

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

In the Matter of the Accusation
Against:

Stephen Joseph Gerbich, M.D.

Physician's and Surgeon's
Certificate No. G 59912

Respondent.

Case No.: 800-2020-064826

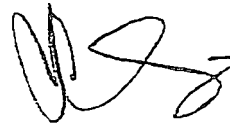
DECISION

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 June 16, 2023.

IT IS SO ORDERED: May 18, 2023.

MEDICAL BOARD OF CALIFORNIA



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

1 ROB BONTA
Attorney General of California
2 STEVEN D. MUNI
Supervising Deputy Attorney General
3 JOHN S. GATSCHET
Deputy Attorney General
4 State Bar No. 244388
California Department of Justice
5 1300 I Street, Suite 125
P.O. Box 944255
6 Sacramento, CA 94244-2550
Telephone: (916) 210-7546
7 Facsimile: (916) 327-2247

8 *Attorneys for Complainant*

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

13 In the Matter of the Accusation Against:

14 **STEPHEN JOSEPH GERBICH, M.D.**
15 **1926 Harbor Town Dr.**
16 **Yuba City, CA 95993-8224**

17 **Physician's and Surgeon's Certificate**
No. G 59912

18 Respondent.

Case No. 800-2020-064826

OAH No. 2022090810

19
20 **STIPULATED SETTLEMENT AND**
21 **DISCIPLINARY ORDER**

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

24 **PARTIES**

25 1. Reji Varghese ("Complainant") is the Interim Executive Director of the Medical
26 Board of California ("Board"). He brought this action solely in his official capacity and is
27 represented in this matter by Rob Bonta, Attorney General of the State of California, by John S.
28 Gatschet, Deputy Attorney General.

2. Respondent Stephen Joseph Gerbich, M.D. ("Respondent") is represented in this
proceeding by attorney Amelia F. Burroughs, Esq. whose address is:

1 Amelia F. Burroughs, Esq.
2 Law Offices of Leonard & Lyde
3 1600 Humboldt Road, Suite 1
4 Chico, CA 95928

5 3. On or about April 20, 1987, the Board issued Physician's and Surgeon's Certificate
6 No. G 59912 to Respondent. That Certificate was in full force and effect at all times relevant to
7 the charges brought in Accusation No. 800-2020-064826, and will expire on February 28, 2025,
8 unless renewed.

9 **JURISDICTION**

10 4. Accusation No. 800-2020-064826 was filed before the Board, and is currently
11 pending against Respondent. The Accusation and all other statutorily required documents were
12 properly served on Respondent on August 11, 2022. Respondent timely filed his Notice of
13 Defense contesting the Accusation.

14 5. A copy of Accusation No. 800-2020-064826 is attached as exhibit A and incorporated
15 herein by reference.

16 **ADVISEMENT AND WAIVERS**

17 6. Respondent has carefully read, fully discussed with counsel, and understands the
18 charges and allegations in Accusation No. 800-2020-064826. Respondent has also carefully read,
19 fully discussed with his counsel, and understands the effects of this Stipulated Settlement and
20 Disciplinary Order.

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

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

///

1 **CULPABILITY**

2 9. Respondent understands and agrees that the charges and allegations in Accusation
3 No. 800-2020-064826, if proven at a hearing, constitute cause for imposing discipline upon his
4 Physician's and Surgeon's Certificate.

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

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

11 **RESERVATION**

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

16 **CONTINGENCY**

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

27 14. Respondent agrees that if he ever petitions for early termination or modification of
28 probation, or if an accusation and/or petition to revoke probation is filed against him before the

1 Board, all of the charges and allegations contained in Accusation No. 800-2020-064826 shall be
2 deemed true, correct and fully admitted by respondent for purposes of any such proceeding or any
3 other licensing proceeding involving Respondent in the State of California.

4 15. 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 16. 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 the Respondent, issue and
9 enter the following Disciplinary Order:

10 **DISCIPLINARY ORDER**

11 **IT IS HEREBY ORDERED** that Physician's and Surgeon's Certificate No. G 59912
12 issued to Respondent Stephen Joseph Gerbich, M.D. is revoked. However, the revocation is
13 stayed and Respondent is placed on probation for four (4) years on the following terms and
14 conditions:

15 1. **CONTROLLED SUBSTANCES - PARTIAL RESTRICTION.** Respondent shall not
16 order, prescribe, dispense, administer, furnish, or possess any controlled substances as defined by
17 the California Uniform Controlled Substances Act, except for those drugs listed in Schedule(s)
18 III, IV, and V of the Act.

19 Respondent shall not issue an oral or written recommendation or approval to a patient or a
20 patient's primary caregiver for the possession or cultivation of marijuana for the personal medical
21 purposes of the patient within the meaning of Health and Safety Code section 11362.5. If
22 Respondent forms the medical opinion, after an appropriate prior examination and medical
23 indication, that a patient's medical condition may benefit from the use of marijuana, Respondent
24 shall so inform the patient and shall refer the patient to another physician who, following an
25 appropriate prior examination and medical indication, may independently issue a medically
26 appropriate recommendation or approval for the possession or cultivation of marijuana for the
27 personal medical purposes of the patient within the meaning of Health and Safety Code section
28 11362.5. In addition, Respondent shall inform the patient or the patient's primary caregiver that

1 Respondent is prohibited from issuing a recommendation or approval for the possession or
2 cultivation of marijuana for the personal medical purposes of the patient and that the patient or
3 the patient's primary caregiver may not rely on Respondent's statements to legally possess or
4 cultivate marijuana for the personal medical purposes of the patient. Respondent shall fully
5 document in the patient's chart that the patient or the patient's primary caregiver was so
6 informed. Nothing in this condition prohibits Respondent from providing the patient or the
7 patient's primary caregiver information about the possible medical benefits resulting from the use
8 of marijuana.

9 Respondent shall immediately surrender Respondent's current DEA permit to the Drug
10 Enforcement Administration for cancellation and reapply for a new DEA permit limited to those
11 Schedules authorized by this order. Within 15 calendar days after the effective date of this
12 Decision, Respondent shall submit proof that Respondent has surrendered Respondent's DEA
13 permit to the Drug Enforcement Administration for cancellation and re-issuance. Within 15
14 calendar days after the effective date of issuance of a new DEA permit, Respondent shall submit a
15 true copy of the permit to the Board or its designee.

