

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

In the Matter of the Accusation Against:

Richard J. Winkle, M.D.

Physician's and Surgeon's  
Certificate No. G 8441

Respondent.

Case No. 800-2018-041723

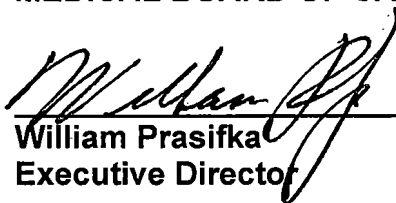
DECISION

The attached Stipulated Surrender of License and Order is hereby adopted as the Decision and Order of the Medical Board of California, Department of Consumer Affairs, State of California.

This Decision shall become effective at 5:00 p.m. on JUN 02 2021.

IT IS SO ORDERED MAY 26 2021.

MEDICAL BOARD OF CALIFORNIA

  
\_\_\_\_\_  
William Prasifka  
Executive Director

1 MATTHEW RODRIQUEZ  
Acting Attorney General of California  
2 ALEXANDRA M. ALVAREZ  
Supervising Deputy Attorney General  
3 CHRISTINE A. RHEE  
Deputy Attorney General  
4 State Bar No. 295656  
600 West Broadway, Suite 1800  
5 San Diego, CA 92101  
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6 San Diego, CA 92186-5266  
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7 Facsimile: (619) 645-2061

8 *Attorneys for Complainant*

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

13 In the Matter of the Accusation Against:

Case No. 800-2018-041723

14 **RICHARD J. WINKLE, M.D.**  
15 **11741 Valley View Street**  
**Cypress, CA 90630**

**STIPULATED SURRENDER OF**  
**LICENSE AND DISCIPLINARY ORDER**

16 **Physician's and Surgeon's Certificate**  
17 **No. G 8441,**

18 Respondent.

19  
20 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-  
21 entitled proceedings that the following matters are true:

22 **PARTIES**

23 1. William Prasifka (Complainant) is the Executive Director of the Medical Board of  
24 California (Board). He brought this action solely in his official capacity and is represented in this  
25 matter by Matthew Rodriquez, Acting Attorney General of the State of California, by Christine A.  
26 Rhee, Deputy Attorney General.

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1 2. Richard J. Winkle, M.D. (Respondent) is represented in this proceeding by attorney  
2 Nicholas D. Jurkowitz, Esq., whose address is: 1990 South Bundy Drive, Suite 777, Los  
3 Angeles, CA 90025.

4 3. On or about March 7, 1963, the Board issued Physician's and Surgeon's Certificate  
5 No. G 8441 to Richard J. Winkle, M.D. (Respondent). The Physician's and Surgeon's Certificate  
6 was in full force and effect at all times relevant to the charges brought in Accusation No. 800-  
7 2018-041723 and will expire on July 31, 2021, unless renewed.

#### 8 JURISDICTION

9 4. Accusation No. 800-2018-041723 was filed before the Board, and is currently  
10 pending against Respondent. The Accusation and all other statutorily required documents were  
11 properly served on Respondent on March 2, 2021. Respondent timely filed his Notice of Defense  
12 contesting the Accusation. A true and correct copy of Accusation No. 800-2018-041723 is  
13 attached as Exhibit A and incorporated by reference.

#### 14 ADVISEMENT AND WAIVERS

15 5. Respondent has carefully read, fully discussed with counsel, and understands the  
16 charges and allegations in Accusation No. 800-2018-041723. Respondent also has carefully read,  
17 fully discussed with counsel, and understands the effects of this Stipulated Surrender of License  
18 and Disciplinary Order.

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

25 7. Having had the benefit of counsel, Respondent voluntarily, knowingly, and  
26 intelligently waives and gives up each and every right set forth above.

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1 CULPABILITY

2 8. Respondent does not contest that, at an administrative hearing, Complainant could  
3 establish a prima facie case with respect to the charges and allegations contained in Accusation  
4 No. 800-2018-041723, agrees that he has thereby subjected his license to disciplinary action, and  
5 hereby surrenders his Physician's and Surgeon's Certificate No. G 8441 for the Board's formal  
6 acceptance.

7 9. Respondent agrees that if he ever petitions for reinstatement of his license, or if an  
8 accusation and/or petition to revoke probation is filed against him before the Board, all of the  
9 charges and allegations in Accusation No. 800-2018-041723 shall be deemed true, correct, and  
10 fully admitted by Respondent for purposes of any such proceeding or any other licensing  
11 proceeding involving Respondent in the State of California.

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

15 CONTINGENCY

16 11. Pursuant to Business and Professions Code section 2224, subdivision (b), the  
17 Executive Director of the Board has been delegated the authority to adopt or reject a stipulation  
18 for surrender of a Physician's and Surgeon's Certificate.

19 12. The parties agree that this Stipulated Surrender of License and Disciplinary Order  
20 shall be null and void and not binding upon the parties unless approved by the Executive Director  
21 on behalf of the Board. Respondent fully understands and agrees that in deciding whether or not  
22 to approve and adopt this Stipulated Surrender of License and Disciplinary Order, the Executive  
23 Director and/or the Board may receive oral and written communications from its staff and/or the  
24 Attorney General's Office. Communications pursuant to this paragraph shall not disqualify the  
25 Executive Director, the Board, any member thereof, and/or any other person from future  
26 participation in this or any other matter affecting or involving Respondent. In the event that the  
27 Executive Director on behalf of the Board does not, in his discretion, approve and adopt this  
28 Stipulated Surrender of License and Disciplinary Order, with the exception of this paragraph, it

1 shall not become effective, shall be of no evidentiary value whatsoever, and shall not be relied  
2 upon or introduced in any disciplinary action by either party hereto. Respondent further agrees  
3 that should this Stipulated Surrender of License and Disciplinary Order be rejected for any reason  
4 by the Executive Director on behalf of the Board, Respondent will assert no claim that the Board,  
5 or any member thereof, was prejudiced by its/his/her review, discussion, and/or consideration of  
6 this Stipulated Surrender of License and Disciplinary Order or of any matter or matters related  
7 hereto.

8 13. The Executive Director shall have a reasonable period of time in which to consider  
9 and act upon this stipulation after receiving it. By signing this stipulation, Respondent fully  
10 understands and agrees that he may not withdraw his agreement or seek to rescind this stipulation  
11 prior to the time the Executive Director considers and acts upon it.

12 **ADDITIONAL PROVISIONS**

13 14. This Stipulated Surrender and Disciplinary Order is intended by the parties herein to  
14 be an integrated writing representing the complete, final, and exclusive embodiment of the  
15 agreements of the parties in the above-listed matter.

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

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

21 **DISCIPLINARY ORDER**

22 IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. G 8441, issued  
23 to Respondent Richard J. Winkle, M.D., is surrendered and accepted by the Board.

