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

In the Matter of the Accusation Against: David Behr Bockoff, M.D. Physician's and Surgeon's Certificate No. C 31290 Respondent.	Case No.: 800-2020-072432

DECISION

The attached Stipulated Settlement and Disciplinary Order is hereby adopted as the Decision and Order of the Medical Board of California, Department of Consumer Affairs, State of California.

This Decision shall become effective at 5:00 p.m. on JUL 3 1 2024.

IT IS SO ORDERED: JUL 0 1 2024.

MEDICAL BOARD OF CALIFORNIA

Michelle Bholat, M.D., Interim Chair
Panel A

ROB BONTA
Attorney General of California
JUDITH T. ALVARADO
Supervising Deputy Attorney General
REBECCA L. SMITH
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State Bar No. 179733
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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: DAVID BEHR BOCKOFF, M.D. 8500 Wilshire Boulevard, Suite 926 Beverly Hills, CA 90211-3107 Physician's and Surgeon's Certificate No. C 31290, Respondent.	Case No. 800-2020-072432 OAH No. 2023110402 **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 Rebecca L. Smith, Deputy Attorney General.

2. Respondent David Behr Bockoff, M.D. is represented in this proceeding by attorney Derek F. O'Reilly-Jones, whose address is 355 South Grand Avenue, Suite 1750, Los Angeles, California 90071-1562.

3. On or about July 15, 1969, the Board issued Physician's and Surgeon's Certificate No. C 31290 to Respondent. That license was in full force and effect at all times relevant to the charges brought in Accusation No. 800-2020-072432, and will expire on July 31, 2024, unless renewed.

JURISDICTION

4. Accusation No. 800-2020-072432 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 September 28, 2023. Respondent timely filed his Notice of Defense contesting the Accusation.

5. A copy of Accusation No. 800-2020-072432 is attached as Exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

6. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 800-2020-072432. 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.

CULPABILITY

9. Respondent understands and agrees that the charges and allegations in Accusation No. 800-2020-072432, if proven at a hearing, constitute cause for imposing discipline upon his Physician's and Surgeon's Certificate.

10. Respondent agrees that, at a hearing, Complainant could establish a prima facie case for the charges in the Accusation, and that Respondent hereby gives up his right to contest those charges.

11. Respondent does not contest that, at an administrative hearing, Complainant could establish a prima facie case with respect to the charges and allegations in Accusation No. 800-2020-072432, a true and correct copy of which is attached hereto as Exhibit A, and that he has thereby subjected his Physician's and Surgeon's Certificate, No. C 31290 to disciplinary action.

12. ACKNOWLEDGMENT. Respondent acknowledges the Disciplinary Order below, requiring the disclosure of probation pursuant to Business and Professions Code section 2228.1, serves to protect the public interest.

13. 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

14. 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.

15. 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. 800-2020-072432 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.

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

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

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. C 31290 issued to Respondent David Behr Bockoff, M.D. is revoked. However, the revocation is stayed and Respondent is placed on probation for seven (7) years on the following terms and conditions:

1. CONTROLLED SUBSTANCES - TOTAL RESTRICTION. Respondent shall not order, prescribe, dispense, administer, furnish, or possess any controlled substances as defined in the California Uniform Controlled Substances Act.

Respondent shall not issue an oral or written recommendation or approval to a patient or a patient's primary caregiver for the possession or cultivation of marijuana for the personal medical purposes of the patient within the meaning of Health and Safety Code section 11362.5.

If Respondent forms the medical opinion, after an appropriate prior examination and a medical indication, that a patient's medical condition may benefit from the use of marijuana, Respondent shall so inform the patient and shall refer the patient to another physician who, following an appropriate prior examination and a medical indication, may independently issue a medically appropriate recommendation or approval for the possession or cultivation of marijuana for the personal medical purposes of the patient within the meaning of Health and Safety Code section 11362.5. In addition, Respondent shall inform the patient or the patient's primary caregiver that Respondent is prohibited from issuing a recommendation or approval for the possession or cultivation of marijuana for the personal medical purposes of the patient and that the patient or the patient's primary caregiver may not rely on Respondent's statements to legally possess or cultivate marijuana for the personal medical purposes of the patient. Respondent shall

fully document in the patient's chart that the patient or the patient's primary caregiver was so informed. Nothing in this condition prohibits Respondent from providing the patient or the patient's primary caregiver information about the possible medical benefits resulting from the use of marijuana.

2. CONTROLLED SUBSTANCES - SURRENDER OF DEA PERMIT. Respondent is prohibited from practicing medicine until Respondent provides documentary proof to the Board or its designee that Respondent's DEA permit has been surrendered to the Drug Enforcement Administration for cancellation, together with any state prescription forms and all controlled substances order forms. Thereafter, Respondent shall not reapply for a new DEA permit without the prior written consent of the Board or its designee.

3. EDUCATION COURSE. Within sixty (60) calendar days of the effective date of this Decision, and on an annual basis thereafter, Respondent shall submit to the Board or its designee for its prior approval educational program(s) or course(s) which shall not be less than forty (40) hours per year, for each year of probation. The educational program(s) or course(s) shall be aimed at correcting any areas of deficient practice or knowledge and shall be Category I certified. The educational program(s) or course(s) shall be at Respondent's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure. Following the completion of each course, the Board or its designee may administer an examination to test Respondent's knowledge of the course. Respondent shall provide proof of attendance for sixty-five (65) hours of CME of which forty (40) hours were in satisfaction of this condition.

