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

In the Matter of the Accusation Against: Andrea Paula McCullough, M.D. Physician's and Surgeon's Certificate No. A 61951 Respondent.	Case No.: 800-2019-054743

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 February 16, 2024.

IT IS SO ORDERED: January 18, 2024.

MEDICAL BOARD OF CALIFORNIA

Richard E. Thorp, Chair
Panel B

ROB BONTA
Attorney General of California
GREG W. CHAMBERS
Supervising Deputy Attorney General
MACHAELA M. MINGARDI
Deputy Attorney General
State Bar No. 194400
455 Golden Gate Avenue, Suite 11000
San Francisco, CA 94102-7004
Telephone: (415) 510-3469
Facsimile: (415) 703-5480
Attorneys for Complainant

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

In the Matter of the Accusation Against: **ANDREA PAULA MCCULLOUGH, M.D.** **Redwood Medical Clinic** **3 Marcela Dr., Ste. C** **Willits, CA 95490** **Physician's and Surgeon's Certificate No. A 61951** Respondent.	Case No. 800-2019-054743 OAH No. 2023070459 **STIPULATED SETTLEMENT AND DISCIPLINARY ORDER**

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

PARTIES

1. 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 Machaela M. Mingardi, Deputy Attorney General.

2. Respondent Andrea Paula McCullough, M.D. (Respondent) is represented in this proceeding by attorney Shannon V. Baker, whose address is: 765 University Avenue Sacramento, CA 95825.

3. On or about April 4, 1997, the Board issued Physician's and Surgeon's Certificate No. A 61951 to Respondent. The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought in Accusation No. 800-2019-054743, and will expire on December 31, 2024, unless renewed.

JURISDICTION

4 Accusation No. 800-2019-054743 was filed before the Board, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on April 5, 2022. Respondent timely filed her Notice of Defense contesting the Accusation.

5. A copy of Accusation No. 800-2019-054743 is attached as exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

6. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 800-2019-054743. Respondent has also carefully read, fully discussed with her counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

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

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

CULPABILITY

9. Respondent understands and agrees that the charges and allegations in Accusation No. 800-2019-054743, if proven at a hearing, constitute cause for imposing discipline upon his Physician's and Surgeon's Certificate.

10. Respondent agrees that, at a hearing, Complainant could establish a prima facie case or factual basis for the charges in the Accusation No. 800-2019-054743, a true and correct copy of which is attached hereto as Exhibit A. Respondent hereby gives up her right to contest those charges and does not contest that she has thereby subjected her Physician's and Surgeon's Certificate, No. A 61951, to disciplinary action.

ACKNOWLEDGMENT

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

CONTINGENCY

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 her counsel. By signing the stipulation, Respondent understands and agrees that she may not withdraw her agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

13. Respondent agrees that if she ever petitions for early termination or modification of probation, or if an accusation and/or petition to revoke probation is filed against her before the Board, all of the charges and allegations contained in Accusation No. 800-2019-054743 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.

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

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

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. A 61951 issued to Respondent ANDREA PAULA MCCULLOUGH, M.D. is revoked. However, the revocation is stayed and Respondent is placed on probation for four (4) years on the following terms and conditions:

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

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

2. EDUCATION COURSE. Within 60 calendar days of the effective date of this Decision, and on an annual basis thereafter, Respondent shall submit to the Board or its designee for its prior approval educational program(s) or course(s) which shall not be less than 40 hours

per year, for each year of probation. The educational program(s) or course(s) shall be aimed at correcting any areas of deficient practice or knowledge and shall be Category I certified. The educational program(s) or course(s) shall be at Respondent's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure. Following the completion of each course, the Board or its designee may administer an examination to test Respondent's knowledge of the course. Respondent shall provide proof of attendance for 65 hours of CME of which 40 hours were in satisfaction of this condition.

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

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

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

4. MEDICAL RECORD KEEPING COURSE. Within 60 calendar days of the effective date of this Decision, Respondent shall enroll in a course in medical record keeping approved in advance by the Board or its designee. Respondent shall provide the approved course provider with any information and documents that the approved course provider may deem

pertinent. Respondent shall participate in and successfully complete the classroom component of the course not later than six (6) months after Respondent's initial enrollment. Respondent shall successfully complete any other component of the course within one (1) year of enrollment. The medical record keeping course shall be at Respondent's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

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

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

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

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

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

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

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

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

If Respondent fails to obtain approval of a monitor within 60 calendar days of the effective date of this Decision, Respondent shall receive a notification from the Board or its designee to cease the practice of medicine within three (3) calendar days after being so notified. Respondent shall cease the practice of medicine until a monitor is approved to provide monitoring responsibility.