24 1. The surrender of Respondent's Physician's and Surgeon's Certificate and the  
25 acceptance of the surrendered license by the Board shall constitute the imposition of discipline  
26 against Respondent. This stipulation constitutes a record of the discipline and shall become a part  
27 of Respondent's license history with the Board.

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2. 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.

3. 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.

4. 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 Accusation No. 800-2018-041723 shall be deemed to be true, correct and admitted by Respondent when the Board determines whether to grant or deny the petition.

5. 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 Accusation, No. 800-2018-041723 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.

**ACCEPTANCE**

I have carefully read the above Stipulated Surrender of License and Disciplinary Order and have fully discussed it with my attorney, Nicholas D. Jurkowitz, 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 Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Medical Board of California.

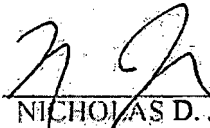
DATED: 4/15/21   
RICHARD J. WINKLE, M.D.  
Respondent

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

DATED: April 16, 2021

  
NICHOLAS D. JURKOWITZ, ESQ.  
*Attorney for Respondent*

**ENDORSEMENT**

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

DATED: \_\_\_\_\_

Respectfully submitted,

MATTHEW RODRIQUEZ  
Acting Attorney General of California  
ALEXANDRA M. ALVAREZ  
Supervising Deputy Attorney General

CHRISTINE A. RHEE  
Deputy Attorney General  
*Attorneys for Complainant*

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1 I have read and fully discussed with Respondent Richard J. Winkle, M.D., the terms and  
2 conditions and other matters contained in this Stipulated Surrender of License and Disciplinary  
3 Order. I approve its form and content.

4  
5 DATED: \_\_\_\_\_

\_\_\_\_\_  
NICHOLAS D. JURKOWITZ, ESQ.  
*Attorney for Respondent*

7 **ENDORSEMENT**

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

11 DATED: April 26, 2021

Respectfully submitted,

12 MATTHEW RODRIQUEZ  
13 Acting Attorney General of California  
14 ALEXANDRA M. ALVAREZ  
Supervising Deputy Attorney General

15 

16 CHRISTINE A. RHEE  
17 Deputy Attorney General  
*Attorneys for Complainant*

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**Exhibit A**

**Accusation No. 800-2018-041723**

1 XAVIER BECERRA  
Attorney General of California  
2 ALEXANDRA M. ALVAREZ  
Supervising Deputy Attorney General  
3 CHRISTINE A. RHEE  
Deputy Attorney General  
4 State Bar No. 295656  
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6 San Diego, CA 92186-5266  
Telephone: (619) 738-9455  
7 Facsimile: (619) 645-2061

8 *Attorneys for Complainant*

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

12  
13 In the Matter of the Accusation Against:

Case No. 800-2018-041723

14 **RICHARD J. WINKLE, M.D.**  
11741 Valley View Street  
15 Cypress, CA 90630

**A C C U S A T I O N**

16 **Physician's and Surgeon's Certificate**  
17 **No. G 8441,**

18 Respondent.

19  
20 **PARTIES**

21 1. William Prasifka (Complainant) brings this Accusation solely in his official capacity  
22 as the Executive Director of the Medical Board of California, Department of Consumer Affairs  
23 (Board).

24 2. On or about March 7, 1963, the Medical Board issued Physician's and Surgeon's  
25 Certificate No. G 8441 to Richard J. Winkle, M.D. (Respondent). Physician's and Surgeon's  
26 Certificate No. G 8441 was in full force and effect at all times relevant to the charges brought  
27 herein and will expire on July 31, 2021, unless renewed.

28 ///

JURISDICTION

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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, in pertinent part:

6                   (a) A licensee whose matter has been heard by an administrative law judge of  
7 the Medical Quality Hearing Panel as designated in Section 11371 of the Government  
8 Code, or whose default has been entered, and who is found guilty, or who has entered  
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                         ...

22           5.    Section 2228.1 of the Code states, in pertinent part:

23                   (a) On and after July 1, 2019, except as otherwise provided in subdivision (c),  
24 the board shall require a licensee to provide a separate disclosure that includes the  
25 licensee's probation status, the length of the probation, the probation end date, all  
26 practice restrictions placed on the licensee by the board, the board's telephone  
27 number, and an explanation of how the patient can find further information on the  
28 licensee's probation on the licensee's profile page on the board's online license  
information Internet Web site, to a patient or the patient's guardian or health care  
surrogate before the patient's first visit following the probationary order while the  
licensee is on probation pursuant to a probationary order made on and after July 1,  
2019, in any of the following circumstances:

                       (1) A final adjudication by the board following an administrative hearing or  
admitted findings or prima facie showing in a stipulated settlement establishing any  
of the following:

                       ...

                       (D) Inappropriate prescribing resulting in harm to patients and a probationary  
period of five years or more.

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(2) An accusation or statement of issues alleged that the licensee committed any of the acts described in subparagraphs (A) to (D), inclusive, of paragraph (1), and a stipulated settlement based upon a nolo contendere or other similar compromise that does not include any prima facie showing or admission of guilt or fact but does include an express acknowledgment that the disclosure requirements of this section would serve to protect the public interest.

(b) A licensee required to provide a disclosure pursuant to subdivision (a) shall obtain from the patient, or the patient's guardian or health care surrogate, a separate, signed copy of that disclosure.

(c) A licensee shall not be required to provide a disclosure pursuant to subdivision (a) if any of the following applies:

(1) The patient is unconscious or otherwise unable to comprehend the disclosure and sign the copy of the disclosure pursuant to subdivision (b) and a guardian or health care surrogate is unavailable to comprehend the disclosure and sign the copy.

(2) The visit occurs in an emergency room or an urgent care facility or the visit is unscheduled, including consultations in inpatient facilities.

(3) The licensee who will be treating the patient during the visit is not known to the patient until immediately prior to the start of the visit.

(4) The licensee does not have a direct treatment relationship with the patient.

(d) On and after July 1, 2019, the board shall provide the following information, with respect to licensees on probation and licensees practicing under probationary licenses, in plain view on the licensee's profile page on the board's online license information Internet Web site.

(1) For probation imposed pursuant to a stipulated settlement, the causes alleged in the operative accusation along with a designation identifying those causes by which the licensee has expressly admitted guilt and a statement that acceptance of the settlement is not an admission of guilt.

(2) For probation imposed by an adjudicated decision of the board, the causes for probation stated in the final probationary order.

...

(4) The length of the probation and end date.

(5) All practice restrictions placed on the license by the board.

...

6. 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:

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(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.

...

