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

In the Matter of the Second Amended Accusation Against:	
Johnnie Alan Ham, M.D.	Case No. 800-2019-056235
Physician's and Surgeon's Certificate No. A 90443	
Respondent.	

DECISION

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

This Decision shall become effective at 5:00 p.m. on OCT 31 2023.

IT IS SO ORDERED SEP 28 2023.

MEDICAL BOARD OF CALIFORNIA

Reji Varghese
Executive Director

ROB BONTA
Attorney General of California
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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 Second Amended Accusation Against: **JOHNNIE ALAN HAM, M.D.** **300 James Way Ste. 120** **Pismo Beach, CA 93449** **Physician's and Surgeon's Certificate No. A 90443** Respondent.	Case No. 800-2019-056235 OAH No. 2022090097 **STIPULATED SURRENDER OF LICENSE AND 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. Reji Varghese (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 Giovanni Mejia and Jonathan Nguyen, Deputy Attorneys General.

2. JOHNNIE ALAN HAM, M.D. (Respondent) is representing himself in this proceeding and has chosen not to exercise his right to be represented by counsel.

3. On or about March 11, 2005, the Board issued Physician's and Surgeon's Certificate No. A 90443 to JOHNNIE ALAN HAM, 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 Second Amended Accusation No. 800-2019-056235 and will expire on August 31, 2024, unless renewed.

JURISDICTION

4. The Second Amended Accusation supersedes the Accusation filed on May 25, 2022 and the First Amended Accusation filed on July 8, 2022, in the above-entitled matter. The Second Amended Accusation and all other statutorily required documents were properly served on Respondent on March 2, 2023. Respondent filed a Notice of Defense contesting the Accusation. A copy of Second Amended Accusation No. 800-2019-056235 is attached as Exhibit A and incorporated by reference.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, and understands the charges and allegations in Second Amended Accusation No. 800-2019-056235. Respondent also has carefully read, and understands the effects of this Stipulated Surrender of License and Order.

6. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Second Amended Accusation; the right to be represented by counsel, at his own expense; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

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

CULPABILITY

8. Respondent admits the truth of each and every charge and allegation in Second Amended Accusation No. 800-2019-056235, except for paragraphs 99 through 108, and 115 through 124, and the reference to "Patient D" in paragraph 110. As to paragraphs 99 through 108, and 115 through 124, and the reference to "Patient D" in paragraph 110, of Second Amended Accusation No. 800-2019-056235, Respondent does not contest that at an administrative hearing Complainant could establish a prima facie case with respect to the charges and allegations contained therein.

9. Respondent agrees that his Physician's and Surgeon's Certificate No. A 90443 is subject to discipline and he hereby surrenders his Physician's and Surgeon's Certificate No. A 90443 for the Board's formal acceptance.

10. Respondent further agrees that if he ever petitions for reinstatement of his Physician's and Surgeon's Certificate No. A 90443, or if an accusation or petition to revoke probation is ever filed against him before the Medical Board of California, all of the charges and allegations contained in Second Amended Accusation No. 800-2019-056235 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.

11. Respondent understands that by signing this stipulation he enables the Board to issue an order accepting the surrender of his Physician's and Surgeon's Certificate without further process.

CONTINGENCY

12. Business and Professions Code section 2224, subdivision (b), provides, in pertinent part, that the Medical Board "shall delegate to its executive director the authority to adopt a . . . stipulation for surrender of a license."

13. This Stipulated Surrender of License and Disciplinary Order shall be subject to approval of the Executive Director on behalf of the Medical Board. The parties agree that this Stipulated Surrender of License and Disciplinary Order shall be submitted to the Executive Director for his consideration in the above-entitled matter and, further, that the Executive Director shall have

a reasonable period of time in which to consider and act on this Stipulated Surrender of License and Disciplinary Order after receiving it. By signing this stipulation, Respondent fully understands and agrees that he may not withdraw his agreement or seek to rescind this stipulation prior to the time the Executive Director, on behalf of the Medical Board, considers and acts upon it.

14. The parties agree that this Stipulated Surrender of License and Disciplinary Order shall be null and void and not binding upon the parties unless approved and adopted by the Executive Director on behalf of the Board, except for this paragraph, which shall remain in full force and effect. Respondent fully understands and agrees that in deciding whether or not to approve and adopt this Stipulated Surrender of License and Disciplinary Order, the Executive Director and/or the Board may receive oral and written communications from its staff and/or the Attorney General's Office. Communications pursuant to this paragraph shall not disqualify the Executive Director, the Board, any member thereof, and/or any other person from future participation in this or any other matter affecting or involving Respondent. In the event that the Executive Director on behalf of the Board does not, in his discretion, approve and adopt this Stipulated Surrender of License and Disciplinary Order, with the exception of this paragraph, it shall not become effective, shall be of no evidentiary value whatsoever, and shall not be relied upon or introduced in any disciplinary action by either party hereto. Respondent further agrees that should this Stipulated Surrender of License and Disciplinary Order be rejected for any reason by the Executive Director on behalf of the Board, Respondent will assert no claim that the Executive Director, the Board, or any member thereof, was prejudiced by its/his/her review, discussion and/or consideration of this Stipulated Surrender of License and Disciplinary Order or of any matter or matters related hereto.

ADDITIONAL PROVISIONS

15. This Stipulated Surrender of License and Order is intended by the parties herein to be an integrated writing representing the complete, final and exclusive embodiment of the agreements of the parties in the above-entitled matter.

16. The parties understand and agree that Portable Document Format (PDF) and facsimile copies of this Stipulated Surrender of License and Order, including PDF and facsimile signatures thereto, shall have the same force and effect as the originals.

17. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Order:

ORDER

IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. A 90443, issued to Respondent JOHNNIE ALAN HAM, M.D., is surrendered and accepted by the Board effective October 31, 2023, or as soon thereafter as the Board shall order.

1. The surrender of Respondent's Physician's and Surgeon's Certificate and the acceptance of the surrendered license by the Board shall constitute the imposition of discipline against Respondent. This stipulation constitutes a record of the discipline and shall become a part of Respondent's license history with the Board.

2. Respondent shall lose all rights and privileges as a Physician and Surgeon in California as of the effective date of the Board's Decision and Order.

