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

In the Matter of the Accusation Against: RASHMI JAIN, M.D. Physician's and Surgeon's Certificate No. C 42911 Respondent.	Case No.: 800-2019-052122

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 12, 2023.

IT IS SO ORDERED: June 12, 2023.

MEDICAL BOARD OF CALIFORNIA

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

ROB BONTA
Attorney General of California
GREG CHAMBERS
Supervising Deputy Attorney General
THOMAS OSTLY
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Attorneys for Complainant

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

In the Matter of the Accusation Against: **RASHMI JAIN, M.D.** **1860 El Camino Real, Suite 310** **Burlingame, CA 94010-3114** **Physician's and Surgeon's Certificate No. C 42911** Respondent.	Case No. 800-2019-052122 OAH No. 2022060421 **STIPULATED SETTLEMENT AND DISCIPLINARY ORDER**

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

PARTIES

1. William Prasifka (Complainant) is the Executive Director of the Medical Board of California (Board). He brought this action solely in his official capacity and is represented in this matter by Rob Bonta, Attorney General of the State of California, by Thomas Ostly, Deputy Attorney General.

2. Respondent Rashmi Jain, M.D. (Respondent) is represented in this proceeding by attorney Joseph C. Gharrity, whose address is: 275 Battery Street, Suite 1600, San Francisco, CA 94111-3370.

3. On or about August 26, 1991, the Board issued Physician's and Surgeon's Certificate No. C 42911 to Rashmi Jain, 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. 800-2019-052122, and will expire on October 31, 2023, unless renewed.

JURISDICTION

4. Accusation No. 800-2019-052122 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 December 30, 2021. Respondent timely filed her Notice of Defense contesting the Accusation.

5. A copy of Accusation No. 800-2019-052122 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. 800-2019-052122. 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.

CULPABILITY

9. Respondent understands and agrees that the charges and allegations in Accusation No. 800-2019-052122, 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 agrees that, at a hearing, Complainant could establish a prima facie case or factual basis for the charges in the Accusation, and that Respondent hereby gives up her right to contest those charges.

11. Respondent agrees that if she ever petitions for early termination or modification of probation, or if the Board ever petitions for revocation of probation, all of the charges all of the charges and allegations contained in Accusation No. 800-2019-052122, a true and correct copy of which is attached hereto as Exhibit A, shall be deemed true, correct, and fully admitted by Respondent for purposes of that proceeding or any other licensing proceeding involving Respondent in the state of California.

12. Respondent agrees that her Physician's and Surgeon's Certificate, No. C 42911, is subject to discipline and he 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. C 42911 issued to Respondent Rashmi Jain, M.D. is revoked. However, the revocation is stayed and Respondent is placed on probation for thirty-five (35) months on the following terms and conditions:

1. 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 30 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 55 hours of CME of which 30 hours were in satisfaction of this condition.

2. 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.

3. 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.

4. PROFESSIONALISM PROGRAM (ETHICS COURSE). Within 60 calendar days of the effective date of this Decision, Respondent shall enroll in a professionalism program, that

meets the requirements of Title 16, California Code of Regulations (CCR) section 1358.1. Respondent shall participate in and successfully complete that program. Respondent shall provide any information and documents that the program may deem pertinent. Respondent shall successfully complete the classroom component of the program not later than six (6) months after Respondent's initial enrollment, and the longitudinal component of the program not later than the time specified by the program, but no later than one (1) year after attending the classroom component. The professionalism program shall be at Respondent's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

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

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

5. 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.

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

7. 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.

8. 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, investigation(s), and subpoena enforcement, as applicable, in the amount of $18,406.25 (eighteen thousand four hundred six dollars and twenty-five cents). Costs shall be payable to the Medical Board of California. Failure to pay such costs shall be considered a violation of probation.

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, including expert review costs.

9. 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.

10. 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.

11. 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.

12. 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.

13. 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.

14. 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.

15. 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 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.

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

17. FUTURE ADMISSIONS CLAUSE. If Respondent should ever apply or reapply for a new license or certification, or petition for reinstatement of a license, by any other health care licensing action agency in the State of California, all of the charges and allegations contained in Accusation No. 800-2019-052122 shall be deemed to be true, correct, and admitted by Respondent for the purpose of any Statement of Issues or any other proceeding seeking to deny or restrict license.

