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

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| In the Matter of the Accusation Against:<br><br>Walter L. Wynne, M.D.<br><br>Physician's and Surgeon's License No. A 43607<br><br>Respondent | Case No. 800-2018-043027 |

## DECISION

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

This Decision shall become effective at 5:00 p.m. on July 14, 2021.

IT IS SO ORDERED: June 14, 2021.

MEDICAL BOARD OF CALIFORNIA

Richard E. Thorp, M.D., Chair
Panel B

MATTHEW RODRIQUEZ
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*Attorneys for Complainant*

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

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| In the Matter of the Accusation Against:<br><br>WALTER L. WYNNE, M.D.<br>1223 Wilshire Blvd., Ste. 710,<br>Santa Monica, CA 90403<br><br>Physician's and Surgeon's Certificate No. A 43607<br><br>Respondent. | Case No. 800-2018-043027<br><br>OAH No. 2020100054<br><br>**STIPULATED SETTLEMENT AND DISCIPLINARY ORDER** |

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

## PARTIES

1. William Prasifka (Complainant) is the Executive Director of the Medical Board of California (Board). He brought this action solely in his official capacity and is represented in this matter by Matthew Rodriquez, Acting Attorney General of the State of California, by Trina L. Saunders, Deputy Attorney General.

2. Respondent Walter L. Wynne, M.D. (Respondent) is representing himself in this proceeding and has chosen not to exercise his right to be represented by counsel.

3. On or about April 27, 1987, the Board issued Physician's and Surgeon's Certificate No. A 43607 to Walter L. Wynne, M.D. (Respondent). The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought in Accusation No. 800-2018-043027, and will expire on December 31, 2022, unless renewed.

## JURISDICTION

4. Accusation No. 800-2018-043027 was filed before the Board, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on October 10, 2019. Respondent did not timely filed his Notice of Defense contesting the Accusation.

5. On August 21, 2020, the Medical Board of California issued a Default Decision and Order revoking Respondent's physician's and surgeon's certificate, with an effective date of September 18, 2020.

6. On August 25, 2020, Respondent served a notice of defense.

7. On August 31, 2020, the Board issued an Order vacating and setting aside the previously issued Revocation Order.

8. A copy of Accusation No. 800-2018-043027 is attached as exhibit A and incorporated herein by reference.

## ADVISEMENT AND WAIVERS

9. Respondent has carefully read, and understands the charges and allegations in Accusation No. 800-2018-043027. Respondent has also carefully read, and understands the effects of this Stipulated Settlement and Disciplinary Order.

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

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

## CULPABILITY

12. Respondent understands and agrees that the charges and allegations in Accusation No. 800-2018-043027, if proven at a hearing, constitute cause for imposing discipline upon his Physician's and Surgeon's Certificate.

13. For the purpose of resolving the Accusation without the expense and uncertainty of further proceedings, Respondent agrees that, at a hearing, Complainant could establish a prima facie case for the charges in the Accusation, and that Respondent hereby gives up his right to contest those charges.

14. Respondent agrees that his Physician's and Surgeon's Certificate is subject to discipline and he agrees to be bound by the Board's imposition of discipline as set forth in the Disciplinary Order below.

## CONTINGENCY

15. This stipulation shall be subject to approval by the Medical Board of California. Respondent understands and agrees that counsel for Complainant and the staff of the Medical Board of California may communicate directly with the Board regarding this stipulation and settlement, without notice to or participation by Respondent. By signing the stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

16. Respondent agrees that if he ever petitions for early termination or modification of probation, or if an accusation and/or petition to revoke probation is filed against him before the Board, all of the charges and allegations contained in Accusation No. 800-2018-043027 shall be

deemed true, correct and fully admitted by Respondent for purposes of any such proceeding or any other licensing proceeding involving Respondent in the State of California.

