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

In the Matter of the Accusation Against: Oscar V. Rosas, M.D. Physician's and Surgeon's Certificate No. A 66042 Respondent.	Case No.: 800-2021-074979

DECISION

The attached Stipulated Settlement and Disciplinary 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 June 28, 2024.

IT IS SO ORDERED: May 31, 2024.

MEDICAL BOARD OF CALIFORNIA

Richard E. Thorp, Chair
Panel B

DocuSign Envelope ID: B537E51D-80CF-4E0B-9EB6-1B224D8C62D7

ROB BONTA
Attorney General of California
ROBERT MCKIM BELL
Supervising Deputy Attorney General
WENDY WIDLUS
Deputy Attorney General
State Bar No. 82958
California Department of Justice
300 So. Spring Street, Suite 1702
Los Angeles, CA 90013
Telephone: (213) 269-6457
Facsimile: (916) 731-2117
E-mail: Wendy.Widlus@doj.ca.gov
Attorneys for Complainant

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

In the Matter of the Accusation Against: OSCAR V. ROSAS, M.D. 466 Foothill Boulevard, Suite 314 La Cañada, California 91011-3518 Physician's and Surgeon's Certificate A 66042, Respondent.	Case No. 800-2021-074979 OAH No. 2023110844 **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 Wendy Widlus, Deputy Attorney General.

2. Respondent Oscar V. Rosas, M.D. (Respondent) is represented in this proceeding by

DocuSign Envelope ID: B537E51D-80CF-4E0B-9EB6-1B224D8C62D7

attorney Tara Davidoff of Nelson Hardiman, LLP, 1100 Glendon Avenue, 14th Floor, Los Angeles, California 90024.

3. On July 17, 1998, the Board issued Physician's and Surgeon's Certificate No. A 66042 to Oscar V. Rosas, M.D. (Respondent). That license was in full force and effect at all times relevant to the charges brought in Accusation No. 800-2021-074979, and will expire on June 30, 2024, unless renewed.

JURISDICTION

4. Accusation No. 800-2021-074979 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 October 5, 2023. Respondent timely filed his Notice of Defense contesting the Accusation.

5. A copy of Accusation No. 800-2021-074979 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. 800-2021-074979. Respondent has also carefully read, fully discussed with his counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

7. Respondent is fully aware of his 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 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.

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

//

//

DocuSign Envelope ID: B537E51D-80CF-4E0B-9EB6-1B224D8C62D7

CULPABILITY

9. Respondent admits the truth of each and every charge and allegation in Accusation No. 800-2021-074979.

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

CONTINGENCY

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

12. Respondent agrees that if he ever petitions for early termination or modification of probation, or if an accusation and/or petition to revoke probation is filed against him before the Board, all of the charges and allegations contained in Accusation No. 800-2021-074979 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.

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

14. 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:

DocuSign Envelope ID: B537E51D-80CF-4E0B-9EB6-1B224D8C62D7

DISCIPLINARY ORDER

IT IS HEREBY ORDERED THAT Physician's and Surgeon's Certificate No. A 66042 issued to Respondent Oscar V. Rosas, 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. REVOCATION - MULTIPLE CAUSES. Certificate No. A 66042 issued to Respondent Oscar V. Rosas, M.D. is revoked pursuant to determination of Issues I, II, and III, separately and for all of them.

2. STANDARD STAY ORDER. However, revocation stayed and Respondent is placed on probation for three (3) years upon the following terms and conditions.

3. COMMUNITY SERVICE - FREE SERVICES. Within 60 calendar days of the effective date of this Decision, Respondent shall submit to the Board or its designee for prior approval a community service plan in which Respondent shall, within the first 2 years of probation, provide 30 hours of free services (e.g., medical or nonmedical) to a community or non-profit organization. If the term of probation is designated for 2 years or less, the community service hours must be completed not later than 6 months prior to the completion of probation.

Prior to engaging in any community service, Respondent shall provide a true copy of the Decision(s) to the chief of staff, director, office manager, program manager, officer, or the chief executive officer at every community or non-profit organization where Respondent provides community service and shall submit proof of compliance to the Board or its designee within 15 calendar days. This condition shall also apply to any change(s) in community service.

Community service performed prior to the effective date of the Decision shall not be accepted in fulfillment of this condition.

