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

In the Matter of the Accusation Against: **Chong Un Kim, M.D.** **Physician's and Surgeon's Certificate No. A 54806** **Respondent.**	**Case No.: 800-2017-038919**

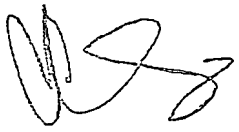
DECISION

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 March 6, 2023.

IT IS SO ORDERED: February 2, 2023.

MEDICAL BOARD OF CALIFORNIA



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

ROB BONTA
Attorney General of California
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BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against: **CHONG UN KIM, M.D.** **23560 Madison Street, Suite 204** **Torrance, CA 90505** **Physician's and Surgeon's Certificate No. A 54806,** Respondent.	Case No. 800-2017-038919 OAH No. 2021100298 **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 Rob Bonta, Attorney General of the State of California, by Brian D. Bill, Deputy Attorney General.

2. Chong Un Kim, M.D. (Respondent) is represented in this proceeding by attorney Raymond J. McMahon, whose address is: 5440 Trabuco Road, Irvine, CA 92620.

3. On or about September 27, 1995, the Board issued Physician's and Surgeon's Certificate No. A 54806 to Chong Un Kim, 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. 800-2017-038919, and will expire on August 31, 2023, unless renewed.

JURISDICTION

4. Accusation No. 800-2017-038919 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 November 20, 2020. Respondent timely filed his Notice of Defense contesting the Accusation.

5. A copy of Accusation No. 800-2017-038919 is attached as exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

6. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 800-2017-038919. Respondent has also carefully read, fully discussed with his counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

7. 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 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.

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

CULPABILITY

9. Respondent understands and agrees that the charges and allegations in Accusation No. 800-2017-038919, if proven at a hearing, constitute cause for imposing discipline upon his Physician's and Surgeon's Certificate.

10. Respondent agrees that, at a hearing, Complainant could establish a prima facie case or factual basis for the charges in the Accusation, and that Respondent hereby gives up his right to contest those charges.

11. Respondent does not contest that, at an administrative hearing, complainant could establish a prima facie case with respect to the charges and allegations in Accusation No. 800-2017-038919, a true and correct copy of which is attached hereto as Exhibit A, and that he has thereby subjected his Physician's and Surgeon's Certificate, No. A 54806 to disciplinary action.

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

RESERVATION

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

CONTINGENCY

14. 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 or his counsel. 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.

15. 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. 800-2017-038919 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.

16. This Stipulated Settlement and Disciplinary Order is intended by the parties herein to

be an integrated writing representing the complete, final and exclusive embodiment of the agreement of the parties in this above entitled matter.

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 54806 issued to Respondent CHONG UN KIM, M.D. is revoked. However, the revocations are stayed and Respondent is placed on probation for four (4) years on the following terms and conditions:

1. CONTROLLED SUBSTANCES - MAINTAIN RECORDS AND ACCESS TO RECORDS AND INVENTORIES. Respondent shall maintain a record of all controlled substances ordered, prescribed, dispensed, administered, or possessed by Respondent, and any recommendation or approval which enables a patient or patient's primary caregiver to possess or cultivate marijuana for the personal medical purposes of the patient within the meaning of Health and Safety Code section 11362.5, during probation, showing all of the following: 1) the name and address of the patient; 2) the date; 3) the character and quantity of controlled substances involved; and 4) the indications and diagnosis for which the controlled substances were furnished.

Respondent shall keep these records in a separate file or ledger, in chronological order. All records and any inventories of controlled substances shall be available for immediate inspection and copying on the premises by the Board or its designee at all times during business hours and shall be retained for the entire term of probation.

2. EDUCATION COURSE. Within 60 calendar days of the effective date of this Decision, and on an annual basis thereafter, Respondent shall submit to the Board or its designee for its prior approval educational program(s) or course(s) which shall not be less than 40 hours per year, for each year of probation. The educational program(s) or course(s) shall be aimed at

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

3. PRESCRIBING PRACTICES COURSE. Within 60 calendar days of the effective date of this Decision, Respondent shall enroll in a course in prescribing practices 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. Respondent's successful completion of the prescribing practices course shall be a condition precedent to his prescribing of any controlled substances. The prescribing practices course shall be at Respondent's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

A prescribing practices 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.

4. 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.

5. 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.

6. MONITORING - PRACTICE. Within 30 calendar days of the effective date of this Decision, Respondent shall submit to the Board or its designee for prior approval as a practice monitor, the name and qualifications of one or more licensed physicians and surgeons whose licenses are valid and in good standing, and who are preferably American Board of Medical Specialties (ABMS) certified. A monitor shall have no prior or current business or personal relationship with Respondent, or other relationship that could reasonably be expected to compromise the ability of the monitor to render fair and unbiased reports to the Board, including but not limited to any form of bartering, shall be in Respondent's field of practice, and must agree to serve as Respondent's monitor. Respondent shall pay all monitoring costs.

