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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 Petition to Revoke Probation Against: **JOSEPH MICHAEL ABRAMOWITZ, M.D.** **c/o Timothy Principe, Esq.** **600 B Street, Suite 2250** **San Diego, CA 92101-4501** **Physician's and Surgeon's Certificate No. C 43166** Respondent.	Case No. 800-2024-104801 **DEFAULT DECISION AND ORDER** [Gov. Code, §11520]

FINDINGS OF FACT

1. On February 29, 2024, Complainant Reji Varghese, in his official capacity as the Executive Director of the Medical Board of California, Department of Consumer Affairs, filed Petition to Revoke Probation No. 800-2024-104801 against Joseph Michael Abramowitz, M.D. (Respondent) before the Medical Board of California. A true and correct copy of the Petition to Revoke Probation, the related documents and Declaration of Service, are attached as Exhibit 1 to the separate accompanying "Default Decision Evidence Packet," and are incorporated by reference as if fully set forth herein.

2. On February 9, 1994, the Medical Board of California (Board) issued Physician's and Surgeon's Certificate No. C 43166 to Respondent. The Physician's and Surgeon's Certificate expired on August 31, 2023. (Exhibit 2, Certificate of Licensure.)

3. On February 13, 2015, a Decision and Order for Accusation No. 10-2011-216815 became effective, revoking Respondent's Physician's and Surgeon's Certificate No. C 43166. That revocation was stayed, and Respondent's Physician's and Surgeon's Certificate No. C 43166 was placed on probation for five (5) years on various terms and conditions. (See Exhibit 1, [1] pages AGO-31 through AGO-79.)

4. On January 2, 2020, a Decision and Order for Petition to Revoke Probation No. 800-2018-048223 became effective, superseding the Decision in Case No. 10-2011-216815, and revoking Respondent's Physician's and Surgeon's Certificate No. C 43166. That revocation was stayed, and Respondent's Physician's and Surgeon's Certificate No. C 43166 was placed on probation for four (4) years on various terms and conditions. (See Exhibit 1, pages AGO-10 through AGO-79.)

5. On February 29, 2024, Sharee Woods (Woods), an employee of the Board, served by Certified Mail a copy of the Petition to Revoke Probation No. 800-2024-104801, Statement to Respondent, Notice of Defense, Request for Discovery, and Government Code sections 11507.5, 11507.6, and 11507.7 (collectively, "the Initial Pleading packet"), on Respondent at his address of record with the Board, which was and is c/o Timothy Principe, Esq., 600 B Street, Suite 2250, San Diego, CA 92101-4501. (Exhibit 1 and Exhibit 3, Declaration of Sharee Woods in Support of Default Decision and Order.)

6. Service of the Petition to Revoke Probation was effective as a matter of law under the provisions of Government Code section 11505, subdivision (c).

7. On or about March 4, 2024, the Initial Pleading packet was properly delivered by the U.S. Postal Service and signed for by "Ivy." True and accurate copies of the returned certified mail receipt and USPS tracking information are attached as Exhibits 4 and 5, respectively, and

[1] All exhibits, unless otherwise stated, are attached to the accompanying Default Decision Evidence Packet.

incorporated herein by reference. See also Exhibit 3 (Woods Declaration), and Exhibit 6, Declaration of DAG Tessa Heunis.

8. On or about March 29, 2024, Ileana Chavarin ("Chavarin"), an employee of the Office of the Attorney General, served by Certified Mail a Courtesy Notice of Default, with a copy of the Petition to Revoke Probation and Notice of Defense attached (collectively, "the Courtesy Default packet"), on Respondent at his address of record, which was and is c/o Timothy Principe, Esq., 600 B Street, Suite 2250, San Diego, CA 92101-4501. (Exhibit 7, Courtesy Notice of Default; Exhibit 8, Declaration of Ileana Chavarin.)

9. On or about April 1, 2024, the Courtesy Default packet was delivered by the U.S. Postal Service. A copy of the USPS Tracking information is attached as Exhibit 9, and is incorporated herein by reference. (See also Exhibit 8 [Chavarin Declaration].)

10. Business and Professions Code section 118 states, in pertinent part:

> (b) The suspension, expiration, or forfeiture by operation of law of a license issued by a board in the department, or its suspension, forfeiture, or cancellation by order of the board or by order of a court of law, or its surrender without the written consent of the board, shall not, during any period in which it may be renewed, restored, reissued, or reinstated, deprive the board of its authority to institute or continue a disciplinary proceeding against the licensee upon any ground provided by law or to enter an order suspending or revoking the license or otherwise taking disciplinary action against the license on any such ground.

11. Government Code section 11506 states, in pertinent part:

> (c) The respondent shall be entitled to a hearing on the merits if the respondent files a notice of defense, and the notice shall be deemed a specific denial of all parts of the accusation not expressly admitted. Failure to file a notice of defense shall constitute a waiver of respondent's right to a hearing, but the agency in its discretion may nevertheless grant a hearing.

12. To date, Respondent has not filed a Notice of Defense. (Exhibit 3 [Woods Declaration]; Exhibit 6 [Heunis Declaration]; Exhibit 8 [Chavarin Declaration].)

13. Respondent failed to file a Notice of Defense within 15 days after service upon him of the Petition to Revoke Probation, and therefore waived his right to a hearing on the merits of Petition to Revoke Probation No. 800-2024-104801.

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14. California Government Code section 11520 states, in pertinent part:

(a) If the respondent either fails to file a notice of defense or to appear at the hearing, the agency may take action based upon the respondent's express admissions or upon other evidence and affidavits may be used as evidence without any notice to respondent.

15. 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 ... and the board shall have all the powers granted in this chapter for these purposes ...

16. Section 2221 of the Code states:

(a) The board may deny a physician's and surgeon's certificate or postgraduate training authorization letter to an applicant guilty of unprofessional conduct or of any cause that would subject a licensee to revocation or suspension of his or her license. The board in its sole discretion, may issue a probationary physician's and surgeon's certificate to an applicant subject to terms and conditions, including, but not limited to, any of the following conditions of probation:

(1) Practice limited to a supervised, structured environment where the licensee's activities shall be supervised by another physician and surgeon.

(2) Total or partial restrictions on drug prescribing privileges for controlled substances.

(3) Continuing medical or psychiatric treatment.

(4) Ongoing participation in a specified rehabilitation program.

(5) Enrollment and successful completion of a clinical training program.

(6) Abstention from the use of alcohol or drugs.

(7) Restrictions against engaging in certain types of medical practice.

(8) Compliance with all provisions of this chapter.

(9) Payment of the cost of probation monitoring.

17. Section 2227 of the Code states, in pertinent part:

(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.

...

18. California Code of Regulations, title 16, section 1358, states:

Each physician and surgeon who has been placed on probation by the Board shall be subject to the Board's Probation Program and shall be required to fully cooperate with representatives of the Board and its personnel. Such cooperation shall include, but is not necessarily limited to, compliance with each term and condition in the order placing the physician and surgeon on probation ... Any monetary fees incurred as a result of a term or condition of probation ... shall be borne by the physician-probationer.

19. At all times after the effective date of the Decision and Order in Case No. 800-2018-048223, Probation Condition No. 13 stated:

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.

(Exhibit 1, page AGO-21.)

20. On or about January 3, 2020, an intake interview with Respondent was conducted by an inspector of the Board's Probation Unit. At this interview, all the terms and conditions of the Decision and Order in Case No. 800-2018-048223, and their respective time-frames and deadlines, were explained to Respondent. (Exhibit 10, Declaration of Christina Valencia.)

21. At the conclusion of the intake interview, Respondent signed both an "Acknowledgment of Decision" and a document setting out the due dates for the Quarterly

Declarations required pursuant to the Decision and Order. (Exhibit 11, pages AGO-92 and AGO-93; Exhibit 10 [Valencia Declaration].)

22. At all times after the effective date of the Decision and Order in Case No. 800-2018-048223, Probation Condition No. 8 stated:

QUARTERLY DECLARATIONS

> Respondent shall submit quarterly declarations under penalty of perjury on forms provided by the Board, stating whether there has been compliance with all the conditions of probation. Respondent shall submit quarterly declarations not later than 10 calendar days after the end of the preceding quarter.

(Exhibit 1, page AGO-18.)

23. In an email to the Board's Probation Unit dated January 16, 2023, Respondent indicated that he would "not be sending any more quarterly reports." (Exhibit 10 [Valencia Declaration]; Exhibit 11, page AGO-101.)

24. Despite multiple reminders to do so, Respondent failed to submit the following quarterly declarations as required by Probation Condition No. 8:

(a) Quarter IV, 2022

(b) Quarter I, 2023

(c) Quarter II, 2023

(d) Quarter III, 2023

(e) Quarter IV, 2023

(Exhibit 10 [Valencia Declaration].)

25. At all times after the effective date of the Decision and Order in Case No. 800-2018-048223, Probation Condition No. 9 stated, in pertinent part:

GENERAL PROBATION REQUIREMENTS.

> ...
>
> License Renewal
>
> Respondent shall maintain a current and renewed California physician's and surgeon's license.
>
> ... (Exhibit 1, page AGO-19.)

26. Respondent's Physician's and Surgeon's Certificate No. C 43166 expired on August 31, 2023, and has not been renewed. (Exhibit 2; Exhibit 10 [Valencia Declaration]; Exhibit 11, page AGO-94.)

27. At all times after the effective date of the Decision and Order in Case No. 800-2018-048223, Probation Condition No. 11 stated, in pertinent part:

NON-PRACTICE WHILE ON PROBATION

> Respondent shall notify the Board or its designee in writing within 15 calendar days of any periods of non-practice lasting more than 30 calendar days and within 15 calendar days of Respondent's return to practice. Non-practice is defined as any period of time Respondent is not practicing medicine as defined in Business and Professions Code sections 2051 and 2052 for at least 40 hours in a calendar month in direct patient care, clinical activity or teaching, or other activity as approved by the Board. If Respondent resides in California and is considered to be in non-practice, Respondent shall comply with all terms and conditions of probation. ...
>
> 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. [Emphasis added.]

(Exhibit 1, pages AGO-19 to AGO-20.)

28. Since on or about March 8, 2021, Respondent has not worked at least 40 hours in a calendar month in direct patient care, clinical activity or teaching or other activity approved by the Board. (Exhibit 10 [Valencia Declaration]; Exhibit 11, pages AGO-113 to AGO-116.)

29. At all times after the effective date of Respondent's probation in Case No. 800-2018-048223, Condition No. 7 stated:

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////

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.

(Exhibit 1, page AGO-18.)

30. On or about January 16, 2023, Respondent informed the Board's Probation Unit by email that he would "thus wait for The Board to move with revocation." (Exhibit 10 [Valencia Declaration; Exhibit 11, page AGO-101.)

31. Pursuant to its authority under Government Code section 11520, the Board finds Respondent is in default. The Board will take action without further hearing and, based on Respondent's express admissions by way of default and the evidence before it, contained in Exhibits 1 through 11, finds that the allegations in Petition to Revoke Probation No. 800-2024-104801 are true and correct.

DETERMINATION OF ISSUES

1. Based on the foregoing findings of fact, Respondent Joseph Michael Abramowitz, M.D., has subjected his Physician's and Surgeon's Certificate No. C 43166 to discipline.

2. A copy of the Petition to Revoke Probation and the related documents and Declaration of Service are attached as Exhibit 1.

3. The Board has jurisdiction to adjudicate this case by default.

4. The Medical Board of California is authorized to revoke Respondent's Physician's and Surgeon's Certificate No. C 43166 based upon the following violations alleged in the Petition to Revoke Probation:

a. Failure to submit quarterly declarations, as required by Probation Condition No. 8.

b. Failure to maintain a current and renewed license, as required by Probation Condition No. 9.

c. Non-practice for more than two years while on probation, as described in Probation Condition No. 22.

d. Failure to obey all laws, as required by Probation Condition No. 7.

ORDER

IT IS SO ORDERED that Physician's and Surgeon's Certificate No. C 43166, heretofore issued to Respondent Joseph Michael Abramowitz, M.D., is revoked.

Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The Board in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

This Decision shall become effective on MAY 30 2024.

It is so ORDERED APR 30 2024

Reji Varghese, Executive Director
FOR THE MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS

Exhibit 1
Petition to Revoke Probation No. 800-2024-104801

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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 Petition to Revoke Probation Against: **JOSEPH MICHAEL ABRAMOWITZ, M.D.** **c/o T. Principe Esq.** **600 B Street, Suite 2250** **San Diego, CA 92101** **Physician's and Surgeon's Certificate No. C 43166,** Respondent.	Case No. 800-2024-104801 **PETITION TO REVOKE PROBATION**

PARTIES

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

2. On or about February 9, 1994, the Medical Board issued Physician's and Surgeon's Certificate No. C 43166 to Joseph Michael Abramowitz, M.D. (Respondent). The Physician's and Surgeon's Certificate expired on August 31, 2023, and has not been renewed.

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PRIOR DISCIPLINE

3. In a disciplinary action titled *In the Matter of the Accusation Against Joseph M. Abramowitz, M.D.*, Case No. 10-2011-216815, the Board issued a Decision and Order, effective February 13, 2015, in which Respondent's Physician's and Surgeon's Certificate No. C 43166 was revoked. The revocation was stayed, however, and Respondent's Physician's and Surgeon's Certificate No. C 43166 was placed on probation for a period of five (5) years with certain terms and conditions.

