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

In the Matter of the Accusation Against: Barbara Aleene Bruton, M.D. Physician's & Surgeon's Certificate No. A 45856 Respondent.	Case No. 800-2019-062556

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 March 08, 2024.

IT IS SO ORDERED: February 08, 2024.

MEDICAL BOARD OF CALIFORNIA

Laurie Rose Lubiano, Chair
Panel A

ROB BONTA
Attorney General of California
ROBERT MCKIM BELL
Supervising Deputy Attorney General
TRINA L. SAUNDERS
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BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against: BARBARA ALEENE BRUTON, M.D. 4267 Marina City Dr, Unit 1106 Marina Del Rey, CA 90292-5830 Physician's and Surgeon's Certificate No. A 45856, Respondent.	Case No. 800-2019-062556 OAH No. 2023051013 **STIPULATED SETTLEMENT 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 Trina L. Saunders, Deputy Attorney General.

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2. Respondent Barbara Aleene Bruton, M.D. (Respondent) is represented in this proceeding by attorney Robert Keith Weinberg, whose address is 19200 Von Karman Avenue, Suite 380, Irvine, California 92612-8508.

3. On March 13, 1989, the Board issued Physician's and Surgeon's Certificate No. A 45856 to Barbara Aleene Bruton, M.D. (Respondent). That license was in full force and effect at all times relevant to the charges brought in Accusation No. 800-2019-062556, and will expire on June 30, 2024, unless renewed.

JURISDICTION

4. Accusation No. 800-2019-062556 was filed before the Board and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on December 1, 2022. Respondent filed a timely Notice of Defense contesting the Accusation.

5. A copy of Accusation No. 800-2019-062556 is attached as Exhibit A and is 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. 800-2019-062556. 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.

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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. 800-2019-062556, if proven at a hearing, constitute cause for imposing discipline upon her 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, and that Respondent hereby gives up her right to contest those charges.

11. Respondent does not contest that, at an administrative hearing, Complainant could establish a *prima facie* case with respect to the charges and allegations in Accusation No. 800-2019-062556, a true and correct copy of which is attached hereto as Exhibit A, and that she has thereby subjected her Physician's and Surgeon's Certificate, No. A 45856 to disciplinary action.

12. 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

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

14. 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. 800-2019-062556 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.

15. 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.

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 45856 issued to Respondent Barbara Aleene Bruton, M.D. is revoked. However, the revocation is stayed and Respondent is placed on probation for three (3) 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.

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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.

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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(s), 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(s) and Accusation(s), and a proposed monitoring plan. Within 15 calendar days of receipt of the Decision(s), Accusation(s), and proposed monitoring plan, the monitor shall submit a signed statement that the monitor has read the Decision(s) and Accusation(s), 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(s) 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 practice, 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. SUPERVISION OF PHYSICIAN ASSISTANTS AND ADVANCED PRACTICE NURSES. During probation, Respondent is prohibited from supervising physician assistants and advanced practice nurses.

9. 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.

10. 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, and investigation(s), as applicable, in the amount of $22,455.00 (twenty-two thousand four hundred fifty-five dollars and zero 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.

11. 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.

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12. GENERAL PROBATION REQUIREMENTS.

Compliance with Probation Unit

Respondent shall comply with the Board's probation unit.

Address Changes

Respondent shall, at all times, keep the Board informed of Respondent's business and residence addresses, email address (if available), and telephone number. Changes of such addresses shall be immediately communicated in writing to the Board or its designee. Under no circumstances shall a post office box serve as an address of record, except as allowed by Business and Professions Code section 2021, subdivision (b).

Place of Practice

Respondent shall not engage in the practice of medicine in Respondent's or patient's place of residence, unless the patient resides in a skilled nursing facility or other similar licensed facility.

License Renewal

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

Travel or Residence Outside California

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

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

13. 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.

14. 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.

15. 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.

16. 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.

17. 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.

18. 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.

19. 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. 800-2019-062556 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, Robert Keith Weinberg, Esq. 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: 1/4/24

BARBARA ALEENE BRUTON, M.D.
Respondent

I have read and fully discussed with Respondent Barbara Aleene Bruton, 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: 1/15/24

ROBERT KEITH WEINBERG
Attorney for Respondent

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ENDORSEMENT

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

DATED: January 11, 2024

Respectfully submitted,

ROB BONTA
Attorney General of California
ROBERT MCKIM BELL
Supervising Deputy Attorney General

TRINA L. SAUNDERS
Deputy Attorney General
Attorneys for Complainant

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

In the Matter of the Accusation Against: BARBARA ALEENE BRUTON, M.D. 4267 Marina City Drive, Unit 1106 Marina del Rey, California 90292-5830 Physician's and Surgeon's Certificate A 45856, Respondent.	Case No. 800-2019-062556 **ACCUSATION**

PARTIES

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

2. On March 13, 1989, the Board issued Physician's and Surgeon's Certificate Number A 45856 to Barbara Aleene Bruton, M.D. (Respondent). That license was in full force and effect at all times relevant to the charges brought herein and will expire on June 30, 2024, unless renewed.