4. 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

DocuSign Envelope ID: B537E51D-80CF-4E0B-9EB6-1B224D8C62D7

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.

5. 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.

DocuSign Envelope ID: B537E51D-80CF-4E0B-9EB6-1B224D8C62D7

6. 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.

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

The Board or its designee shall provide the approved monitor with copies of the Decision(s)

DocuSign Envelope ID: B537E51D-80CF-4E0B-9EB6-1B224D8C62D7

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 medicine, and whether Respondent is practicing medicine safely, billing appropriately or both. It shall be the sole responsibility of Respondent to ensure that the monitor submits the quarterly written reports to the Board or its designee within 10 calendar days after the end of the preceding quarter.

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

DocuSign Envelope ID: B537E51D-80CF-4E0B-9EB6-1B224D8C62D7

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.

8. PRACTICE PROHIBITION. During probation, Respondent is prohibited from providing medical services to family members, persons living or working in his household, or any persons who do not consult him in a clinical setting.

9. 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 the following: 1) the name and address of 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.

10. 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

DocuSign Envelope ID: B537E51D-80CF-4E0B-9EB6-1B224D8C62D7

calendar days.

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

//

11. SUPERVISION OF PHYSICIAN ASSISTANTS AND ADVANCED PRACTICE NURSES. During probation, Respondent is prohibited from supervising physician assistants and advanced practice nurses.

12. 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.

13. INVESTIGATION/ENFORCEMENT COST RECOVERY. Respondent is hereby ordered to reimburse the Board its costs of investigation and enforcement, including, but not limited to, expert review, amended accusations, legal reviews, investigation(s), and subpoena enforcement, as applicable, in the amount of $34,125.75 (thirty-four thousand one hundred twenty-five dollars and seventy-five 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.

14. 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.

15. 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 in-person medicine in Respondent's or patient's place of residence, unless the patient resides in a skilled nursing facility or other similar licensed facility. Respondent is permitted to engage in telehealth services with patients from his residence to a patient's place of residence.

License Renewal

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

Travel or Residence Outside California

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

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

16. 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.

17. 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

DocuSign Envelope ID: B537E51D-80CF-4E0B-9EB6-1B224D8C62D7

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' 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.

18. 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

DocuSign Envelope ID: B537E51D-80CF-4E0B-9EB6-1B224D8C62D7

shall be fully restored.

19. 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.

20. 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.

21. 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.

22. 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. 800-2021-074979 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

DocuSign Envelope ID: B537E51D-80CF-4E0B-9EB6-1B224D8C62D7

restrict license.

ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Tara Davidoff. 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: 4/9/2024

DocuSigned by:
Oscar V Rosas
E53A0E5D20444A0...

OSCAR V. ROSAS, M.D.
Respondent

I have read and fully discussed with Respondent Oscar V. Rosas, 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: 4/9/2024

DocuSigned by:
Tara Davidoff
0D837E17BED441...

TARA DAVIDOFF
Attorney for Respondent

ENDORSEMENT

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

DATED: _____

Respectfully submitted,
ROB BONTA
Attorney General of California
ROBERT MCKIM BELL
Supervising Deputy Attorney General

WENDY WIDLUS
Deputy Attorney General
Attorneys for Complainant

LA2023602209/66706175.docx

restrict license.

ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Tara Davidoff. 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: _____

OSCAR V. ROSAS, M.D.
Respondent

I have read and fully discussed with Respondent Oscar V. Rosas, 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: _____

TARA DAVIDOFF
Attorney for Respondent

ENDORSEMENT

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

DATED: April 9, 2024

Respectfully submitted,

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

Wendy Widlus

WENDY WIDLUS
Deputy Attorney General
Attorneys for Complainant

LA2023602209/66706175.docx

ROB BONTA
Attorney General of California
ROBERT MCKIM BELL
Supervising Deputy Attorney General
WENDY WIDLUS
Deputy Attorney General
State Bar No. 82958
California Department of Justice
300 South Spring Street, Suite 1702
Los Angeles, California 90013
Telephone: (213) 269-6457
Facsimile: (916) 731-2117
E-mail: Wendy.Widlus@doj.ca.gov
Attorneys for Complainant

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

In the Matter of the Accusation Against: **OSCAR V. ROSAS, M.D.** **466 Foothill Boulevard, Suite 314** **La Canada, CA 91011-3518** **Physician's and Surgeon's Certificate No. A 66042,** Respondent.	Case No. 800-2021-074979 **ACCUSATION**

PARTIES

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

2. On July 17, 1998, the Board issued Physician's and Surgeon's Certificate Number A 66042 to Oscar V. Rosas, 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.