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

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

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

7. NOTIFICATION. Within seven (7) days of the effective date of this Decision, the Respondent shall provide a true copy of this Decision and Accusation to the Chief of Staff or the Chief Executive Officer at every hospital where privileges or membership are extended to Respondent, at any other facility where Respondent engages in the practice of medicine, including all physician and locum tenens registries or other similar agencies, and to the Chief Executive Officer at every insurance carrier which extends malpractice insurance coverage to Respondent. Respondent shall submit proof of compliance to the Board or its designee within 15 calendar days.

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

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

9. INVESTIGATION/ENFORCEMENT COST RECOVERY. Respondent is hereby ordered to reimburse the Board its costs of investigation and enforcement, including, but not limited to, expert review, amended accusations, legal reviews, investigation(s), and subpoena enforcement, as applicable, in the amount of $20,000 (twenty thousand dollars and no cents). Costs shall be payable to the Medical Board of California. Failure to pay such costs shall be considered a violation of probation.

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

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

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

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

11. GENERAL PROBATION REQUIREMENTS.

Compliance with Probation Unit

Respondent shall comply with the Board's probation unit.

Address Changes

Respondent shall, at all times, keep the Board informed of Respondent's business and residence addresses, email address (if available), and telephone number. Changes of such addresses shall be immediately communicated in writing to the Board or its designee. Under no circumstances shall a post office box serve as an address of record, except as allowed by Business

and Professions Code section 2021, subdivision (b).

Place of Practice

Respondent shall not engage in the practice of medicine in Respondent's place of residence.

License Renewal

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

Travel or Residence Outside California

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

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

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

13. NON-PRACTICE WHILE ON PROBATION. Respondent shall notify the Board or its designee in writing within 15 calendar days of any periods of non-practice lasting more than 30 calendar days and within 15 calendar days of Respondent's return to practice. Non-practice is defined as any period of time Respondent is not practicing medicine as defined in Business and Professions Code sections 2051 and 2052 for at least 40 hours in a calendar month in direct patient care, clinical activity or teaching, or other activity as approved by the Board. If Respondent resides in California and is considered to be in non-practice, Respondent shall comply with all terms and conditions of probation. All time spent in an intensive training program which has been approved by the Board or its designee shall not be considered non-practice and does not relieve Respondent from complying with all the terms and conditions of probation. Practicing medicine in another state of the United States or Federal jurisdiction while on probation with the medical licensing authority of that state or jurisdiction shall not be

considered non-practice. A Board-ordered suspension of practice shall not be considered as a period of non-practice.

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

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

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

Periods of non-practice for a Respondent residing outside of California will relieve Respondent of the responsibility to comply with the probationary terms and conditions with the exception of this condition and the following terms and conditions of probation: Obey All Laws; General Probation Requirements; Quarterly Declarations; Abstain from the Use of Alcohol and/or Controlled Substances; and Biological Fluid Testing.

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

15. VIOLATION OF PROBATION. Failure to fully comply with any term or condition of probation is a violation of probation. If Respondent violates probation in any respect, the Board, after giving Respondent notice and the opportunity to be heard, may revoke probation and carry out the disciplinary order that was stayed. If an Accusation, or Petition to Revoke Probation, or an Interim Suspension Order is filed against Respondent during probation, the Board shall have continuing jurisdiction until the matter is final, and the period of probation shall be extended until the matter is final.

16. LICENSE SURRENDER. Following the effective date of this Decision, if

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

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

18. FUTURE ADMISSIONS CLAUSE. If Respondent should ever apply or reapply for a new license or certification, or petition for reinstatement of a license, by any other health care licensing action agency in the State of California, all of the charges and allegations contained in Accusation No. 800-2019-054743 shall be deemed to be true, correct, and admitted by Respondent for the purpose of any Statement of Issues or any other proceeding seeking to deny or restrict license.

//

//

//

//

//

//

ACCEPTANCE

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

DATED: 10/11/23

ANDREA PAULA MCCULLOUGH, M.D.
Respondent

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

DATED: 10/11/2023

SHANNON V. BAKER
Attorney for Respondent

ENDORSEMENT

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

DATED: October 11, 2023

Respectfully submitted,

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

MACHAELA M. MINGARDI
Deputy Attorney General
Attorneys for Complainant

ACCEPTANCE

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

DATED: _____

ANDREA PAULA MCCULLOUGH, M.D.
Respondent

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

DATED: _____

SHANNON V. BAKER
Attorney for Respondent

ENDORSEMENT

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

DATED: October 11, 2023

Respectfully submitted,

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

Machaela M. Mingardi

MACHAELA M. MINGARDI
Deputy Attorney General
Attorneys for Complainant

SF2022400318

ROB BONTA
Attorney General of California
JANE ZACK SIMON
Supervising Deputy Attorney General
LYNNE K. DOMBROWSKI
Deputy Attorney General
State Bar No. 128080
455 Golden Gate Avenue, Suite 11000
San Francisco, CA 94102-7004
Telephone: (415) 510-3439
Facsimile: (415) 703-5480
E-mail: Lynne.Dombrowski@doj.ca.gov
Attorneys for Complainant