7. Section 2266 of the Code states that 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.

**FIRST CAUSE FOR DISCIPLINE**  
**(Gross Negligence)**

8. Respondent has subjected his Physician's and Surgeon's Certificate No. G 8441 to disciplinary action under sections 2227 and 2234, as defined by section 2234, subdivision (b), of the Code, in that he committed gross negligence in his care and treatment of Patients A, B, C, and D,<sup>1</sup> as more particularly alleged hereafter:

**Patient A**

9. Respondent treated Patient A, a woman born in 1936, as her primary care physician from approximately 2011 through 2018. In an interview with Board investigators, Respondent said that he believed that Patient A had initially been prescribed Xanax<sup>2</sup> by a neurologist or psychiatrist, and that he would renew the prescriptions.

<sup>1</sup> Names of the patients have been omitted to protect the patients' privacy.  
<sup>2</sup> Xanax, brand name for alprazolam, is a benzodiazepine and a Schedule IV controlled substance pursuant to Health and Safety Code section 11057, subdivision (d).

1           10. In a note dated on or about November 11, 2002,<sup>3</sup> Patient A reported that she was  
2 currently taking Zoloft.<sup>4</sup> There was no additional psychiatric history documented.

3           11. At a visit on or about March 3, 2014, Respondent documented that Patient A, then 77-  
4 years old, was recovering from an acute back injury. He also documented that Patient A had  
5 spondylolisthesis, degenerative disc disease, and osteoarthritis, and that she was receiving  
6 physiotherapy to good effect. Patient A's documented current medications included Vicoprofen<sup>5</sup>  
7 and Xanax.

8           12. According to CURES,<sup>6</sup> between on or about July 5, 2011 and May 7, 2015,  
9 Respondent prescribed Patient A an average of 3 to 6 mg of Xanax per day. During this time  
10 period, Respondent failed to document the rationale for increasing and decreasing Patient A's  
11 Xanax dose or any re-assessment of symptoms or management.

12           13. According to CURES, on or about January 2, 2015, Patient A filled a prescription  
13 written by Respondent for liquid hydrocodone bitartrate-homatropine.<sup>7</sup> This prescription was not  
14 documented in the medical records.

15           14. According to CURES, from on or about April 30, 2014 through March 15, 2018,  
16 Patient A filled approximately 17 prescriptions for Ambien<sup>8</sup> that were written by Respondent.  
17 Other than noting some of the prescriptions in a medication log, Respondent failed to document  
18 the rationale for giving these prescriptions to Patient A, any ongoing monitoring, and the reasons  
19 ///

20 \_\_\_\_\_  
21 <sup>3</sup> Conduct occurring more than seven (7) years from the filing date of this Accusation or  
22 more than three (3) years from notification to the Board is for informational purposes only and is  
23 not alleged as a basis for disciplinary action.

24 <sup>4</sup> Zoloft, brand name for sertraline, is a selective serotonin reuptake inhibitor (SSRI) and  
25 an anti-depressant.

26 <sup>5</sup> Vicoprofen, brand name for hydrocodone and ibuprofen. Hydrocodone is an opiate and  
27 a Schedule II controlled substance pursuant to Health and Safety Code section 11055, subdivision  
28 (b).

<sup>6</sup> The Controlled Substance Utilization Review and Evaluation System (CURES) is a  
database of Schedule II, III, and IV controlled substance prescriptions dispensed in California  
serving the public health, regulatory oversight agencies, and law enforcement.

<sup>7</sup> Hydrocodone bitartrate-homatropine, brand name Hycodan, is an opiate used for pain  
relief.

<sup>8</sup> Ambien, brand name for zolpidem, is a sedative hypnotic commonly used to treat  
insomnia, and a Schedule IV controlled substance pursuant to Health and Safety Code section  
11057, subdivision (d).

1 why the dose was increased on or about January 4, 2016 and decreased on or about March 15,  
2 2018.

3 15. On or about April 30, 2014, Patient A reported that her back was feeling better, and  
4 that she did not need further therapy.

5 16. On or about September 4, 2014, Patient A returned to the office to recheck her  
6 medications. Respondent failed to document any objective findings, assessment, or plan.

7 17. On or about October 28, 2014, Patient A returned to the office and complained of  
8 feeling tired and "hazy." Respondent failed to document any objective findings, assessment, or  
9 plan.

10 18. On or about November 13, 2014, Patient A returned to the office to follow up on her  
11 depression. In this progress note, Patient A's listed medications were Prozac<sup>9</sup> and Xanax.  
12 Respondent failed to document any objective findings, assessment, or plan.

13 19. On or about February 6, 2015, Patient A returned to the office. During this visit, she  
14 made bizarre statements about talking to the police about a chest wall scar and complained of a  
15 buzzing in her head. A medical assistant noted, "Pt seems a little unstable today."

16 20. On or about March 6, 2015, Patient A returned to the office. She complained of  
17 anxiety and wanted to speak to a physician about her insomnia. The handwritten notes under the  
18 "Assessment" section of the note is illegible, and there is no plan listed.

19 21. On or about March 19, 2015, Patient A returned to the office and reported that she  
20 was having "light" panic attacks. There is no legible assessment or plan listed.

21 22. On or about March 27, 2015, Patient A returned to the office. She reported having  
22 shortness of breath after leaving the emergency department of a hospital the day prior.

23 23. On or about April 9, 2015, Patient A returned to the office and reported that her  
24 "sleeping pills" had been stolen. No other details about the stolen sleeping pills are documented.

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28 <sup>9</sup> Prozac, brand name for fluoxetine, is a SSRI and an anti-depressant. Respondent never mentioned depression in previous notes.

1           24. On or about April 15, 2015, Patient A returned to the office and complained of  
2 shaking all over, panic, and shortness of breath. Respondent appeared to write "anxiety," but  
3 omitted any plan or treatment.

4           25. At a visit on or about April 20, 2015, Patient A reported feeling better. Respondent's  
5 written assessment was Generalized Anxiety Disorder and depression.

6           26. On or about May 7, 2015, Patient A returned to the office for a medication  
7 management visit. Other than listing her medications, there are no other notes about their  
8 efficacy or any adjustments.

9           27. On or about May 12, 2015, Patient A returned to the office and said she wanted to  
10 stop taking Xanax. She also said she was seeing a psychiatrist the following week. There were  
11 no notes documenting any assessment or plan, including any instructions for Patient A to wean  
12 off her medication.

13           28. On or about May 18, 2015, Patient A returned to the office to follow up on her  
14 anxiety. There are no objective findings, assessments, or plan documented.

15           29. According to CURES, on or about May 23, 2015, Patient A filled a prescription  
16 written by Respondent for 30 tablets of 5 mg zolpidem tartrate. This prescription was not  
17 documented in Respondent's medical records.

18           30. On or about May 26, 2015, Patient A returned to the office for another follow up visit  
19 for her anxiety. The progress note documents that Patient A was taking diphenhydramine<sup>10</sup> at  
20 night. There are no other notes documenting Patient A's anxiety or any treatment plan.