//

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 2001.1 of the Code states:

> Protection of the public shall be the highest priority for the Medical Board of California in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.

5. Section 2004 of the Code states:

> The board shall have the responsibility for the following:
>
> (a) The enforcement of the disciplinary and criminal provisions of the Medical Practice Act.
>
> (b) The administration and hearing of disciplinary actions.
>
> (c) Carrying out disciplinary actions appropriate to findings made by a panel or an administrative law judge.
>
> (d) Suspending, revoking, or otherwise limiting certificates after the conclusion of disciplinary actions.
>
> (e) Reviewing the quality of medical practice carried out by physician and surgeon certificate holders under the jurisdiction of the board.
>
> (f) Approving undergraduate and graduate medical education programs.
>
> (g) Approving clinical clerkship and special programs and hospitals for the programs in subdivision (f).
>
> (h) Issuing licenses and certificates under the board's jurisdiction.
>
> (i) Administering the board's continuing medical education program.

6. 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.

7. Section 2228 of the Code states:

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

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

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

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

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

STATUTORY PROVISIONS

8. 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.

9. Section 2242 of the Code states:

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

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

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

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

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

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

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

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

10. Section 4022 of the Code states:

"Dangerous drug" or "dangerous device" means any drug or device unsafe for self-use in humans or animals, and includes the following:

(a) Any drug that bears the legend: "Caution: federal law prohibits dispensing without prescription," "Rx only," or words of similar import.

(b) Any device that bears the statement: "Caution: federal law restricts this device to sale by or on the order of a _____," "Rx only," or words of similar import, the blank to be filled in with the designation of the practitioner licensed to use or order use of the device.

(c) Any other drug or device that by federal or state law can be lawfully dispensed only on prescription or furnished pursuant to Section 4006.

11. Section 725 of the Code states:

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

(b) Any person who engages in repeated acts of clearly excessive prescribing or administering of drugs or treatment is guilty of a misdemeanor and shall be punished by a fine of not less than one hundred dollars ($100) nor more than six hundred dollars ($600), or by imprisonment for a term of not less than 60 days nor more than 180 days, or by both that fine and imprisonment.

(c) A practitioner who has a medical basis for prescribing, furnishing, dispensing, or administering dangerous drugs or prescription-controlled substances shall not be subject to disciplinary action or prosecution under this section.

(d) No physician and surgeon shall be subject to disciplinary action pursuant to this section for treating intractable pain in compliance with Section 2241.5.

12. Section 2228.1 of the Code states:

(a) On and after July 1, 2019, except as otherwise provided in subdivision (c),

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

13. 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

14. Section 125.3 of the Code states:

(a) Except as otherwise provided by law, in any order issued in resolution of a disciplinary proceeding before any board within the department or before the Osteopathic Medical Board, upon request of the entity bringing the proceeding, the administrative law judge may direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

(b) In the case of a disciplined licensee that is a corporation or a partnership, the order may be made against the licensed corporate entity or licensed partnership.

(c) A certified copy of the actual costs, or a good faith estimate of costs where actual costs are not available, signed by the entity bringing the proceeding or its designated representative shall be prima facie evidence of reasonable costs of investigation and prosecution of the case. The costs shall include the amount of investigative and enforcement costs up to the date of the hearing, including, but not limited to, charges imposed by the Attorney General.

(d) The administrative law judge shall make a proposed finding of the amount of reasonable costs of investigation and prosecution of the case when requested pursuant to subdivision (a). The finding of the administrative law judge with regard to costs shall not be reviewable by the board to increase the cost award. The board may reduce or eliminate the cost award, or remand to the administrative law judge if the proposed decision fails to make a finding on costs requested pursuant to subdivision (a).

(e) If an order for recovery of costs is made and timely payment is not made as directed in the board's decision, the board may enforce the order for repayment in any

appropriate court. This right of enforcement shall be in addition to any other rights the board may have as to any licensee to pay costs.