3. Respondent shall cause to be delivered to the Board his pocket license and, if one was issued, his wall certificate on or before the effective date of the Decision and Order.

4. If Respondent ever files an application for licensure or a petition for reinstatement in the State of California, the Board shall treat it as a petition for reinstatement. Respondent must comply with all the laws, regulations and procedures for reinstatement of a revoked or surrendered license in effect at the time the petition is filed, and all of the charges and allegations contained in Second Amended Accusation No. 800-2019-056235 shall be deemed to be true, correct and admitted by Respondent when the Board determines whether to grant or deny the petition.

5. Respondent shall pay the agency its costs of investigation and enforcement in the amount of $106,249.75 prior to issuance of a new or reinstated license.

6. 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 agency in the State of California, all of the charges and allegations contained in Second Amended Accusation, No. 800-2019-056235 shall be deemed to be true, correct, and admitted by Respondent for the purpose of any proceeding seeking to deny or restrict licensure.

ACCEPTANCE

I have carefully read the Stipulated Surrender of License and Order. I understand the stipulation and the effect it will have on my Physician's and Surgeon's Certificate. I enter into this Stipulated Surrender of License and Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Medical Board of California.

8/17/23

JOHNNIE ALAN HAM, M.D.
Respondent

ENDORSEMENT

The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted for consideration by the Medical Board of California of the Department of Consumer Affairs.

DATED: _____

Respectfully submitted,

ROB BONTA
Attorney General of California
MATTHEW M. DAVIS
Supervising Deputy Attorney General
JONATHAN NGUYEN
Deputy Attorney General

GIOVANNI MEJIA
Deputy Attorney General
Attorneys for Complainant

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ACCEPTANCE

I have carefully read the Stipulated Surrender of License and Order. I understand the stipulation and the effect it will have on my Physician's and Surgeon's Certificate. I enter into this Stipulated Surrender of License and Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Medical Board of California.

DATED: _____

_____
JOHNNIE ALAN HAM, M.D.
Respondent

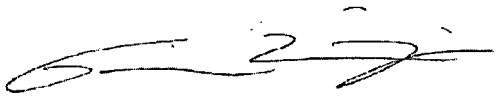
ENDORSEMENT

The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted for consideration by the Medical Board of California of the Department of Consumer Affairs.

DATED: August 21, 2023

Respectfully submitted,

ROB BONTA
Attorney General of California
MATTHEW M. DAVIS
Supervising Deputy Attorney General
JONATHAN NGUYEN
Deputy Attorney General



GIOVANNI MEJIA
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Second Amended Accusation No. 800-2019-056235

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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 Second Amended Accusation Against: **Johnnie Alan Ham, M.D.** **300 James Way, Suite 120** **Pismo Beach, CA 93449-2874** **Physician's and Surgeon's Certificate No. A 90443,** Respondent.	Case No. 800-2019-056235 OAH No. 2022090097 **SECOND AMENDED ACCUSATION**

PARTIES

1. Reji Varghese (Complainant) brings this Second Amended Accusation solely in his official capacity as the Interim Executive Director of the Medical Board of California, Department of Consumer Affairs (Board).

2. On or about March 11, 2005, the Medical Board issued Physician's and Surgeon's Certificate No. A 90443 to Johnnie Alan Ham, 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 August 31, 2024, unless renewed.

JURISDICTION

3. This Second Amended Accusation, which supersedes the First Amended Accusation filed July 8, 2022 and the Accusation filed on May 25, 2022, is brought before the Board, under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

4. Section 2227, subdivision (a) 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.

5. Section 2234 of the Code states, in pertinent part:

> 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.

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(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 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.

COST RECOVERY

7. 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.

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(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.

FIRST CAUSE FOR DISCIPLINE

(Gross Negligence)

8. Respondent has subjected his Physician's and Surgeon's Certificate No. A 90443 to disciplinary action under sections 2227 and 2234, subdivision (b) of the Code, in that he committed gross negligence in the course of his care and treatment of one or more patients. The circumstances are as follows:

Patient A[1]

9. On or about August 7, 2019, Respondent issued a "Medical Exemption for Vaccination Requirements" letter for Patient A, an approximately seven-year-old minor at the time.

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[1] A pseudonym is used for any patient referenced herein to preserve patient confidentiality. The true name and identity of any patient referenced herein is known to Respondent or will be provided to him following Complainant's request of a duly-issued request for discovery pursuant to Government Code section 11507.6.

10. Respondent's "Medical Exemption for Vaccination Requirements" letter for Patient A stated, among other things:

> [Patient A] has recently been asked to document his vaccination status. Based on a thorough evaluation of the patient's personal and family history, I have determined that the physical condition or medical circumstances are such that any further immunization, as specified here is not recommended and the child is therefore permanently exempted....
>
> [Patient A] has a valid medical reason not to vaccinate. The many reasons are documented in the medical chart....
>
> [Patient A] has documented genetic mutations in his family history to include the methyl-tetrahydrofolate reductase (MTHFR) genes C677T and A1298C. This pathway is essential to clearing damaging toxins from the individual and limiting any damage they may cause. Some of these adverse reactions are specific to a particular vaccine, while others may not be. Some of these predispositions may be detectable prior to the administration of vaccine; others, at least with current technology and practice, are not. Moreover, the occurrence of the adverse event is often the first sign of the underlying condition that confers susceptibility. In light of statements by the US Institute of Medicine that vaccination may reveal a susceptibility for the first time, **I am granting a medical exemption.** As such, [Patient A] does not need to receive and is permanently exempted from the DTaP,[2] Tdap,[3] MMR,[4] IPV,[5] Varicella, Influenza, Hepatitis A, Hib,[6] PCV,[7] HPV,[8] and Hepatitis B, and any other vaccines that may become mandatory.

(Bolding and underscoring in original.)

