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

In the Matter of the Accusation Against: Robert Allan Bexton, M.D. Physician's and Surgeon's Certificate No. A 44013 Respondent.	Case No. 800-2021-075830

DECISION

The attached Stipulated Surrender of License and 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 September 1, 2024.

IT IS SO ORDERED July 2, 2024.

MEDICAL BOARD OF CALIFORNIA

Reji Varghese, Executive Director

ROB BONTA
Attorney General of California
JUDITH T. ALVARADO
Supervising Deputy Attorney General
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Attorneys for Complainant

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

In the Matter of the Accusation Against: ROBERT ALLAN BEXTON, M.D. P.O. Box 20553 Bakersfield, CA 93390-0553 Physician's and Surgeon's Certificate No. A 44013, Respondent.	Case No. 800-2021-075830 **STIPULATED SURRENDER OF LICENSE AND 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 Rebecca L. Smith, Deputy Attorney General.

2. Robert Allan Bexton, M.D. (Respondent) is represented in this proceeding by attorney Dennis R. Thelen, whose address is 5001 East Commercenter Drive, Suite 300, Bakersfield, California 93309-1687.

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3. On or about September 21, 1987, the Board issued Physician's and Surgeon's Certificate No. A 44013 to Respondent. That license was in full force and effect at all times relevant to the charges brought in Accusation No. 800-2021-075830 and will expire on June 30, 2025, unless renewed.

JURISDICTION

4. Accusation No. 800-2021-075830 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 February 26, 2024. Respondent timely filed his Notice of Defense contesting the Accusation. A copy of Accusation No. 800-2021-075830 is attached as Exhibit A and incorporated by reference.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 800-2021-075830. Respondent also has carefully read, fully discussed with counsel, and understands the effects of this Stipulated Surrender of License and Order.

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

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

CULPABILITY

8. Respondent understands that the charges and allegations in Accusation No. 800-2021-075830, if proven at a hearing, constitute cause for imposing discipline upon his Physician's and Surgeon's Certificate.

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9. For the purpose of resolving the Accusation without the expense and uncertainty of further proceedings, Respondent agrees that, at a hearing, Complainant could establish a factual basis for the charges in the Accusation and that those charges constitute cause for discipline. Respondent hereby gives up his right to contest that cause for discipline exists based on those charges.

10. Respondent understands that by signing this stipulation he enables the Board to issue an order accepting the surrender of his Physician's and Surgeon's Certificate without further process.

CONTINGENCY

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

12. Respondent understands that, by signing this stipulation, he enables the Executive Director of the Board to issue an order, on behalf of the Board, accepting the surrender of his Physician's and Surgeon's Certificate No. A 44013 without further notice to, or opportunity to be heard by, Respondent.

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

14. The parties agree that this Stipulated Surrender of License and Disciplinary Order shall be null and void and not binding upon the parties unless approved and adopted by the Executive Director on behalf of the Board, except for this paragraph, which shall remain in full force and effect. Respondent fully understands and agrees that in deciding whether or not to

approve and adopt this Stipulated Surrender of License and Disciplinary Order, the Executive Director and/or the Board may receive oral and written communications from its staff and/or the Attorney General's Office. Communications pursuant to this paragraph shall not disqualify the Executive Director, the Board, any member thereof, and/or any other person from future participation in this or any other matter affecting or involving Respondent. In the event that the Executive Director on behalf of the Board does not, in his discretion, approve and adopt this Stipulated Surrender of License and Disciplinary Order, with the exception of this paragraph, it shall not become effective, shall be of no evidentiary value whatsoever, and shall not be relied upon or introduced in any disciplinary action by either party hereto. Respondent further agrees that should this Stipulated Surrender of License and Disciplinary Order be rejected for any reason by the Executive Director on behalf of the Board, Respondent will assert no claim that the Executive Director, the Board, or any member thereof, was prejudiced by its/his/her review, discussion and/or consideration of this Stipulated Surrender of License and Disciplinary Order or of any matter or matters related hereto.

ADDITIONAL PROVISIONS

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

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

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

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ORDER

IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. A 44013, issued to Respondent Robert Allan Bexton, M.D., is surrendered and accepted by the Board, effective September 1, 2024.

1. The surrender of Respondent's Physician's and Surgeon's Certificate and the acceptance of the surrendered license by the Board shall constitute the imposition of discipline against Respondent. This stipulation constitutes a record of the discipline and shall become a part of Respondent's license history with the Board.

2. Respondent shall lose all rights and privileges as a physician and surgeon in California as of the effective date of the Board's Decision and Order.

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

4. If Respondent ever files an application for licensure or a petition for reinstatement in the State of California, the Board shall treat it as a petition for reinstatement. Respondent must comply with all the laws, regulations and procedures for reinstatement of a revoked or surrendered license in effect at the time the petition is filed, and all of the charges and allegations contained in Accusation No. 800-2021-075830 shall be deemed to be true, correct and admitted by Respondent when the Board determines whether to grant or deny the petition.

5. Respondent shall pay the agency its costs of investigation and enforcement in the amount of $29,343.00 (twenty-nine thousand three hundred forty-three dollars and no cents) prior to issuance of a new or reinstated license.

6. If Respondent should ever apply or reapply for a new license or certification, or petition for reinstatement of a license, by any other health care licensing agency in the State of California, all of the charges and allegations contained in Accusation No. 800-2021-075830 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 licensure.

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ACCEPTANCE

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

DATED: 11 JUNE 2024

ROBERT ALLAN BEXTON, M.D.
Respondent

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

DATED: 5-16-24

DENNIS R. THELEN
Attorney for Respondent

ENDORSEMENT

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

DATED: June 12, 2024

Respectfully submitted,

ROB BONTA
Attorney General of California
JUDITH T. ALVARADO
Supervising Deputy Attorney General

REBECCA L. SMITH
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: **ROBERT ALLAN BEXTON, M.D.** **P.O. Box 20553** **Bakersfield, CA 93390-0553** **Physician's and Surgeon's Certificate No. A 44013,** Respondent.	Case No. 800-2021-075830 **ACCUSATION**

PARTIES

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

2. On or about September 21, 1987, the Board issued Physician's and Surgeon's Certificate Number A 44013 to Robert Allan Bexton, 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, 2025, 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 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.

