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

In the Matter of the First Amended Accusation Against: Philip A. Grossi, M.D. Physician's and Surgeon's Certificate No. G 12389 Respondent.	Case No. 800-2019-060792

DECISION

The attached Stipulated Surrender of License 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 30, 2024.

IT IS SO ORDERED January 23, 2024.

MEDICAL BOARD OF CALIFORNIA

JENNA JONES FOR
Reji Varghese
Executive Director

ROB BONTA
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Attorneys for Complainant

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

In the Matter of the First Amended Accusation Against: **PHILIP A. GROSSI, M.D.** 3425 S. Bascom Ave., Suite C Campbell, CA 95008-7006 **Physician's and Surgeon's Certificate No. G 12389,** Respondent.	Case No. 800-2019-060792 OAH No. 2023080029 **STIPULATED SURRENDER OF LICENSE AND DISCIPLINARY ORDER**

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

PARTIES

1. 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 LeAnna E. Shields, Deputy Attorney General.

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2. Philip A. Grossi, M.D. (Respondent) is represented in this proceeding by attorneys Nicole Irmer, Esq., and Kimberly J. Elkin, Esq., whose address is: 2550 Fifth Avenue, Suite 1060, San Diego, CA 92103.

3. On or about September 15, 1966, the Board issued Physician's and Surgeon's Certificate No. G 12389 to Respondent. That license was in full force and effect at all times relevant to the charges brought in the First Amended Accusation No. 800-2019-060792 and will expire on May 31, 2025, unless renewed.

JURISDICTION

4. On October 18, 2022, Accusation No. 800-2019-060792 was filed before the Board. The Accusation and all other statutorily required documents were properly served on Respondent on October 18, 2022. On November 7, 2023, the First Amended Accusation No. 800-2019-060792 was filed before the Board and is currently pending against Respondent. Respondent timely filed his Notice of Defense. A copy of the First Amended Accusation No. 800-2019-060792 is attached as Exhibit A and incorporated by reference.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, fully discussed with counsel, and fully understands the charges and allegations in the First Amended Accusation No. 800-2019-060792. Respondent also has carefully read, fully discussed with counsel, and fully understands the effects of this Stipulated Surrender of License and Disciplinary Order.

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

7. Having the benefit of counsel, Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

CULPABILITY

8. Respondent understands that the charges and allegations in the First Amended Accusation No. 800-2019-060792, if proven at a hearing, constitute cause for imposing discipline upon his Physician's and Surgeon's Certificate No. G 12389.

9. For the purpose of resolving the First Amended Accusation No. 800-2019-060792 without the expense and uncertainty of further proceedings, Respondent agrees that, at an administrative hearing, Complainant could establish a *prima facie* case with respect to the charges and allegations contained in the First Amended Accusation No. 800-2019-060792, and agrees that he has thereby subjected his Physician's and Surgeon's Certificate No. G 12389 to discipline. Respondent hereby surrenders his Physician's and Surgeon's Certificate No. G 12389 for the Board's formal acceptance.

10. Respondent further agrees that if he ever petitions for reinstatement of his Physician's and Surgeon's Certificate No. G 12389, all of the charges and allegations contained in the First Amended Accusation No. 800-2019-060792 shall be deemed true, correct, and fully admitted by Respondent for purposes of any such proceeding.

11. Respondent understands that by signing this stipulation he enables the Board, or the Executive Director on behalf of the Board, to issue an order accepting the surrender of his Physician's and Surgeon's License No. G 12389, without further notice or opportunity to be heard.

RESERVATION

12. The admissions made by Respondent herein are only for the purposes of this proceeding, or any other proceedings in which the Medical Board of California or other professional licensing agency is involved, and shall not be admissible in any other criminal or civil proceeding.

CONTINGENCY

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

14. Respondent understands that, by signing this stipulation, he enables the Executive Director of the Board to issue an order, on behalf of the Board, accepting the surrender of his Physician's and Surgeon's Certificate No. G 12389 without further notice to, or opportunity to be heard by, Respondent.

15. This Stipulated Surrender of License and Disciplinary Order shall be subject to the approval of the Executive Director on behalf of the Board. The parties agree that this Stipulated Surrender of License and Disciplinary Order shall be submitted to the Executive Director for his consideration in the above-entitled matter and, further, that the Executive Director shall have a reasonable period of time in which to consider and act on this Stipulated Surrender of License and Disciplinary Order after receiving it. By signing this stipulation, Respondent fully understands and agrees that he may not withdraw his agreement or seek to rescind this stipulation prior to the time the Executive Director, on behalf of the Medical Board, considers and acts upon it.

