10/15	HYDROCODONE BITARTRATE- ACETAMINOPHEN 325MG-10MG	180	30
28	06/30/15	CARISPRODOL 350 MG	180	30
	06/30/15	LORAZEPAM 2 MG	102	23
	06/30/15	TRAMADOL HCL 50 MG	240	30
	06/02/15	LORAZEPAM 2 MG	102	23
	06/02/15	CARISPRODOL 350 MG	180	30

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06/02/15	TRAMADOL HCL 50 MG	240	30
05/26/15	HYDROCODONE BITARTRATE- ACETAMINOPHEN 325MG-10MG	240	30
04/13/15	HYDROCODONE BITARTRATE- ACETAMINOPHEN 325MG-10MG	240	30
04/06/15	CARISPRODOL 350 MG	180	30
04/06/15	TRAMADOL HCL 50 MG	240	30
03/30/15	LORAZEPAM 2 MG	102	23
03/20/15	LORAZEPAM 2 MG	102	23
03/13/15	OXYCODONE HCL 15 MG	180	30
03/07/15	CARISPRODOL 350 MG	180	30
03/07/15	TRAMADOL HCL 50 MG	240	30
03/06/15	HYDROCODONE BITARTRATE ACETAMINOPHEN 325MG-10MG	240	30
02/07/15	LORAZEPAM 2 MG	120	30
02/07/15	CARISPRODOL 350 MG	180	30
02/07/15	TRAMADOL HCL 50 MG	240	30
01/29/15	HYDROCODONE BITARTRATE- ACETAMINOPHEN 325MG-10MG	240	30
01/03/15	CARISPRODOL 350 MG	180	30
01/02/15	LORAZEPAM 2 MG	120	30
01/02/15	TRAMADOL HCL 50 MG	240	30
12/11/14	HYDROCODONE BITARTRATE- ACETAMINOPHEN 325MG-10MG	240	30
12/04/14	CARISPRODOL 350 MG	180	30
12/04/14	TRAMADOL HCL 50 MG	240	30
12/04/14	LORAZEPAM 2 MG	120	30
11/06/14	LORAZEPAM 2 MG	120	30
11/06/14	TRAMADOL HCL 50 MG	240	30
11/06/14	CARISPRODOL 350 MG	180	30
10/17/14	HYDROCODONE BITARTRATE- ACETAMINOPHEN 325MG-10MG	240	30
10/17/14	OXYCODONE HCL 15 MG	180	30
10/09/14	LORAZEPAM 2 MG	120	30
09/30/14	CARISPRODOL 350 MG	120	30
09/09/14	LORAZEPAM 2 MG	120	30
09/09/14	HYDROCODONE BITARTRATE- ACETAMINOPHEN 325MG-10MG	240	30
08/29/14	CARISPRODOL 350 MG	120	30

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08/29/14	TRAMADOL HCL 50 MG	240	30
08/08/14	HYDROCODONE BITARTRATE- ACETAMINOPHEN 325MG-10MG	240	30
08/08/14	LORAZEPAM 2 MG	120	30
07/29/14	CARISPRODOL 350 MG	120	30
07/09/14	HYDROCODONE BITARTRATE- ACETAMINOPHEN 325MG-10MG	240	30
07/09/14	LORAZEPAM 2 MG	120	30
06/28/14	CARISPRODOL 350 MG	120	30
06/10/14	LORAZEPAM 2 MG	120	30
06/10/14	HYDROCODONE BITARTRATE- ACETAMINOPHEN 325MG-10MG	240	30
05/30/14	OXYCODONE HCL 15 MG	180	30
05/28/14	CARISPRODOL 350 MG	120	30
05/13/14	HYDROCODONE BITARTRATE- ACETAMINOPHEN 325MG-10MG	240	30
05/13/14	LORAZEPAM 2 MG	120	30
04/28/14	CARISPRODOL 350 MG	120	30
04/14/14	HYDROCODONE BITARTRATE- ACETAMINOPHEN 325MG-10MG	240	30
04/14/14	LORAZEPAM 2 MG	120	30
03/28/14	CARISPRODOL 350 MG	120	30
03/19/14	LORAZEPAM 2 MG	120	30
03/19/14	HYDROCODONE BITARTRATE- ACETAMINOPHEN 325MG-10MG	240	30
02/28/14	CARISPRODOL 350 MG	120	30
02/27/14	OXYCODONE HCL 15 MG	180	30
02/21/14	LORAZEPAM 2 MG	120	30
02/21/14	HYDROCODONE BITARTRATE- ACETAMINOPHEN 325MG-10MG	240	30
01/09/14	LORAZEPAM 2 MG	120	30
01/09/14	HYDROCODONE BITARTRATE- ACETAMINOPHEN 325MG-10MG	240	30
01/09/14	CARISPRODOL 350 MG	120	30

