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

In the Matter of the Accusation Against: Eva Maria Abbo, M.D. Physician's and Surgeon's Certificate No. A 30468 Respondent.	Case No.: 800-2018-046450

DECISION

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

This Decision shall become effective at 5:00 p.m. on July 14, 2023.

IT IS SO ORDERED: June 16, 2023.

MEDICAL BOARD OF CALIFORNIA

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

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

In the Matter of the Accusation Against: **EVA MARIA ABBO, M.D.** **7334 Girard Ave., Ste. 203** **La Jolla, CA 92037** **Physician's and Surgeon's Certificate No. A 30468** Respondent.	Case No. 800-2018-046450 OAH No. 2022060813 **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) was the Executive Director of the Medical Board of California (Board) and brought this action solely in his official capacity. Reji Varghese is presently the Interim Executive Director of the Medical Board of California and is represented in this matter by Rob Bonta, Attorney General of the State of California, by Keith C. Shaw, Deputy Attorney General.

2. Respondent Eva Maria Abbo, M.D. (Respondent) is represented in this proceeding by attorney Jonathan R. Ehtessabian, ESQ., whose address is: 600 West Broadway, Suite 700, San Diego, CA 92101.

3. On or about September 24, 1976, the Board issued Physician's and Surgeon's Certificate No. A 30468 to Eva Maria Abbo, M.D. (Respondent). The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought in Accusation No. 800-2018-046450, and will expire on December 31, 2023, unless renewed.

JURISDICTION

4. Accusation No. 800-2018-046450 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 April 19, 2022. Respondent timely filed her Notice of Defense contesting the Accusation.

5. A copy of Accusation No. 800-2018-046450 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. 800-2018-046450. Respondent has also carefully read, fully discussed with her counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

7. Respondent is fully aware of her 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 her; the right to present evidence and to testify on her 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.

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CULPABILITY

9. Respondent understands and agrees that the charges and allegations in Accusation No. 800-2018-046450, if proven at a hearing, constitute cause for imposing discipline upon her Physician's and Surgeon's Certificate.

10. For the purpose of resolving the Accusation without the expense and uncertainty of further proceedings, Respondent gives up her right to contest that, at a hearing, Complainant could establish a *prima facie* case with respect to the charges and allegations contained in the Accusation.

11. Respondent agrees that if she ever petitions for early termination or modification of probation, or if an accusation and/or petition to revoke probation is filed against her before the Medical Board of California, all of the charges and allegations contained in Accusation No. 800-2018-046450 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.

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

CONTINGENCY

13. 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 her counsel. By signing the stipulation, Respondent understands and agrees that she may not withdraw her 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.

14. 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.

15. 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 30468 issued to Respondent Eva Maria Abbo, M.D., is revoked. However, the revocation is stayed and Respondent is placed on probation for four (4) years from the effective date of the Decision on the following terms and conditions:

1. CONTROLLED SUBSTANCES - PARTIAL RESTRICTION. Respondent shall not order, prescribe, dispense, administer, furnish, or possess any Schedule II controlled substance as defined by the California Uniform Controlled Substances Act, except for the following drugs listed in Schedule II of the Act: Stimulants, as defined under Health and Safety Code section 11055, subdivision (d), and Depressants, as defined under Health and Safety Code section 11055, subdivision (e).

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

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 20 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 20 hours of CME 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. 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. PROFESSIONAL ENHANCEMENT PROGRAM. Within 60 calendar days of the effective date of this Decision, Respondent shall participate in a professional enhancement program (PEP) 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.

If Respondent fails to enroll in a professional enhancement program 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 she is enrolled in an approved program.

If Respondent leaves the program for any reason, 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 she is again enrolled in an approved program.

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6. 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.

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

8. 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.

