

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

In the Matter of the Accusation Against:

Shawn Zardouz, M.D.

Physician's & Surgeon's
Certificate No. A 131987

Respondent.

Case No. 800-2020-065416

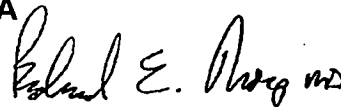
DECISION

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

This Decision shall become effective at 5:00 p.m. on January 3, 2023.

IT IS SO ORDERED: December 4, 2023.

MEDICAL BOARD OF CALIFORNIA



Richard E. Thorp, Chair
Panel B

1 ROB BONTA
Attorney General of California
2 MATTHEW M. DAVIS
Supervising Deputy Attorney General
3 JASON J. AHN
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8 *Attorneys for Complainant*

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

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In the Matter of the Accusation Against:

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**SHAWN ZARDOUZ, M.D.
PO Box 1133
Costa Mesa, CA 92628-1133**

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**Physician's and Surgeon's
Certificate No. A 131987**

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Respondent.

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

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PARTIES

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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 Jason J. Ahn, Deputy Attorney General.

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CULPABILITY

9. Respondent does not contest that, at an administrative hearing, Complainant could establish a *prima facie* case with respect to the charges and allegations contained in Accusation No. 800-2020-065416, a copy of which is attached hereto as Exhibit A, and that he has thereby subjected his Physician's and Surgeon's Certificate No. A 131987 to disciplinary action.

10. Respondent agrees that if an accusation is ever filed against him before the Medical Board of California, all of the charges and allegations contained in Accusation No. 800-2020-065416 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.

11. Respondent agrees that his Physician's and Surgeon's Certificate No. A 131987 is subject to discipline and he agrees to be bound by the Board's imposition of discipline as set forth in the Disciplinary Order below.

CONTINGENCY

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

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1 13. Respondent agrees that if an accusation is filed against him before the Board, all of
2 the charges and allegations contained in Accusation No. 800-2020-065416 shall be deemed true,
3 correct and fully admitted by respondent for purposes of any such proceeding or any other
4 licensing proceeding involving Respondent in the State of California.

5 **ADDITIONAL PROVISIONS**

6 14. This Stipulated Settlement and Disciplinary Order is intended by the parties herein
7 to be an integrated writing representing the complete, final, and exclusive embodiment of the
8 agreements of the parties in the above-entitled matter.

9 15. The parties agree that copies of this Stipulated Settlement and Disciplinary Order,
10 including copies of the signatures of the parties, may be used in lieu of original documents and
11 signatures and, further, that such copies shall have the same force and effect as originals.

12 16. In consideration of the foregoing admissions and stipulations, the parties agree the
13 Board may, without further notice to or opportunity to be heard by Respondent, issue and enter
14 the following Disciplinary Order:

15 **DISCIPLINARY ORDER**

16 1. **PUBLIC REPRIMAND.**

17 IT IS HEREBY ORDERED that Respondent Shawn Zardouz, M.D., holder of Physician's
18 and Surgeon's Certificate No. A 131987, shall be and hereby is Publicly Reprimanded pursuant to
19 Business and Professions Code section 2227. This Public Reprimand, which is issued in
20 connection with the allegation as set forth in Accusation No. 800-2020-065416, is as follows:

21 From 2018 through 2021, Respondent departed from the standard of care, as more
22 fully described in Accusation No. 800-2020-065416.

23 1. **EDUCATION COURSE.** Within 60 calendar days of the effective date of this
24 Decision, Respondent shall submit to the Board or its designee for its prior approval educational
25 program(s) or course(s) which shall not be less than 40 hours. The educational program(s) or
26 course(s) shall be aimed at correcting any areas of deficient practice or knowledge and shall be
27 Category I certified. The educational program(s) or course(s) shall be at Respondent's expense
28 and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of

1 licensure. Following the completion of each course, the Board or its designee may administer an
2 examination to test Respondent's knowledge of the course. Respondent shall provide proof of
3 attendance for 65 hours of CME of which 40 hours were in satisfaction of this condition.

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

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

18 Respondent shall submit a certification of successful completion to the Board or its
19 designee not later than 15 calendar days after successfully completing the course, or not later than
20 15 calendar days after the effective date of the Decision, whichever is later.