21           31. On or about May 29, 2015 and June 9, 2015, Patient A returned to the office to follow  
22 up on her depression and/or anxiety. There are no documented objective findings, assessment, or  
23 plan relating to Patient A's depression and/or anxiety.

24           32. According to CURES, on or about June 12, 2015, Patient A filled a prescription  
25 written by another treatment provider, H.S., M.D., for 30 tablets of 5 mg zolpidem tartrate. On or  
26 about June 15, 2015, Patient A filled a prescription written by H.S. for 30 tablets of 1 mg  
27 alprazolam.

28           <sup>10</sup> Dyphenhydramine, brand name Benedryl, is an antihistamine.



1           33. On or about June 23, 2015, Patient A returned to the office to recheck her depression  
2 and anxiety. Respondent noted that Patient A's Xanax prescription was "ordered by psych only"  
3 and to "cancel my Rx."

4           34. On or about June 25, 2015, Patient A was evaluated by a neurologist, B.B., D.O., for  
5 shaking and anxiety, and a report was faxed to Respondent's office on or about the same day.  
6 B.B. concluded that Patient A may have "memory and cognitive dysfunction related to her  
7 underlying and undertreated depression and anxiety." B.B. also noted that Patient A had run out  
8 of her Xanax medications early, and gave her a prescription for 15 more tablets.

9           35. According to CURES, on or about July 1, 2015 and July 28, 2015, Patient A filled  
10 prescriptions written by H.S., M.D., each for 60 tablets of 1 mg alprazolam. On or about July 9,  
11 2015, Patient A filled another prescription written by H.S. for 30 tablets of 5 mg zolpidem  
12 tartrate.

13           36. On or about July 30, 2015, Patient A returned to the office. Patient A reported that  
14 she had gone to the Whittier Hospital for chest pain and that she was feeling better. The only  
15 documentation in the note was a list of Patient A's current medications and some lab results.

16           37. According to CURES, on or about July 31, 2015, Patient A filled a prescription  
17 written by Respondent for 15 tablets of 5 mg zolpidem tartrate. This prescription was not  
18 documented in Respondent's medical records. On or about August 18, 2015, Patient A filled a  
19 prescription written by Respondent for 30 tablets of 5 mg zolpidem tartrate.

20           38. According to CURES, on or about August 26, 2015 and October 7, 2015, Patient A  
21 filled prescriptions written by H.S., M.D., for 60 tablets of 1 mg alprazolam each. On or about  
22 September 18, 2015 and October 21, 2015, Patient A filled prescriptions written by H.S. for 30  
23 tablets of 5 mg zolpidem tartrate each.

24           39. On or about September 2, 2015, Patient A returned to Respondent's office and  
25 complained of insomnia and trembling. The note also states that Patient A saw a psychiatrist on  
26 August 26, and per the psychiatrist, Respondent's office was not to give Patient A prescriptions  
27 for alprazolam.

28       ///

1           40. According to CURES, on or about November 11, 2015, Patient A filed a prescription  
2 written by Respondent for 30 tablets of 1 mg alprazolam. There is no documentation in the  
3 records explaining why Respondent gave Patient A a prescription for Xanax despite her treating  
4 psychiatrist's instructions.

5           41. According to CURES, from on or about November 30, 2015 through December 8,  
6 2016, Respondent continued to prescribe between 1 to 3 mg of alprazolam and 5 to 10 mg of  
7 zolpidem tartrate per day to Patient A. Again, there is no documentation in the records explaining  
8 why Respondent restarted Patient A on Xanax.

9           42. On or about August 2, 2016, Patient A returned to the office for a comprehensive  
10 physical exam. Other than listing Xanax and zolpidem as Patient A's medications, there is no  
11 documented assessment or related ongoing monitoring.

12           43. According to CURES, from on or about December 20, 2016 through March 15, 2018,  
13 Respondent continued to prescribe between 1 to 4 mg of alprazolam per day to Patient A.

14           44. On or about June 15, 2017 and June 21, 2017, Patient A returned to the office and  
15 complained of difficulty breathing and or chest pressure. Other than noting Patient A's  
16 medications including Prozac and Xanax, Respondent did not document any mental health exam,  
17 assessment, or plan.

18           45. On or about August 3, 2017, Patient A returned to the office and requested a referral  
19 to a psychiatrist. At a follow up visit on or about August 17, 2017, it was noted that Patient A  
20 received the authorization for this referral and was notified.

21           46. On or about November 3, 2017, Patient A returned to the office and complained of  
22 anxiety. She was given a prescription for Prozac and assessed for constipation.

23           47. On or about November 17, 2017, Patient A returned to the office for a medication  
24 management appointment. She told Respondent she wanted to try Paxil.<sup>11</sup> Respondent wrote  
25 "no" and increased Patient A's Prozac to 40 mg per day.

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27 \_\_\_\_\_  
28 <sup>11</sup> Paxil, brand name or paroxetine, is a SSRI and an anti-depressant used to treat  
depression and anxiety.

1           48. On or about December 1, 2017, Patient A returned to the office. Respondent wrote  
2 “chronic anxiety” but failed to document any subjective or objective findings or plan.

3           49. On or about January 12, 2018, Patient A returned to the office for a Xanax refill.  
4 According to the progress note, she was given a prescription for 15 pills.

5           50. On or about March 2, 2018, Patient A returned to the office. She recounted that she  
6 went to the hospital two weeks prior for anxiety, and that her current symptoms included nausea.  
7 She was given a prescription for Zofran.<sup>12</sup>

8           51. On or about March 23, 2018, Patient A returned to the office and complained of  
9 depression after stopping Xanax. There is no documentation in this note identifying any specific  
10 symptoms, related assessment or plan.

11           52. On or about April 16, 2018, Patient A went to the hospital for insomnia. She reported  
12 being nearly out of her medication, despite getting 30 tablets of 5 mg zolpidem tartrate on or  
13 about April 9, 2018. She was given a prescription of 15 tablets of zolpidem tartrate, and a copy  
14 of the hospital records were sent to Respondent.

15           53. On or about April 18, 2018, Patient A returned to the office and reported that she had  
16 gone to the hospital for a buzzing in her head. She was given a prescription for Ambien.

17           54. On or about May 3, 2018, Patient A returned to the office and complained of  
18 insomnia, shaking, lightheadedness, chest pain, and difficulty breathing and walking. Patient A  
19 was given a referral for home health services for tachycardia and acute anxiety. Patient A’s pulse  
20 was measured at 123 beats per minute. According to the progress note, Patient A was given a  
21 prescription for Valium.<sup>13</sup> On or about the same day, Patient A submitted to a drug screen which  
22 tested positive for benzodiazepines. Zolpidem was not one of the tested substances.