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

In the Matter of the Accusation Against: **ANDREA PAULA MCCULLOUGH, M.D.** **Redwood Medical Clinic** **3 Marcela Dr., Ste. C** **Willits, CA 95490** **Physician's and Surgeon's Certificate No. A 61951,** Respondent.	Case No. 800-2019-054743 **ACCUSATION**

PARTIES

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

2. On or about April 4, 1997, the Board issued Physician's and Surgeon's Certificate Number A 61951 to Andrea Paula McCullough, M.D. (Respondent). The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought herein and will expire on December 31, 2022, unless renewed.

3. At all times alleged herein, Respondent was a physician board-certified in Family Medicine who practiced medicine at the Redwood Medical Clinic in Willits, California.

JURISDICTION

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

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

6. Section 2234 of the Code, states:

> The board shall take action against any licensee who is charged with unprofessional conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not limited to, the following:
>
> (a) Violating or attempting to violate, directly or indirectly, assisting in or abetting the violation of, or conspiring to violate any provision of this chapter.
>
> (b) Gross negligence.
>
> (c) Repeated negligent acts. To be repeated, there must be two or more negligent acts or omissions. An initial negligent act or omission followed by a separate and distinct departure from the applicable standard of care shall constitute repeated negligent acts.
>
> (1) An initial negligent diagnosis followed by an act or omission medically appropriate for that negligent diagnosis of the patient shall constitute a single negligent act.
>
> (2) When the standard of care requires a change in the diagnosis, act, or omission that constitutes the negligent act described in paragraph (1), including, but not limited to, a reevaluation of the diagnosis or a change in treatment, and the licensee's conduct departs from the applicable standard of care, each departure constitutes a separate and distinct breach of the standard of care.
>
> (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.

7. Section 2228 of the Code states:

The authority of the board or the California Board of Podiatric Medicine to discipline a licensee by placing him or her on probation includes, but is not limited to, the following:

(a) Requiring the licensee to obtain additional professional training and to pass an examination upon the completion of the training. The examination may be written or oral, or both, and may be a practical or clinical examination, or both, at the option of the board or the administrative law judge.

(b) Requiring the licensee to submit to a complete diagnostic examination by one or more physicians and surgeons appointed by the board. If an examination is ordered, the board shall receive and consider any other report of a complete diagnostic examination given by one or more physicians and surgeons of the licensee's choice.

(c) Restricting or limiting the extent, scope, or type of practice of the licensee, including requiring notice to applicable patients that the licensee is unable to perform the indicated treatment, where appropriate.

(d) Providing the option of alternative community service in cases other than violations relating to quality of care.

8. Section 2228.1 of the Code states.

(a) On and after July 1, 2019, except as otherwise provided in subdivision (c), the board and the Podiatric Medical Board of California shall require a licensee to provide a separate disclosure that includes the licensee's probation status, the length of the probation, the probation end date, all practice restrictions placed on the licensee by the board, the board's telephone number, and an explanation of how the patient can find further information on the licensee's probation on the licensee's profile page on the board's online license information internet web site, to a patient or the patient's guardian or health care surrogate before the patient's first visit following the probationary order while the licensee is on probation pursuant to a probationary order made on and after July 1, 2019, in any of the following circumstances:

(1) A final adjudication by the board following an administrative hearing or admitted findings or prima facie showing in a stipulated settlement establishing any of the following:

(A) The commission of any act of sexual abuse, misconduct, or relations with a patient or client as defined in Section 726 or 729.

(B) Drug or alcohol abuse directly resulting in harm to patients or the extent that such use impairs the ability of the licensee to practice safely.

(C) Criminal conviction directly involving harm to patient health.

(D) Inappropriate prescribing resulting in harm to patients and a probationary period of five years or more.

(2) An accusation or statement of issues alleged that the licensee committed any of the acts described in subparagraphs (A) to (D), inclusive, of paragraph (1), and a stipulated settlement based upon a nolo contendere or other similar compromise that does not include any prima facie showing or admission of guilt or fact but does include an express acknowledgment that the disclosure requirements of this section would serve to protect the public interest.

(b) A licensee required to provide a disclosure pursuant to subdivision (a) shall obtain from the patient, or the patient's guardian or health care surrogate, a separate, signed copy of that disclosure.