5. Section 2220 of the Code states:

Except as otherwise provided by law, the board may take action against all persons guilty of violating this chapter. The board shall enforce and administer this article as to physician and surgeon certificate holders, including those who hold certificates that do not permit them to practice medicine, such as, but not limited to, retired, inactive, or disabled status certificate holders, and the board shall have all the powers granted in this chapter for these purposes including, but not limited to:

(a) Investigating complaints from the public, from other licensees, from health care facilities, or from the board that a physician and surgeon may be guilty of unprofessional conduct. The board shall investigate the circumstances underlying a report received pursuant to Section 805 or 805.01 within 30 days to determine if an interim suspension order or temporary restraining order should be issued. The board shall otherwise provide timely disposition of the reports received pursuant to Section 805 and Section 805.01.

(b) Investigating the circumstances of practice of any physician and surgeon where there have been any judgments, settlements, or arbitration awards requiring the physician and surgeon or his or her professional liability insurer to pay an amount in

damages in excess of a cumulative total of thirty thousand dollars ($30,000) with respect to any claim that injury or damage was proximately caused by the physician's and surgeon's error, negligence, or omission.

(c) Investigating the nature and causes of injuries from cases which shall be reported of a high number of judgments, settlements, or arbitration awards against a physician and surgeon.

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.

STATUTORY PROVISIONS

7. 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.

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(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 no later than 30 calendar days after being notified by the board. This subdivision shall only apply to a certificate holder who is the subject of an investigation by the board.

8. 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.

9. 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.

10. Section 2266 of the Code states:

The failure of a physician and surgeon to maintain adequate and accurate records relating to the provision of services to their patients constitutes unprofessional conduct.

11. Section 2228.1 of the Code states.

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

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

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

(B) Drug or alcohol abuse directly resulting in harm to patients or the extent

that such use impairs the ability of the licensee to practice safely.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

CONTROLLED SUBSTANCES/DANGEROUS DRUGS

12. Section 4021 of the Code states:

"Controlled substance" means any substance listed in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code.

13. Section 4022 of the Code provides:

"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.

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.

DRUG DEFINITIONS

15. As used herein, the terms below will have the following meanings:

"Benzodiazepines" are a class of drugs that produce central nervous system (CNS) depression. They are used therapeutically to produce sedation, induce sleep, relieve anxiety, and muscle spasms, and to prevent seizures. In general, benzodiazepines act as hypnotics in high doses, anxiolytics in moderate doses, and sedatives in low doses, and are used for a limited time period. Benzodiazepines are commonly misused and taken in combination with other drugs of abuse. Commonly prescribed benzodiazepines include alprazolam (Xanax), lorazepam (Ativan), clonazepam (Klonopin), diazepam (Valium), and temazepam (Restoril). Risks associated with use of benzodiazepines include: 1) tolerance and dependence, 2) potential interactions with alcohol and pain medications, and 3) possible impairment of driving. Benzodiazepines can cause dangerous deep unconsciousness. When combined with other CNS depressants such as alcoholic drinks and opioids, the potential for toxicity and fatal overdose increases. Before initiating a course of treatment, patients should be explicitly advised of the goal and duration of benzodiazepines use. Risks and side effects, including risk of dependence and respiratory depression, should be discussed with patients. Alternative treatment options should be discussed. Treatment providers should coordinate care to avoid multiple prescriptions for this class of drugs. Low doses and short durations should be utilized.

"CURES" means the California Department of Justice, Bureau of Narcotic Enforcement's Controlled Substance Utilization, Review and Evaluation System (CURES) for the electronic monitoring of the prescribing and dispensing of

Schedule II, III, IV and V controlled substances dispensed to patients in California pursuant to Health and Safety Code section 11165. The CURES database captures data from controlled substance prescriptions filled as submitted by pharmacies, hospitals, and dispensing physicians. Law enforcement and regulatory agencies use the data to assist in their efforts to control the diversion and resultant abuse of controlled substances. Prescribers and pharmacists may request a patient's history of controlled substances dispensed in accordance with guidelines developed by the Department of Justice.

"Diazepam," also known by the brand name Valium, is a psychotropic drug used for the management of anxiety disorders or for the short-term relief of the symptoms of anxiety. It can produce psychological and physical dependence and should be prescribed with caution particularly to addiction-prone individuals (such as drug addicts and alcoholics) because of the predisposition of such patients to habituation and dependence. It is a Schedule IV controlled substance as designated by Health and Safety Code section 11057(d)(1), and is a dangerous drug as designated in Code section 4022.

"Hydrocodone," also known by the brand names Norco and Vicodin, is a semisynthetic opioid analgesic similar to but more potent than codeine. It is used as the bitartrate salt or polistirex complex, and as an oral analgesic and antitussive. Hydrocodone also has a high potential for abuse. Hydrocodone is a Schedule II controlled substance pursuant to Health and Safety Code section 11055, subdivision (b)(1)(I), and a dangerous drug pursuant to Code section 4022.

"Hydrocodone acetaminophen," also known by the brand name Norco, is an opioid pain reliever. It has a high potential for abuse. In 2013, hydrocodone-acetaminophen was a Schedule III controlled substance. Commencing on October 6, 2014, hydrocodone-acetaminophen became classified as a Schedule II controlled substance pursuant to Health and Safety Code section 11055, subdivision (b)(1)(I), and a dangerous drug pursuant to Code section 4022.

"Methadone" is an opioid used for opioid maintenance therapy in opioid dependence and for chronic pain management. It is a Schedule II controlled substance pursuant to Health and Safety Code section 11055, subdivision (c), and a dangerous drug pursuant to Code section 4022.