21 3. MEDICAL RECORD KEEPING COURSE. Within 60 calendar days of the effective
22 date of this Decision, Respondent shall enroll in a course in medical record keeping approved in
23 advance by the Board or its designee. Respondent shall provide the approved course provider
24 with any information and documents that the approved course provider may deem pertinent.
25 Respondent shall participate in and successfully complete the classroom component of the course
26 not later than six (6) months after Respondent's initial enrollment. Respondent shall successfully
27 complete any other component of the course within one (1) year of enrollment. The medical
28 record keeping course shall be at Respondent's expense and shall be in addition to the Continuing

1 Medical Education (CME) requirements for renewal of licensure.

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

7 Respondent shall submit a certification of successful completion to the Board or its
8 designee not later than 15 calendar days after successfully completing the course, or not later than
9 15 calendar days after the effective date of the Decision, whichever is later.

10 4. CLINICAL COMPETENCE ASSESSMENT PROGRAM. Within 60 calendar days
11 of the effective date of this Decision, Respondent shall enroll in a clinical competence assessment
12 program approved in advance by the Board or its designee. Respondent shall successfully
13 complete the program not later than six (6) months after Respondent's initial enrollment unless
14 the Board or its designee agrees in writing to an extension of that time.

15 The program shall consist of a comprehensive assessment of Respondent's physical and
16 mental health and the six general domains of clinical competence as defined by the Accreditation
17 Council on Graduate Medical Education and American Board of Medical Specialties pertaining to
18 Respondent's current or intended area of practice. The program shall take into account data
19 obtained from the pre-assessment, self-report forms and interview, and the Decision(s),
20 Accusation(s), and any other information that the Board or its designee deems relevant. The
21 program shall require Respondent's on-site participation for a minimum of three (3) and no more
22 than five (5) days as determined by the program for the assessment and clinical education
23 evaluation. Respondent shall pay all expenses associated with the clinical competence
24 assessment program.

25 At the end of the evaluation, the program will submit a report to the Board or its designee
26 which unequivocally states whether the Respondent has demonstrated the ability to practice
27 safely and independently. Based on Respondent's performance on the clinical competence
28 assessment, the program will advise the Board or its designee of its recommendation(s) for the

1 scope and length of any additional educational or clinical training, evaluation or treatment for any
2 medical condition or psychological condition, or anything else affecting Respondent's practice of
3 medicine. Respondent shall comply with the program's recommendations.

4 Determination as to whether Respondent successfully completed the clinical competence
5 assessment program is solely within the program's jurisdiction.

6 If Respondent fails to enroll, participate in, or successfully complete the clinical
7 competence assessment program within the designated time period, Respondent shall receive a
8 notification from the Board or its designee to cease the practice of medicine within three (3)
9 calendar days after being so notified. The Respondent shall not resume the practice of medicine
10 until enrollment or participation in the outstanding portions of the clinical competence assessment
11 program have been completed. If the Respondent did not successfully complete the clinical
12 competence assessment program, the Respondent shall not resume the practice of medicine until a
13 final decision has been rendered on the accusation.

14 5. INVESTIGATION/ENFORCEMENT COST RECOVERY. Respondent is hereby
15 ordered to reimburse the Board its costs of investigation and enforcement, including, but not
16 limited to, expert review, amended accusations, legal reviews, investigation(s), and subpoena
17 enforcement, as applicable, in the amount of \$34,953.30 (thirty-four thousand nine hundred fifty-
18 three dollars and thirty cents). Costs shall be payable to the Medical Board of California. Failure
19 to pay such costs shall constitute unprofessional conduct and grounds for further disciplinary
20 action.

21 6. Payment must be made in full within 30 calendar days of the effective date of the
22 Order, or by a payment plan approved by the Medical Board of California. Any and all requests
23 for a payment plan shall be submitted in writing by respondent to the Board. Failure to comply
24 with the payment plan shall constitute unprofessional conduct and grounds for further disciplinary
25 action.

26 7. The filing of bankruptcy by respondent shall not relieve respondent of the
27 responsibility to repay investigation and enforcement costs, including expert review costs.

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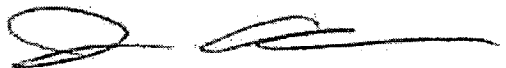
ENDORSEMENT

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

DATED: October 17, 2023

Respectfully submitted,

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



JASON J. AHN
Deputy Attorney General
Attorneys for Complainant

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

In the Matter of the Accusation Against:

Case No. 800-2020-065416

**SHAWN ZARDOUZ, M.D.
PO BOX 1133
COSTA MESA CA 92628-1133**

A C C U S A T I O N

**Physician's and Surgeon's
Certificate No. A 131987,**

Respondent.