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

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

**DISCIPLINARY ORDER**

IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. A 43607 issued to Respondent Walter L. Wynne, M.D. is revoked. However, the revocation is stayed and Respondent is placed on probation for four (4) years on the following terms and conditions:

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

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

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

15 calendar days after the effective date of the Decision, whichever is later.

2. PROFESSIONALISM PROGRAM (ETHICS COURSE). Within 60 calendar days of the effective date of this Decision, Respondent shall enroll in a professionalism program, that meets the requirements of Title 16, California Code of Regulations (CCR) section 1358.1. Respondent shall participate in and successfully complete that program. Respondent shall provide any information and documents that the program may deem pertinent. Respondent shall successfully complete the classroom component of the program not later than six (6) months after Respondent's initial enrollment, and the longitudinal component of the program not later than the time specified by the program, but no later than one (1) year after attending the classroom component. The professionalism program shall be at Respondent's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

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

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

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

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

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

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

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

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

7. GENERAL PROBATION REQUIREMENTS.

Compliance with Probation Unit

Respondent shall comply with the Board's probation unit.

Address Changes

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

Place of Practice

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

License Renewal

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

Travel or Residence Outside California

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

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

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

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

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

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

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

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

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

11. VIOLATION OF PROBATION. Failure to fully comply with any term or condition of probation is a violation of probation. If Respondent violates probation in any respect, the Board, after giving Respondent notice and the opportunity to be heard, may revoke probation and carry out the disciplinary order that was stayed. If an Accusation, or Petition to Revoke Probation, or an Interim Suspension Order is filed against Respondent during probation, the Board shall have continuing jurisdiction until the matter is final, and the period of probation shall be extended until the matter is final.

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

13. PROBATION MONITORING COSTS. Respondent shall pay the costs associated with probation monitoring each and every year of probation, as designated by the Board, which may be adjusted on an annual basis. Such costs shall be payable to the Medical Board of California and delivered to the Board or its designee no later than January 31 of each calendar year.

14. FUTURE ADMISSIONS CLAUSE. 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 action agency in the State of California, all of the charges and allegations contained in Accusation No. 800-2018-043027 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 Stipulated Settlement and Disciplinary Order. I understand the stipulation and the effect it will have on my Physician's and Surgeon's Certificate. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Medical Board of California.

DATED: 3/25/2021

Walter Wynne MD

WALTER L. WYNNE, M.D.
*Respondent*

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## ENDORSEMENT

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

DATED: March 26, 2021

Respectfully submitted,

MATTHEW RODRIQUEZ
Acting Attorney General of California
E. A. JONES III
Supervising Deputy Attorney General

Trina L. Saunders

TRINA L. SAUNDERS
Deputy Attorney General
*Attorneys for Complainant*

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# Exhibit A

**Accusation No. 800-2018-043027**

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*Attorneys for Complainant*



**BEFORE THE**
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| In the Matter of the Accusation Against:<br><br>WALTER L. WYNNE, M.D.<br><br>1223 Wilshire Blvd., Suite 710<br>Santa Monica, California 90403<br><br>Physician's and Surgeon's Certificate<br>No. A 43607,<br><br>Respondent. | Case No. 800-2018-043027<br><br>**ACCUSATION** |

## PARTIES

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

2. On April 27, 1987, the Board issued Physician's and Surgeon's Certificate Number A 43607 to Walter L. Wynne, M.D. (Respondent). That license was in full force and effect at all times relevant to the charges brought herein and will expire on December 31, 2020, unless renewed.

## JURISDICTION

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

4. Section 2227 of the Code provides that a licensee who is found guilty under the Medical Practice Act may have his or her license revoked, suspended for a period not to exceed one year, placed on probation and required to pay the costs of probation monitoring, or such other action taken in relation to discipline as the Board deems proper.

5. Section 2234 of the Code, states:

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

6. 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."

7. Section 3501 of the Code states in pertinent part:

> (a) As used in this chapter:
>
> ...