11. Respondent's medical chart for Patient A includes a progress note dated January 20, 2019.

12. In the progress note for Patient A dated January 20, 2019, Respondent documented multiple purported bases for exempting Patient A from vaccination or immunization including, but not limited to, the following:

(a) Patient A's mother accompanying him to the appointment stated that she had a history of "common variable immunodeficiency or CVID";

(b) "Possible yeast hypersensitivity" and a "related sibling['s]...hypersensitivity to yeast";

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[2] DTaP is an abbreviation for diphtheria, tetanus and acellular pertussis vaccine.
[3] Tdap is an abbreviation for tetanus, diphtheria and pertussis vaccine.
[4] MMR is an abbreviation for measles, mumps, and rubella vaccine.
[5] IPV is an abbreviation for inactivated polio vaccine.
[6] Hib is an abbreviation for haemophilus influenzae type b vaccine.
[7] PCV is an abbreviation for pneumococcal conjugate vaccine.
[8] HPV is an abbreviation for human papillomavirus.

(c) A related sibling's history of, "prolonged seizures that cannot be attributed to another identifiable cause, which would constitute at least a mild encephalopathy" within seven days of receiving a first-dose DTaP immunization;

(d) A related sibling's history of "severe allergic reaction, requiring respiratory support, demonstrating anaphylaxis..." after a "hepatitis B injection";

(e) "...most individuals who experience an adverse reaction to vaccines have a preexisting susceptibility" and "the occurrence of the adverse event is often the first sign of the underlying condition that confers susceptibility";

(f) "MSG acts as a stabilizer in vaccines" and "[g]iven the impact MSG has on the brain and...that it can have a variety of side effects when eaten, it is hard to understand how MSG can be deemed safe to inject..."; and

(g) "...vaccines injure and kill – they are neither medically safe nor healthy."

13. Medical records maintained by at least one other medical provider to Patient A in or around 2015 to 2021 documented that Patient A resided with foster parents and was not in his biological parents' custody.

14. In his medical chart for Patient A, Respondent failed to document an adequate basis for a yeast hypersensitivity diagnosis for Patient A, or any sibling.

15. In or around 2019, yeast hypersensitivity did not constitute a valid medical basis for a blanket permanent medical exemption to vaccination and immunization requirements.

16. Respondent's medical chart for Patient A failed to include documentation validating any past adverse event after administration of a DTaP immunization to any sibling of Patient A.

17. In or around 2019, familial history of an adverse event after DTaP immunization was not a contraindication to DTaP immunization.

18. Respondent's medical chart for Patient A failed to include documentation validating a history of anaphylaxis after administration of a hepatitis B immunization to any sibling of Patient A.

19. In or around 2019, a sibling's history of anaphylaxis following administration of a hepatitis B immunization was not a contraindication to hepatitis B immunization.

20. In all, Respondent's medical chart for Patient A failed to establish a valid medical basis for a permanent blanket exemption to vaccination and immunization requirements.

21. Although referenced in Respondent's "Medical Exemption for Vaccination Requirements" letter for Patient A dated August 7, 2019, Respondent's medical chart for Patient A failed to document any MTHFR gene mutation.

22. In or around 2019, a history of C6777T or A1298C variants of the MTHFR gene, either personally or familial, did not constitute a contraindication to vaccination or immunization.

23. Respondent committed gross negligence in the course of his care and treatment of Patient A by improperly issuing the patient a permanent blanket exemption to vaccination and immunization requirements based, in whole or in part, on the rationales stated in Respondent's medical chart for the patient.

24. Respondent committed gross negligence in the course of his care and treatment of Patient A by issuing the patient an exemption to vaccination and immunization requirements based, in whole or in part, on any purported C677T or A1298C variants of the MTHFR gene.

Patient B

25. On or about August 7, 2019, Respondent issued a "Medical Exemption for Vaccination Requirements" letter for Patient B, a sibling of Patient A and an approximately nine-year-old minor at the time.

26. Respondent's "Medical Exemption for Vaccination Requirements" letter for Patient B stated, among other things:

> [Patient B] has recently been asked to document her vaccination status. Based on a thorough evaluation of the patient's personal and family history, I have determined that the physical condition or medical circumstances are such that any further immunization, as specified here, is not recommended and the child is therefore permanently exempted....
>
> [Patient B] has a valid medical reason not to vaccinate. The many reasons are documented in the medical chart....
>
> [Patient B] has documented genetic mutations in her family history to include the methyl-tetrahydrofolate reductase (MTHFR) genes C677T and Al298C. This pathway is essential to clearing damaging toxins from the individual and limiting any damage they may cause. Some of these adverse reactions are specific to a particular vaccine, while others may not be. Some of these predispositions may be detectable prior to the administration of vaccine; others, at least with current technology and

practice, are not. Moreover, the occurrence of the adverse event is often the first sign of the underlying condition that confers susceptibility. In light of statements by the US Institute of Medicine that vaccination may reveal a susceptibility for the first time, **I am granting a medical exemption**. As such, [Patient B] does not need to receive and is permanently exempted from the DTaP, Tdap, MMR, IPV, Varicella, Influenza, Hepatitis A, Hib, PCV, HPV, and Hepatitis B, and any other vaccines that may become mandatory.

(Bolding and underscoring in original.)

27. Respondent's medical chart for Patient B includes a progress note dated January 20, 2019.

28. In the progress note for Patient B dated January 20, 2019, Respondent documented multiple purported bases for exempting Patient B from vaccination or immunization including, but not limited to, the following:

(a) Patient B's mother accompanying Patient B to the appointment stated that she (the mother) had a history of "common variable immunodeficiency or CVID";

(b) "Possible yeast hypersensitivity" and a "related sibling['s]...hypersensitivity to yeast";

(c) A related sibling's history of, "prolonged seizures that cannot be attributed to another identifiable cause, which would constitute at least a mild encephalopathy" within seven days of receiving a first-dose DTaP immunization;

(d) A related sibling's history of "severe allergic reaction, requiring respiratory support, demonstrating anaphylaxis..." after a "hepatitis B injection";

(e) "...most individuals who experience an adverse reaction to vaccines have a preexisting susceptibility" and "the occurrence of the adverse event is often the first sign of the underlying condition that confers susceptibility";

(f) "MSG acts as a stabilizer in vaccines" and "[g]iven the impact MSG has on the brain and...that it can have a variety of side effects when eaten, it is hard to understand how MSG can be deemed safe to inject..."; and

(g) "...vaccines injure and kill – they are neither medically safe nor healthy."