4. On January 2, 2020, in an action titled *In the Matter of the Petition to Revoke Probation Against Joseph M. Abramowitz, M.D.*, Case No. 800-2018-048223, the Board's Decision became effective, in which Respondent's Physician's and Surgeon's Certificate No. C 43166 was revoked. The revocation was again stayed, however, and Respondent's Physician's and Surgeon's Certificate No. C 43166 was placed on probation for a period of four (4) years which superseded all terms and conditions previously ordered in the Decision and Order in Case No. 10-2011-216815. A copy of that decision is attached as Exhibit A and is incorporated by this reference.

JURISDICTION

5. This Petition to Revoke Probation is brought before the Board under the authority of the following laws, and under the Board's Decision and Order in Case No. 800-2018-048223. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

6. 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.
>
> ...

7. 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 ... and the board shall have all the powers granted in this chapter for these purposes ...

8. Section 2221 of the Code states:

(a) The board may deny a physician's and surgeon's certificate or postgraduate training authorization letter to an applicant guilty of unprofessional conduct or of any cause that would subject a licensee to revocation or suspension of his or her license. The board in its sole discretion, may issue a probationary physician's and surgeon's certificate to an applicant subject to terms and conditions, including, but not limited to, any of the following conditions of probation:

(1) Practice limited to a supervised, structured environment where the licensee's activities shall be supervised by another physician and surgeon.

(2) Total or partial restrictions on drug prescribing privileges for controlled substances.

(3) Continuing medical or psychiatric treatment.

(4) Ongoing participation in a specified rehabilitation program.

(5) Enrollment and successful completion of a clinical training program.

(6) Abstention from the use of alcohol or drugs.

(7) Restrictions against engaging in certain types of medical practice.

(8) Compliance with all provisions of this chapter.

(9) Payment of the cost of probation monitoring.

9. Section 2227 of the Code states, in pertinent part:

(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.

...

10. California Code of Regulations, title 16, section 1358, states:

Each physician and surgeon who has been placed on probation by the Board shall be subject to the Board's Probation Program and shall be required to fully cooperate with representatives of the Board and its personnel. Such cooperation shall include, but is not necessarily limited to, compliance with each term and condition in the order placing the physician and surgeon on probation ... Any monetary fees incurred as a result of a term or condition of probation ... shall be borne by the physician-probationer.

11. At all times after the effective date of the Decision and Order in Case No. 800-2018-048223, Probation Condition No. 13 stated:

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.

FACTUAL ALLEGATIONS

12. The Decision and Order in Case No. 800-2018-048223, placing Respondent's Physician's and Surgeon's Certificate No. C 43166 on probation for a period of four (4) years, became effective January 2, 2020.

13. On or about January 3, 2020, an intake interview with Respondent was conducted by an inspector of the Board's Probation Unit. At this interview, all the terms and conditions of the Decision and Order in Case No. 800-2018-048223, and their respective time-frames and deadlines, were explained to Respondent. At the conclusion of the interview, Respondent signed both an "Acknowledgment of Decision" and a document setting out the due dates for the Quarterly Declarations required pursuant to the Decision and Order.

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FIRST CAUSE TO REVOKE PROBATION

(Failure to Submit Quarterly Declarations)

14. Respondent's probation is subject to revocation pursuant to Probation Condition No. 8. The facts and circumstances regarding this violation are as follows:

15. At all times after the effective date of the Decision and Order in Case No. 800-2018-048223, Probation Condition No. 8 stated:

QUARTERLY DECLARATIONS

> Respondent shall submit quarterly declarations under penalty of perjury on forms provided by the Board, stating whether there has been compliance with all the conditions of probation. Respondent shall submit quarterly declarations not later than 10 calendar days after the end of the preceding quarter.

16. Respondent failed to submit the following quarterly declarations as required by Probation Condition No. 8:

(a) Quarter IV, 2022

(b) Quarter I, 2023

(c) Quarter II, 2023

(d) Quarter III, 2023

(e) Quarter IV, 2023

17. In an email to the Board's Probation Unit dated January 16, 2023, Respondent indicated that he would "not be sending any more quarterly reports."

SECOND CAUSE TO REVOKE PROBATION

(Failure to Maintain a Current and Renewed License)

18. Respondent's probation is further subject to revocation pursuant to Probation Condition No. 9. The facts and circumstances regarding this violation are as follows:

19. At all times after the effective date of the Decision and Order in Case No. 800-2018-048223, Probation Condition No. 9 stated, in pertinent part:

GENERAL PROBATION REQUIREMENTS.

...

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License Renewal

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

...

20. Respondent's Physician's and Surgeon's Certificate No. C 43166 expired on August 31, 2023, and has not been renewed.

THIRD CAUSE TO REVOKE PROBATION

(Non-Practice While on Probation)

21. Respondent's probation is further subject to revocation pursuant to Probation Condition No. 11. The facts and circumstances regarding this violation are as follows:

22. At all times after the effective date of the Decision and Order in Case No. 800-2018-048223, Probation Condition No. 11 stated, in pertinent part:

NON-PRACTICE WHILE ON PROBATION

Respondent shall notify the Board or its designee in writing within 15 calendar days of any periods of non-practice lasting more than 30 calendar days and within 15 calendar days of Respondent's return to practice. Non-practice is defined as any period of time Respondent is not practicing medicine as defined in Business and Professions Code sections 2051 and 2052 for at least 40 hours in a calendar month in direct patient care, clinical activity or teaching, or other activity as approved by the Board. If Respondent resides in California and is considered to be in non-practice, Respondent shall comply with all terms and conditions of probation. ...

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. [Emphasis added.]

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23. Since on or about March 8, 2021, Respondent has not worked at least 40 hours in a calendar month in direct patient care, clinical activity or teaching or other activity approved by the Board.

FOURTH CAUSE TO REVOKE PROBATION

(Failure to Obey All Laws)

24. Respondent's probation is further subject to revocation pursuant to Probation Condition 7, as read with California Code of Regulations, title 16, section 1358. The facts and circumstances regarding this violation are as follows:

25. Paragraphs 12 through 23, above, are hereby incorporated by reference and realleged as if fully set forth herein.

26. At all times after the effective date of Respondent's probation in Case No. 800-2018-048223, Condition No. 7 stated:

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.

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 the probation that was granted by the Medical Board of California in Case No. 800-2018-048223 and imposing the disciplinary order that was stayed, thereby revoking Physician's and Surgeon's Certificate No. C 43166, issued to Respondent Joseph Michael Abramowitz, M.D.;

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

3. Ordering Respondent Joseph Michael Abramowitz, M.D., if placed on probation, to pay the Board the costs of probation monitoring; and

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

DATED: FEB 29 2024

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

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EXHIBIT A
DECISION AND ORDER

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

In the Matter of the Petition to Revoke Probation Against:	)	
Joseph Michael Abramowitz, M.D.	)	Case No. 800-2018-048223
Physician's and Surgeon's Certificate No. C 43166	)	
Respondent	)	

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 January 2, 2020.

IT IS SO ORDERED: December 3, 2019.

MEDICAL BOARD OF CALIFORNIA

Ronald H. Lewis, M.D., Chair
Panel A

XAVIER BECERRA
Attorney General of California
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Supervising Deputy Attorney General
TESSA L. HEUNIS
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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 Petition to Revoke Probation Against: **JOSEPH MICHAEL ABRAMOWITZ, M.D.,** **875 Stevens Avenue, #2101** **Solana Beach, CA 92075** **Physician's and Surgeon's Certificate No. C 43166** Respondent.	Case No. 800-2018-048223 OAH No. 2018110933 **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. Kimberly Kirchmeyer (Complainant) is the Executive Director of the Medical Board of California (Board). She brought this action solely in her official capacity and is represented in this matter by Xavier Becerra, Attorney General of the State of California, by Tessa L. Heunis, Deputy Attorney General.

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2. Respondent Joseph Michael Abramowitz, M.D. (Respondent) is represented in this proceeding by attorney Steven H. Zeigen, Esq., whose address is 10815 Rancho Bernardo Rd., Suite 310, San Diego, CA 92127.

3. On or about February 9, 1994, the Board issued Physician's and Surgeon's Certificate No. C 43166 to Respondent. The Physician's and Surgeon's Certificate No. C 43166 was in full force and effect at all times relevant to the charges and allegations brought in Petition to Revoke Probation No. 800-2018-048223, and will expire on August 31, 2019, unless renewed.

JURISDICTION

4. On October 31, 2018, Petition to Revoke Probation No. 800-2018-048223 was filed before the Board and is currently pending against Respondent. A true and correct copy of the Petition to Revoke Probation and all other statutorily required documents were properly served on Respondent on or about October 31, 2018. Respondent timely filed his Notice of Defense contesting the Petition to Revoke Probation. A copy of Petition to Revoke Probation No. 800-2018-048223 is attached as Exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, fully discussed with counsel, and fully understands the charges and allegations in Petition to Revoke Probation No. 800-2018-048223. Respondent has also carefully read, fully discussed with counsel, and fully understands the effects of this Stipulated Settlement and Disciplinary Order.

6. Having the benefit of counsel, Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Petition to Revoke Probation; 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 admits the truth of each and every charge and allegation in Petition to Revoke Probation No. 800-2018-048223.

9. Respondent agrees that his Physician's and Surgeon's Certificate No. C 43166 is subject to discipline and he agrees to be bound by the Board's imposition of discipline as set forth in the Disciplinary Order below.

CONTINGENCY

10. This Stipulated Settlement and Disciplinary Order shall be subject to approval of the Board. The parties agree that this Stipulated Settlement and Disciplinary Order shall be submitted to the Board for its consideration in the above-entitled matter and, further, that the Board shall have a reasonable period of time in which to consider and act on this Stipulated Settlement 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 Board considers and acts upon it.

11. The parties agree that this Stipulated Settlement and Disciplinary Order shall be null and void and not binding upon the parties unless approved and adopted by 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 Settlement and Disciplinary Order, 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 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 Board does not, in its discretion, approve and adopt this Stipulated Settlement 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 Settlement and Disciplinary Order be rejected for any reason by the Board, Respondent will assert no claim that the Board, or any

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member thereof, was prejudiced by its/his/her review, discussion and/or consideration of this Stipulated Settlement and Disciplinary Order or of any matter or matters related hereto.

ADDITIONAL PROVISIONS

12. 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.

13. This Stipulated Settlement 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.

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

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. C 43166 issued to Respondent Joseph Michael Abramowitz, M.D., is revoked. However, the revocation is stayed and Respondent is placed on probation for four (4) years from the effective date of the Decision, on the following terms and conditions, which shall supersede all terms and conditions previously ordered in the Decision and Order in Case No. 10-2011-216815.

1. CONTROLLED SUBSTANCES - PARTIAL RESTRICTION. Respondent shall not order, prescribe, dispense, administer, furnish, or possess any controlled substances as defined by the California Uniform Controlled Substances Act, except for those drugs listed in Schedules IV and V of the 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 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 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.

Respondent shall immediately surrender Respondent's current DEA permit, if any, to the Drug Enforcement Administration for cancellation and reapply for a new DEA permit limited to those Schedules authorized by this order, above. Within 15 calendar days after the effective date of this Decision, Respondent shall submit proof that Respondent has surrendered Respondent's DEA permit to the Drug Enforcement Administration for cancellation and re-issuance. Within 15 calendar days after the effective date of issuance of a new DEA permit, Respondent shall submit a true copy of the permit to the Board or its designee.

If recommended by Respondent's practice monitor and approved by the Board or its designee, no sooner than one year after the effective date of the Decision, the drugs listed in Schedule III of the California Uniform Controlled Substances Act may be added to the drugs which Respondent may order, prescribe, dispense, administer, furnish, or possess, and Respondent's DEA permit may be amended to authorize Schedules III, IV and V drugs.

2. CONTROLLED SUBSTANCES - MAINTAIN RECORDS AND ACCESS TO RECORDS AND INVENTORIES. Respondent shall maintain a record of all controlled substances ordered, prescribed, dispensed, administered, or possessed by Respondent, and any recommendation or approval which enables a patient or patient's primary caregiver to possess or

cultivate marijuana for the personal medical purposes of the patient within the meaning of Health and Safety Code section 11362.5, during probation, showing all of the following: 1) the name and address of the patient; 2) the date; 3) the character and quantity of controlled substances involved; and 4) the indications and diagnosis for which the controlled substances were furnished.

Respondent shall keep these records in a separate file or ledger, in chronological order. All records and any inventories of controlled substances shall be available for immediate inspection and copying on the premises by the Board or its designee at all times during business hours and shall be retained for the entire term of probation.

3. EDUCATION COURSE. Within 60 calendar days of the effective date of this Decision, and on an annual basis thereafter, Respondent shall submit to the Board or its designee for its prior approval educational program(s) or course(s), which shall not be less than 50 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 75 hours of CME of which 50 hours were in satisfaction of this condition.