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JURISDICTION

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

4. Section 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:

> 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.'

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

COST RECOVERY

7. Section 125.3 of the Code 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.

CONTROLLED SUBSTANCE/DANGEROUS DRUGS

8. The following medications are controlled substances and dangerous drugs within the meaning of the Health and Safety Code and Business and Professions Code:

A. Xanax – (alprazolam) is a benzodiazepine. Alprazolam affects chemicals in the brain that may be unbalanced in people with anxiety. Xanax is used to treat anxiety disorders, panic disorders, and anxiety caused by depression.

B. Oxycodone – is a strong semi-synthetic opioid used medically for the treatment of moderate to severe pain. It is highly addictive and a commonly abused drug.

C. Hydrocodone – is a semi-synthetic opioid derived from codeine. Hydrocodone is used orally as narcotic analgesic

D. Temazepam – is a benzodiazepine used for its sedative and tranquilizing effects in the treatment of insomnia.

E. Naproxen – is a nonsteroidal anti-inflammatory drug (NSAID). It works by reducing hormones that cause inflammation and pain in the body.

F. Tizanidine – is a short acting muscle relaxer.

G. Klonopin (clonazepam) – is a benzodiazepine. It affects chemicals in the brain that may be unbalanced.

H. Diazepam – is a benzodiazepine used to treat anxiety, alcohol withdrawal, and seizures.

I. Hydromorphone – is an opioid medication used to treat moderate to severe pain.

J. Halcion (triazolam) – is a benzodiazepine and central nervous system depressant used to treat insomnia.

FIRST CAUSE FOR DISCIPLINE

(Repeated Negligent Acts)

9. Respondent Barbara Aleene Bruton, M.D., is subject to disciplinary action under sections 2234, subdivision (c) and 2242 in that she inappropriately prescribed controlled substances to six patients without proper justification and provided medical care that placed the health and life of the patients at risk. The medical records related to each of the patients are inadequate, such that no subsequent treating physician could review them, to obtain adequate

history, assess the care and treatment rendered by Respondent, or provide continuing appropriate care based on the patient's status and treatment.

The circumstances are as follows:

Patient A

10. The patient records produced by Respondent spanned the period from July 2018, through August 2019. The patient was a 28-year-old, male, who first established primary care with Respondent in early July 2018. Patient A reported that he had been addicted to alprazolam for ten years. He also reported that he used alprazolam and alcohol interchangeably. He reported that for many years, he required 20 mg of alprazolam daily, to feed his habit. Patient A informed Respondent that he made efforts to reduce his intake of the benzodiazepine, but often experienced severe withdrawal symptoms, including seizures.

11. On his first visit, Patient A asked Respondent to help him wean off of alprazolam. Per the July 10, 2018, note, Patient A was taking 8 mg daily of alprazolam. There was no physical examination completed, and no detailed psychiatric history was obtained. Urine toxicology testing confirmed the presence of benzodiazepine. Respondent recommended a slow taper of alprazolam and advised Patient A to reduce the dosage by 1 mg over the next two weeks. Respondent added gabapentin therapy to Patient A's regimen, for treatment of possible withdrawal syndrome. Quetiapine was added for insomnia treatment. Respondent prescribed alprazolam at a dosage of 6 mg daily.

12. For the next six months of 2018, the patient had a total of eight clinic visits with Respondent and three urine toxicology screenings with consistent results.

13. In December 2018, Patient A told the Respondent that he had cut his usage down to 4 to 5 mg. alprazolam daily. However, review of the CURES databased showed that the patient was prescribed eleven (11) prescriptions for alprazolam during the prior six months, which were equal to 600 tablets of alprazolam 2 mg. Most of the prescriptions provided for 60 tablets and were given every three weeks. This averaged to 3.33 tablets daily, and totaled 6.66 mg daily. This amounted to essentially no reduction in dosage from July 2018 to December 2018.

14. Despite Respondent telling Patient A to reduce his daily alprazolam dosage to 4 mg during a late December 2018 clinic visit, Respondent prescribed the same 60 tablets of alprazolam, every three weeks in January and February of 2019.