(f) In any action for recovery of costs, proof of the board's decision shall be conclusive proof of the validity of the order of payment and the terms for payment.

(g) (1) Except as provided in paragraph (2), the board shall not renew or reinstate the license of any licensee who has failed to pay all of the costs ordered under this section.

(2) Notwithstanding paragraph (1), the board may, in its discretion, conditionally renew or reinstate for a maximum of one year the license of any licensee who demonstrates financial hardship and who enters into a formal agreement with the board to reimburse the board within that one-year period for the unpaid costs.

(h) All costs recovered under this section shall be considered a reimbursement for costs incurred and shall be deposited in the fund of the board recovering the costs to be available upon appropriation by the Legislature.

(i) Nothing in this section shall preclude a board from including the recovery of the costs of investigation and enforcement of a case in any stipulated settlement.

(j) This section does not apply to any board if a specific statutory provision in that board's licensing act provides for recovery of costs in an administrative disciplinary proceeding.

DEFINITIONS

15. Ashlyna is a hormonal contraceptive drug containing progestin and an estrogen used to prevent pregnancy and also regulate the menstrual cycle, decrease blood loss and painful menstruation, decrease the risk of ovarian cysts, and treat acne.

16. Temazepam is a benzodiazepine used to treat insomnia and is for short-term (usually seven to 10 days) use only. Benzodiazepines belong to the group of medicines called central nervous system depressants, which are medicines that slow down the nervous system. Temazepam is a Schedule IV controlled substance as designated by Health and Safety Code section 11057, subdivision (d) (29), and is a dangerous drug pursuant to Code section 4022 with the potential for abuse, dependence, and addiction.

17. Xanax is a trade name for alprazolam, a psychotropic triazolo-analogue of the benzodiazepine class of central nervous system-active compounds. Xanax 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 Code section 4022. In 2021 the National Institutes of Health stated that regular use of benzodiazepines has been shown to cause severe, harmful psychological and physical dependence, leading to withdrawal symptoms similar to that of alcohol withdrawal. Abrupt discontinuation of these medications can have life-threatening consequences. Xanax has a central nervous system depressant effect and patients should be cautioned about the simultaneous ingestion of alcohol and other central nervous system depressant drugs during treatment with Xanax.

18. Zoloft (sertraline), a prescription medication, is not a controlled substance. It is in an antidepressant medication class known as selective serotonin reuptake inhibitors (SSRIs) commonly used to treat depression, anxiety, panic attacks and other mood disorders. Zoloft carries risks for withdrawal and overdose.

19. Zolpidem Tartrate, a prescription sedative-hypnotic sleep medication commonly marketed under the brand name Ambien. 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 Code section 4022.

20. CURES is the Department of Justice's Controlled Substance Utilization Review and Evaluation System. CURES stores Schedule II, III, IV, and V controlled substance prescription information reported as dispensed in California. A CURES Patient Activity Report contains the following information: patient first name, patient last name, patient date of birth, patient gender, patient address, number of prescriptions, prescriber name, prescriber DEA number, prescriber address, pharmacy name, pharmacy license number, pharmacy address, date prescription was filled, prescription number, drug name, drug form, quantity, drug strength, refill number, number of authorized refills, number of days supply, payment method, and prescription form serial number.

FACTUAL ALLEGATIONS

21. The case was initiated when the Board received a complaint from a police agency that alleged domestic abuse and prescribing to family members by Respondent. The Board's

investigators ascertained that both Respondent and his estranged wife, Witness 1[1] had mutual restraining orders against each other. Witness 1 told the police agency that she filed for divorce September 22, 2020.

22. During an interview with the Board's Investigators, Witness 1 stated that Respondent, a psychiatrist, has been medically treating her for depression and anxiety during the past several years of their marriage. Witness 1 stated Respondent prescribed medications to multiple family members for diversion to Witness 1. Witness 1 identified those family members as Witness 2, Witness 1's sister; Witness 3, Witness 1's brother-in-law; Witness 4, Witness 1's 12-year-old niece; and Witness 5, Witness 1's nanny. Witness 1 stated that she had developed a need for Xanax.

23. During an interview with the Board's Investigators Witness 1 stated she was currently divorcing Respondent after 23 years of marriage. Witness 1 stated she developed a need to take Xanax to engage in sexual intercourse with Respondent. Witness 1 stated she told Respondent she should see a psychiatrist, but Respondent informed her that was not necessary because he knew her best.