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ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Joseph C. Gharrity. I understand the stipulation and the effect it will have on my Physician's and Surgeon's Certificate. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Medical Board of California.

DATED: 11/18/2022 Rashmi Jain MD

RASHMI JAIN, M.D.
Respondent

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

DATED: 11/21/2022

JOSEPH C. GHARRITY
Attorney for Respondent

ENDORSEMENT

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

DATED: 11/21/2022

Respectfully submitted,

ROB BONTA
Attorney General of California
GREG CHAMBERS
Supervising Deputy Attorney General

Thomas Ostly

THOMAS OSTLY
Deputy Attorney General
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Attorneys for Complainant

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

In the Matter of the Accusation Against: **RASHMI JAIN, M.D.** **1860 El Camino Real, Suite 310** **Burlingame, CA 94010-3114** **Physician's and Surgeon's Certificate No. C 42911,** Respondent.	Case No. 800-2019-052122 **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 August 26, 1991, the Board issued Physician's and Surgeon's Certificate Number C 42911 to Rashmi Jain, 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 October 31, 2022, unless renewed.

JURISDICTION

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

4. Section 2004 of the Code states:

> The board shall have the responsibility for the following:
>
> (a) The enforcement of the disciplinary and criminal provisions of the Medical Practice Act.
>
> (b) The administration and hearing of disciplinary actions.
>
> (c) Carrying out disciplinary actions appropriate to findings made by a panel or an administrative law judge.
>
> (d) Suspending, revoking, or otherwise limiting certificates after the conclusion of disciplinary actions.
>
> (e) Reviewing the quality of medical practice carried out by physician and surgeon certificate holders under the jurisdiction of the board.
>
> (f) Approving undergraduate and graduate medical education programs.
>
> (g) Approving clinical clerkship and special programs and hospitals for the programs in subdivision (f).
>
> (h) Issuing licenses and certificates under the board's jurisdiction.
>
> (i) Administering the board's continuing medical education program.

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

6. Section 2234 of the Code, states:

> The board shall take action against any licensee who is charged with unprofessional conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not limited to, the following:
>
> (a) Violating or attempting to violate, directly or indirectly, assisting in or abetting the violation of, or conspiring to violate any provision of this chapter.
>
> (b) Gross negligence.

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

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

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

...

7. Section 2242 of the Code states:

(a) Prescribing, dispensing, or furnishing dangerous drugs as defined in Section 4022 without an appropriate prior examination and a medical indication, constitutes unprofessional conduct. An appropriate prior examination does not require a synchronous interaction between the patient and the licensee and can be achieved through the use of telehealth, including, but not limited to, a self-screening tool or a questionnaire, provided that the licensee complies with the appropriate standard of care.

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

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

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

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

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

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

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

8. 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.

9. Section 2228.1 of the Code states:

> (a) On and after July 1, 2019, except as otherwise provided in subdivision (c), the board shall require a licensee to provide a separate disclosure that includes the licensee's probation status, the length of the probation, the probation end date, all practice restrictions placed on the licensee by the board, the board's telephone number, and an explanation of how the patient can find further information on the licensee's probation on the licensee's profile page on the board's online license information Internet Web site, to a patient or the patient's guardian or health care surrogate before the patient's first visit following the probationary order while the licensee is on probation pursuant to a probationary order made on and after July 1, 2019, in any of the following circumstances:
>
> (1) A final adjudication by the board following an administrative hearing or admitted findings or prima facie showing in a stipulated settlement establishing any of the following:
>
> ...
>
> (D) Inappropriate prescribing resulting in harm to patients and a probationary period of five years or more.
>
> (2) An accusation or statement of issues alleged that the licensee committed any of the acts described in subparagraphs (A) to (D), inclusive, of paragraph (1), and a stipulated settlement based upon a nolo contendre or other similar compromise that does not include any prima facie showing or admission of guilt or fact but does include an express acknowledgment that the disclosure requirements of this section would serve to protect the public interest.
>
> (b) A licensee required to provide a disclosure pursuant to subdivision (a) shall obtain from the patient, or the patient's guardian or health care surrogate, a separate, signed copy of that disclosure.
>
> (c) A licensee shall not be required to provide a disclosure pursuant to subdivision (a) if any of the following applies:
>
> (1) The patient is unconscious or otherwise unable to comprehend the disclosure and sign the copy of the disclosure pursuant to subdivision (b) and a guardian or health care surrogate is unavailable to comprehend the disclosure and sign the copy.
>
> (2) The visit occurs in an emergency room or an urgent care facility or the visit is unscheduled, including consultations in inpatient facilities.
>
> (3) The licensee who will be treating the patient during the visit is not known to the patient until immediately prior to the start of the visit.
>
> (4) The licensee does not have a direct treatment relationship with the patient.