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

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The Board or its designee shall provide the approved monitor with copies of the Decision(s) and Accusation(s), and a proposed monitoring plan. Within 15 calendar days of receipt of the Decision(s), Accusation(s), and proposed monitoring plan, the monitor shall submit a signed statement that the monitor has read the Decision(s) and Accusation(s), fully understands the role of a monitor, and agrees or disagrees with the proposed monitoring plan. If the monitor disagrees with the proposed monitoring plan, the monitor shall submit a revised monitoring plan with the signed statement for approval by the Board or its designee.

Within 60 calendar days of the effective date of this Decision, and continuing throughout probation, Respondent's practice shall be monitored by the approved monitor. Respondent shall make all records available for immediate inspection and copying on the premises by the monitor at all times during business hours and shall retain the records for the entire term of probation.

If Respondent fails to obtain approval of a monitor within 60 calendar days of the effective date of this Decision, Respondent shall receive a notification from the Board or its designee to cease the practice of medicine within three (3) calendar days after being so notified. Respondent shall cease the practice of medicine until a monitor is approved to provide monitoring responsibility.

The monitor(s) shall submit a quarterly written report to the Board or its designee which includes an evaluation of Respondent's performance, indicating whether Respondent's practices are within the standards of practice of medicine, and whether Respondent is practicing medicine safely. It shall be the sole responsibility of Respondent to ensure that the monitor submits the quarterly written reports to the Board or its designee within 10 calendar days after the end of the preceding quarter.

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

calendar days after being so notified. Respondent shall cease the practice of medicine until a replacement monitor is approved and assumes monitoring responsibility.

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

5. NOTIFICATION. Within seven (7) days of the effective date of this Decision, the Respondent shall provide a true copy of this Decision and Accusation to the Chief of Staff or the Chief Executive Officer at every hospital where privileges or membership are extended to Respondent, at any other facility where Respondent engages in the practice of medicine, including all physician and *locum tenens* registries or other similar agencies, and to the Chief Executive Officer at every insurance carrier which extends malpractice insurance coverage to Respondent. Respondent shall submit proof of compliance to the Board or its designee within 15 calendar days.

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

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

7. 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.

8. QUARTERLY DECLARATIONS. Respondent shall submit quarterly declarations under penalty of perjury on forms provided by the Board, stating whether there has been compliance with all the conditions of probation.

Respondent shall submit quarterly declarations not later than 10 calendar days after the end of the preceding quarter.

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9. 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(b).

Place of Practice

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

License Renewal

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

Travel or Residence Outside California

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

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

10. 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.

11. NON-PRACTICE WHILE ON PROBATION. Respondent shall notify the Board or its designee in writing within 15 calendar days of any periods of non-practice lasting more than

30 calendar days and within 15 calendar days of Respondent's return to practice. Non-practice is defined as any period of time Respondent is not practicing medicine as defined in Business and Professions Code sections 2051 and 2052 for at least 40 hours in a calendar month in direct patient care, clinical activity or teaching, or other activity as approved by the Board. If Respondent resides in California and is considered to be in non-practice, Respondent shall comply with all terms and conditions of probation. All time spent in an intensive training program which has been approved by the Board or its designee shall not be considered non-practice and does not relieve Respondent from complying with all the terms and conditions of probation. Practicing medicine in another state of the United States or Federal jurisdiction while on probation with the medical licensing authority of that state or jurisdiction shall not be considered non-practice. A Board-ordered suspension of practice shall not be considered as a period of non-practice.

In the event Respondent's period of non-practice while on probation exceeds 18 calendar months, Respondent shall successfully complete the Federation of State Medical Boards's Special Purpose Examination, or, at the Board's discretion, a clinical competence assessment program that meets the criteria of Condition 18 of the current version of the Board's "Manual of Model Disciplinary Orders and Disciplinary Guidelines" prior to resuming the practice of medicine.

Respondent's period of non-practice while on probation shall not exceed two (2) years.

Periods of non-practice will not apply to the reduction of the probationary term.

Periods of non-practice for a Respondent residing outside of California will relieve Respondent of the responsibility to comply with the probationary terms and conditions with the exception of this condition and the following terms and conditions of probation: Obey All Laws; General Probation Requirements; Quarterly Declarations; Abstain from the Use of Alcohol and/or Controlled Substances; and Biological Fluid Testing..

12. COMPLETION OF PROBATION. Respondent shall comply with all financial obligations (e.g., restitution, probation costs) not later than 120 calendar days prior to the completion of probation. Upon successful completion of probation, Respondent's certificate shall be fully restored.

13. 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.

14. LICENSE SURRENDER. Following the effective date of this Decision, if Respondent ceases practicing due to retirement or health reasons or is otherwise unable to satisfy the terms and conditions of probation, Respondent may request to surrender his or her license. The Board reserves the right to evaluate Respondent's request and to exercise its discretion in determining whether or not to grant the request, or to take any other action deemed appropriate and reasonable under the circumstances. Upon formal acceptance of the surrender, Respondent shall within 15 calendar days deliver Respondent's wallet and wall certificate to the Board or its designee and Respondent shall no longer practice medicine. Respondent will no longer be subject to the terms and conditions of probation. If Respondent re-applies for a medical license, the application shall be treated as a petition for reinstatement of a revoked certificate.

15. 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.

ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Steven H. Zeigen, Esq. I fully understand the stipulation and the effect it will have on my Physician's and Surgeon's Certificate No. C 43166. I enter into this

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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: JULY 25, 2019

JOSEPH MICHAEL ABRAMOWITZ, M.D.
Respondent

I have read and fully discussed with Respondent Joseph Michael Abramowitz, 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: _____

STEVEN H. ZEIGEN, ESQ.
Attorney for Respondent

ENDORSEMENT

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

DATED: _____

Respectfully submitted,

XAVIER BECERRA
Attorney General of California
MATTHEW M. DAVIS
Supervising Deputy Attorney General

TESSA L. HEUNIS
Deputy Attorney General
Attorneys for Complainant

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: _____

JOSEPH MICHAEL ABRAMOWITZ, M.D.
Respondent

I have read and fully discussed with Respondent Joseph Michael Abramowitz, 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: 7/25/19

STEVEN H. ZEIGEN, ESQ.
Attorney for Respondent

ENDORSEMENT

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

DATED: 8/5/19

Respectfully submitted,

XAVIER BECERRA
Attorney General of California
MATTHEW M. DAVIS
Supervising Deputy Attorney General

TESSA L. HEUNIS
Deputy Attorney General
Attorneys for Complainant

Exhibit A

Petition to Revoke Probation No. 800-2018-048223

XAVIER BECERRA
Attorney General of California
MATTHEW M. DAVIS
Supervising Deputy Attorney General
TESSA L. HEUNIS
Deputy Attorney General
State Bar No. 241559
600 West Broadway, Suite 1800
San Diego, CA 92101
P.O. Box 85266
San Diego, CA 92186-5266
Telephone: (619) 738-9403
Facsimile: (619) 645-2061

Attorneys for Complainant

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

In the Matter of the Petition to Revoke Probation Against: **JOSEPH M. ABRAMOWITZ, M.D.** **600 B Street, Suite 2250** **San Diego, CA 92101-4501** **Physician's and Surgeon's Certificate No. C43166** Respondent.	Case No. 800-2018-048223 **PETITION TO REVOKE PROBATION**

Complainant alleges:

PARTIES

1. Kimberly Kirchmeyer (Complainant) brings this Petition to Revoke Probation solely in her official capacity as the Executive Director of the Medical Board of California, Department of Consumer Affairs.

2. On or about February 9, 1994, the Medical Board of California issued Physician's and Surgeon's Certificate No. C43166 to Joseph M. Abramowitz, M.D. (respondent). Physician's and Surgeon's Certificate No. C43166 was in full force and effect at all times relevant to the charges brought herein and will expire on August 31, 2019, unless renewed.

PRIOR DISCIPLINARY HISTORY

3. On August 21, 2013, complainant filed an accusation against respondent. *In the Matter of the Accusation Against: Joseph M. Abramowitz, M.D.* Case No. 10-2011-216815, complainant alleged that respondent committed gross negligence, repeated negligent acts, prescribed controlled substances without a prior examination and medical indication, excessively prescribed controlled substances and failed to maintain adequate and accurate medical records in his care and treatment of seven (7) patients.

4. Following a stipulated settlement of the charges and allegations contained in Accusation No. 10-2011-216815, on January 14, 2015, the Board signed its Decision and Order in the case entitled *In the Matter of the Accusation Against: Joseph M. Abramowitz, M.D.* Case No. 10-2011-216815, revoking respondent's Physician's and Surgeon's Certificate No. C43166, staying that revocation and placing respondent on probation for a term of five (5) years. The Board's Decision and Order also required respondent to comply with probationary terms and conditions including, but not limited to, ensuring that any period of non-practice does not exceed two (2) years. The Decision and Order became effective February 13, 2015.

JURISDICTION

5. The Petition to Revoke Probation Case No. 800-2018-048223 is brought before the Medical Board of California (Board), Department of Consumer Affairs, under the authority of the following laws and the Board's Decision and Order in the case entitled "*In the Matter of the Accusation Against: Joseph M. Abramowitz, M.D.* Case No. 10-2011-216815. A true and correct copy of the Board's Decision and Order in Case No. 10-2011-216815 is attached hereto as Exhibit A and incorporated herein by reference as if fully set forth herein.

6. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

7. Section 2227 of the Code provides that a licensee who is found guilty under the Medical Practice Act may have his license revoked, suspended for a period not to exceed one year, placed on probation and required to pay the costs of probation monitoring, be publicly

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reprimanded, or have such other action taken in relation to discipline as the Division deems proper.

FIRST CAUSE TO REVOKE PROBATION

(Period of Non-Practice Exceeding Two Years)

8. At all times after the effective date of the Board's Decision and Order in Case No. 10-2011-216815, Probation Condition No. 14 stated:

(a) "14. NON-PRACTICE WHILE ON PROBATION. Respondent shall notify the Board or its designee in writing within 15 calendar days of any periods of non-practice lasting more than 30 calendar days and within 15 calendar days of respondent's return to practice. Non-practice is defined as any period of time respondent is not practicing medicine in California as defined in Business and Professions Code sections 2051 and 2052 for at least 40 hours in a calendar month in direct patient care, clinical activity or teaching, or other activity as approved by the Board. All time spent in an intensive training program which has been approved by the Board or its designee shall not be considered non-practice. 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 a clinical training 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 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; and General Probation Requirements."

9. On or about August 17, 2016, respondent notified the Board that he began a period of non-practice as an out-of-state probationer

10. On or about August 25, 2017, respondent was notified by the Board that his probation was in out-of-state status and that if respondent's period of non-practice while on probation exceeded eighteen (18) months, he would be required to complete a clinical training program prior to resuming the practice of medicine in California. Respondent was further notified that if his period of non-practice exceeded two (2) years, he would be in violation of probation.

11. On or about June 25, 2018, respondent was notified by the Board, that effective February 17, 2018, he had been in a non-practice status for eighteen (18) months and that he must complete a clinical training program prior to resuming the practice of medicine in California.

12. On or about July 26, 2018, the Board notified respondent that he would reach two years of non-practice in August 2018.

13. Respondent's probation is subject to revocation because he failed to comply with Probation Condition No. 14, in that he has been in a non-practice status for over two (2) years.

SECOND CAUSE TO REVOKE PROBATION

(Violation of Probation)

14. At all times after the effective date of the Medical Board's Decision and Order in Case No. 10-2011-216815, Probation Condition No. 16 stated:

(a) "16. VIOLATION OF PROBATION. Failure to fully comply with any term or condition of probation is a violation of probation. If respondent violates probation in any respect, the Board, after giving respondent notice and the opportunity to be heard, may revoke probation and carry out the disciplinary order

that was stayed. If an Accusation, or Petition to Revoke Probation, or an Interim Suspension Order is filed against respondent during probation, the Board shall have continuing jurisdiction until the matter is final, and the period of probation shall be extended until the matter is final."

15. Respondent's probation is further subject to revocation because he failed to comply with Probation Conditions No. 14 and 16, in that he has been in non-practice status for more than two (2) years, as more particularly alleged in paragraphs 8 through 13, above, which are hereby incorporated by reference and realleged as if fully set forth herein.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Medical Board of California issue a decision:

1. Revoking the probation that was granted by the Medical Board of California in Case No. 10-2011-216815 and imposing the disciplinary order that was stayed in that case, thereby revoking Physician's and Surgeon's Certificate No. C43166 issued to respondent Joseph M. Abramowitz, M.D.;

2. Ordering respondent Joseph M. Abramowitz, M.D., to pay the Medical Board of California the costs of probation monitoring, if placed on probation; and

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

DATED: October 31, 2018

KIMBERLY KIRCHMEYER
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant

Exhibit A

Decision and Order

Medical Board of California Case No. 10-2011-216815

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

In the Matter of the Accusation Against:	)	
	)	
	)	
JOSEPH MICHAEL ABRAMOWITZ, M.D.	)	Case No. 10-2011-216815
	)	
Physician's and Surgeon's Certificate No. C 43166	)	
	)	
	)	
Respondent.	)	
	)	

DECISION AND ORDER

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

This Decision shall become effective at 5:00 p.m. on February 13, 2015.