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

discussion and/or consideration of this Stipulated Surrender of License and Disciplinary Order or of any matter or matters related hereto.

ADDITIONAL PROVISIONS

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

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

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

ORDER

IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. G 12389, issued to Respondent Philip A. Grossi, M.D., is hereby surrendered and accepted by the Board.

1. The surrender of Respondent's Physician's and Surgeon's Certificate No. G 12389 and the acceptance of the surrendered license by the Board shall constitute the imposition of discipline against Respondent. This stipulation constitutes a record of the discipline and shall become a part of Respondent's license history with the Board.

2. Respondent shall lose all rights and privileges as a physician and surgeon in California as of the effective date of the Board's Decision and Order, which shall be on or after January 30, 2024.

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

4. If Respondent ever files an application for licensure or a petition for reinstatement in the State of California, the Board shall treat it as a petition for reinstatement. Respondent must comply with all the laws, regulations and procedures for reinstatement of a revoked or surrendered license in effect at the time the petition is filed, and all of the charges and allegations

contained in the First Amended Accusation No. 800-2019-060792 shall be deemed to be true, correct and fully admitted by Respondent when the Board determines whether to grant or deny the petition.

5. Respondent shall pay the agency its costs of investigation and enforcement in the amount of $44,000.00 prior to issuance of a new or reinstated license.

6. If Respondent should ever apply or reapply for a new license or certification, or petition for reinstatement of a license, by any other health care licensing agency in the State of California, all of the charges and allegations contained in the First Amended Accusation No. 800-2019-060792 shall be deemed to be true, correct, and fully admitted by Respondent for the purpose of any Statement of Issues or any other proceeding seeking to deny or restrict licensure.

ACCEPTANCE

I have carefully read the above Stipulated Surrender of License and Disciplinary Order and have fully discussed it with my attorneys Nicole Irmer, Esq. and Kimberly J. Elkin, Esq. I fully understand the stipulation and the effect it will have on my Physician's and Surgeon's Certificate No. G 12389. I enter into this Stipulated Surrender of License and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Medical Board of California.

DATED: 12/08/2023

DocuSigned by:
Phillip Grossi
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PHILIP A. GROSSI, M.D.
Respondent

I have read and fully discussed with Respondent Philip A. Grossi, M.D., the terms and conditions and other matters contained in this Stipulated Surrender of License and Disciplinary Order. I approve its form and content.

DATED: 12/08/2023

DocuSigned by:
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NICOLE IRMER, ESQ.
KIMBERLY J. ELKIN, ESQ.
Attorneys for Respondent

ENDORSEMENT

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

DATED: December 11, 2023

Respectfully submitted,

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

LEANNA E. SHIELDS
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

First Amended Accusation No. 800-2019-060792

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Attorneys for Complainant

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

In the Matter of the First Amended Accusation Against: **PHILIP A. GROSSI, M.D.** **3425 S. Bascom Ave., Suite C** **Campbell, CA 95008-7006** **Physician's and Surgeon's Certificate No. G 12389,** Respondent.	Case No. 800-2019-060792 OAH Case No. 2023080029 **FIRST AMENDED ACCUSATION** [Cal. Gov. Code, § 11507.]

PARTIES

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

2. On or about September 15, 1966, the Medical Board issued Physician's and Surgeon's Certificate No. G 12389 to Philip A. Grossi, 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 May 31, 2025, unless renewed.

JURISDICTION

3. This First Amended Accusation, which supersedes Accusation No. 800-2019-060792 filed on October 18, 2022, in the above-entitled matter, is brought before the Board, under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

4. Section 2227 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.

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

> The board shall take action against any licensee who is charged with unprofessional conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not limited to, the following:
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> ...
>
> (b) Gross negligence.
>
> (c) Repeated negligent acts. To be repeated, there must be two or more negligent acts or omissions. An initial negligent act or omission followed by a separate and distinct departure from the applicable standard of care shall constitute repeated negligent acts.

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

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

...

6. Section 2238 of the Code states, "A violation of any federal statute or federal regulation or any of the statutes or regulations of this state regulating dangerous drugs or controlled substances constitutes unprofessional conduct."