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1           24. From on or about January 1, 2014, through February 24, 2018, Respondent prescribed  
2 to Patient C's concomitant use, opiates with CNS depressant muscle relaxants, and  
3 benzodiazepines.

4           25. From on or about January 1, 2014 through February 24, 2018, Respondent failed to  
5 periodically review CURES reports and/or failed to document having conducted a periodic  
6 review of CURES reports; Respondent failed to check and/or failed to document having  
7 conducted urine toxicology screens of Patient C; Respondent failed to utilize and/or failed to  
8 document having utilized an opiate agreement form.

9           26. Respondent committed gross negligence in his care and treatment of Patient C, which  
10 included, but was not limited to, the following:

11                   (a) Respondent prescribed opiates, CNS depressants, and benzodiazepines to  
12 Patient C for Patient C's concomitant use; and

13                   (b) Respondent failed to use a signed pain management and/or failed to document  
14 having used a pain management agreement; Respondent failed to periodically check  
15 CURES reports and/or failed to document having periodically checked CURES reports;  
16 Respondent failed to periodically use urine toxicology screens and/or failed to document  
17 having periodically used urine toxicology screens.

18   **SECOND CAUSE FOR DISCIPLINE**

19   **(Repeated Negligent Acts)**

20           27. Respondent has further subjected his Physician's and Surgeon's Certificate No.  
21 G 27240 to disciplinary action under sections 2227 and 2234, as defined by section 2234,  
22 subdivision (c), of the Code, in that he committed repeated negligent acts in his care and  
23 treatment of Patients A, B, and C, as more particularly alleged hereinafter:

24                   **Patient A**

25           28. Respondent committed gross negligence in his care and treatment of Patient A, which  
26 included, but was not limited to, the following:

27                   (a) Paragraphs 11 through 16, above, are hereby incorporated by reference and  
28 realleged as if fully set forth herein;

1 (b) Respondent prescribed opiates, benzodiazepines, and CNS depressants to  
2 Patient A, despite Patient A's contraindications of history of opioid dependence and  
3 frequent falls;

4 (c) Respondent prescribed opiates, CNS depressants, and benzodiazepines to  
5 Patient A for Patient A's concomitant use; and

6 (d) Respondent failed to use a signed pain management and/or failed to document  
7 having used a pain management agreement; Respondent failed to periodically check  
8 CURES reports and/or failed to document having periodically checked CURES reports;  
9 Respondent failed to periodically use urine toxicology screens and/or failed to document  
10 having periodically used urine toxicology screens.

11 **Patient B**

12 29. Respondent committed repeated negligent acts in his care and treatment of Patient B,  
13 which included, but was not limited to, the following:

14 (a) Paragraphs 17 through 21, above, are hereby incorporated by reference and  
15 realleged as if fully set forth herein;

16 (b) Respondent prescribed opiates, CNS depressants, and benzodiazepines to  
17 Patient B for Patient B's concomitant use; and

18 (c) Respondent failed to periodically check CURES reports and/or failed to  
19 document having periodically checked CURES reports; Respondent failed to periodically  
20 use urine toxicology screens and/or failed to document having periodically used urine  
21 toxicology screens.

22 **Patient C**

23 30. Respondent committed repeated negligent acts in his care and treatment of Patient C,  
24 which included, but was not limited to, the following:

25 (a) Paragraphs 22 through 26, above, are hereby incorporated by reference and  
26 realleged as if fully set forth herein;

27 (b) Respondent prescribed opiates, CNS depressants, and benzodiazepines to  
28 Patient C for Patient C's concomitant use; and

1 (c) Respondent failed to use a signed pain management and/or failed to document  
2 having used a pain management agreement; Respondent failed to periodically check  
3 CURES reports and/or failed to document having periodically checked CURES reports;  
4 Respondent failed to periodically use urine toxicology screens and/or failed to document  
5 having periodically used urine toxicology screens.