IT IS SO ORDERED January 14, 2015.

MEDICAL BOARD OF CALIFORNIA

By: _____
Jamie Wright, J.D., Chair
Panel A

KAMALA D. HARRIS
Attorney General of California
THOMAS S. LAZAR
Supervising Deputy Attorney General
TESSA L. HEUNIS
Deputy Attorney General
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P.O. Box 85266
San Diego, CA 92186-5266
Telephone: (619) 645-2074
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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: **JOSEPH MICHAEL ABRAMOWITZ, M.D.,** **3450 Bonita Rd., Ste. 210** **Chula Vista, CA 91910** **Physician's and Surgeon's Certificate No. C 43166** Respondent.	Case No. 10-2011-216815 OAH No. 2013110857 **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. Kimberly Kirchmeyer (complainant) is the Executive Director of the Medical Board of California (Board). She brought this action solely in her official capacity and is represented in this matter by Kamala D. Harris, Attorney General of the State of California, by Tessa L. Heunis, Deputy Attorney General.

2. Respondent Joseph Michael Abramowitz, M.D. (respondent) is representing himself in this proceeding and has chosen not to exercise his right to be represented by counsel.

3. On or about February 9, 1994, Board issued Physician's and Surgeon's Certificate No. C 43166 to respondent. The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought in Accusation No. 10-2011-216815 and will expire on August 31, 2015, unless renewed.

JURISDICTION

4. On August 21, 2013, Accusation No. 10-2011-216815 was filed before the Medical Board of California, Department of Consumer Affairs (Board), and is currently pending against Respondent. A true and correct copy of the Accusation and all other statutorily required documents were properly served on Respondent on August 21, 2013. Respondent timely filed his Notice of Defense contesting the Accusation. A true and correct copy of Accusation No. 10-2011-216815 is attached hereto as Exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, and fully understands the charges and allegations in Accusation No. 10-2011-216815. Respondent has also carefully read, and fully understands the effects of this Stipulated Settlement and Disciplinary Order.

6. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to be represented by counsel at his own expense; 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, the California Code of Civil Procedure, and other applicable laws.

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

CULPABILITY

8. Respondent does not contest that, at an administrative hearing, complainant could establish a *prima facie* case with respect to the charges and allegations contained in Accusation

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No. 10-2011-216815 and that he has thereby subjected his Physician's and Surgeon's Certificate No. C 43166 to disciplinary action.

9. 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 Medical Board of California, all of the charges and allegations contained in Accusation 10-2011-216815 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.

10. Respondent agrees that his Physician's and Surgeon's Certificate No. C 43166 is subject to discipline, and he agrees to be bound by the Board's imposition of discipline as set forth in the Disciplinary Order below.

CONTINGENCY

11. This Stipulated Settlement and Disciplinary Order shall be subject to approval of the Board. The parties agree that this Stipulated Settlement and Disciplinary Order shall be submitted to the Board for its consideration in the above-entitled matter and, further, that the Board shall have a reasonable period of time in which to consider and act on this Stipulated Settlement 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 Board considers and acts upon it.

12. The parties agree that this Stipulated Settlement and Disciplinary Order shall be null and void and not binding upon the parties unless approved and adopted by 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 Settlement and Disciplinary Order, 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 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 Board does not, in its discretion, approve and adopt this Stipulated Settlement 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 Settlement and Disciplinary Order be rejected for any reason by the Board, respondent will assert no claim that the Board, or any member thereof, was prejudiced by its/his/her review, discussion and/or consideration of this Stipulated Settlement and Disciplinary Order or of any matter or matters related hereto.

ADDITIONAL PROVISIONS

13. This Stipulated Settlement 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.

14. The parties agree that copies of this Stipulated Settlement 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.

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

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. C 43166 issued to respondent is revoked. However, the revocation is stayed and respondent is placed on probation for five (5) 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. CONTROLLED SUBSTANCES- MAINTAIN RECORDS AND ACCESS TO RECORDS AND INVENTORIES. Respondent shall maintain a record of all controlled substances ordered, prescribed, dispensed, administered, or possessed by respondent, and any recommendation or approval which enables a patient or patient's primary caregiver to possess or cultivate marijuana for the personal medical purposes of the patient within the meaning of Health and Safety Code section 11362.5, during probation, showing all the following: 1) the name and address of patient; 2) the date; 3) the character and quantity of controlled substances involved; and 4) the indications and diagnosis for which the controlled substances were furnished.

Respondent shall keep these records in a separate file or ledger, in chronological order. All records and any inventories of controlled substances shall be available for immediate inspection

and copying on the premises by the Board or its designee at all times during business hours and shall be retained for the entire term of probation.

4. PRESCRIBING PRACTICES COURSE. Within 60 calendar days of the effective date of this Decision, respondent shall enroll in a course in prescribing practices equivalent to the Prescribing Practices Course at the Physician Assessment and Clinical Education Program, University of California, San Diego School of Medicine (Program), approved in advance by the Board or its designee. Respondent shall provide the program with any information and documents that the Program may deem pertinent. Respondent shall participate in and successfully complete the classroom component of the course not later than six (6) months after respondent's initial enrollment. Respondent shall successfully complete any other component of the course within one (1) year of enrollment. The prescribing practices course shall be at respondent's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

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

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

5. MEDICAL RECORD KEEPING COURSE. Within 60 calendar days of the effective date of this Decision, respondent shall enroll in a course in medical record keeping equivalent to the Medical Record Keeping Course offered by the Physician Assessment and Clinical Education Program, University of California, San Diego School of Medicine (Program), approved in advance by the Board or its designee. Respondent shall provide the program with any information and documents that the Program may deem pertinent. Respondent shall participate in and successfully complete the classroom component of the course not later than six (6) months

after respondent's initial enrollment. Respondent shall successfully complete any other component of the course within one (1) year of enrollment. The medical record keeping course shall be at respondent's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

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

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

6. CLINICAL TRAINING PROGRAM. Within 60 calendar days of the effective date of this Decision, respondent shall enroll in a clinical training or educational program equivalent to the Physician Assessment and Clinical Education Program (PACE) offered at the University of California - San Diego School of Medicine ("Program"). 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 program comprised of a two-day assessment of respondent's physical and mental health; basic clinical and communication skills common to all clinicians; and medical knowledge, skill and judgment pertaining to Respondent's area of practice in which Respondent was alleged to be deficient, and at minimum, a 40 hour program of clinical education in the area of practice in which respondent was alleged to be deficient and which takes into account data obtained from the assessment, Decision(s), Accusation(s), and any other information that the Board or its designee deems relevant. Respondent shall pay all expenses associated with the clinical training program.

Based on respondent's performance and test results in the assessment and clinical education, 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, treatment for any medical condition, treatment for any psychological condition, or anything else affecting respondent's practice of medicine. Respondent shall comply with Program recommendations.

At the completion of any additional educational or clinical training, respondent shall submit to and pass an examination. Determination as to whether respondent successfully completed the examination or successfully completed the program is solely within the program's jurisdiction.

If Respondent fails to enroll, participate in, or successfully complete the clinical training 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 training program have been completed. If respondent did not successfully complete the clinical training 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.

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

The Board or its designee shall provide the approved monitor with copies of the Decision(s) and Accusation(s), and a proposed monitoring plan. Within 15 calendar days of receipt of the Decision(s), Accusation(s), and proposed monitoring plan, the monitor shall submit a signed statement that the monitor has read the Decision(s) and Accusation(s), fully understands the role

of a monitor, and agrees or disagrees with the proposed monitoring plan. If the monitor disagrees with the proposed monitoring plan, the monitor shall submit a revised monitoring plan with the signed statement for approval by the Board or its designee.

Within 60 calendar days of the effective date of this Decision, and continuing throughout probation, respondent's practice shall be monitored by the approved monitor. Respondent shall make all records available for immediate inspection and copying on the premises by the monitor at all times during business hours and shall retain the records for the entire term of probation.

If respondent fails to obtain approval of a monitor within 60 calendar days of the effective date of this Decision, respondent shall receive a notification from the Board or its designee to cease the practice of medicine within three (3) calendar days after being so notified. Respondent shall cease the practice of medicine until a monitor is approved to provide monitoring responsibility.

The monitor 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. It shall be the sole responsibility of respondent to ensure that the monitor submits the quarterly written reports to the Board or its designee within 10 calendar days after the end of the preceding quarter.

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

In lieu of a monitor, respondent may participate in a professional enhancement program equivalent to the one offered by the Physician Assessment and Clinical Education Program at the

University of California, San Diego School of Medicine, that includes, at minimum, quarterly chart review, semi-annual practice assessment, and semi-annual review of professional growth and education. Respondent shall participate in the professional enhancement program at respondent's expense during the term of probation.

8. 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 15 calendar days.

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

9. SUPERVISION OF PHYSICIAN ASSISTANTS. During probation, respondent is prohibited from supervising physician assistants.

10. 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.

11. QUARTERLY DECLARATIONS. Respondent shall submit quarterly declarations under penalty of perjury on forms provided by the Board, stating whether there has been compliance with all the conditions of probation.

Respondent shall submit quarterly declarations not later than 10 calendar days after the end of the preceding quarter.

12. GENERAL PROBATION REQUIREMENTS.

Compliance with Probation Unit

Respondent shall comply with the Board's probation unit and all terms and conditions of this Decision.

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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(b).

Place of Practice

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

License Renewal

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

Travel or Residence Outside California

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

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

13. INTERVIEW WITH THE BOARD OR ITS DESIGNEE. Respondent shall be available in person upon request for interviews either at respondent's place of business or at the probation unit office, with or without prior notice throughout the term of probation.

14. NON-PRACTICE WHILE ON PROBATION. Respondent shall notify the Board or its designee in writing within 15 calendar days of any periods of non-practice lasting more than 30 calendar days and within 15 calendar days of respondent's return to practice. Non-practice is defined as any period of time respondent is not practicing medicine in California as defined in Business and Professions Code sections 2051 and 2052 for at least 40 hours in a calendar month

in direct patient care, clinical activity or teaching, or other activity as approved by the Board. All time spent in an intensive training program which has been approved by the Board or its designee shall not be considered non-practice. 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 a clinical training 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 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; and General Probation Requirements.

15. COMPLETION OF PROBATION. Respondent shall comply with all financial obligations (e.g., restitution, probation costs) not later than 120 calendar days prior to the completion of probation. Upon successful completion of probation, respondent's certificate shall be fully restored.

16. VIOLATION OF PROBATION. Failure to fully comply with any term or condition of probation is a violation of probation. If respondent violates probation in any respect, the Board, after giving respondent notice and the opportunity to be heard, may revoke probation and carry out the disciplinary order that was stayed. If an Accusation, or Petition to Revoke Probation, or an Interim Suspension Order is filed against respondent during probation, the Board shall have continuing jurisdiction until the matter is final, and the period of probation shall be extended until the matter is final.

17. LICENSE SURRENDER. Following the effective date of this Decision, if respondent ceases practicing due to retirement or health reasons or is otherwise unable to satisfy

the terms and conditions of probation, respondent may request to surrender his or her license. The Board reserves the right to evaluate respondent's request and to exercise its discretion in determining whether or not to grant the request, or to take any other action deemed appropriate and reasonable under the circumstances. Upon formal acceptance of the surrender, respondent shall within 15 calendar days deliver respondent's wallet and wall certificate to the Board or its designee and respondent shall no longer practice medicine. Respondent will no longer be subject to the terms and conditions of probation. If respondent re-applies for a medical license, the application shall be treated as a petition for reinstatement of a revoked certificate.

18. PROBATION MONITORING COSTS. Respondent shall pay the costs associated with probation monitoring each and every year of probation, as designated by the Board, which may be adjusted on an annual basis. Such costs shall be payable to the Medical Board of California and delivered to the Board or its designee no later than January 31 of each calendar year.

ACCEPTANCE

I have carefully read the Stipulated Settlement and Disciplinary Order. I fully understand the stipulation and the effect it will have on my Physician's and Surgeon's Certificate No. C 43166. 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: 9/15/14

JOSEPH MICHAEL ABRAMOWITZ, M.D.
Respondent

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ENDORSEMENT

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

Dated: September 15, 2014

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
THOMAS S. LAZAR
Supervising Deputy Attorney General

TESSA L. HEUNIS
Deputy Attorney General
Attorneys for Complainant

Exhibit A

Accusation No. 10-2011-216815

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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: JOSEPH M. ABRAMOWITZ, M.D., 3450 Bonita Road, Suite 210, Chula Vista, CA 91910 Physician's and Surgeon's Certificate No. C 43166 Respondent.	Case No. 10-2011-216815 OAH No. ACCUSATION

Complainant alleges:

PARTIES

1. Kimberly Kirchmeyer (Complainant) brings this Accusation solely in her official capacity as the Interim Executive Director of the Medical Board of California, Department of Consumer Affairs (Board).

2. On or about February 9, 1994, the Board issued Physician's and Surgeon's Certificate Number C 43166 to Joseph M. Abramowitz, M.D. (Respondent). The Physician's and Surgeon's Certificate will expire on August 31, 2015, unless renewed.

