

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

In the Matter of the Accusation Against:

Joseph Jay Bistrain, M.D.

Physician's and Surgeon's  
Certificate No. A 64943

Respondent.

Case No. 800-2018-047011

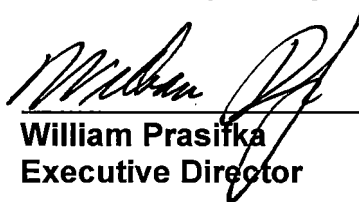
DECISION

The attached Stipulated Surrender of License 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 February 1, 2022.

IT IS SO ORDERED January 25, 2022.

MEDICAL BOARD OF CALIFORNIA



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

1 ROB BONTA  
Attorney General of California  
2 STEVEN D. MUNI  
Supervising Deputy Attorney General  
3 RYAN J. MCEWAN  
Deputy Attorney General  
4 State Bar No. 285595  
1300 I Street, Suite 125  
5 P.O. Box 944255  
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Facsimile: (916) 327-2247  
7 *Attorneys for Complainant*

8  
9 **BEFORE THE**  
**MEDICAL BOARD OF CALIFORNIA**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 800-2018-047011

13 **JOSEPH JAY BISTRAIN, M.D.**  
14 **7675 Pebblestone Way**  
**Reno, NV 89523**

OAH No. 2021020772

15 **Physician's and Surgeon's Certificate**  
16 **No. A 64943**

**STIPULATED SURRENDER OF  
LICENSE AND DISCIPLINARY ORDER**

17 Respondent.

18  
19 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-  
20 entitled proceedings that the following matters are true:

21 **PARTIES**

22 1. William Prasifka (Complainant) is the Executive Director of the Medical Board of  
23 California (Board). He brought this action solely in his official capacity and is represented in this  
24 matter by Rob Bonta, Attorney General of the State of California, by Ryan J. McEwan, Deputy  
25 Attorney General.

26 2. Joseph Jay Bistrain, M.D. (Respondent) is represented in this proceeding by attorney,  
27 Dominique A. Pollara, Esq., whose address is: Pollara Law Group, 100 Howe Avenue, Suite  
28 165N, Sacramento, CA 95825.

1           3.     On or about April 24, 1998, the Board issued Physician's and Surgeon's Certificate  
2 No. A 64943 to Respondent. The Physician's and Surgeon's Certificate was in full force and  
3 effect at all times relevant to the charges brought in Accusation No. 800-2018-047011 and will  
4 expire on November 30, 2021, unless renewed.

5   **JURISDICTION**

6           4.     Accusation No. 800-2018-047011 was filed before the Board, and is currently  
7 pending against Respondent. The Accusation and all other statutorily required documents were  
8 properly served on Respondent on January 7, 2021. Respondent timely filed his Notice of  
9 Defense contesting the Accusation. A copy of Accusation No. 800-2018-047011 is attached as  
10 Exhibit A and incorporated by reference.

11   **ADVISEMENT AND WAIVERS**

12           5.     Respondent has carefully read, fully discussed with counsel, and understands the  
13 charges and allegations in Accusation No. 800-2018-047011. Respondent also has carefully read,  
14 fully discussed with counsel, and understands the effects of this Stipulated Surrender of License  
15 and Disciplinary Order.

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

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

24   **CULPABILITY**

25           8.     Respondent understands that the charges and allegations in Accusation No. 800-2018-  
26 047011, if proven at a hearing, constitute cause for imposing discipline upon his Physician's and  
27 Surgeon's Certificate.

28     ///

1           9. Respondent agrees that, at an administrative hearing, Complainant could establish a  
2 *prima facie* case or factual basis for the charges in the Accusation and that those charges  
3 constitute cause for discipline. Respondent hereby gives up his right to contest that cause for  
4 discipline exists based on those charges.

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

8   CONTINGENCY

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

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

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

23   ORDER

24           IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. A 64943, issued  
25 to Respondent Joseph Jay Bistrain, M.D., is surrendered and accepted by the Board.

26           1. The surrender of Respondent's Physician's and Surgeon's Certificate and the  
27 acceptance of the surrendered license by the Board shall constitute the imposition of discipline

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1 against Respondent. This stipulation constitutes a record of the discipline and shall become a part  
2 of Respondent's license history with the Board.

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

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

7 4. If Respondent ever files an application for licensure or a petition for reinstatement in  
8 the State of California, the Board shall treat it as a petition for reinstatement. Respondent must  
9 comply with all the laws, regulations and procedures for reinstatement of a revoked or  
10 surrendered license in effect at the time the petition is filed, and all of the charges and allegations  
11 contained in Accusation No. 800-2018-047011 shall be deemed to be true, correct and admitted  
12 by Respondent when the Board determines whether to grant or deny the petition.

13 5. If Respondent should ever apply or reapply for a new license or certification, or  
14 petition for reinstatement of a license, by any other health care licensing agency in the State of  
15 California, all of the charges and allegations contained in Accusation No. 800-2018-047011 shall  
16 be deemed to be true, correct, and admitted by Respondent for the purpose of any Statement of  
17 Issues or any other proceeding seeking to deny or restrict licensure.

18 ACCEPTANCE

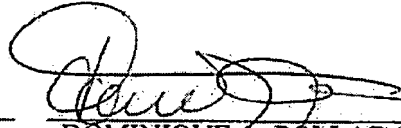
19 I have carefully read the above Stipulated Surrender of License and Disciplinary Order and  
20 have fully discussed it with my attorney, Dominique A. Pollara, Esq. I understand the stipulation  
21 and the effect it will have on my Physician's and Surgeon's Certificate. I enter into this  
22 Stipulated Surrender of License and Disciplinary Order voluntarily, knowingly, and intelligently,  
23 and agree to be bound by the Decision and Order of the Medical Board of California.

24  
25 DATED: Nov. 8, 2021 Joseph Jay B. A.  
26 JOSEPH JAY B. STRAIN, M.D.  
27 *Respondent*  
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I have read and fully discussed with Respondent Joseph Jay Bistrain, 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: November 8, 2021

  
DOMINIQUE A. POLLARA, 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: November 8, 2021

Respectfully submitted,

ROB BONTA  
Attorney General of California  
STEVEN D. MUNI  
Supervising Deputy Attorney General



RYAN J. MCEWAN  
Deputy Attorney General  
*Attorneys for Complainant*

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**Exhibit A**

**Accusation No. 800-2018-047011**

1 XAVIER BECERRA  
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2 STEVEN D. MUNI  
Supervising Deputy Attorney General  
3 VERONICA VO  
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7

8 *Attorneys for Complainant*

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

13 In the Matter of the Accusation Against:

Case No. 800-2018-047011

14 **Joseph Jay Bistrain, M.D.**  
1479 Lewis Way  
15 Folsom, CA 95630-5720

**ACCUSATION**

16 **Physician's and Surgeon's Certificate**  
No. A 64943,

17 Respondent.  
18

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 April 24, 1998, the Medical Board issued Physician's and Surgeon's  
25 Certificate Number A 64943 to Joseph Jay Bistrain, M.D. (Respondent). The Physician's and  
26 Surgeon's Certificate was in full force and effect at all times relevant to the charges brought  
27 herein and will expire on November 30, 2021; unless renewed.  
28



1 JURISDICTION

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

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

9 5. Section 2234 of the Code, states:

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

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

15 (b) Gross negligence.

16 (c) Repeated negligent acts. To be repeated, there must be two or more  
17 negligent acts or omissions. An initial negligent act or omission followed by a  
18 separate and distinct departure from the applicable standard of care shall constitute  
19 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.

22 ...

23 6. Section 2266 of the Code states: The failure of a physician and surgeon to maintain  
24 adequate and accurate records relating to the provision of services to their patients constitutes  
25 unprofessional conduct.

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**FACTUAL ALLEGATIONS**

**Patient A**

7. Patient A<sup>1</sup> was a type-1 diabetic, hypertensive with end-stage renal disease requiring dialysis and a kidney transplant. Patient A had a history of admissions into the emergency room at Mercy Hospital in Folsom.

8. On or about January 3, 2018, Patient A was taken to the emergency room at Mercy Hospital in an altered state. Patient A was intubated and several tests were performed on her. A chest x-ray revealed extensive bilateral infiltrates consistent with pulmonary edema and volume overload. An electrocardiogram indicated a first-degree atrioventricular block and poor R wave progression. Laboratory results indicated diabetic ketoacidosis.

9. Patient A was in the hospital from on or about January 3, 2018, through January 12, 2018. During that period, Patient A had elevated blood pressure readings on most days with readings ranging from 209/201, 217/64, 200/98 and 191/96. On days when Patient A had dialysis she continued to have blood pressure readings ranging from 160-178 systolic and 91-94 diastolic.

10. Patient A was discharged from Mercy Hospital on or about January 12, 2018. Included amongst her final diagnosis were: diabetic ketoacidosis, medical noncompliance, psychiatric disease, acute metabolic encephalopathy-resolved, acute hypoxic respiratory failure, acute pulmonary edema due to fluid overload, end-state renal disease, on hemodialysis, and insulin-dependent diabetes.

11. On or about January 14, 2018, Patient A returned to the Mercy Hospital emergency room requesting a breathing treatment. Her blood pressure readings were 214/106 and 205/101. The emergency room provider wrote, "She reports she is not taking her other hypertensives, but has them at home with a blood pressure monitor. Offered providing medication here for further treatment of HTN [hypertension]. PT declined and states she will take her medications at home, check her BP [blood pressure] and return if not improved." Patient A was discharged from the

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<sup>1</sup> To protect the privacy of the patients involved, the patient names have not been included in this pleading. The identification of the patients will be disclosed to the Respondent during discovery.

1 hospital the same day with instructions to return to the hospital should her blood pressure  
2 readings not improve.

3 12. On or about May 30, 2018, Patient A returned to the Mercy Hospital emergency room  
4 due to feelings of unsteady legs, difficulty focusing, and some shortness of breath. Patient A had a  
5 normal neurologic exam despite her complaints. Her blood pressure readings were lower than her  
6 past readings, falling at 172/93, 170/75 and 178/81. Since Patient A did not have ketones or  
7 marked hyperkalemia, the decision was made to await dialysis as scheduled for the following  
8 date. Patient A was discharged from the hospital the same day with instructions on managing her  
9 blood sugar and with recommendations to follow up with endocrinology as well as dialysis the  
10 following day.

11 13. On or about June 3, 2018, an ambulance was called to Patient A's apartment because  
12 Patient A had complaints of dizziness, nausea, and vomiting. Patient A reported being compliant  
13 with her medications and dialysis treatment. Patient A's blood pressure reading was 230/116. The  
14 paramedic administered Zofran<sup>2</sup> and proceeded to the emergency room at Mercy Hospital.

15 14. While at Mercy Hospital, Patient A was seen by Respondent, an emergency  
16 physician. Upon entry into the emergency room, Patient A's chief complaints were documented  
17 as "HTN (hypertension) dizziness, tingling to left arm, nausea, and headache, dialysis done".  
18 Patient A's initial vitals were: blood pressure 218/100, pulse 75, 98% oxygen saturation and pain  
19 severity of 9 out of 10. Patient A had laboratory studies along with an EKG, chest x-ray, and a  
20 cat scan of her head. Most of the studies were documented in the medical record with  
21 interpretations by Respondent as well as a specialist, except for the CT scan. The CT scan was  
22 interpreted by Dr. CC whose notation included: "No acute intracranial findings. Occipital scalp  
23 hematoma without underlying depressed/displaced calvarial fracture. Small hypodensity within  
24 the left pons measuring 5 mm, new since the prior examination and is likely an old infarct." There  
25 is no specific interpretation or discussion of the CT scan findings by Respondent. The chest x-ray  
26 was read by Respondent noting, "no pneumothorax, pulmonary edema, mild cardiomegaly,  
27 Impression: No acute process." The radiologist read the chest x-ray prior to Respondent and

28 <sup>2</sup> Zofran (ondansetron) is an antiemetic used to treat nausea and vomiting.

1 found, "interval development of moderate interstitial edema and trace bilateral pleural effusions."  
2 There is no documentation analyzing the differences between Respondent's interpretation of the  
3 chest x-ray versus the radiologist's interpretation.

4 In addition to the examinations, Patient A received the following medications during the  
5 course of her evaluation: metoclopramide<sup>3</sup>, Benadryl, labetalol<sup>4</sup>, ondansetron, hydralazine<sup>5</sup>,  
6 promethazine<sup>6</sup>, Dilaudid<sup>7</sup>, clonidine<sup>8</sup>, and normal saline. The laboratory analysis did not reveal  
7 signs of acidosis from renal failure or diabetic ketoacidosis.

8 15. On or about June 3, 2018, Patient A remained hypertensive during her stay at Mercy  
9 Hospital. Patient A's blood pressure was taken at different times throughout the day and they  
10 varied from 218/100, 225/110, 223/114, 210/86, 225/99, 212/99, 192/90, to 214/91, at discharge.

11 16. Respondent wrote a note that, "Patient was treated with IV labetalol and hydralazine  
12 as well as oral clonidine. Patient did receive some IV Dilaudid Reglan and Zofran. The patient  
13 after long period of observation CT scan looked urinalysis was reevaluated she's not hypoxic nor  
14 tachypneic. There is some pulmonary edema noted on chest x-ray and she is scheduled for  
15 dialysis on Tuesday. She is not Or hypoxic and she will be managed as an outpatient with her  
16 current medications which include labetalol, clonidine, and hydralazine. The patient will be  
17 managed and she stalled at the Orangevale Davida dialysis Center. She states that she can follow-  
18 up for further dialysis tomorrow. Pressures improved and she'll be instructed to continue her  
19 current medication treatment and obtain dialysis tomorrow as an outpatient. Otherwise patient has  
20 no clinical signs symptoms of uremia and her headache is improved after receiving IV Dilaudid.  
21 No clinical evidence of meningitis or sepsis."

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23  
24 <sup>3</sup> Metoclopramide (Reglan) is a dopamine antagonist or serotonin 5-HT4 receptor agonist which  
has been said to treat headaches and nausea.

25 <sup>4</sup> Labetalol is a beta blocker used to treat high blood pressure.

26 <sup>5</sup> Hydralazine is a medication used to treat high blood pressure.

27 <sup>6</sup> Promethazine is an antiemetic used to treat pain, nausea, and vomiting.

28 <sup>7</sup> Dilaudid is a brand name for hydromorphone, is a Schedule II controlled substance pursuant to Health  
and Safety Code section 11055, subdivision (b), and a dangerous drug pursuant to Business and  
Professions Code section 4022.

<sup>8</sup> Clonidine is a medication used to treat high blood pressure.

1 17. Patient A was discharged from Mercy Hospital on or about June 3, 2018, after  
2 approximately 4 hours in the emergency room. The discharge notes from Respondent included,  
3 "Follow up with: Continue taking your blood pressure medication as prescribed. Call you[r]  
4 dialysis center tomorrow for re-evaluation and to have another dialysis treatment tomorrow as  
5 opposed to Tuesday. Follow-up with your primary care provider in 2 days. Take all medications  
6 as prescribed. Return to ED if symptoms worsen."

7 18. Patient A's father last spoke to Patient A on or about June 4, 2018 at approximately  
8 noontime. At that time, Patient A reported she had a dialysis treatment later that day at 4:00 p.m.  
9 Patient A did not go to her dialysis treatment.

10 19. On or about June 5, 2018, Patient A was found deceased in her kitchen. An autopsy  
11 was not performed. The cause of death was listed as Chronic Kidney Disease Stage 5,  
12 hypertension, and diabetes mellitus.

13 20. On or about February 19, 2020, Respondent interviewed with an investigator from the  
14 Division of Investigation (DOI) to discuss his treatment of Patient A. During the course of that  
15 interview, Respondent did not believe he pulled any of Patient A's old records prior to treating  
16 her. Ultimately, Respondent did not believe Patient A's symptoms were consistent with a  
17 hypertensive emergency. However, Respondent "absolutely" believed it was medically necessary  
18 for Patient A to be treated with dialysis within 24 hours. Respondent relied on Patient A's  
19 assurance to seek out dialysis in a timely manner. Respondent admits he was not aware of Patient  
20 A's non-compliance with treatment until after her death. Respondent states he "was sort of  
21 shocked at the amount of noncompliance. Unfortunately, [he] did not appreciate that in the real  
22 moment as [he] was caring for her." Later in the interview, Respondent states, "had he known her  
23 degree of noncompliance, [he] probably would have done things differently, but he was not aware  
24 of that, unfortunately. [He is] sorry for that."

25 **Patient B**

26 21. On or about January 27, 2019, 6-year-old Patient B, was taken to the emergency room  
27 at Mercy Hospital after having a brief seizure at home. Patient B was sleeping when her parents  
28 noticed her shaking. After Patient B's mother placed her in a sitting position, Patient B became

1 limp and fell backward. The episode lasted for approximately 30 seconds and by the time the  
2 paramedics arrived, Patient B was alert but sleepy. The occurrence was a single episode with no  
3 prior history. While at the emergency room laboratory tests were performed on Patient B and  
4 they were normal. Patient B was discharged from the hospital with instructions to follow-up with  
5 a pediatric neurologist, Dr. S.C.

6 22. On or about January 29, 2019, Patient B met with a pediatric neurologist who  
7 conducted a very thorough examination. The neurologist ordered sleep deprived EEG as well as  
8 an MRI of Patient B's head. Patient B was prescribed Diastat<sup>9</sup> on an as-needed basis for seizures  
9 lasting longer than 5 minutes long. Patient B was told to follow-up.

10 23. On or about June 2, 2019, Patient B had a seizure at her home and was taken to the  
11 emergency department at Mercy Hospital of Folsom by emergency responders. Respondent was  
12 her emergency physician. Respondent ordered basic laboratory studies; however, further imaging  
13 was deferred since the patient had been receiving care by her neurologist. At the time of this visit,  
14 Patient B weighed 18.18 kg. Respondent treated Patient B with Keppra<sup>10</sup> with a dose of 20  
15 milligrams per kilogram (mg/kg) given intravenously. Patient B was discharged home with  
16 instructions about seizure precautions, recommendations to follow up with her neurologist within  
17 the next 1-3 days, and instructions to pick up prescriptions for Zofran for nausea and Keppra. The  
18 prescriptions for the new medications were electronically routed to Walgreens. The prescription  
19 transmitted to Walgreens was for "Keppra 100mg/ml oral solution, 35 mL PO BID x 30 days  
20 (orally twice a day for 30 days)." The actual dose in milligrams was not listed on the prescription,  
21 which was 3,500 mg twice daily. Similarly, the patient's height and weight were not specifically  
22 listed.

23 24. Upon receiving the medication from Walgreens, the patient's mother questioned the  
24 dose of 35 mL and contacted Walgreens to confirm. She received confirmation that the  
25 prescription matched the discharge paperwork, the electronic prescription at the pharmacy, and  
26

27 <sup>9</sup> Diastat (diazepam) is a Schedule IV controlled substance pursuant to Health and Safety Code section  
11057, subdivision (d), and a dangerous drug pursuant to Business and Professions Code section 4022.

28 <sup>10</sup> Keppra (levetiracetam) is an anticonvulsant used to treat seizures.

1 her bottle at home. She then contacted the emergency department at Mercy Hospital of Folsom  
2 and another provider suggested the appropriate dose would be 5 mL twice a day versus the 35 mL  
3 written on the bottle. Feeling uncertain, she did not administer any of the medication and waited  
4 to be seen the following day by Patient B's neurologist. The neurologist confirmed the dosage  
5 was incorrect and gave Patient B a new prescription for 2 mL 2/day. Luckily, Patient B never  
6 received the dosage prescribed by Respondent.

7 25. On or about February 19, 2020, Respondent was interviewed by Division of  
8 Investigations (DOI), Investigator Stacie Barrerra, regarding his treatment of Patient B.  
9 Respondent stated he intravenously gave Patient B Keppra with a dose of 20 mg/kg for 360 mg.  
10 He planned to write a prescription for 20 mg/kg administered twice a day orally for home.  
11 Respondent notes he double checked the dose and to him "it looked like 100mg/10mL...I thought  
12 it said 100mg/10mL, so I did an adjustment by ...one decimal point....I honestly misread the  
13 concentration at 100 mg/10mL as opposed to 100 mg/mL and so I just looked at the screen and  
14 didn't see it correctly, unfortunately." Respondent admitted ignoring the computer warning about  
15 the dose and believed the error was in the computerized system. He also admitted that it is  
16 common for him to prescribe Keppra to adults; however, he rarely needs to prescribe this  
17 medication as a solution and thus, was unfamiliar with the concentration.

18 **FIRST CAUSE FOR DISCIPLINE**

19 **(Gross Negligence)**

20 26. Respondent's license is subject to disciplinary action under section 2234, subdivision  
21 (b), of the Code, in that he committed gross negligence during the care and treatment of Patients  
22 A and B, as more particularly alleged in paragraphs 7 through 25, above, which is hereby  
23 incorporated by reference and realleged as if fully set forth herein.

24 27. Respondent's license is subject to disciplinary action because he committed gross  
25 negligence during the care and treatment of Patients A and B in the following distinct and  
26 separate ways:

27 a. Failing to review previous emergency room visits for high blood pressure  
28 trends in Patient A;

- 1 b. Failing to recognize possible hypertensive encephalopathy and thus
- 2 inadequately treating the hypertensive emergency for Patient A;
- 3 c. Failing to thoroughly evaluate Patient A's headache; and
- 4 d. Failing to thoroughly check Patient B's prescription and concentration, leading
- 5 to a dosing error.

### 6 SECOND CAUSE FOR DISCIPLINE

#### 7 (Repeated Negligence)

8 28. Respondent's license is subject to disciplinary action under section 2234, subdivision

9 (c) of the Code, in that he committed repeated negligent acts during the care and treatment of

10 Patients A and B, as more particularly alleged in paragraphs 7 through 25, above, which is hereby

11 incorporated by reference and realleged as if fully set forth herein.

12 29. Respondent committed the following negligent acts during the care and treatment of

13 Patients A and B in the following distinct and separate ways:

- 14 a. Failing to address the final interpretations of the findings on the chest x-ray and
- 15 CT scan and thus incorrectly managing Patient A's treatment;
- 16 b. Failing to arrange appropriate follow-up plans and referrals for Patient A;
- 17 c. Failing to address the error alert from the Electronic Medical Record System
- 18 for Patient B.

### 19 THIRD CAUSE FOR DISCIPLINE

#### 20 (Inadequate and Inaccurate Record Keeping)

21 30. Respondent's license is subject to disciplinary action under section 2266 of the Code,

22 in that he kept inaccurate and incomplete medical records during the treatment of Patients A and

23 B, as more particularly alleged in paragraphs 7 through 25, above, which is hereby incorporated

24 by reference and realleged as if fully set forth herein.

### 25 PRAYER

26 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,

27 and that following the hearing, the Medical Board of California issue a decision:

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1. Revoking or suspending Physician's and Surgeon's Certificate No. A 64943, issued to Joseph Jay Bistrain, M.D.;

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

3. Ordering Joseph Jay Bistrain, M.D., if placed on probation, to pay the Board the costs of probation monitoring; and

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

DATED: JAN 07 2021

  
REJI VARGHESE  
DEPUTY DIRECTOR  
For: WILLIAM PRASIFKA  
Executive Director  
Medical Board of California  
Department of Consumer Affairs  
State of California  
*Complainant*

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Bistrain Accusation with corrections.docx