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

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

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1 3. EDUCATION COURSE. Within 60 calendar days of the effective date of this
2 Decision, and on an annual basis thereafter, Respondent shall submit to the Board or its designee
3 for its prior approval educational program(s) or course(s) which shall not be less than 40 hours
4 per year, for each year of probation. The educational program(s) or course(s) shall be aimed at
5 correcting any areas of deficient practice or knowledge and shall be Category I certified. The
6 educational program(s) or course(s) shall be at Respondent's expense and shall be in addition to
7 the Continuing Medical Education (CME) requirements for renewal of licensure. Following the
8 completion of each course, the Board or its designee may administer an examination to test
9 Respondent's knowledge of the course. Respondent shall provide proof of attendance for 65
10 hours of CME of which 40 hours were in satisfaction of this condition.

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

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

25 Respondent shall submit a certification of successful completion to the Board or its
26 designee not later than 15 calendar days after successfully completing the course, or not later than
27 15 calendar days after the effective date of the Decision, whichever is later.

28 ///

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

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

15 Respondent shall submit a certification of successful completion to the Board or its
16 designee not later than 15 calendar days after successfully completing the course, or not later than
17 15 calendar days after the effective date of the Decision, whichever is later.

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

28 A professionalism program taken after the acts that gave rise to the charges in the

1 Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board
2 or its designee, be accepted towards the fulfillment of this condition if the program would have
3 been approved by the Board or its designee had the program been taken after the effective date of
4 this Decision.

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

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

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

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

28 If Respondent fails to obtain approval of a monitor within 60 calendar days of the effective

1 date of this Decision, Respondent shall receive a notification from the Board or its designee to
2 cease the practice of medicine within three (3) calendar days after being so notified. Respondent
3 shall cease the practice of medicine until a monitor is approved to provide monitoring
4 responsibility.

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

11 If the monitor resigns or is no longer available, Respondent shall, within 5 calendar days of
12 such resignation or unavailability, submit to the Board or its designee, for prior approval, the
13 name and qualifications of a replacement monitor who will be assuming that responsibility within
14 15 calendar days. If Respondent fails to obtain approval of a replacement monitor within 60
15 calendar days of the resignation or unavailability of the monitor, Respondent shall receive a
16 notification from the Board or its designee to cease the practice of medicine within three (3)
17 calendar days after being so notified. Respondent shall cease the practice of medicine until a
18 replacement monitor is approved and assumes monitoring responsibility.

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

24 8. NOTIFICATION. Within seven (7) days of the effective date of this Decision, the
25 Respondent shall provide a true copy of this Decision and Accusation to the Chief of Staff or the
26 Chief Executive Officer at every hospital where privileges or membership are extended to
27 Respondent, at any other facility where Respondent engages in the practice of medicine,
28 including all physician and locum tenens registries or other similar agencies, and to the Chief

1 Executive Officer at every insurance carrier which extends malpractice insurance coverage to
2 Respondent. Respondent shall submit proof of compliance to the Board or its designee within 15
3 calendar days.

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

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

8 10. INVESTIGATION/ENFORCEMENT COST RECOVERY. Respondent is hereby
9 ordered to reimburse the Board its costs of investigation and enforcement, in the amount of
10 \$26,829.00 (Twenty Six Thousand, Eight Hundred and Twenty Nine dollars). Costs shall be
11 payable to the Medical Board of California. Failure to pay such costs shall be considered a
12 violation of probation.

13 Payment must be made in full within 30 calendar days of the effective date of the Order, or
14 by a payment plan approved by the Medical Board of California. Any and all requests for a
15 payment plan shall be submitted in writing by respondent to the Board. Failure to comply with
16 the payment plan shall be considered a violation of probation.

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

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

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

24 12. GENERAL PROBATION REQUIREMENTS.

25 Compliance with Probation Unit

26 Respondent shall comply with the Board's probation unit.

27 Address Changes

28 Respondent shall, at all times, keep the Board informed of Respondent's business and

1 residence addresses, email address (if available), and telephone number. Changes of such
2 addresses shall be immediately communicated in writing to the Board or its designee. Under no
3 circumstances shall a post office box serve as an address of record, except as allowed by Business
4 and Professions Code section 2021, subdivision (b).

5 Place of Practice

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

9 License Renewal

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

12 Travel or Residence Outside California

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

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

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

22 14. NON-PRACTICE WHILE ON PROBATION. Respondent shall notify the Board or
23 its designee in writing within 15 calendar days of any periods of non-practice lasting more than
24 30 calendar days and within 15 calendar days of Respondent's return to practice. Non-practice is
25 defined as any period of time Respondent is not practicing medicine as defined in Business and
26 Professions Code sections 2051 and 2052 for at least 40 hours in a calendar month in direct
27 patient care, clinical activity or teaching, or other activity as approved by the Board. If
28 Respondent resides in California and is considered to be in non-practice, Respondent shall

1 comply with all terms and conditions of probation. All time spent in an intensive training
2 program which has been approved by the Board or its designee shall not be considered non-
3 practice and does not relieve Respondent from complying with all the terms and conditions of
4 probation. Practicing medicine in another state of the United States or Federal jurisdiction while
5 on probation with the medical licensing authority of that state or jurisdiction shall not be
6 considered non-practice. A Board-ordered suspension of practice shall not be considered as a
7 period of non-practice.

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

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

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

15 Periods of non-practice for a Respondent residing outside of California will relieve
16 Respondent of the responsibility to comply with the probationary terms and conditions with the
17 exception of this condition and the following terms and conditions of probation: Obey All Laws;
18 General Probation Requirements; and Quarterly Declarations.

19 15. COMPLETION OF PROBATION. Respondent shall comply with all financial
20 obligations (e.g., restitution, probation costs) not later than 120 calendar days prior to the
21 completion of probation. This term does not include cost recovery, which is due within 30
22 calendar days of the effective date of the Order, or by a payment plan approved by the Medical
23 Board and timely satisfied. Upon successful completion of probation, Respondent's certificate
24 shall be fully restored.

25 16. VIOLATION OF PROBATION. Failure to fully comply with any term or condition
26 of probation is a violation of probation. If Respondent violates probation in any respect, the
27 Board, after giving Respondent notice and the opportunity to be heard, may revoke probation and
28 carry out the disciplinary order that was stayed. If an Accusation, or Petition to Revoke Probation,

1 or an Interim Suspension Order is filed against Respondent during probation, the Board shall have
2 continuing jurisdiction until the matter is final, and the period of probation shall be extended until
3 the matter is final.

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

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

19 19. FUTURE ADMISSIONS CLAUSE. If Respondent should ever apply or reapply for
20 a new license or certification, or petition for reinstatement of a license, by any other health care
21 licensing action agency in the State of California, all of the charges and allegations contained in
22 Accusation No. 800-2020-064826 shall be deemed to be true, correct, and admitted by
23 Respondent for the purpose of any Statement of Issues or any other proceeding seeking to deny or
24 restrict license.