24. During an interview with the Board's Investigators Witness 5 stated that Witness 1 approached her and asked to use Witness 5's name to get prescriptions filled for her son. Witness 1 offered Witness 5 a bonus and explained that her sister, Witness 2, used to do this. Witness 5 found out that Witness 1 continued to use her name to pick up prescriptions. Witness 5 said she never spoke to Respondent about the prescriptions because all of her communications were with Witness 1.

25. The Board's Investigator's report notes that Witness 5, Respondent, and Witness 1's children were interviewed. The police agency that investigated Witness 1's allegations of domestic violence did not find evidence to substantiate Witness 1's account of the domestic violence allegations.

26. During Respondent's March 16, 2023, subject interview, Respondent admitted that

[1] To protect the privacy of the witnesses involved, witness names have not been included in this pleading. Witnesses are referred to by number to protect their privacy.

although Witness 1 had never been his patient, he had prescribed medications to Witness 1. Respondent admitted that he prescribed Xanax to Witness 1 for "a number of years."

27. During Respondent's March 16, 2023, Subject Interview Respondent admitted that he had prescribed medications to Witness 2 (his wife's sister), Witness 3 (his wife's brother-in-law), and to Witness 4, (the niece). On his attorney's advice, Respondent refused to provide any information regarding Witness 5 (the nanny).

28. During Respondent's March 16, 2023, Subject Interview, Respondent admitted that Witness 2 had never been a patient of his. Respondent admitted he prescribed Xanax and Temazepam to Witness 2 to enable her to provide the medications to Witness 1.

29. During Respondent's March 16, 2023, Subject Interview, Respondent admitted that Witness 3 had never been a patient of his, but that he had nonetheless prescribed medications for Witness 3.

30. The Board's investigation determined that Respondent did not have medical records for Witness 1. Pharmacy and CURES records for Witness 1 were obtained by the Board's Investigators.

31. The Board's investigation determined that Respondent did not have medical records for Witness 2. Pharmacy and CURES records for Witness 2 were obtained by the Board's Investigators.

32. The Board's investigation determined that Respondent did not have medical records for Witness 3. Pharmacy and CURES records for Witness 3 were obtained by the Board's Investigators.

33. The Board's investigation determined that Respondent did not have medical records for Witness 4. Pharmacy and CURES records for Witness 4 were obtained by the Board's Investigators.

34. The Board's investigation determined that Respondent did not have medical records for Witness 5. Pharmacy and CURES records for Witness 5 were obtained by the Board's Investigators.

35. Pharmacy records show Respondent provided a prescription of Ashlyna for Witness

1.

36. Pharmacy records show Respondent provided multiple 90-day prescriptions for 1 mg Xanax three times a day, from May 16, 2012, continuing until January 22, 2019, to Witness 2.

37. Pharmacy records show on September 9, 2017, Respondent prescribed 30, 10 mg Ambien with 4 refills to Witness 3.

38. Pharmacy records show on June 20, 2016, Respondent prescribed 30, .5 mg Xanax and 30 50 mg Zoloft to Witness 4.

39. Pharmacy records show on July 18, 2016, Respondent prescribed 30, .25 mg Xanax and 45 50 mg Zoloft to Witness 4.

40. Pharmacy records show on August 17, 2016, Respondent prescribed 90, 100 mg Zoloft to Witness 4.

41. Pharmacy records show on October 30, 2016. Respondent prescribed 30, .5 alprazolam to Witness 4.

42. Pharmacy records show on October 30, 2016, Respondent prescribed 30, .5 alprazolam to Witness 4.

43. Pharmacy records show on August 6, 2020, Respondent prescribed 30, 100 mg Zoloft to Witness 5.

44. Pharmacy records show on November 4, 2020, Respondent prescribed 30, 100 mg Zoloft to Witness 5.

45. Pharmacy records show that in 2020 Respondent prescribed Xanax to Witness 5 three times. On June 5, 2020, Respondent prescribed 60, 2 mg Xanax, filled by the pharmacy on October 8, 2020; on November 4, 2020, Respondent prescribed 90, 2 mg Xanax, filled by the pharmacy on November 20, 2020; and on December 4, 2020, Respondent prescribed 60, 2 mg Xanax, filled by the pharmacy on December 4, 2020.