15. Respondent was negligent in her care of patient A in that she:

A. Failed to recognize her unsuccessful tapering management; and

B. Failed to refer Patient A to a mental health or addiction specialist for assistance in the face of unsuccessful tapering management.

Patient B

16. Respondent produced the medical records for patient B from January 2017 through September 2019. Patient B, a female, was 70 years-old in 2017, and living in Lake Havasu, which is approximately a six-hour drive from Los Angeles. Respondent had been her primary care provider since at least 2010. Patient B suffered from major depression disorder, hypertension, and obesity. Patient B had a history of tobacco addiction, prior illicit drug usage, and had been dependent on long term opiate therapy since 2010.

17. Per the notes from Patient B's annual physical examination, performed in July 2018, Patient B suffered from chronic osteoarthritis and chronic low back pains due to intervertebral disc disease. Patient B was prescribed oxycodone 120 mg daily for chronic pain management for many years by Respondent. The record does not contain a detailed musculoskeletal examination, and no functional assessment was documented. There was no documentation of any specialty referral, except for a rheumatology consultation request.

18. The patient records do not contain radiological imaging reports, physical therapy or chiropractic treatments, and no urine toxicology testing records.

19. The majority of the medical records are documentation of phone messages for prescription refills, which were automatically filled, without documented functional assessments.

20. Respondent was negligent in her care of Patient B, in that she:

A. Failed to refer Patient B to a pain management specialist for safe and non-invasive procedural interventions;

B. Failed to complete an opioid risk stratification and provide multi-disciplinary management of the patient's chronic pain syndrome;

C. Failed to provide naloxone antidote therapy;

D. Prescribed long term opiate therapy to an elderly patient, in the face of safer alternative medications;

E. Failed to have the patient enter into a pain management contract; and

F. Failed to make functional assessments and relevant physical examinations during the three years, in which she provided opiate therapy.

Patient C

21. The patient records produced by Respondent for patient C spanned the one and one half-year period from April 2017 through September 2018. In 2017, this female patient was 70 years old. She had hypertension and hyperlipidemia. Patient C also suffered from chronic low back pain due to degenerative disc and spine disease. Respondent was her primary care physician. Per the Controlled Substances Utilization Review and Evaluation System (CURES), Patient C received monthly prescriptions from Respondent for hydrocodone 22 mg to 44 mg daily, alprazolam 0.5 mg to 1 mg daily, and temazepam 30 mg daily, during 2017-2019. On at least two occasions, including September 2017 and November 2017, when Respondent was unavailable, other providers in her office prescribed early refills to Patient C, resulting in Patient C receiving over two hundred tablets of hydrocodone in the period of two weeks.

22. Patient C's medical records demonstrated five separate clinic visits. They took place in July 2017, January 2018, February 2018, August 2018, and September 2018. In 2017, other than the one clinic visit, Patient C's opiate refills were mostly accomplished via phone messages.

23. Plain film X-rays of Patient C's lower back were taken to assess her pain in early 2018, and the results were reviewed with the patient. There was no orthopedic surgical consultation requested. A pain management consultation was requested by a different provider in April 2019. The patient had routine laboratory testing, but no urine toxicology screening was completed. There are no detailed functional assessments taken for opiate refills, and there was no

relevant musculoskeletal examination during the two years the patient was being treated for chronic pain management.

24. Respondent was negligent in her care of Patient C that she:

A. Failed to conduct appropriate and sufficient diagnostic evaluations of chronic low back pains;

B. Failed to provide safer alternative pharmacotherapy;

C. Failed to request a pain management consultation for epidural injections and failed to consider orthopedics surgical consultation.

D. Failed to complete an opioid risk assessment and provide a multi-disciplinary pain management approach to reduce Patient C's opioid dependency;

E. Failed to prescribe naloxone;

F. Failed to complete detailed functional assessments and relevant musculoskeletal examinations;

G. Failed to perform a thorough evaluation of Patient C's anxiety disorder, failed trial other safer non-benzodiazepine medications for anxiety management and failed to order a mental health consultation in this patient with benzodiazepine dependency;

H. Inappropriately prescribed hydrocodone and alprazolam concurrently;

I. Failed to trial other safer and non-benzodiazepine sleeping medications; and

J. Failed to obtain a signed pain management agreement from Patient C.

Patient D

25. The patient records produced by Respondent for patient D spanned from March 2017 through March 2019. In 2017, the female patient was 73 years old. Patient D had multiple medical conditions, including end stage COPD on oxygen therapy, coronary artery disease, chronic atrial fibrillation, and major depression with anxiety. Patient D also suffered from chronic low back pains due to lumbar spinal stenosis and chronic knee pain due to osteoarthritis.

26. Patient D saw Respondent in person on four instances between 2017 to 2019. Patient D was prescribed oxycodone 120 mg daily and clonazepam 1 mg daily on a regular basis during

this period. The patient record did not contain evidence of any urine toxicology screening during the three-year period in which Respondent provided care. No specialty consultation reports or physical therapy progress notes were contained in the record, and there was no radiologic testing completed.

27. In February 2018, Patient D requested via a phone message, to see orthopedic surgery for her painful knees. There is no documentation that the referral was made.

28. Naloxone was finally prescribed to Patient D in August 2018, because she was hospitalized for respiratory failure.

29. Respondent was negligent in her care of Patient D, in that she:

A. Failed to conduct additional diagnostic evaluation between 2017 to 2019;

B. Failed to refer the patient to a pain management specialist;

C. Failed to perform an opiate risk assessment and provide multi disciplinary pain management;

D. Prescribed an excessive dosage of oxycodone long term to an elderly patient;

E. Failed to perform urine toxicology testing for monitoring of diversion behaviors;

G. Failed to prescribe naloxone therapy in 2017 and 2018; and

H. Failed to perform functional assessments and relevant physical examinations in opiate monitoring;

I. Failed to perform a thorough evaluation of the patient's anxiety disorder;

J. Failed to refer the patient to mental health staff for her depression;

K. Prescribed both opiate and benzodiazepine medications to a patient with severe chronic lung disease;

L. Failed to appropriately monitor the patient's diabetic condition, including failed to annually monitor the patient for kidney complications, failed to conduct regular thorough examinations of the patient's feet in the face of a patient suffering from neuropathy, and failed to conduct an annual eye screening examination for diabetic blindness;

M. Failed to have the patient enter into a pain management agreement

Patient E

30. The patient records produced by Respondent for patient E spanned from February 2017 through December 2018. The patient was a 58-year-old, male who suffered from depression, asthma, chronic pain syndrome due to spine compression fractures and cervical spine surgery. Patient E also suffered from knee pain due to his back pain and spasms. Respondent completed three spine examinations. They were completed in 2013, 2017, and 2018.

31. A pain management consultation was requested by other providers in October 2017, but it is unknown if the patient actually saw a pain management specialist.

32. Respondent referred Patient E to neurosurgery in early 2018. The surgeon recommended that Patient E not have any future spine surgery.

33. Patient E was prescribed naproxen (NSAID) and tizanidine for pain management. Respondent prescribed diazepam and high dosage hydromorphone 48 mg daily for management of Patient E's chronic back pain. During the 20 months of pain management, Respondent gave the patient five separate prescriptions of hydromorphone at 48 mg daily (192 mg MEDD). Patient E received additional hydromorphone refill prescriptions from Respondent's colleagues in her absence.

34. Respondent made no attempts to taper Patient E's opiate dosage.

35. Patient E received seven additional diazepam prescriptions in 2018-2019, from other providers in Respondent's absence.

36. Patient E became more depressed and frustrated with his chronic pain syndrome and his divorce proceedings in May 2017. Respondent offered the patient an anti-depressant medication. The patient declined.

37. Patient E's medical record does not contain a pain management specialty recommendation, or a referral to physical therapy, or acupuncture therapy. Respondent rationalized that additional therapies likely would not have helped this patient, as he had these ancillary services prior to 2017, and the therapies would have been cost prohibitive.

38. Respondent was negligent in her care of Patient E, in that she:

A. Failed to prescribe additional safer and non-opiate pharmacotherapy;

B. Failed to refer the patient to mental health staff for cognitive behavior therapy;

C. Failed to complete an opioid risk assessment and provide adequate multi-disciplinary management to this patient;

D. Failed to conduct urine toxicology testing;

E. Failed to prescribe naloxone antidote to this patient on a high dose MEDD;

F. Failed to complete regular functional assessment and relevant musculoskeletal examinations;

G Failed to recognize opioid induced hyperalgesia syndrome and thus start tapering the opiate therapy;

H. Prescribed both opiate and benzodiazepine medications at high dosages to this patient with asthma;

I. Failed to try other non-benzodiazepine muscle relaxants;

J. Prescribed particularly high doses, 30 to 40 mg daily, of diazepam for muscle relaxation;

K. Failed to prescribe naloxone; and

L. Failed to have the patient enter into a pain management contract/agreement.

Patient F

39. The patient records produced by Respondent for patient F spanned a three-year period from April 2017 through May 2020. In 2017, the female patient was 60 years-old. She had paranoid schizophrenia and bipolar disorder. Her medical history also included obesity, pre-diabetes, COPD, and chronic low back pain. Plain films X-rays done in June 2018, confirmed degenerative spine disc disease.

40. Patient F was chronically medicated with hydrocodone 30 mg daily in 2017. Patient F received monthly prescriptions for hydrocodone from Respondent and/or her office colleagues during 2017.

41. In 2018, Respondent gave Patient F fourteen (14) monthly prescriptions of hydrocodone at the same dosage. There was an early refill in September of 2018, due to Patient F representing that she lost her medication.

42. In August 2018, one of Respondent's colleagues declined to refill Patient F's opiate medication and instead referred her to a pain management specialist. The medical record does not indicate whether Patient F followed up with the referral, as there are no records of consultation or recommendations from a pain management specialist.

43. Respondent continued to prescribe hydrocodone in 2019 for management of Patient F's chronic low back pain.

44. Between 2017-2019, there was no urine toxicology testing done. There was no detailed musculoskeletal examination completed, and no detailed history of Patient F's low back pain was obtained.

45. In October 2018, Respondent added carisoprodol (Soma), an addictive muscle relaxant to Patient F's regimen for worsening low back pain. The twice daily medication was prescribed monthly at a quantity of 60 tablets for the next six months, into 2019. However, in November 2018, Patient F received a total of 150 tablets from Respondent, due to early refills.

46. Due to Patient F's extensive psychiatric history, she received monthly intramuscular injections of antipsychotic medication (haloperidol) at Respondent's office, and was treated with other psychotropic medications, including gabapentin, venlafaxine and buspirone. Respondent also routinely prescribed monthly prescriptions for lorazepam at 3 mg daily for anxiety management during 2017 – 2019. Patient F also received monthly prescriptions for triazolam for insomnia from both her psychiatric nurse practitioner and Respondent during 2017- 2019. Per her medical records, Patient F was supposed to be monitored by her psychiatrist. However, Patient F had a history of non-compliance with medical authorities. The patient records produced did not contain mental health consultations and recommendations.

47. Respondent was negligent in her care of Patient F, in that she:

A. Conducted an incomplete chronic low back pain evaluation;

B. Failed to try safer non-opiate medications;

C. Failed to titrate upwards the gabapentin dosage to better control the patient's chronic pain syndrome, failed to refer to the patient or physical therapy or chiropractic therapy;

D. Failed to conduct a proper opioid risk assessment and provide multi-disciplinary management of the patient's pain;

E. Failed to perform routine urine toxicology testing;

F. Failed to prescribe naloxone therapy;

G. Failed to conduct regular functional assessments and relevant musculoskeletal examinations;

H. Failed to perform a thorough evaluation of the patient's anxiety;

I. Concurrently prescribed hydrocodone and lorazepam to the patient;

J. Mismanaged the patient's insomnia; and

K. Prescribed carisoprodol therapy long term;

SECOND CAUSE FOR DISCIPLINE

(Failure to Maintain Adequate Records)

48. Respondent Barbara Aleene Bruton, M.D. is subject to disciplinary action under Business and Professions Code section 2266 in that she failed to maintain adequate and accurate records in her care and treatment of all six patients identified in the instant Accusation. The circumstances are as follows:

49. Among other things, the medical records do not show that an adequate history and physical examinations were taken or performed. Vital signs were not taken at each patient visit. The records do not include all medications prescribed, including the quantity and dosages of opiates and benzodiazepines prescribed. The records do not evidence that the patients were warned of the risks associated with taking the above-identified medication at the dosages prescribed, including the risk of addiction, the risks associated with the combining the medication with other drugs or alcohol, the manner in which they were to be taken, and informed consent was not obtained and/or documented. There is no clinical evidence of treatment plans to eventually taper and discontinue the patient medication, or of a consideration of substituting them with less

addictive and safer alternatives.

50. Paragraphs 9 through 47, inclusive, above are incorporated herein by reference as if fully set forth.

51. Respondent failed to document pertinent and required information related to the care and treatment of six patients. Her records were incomplete and inadequate.

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 45856, issued to Barbara Aleene Bruton, M.D.;

2. Revoking, suspending or denying approval of Barbara Aleene Bruton, M.D.'s authority to supervise physician assistants and advanced practice nurses;

3. Ordering her 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. If placed on probation, ordering her 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: DEC 0 1 2022

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

Reji Varghese
Deputy Director

Complainant

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