9. INVESTIGATION/ENFORCEMENT COST RECOVERY. Respondent is hereby ordered to reimburse the Board its costs of investigation and enforcement, including, but not limited to, expert review, amended accusations, legal reviews, joint investigations, and subpoena enforcement, as applicable, in the amount of $20,068.75. 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. Payment must be made in full within 30 calendar days of the effective date of the Order, or by a payment plan approved by the Medical Board of California. Any and all requests for a payment plan shall be submitted in writing by respondent to the Board. Failure to comply with the payment plan shall be considered a violation of probation.

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

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10. 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.

11. 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.

12. 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.

13. 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; Quarterly Declarations; Abstain from the Use of Alcohol and/or Controlled Substances; and Biological Fluid Testing.

14. 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. This term does not include cost recovery, which is due within 30 calendar days of the effective date of the Order, or by a payment plan approved by the Medical Board and timely satisfied. Upon successful completion of probation, Respondent's certificate shall be fully restored.

15. 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.

16. 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.

17. 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

1 California and delivered to the Board or its designee no later than January 31 of each calendar
2 year.
3 18. FUTURE ADMISSIONS CLAUSE. If Respondent should ever apply or reapply for
4 a new license or certification, or petition for reinstatement of a license, by any other health care
5 licensing action agency in the State of California, all of the charges and allegations contained in
6 Accusation No. 800-2018-046450 shall be deemed to be true, correct, and admitted by
7 Respondent for the purpose of any Statement of Issues or any other proceeding seeking to deny or
8 restrict license.
9 **ACCEPTANCE**
10 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
11 discussed it with my attorney, Jonathan R. Ehtessabian, ESQ. I understand the stipulation and the
12 effect it will have on my Physician's and Surgeon's Certificate. I enter into this Stipulated
13 Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be
14 bound by the Decision and Order of the Medical Board of California.
15
16 DATED: 03/08/2023
17 EVA MARIA ABBO, M.D.
Respondent
18
19 I have read and fully discussed with Respondent Eva Maria Abbo, M.D., the terms and
20 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.
21 I approve its form and content.
22
23 DATED: 03/08/2023
24 JONATHAN R. EHTESSABIAN, ESQ.
Attorney for Respondent
25 ///
26 ///
27 ///
28 ///

ENDORSEMENT

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

DATED: March 10, 2023

Respectfully submitted,

ROB BONTA
Attorney General of California
ALEXANDRA M. ALVAREZ
Supervising Deputy Attorney General

Keith Shaw

KEITH C. SHAW
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 800-2018-046450

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BEFORE THE
MEDICAL BOARD OF CALIFORNIA
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In the Matter of the Accusation Against:

EVA MARIA ABBO, M.D.
7334 Girard Ave., Ste. 203
La Jolla, CA 92037

Physician's and Surgeon's Certificate No. A 30468,

Respondent.

Case No. 800-2018-046450

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 or about September 24, 1976, the Board issued Physician's and Surgeon's Certificate No. A 30468 to Eva Maria Abbo, M.D. (Respondent). The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought herein and will expire on December 31, 2023, unless renewed.

JURISDICTION

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

4. Section 2227 of the Code states:

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

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

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

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

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

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

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

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5. Section 2234 of the Code, states:

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

". . .

"(b) Gross negligence.

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

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

"(2) When the standard of care requires a change in the diagnosis, act, or omission that constitutes the negligent act described in paragraph (1), including, but not limited to, a reevaluation of the diagnosis or a change in treatment, and the licensee's conduct departs from the applicable standard of care, each departure constitutes a separate and distinct breach of the standard of care.

". . ."

6. Section 725 of the Code states:

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

"(b) Any person who engages in repeated acts of clearly excessive prescribing or administering of drugs or treatment is guilty of a misdemeanor and shall be punished by a fine of not less than one hundred dollars ($100) nor more

than six hundred dollars ($600), or by imprisonment for a term of not less than 60 days nor more than 180 days, or by both that fine and imprisonment.

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

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

7. 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."