46. Pharmacy records show that in 2021 Respondent prescribed Xanax to Witness 5 ten times. On December 4, 2020, Respondent prescribed 60, 2 mg Xanax, with four refills, first filled by the pharmacy on December 4, 2020. The prescription was refilled on January 11, 2021, February 15, 2021, April 1, 2021, and April 29, 2021, a total of four times.

47. On June 7, 2021, Respondent prescribed 60, 2 mg Xanax, with four refills, first filled by the pharmacy on June 8, 2021. On August 1, 2021, Respondent prescribed 60, 2 mg Xanax, with no refills. That prescription was filled on August 2, 2021.

48. On September 14, 2021, Respondent prescribed 60, 2 mg Xanax, with two refills, first filled by the pharmacy on September 14, 2021. Of note, handwritten on the prescription is "Pt [sic] doesn't have and Im [sic] & will pay." That prescription was filled on September 14, 2021. That prescription was refilled on October 21, 2021, and November 18, 2021.

49. On December 17, 2021, Respondent prescribed 60, 2 mg Xanax, with six refills, first filled by the pharmacy on December 18, 2021.

50. The December 17, 2021, prescription was refilled January 20, 2022, and February 17, 2022, a total of two times.

STANDARD OF CARE

51. The standard of care for a physician prescribing controlled substances requires the physician to obtain the patient's medical history. That medical history must include an assessment of the patient's psychological status, substance abuse history, history of prior psychiatric treatments, and assessment of other underlying or coexisting conditions. The medical history and examination should contain documentation of the patient's psychiatric and medical indications when controlled substances such as benzodiazepines, hypnotic sedative medications, or opioids are provided. The failure of a physician who is prescribing controlled substances to obtain a complete medical history as described above, is an extreme departure from the standard of care.

52. The standard of care for a physician who is prescribing controlled substances for an initial psychiatric exam includes the physician's timely documentation of the history of the patient's present illness, past medical and substance abuse history, drug allergies, current medications, social and family history, review of systems, full mental status examination, and an assessment and plan that includes prescribing controlled substances. The diagnosis and treatment of mental conditions requires a face-to-face mental status exam or the equivalent analysis. Based on the community standards, a physician, personally or through an appropriately designated other,

obtains and documents this information before providing treatment to the patient. The failure of a physician who is prescribing controlled substances to timely document the completion of an examination of a patient, which included the patient's present illness, past medical and substance abuse history, drug allergies, current medications, social and family history, review of systems, a face to face full mental status examination, or the equivalent analysis, and an assessment and plan that includes prescribing controlled substances is an extreme departure from the standard of care.

53. The standard of care for a physician who prescribes controlled substances requires that the physician discuss the risks and benefits of the use of controlled substances and other treatment modalities with the patient, with persons designated by the patient, or with the patient's conservator if the patient is without medical decision-making capacity. The failure of a physician who is prescribing controlled substances to discuss the risks and benefits of the use of controlled substances and other treatment modalities with the patient, or with the patient's conservator, is an extreme departure from the standard of care.

54. The standard of care for a physician who prescribes controlled substances requires that the physician create medical records that document that the patient, and family members, if appropriate, have been counseled on the potential dangers of benzodiazepines, such as a patient accumulating large amounts of a benzodiazepine, taking excessive amounts, obtaining multiple prescriptions or the patient's abrupt discontinuation of benzodiazepines which can result in life-threatening complications. The failure of a physician who is prescribing controlled substances to document that the patient has been counseled on the potential dangers of benzodiazepines is an extreme departure from the standard of care.

55. The standard of care for a physician who is providing treatment that includes prescriptions for medication to a patient, requires that the physician provide an initial evaluation of the patient. The failure of a physician who is prescribing medication to a patient to provide an initial evaluation of the patient is a simple departure from the standard of care.

DEPARTURES FROM THE STANDARD OF CARE

56. Respondent demonstrated an extreme departure from the standard of care when he he prescribed Xanax and Temazepam to Witness 2, a person who was not his patient for the

purpose of diverting it to Witness 1.

57. Respondent demonstrated an extreme departure from the standard of care when he prescribed Xanax on an ongoing basis to Witness 5, who was not his patient, for the purpose of diverting it to Witness 1.