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JURISDICTION

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

4. Section 2227 of the Code states:

"(a) A licensee whose matter has been heard by an administrative law judge of the Medical Quality Hearing Panel as designated in Section 11371 of the Government Code, or whose default has been entered, and who is found guilty, or who has entered into a stipulation for disciplinary action with the board, may, in accordance with the provisions of this chapter:

"(1) Have his or her license revoked upon order of the board.

"(2) Have his or her right to practice suspended for a period not to exceed one year upon order of the board.

"(3) Be placed on probation and be required to pay the costs of probation monitoring upon order of the board.

"(4) Be publicly reprimanded by the board. The public reprimand may include a requirement that the licensee complete relevant educational courses approved by the board.

"(5) Have any other action taken in relation to discipline as part of an order of probation, as the board or an administrative law judge may deem proper.

"..."

5. Section 2234 of the Code states:

"The board shall take action against any licensee who is charged with unprofessional conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not limited to, the following:

"(a) Violating or attempting to violate, directly or indirectly, assisting in or abetting the violation of, or conspiring to violate any provision of this chapter.

"(b) Gross negligence.

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"(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.

"...

"(f) Any action or conduct which would have warranted the denial of a certificate.

"..."

6. 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...

"(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."

7. Section 2241.5 of the Code states:

"(a) A physician and surgeon may prescribe for, or dispense or administer to, a person under his or her treatment for a medical condition dangerous drugs or prescription controlled substances for the treatment of pain or a condition causing pain, including, but not limited to, intractable pain.

"(b) No physician and surgeon shall be subject to disciplinary action for prescribing, dispensing, or administering dangerous drugs or prescription controlled substances in accordance with this section.

"(c) This section shall not affect the power of the board to take any action described in Section 2227 against a physician and surgeon who does any of the following:

"(1) Violates subdivision (b), (c), or (d) of Section 2234 regarding gross negligence, repeated negligent acts, or incompetence.

"(2) Violates Section 2241 regarding treatment of an addict.

"(3) Violates Section 2242 regarding performing an appropriate prior examination and the existence of a medical indication for prescribing, dispensing, or furnishing dangerous drugs.

"...

"(7) Prescribes, administers, or dispenses in violation of this chapter, or in violation of Chapter 4 (commencing with Section 11150) or Chapter 5 (commencing with Section 11210) of Division 10 of the Health and Safety Code.

"(d) A physician and surgeon shall exercise reasonable care in determining whether a particular patient or condition, or the complexity of a patient's treatment, including, but not limited to, a current or recent pattern of drug abuse, requires consultation with, or referral to, a more qualified specialist.

"..."

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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.

"..."

9. 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."

10. Section 4022 of the Code states:

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

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

"...

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

11. Section 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."

FIRST CAUSE FOR DISCIPLINE

(Gross Negligence)

12. Respondent is subject to disciplinary action under sections 2227 and 2234, as defined by section 2234, subdivision (b) of the Code, in that he has committed gross negligence in his care and treatment of patients KS, RW, MP, DH, JeN and JaN, as more particularly alleged hereinafter:

13. Respondent was the Medical Director of the Southern Indian Health Council (SIHC) in Alpine, California, from October 2009 through on or about April 15, 2011. From on or about April 19, 2011 through on or about June 22, 2011, respondent worked as an internist under

contract with Mountain Health and Community Services (MHCS) in Alpine, California. After leaving MHCS, respondent worked in various urgent care centers as an independent contractor and has also been in private practice as a primary care provider since approximately November 1, 2011.

Patient KS:

14. Patient KS, born in August 1976, was first treated by respondent at SIHC on or about January 6, 2011. Patient KS was seen four times at the SIHC by respondent and an additional eight times at MHCS. After leaving MHCS in June 2011, respondent continued to treat patient KS until in or around August 2012.

15. At patient KS' first visit to respondent on January 6, 2011, respondent noted in her medical chart that she was suffering from dysthymia, lumbosacral anomaly, anxiety with panic attacks, and suicidality. No physical examination was conducted. At the first office visit, she was provided with prescriptions for 180 x tramadol[1] and 90 x APAP/oxycodone 325mg/10mg,[2] and advised to continue an earlier prescription for alprazolam.[3]

16. Also at this first visit on January 6, 2011, respondent noted in patient KS' medical chart: "Question of hypothyroidism: Needs T4 supplementation regardless of whether she is hypothyroid or euthyroid." Patient KS was prescribed a T4 supplement of 75mcg. Throughout the course of patient KS' treatment by respondent, no abnormal thyroid function tests were ever found for her.

17. On January 27, 2011, patient KS was again seen by respondent at SIHC and complained of chronic pain, severe depression and suicidal thoughts. Respondent described her as displaying "neurovegetative symptoms: depression, anxiety, suicidality," and prescribed 5 x

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[1] Tramadol is a dangerous drug pursuant to Business and Professions Code section 4022.

[2] APAP/Oxycodone 325mg/10mg is a combination of 325mg acetaminophen, and 10mg oxycodone, which is a Schedule II controlled substance pursuant to Health and Safety Code section 11055, subdivision (b), and a dangerous drug pursuant to Business and Professions Code section 4022.

[3] Alprazolam is a Schedule IV controlled substance pursuant to Health and Safety Code section 11057, subdivision (d), and a dangerous drug pursuant to Business and Professions Code section 4022.

fentanyl[4] patches 75mcg, sertraline and lithium. Respondent also prescribed hydromorphone hydrochloride[5] x 60 tablets of 4 mg strength, for "breakthrough." No physical examination was performed.

18. On or about February 4, 2011, patient KS was seen by respondent and her depression, chronic pain and weight gain were discussed. Respondent increased her fentanyl dosage to 10 x 100mcg patches and gave patient KS a prescription for 100 x APAP/oxycodone 325mg/10mg tablets. The hydromorphone hydrochloride was discontinued. No physical examination was performed.

19. Patient KS returned to respondent for follow up on or about February 18, 2011, again complaining of chronic pain and mood disorder. No physical examination was conducted. The medical record for this visit is incomplete and unsigned by respondent.

20. On or about March 4, 2011, patient KS again was seen by respondent. Her mood and vegetative symptoms were noted in her medical chart as being improved, but the chronic pain reportedly persisted. Respondent stopped the fentanyl patches and prescribed patient KS 90 x methadone hydrochloride[6] 10mg tablets. Refills for lithium and APAP/oxycodone were authorized. No physical exam was conducted.

21. On or about April 14, 2011, respondent made an entry in patient KS' medical record, titled "Annotation," stating that she "is currently being successfully managed with transdermal fentanyl as a base, with oxycodone for breakthrough." Respondent noted that patient KS had "failed a trial of methadone in increasing doses over 3 – 4 weeks," and that, "for breakthrough,

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[4] Fentanyl is a Schedule II controlled substance pursuant to Health and Safety Code section 11055, subdivision (c), and a dangerous drug pursuant to Business and Professions Code section 4022.

[5] Hydromorphone is a Schedule II controlled substance pursuant to Health and Safety Code section 11055, subdivision (b), and a dangerous drug pursuant to Business and Professions Code section 4022.

[6] Methadone is a Schedule II controlled substance pursuant to Health and Safety Code section 11055, subdivision (c), and a dangerous drug pursuant to Business and Professions Code section 4022.

she failed a trial of hydromorphone." There is no information in patient KS' medical record regarding the failure of methadone, in any dosage.

22. Also in the "Annotation" dated April 14, 2011, respondent indicated that he wanted to change patient KS' fentanyl regimen from 1 patch every 3 days (10 patches per month), to 1 patch every 60 hours (12 patches per month). On or about April 15, 2011, patient KS saw respondent for the final time at SIHC, to "discuss and pick up the letter [respondent] wrote April 14, titled Annotation, regarding increasing the # fentanyl patches per 30 day period." On the same date, patient KS was given a prescription by respondent for 12 x fentanyl 100mcg patches, reportedly, a 30 day supply. According to a CURES[7] report, patient KS filled prescriptions from respondent for a total of 37 patches in a 31 day period, between March 23, 2011 and April 24, 2011.

23. On or about April 22, 2011, patient KS was seen by respondent at MHCS, reportedly complaining of difficulties with insurance coverage for the "new fentanyl regimen." Respondent discontinued the fentanyl and, in its place, prescribed 90 x Kadian[8] 100mg tablets, to be taken 2 every 8 hours. In effect, 600 mg Kadian per day provides a morphine equivalent daily dosage[9] of nearly three times what respondent had been prescribing to patient KS in the fentanyl 100mcg patches. No rationale was provided for this increase in dosage. No physical exam was conducted.

24. Patient KS returned to MHCS on or about April 25, 2011, this time with reported insurance difficulties in filling the new prescription for Kadian. Respondent referred her to two

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[7] Controlled Substance Utilization Review and Evaluation System, compiled by the Department of Justice, Bureau of Narcotic Enforcement.

[8] Kadian is a brand name for morphine sulfate extended release capsules. Morphine is a Schedule II controlled substance pursuant to Health and Safety Code section 11055, subdivision (b), and a dangerous drug pursuant to Business and Professions Code section 4022.

[9] The Morphine Equivalent Dose (MED) uses a standard conversion table to translate the dose and route of each opioid taken by a patient over a 24 hour period to a morphine equivalent. The maximum recommended MED is 120mg per day.

different pharmacies which could possibly assist with the Kadian, and also prescribed lorazepam[10] and APAP/oxycodone. No physical examination was conducted.

25. On or about April 29, 2011, according to her medical record, patient KS returned to MHCS for follow up with her chronic low back pain, and insurance problems with obtaining medication. No physical examination was conducted.

26. An entry in patient KS' medical record dated May 12, 2011, states "prescription check." Her vital signs are recorded but no physical examination was conducted. There is no indication that patient KS was seen by respondent on May 12, 2011.

27. On or about May 18, 2011, patient KS was admitted to the hospital pursuant to Welfare and Institutions Code section 5150, where she was held for 72-hour treatment and evaluation following an alleged overdose of lithium and alcohol. Patient KS' husband subsequently contacted MHCS and informed them that patient KS had been admitted to the hospital, "going through serious withdrawals." Upon discharge, patient KS' diagnosis was one of major depressive disorder.

28. On or about May 26, 2011, patient KS reported to MHCS emergency room for "follow up for suicidal attempt" and for blood in her urine. She was not seen by respondent. Her medical chart on that date reflects that a physical exam was conducted and a psychiatry referral made.

29. Respondent again saw patient KS on or about June 3, 2011, documenting in her medical chart that she was there for "follow up from being in hospital." Patient KS reportedly wanted to "go back on fentanyl patches with norco for breakthrough."[11] Respondent issued two prescriptions of fentanyl 100mcg, one for 10 patches, and one for 2 patches. No record was made of the reason for the prescriptions. Respondent also issued patient KS a 14-day prescription for

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[10] Lorazepam is a Schedule IV controlled substance pursuant to Health and Safety Code section 11057, subdivision (d), and a dangerous drug pursuant to Business and Professions Code section 4022.

[11] Patient KS' medical records from her May 18, 2011, admission to the hospital indicate that her treatment there included the discontinuation of Kadian, morphine, lithium and thyroxine.

Norco[12] 10mg/325mg x 84 tablets, with 5 refills (to last 90 days). No physical examination was conducted. Respondent noted that patient KS should contact a surgeon in regard to surgery and a possible imaging study of her back.

30. On or about June 20, 2011, patient KS visited respondent at MHCS, where she assisted him with a website he was creating. On the same date, respondent told a physician assistant that he had misplaced his controlled substance prescription pad and asked the physician assistant to write a prescription for patient KS for 5 x fentanyl 100mcg patches, which he did. Respondent made no record of the visit or the prescription.

31. After June 3, 2011, there are no records of any visits or consultations between respondent and patient KS for the remainder of 2011. At his interview with the Medical Board, respondent stated that he believed he "may have seen [patient KS] in one of the urgent care" centers at which he worked.

32. During the period June 4, 2011 through January 12, 2012, patient KS filled prescriptions from respondent for 2,260 APAP/hydrocodone bitartrate 325mg/10mg tablets, 230 x lorazepam 2mg tablets, 90 x diazepam 2mg tablets, 180 x oxycodone hydrochloride 30mg tablets, 5 x fentanyl 100mcg patches, and 125 APAP/oxycodone 325mg/10mg tablets.

33. During the period July 1, 2011 through August 3, 2011 (33 days), patient KS filled prescriptions from respondent for 822 x APAP/hydrocodone bitartrate 325mg/10mg tablets, that is, an average of approximately 24 tablets or 7.8 grams acetaminophen per day.[13]

34. During the period approximately from January 13, 2012 through June 17, 2012, patient KS did not fill any prescriptions for controlled substances from respondent. At his interview with the Medical Board, respondent stated that "there was a period of ... roughly between February and ... June ... of 2012, where ...[he] was not seeing [patient KS]."

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[12] Norco is a brand name for acetaminophen and hydrocodone bitartrate, a Schedule III controlled substance pursuant to Health and Safety Code section 11056, subdivision (e), and a dangerous drug pursuant to Business and Professions Code section 4022.

[13] Prior to July 2011, the recommended maximum dose of acetaminophen for the average healthy adult over a 24 hour period, was four grams (4,000 mg). In or around July 2011, the drug manufacturers reduced this to three grams (3,000 mg) over any 24 hour period.