The Board or its designee shall provide the approved monitor with copies of the Decision(s) and Accusation(s), and a proposed monitoring plan. Within 15 calendar days of receipt of the Decision(s), Accusation(s), and proposed monitoring plan, the monitor shall submit a signed statement that the monitor has read the Decision(s) and Accusation(s), fully understands the role of a monitor, and agrees or disagrees with the proposed monitoring plan. If the monitor disagrees with the proposed monitoring plan, the monitor shall submit a revised monitoring plan with the signed statement for approval by the Board or its designee.

Within 60 calendar days of the effective date of this Decision, and continuing throughout probation, Respondent's practice shall be monitored by the approved monitor. Respondent shall make all records available for immediate inspection and copying on the premises by the monitor at all times during business hours and shall retain the records for the entire term of probation.

If Respondent fails to obtain approval of a monitor within 60 calendar days of the effective date of this Decision, Respondent shall receive a notification from the Board or its designee to cease the practice of medicine within three (3) calendar days after being so notified. Respondent shall cease the practice of medicine until a monitor is approved to provide monitoring

responsibility.

The monitor(s) shall submit a quarterly written report to the Board or its designee which includes an evaluation of Respondent's performance, indicating whether Respondent's practices are within the standards of practice of medicine, and whether Respondent is practicing medicine safely, billing appropriately or both. It shall be the sole responsibility of Respondent to ensure that the monitor submits the quarterly written reports to the Board or its designee within 10 calendar days after the end of the preceding quarter.

If the monitor resigns or is no longer available, Respondent shall, within 5 calendar days of such resignation or unavailability, submit to the Board or its designee, for prior approval, the name and qualifications of a replacement monitor who will be assuming that responsibility within 15 calendar days. If Respondent fails to obtain approval of a replacement monitor within 60 calendar days of the resignation or unavailability of the monitor, Respondent shall receive a notification from the Board or its designee to cease the practice of medicine within three (3) calendar days after being so notified. Respondent shall cease the practice of medicine until a replacement monitor is approved and assumes monitoring responsibility.

In lieu of a monitor, Respondent may participate in a professional enhancement program approved in advance by the Board or its designee that includes, at minimum, quarterly chart review, semi-annual practice assessment, and semi-annual review of professional growth and education. Respondent shall participate in the professional enhancement program at Respondent's expense during the term of probation.

7. PROHIBITED PRACTICE. During the period of probation, Respondent is prohibited from prescribing opioid medications to any patient for a period longer than 90 days in total in a calendar year; Respondent's prescribing of opioid medications shall be limited to treatment of acute pain. For purposes of this stipulated settlement, acute pain shall be defined as pain that requires opioid treatment for a period less than 90 days. After the effective date of this Decision, all patients for whom opioids are prescribed will be provided this notification at the time of the first opioid prescription by Respondent.

Respondent shall maintain a log of all patients to whom the required oral notification was

made. The log shall contain the: 1) patient's name, address and phone number; 2) patient's medical record number, if available; 3) the full name of the person making the notification; 4) the date the notification was made; and 5) a description of the notification given. Respondent shall keep this log in a separate file or ledger, in chronological order, shall make the log available for immediate inspection and copying on the premises at all times during business hours by the Board or its designee, and shall retain the log for the entire term of probation.

8. 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.

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

10. 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.

11. INVESTIGATION/ENFORCEMENT COST RECOVERY. Respondent is hereby ordered to reimburse the Board its costs of investigation and enforcement, in the amount of $2,706.25 (two thousand seven hundred six dollars and twenty-five cents). Costs shall be payable to the Medical Board of California. Failure to pay such costs shall be considered a violation of probation.

Any and all requests for a payment plan shall be submitted in writing by respondent to the Board.

The filing of bankruptcy by respondent shall not relieve respondent of the responsibility to repay investigation and enforcement costs.

12. 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.

13. 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.

14. 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.

15. 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 Boards'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; and Quarterly Declarations.

16. 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.

17. 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.

18. 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.

19. 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.

20. 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. 800-2017-038919 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 license.

ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Raymond J. McMahon. 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: _____

CHONG UN KIM, M.D.
Respondent

I have read and fully discussed with Respondent Chong Un Kim, 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: _____

RAYMOND J. MCMAHON
Attorney for Respondent

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20. 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. 800-2017-038919 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 license.

ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Raymond J. McMahon. 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: 5/19/22

CHONG UN KIM, M.D.
Respondent

I have read and fully discussed with Respondent Chong Un Kim, 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: 5/20/2022

RAYMOND J. MCMAHON
Attorney for 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: May 20, 2022

Respectfully submitted,

ROB BONTA
Attorney General of California
EDWARD KIM
Supervising Deputy Attorney General

Brian D. Bill

BRIAN D. BILL
Deputy Attorney General
Attorneys for Complainant

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Attorneys for Complainant

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

In the Matter of the Accusation Against: CHONG UN KIM, M.D. 23560 Madison Street, Suite 204 Torrance, CA 90505 Physician's and Surgeon's Certificate No. A 54806, Respondent.	Case No. 800-2017-038919 **ACCUSATION**

PARTIES

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

2. On September 27, 1995, the Board issued Physician's and Surgeon's Certificate Number A 54806 to Chong Un Kim, M.D. (Respondent). That license was in full force and effect at all times relevant to the charges brought herein and will expire on August 31, 2021, unless renewed.