PARTIES

1. Reji Varghese (Complainant) brings this 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 August 5, 2014, the Medical Board issued Physician's and Surgeon's Certificate No. A 131987 to Shawn Zardouz, 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 November 30, 2023, unless renewed.

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JURISDICTION

3. Section 2227 of the Code states:

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

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

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

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

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

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

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

4. Section 2234 of the Code, states:

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

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

(b) Gross negligence.

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

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

(2) When the standard of care requires a change in the diagnosis, act, or omission that constitutes the negligent act described in paragraph (1), including, but not limited to, a reevaluation of the diagnosis or a change in treatment, and the

licensee's conduct departs from the applicable standard of care, each departure constitutes a separate and distinct breach of the standard of care.

(d) Incompetence.

(e) The commission of any act involving dishonesty or corruption that is substantially related to the qualifications, functions, or duties of a physician and surgeon.

(f) Any action or conduct that would have warranted the denial of a certificate.

(g) The failure by a certificate holder, in the absence of good cause, to attend and participate in an interview by the board. This subdivision shall only apply to a certificate holder who is the subject of an investigation by the board.

5. 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.

6. 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.

7. Section 725 of the Code states:

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

“...”

8. Unprofessional conduct under Business and Professions Code section 2234 is conduct which breaches the rules or ethical code of the medical profession, or conduct which is unbecoming a member in good standing of the medical profession, and which demonstrates an unfitness to practice medicine. (*Shea v. Board of Medical Examiners* (1978) 81 Cal.App.3d 564, 575.)

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COST RECOVERY

9. 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

1 that board's licensing act provides for recovery of costs in an administrative
2 disciplinary proceeding.

3 **FIRST CAUSE FOR DISCIPLINE**

4 **(Gross Negligence)**

5 10. Respondent has subjected his Physician's and Surgeon's Certificate No. A 131987 to
6 disciplinary action under sections 2227 and 2234, as defined by section 2234, subdivision (b), of
7 the Code, in that he committed gross negligence in his care and treatment of Patients A,¹ B, and
8 C, as more particularly alleged hereinafter:

9 **Patient A**

10 11. On or about August 29, 2018, Patient A first presented to Respondent. At that time,
11 Patient A was a sixty-five (65) year-old female patient with a history of migraine headaches,
12 multilevel cervical degenerative disc disease,² cervical spondylosis,³ myofascial pain,⁴ rib
13 fractures, partial right hip replacement, and scoliosis.⁵ According to the medical records, Patient
14 A presented with complaints of neck pain, headaches, and migraine. Respondent prescribed to

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22 ¹ References to "Patient A, B, and C" are used to protect patient privacy.

23 ² Degenerative disc disease is a condition that is categorized by a gradual deterioration
24 and thinning of the shock-absorbing intervertebral disc in your spine. Multi-Level Degenerative
25 Disc Disease refers to disc degeneration occurring at multiple levels throughout the spine.

26 ³ Cervical spondylosis is a general term for age-related wear and tear affecting the spinal
27 disks in your neck.

28 ⁴ Myofascial pain syndrome is a disorder in which pressure on sensitive points in the
muscles causes pain in seemingly unrelated body parts.

⁵ Scoliosis refers to a sideways curvature of the spine.

1 Patient A, MS-Contin⁶ 60 mg, Percocet⁷ 10/325 every 6 to 8 hours, Soma⁸ 350 qid⁹ prn¹⁰ #120.

2 Respondent failed to perform an appropriate and/or adequate musculoskeletal physical
3 examination, prior to prescribing the pain medications. Respondent failed to document and/or use
4 a pain management agreement prior to and/or during his care and treatment of Patient A.

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10 ⁶ MS Contin® (morphine sulfate), an opioid analgesic, is a Schedule II controlled
11 substance pursuant to Health and Safety Code section 11055, subdivision (e), and a dangerous
12 drug pursuant to Business and Professions Code section 4022. When properly prescribed and
13 indicated, it is used for the management of pain that is severe enough to require daily, around-the-
14 clock, long-term opioid treatment and for which alternative treatment options are inadequate. The
15 Drug Enforcement Administration has identified oxycodone, as a drug of abuse. (Drugs of
16 Abuse, A DEA Resource Guide (2011 Edition), at p. 39.) The Federal Drug Administration has
17 issued a black box warning for MS Contin® which warns about, among other things, addiction,
18 abuse and misuse, and the possibility of life-threatening respiratory distress. The warning also
19 cautions about the risks associated with concomitant use of MS Contin® with benzodiazepines or
20 other central nervous system (CNS) depressants.