7. Section 2266 of the Code states: "The failure of a physician and surgeon to maintain adequate and accurate records relating to the provision of services to their patients constitutes unprofessional conduct."

8. From January 1, 2017, through June 30, 2021,[1] section 11165.4 of the Health and Safety Code stated, in pertinent part:[2]

(a)(1)(A)(i) A health care practitioner authorized to prescribe, order, administer, or furnish a controlled substance shall consult the CURES database to review a patient's controlled substance history before prescribing a Schedule II, Schedule III, or Schedule IV controlled substance to the patient for the first time and at least once every four months thereafter if the substance remains part of the treatment of the patient.

...

(e) This section is not operative until six months after the Department of Justice certifies that the CURES database is ready for statewide use and that the department has adequate staff, which, at a minimum, shall be consistent with the appropriation authorized in Schedule (6) of Item 0820-001-0001 of the Budget Act of 2016 (Chapter 23 of the Statutes of 2016), user support, and education. The department shall notify the Secretary of State and the office of the Legislative Counsel of the date of that certification.

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[1] Health and Safety Code section 11165.4 was amended on January 1, 2020, however the provisions of subdivisions (a)(1)(A)(i) and (e) remained unchanged until July 1, 2021.

[2] The Controlled Substance Utilization Review and Evaluation System (CURES) was certified for statewide use by the Department of Justice (DOJ) on April 2, 2018. Therefore, the mandate to consult CURES prior to prescribing, ordering, administering, or furnishing a Schedule II–IV controlled substance became effective October 2, 2018.

COST RECOVERY

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

DEFINITIONS

10. Adderall is a trade name for a combination drug containing four salts of amphetamine, also known as mixed amphetamine salts (MAS), and is a central nervous system (CNS) stimulant of the phenethylamine class. It is a Schedule II controlled substance under Health and Safety Code section 11055(d) and is a dangerous drug as defined in Business and Professions Code section 4022. It is used in the treatment of attention deficit disorder (ADD), attention deficit hyperactivity disorder (ADHD), and narcolepsy. It may cause new or worsening psychosis (unusual thoughts or behavior), especially in those with a history of depression, mental illness, or bipolar disorder.

11. Clonazepam, known by the trade name Klonopin, is an anti-convulsant of the benzodiazepine class of drugs. It is a Schedule IV controlled substance under Health and Safety Code section 11057(d)(7) and is a dangerous drug as defined in Business and Professions Code section 4022. It produces central nervous system (CNS) depression and should be used with caution with other CNS depressant drugs. Like other benzodiazepines, it can produce psychological and physical dependence. Withdrawal symptoms similar to those associated with withdrawal from barbiturates and alcohol have been noted upon abrupt discontinuance of Klonopin.

12. Dexedrine is a trade name for dextroamphetamine sulfate, a central nervous system (CNS) stimulant used in the treatment of ADHD, fatigue, and narcolepsy. It is a Schedule II controlled substance under Health and Safety Code Section 11055(d) and is a dangerous drug as defined in Business and Professions Code Section 4022.

13. Diazepam, known by the trade name Valium, is a psychotropic drug used for the management of anxiety disorders or for the short-term relief of the symptoms of anxiety. It is a Schedule IV controlled substance as defined by section 11057 of the Health and Safety Code and section 1308.14 of Title 21 of the Code of Federal Regulations, and is a dangerous drug as defined in Business and Professions Code section 4022. Diazepam can produce psychological and physical dependence and it should be prescribed with caution particularly to addiction-prone individuals (such as drug addicts and alcoholics) because of the predisposition of such patients to habituation and dependence.

14. Emsam transdermal patch is the trade name for selegiline (transdermal), a monoamine oxidase inhibitor (MAOI) that is used to treat major depressive disorder in adults. It is a dangerous drug as defined in Business and Professions Code section 4022. It should not be used concomitantly with the consumption of alcohol.

15. Hydrocodone bitartrate, known by the trade name Zohydro, is a semisynthetic narcotic analgesic of the opioid class of medications. It is used to treat symptoms of moderate to severe pain. It is a Schedule II controlled substance as defined by section 11055, subdivision (e) of the Health and Safety Code and is a dangerous drug as defined in Business and Professions Code section 4022.