"Mirtazapine" is an antidepressant primarily used to treat depression. It is often used to treat depression complicated by anxiety or trouble sleeping. It is a dangerous drug pursuant to Code section 4022.

"Opioids" are a class of drugs used to reduce pain, including anesthesia, and include the illegal drug heroin, synthetic opioids such as fentanyl, and pain relievers available legally by prescription. Many prescription opioids are used to block pain signals between the brain and the body and are typically prescribed to treat moderate to severe pain. Side effects can include slowed breathing, constipation, nausea, confusion, and drowsiness. Opioids are highly addictive, and opioid abuse has become a national crisis in the United States. Combining opioids with other drugs or alcohol can be fatal, therefore patients should be cautioned about the simultaneous ingestion of alcohol, benzodiazepines, or other CNS depressant drugs during treatment with opioids.

"Phentermine" is a stimulant similar to an amphetamine. It acts as an appetite suppressant by affecting the central nervous system. It is used medically as an appetite suppressant for short term use, as an adjunct to exercise and reducing calorie intake. It is a Schedule IV controlled substance pursuant to Health and

Safety Code section 11057, subdivision (b)(f)(4), and a dangerous drug pursuant to Code section 4022.

"Zolpidem," also known by the brand name Ambien, is a sedative drug primarily used for the treatment of trouble sleeping. Its hypnotic effects are similar to those of the benzodiazepines class of drugs. It is a Schedule IV controlled substance and narcotic as defined by Health and Safety Code section 11057, subdivision (d)(32), and a dangerous drug pursuant to Code section 4022.

FIRST CAUSE FOR DISCIPLINE

(Gross Negligence)

16. Respondent is subject to disciplinary action under Code section 2234, subdivision (b), in that he engaged in gross negligence in the care and treatment of Patients 1 and 2.[1] The circumstances are as follows:

Patient 1:

17. Respondent, a family practitioner, treated Patient 1, a middle-aged-male, during the time period beginning on or about June 15, 2009, through January 27, 2021.[2]

18. On or about June 15, 2009, Patient 1, then 44-years-old executed a pain medication agreement with Respondent. There are no other pain medication agreements in Respondent's medical records for Patient 1. Patient 1's medical records do not contain any CURES reports or urine drug screen results.

19. Respondent's first progress note for Patient 1 is dated January 20, 2011, and the last progress note is dated January 27, 2021. Each of the progress notes are handwritten on pre-printed History and Physical Forms. None of the forms are completely filled out and the handwritten notes on the forms are cryptic and somewhat illegible.

20. Respondent routinely prescribed controlled substances to Patient 1 on a monthly basis, including Vicodin, Methadone, Ambien, and Diazepam. On a monthly basis from in or around June 2014, through May 2016, Respondent prescribed Vicodin (90 to 120 tablets), Ambien (30 tablets), and Diazepam (60 tablets) to Patient 1. In or around June 2016, Respondent added Methadone (30 to 60 tablets) to Patient 1's treatment regimen, and continued to prescribe Vicodin (60 to 120 tablets), Ambien (30 tablets), and Diazepam (60 tablets) on a monthly basis to

[1] For privacy purposes, the patients in this Accusation are referred to as Patients 1 and 2.

[2] Patient 1's care and treatment prior to 2017 is noted for historical purposes only.

Patient 1. In or around April 2017, Respondent discontinued Patient 1's prescription for Ambien.

21. On or about January 26, 2018, Patient 1 was seen by Respondent. Under "Chief Complaint," Respondent noted "[f]ill medical form 1/18/17 $10 pd." Respondent circled the pre-printed "RF" on the form but did not fill in any information on the pre-printed line next to "RF." Respondent's diagnoses were lumbar radiculopathy and chronic intractable pain of the lumbar spine. Respondent noted "Rx screen/urine." No urine drug screen results are documented in Patient 1's medical records. Respondent noted that the patient was to return as scheduled and "R.F. Rx's."

22. During the period beginning on or about January 26, 2018, through March 28, 2018, in addition to filling prescriptions for blood pressure, urinary retention, and cholesterol medications, Patient 1 also filled prescriptions for the following controlled substances, prescribed by Respondent: Vicodin (30 tablets), Methadone (90 tablets), and Diazepam (75 tablets) on or about January 26, 2018; Vicodin (30 tablets), Methadone (90 tablets), and Diazepam (75 tablets) on or about February 26, 2018; and Vicodin (30 tablets), Methadone (90 tablets), and Diazepam (75 tablets) on or about March 26, 2018. None of these medications are documented by Respondent in Patient 1's medical records.

23. On or about March 29, 2018, Respondent saw Patient 1, but failed to document a chief complaint. Respondent circled the pre-printed "RF" on the form, but did not fill in any information on the pre-printed line next to "RF." Respondent's diagnoses were chronic intractable pain of the lumbar spine, lumbar radiculopathy, and lumbar degenerative disc disease. Respondent noted that the patient was to return as scheduled and "R.F. Rx's."

24. During the period beginning on or about March 29, 2018, through July 16, 2018, in addition to filling prescriptions for blood pressure, urinary retention and cholesterol medications, Patient 1 also filled prescriptions for the following controlled substances, prescribed by Respondent: Vicodin (30 tablets), Methadone (90 tablets), and Diazepam (75 tablets) on or about April 26, 2018; Vicodin (30 tablets), Methadone (90 tablets), and Diazepam (75 tablets) on or about May 26, 2018; and Vicodin (30 tablets), Methadone (90 tablets), and Diazepam (75 tablets) on or about June 26, 2018. None of these medications are documented by Respondent in Patient

1's medical records.

25. On or about July 17, 2018, Respondent saw Patient 1 and documented injections under "Chief Complaint." Respondent circled the pre-printed "RF" on the form, but did not fill in any information on the pre-printed line next to "RF." Respondent's diagnoses were chronic intractable pain of the left shoulder and elbow, lumbar degenerative disc disease, and lumbar radiculopathy, radiating to his legs. Respondent documented administering lumbar epidural injections. Respondent also documented that Patient 1 had not yet seen a cardiologist, and a cardiology referral was given. Respondent noted that the patient was to return as scheduled and "R.F. Rx's."