21 ⁷ Percocet® (oxycodone and acetaminophen), an opioid analgesic, is a Schedule II
22 controlled substance pursuant to Health and Safety Code section 11055, subdivision (b), and a
23 dangerous drug pursuant to Business and Professions Code section 4022. When properly
24 prescribed and indicated, it is used for the management of moderate to moderately severe pain.
25 The Drug Enforcement Administration has identified oxycodone, as a drug of abuse. (Drugs of
26 Abuse, A DEA Resource Guide (2011 Edition), at p. 41.) The Federal Drug Administration has
27 issued a black box warning for Percocet® which warns about, among other things, addiction,
28 abuse and misuse, and the possibility of "life-threatening respiratory distress."

21 ⁸ Soma® (carisoprodol) is a Schedule IV controlled substance pursuant to Health and
22 Safety Code section 11057, subdivision (d), and a dangerous drug pursuant to Business and
23 Professions Code section 4022. When properly prescribed and indicated, it is used for the short-
24 term treatment of acute and painful musculoskeletal conditions. Soma® is commonly used by
25 those who abuse opioids to potentiate the euphoric effect of opioids, to create a better "high."
26 According to the DEA, Office of Diversion Control, "[c]arisoprodol abuse has escalated in the
27 last decade in the United States. According to Diversion Drug Trends, published by the DEA on
28 the trends in diversion of controlled and noncontrolled pharmaceuticals, carisoprodol continues to
be one of the most commonly diverted drugs. Diversion and abuse of carisoprodol is prevalent
throughout the country. As of March 2011, street prices for [carisoprodol] Soma® ranged from
\$1 to \$5 per tablet. Diversion methods include doctor shopping for the purposes of obtaining
multiple prescriptions and forging prescriptions."

27 ⁹ Qid is an abbreviation meaning four times a day.

28 ¹⁰ PRN (pro re nata) mean on an as needed basis.

1 12. Between on or about August 29, 2018, through on or about April 29, 2020, Patient A
 2 returned to Respondent on a monthly basis. During this period, Respondent prescribed to Patient
 3 A:

Medication	Date	Dosage
Percocet	August 29, 2018 ~ January 8, 2019	10/325 mg, q 6hrs PRN (115 tablets per month)
	January 9, 2019 ~ April 29, 2020	10/325 mg, q 6 hrs PRN (110 tablets per month)
MS Contin	August 29, 2018 ~ January 8, 2019	60 mg TID
	January 9, 2019 ~ October 1, 2019	60 mg in a.m., 60 mg in the afternoon, and 30 mg qhs.
	October 2, 2019 ~ April 19, 2020	60 mg in a.m., 30 mg in the afternoon, and 30 mg nightly.
	April 20, 2019 ~ April 29, 2020	30 mg TID.
Soma	August 29, 2018 ~ April 29, 2020	350 po qid prn #120

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 25 13. During the time period Respondent provided care and treatment to Patient A, from on
 26 or about August 29, 2018 through April 29, 2020, Respondent prescribed excessive dosages of
 27 opioids without documentation of physical examination and/or imaging reports to support the
 28 continued use of high dose opioid medication, with a diagnosis other than chronic pain.

1 14. During the time period Respondent provided care and treatment to Patient A, from on
2 or about August 29, 2018 through April 29, 2020, Respondent failed to document and/or perform
3 medication reconciliation at each patient encounter when prescribing medication.

4 15. Respondent committed gross negligence in his care and treatment of Patient A, which
5 included, but was not limited to, the following:

6 (a) Respondent failed to perform an appropriate and/or adequate musculoskeletal
7 physical examination, prior to prescribing the pain medications;

8 (b) Respondent failed to document and/or use a pain management agreement prior
9 to and/or during his care and treatment of Patient A;

10 (c) Respondent prescribed excessive dosages of opioids; and

11 (d) Respondent failed to document and/or perform medication reconciliation.

12 **Patient B**

13 16. In or around 2018, Patient B first presented to Respondent. At that time, Patient B
14 was a fifty-eight (58) year-old female with a prior history of cervical cancer with metastasis and
15 severe lymphedema.¹¹ Patient B also suffered from chronic abdominal and pelvic pain. In
16 addition, Patient B suffered from chronic complications not only from cancer, but also the cancer
17 treatment she received.

18 17. On or about August 24, 2018, Patient B presented to Respondent and returned on a
19 monthly basis through on or about February 9, 2021. At that time, Patient B was consuming
20 MS Contin 30 mg every 8 hours and Fentora¹² 200 mcg 1-2 tablets every 4 hours as needed.
21 Respondent refilled the above prescriptions.