(5) Supervising physician means a physician and surgeon licensed by the Medical Board of California or by the Osteopathic Medical Board of California who supervises one or more physician assistants, who possesses a current valid license to practice medicine, and who is not currently on disciplinary probation for improper use of a physician assistant.

(6) Supervision means that a licensed physician and surgeon oversees the activities of, and accepts responsibility for, the medical services rendered by a physician assistant.

...

(10) Delegation of services agreement means the writing that delegates to a physician assistant from a supervising physician the medical services the physician assistant is authorized to perform consistent with subdivision (a) of Section 1399.540 of Title 16 of the California Code of Regulations.

...

(b) A physician assistant acts as an agent of the supervising physician when performing any activity authorized by this chapter or regulations adopted under this chapter.

8. Section 3502, subdivision (a), of the Code states in pertinent part:

(a) Notwithstanding any other law, a physician assistant may perform those medical services as set forth by the regulations adopted under this chapter when the services are rendered under the supervision of a licensed physician and surgeon who is not subject to a disciplinary condition imposed by the Medical Board of California prohibiting that supervision or prohibiting the employment of a physician assistant. The medical record, for each episode of care for a patient, shall identify the physician and surgeon who is responsible for the supervision of the physician assistant.

9. California Code of Regulations, Title 16, section 1399.541 states as follows:

Because physician assistant practice is directed by a supervising physician, and a physician assistant acts as an agent for that physician, the orders given and tasks performed by a physician assistant shall be considered the same as if they had been given and performed by the supervising physician. Unless otherwise specified in these regulations or in the delegation or protocols, these orders may be initiated without the prior patient specific order of the supervising physician. In any setting, including for example, any licensed health facility, out-patient settings, patients' residences, and hospices, as applicable, a physician assistant may, pursuant to a delegation and protocols where present:

(a) Take a patient history; perform a physical examination and make an assessment and diagnosis therefrom; initiate, review and revise treatment and therapy plans including plans for those services described in Section 1399.541(b) through Section 1399.541(i) inclusive; and record and present pertinent data in a manner meaningful to the physician.

(b) Order or transmit an order for x-ray, other studies, therapeutic diets, physical therapy, occupational therapy, respiratory therapy, and nursing services.

(c) Order, transmit an order for, perform, or assist in the performance of laboratory procedures, screening procedures and therapeutic procedures.

(d) Recognize and evaluate situations which call for immediate attention of a physician and institute, when necessary, treatment procedures essential for the life of the patient.

(e) Instruct and counsel patients regarding matters pertaining to their physical and mental health. Counseling may include topics such as medications, diets, social habits, family planning, normal growth and development, aging, and understanding of and long-term management of their diseases.

(f) Initiate arrangements for admissions, complete forms and charts pertinent to the patient's medical record, and provide services to patients requiring continuing care, including patients at home.

(g) Initiate and facilitate the referral of patients to the appropriate health facilities, agencies, and resources of the community.

(h) Administer or provide medication to a patient, or issue or transmit drug orders orally or in writing in accordance with the provisions of subdivisions (a)-(f), inclusive, of Section 3502.1 of the Code.

(i) (1) Perform surgical procedures without the personal presence of the supervising physician which are customarily performed under local anesthesia. Prior to delegating any such surgical procedures, the supervising physician shall review documentation which indicates that the physician assistant is trained to perform the surgical procedures. All other surgical procedures requiring other forms of anesthesia may be performed by a physician assistant only in the personal presence of an approved supervising physician.

(2) A physician assistant may also act as first or second assistant in surgery under the supervision of an approved supervising physician. The physician assistant may so act without the personal presence of the supervising physician if the supervising physician is immediately available to the physician assistant. Immediately available means the physician is physically accessible and able to return to the patient, without any delay, upon the request of the physician assistant to address any situation requiring the supervising physician's services.