26. During the period beginning on or about July 17, 2018, through October 24, 2018, in addition to filling prescriptions for blood pressure, urinary retention, and cholesterol medication, Patient 1 also filled prescriptions for the following controlled substances, prescribed by Respondent: Vicodin (30 tablets), Methadone (90 tablets), and Diazepam (75 tablets) on or about July 27, 2018; Vicodin (30 tablets), Methadone (90 tablets), and Diazepam (75 tablets) on or about August 28, 2018; and Vicodin (30 tablets), Methadone (90 tablets), and Diazepam (75 tablets) on or about September 28, 2018. None of these medications are documented by Respondent in Patient 1's medical records.

27. On or about October 25, 2018, Respondent saw Patient 1, but did not document a chief complaint. Respondent circled the pre-printed "RF" on the form, but did not fill in any information on the pre-printed line next to "RF." Respondent's diagnoses were chronic intractable pain of the lumbar spine and lumbar degenerative disc disease. Respondent noted "no records from cardiology, referred back." Respondent noted that the patient was to return as scheduled and "R.F. Rx's."

28. During the period beginning on or about October 25, 2018, through November 25, 2018, in addition to filling prescriptions for blood pressure, urinary retention, and cholesterol medications, Patient 1 also filled prescriptions for the following controlled substances, prescribed by Respondent: Vicodin (30 tablets), Methadone (90 tablets), and Diazepam (75 tablets) on or about October 25, 2018. None of these medications are documented by Respondent in Patient 1's

medical records.

29. On or about November 26, 2018, Respondent saw Patient 1, but failed to document a chief complaint. Respondent circled the pre-printed "RF" on the form, but did not fill in any information on the pre-printed line next to "RF." Respondent's diagnoses were chronic intractable pain of the lumbar spine and lumbar degenerative disc disease. Respondent noted "to lab for urine rx screen." No urine drug screen results were documented in Patient 1's medical records. Respondent noted that the patient was to return as scheduled and "R.F. Rx's."

30. During the period beginning on or about November 26, 2018, through December 25, 2018, in addition to filling prescriptions for blood pressure, urinary retention, and cholesterol medications, Patient 1 also filled prescriptions for the following controlled substances, prescribed by Respondent: Vicodin (30 tablets), Methadone (90 tablets), and Diazepam (75 tablets) on or about November 26, 2018. None of these medications are documented by Respondent in Patient 1's medical records.

31. On or about December 26, 2018, Respondent saw Patient 1, but failed to document a chief complaint. Respondent circled the pre-printed "RF" on the form, but did not fill in any information on the pre-printed line next to "RF." Respondent's diagnoses were chronic intractable pain of the lumbar spine and lumbar degenerative disc disease. Respondent noted that the patient was to return as scheduled and "R.F. Rx's."

32. During the period beginning on or about December 26, 2018, through January 25, 2019, in addition to filling prescriptions for blood pressure, urinary retention, and cholesterol medications, Patient 1 also filled prescriptions for the following controlled substances, prescribed by Respondent: Vicodin (30 tablets), Methadone (90 tablets), and Diazepam (75 tablets) on or about December 26, 2018. None of these medications are documented by Respondent in Patient 1's medical records.

33. On or about January 26, 2019, Respondent saw Patient 1 and documented injections under "Chief Complaint." Respondent circled the pre-printed "RF" on the form, but did not fill in any information on the pre-printed line next to "RF." Respondent's diagnoses were chronic intractable pain of the lumbar spine, lumbar degenerative disc disease, and lumbar radiculopathy.

Respondent noted injections to the left shoulder complex and epidural injections on the left and right at L3-L4 and C5-C6. Respondent ordered imaging including a CT scan of the lumbar spine. Respondent noted that the patient was to return as scheduled and "R.F. Rx's."

34. In addition to filling prescriptions for blood pressure, urinary retention, and cholesterol medications between January 26, 2019, and March 27, 2019, Patient 1 also filled prescriptions for the following controlled substances, prescribed by Respondent: Vicodin (30 tablets), Methadone (90 tablets), and Diazepam (75 tablets) on or about January 26, 2019; and Vicodin (30 tablets), Methadone (90 tablets), and Diazepam (75 tablets) on or about February 26, 2019. None of these medications are documented by Respondent in Patient 1's medical records.

35. On or about March 28, 2019, Respondent saw Patient 1. Respondent circled the pre-printed "RF" on the form, but did not fill in any information on the pre-printed line next to "RF." Respondent's diagnoses were chronic intractable pain of the lumbar spine and lumbar degenerative disc disease. Respondent noted that the patient was to return as scheduled and "R.F. Rx's."

36. In addition to filling prescriptions for blood pressure, urinary retention, and cholesterol medications between March 28, 2019, and May 6, 2019, Patient 1 also filled prescriptions for the following controlled substances, prescribed by Respondent: Vicodin (30 tablets), Methadone (90 tablets), and Diazepam (75 tablets) on or about March 28, 2019 and Vicodin (30 tablets), Methadone (90 tablets), and Diazepam (75 tablets) on or about April 29, 2019. None of these medications are documented by Respondent in Patient 1's medical records.

37. On or about May 6, 2019, Respondent saw Patient 1 and noted that Patient 1 stated that the injections "really help." Respondent's diagnoses were chronic intractable pain of the lumbar spine, lumbar degenerative disc disease, and lumbar radiculopathy. Respondent noted that injections were performed at Patient 1's right shoulder and left and right side at L3-L4. Respondent also noted to follow up with a CT of the lumbar spine. Respondent noted that the patient was to return as scheduled and "R.F. Rx's."