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

Continuing Medical Education (CME) requirements for renewal of licensure.

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

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

5. MEDICAL RECORD KEEPING COURSE. Within sixty (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 fifteen (15) calendar days after successfully completing the course, or not later than fifteen (15) calendar days after the effective date of the Decision, whichever is later.

6. PROFESSIONALISM PROGRAM (ETHICS COURSE). Within sixty (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 fifteen (15) calendar days after successfully completing the program or not later than fifteen (15) calendar days after the effective date of the Decision, whichever is later.

7. CLINICAL COMPETENCE ASSESSMENT PROGRAM. Within sixty (60) calendar days of the effective date of this Decision, Respondent shall enroll in a clinical competence assessment program approved in advance by the Board or its designee. Respondent shall successfully complete the program not later than six (6) months after Respondent's initial enrollment unless the Board or its designee agrees in writing to an extension of that time.

The program shall consist of a comprehensive assessment of Respondent's physical and mental health and the six general domains of clinical competence as defined by the Accreditation Council on Graduate Medical Education and American Board of Medical Specialties pertaining to Respondent's current or intended area of practice. The program shall take into account data obtained from the pre-assessment, self-report forms and interview, and the Decision(s), Accusation(s), and any other information that the Board or its designee deems relevant. The program shall require Respondent's on-site participation as determined by the program for the

assessment and clinical education and evaluation. Respondent shall pay all expenses associated with the clinical competence assessment program.

At the end of the evaluation, the program will submit a report to the Board or its designee which unequivocally states whether Respondent has demonstrated the ability to practice safely and independently. Based on Respondent's performance on the clinical competence assessment, the program will advise the Board or its designee of its recommendation(s) for the scope and length of any additional educational or clinical training, evaluation or treatment for any medical condition or psychological condition, or anything else affecting Respondent's practice of medicine. Respondent shall comply with the program's recommendations.

Determination as to whether Respondent successfully completed the clinical competence assessment program is solely within the program's jurisdiction.

If Respondent fails to enroll, participate in, or successfully complete the clinical competence assessment program within the designated time period, 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 not resume the practice of medicine until enrollment or participation in the outstanding portions of the clinical competence assessment program have been completed. If Respondent did not successfully complete the clinical competence assessment program, Respondent shall not resume the practice of medicine until a final decision has been rendered on the accusation and/or a petition to revoke probation. The cessation of practice shall not apply to the reduction of the probationary time period.

8. MONITORING - PRACTICE. Within thirty (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) and Accusation(s), and a proposed monitoring plan. Within fifteen (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 sixty (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 sixty (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 ten (10) calendar days after the end of the preceding quarter.

If the monitor resigns or is no longer available, Respondent shall, within five (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 fifteen (15) calendar days. If Respondent fails to obtain approval of a replacement monitor

within sixty (60) calendar days of the resignation or unavailability of the monitor, Respondent shall receive a notification from the Board or its designee to cease the practice of medicine within three (3) calendar days after being so notified. Respondent shall cease the practice of medicine until a replacement monitor is approved and assumes monitoring responsibility.

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

9. SOLO PRACTICE PROHIBITION. Respondent is prohibited from engaging in the solo practice of medicine. Prohibited solo practice includes, but is not limited to, a practice where: 1) Respondent merely shares office space with another physician but is not affiliated for purposes of providing patient care, or 2) Respondent is the sole physician practitioner at that location.

If Respondent fails to establish a practice with another physician or secure employment in an appropriate practice setting within sixty (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 not resume practice until an appropriate practice setting is established.

If, during the course of the probation, Respondent's practice setting changes and Respondent is no longer practicing in a setting in compliance with this Decision, Respondent shall notify the Board or its designee within five (5) calendar days of the practice setting change. If Respondent fails to establish a practice with another physician or secure employment in an appropriate practice setting within sixty (60) calendar days of the practice setting change, 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 not resume practice until an appropriate practice setting is established.

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10. PATIENT DISCLOSURE. Before a patient's first visit following the effective date of this order and while Respondent is on probation, Respondent must provide all patients, or patient's guardian or health care surrogate, with a separate disclosure that includes Respondent's probation status, the length of the probation, the probation end date, all practice restrictions placed on Respondent by the board, the board's telephone number, and an explanation of how the patient can find further information on Respondent's probation on Respondent's profile page on the board's website. Respondent shall obtain from the patient, or the patient's guardian or health care surrogate, a separate, signed copy of that disclosure. Respondent shall not be required to provide a disclosure 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 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) Respondent is not known to the patient until immediately prior to the start of the visit; (4) Respondent does not have a direct treatment relationship with the patient.

11. NOTIFICATION. Within seven (7) days of the effective date of this Decision, 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 fifteen (15) calendar days.

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

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

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13. 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.