25 ///

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28 ///

1 ACCEPTANCE

2 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
3 discussed it with my attorney, Amelia F. Burroughs, Esq. I understand the stipulation and the
4 effect it will have on my Physician's and Surgeon's Certificate. I enter into this Stipulated
5 Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be
6 bound by the Decision and Order of the Medical Board of California.

7
8 DATED: March 31, 2023 Stephen Joseph Gerbich
9 STEPHEN JOSEPH GERBICH, M.D.
Respondent

10 I have read and fully discussed with Respondent Stephen Joseph Gerbich, M.D. the terms
11 and conditions and other matters contained in the above Stipulated Settlement and Disciplinary
12 Order. I approve its form and content.

13 DATED: _____
14 Amelia F. Burroughs, Esq.
Attorney for Respondent

15
16 ENDORSEMENT

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

19
20 DATED: _____ Respectfully submitted,
21 ROB BONTA
22 Attorney General of California
23 STEVEN D. MUNI
24 Supervising Deputy Attorney General
25
26 JOHN S. GATSCHET
27 Deputy Attorney General
28 *Attorneys for Complainant*

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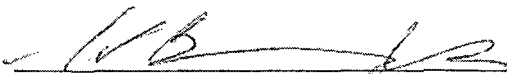
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ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Amelia F. Burroughs, Esq. 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: _____
STEPHEN JOSEPH GERBICH, M.D.
Respondent

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

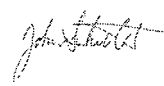
DATED: April 4, 2023 _____

Amelia F. Burroughs, Esq.
Attorney for Respondent

ENDORSEMENT

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

DATED: April 23, 2023 _____

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


JOHN S. GATSCHET
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 800-2020-064826

1 ROB BONTA
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2 STEVEN D. MUNI
Supervising Deputy Attorney General
3 JOHN S. GATSCHET
Deputy Attorney General
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6 Sacramento, CA 94244-2550
Telephone: (916) 210-7546
7 Facsimile: (916) 327-2247

8 *Attorneys for Complainant*

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10 **BEFORE THE**
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14 In the Matter of the Accusation Against:

Case No. 800-2020-064826

15 **Stephen Joseph Gerbich, M.D.**
16 **1926 Harbor Town Dr.**
Yuba City, CA 95993-8224

A C C U S A T I O N

17 Physician's and Surgeon's Certificate
18 No. G 59912

19 Respondent.

20
21 **PARTIES**

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

25 2. On or about April 20, 1987, the Medical Board issued Physician's and Surgeon's
26 Certificate Number G 59912 to Stephen Joseph Gerbich, M.D. ("Respondent"). The Physician's
27 and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought
28 herein and will expire on February 28, 2023, unless renewed.

1 **JURISDICTION**

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

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

9 **STATUTORY PROVISIONS**

10 5. Section 2234 of the Code, states:

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

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

15 (b) Gross negligence.

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

18 (1) An initial negligent diagnosis followed by an act or omission medically
19 appropriate for that negligent diagnosis of the patient shall constitute a single
negligent act.

20 (2) When the standard of care requires a change in the diagnosis, act, or
21 omission that constitutes the negligent act described in paragraph (1), including, but
22 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.

23 ...

24 6. Section 11165.4 of the Health and Safety Code states, in pertinent part:

25 (a)(1)(A)(i) A health care practitioner authorized to prescribe, order,
26 administer, or furnish a controlled substance shall consult the CURES¹ database to

27 ¹ Controlled Substance Utilization Review and Evaluation System (CURES) is a database
28 maintained by the California Department of Justice, which tracks all controlled drug prescriptions
that are dispensed in the State of California. On October 2, 2018, all licensed health practitioners

1 review a patient's controlled substance history before prescribing a Schedule II, Schedule
2 III, or Schedule IV controlled substance to the patient for the first time and at least once
3 every four months thereafter if the substance remains part of the treatment of the patient.

4 (e) This section is not operative until six months after the Department of Justice
5 certifies² that the CURES database is ready for statewide use and that the department has
6 adequate staff, which, at a minimum, shall be consistent with the appropriation authorized
7 in Schedule (6) of Item 0820-001-0001 of the Budget Act of 2016 (Chapter 23 of the
8 Statutes of 2016), user support, and education. The department shall notify the Secretary
9 of State and the office of the Legislative Counsel of the date of that certification.

10 7. Section 2266 of the Code states, in pertinent part:

11 The failure of a physician and surgeon to maintain adequate and accurate records
12 relating to the provision of services to their patients constitutes unprofessional conduct.

13 COST RECOVERY

14 8. Section 125.3 of the Code states:

15 (a) Except as otherwise provided by law, in any order issued in resolution of a
16 disciplinary proceeding before any board within the department or before the
17 Osteopathic Medical Board, upon request of the entity bringing the proceeding, the
18 administrative law judge may direct a licensee found to have committed a violation or
19 violations of the licensing act to pay a sum not to exceed the reasonable costs of the
20 investigation and enforcement of the case.

21 (b) In the case of a disciplined licensee that is a corporation or a partnership, the
22 order may be made against the licensed corporate entity or licensed partnership.

23 (c) A certified copy of the actual costs, or a good faith estimate of costs where
24 actual costs are not available, signed by the entity bringing the proceeding or its
25 designated representative shall be prima facie evidence of reasonable costs of
26 investigation and prosecution of the case. The costs shall include the amount of
27 investigative and enforcement costs up to the date of the hearing, including, but not
28 limited to, charges imposed by the Attorney General.

(d) The administrative law judge shall make a proposed finding of the amount
of reasonable costs of investigation and prosecution of the case when requested
pursuant to subdivision (a). The finding of the administrative law judge with regard to
costs shall not be reviewable by the board to increase the cost award. The board may
reduce or eliminate the cost award, or remand to the administrative law judge if the
proposed decision fails to make a finding on costs requested pursuant to subdivision
(a).

26 who prescribe controlled substances were required to consult with CURES while prescribing
27 controlled substances to patients unless the prescription met a narrow exemption. (Health and
28 Safety Code § 11165.4.)

² On April 2, 2018, the Department of Justice certified the CURES 2.0 database.
Mandatory CURES consultation became effective October 2, 2018. <https://oag.ca.gov/cures>

1 (e) If an order for recovery of costs is made and timely payment is not made as
2 directed in the board's decision, the board may enforce the order for repayment in any
3 appropriate court. This right of enforcement shall be in addition to any other rights
4 the board may have as to any licensee to pay costs.

5 (f) In any action for recovery of costs, proof of the board's decision shall be
6 conclusive proof of the validity of the order of payment and the terms for payment.

7 (g) (1) Except as provided in paragraph (2), the board shall not renew or
8 reinstate the license of any licensee who has failed to pay all of the costs ordered
9 under this section.