(d) On and after July 1, 2019, the board shall provide the following information, with respect to licensees on probation and licensees practicing under probationary licenses, in plain view on the licensee's profile page on the board's online license information Internet Web site.

(1) For probation imposed pursuant to a stipulated settlement, the causes alleged in the operative accusation along with a designation identifying those causes by which the licensee has expressly admitted guilt and a statement that acceptance of the settlement is not an admission of guilt.

(2) For probation imposed by an adjudicated decision of the board, the causes for probation stated in the final probationary order.

(3) For a licensee granted a probationary license, the causes by which the probationary license was imposed.

(4) The length of the probation and end date.

(5) All practice restrictions placed on the license by the board.

(e) Section 2314 shall not apply to this section.

COST RECOVERY

10. Section 125.3 of the Code states:

(a) Except as otherwise provided by law, in any order issued in resolution of a disciplinary proceeding before any board within the department or before the Osteopathic Medical Board, upon request of the entity bringing the proceeding, the administrative law judge may 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.

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

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

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

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

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

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

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

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

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

DEFINITIONS

11. Clonazepam (trade name Klonopin) is an anticonvulsant of the benzodiazepine class of drugs. It is a dangerous drug as defined in section 4022 and a Schedule IV controlled substance as defined by section 11057 of the Health and Safety Code. It produces central nervous system depression and should be used with caution with other central nervous system depressant drugs. Like other benzodiazapines, it can produce psychological and physical dependence. Withdrawal symptoms similar to those noted with barbiturates and alcohol have been noted upon abrupt discontinuance. The initial dosage for adults should not exceed 1.5 mg per day divided in three doses.

12. Hydrocodone with acetaminophen (trade names such as Vicodin, Norco or Lortab, also known as hydrocodone w/APAP (acetaminophen)) is a semi-synthetic narcotic analgesic, a dangerous drug as defined in section 4022 of the Business and Professions Code, and a Schedule II controlled substance and narcotic as defined by section 11055, subdivision (e) of the Health and Safety Code. Repeated administration of hydrocodone over a course of several weeks may result in psychic and physical dependence. The usual adult dosage is one tablet every four to six hours as needed for pain. The total 24-hour dose should not exceed 6 tablets.

13. Hydromorphone (trade name Dilaudid) is a dangerous drug as defined in section 4022 of the Business and Professions Code, and a Schedule II controlled substance as defined by section 11055, subdivision (d) of the Health and Safety Code. Dilaudid is a hydrogenated ketone of morphine and is a narcotic analgesic. Its principal therapeutic use is relief of pain. Psychic dependence, physical dependence, and tolerance may develop upon repeated administration of narcotics; therefore, it should be prescribed and administered with caution. Physical dependence, the condition in which continued administration of the drug is required to prevent the appearance of a withdrawal syndrome, usually assumes clinically significant proportions after several weeks of continued use. Side effects include drowsiness, mental clouding, respiratory depression, and vomiting. The usual starting dosage for injections is 1-2 mg. The usual oral dose is 2 mg every two to four hours as necessary. Patients receiving other narcotic analgesics, anesthetics, phenothiazines, tranquilizers, sedative-hypnotics, tricyclic antidepressants and other central nervous system depressants, including alcohol, may exhibit an additive central nervous system depression. When such combined therapy is contemplated, the use of one or both agents should be reduced.

14. Lorazepam (trade name Ativan) is used for anxiety and sedation in the management of anxiety disorder for short-term relief from the symptoms of anxiety or anxiety associated with depressive symptoms. It is a dangerous drug as defined in section 4022 of the Business and Professions Code, 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. The initial dose of this drug for elderly patients should not exceed 2 mg per day. Sudden withdrawal from lorazepam can produce withdrawal symptoms including seizures. The usual dosage range is 2 to 6 mg per day given in divided doses, the largest dose being taken before bedtime, but the daily dosage may vary from 1 to 10 mg per day.