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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 2004 of the Code states:

The board shall have the responsibility for the following:

(a) The enforcement of the disciplinary and criminal provisions of the Medical Practice Act.

(b) The administration and hearing of disciplinary actions.

(c) Carrying out disciplinary actions appropriate to findings made by a panel or an administrative law judge.

(d) Suspending, revoking, or otherwise limiting certificates after the conclusion of disciplinary actions.

(e) Reviewing the quality of medical practice carried out by physician and surgeon certificate holders under the jurisdiction of the board.

(f) Approving undergraduate and graduate medical education programs.

(g) Approving clinical clerkship and special programs and hospitals for the programs in subdivision (f).

(h) Issuing licenses and certificates under the board's jurisdiction.

(i) Administering the board's continuing medical education program.

5. Section 2220 of the Code states:

Except as otherwise provided by law, the board may take action against all persons guilty of violating this chapter. The board shall enforce and administer this article as to physician and surgeon certificate holders, including those who hold certificates that do not permit them to practice medicine, such as, but not limited to, retired, inactive, or disabled status certificate holders, and the board shall have all the powers granted in this chapter for these purposes including, but not limited to:

(a) Investigating complaints from the public, from other licensees, from health care facilities, or from the board that a physician and surgeon may be guilty of unprofessional conduct. The board shall investigate the circumstances underlying a report received pursuant to Section 805 or 805.01 within 30 days to determine if an interim suspension order or temporary restraining order should be issued. The board shall otherwise provide timely disposition of the reports received pursuant to Section 805 and Section 805.01.

(b) Investigating the circumstances of practice of any physician and surgeon where there have been any judgments, settlements, or arbitration awards requiring the physician and surgeon or his or her professional liability insurer to pay an amount in

damages in excess of a cumulative total of thirty thousand dollars ($30,000) with respect to any claim that injury or damage was proximately caused by the physician's and surgeon's error, negligence, or omission.

(c) Investigating the nature and causes of injuries from cases which shall be reported of a high number of judgments, settlements, or arbitration awards against a physician and surgeon.

6. 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.

7. Section 2228 of the Code states:

The authority of the board or the California Board of Podiatric Medicine to discipline a licensee by placing him or her on probation includes, but is not limited to, the following:

(a) Requiring the licensee to obtain additional professional training and to pass an examination upon the completion of the training. The examination may be written or oral, or both, and may be a practical or clinical examination, or both, at the option of the board or the administrative law judge.

(b) Requiring the licensee to submit to a complete diagnostic examination by one or more physicians and surgeons appointed by the board. If an examination is ordered, the board shall receive and consider any other report of a complete diagnostic examination given by one or more physicians and surgeons of the licensee's choice.

(c) Restricting or limiting the extent, scope, or type of practice of the licensee, including requiring notice to applicable patients that the licensee is unable to perform the indicated treatment, where appropriate.

(d) Providing the option of alternative community service in cases other than violations relating to quality of care.

STATUTORY PROVISIONS

8. 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 that is substantially related to the qualifications, functions, or duties of a physician and surgeon.

(f) Any action or conduct that 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.

9. Section 2241 of the Code states:

(a) A physician and surgeon may prescribe, dispense, or administer prescription drugs, including prescription controlled substances, to an addict under his or her treatment for a purpose other than maintenance on, or detoxification from, prescription drugs or controlled substances.

(b) A physician and surgeon may prescribe, dispense, or administer prescription drugs or prescription controlled substances to an addict for purposes of maintenance

on, or detoxification from, prescription drugs or controlled substances only as set forth in subdivision (c) or in Sections 11215, 11217, 11217.5, 11218, 11219, and 11220 of the Health and Safety Code. Nothing in this subdivision shall authorize a physician and surgeon to prescribe, dispense, or administer dangerous drugs or controlled substances to a person he or she knows or reasonably believes is using or will use the drugs or substances for a nonmedical purpose.

(c) Notwithstanding subdivision (a), prescription drugs or controlled substances may also be administered or applied by a physician and surgeon, or by a registered nurse acting under his or her instruction and supervision, under the following circumstances:

(1) Emergency treatment of a patient whose addiction is complicated by the presence of incurable disease, acute accident, illness, or injury, or the infirmities attendant upon age.

(2) Treatment of addicts in state-licensed institutions where the Patient is kept under restraint and control, or in city or county jails or state prisons.

(3) Treatment of addicts as provided for by Section 11217.5 of the Health and Safety Code.

(d)(1) For purposes of this section and Section 2241.5, addict means a person whose actions are characterized by craving in combination with one or more of the following:

(A) Impaired control over drug use.

(B) Compulsive use.

(C) Continued use despite harm.

(2) Notwithstanding paragraph (1), a person whose drug-seeking behavior is primarily due to the inadequate control of pain is not an addict within the meaning of this section or Section 2241.5.

10. Section 2242 of the Code states:

(a) Prescribing, dispensing, or furnishing dangerous drugs as defined in Section 4022 without an appropriate prior examination and a medical indication, constitutes unprofessional conduct.