10 (2) Notwithstanding paragraph (1), the board may, in its discretion,
11 conditionally renew or reinstate for a maximum of one year the license of any
12 licensee who demonstrates financial hardship and who enters into a formal agreement
13 with the board to reimburse the board within that one-year period for the unpaid
14 costs.

15 (h) All costs recovered under this section shall be considered a reimbursement
16 for costs incurred and shall be deposited in the fund of the board recovering the costs
17 to be available upon appropriation by the Legislature.

18 (i) Nothing in this section shall preclude a board from including the recovery of
19 the costs of investigation and enforcement of a case in any stipulated settlement.

20 (j) This section does not apply to any board if a specific statutory provision in
21 that board's licensing act provides for recovery of costs in an administrative
22 disciplinary proceeding.

23 DEFINITIONS

24 9. Hydrocodone with acetaminophen – Generic name for the drugs Vicodin, Norco, and
25 Lortab. Hydrocodone with acetaminophen is classified as an opioid analgesic combination
26 product used to treat moderate to moderately severe pain. Hydrocodone with acetaminophen is a
27 Schedule II controlled substance pursuant to Code of Federal Regulations Title 21 section
28 1308.12. Hydrocodone with acetaminophen is a dangerous drug pursuant to California Business
and Professions Code section 4022 and is a Schedule II controlled substance pursuant to
California Health and Safety Code section 11055, subdivision (b).

10 10. Promethazine-phenylephrine-codeine cough syrup – Generic name for the drug
11 Virtussin AC. Virtussin AC is a combination drug used to treat acute cough and chest congestion
12 caused by allergies, the flu or the common cold. Virtussin AC is not indicated to treat chronic
13 cough conditions. Virtussin AC contains codeine. Virtussin AC is a Schedule V controlled
14 substance pursuant to Code of Federal Regulations Title 21 section 1308.15. Virtussin AC is a
15 dangerous drug pursuant to California Business and Professions Code section 4022 and is a

1 Schedule V controlled substance pursuant to California Health and Safety Code section 11058,
2 subdivision (c).

3 11. Codeine with Acetaminophen – Generic name for the drugs Tylenol with Codeine #3
4 (“Tylenol #3”) and Tylenol with Codeine #4 (“Tylenol #4”). Codeine is an opioid pain
5 medication used to treat mild to moderate pain. As with other opiate-based painkillers, chronic
6 use of codeine can cause physical dependence. Codeine with acetaminophen is a Schedule III
7 controlled substance pursuant to Code of Federal Regulations Title 21 section 1308.13,
8 subdivision (e). Codeine with acetaminophen is a dangerous drug pursuant to Business and
9 Professions Code section 4022, and is a Schedule III controlled substance pursuant to Health and
10 Safety Code section 11056, subdivision (e).

11 12. Lisdexamfetamine – Generic name for the drug Vyvanse. Vyvanse is a stimulant
12 used to treat ADHD. Lisdexamfetamine is a Schedule II controlled substance pursuant to Code of
13 Federal Regulations Title 21 section 1308.12, subdivision (d). Lisdexamfetamine is a dangerous
14 drug pursuant to California Business and Professions Code section 4022 and is a Schedule II
15 controlled substance pursuant to California Health and Safety Code section 11055, subdivision
16 (d).

17 13. Aripiprazole – Generic name for the drug Abilify. Abilify is a second generation
18 antipsychotic, used to treat schizophrenia, bipolar disorder, and depression. Abilify is not a
19 controlled substance. Abilify is a dangerous drug pursuant to California Business and Professions
20 Code section 4022.

21 14. Clonidine – Generic name for the drug Catapres. Catapres is a sedative and
22 antihypertensive drug. Certain formulations can treat ADHD. Catapres is not a controlled
23 substance. Catapres is a dangerous drug pursuant to California Business and Professions Code
24 section 4022.

25 15. Risperdal – Generic name for the drug Risperidone. Risperidone is an atypical
26 antipsychotic. Risperidone is not a controlled substance. Risperidone is a dangerous drug
27 pursuant to California Business and Professions Code section 4022.

28 ///

1 16. Trazodone – Generic for the drug Desyrel. Desyrel is an anti-depressant of the
2 Serotonin-2 Antagonist-Reuptake Inhibitors that can be used to treat insomnia and sleep
3 problems. Desyrel is not a controlled substance. Desyrel is a dangerous drug pursuant to
4 California Business and Professions Code section 4022.

5 17. Dexamethylphenidate – Generic for the drug Focalin. Focalin is a stimulant used to
6 treat ADHD³. Focalin is a Schedule II controlled substance pursuant to Code of Federal
7 Regulations Title 21 section 1308.12, subdivision (d). Dexamethylphenidate is a dangerous drug
8 pursuant to California Business and Professions Code section 4022 and is a Schedule II controlled
9 substance pursuant to California Health and Safety Code section 11055, subdivision (d).

10 18. Sodium valproate – Generic for the drug Depakote. Depakote is an anticonvulsant
11 used to treat seizures, bipolar disorder and to prevent migraine headaches. Depakote is not a
12 controlled substance. Depakote is a dangerous drug pursuant to California Business and
13 Professions Code section 4022.

14 19. Sertraline – Generic name for the drug Zoloft. Zoloft is a selective serotonin reuptake
15 inhibitor (SSRI) used to treat depression, obsessive-compulsive disorder, posttraumatic stress
16 disorder, premenstrual dysphoric disorder, social anxiety disorder and panic disorder. Sertraline
17 is not a controlled substance. Sertraline is a dangerous drug pursuant to California Business and
18 Professions Code section 4022.

19 **FACTUAL ALLEGATIONS**

20 Witness 1 and 2

21 20. Respondent is a pediatrician. On or between August 13, 2018, and February 19,
22 2020, Respondent worked at Lassen Medical Clinic, a primary care clinic located in Red Bluff,
23 California. On or about February 14, 2020, the Medical Board received an 805.8 report from
24 Lassen Medical Clinic regarding the suspension of Respondent's privileges.

25 21. On or between November 1, 2019, and January 15, 2020, Witness 1,⁴ a seventeen-
26 year-old male, was working as a courtesy clerk at a grocery store in Red Bluff, California.

27 ³ Attention-deficit/hyperactivity disorder

28 ⁴ The identities of all witnesses and patients names have been removed to protect
confidentiality. All witnesses and patients will be fully identified in discovery.