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29. Medical records maintained by at least one other medical provider to Patient B in or around 2015 to 2021 documented that Patient B resided with foster parents and was not in her biological parents' custody.

30. Medical records maintained by at least one other medical provider to Patient B in or around 2010 to 2021 document that the patient had received multiple immunizations before or after her appointment with Respondent including, but not limited to, the following:

(a) Hib immunizations on or about April 19, 2010, December 2, 2010, May 24, 2011, and November 29, 2011;

(b) DTaP immunizations on or about January 19, 2010, July 29, 2010, May 21, 2010, and May 24, 2011;

(c) IPV immunizations on or about January 19, 2010, May 24, 2011, and June 30, 2021;

(d) Pneumococcal immunizations on or about April 19, 2010, August 23, 2010, December 2, 2010, and September 29, 2011;

(e) Hepatitis B immunizations on or about May 24, 2011, June 30, 2021, and September 2, 2021;

(f) An MMR immunization on or about August 2, 2021;

(g) A Tdap immunization on or about April 9, 2021; and

(h) Varicella immunizations on or about May 27, 2021 and October 7, 2021.

31. In his medical chart for Patient B, Respondent failed to document an adequate basis for a yeast hypersensitivity diagnosis for Patient B, or any sibling.

32. In or around 2019, yeast hypersensitivity did not constitute a valid medical basis for a blanket permanent medical exemption to vaccination and immunization requirements.

33. Respondent's medical chart for Patient B failed to include documentation validating any past adverse event after administration of a DTaP immunization to any sibling of Patient B.

34. In or around 2019, family history of an adverse event after DTaP immunization was not a contraindication to DTaP immunization.

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35. Respondent's medical chart for Patient B failed to include documentation validating a history of anaphylaxis after administration of a hepatitis B immunization to any sibling of Patient B.

36. In or around 2019, a sibling's history of anaphylaxis following administration of a hepatitis B immunization was not a contraindication to hepatitis B immunization.

37. In all, Respondent's medical chart for Patient B failed to establish a valid medical basis for a permanent blanket exemption to vaccination and immunization requirements.

38. Although referenced in Respondent's "Medical Exemption for Vaccination Requirements" letter for Patient B dated August 7, 2019, Respondent's medical chart for Patient B failed to document any MTHFR gene mutation.

39. In or around 2019, a history of C6777T or A1298C variants of the MTHFR gene, either personally or familial, did not constitute a contraindication to vaccination or immunization.

40. Respondent committed gross negligence in the course of his care and treatment of Patient B by improperly issuing the patient a permanent blanket exemption to vaccination and immunization requirements based, in whole or in part, on the rationales stated in Respondent's medical chart for the patient.

41. Respondent committed gross negligence in the course of his care and treatment of Patient B by issuing the patient an exemption to vaccination and immunization requirements based, in whole or in part, on any purported C677T or A1298C variants of the MTHFR gene.

Patient C

42. On or about August 7, 2019, Respondent issued a "Medical Exemption for Vaccination Requirements" letter for Patient C, a sibling of Patient A and Patient B, and an approximately 12-year-old minor at the time.

43. Respondent's "Medical Exemption for Vaccination Requirements" letter for Patient C stated, among other things:

> [Patient C] has recently been asked to document his vaccination status. Based on a thorough evaluation of the patient's personal and family history, I have determined that the physical condition or medical circumstances are such that any further immunization, as specified here, is not recommended and the child is therefore permanently exempted....

> [Patient C] has a valid medical reason not to vaccinate. The many reasons are documented in the medical chart....
>
> [Patient C] has documented genetic mutations in his family history to include the methyl-tetrahydrofolate reductase (MTHFR) genes C677T and A 1298C. This pathway is essential to clearing damaging toxins from the individual and limiting any damage they may cause. Some of these adverse reactions are specific to a particular vaccine, while others may not be. Some of these predispositions may be detectable prior to the administration of vaccine; others, at least with current technology and practice, are not. Moreover, the occurrence of the adverse event is often the first sign of the underlying condition that confers susceptibility. In light of statements by the US Institute of Medicine that vaccination may reveal a susceptibility for the first time, **I am granting a medical exemption.** As such, [Patient C] does not need to receive and is permanently exempted from the DTaP, Tdap, MMR, IPV, Varicella, Influenza, Hepatitis A, Hib, PCV, HPV, and Hepatitis B, and any other vaccines that may become mandatory.

(Bolding and underscoring in original.)

44. Respondent's medical chart for Patient C includes a progress note dated January 20, 2019.

45. In the progress note for Patient C dated January 20, 2019, Respondent documented multiple purported bases for exempting Patient C from immunization including, but not limited to, the following:

(a) Patient C's mother accompanying him to the appointment stated that she had a history of "common variable immunodeficiency or CVID"

(b) "[T]he mother states the child has a hypersensitivity to yeast, by breaking out in rashes with yeast containing products[]";

(c) "[A]fter receiving the first dose of the DTaP, the child developed within seven days prolonged seizures that that cannot be attributed to another identifiable cause, which would constitute at least a mild encephalopathy[]";

(d) "[T]he child was initially given hepatitis B injection and developed a severe allergic reaction, requiring respiratory support, demonstrating anaphylaxis to one of the components";

(e) "...most individuals who experience an adverse reaction to vaccines have a preexisting susceptibility" and "the occurrence of the adverse event is often the first sign of the underlying condition that confers susceptibility";

(f) "MSG acts as a stabilizer in vaccines" and "[g]iven the impact MSG has on the brain and...that it can have a variety of side effects when eaten, it is hard to understand how MSG can be deemed safe to inject..."; and

(g) "...vaccines injure and kill – they are neither medically safe nor healthy."

46. Medical records maintained by at least one other medical provider to Patient C in or around 2015 to 2021 documented that Patient C resided with foster parents and was not in his biological parents' custody.

47. In his medical chart for Patient C, Respondent failed to document an adequate basis for a yeast hypersensitivity diagnosis for the patient.

48. In or around 2019, yeast hypersensitivity did not constitute a valid medical basis for a blanket permanent medical exemption to vaccination and immunization requirements.