23           55. On or about May 5, 2018, Respondent documented a referral request for a  
24 psychiatrist, noting that Patient A had major depressive disorder, recurrent.

25           56. On or about June 18, 2018, Patient A went to the hospital for intermittent chest  
26 pressure for the past few weeks. Her EKG was unremarkable and there was no evidence of

27           <sup>12</sup> Zofran, brand name for ondansetron, is an anti-emetic.

28           <sup>13</sup> Valium, brand name for diazepam, is a benzodiazepine and a Schedule IV controlled  
substance pursuant to Health and Safety Code section 11057, subdivision (d).

1 pulmonary embolism, aneurysm or dissection. She was assessed for intermittent dysphagia, and a  
2 copy of the hospital record was sent to Respondent's office.

3 57. On or about August 1, 2018, Patient A returned to the office and reported that she  
4 needed transportation to go to the psychiatrist.

5 58. Respondent committed gross negligence in his care and treatment of Patient A which  
6 includes, but is not limited to, the following:

7 a. Respondent failed to conduct an appropriate examination before prescribing  
8 controlled substance medications;

9 b. Respondent failed to document a justifiable treatment plan, discussion of  
10 treatment goals, and regular pain and functional assessments;

11 c. Respondent failed to document an appropriate history and physical exam prior  
12 to prescribing or refilling controlled substance medications, legible and/or adequate progress  
13 notes, or a discussion of the major potential risks of the controlled substances;

14 d. Respondent failed to perform and document the appropriate necessary  
15 monitoring when prescribing controlled substance medications on a frequent basis; and

16 e. Respondent prescribed Patient A controlled substance medications in excessive  
17 amounts and combinations.

18 Patient B

19 59. Respondent treated Patient B, a woman born in 1938, as her primary care physician  
20 from approximately 2015 to 2019. In an interview with Board investigators, Respondent said that  
21 Patient B's medical problems included low back pain, insomnia, and hyperlipidemia. He said that  
22 the nurse practitioner in his office started Patient B on Vicodin<sup>14</sup> and flurazepam.<sup>15</sup>

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27 <sup>14</sup> Vicodin and Norco are the brand names for hydrocodone and acetaminophen.

28 <sup>15</sup> Flurazepam, brand name Dalmane, is a benzodiazepine and a Schedule IV controlled  
substance pursuant to Health and Safety Code section 11057, subdivision (d).

1           60. On or about March 27, 2014, Patient B went to the office for a medication  
2 management visit. Her documented current medications were Vicoprofen, flurazepam,  
3 meloxicam,<sup>16</sup> and simvastatin.<sup>17</sup>

4           61. On or about June 30, 2014, Patient B returned to the office and complained of right  
5 shoulder pain. Respondent ordered an x-ray and physical therapy.

6           62. On or about July 15, 2014, Patient B returned to the office and complained of back  
7 pain radiating towards the left leg and anxiety. According to this progress note, Patient B went to  
8 the hospital on July 11, 2014 for a bleeding ulcer. Respondent's assessment included bleeding  
9 gastric ulcer, constipation, and "LS DD" (possibly lumbosacral degenerative disease).

10           63. On or about August 14, 2014, Patient B returned to the office for a comprehensive  
11 physical exam. Respondent failed to document any subjective or objective findings related to  
12 Patient A's pain or anxiety.

13           64. On or about March 30, 2015, Patient B returned to the office to follow up on her low  
14 back pain. Respondent's handwritten notes are illegible.

15           65. On or about April 2, 2015, Patient B returned to the office. Patient B's current listed  
16 medications were Norco, Pyridium,<sup>18</sup> flurazepam, simvastatin, and Macrobid.<sup>19</sup>

17           66. According to CURES, from on or about April 27, 2016 through April 10, 2019,  
18 Patient A filled prescriptions written by Respondent for an average of 30 mg of flurazepam and  
19 up to 3 tablets of 325-10 mg Norco per day.

20           67. On or about September 6, 2016 and October 7, 2016, Patient B returned to the office  
21 for a comprehensive physical exam. Respondent failed to document any subjective or objective  
22 findings, assessments, or plan related to Patient B's pain or anxiety.

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25 \_\_\_\_\_  
26 <sup>16</sup> Meloxicam, brand name Mobic, is a non-steroidal anti-inflammatory drug often used to  
treat osteoarthritis.

27 <sup>17</sup> Simvastatin, brand name Zocor, is a status used to treat high cholesterol.

28 <sup>18</sup> Pyridium, brand name for phenazopyridine, is an analgesic to treat urinary tract  
infections.

<sup>19</sup> Macrobid, brand name for nitrofurantoin, is an antibiotic.

1           68. On or about December 13, 2016, Patient B returned to the office and complained of  
2 pain shooting down her right arm. There is no documented physical exam, objective findings  
3 other than vital signs and cholesterol labs, assessment, or plan.

4           69. On or about April 24, 2017, Patient B returned to the clinic for a medication check.  
5 Insomnia was noted as one of her medical problems, although no other information about Patient  
6 B's symptoms, Respondent's assessment, or any ongoing monitoring was documented.

7           70. On or about July 1, 2017, Patient B returned to the office and complained of a lack of  
8 appetite, stomach pain, leg pain, and black stools. Respondent's handwritten notes are illegible.

9           71. On a progress note dated on or about July 3, 2017, it was noted that Patient B was in  
10 the hospital. No other information was provided.

11           72. On or about July 25, 2017, Patient B returned to the office and complained of  
12 throbbing calves. No other information about Respondent's assessment or plan was documented.

13           73. On or about September 29, 2017, Patient B returned to the office for the removal of  
14 stitches. The handwritten note states "see EMR." Respondent's medical records do not include  
15 any electronic medical records for this visit.

16           74. On or about February 10, 2018, Patient B returned to the office for a medication  
17 management visit. Other than listing Patient B's current medications and her oxygen saturation  
18 and pulse, no other notes are documented.

19           75. On or about March 13, 2018, Patient B signed a medication monitoring patient  
20 agreement in which she agreed to take her medications as instructed, not sell her medications or  
21 share it with others, would use only one pharmacy to get her medications, and would submit to  
22 urine drug screens and pill counting.

23           76. On or about December 28, 2018, Patient B returned to the office for medication  
24 refills. Patient B reported pain in her left shoulder caused by moving a washing machine. Other  
25 than noting that the pain was felt when Patient B's arm was rotated and lifted and was measured 8  
26 out of 10, there are no other objective findings, assessment, or plan on the handwritten note. A  
27 typed note using electronic medical records authored by N.S., a nurse practitioner can be found in  
28 Patient B's medical records. According to the electronic medical records, Patient B had a history

1 of chronic low back pain with osteoarthritis for the past 12 years, and she was taking Norco for  
2 pain relief. The note also referenced a 2016 x-ray indicating dextroscoliosis and extensive  
3 degenerative disc disease, and that Patient B had tried epidural injections in the past with no  
4 relief.