38. On or about May 24, 2019, Respondent saw Patient 1 and circled the pre-printed "RF" and noted "Prostate Rx." Respondent noted that "shots helped" for Patient 1's lower back

pain. Respondent's diagnoses were chronic intractable pain, lumbar degenerative disc disease, radiculopathy, and fibromyalgia. He noted that the patient scheduled a cardiology appointment. Respondent also noted that the patient was to return as scheduled and "R.F. Rx's."

39. During the period beginning on or about May 24, 2019, through August 3, 2019, in addition to filling prescriptions for blood pressure medications, urinary retention medication, cholesterol medication, and Mirtazapine, Patient 1 also filled prescriptions for the following controlled substances, prescribed by Respondent: Vicodin (30 tablets), Methadone (90 tablets), and Diazepam (90 tablets) on or about May 29, 2019; and Vicodin (30 tablets), Methadone (90 tablets), and Diazepam (90 tablets) on or about June 28, 2019. Respondent failed to document any of these medications in Patient 1's medical records.

40. On or about August 3, 2019, Respondent saw Patient 1 and noted that the patient had been hospitalized from July 23, 2019, through July 30, 2019, for heart surgery and was now feeling good. Respondent noted that the patient had chronic intractable pain and was status post open heart surgery to repair his aortic arch and replace his aortic valve. Patient 1 was instructed to keep his appointment with his cardiovascular surgeon and to go to the emergency room for dizziness or lightheadedness. Respondent noted that the patient was to return as scheduled.

41. During the period beginning on or about August 3, 2019, through September 2, 2019, in addition to filling prescriptions for blood pressure medications, urinary retention medication, cholesterol medication, and Mirtazapine, Patient 1 also filled prescriptions for the following controlled substances, prescribed by Respondent: Methadone (90 tablets) and Diazepam (90 tablets) on or about August 3, 2019. Respondent failed to document any of these medications in Patient 1's medical records.

42. On or about September 2, 2019, Respondent saw Patient 1 and noted that the patient had open heart surgery with aortic arch and valve repair during the timeframe of July 23-30, 2019. Respondent noted that Patient 1 had a diagnosis of chronic intractable pain of the lumbar spine and was status post open heart surgery. Respondent noted that the patient was to return as scheduled and "R.F. Rx's."

43. During the period beginning on or about September 2, 2019, through November 1,

2019, in addition to filling prescriptions for blood pressure medications, urinary retention medication, cholesterol medication, and Mirtazapine, Patient 1 also filled prescriptions for the following controlled substances, prescribed by Respondent: Methadone (60 tablets), Vicodin (90 tablets), and Diazepam (90 tablets) on or about September 2, 2019; and Methadone (60 tablets), Vicodin (60 tablets), and Diazepam (90 tablets) on or about October 2, 2019. Respondent failed to document any of these medications in Patient 1's medical records.

44. On or about November 1, 2019, Patient 1 was seen by Respondent. Respondent noted that pain prescription "really helps." Respondent noted that Patient 1 had chronic intractable lower back pain, degenerative disc disease of the lumbar spine and lumbar radiculopathy. With respect to prescriptions, Respondent noted "take B.P. Rx Regularly!" Respondent also noted "urine rx test = to lab." Respondent did not document any urine drug screen test results in Patient 1's medical records. Respondent noted that the patient was to return as scheduled and "R.F. Rx's."

45. During the period beginning on or about November 1, 2019, through February 24, 2020, in addition to filling prescriptions for blood pressure medications, urinary retention medication, cholesterol medication, and Mirtazapine, Patient 1 also filled prescriptions for the following controlled substances, prescribed by Respondent: Methadone (60 tablets), Vicodin (60 tablets), and Diazepam (90 tablets) on or about November 2, 2019; and Methadone (60 tablets), Vicodin (60 tablets), and Diazepam (90 tablets) on or about December 3, 2019. Respondent failed to document any of these medications in Patient 1's medical records.

46. On or about December 28, 2019, Respondent saw Patient 1. Respondent circled the pre-printed "RF" and noted "Request". Respondent noted lower back pain down legs. Respondent noted diagnoses of lumbar radiculopathy, degenerative disc disease, and chronic intractable lumbar pain. Without referencing any specific medications, Respondent noted that the patient was to "take medications as scheduled." Respondent noted "Needs Rx R.F.'s" on January 2, 2020 and February 2, 2020. Respondent noted that the patient was to return as scheduled and "R.F. Rx's."

47. During the period beginning on or about December 28, 2019, through February 24,

2020, in addition to filling prescriptions for blood pressure medications, urinary retention medication, cholesterol medication, and Mirtazapine, Patient 1 also filled prescriptions for the following controlled substances, prescribed by Respondent: Methadone (60 tablets), Vicodin (60 tablets), and Diazepam (90 tablets) on or about January 2, 2020; and Methadone (60 tablets), Vicodin (60 tablets), and Diazepam (90 tablets) on or about February 2, 2020. Respondent failed to document any of these medications in Patient 1's medical records.

48. On or about February 24, 2020, Respondent saw Patient 1 for a chief complaint of leg pain, but mostly on the right. Respondent circled the pre-printed "RF" on the form, but did not fill in any information on the pre-printed line next to "RF." Respondent noted diagnoses of lumbar radiculopathy, degenerative disc disease, possible deep venous thrombosis, and chronic intractable pain. He ordered a Doppler ultrasound to the lower legs, bilaterally and CT scans of the lumbar spine. Respondent noted injections on the left and right at L3/4 and L4/5. At the bottom of the page, Respondent noted "Rx R.F.'s 04-02-20," "Rx Visit 04-26-20, and "RX Visit 05-26-20." Respondent noted that the patient was to return as scheduled and "R.F. Rx's."

49. During the period beginning on or about February 24, 2020, through June 30, 2020, in addition to filling prescriptions for blood pressure medications, urinary retention medication, cholesterol medication, and Mirtazapine, Patient 1 also filled prescriptions for the following controlled substances, prescribed by Respondent: Methadone (60 tablets), Vicodin (60 tablets), and Diazepam (90 tablets) on or about March 1, 2020; Methadone (60 tablets), Vicodin (60 tablets), and Diazepam (90 tablets) on or about April 2, 2020; Methadone (90 tablets), Vicodin (30 tablets), and Diazepam (90 tablets) on or about April 31, 2020; and Methadone (90 tablets), Vicodin (30 tablets), and Diazepam (90 tablets) on or about May 30, 2020. Respondent failed to document any of these medications in Patient 1's medical records.