49. Respondent's medical chart for Patient C failed to include documentation validating any past adverse event after administration of a DTaP immunization to Patient C.

50. Medical records maintained by at least one other medical provider to Patient C in or around 2010 to 2021 document the administration of multiple DTaP immunizations to the patient prior to the appointment with Respondent including, but not limited to, on or about December 7, 2006, February 23, 2007, May 4, 2007, and May 24, 2011.

51. In or around 2019, an adverse event after DTaP immunization did not constitute a valid medical basis for a permanent blanket exemption to vaccination and immunization requirements.

52. Respondent's medical chart for Patient C failed to include documentation validating a history of anaphylaxis after administration of a hepatitis B immunization to Patient C.

53. Medical records maintained by at least one other medical provider to Patient C in or around 2010 to 2021 document the administration of multiple hepatitis B immunizations prior to the appointment with Respondent including, but not limited to, on or about October 31, 2006, December 7, 2006, and May 4, 2007.

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54. In or around 2019, a history of an adverse event following administration of a hepatitis B immunization did not constitute a valid medical basis for a permanent blanket exemption to vaccination and immunization requirements.

55. Medical records maintained by at least one other medical provider to Patient C in or around 2010 to 2021 document that the patient had received multiple other immunizations, in addition to DTaP and hepatitis B immunizations, before and after his appointment with Respondent including, but not limited to:

(a) Hib immunizations on or about December 7, 2006, February 23, 2007, May 4, 2007, and February 20, 2008;

(b) IPV immunizations on or about December 7, 2006, February 23, 2007, May 4, 2007, and November 14, 2007;

(c) Pneumococcal immunizations on or about May 4, 2007 and February 20, 2008;

(d) MMR immunizations on or about November 14, 2007 and May 24, 2011;

(e) Varicella immunizations on or about November 14, 2007 and May 21, 2008;

(f) Hepatitis A immunizations on or about November 14, 2007 and May 21, 2008; and

(g) A Tdap immunization on or about April 23, 2021.

56. In all, Respondent's medical chart for Patient C failed to establish a valid medical basis for a permanent blanket exemption to vaccination and immunization requirements.

57. Although referenced in Respondent's "Medical Exemption for Vaccination Requirements" letter for Patient C dated August 7, 2019, Respondent's medical chart for Patient C failed to document any MTHFR gene mutation.

58. In or around 2019, a history of C6777T or A1298C variants of the MTHFR gene, either personally or familial, did not constitute a contraindication to vaccination or immunization.

59. Respondent committed gross negligence in the course of his care and treatment of Patient C by improperly issuing the patient a permanent blanket exemption to vaccination and immunization requirements based, in whole or in part, on the rationales stated in Respondent's medical chart for the patient.

60. Respondent committed gross negligence in the course of his care and treatment of Patient C by issuing the patient an exemption to vaccination and immunization requirements based, in whole or in part, on any purported C677T or A1298C variants of the MTHFR gene.

Patient H

61. On or about April 8, 2017, Respondent issued a "Medical Exemption for Vaccination Requirements" letter for Patient H, an approximately 5-year-old minor at the time.

62. Respondent's "Medical Exemption for Vaccination Requirements" letter for Patient H stated, among other things:

> [Patient H] has recently been asked to document his vaccination status. The parents have considered the risks and benefits of vaccination, and decided with appropriate medical counseling that further vaccination of [Patient H] is to be exempted.
>
> [Patient H] has a medical reason not to vaccinate. In accordance with HIPPA [sic], and patient privacy, this reason does not need to be revealed, but rather, only a statement from his physician. As such, he does not need to receive and is permanently exempted from the DTaP, MMR, IPV. Varicella, Influenza, Hepatitis A, Hib, PCV, HPV, and Hepatitis B, and any other vaccines that may become mandatory.
>
> [Patient H's] mother and father... have received the appropriate counseling for informed consent.

63. Respondent's medical chart for Patient H includes a progress note dated April 8, 2017.

64. In the progress note for Patient H dated April 8, 2017, Respondent documented multiple purported bases for exempting Patient H from immunization including, but not limited to, the following:

(a) "The mother states the child has a hypersensitivity to yeast, by breaking out in rashes with yeast containing products. [¶] A related sibling has a hypersensitivity to yeast, by breaking out in rashes with yeast containing products[]";

(b) A family history including, but not limited to, "[a]utoimmune disease" and a "strong family history of vaccine reactions" in "1st and 2nd degree relatives...";

(c) The patient's mother, at "...5 years of age, after receiving polio and DPT vaccines,...developed epilepsy which had to medicated until about 12 years of age[];

(d) "...most individuals who experience an adverse reaction to vaccines have a preexisting susceptibility" and "the occurrence of the adverse event is often the first sign of the underlying condition that confers susceptibility[]";

(e) The purported existence or family history of at least one of the following: "previous vaccine reaction, eczema, food and environmental allergies, asthma, gut issues such as Crohn's and IBS, autoimmune disease such as diabetes, lupus, MS, rheumatoid arthritis, ASIA, and others, chronic ear, sinus strep or other infections, Lyme disease, PANDAS, POTS, learning disabilities, speech delay, ADD, ADHD, autism, seizures, bipolar, schizophrenia, thrombocytopenia, genetic variance, impaired methylation, detoxification impairment, and more[]";

(f) "...vaccination is a medical procedure that could reasonably be termed as experimental each time it is performed on a healthy individual[]";

(g) "It is recognized that the ACIP/CDC contraindications represent the usual national standard of care for exemptions from vaccines, and the associated precautions which should be considered. However, as of 30Jun2015, when Senate Bill 277 was signed into law, the authority of physicians was expanded to allow for family history and judgement of the individual practitioner as to safety of vaccines, for each individual child[]"; and

(h) "...vaccines injure and kill – they are neither medically safe nor healthy."

65. In his medical chart for Patient H, Respondent failed to document an adequate basis for a yeast hypersensitivity diagnosis for the patient.

66. In or around 2017, yeast hypersensitivity did not constitute a valid medical basis for a blanket permanent medical exemption to vaccination and immunization requirements.

67. In his medical chart for Patient H, Respondent failed to adequately document a true diagnosed immunodeficiency in Patient H, or any family member of Patient H.