Respondent started treating patient KS again in June 2012. After the clinical note dated June 3, 2011, the first record of respondent's treatment of patient KS is dated July 30, 2012.

35. Between the period June 18, 2012 through August 13, 2012 (57 days), patient KS filled prescriptions from respondent for 360 x APAP/hydrocodone bitartrate 325mg/10mg tablets, 75 x oxycodone hydrochloride 30mg tablets, 30 x lorazepam 2mg tablets, 10 x fentanyl 100mcg patches, and 240 oxycodone/acetaminophen 325mg/10mg tablets.

36. Respondent prescribed thyroid medication to patient KS without any examination of the thyroid gland.

37. Throughout the course of treatment, chronic pain secondary to a spinal congenital anomaly was mentioned by respondent as the diagnosis. A physical examination of the painful area was never performed although, in an interview conducted by the Medical Board as part of its investigation into this matter, respondent stated that he believed he had conducted a physical examination of patient KS "on at least one occasion ... at a minimum... straight leg raising."

38. Throughout her course of treatment with respondent, patient KS' physiological functioning was never noted, history of substance abuse was never documented, and prior (or concurrent) treatments were not noted.

39. Throughout her course of treatment with respondent, no quantitative documentation of the pain, or its intensity, location, duration, and effect on functional abilities, was ever made. At no time was there any correlation made between the prescriptions provided and the pain and functional levels and patient KS' response to treatment. Patient KS' medical records show no clear documentation of the objectives of treatment.

40. Respondent never referred patient KS to a psychiatrist or for any form of psychotherapy.

41. Respondent committed gross negligence in his care and treatment of patient KS which included, but was not limited to, the following:

(a) Prescribing high doses of multiple opiates in a random manner, to a patient with a known history of depression and attempted suicide, and/or without a valid, documented medical indication for such prescription(s);

(b) Failing to perform a physical examination on patient KS; and/or

(c) Failing to maintain adequate and accurate records regarding his care and treatment of patient KS.

Patient RW:

42. Patient RW, born in October 1943, was first seen at SIHC in January 2009 and received treatment from a different physician for hip pain, diabetes and with a history of breast cancer. In the clinical note for her visit to SIHC on or about August 4, 2009, the physician noted that the patient needs to have her pain managed by a pain specialist as she is taking too much pain medication.

43. Patient RW was first seen by respondent at SIHC on or about October 20, 2010. At this visit, respondent explained to patient RW that he could prescribe her pain medication with the pain specialist's permission, if she was unable to get to see the pain specialist. Respondent indicated that he needed the pain specialist's records. No physical examination was recorded. At his interview with the Medical Board, respondent stated that he recalled examining patient RW's left upper extremity and her right hip at this visit.

44. On or about October 27, 2010, patient RW returned for follow up and asked respondent to prescribe her double her existing dose of oxycodone 30mg. Respondent observed, in his clinical note for this visit, "thin older female manifesting impaired reasoning skills." According to patient RW, this prescription request was in line with her instructions from her pain specialist. Respondent did not contact the pain specialist regarding this change to patient RW's pain regimen and issued a prescription for oxycodone immediate release (IR) 30mg tablets to be taken every 4 hours, as needed.

45. Patient RW's medical chart contains a note dated October 28, 2010, signed by respondent, stating, "this patient lacks the mental capacity, reasoning or judgment to present herself for care unaccompanied by a family member..."

46. On or about November 3, 2010, patient RW returned for follow up, unaccompanied by any family member. No physical exam was conducted. According to the clinical note for this visit, patient RW was "in the process of leaving [her pain specialist]." No records had yet been

received at SIHC from the pain specialist. Respondent prescribed oxycodone IR 30mg every 6 hours, as needed, and noted on patient RW's medical chart that her next visit would be scheduled with her granddaughter in attendance and only after having received her records from the pain specialist.

47. On or about November 10, 2010, according to a clinical note for this visit, patient RW returned to respondent "for new prescriptions," having either left the pain specialist or been abandoned by him. The previous prescription written by respondent for patient RW for oxycodone IR had allegedly been destroyed by the pharmacy, at the request of the pain specialist. Respondent wrote prescriptions for patient RW for a 30 day supply of the following medications: 90 x Oxycontin[14] 40mg, to be taken 1 every 8 hours (120mg Oxycontin per day); 240 x oxycodone IR 30mg, to be taken one every 4 hours (180mg oxycodone per day); metoclopramide[15] 10mg, to be taken one every 8 hours, as needed; and promethazine[16] 25mg, to be taken one every 8 hours, as needed. No physical examination was conducted.

48. According to a clinical note dated December 1, 2010, patient RW returned to see respondent on or about this date for an early refill of her opiate prescriptions. No physical examination was performed. Respondent repeated the same prescriptions as on the previous visit.

49. On or about December 15, 2010, patient RW presented with her granddaughter. Patient RW was reportedly having difficulty adjusting her pain medications. No physical examination was performed.

50. On or about December 22, 2010, patient RW presented as a walk-in patient, having trouble with her pain medications and consuming them too quickly. No physical examination

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[14] Oxycontin is a brand name for a sustained-release form of oxycodone, a Schedule II controlled substance pursuant to Health and Safety Code section 11055, subdivision (b), and a dangerous drug pursuant to Business and Professions Code section 4022.

[15] Metoclopramide is an anti-emetic and a dangerous drug pursuant to Business and Professions Code section 4022.

[16] Promethazine is an antihistamine and a dangerous drug pursuant to Business and Professions Code section 4022.

was performed. Respondent noted that he would prescribe her "a limited amount of oxycodone IR 30." No other indication of medications and/or dosages was recorded.

51. On or about December 29, 2010, patient RW again returned to respondent for new opiate prescriptions. No physical examination was performed. Respondent prescribed a 30 day supply of Oxycontin 60mg (one every 6 hours, or 240mg per day), and 180 x oxycodone 30mg (one every 4 to 6 hours, as needed for breakthrough pain, or 120 – 180mg per day).

52. On or about January 12, 2011, patient RW was again seen by respondent. At this visit, she complained that the 60mg Oxycontin was too strong and that she was not taking them. Patient RW was given a new prescription for oxycodone IR 30mg. The clinical note does not mention the daily dosage. No physical examination was conducted.

53. A clinical note by respondent dated April 22, 2011 is apparently a late entry for patient RW's visit on or about January 19, 2011. In this note, respondent states "[patient RW] was supposed to come in on January 12 but could not make it. She presents today..." Under the heading "action," respondent noted: "change Oxycontin to 60 every 6 hours."

54. On or about February 2, 2011, respondent saw patient RW and prescribed her a 14 day supply of oxycodone IR 30mg and 120 x Oxycontin 60mg (30 day supply), to be taken every 6 hours. No physical examination was performed. The clinical note for this visit was signed by respondent on March 2, 2011.

55. On or about February 16, 2011, patient RW returned to respondent with her granddaughter and great-granddaughter. According to the clinical note for this visit, patient RW was concerned about being on opiates. Respondent told her that the pain control was going well and that they should leave things as they were. In his clinical note, respondent observed that patient RW was a "pleasant older female in no acute distress. No further exam today." Respondent's assessment of patient RW was noted as being "chronic musculoskeletal pain, worst in left upper extremity." Respondent ordered laboratory tests for patient RW and prescribed 240 x oxycodone 30mg tablets (30 day supply), to be taken one every 4 to 6 hours for breakthrough pain, and an unknown quantity of 60mg Oxycontin tablets, to be taken one every 6 hours.

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56. On or about March 2, 2011, patient was again seen by respondent. No physical examination was performed. Respondent prescribed 120 x Oxycontin 80mg (30 day supply), to be taken one every 6 hours, and 150 x oxycodone IR 30mg (14 day supply), to be taken 1 to 2 every 3 to 4 hours, as needed. No reason for the increase in Oxycontin from 60mg to 80mg is indicated in patient RW's chart. Respondent told patient RW to take as much of the oxycodone IR 30mg as she needed, but to take the Oxycontin only as directed, one every 6 hours.

57. On or about March 16, 2011, patient RW presented for a refill prescription for oxycodone, and also asked respondent to prescribe her 900ml cough syrup, allegedly for her nocturnal cough. Respondent declined the latter request[17] and prescribed 150 x oxycodone 30mg, and 240ml promethazine with codeine cough syrup. No physical exam was performed.

58. A clinical note dated April 6, 2011, indicates that patient RW was seen by respondent and reported that her musculoskeletal pain was well-controlled on Oxycontin and oxycodone, although her use of these medications had escalated due to "dental issues." No physical examination was conducted. Respondent did not refer patient RW to a mental health provider. Respondent prescribed 120 x Oxycontin 60mg (30 day supply), to be taken one every 6 hours, and 150 x oxycodone IR 30mg (14 day supply). No rationale was provided for the decrease in the Oxycontin dosage, back to the 60mg tablet.

59. Patient RW next saw respondent at MHCS, on or about April 27, 2011. At that visit, no physical examination was conducted, and respondent renewed patient RW's prescription for oxycodone IR 30mg. No mention is made of the quantity or frequency prescribed.

60. On or about May 20, 2011, patient RW again saw respondent at MHCS. No physical examination was conducted. Respondent noted "chronic pain" and prescribed Oxycontin and oxycodone. The clinical note for this visit does not specify either strengths or quantities, though entries on the CURES report show that patient RW filled prescriptions for 120 x Oxycontin 60mg tablets, and 150 x oxycodone hydrochloride 60mg tablets on or about May 20, 2011.

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[17] During an interview conducted by the Medical Board into this matter, respondent explained that this request for 900ml cough syrup gave him cause for concern, both from the standpoint of representing a dangerous amount of narcotic consumption as well as possibly indicating dependency or abuse/diversion issues.

61. At his interview with the Medical Board, respondent explained that he usually prescribed oxycodone in quantities sufficient only for 14 days since he was not comfortable prescribing a month's supply of oxycodone. On or about June 16, 2011, patient RW visited respondent and asked for prescription renewals. Specifically, she asked that she be given a 30 day prescription of oxycodone since she was going on vacation. No physical examination was conducted. Respondent issued prescriptions for a 30 day supply of Oxycontin 60mg tablets (3 tablets or 180mg per day), and oxycodone 30mg tablets (up to 10 tablets or 300mg per day).

62. After respondent left MHCS, patient RW continued to be treated by him and fill prescriptions for controlled substances issued by him. In the period November 3, 2010, through August 25, 2011 (296 days), patient RW filled prescriptions from respondent for 3,140 x oxycodone hydrochloride 30mg tablets (10.6 tablets or 318mg per day), and Oxycontin tablets in 40mg, 60mg and 80mg strengths which work out to an average of 221mg per day. In the period August 26, 2011, through July 26, 2011 (336 days), patient RW filled prescriptions from respondent for 4,325 x oxycodone hydrochloride 30mg tablets (12 tablets or 360mg per day), and Oxycontin tablets in 60mg and 80mg strengths which work out to an average of 350mg per day.

63. Throughout her course of treatment with respondent, no physical examinations were conducted of patient RW, and no pain levels, precise cause, location, or response to treatment, were ever documented.

64. Respondent committed gross negligence in his care and treatment of patient RW which included, but was not limited to, the following:

(a) Failing to perform a physical examination on patient RW;

(b) Failing to maintain adequate and accurate records regarding his care and treatment of patient RW; and/or

(c) Prescribing high doses of opiates in the absence of a valid painful condition and/or without proper monitoring, despite concerns about her overusing medications, mental incompetence, and physical frailty.

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Patient MP:

65. Patient MP, born in January 1983, was seen at MHCS by other providers since approximately August 2010. On or about March 21, 2011, and April 18, 2011, she was prescribed Vicodin[18] 7.5mg/750mg tablets, to be taken three times per day, that is, a total of 22.5mg hydrocodone per day.

66. Patient MP was first seen by respondent at MHCS on or about May 13, 2011, at which visit she was diagnosed as having complex regional pain syndrome of the right upper extremity. In his clinical note for this visit, in the section reserved for "physical exam," respondent noted, "look – classic posture; feel – deferred; move – deferred." No physical examination was conducted. In the section reserved for recording the "assessment/plan," respondent included the observation "needs opiates." No mention of any prescription or medication is mentioned in the note. At his interview with the Medical Board, respondent indicated that he thought it likely that he had prescribed opiates at this visit. Respondent also gave patient MP a nerve block at this visit, which was not documented in the clinical note.

67. On or about May 16, 2011, patient MP returned to respondent for a second nerve block. No physical examination was conducted. According to his clinical note, respondent started prescribing methadone for patient MP at this visit. Other than the note, "begin methadone per Rx.," no mention is made of medications or dosages.

68. On or about May 20, 2011, patient MP was administered another nerve block by respondent. No physical examination was performed.

69. On or about May 31, 2011, patient MP returned to respondent for a further nerve block and for refills of her prescriptions for Norco and methadone. In the section of the clinical note reserved for the physical exam, respondent wrote "usual antalgic posture." No physical examination was performed. The clinical note for this visit contains no mention of the dosages of the medicines prescribed.