22 18. On or about September 20, 2018, Patient B returned to Respondent. Respondent
23 refilled MS Contin 30 mg q 8hrs and increased Fentora to 200 mcg 1-2 tablets q 4hrs PRN #270.
24 [from #240].

25 ¹¹ Lymphedema refers to a swelling in an arm or leg caused by a lymphatic system
26 blockage.

27 ¹² Fentora (fentanyl buccal tablets) is an opioid pain medication used for the treatment of
28 breakthrough pain in cancer patients receiving opioid treatment and who have become tolerant to
it.

1 19. On or about December 4, 2018, Patient B returned to Respondent, who increased MS
2 Contin 60 mg in am., 60 mg in the afternoon, and 30 mg nightly from 30 mg q hrs.

3 20. On or about January 22, 2019, Patient B returned to Respondent. Respondent
4 reduced MS Contin 30 mg in a.m., 60 mg at noon, and 30 mg nightly to 30 mg daily [nightly].

5 21. On or about March 26, 2019, Patient B returned to Respondent, who decreased MS
6 Contin to 30 mg q 8 hrs, from 30 mg in a.m., 30 mg in afternoon, and 60 mg nightly.

7 22. On or about June 18, 2019, Patient B returned to Respondent, who increased Fentora
8 to 200 mcg 1 to 2 tablets q 4 hrs PRN #300 maximum 10 tablets per day, from a maximum of 9
9 tablets per day.

10 23. On or about August 9, 2019, Patient B returned to Respondent, who prescribed
11 Oxycodone¹³ 10 mg TID PRN #21 tablets for a one week supply.

12 24. On or about September 5, 2019, Patient B returned to Respondent who reduced MS
13 Contin to 30 mg 1 tablet by mouth every 12 hours, from 30 mg, 1 tablet by mouth every 8 hours.

14 25. On or about December 26, 2019, Patient B returned to Respondent, who discontinued
15 reduced MS Contin 30 mg q 12 hr #60 and instead, prescribed MS Contin 15 mg q 8hrs #90.

16 26. During the time period Respondent provided care and treatment to Patient B, from
17 on or about August 24, 2018 through on or about March 9, 2021, Respondent failed to maintain
18 records of actual urine drug screen reports allowing verification of the results noted.

19 27. During the time period Respondent provided care and treatment to Patient B, from
20 on or about August 24, 2018 through on or about March 9, 2021, Respondent failed to prescribe
21 Narcan¹⁴ to Patient B, even though he prescribed chronic opioids.

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23 ¹³ Oxycodone HCL (OxyContin®) is a Schedule II controlled substances pursuant to
24 Health and Safety Code section 11055, subdivision (b), and a dangerous drug pursuant to
25 Business and Professions Code section 4022. When properly prescribed and indicated,
26 Oxycodone HCL is used for the management of pain severe enough to require daily, around-the-
27 clock, long term opioid treatment for which alternative treatment options are inadequate. The
28 Drug Enforcement Administration (DEA) has identified oxycodone, as a drug of abuse. (Drugs
of Abuse, A DEA Resource Guide (2011 Edition), at p. 41.) The risk of respiratory depression
and overdose is increased with the concomitant use of benzodiazepines or when prescribed to
patients with pre-existing respiratory depression.

¹⁴ Narcan, a brand name for Naloxone, can be used to treat narcotic overdose.

1 28. During the time period Respondent provided care and treatment to Patient B, from
2 on or about August 24, 2018 through on or about March 9, 2021, Respondent failed to utilize
3 and/or failed to document having utilized a pain management agreement.

4 29. During the time period Respondent provided care and treatment to Patient B, from
5 on or about August 24, 2018 through on or about March 9, 2021, Respondent failed to perform
6 and/or failed to document having performed medication reconciliation at every patient encounter,
7 when prescribing medication(s).

8 30. Respondent committed gross negligence in his care and treatment of Patient B, which
9 included, but was not limited to, the following:

10 (a) Respondent failed to utilize and/or failed to document having utilized a pain
11 management agreement; and

12 (b) Respondent failed to perform and/or failed to document having performed
13 medication reconciliation at every patient encounter, when prescribing medication(s).