1 Respondent often shopped at the grocery store and would often seek out Witness 1 to chat with
2 him while buying groceries. On one occasion, while at the grocery store between November 1,
3 2019, and January 15, 2020, Respondent provided his business card with his cell phone number to
4 Witness 1 when Witness 1 took Respondent's groceries to Respondent's car. On another
5 occasion, while in the grocery store's parking lot between January 13, 2020, and January 15,
6 2020, Respondent observed that Witness 1 appeared ill and physically examined Witness 1's
7 lymph nodes on Witness 1's neck. Witness 1 did not specifically ask Respondent to examine his
8 lymph nodes and he did not give Respondent permission to touch his neck. Witness 1's mother
9 made a complaint to Lassen Medical Clinic as Respondent was not Witness 1's physician and had
10 never been Witness 1's physician.

11 22. Lassen Medical Clinic reviewed the electronic medical system at their clinic and
12 discovered that on or about January 15, 2020, Respondent looked up the private medical
13 information of Witness 1 in Witness 1's medical chart. On or about January 17, 2020,
14 Respondent assessed Witness 2's medical record. Witness 2 is Witness 1's younger brother.
15 Respondent is not Witness 1's physician and had no reason to access Witness 1's medical chart.
16 Respondent is not Witness 2's physician and had no reason to access Witness 2's medical chart.

17 23. On or about December 15, 2021, Respondent provided an explanation for his conduct
18 in accessing Witness 1 and Witness 2's medical records. Respondent stated that he looked up
19 Witness 1's medical chart after examining Witness 1's lymph nodes to look up Witness 1's
20 primary care physician at Lassen Medical Clinic. Respondent stated he was going to tell Witness
21 1 the name of his primary care physician when he next saw him in the grocery store. Respondent
22 never provided the information to Witness 1 prior to learning that a complaint had been made.
23 Respondent never mentioned Witness 1's medical condition to his primary care physician at the
24 Lassen Medical Clinic despite finding out the identity of Witness 1's primary care physician.
25 Respondent admitted he accessed Witness 2's medical chart two days later when he made a
26 second attempt to access Witness 1's medical chart. Respondent stated he did not remember why
27 he was attempting to access Witness 1's medical chart just two days after accessing it on January
28 15, 2020.

1 Patients 1, 2, 3, 4, and 5

2 24. Prior to taking employment at Lassen Medical Clinic in Red Bluff, California,
3 Respondent worked as a pediatrician at the Marysville Clinic located in Marysville, California.
4 The Respondent provided treatment to Patients 1, 2, 3, and 5, at both the Marysville Clinic and
5 the Lassen Medical Clinic. The Respondent provided treatment to Patient 4 at only the
6 Marysville Clinic.

7 Patient 1

8 25. The Board received and reviewed Respondent's certified medical records for Patient
9 1 from both the Marysville Clinic and Lassen Medical Clinic on or between February 28, 2018,
10 and September 24, 2019. Patient 1, who was approximately 16 to 17 years old during the period
11 the Board reviewed his care, had been diagnosed with cerebral palsy, developmental delay,
12 seizure disorder, scoliosis, and had issues with chronic back pain. Patient 1 was nonverbal, had
13 asthma, and experienced dysphagia. According to Respondent, Patient 1 received specialist care
14 from both a neurologist and gastroenterologist. During Respondent's care of Patient 1, Patient 1
15 received nutrition through a nasogastric tube and Patient 1 remained wheelchair bound.

16 26. Starting on or about November 15, 2017, through November 5, 2018, seven different
17 providers, including Respondent, prescribed various quantities of 5/325 mg tablets of
18 hydrocodone with acetaminophen to Patient 1. Respondent prescribed 310 tablets of 5/325 mg
19 hydrocodone with acetaminophen in six prescriptions to Patient 1 between January 2018 and June
20 2019. On or about December 12, 2018, Respondent increased the quantity of Patient 1's
21 prescription and prescribed 90 tablets of 5/325 mg hydrocodone with acetaminophen.
22 Respondent continued Patient 1's prescription for 13 consecutive months until January 24, 2020.
23 Respondent last saw Patient 1 in clinic on September 24, 2019, yet Respondent kept issuing
24 monthly hydrocodone prescriptions for four months after Patient 1's last treatment visit.

25 27. While Patient 1's problem list in the medical records mentioned scoliosis and back
26 pain, the medical records between February 28, 2018, and September 24, 2019, provide no
27 explanation for why any of the diagnoses required the prescription of chronic narcotics.
28 Respondent's medical records for Patient 1 failed to document the cause, location, and severity of

1 Patient 1's pain and failed to document Patient 1's response to narcotic medication. Respondent
2 failed to document whether Patient 1's specialists were in agreement with the prescription of
3 chronic narcotics. Respondent failed to document whether non-narcotic pain therapies such as
4 non-steroidal medications, pain modulators, physical therapy, acupuncture, chiropractic therapy
5 or psychotherapy were explored as part of Patient 1's care. On or between October 2, 2018, and
6 September 24, 2019, Respondent failed to document that he reviewed CURES while repeatedly
7 prescribing Schedule II narcotics to Patient 1. According to prescribing records, a subsequent
8 treating physician lowered Patient 1's narcotics between March 7, 2020, and September 23, 2020,
9 and eventually weaned Patient 1 off narcotics completely.

10 28. Despite Patient 1's many documented complex medical diagnoses, Respondent's
11 medical notes between February 28, 2018, and September 24, 2019, fail to clearly identify the
12 names, specialties, and contact information for the specialists providing Patient 1's care. The
13 records fail to provide any information related to any contacts that Respondent had with the
14 specialists, nor did they include copies of any of the specialists notes or records that would be
15 pertinent to the care of Patient 1. Respondent's medical documentation between February 28,
16 2018, and September 24, 2019, indicate that Respondent failed to provide an adequate
17 explanation of Patient 1's diagnoses, the treatment he was receiving for those diagnoses, and why
18 he was receiving multiple medications from both Respondent and other providers.

19 29. On or about December 12, 2018, January 14, 2019, and September 24, 2019,
20 Respondent prescribed Virtussin AC oral cough syrup to Patient 1 for chronic cough. Respondent
21 failed to document why Virtussin AC was an appropriate treatment for Patient 1's chronic cough.
22 While the medical records show evidence that Patient 1 was suffering from coughing and choking
23 due to nasopharyngeal secretions, the Respondent failed to document why first line treatments
24 such as suctioning, saliva reducers, and other non-narcotic treatments were not used before the
25 prescription of Virtussin AC. Respondent failed to document any information that Virtussin AC
26 was indicated as a first line treatment for Patient 1's chronic cough.

27 30. On or about September 24, 2019, Respondent documented that Patient 1's oxygen
28 saturation on room air was 92% and 93%. Patient 1's oxygen saturation was documented as

1 above 95% at all other visits. Respondent failed to document whether he addressed Patient 1's
2 low oxygen saturation on September 24, 2019, or whether he ordered additional testing to verify
3 if Patient 1's low oxygen level was a result of a respiratory system problem. Respondent failed to
4 document whether Patient 1 suffers from known, chronic, or intermittent hypoxemia, which
5 would explain Patient 1's low oxygen saturation.