5 77. On or about January 29, 2019, Patient B returned to the office and continued to  
6 complain about pain in her left shoulder. Patient B reported having the pain for approximately six  
7 months. Other than notes documenting vital signs, no other objective findings, assessment, or  
8 plan were documented.

9 78. On or about April 2, 2019, Patient B returned to the office for a medication  
10 management visit. According to a medication log in the records, on or about this date, Patient B  
11 was given a new prescription for zolpidem while flurazepam appears to have been discontinued.  
12 Respondent failed to document the reasons why he was giving Patient B a new prescription and  
13 discontinuing another.

14 79. According to a medication log in the records, from on or about May 3, 2019 through  
15 July 17, 2019, Respondent continued to give Patient B prescriptions for zolpidem and Norco.

16 80. On or about May 3, 2019, Patient B returned to the office and reported that her  
17 pharmacy ran out of zolpidem and flurazepam. Respondent failed to note why he had switched  
18 Patient B to zolpidem and discontinued flurazepam.

19 81. On or about September 6, 2019, Patient B submitted various self-assessment tools,  
20 which revealed she was at medium risk for somatic symptom severity and opioid risk.

21 82. On or about September 6, 2019, Patient B submitted to a drug screen. The sample  
22 was positive for opiates and negative for benzodiazepines.

23 83. On or about January 13, 2020, Patient B submitted to another drug screen. This  
24 sample was also positive for opiates and negative for benzodiazepines.

25 84. Respondent committed gross negligence in his care and treatment of Patient B which  
26 includes, but is not limited to, the following:

27 a. Respondent failed to conduct an appropriate examination before prescribing  
28 controlled substance medications;

1           b. Respondent failed to document a justifiable treatment plan, discussion of  
2 treatment goals, and regular pain and functional assessments;

3           c. Respondent failed to document an appropriate history and physical exam prior  
4 to prescribing or refilling controlled substance medications, legible and/or adequate progress  
5 notes, or a discussion of the major potential risks of the controlled substances;

6           d. Respondent failed to perform and document the appropriate necessary  
7 monitoring when prescribing controlled substance medications on a frequent basis; and

8           e. Respondent prescribed Patient B controlled substance medications in excessive  
9 amounts and combinations.

10           Patient C

11           85. In an interview with Board investigators, Respondent said that he treated Patient C, a  
12 male patient born in 1957, starting in 2014. Respondent's records for Patient C include a print  
13 out from CURES dated October 31, 2011 for prescriptions filled from July 31, 2011 through  
14 October 31, 2011. This CURES report shows that Patient C filled prescriptions written by  
15 Respondent for Norco and diazepam.

16           86. A medication log in Respondent's records shows prescriptions being given to Patient  
17 C as early as October 25, 2013. Through the end of 2013, Respondent gave Patient C  
18 prescriptions for hydrocodone, carisoprodol,<sup>20</sup> and diazepam. Patient C was taking up to 3 tablets  
19 of 5-500 mg hydrocodone, 30 mg of diazepam, and 1,050 mg of carisoprodol per day.

20           87. On or about March 7, 2014, Patient C was seen in Respondent's office for a  
21 medication management visit. He reported that his current medications were diazepam, Vicodin,  
22 and Lotrel.<sup>21</sup>

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27           <sup>20</sup> Carisoprodol, brand name Soma, is a muscle relaxant. The combination of opiates,  
28 benzodiazepines, and carisoprodol is associated with abuse, misuse, and diversion.

<sup>21</sup> Lotrel is a medication used to treat hypertension.



1           88. On or about April 24, 2014, Patient C returned to the office and complained of body  
2 aches, cough, raspy throat, and joint pain. Demerol<sup>22</sup> is documented, possibly indicating that  
3 Patient C received a Demerol injection.

4           89. On or about July 31, 2015, Patient C was admitted to the hospital for mid-chest pain.  
5 Patient C reported having a hiatal hernia and chronic low back pain. Tests ruled out a cardiac  
6 event, and Patient C was discharged on or about the same day.

7           90. On or about June 20, 2014, Patient C returned to the office for medication refills.  
8 Again, it appears from the records that Patient C received a Demerol injection. No subjective or  
9 objective findings, assessments, or plan was documented.

10           91. On or about August 21, 2014, Patient C returned to the office for a medication  
11 management visit. Again, it appears from the records that Patient C received a Demerol injection.  
12 No subjective or objective findings, assessments, or plan was documented.

13           92. On or about October 13, 2014, Patient C returned to the office for a medication  
14 management visit. Again, it appears from the records that Patient C received a Demerol injection,  
15 albeit at a lower dose, 25 mg rather than 50 mg. Patient C complained of low back pain,  
16 shortness of breath, and tiredness. No assessment or plan was documented.

17           93. According to Respondent's records, on or about November 18, 2014, December 18,  
18 2014, and January 19, 2015, Patient C returned to the office and received Demerol injections. No  
19 assessment or plan was documented for any of these visits.

20           94. On or about February 26, 2015, Patient C returned to the office for a medication  
21 management visit. Patient C reported that he had been in the hospital for an infected left knee on  
22 January 30, 2015. Patient C received a 50 mg Demerol injection at this visit. No assessment or  
23 plan was documented.

24           95. On or about March 31, 2015 and April 28, 2015, Patient C returned to the office for a  
25 medication management visit. At each visit, Patient C received a 50 mg Demerol injection. No  
26 assessment or plan was documented.

27 \_\_\_\_\_  
28 <sup>22</sup> Demerol, brand name for meperidine, is an opiate and a Schedule II controlled  
substance pursuant to Health and Safety Code section 11055, subdivision (b).

1           96. On or about May 29, 2015, Patient C returned to the office and reported that he had  
2 fallen. Patient C complained of pain in his left side and left wrist. Patient C received another 50  
3 mg Demerol injection. No assessment or plan was documented.

4           97. On or about July 3, 2015 and October 9, 2015, Patient C returned to the office for a  
5 medication management visit and received a Demerol injection. No assessment or plan was  
6 documented.

7           98. On or about November 25, 2015, Patient C was admitted to the hospital for vertigo.

8           99. According to CURES, on or about December 12, 2015, Patient C filled a prescription  
9 written by Respondent for 90 tablets of 325-10 mg Norco, increasing the dose from 325-5 mg  
10 tablets. Respondent failed to document the reasons why he increased the dose of this medication.

11           100. On or about January 12, 2016 and March 17, 2016, Patient C returned to the office  
12 and received Demerol injections. No assessment or plan was documented for either visit.

13           101. On or about April 5, 2016, Patient C returned to the office for a medication  
14 management visit. Patient C complained of right knee pain which had been going on for  
15 approximately five months. Patient C received a 35 mg Demerol injection. No assessment or  
16 plan was documented.