(c) A licensee shall not be required to provide a disclosure pursuant to subdivision (a) if any of the following applies:

(1) The patient is unconscious or otherwise unable to comprehend the disclosure and sign the copy of the disclosure pursuant to subdivision (b) and a guardian or health care surrogate is unavailable to comprehend the disclosure and sign the copy.

(2) The visit occurs in an emergency room or an urgent care facility or the visit is unscheduled, including consultations in inpatient facilities.

(3) The licensee who will be treating the patient during the visit is not known to the patient until immediately prior to the start of the visit.

(4) The licensee does not have a direct treatment relationship with the patient.

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

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

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

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

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

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

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

9. Section 2242 of the Code states:

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

questionnaire, provided that the licensee complies with the appropriate standard of care.

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

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

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

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

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

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

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

10. 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

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

///

///

DESCRIPTION OF PERTINENT DRUGS

12. Dilaudid is a trade name for hydromorphone hydrochloride. Dilaudid is a hydrogenated ketone of morphine and is a narcotic analgesic whose principal therapeutic use is relief of pain. It is a Schedule II controlled substance as defined by section 11055, subdivision (d) of the Health and Safety Code, and a Schedule II controlled substance as defined by Section 1308.12 (d) of Title 21 of the Code of Federal Regulations, and is a dangerous drug as defined in Business and Professions Code section 4022.

13. Norco is a trade name for hydrocodone bitartrate with acetaminophen, which is a semi-synthetic opioid analgesic. It is a Schedule II controlled substance as defined by Section 11055, subdivision (b) of the Health and Safety Code and by section 1308.13 (e) of Title 21 of the Code of Federal Regulations, and is a dangerous drug as defined in Business and Professions Code section 4022.

14. MSContin is a trade name for morphine sulfate. It is an opioid pain medication indicated for the management of pain severe enough to require daily, around-the-clock, long-term opioid treatment and for which alternative treatment options are inadequate. It is a Schedule II controlled substance as defined by section 11055, subdivision (b) of the Health and Safety Code and is a dangerous drug as defined in Business and Professions Code section 4022. Morphine is a highly addictive drug which may rapidly cause physical and psychological dependence and, as a result, creates the potential for being abused, misused, and diverted.

15. Oxycodone, known by the trade name OxyContin, is a white odorless crystalline powder derived from an opium alkaloid. It is a pure agonist opioid whose principal therapeutic action is analgesia. Other therapeutic effects of oxycodone include anxiolysis, euphoria, and feelings of relaxation. Oxycodone is a Schedule II controlled substance and narcotic as defined by section 11055, subdivision (b)(1) of the Health and Safety Code, and by Section 1308.12 (b)(1) of Title 21 of the Code of Federal Regulations, and is a dangerous drug as defined in Business and Professions Code section 4022.

///

///

16. Percocet is a trade name for the combination of oxycodone hydrochloride and acetaminophen. It is a semisynthetic opioid analgesic with multiple actions qualitatively similar to those of morphine. It is a Schedule II controlled substance as defined by section 11055, subdivision (b)(1)(N), of the Health and Safety Code, and by Section 1308.12 (b)(1) of Title 21 of the Code of Federal Regulations, and is a dangerous drug as defined in Business and Professions Code section 4022.

17. Tramadol, known by the trade name Ultram, is an opioid agonist of the morphine-type and a centrally acting synthetic analgesic compound that is indicated for the management of moderate to moderately severe pain. It is a Schedule IV controlled substance as defined by section 11057 of the Health and Safety Code and is a dangerous drug as defined in Business and Professions Code section 4022. Tramadol may be expected to have additive effects when used in conjunction with alcohol, other opioids, or illicit drugs that cause central nervous system depression.

18. Xanax is a trade name for alprazolam, which is a psychotropic triazolo-analogue of the benzodiazepine class of central nervous system-active compounds. It is used for the management of anxiety disorders or for the short-term relief of anxiety symptoms. It is a Schedule IV controlled substance and narcotic as defined by section 11057, subdivision (d) of the Health and Safety Code and by Section 1308.14 (c) of Title 21 of the Code of Federal Regulations, and is a dangerous drug as defined in Business and Professions Code section 4022. Xanax has a central nervous system (CNS) depressant effect and patients should be cautioned about the simultaneous ingestion of alcohol and other CNS depressant drugs during treatment with Xanax.