14. INVESTIGATION/ENFORCEMENT COST RECOVERY. Respondent is hereby ordered to reimburse the Board its costs of investigation and enforcement, in the amount of $34,091.00 (thirty-four thousand ninety-one dollars and no cents). Costs shall be payable to the Medical Board of California. Failure to pay such costs shall be considered a violation of probation.

Payment must be made in full within thirty (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.

15. 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 ten (10) calendar days after the end of the preceding quarter.

16. GENERAL PROBATION REQUIREMENTS.

Compliance with Probation Unit

Respondent shall comply with the Board's probation unit.

Address Changes

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

Place of Practice

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

License Renewal

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

Travel or Residence Outside California

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

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

17. 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.

18. NON-PRACTICE WHILE ON PROBATION. Respondent shall notify the Board or its designee in writing within fifteen (15) calendar days of any periods of non-practice lasting more than 30 calendar days and within fifteen (15) calendar days of Respondent's return to practice. Non-practice is defined as any period of time Respondent is not practicing medicine as defined in Business and Professions Code sections 2051 and 2052 for at least forty (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.

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

20. 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.

21. 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 fifteen (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.

22. 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.

23. 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. 800-2020-072432 shall be deemed to be true, correct, and admitted by Respondent for the purpose of any Statement of Issues or any other proceeding seeking to deny or restrict license.

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ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Derek F. O'Reilly-Jones. 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: 5-16-2024

DAVID BEHR BOCKOFF, M.D.
Respondent

I have read and fully discussed with Respondent David Behr Bockoff, 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: 05/17/2024

Derek O'Reilly-Jones
DEREK F. O'REILLY-JONES
Attorney for Respondent

ENDORSEMENT

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

DATED: 05/20/2024

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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Attorneys for Complainant

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

In the Matter of the Accusation Against: **DAVID BEHR BOCKOFF, M.D.** **8500 Wilshire Boulevard, Suite 926** **Beverly Hills, CA 90211-3107** **Physician's and Surgeon's Certificate No. C 31290,** Respondent.	Case No. 800-2020-072432 **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 July 15, 1969, the Medical Board issued Physician's and Surgeon's Certificate Number C 31290 to David Behr Bockoff, M.D. (Respondent). The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought herein and will expire on July 31, 2024, unless renewed.

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JURISDICTION

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

4. Section 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:
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> (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.
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> (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 141 of the Code states:

(a) For any licensee holding a license issued by a board under the jurisdiction of the department, a disciplinary action taken by another state, by any agency of the federal government, or by another country for any act substantially related to the practice regulated by the California license, may be a ground for disciplinary action by the respective state licensing board. A certified copy of the record of the disciplinary action taken against the licensee by another state, an agency of the federal government, or another country shall be conclusive evidence of the events related therein.

(b) Nothing in this section shall preclude a board from applying a specific statutory provision in the licensing act administered by that board that provides for discipline based upon a disciplinary action taken against the licensee by another state, an agency of the federal government, or another country.

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8. Section 2305 of the Code states:

The revocation, suspension, or other discipline, restriction or limitation imposed by another state upon a license or certificate to practice medicine issued by that state, or the revocation, suspension, or restriction of the authority to practice medicine by any agency of the federal government, that would have been grounds for discipline in California of a licensee under this chapter [Chapter 5, the Medical Practice Act] shall constitute grounds for disciplinary action for unprofessional conduct against the licensee in this state.

9. Section 2238 of the Code states:

A violation of any federal statute or federal regulation or any of the statutes or regulations of this state regulating dangerous drugs or controlled substances constitutes unprofessional conduct.

10. 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.

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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.

12. Section 2241 of the Code states:

(a) A physician and surgeon may prescribe, dispense, or administer prescription drugs, including prescription controlled substances, to an addict under his or her treatment for a purpose other than maintenance on, or detoxification from, prescription drugs or controlled substances.

(b) A physician and surgeon may prescribe, dispense, or administer prescription drugs or prescription controlled substances to an addict for purposes of maintenance on, or detoxification from, prescription drugs or controlled substances only as set forth in subdivision (c) or in Sections 11215, 11217, 11217.5, 11218, 11219, and 11220 of the Health and Safety Code. Nothing in this subdivision shall authorize a physician and surgeon to prescribe, dispense, or administer dangerous drugs or controlled substances to a person he or she knows or reasonably believes is using or will use the drugs or substances for a nonmedical purpose.

(c) Notwithstanding subdivision (a), prescription drugs or controlled substances may also be administered or applied by a physician and surgeon, or by a registered nurse acting under his or her instruction and supervision, under the following circumstances:

(1) Emergency treatment of a patient whose addiction is complicated by the presence of incurable disease, acute accident, illness, or injury, or the infirmities attendant upon age.

(2) Treatment of addicts in state-licensed institutions where the patient is kept under restraint and control, or in city or county jails or state prisons.

(3) Treatment of addicts as provided for by Section 11217.5 of the Health and Safety Code.

(d)(1) For purposes of this section and Section 2241.5, addict means a person whose actions are characterized by craving in combination with one or more of the following:

(A) Impaired control over drug use.

(B) Compulsive use.

(C) Continued use despite harm.

