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

In the Matter of the Second Amended Accusation and Petition to Revoke Probation Against: Floyd Huen, M.D. Physician's and Surgeon's Certificate No. G 41373 Respondent.	Case No.: 800-2022-093044

DECISION

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

This Decision shall become effective at 5:00 p.m. on March 13, 2025.

IT IS SO ORDERED: February 11, 2025.

MEDICAL BOARD OF CALIFORNIA

Michelle A. Bholat, MD

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

ROB BONTA
Attorney General of California
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BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Second Amended Accusation and Petition to Revoke Probation Against: **FLOYD HUEN, M.D.** **2181 Braemar Rd.** **Oakland, CA 94602-2003** **Physician's and Surgeon's Certificate No. G 41373** Respondent.	Case No. 800-2022-093044 OAH No. 2024080379 **STIPULATED SETTLEMENT AND DISCIPLINARY ORDER**

IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-entitled proceedings that the following matters are true:

PARTIES

1. Reji Varghese (Complainant) is the Executive Director of the Medical Board of California (Board). He brought this action solely in his official capacity and is represented in this matter by Rob Bonta, Attorney General of the State of California, by Caitlin Ross, Deputy Attorney General.

2. Respondent Floyd Huen, M.D. (Respondent) is represented in this proceeding by attorney Alan S. Yee Esq., whose address is: 475 14th Street, Suite 500, Oakland, CA 94612.

3. On or about January 7, 1980, the Board issued Physician's and Surgeon's Certificate No. G 41373 to Floyd Huen, M.D. The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought in the Second Amended Accusation and Petition to Revoke Probation No. 800-2022-093044, and will expire on May 31, 2025, unless renewed.

JURISDICTION

4. Second Amended Accusation and Petition to Revoke Probation No. 800-2022-093044 was filed before the Board, was served on Respondent on November 18, 2024, and is currently pending against Respondent. Before that, the Original Accusation and Petition to Revoke Probation, First Amended Accusation and Petition to Revoke Probation, and all other statutorily require documents were served on Respondent. Respondent filed his Notice of Defense contesting the Original Accusation and Petition to Revoke Probation, and all subsequent amended pleadings in this matter.

5. A copy of Second Amended Accusation and Petition to Revoke Probation No. 800-2022-093044 is attached as Exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

6. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Second Amended Accusation and Petition to Revoke Probation No. 800-2022-093044. Respondent has also carefully read, fully discussed with his counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

7. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Second Amended Accusation and 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.

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

CULPABILITY

9. Respondent understands and agrees that the charges and allegations in Second Amended Accusation and Petition to Revoke Probation No. 800-2022-093044, if proven at a hearing, constitute cause for imposing discipline upon his Physician's and Surgeon's Certificate.

10. Respondent does not contest that, at an administrative hearing, Complainant could establish a prima facie case with respect to the charges and allegations in the Second Amended Accusation and Petition to Revoke Probation No. 800-2022-093044, a true and correct copy of which is attached hereto as Exhibit A, and that he has thereby subjected his Physician's and Surgeon's Certificate, No. G 41373 to disciplinary action. Respondent hereby gives up his right to contest those charges.

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

CONTINGENCY

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

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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 agreement of the parties in this above-entitled matter.

14. Respondent agrees that if he ever petitions for early termination or modification of probation, or if an accusation and/or petition to revoke probation is filed against him before the Board, all of the charges and allegations contained in Second Amended Accusation and Petition to Revoke Probation No. 800-2022-093044 shall be deemed true, correct and fully admitted by respondent for purposes of any such proceeding or any other licensing proceeding involving Respondent in the State of California.

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

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

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. G 41373 issued to Respondent FLOYD HUEN, M.D. is revoked. However, the revocation is stayed and Respondent is placed on probation for four (4) years on the following terms and conditions:

1. 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.

2. EDUCATION COURSE. Within 60 calendar days of the effective date of this Decision, and on an annual basis thereafter, Respondent shall submit to the Board or its designee for its prior approval educational program(s) or course(s) which shall not be less than 40 hours

per year, for each year of probation. The educational program(s) or course(s) shall be in the field of prescribing and/or recordkeeping and shall be Category I certified. The educational program(s) or course(s) shall be at Respondent's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure. Following the completion of each course, the Board or its designee may administer an examination to test Respondent's knowledge of the course. Respondent shall provide proof of attendance for 65 hours of CME of which 40 hours were in satisfaction of this condition.