50. On or about July 1, 2020, Respondent saw Patient 1. Under "Chief Complaint," Respondent noted that the patient's last injection "really helped." Respondent circled the pre-printed "RF" on the form but did not fill in any information on the pre-printed line next to "RF." Respondent noted bilateral hip pain and lower back pain. Respondent's physical examination of Patient 1 consisted of checkmarks on the pre-printed form. Respondent's diagnosis was possible

bilateral degenerative joint disease of the hips, intractable chronic lower back pain, lower spine degenerative disc disease. In the prescription section of the note, Respondent documented, " visit for "R.F. Rx's 08-01-20" and X-ray bilateral hips. Respondent noted that the patient was to return as scheduled and "R.F. Rx's."

51. Patient 1's pharmacy records for July 1, 2020, reflect that Patient 1 filled the following prescriptions prescribed by Respondent: Vicodin (120 tablets) and Diazepam (120 tablets). These medications are not documented by Respondent in Patient 1's medical records.

52. Patient 1's pharmacy records reflect that Patient 1 filled prescriptions, prescribed by Respondent, for Mirtazapine (30 tablets) and a urinary retention medication on or about July 26, 2020; Vicodin (120 tablets) and Diazepam (120 tablets) on or about August 1, 2020; two blood pressure medications and a cholesterol medication on or about August 25, 2020; and, Mirtazapine (30 tablets) and a urinary retention medication on or about August 26, 2020. Respondent failed to document any of these prescriptions in Patient 1's medical records.

53. On or about September 2, 2020, Patient 1 was seen by Respondent. No chief complaint was noted. Respondent circled the pre-printed "RF" and wrote "Pain Rx and Anxiety Rx." The only pre-printed examination with check marks noted is the spine. Respondent's diagnosis was lumbar pain, radiculopathy and chronic intractable pain. Respondent ordered back exercises and an orthopedic referral. Respondent also had a cryptic note reflecting urinalysis for prescription screening at laboratory. Respondent noted visit for prescriptions on October 2, 2020. Respondent noted that the patient was to return as scheduled and "R.F. Rx's."

54. Patient 1's pharmacy records for September 2, 2020, reflect that Patient 1 filled the following prescriptions prescribed by Respondent: Vicodin (120 tablets) and Diazepam (120 tablets). These medications are not documented by Respondent in Patient 1's medical records.

55. Patient 1's pharmacy records for September 27, 2020, reflect that Patient 1 filled a prescription for Mirtazapine (30 tablets) prescribed by Respondent. This prescription is not documented in Patient 1's medical records.

56. Patient 1's pharmacy records for October 3, 2020, reflect that Patient 1 filled the following prescriptions prescribed by Respondent: Vicodin (120 tablets) and Diazepam (120

tablets). These prescriptions are not documented in Patient 1's medical records.

57. On or about October 30, 2020, Respondent saw Patient 1, but failed to document any chief complaint. Respondent circled the pre-printed "RF" and wrote Diazepam and Hydrocodone/APAP next to it. The only pre-printed examination with check marks is Musculoskeletal. Under "Comments/Counseling," Respondent noted, without explanation, that methadone was discontinued. Respondent's diagnosis was lumbar radiculopathy, degenerative disc disease, and chronic intractable pain. Respondent noted visit for prescriptions on November 30, 2020. Respondent noted that the patient was to return as scheduled and "R.F. Rx's."

58. Patient 1's pharmacy records for November 2, 2020, reflect that Patient 1 filled the following prescriptions prescribed by Respondent: Vicodin (120 tablets) and Diazepam (120 tablets). These prescriptions are not documented in Patient 1's medical records.

59. On or about December 29, 2020, Respondent saw Patient 1 with a chief complaint of left hand pain. Respondent circled the pre-printed "RF" on the form, but did not fill in any information on the pre-printed line next to "RF." Respondent's examination of Patient 1 was limited to the left extremity. Patient 1 was referred to an orthopedic surgeon. Respondent noted that the patient was to return as scheduled and "R.F. Rx's."

60. Patient 1's pharmacy records reflect that Patient 1 filled the following prescriptions prescribed by Respondent on or about December 29, 2020: Vicodin (120 tablets) and Diazepam (120 tablets). None of these medications are documented by Respondent in Patient 1's medical records.

61. On or about January 27, 2021, Respondent saw Patient 1 with a chief complaint of sweating at night, minimal nausea, and minimal abdominal pain. Respondent circled the pre-printed "RF" on the form, but did not fill in any information on the pre-printed line next to "RF." Respondent checked off portions of the physical examination section of the form, but did not document any neurological, musculoskeletal, spinal or joint examinations. He further did not document any psychiatric evaluation. Respondent's diagnosis was night sweats, nausea and vomiting, lumbar radiculopathy, chronic intractable pain, and recent aortic arch repair. Respondent noted that he prescribed Zofran and ordered laboratory testing, including thyroid and

urinalysis for prescription screen. Respondent noted that the patient was to return as scheduled.

62. Patient 1's pharmacy records for January 27, 2021, reflect that Patient 1 filled the following prescriptions prescribed by Respondent: Vicodin (120 tablets), Diazepam (120 tablets); Mirtazapine (90 tablets); as well as, two blood pressure medications, a urinary retention medication, and a cholesterol medication. None of these medications are documented by Respondent in Patient 1's medical records.

63. Respondent next noted that he received a phone call that Patient 1 had been in a motor vehicle accident on February 9, 2021. Respondent advised Patient 1 to go straight to the emergency department and noted that he would fax medical records to the hospital if they are needed.