15. Naloxone is a medication approved by the Food and Drug Administration (FDA) designed to rapidly reverse opioid overdose. It is an opioid antagonist—meaning that it binds to opioid receptors and can reverse and block the effects of other opioids such as heroin, morphine, and oxycodone. Administered when a patient is showing signs of opioid overdose, naloxone is a

temporary treatment and its effects do not last long. Therefore, it is critical to obtain medical intervention as soon as possible after administering/receiving naloxone. The medication can be given by intranasal spray (into the nose), intramuscular (into the muscle), subcutaneous (under the skin), or intravenous injection. A practitioner should assess the need to prescribe naloxone for patients who are receiving medication-assisted treatment (MAT) or otherwise considered a risk for opioid overdose.

16. Oxycodone (trade name Roxicodone) is a semi-synthetic narcotic analgesic with multiple actions qualitatively similar to those of morphine. It is a Schedule II controlled substance and narcotic as defined by section 11055, subdivision (b)(1) of the Health and Safety Code and a dangerous drug as defined in section 4022 of the Business and Professions Code. Oxycodone can produce drug dependence of the morphine type and, therefore, has the potential for being abused.

17. Zolpidem (trade name Ambien) is a non-benzodiazepine hypnotic of the imidazopyridine class. It is a dangerous drug as defined in section 4022 of the Business and Professions Code, and a Schedule IV controlled substance as defined by section 11057 of the Health and Safety Code. It is indicated for the short-term treatment of insomnia. It is a central nervous system depressant and should be used cautiously in combination with other central nervous system depressants. Any central nervous system depressant could potentially enhance the central nervous system depressive effects of Ambien. It should be administered cautiously to patients exhibiting signs or symptoms of depression because of the risk of suicide. Because of the risk of habituation and dependence, individuals with a history of addiction to or abuse of drugs or alcohol should be carefully monitored while receiving Ambien. The recommended dosage for adults is 10 mg immediately before bedtime.

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FIRST CAUSE FOR DISCIPLINE

(Unprofessional Conduct; and/or Gross Negligence and/or Repeated Negligent Acts; and/or Improper Prescribing; and/or Prescribing without an Appropriate Medical Examination/Medical Indication; and/or Inadequate Medical Record Keeping in the Care Provided to Patient 1)[1]

18. Respondent Rashmi Jain, M.D. is subject to disciplinary action under sections 2234, 2234(b), 2234(c); and/or 2242, and/or 2266 of the Code, regarding his treatment of Patient 1. The circumstances are as follows:

19. On or about June 9, 2015, Respondent, an internal medicine physician with a specialty in nephrology, saw Patient 1 in the hospital where the patient was being treated for an acute kidney injury. Patient 1 had a history of chronic kidney disease, and other medical issues, for which he received dialysis. Respondent managed the dialysis for Patient 1. The Controlled Substance Utilization Review and Evaluation System (CURES)[2] shows Respondent took over prescribing for Patient 1's chronic pain syndrome and anxiety starting in late 2015.

20. Respondent prescribed oxycodone for the patient from March 24, 2016, through February 19, 2019, in the amount of 30 mg at 180 tablets every 15 days. This prescribing correlated to 540 morphine milligram equivalency (MME)[3] daily, placing the patient in the high-risk category for drug overdose and death. There was no documentation of an informed consent and pain care agreement between Patient 1 and Respondent.

21. Respondent's medical record at no time documents a clear functional assessment on the efficacy of the medication prescribed and did not evaluate to see if the medications required an increase or decrease for efficacy. There was no urine drug screen and/or serum sample drug screen. There was no documentation in Patient 1's chart that Respondent ever consulted

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[1] Names are redacted to protect privacy interests. Respondent knows the names of the patients and can confirm identities through discovery.

[2] CURES (Controlled Substance Utilization Review and Evaluation System) is a database of Schedule II, III and IV controlled substance prescriptions dispensed in California serving the public health, regulatory oversight agencies and law enforcement.