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

A prescribing practices course taken after the acts that gave rise to the charges in the Second Amended Accusation and Petition to Revoke Probation, 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.

4. MEDICAL RECORD KEEPING COURSE. Within 60 calendar days of the effective date of this Decision, Respondent shall enroll in a course in medical record keeping approved in advance by the Board or its designee. Respondent shall provide the approved course provider with any information and documents that the approved course provider may deem pertinent.

Respondent shall participate in and successfully complete the classroom component of the course not later than six (6) months after Respondent's initial enrollment. Respondent shall successfully complete any other component of the course within one (1) year of enrollment. The medical record keeping course shall be at Respondent's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

A medical record keeping course taken after the acts that gave rise to the charges in the Second Amended Accusation and Petition to Revoke Probation, 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. 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 and Second Amended Accusation and Petition to Revoke Probation, and a proposed monitoring plan. Within 15 calendar days of receipt of the Decision, Second Amended Accusation and Petition to Revoke Probation, and proposed monitoring plan, the monitor shall submit a signed statement that the monitor has read the Decision and Second Amended Accusation and Petition to Revoke Probation, 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.

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

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

If, during the course of the probation, the Respondent's practice setting changes and the Respondent is no longer practicing in a setting in compliance with this Decision, the Respondent shall notify the Board or its designee within five (5) calendar days of the practice setting change. If Respondent fails to establish a practice with another physician or secure employment in an appropriate practice setting within 60 calendar days of the practice setting change, Respondent shall receive a notification from the Board or its designee to cease the practice of medicine within three (3) calendar days after being so notified. The Respondent shall not resume practice until an appropriate practice setting is established.

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

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

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

9. OBEY ALL LAWS. Respondent shall obey all federal, state, and local laws, all rules governing the practice of medicine in California and remain in full compliance with any court ordered criminal probation, payments, and other orders.

10. INVESTIGATION/ENFORCEMENT COST RECOVERY. Respondent is hereby ordered to reimburse the Board its costs of investigation and enforcement, including, but not limited to, expert review, amended accusations, legal reviews, and investigation, in the amount of $54,016.72 (fifty-four thousand and sixteen dollars and seventy-two cents). Costs shall be payable to the Medical Board of California. Failure to pay such costs shall be considered a violation of probation.

Payment must be made in full within 30 calendar days of the effective date of the Order, or by a payment plan approved by the Medical Board of California. Any and all requests for a payment plan shall be submitted in writing by respondent to the Board. Failure to comply with the payment plan shall be considered a violation of probation.

The filing of bankruptcy by respondent shall not relieve respondent of the responsibility to repay investigation and enforcement costs, including expert review costs.

11. QUARTERLY DECLARATIONS. Respondent shall submit quarterly declarations

under penalty of perjury on forms provided by the Board, stating whether there has been compliance with all the conditions of probation.

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

12. GENERAL PROBATION REQUIREMENTS.

Compliance with Probation Unit

Respondent shall comply with the Board's probation unit.

Address Changes

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

Place of Practice

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

License Renewal

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

Travel or Residence Outside California

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

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

13. INTERVIEW WITH THE BOARD OR ITS DESIGNEE. Respondent shall be

available in person upon request for interviews either at Respondent's place of business or at the probation unit office, with or without prior notice throughout the term of probation.

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

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

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

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

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

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

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

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

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

19. FUTURE ADMISSIONS CLAUSE. If Respondent should ever apply or reapply for a new license or certification, or petition for reinstatement of a license, by any other health care licensing action agency in the State of California, all of the charges and allegations contained in Second Amended Accusation and Petition to Revoke Probation No. 800-2022-093044 shall be deemed to be true, correct, and admitted by Respondent for the purpose of any Statement of

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Issues or any other proceeding seeking to deny or restrict license.

ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Alan S. Yee Esq. I understand the stipulation and the effect it will have on my Physician's and Surgeon's Certificate. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Medical Board of California.