8. Section 2229 of the Code states that the protection of the public shall be the highest priority for the Board in exercising their disciplinary authority. While attempts to rehabilitate a licensee should be made when possible, Section 2229, subdivision (c), states that when rehabilitation and protection are inconsistent, protection shall be paramount.

COST RECOVERY

9. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case, with failure of the licensee to comply subjecting the license to not being renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be included in a stipulated settlement.

PERTINENT DRUGS

10. **Buprenorphine**, known by the trade names Subutex and Suboxone, is used to treat opiate addiction. Buprenorphine is an opioid partial agonist, which can produce the euphoria, analgesia, and sedation associated with opiates, but to a lesser degree than full opioid agonists, such as methadone and heroin. It is a Schedule III controlled substance and narcotic as defined by section 11056 of the Health and Safety Code, and is a dangerous drug as defined in Code section 4022.

11. **Fentanyl** (Actiq, Fentora, and Duragesic) is a powerful synthetic opioid that is similar to morphine but is 50 to 100 times more potent. Like morphine, it is a medication ordinarily used to treat patients with severe pain, especially after surgery. When properly prescribed and indicated, fentanyl is at times used for the management of pain in opioid-tolerant patients, severe enough to require daily, continuous, long-term opioid treatment, and for which alternative treatment options are inadequate. Fentanyl is a Schedule II controlled substance pursuant to Health and Safety Code section 11055, subdivision (c), and a dangerous drug pursuant to Code section 4022. The Food and Drug Administration (FDA) has issued several black box warnings about fentanyl, including, but not limited to, the risks of addiction, abuse and misuse; life threatening respiratory depression; accidental exposure; neonatal opioid withdrawal syndrome; and the risks associated with the concomitant use with benzodiazepines or other central nervous system (CNS) depressants. Fentanyl comes in several forms, including as an injection, intrathecal administration (an injection around the spinal canal), a transdermal patch that is placed on the skin, or as a lozenge that is sucked like a cough drop (Actiq).

12. **Gabapentin** is a prescription painkiller belonging to its own drug class, Gabapentinoids. It is primarily used as an anti-epileptic drug, and also used as an anticonvulsant and nerve pain medication.

13. **Lorazepam**, known by the trade name Ativan, is used for anxiety and sedation in the management of anxiety disorders for short-term relief from the symptoms of anxiety or anxiety associated with depressive symptoms. It is a dangerous drug as defined in Code section 4022 and a Schedule IV controlled substance as defined by section 11057 of the Health and Safety Code. Lorazepam is not recommended for use in patients with primary depressive disorders. Sudden withdrawal from lorazepam can produce withdrawal symptoms including seizures.

14. **Lunesta**, the trade name for eszopiclone, is used to treat insomnia. It belongs to the class of drugs known as CNS depressants, which slow down the nervous system. In most cases, sleep medicines should only be used for short periods of time, such as one or two days, and for no longer than one or two weeks. Lunesta has a high potential for abuse and addiction can develop quickly. People who stop taking Lunesta after long-term use will most likely suffer withdrawal

symptoms such as insomnia and anxiety. It is a dangerous drug as defined in Code section 4022 and a Schedule IV controlled substance as defined by section 11057 of the Health and Safety Code.

15. **Oxycodone** (Percocet), an opioid analgesic, is a Schedule II controlled substance pursuant to Health and Safety Code section 11055, subdivision (b), and a dangerous drug pursuant to Code section 4022. When properly prescribed and indicated, it is used for the management of moderate to moderately severe pain. The Drug Enforcement Agency (DEA) has identified oxycodone, as a drug of abuse. (Drugs of Abuse, A DEA Resource Guide (2011 Edition), at p. 41.) The FDA has issued a black box warning for Percocet which warns about, among other things, addiction, abuse and misuse, and the possibility of "life-threatening respiratory distress."