(b) No licensee shall be found to have committed unprofessional conduct within the meaning of this section if, at the time the drugs were prescribed, dispensed, or furnished, any of the following applies:

(1) The licensee was a designated physician and surgeon or podiatrist serving in the absence of the Patient's physician and surgeon or podiatrist, as the case may be, and if the drugs were prescribed, dispensed, or furnished only as necessary to maintain the Patient until the return of his or her practitioner, but in any case no longer than 72 hours.

(2) The licensee transmitted the order for the drugs to a registered nurse or to a licensed vocational nurse in an inpatient facility, and if both of the following conditions exist:

(A) The practitioner had consulted with the registered nurse or licensed vocational nurse who had reviewed the Patient's records.

(B) The practitioner was designated as the practitioner to serve in the absence of the Patient's physician and surgeon or podiatrist, as the case may be.

(3) The licensee was a designated practitioner serving in the absence of the Patient's physician and surgeon or podiatrist, as the case may be, and was in possession of or had utilized the Patient's records and ordered the renewal of a medically indicated prescription for an amount not exceeding the original prescription in strength or amount or for more than one refill.

(4) The licensee was acting in accordance with Section 120582 of the Health and Safety Code.

11. 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.

DEFINITIONS

12. Controlled Substance – A controlled substance is a drug which has been declared by federal or state law to be illegal for sale or use, but may be dispensed under a physician's prescription. The basis for control and regulation is the danger of addiction, abuse, physical or mental harm, and death. Controlled substances include:

a. Opioids: Drugs generally prescribed for moderate to severe pain that have a high potential for abuse, dependence, and addiction. The dangers of using such drugs include, but are not limited to, drug abuse, psychic dependence, immunosuppression, hormonal changes, central nervous system depression, and death. Common prescription opioids include Norco, oxycodone, OxyContin, and Tramadol.

b. Benzodiazepines – Drugs generally prescribed to treat anxiety. Benzodiazepines are habit-forming and have significant addiction potential when improperly prescribed and/or used over prolonged periods. Negative side effects include drowsiness, dizziness, increased saliva, mood changes, hallucinations, thoughts of suicide, slurred speech, loss of coordination, difficulty walking, coma, respiratory failure and death. Common benzodiazepines include: Xanax, Restoril, Ativan, Valium, and Halcion.

c. Central Nervous Stimulants (C.N.S) – Drugs that contain amphetamine and dextroamphetamine and are prescribed to treat attention deficit hyperactivity disorder and

narcolepsy. C.N.S. stimulants have a high potential for abuse and dependence. Side effects include insomnia, nervousness, dizziness, mood swings, bodily weakness, new or worsened mental health issues, and circulatory problems. Common central nervous stimulants include Adderall.

d. Hypnotics/sedatives – Drugs generally prescribed to treat insomnia. Hypnotics/sedatives are habit-forming; continuous and daily use should be avoided. Negative side effects include depression, anxiety, aggression, agitation, confusion, unusual thoughts, hallucinations, memory problems, personality changes, decreased inhibitions, and dizziness. Common hypnotics/sedatives include Ambien and Lunesta.

FACTUAL ALLEGATIONS

Patient No. 1

13. Patient No. 1[1] (or "Patient") treated with Respondent[2] from approximately September 2010 through September 2018.[3]

14. The earliest notes in the chart are dated February 12, 2010, and April 12, 2010. Physician No. 1, a different physician, treated the Patient on February 12, 2020, for "multiple-year history of back pain." The neurologic exam was normal, but Physician No. 1 still diagnosed lumbar radiculopathy. Physician No. 1 refilled a prescription for 60 Vicodin tablets and prescribed 30 tablets of Soma, 350 mg. On April 12, 2010, Physician No. 2 saw the Patient for a "refill of medications for chronic low back pain." A full neurological exam was normal.

15. Respondent first treated Patient No. 1 on September 7, 2010. The record is handwritten and largely illegible. During that visit, Respondent documented that Patient No. 1 had a "history of back pain for 5 years...college football," and there was "no history of trauma to spine." No M.R.I. was completed prior to this visit. The general exam was normal and no tenderness was found in the back. However, there was diminished range of motion. Respondent

[1] Patients herein are identified by numbers to protect their privacy.

[2] Respondent's scope of practice includes general internal medicine and hospital medicine.

[3] These are approximate dates based upon the records available for review. Patient No. 1 may have treated with Respondent before or after these dates.

documented no past medical history, social history, review of systems, psychiatric history, or addiction screening. Respondent did not perform a neurological exam. Respondent diagnosed the Patient with lumbar radiculopathy. The Patient was to be seen following the M.R.I.; however, the M.R.I. was not conducted.

16. The next visit occurred on February 16, 2011. The record is brief and largely illegible. The brief exam is normal except for tenderness and spasm in the lumbar spine. Respondent prescribed Soma and Percocet.

17. The visit notes in the medical chart generally follow a similar pattern. The notes are brief with little relevant medical information recorded, document no medical justification for the medications prescribed, and handwritten notes were either difficult to read or illegible.