14 Patient C

15 31. On or about August 13, 2018, Patient C first presented to Respondent. At that time,
16 Patient C was a thirty-seven (37) year-old female with a history of anemia,¹⁵ blindness (both
17 eyes), diabetes, dialysis¹⁶ (Monday, Wednesday, Friday), dry skin, GE reflux,¹⁷ headache and
18 migraine. Thereafter, Patient C returned to Respondent on a monthly basis through December 4,
19 2019.

20 32. During the time period Respondent provided care and treatment to Patient C, from on
21 or about August 13, 2018 through December 4, 2019, Respondent failed to properly order and
22 review urine drug screens.

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25 ¹⁵ Anemia is a condition in which the blood does not have enough healthy red blood cells.

26 ¹⁶ Dialysis is a type of treatment that helps your body remove extra fluid and waste
27 products from your blood when the kidneys are not able to.

28 ¹⁷ Acid reflux, also called GERD (gastroesophageal reflux disease), is a digestive disease
in which stomach acid or bile irritates the food pipe lining.

1 33. During the time period Respondent provided care and treatment to Patient C, from on
2 or about August 13, 2018 through December 4, 2019, Respondent failed to ensure and/or failed to
3 document having ensured that Patient C refrained from the use of alcohol while simultaneously
4 using chronic sedative hypnotic drugs (clonazepam¹⁸ and zolpidem¹⁹) prescribed by outside
5 doctors.

6 34. During the time period Respondent provided care and treatment to Patient C, from on
7 or about August 13, 2018 through December 4, 2019, Respondent failed to prescribe Narcan for
8 approximately nine (9) months after he initiated prescribing of Norco²⁰ and Fentanyl²¹ to Patient
9 C.

10 35. During the time period Respondent provided care and treatment to Patient C, from on
11 or about August 13, 2018 through December 4, 2019, Respondent prescribed excessive amounts
12 of opioids to Patient C. For example, on or about September 7, 2018, Respondent prescribed
13 Hydrocodone 10 mg at 20 MME and on or about September 8, 2018, Fentanyl 25 mcg hour for
14 60 MME, for a total of 80 MME per day. On or about December 21, 2020, Respondent

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16 ¹⁸ Clonazepam can be used to treat seizures, panic disorder, and anxiety.

17 ¹⁹ Zolpidem Tartrate (Ambien®), a centrally acting hypnotic-sedative, is a Schedule IV
18 controlled substance pursuant to Health and Safety Code section 11057, subdivision (d), and a
19 dangerous drug pursuant to Business and Professions Code section 4022. When properly
prescribed and indicated, it is used for the short-term treatment of insomnia characterized by
difficulties with sleep initiation.

20 ²⁰ Hydrocodone APAP (Vicodin®, Lortab® and Norco®) is a hydrocodone combination
21 of hydrocodone bitartrate and acetaminophen which was formerly a Schedule III controlled
22 substance pursuant to Health and Safety Code section 11056, subdivision (e), and a dangerous
23 drug pursuant to Business and Professions Code section 4022. On August 22, 2014, the DEA
24 published a final rule rescheduling hydrocodone combination products (HCPs) to Schedule II of
25 the Controlled Substances Act, which became effective October 6, 2014. Schedule II controlled
26 substances are substances that have a currently accepted medical use in the United States, but also
27 have a high potential for abuse, and the abuse of which may lead to severe psychological or
physical dependence. When properly prescribed and indicated, it is used for the treatment of
moderate to severe pain. In addition to the potential for psychological and physical dependence
there is also the risk of acute liver failure which has resulted in a black box warning being issued
by the Federal Drug Administration (FDA). The FDA black box warning provides that
“Acetaminophen has been associated with cases of acute liver failure, at times resulting in liver
transplant and death. Most of the cases of liver injury are associated with use of the
acetaminophen at doses that exceed 4000 milligrams per day, and often involve more than one
acetaminophen containing product.”

28 ²¹ Fentanyl is a controlled substance which can be used to treat severe pain.

1 prescribed Fentanyl 25 mcg hour for 60 MME and Hydrocodone 10 mg for 20 MME, for a total
2 of 80 MME per day.

3 36. During the time period Respondent provided care and treatment to Patient C, from on
4 or about August 13, 2018 through December 4, 2019, Respondent failed to ensure that Patient C
5 properly executed the pain management agreement, in that although Patient C purportedly signed
6 the agreement, Patient C failed to initial each section.

7 37. Respondent committed gross negligence in his care and treatment of Patient C, which
8 included, but was not limited to, the following:

9 (a) Respondent failed to properly order and review urine drug screens;

10 (b) Respondent failed to prescribe Narcan when he initiated prescribing of chronic
11 opioids; and

12 (b) Respondent prescribed excessive amounts of opioids to Patient C.