///

///

///

///

///

///

FIRST CAUSE FOR DISCIPLINE

(Unprofessional Conduct re Patient A[1]: Gross Negligence and/or Repeated Negligence and/or Prescribing without Appropriate Exam and Medical Indication)

19. Respondent Andrea Paula McCullough, M.D. is subject to disciplinary action for unprofessional conduct, through gross negligence and/or repeated negligent acts under Code sections 2234, subdivision (b) and/or subdivision (c) and/or prescribing without an appropriate prior examination and a medical indication under Code section 2242, in the care and treatment, acts and/or omissions, of Patient A, a female born in May 1954, as alleged herein. The circumstances are as follows:

20. On or about October 5, 2017, Respondent first saw Patient A who came to the Redwood Medical Clinic (RMC) for a follow-up after left shoulder surgery about three weeks prior and for a refill of Xanax. Prior to seeing Respondent on October 5, 2017, Patient A had been seen and treated by physicians at a different clinic but was transferring her care to Respondent, as her primary care physician.

21. For the October 5, 2017 visit with Patient A, the only physical exam findings documented are vital signs and a brief note that the patient's left arm scar was examined. There is not an appropriate initial history and physical examination documented. It was noted that "there is a story that she does have an alcohol abuse history." The patient was taking digoxin for atrial fibrillation and was a high fall risk. The patient was taking two tablets daily of Xanax 1 mg. and was receiving Percocet from an orthopedist for her fractured arm, post-surgery. Respondent noted that she would take over the patient's pain prescriptions and that the patient should not get refills from her orthopedist. It was also noted that the patient should not mix Ultram and Percocet and should instead switch to Ultram after she was done with the Percocet, and that she should continue the Percocet for a maximum of one more week and then discontinue it. Respondent prescribed to Patient A: #60 Ultram 50 mg; #45 Xanax 1 mg.; and #14 Percocet (oxycodone with acetaminophen 325/10 mg.), along with other

[1] To protect the patients' privacy rights, the patients will be referred to by letters. Their identities will be revealed to Respondent through discovery.

unscheduled medications. There was no indication in the records that Respondent reviewed the CURES database regarding Patient A and there was no order for a urine drug/alcohol screening. There was no pain treatment agreement documented.

22. On or about November 1, 2017, Respondent received Patient A's prior medical records, which were placed in Patient A's chart. The records revealed that Patient A had a history of generalized anxiety disorder, alcoholism, and chronic pain syndrome. There were multiple notes in Patient A's medical records in early 2017 that identified the patient's overuse of tramadol and Xanax and a plan to taper the patient off Xanax. A progress note of a visit on July 20, 2017 reported that Patient A was upset about decreasing her Xanax and that she did not want to leave without getting enough to take 2 mg of Xanax twice a day. Patient A was also taking venlafaxine for depression, trazodone 200 mg. for insomnia (which she had been using for many years), and digoxin 250 mg. daily for atrial fibrillation. The note also stated that Patient A had been clean and sober for eight months. The prior records indicated that Patient A's last visit to the other clinic was on September 18, 2017.

23. According to the CURES database, on September 29, 2017, Patient A filled a prescription for #30 Percocet 325 mg./5 mg. that was issued by her orthopedic physician. On September 18, 2017, Patient A had filled prescriptions for #90 tramadol 50 mg. and #30 Xanax 1 mg.

24. Respondent referred Patient A to a cardiologist because of two recent episodes of syncope (fainting), both of which caused harm: a fractured left ankle and a fractured left humerus. Respondent was provided a copy of the cardiologist's evaluation, which was placed in Patient A's medical records. The cardiologist noted that the patient reported a history of alcohol abuse in her household (but not for the past 6 months) and listed, under the section titled "household substance abuse concerns," that Patient A was currently using marijuana.

25. On or about November 8, 2017, Respondent saw Patient A who reported worsening pain in her knee. Respondent noted that the patient received Percocet from her orthopedist and also noted that the cardiologist recommended a pacemaker. No physical exam was performed, except for Patient A's vital signs. Respondent noted a discussion about the plan for pain control

and that it was not okay for the patient to continue to get pain medications from the orthopedist and from Respondent. It was noted that the "pain contract" would continue with Respondent and that the plan was to taper the Percocet by ten pills and then to resume a prescription for Ultram. Respondent issued prescriptions to Patient A for: #10 Percocet; #45 Xanax; and #30 gabapentin 100 mg.[2]

26. On or about December 6, 2017, Respondent saw Patient A for a medication check and noted that the patient was having difficulty sleeping, requested more anxiety medicine, and reported having pain all over her body. It was noted that Patient A was seeing a therapist but no details were provided. Respondent did not perform or document an appropriate physical examination. Respondent noted that she encouraged the patient to decrease her use of Xanax because it was not safe to take while also taking Percocet. Respondent issued prescriptions to Patient A for: two prescriptions for #45 Xanax 1 mg.; #5 oxycodone 5 mg.; #60 tramadol 50 mg. plus one refill; and #30 gabapentin plus two refills.