18. According to a Controlled Substance Utilization Review and Evaluation System (CURES)[4] report for the period 2015, Respondent wrote the following prescriptions:

a. Eight prescriptions for Norco 10/325, for a total of 1760 tablets;

b. Six prescriptions for Oxycodone 10 mg, for a total of 1440 tablets;

c. Seven prescriptions for Percocet 10/325 for a total of 1440 tablets;

d. Four prescriptions for Oxycodone 40 mg, for a total of 390 tablets;

e. Thirteen prescriptions for Soma 350mg, for a total of 3060 tablets; and

f. Twelve prescriptions for Xanax 2mg for a total of 1560 tablets.

19. According to a CURES report for the period 2016, Respondent wrote the following prescriptions:

a. Thirteen prescriptions for Oxycodone 40 mg, for a total of 1560;

b. Twelve prescriptions for Soma 350mg, for a total of 2460 tablets; and

c. Thirteen prescriptions for Xanax 2mg, for a total of 2220 tablets.

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

20. According to a CURES report for the period 2017, Respondent wrote the following prescriptions:

a. Nine prescriptions for Percocet 10/325, for a total of 2160 tablets,

b. Six prescriptions of Oxycodone 40 mg, for a total of 720 tablets;

c. Six prescriptions of Oxycodone 10, for a total of 1320 tablets;

d. Eleven prescriptions for Soma 350mg, for a total of 2480 tablets;

e. Seven prescriptions for Xanax 2mg, for a total of 1680 tablets;

f. One prescription of Vyvanse 20mg, for a total of 14 tablets; and

g. One prescription of Vyvanse 50mg for a total of 30 tablets.

21. During the treatment period, Respondent diagnosed Patient No. 1 with "chronic lumbago [low back pain], spondylolisthesis."[5] and hypertension. However, Respondent failed to document clear medical diagnosis[6] for spondylolisthesis as Respondent lacked the requisite x-ray imaging that would establish the diagnosis. Respondent prescribed various opioid medications as treatment for Patient No. 1's back pain complaints without proper medical indication.[7]

22. During the treatment period, Respondent treated Patient No. 1 for Post-Traumatic Stress Disorder, but failed to document clear medical diagnosis. Respondent prescribed Xanax as a treatment for PTSD without proper medical indication.

23. During the treatment period, Respondent treated Patient No. 1 for attention deficit hyperactivity disorder (ADHD) but failed to document a clear medical diagnosis. Respondent

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[5] A spinal disorder in which a vertebra slips forward onto the vertebra below it.

[6] A clear medical diagnosis is determined by obtaining objective evidence, which includes, but is not limited to: obtaining and documenting a complete medical history, which includes information regarding the beginning of the condition, location, and duration of the condition, exacerbating or palliative triggers, lifestyle habits, the efficacy of prior treatments, and history of substance abuse; obtaining and reviewing prior medical records and imaging studies; performing and documenting robust physical examinations, particularly of the affected part of the Patient's body; and identifying and documenting specific symptoms of the condition and the impact of the symptoms on a patient's functioning.

[7] A proper medical indication is based upon obtaining and documenting a clear medical diagnosis.

prescribed Vyvanse as a treatment for ADHD without proper medical indication.

24. On June 27, 2018, Respondent included a diagnosis of "Chronic Narcotic Dependence." Despite the diagnosis, Respondent refilled Patient No. 1's opioid prescription.

25. Between November 2016 and September 2018, Respondent received approximately 12 written advisements and/or warnings and/or requests for clarification from Patient No. 1's health benefit management companies regarding prescribing controlled substances to Patient No. 1. Specifically, Respondent was warned about:

a. Prescribing chronic high dose opioids[8];

b. Failing to obtain a urine toxicology screening;

c. The dangers of prescribing benzodiazepines concurrently with chronic opioid therapy;

d. The dangers of prescribing opioids, benzodiazepines, and sedatives.

26. Despite the repeated warnings, Respondent failed to alter his care and treatment of Patient No. 1.

27. During the period of care and treatment of Patient No. 1, Respondent failed to recognize and/or ignored numerous indicia of controlled substance misuse, dependency, addiction, abuse, and/or diversion,[9] including:

a. Patient No. 1 reported being in multiple motor vehicle accidents;

b. Patient No. 1 admitted to using excessive amounts of the prescribed controlled substances and required early refills of medications.

c. Patient No. 1 failed to obtain an M.R.I. despite Respondent issuing multiple orders for the exam. Patient No. 1 eventually submitted to an M.R.I. exam on March 15, 2018.

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[8] Daily intake greater than or equal to 90 morphine milligram equivalents.

[9] Indicia of controlled substance misuse, dependence, addiction, abuse, and/or diversion includes, but is not limited to: obtaining controlled substances from multiple providers, filling prescriptions of controlled substances at multiple pharmacies, requiring chronic high doses, using controlled substances not prescribed to the Patient, resisting attempts to decrease or change medications, reporting lost or stolen medications, and negative interactions with law enforcement.

d. Patient No. 1 failed to seek physical therapy to address his pain's underlying cause, despite Respondent issuing multiple orders for the treatment.

Patient No. 2

28. Patient No. 2 (or "Patient") treated with Respondent from about September 2011 through December 2016.[10] Respondent's chart consists of 112 pages, consisting initially of poorly legible handwritten notes; the remainder are printouts from an electronic medical record system.

29. The initial note is dated September 20, 2011. However, the chart contains a "To Whom It May Concern" letter, dated February 11, 2010, wherein Respondent affirms that the Patient is disabled and unable to work.