16. **OxyContin** is a trade name for oxycodone hydrochloride controlled-release tablets. It is used for pain relief. It can also include relief from anxiety with feelings of euphoria and relaxation. OxyContin is a Schedule II controlled substance and narcotic as defined by section 11055, subdivision (b)(1) of the Health and Safety Code, and a Schedule II controlled substance as defined by Section 1308.12 (b)(1) of Title 21 of the Code of Federal Regulations, and is a dangerous drug as defined in Code section 4022. Respiratory depression is the chief hazard from all opioid agonist preparations. OxyContin should be used with caution in patients who are concurrently receiving other CNS depressants including sedatives or hypnotics, general anesthetics, phenothiazines, other tranquilizers, and alcohol.

17. **Temazepam** (Restoril), a benzodiazepine, is a centrally acting hypnotic-sedative that is a Schedule IV controlled substance pursuant to Health and Safety Code section 11057, subdivision (d), and a dangerous drug pursuant to Code section 4022. When properly prescribed and indicated, it is used to treat seizure disorders and panic disorders. Concomitant use of Restoril with opioids "may result in profound sedation, respiratory depression, coma, and death." The DEA has identified benzodiazepines, such as Restoril, as drug of abuse. (Drugs of Abuse, DEA Resource Guide (2011 Edition), at p. 53.)

18. **Xanax** (alprazolam), a benzodiazepine, is a centrally acting hypnotic-sedative that is a Schedule IV controlled substance pursuant to Health and Safety Code section 11057, subdivision (d), and a dangerous drug pursuant to Code section 4022. When properly prescribed and indicated, it is used for the management of anxiety disorders. Concomitant use of Xanax with opioids "may result in profound sedation, respiratory depression, coma, and death." The DEA has identified benzodiazepines, such as Xanax, as a drug of abuse. (Drugs of Abuse, DEA Resource Guide (2011 Edition), at p. 53.)

19. **Zolpidem**, known by the trade name Ambien, is a Schedule IV controlled substance, and a sedative primarily used to treat insomnia. It is an addictive substance and users should avoid alcohol as serious interactions may occur.

FIRST CAUSE FOR DISCIPLINE

(Gross Negligence)

20. Respondent is subject to disciplinary action under sections 2227 and 2234, as defined by section 2234, subdivision (b), of the Code, in that she committed gross negligence in her care and treatment of Patient M,[1] as more particularly alleged hereinafter:

PATIENT M

21. Respondent provided primary care treatment for Patient M, a then 66-year-old female, since 2003.[2] Throughout her treatment with Respondent, Patient M was diagnosed with numerous medical conditions, including polymyalgia rheumatica, substance use disorder, opioid dependence, type 2 diabetes, hypertension, chronic pain, fibromyalgia, major depressive disorder, anxiety disorder, GERD, anemia, atrial fibrillation, degenerative disc disease, and congestive heart failure. A detailed mental health history was absent from the records. Respondent regularly prescribed the following medications for Patient M since 2015: fentanyl (2015- April 2018);

[1] The patients listed in this document are unnamed to protect their privacy. Respondent knows the name of the patients and can confirm their identity through discovery.

[2] Conduct occurring more than seven years from the filing date of this Accusation is for informational purposes only and is not alleged as a basis for disciplinary action.

OxyContin 20 mg (2016-2017); Xanax 0.5 mg (2015- July 2018); Lunesta 2-3 mg (2015- July 2017); gabapentin (2016-2017); and temazepam 15 mg (2015).[3]

22. In approximately February 2016, fentanyl was increased from 50 mcg to 75 mcg for reported right leg pain, but a leg evaluation was not conducted and fentanyl was not included in the progress note. Patient M would continue on long-term opioid therapy. The following month, Respondent declined the patient's request to switch from fentanyl to OxyContin, but Respondent's medical partner (and daughter) prescribed the medication anyway. On or about April 6, 2016, Patient M disclosed passing out, but Respondent did not explore further testing.