(2) Notwithstanding paragraph (1), a person whose drug-seeking behavior is primarily due to the inadequate control of pain is not an addict within the meaning of this section or Section 2241.5.

13. 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.

14. 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.

15. 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.

CONTROLLED SUBSTANCES/DANGEROUS DRUGS

16. 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.

17. 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.

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COST RECOVERY

18. Business and Professions Code section 125.3 states that:

(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 licentiate 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.

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(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

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

"Alprazolam," also known by the brand name Xanax, is a benzodiazepine drug used to treat anxiety disorders, panic disorders, and anxiety caused by depression. Alprazolam has a central nervous system depressant effect and patients should be cautioned about the simultaneous ingestions of alcohol and other central nervous system depressant drugs during treatment with it. Addiction prone individuals should be under careful surveillance when receiving alprazolam because of the predisposition of such patients to habituation and dependence. The usual starting dose of alprazolam is 0.25 mg to 0.5 mg, three times per day (for a maximum 1.5 mg per day). It is also sold under various brand names including, Intensol, Xanax, and Xanax XR. It is a Schedule IV controlled substance pursuant to Health and Safety Code section 11057(d)(1), and a dangerous drug as defined in Code section 4022. It is also a Schedule IV controlled substance as defined by the Code of Federal Regulations Title 21, section 1308.14 (c).

"Amphetamine salts," also known by the brand name Adderall, is a stimulant used to treat Attention-deficit hyperactivity disorder (ADHD). It is a Schedule II controlled substance pursuant to Health and Safety Code section 11055, subdivision (d)(1), and a dangerous drug pursuant to Code section 4022.

"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 benzodiazepine 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.

"Carisoprodol" is a muscle-relaxant and sedative. It is sold under the brand name "Soma." It is a Schedule IV controlled substance pursuant to the federal Controlled Substances Act, and a dangerous drug pursuant to Code section 4022.

"CURES" means the California Department of Justice, Bureau of Narcotics 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.

"Fentanyl" is a synthetic opioid that was developed for pain management treatment of cancer patients. It is 80-100 times stronger than morphine and has driven a steep rise in opioid overdoses since 2013. It is a Schedule II controlled substance pursuant to Health and Safety Code section 11055, subdivision (c)(8), and is a dangerous drug pursuant to Code section 4022.

"Fentanyl citrate," also known by the brand name ACTIQ, is a synthetic opioid. It is an oral transmucosal lozenge and its primary purpose is for breakthrough cancer pain. It is a Schedule II controlled substance pursuant to Health and Safety Code section 11055, subdivision (c)(8), and is a dangerous drug pursuant to Code section 4022.

"Ketamine" is a medication primarily used for induction and maintenance of anesthesia. It induces dissociative anesthesia, a trance-like state providing pain relief, sedation, and amnesia. It is abused for its hallucinogenic properties and produces effects that are similar to PCP (phencyclidine). It is a Schedule III controlled substance pursuant to Health and Safety Code section 11056, subdivision (g), and a dangerous drug pursuant to Code section 4022.

"Meperidine hydrochloride," also known by the brand name Demerol, is a narcotic analgesic. Its principal therapeutic use is relief of moderate to severe pain. It can produce drug dependence, physical dependence, and therefore has the potential for being abused. Psychic dependence, physical dependence, and tolerance may develop upon repeated administration and it should be prescribed with the same degree of caution appropriate to the use of morphine. It is a Schedule II controlled substance pursuant to Health and Safety Code section 11055, subdivision (c)(17), 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 sold in its various forms under the brand names Dolophine and Methadose among others. 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.

"Morphine milligram equivalency" (MME), developed by the Centers for Disease Control and Prevention (CDC), uses morphine as the standard for physicians to determine how different opioids relate to each other. MME is intended to help clinicians make safe, appropriate decisions concerning opioid regimens. It is used as a gauge of the overdose potential of the amount of opioid prescribed. Higher dosages of opioids are associated with higher risk of overdose and death. Calculating the total daily dosage of opioids assists in minimizing the potential for prescription drug abuse/misuse and reducing the number of unintentional overdose deaths associated with pain medications. The CDC has notified practitioners in 2016 that patients are exposed to increased risk of overdose when receiving opioids in amounts greater than the equivalent of 50 MME per day, and has cautioned that providing a patient with over 90 MME per day should be avoided absent a "careful justification based on diagnosis and on [an] individualized assessment of benefits and risks." CDC, *"Guidelines for the Prescription of Opioids for Chronic Pain,"* dated March 18, 2016 (CDC Guidelines), pp. 22-23.

"Morphine sulfate," also known by the brand name MS Contin, is an opioid pain reliever. It has high potential for abuse. It is a Schedule II controlled substance pursuant to Health and Safety Code section 11055, subdivision (b)(1)(L), and 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.

"Oxycodone" is an opioid analgesic medication that has a high potential for abuse. Oxycodone is commonly prescribed for moderate to severe chronic pain. It is sold in its various forms under several brand names, including OxyContin (a time-release formula) and Roxicodone. Oxycodone is also available in combination with other drugs and sold under brand names including, acetaminophen (Endocet, Percocet, Roxicet, and Tylox among others); aspirin (Endodan, Percodan and Roxiprin among others); and ibuprofen (Combunox). It is a Schedule II controlled substance pursuant to Health and Safety Code section 11055, subdivision (b)(1)(M), and a dangerous drug as defined in Code section 4022.