[3] MME stands for morphine milligram equivalency. This is used to convert the many different opioids into one standard value based on morphine and its potency. Oxycodone, for example, is 1.5 times as potent as morphine so 100 mg of oxycodone is equivalent to 150 MME.

CURES[4]. There were no documented goals of care discussions indicating this patient was being placed on palliative care.

22. While prescribing oxycodone, Respondent simultaneously prescribed the benzodiazepine lorazepam for the patient from December 10, 2015, through February 19, 2019. The risk of accidental drug overdose and respiratory failure becomes significant with concurrent usage of narcotics and benzodiazepines.

23. The records for Patient 1 did not document a referral to psychiatry or other efforts to see if the lorazepam could be tapered off. There was no documentation of this being palliative care. There was no naloxone antidote recommended for accidental overdose given the concurrent usage of narcotics and benzodiazepines. No urine drug screen and/or serum sample drug screen was found in the patient's chart.

24. Patient 1 was admitted to the hospital on February 21, 2019 with an "altered mental status" and the discharge note stated that "[t]he patient was felt to be altered due to Ativan and oxycodone overdose."

25. Respondent's overall care and treatment of Patient 1 constitutes unprofessional conduct through gross negligence and/or repeated negligent acts and/or improper prescribing and/or prescribing without an appropriate medical examination or medical indication and/or failure to maintain adequate and accurate medical records for reasons including, but not limited, to the following:

a. Respondent failed to provide informed consent for the long-term use of opiates and benzodiazepines, and/or failed to maintain a record of informed consent;

b. Respondent did not have a pain care agreement, and/or failed to maintain a record of a pain care agreement;

[4] Effective October 2, 2018, physicians are required to consult the CURES database to review a patient's controlled substance history before prescribing controlled substances to the patient for the first time, and at least once every four months thereafter, if the prescribing continues as treatment. Health and Safety Code section 111654.

c. Respondent failed to provide appropriate initiation/continuation and titration of the medication prescribed, in that Respondent did not conduct a clear functional assessment of the efficacy of the medication used and/or failed to record such assessment;

d. Respondent concurrently prescribed narcotics and benzodiazepines without careful and appropriate monitoring, without consideration for psychiatry referrals or antidote therapy, and/or failed to record the consideration of psychiatric referrals or antidote therapy;

e. Respondent did not recommend or prescribe naloxone antidote for accidental overdose and/or failed to document such a recommendation;

f. Respondent failed to conduct urine drug screens and/or serum sample drug screens, and/or failed document such screenings; and

g. Respondent failed to check the patient's CURES report, and/or failed to document that CURES was checked.

SECOND CAUSE FOR DISCIPLINE

(Unprofessional Conduct; and/or Gross Negligence and/or Repeated Negligent Acts; and/or Improper Prescribing; and/or Prescribing without an Appropriate Medical Examination/Medical Indication; and/or Inadequate Medical Record Keeping in the Care Provided to Patient 2)

26. Respondent Rashmi Jain, M.D. is subject to disciplinary action under section sections 2234, 2234(b), 2234(c); and/or 2242, and/or 2266 of the Code, regarding his treatment of Patient 2. The circumstances are as follows:

27. Respondent first saw Patient 2 in July of 2012, while the patient was hospitalized. Respondent continued seeing Patient 2 from that point on, including consulting with the patient for dialysis management.

28. Respondent started prescribing zolpidem on November 21, 2012, and beginning on August 6, 2013, began prescribing hydrocodone. The concurrent prescribing of zolpidem and hydrocodone continued until May of 2015.

29. At no time over the course of prescribing was there a documented informed consent or pain care agreement. There was no drug screen and/or serum drug screen documented in the patient's chart.

30. Respondent's overall care and treatment of Patient 2 constitutes unprofessional conduct through gross negligence and/or repeated negligent acts and/or improper prescribing and/or prescribing without an appropriate medical examination or medical indication and/or failure to maintain adequate and accurate medical records for reasons including, but not limited, to the following:

a. Respondent failed to provide informed consent, and/or failed to maintain a record of informed consent;

b. Respondent did not have a pain care agreement, and/or failed to maintain a record of a pain care agreement;

d. Respondent concurrently prescribed narcotics and non-benzodiazepine hypnotics to a geriatric patient; and

d. Respondent failed to conduct urine drug screens and/or serum sample drug screens, and/or failed document such screenings.