16. Ketamine is a short-acting dissociative injectable anesthetic that has some hallucinogenic effects. It induces a trance-like state while providing pain relief, sedation, and memory loss. It is a Schedule III controlled substance, as defined by section 11056 of the Health and Safety Code and is a dangerous drug as defined in Business and Professions Code section 4022. Although primarily used in humans as an anesthetic, it may also be used for post-operative pain management or to treat major depression. In some limited cases it may be used to treat complex regional pain syndrome but its use in treating non-cancer chronic pain is considered to be controversial or experimental. Ketamine may increase the effects of other sedatives, such as alcohol, benzodiazepines, opioids, and barbiturates. It also has a high potential for abuse and for diversion.

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17. Lamictal, a trade name for lamotrigine, is a medication in the class known as triazine anticonvulsants. It is used in the treatment of bipolar disorder, seizure prevention, schizoaffective disorder, or epilepsy. It is a dangerous drug as defined in Business and Professions Code section 4022.

18. Lorazepam, known by the trade name Ativan, is a benzodiazepine and central nervous system (CNS) depressant used in the management of anxiety disorder for short-term relief from the symptoms of anxiety or anxiety associated with depressive symptoms. It is a Schedule IV controlled substance as defined by section 11057 of the Health and Safety Code and by section 1308.14 of Title 21 of the Code of Federal Regulations, and is a dangerous drug as defined in Business and Professions Code section 4022. Long-term or excessive use of Ativan can cause dependency. Concomitant use of alcohol or other CNS depressants may have an additive effect.

19. Nardil is a trade name for phenelzine sulfate and is in the drug class of monoamine oxidase inhibitors (MAOI). It is used to treat symptoms of atypical depression in adults when other medicines have not been effective. It is a dangerous drug as defined in Business and Professions Code section 4022.

20. Nuvigil is a trade name for armodafinil, a central nervous system (CNS) stimulant medication that promotes wakefulness and is used to treat excessive sleepiness caused by sleep apnea, narcolepsy, or shift-work sleep disorder. 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. It may be habit-forming, especially for someone with a history of drug abuse or addiction. It should not be taken concomitantly with alcohol.

21. Ritalin is a trade name for methylphenidate, a central nervous system (CNS) stimulant. It is used to treat attention deficit disorder (ADD), attention deficit hyperactivity disorder (ADHD), and narcolepsy. It is a Schedule II controlled substance as defined by section 11055 of the Health and Safety Code and is a dangerous drug as defined in Business and Professions Code section 4022.

22. Sonata is a trade name for zaleplon, a sedative hypnotic drug used for the short-term treatment of insomnia. It slows activity in the brain to allow sleep. It should not be taken

concomitantly with alcohol. 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.

23. Temazepam, known by the trade name Restoril, is in the class of medications known as sedative/hypnotics. It is used in the treatment of symptoms of insomnia. 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.

24. Vicoprofen, a trade name for the combination of hydrocodone (an opioid pain medication) and ibuprofen (a nonsteroidal anti-inflammatory drug, NSAID) that is used for the short-term relief of severe pain. This brand name has been discontinued in the U.S. Hydrocodone is a Schedule II controlled substance as defined by section 11055, subdivision (e) of the Health and Safety Code, and is a dangerous drug as defined in Business and Professions Code section 4022.

25. Xanax, a trade name for alprazolam, 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 the symptoms of anxiety. It is a Schedule IV controlled substance 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.

26. Zoloft, a trade name for sertraline, is in the class of antidepressants called selective serotonin reuptake inhibitors (SSRIs). It works by increasing the amounts of serotonin, a natural substance in the brain that helps maintain mental balance. It is used in the treatment of depression, obsessive-compulsive disorder, panic attacks, post-traumatic stress disorder, and social anxiety disorder. It is a dangerous drug as defined in Business and Professions Code section 4022.

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FIRST CAUSE FOR DISCIPLINE

(Gross Negligence)

Patient A[3]

27. Respondent has subjected his Physician's and Surgeon's Certificate No. G 12389 to disciplinary action under section 2234, as defined by section 2234, subdivision (b), in that he committed gross negligence in his care and treatment of Patient A, as more fully described hereinafter.[4]

28. On or about August 13, 2015, Respondent first saw Patient A, a female born in February 1986, who presented with a chief complaint of attention deficit disorder (ADD). Respondent noted that the patient had a history of several episodes of depression and at least ten episodes of possible hypomania. At the time, Patient A was being prescribed Adderall 30 mg. twice daily. It was noted that Patient A had five family members with alcohol problems. Respondent, however, did not obtain and document a substance use history of Patient A. Respondent diagnosed Patient A with ADD and an unspecified mood disorder. According to records, Respondent planned for Patient A to continue with Adderall 30 mg. twice daily.