27. According to the CURES database, after December 6, 2017 and before April 2, 2018, Patient A filled controlled substance prescriptions from other providers for the following totals: #90 oxycodone 10 mg.; #60 Percocet; and #30 Dilaudid 4 mg. During that same time period, Patient A filled controlled substance prescriptions from Respondent for: #60 Percocet; #30 oxycodone 10 mg., #135 Xanax 1 mg.; and #240 tramadol 50 mg.

28. On or about April 2, 2018, Patient A next saw Respondent. Between visits with Respondent, Patient A had fractured her left clavicle after a fall in February 2018, was hospitalized for bradycardia, fractured her left humerus after a syncopal episode and fall in March 2018, was diagnosed with sick sinus syndrome, and had a pacemaker implanted. Respondent noted that Patient A's orthopedist was prescribing pain medications to control the post-operative pain after surgery on the patient's right arm. Respondent noted that the patient was taking Dilaudid every four hours. Respondent noted that the patient was advised to cut back on the dosage because otherwise she would run out of Dilaudid before seeing her

[2] Gabapentin, known by the trade name Neurontin, is a prescription anticonvulsant and nerve pain medication. It is most commonly used to treat epilepsy, restless leg syndrome, hot flashes, and neuropathic pain.

orthopedist. Other than the patient's vital signs and a note that the patient had a well-healing scar on her left upper arm, Respondent did not perform or document findings of a physical examination. It was noted that Respondent would continue to taper the patient's Xanax and possibly discontinue the other medications (hydroxyzine and trazodone.[3]) Respondent issued a prescription for #60 Xanax 1 mg.

29. According to the CURES database, in April 2018, Patient A filled weekly prescriptions for Dilaudid from another physician for a total of #30 Dilaudid 4 mg. and #90 Dilaudid 2 mg.

30. On or about May 1, 2018, Respondent saw Patient A who presented for a refill of Xanax. Respondent noted a physical examination of the patient's head, neck, and upper extremities. There are no findings of the patient's anxiety and pain levels. It is noted that the patient's fatigue is another reason to taper the Xanax and the Dilaudid. Respondent issued a prescription for #55 Xanax 1 mg.

31. According to the CURES database, in May 2018, Patient A filled six prescriptions for #30 Percocet 325 mg/5 mg. from another physician for a total of #180 tablets.

32. On or about May 31, 2018, Respondent saw Patient A for a medication refill and lab results. Respondent noted that the patient was getting therapy for her arm, that the pain was getting better, but with occasional severe pain. There is no appropriate examination documented. It was noted that the orthopedist was providing the pain medications but that Respondent would contact him about taking over the prescribing of pain medications in a month, and she would evaluate the transfer of Patient A from oxycodone to Ultram. Respondent issued a prescription for #55 Xanax 1 mg.

33. According to the CURES database, in June 2018, Patient A filled four prescriptions for #30 Percocet 325 mg/5 mg. from another physician for a total of #120 tablets.

34. On or about June 28, 2018, Respondent saw Patient A, who reported recent oral surgery and not sleeping well. There is no appropriate examination documented. It was also

[3] Hydroxyzine (Atarax/Vistaril) is a prescription antihistamine with sedative properties. Trazodone (Desyrel) is a prescription medication used to treat depression.

noted that the patient said that she had received her last prescription for oxycodone a few days ago and would like to start tramadol. Although Respondent noted that Patient A filled out a pain contract, there is no copy in her medical records. Respondent noted that Patient A may need a drug screen, but she did not order one. It was also noted that Patient A "will hold on to a few oxycodone from her last fill but should NOT combine tramadol and oxycodone at the same time." Respondent issued prescriptions for #55 Xanax 1 mg. and #90 tramadol 50 mg., along with #180 gabapentin.

35. On or about July 26, 2018, Respondent saw Patient A for a medication refill. It was noted that Patient A "called in a panic" two weeks prior claiming that she couldn't tolerate the abrupt taper of oxycodone to tramadol. There is no appropriate examination documented. Respondent issued prescriptions for #55 Xanax 1 mg. and #60 oxycodone 5 mg.

36. In a note dated August 24, 2018 in Patient A's records, it states that it is a copy of a previously dictated note and that Patient A presented for an oxycodone refill. There is no appropriate examination documented. The note states that Respondent issued a refill of #55 Xanax plus one refill, but there is no mention about the oxycodone. According to the CURES database, on August 24, 2018, Patient A filled prescriptions from Respondent for #60 oxycodone 5 mg. and #55 Xanax 1 mg.