23. On or about June 12, 2016, Patient M was hospitalized for polysubstance abuse and acute encephalopathy (drug-induced delirium), noted to be likely due to polypharmacy. Hospital records indicated that Patient M had a history of polysubstance abuse and opioid use disorder. Respondent was advised that Patient M may have taken excessive Xanax. It was recommended that Patient M decrease sedating medications. Shortly after, Respondent saw Patient M and noted "possible accidental overdose." Respondent prescribed OxyContin, Xanax and gabapentin, but did not perform an appropriate musculoskeletal (MSK) examination. Further, Respondent did not decrease the dosage of Patient M's opiate or benzodiazepine prescriptions despite being counseled by the hospital to the contrary.

24. In approximately July 2016, Respondent noted that Patient M ran out of gabapentin early. The following month, Patient M ran out of Xanax early and Respondent noted that Patient M had a "tendency to take too many" Xanax. Still, Respondent filled another prescription for Xanax at that time. On or about January 24, 2017, Respondent noted that Patient M "just wanted to argue her way into more pills." Still, Respondent continued prescriptions for OxyContin and Lunesta, in additional to Xanax, at that visit. On or about July 6, 2017, Patient M, now in her early 80's, reported aches and pains, but a proper MSK exam was not performed. Respondent prescribed fentanyl 12.5 mcg (which was increased to 25 mcg two weeks later), even though

[3] Fentanyl, Xanax, and Lunesta were regularly prescribed to Patient M since at least 2012. Fentanyl and Xanax prescriptions continued until Respondent's care of Patient M terminated in approximately September 2018.

Patient M had been off opioids for the past several months. Fentanyl was increased to 50 mcg in approximately December 2017, but a MSK exam was not performed.

25. On or about April 19, 2018, Respondent noted that Patient M took more Xanax than usual and felt very shaky. On or about June 8, 2018, Patient M requested an increase in Xanax from twice to three times daily. At this time, Respondent finally counseled Patient M regarding the Beers Criteria.[4] Just 10 days later, Patient M was admitted to the hospital for a foot fracture after she lost her balance and fell in the kitchen. On or about April 18, 2018, Patient M requested an early refill of Xanax, which was approved by Respondent. On or about August 7, 2018, Respondent sent Patient M a letter discussing the dangers of using opiates and benzodiazepines concurrently. On or about September 20, 2018, Respondent noted that she was no longer willing to prescribe hydrocodone, and Patient M had "problems with narcotics, tranquilizers, sleeping pills, in past – falls, hospitalization and overdose." Soon after, Respondent transferred Patient M's care to another provider.

26. At no time did Respondent conduct an appropriate initial examination when prescribing dangerous medications, including opiates and benzodiazepines, nor attempt to use safer alternatives. Respondent also did not conduct appropriate ongoing monitoring and risk mitigation of Patient M. In an interview on or about January 11, 2022, Respondent admitted that she did not conduct urine drug screens or have a signed opioid contract with Patient M, nor did Respondent check CURES[5] until 2018. Respondent also indicated that she never referred the patient to a pain management or mental health care provider. Further, Respondent failed to provide timely and appropriate informed consent to Patient M discussing the risks and benefits of long-term opioid treatment, as well as the dangers of the concurrent use of opiates and

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[4] The 2015 Beers Criteria serve as a "warning light" to identify medications that have an unfavorable balance of benefits and harms in many older adults, particularly when compared to pharmacologic and non-pharmacologic alternatives.

[5] Beginning October 2, 2018, state law requires all California physicians to consult CURES before prescribing a Schedule II, III or IV controlled substance to a patient for the first time and at least every four months thereafter if the substance remains part of the treatment. Prior to this date, it was still prudent for physicians to consult CURES to assess for aberrant behavior.

benzodiazepines. Despite documented red flags of substance addiction, requests for early refills, and multiple hospitalizations, including due to drug-induced delirium, Respondent continued opioid and benzodiazepine prescriptions.