30. During the September 20, 2011 visit, Respondent documents that the Patient reported a "recent diagnosis of [illegible]" and a "history of recurrent meningitis every 2–3 years." Respondent additionally documented that the Patient has headaches, migraines, severe fatigue, and back pain, throat pressure, hoarse voice, arm weakness and myalgias.[11] Respondent documented no physical exam, but diagnosed the Patient with coxsackievirus[12] and recommended zinc, garlic, coenzyme Q10, vitamin D, and nystatin to treat the condition. Labs drawn on 9/19/11 show normal hormone levels, thyroid function, gamma globulin, cortisone, testosterone, hepatitis antibodies (negative), vitamin B12, and chemistry panel.

31. Respondent next treated the Patient on October 10, 2011. Respondent documents no further history and no meaningful exam. Respondent diagnosed the Patient with chronic fatigue syndrome (C.F.S.) and chronic coxsackie. Respondent also prescribes monthly testosterone injections and vitamin D due to border line levels of each.

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[10] These are approximate dates based upon the records available for review. Patient No. 2 may have treated with Respondent before or after these dates.

[11] Muscle aches.

[12] Coxsackieviruses may cause hand, foot, and mouth disease (HFMD), as well as disease of muscles, lungs, and heart. HFMD usually occurs in children but can occur in adults. The majority of HFMD infections are self-limited, so no treatment is required.

32. On November 16, 2011, Patient No. 2 complained of poor memory and headache daily. Respondent prescribed Adderall.

33. On September 10, 2012, Respondent completed an extension of employment disability form on behalf of the Patient. Respondent stated that Patient No. 2 suffered from "severe headache/back ache, persistent fatigue, photophobia[13]... [and] severe [illegible] pain due to shingles, chronic fatigue syndrome." The record from that visit was very brief, and it contained little medical information.

34. On October 19, 2012, Respondent documented a normal examination. Current medications include Imitrex and Zomig,[14] Adderall 5mg daily, and Klonopin, .5 mg three times per day.

35. There are no documented visits between December 13, 2012, and June 25, 2013.

36. Respondent next treated Patient No. 2 on June 26, 2016, for a cough. Respondent prescribed antibiotics and an inhaler. Respondent also extended the Patient's employment disability claim due to disabling fatigue, migraines, and intractable nausea and vomiting. The medications prescribed appear to be unchanged.

37. On October 30, 2014, Respondent documents that Patient No. 2 was "out of Norco...will fill Percocet next visit." A general exam is normal. Respondent refills her current medications, which also include Lunesta.

38. The visit notes in the medical chart generally follow a similar pattern. The notes are brief with little relevant medical information recorded, document no medical justification for the medications prescribed, and handwritten notes were either difficult to read or illegible. The following are remarkable visits:

a. May 21, 2015 – Respondent documents an expanded medication list, which includes: Adderall, Percocet 10/325, Norco 10/325, Xanax, and Paxil (paroxetine, a sedating antidepressant). The record is not clear as to the length of time the

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[13] Light sensitivity.

[14] Imitrex and Zomig are nearly identical medications used to treat migraines. Both drugs must be taken sparingly or they cause migraines.

Patient was prescribed the medications. The record indicates that Respondent continued to prescribe Lunesta. Respondent also includes a new diagnosis of fibromyalgia.

b. November 25, 2015 - Respondent continued the same medication treatment but noted that he would "consider detox off narcotics."

c. On February 11, 2016, Patient No. 2 complained that her headaches were "too much to handle, not controlled with current treatment. [She experienced] Severe fatigue, with falling asleep on the road." Respondent noted that taking two to four Adderall tablets per day did not help.

d. Respondent next treated Patient No. 2 on May 4, 2016. Patient No. 2 reported that she was under the care of a psychiatrist, who was weaning her off Paxil. Additionally, Patient No. 2 reported that she was under the care of a pain management specialist who wanted to change her opioid prescription to Suboxone.

39. During a subsequent interview with a Board investigator, Respondent stated:

a. The C.F.S. originated from an infectious disease specialist, who completed a detailed workup of the Patient.

b. He had referred Patient No. 2 to a pain management specialist but he never received a consultation note and continued prescribing opiates. He did, however, discuss the case with the specialist, who recommended switching the Patient to Suboxone. Nevertheless, Respondent continued to prescribe Percocet.

c. He prescribed Adderall to treat Patient No. 2's fatigue.

d. A neurologist was following Patient No. 2's migraines (the record contains no documentation of this).

e. Respondent acknowledged that the IVIG was experimental and not evidence-based. The Respondent did not obtain informed consent for this experimental treatment.

f. At the February 11, 2016 visit, Patient No. 2 reported her headaches were severe,

getting worse, and not being controlled with current treatment. Additionally, Patient No. 2's fatigue was not helped by the Adderall.

g. Generally, when a patient presents with worsening headaches, Respondent inquires about neurological, visual, and auditory problems. Respondent stated that he inquired about these issues with Patient No. 2 but failed to document this discussion.

h. He performed no neurological examination. He ordered no imaging to rule out headaches due to aneurysm but believed it was previously completed.