DATED: 12/9/24

FLOYD HUEN, M.D.
Respondent

I have read and fully discussed with Respondent Floyd Huen, 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: 12-9-2024

ALAN S. YEE 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: 12-9-24

Respectfully submitted,

ROB BONTA
Attorney General of California
MACHAELA M. MINGARDI
Supervising Deputy Attorney General

CAITLIN ROSS
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Second Amended Accusation and Petition to Revoke Probation No. 800-2022-093044

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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 First Amended Accusation/Petition to Revoke Probation Against: **FLOYD HUEN, M.D.** **2181 Braemar Rd.** **Oakland, CA 94602-2003** **Physician's and Surgeon's Certificate No. G 41373** Respondent.	Case No. 800-2022-093044 SECOND AMENDED ACCUSATION AND PETITION TO REVOKE PROBATION

Complainant alleges:

PARTIES

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

2. On January 7, 1980, the Medical Board of California issued Physician's and Surgeon's Certificate Number G 41373 to Floyd Huen, M.D. (Respondent). The Physician's and Surgeon's Certificate was in effect at all times relevant to the charges brought herein and will expire on May 31, 2025, unless renewed.

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3. In a disciplinary action titled "In the Matter of Accusation Against Floyd Huen, M.D.," Case No. 800-2017-030682, the Medical Board of California, issued a decision, effective July 30, 2020, in which Respondent's Physician's and Surgeon's Certificate was revoked. However, the revocation was stayed and Respondent's Physician's and Surgeon's Certificate was placed on probation for a period of three (3) years with certain terms and conditions. A copy of that decision is attached as Exhibit A and is incorporated by reference. The Original Accusation and Petition to Revoke Probation was filed on June 13, 2023. The First Amended Accusation and Petition to Revoke Probation, Case No. 800-2022-093044, was filed on June 21, 2023, before Respondent's probation expired on approximately July 30, 2023. The First Amended Accusation and Petition to Correct Probation corrected the case number on the Original Accusation.

JURISDICTION

4. This Second Amended Accusation and Petition to Revoke Probation is brought before the Board under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

5. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case, with failure of the licensee to comply subjecting the license to not being renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be included in a stipulated settlement.

6. 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:
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> (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.
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> (b) Gross negligence.
>
> (c) Repeated negligent acts. To be repeated, there must be two or more negligent acts or omissions. An initial negligent act or omission followed by a separate and distinct departure from the applicable standard of care shall constitute repeated negligent acts.

(1) An initial negligent diagnosis followed by an act or omission medically appropriate for that negligent diagnosis of the patient shall constitute a single negligent act.

(2) When the standard of care requires a change in the diagnosis, act, or omission that constitutes the negligent act described in paragraph (1), including, but not limited to, a reevaluation of the diagnosis or a change in treatment, and the licensee's conduct departs from the applicable standard of care, each departure constitutes a separate and distinct breach of the standard of care.

(d) Incompetence.

(e) The commission of any act involving dishonesty or corruption that is substantially related to the qualifications, functions, or duties of a physician and surgeon.

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

(g) The failure by a certificate holder, in the absence of good cause, to attend and participate in an interview by the board no later than 30 calendar days after being notified by the board. This subdivision shall only apply to a certificate holder who is the subject of an investigation by the board.

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, such as, but not limited to, retired, inactive, or disabled status certificate holders, and the board shall have all the powers granted in this chapter for these purposes including, but not limited to:

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

(b) Investigating the circumstances of practice of any physician and surgeon where there have been any judgments, settlements, or arbitration awards requiring the physician and surgeon or his or her professional liability insurer to pay an amount in damages in excess of a cumulative total of thirty thousand dollars ($30,000) with respect to any claim that injury or damage was proximately caused by the physician's and surgeon's error, negligence, or omission.

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

8. Section 2242 of the Code states:

(a) Prescribing, dispensing, or furnishing dangerous drugs as defined in Section 4022 without an appropriate prior examination and a medical indication, constitutes

unprofessional conduct. An appropriate prior examination does not require a synchronous interaction between the patient and the licensee and can be achieved through the use of telehealth, including, but not limited to, a self-screening tool or a questionnaire, provided that the licensee complies with the appropriate standard of care.

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

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

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

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

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

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

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

9. Section 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 for at least seven years after the last date of service to a patient constitutes unprofessional conduct.