10. California Code of Regulations section 1399.545 states, in pertinent part, as follows:

...

(f) The supervising physician has continuing responsibility to follow the progress of the patient and to make sure that the physician assistant does not function autonomously. The supervising physician shall be responsible for all medical services provided by a physician assistant under his or her supervision.

11. California Code of Regulations section 1399.546 states as follows:

Each time a physician assistant provides care for a patient and enters his or her name, signature, initials, or computer code on a patient's record, chart or written order, the physician assistant shall also enter the name of his or her supervising physician who is responsible for the patient. When a physician assistant transmits an oral order, he or she shall also state the name of the supervising physician responsible for the patient.

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## FIRST CAUSE FOR DISCIPLINE

(Gross Negligence)

12. Respondent Walter L. Wynne, M.D. is subject to disciplinary action under section 2234, subdivision (b) of the Code in that he committed gross negligence in his care and treatment of four patients. Respondent was the supervising physician of a physician assistant. That physician assistant treated all four of the identified patients. The physician assistant routinely prescribed scheduled medications to the four patients. Respondent did not oversee the treatment of the patients and allowed his physician assistant to provide care unsupervised. The circumstances are as follows:

**Patient A**

13. Patient A established care with Respondent on October 14, 2015. Patient A, a 74-year-old woman, presented to Glenn Medical Center with a chief complaint of Med Refill. She was noted to have a BMI of 17.8. Her medication list included Methadone 10 mg per day and Norco 10 mg tid[1] prn.[2] Respondent documented that the reason for the visit was, "Pain management, the patient was terminated from Dr. . . . pain management service for non-compliance." Respondent documented that he would not manage her pain medications on an extended basis. He requested a new referral. Respondent did not document what scheduled medications he prescribed on this date.

14. On October 21, 2015, Patient A was hospitalized due to an opioid overdose.

15. On November 3, 2015, Patient A was seen in the emergency room for confusion and sepsis, which was thought to be in part due to taking more than the prescribed amount of methadone.

16. Between November 18, 2015, and May 10, 2016, Respondent's physician assistant saw Patient A on seven occasions. The visits occurred on or about November 18, 2015,

[1] t.i.d. - Abbreviation meaning three times a day (from the Latin "ter in die," for three times a day.) The abbreviation t.i.d. is sometimes written without a period either in lower-case letters as "tid" or in capital letters as "TID".

[2] p.r.n. - Abbreviation meaning "when necessary" (from the Latin "pro re nata," for an occasion that has arisen, as circumstances require, as needed).

December 9, 2015, January 7, 2016, February 8, 2016, March 8, 2016, April 6, 2016, and May 10, 2016. Respondent was the supervising physician on all of those visits.

17. On November 18, 2015, Respondent's physician assistant saw Patient A at Glenn Medical Center. Patient A signed a pain management agreement. Respondent's physician assistant increased Patient A's hydrocodone prescription from b.i.d[3] to q.i.d[4] (60 tabs per month). The medical incidents of October 21, 2015, and November 3, 2015, were not adequately addressed, and the medical record does not adequately explain the reason that the medication was increased.

18. On January 7, 2016, the physician assistant increased Patient A's methadone from 10 mg q.d[5] to 10 mg b.i.d (30 tabs to 60 tabs per month).

19. Only ten days later, on January 17, 2016, Patient A was taken to the hospital via ambulance after a fall.

20. Patient A suffered another fall on May 2, 2016, and was brought to Glenn Medical Center via ambulance. She had empty bottles of both her methadone and oxycodone. There was no documented explanation as to why the patient ran out of her pain medications.

21. On May 5, 2016, Patient A was seen in the emergency room for abdominal pain. It was recommended that she be admitted. However, Patient A signed out of the hospital against medical advice.

22. On May 10, 2016, Patient A was seen in the clinic. She was hypertensive and dehydrated. Her prior two emergency room visits were noted in the patient chart. However, the reason for her fall and the missing medications were not addressed. Patient A's opioid medication doses were kept the same and she was given a one-month refill for hydrocodone and methadone.