40. During the treatment period, Respondent failed to obtain and document psychiatric or addiction history, an adequate medical history, social history, family history, and/or review of systems sufficient to establish a proper diagnosis.

41. During the course of treatment, Respondent continuously prescribed medications, including opioids, without proper charting.

42. During the treatment period, Respondent prescribed amphetamines as treatment for C.F.S. However, there is no evidence that such treatment is effective.

43. Failed to document sufficient detail to form a diagnosis or treatment plan.

Patient No. 3

44. Patient No. 3 (or "Patient") treated with Respondent from about December 2008 through November 2017.[15] The first treatment note is dated December 17, 2008. However, in a November 18, 2013 letter to an attorney, Respondent states that he has treated the Patient since 2006.

45. During the December 17, 2008 visit, Respondent documents that Patient No. 3 complains of morning fatigue. Respondent documented that the Patient has "adrenal fatigue."[16]

46. During a March 13, 2009 visit, Respondent documented that the Patient had chronic fatigue syndrome, chronic pain, and a seizure disorder. The medications include Fioricet (contains

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[15] These are approximate dates based upon the records available for review. Patient No. 3 may have treated with Respondent before or after these dates.

[16] This is an alternative diagnosis that has no basis in allopathic medicine.

Tylenol, caffeine, and a barbiturate), Topamax, Subutex (buprenorphine), Elavil, Provigil (an amphetamine-like drug), Effexor (antidepressant), fish oil, and vitamin D.

47. The medical records from March 27, 2009, through February 27, 2014, are handwritten and are largely illegible and contain little relevant information. Notes that document significant events are as follows:

a. May 22, 2009 – Respondent prescribed Restoril and Soma.

b. June 26, 2009 – Respondent prescribed Percocet.

c. July 10, 2009 – Patient No. 3 receives testosterone and vitamin B12 injections bi-weekly. There is no apparent medical indication for the injections.

d. July 17, 2009 – The medication list includes hydrocortisone, 10mg daily. There is no apparent indication for the prescription.

e. August 5, 2009 – Respondent documents that Patient No. 3 "has generalized pain."

f. August 28, 2009 – Respondent prescribes Ritalin.

g. January 6, 2010 – Patient No. 3 has been taking Xanax. Respondent reduces the dose to 3mg per day.

h. February 18, 2010 – Respondent suggests methadone maintenance. It is unclear whether Respondent prescribed methadone.

i. March 24, 2010 – Patient No. 3 discontinued methadone 10mg twice per day.

j. April 7, 2010 – Patient No. 3 began a higher dose of methadone, 60 mg per day.

k. June 25, 2010 – Respondent notes that Patient No. 3 was "unable to get to a methadone clinic." Respondent prescribed Norco.

l. October 6, 2010 – Respondent started Patient No. 3 on chloral hydrate,[17] Restoril,[18] and ms Contin (morphine). This combination of mediations has a high risk of overdose and cessation of breathing.

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[17] Chloral hydrate is a sedative, used as a short-term treatment of insomnia. This medication is no longer available in the United States.

[18] Restoril is a sedative/hypnotic used to treat symptoms of insomnia.

m. November 3, 2010 – Patient No. 3 states that ms Contin helps her symptoms, but OxyContin does not. Patient No. 3 will stop using OxyContin.

n. May 13, 2011 – Respondent documents that Patient No. 3 was taking Xanax, Soma, Restoril, cortisone, estrogen, Provigil, testosterone and Vitamin B12 injections, along with other medications.

o. January 26, 2012 – Patient No. 3 reports she was unable to sleep and that she "found out someone has been taking meds out of her bottle."

p. February 25, 2013 – Patient No. 3 reported that she was in another auto accident.

q. April 10, 2013 – Patient No. 3 believed her roommate was stealing her pain medications and sedatives. The Patient also reported that she was out of oxycodone and Xanax.

r. May 15, 2013 – Patient No. 3 fell out of bed and fractured her clavicle.

s. August 29, 2013 – Respondent prescribed methadone 20mg twice a day. There was no other information contained in the note.

t. September 4, 2013 – Patient No. 3 was in another motor vehicle accident.

u. September 23, 2013 – Patient No. 3 reported that methadone is not working for her pain.

48. Electronic Medical Records began on October 25, 2012. Notes that document significant events are as follows:

a. On February 2, 2015, Patient No. 3 reported that she ran out of Xanax and Soma because she took excessive amounts due to a "stressful situation." Respondent diagnosed Patient No. 3 with "drug dependence."

b. On April 6, 2015, Respondent deleted the "drug dependence" diagnosis.

c. On June 17, 2015, Respondent diagnosed Patient No. 3 with "Soma dependence."

d. On May 10, 2017, the Patient complained of excessive fatigue. Respondent attributes the Patient's complaints to "oversedation, combination of Valium/Soma/methadone."

e. On September 7, 2017, Patient No. 3 reported that she was hospitalized for "acute

mental status change." Respondent fails to document any further information. Respondent refilled prescriptions for Adderall and methadone.

f. On November 30, 2017, Patient No. 3 reported that methadone was no longer effective and requested a fentanyl prescription. Respondent adds a 200mcg prescription of fentanyl to the current dose of methadone. Respondent increased the dose of methadone several times after this visit.