FIRST CAUSE FOR DISCIPLINE

(Gross Negligence, Repeated Negligent Acts, Prescribing Without an Appropriate Prior Examination, and Inadequate Medical Recordkeeping re Patient P-1[1])

10. Respondent is subject to disciplinary action for unprofessional conduct under sections 2234 (b), 2234(c), 2242, and 2266 of the Code, in that Respondent's overall conduct, acts and

[1] The patients are designated as Patients P-1 through P-6 to protect their privacy. Respondent knows the names of the patients and can confirm their identities through discovery.

omissions, with regard to Patient P-1, constitute gross negligence and/or repeated negligent acts and/or prescribing without an appropriate prior examination, and/or inadequate medical recordkeeping, as more fully described herein below.

11. Patient P-1 was a 63-year-old woman who first established care with Respondent in 2017. At that time, Patient P-1 screened positive for anxiety and depression. Patient P-1 was also already taking long-term opiate medication for osteoarthritis, as of the time she established care with Respondent. Respondent continued to prescribe the same benzodiazepine medications to Patient P-1 through 2022 and opiate medications through part of that time as well. Respondent also added carisoprodol (an addictive muscle relaxant) 350 mg bid for back pain. By April 2017, Respondent also added another benzodiazepine, diazepam[2] 5 mg to 10 mg daily, to Patient P-1's daily regimen of oxycodone[3] 180 mg MEDD (Morphine Equivalent Daily Dose), clonazepam[4] 4 mg daily, and carisoprodol 350 mg twice daily.

12. Respondent prescribed morphine to Patient P-1 for about six months from December 2017 through June 2018, without success in treating Patient P-1's pain. Respondent began prescribing methadone 20 mg daily in addition to oxycodone, 20 mg daily, for a total 110 MEDD (Morphine Equivalent Daily Dose) daily, as of July 2019, then discontinued methadone in September 2020, due to the patient's pain not responding.

13. Respondent's clinic notes contained no explanation for prescribing two benzodiazepines concurrently, but Respondent explained in his Medical Board interview that he felt that the patient was becoming more anxious, due to her frequent skin picking habits. Patient P-1 continued receiving this combination of oxycodone (with Patient P-1 receiving oxycodone prescriptions from another provider at times) with carisoprodol (Soma) and the two benzodiazepines (diazepam and clonazepam) throughout Respondent's care of Patient P-1 up to

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[2] Diazepam (brand name Valium) is a benzodiazepine medication used to treat anxiety. It is a Schedule IV controlled substance pursuant to Health and Safety Code section 11057, subdivision (d), and a dangerous drug pursuant to Code section 4022.

[3] Oxycodone (brand name Oxycontin) is an opioid medication used for the treatment of pain. It is a Schedule II controlled substance pursuant to Health and Safety Code section 11055, subdivision (b), and a dangerous drug pursuant to Code section 4022.

[4] Clonazepam (brand name Klonopin) is a benzodiazepine medication used to treat anxiety. It is a Schedule IV controlled substance pursuant to Health and Safety Code section 11057, subdivision (d), and a dangerous drug pursuant to Code section 4022.

March 2022. Respondent did prescribe sertraline[5], but in too low a dose to be effective for this obese patient.

14. Respondent ordered X-rays of Patient P-1's hips and back confirming osteoarthritis. Respondent also documented in the records that Patient P-1 was seen by an orthopedic surgeon, and hip replacement surgery was a viable treatment option if Patient P-1 could lose more weight. In August 2021, a lab report showed that Patient P-1 showed positive rheumatologic markers—blood markers that may indicate rheumatoid arthritis, a degenerative condition that often causes chronic joint pains. Respondent did not document any rheumatology consultation until June 2023, after the initiation of the Medical Board investigation. There are no notes before June 2023 in Patient P-1's chart to indicate whether or not Respondent understood the significance of the lab report showing the positive rheumatology markers. This was an approximately 22-month delay for specialty evaluation of abnormal test results.

15. Patient P-1 has chronic hypertension with chronic kidney disease. According to the chart, Patient P-1 had high blood pressures during clinic visits in January 2020, February 2021, and March 2022. Respondent did not make any medication management changes, despite the high blood pressures.

16. Respondent failed to timely consult a rheumatologist, and failed to timely address the abnormal serological blood tests in 2021. Respondent did try a lidocaine patch in 2020 and ibuprofen in 2023, but many other safer non-opiate medications were not considered, and Respondent insufficiently prescribed non-narcotic medication to minimize opioid dependency.