6 31. The medical records between February 28, 2018, and September 24, 2019, fail to
7 document any information related to Patient 1's gastrostomy feeding needs. While Respondent
8 deferred Patient 1's gastrostomy feeding care to Patient 1's gastroenterologist, Respondent failed
9 to independently address Patient 1's ability to thrive and receive nutritional balance.
10 Respondent's medical records between February 28, 2018, and September 24, 2019, failed to note
11 any specialist notes from the gastroenterologist. Respondent's medical records between February
12 28, 2018, and September 24, 2019, failed to document the type of formula, volume of formula,
13 and the timing of Patient 1's feedings. Respondent failed to document any information related to
14 how Patient 1 was progressing with his gastrostomy feeds.

15 Patient 2

16 32. The Board received and reviewed Respondent's certified medical records for Patient
17 2 from the Marysville Clinic and Lassen Medical Clinic on or between September 26, 2016,
18 through September 24, 2019. Patient 2, who was approximately 12 to 15 years old during the
19 period of time the Board reviewed his care, had been diagnosed with attention deficit
20 hyperactivity disorder, chronic neck pain, a Chiari malformation, and an insomnia disorder.
21 Patient 2 is the sibling of Patients 1 and 3. According to Respondent, Patient 2 was seen by a
22 neurologist in Sacramento but there was no documentation in Respondent's medical records of
23 consultation with the specialist or whether Respondent had discussed Patient 2's care with the
24 specialist. On or between September 26, 2016, through September 24, 2019, Respondent failed to
25 document any information related to Patient 2's neck pain or the type of Chiari malformation that
26 Patient 2 suffered from.

27 33. On or about September 19, 2016, and July 14, 2018, Respondent issued 46
28 prescriptions for 30 tablets of 300/30 mg acetaminophen with codeine to Patient 2. Between

1 September 2018 and January 2019, Patient 2 did not receive a prescription for narcotics. On or
2 between February 9, 2019, and January 22, 2020, Respondent issued 11 prescriptions for 30
3 tablets of 5/325 mg hydrocodone with acetaminophen to Patient 2. Respondent last saw Patient 2
4 in clinic on September 24, 2019, yet Respondent kept issuing three hydrocodone prescriptions
5 after Patient 2's last treatment visit. According to the prescription records, Patient 2 suddenly
6 stopped receiving narcotics after January 22, 2020.

7 34. While Patient 2's problem list in the medical records mentioned neck pain or that he
8 had a Chiari malformation, the medical records between September 26, 2016, and September 24,
9 2019, provide no explanation for why the diagnoses required the prescription of chronic narcotics.
10 Respondent's medical records for Patient 2 indicate that Respondent failed to document the
11 cause, location, and severity of Patient 2's pain and failed to document Patient 2's response to
12 narcotic medication. Respondent failed to document whether a neurologist supported or
13 recommended the use of chronic narcotics for Patient 2's neck pain. Respondent failed to
14 document that he attempted to use non-narcotic treatments such as muscle relaxants, non-steroidal
15 medications, physical therapy, acupuncture, chiropractic treatment, and psychotherapy. While
16 there is a passing mention of Patient 2 being previously on gabapentin, there is no specific
17 information documented related to why that treatment was ineffective. Between October 2, 2018,
18 and September 24, 2019, Respondent failed to consult and/or document consulting with CURES
19 prior to issuing narcotic prescriptions to Patient 2.

20 35. On or about March 20, 2019, Respondent documented a well-child visit with Patient
21 2. Despite Patient 2's height and weight indicating that he was obese, Respondent failed to
22 document that Patient 2 suffered from obesity. Respondent failed to order and/or document
23 ordering any testing related to the treatment of obesity including a lipid panel, liver
24 transaminases, and hemoglobin A1C. In addition, at the March 20, 2019, visit Patient 2 reported
25 feeling, "sad, down or hopeless." While Respondent documented a pro forma diagnosis of
26 "counseling" and "well-care", Respondent failed to administer a PHQ-9 questionnaire, failed to
27 make a psychotherapy referral, and failed to document whether anti-depressant medication may
28

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1 be indicated. Respondent also failed to document whether he ruled out Patient 2 as being
2 suicidal.

3 Patient 3

4 36. The Board received and reviewed Respondent's certified medical records for Patient
5 3 from the Marysville Clinic and Lassen Medical Clinic on or between January 16, 2018, through
6 September 24, 2019. Patient 3, who was approximately 12 to 13 years old during the period of
7 time the Board reviewed her care, had been diagnosed with chronic back pain related to a motor
8 vehicle accident. On March 8, 2018, Respondent documented that Patient 3 had anxiety and pain
9 in her right shoulder. Patient 3 is the sibling of Patients 1 and 2.

10 37. According to prescribing records, between February 23, 2016, and January 10, 2018,
11 Respondent provided 52 prescriptions for 30 tablets of 300/30 mg acetaminophen with codeine to
12 Patient 3. On January 11, 2018, Patient 3 received 10 tablets of 5/325 mg hydrocodone with
13 acetaminophen from a different medical provider. On or between January 19, 2018, and June 19,
14 2018, Respondent prescribed seven prescriptions of 30 tablets of 300/30 mg acetaminophen with
15 codeine to Patient 3. In October 25, 2018, Patient 3 received 20 tablets of 300/30 mg
16 acetaminophen with codeine from a different medical provider. Between October 25, 2018, and
17 March 20, 2019, Patient 3 has no record of receiving narcotic prescriptions. On or between
18 March 20, 2019, and May 17, 2019, Respondent provided three prescriptions of 30 tablets of
19 300/30 mg acetaminophen with codeine to Patient 3. On or about June 5, 2019, Respondent
20 prescribed 30 tablets of 5/325 mg hydrocodone with acetaminophen to Patient 3. Respondent
21 documented in the medical record that he was prescribing a more powerful narcotic because
22 Patient 3 stated she fell and injured her right ankle, right arm, and back on May 30, 2019, at
23 school. On or between June 25, 2019, and September 24, 2019, Respondent provided four
24 prescriptions of 45 tablets of 5/325 mg hydrocodone with acetaminophen to Patient 3. On June
25 25, 2019, Respondent documented that Patient 3 had persistent pain in right arm from recent fall
26 but failed to document why he was increasing Patient 3's narcotic prescription. On or between
27 November 12, 2019, and January 21, 2020, Respondent provided three prescriptions of 30 tablets
28 of 300/30 mg acetaminophen with codeine to Patient 3. Patient 3 last received a prescription for

1 7 tablets of 5/325 mg hydrocodone with acetaminophen from another medical provider on or
2 about October 24, 2020, and CURES shows no other prescriptions through November 8, 2021.