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[18] Vicodin is a brand name for acetaminophen and hydrocodone bitartrate, a Schedule III controlled substance pursuant to Health and Safety Code section 11056, subdivision (e), and a dangerous drug pursuant to Business and Professions Code section 4022.

70. According to the CURES report, during the period May 13, 2011, through May 30, 2011 (18 days), respondent prescribed a total of 300 x APAP/hydrocodone bitartrate 325mg/10mg tablets, that is, an average of 16 tablets or 160mg hydrocodone and 5.2g acetaminophen per day. There is no indication in patient MP's medical record for the increase from 22.5mg hydrocodone per day, during March and April, 2011, to 160mg hydrocodone per day during May 2011.

71. On or about June 15, 2011, patient MP again saw respondent and was given another nerve block. In his clinical note for this visit, respondent stated "no exam today," and indicated that patient MP was taking methadone 30mg every 12 hours.

72. Respondent failed to maintain any clinical records for his treatment of patient MP after June 15, 2011. At his interview with the Medical Board, respondent stated that he believed that he continued to prescribe medications to her during the second half of 2011, and that he would either mail these prescriptions to her or hand them to her in person. During the period approximately from June 30, 2011 through August 22, 2011 (54 days), patient MP filled prescriptions written by respondent for 1,040 x APAP/hydrocodone bitartrate 325mg/10mg, which amounts to an average of 19 tablets or 6.175g acetaminophen per day.

73. During the period June 16, 2011 through February 28, 2012 (258 days), patient MP filled prescriptions written by respondent for the following medications: 3,070 x APAP/hydrocodone bitartrate 325mg/10mg tablets (11 tablets, or 110mg hydrocodone, per day); 1,560 x methadone hydrochloride 10mg tablets (6 tablets, or 60mg methadone per day); 50 x alprazolam 1mg tablets; and 135 x lorazepam 1mg tablets.

74. There is no documentation in any of respondent's notes regarding patient MP's pain levels or activity levels. Patient MP's response to treatment with Norco and methadone was also not noted.

75. Twice-weekly axillary blocks are not indicated for complex regional pain syndrome (CRPS). There is no indication in patient MP's chart that respondent discussed the use of this technique with her. Respondent's objectives in his care and treatment of patient MP, including

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twice-weekly axillary blocks with local anesthetics, and high levels of Norco and methadone, were never stated in any of his clinical notes.

76. Respondent committed gross negligence in his care and treatment of patient MP which included, but was not limited to, the following:

(a) Failing to perform a physical examination on patient MP;

(b) Failing to maintain adequate and accurate records in regard to his care and treatment of patient MP; and/or

(c) Prescribing high dosages of opiates, and/or increasing the dosage sevenfold in the first month of treatment, without medical indication or appropriate monitoring.

Patient DH:

77. Patient DH, born in November 1959, was first treated by respondent at SIHC on or about April 5, 2010. After respondent left SIHC, he treated patient DH twice at MHCS. Respondent's care and treatment of patient DH did not continue after he left MHCS.

78. Patient DH has a history of multiple medical problems, including a history of breast cancer with right radical mastectomy, history of hepatitis, multiple cervical spine surgeries in 2004, 2006 and 2009, history of suicide attempt with alprazolam, and a reported remote history of a myocardial infarction but no current cardiac symptoms.

79. Up until two weeks before starting treatment with respondent, patient DH was taking hydromorphone 4mg tablets every 6 hours, for a total of 16mg hydromorphone per day, and lorazepam 2mg tablets, 2 to 4 times per day. At his initial consultation with patient DH, respondent diagnosed her with chronic cervicobrachial pain due to degenerative disk disease of the cervical spine and failed surgeries. He noted that she was postmenopausal and had depression with possible hypothyroidism. Respondent repeated the prescription for hydromorphone 4mg tablets, 1 every 6 hours, and changed the lorazepam to 1mg, 2 to 4 times per day.

80. On or about May 10, 2010, respondent again saw patient DH and noted that patient DH had recently been hospitalized with some jaundice. At this visit, respondent increased patient DH's hydromorphone prescription to 8mg every 8 hours, that is. 24mg per day. No rationale for the increase in dosage is documented in patient DH's medical records. Respondent's physical

examination of patient DH on this visit was limited to noting that she was afebrile, was a "pleasant, cooperative, ill-looking female in no acute distress," and had "minimal sclera icterus."

81. On or about May 24, 2010, respondent again saw patient DH and noted that she was apathetic with flat affect. No physical examination was performed. Respondent continued the hydromorphone prescription and started patient DH on a trial of bupropion[19] 100mg to 200mg for depression.

82. On or about June 14, 2010, patient DH visited respondent and reported that drugs had been stolen from her home. As a result, she needed early refills of hydromorphone, lorazepam and bupropion, which respondent provided.

83. On or about June 30, 2010, patient DH saw respondent and reported that neither the hydromorphone nor the bupropion were working. No physical examination was conducted. Respondent discontinued the hydromorphone and bupropion and prescribed MS Contin[20] 60mg tablets, to be taken 1 every 8 hours (180mg per day), with oxycodone 5mg tablets for breakthrough pain. In addition, respondent prescribed clonidine[21] 0.1mg tablets. No rationale for the clonidine prescription was documented.

84. On or about July 26, 2010, patient DH returned to respondent for follow up and reported that oxycodone was ineffective in controlling her breakthrough pain. On the clinical record of this visit, respondent noted, "this patient is rather unsophisticated and fails to grasp the concept of interaction of drugs with CNS effects, some of which are not analgesics." At this visit, respondent lowered patient DH's dosage of MS Contin from 180mg per day to 120mg per day, and doubled her prescription of oxycodone to 30mg per day (10mg every 8 hours as needed), a

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[19] Bupropion is an antidepressant and a dangerous drug pursuant to Business and Professions Code section 4022.

[20] MS Contin is a brand name for morphine, a Schedule II controlled substance pursuant to Health and Safety Code section 11055, subdivision (b), and a dangerous drug pursuant to Business and Professions Code section 4022.

[21] Clonidine is used to treat high blood pressure and is a dangerous drug pursuant to Business and Professions Code section 4022.

total of 80 tablets for 14 days. Lorazepam was reduced to 1mg each morning. Clonidine was discontinued. No physical examination was conducted.

85. On or about August 16, 2010, patient DH again saw respondent and reported being much worse on the lowered MS Contin dose. Respondent prescribed a return to the previous MS Contin dose, namely, 60mg every 8 hours (180mg per day). No physical examination was performed.

86. On or about September 15, 2010, respondent again saw patient DH and noted that she was much improved. Patient DH attributed this to having begun to take amitryptiline[22] "again," 75mg at night. No history regarding the prescription of the amitryptiline was documented. Respondent gave patient DH a prescription for 220 x oxycodone 5mg tablets for 30 days. No physical examination was performed.

87. On or about October 13, 2010, patient DH again saw respondent and admitted to "doing well from a pain standpoint." Patient DH reported having increased anxiety in relation to personal issues, which she did not wish to discuss with respondent, and acknowledged that she needed to find a psychiatrist. Respondent told patient DH "to consider going up on the MS Contin dose so that she will require less oxycodone for breakthrough." No physical examination was conducted.

88. On or about November 3, 2010, patient DH came to see respondent, having apparently fallen and injured her knee. This injury reportedly led to increased consumption by patient DH of her opiates, necessitating an early refill. In his clinical note for this visit, respondent remarked, "this pathetic disabled depressed female presents for follow up" and that she was a "sad, helpless female in moderate distress." No physical examination was performed, respondent noting that patient DH's knee was too painful and tender to examine. Respondent prescribed 60mg MS Contin every 6 hours (240mg per day) and again issued a prescription for 220 x oxycodone 5mg tablets, a 30 day supply.

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[22] Amytriptiline is used to treat symptoms of depression and is a dangerous drug pursuant to Business and Professions Code section 4022.

89. On or about December 1, 2010, patient DH saw respondent and appeared to be much improved over her previous visit. Patient DH asked that respondent prescribe her "the same opiates as last time." No physical examination was conducted. Respondent prescribed 100mg MS Contin every 8 hours (300mg per day), and 220 x oxycodone 5mg tablets, a 30 day supply. No rationale for the increase in the dosage of MS Contin was documented.

90. On or about December 29, 2010, patient DH returned to respondent for follow up, complaining of left knee pain and swelling. Respondent examined her knee and injected steroids into the knee.

91. On or about February 16, 2011, respondent saw patient DH and issued her a prescription for Kadian, to be taken 100mg every 8 hours (300mg per day). No physical examination was performed.

92. On or about March 16, 2011, patient DH returned to respondent for new opiate prescriptions. Her pain was reported by respondent as being "stable, although it fluctuates on her mood and her tendency to overdo things when they are going really well." No physical examination was performed. According to the clinical note for this visit, respondent prescribed 100mg MS Contin every 8 hours (300mg per day). Patient DH was also prescribed oxycodone 5mg tablets, for breakthrough, though the quantity of the prescription is not documented.

93. On or about April 15, 2011, patient DH returned to respondent with "chronic pain, chiefly due to cervical spine degenerative disk disease." According to the clinical note for this visit, patient DH felt that the Kadian was not working as well as it had initially, and requested an increase from every 8 hours, to every 6 hours. Respondent's assessment of patient DH at this visit was that she was developing possible tolerance to MS Contin. No physical examination was conducted. Respondent prescribed Kadian, 100mg every 6 hours (400mg per day), 120 x 10mg oxycodone tablets (30 day supply), and 30 x lorazepam tablets, to be taken 2mg twice a day, with 4 refills.

94. On or about May 17, 2011, patient DH saw respondent at MHCS for the first time. In his clinical note for this visit, in the section reserved for the physical exam, respondent wrote,

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"deferred until we get records from SIHC." No physical examination was conducted. Respondent prescribed Kadian and oxycodone 10mg tablets.

95. Patient DH's final treatment with respondent was on or about June 15, 2011. At that visit, patient DH reportedly wanted new opiate prescriptions and asked for X-rays of her lumbar spine and left knee. No physical examination was conducted. Respondent prescribed Kadian 100mg every 6 hours (400mg per day) and 180 x oxycodone 10mg tablets (30 day supply). Respondent also authorized Percocet[23] in case patient DH was unable to get oxycodone.

96. In or around April 2010, at the start of respondent's care and treatment of patient DH, she was taking approximately 64mg morphine equivalent daily dosage. By June 2011, patient DH was taking approximately 490mg morphine equivalent daily dosage. The recommended morphine equivalent daily dosage is 120mg.

97. Patient DH had a history of an attempted suicide using benzodiazepines. During the period September 22, 2010, through July 26, 2011 (308 days), respondent prescribed patient DH 750 x lorazepam 2mg tablets.

98. Throughout the course of his care and treatment of patient DH, with the possible exception of two examinations of her left knee, respondent never conducted any physical examinations of her. No treatment plan or objectives of treatment are documented in any of respondent's clinical notes for patient DH. The nature, location, intensity, character, duration or frequency of her pain was never documented. No other medications, such as antiepileptic medications, including Neurontin, Lyrica, or others, were never discussed or tried, and patient DH was not offered physical therapy.

99. Respondent committed gross negligence in his care and treatment of patient DH which included, but was not limited to, the following:

(a) Repeatedly prescribing benzodiazepines while being aware of patient DH's previous suicide attempt using benzodiazepines;

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[23] Percocet is a brand name for oxycodone and acetaminophen, a Schedule II controlled substance pursuant to Health and Safety Code section 11055, subdivision (b), and a dangerous drug pursuant to Business and Professions Code section 4022.

(b) Prescribing opiates in increasingly high dosages without any documented need or response to the treatment; and/or

(c) Failing to perform a physical examination on patient DH.

Patient JeN:

100. Patient JeN, born in June 1963, was treated at MHCS (by physicians other than respondent) from at least on or about August 3, 2009, to on or about July 28, 2010. Her records indicate that she had a history of depression, anxiety and chronic pain. Patient JeN had had a hip replacement and also had a history of hepatitis C. In 2009, patient JeN was placed on Oxycontin 80mg, a total of 8 tablets a day, and MSIR[24] 30mg tablets to a total of 8 per day. A clinical note in her medical record, dated July 28, 2010, states that patient JeN had breached her controlled substance contract, apparently by taking benzodiazepines prescribed to her husband, patient JaN. As a result of her breach of her pain contract, patient JeN was advised that she would no longer be provided controlled substances from SIHC but would need to find a pain management specialist or go to the emergency room for any further controlled substance medications. Alternatively, patient JeN was advised to find another prescriber for controlled substances.

101. From on or about September 10, 2010, respondent started treating patient JeN at SIHC and prescribing controlled substances for her. Between that date and on or about April 11, 2011, patient JeN received 1,440 x 30mg morphine sulfate tablets and 900 x 100mg Kadian tablets, prescribed by respondent. On or about November 10, 2010, December 1, 2010 and March 2, 2011, patient JeN returned to respondent for, and was given, early refills of her opiate prescriptions.

102. The first clinical note documenting any treatment of patient JeN by respondent at MHCS is dated May 2, 2011. According to the clinical note for this visit, patient JeN was asking for opiate prescription refills; however, respondent did not have the proper prescription pad

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[24] MSIR is a brand name for morphine, which is a Schedule II controlled substance pursuant to Health and Safety Code section 11055, subdivision (b), and a dangerous drug pursuant to Business and Professions Code section 4022.

available and the plan was for patient JeN to return to MHCS in two weeks. No physical examination was conducted and no history or reason for any opiate prescription was documented.