29. Patient A continued to see Respondent approximately every three to four weeks and Respondent continued to prescribe Adderall in doses not exceeding 60 mg. daily.

30. On or about November 5, 2015, Respondent noted that he discussed with Patient A that the CURES database showed that she was getting Adderall from other providers. Respondent continued to prescribe to Patient A: 40 mg. of Adderall daily and Valium 10 mg. as needed. Respondent also started to prescribe an Emsam 6-12 mg. patch, with the only documented indication being that Patient A was "feeling more depressed."

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[3] To protect their privacy rights, the patients are referred to herein by letters. Their identities will be provided to Respondent through discovery.

[4] Conduct occurring more than seven (7) years prior to the filing of the original Accusation filed on October 18, 2022, is described for informational purposes only and not as a basis for disciplinary action.

31. From in or around November 2015 through at least May 2016, Respondent continued to prescribe to Patient A: Adderall 60 mg. daily; Emsam 12 mg. patch; and Valium 10 mg. as needed.

32. In or around September 2016, Respondent began prescribing to Patient A both #30 Adderall 20 mg. and #30 Adderall 30 mg. (CER) to Patient A on approximately a monthly basis.

33. According to the CURES database, in 2016, Patient A received Adderall from other providers while also getting Adderall from Respondent.

34. In a visit note dated September 19, 2017, Respondent noted that Patient A "remains on" Adderall 30 mg. twice daily and diazepam (Valium) 5 mg. twice daily. Respondent's prior 2017 progress notes for Patient A, however, do not document that he was prescribing Valium to Patient A.

35. According to the CURES database, in or around August 2017, Respondent began to prescribe monthly to Patient A: 30 mg. of Valium/diazepam daily, in addition to Adderall in doses of both 20 mg. and 30 mg. tablets.

36. Respondent continued to see Patient A on approximately a monthly basis in 2018 and 2019 and continued to prescribe Adderall and Valium. Respondent's progress notes, however, are scant and do not always document details about the prescriptions being issued.

37. According to the CURES database, in or around October 2018, Respondent began to prescribe to Patient A, on a monthly basis, clonazepam in place of diazepam. Respondent's progress notes, however, do not document his issuing prescriptions for clonazepam and do not document the medical indication for the change in treatment.

38. There is no documentation in the medical records that Respondent reviewed the CURES database while prescribing controlled substances to Patient A on a regular basis. According to the CURES database in 2019, Patient A received Adderall and clonazepam from Respondent while also receiving Adderall and clonazepam from other prescribers.

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39. According to hospital records, on or about March 6, 2019, Patient A was treated in the Emergency Department for dental swelling and pain related to tooth decay and dental infection and it was noted that Patient A had a history of Sjogren's syndrome.[5]

40. In a progress note dated April 2, 2019, Respondent saw Patient A but did not document any subjective or objective findings. There was no mention in the progress notes of the patient's physical condition or appearance, or of her recent hospital Emergency Department visit.

41. According to hospital records, on or about April 3, 2019, Patient A was seen in the Emergency Department for possible alcohol withdrawal, a likely seizure, and anxiety. It was reported that Patient A stated that she "does not drink every day" and that her last drink had been three days prior.

42. Respondent's progress notes of visits with Patient A on May 2, 2019 and on July 11, 2019, do not document objective or subjective physical findings and do not mention Patient A's prior hospital visits. Respondent continued to prescribe Adderall, both immediate release and extended release tablets, to Patient A.

43. According to hospital records, on or about July 30, 2019, Patient A presented to the Emergency Department in an altered mental status with symptoms of possible alcohol withdrawal and convulsions, after sustaining a possible seizure, falling and hitting her head. Patient A reported that she had trouble managing her Adderall dosing and sometimes used alcohol to help bridge the lack of medication. She stated that she had not had any alcohol for about two weeks. It was noted that Patient A's mother called the hospital to request treatment of her daughter for a substance use disorder.

44. Respondent saw Patient A for visits in October, November, and December 2019. There was no mention in the progress notes of Patient A's prior hospital visits or substance use disorder concerns, and there was no documented physical exam or other findings regarding the patient's mental and physical status. Respondent continued to prescribe Adderall and clonazepam to Patient A.