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[3] b.i.d. (or bid or BID) Abbreviation meaning two times a day (from the Latin "bis in die," for twice daily.)

[4] q.i.d. (or qid or QID) - Abbreviation meaning four times a day (from the Latin "quater in die," for four times daily.

[5] q.d. (qd or QD) Abbreviation meaning once a day (from the Latin "quaque die" for once a day).

23. Patient A died on May 13, 2016, from an opioid overdose.

24. Respondent failed to countersign the notes written by the physician assistant within the seven (7) day requirement on all patient visits. Respondent was over nine months late countersigning some of the notes. In all instances, Respondent countersigned the notes at least three months after Patient A's death.

25. Respondent was required to select for review those cases that by diagnosis, problem, treatment, or procedure represented in his judgment, the most significant to the patient. In October of 2015, Respondent identified Patient A as very difficult to treat.

26. Respondent's actions demonstrate that he failed to supervise his physician assistant. This constitutes an extreme departure from the standard of care.

27. Respondent allowed his physician assistant to take over the pain management of Patient A, who he had determined was a high-risk patient that he himself could not manage. He allowed the physician assistant to double the dose of narcotics prescribed to this patient, despite multiple hospital admissions with narcotic poisoning, and in the face of information that other physicians recommended reduction of her dosage of pain medications. This constitutes an extreme departure from the standard of care.

**Patient B**

28. Patient B was a 49-year-old male, who was diagnosed with a rotator cuff syndrome, chronic pain due to trauma, post-traumatic stress disorder, diabetes, anxiety, and low back pain. He was seen at Glenn Medical Center from May 3, 2016, to September 21, 2017. On eight of his ten clinical visits, Patient B was seen by the physician assistant. Respondent was the physician assistant's supervising physician. Patient B was prescribed hydrocodone, oxycodone, and hydromorphone for pain. On June 16, 2017, he submitted to a comprehensive urine drug screen. He signed an opioid agreement on July 16, 2017. An opioid risk assessment instrument was completed on multiple clinic visits. Patient B's scores were in the "may be a good candidate, for prescription opioid therapy" range.

29. Respondent was responsible for overseeing the care of Patient B. The physician assistant prescribed Schedule II medications to this patient on all visits. Respondent failed to

countersign the notes related to the visits of October 27, 2016, December 26, 2016, February 13, 2017, June 16, 2017, and September 21, 2017.

30. The two notes that were signed by Respondent were signed more than seven (7) days after the patient visit, in violation of the supervision agreement and the law. Respondent signed the note for the July 11, 2016, weeks after the visit. Respondent signed the note from the visit of May 3, 2016, almost three months after the visit.

**Patient C**

31. Patient C was a 54-year-old female who was diagnosed with chronic pain due to traumatic arthritis, a Baker's cyst, esophageal spasm, and rotator cuff syndrome. She was seen at Glenn Medical Center from November 25, 2015, to October 5, 2017. She was seen by the same physician assistant on all 15 of her visits to the facility. Patient C's pain was treated with extended relief morphine and hydrocodone. Urine drug screens were documented on September 20, 2016, and June 2, 2017. An opioid risk assessment instrument was completed. Patient C's scores were in the "may be a good candidate, for prescription opioid therapy" range.

32. Respondent was responsible for overseeing the care of Patient C. Respondent's physician assistant prescribed Schedule II medications to this patient on all visits. Respondent failed to countersign the notes related to the visits of September 20, 2016, December 13, 2016, and March 7, 2017.