"Oxymorphone" is an opiate analgesic used to relieve moderate to severe pain. It is a dangerous drug as defined in Code section 4022, and a Schedule II controlled substance and narcotic as defined by Health and Safety Code section 11055 (b)(1)(N).

FIRST CAUSE FOR DISCIPLINE

(Action by Federal Agency)

20. Respondent is subject to disciplinary action under sections 141 and 2305 of the Code in that the United States Drug Enforcement Administration (DEA) suspended Respondent's Certificate of Registration. Suspension of Respondent's DEA Certificate of Registration is grounds for discipline in California as a violation of federal or state laws that regulate dangerous drugs or controlled substances, pursuant to Code section 2238. The circumstances are as follows:

21. On or about October 25, 2022, the Administrator of the Drug Enforcement Administration, U.S. Department of Justice, issued an Order to Show Cause and Immediate Suspension Order (ISO) of Respondent's Drug Enforcement Administration Certificate of Registration No. BB4591839 pursuant to 21 U.S.C. Section 824, subdivision (d), because the continued registration constitutes "an imminent danger to the public health or safety." The ISO sets forth that between January 2020 and June 2022, Respondent improperly prescribed high dosages of opioids and other controlled substances without legitimate medical purpose, to five of

his patients without, among other things, conducting appropriate medical evaluations and establishing medical necessity. To date, the suspension of Respondent's DEA Certificate of Registration remains in effect.

SECOND CAUSE FOR DISCIPLINE

(Gross Negligence)

22. Respondent is subject to disciplinary action under Code section 2234, subdivision (b), in that he engaged in gross negligence in the prescribing of controlled substances to Patients 1, 2, 3, 4, 5, and 6.[1] The circumstances are as follows:

Patient 1:

23. Patient 1, a 42-year-old male, was treated by Respondent from approximately September 2012, through August 2021.[2] The medical records maintained by Respondent for Patient 1 are illegible, incomplete, and provided minimal information. Patient 1 initially presented with complaints of low back pain radiating to both legs with minimal improvement following physical therapy. Patient 1 also had complaints of neck pain radiating to both arms, following a motor vehicle accident in March 2018. During Respondent's care and treatment of Patient 1, Respondent issued prescriptions for controlled substances on approximately a monthly basis. The prescriptions included morphine sulfate 100 mg, oxycodone 30 mg, and methadone 10 mg.

Obtaining History of Alcohol Use Prior To and While Prescribing Controlled Substances

24. When prescribing opioids and/or benzodiazepines, the standard of care requires obtaining and documenting a history of alcohol use. Prescribing opioids and/or benzodiazepines to patients who drink alcohol should be avoided, given the life-threatening dangers of using alcohol while taking opioids and/or benzodiazepines.

25. On approximately two occasions, Respondent noted that Patient 1 rarely drinks alcoholic beverages. Respondent maintained Patient 1's prior medical records from other

[1] For privacy purposes, the patients in this Accusation are referred to as Patients 1, 2, 3, 4, 5, and 6.

[2] Patient 1's care and treatment prior to 2016 is noted for historical purposes only.

providers as part of Patient 1's chart. Respondent did not address the prior medical records for Patient 1 from psychiatrist, Dr. D.F., where it was noted that Patient 1 reported on or about August 23, 2011, that he drinks 4 to 5 alcoholic beverages on the weekends. Respondent continued to prescribe substantial amounts of opioids to Patient 1 despite Patient 1's reports of drinking alcohol. This is an extreme departure from the standard of care.

Furnishing Dangerous Drugs without an Appropriate Examination

26. When prescribing dangerous drugs, the standard of care requires an appropriate exam, including sufficient components of vital signs, history of the presenting acute and chronic problems, past medical history, physical exam, and diagnostic testing in order to meaningfully assess the patient's pain and form a treatment plan. On or about April 12, 2019, and November 25, 2019, Respondent documented an incomplete, cursory examination of Patient 1. Respondent failed to thoroughly evaluate the areas of pain being treated. Respondent failed to document a complete physical examination of Patient 1. This is an extreme departure from the standard of care.

Periodic Urine Drug Screens

27. When prescribing controlled substances, the standard of care requires periodic urine drug screens in order to adequately evaluate the drugs being prescribed. There is one handwritten note that reflects that a urine drug screen, performed on or about June 3, 2019, was positive for opiates and negative for cocaine, methamphetamines, and marijuana. Respondent failed to perform periodic urine drug screens on Patient 1. This is an extreme departure from the standard of care.

Over-Prescribing Controlled Substances

28. Between January 2020 through June 2022, Respondent prescribed combinations of morphine sulfate 100 mg, oxycodone 30 mg, and methadone 10 mg, in high daily doses of between 225 and 720 MME, with no evidence of improvement in pain and function. This is an extreme departure from the standard of care.

Medication Reconciliation

29. When prescribing controlled substances, the standard of care requires that the

prescribing physician regularly review the medications being prescribed and carefully monitor and assess for benefit and harm in terms of the effects of the medication, patient function, and quality of life, as well as to identify any adverse events or risks to safety.