37. Eleven days later, on or about September 4, 2018, Respondent saw Patient A who presented "shaking, studdering (sic), breathing heavy, tence (sic), crying, and forgetful." The patient reported that she can't tolerate the increased dose of gabapentin of 300 mg. three times a day. That she is short of breath and dizzy, her husband cannot understand her when she speaks, and her kids thought that she was "on drugs." The patient stated that she had not taken Xanax for 24-hours but denied that she was experiencing benzodiazepine withdrawal. Respondent noted that the gabapentin was to be tapered down to nothing and, since most of Patient A's pain was neurologic, she would start amitriptyline. No urine drug/alcohol screen was conducted or ordered. Respondent issued a prescription for #90 amitriptyline (Elavil) plus one refill.

///

///

38. Respondent's records for Patient A do not have any visit notes from September 5, 2018 through November 19, 2018. There is a signed Pain Treatment Agreement that is dated October 23, 2018, but with no corresponding progress note.

39. According to the CURES database, Patient A filled prescriptions from Respondent as follows: on September 24, 2018: #55 Xanax 1 mg. and #60 oxycodone 5 mg.; on October 23, 2018: #55 Xanax 1 mg. and #60 oxycodone 5 mg.; and, on November 20, 2018: #60 Xanax 1 mg.

40. On or about November 1 and 2, 2018, it is noted in Patient A's records that an x-ray of the left wrist showed a displaced fracture and that Patient A called to inform Respondent that she fell, broke her arm, and was having emergency surgery. It was also reported that Patient A's orthopedist had prescribed her pain medications.

41. According to the CURES database, in November, 2018, Patient A filled prescriptions from other physicians for: #8 Norco 325 mg./5 mg.; #30 Percocet 325 mg/5 mg.; and four prescriptions for #30 oxycodone 10 mg.

42. According to pharmacy records, on November 19, 2018, Patient A filled a prescription from Respondent for #60 hydroxyzine 25 mg., to be taken four times daily as needed for anxiety. There is no corresponding progress note for this prescription.

43. On or about November 20, 2018, Respondent saw Patient A who presented with a broken wrist in a splint. Patient A reported that she was taking oxycodone 10 mg. six times daily. It was also noted that the patient drank alcohol 2-4 times a month and used marijuana. Respondent issued a prescription for #60 Xanax 1 mg.

44. According to the CURES database, on December 5, 2018, Patient A filled a prescription for #30 oxycodone 10 mg. that was issued by her orthopedist.

45. On or about December 18, 2018, Respondent saw Patient A for a follow-up visit. The patient reported that her anxiety was better and that she was taking hydroxyzine, but less than the four times per day that was prescribed. Respondent did not document any details about the patient's anxiety or pain levels. Respondent noted that the patient was warned about the sedating effects of hydroxyzine, trazodone, oxycodone, and alprazolam. Respondent also noted that she advised the patient "may not even want to take it [hydroxyzine] every day because of the combo

effect and should only use it when necessary and not with alprazolam." Respondent prescribed to Patient A: #75 oxycodone 10 mg. and #60 Xanax 1 mg.

46. There is a Pain Treatment Agreement, signed and dated December 18, 2018, that lists the following medications as the treatment plan: #75 oxycodone 10 mg. "a month tapering" and #60 Xanax (alprazolam) 1 mg. "a month, consider taper in the future."

47. On December 19, 2018 at 4:16 a.m., Patient A was pronounced dead at home from an overdose of oxycodone combined with Xanax. The coroner's report listed the case of death as "acute oxycodone intoxication" with other significant conditions: "Alprazolam, Cannabinoids and diphenhydramine present; Cardiomegaly; Congestive hepatomegaly and splenomegaly." According to the sheriff's report, the vials of the prescriptions filled on December 18, 2018 were found and a pill count determined that #43 oxycodone tablets remained of the original #75 tablets filled, and #30 Xanax tablets remained of the original #60 tablets filled.

48. In summary, as alleged in paragraphs 19 through 47, Respondent prescribed a chronic combination of controlled substances (benzodiazepines and opioids) with dangerous interactions and high risk of negative health outcomes, particularly for a patient who had a known history of alcoholism. Respondent is subject to disciplinary action for unprofessional conduct through her acts and omissions regarding Patient A, pursuant to section 2234 subd. (b) [gross negligence] and/or subd. (c) [repeated negligent acts] and/or section 2242 [prescribing without appropriate examination and medical indication] as follows:

a. Respondent failed to document appropriate examinations with findings to support and to establish medical indications for the chronic prescribing of controlled substances to Patient A, who had a known history of alcoholism, particularly the chronic use of opioids for the patient's musculoskeletal pain and the chronic use of benzodiazepines for anxiety.