64. On or about February 10, 2021, Patient 1 passed away. His immediate cause of death was noted to be failure of an aortic repair for one day. An aortic aneurysm and aortic valve stenosis for years were noted to be conditions leading to the cause of death. Other significant conditions contributing to the death included an automobile accident, sleep apnea and possible endocarditis. Respondent signed the death certificate on or about March 8, 2021.

Prescribing Benzodiazepines with Opioids.

65. The standard of care requires that physicians not prescribe a combination of benzodiazepines and opioids to non-hospice patients.[3] When prescribing controlled substances, the standard of care requires that the prescribing physician perform and document a medical history and physical exam, including an assessment of the patient's pain, as well as physical and psychological status and function, quality of life related to pain, assessment of activities of daily living (ADLs), substance abuse history, history of prior pain treatments, and assessment of any other underlying or co-existing conditions. The physician must document the medical indications for use of controlled substances such as opiates for pain control. In addition, the physician must discuss the risks, benefits, and alternatives of opioid pain management and document the patient's informed consent. The physician must establish and document a comprehensive plan including

[3] On August 31, 2016, the United States Food and Drug Administration (FDA) issued a Black Box warning highlighting the dangers of prescribing benzodiazepines and opioids together. Both types of drugs cause sedation, suppression of breathing and fatal overdose.

further diagnostic evaluations, treatments, and consultation such as Pain Management, Psychiatry, Addiction Medicine, Physical Therapy, or other appropriate consultation while prescribing controlled substances. The standard of care also requires periodic urine toxicology testing to confirm patient is not concurrently taking illicit drugs. In addition, the physician must perform and document ongoing periodic reviews of the patient's pain management, quality of life, and function as a basis for making appropriate modifications in treatment based on the patient's progress or lack of progress. The physician must maintain accurate and complete medical records reflecting the patient's care and treatment.

66. Respondent prescribed chronic large quantities of opioids (methadone and Vicodin) in combination with large quantities of diazepam. Respondent documented little to no history of present illness to explain why he was prescribing these medication combinations. Respondent's documentation of physical examinations consisted of checkmarks on the pre-printed forms. Respondent failed to document a review of systems. Respondent failed to set forth any medical decision making to support the prescribing of controlled substances. Further, Respondent failed to include any CURES reports, urine drug screens, and controlled substance agreements (other than the 2009 controlled substance agreement). Patient 1 was non-compliant in following through with Respondent's recommended laboratory testing, diagnostic testing, and specialty consultations, yet Respondent continued to prescribe controlled substances. This is an extreme departure from the standard of care.

Failure to Obtain Psychiatry Consultation Prior to Prescribing Chronic Large Quantity of Benzodiazepines

67. When prescribing chronic benzodiazepine therapy, the standard of care requires that the prescribing physician obtain a psychiatric consultation, prescribe only small quantities of benzodiazepines on an as needed basis, and not prescribe benzodiazepines in combination with chronic opioid therapy.

68. Respondent prescribed chronic benzodiazepine therapy to Patient 1 without an appropriate medical diagnosis and without medical decision making to corroborate this potentially dangerous medication regimen, given in combination with chronic opioid therapy, and

no psychiatry consultation to corroborate any diagnosis or psychiatric medication regimen. This is an extreme departure from the standard of care.

Patient 2:

69. Patient 2, a 44-year-old female, was treated by Respondent from approximately July 26, 2017, through June 28, 2019. Each of the progress notes for Patient 2's visits were handwritten on pre-printed History and Physical Forms. None of the forms were completely filled out and the handwritten notes on the forms are cryptic and somewhat illegible.

70. Patient 2's pharmacy records reflect that Respondent prescribed 120 tablets of Norco to Patient 2 on a monthly basis from on or about January 26, 2018, through June 28, 2019. None of Respondent's progress notes for Patient 2 from on or about January 26, 2018, through June 28, 2019 document these prescriptions.

71. On or about January 26, 2018, Patient 2 was seen by Respondent. The "Chief Complaint" section was left blank. Under the "Drug Abuse" section, Respondent documents "(?) denies." Respondent circled the pre-printed "RF" on the form but did not fill in any information on the pre-printed line next to "RF." Respondent briefly noted that the patient had lower back pain, that her shoulders were "a bit better," and that she fell down. Respondent diagnosed Patient 2 with chronic pain syndrome, lumbar strain/radiculopathy and shoulder strain. Respondent noted that the patient was to return as scheduled and "R.F. Rx's."

72. On or about February 26, 2018, Respondent saw Patient 2. The "Chief Complaint" section of the chart note for that date was left blank. Respondent circled the pre-printed "RF" on the form, but did not fill in any information on the pre-printed line next to "RF." Respondent briefly noted that the patient had lower back pain. Respondent diagnosed Patient 2 with chronic pain syndrome, lumbar strain/radiculopathy and shoulder strain. Respondent noted that the patient was to return as scheduled and "R.F. Rx's."

73. On or about March 29, 2018, Patient 2 was seen by Respondent. The "Chief Complaint" section was left blank. Respondent circled the pre-printed "RF" on the form but did not fill in any information on the pre-printed line next to "RF." Respondent noted that the patient had lower back pain and mild shoulder pain. Respondent diagnosed Patient 2 with intractable

chronic pain syndrome, lumbar radiculopathy, possible degenerative disc disease, and shoulder strain. He noted that he prescribed physical therapy. Respondent noted that the patient was to return as scheduled and "R.F. Rx's."

74. On or about April 26, 2018, Patient 2 was seen by Respondent. The "Chief Complaint" section was left blank. Respondent circled the pre-printed "RF" on the form but did not fill in any information on the pre-printed line next to "RF." Respondent noted that the patient had lower back pain. Respondent diagnosed Patient 2 with shoulder strain, lumbar strain/radiculopathy, and chronic pain syndrome. Respondent prescribed physical therapy and noted that the patient was to return as scheduled and "R.F. Rx's."