68. In or around 2017, a family history of altered immune competence, absent a medical work up to determine whether the patient has a hereditary immune deficiency, did not constitute a

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valid medical basis for a blanket permanent medical exemption to vaccination and immunization requirements.

69. In or around 2017, a family history of an adverse event after DTP or DTaP immunization did not constitute a valid medical basis for exemption from either immunization.

70. In or around 2017, a family history of seizures did not constitute a valid medical basis for a blanket permanent medical exemption to vaccination and immunization requirements.

71. In all, Respondent's medical chart for Patient H failed to establish a valid medical basis for a permanent blanket exemption to vaccination and immunization requirements.

72. Respondent committed gross negligence in the course of his care and treatment of Patient H by improperly issuing the patient a permanent blanket exemption to vaccination and immunization requirements.

Patient J

73. On or about April 8, 2017, Respondent issued a "Medical Exemption for Vaccination Requirements" letter for Patient J, an approximately 9-year-old minor at the time, and a sibling of Patient H.

74. Respondent's "Medical Exemption for Vaccination Requirements" letter for Patient J stated, among other things:

> [Patient J] has recently been asked to document her vaccination status. The parents have considered the risks and benefits of vaccination, and decided with appropriate medical counseling that further vaccination of [Patient J] is to be exempted.
>
> [Patient J] has a medical reason not to vaccinate. In accordance with HIPPA [sic], and patient privacy, this reason does not need to be revealed, but rather, only a statement from his physician. As such, she does not need to receive and is permanently exempted from the DTaP, MMR, IPV. Varicella, Influenza, Hepatitis A, Hib, PCV, HPV, and Hepatitis B, and any other vaccines that may become mandatory.
>
> [Patient J's] mother and father... have received the appropriate counseling for informed consent.

75. Respondent's medical chart for Patient J includes a progress note dated April 8, 2017.

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76. In the progress note for Patient J dated April 8, 2017, Respondent documented multiple purported bases for exempting Patient J from immunization including, but not limited to, the following:

(a) "No past medical history to date, other than yeast hypersensitivity...At 2 years of age she developed severe reactions to flee [sic] and spider bites including localized swelling and hives requiring prednisone to be given for control[]";

(b) A family history including, but not limited to, "[a]utoimmune disease" and a "strong family history of vaccine reactions" in "1st and 2nd degree relatives...";

(c) The patient's mother, at "...5 years of age, after receiving polio and DPT vaccines,...developed epilepsy which had to medicated until about 12 years of age[];

(d) "The mother states that she suffers from common variable immunodeficiency or CVID[]";

(e) "...most individuals who experience an adverse reaction to vaccines have a preexisting susceptibility" and "the occurrence of the adverse event is often the first sign of the underlying condition that confers susceptibility[]";

(f) The purported existence or family history of at least one of the following: "previous vaccine reaction, eczema, food and environmental allergies, asthma, gut issues such as Crohn's and IBS, autoimmune disease such as diabetes, lupus, MS, rheumatoid arthritis, ASIA, and others, chronic ear, sinus strep or other infections, Lyme disease, PANDAS, POTS, learning disabilities, speech delay, ADD, ADHD, autism, seizures, bipolar, schizophrenia, thrombocytopenia, genetic variance, impaired methylation, detoxification impairment, and more[]";

(g) "...vaccination is a medical procedure that could reasonably be termed as experimental each time it is performed on a healthy individual[]";

(h) "It is recognized that the ACIP/CDC contraindications represent the usual national standard of care for exemptions from vaccines, and the associated precautions which should be considered. However, as of 30Jun2015, when Senate Bill 277 was signed into law, the authority of physicians was expanded to allow for family history and

judgement of the individual practitioner as to safety of vaccines, for each individual child[]"; and

(i) "...vaccines injure and kill – they are neither medically safe nor healthy."

77. In his medical chart for Patient J, Respondent failed to document an adequate basis for a yeast hypersensitivity diagnosis for the patient.

78. In or around 2017, yeast hypersensitivity did not constitute a valid medical basis for a blanket permanent medical exemption to vaccination and immunization requirements.

79. In his medical chart for Patient J, Respondent failed to adequately document a true diagnosed immunodeficiency in Patient J, or any family member of Patient J.

80. In or around 2017, a family history of altered immune competence, absent a medical work up to determine whether the patient has a hereditary immune deficiency, did not constitute a valid medical basis for a blanket permanent medical exemption to vaccination and immunization requirements.

81. In his medical chart for Patient J, the personal health history form for Patient J's mother fails to document any history of CVID.

82. In or around 2017, a family history of CVID in a patient's mother did not constitute a valid medical basis for a blanket permanent medical exemption to vaccination and immunization requirements.

83. In or around 2017, a family history of an adverse event after DTP or DTaP immunization did not constitute a valid medical basis for exemption from either immunization.

84. In or around 2017, a family history of seizures did not constitute a valid medical basis for a blanket permanent medical exemption to vaccination and immunization requirements.

85. In all, Respondent's medical chart for Patient J failed to establish a valid medical basis for a permanent blanket exemption to vaccination and immunization requirements.

86. Respondent committed gross negligence in the course of his care and treatment of Patient J by improperly issuing the patient a permanent blanket exemption to vaccination and immunization requirements.

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Patient K, Patient L, Patient M and Patient O

87. On or about May 6, 2017, Respondent issued "Medical Exemption for Vaccination Requirements" letters for four minor, sibling patients: Patient K, Patient L, Patient M and Patient O. At the time, Patient K was approximately 7 years old, Patient L was approximately 5 years old, Patient M was approximately 3 years old, and Patient O was approximately ten months old.

88. Aside from patient names and gendered pronouns, the "Medical Exemption for Vaccination Requirements" letters for Patient K, Patient L, Patient M and Patient O were mostly, or completely, identical and stated, among other things:

> [The patient] has recently been asked to document [her/his] vaccination status. The parents have considered the risks and benefits of vaccination, and decided with appropriate medical counseling that further vaccination of [the patient] is to be exempted.
>
> [The patient] has a medical reason not to vaccinate. In accordance with HIPPA [sic], and patient privacy, this reason does not need to be revealed, but rather, only a statement from [her/his] physician. As such, [she/he] does not need to receive and is permanently exempted from the DTaP, MMR, IPV, Varicella, Influenza, Hepatitis A, Hib, PCV, HPV, and Hepatitis B, and any other vaccines that may become mandatory.
>
> [The patient's] mother...has received the appropriate counseling for informed consent.