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[5] The main symptoms of Sjogren's syndrome are dry mouth and dry eyes.

45. In 2020, Respondent saw Patient A approximately every three months and continued to prescribe Adderall and clonazepam. On or about May 18, 2020, Respondent saw Patient A and increased the prescription of Adderall, only noting that "she needs slightly better focus." There was no documentation of an exam or objective/subjective findings to support the increased prescription.

46. According to hospital records, on or about August 24, 2020, Patient A arrived at the Emergency Department "in custody for public intoxication." Patient A reported drinking vodka and taking four Adderall tablets. She said that she had been hit in the head by an unidentified person and lost consciousness.

47. On or about September 1, 2020, Respondent saw Patient A. His progress notes are scant and inadequate. Respondent noted that the patient took clonazepam "rarely" and that she was getting both Adderall 30 mg. ER and 30 mg. Adderall immediate release tablets.

48. For the remainder of 2020 through at least September 2021, Respondent continued to regularly prescribe Adderall to Patient A.

49. According to hospital records, on or about August 23, 2021, Patient A arrived at the Emergency Department via ambulance for acute alcohol intoxication. Patient A was found, with a bottle of vodka, by a bystander while on the ground outside her apartment complex.

50. According to hospital records, on or about August 25, 2021, Patient A was hospitalized and treated for a seizure related to "chronic episodic alcohol dependence" after witnessed seizure activity and associated confusion. She reported that she had been drinking heavily recently, about 1.5 liters of vodka per day. The Emergency Department physician recommended that Patient A abstain from Adderall. Patient A left the hospital the next day, against medical advice.

51. On or about August 26, 2021, the Board received an email from Patient A's sister who complained that Respondent was overprescribing addictive benzodiazepines and amphetamines to her sister, for an excessively long period of time. She alleged that Patient A was suffering major medical emergencies because of the medications prescribed by Respondent.

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52. Respondent continued to see Patient A through at least September 2, 2021.[6] Respondent's progress notes for the visit on September 2, 2021 are scant and inadequate. There is no documentation of the prescriptions issued and there are no objective or subjective findings noted. According to the CURES database, Respondent continued to prescribe Adderall to Patient A.

53. According to hospital records, on or about September 15, 2021, Patient A was again seen and treated for alcohol intoxication.

54. On March 1, 2022, during his investigation interview with the Board's investigator, Respondent stated that he was aware that Patient A had a family history of alcohol problems and that alcohol was not an issue while he was seeing and treating Patient A. Respondent stated that he did not review the CURES database while he issued prescriptions for controlled substances to Patient A and he did not conduct any other compliance monitoring of Patient A, such as urine drug screening.

55. From in or around November 2015, through in or around September 2021, Respondent committed gross negligence in his prescribing of benzodiazepines to Patient A in that he did not adequately and accurately document in his records the prescriptions that he issued to Patient A, he did not document medical indications or his reasons for changing from diazepam to clonazepam, he continued prescribing to Patient A who was experiencing significant medical issues with alcohol withdrawal, he did not obtain a complete substance use history, and he did not monitor for compliance or review the CURES database, particularly after October 2018 as required by section 11165.4 of the Health and Safety Code.

SECOND CAUSE FOR DISCIPLINE

(Repeated Negligent Acts)

56. Respondent has further subjected his Physician's and Surgeon's Certificate No. G 12389 to disciplinary action under section 2234, as defined by section 2234, subdivision (c), in

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[6] The last progress note for Patient A produced by Respondent to the Board during its investigation is dated 09/02/2021.

that he committed repeated negligent acts in his care and treatment of Patients A, B, C, and D, as more fully described hereinafter.

Patient A

57. Paragraphs 27 through 55, above, are hereby incorporated by reference and realleged as if fully set forth herein.

58. From in or around November 2015, through in or around September 2021, Respondent committed repeated negligent acts in his care and treatment of Patient A in that he failed to obtain an adequate substance use history of Patient A before prescribing controlled substances on a chronic basis and throughout the course of treatment over many years.