33. The notes that were countersigned by Respondent were signed more than seven (7) days after Patient C's visits, in violation of the supervision agreement and the law. Respondent countersigned seven of the eight notes on a single day. The notes from Patient C's visits of December 23, 2015, January 21, 2016, February 26, 2016, March 23, 2016, May 6, 2016, May 31, 2016, and July 26, 2016, were all countersigned on August 30, 2016. Respondent countersigned the note from Patient C's visit of November 25, 2015, nine months after the visit, on August 28, 2016.

**Patient D**

34. Patient D was a 41-year-old male who was diagnosed with morbid obesity, hypertension, chronic low back pain, lumbar myelopathy, gout, systemic lupus, erythematous

arthritis and myalgia. He was seen at Glenn Medical Center from November 12, 2015, to August 7, 2015. He was seen by the same physician assistant on 12 of his 13 of his visits to the facility. At all of Patient D's visits, Schedule II medications were prescribed. Patient D's pain was treated with hydrocodone and morphine. He signed an opioid agreement on both March 12, 2016, and August 17, 2017. Urine drug screens were recorded on April 17, 2017, and May 15, 2017. An opioid risk assessment instrument was completed on multiple clinic visits. Patient D's scores were in the "may be a good candidate, for prescription opioid therapy" range.

35. Respondent was responsible for overseeing the care of Patient D. Respondent's physician assistant prescribed Schedule II medications to this patient on all visits. Respondent failed to countersign the notes related to the visits of September 19, 2016, October 31, 2016, and January 23, 2017.

36. Respondent countersigned the clinic notes from seven of the visits. In each instance, the notes were countersigned more than seven days after the visit, in violation of the supervising physician agreement and the law. Respondent countersigned the note for Patient D's November 11, 2015, visit more than nine months later, on August 26, 2016. Respondent countersigned the note for December 15, 2015, more than eight months later, on August 29, 2016. Respondent countersigned the notes for Patient D's visits of February 22, 2016, March 21, 2016, April 18, 2016, May 12, 2016, all on August 30, 2016.

37. With respect to each patient discussed herein, there is no evidence in their respective records of Respondent's involvement in, or review of, the care provided by any of the physician assistants that he was responsible for supervising. For example, there is no evidence in any of these patients' medical records that Respondent had any discussion with any of the treating physician assistants regarding the patient's care. Likewise, in most instances where Respondent countersigned patient charts, his signature was penned months after the care was provided.

38. Respondent's supervision of the physician assistants' practice of medicine with respect to the above-listed patients was inadequate and inappropriate such that it constitutes an extreme departure from the standard of care with respect to each patient.

39. Respondent's acts and/or omissions as set forth in paragraphs 13 through 38, inclusive above, whether proven individually, jointly, or in any combination therefore, constitute gross negligence pursuant to section 2234, subdivision (b), of the Code. As such, cause for discipline exists.

**SECOND CAUSE FOR DISCIPLINE**

(Repeated Negligent Acts)

40. Respondent Walter L. Wynne, M.D. is subject to disciplinary action under section 2234, subdivision (c), in that he committed repeated negligent acts in his care and treatment of four patients. The circumstances are as follows:

41. Paragraphs 13 through 39 are incorporated by reference and re-alleged as if fully set forth herein.

42. Respondent's acts and/or omissions, whether proven individually, jointly, or in any combination therefore, constitute repeated negligent acts pursuant to section 2234, subdivision (c), of the Code. As such, cause for discipline exists.

**THIRD CAUSE FOR DISCIPLINE**

(Failure to Maintain Adequate Records)

43. Respondent Walter L. Wynne, M.D. is subject to disciplinary action under section 2266, in that he failed to maintain adequate records. The circumstances are as follows:

44. Paragraphs 13 through 39 are incorporated by reference and re-alleged as if fully set forth herein.

**PRAYER**

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

1. Revoking or suspending Physician's and Surgeon's Certificate Number A 43607, issued to Walter L. Wynne, M.D.;

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

3. If placed on probation, ordering him to pay the Board the costs of probation monitoring; and

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

DATED: October 10, 2019

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

*Complainant*

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