3 38. While Patient 3's problem list in the medical records mentioned chronic neck pain,
4 the medical records between January 10, 2018, and September 24, 2019, provide no explanation
5 for why the diagnosis required the prescription of chronic narcotics. Respondent's medical
6 records for Patient 3 indicate that Respondent failed to document the cause, location, and severity
7 of Patient 3's pain and failed to document Patient 3's response to narcotic medication.
8 Respondent failed to document whether a specialist was consulted on Patient 3's pain or whether
9 a specialist recommended the prescription of narcotics. Respondent failed to document that he
10 attempted to use non-narcotic treatments such as muscle relaxants, non-steroidal medications,
11 physical therapy, acupuncture, chiropractic treatment, and psychotherapy. Respondent failed to
12 document or explain why Patient 3 had gaps in her narcotic prescriptions and whether Patient 3
13 required chronic pain medicine. Between October 2, 2018, and September 24, 2019, Respondent
14 failed to consult and/or document consulting with CURES prior to issuing narcotic prescriptions
15 to Patient 3.

16 Patient 4

17 39. The Board received and reviewed Respondent's certified medical records for Patient
18 4 from the Marysville Clinic from August 2012 to August 31, 2018. Patient 4 was approximately
19 8 to 14 years old during that period. On or between August 29, 2017, and June 28, 2018,
20 Respondent documented 14 separate clinic visits with Patient 4. On March 5, 2018, Respondent
21 only documented that Patient 4 was present for "meds" and on April 3, 2018, that Patient was
22 present for a "consultation". On or between August 29, 2017, and June 28, 2018, Respondent in
23 various progress notes documented that Patient 4 was diagnosed with ADHD, Autism,
24 Developmental Delay, and Asperger's Syndrome. The notes between August 29, 2017, and June
25 28, 2018, often only included information related to the prescriptions that Respondent was
26 prescribing to Patient 4 and no other pertinent medical information. On or about July 17, 2018,
27 Respondent documented a longer progress note that contained substantially more detailed
28 information related to Patient 4's care.

1 40. On or between August 29, 2017, and June 28, 2018, Respondent prescribed 10
2 prescriptions for 60 tablets of 50 mg Vyvanse to Patient 4. In addition, Respondent prescribed
3 clonidine, Abilify, Risperdal and trazadone to Patient 4. A review of Respondent's medical
4 records for Patient 4 indicate that Respondent failed to provide a sufficient diagnosis of ADHD in
5 Patient 4 or whether Patient 4's ADHD was properly managed. The medical records lacked
6 behavioral questionnaires from teachers and parents related to either the initiation of Vyvanse or
7 follow-up questionnaires that documented Patient 4's progress on Vyvanse and whether he was
8 experiencing typical and/or unusual side effects.

9 41. A review of Respondent's medical records for Patient 4 shows that Respondent failed
10 to refer Patient 4 to any specialists in psychiatric care. Respondent failed to receive any
11 consultative reports related to Patient 4's psychiatric care. Respondent failed to document a
12 sufficient diagnosis for the use of atypical antipsychotic medications and trazadone in Patient 4's
13 medical chart. Respondent failed to document whether Patient 4 was tolerating the administration
14 of antipsychotic medications and trazadone and whether the medications were effectively treating
15 Patient 4's conditions.

16 Patient 5

17 42. The Board received and reviewed Respondent's certified medical records for Patient
18 5 from the Marysville Clinic and Lassen Medical Clinic from April 3, 2017 to December 16,
19 2019. Patient 5 was approximately 16 to 18 years old during that period. At an April 3, 2017,
20 physical examination, Respondent documented that Patient 5 had been diagnosed with ADHD,
21 mood disorder, and had allergies. On August 24, 2017, Respondent documented that Patient 5's
22 mother was becoming concerned with Patient 5's increasingly unmanageable behavior and
23 discussed whether he needed to be placed in a group home. Respondent continued to document
24 that Patient 5 had ADHD and a mood disorder. On September 7, 2017, Respondent documented
25 that Patient 5 had ADHD and refilled his medications. The September 7, 2017, note did not refer
26 to Patient 5's behavior, which had been documented on August 24, 2017.

27 43. On or between October 9, 2017, and July 11, 2018, Respondent documented four
28 progress notes and two cancellations while caring for Patient 5 at the Marysville Clinic.

1 Respondent's progress notes generally only contain information about Patient 5's medication
2 refills and provided little information about Patient 5's diagnoses and Respondent's management
3 of his psychiatric conditions. On or between October 9, 2017, and July 11, 2018, Respondent
4 prescribed Focalin, trazadone and Depakote to Patient 5.

5 44. On or about October 25, 2018, Respondent documented that he saw Patient 5 at the
6 Lassen Medical Clinic. Respondent documented that Patient 5 had a mood disorder, anxiety
7 disorder, ADHD, traumatic brain injury, and insomnia. Respondent documented that Patient 5
8 was being prescribed Focalin, Depakote, sertraline, and trazodone. Respondent continued to see
9 Patient 5 at the Lassen Medical Clinic until December 13, 2019. Respondent continued to
10 document that Patient 5 was diagnosed with a mood disorder, anxiety disorder, ADHD, traumatic
11 brain injury, and insomnia.

12 45. On or between April 5, 2017, and February 4, 2020, Respondent on a monthly basis
13 prescribed 60 tablets of 20 mg Focalin and 30 tablets of 30 mg Focalin to Patient 5. As noted,
14 Respondent also prescribed Depakote, sertraline, and trazodone to Patient 5 while prescribing
15 Focalin. A review of Respondent's medical records for Patient 5 show that Respondent failed to
16 provide sufficient diagnosis of ADHD in Patient 5 or whether Patient 5's ADHD was properly
17 managed. The medical records lack behavioral questionnaires from teachers and parents related
18 to either the initiation of Focalin or follow-up questionnaires that document Patient 5's progress
19 on Focalin and whether Patient 5 was experiencing typical and/or unusual side effects.

20 46. A review of Respondent's medical records for Patient 5 failed to show that
21 Respondent referred Patient 5 for psychotherapy or that Respondent requested a formal
22 consultation with a specialist. Respondent failed to document whether Patient 5 had suicidal
23 ideation and failed to document that Respondent used appropriate care to make sure that Patient
24 5's psychiatric diagnoses were correct. Respondent failed to document any PHQ-9
25 questionnaires. Respondent failed to document that trazodone for insomnia was appropriate in
26 Patient 5 and whether Patient 5's sleep problems could have been managed through non-
27 pharmacologic means before trazodone was prescribed. Respondent's medical records lack
28 detailed information related to Patient 5's diagnoses, and his responses to the psychoactive

1 medications he was receiving. On or between October 2, 2018, and February 4, 2020,
2 Respondent failed to consult and/or document consulting with CURES while prescribing Focalin
3 to Patient 5.