89. Respondent's medical charts for Patient K, Patient L, Patient M and Patient O each include a progress note dated May 6, 2017.

90. In each of the progress notes for Patient K, Patient L, Patient M and Patient O dated May 6, 2017, Respondent documented a purported adverse reaction to an MMR immunization reported by the patients' mother:

> Mother: received some vaccines. After her first MMR vaccine, within the first 48 hours she developed progressively worse symptoms, starting within a couple hours and developing into a severe reaction, which left her partially paralyzed (then paresis), and then took a couple years to resolve. After that nightmare episode, her parents elected not to continue with further vaccinations, and the problem never returned. This significant family history in a first-degree relative, the parent, has been the cause of the parents' extreme concern over a possible genetic connection and thus has not been worth the risk. Since there was no subsequent identifiable source of her issue, and her symptoms were on the side she received the injection, and timing was related coincidentally with the administration of the MMR vaccine, there exists a strong possibility that her symptoms occurred due to the vaccine.

....Though likely her children may not have a similar reaction, I cannot completely exclude that possibility, and so together with the parents, weighed the possible risks and benefits, and I was unable to assure the parents that a similar reaction would not occur with her children. Hence, I have decided to err of [sic] the side of caution and grant a medical exemption against all vaccines....

91. In each of the progress notes for Patient K, Patient L, Patient M and Patient O dated May 6, 2017, Respondent documented multiple additional purported bases for exempting the patients from immunization including, but not limited to:

(a) "In 1st and 2nd degree relatives there is a strong family history of food and environmental allergies[]";

(b) "...most individuals who experience an adverse reaction to vaccines have a preexisting susceptibility" and "the occurrence of the adverse event is often the first sign of the underlying condition that confers susceptibility";

(c) "...vaccination is a medical procedure that could reasonably be termed as experimental each time it is performed on a healthy individual[]";

(d) "It is recognized that the ACIP/CDC contraindications represent the usual national standard of care for exemptions from vaccines, and the associated precautions which should be considered. However, as of 30Jun2015, when Senate Bill 277 was signed into law, the authority of physicians was expanded to allow for family history and judgement of the individual practitioner as to safety of vaccines, for each individual child[]"; and

(e) "...vaccines injure and kill – they are neither medically safe nor healthy."

92. In or around 2017, a family history of altered immune competence, absent a medical work up to determine whether the patient has a hereditary immune deficiency, did not constitute a valid medical basis for a blanket permanent medical exemption to vaccination and immunization requirements.

93. In or around 2017, a history of non-specific allergies or a family history of allergies to a vaccine component did not constitute a valid medical basis for a blanket permanent medical exemption to vaccination and immunization requirements.

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94. In all, Respondent's respective medical charts for Patient K, Patient L, Patient M and Patient O failed to establish a valid medical basis for permanent blanket exemptions to vaccination and immunization requirements.

95. Respondent committed gross negligence in the course of his care and treatment of Patient K by improperly issuing the patient a permanent blanket exemption to vaccination and immunization requirements.

96. Respondent committed gross negligence in the course of his care and treatment of Patient L by improperly issuing the patient a permanent blanket exemption to vaccination and immunization requirements.

97. Respondent committed gross negligence in the course of his care and treatment of Patient M by improperly issuing the patient a permanent blanket exemption to vaccination and immunization requirements.

98. Respondent committed gross negligence in the course of his care and treatment of Patient O by improperly issuing the patient a permanent blanket exemption to vaccination and immunization requirements.

Patient D

99. On or about June 5, 2013, Respondent began treating Patient D, a then 62-year-old female, for dietary reasons, and which involved the patient purchasing low-calorie diet items such as food bars and shakes from Respondent.[9]

100. On or about February 4, 2014, Patient D underwent back surgery on her L4 and L5 spinal segments performed by Dr. P.K., M.D., and assisted by Dr. L.H., M.D.

101. On or about May 29, 2014, Patient D filled out a patient intake form with Respondent's office, Coastal Prestige Medical Services and Clinic. Patient D listed her then-

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[9] Any acts or omissions of Respondent as to Patient D, Patient E, Patient F and Patient G alleged herein as having occurred more than seven years prior to the filing date of the First Amended Accusation are pleaded for informational purposes only, and not as a basis for disciplinary action.

current medications as thyroxine 11 mcg,[10] acetaminophen-hydrocodone 325 mg/10mg,[11] "Malid?" 75/50.5 daily, tramadol 50mg,[12] oxybutynin 19 mg,[13] temazepam 30 mg,[14] and Celexa 40 mg.[15] Respondent ordered Patient D to continue use of all of her medications except Tramadol.

102. Patient D continued to see Respondent a few times a year every year until her death in 2020. Throughout Respondent's care and treatment of Patient D, Respondent continued to prescribe acetaminophen-hydrocodone 325mg/10mg, temazepam 30 mg, and Celexa 40 mg.

103. Each of Respondent's notes for Patient D lists acetaminophen-hydrocodone 325mg/10mg for lower back pain, but lacks any follow up notes as to the intensity of the pain or whether the medication helped to alleviate the pain.

104. Respondent's notes fail to document any discussion with Patient D regarding the potentially lethal consequences of taking temazepam, a benzodiazepine, and acetaminophen-hydrocodone, an opioid, such as sedation or respiratory depression. During each of Respondent's visits with Patient D, he failed to consider ongoing treatments plans for continued opioid use and he failed to discuss risks of long term opioid use with Patient D.

105. In and around 2015, Respondent prescribed Bunavail[16] buccal film to Patient D. Respondent's notes lack any mention of an opioid addiction by Patient D.

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[10] Thyroxine, also known as T4, is a thyroid hormone.

[11] Hydrocodone is a Schedule III controlled substance pursuant to Health and Safety Code section 11056, subdivision (e), and a dangerous drug pursuant to Business and Professions Code section 4022.