Patient B

59. On or about October 18, 2018, Respondent saw Patient B, a female born in June 1976, who complained of symptoms that included a lack of motivation, anxiety, obsessive thoughts, and deep sadness. Respondent noted that Patient B had a medical history of pancreatitis and that her current medications included: Xanax, Celexa (citalopram), and Tylenol PM. It was also noted that Patient B consumed alcohol "to cope", which had caused acute pancreatitis for which she had been hospitalized. Her past psychiatric history was significant for depression, three separate episodes while in her early 20's. Respondent documented a history of depressive symptoms and of panic attacks. Respondent diagnosed Patient B with major depressive disorder and panic disorder. Respondent's treatment plan for Patient B was to discontinue Celexa and Xanax, and to start Prozac 40 mg. in the morning, olanzapine 10 mg. at night, and clonazepam 1 mg. twice daily.

60. On or about December 7, 2018, Respondent saw Patient B who reported that she was doing "really well" but that she was still "anxious." Respondent increased the prescription for clonazepam to 1 mg. three times daily.

61. On or about March 15, 2019, Respondent saw Patient B who reported that she had moved to Sacramento. Patient B complained of immediate memory loss, possibly due to the clonazepam. Respondent noted that Patient B should taper off the clonazepam and use Xanax 1-2

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mg. daily, as needed. According to the CURES database, Respondent issued a prescription to Patient B for #60 Xanax 1 mg. tablets.

62. According to the CURES database, from in or around March 2019 through in or around October 2019, Respondent continued to issue prescriptions for Xanax to Patient B while the patient also filled prescriptions for opioids that were issued by other prescribers.

63. From in or around October 2018, through in or around October 2019, Respondent committed repeated negligent acts in his prescribing of benzodiazepines to Patient B in that he did not obtain an appropriate substance use history before prescribing controlled substances despite Patient B having a history of alcohol use disorder, he did not consider using an alternative antidepressant/antianxiety medication before prescribing benzodiazepines, and he did not monitor for compliance or review the CURES database, particularly after October 2018 as required by section 11165.4 of the Health and Safety Code.

Patient C

64. On or about September 15, 2013, Respondent first saw Patient C, a male born in July 1969, who presented with a long history of mood swings, obsessive behavior, and hypomania. It was noted that there was a family history of alcohol problems for both Patient C's father and paternal uncle. Patient C reported that he was being prescribed Lamictal 100 mg. twice daily, lorazepam 2 mg. twice daily, Buspar 15 mg. twice daily, and Dexedrine 15 mg. four times daily. It was noted that Patient C had a liver function test with an increased level that was possibly related to the Lamictal. Respondent diagnosed Patient C with Bipolar II Disorder. Respondent continued Patient C's prescriptions and increased the dosage of Lamictal.

65. Respondent continued to see Patient C on a somewhat regular basis from October 2013 through at least July 2020 and to issue prescriptions for controlled substances.

66. On or about April 17, 2017, Respondent saw Patient C who reported taking more Dexedrine than what was prescribed and who asked for an early refill, which was denied by Respondent.

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67. According to the CURES database, in April 2017, Patient C filled the following prescriptions for controlled substances issued by Respondent: #60 lorazepam 2 mg.; #60 clonazepam 2 mg.; #180 Dexedrine 10 mg.; and #240 Dexedrine (CER) 15 mg.

68. On or about June 6, 2017, Patient C saw Respondent who noted "concerns" about the use of Dexedrine. Respondent issued a prescription for a two weeks' supply of Dexedrine (#130 tablets) and issued a prescription for #30 Nuvigil 250 mg., along with prescriptions for clonazepam and lorazepam.

69. On or about October 14, 2019, Respondent saw Patient C and noted that Patient C was taking Dexedrine 40 mg. (extended release tablets) four times daily and Dexedrine IR (immediate release) 20 mg. tablets three times daily. There is no documentation in Respondent's records of the medical indication for the increase in medications.

70. According to the CURES database, in October 2019, Patient C filled the following monthly prescriptions for controlled substances issued by Respondent: #60 lorazepam 2 mg.; #60 clonazepam 2 mg.; #180 Dexedrine 10 mg.; #240 Dexedrine (CER) 15 mg.; and #30 Nuvigil 250 mg. Respondent continued to prescribe this monthly regimen of controlled substances for Patient C through at least July 2020.

71. From in or around November 2015, through in or around July 2020, Respondent committed repeated negligent acts in his prescribing controlled substances to Patient C in that he failed to document his rationale for prescribing high doses of Dexedrine and/or clonazepam above prescribed limits or his rationale for sudden escalations of Dexedrine and/or clonazepam.