58. Respondent demonstrated an extreme departure from the standard of care when he he prescribed Ambien with refills to Witness 3 with a complete absence of medical records that supported his diagnosis, treatment, assessment or plan for Witness 3, who was not his patient.

59. Respondent demonstrated an extreme departure from the standard of care when he he repeatedly prescribed Xanax and Zoloft to Witness 4 with a complete absence of medical records that supported his diagnosis, treatment, assessment or plan for Witness 4, who was not his patient.

60. Respondent demonstrated an extreme departure from the standard of care when he he repeatedly prescribed Xanax to Witness 5 with a complete absence of medical records that supported his diagnosis, treatment, assessment or plan for Witness 5, who was not his patient.

61. Respondent demonstrated a simple departure from the standard of care when he prescribed Ashlyna to Witness 1 without an evaluation or plan to Witness 1, who was not his patient.

FIRST CAUSE FOR DISCIPLINE

(Gross Negligence)

62. Respondent is subject to disciplinary action under section 2234, subdivision (b), of the Code in that Respondent was grossly negligent when he prescribed Xanax and Temazepam to Witness 2, who was not his patient, for the purpose of diverting it to Witness 1. The allegations contained in paragraphs 21 through 56, inclusive above, are incorporated herein by reference as if fully set forth.

63. Respondent is subject to disciplinary action under section 2234, subdivision (b), of the Code in that Respondent was grossly negligent when he prescribed Xanax on an ongoing basis to Witness 2, who was not his patient, for the purpose of diverting it to Witness 1. The allegations contained in paragraphs 21 through 57, inclusive above, are incorporated herein by

reference as if fully set forth.

64. Respondent is subject to disciplinary action under section 2234, subdivision (b), of the Code in that Respondent was grossly negligent when he prescribed Ambien with refills to Witness 3 with a complete absence of medical records that supported his diagnosis, treatment, assessment or plan for Witness 3 who was not his patient. The allegations contained in paragraphs 21 through 58, inclusive above, are incorporated herein by reference as if fully set forth.

65. Respondent is subject to disciplinary action under section 2234, subdivision (b), of the Code in that Respondent was grossly negligent when he prescribed Xanax and Zoloft to Witness 4 with a complete absence of medical records that supported his diagnosis, treatment, assessment or plan for Witness 4 who was not his patient. The allegations contained in paragraphs 21 through 59, inclusive above, are incorporated herein by reference as if fully set forth.

66. Respondent is subject to disciplinary action under section 2234, subdivision (b), of the Code in that Respondent was grossly negligent when he prescribed Xanax on an ongoing basis to Witness 5, who was not his patient, for the purpose of diverting it to Witness 1. The allegations contained in paragraphs 21 through 60, inclusive above, are incorporated herein by reference as if fully set forth.

67. Respondent is subject to disciplinary action under section 2234, subdivision (b), of the Code in that Respondent was grossly negligent when he prescribed Xanax and Zoloft to Witness 5 with a complete absence of medical records that supported his diagnosis, treatment, assessment, or plan for Witness 5 who was not his patient. The allegations contained in paragraphs 21 through 60, inclusive above, are incorporated herein by reference as if fully set forth.

SECOND CAUSE FOR DISCIPLINE

(Repeated Acts of Negligence)

68. Respondent is subject to disciplinary action under section 2234, subdivision (c), of the Code in that Respondent engaged in repeated acts of negligence as regards Witnesses 1

through 5 above. The circumstances are as follows:

69. The facts and circumstances regarding this Cause for Discipline are alleged in paragraphs 21 through 60 above and are hereby incorporated by reference and realleged as if fully set forth herein.

THIRD CAUSE FOR DISCIPLINE

(Unprofessional Conduct)

70. Respondent is subject to disciplinary action under section 2234 of the Code in that she committed general unprofessional conduct. The circumstances are as follows:

71. The facts and circumstances set forth in paragraphs 21 through 69, are incorporated by reference as if set forth in full herein.

//

//

//

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 66042, issued to Respondent:

2. Revoking, suspending, or denying approval of Oscar V. Rosas, M.D.'s authority to supervise physician assistants and advanced practice nurses;

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

4. If placed on probation, ordering Respondent Oscar V. Rosas, M.D., 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: OCT 05 2023

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

Complainant

LA2023602209
66261341.docx