[12] Tramadol is a Schedule IV controlled substance pursuant to the Code of Federal Regulations, title 21, section 1308.14(b)(3), and a dangerous drug pursuant to Business and Professions Code section 4022.

[13] Oxybutinin is a non-controlled-substance medication commonly used to treat overactive bladder.

[14] Temazepam is a Schedule IV controlled substance pursuant to Health and Safety Code section 11057, subdivision (d), and a dangerous drug pursuant to Business and Professions Code section 4022.

[15] Celexa is a brand name for citalopram, a non-controlled-substance selective serotonin reuptake inhibitor (SSRI) commonly used to treat depression.

[16] Bunavail is a combination of buprenorphine and naloxone. Buprenorphine is a Schedule III controlled substance pursuant to Health and Safety Code section 11056, subdivision (d), and a dangerous drug pursuant to Business and Professions Code section 4022. It is an opioid medication, sometimes called a narcotic. Naloxone blocks the effects of opioid medication, including pain relief or feelings of well-being that can lead to opioid abuse. Bunavail buccal films are used to treat opioid addiction. Bunavail is not for use as a pain medication.

106. On or about October 16, 2015, Patient D had a bad reaction due to an overdose of naloxone and Respondent recommended use of "T4" and recommended use of Buprenophine alone if the "T4" worked. Respondent's notes for Patient D fail to document that he adequately informed Patient D of the reason she needed to take Bunavail, did not adequately monitor Patient D, and did not adequately document Patient D's use of Bunavail.

107. In or around April 2020, Patient D died from a stroke and a cerebral vascular accident.

108. Respondent committed gross negligence in the course of his care and treatment of Patient D by engaging in long-term opioid pain therapy for Patient D without adequate competency in pain management.

SECOND CAUSE FOR DISCIPLINE

(Repeated Negligent Acts)

109. Respondent has further subjected his Physician's and Surgeon's Certificate No. A 90443 to disciplinary action under sections 2227 and 2234, subdivision (c) of the Code, in that he committed repeated negligent acts in the course of his care and treatment of one or more patients. The circumstances are as follows:

110. Respondent committed repeated negligent acts in the course of his care and treatment of Patient A, Patient B, Patient C, Patient D, Patient H, Patient J, Patient K, Patient L, Patient M, or Patient O, or any combination thereof, as more particularly alleged in paragraphs 8 through 108, above, which are hereby incorporated by reference as if fully set forth herein.

111. Respondent committed one or more additional negligent acts in the course of his care and treatment of Patient K including, but not limited to, medically exempting the patient from the MMR vaccine.

112. Respondent further committed one or more additional negligent acts in the course of his care and treatment of Patient L including, but not limited to, medically exempting the patient from the MMR vaccine.

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113. Respondent further committed one or more additional negligent acts in the course of his care and treatment of Patient M including, but not limited to, medically exempting the patient from the MMR vaccine.

114. Respondent further committed one or more additional negligent acts in the course of his care and treatment of Patient O including, but not limited to, medically exempting the patient from the MMR vaccine.

115. Respondent committed one or more additional negligent acts in the course of his care and treatment of Patient D including, but not limited to, failing to exercise adequate consideration for Patient D's treatment plans for continued opioid use, and failing to adequately discuss and document the risks of long-term opioid use for Patient D.

Patient E

116. On multiple occasions in or around 2018 to March 2021, Respondent issued to Patient E, an adult patient, a prescription for compounded estrogen or testosterone for the purpose of hormone replacement therapy.

117. In or around 2018 to December 2020, Respondent failed to adequately document the risks of estrogen and testosterone treatment to Patient E, and any discussion of such risks with Patient E.

118. Respondent committed negligence in the course of his care and treatment of Patient E by failing to adequately document the risks associated with estrogen and testosterone treatment to Patient E.

Patient F

119. In or around 2018 to April 2021, Respondent rendered topical and injected testosterone treatment to Patient F, an adult patient, including, but not limited to, the issuance of testosterone prescriptions on multiple occasions.

120. Respondent failed to adequately document the risks of testosterone treatment to Patient F, and any discussion of such risks with Patient F.

121. Respondent committed negligence in the course of his care and treatment of Patient F by failing to adequately document the risks associated with testosterone treatment to Patient F.

Patient G

122. In or around February 2019, Respondent prescribed alprazolam[17] to Patient G, an adult patient.

123. In his medical records for Patient G, Respondent failed to document an exam, diagnosis, or discussion regarding alprazolam use with Patient G.

124. Respondent committed negligence in the course of his care and treatment of Patient G by failing to maintain adequate documentation for the alprazolam prescription Respondent issued to Patient G.

THIRD CAUSE FOR DISCIPLINE

(Failure to Maintain Adequate and Accurate Records)

125. Respondent has further subjected his Physician's and Surgeon's Certificate No. A 90443 to disciplinary action under sections 2227, 2234 and 2266 of the Code, in that he failed to maintain adequate and accurate records relating to the provision of services to one or more patients as more particularly alleged in paragraphs 99 through 106, and 115 through 124, above, which are hereby incorporated by reference as if fully set forth herein.

DISCIPLINARY CONSIDERATIONS

126. To determine the degree of discipline, if any, to be imposed on Respondent, Complainant alleges that in a prior disciplinary action entitled *In the Matter of the Accusation Against Johnnie Alan Ham, M.D.* before the Medical Board of California, case No. 09-2005-169895, effective May 30, 2008, Respondent's license was suspended for 60 days and placed on probation for ten (10) years for failure to report a felony conviction, conviction of crimes substantially related to the qualifications, functions, or duties of a physician and surgeon, and violating statutes regulating dangerous drugs or controlled substances.

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[17] Alprazolam, also known by the brand name Xanax, is a benzodiazepine Schedule IV controlled substance pursuant to Health and Safety Code section 11057, subdivision (d), and a dangerous drug pursuant to Business and Professions Code section 4022.

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 90443, issued to Respondent, Johnnie Alan Ham, M.D.;

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

3. Ordering Respondent, Johnnie Alan Ham, 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: MAR 0 2 2023

REJI VARGHESE
Interim Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant

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