17           102. On or about May 9, 2016, Patient C returned to the office for medication refills.  
18 Respondent documented that Patient C was to take 3 tablets of Norco per day, 3 tablets of Soma  
19 per day as needed, and an illegible amount of diazepam per day for anxiety. Respondent's notes  
20 appear to indicate that Patient C's back had a decreased range of motion.

21           103. According to Respondent's records, Patient C failed to appear for an appointment on  
22 or about August 15, 2016. Patient C next returned to the office on or about January 12, 2017.  
23 According to CURES, during this time period, Patient C filled approximately 10 prescriptions  
24 from other treatment providers for Norco and diazepam.

25           104. On or about January 12, 2017, Patient C returned to the office and saw Respondent  
26 for a medication management visit. In the progress note, Norco 10-325 was noted, and CURES  
27 shows that Patient C filled a prescription written by Respondent on or about the same day for  
28 Norco at that strength. Respondent failed to document why he increased Patient C's Norco dose.

1 105. Respondent committed gross negligence in his care and treatment of Patient C which  
2 includes, but is not limited to, the following:

3 a. Respondent failed to conduct an appropriate examination before prescribing  
4 controlled substance medications;

5 b. Respondent failed to document a justifiable treatment plan, discussion of  
6 treatment goals, and regular pain and functional assessments;

7 c. Respondent failed to document an appropriate history and physical exam prior  
8 to prescribing or refilling controlled substance medications, legible and/or adequate progress  
9 notes, or a discussion of the major potential risks of the controlled substances;

10 d. Respondent failed to perform and document the appropriate necessary  
11 monitoring when prescribing controlled substance medications on a frequent basis; and

12 e. Respondent prescribed Patient C controlled substance medications in excessive  
13 amounts and combinations.

14 Patient D

15 106. In an interview with Board investigators, Respondent said that he treated Patient D, a  
16 man born in 1982, starting in 2014. According to Respondent's medication logs, Respondent  
17 started prescribing alprazolam to Patient D in or around April 2013. Through the rest of 2013 and  
18 2014, Respondent continued to prescribe alprazolam, Vicodin, and Norco. Per the medication  
19 logs in Respondent's records, Patient D was prescribed alprazolam to treat stress. In 2016,  
20 Respondent gave Patient D prescriptions for alprazolam, Norco, zolpidem, and Lunesta.<sup>23</sup>

21 107. Respondent's records include an MRI was taken of Patient D's left knee on or about  
22 October 10, 2016, which indicated bursitis.

23 108. On or about February 1, 2017, Patient D came to the office and saw Respondent.  
24 According to Respondent's medication logs, Respondent was prescribing 50 tablets of 325-5 mg  
25 Norco, 90 tablets of 2 mg alprazolam, and 30 tablets of 10 mg zolpidem per month.  
26 Respondent's records for this visit lack any assessment or plan.

27 ///

28 <sup>23</sup> Lunesta, brand name for eszopiclone, is a sedative used to treat insomnia.

1           109. On or about March 3, 2017 and April 2, 2017, Patient D filled prescriptions written  
2 by Respondent, each for 50 tablets of Norco. According to CURES, the prescription filled on or  
3 about April 2, 2017 increased the Norco dose from 325-5 mg to 325-10 mg. Respondent failed to  
4 document this changed dose or the rationale for the change in his progress notes.

5           110. On or about April 28, 2017, Patient D returned to the office for a medication  
6 management visit. The documentation appears to show that Patient D received a trigger point  
7 injection in his left knee. No objective findings other than vital signs were documented. No  
8 assessment or plan was documented.

9           111. On or about June 30, 2017, Patient D returned to the office for a medication  
10 management visit. Respondent documented pain and osteoarthritis in the left knee.

11           112. On or about August 29, 2017, Patient D returned to the office for a medication  
12 management visit. The documentation appears to show that Patient D received a trigger point  
13 injection in his left knee. No assessment or plan was documented.

14           113. On or about October 30, 2017, Patient D returned to the office. Respondent's notes  
15 are mostly illegible, although "left knee pain" and "bursitis" can be seen.

16           114. On or about November 22, 2017, Patient D returned to the office and saw N.S., a  
17 nurse practitioner. N.S. documented the visit via electronic medical record software. N.S.  
18 documented that Patient D had left knee pain, anxiety disorder, myalgia, and insomnia. N.S. also  
19 documented that Patient D was a welder and that he worked on his feet all day, and that his left  
20 knee pain was worse at night. She also documented that an MRI of Patient D's left knee taken six  
21 months prior was normal.

22           115. On or about February 28, 2018, Patient D returned to the office and reported that he  
23 had fainted on February 27 from a panic attack. Respondent wrote "syncopal episode" and  
24 ordered labs to rule out a cardiac event.

25           116. On or about March 28, 2018, Patient D returned to the office for a medication  
26 management visit. Respondent documented left and right knee pain.

27           117. On or about April 26, 2018, Patient D returned to the office for a medication  
28 management visit. Respondent wrote "check right knee" but there is no assessment or plan.

1 118. On or about June 27, 2018, Patient D returned to the office for a comprehensive  
2 physical exam. Respondent failed to document a physical exam or assessment, including an  
3 assessment of the continued prescribing of opiates and benzodiazepines.

4 119. On or about August 28, 2018, Patient D submitted to a urine drug screen which was  
5 positive for opiates and benzodiazepines. The sample, however, was negative for muscle  
6 relaxants, zolpidem, and/or their metabolites, which was inconsistent with the medications  
7 prescribed. Respondent failed to document any follow up with Patient D about the inconsistent  
8 results. Respondent appears to have discontinued Patient D's zolpidem prescription, although he  
9 does not document this in the records.

10 120. On or about November 27, 2018, Patient D submitted to a urine drug screen which  
11 was positive for opiates and benzodiazepines.

12 121. On or about December 12, 2018, Patient D returned to the office for an allergy  
13 injection. Toradol<sup>24</sup> and Norflex<sup>25</sup> are documented in the handwritten note, although it is not  
14 clear whether Patient D was given the medications. According to the corresponding electronic  
15 medical record drafted by N.S., Patient D complained of exacerbated pain in his left knee and was  
16 doing physical therapy. N.S. ordered an x-ray of Patient D's left knee.

17 122. On or about December 26, 2018, Patient D returned to the office and saw N.S. In  
18 addition to left knee pain, N.S. documented that Patient D had low back pain due to strenuous  
19 work requirements. N.S. also noted that Patient D had tried ibuprofen and Tylenol, and that  
20 massage helped. The nurse practitioner documented a physical exam and noted tenderness to  
21 palpitation in the paravertebral muscles. Her plan was for Patient D to continue physical therapy  
22 and submit to a urine drug screen. She told Patient D that Respondent's office would no longer  
23 be concurrently prescribing opioids with benzodiazepines and that his alprazolam use would be  
24 weaned down.