75. On or about May 25, 2018, Patient 2 was seen by Respondent. The "Chief Complaint" section was left blank. Respondent circled the pre-printed "RF" on the form but did not fill in any information on the pre-printed line next to "RF." Respondent noted that the patient had lower and mid-back pain. Respondent diagnosed Patient 2 with chronic pain syndrome, lumbar strain/radiculopathy, and shoulder strain. Respondent noted that the patient was to return as scheduled and "R.F. Rx's."

76. Respondent documented monthly progress notes on the pre-printed History and Physical form for Patient 2. On June 26, 2018, Respondent recommended physical therapy. On August 24, 2018, Respondent recommended pain management and orthopedic consultations. On December 26, 2018, Respondent noted that the "Patient has not done labs as required." Respondent recommended a pain management consultation to wean the patient off of pain medications. He also ordered laboratory testing, including urine drug screen.

77. On or about January 19, 2019, Respondent noted that Patient 2 had chronic intractable pain of the lumber spine, degenerative disc disease and fibromyalgia. He further noted "NEED LABS! NEED U/A Rx screen, CURES report." With respect to Respondent's previous pain management and orthopedic referrals, he noted in quotes that the patient has "not seen yet." Respondent noted that the patient was to return as scheduled and "R.F. Rx's."

78. On or about March 28, 2019, Respondent again noted that Patient 2 had chronic intractable pain of the lumber spine, degenerative disc disease and fibromyalgia. Respondent

further noted that labs had not been done and the patient had not seen the referrals. Respondent recommended diet and exercise, and he prescribed phentermine (30 tablets). Respondent noted that the patient was to return as scheduled and "R.F. Rx's."

79. On or about April 29, 2019, Respondent again noted that Patient 2 had fibromyalgia, lumbar strain, degenerative disc disease, and chronic intractable pain of the lumber spine. Respondent again noted that labs had not been done and Patient 2 had not seen the referrals. Respondent noted "[Patient] advised to have appropriate labs and referrals." Respondent noted that the patient was to return as scheduled and "R.F. Rx's."

80. On or about May 29, 2019, Respondent again noted that Patient 2 had lumbar strain, degenerative disc disease, fibromyalgia, and chronic intractable pain. He further noted "*Patient advised she must have Labs/Referrals Done!" Respondent noted that the patient was to return as scheduled and "R.F. Rx's."

81. On or about June 28, 2019, Respondent again noted that Patient 2 had chronic intractable pain, fibromyalgia and was not compliant with labs and referrals. Respondent documented that Patient 2 had not seen the doctors that he had referred her to and therefore he must discharge Patient 2 from his practice with prescriptions to last until she could find another physician. Respondent further noted that no laboratory tests or x-rays were done despite numerous requests.

Failure to Obtain and Document CURES Report Reviews and Urine Drug Screens for Patient on Chronic Opioid Therapy.

82. Respondent failed to obtain and document CURES Report reviews before and during his prescribing of opioids to Patient 2. Respondent failed to obtain any urine drug screens while prescribing opioids to Patient 2. This is an extreme departure from the standard of care.

Continued Prescribing of Chronic Opioid Therapy to a Noncompliant Patient Who Refuses to Undergo Urine Drug Screens, Appropriate Radiology Testing, and Appropriate Specialty Consultation.

83. When prescribing controlled substances, the standard of care requires that the prescribing physician assess the patient's compliance with undergoing routine urine drug screens,

recommended diagnostic testing and recommended specialty consultation. When a patient is noncompliant, the prescribing physician must refuse to prescribe controlled substances or discharge the patient from his or her practice with a 30-day notice to follow up with another physician.

84. Respondent continued to prescribe chronic opioid medications to Patient 2 despite being aware of her noncompliance in refusing to undergo urine drug screens, appropriate radiology testing, and appropriate specialty consultation during the time period beginning in or around 2018, through June 28, 2019. This is an extreme departure from the standard of care.

SECOND CAUSE FOR DISCIPLINE

(Repeated Negligent Acts)

85. Respondent is subject to disciplinary action under Code section 2234, subdivision (c), in that he engaged in repeated acts of negligence in the care and treatment of Patients 1 and 2. The circumstances are as follows:

86. The allegations of the First Cause for Discipline are incorporated herein by reference as if fully set forth.

87. Each of the alleged acts of gross negligence set forth above in the First Cause for Discipline is also a negligent act.

THIRD CAUSE FOR DISCIPLINE

(Unprofessional Conduct - Furnishing Dangerous Drugs Without Examination)

88. Respondent is subject to disciplinary action under Code section 2242, subdivision (a), in that he committed unprofessional conduct when he prescribed dangerous drugs to Patients 1 and 2 without an appropriate prior examination and/or medical indication. The circumstances are as follows:

89. The allegations of the First and Second Causes for Discipline, inclusive, are incorporated herein by reference as if fully set forth. During the time Respondent treated Patients 1 and 2, he failed to perform an appropriate corresponding prior examination and determine a medical indication for each dangerous drug that he prescribed to each patient.

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FOURTH CAUSE FOR DISCIPLINE

(Excessive Prescribing)

90. Respondent is subject to disciplinary action under Code section 725, in that he excessively prescribed dangerous drugs to Patients 1 and 2. The circumstances are as follows:

91. The allegations of the First, Second, and Third Causes for Discipline, inclusive, are incorporated herein by reference as if fully set forth. During the time Respondent treated Patients 1 and 2, he excessively prescribed dangerous drugs to each patient.

FIFTH CAUSE FOR DISCIPLINE

(Failure to Maintain Adequate and Accurate Medical Records)

92. Respondent is subject to disciplinary action under Code sections 2227 and 2266, in that he failed to maintain adequate and accurate records. The circumstances are as follows:

93. The allegations in the First Cause for Discipline, above, are incorporated herein by reference as if fully set forth.

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 44013, issued to Respondent Robert Allan Bexton, M.D.;

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

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

4. Ordering Respondent Robert Allan Bexton, M.D., if placed on probation, to provide patient notification in accordance with Business and Professions Code section 2228.1; and

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

DATED: 2/26/2024

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

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