THIRD CAUSE FOR DISCIPLINE

(Unprofessional Conduct; Gross Negligence and/or Repeated Negligent Acts; and/or Prescribing without an Appropriate Medical Examination/Medical Indication; and/or Inadequate Medical Record Keeping in the Care Provided to Patient 3)

31. Respondent Rashmi Jain, M.D. is subject to disciplinary action under sections 2234, 2234(b), 2234(c); and/or 2242, and/or 2266 of the Code, regarding his treatment of Patient 3. The circumstances are as follows:

32. Respondent prescribed Patient 3 hydrocodone from November 23, 2012, through September 23, 2019. There was no documentation of informed consent or a pain care agreement in the Patient's chart. The patient's chart did not document risk assessment for opioid misuse. There was no documentation regarding previous treatment. Functional goals and/or evaluations for adverse events were not documented. There was no drug screen and/or serum drug screen documented in the patient's chart.

33. Respondent's overall care and treatment of Patient 3 constitutes unprofessional conduct through gross negligence and/or repeated negligent acts and/or prescribing without an

appropriate medical examination or medical indication and/or failure to maintain adequate and accurate medical records for reasons including, but not limited, to the following:

a. Respondent did not have a pain care agreement, and/or failed to maintain a record of a pain care agreement;

b. Respondent failed to provide informed consent, and/or failed to maintain a record of informed consent;

c. Respondent failed to document a risk assessment for opioid misuse, and/or failed to maintain a record of such an assessment;

d. Respondent failed to conduct urine drug screens and/or serum sample drug screens, and/or failed document such screenings; and

e. Respondent failed to provide appropriate initiation/continuation and titration and monitoring of the medication prescribed in that Respondent did not document any previous treatment, functional goals, and/or evaluation for adverse events and/or failed to record such evaluations or assessment.

FOURTH CAUSE FOR DISCIPLINE

(Unprofessional Conduct; and/or Gross Negligence and/or Repeated Negligent Acts; and/or Improper Prescribing; and/or Prescribing without an Appropriate Medical Examination/Medical Indication; and/or Inadequate Medical Record Keeping in the Care Provided to Patient 4)

34. Respondent Rashmi Jain, M.D. is subject to disciplinary action under sections 2234, 2234(b), 2234(c); and/or 2242, and/or 2266 of the Code, regarding his treatment of Patient 4. The circumstances are as follows:

35. Respondent treated Patient 4 for dialysis and complaints of pain. Respondent's chart documents the patient had a past history of overuse of sedatives and narcotics, and as recently as January 2015, was noted to have narcotic addiction and dependence. The medical records indicate multiple instances in 2015 alone where Patient 4 had drug overdoses, and many occasions of aberrant behavior, losing her medication or asking for early refills. Respondent prescribed Patient 4 clonazepam and hydromorphone from October 30, 2015, through May 26, 2016. There was no documented informed consent or pain care agreement between Respondent and Patient 4. Patient

4 was stratified to a high-risk group for opioid misuse but there was no documentation of monitoring through toxicology screens and/or serum drug screens.

36. The concurrent prescribing of an opiate (hydromorphone) and a benzodiazepine (clonazepam) increases the risk for accidental drug overdose and respiratory failure. The chart did not delineate functional goals for the prescribing and there was no documentation that the goal of care was palliative. Despite the patient's multiple documented overdoses, there is no documentation of naloxone antidote therapy being recommended or prescribed.

37. Respondent's overall care and treatment of Patient 4 constitutes unprofessional conduct through gross negligence and/or repeated negligent acts and/or prescribing without an appropriate medical examination or medical indication and/or failure to maintain adequate and accurate medical records including, but not limited, to the following:

a. Respondent failed to provide informed consent, and/or failed to maintain a record of informed consent for prescribing of opioids and benzodiazepines;

b. Respondent did not have a pain care agreement, and/or failed to maintain a record of a pain care agreement;

c. Respondent failed to provide appropriate initiation/continuation and titration of the medication prescribed, in that Respondent did not contain a clear functional assessment of the efficacy of the medication used and/or failed to record such assessment;

e. Respondent did not recommend or prescribe naloxone antidote for accidental overdose and/or failed to document such a recommendation; and

f. Respondent failed to conduct urine drug screens and/or serum sample drug screens, and/or failed document such screenings.