27. Respondent committed gross negligence in her care and treatment of Patient M which included, but was not limited to, the following:

(a) Respondent prescribed long-term dangerous medications, including opiates, benzodiazepines, and hypnotics, without an appropriate initial evaluation, attempts to use safer alternatives, and in combination which increased the risk of harm to the patient; and

(b) Respondent failed to conduct appropriate ongoing monitoring, including urine drug testing and CURES queries, and attempt appropriate steps at risk mitigation.

SECOND CAUSE FOR DISCIPLINE

(Repeated Negligent Acts)

28. Respondent is further subject to disciplinary action under sections 2227 and 2234, as defined by section 2234, subdivision (c), of the Code, in that she committed repeated negligent acts in her care and treatment of patients C, M, and R, as more particularly alleged herein.

PATIENT C

29. Respondent provided primary care treatment for Patient C, a then 43-year-old female, since approximately 2005. Patient C presented with a history of migraine headaches, depression, and fibromyalgia. Respondent prescribed OxyContin 20 mg for treatment of fibromyalgia and Cymbalta for treatment of depression, yet did not prescribe any headache prevention medications. Respondent regularly prescribed the following medications for Patient C since 2015: OxyContin 20 mg (2015-2019); lorazepam 0.5 mg (2016-2019); and temazepam (2015).[6] Absent from the records were whether an appropriate initial evaluation occurred when medications were prescribed, attempts to use safer alternatives, a mental health history, or informed consent

[6] Patient C was also regularly prescribed OxyContin by another provider between 2015-2016 and 2018-2019.

discussing the risks and benefits of the prescribed medications, as well as the dangers of the concurrent use of opiates and benzodiazepines.

30. On or about July 8, 2016, Patient C underwent her annual physical examination. However, a history of present illness was missing, and even though Patient C was taking lorazepam, it was absent from the progress note. Despite a longstanding history of migraines, Respondent indicated that she did not offer the patient any other types of treatment for migraines. OxyContin was discontinued in approximately April 2019.

31. In an interview on or about January 11, 2022, Respondent admitted that she did not conduct urine drug screens or have a signed opioid contract with Patient C, nor did Respondent query CURES until approximately October 2018. Additionally, Respondent was unaware that Patient C had gone to numerous pharmacies between 2016 and 2018.

32. Respondent committed repeated negligent acts in her care and treatment of Patient C which included, but was not limited to, the following:

(a) Respondent prescribed long-term dangerous medications, including opiates and benzodiazepines, without an appropriate initial evaluation, attempts to use safer alternatives, and in combination which increased the risk of harm to the patient;

(b) Respondent failed to conduct appropriate ongoing monitoring, including urine drug testing and CURES queries, attempt appropriate steps at risk mitigation, or attempt to use safer alternatives for migraine treatment;

(c) Respondent failed to provide timely and appropriate informed consent discussing the risks and benefits of long-term opioid treatment, as well as the dangers of the concurrent use of opiates and benzodiazepines; and

(d) Respondent failed to maintain complete and accurate documentation.

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PATIENT M

33. Respondent committed repeated negligent acts in her care and treatment of Patient M which included, but was not limited to, the following:

(a) Paragraphs 21 through 27, above, are hereby incorporated by reference and realleged as if fully set forth herein;

(b) Respondent failed to provide timely and appropriate informed consent discussing the risks and benefits of long-term opioid treatment, as well as the dangers of the concurrent use of opiates and benzodiazepines; and

(c) Respondent failed to maintain complete and accurate documentation.