Patient D

72. On or about July 21, 2017, Patient D, a male born in June 1980, first saw Respondent and presented with complaints of anxiety, OCD, and panic attacks. Patient D reported being diagnosed in 2012 with generalized anxiety disorder by a psychologist at Kaiser. It was noted that Patient D was taking medications of Zoloft 50 mg. daily, along with Zyrtec and Flonase. It was noted that Patient D's family history included a mother who suffered with depression and anxiety, and a father and a maternal grandmother with alcohol problems. No substance use history of Patient D was documented. Respondent diagnosed Patient D with generalized anxiety

disorder. Respondent noted that he issued a prescription for clonazepam 1 mg, three times daily. Respondent also noted that he discontinued the Zoloft and that he discussed with Patient D the risks/benefits associated with MAOI (Monoamine Oxidase Inhibitor) antidepressants.

73. On or about November 9, 2017, Patient D reported being hospitalized for suicidal ideation. It was noted that Patient D had continued to take Zoloft 150 mg. daily along with clonazepam. Respondent's records for Patient D include a hospital summary dated November 9, 2017 that indicates Patient D was diagnosed with an alcohol use disorder, cocaine use disorder, cannabis use disorder, and hepatomegaly (abnormal enlargement of the liver). The hospital noted a recommendation against the use of clonazepam. A urine drug screen was positive for benzodiazepines, cannabis, and cocaine. At the hospital, Patient D received a Valium taper for alcohol withdrawal.

74. On or about November 16, 2017, Respondent saw Patient D and noted that they discussed switching medications to an MAOI. Respondent issued prescriptions for: Zoloft 150 mg.; #60 clonazepam 1 mg.; and Nardil (an MAOI).

75. Respondent continued to see Patient D on an irregular basis, about every two to four months, and continued to issue prescriptions.

76. On or about September 4, 2018, Respondent saw Patient D and noted that he met the criteria for ADHD. Respondent increased the dose of Nardil to 90 mg. daily and issued prescriptions for temazepam 30 mg. and Dexedrine. In October 2018, Respondent increased the monthly dose of Dexedrine to 60 mg. daily, along with clonazepam 3 mg. daily and temazepam 30 mg. daily.

77. On or about December 21, 2018, Respondent added Ketamine nasal spray to the monthly prescription regimen for Patient D.

78. On or about May 26, 2020, Patient D complained of insomnia. Respondent discontinued the Dexedrine and prescribed #90 Ritalin 10 mg., along with Nardil 60 mg. daily and temazepam 60 mg. daily.

79. On or about June 10, 2020, Respondent saw Patient D who reported that the Ritalin was ineffective. Respondent issued a prescription for Dexedrine. Respondent also noted that

Patient D reported that he had a hypertensive episode that required hospitalization, which Respondent described as "an independent phenomena."

80. Respondent continued to issue similar monthly prescriptions to Patient D while seeing him infrequently through at least December 15, 2021.

81. From in or around July 2017, through in or around December 2021, Respondent committed repeated negligent acts in his care and treatment of Patient D in that he failed to obtain an adequate substance use history of Patient D, who had a history of multiple substance use disorder, before prescribing controlled substances to Patient D on a chronic basis and throughout the course of treatment over many years.

THIRD CAUSE FOR DISCIPLINE

(Violation of State Statutes Regulating Controlled Substances)

82. Respondent has further subjected his Physician's and Surgeon's Certificate No. G 12389 to disciplinary action under sections 2227 and 2234, as defined by section 2238, of the Code, in that he violated state statutes regulating controlled substances, including, but not limited to, section 11165.4 of the Health and Safety Code, by not reviewing the CURES database, as more particularly alleged in paragraphs 27 through 81, above, which are hereby incorporated by reference and realleged as if fully set forth herein.

FOURTH CAUSE FOR DISCIPLINE

(Failure to Maintain Adequate and/or Accurate Records)

83. Respondent has further subjected his Physician's and Surgeon's Certificate No. G 12389 to disciplinary action under sections 2227 and 2266, of the Code, for failing to maintain adequate and/or accurate medical records with regard to his care and treatment of Patients A, B, C, and D, as more particularly alleged in paragraphs 27 through 81, above, which are hereby incorporated by reference and realleged as if fully set forth herein.

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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. G 12389, issued to Respondent Philip A. Grossi, M.D.;

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

3. Ordering Respondent Philip A. Grossi, 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: NOV 07 2023

JENNA JONES FOR
REJI VARGHESE
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant

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