49. During the treatment period, Respondent prescribed excessive amounts of opioid medications without documenting a clear medical diagnosis. Respondent prescribed excessive amounts of opioid medications without proper medical indication. Respondent's physical examinations were generally documented as "normal."

50. During the treatment period, Respondent prescribed excessive amounts of prescription amphetamines, including Adderall and Ritalin, without documenting a clear diagnosis and without proper medical indication.

51. During the treatment period, Respondent continued to prescribe controlled substances without legitimate medical indication.

a. Provided early refills of controlled substances, including Soma and Xanax prior to the scheduled refill dates.

52. During the treatment period, Respondent failed to recognize the indicia of controlled substance misuse, dependency, addiction, abuse, and/or diversion, including:

a. Patient No. 3 reported on multiple occasions that her medication was stolen.

b. Patient No. 3 reported that she was involved in multiple accidents and sustained injuries.

c. Patient No. 3 reported that she tried her roommate's methadone.

d. Patient No. 3 reported difficulties in having pharmacies fill her prescriptions for controlled substances.

e. Patient No. 3 requested early refills on multiple occasions.

f. Patient No. 3 requested increases in controlled substance dosing.

53. During the treatment period, Respondent failed to obtain and document psychiatric or

addiction history, an adequate medical history, social history, family history, and/or review of systems sufficient to establish a proper diagnosis.

54. During the course of treatment, Respondent continuously prescribed multiple controlled substances, without proper charting.

55. During the course of treatment, Respondent prescribed large doses of mixed opioids and sedatives.

56. Failed to document sufficient detail to form a diagnosis or treatment plan.

FIRST CAUSE FOR DISCIPLINE

(Excessive prescribing)

57. Respondent Chong Un Kim, M.D., is subject to disciplinary action under section 725, subdivision (a) in that Respondent prescribed excessive amounts of controlled substances to Patients 1 through 3. The facts set forth in paragraphs 13 through 56, above, are incorporated by reference as if set forth in full herein.

SECOND CAUSE FOR DISCIPLINE

(Prescribing Without Indication)

58. Respondent Chong Un Kim, M.D. is subject to disciplinary action under section 2242, subdivision (a) in that Respondent prescribed multiple controlled substances to Patients 1 through 3 without obtaining objective evidence to support a proper medical indication. The facts set forth in paragraphs 13 through 56, above, are incorporated by reference as if set forth in full herein.

THIRD CAUSE FOR DISCIPLINE

(Prescribing to an Addict)

59. Respondent Chong Un Kim, M.D. is subject to disciplinary action under section 2241, subdivision (d), subsections (1)-(3) in that throughout the course of treatment, Respondent continuously prescribed multiple controlled substances to:

a. Patient No. 1 after he admitted to using excessive amounts of controlled substances, being involved in multiple motor vehicle accidents, and after being diagnosed with "Chronic Narcotic Dependence." The facts set forth in paragraphs 13 through 27,

above, are incorporated by reference as if set forth in full herein.

b. Patient No. 3 after she admitted to using a controlled substance not prescribed to her, sustaining injuries in multiple accidents, requesting increases and early refills of controlled substances, reporting stolen medications on multiple occasions, and being diagnosed with "drug dependence" and "Soma dependence." The facts set forth in paragraphs 44 through 56, above, are incorporated by reference as if set forth in full herein.

FOURTH CAUSE FOR DISCIPLINE

(Inadequate Recordkeeping)

60. Respondent Chong Un Kim, M.D. is subject to disciplinary action under section 2266, in that Respondent failed to create and maintain proper medical records of his care and treatment of Patients 1 through 3. The facts set forth in paragraphs 13 through 56, above, are incorporated by reference as if set forth in full herein.

FIFTH CAUSE FOR DISCIPLINE

(Repeated Acts of Negligence)

61. Respondent Chong Un Kim, M.D. is subject to disciplinary action under section 2234, subdivision (c) in that as to his care and treatment of Patients 1 through 3:

a. Respondent failed to properly monitor Patients 1 through 3's chronic use of controlled substances;

b. Respondent failed to identify the indicia of controlled substance misuse, dependency, addiction, abuse and/or diversion exhibited by Patients 1 through 3;

c. Respondent failed to modify treatments when medications were no longer effective; and

d. Respondent improperly subjected Patients 1 through 3 to polypharmacy.

62. The facts set forth in paragraphs 13 through 60, above, are incorporated by reference as if set forth in full herein.

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SIXTH CAUSE FOR DISCIPLINE

(Incompetence)

63. Respondent Chong Un Kim, M.D. is subject to disciplinary action under section 2234, subdivision (d) in that Respondent's care and treatment of Patients 1 through 3, evidenced a lack of knowledge.

64. The facts set forth in paragraphs 13 through 62, above, are incorporated by reference as if set forth in full 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 54806, issued to Chong Un Kim, M.D.;

2. Revoking, suspending or denying approval of Chong Un Kim, M.D.'s authority to supervise physician assistants and advanced practice nurses;

3. Ordering Chong Un Kim, 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: NOV 12 2020

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

Complainant

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