PATIENT R

34. Respondent provided primary care treatment for Patient R, a then 42-year-old female, since approximately 1994. Throughout her treatment with Respondent, Patient R was diagnosed with numerous medical conditions, including chronic pain, opioid dependence, substance use disorder, regional leg pain syndrome, and insomnia. In approximately January 2007, Patient R had a car accident resulting in a pneumothorax and other lung problems. Respondent regularly prescribed the following medications for Patient R since 2015: Lunesta 2 mg (2015-November 2018) and zolpidem 5 mg (October 2017- December 2019). Patient R was also prescribed Lunesta (2016, 2018); oxycodone (2017); and Suboxone (2015-2019) by other providers while she was receiving primary care from Respondent. Absent from the records were whether an appropriate initial evaluation occurred when medications were prescribed, attempts to use safer alternatives, a mental health history, and informed consent discussing the risks and benefits of the prescribed medications.

35. On or about March 21, 2017, Patient R saw Respondent, but missing from the progress note was that the patient was taking Lunesta, gabapentin, Butrans, and Suboxone. On or about July 5, 2017, Lunesta was increased to 3 mg. On or about September 5, 2017, an early refill for Lunesta 2 mg was approved by Respondent after Patient R reported her medication was

stolen. On or about. November 7, 2017, Patient R requested an early refill for zolpidem, which was issued by Respondent.

36. In approximately July 2016, January 2017, November 2017, January 2018, and February 2019, Respondent received warning letters from Patient R's pharmacy cautioning Respondent of the dangers of prescribing hypnotics to an elderly patient. However, prescribing for hypnotics continued, and were even refilled early on multiple occasions. Respondent also did not conduct appropriate ongoing monitoring for Patient R, including conducting urine drug screens or checking CURES.

37. Respondent committed repeated negligent acts in her care and treatment of Patient R which included, but was not limited to, the following:

(a) Respondent prescribed long-term dangerous medications without an appropriate initial evaluation, attempts to use safer alternatives, and in combination which increased the risk of harm to the patient;

(b) Respondent failed to conduct appropriate ongoing monitoring, including urine drug testing and CURES queries, or attempt appropriate steps at risk mitigation:

(c) Respondent failed to provide timely and appropriate informed consent discussing the risks and benefits of the prescribed medications; and

(d) Respondent failed to maintain complete and accurate documentation.

THIRD CAUSE FOR DISCIPLINE

(Repeated Acts of Clearly Excessive Prescribing)

38. Respondent is further subject to disciplinary action under sections 2227 and 2234, as defined by section 725, of the Code, in that she has committed repeated acts of clearly excessive prescribing of drugs or treatment to patients M and R, as determined by the standard of the community of physicians, as more particularly alleged in paragraphs 21 through 37, above, which are hereby incorporated by reference and realleged as if fully set forth herein.

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FOURTH CAUSE FOR DISCIPLINE

(Failure to Maintain Adequate and Accurate Records)

39. Respondent is further subject to disciplinary action under sections 2227 and 2234, as defined by section 2266, of the Code, in that she failed to maintain adequate and accurate records regarding her care and treatment of patients C, M, and R, as more particularly alleged in paragraphs 21 through 38, above, which are hereby incorporated by reference and realleged as if fully set forth herein.

PRAYER

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

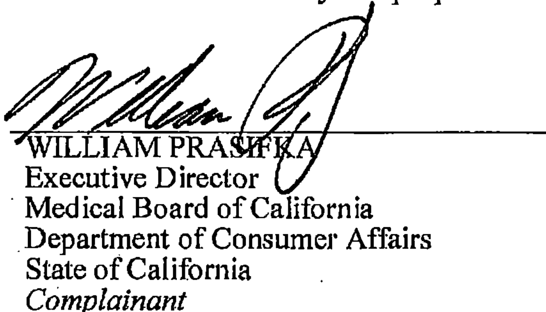
1. Revoking or suspending Physician's and Surgeon's Certificate No. A 30468, issued to Respondent Eva Maria Abbo, M.D.;

2. Revoking, suspending or denying approval of Respondent Eva Maria Abbo, M.D.'s authority to supervise physician assistants and advanced practice nurses;

3. Ordering Respondent Eva Maria Abbo, 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; and

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

DATED: APR 19 2022



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

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