6 **THIRD CAUSE FOR DISCIPLINE**

7 **(Failure to Maintain Adequate and/or Accurate Records)**

8 31. Respondent has further subjected his Physician's and Surgeon's Certificate No.  
9 G 27240 to disciplinary action under sections 2227 and 2234, as defined by section 2266, of the  
10 Code, in that Respondent failed to maintain adequate and/or accurate records regarding his care  
11 and treatment of Patients A, B, and C, as more particularly alleged in paragraphs 10 through 26,  
12 above, which are hereby incorporated by reference and realleged as if fully set forth herein.

13 **FOURTH CAUSE FOR DISCIPLINE**

14 **(Failure to Produce Medical Records)**

15 32. Respondent has further subjected his Physician's and Surgeon's Certificate No.  
16 G 27240 to disciplinary action under sections 2227 and 2234, as defined by section 2225,  
17 subdivision (e) and section 2225.5, subdivision (a)(1), of the Code, in that Respondent failed  
18 and/or refused to produce medical records, as more particularly alleged hereinafter.

19 **Patient D**<sup>22</sup>

20 33. On or about August 12, 2019, on behalf of the Board, an investigator from  
21 California Department of Consumer Affairs, Division of Investigation, Health Quality  
22 Investigation Unit, San Bernardino District Office (HQIU), sent Respondent a request for  
23 certified medical records of Patient D, accompanied by Patient D's authorization for release of  
24 her medical records. The request contained a deadline of August 27, 2019, by which date  
25 Respondent had to produce the requested certified medical records of Patient D to HQIU.

26 34. Respondent failed to produce Patient D's certified medical records to HQIU within  
27 the specified deadline of August 27, 2019.

28 <sup>22</sup> References to "Patient D" are used to protect patient privacy.

1           35.    On or about September 5, 2019, Respondent requested an extension of the  
2   deadline within which to produce Patient D's certified medical records to HQIU. HQIU extended  
3   the deadline to September 26, 2019.

4           36.    Respondent failed to produce Patient D's certified medical records to HQIU within  
5   the extended deadline of September 26, 2019.

6           37.    Thereafter, HQIU inquired with Respondent multiple times regarding  
7   Respondent's failure and/or refusal to produce Patient D's certified medical records. To date,  
8   Respondent has failed and/or refused to produce the certified medical records of Patient D to  
9   HQIU.

10    **FIFTH CAUSE FOR DISCIPLINE**

11    **(General Unprofessional Conduct)**

12           38.    Respondent has further subjected his Physician's and Surgeon's Certificate No.  
13   G 27240 to disciplinary action under sections 2227 and 2234 of the Code, in that he engaged in  
14   conduct which breaches the rules or ethical code of the medical profession, or conduct which is  
15   unbecoming of a member in good standing of the medical profession, and which demonstrates an  
16   unfitness to practice medicine, as more particularly alleged in paragraphs 10 through 37, above,  
17   which are hereby incorporated by reference as if fully set forth herein.

18    **PRAYER**

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

21           1.    Revoking or suspending Physician's and Surgeon's Certificate No. G 27240, issued  
22   to Joseph Francis Humenik, M.D.;

23           2.    Revoking, suspending or denying approval of Joseph Francis Humenik, M.D.'s  
24   authority to supervise physician assistants and advanced practice nurses;

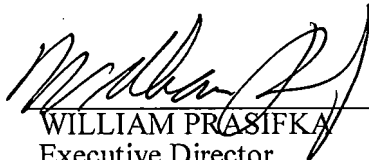
25           3.    Ordering Joseph Francis Humenik, M.D., if placed on probation, to pay the Board the  
26   costs of probation monitoring;

27           4.    Ordering Joseph Frances Humenik M.D. to pay a civil penalty to the Board in the  
28   amount of ten thousand dollars (\$10,000.00); and

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

DATED: FEB 02 2021

  
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WILLIAM PRASIFKA  
Executive Director  
Medical Board of California  
Department of Consumer Affairs  
State of California  
*Complainant*

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