4 **FIRST CAUSE FOR DISCIPLINE**

5 **(Gross Negligence)**

6 47. Respondent's license is subject to disciplinary action under section 2234, subdivision
7 (b), in that Respondent committed gross negligence in the following separate and distinct ways.

8 The circumstances are as follows:

9 48. Complainant realleges paragraphs 20 through 38, and those paragraphs are
10 incorporated by reference as if fully set forth herein.

11 49. Respondent committed gross negligence in the following ways:

12 A.) On or about January 17, 2020, Respondent accessed Witness 2's private
13 medical records at Lassen Medical Clinic without a reasonable purpose;

14 B.) On or between January 2018 and January 2020, Respondent prescribed
15 narcotics to Patient 1 without providing sufficient medical documentation related to the cause,
16 location, and severity of Patient 1's pain condition. Respondent also failed to document Patient
17 1's response to narcotic medications. Finally, Respondent failed to attempt to wean Patient 1 off
18 narcotic medications and failed to document the use of non-narcotic modalities to treat Patient 1's
19 pain;

20 C.) On or between September 2016 and January 2020, Respondent prescribed
21 narcotics to Patient 2 without providing sufficient medical documentation related to the cause,
22 location, and severity of Patient 2's pain condition. Respondent also failed to document Patient
23 2's response to narcotic medications. Finally, Respondent failed to attempt to wean Patient 2 off
24 narcotic medications and failed to document the use of non-narcotic modalities to treat Patient 2's
25 pain; and,

26 D.) On or between January 2018 and January 2020, Respondent prescribed
27 narcotics to Patient 3 without providing sufficient medical documentation related to the cause,
28 location, and severity of Patient 3's pain condition. Respondent also failed to document Patient

1 3's response to narcotic medications. Finally, Respondent failed to attempt to wean Patient 3 off
2 narcotic medications and failed to document the use of non-narcotic modalities to treat Patient 3's
3 pain.

4 **SECOND CAUSE FOR DISCIPLINE**

5 **(Repeated Negligent Acts)**

6 50. Respondent's license is subject to disciplinary action under section 2234, subdivision
7 (c), and Health and Safety Code section 11165.4, in that Respondent committed a series of
8 distinct and separate simple departures from the standard of care. The circumstances are as
9 follows:

10 51. Complainant realleges paragraphs 20 through 49, and those paragraphs are
11 incorporated by reference as if fully set forth herein.

12 52. Complainant realleges each of the distinct and separate gross negligence departures as
13 set forth in paragraph 49, as distinct and separate simple departures from the standard of care.

14 53. Respondent committed repeated negligent acts in the following ways:

15 A.) On or about January 15, 2020, Respondent accessed Witness 1's private
16 medical records at Lassen Medical Clinic despite not being Witness 1's primary care physician;

17 B.) On or between January 2018 and September 2019, Respondent failed to
18 adequately document Patient 1's medical records to support the diagnoses of Patient 1's medical
19 conditions and the treatments that were provided to Patient 1;

20 C.) On or between October 2018 and January 2020, Respondent failed to consult
21 and/or document consulting CURES while prescribing controlled substances to Patient 1;

22 D.) On or about December 12, 2018, January 14, 2019, and September 24, 2019,
23 Respondent prescribed cough syrup with codeine to treat Patient 1's chronic cough without
24 medical indication;

25 E.) On or about September 24, 2019, Respondent failed to address Patient 1's low
26 oxygen saturation during a clinical visit;

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1 F.) On or between January 2018 and September 2019, Respondent failed to address
2 and/or document addressing Patient 1's nutritional status and feeding regimen in Patient 1's
3 medical records;

4 G.) On or between September 2016 and September 2019, Respondent failed to
5 adequately document Patient 2's medical records to support the diagnoses of Patient 2's medical
6 conditions and the treatments that were provided to Patient 2;

7 H.) On or between October 2018 and January 2020, Respondent failed to consult
8 and/or document consulting CURES while prescribing controlled substances to Patient 2;

9 I.) On or about March 20, 2019, Respondent failed to adequately address Patient
10 2's documented concerns of obesity and Patient 2's self-reporting of feeling "sad, down, or
11 hopeless" in the medical records;

12 J.) On or between October 2018 and January 2020, Respondent failed to consult
13 and/or document consulting CURES while prescribing controlled substances to Patient 3;

14 K.) On or between August 2017 and June 2018, Respondent failed to sufficiently
15 document Patient 4's medical records regarding Patient 4's multiple diagnoses, the multiple
16 medications Patient 4 was receiving, and Patient 4's responses to those medications. Respondent
17 failed to document any consultations or conversations with mental health specialists despite
18 Patient 4 having many mental health needs;

19 L.) On or between April 2017 and December 2019, Respondent failed to
20 sufficiently document Patient 5's medical records regarding Patient 5's multiple diagnoses, the
21 multiple medications Patient 5 was receiving, and Patient 5's responses to those medications.
22 Respondent failed to document any consultations or conversations with mental health specialists
23 despite Patient 5 having many mental health needs; and,

24 M.) On or between October 2018 and February 2020, Respondent failed to consult
25 and/or document consulting CURES while prescribing controlled substances to Patient 5;

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1 **THIRD CAUSE FOR DISCIPLINE**

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

3 54. Respondent's license is subject to disciplinary action under section 2266 of the Code
4 in that he failed to maintain adequate and accurate medical records during his care and treatment
5 of Patients 1, 2, 3, 4, and 5. The circumstances are as follows:

6 55. Complainant realleges paragraphs 20 through 53, and those paragraphs are
7 incorporated by reference as if fully set forth herein.

8 56. Respondent failed to maintain adequate and accurate medical records.

9 **FOURTH CAUSE FOR DISCIPLINE**

10 **(General Unprofessional Conduct)**

11 57. Respondent's license is subject to disciplinary action under section 2234 in that
12 Respondent committed general unprofessional conduct. The circumstances are as follows:

13 58. Complainant realleges paragraphs 20 through 56, and those paragraphs are
14 incorporated by reference as if fully set forth herein.

15 59. Respondent committed general unprofessional conduct as alleged above.

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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 G 59912, issued to Stephen Joseph Gerbich, M.D.;

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

3. Ordering Stephen Joseph Gerbich, M.D., to pay the Board the costs of the investigation and enforcement of this case, and if placed on probation, the costs of probation monitoring;

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

DATED: AUG 11 2022



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

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