103. On or about May 16, 2011, patient JeN returned to MHCS for her medication refills. The clinical note prepared by respondent for this visit indicates an assessment of "chronic pain, stable," and a plan to prescribe medication, in unknown quantities or strengths, and to draw up a pain contract at the patient's next visit.

104. On or about June 15, 2011, patient JeN returned to respondent "for opiate prescriptions" and "chronic pain." Respondent prescribed 90 x Kadian 200mg tablets and 180 x MSIR 30mg tablets for patient JeN. No physical examination fo the patient was conducted on this visit.

105. Patient JeN returned to MHCS after respondent no longer worked there, and was seen by a different physician. On or about July 12, 2011, she was informed by a physician at MHCS that she was taking too much morphine and that the physician would not prescribe the level of morphine patient JeN was seeking. Patient JeN was given three prescriptions for one week each, for Kadian 200mg twice daily, and morphine IR 30mg to be taken up to six per day, and instructed to turn all three prescription into the same pharmacy within seven days of the date of the prescription. Patient JeN was further informed that her physician at MHCS would no longer be prescribing any controlled substances to her.

106. Respondent continued to treat patient JeN after he left MHCS. During the period on or about December 14, 2011, through April 9, 2012 (118 days), patient JeN filled prescriptions from respondent for 450 x Kadian 200mg tablets (3.8 tablets or 760mg per day), 900 x morphine sulfate 30mg tablets (7.6 tablets or 228mg per day), 90 x lorazepam 1mg tablets and 60 x diazepam 10mg tablets. Respondent failed to maintain adequate and accurate medical records regarding these prescriptions.

107. The medical chart for patient JeN makes no mention of the location or intensity of the patient's pain, nor how the pain was responding to the opioids. Respondent prescribed six times the maximum recommended MED for patient JeN with no explanation or documentation of treatment plan or objectives of treatment.

108. Respondent committed gross negligence in his care and treatment of patient JeN which included, but was not limited to, prescribing high doses of opiates without a valid pain diagnosis and/or despite the patient having a history of breaching a narcotics contract.

Patient JaN:

109. Patient JaN, born in June 1957, is the husband of patient JeN and was treated at MHCS from at least on or about March 27, 2009. According to patient JaN's medical records, he had a history of depression, chronic low back pain, prostate cancer, morbid obesity, hypertension, and noncompliance with opioid treatment.

110. Respondent started treating patient JaN at SIHC in or about February 2011. Between February 2, 2011 and May 15, 2011 (103 days), respondent prescribed patient JaN 540 x 30mg, and 540 x 100mg, morphine sulfate tablets, which works out to an average of 681mg morphine sulfate per day. In addition, respondent prescribed at least 420 x 10mg diazepam tablets (an average of 4 tablets or 40mg diazepam per day) to patient JaN during this period. On or about March 2, 2011, patient JaN returned to respondent for, and was given, an early refill of his prescription for the 100mg morphine sulfate tablets.

111. The first clinical note documenting any treatment of patient JaN by respondent at MHCS is dated May 2, 2011. According to that clinical note, patient JaN was asking for a new prescription for "chronic pain"; however, respondent did not have the necessary prescription pad and the plan was for patient JaN to return in two weeks. No physical examination was conducted.

112. On or about May 13, 2011, patient JaN returned to respondent for a refill for his medications. No physical examination was conducted. The clinical note for this visit states, "chronic pain – stable on MSC/MSIR" and references patient JaN's radiation treatment for prostate cancer. No prescriptions are documented on the clinical note. Patient JaN was advised by respondent to "go online to search remedies for radiation treatment."

113. On or about June 15, 2011, patient JaN again saw respondent and was prescribed an unknown quantity of 100mg morphine sulfate CR tablets (2 every 8 hours), 30mg morphine sulfate IR tablets (2 every 8 hours), or a morphine equivalent daily dose of 780mg. Respondent

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also prescribed 10mg diazepam tablets. No indication for the diazepam is documented. No physical examination was conducted.

114. During the course of respondent's treatment of patient JaN, the patient's pain was never described or documented in nature, intensity or location. and his progress with treatment was not noted. The appropriateness of the treatment plan was not addressed, and no other methods of treatment were ever discussed or initiated.

115. Respondent committed gross negligence in his care and treatment of patient JaN which included, but was not limited to, prescribing high doses of opiates without trying alternative lower dosages or methods of treatment.

SECOND CAUSE FOR DISCIPLINE

(Repeated Acts of Clearly Excessive Prescribing)

116. Respondent is further subject to disciplinary action under section 725 of the Code in that he engaged in repeated acts of clearly excessive prescribing or administrating of drugs or treatment as determined by the standard of the community of licensees in his care and treatment of patients KS, DH, MP, RW, JeN and JaN, as more particularly alleged in paragraphs 12 through 115, above, and which are hereby realleged and incorporated by reference as if fully set forth herein.

THIRD CAUSE FOR DISCIPLINE

(Prescribing Dangerous Drugs Without Prior Examination and Medical Indication)

117. Respondent is further subject to disciplinary action under sections 2227 and 2234, as defined by section 2242, of the Code, in that he prescribed dangerous drugs as defined in Section 4022 of the Code without an appropriate prior examination and a medical indication. The circumstances are as follows:

118. Paragraphs 12 through 116, above, are hereby realleged and incorporated by reference as if fully set forth herein.

119. During an interview with the Medical Board, respondent stated that he occasionally mailed prescriptions for controlled substances to his private patients, without seeing them, when they had difficulty in obtaining these medications from other prescribers.

FOURTH CAUSE FOR DISCIPLINE

(Repeated Negligent Acts)

120. Respondent is further subject to disciplinary action under sections 2227 and 2234, as defined by section 2234, subdivision (c), of the Code, in that he committed repeated negligent acts in his care and treatment of patients KS, RW, MP, DH, JeN, JaN and RM, as more particularly alleged hereinafter:

121. Paragraphs 13 through 119, above, are hereby realleged and incorporated by reference as if fully set forth herein.

Patient KS:

122. Respondent committed repeated negligent acts in his care and treatment of patient KS which included, but were not limited to, the following:

(a) Respondent prescribed high doses of multiple opiates in a random manner, to a patient with a known history of depression and attempted suicide and/or without a valid, documented medical indication for such prescription(s);

(b) Respondent failed to record a treatment plan or objectives of treatment for patient KS;

(c) Respondent failed to obtain patient KS' informed consent to treatment with opioids;

(d) Respondent failed to make a periodic review of the treatment plan;

(e) Respondent failed to take a complete history from, and conduct a physical examination of, patient KS;

(f) For the first year of treating patient KS, respondent failed to refer her for any consultations, including for evaluation of the nature[25] and causes of patient KS' pain, for possible physical therapy, and/or to a psychiatrist; and/or

(g) Respondent failed to maintain adequate and accurate records regarding his care and treatment of patient KS.

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[25] Nociceptive pain is the pain caused by activation of nociceptors, which are sensory neurons found throughout the body. A nociceptor is a receptor preferentially sensitive to a noxious stimulus or to a stimulus which would become noxious if prolonged. Neuropathic pain is pain initiated or caused by a primary lesion or dysfunction of the nervous system. Nociceptive pain is not considered dysfunction of the nervous system.

Patient RW:

123. Respondent committed repeated negligent acts in his care and treatment of patient RW which included, but were not limited to, the following:

(a) Respondent prescribed high doses of opiates in the absence of a valid painful condition and/or without proper monitoring, despite concerns about her overusing medications, mental incompetence, and physical frailty;

(b) Respondent failed to take a complete history from, and conduct a physical examination of, patient RW;

(c) Respondent failed to record a treatment plan or objectives of treatment for patient RW;

(d) Respondent failed to obtain the informed consent of patient RW to treatment with controlled substances, including opioids;

(e) Respondent failed to refer patient RW to other health providers including, but not limited to, mental health providers and pain management specialists;

(f) Respondent failed to maintain adequate and accurate records regarding his care and treatment of patient RW; and/or

(g) Respondent failed to conduct periodic review of his treatment of patient RW.

Patient MP:

124. Respondent committed repeated negligent acts in his care and treatment of patient MP which included, but were not limited to, the following:

(a) Respondent prescribed high dosages of opiates and/or increased the dosage sevenfold in the first month of treatment, without medical indication or appropriate monitoring;

(b) Respondent failed to record a treatment plan or objectives of treatment for patient MP;

(c) Respondent failed to conduct periodic review of his treatment of patient MP;

(d) Respondent failed to take a complete history from, and conduct a physical examination of, patient MP; and/or

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(e) Respondent failed to maintain adequate and accurate records regarding his care and treatment of patient MP.

Patient DH:

125. Respondent committed repeated negligent acts in his care and treatment of patient DH which included, but were not limited to, the following:

(a) Respondent repeatedly prescribed benzodiazepines while being aware of patient DH's previous suicide attempt using benzodiazepines;

(b) Respondent prescribed opiates in increasingly high dosages without any documented need or response to the treatment;

(c) Respondent failed to take a complete history from, and conduct a physical examination of, patient DH;

(d) Respondent failed to record a treatment plan or objectives of treatment for patient DH;

(e) Respondent failed to obtain an informed consent for treatment with opioids from patient DH, while knowing that she was depressed and had a history of overdose of prescribed medications;

(f) Respondent failed to conduct periodic review of his treatment of patient DH;

(g) Respondent failed to make appropriate referrals for patient DH, including to mental health providers or an addiction specialist, despite the increase in her medications from the equivalent of 64mg morphine per day, to 490mg morphine per day, over a period of 14 months; and/or

(h) Respondent failed to maintain adequate and accurate records regarding his care and treatment of patient DH.

Patient JeN:

126. Respondent committed repeated negligent acts in his care and treatment of patient JeN which included, but were not limited to, the following:

(a) Respondent prescribed high doses of opiates without a valid pain diagnosis and/or despite the patient having a history of breaching a narcotics contract;

(b) Respondent failed to record a treatment plan or objectives of treatment for patient JeN;

(c) Respondent failed to conduct periodic review of his treatment plan of patient JeN;

(d) Respondent failed to refer patient JeN to any other providers to help with treatment, including, but not limited to, a mental health provider, addiction specialist and/or treatment for her undocumented and unspecified chronic pain problem; and/or

(e) Respondent failed to maintain adequate and accurate medical records regarding his care and treatment of patient JeN.

Patient JaN:

127. Respondent committed repeated negligent acts in his care and treatment of patient JaN which included, but were not limited to, the following:

(a) Respondent prescribed high doses of opiates without trying alternative lower dosages or methods of treatment;

(b) Respondent failed to record a treatment plan or objectives of treatment for patient JaN;

(c) Respondent failed to conduct periodic review of his treatment plan of patient JaN; and/or

(d) Respondent failed to maintain adequate and accurate records regarding his care and treatment of patient JaN.

Patient RM:

128. Patient RM, born in October 1977, was seen by respondent at MHCS on or about June 15, 2011. She had a history of chronic pancreatitis, diabetes and recurrent abdominal pain.

129. On or about June 15, 2011, patient RM's chief complaint was that she had a cold, and was found to have an elevated temperature of 99.6 degrees Fahrenheit with a pulse rate of 138. She was not physically examined by respondent, whose assessment was "URI" (upper respiratory infection) and chronic pancreatitis. Respondent's clinical note for this visit states that his plan was to prescribe doxycycline 100mg twice a day for 7 days, and Norco 110 for 14 days.

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130. The clinical note for this visit contains no discussion of pain levels, and no discussion of the need for the use of opioids for patient RM or the objectives of the treatment.

131. Respondent committed repeated negligent acts in his care and treatment of patient RM which included, but were not limited to, the following:

(a) Respondent failed to take a complete history from, or conduct a physical examination of, patient RM on or about June 15, 2011;

(b) Respondent failed to record a treatment plan or objectives of treatment for patient RM; and

(c) Respondent failed to maintain adequate and accurate records regarding his care and treatment of patient RM.

FIFTH CAUSE FOR DISCIPLINE

(Failure to Maintain Adequate and Accurate Records)

132. Respondent is further subject to disciplinary action under sections 2227 and 2234, as defined by section 2266, of the Code, in that he failed to maintain adequate and accurate records regarding his care and treatment of patients KS, RW, MP, DH, JeN, JaN and RM, as more particularly alleged in paragraphs 13 through 131, above, which are hereby realleged and incorporated by reference as if fully set forth herein.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Medical Board of California issue a decision:

1. Revoking or suspending Physician's and Surgeon's Certificate Number C 43166, issued to Respondent Joseph M. Abramowitz, M.D.;

2. Revoking, suspending or denying approval of Respondent Joseph M. Abramowitz, M.D.'s authority to supervise physician assistants, pursuant to section 3527 of the Code;

3. Ordering Respondent Joseph M. Abramowitz, M.D., if placed on probation, to pay the Medical Board of California the costs of probation monitoring; and

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

DATED: August 21, 2013

KIMBERLY KIRCHMEYER
Interim Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant