

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

**In the Matter of the First Amended
Accusation Against:**

Francis Dizon Cunanan, M.D.

**Physician's & Surgeon's
Certificate No. A 81356**

Respondent.

Case No. 800-2017-037476


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 September 29, 2022.

IT IS SO ORDERED: August 30, 2022.

MEDICAL BOARD OF CALIFORNIA



**Laurie Rose Lubiano, J.D., Chair
Panel A**

1 ROB BONTA
Attorney General of California
2 STEVE DIEHL
Supervising Deputy Attorney General
3 LYNETTE D. HECKER
Deputy Attorney General
4 State Bar No. 182198
California Department of Justice
5 2550 Mariposa Mall, Room 5090
Fresno, CA 93721
6 Telephone: (559) 705-2320
Facsimile: (559) 445-5106
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 First Amended Accusation
13 Against:

14 **FRANCIS DIZON CUNANAN, M.D.**
15 **93 North Villa Street**
Porterville, CA 93257

16 **Physician's and Surgeon's Certificate No. A**
17 **81356**

18 Respondent.
19

Case No. 800-2017-037476

OAH No. 2020120321

STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER

20
21 In the interest of a prompt and speedy settlement of this matter, consistent with the public
22 interest and the responsibility of the Medical Board of California of the Department of Consumer
23 Affairs, the parties hereby agree to the following Stipulated Settlement and Disciplinary Order
24 which will be submitted to the Board for approval and adoption as the final disposition of the
25 First Amended Accusation.

26 **PARTIES**

27 1. William Prasifka (Complainant) is the Executive Director of the Medical Board of
28 California (Board). He brought this action solely in his official capacity and is represented in this

1 matter by Rob Bonta, Attorney General of the State of California, by Lynette D. Hecker, Deputy
2 Attorney General.

3 2. Francis Dizon Cunanan, M.D. (Respondent) is represented in this proceeding by
4 attorney Marvin Firestone, MD, JD, whose address is: Marvin Firestone, MD, JD & Assoc.,
5 LLP, 1700 South El Camino Real, Ste. 408, San Mateo, CA 94402.

6 3. On or about December 11, 2002, the Board issued Physician's and Surgeon's
7 Certificate No. A 81356 to Respondent. The Physician's and Surgeon's Certificate was in full
8 force and effect at all times relevant to the charges brought in First Amended Accusation No.
9 800-2017-037476, and will expire on May 31, 2022, unless renewed.

10 JURISDICTION

this

11 4. First Amended Accusation No. 800-2017-037476 was filed before the Board, and is
12 currently pending against Respondent. The original Accusation and all other statutorily required
13 documents were properly served on Respondent on September 25, 2020. Respondent timely filed
14 his Notice of Defense contesting the Accusation. The First Amended Accusation and all other
15 statutorily required document were properly served on Respondent on November 4, 2021. This
16 stipulation shall serve as Respondent's Notice of Defense pursuant to Government Code section
17 11506, subdivision (a)(4).

18 5. A copy of the First Amended Accusation No. 800-2017-037476 is attached as
19 "Exhibit A" and incorporated herein by reference.

20 ADVISEMENT AND WAIVERS

21 6. Respondent has carefully read, fully discussed with counsel, and understands the
22 charges and allegations in First Amended Accusation No. 800-2017-037476. Respondent has
23 also carefully read, fully discussed with his counsel, and understands the effects of this Stipulated
24 Settlement and Disciplinary Order.

25 7. Respondent is fully aware of his legal rights in this matter, including the right to a
26 hearing on the charges and allegations in the First Amended Accusation; the right to confront and
27 cross-examine the witnesses against him; the right to present evidence and to testify on his own
28 behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the

1 production of documents; the right to reconsideration and court review of an adverse decision;
2 and all other rights accorded by the California Administrative Procedure Act and other applicable
3 laws.

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

6 CULPABILITY

7 9. Respondent understands and agrees that the charges and allegations in First Amended
8 Accusation No. 800-2017-037476, if proven at a hearing, constitute cause for imposing discipline
9 upon his Physician's and Surgeon's Certificate.

10 10. Respondent agrees that, at an administrative hearing, Complainant could establish a
11 *prima facie* case or factual basis with respect to the charges and allegations in First Amended
12 Accusation, that he has thereby subjected his Physician's and Surgeon's Certificate, No. A 81356
13 to disciplinary action, and Respondent hereby gives up his right to contest those charges.

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

17 RESERVATION

18 12. The admissions made by Respondent herein are only for the purposes of this
19 proceeding, or any other proceedings in which the Board or other professional licensing agency is
20 involved, and shall not be admissible in any other criminal or civil proceeding.

21 CONTINGENCY

22 13. This stipulation shall be subject to approval by the Medical Board of California.
23 Respondent understands and agrees that counsel for Complainant and the staff of the Medical
24 Board of California may communicate directly with the Board regarding this stipulation and
25 settlement, without notice to or participation by Respondent or his counsel. By signing the
26 stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek
27 to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails
28 to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary

1 Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal
2 action between the parties, and the Board shall not be disqualified from further action by having
3 considered this matter.

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

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

10 **DISCIPLINARY ORDER**

11 **A. PUBLIC REPRIMAND**

12 IT IS HEREBY ORDERED that Respondent, Francis Dizon Cunanan, M.D., Physician's
13 and Surgeon's Certificate No. A 81356, shall be and is hereby Publicly Reprimanded pursuant to
14 California Business and Professions Code section 2227, subdivision (a)(4). This Public
15 Reprimand is issued in connection with Respondent's care and treatment of one patient, as set
16 forth in the First Amended Accusation No. 800-2017-037476.

17 **B. PRESCRIBING PRACTICES COURSE**

18 Within 60 calendar days of the effective date of this Decision, Respondent shall enroll in a
19 course in prescribing practices approved in advance by the Board or its designee. Respondent
20 shall provide the approved course provider with any information and documents that the approved
21 course provider may deem pertinent. Respondent shall participate in and successfully complete ais
22 the classroom component of the course not later than six (6) months after Respondent's initial
23 enrollment. Respondent shall successfully complete any other component of the course within
24 one (1) year of enrollment. The prescribing practices course shall be at Respondent's expense
25 and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of
26 licensure.

27 A prescribing practices course taken after the acts that gave rise to the charges in the
28 Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board

1 or its designee, be accepted towards the fulfillment of this condition if the course would have
2 been approved by the Board or its designee had the course been taken after the effective date of
3 this Decision.

4 Respondent shall submit a certification of successful completion to the Board or its
5 designee not later than 15 calendar days after successfully completing the course, or not later than
6 15 calendar days after the effective date of the Decision, whichever is later.

7 **C. MEDICAL RECORD KEEPING COURSE**

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

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

22 Respondent shall submit a certification of successful completion to the Board or its
23 designee not later than 15 calendar days after successfully completing the course, or not later than
24 15 calendar days after the effective date of the Decision, whichever is later.

25 **D. EDUCATION COURSE**

26 Within 60 calendar days of the effective date of this Decision Respondent shall submit to
27 the Board or its designee for its prior approval educational program(s) or course(s) which shall
28 not be less than 40 hours. The educational program(s) or course(s) shall be aimed at correcting

1 any areas of deficient practice or knowledge and shall be Category I certified. The educational
2 program(s) or course(s) shall be at Respondent's expense and shall be in addition to the
3 Continuing Medical Education (CME) requirements for renewal of licensure. Following the
4 completion of each course, the Board or its designee may administer an examination to test
5 Respondent's knowledge of the course. Respondent shall provide proof of attendance for 65
6 hours of CME of which 40 hours were in satisfaction of this condition.

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

12 **E. FUTURE ADMISSIONS CLAUSE**

13 If Respondent should ever apply or reapply for a new license or certification, or petition for
14 reinstatement of a license, by any other health care licensing action agency in the State of
15 California, all of the charges and allegations contained in First Amended Accusation No. 800-
16 2017-037476 shall be deemed to be true, correct, and admitted by Respondent for the purpose of
17 any Statement of Issues or any other proceeding seeking to deny or restrict license.

18 **F. ENFORCEMENT**

19 Failure to timely complete the courses outlined above shall constitute unprofessional
20 conduct and is grounds for further disciplinary action.

21 ///

22 ///

23 ///

24 ///

25 ///

26 ///

27 ///

28 ///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Marvin Firestone, MD, JD. 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: _____

FRANCIS DIZON CUNANAN, M.D.
Respondent

I have read and fully discussed with Respondent Francis Dizon Cunanan, M.D. the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: _____

MARVIN FIRESTONE, MD, JD
Attorney for Respondent

ENDORSEMENT

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

DATED: _____

Respectfully submitted,

ROB BONTA
Attorney General of California
STEVE DIEHL
Supervising Deputy Attorney General

LYNETTE D. HECKER
Deputy Attorney General
Attorneys for Complainant


FR2020601690
95416283.docx

ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Marvin Firestone, MD, JD. 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:

11/10/2021


FRANCIS DIZON CUNANAN, M.D.
Respondent

I have read and fully discussed with Respondent Francis Dizon Cunanan, M.D. the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED:

11/10/2021


MARVIN FIRESTONE, MD, JD
Attorney for Respondent

ENDORSEMENT

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

DATED: 11/10/2021

Respectfully submitted,

ROB BONTA
Attorney General of California
STEVE DIEHL
Supervising Deputy Attorney General

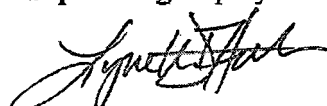

LYNETTE D. HECKER
Deputy Attorney General
Attorneys for Complainant

Exhibit A

First Amended Accusation No. 800-2017-037476

1 ROB BONTA
Attorney General of California
2 STEVE DIEHL
Supervising Deputy Attorney General
3 LYNETTE D. HECKER
Deputy Attorney General
4 State Bar No. 182198
California Department of Justice
5 2550 Mariposa Mall, Room 5090
Fresno, CA 93721
6 Telephone: (559) 705-2320
Facsimile: (559) 445-5106
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 First Amended Accusation
13 Against:

Case No. 800-2017-037476

14 **FRANCIS DIZON CUNANAN, M.D.**
15 **93 North Villa Street**
Porterville, CA 93257-3215

**FIRST AMENDED
ACCUSATION**

16 **Physician's and Surgeon's Certificate**
17 **No. A 81356,**

Respondent.

18
19 **PARTIES**

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

23 2. On or about December 11, 2002, the Board issued Physician's and Surgeon's
24 Certificate Number A 81356 to Francis Dizon Cunanan, M.D. (Respondent). The Physician's and
25 Surgeon's Certificate was in full force and effect at all times relevant to the charges brought
26 herein and will expire on May 31, 2022, unless renewed.

27 ///

JURISDICTION

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

4. Section 2227 of the Code states:

(a) A licensee whose matter has been heard by an administrative law judge of the Medical Quality Hearing Panel as designated in Section 11371 of the Government Code, or whose default has been entered, and who is found guilty, or who has entered into a stipulation for disciplinary action with the board, may, in accordance with the provisions of this chapter:

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

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

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

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

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

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

STATUTORY PROVISIONS

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.

(d) Incompetence.

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

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

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

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 725 of the Code states:

(a) Repeated acts of clearly excessive prescribing, furnishing, dispensing, or administering of drugs or treatment, repeated acts of clearly excessive use of diagnostic procedures, or repeated acts of clearly excessive use of diagnostic or treatment facilities as determined by the standard of the community of licensees is unprofessional conduct for a physician and surgeon, dentist, podiatrist, psychologist, physical therapist, chiropractor, optometrist, speech-language pathologist, or audiologist.

(b) Any person who engages in repeated acts of clearly excessive prescribing or administering of drugs or treatment is guilty of a misdemeanor and shall be punished by a fine of not less than one hundred dollars (\$100) nor more than six hundred dollars (\$600), or by imprisonment for a term of not less than 60 days nor more than 180 days, or by both that fine and imprisonment.

(c) A practitioner who has a medical basis for prescribing, furnishing, dispensing, or administering dangerous drugs or prescription controlled substances shall not be subject to disciplinary action or prosecution under this section.

///

1 (d) No physician and surgeon shall be subject to disciplinary action pursuant to
2 this section for treating intractable pain in compliance with Section 2241.5.

3 DEFINITIONS

4 8. Controlled Substance Utilization Review and Evaluation System 2.0 (CURES) is a
5 database of Schedule II, III, and IV controlled substance prescriptions dispensed in California
6 serving the public health, regulatory and oversight agencies, and law enforcement. CURES 2.0 is
7 committed to the reduction of prescription drug abuse and diversion without affecting legitimate
8 medical practice or patient care.

9 9. Morphine equivalent dose (MED) or Morphine milligram equivalents (MME) are
10 abbreviations used to evaluate the levels of opioids prescribed to a patient. The Centers for
11 Disease Control recommends avoiding or carefully justifying any dosage greater than 90
12 MED/day or MME/day.

13 10. Morphine sulfate, an opioid analgesic, is a Schedule II controlled substance pursuant
14 to Health and Safety Code section 11055, subdivision (e), and a dangerous drug pursuant to
15 Business and Professions Code section 4022. When properly prescribed and indicated, it is used
16 for the management of pain that is severe enough to require daily, around-the-clock, long-term
17 opioid treatment and for which alternative treatment options are inadequate. The Drug
18 Enforcement Administration (DEA) has identified morphine sulfate, as a drug of abuse. (Drugs
19 of Abuse, A DEA Resource Guide (2011 Edition), at p. 39.) The Federal Drug Administration
20 (FDA) has issued a black box warning for morphine sulfate which warns about, among other
21 things, addiction, abuse and misuse, and the possibility of life-threatening respiratory distress.
22 The warning also cautions about the risks associated with concomitant use of morphine sulfate
23 with benzodiazepines or other central nervous system (CNS) depressants.

24 11. Norco® is a combination of two medicines (acetaminophen and hydrocodone
25 bitartrate) used to treat moderate to severe pain. Hydrocodone is an opioid pain medication,
26 commonly referred to as a narcotic. Acetaminophen is a less potent pain reliever that increases
27 the effects of hydrocodone. Hydrocodone has a high potential for abuse. Hydrocodone is a
28 Schedule II controlled substance and narcotic as defined by section 11055, subdivision (b)(1) of

1 the Health and Safety Code, and a Schedule II controlled substance as defined by Section 1308.12
2 (b)(1) of Title 21 of the code of Federal Regulations and a dangerous drug as defined in Business
3 and Professions Code section 4022.

4 12. Seen on a prescription, b.i.d. means twice (two times) a day. It is an abbreviation for
5 "bis in die" which, in Latin, means twice a day. The abbreviation b.i.d. is sometimes written
6 without a period either in lower-case letters as "bid" or in capital letters as "BID."

7 FACTUAL ALLEGATIONS

8 13. Respondent was the primary care provider (PCP) for the patient¹ on or about 2007
9 through on or about July of 2017.² Respondent initially saw and treated the patient at Family
10 Health Care. In or about July of 2009, Respondent started seeing the patient in his private
11 practice in Porterville, California, where he provided care for her medical problems and chronic
12 pain. The patient was seen by Respondent in his office 49 times from on or about January 23,
13 2014 to on or about June 7, 2017, generally at monthly intervals, although occasionally as often
14 as thrice monthly.

15 Low Back Pain

16 14. Respondent treated the patient's complaint of lower back pain for a number of years^{for},
17 predominantly with analgesics.

18 15. On or about July 20, 2009, Respondent performed a physical examination of and
19 began treating the patient's lower back. On or about August 22, 2013, the patient filled a
20 prescription from Respondent for Morphine Sulphate Extended Release (MS ER) 30 mg BID,
21 receiving 60 capsules for a 30-day supply. As of on or about January 23, 2014, Respondent was
22 still prescribing MS ER, at the same dose for the patient, as well as 30 Norco 7.5 mg/325 tablets
23 for her to take every 8-12 hours. Respondent continued prescribing these two analgesics, at these
24 doses, for the patient until on or about October 5, 2015.

25 16. On or about October 5, 2015, Respondent doubled the patient's daily dose of MS ER
26 from 30 mg BID to 60 mg BID. When the doubled MS ER prescription is combined with the

27 ¹ The patient's name is not utilized herein to protect her privacy.

28 ² Additional dates are included herein for background purposes. However, only the events
occurring from 2013, to and through 2017, are stated as support for the causes for discipline.

above Norco prescription it equates to an average of 127.5 MED/MME per day that Respondent was prescribing to the patient.

17. The only appreciable difference in the patient's pain history on or about October 5, 2015, when compared to the previous 13 visits, was that the patient's back felt worse after rain the day before. Aside from that note, there is no indication of any other change in the patient's condition or exam findings. Respondent continued to prescribe MS ER, at the doubled dose, along with the above Norco prescription for the patient through on or about July 10, 2017.

18. Respondent failed to document the increase in daily dosage he ordered of MS ER from 30 mg BID to 60 mg BID he ordered for the patient, on or about October 5, 2015. Further, though the patient filled a prescription for 30 mg capsules of MS ER written by Respondent, on or about June 20, 2014, Respondent failed to document prescribing it for the patient on that date. However, Respondent documented MS ER at 30 mg to be taken BID as one of the patient's current medications in the visits both immediately before and after that date.

19. From on or about January 23, 2014, through on or about May 22, 2017, Respondent documented the patient's pain history in mostly identically worded descriptions from visit to visit, including impossibly and unvaryingly that "pain started 14 years ago."

20. The standard of care for medical record documentation is to document the history and exam findings that were elicited or demonstrated on the date of service. The standard of care is to keep accurate records of medications prescribed. Respondent's copying of prior history that could not have been accurately elicited from the patient into subsequent evaluations, manifest by the impossible unchanging duration of symptoms of several years' visits, accordingly constitutes negligence. Respondent's failure to document the MS ER prescription he wrote for the patient on or about June 20, 2014, accordingly constitutes negligence. Respondent's failure to record the increase in dosage of MS ER for the patient from 30 mg BID to 60 mg BID on or about October 5, 2015, accordingly constitutes negligence.

///

///

///

1 **Controlled Substance Prescriptions**

2 21. As noted previously, on or about October 5, 2015, Respondent doubled the patient's
3 prescription MS ER from 30 mg BID to 60 mg BID, without indication for the increase other than
4 that the patient's back felt worse after rain the day before.

5 22. The standard of care for prescribing controlled substances for chronic pain is to
6 gradually increase the dose until the patient's functional goals are achieved, and to titrate off
7 these medications if their use does not show progress toward functional goals. It includes an
8 awareness of MED/MME levels at which toxicity and adverse effects of abuse, dependency, and
9 addiction rise, at which time pain management specialist consultation is prudent. At higher
10 MED/MME levels, the standard also includes limiting dose escalation or decreases to avoid
11 respiratory depression and death. Respondent's increasing the patient's daily dose of MS ER
12 merely based on the indication that the rain the day before made her pain worse accordingly
13 constitutes negligence. Respondent's doubling the patient's daily dose of MS ER from 30 mg
14 BID to 60 mg BID, rather than a lesser incremental increase, accordingly constitutes negligence.

15 **Abdominal Pain**

16 23. On or about May 9, 2017, the patient presented to Respondent with documented chief
17 complaints that included abdominal pain. Respondent entered approximately five lines of
18 pertinent related history of the character of the patient's abdominal pain. However, the only vital
19 sign obtained was the patient's blood pressure and no abdominal exam was performed.
20 Respondent had no differential diagnosis and merely diagnosed the patient with "Generalized
21 abdominal pain." Respondent failed to order any imaging or testing. Respondent's plan was
22 "Referral initiated to a general surgeon (Dr. []; for evaluation of severe Abdominal RUQ pain due
23 to Gallbladder sludge; to perform Laparoscopic Cholecystectomy)." This plan is identical to the
24 plan that Respondent entered in the patient's chart when he saw her on or about October 16, 2014,
25 subsequent to which the patient previously had a cholecystectomy performed (on or about
26 October 19, 2014).

27 24. The standard of care in evaluating abdominal pain is to take a history, perform a
28 physical exam, and order any adjunctive testing to arrive at the most probable cause from which

1 to determine treatment. Sufficient information must be gathered at the initial visit to assess if a
2 cause at risk of acute progression to disability or death might be present warranting emergent
3 testing in a hospital, rather than what can be accomplished in a timely manner as an outpatient.
4 Examination should include a temperature for infectious causes, a pulse and respiratory rate for
5 hemorrhagic and acid-base disorder causes, and an abdominal exam for significant tenderness,
6 guarding, or rebound that may indicate emergent surgical diseases like bowel obstruction,
7 perforated viscus, or ruptured aneurysm. A careful differential diagnosis should be formulated
8 and a determination made as to whether transfer to a higher level of care or more leisurely
9 outpatient workup is appropriate.

10 25. Respondent failed to: (1) obtain the patient's temperature, pulse, and respiratory
11 assessment; (2) conduct an abdominal exam; (3) order pertinent ancillary testing; (4) formulate a
12 specific diagnosis and differential diagnosis; and (4) formulate a plan according to the patient's
13 actual, physical condition. Respondent failed to adequately assess the patient to assure serious
14 cause risking death or disability was absent. These failures by Respondent accordingly constitute
15 negligence. Further, Respondent's failure to update the patient's past surgical history to reflect
16 the cholecystectomy that was performed years prior accordingly constitutes negligence.

17 **FIRST CAUSE FOR DISCIPLINE**

18 **(Repeated Negligent Acts)**

19 26. Respondent has subjected his Physician's and Surgeon's Certificate License No. A
20 81356 under section 2234, subdivision (c) of the Code, in that he committed repeated acts of
21 negligence. The factual circumstances set forth above relating to the patient in paragraphs 13
22 through 25 are hereby incorporated by reference as if set forth fully herein.

23 **SECOND CAUSE FOR DISCIPLINE**

24 **(Failure to Maintain Adequate and Accurate Medical Records)**

25 27. Respondent has subjected his Physician's and Surgeon's Certificate License No. A
26 81356 to disciplinary action under section 2266 of the Code, in that he failed to maintain adequate
27 and accurate records in connection with his care and treatment of the patient as more particularly

28 ///

1 alleged in paragraphs 13 through 25 which are hereby incorporated by reference as if fully set
2 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 Number A 81356,
7 issued to Respondent Francis Dizon Cunanan, M.D.;

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

10 3. Ordering Respondent Francis Dizon Cunanan, M.D., if placed on probation, to pay
11 the Board the costs of probation monitoring; and

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

13
14 DATED: NOV 04 2021


15 WILLIAM PRASIFKA
16 Executive Director
17 Medical Board of California
18 Department of Consumer Affairs
19 State of California
20 Complainant

21
22
23
24
25
26
27
28
FR2020601690
95415342.docx