b. Respondent failed to document a treatment plan, with measurable treatment goals and objectives. Respondent also failed include, as part of the treatment plan, an exit strategy for discontinuing the chronic prescribing of controlled substances, should it become necessary.

c. Respondent failed to periodically and appropriately evaluate the efficacy of the treatment, details about the patient's pain and anxiety, level of function, and failed to fully

evaluate the presence and nature of adverse side effects, aberrant behaviors, and the patient's mental health status.

d. Respondent failed to document that Patient A was clearly informed about the potential risks of long-term opioid use, chronic benzodiazepine use, and of combined opioid and benzodiazepine use, and of the risks of dependence, misuse, addiction, overdose, and death. Respondent also did not inform Patient A of the risks of consuming alcohol concomitantly with the chronic treatment regimen that was prescribed.

e. Respondent failed to conduct adequate compliance monitoring of Patient A while she was prescribed chronic opioids and other controlled substances. Respondent did not conduct random urine screens for drugs and alcohol, did not consult the CURES database, and did not otherwise take measures to appropriately monitor the patient.

SECOND CAUSE FOR DISCIPLINE

(Unprofessional Conduct re Patient A: Failure to Maintain Adequate and Accurate Medical Records)

49. Respondent Andrea Paula McCullough, M.D. is subject to disciplinary action for unprofessional conduct for failure to maintain adequate and accurate medical records, under Code section 2266, in the care and treatment of Patient A. Paragraphs 19 through 48 herein are incorporated herein by reference, as if fully set forth.

THIRD CAUSE FOR DISCIPLINE

(Unprofessional Conduct re Patient B: Gross Negligence and/or Repeated Negligent Acts and/or Failure to Maintain Adequate and Accurate Medical Records)

50. Respondent Andrea Paula McCullough, M.D. is subject to disciplinary action for unprofessional conduct, through gross negligence and/or repeated negligent acts under Code sections 2234, subdivision (b) and/or subdivision (c) and/or for failure to maintain adequate and accurate medical records under Code section 2266, in the care and treatment of Patient B, a female born in January 1952, as alleged herein. The circumstances are as follows:

51. On or about August 15, 2016, Patient B saw Respondent as her primary care physician. The patient presented with constant abdominal pain and back pain. Respondent ordered labs and a CT scan. The CT scan results found a large mass in the pancreas.

52. On or about September 19, 2016, Patient B saw Respondent for a follow-up visit after having seen an oncologist who diagnosed her with pancreatic cancer. Respondent prescribed a long-acting pain medication, #60 MSContin 15 mg. 2-3 times daily; and #50 Norco for breakthrough pain, as needed.

53. After she was diagnosed with pancreatic cancer, Patient B was under the care of an oncologist and other specialists and she underwent chemotherapy treatments. Until the end of August 2018, Respondent continued to be the physician responsible for managing Patient B's cancer pain and the prescribing of pain medications.

54. On or about October 25, 2016, Patient B saw Respondent after starting her first round of chemotherapy. Respondent increased the dosage of pain medications and prescribed #60 MSContin 30 mg.

55. During the course of treatment of Patient B through at least August 2018, Respondent saw the patient on a somewhat regular basis and prescribed chronic pain medications. The amount of pain medications prescribed increased over the two years, yet remained a combination of high doses of MSContin (30 mg. and 15 mg. tablets) and high doses of Norco 325 mg./10 mg.

56. According to the CURES database, Respondent prescribed opioids to Patient B at a dosing level of 194 morphine milligram equivalents (MME) from August 14, 2017 through March 19, 2018. From April 3, 2018 through August 27, 2018, Respondent prescribed opioids at a dosing level of 564 MME.

57. During the course of treatment of Patient B, Respondent failed to inform Patient B about important safety information regarding the chronic use of high–dose opioids and the risks involved, e.g. the risks of cognitive impairment, motor impairment, respiratory impairment, and potential death. There is no documentation in Respondent's progress notes that she discussed with Patient B, or otherwise provided the patient with, the appropriate warnings about taking the regimen of high doses of opioids.

PRAYER

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

1. Revoking or suspending Physician's and Surgeon's Certificate Number A 61951, issued to Respondent Andrea Paula McCullough, M.D.;

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

3. Ordering Respondent Andrea Paula McCullough, M.D., to pay the Board the costs of the investigation and enforcement of this case and, if placed on probation, the costs of probation monitoring;

4. Ordering Respondent Andrea Paula McCullough, M.D., if place on probation, to provide patient notification in accordance with Business and Professions Code section 2228.1; and,

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

DATED: APR 0 5 2022

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

Reji Varghese
Deputy Director

SF2022400318