13 SECOND CAUSE FOR DISCIPLINE

14 (Repeated Negligent Acts)

15 38. Respondent has subjected his Physician's and Surgeon's Certificate No. A 131987 to
16 disciplinary action under sections 2227 and 2234, as defined by section 2234, subdivision (c), of
17 the Code, in that he committed repeated negligent acts in his care and treatment of Patient A,
18 Patient B, Patient C, and Patient D, as more particularly alleged herein:

19 39. Respondent committed repeated negligent acts in his care and treatment of Patient A
20 Patient B, and Patient C, including, but not limited to:

21 **Patient A**

22 40. Paragraphs 11 through 15, above, are hereby incorporated by reference and realleged
23 as if fully set forth herein.

24 41. Respondent failed to perform an appropriate and/or adequate musculoskeletal
25 physical examination, prior to prescribing the pain medications;

26 42. Respondent failed to document and/or use a pain management agreement prior to
27 and/or during his care and treatment of Patient A;

28 43. Respondent prescribed excessive dosages of opioids; and

1 44. Respondent failed to document and/or perform medication reconciliation.

2 **Patient B**

3 45. Paragraphs 16 through 30, above, are hereby incorporated by reference and realleged
4 as if fully set forth herein.

5 46. Respondent failed to utilize and/or failed to document having utilized a pain
6 management agreement;

7 47. Respondent failed to perform and/or failed to document having performed medication
8 reconciliation at every patient encounter, when prescribing medication(s);

9 48. Respondent failed to maintain records of actual urine drug screen reports allowing
10 verification of the results noted; and

11 49. Respondent failed to prescribe Narcan to Patient B at the initial patient encounter,
12 even though he prescribed of chronic opioids from that date.

13 **Patient C**

14 50. Paragraphs 31 through 37, above, are hereby incorporated by reference and
15 realleged as if fully set forth herein.

16 51. Respondent failed to properly order and review urine drug screens;

17 52. Respondent failed to prescribe Narcan at the initial patient encounter even though he
18 when he initiated prescribing of chronic opioids on that date;

19 53. Respondent prescribed excessive amounts of opioids to Patient C;

20 54. Respondent failed to ensure and/or failed to document having ensured that Patient C
21 refrained from consuming alcohol while simultaneously using sedative hypnotic drugs; and

22 55. Respondent failed to ensure that Patient C properly executed the pain management
23 agreement.

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1 **Patient D**

2 56. On or about January 4, 2019, Patient D first presented to Respondent and returned to
3 Respondent on an approximately monthly basis until on or about December 1, 2020. At that time,
4 Patient D was a seventy-one (71) year-old female with a prior history of depression,
5 fibromyalgia,²² HLD,²³ HTN,²⁴ COPD,²⁵ and allergies. Patient D presented for a consultation
6 regarding her pain. Under the "Physical Exam" section of the medical records, it states, among
7 other things, "MSK²⁶: surgical incision present on right knee anteriorly, mild TTP of left
8 shoulder." In the HPI²⁷ section, it is stated, "She [Patient D] has pain in her thighs and shoulders,
9 knees and has prior total knee replacement in right knee and has left knee OA. She has history of
10 fibromyalgia. She notes pain is worsened with stress and has carpal tunnel syndrome of both
11 hands."

12 57. During the time period Respondent provided care and treatment to Patient D, from on
13 or about January 4, 2019 through on or about December 1, 2020, Respondent failed to order an
14 adequate number of urine drug screens, in that he only ordered urine drug screens on or about
15 January 17, 2019, on or about October 1, 2019, and on or about July 21, 2020.

16 58. During the time period Respondent provided care and treatment to Patient D, from
17 on or about January 4, 2019 through on or about December 1, 2020, Respondent failed to perform
18 an appropriate physical examination, particularly when he became a new provider on or about
19 January 4, 2019.

20 ²² Fibromyalgia is widespread muscle pain and tenderness.

21 ²³ Hyperlipidemia (HLD) is an umbrella term for several health conditions that feature
22 high levels of lipids in the blood.

23 ²⁴ Hypertension (HTN) refers to high or raised blood pressure.

24 ²⁵ Chronic obstructive pulmonary disease (COPD) refers to a group of diseases that cause
25 airflow blockage and breathing-related problems.

26 ²⁶ Musculoskeletal conditions (MSK) affect many people and can affect your joints,
27 bones, and muscles, and sometimes associated tissues such as your nerves.