30. Between January 2020 through June 2022, Respondent prescribed high daily dose combinations of morphine sulfate 100 mg, oxycodone 30 mg and methadone 10 mg, without regularly reviewing the medications prescribed and carefully monitoring the harmful effects and risks to safety of the medications. This is an extreme departure from the standard of care.

Patient 2:

31. Patient 2, a 43-year-old female, began treating with Respondent on or about March 9, 2018. The medical records maintained by Respondent for Patient 2 are illegible, incomplete, and provided minimal information. Respondent noted that Patient 2 had chronic abdominal pain, pancreatic divisum, insomnia, anxiety, possible depression, hypertension, obesity, anemia, history of gastrointestinal arterial venous malformation, history of laparoscopic cholecystectomy, and "chronic pancreatitis." During Respondent's care and treatment of Patient 2, Respondent issued prescriptions for controlled substances on approximately a monthly basis. The prescriptions included fentanyl citrate in dosage amounts of 0.2 mg, 0.4 mg, 0.6 mg, 0.8 mg, and 1.2 mg, methadone 10 mg, and meperidine 50 mg.

Furnishing Dangerous Drugs without an Appropriate Examination

32. Between January 2020 through June 2022, Respondent prescribed dangerous drugs to Patient 2 without conducting an appropriate physical examination. This is an extreme departure from the standard of care.

Periodic Urine Drug Screens

33. No urine drug screen results are contained in Patient 2's medical records from Respondent's office. On approximately two occasions, Respondent documented that urine drug screens were performed in his office, positive for opiates, negative for cocaine, amphetamines, methamphetamines, and marijuana. On one occasion, Respondent documented that a urine drug screen was "all negative." Respondent failed to perform periodic urine drug screens on Patient 2. This is an extreme departure from the standard of care.

Over-Prescribing Controlled Substances

34. Between January 2020 through June 2022, Respondent prescribed various dosages of fentanyl citrate while also prescribing methadone 10 mg and meperidine 50 mg in high daily doses of between 598 and 918 MME, with no evidence of improvement in pain and function. Fentanyl citrate is approved by the Federal Drug Administration (FDA) for breakthrough cancer pain not controlled with other modalities. Respondent failed to document why fentanyl citrate was needed initially, or why it was being used for an off label use on an ongoing basis. This is an extreme departure from the standard of care.

Medication Reconciliation

35. Between January 2020 through June 2022, Respondent prescribed various dosages of fentanyl citrate while also prescribing methadone 10 mg and meperidine 50 mg in high daily doses, without regularly reviewing the medications prescribed and carefully monitoring and assessing the harmful effects and risks of the medications. There were no attempts at directed tapering strategies and Respondent failed to recommend alternative safer modalities of treatment. This is an extreme departure from the standard of care.

Patient 3:

36. Patient 3, a 52-year-old male, was treated by Respondent from approximately April 2015, through February 2021.[3] The medical records maintained by Respondent for Patient 3 are illegible, incomplete, and provided minimal information. Patient 3 had complaints of pain, including low back pain, bilateral lower extremity pain, seronegative rheumatoid arthritis, pain in both hands, gout, and recurrent abdominal pain due to chronic pancreatitis. During Respondent's care and treatment of Patient 3, Respondent prescribed controlled substances on approximately a monthly basis. The prescriptions included oxycodone 30 mg, methadone 10 mg, and alprazolam 2 mg.

Obtaining History of Alcohol Use Prior To and While Prescribing Controlled Substances

37. On approximately two occasions, Respondent noted that Patient 3 rarely drinks alcoholic beverages. At no time did Respondent address Patient 3's prior medical records from

[3] Patient 3's care and treatment prior to 2016 is noted for historical purposes only.

Whittier Hospital Medical Center (included in Respondent's chart for Patient 3), which indicate that Patient 3 has an ongoing history of alcoholism. Respondent continued to prescribe substantial amounts of opioids and a benzodiazepine to Patient 3, despite Patient 3's documented ongoing history of alcoholism. This is an extreme departure from the standard of care.

Furnishing Dangerous Drugs without an Appropriate Examination

38. Patient 3 was being seen by Respondent for knee pain, low back pain, right shoulder pain, bilateral hand pain, and abdominal pain. Respondent's two documented physical examinations dated September 2, 2017, and June 14, 2021, were incomplete and failed to appropriately address Patient 3's areas of pain. This is an extreme departure from the standard of care.

Periodic Urine Drug Screens

39. There are only a few notations setting forth that urine drug screens were performed on Patient 3 in Respondent's office. Respondent failed to perform periodic urine drug screens on Patient 3. This is an extreme departure from the standard of care.

Over-Prescribing Controlled Substances

40. Between January 2020 through June 2022, Respondent prescribed oxycodone while also prescribing methadone, in high doses, both opioids common for diversion and abuse. Respondent prescribed combinations of oxycodone 30 mg, methadone 10 mg, and alprazolam 2 mg, in significantly elevated doses of between 780 and 960 MME, with no evidence of improvement in Patient 3's pain and function. This is an extreme departure from the standard of care.