FIFTH CAUSE FOR DISCIPLINE

(Unprofessional Conduct; and/or Gross Negligence and/or Repeated Negligent Acts; and/or Improper Prescribing; and/or Prescribing without an Appropriate Medical Examination/Medical Indication; and/or Inadequate Medical Record Keeping in the Care Provided to Patient 5)

38. Respondent Rashmi Jain, M.D. is subject to disciplinary action under sections 2234, 2234(b), 2234(c); and/or 2242, and/or 2266 of the Code, regarding his treatment of Patient 5. The circumstances are as follows:

39. Respondent prescribed hydrocodone and zolpidem for Patient 5 from 2013 through 2018. There was no monitoring documented regarding drug screens or checking CURES for this patient. The chart also did not document any informed consent or pain care agreement between Respondent and Patient 5.

40. Zolpidem is contra indicated in geriatric patients who are at risk for delirium and falls/fractures and Patient 5 was born in 1942. Concurrent prescribing of hydrocodone and zolpidem (a non-benzodiazepine) can result in central nervous system depression and decreased respiratory drive.

41. Respondent's overall care and treatment of Patient 5 constitutes unprofessional conduct through gross negligence and/or repeated negligent acts and/or improper prescribing and/or prescribing without an appropriate medical examination or medical indication and/or failure to maintain adequate and accurate medical records for reasons including, but not limited, to the following:

a. Respondent failed to provide informed consent, and/or failed to maintain a record of informed consent;

b. Respondent did not have a pain care agreement, and/or failed to maintain a record of a pain care agreement;

c. Respondent concurrently prescribed narcotics and non-benzodiazepine hypnotics and failed to provide appropriate initiation/continuation, titration and monitoring of the medication prescribed; and

d. Respondent failed to conduct urine drug screens and/or serum sample drug screens, and/or failed document such screenings.

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SIXTH CAUSE FOR DISCIPLINE

(Unprofessional Conduct; and/or Gross Negligence and/or Repeated Negligent Acts; and/or Prescribing without an Appropriate Medical Examination/Medical Indication; and/or Inadequate Medical Record Keeping in the Care Provided to Patient 6)

42. Respondent Rashmi Jain, M.D. is subject to disciplinary action under sections 2234, 2234(b), 2234(c); and/or 2242, and/or 2266 of the Code, regarding his treatment of Patient 6. The circumstances are as follows:

43. Based on CURES, Respondent prescribed Patient 6 hydrocodone from January 18, 2016, through December 12, 2019. The patient's chart did not document any informed consent or pain care agreement between Respondent and Patient 6. There was no monitoring documented in the records regarding drug screens for this patient.

44. A chart entry[5] on November 27, 2019, indicating Patient 6 needed antibiotics, was repeated verbatim (copied and pasted) in the chart entries for the following dates: December 19, 2019, April 15, 2020, May 27, 2020, and July 27, 2020. During this time-frame Patient 6 was not getting antibiotic prescriptions on every visit.

45. Respondent's overall care and treatment of Patient 6 constitutes unprofessional conduct through gross negligence and/or repeated negligent acts and/or improper prescribing and/or prescribing without an appropriate medical examination or medical indication and/or failure to maintain adequate and accurate medical records including, but not limited, to the following:

a. Respondent failed to provide informed consent, and/or failed to maintain a record of informed consent;

b. Respondent did not have a pain care agreement, and/or failed to maintain a record of a pain care agreement;

c. Respondent "copied and pasted" entries on several occasions making it hard to understand what actually transpired; and

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[5] "MILD INTERMITTENT REACTIVE AIRWAY DISEASES; USING INHALER BUT NEED ANTIBIOTICS -Asthmatic bronchitis vs acute bronchitis. No evidence of pneumonia on cxr. Influenza screen is negative for A and B some component of sinusitis"

d. Respondent prescribed narcotics and failed to provide appropriate initiation/continuation, titration and monitoring through drug screens.

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 C 42911, issued to Respondent Rashmi Jain, M.D.;

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

3. Ordering Respondent Rashmi Jain, 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: DEC 30 2021

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

Reji Varghese
Deputy Director

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