28 ²⁷ History and Present Illness (HPI) is a description of the development of the patient's
present illnesses. The HPI is usually a chronological description of the patient's present illness
from the first sign and symptom to the present.

1 59. During the time period Respondent provided care and treatment to Patient D, from on
2 or about January 4, 2019 through on or about December 1, 2020, Respondent prescribed
3 excessive amounts of opioids: for example, on or about January 19, 2019, the MME²⁸ for
4 Oxycodone was 60 and MME for Methadone²⁹ was 58, for a total MME of 118. On or about
5 December 5, 2020, the MME for Oxycodone was 60 and the MME for Methadone was 60, for a
6 total MME of 120.

7 60. Respondent committed repeated negligent acts in his care and treatment of Patient D,
8 including, but not limited to:

9 61. Respondent failed to order an adequate frequency of urine drug screen testing;

10 62. Respondent failed to perform and/or failed to document having performed, an
11 appropriate physical examination, particularly at the initial patient encounter; and

12 63. Respondent prescribed an excessive amount of opioids to Patient D.

13 **THIRD CAUSE FOR DISCIPLINE**

14 **(Prescribing, Dispensing, or Furnishing of a Dangerous Drug without an Appropriate Prior
15 Examination and a Medical Indication)**

16 64. Respondent has further subjected his Physician's and Surgeon's Certificate No.
17 A131987 to disciplinary action under sections 2227 and 2234, as defined by section 2242, of the
18 Code, in that he prescribed, dispensed, or furnished a dangerous drug on one or more occasions
19 without an appropriate prior examination and a medical indication during his care and treatment
20 of Patient A and Patient D, as more particularly alleged in paragraphs 11 through 15 and 56
21 through 63, above, which are hereby incorporated by reference and realleged as if fully set forth
22 herein.

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26 ²⁸ Milligram Morphine Equivalent (MME) is a value assigned to opioids to represent their
27 relative potencies. MME is determined by using an equivalency factor to calculate a dose of
morphine that is equivalent to the ordered opioid.

28 ²⁹ Methadone is a narcotic, which can be used to treat moderate to severe pain.

1 **FOURTH CAUSE FOR DISCIPLINE**

2 **(Repeated Acts of Clearly Excessive Prescribing)**

3 65. Respondent has further subjected his Physician's and Surgeon's Certificate No.
4 A 131987 to disciplinary action under sections 2227 and 2234, as defined by section 725, of the
5 Code in that he committed repeated acts of clearly excessive prescribing, furnishing, dispensing,
6 or administering of a drug or treatment during his care and treatment of Patients A, C, and D, as
7 more particularly alleged in paragraphs 11 through 15, 31 through 37, and 56 through 63 above,
8 which are hereby incorporated by reference and realleged as if fully set forth herein.

9 **FIFTH CAUSE FOR DISCIPLINE**

10 **(Failure to Maintain Adequate and Accurate Records)**

11 66. Respondent has further subjected his Physician's and Surgeon's Certificate No.
12 A 131987 to disciplinary action under sections 2227 and 2234, as defined by section 2266, of the
13 Code, in that Respondent failed to maintain adequate and accurate records regarding his care and
14 treatment of Patient A, Patient B, Patient C, and Patient D, as more particularly alleged in
15 paragraphs 11 through 63, above, which are hereby incorporated by reference and realleged as if
16 fully set forth herein.

17 **SIXTH CAUSE FOR DISCIPLINE**

18 **(General Unprofessional Conduct)**

19 67. Respondent has further subjected his Physician's and Surgeon's Certificate No.
20 A 131987 to disciplinary action under sections 2227 and 2234 of the Code, in that he has engaged
21 in conduct which breaches the rules or ethical code of the medical profession, or conduct which is
22 unbecoming of a member in good standing of the medical profession, and which demonstrates an
23 unfitness to practice medicine, as more particularly alleged in paragraphs 11 through 63, above,
24 which are hereby incorporated by reference as if fully set forth herein.

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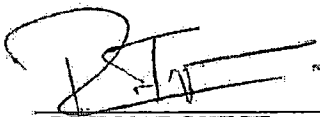
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PRAYER

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

1. Revoking or suspending Physician's and Surgeon's Certificate No. A 131987, issued to Respondent Shawn Zardouz, M.D.;
2. Revoking, suspending or denying approval of Respondent Shawn Zardouz, M.D.'s authority to supervise physician assistants and advanced practice nurses;
3. Ordering Respondent Shawn Zardouz, 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 03 2023


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

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Accusation - Medical Board.docx