Medication Reconciliation

41. Between January 2020 through June 2022, Respondent prescribed high daily dose combinations of oxycodone 30 mg, methadone 10 mg, and alprazolam 2 mg, to Patient 3 without regularly reviewing the medications prescribed and carefully monitoring and assessing the harmful effects and risks of the medications. Respondent concurrently prescribed opioid pain medication and benzodiazepines without adequately documenting his reasoning for the dangerous drug combination. This is an extreme departure from the standard of care.

Patient 4:

42. Patient 4, a 42-year-old male, was treated by Respondent from approximately June 2018 through August 2021. The medical records maintained by Respondent for Patient 4 are illegible, incomplete, and provided minimal information. Patient 4 had complaints of lumbar spine degenerative disc disease, cervicalgia, fibromyalgia, hyperlipidemia, autoimmune disorder, and asthma. During Respondent's care and treatment of Patient 4, Respondent prescribed controlled substances on approximately a monthly basis. The prescriptions included oxymorphone in dosage amounts of 10 mg, 20 mg, and/or 40 mg, ketamine 5.75 mg, and carisoprodol 350 mg. During the same period of time, Patient 4 was prescribed stimulants (amphetamine salts) in dosage amounts of 15 mg and 20 mg by another prescriber.

Furnishing Dangerous Drugs without an Appropriate Examination

43. Respondent's physical examination dated August 11, 2020, is the same as the physical examination dated February 1, 2021, including identical vital signs for both visits. Respondent's documented examinations of Patient 4 were cursory, and failed to thoroughly evaluate the areas of pain that Respondent was treating. Respondent failed to document a complete physical examination of Patient 4. This is an extreme departure from the standard of care.

Periodic Urine Drug Screens

44. There are two progress note references to urine drug screens performed on Patient 4 at Respondent's office. In addition, there is a sticky note in the chart that states "3/7/?18 POS OPI, POS THC" – which may reference a urine drug screen being performed on or about March 7, 2018 (prior to this patient being seen by Respondent) that was positive for opiates and marijuana. Respondent failed to perform periodic urine drug screens on Patient 4. This is an extreme departure from the standard of care.

Over-Prescribing Controlled Substances

45. Between January 2020 through June 2022, Respondent prescribed combinations of oxymorphone in dosage amounts of 10 mg, 20 mg, and/or 40 mg, ketamine 5.75 mg, and caisoprodol 350 mg, in significantly high daily doses of between 660 to 900 MME, with no

evidence of improvement in Patient 4's pain and function. This is an extreme departure from the standard of care.

Medication Reconciliation

46. Between January 2020 through June 2022, Respondent prescribed significantly high daily dose combinations of oxymorphone in dosage amounts of 10 mg, 20 mg, and/or 40 mg, ketamine 5.75 mg, and carisoprodol 350 mg, to Patient 4 without regularly reviewing the medications prescribed and carefully monitoring and assessing the harmful effects and risks of the medications. Further, Respondent failed to address the stimulants (amphetamine salts) being prescribed to Patient 4 by another health care provider. This is an extreme departure from the standard of care.

Patient 5:

47. Patient 5, a 50-year-old male, was treated by Respondent from approximately March 2019 through September 2021. The medical records maintained by Respondent for Patient 5 are illegible, incomplete, and provided minimal information. Patient 5 was noted to be largely confined to a wheelchair following an injury to his lumbar spine in 2002, and a subsequent surgery in 2003. He was noted to have post-laminectomy syndrome, chronic pain syndrome, lumbosacral spondylosis, cervical spondylosis, chronic low back pain, sleep apnea, atherosclerosis of the right coronary artery with stent placement in 2021, peripheral vascular disease, systolic ejection murmur, coronary artery disease, angina and hypertension. In addition, Patient 5 was noted to have schizoaffective disorder, psychosis, cannabis use disorder, substance use disorder, and substance induced mood disorder. Past medical records included in Patient 5's chart maintained by Respondent reflect a significant psychiatric history, multiple suicide attempts and corresponding hospitalizations, and drug use, including a history of methamphetamine and crack cocaine. During Respondent's care and treatment of Patient 5, Respondent prescribed controlled substances on approximately a monthly basis. The prescriptions included oxycodone 30 mg and 80 mg.

Obtaining History of Alcohol Use Prior To and While Prescribing Controlled Substances

48. Respondent documents on October 7, 2019, under the "Personal History – Social

History – Habits" section of his typewritten progress note, that "[t]he patient states that he does not smoke cigarettes, drinks alcoholic beverages rarely and does not use any "street drugs.'"[4] Patient 5's prior medical records contained in Patient 5's chart in Respondent's office reflects that he drinks beer 1-2 times a week. Respondent continued to prescribe substantial amounts of opioid prescriptions to Patient 5 despite Patient 5's reports of drinking alcohol. This is an extreme departure from the standard of care.

Furnishing Dangerous Drugs without an Appropriate Examination

49. On or about October 7, 2019, Respondent documented an incomplete, cursory examination of Patient 5. He failed to thoroughly evaluate the areas of Patient 5's pain that Respondent was treating. Respondent failed to document a complete physical examination of Patient 5. This is an extreme departure from the standard of care.