25 123. On or about January 25, 2019, Patient D returned to the office and saw N.S. She  
26 noted that Patient D was to start weaning down his alprazolam dose and to submit to a urine drug  
27

28 <sup>24</sup> Toradol, brand name for ketorolac, is a nonsteroidal anti-inflammatory drug (NSAID).  
<sup>25</sup> Norflex, brand name for orphenadrine, is a muscle relaxant.

1 screen. She also told Patient D to complete the left knee x-ray. On or about the same day, Patient  
2 D submitted to a urine drug screen which was positive for opiates and benzodiazepines.

3 124. On or about April 1, 2019, an x-ray ordered by N.S., N.P., of Patient D's lumbosacral  
4 spine showed mild levoscoliosis with multilevel spondylosis.

5 125. On or about April 26, 2019, Patient D saw Respondent for a comprehensive medical  
6 exam. No physical exam was documented, nor is there any evaluation of Patient D's continued  
7 treatment with Norco and alprazolam. On or about the same day, Patient D submitted to a urine  
8 drug screen which was positive for opiates and benzodiazepines.

9 126. On or about May 28, 2019, Patient D returned to the office to see Respondent for  
10 medication refills. His subjective complaints include low back pain (intensity 7 out of 10) and  
11 left knee pain. Physical therapy is noted regarding the left knee. No physical exam was  
12 documented, nor are there any assessments or plans. On or about the same day, Patient D  
13 submitted to a urine drug screen which was positive for opiates and benzodiazepines.

14 127. On or about June 28, 2019, Patient D returned to the office to see Respondent for a  
15 comprehensive physical exam. Chest pain, GAD (generalized anxiety disorder), and IBS  
16 (irritable bowel syndrome) are listed under the diagnoses.

17 128. On or about July 27, 2019, Patient D returned to Respondent's office and reported  
18 that he had two anxiety attacks. No physical exam or assessment were documented, and the plan  
19 is illegible. On or about the same day, Patient D submitted to a drug screen which was positive  
20 for opiates and benzodiazepines.

21 129. On or about August 28, 2019, Patient D submitted to a drug screen which was  
22 positive for opiates and benzodiazepines.

23 130. On or about September 27, 2019, Patient D returned to the office for medication  
24 refills. It appears that Respondent wrote "LS [lumbosacral] pains." Patient D submitted to a  
25 urine drug screen which was positive for opiates and benzodiazepines.

26 131. On or about January 28, 2020, Patient D returned to the office for a medication  
27 management visit. Respondent wrote left knee pain, but failed to document any assessment or

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1 plan. On or about the same day, Patient D submitted to a drug screen which was positive for  
2 opiates and benzodiazepines.

3 132. On or about February 25, 2020, Patient D returned to the office for medication refills.  
4 Patient D reported his left knee pain level was 4 out of 10. Respondent noted "LS [lumbosacral]  
5 pain" and his plan was to add Naprosyn<sup>26</sup> and reduce Norco.

6 133. Respondent committed gross negligence in his care and treatment of Patient D which  
7 includes, but is not limited to, the following:

8 a. Respondent failed to conduct an appropriate examination before prescribing  
9 controlled substance medications;

10 b. Respondent failed to document a justifiable treatment plan, discussion of  
11 treatment goals, and regular pain and functional assessments;

12 c. Respondent failed to document an appropriate history and physical exam prior  
13 to prescribing or refilling controlled substance medications, legible and/or adequate progress  
14 notes, or a discussion of the major potential risks of the controlled substances; and

15 d. Respondent prescribed Patient D controlled substance medications in excessive  
16 amounts and combinations.

17 **SECOND CAUSE FOR DISCIPLINE**  
18 **(Repeated Negligent Acts)**

19 134. Respondent has further subjected his Physician's and Surgeon's Certificate No.  
20 G 8441 to disciplinary action under sections 2227 and 2234, as defined by section 2234,  
21 subdivision (c), of the Code, in that he committed repeated negligent acts in his care and  
22 treatment of Patients A, B, C, and D, as more particularly alleged hereafter:

23 **Patient A**

24 135. Paragraphs 9 through 58, above, are hereby reincorporated by reference and re-  
25 alleged as if fully set forth herein.

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28 <sup>26</sup> Naprosyn, brand name for naproxen, is a NSAID.

1 136. Respondent committed negligence by failing to conduct and/or document a discussion  
2 with Patient A about the major potential risks of taking controlled substances, including  
3 potentially dangerous combinations.

4 Patient B

5 137. Paragraphs 59 through 84, above, are hereby reincorporated by reference and re-  
6 alleged as if fully set forth herein.

7 138. Respondent committed negligence by failing to conduct and/or document a discussion  
8 with Patient B about the major potential risks of taking controlled substances, including  
9 potentially dangerous combinations.

10 Patient C

11 139. Paragraphs 85 through 105, above, are hereby reincorporated by reference and re-  
12 alleged as if fully set forth herein.

13 140. Respondent committed negligence by failing to conduct and/or document a discussion  
14 with Patient C about the major potential risks of taking controlled substances, including  
15 potentially dangerous combinations.

16 Patient D

17 141. Paragraphs 106 through 133, above, are hereby reincorporated by reference and re-  
18 alleged as if fully set forth herein.

19 142. Respondent committed negligence that includes, but is not limited to the following:  
20 (1) failing to conduct and/or document a discussion with the patient about the major potential  
21 risks of taking controlled substances, including potentially dangerous combinations; and (2)  
22 failing to perform and document the appropriate necessary monitoring when prescribing  
23 controlled substance medications on a frequent basis.

24 **THIRD CAUSE FOR DISCIPLINE**  
25 **(Failure to Maintain Adequate and Accurate Records)**

26 143. Respondent has further subjected his Physician's and Surgeon's Certificate No.  
27 G 8441 to disciplinary action under sections 2227 and 2234, as defined by section 2266, of the  
28 Code, in that he failed to maintain adequate and accurate records of his care and treatment of



1 Patients, A, B, C, and D, as more particularly alleged in paragraphs 9 through 142, above, which  
2 are hereby re-alleged as if fully set forth herein.

3 **PRAYER**

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

6 1. Revoking or suspending Physician's and Surgeon's Certificate No. G 8441, issued to  
7 Respondent Richard J. Winkle, M.D.;


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

10 3. Ordering Respondent Richard J. Winkle, M.D., if placed on probation, to pay the  
11 Board the costs of probation monitoring;

12 4. Ordering Respondent Richard J. Winkle, M.D., if placed on probation, to disclose the  
13 disciplinary order to patients pursuant to section 2228.1 of the Code; and

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

15  
16 DATED:           MAR 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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