Periodic Urine Drug Screens

50. There are only a few notations setting forth that urine drug screens were performed on Patient 5 in Respondent's office and were positive for opiates. Respondent failed to perform periodic urine drug screens on Patient 5. This is an extreme departure from the standard of care.

Over-Prescribing Controlled Substances

51. Between January 2020 through June 2022, Respondent prescribed oxycodone 30 mg and 80 mg in a significantly elevated daily dose of 1,320 MME, with no evidence of improvement in Patient 5's pain and function. In addition, the excessive prescribing is further unsafe given Patient 5's psychiatric and substance use history. This is an extreme departure from the standard of care.

Medication Reconciliation

52. Between January 2020 through June 2022, Respondent prescribed a significantly elevated daily dose of oxycodone 30 mg and 80 mg, to Patient 5 without regularly reviewing the medication prescribed and carefully monitoring the harmful effects and risks of the medication, especially given Patient 5's psychiatric and substance use history. This is an extreme departure

[4] Respondent repeated this exact sentence under the "Personal History – Social History – Habits Section" of his typewritten progress notes for Patients 2, 3, and 4.

from the standard of care.

Patient 6:

53. Patient 6, a 35-year-old female, presented to Respondent's office on February 15, 2021. Patient 6's chart contains a brief and illegible handwritten note dated February 15, 2021. It appears that Patient 6's chief complaint was lower back pain, rated two to five, out of a scale of ten, and that the pain increased when she bent down to pick up a dropped object. The physical examination is illegible, and the impression section merely sets forth the following diagnostic codes: "M51.36 and M54.16." The chart contains requests for orthopedic, physical therapy, and psychological evaluations, and some prior medical records.

54. On February 23, 2021, Respondent prescribed a 15-day supply of oxycodone 15 mg (60 tablets) to be taken every six to eight hours as needed for severe pain. On March 12, 2021, Respondent prescribed a 15-day supply of oxycodone 20 mg (60 tablets) to be taken every six to eight hours as needed for severe pain. On March 16, 2021, Respondent prescribed a 15-day supply of oxycodone 20 mg (60 tablets) to be taken every six to eight hours as needed for severe pain.

Obtaining History of Alcohol Use Prior To and While Prescribing Controlled Substances

55. Patient 6's prior medical records indicate that she drinks 1½ alcoholic beverages per month. Respondent does not document the patient's alcohol use and he does not document any discussion regarding the risks of using alcohol with opioids prior to and while he prescribed oxycodone to Patient 6. This is an extreme departure from the standard of care.

Furnishing Dangerous Drugs without an Appropriate Examination

56. Respondent's unsigned February 15, 2021 note in Patient 6's chart fails to set forth an appropriate examination that would warrant the prescribing of oxycodone. This is an extreme departure from the standard of care.

Over-Prescribing Controlled Substances

57. Between February 23, 2021 and March 16, 2021, Respondent prescribed oxycodone 15 mg and 20 mg to Patient 6, in high daily doses between 60 and 80 MME, without medical indication. This is an extreme departure from the standard of care.

Medication Reconciliation

58. Between February 23, 2021 and March 16, 2021, Respondent prescribed high daily doses of oxycodone 15 mg and 20 mg, to Patient 6 without reviewing the medications prescribed and carefully monitoring and assessing the harmful effects and risks of the medications. This is an extreme departure from the standard of care.

THIRD CAUSE FOR DISCIPLINE

(Repeated Negligent Acts)

59. Respondent is subject to disciplinary action under section 2234, subdivision (c), of the Code, in that he engaged in repeated acts of negligence in the care and treatment of Patients 1, 2, 3, 4, 5, and 6. The circumstances are as follows:

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

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

FOURTH CAUSE FOR DISCIPLINE

(Unprofessional Conduct - Furnishing Dangerous Drugs Without Examination)

62. 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, 2, 3, 4, 5, and 6 without an appropriate prior examination and/or medical indication. The circumstances are as follows:

63. The allegations of the Second and Third Causes for Discipline, inclusive, are incorporated herein by reference as if fully set forth. During the time Respondent treated Patients 1, 2, 3, 4, 5, and 6, he failed to perform an appropriate corresponding prior examination and determine a medical indication for each dangerous drug that he prescribed to each patient.

FIFTH CAUSE FOR DISCIPLINE

(General Unprofessional Conduct)

64. Respondent is subject to disciplinary action under Code sections 2234 and 2228.1, in that his action and/or actions represent unprofessional conduct and patient harm occurred as a

result. The circumstances are as follows:

65. The allegations of the Second, Third, and Fourth Causes for Discipline, inclusive, are incorporated herein by reference as if fully set forth.

66. Respondent's prescribing practices harmed Patients 1, 2, 3, 4, and 5, by placing them at higher risk for substance use disorder (addiction), overdose, and death.

SIXTH CAUSE FOR DISCIPLINE

(Failure to Maintain Adequate and Accurate Medical Records)

67. 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:

68. The allegations in the Second 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 C 31290, issued to Respondent David Behr Bockoff, M.D.;

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

3. Ordering Respondent David Behr Bockoff, 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 David Behr Bockoff, 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: SEP 28 2023

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

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