17. During pain management from 2017 through 2022, Respondent had an insufficient number of urine toxicology tests for Patient P-1. Respondent also failed to take appropriate action when a 2020 Patient P-1 urine toxicology test showed an inconsistent result. During the

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[5] Zoloft, a trade name for sertraline hydrochloride, is a selective serotonin reuptake inhibitor (SSRI) chemically unrelated to other SSRIs, tricyclic, tetracyclic, or other available antidepressant agents. It is a dangerous drug as defined by Code section 4022. Zoloft is used for the treatment of depression, obsessive compulsive disorder, and panic disorder. Zoloft causes decreased clearance of diazepam (Valium). It has side effects including nausea, diarrhea, dyspepsia, tremor, dizziness, insomnia and somnolence.

entire time that Respondent prescribed opiate pain medications to Patient P-1, Respondent only performed one delayed and incorrect opioid risk assessment. Respondent failed to act on a negative oxycodone test, and failed to investigate the possibility that Patient P-1's medication had been diverted. Respondent failed to properly monitor Patient P-1 for cardiac arrhythmias, a known risk of methadone, during the time he prescribed it for her. Respondent failed to document functional assessments as to how Patient P-1 was benefiting from the medication in her functions of daily life.

18. During the entire time Respondent prescribed carisoprodol to Patient P-1, Respondent failed to prescribe safer, non-addictive muscle relaxant medications, and prescribed the carisoprodol to Patient P-1 for over six years, an excessive length of time.

19. Respondent's overall conduct, acts, and/or omissions, with regard to Patient P-1, as set forth in paragraphs 10 through 18 herein, constitute unprofessional conduct and is therefore subject to disciplinary action. More specifically, Respondent is guilty of unprofessional conduct through gross negligence and repeated negligent acts in regard to his prescribing, care and treatment of Patient P-1 including, but not limited to, the following:

- Failed to timely consult rheumatology, or address abnormal serological test results in 2021, by delaying approximately 22 months between the abnormal test and rheumatology consult;
- Failed to sufficiently trial safer, non-addictive pain medications;
- Failed to perform a timely and proper opioid risk assessment;
- Failed to try lower potency opiate medications;
- Failed to monitor with sufficient urine tests and failed to appropriately respond to an inconsistent urine test;
- Chose methadone therapy in 2019 instead of safer options;
- Failed to monitor for cardiac arrhythmias while prescribing methadone;
- Failed to document functional assessments and relevant physical examinations while prescribing medications;
- Chose carisoprodol therapy;

- Chose long-term prescribing of carisoprodol;
- Failed to appropriately evaluate Patient P-1's anxiety disorder;
- Failed to increase to an appropriate dose of SSRI for this obese patient or try other safer psychotropic medications;
- Prescribed two benzodiazepines for anxiety at the same time;
- Prescribed benzodiazepines and opiates simultaneously;
- Failure to perform appropriate physical exams;
- Prescribing long-term narcotic and benzodiazepine medication while, from 2017-2019, failing to document physical exam findings, functional assessments, medication names, and dosages with instructions; and
- Respondent failed to, from 2020-2022, document in the medical records any relevant musculoskeletal examinations and functional assessments of narcotic therapy.

SECOND CAUSE FOR DISCIPLINE

(Gross Negligence and Repeated Negligent Acts re Patient P-2)

20. Respondent is subject to disciplinary action for unprofessional conduct under sections 2234(b) and 2234(c) of the Code, in that Respondent's overall conduct, acts and omissions, with regard to Patient P-2, constitute gross negligence and repeated negligent acts, as more fully described herein below.

21. Patient P-2 was a 24-year-old man whose medical history included ADHD (attention-deficit hyperactive disorder) and chronic anxiety disorder. Patient P-2 first established primary care with Respondent in early 2017. Patient P-2 informed Respondent that he had been previously diagnosed with ADHD by his mental health staff at another entity.

22. Respondent treated Patient P-2's anxiety with alprazolam.[6] Respondent increased Patient P-2's prescription to the excessive dose of 4 mg daily in March 2018, and inappropriately managed and prescribed Patient P-2's long-term benzodiazepine therapy.

[6] Alprazolam (trade name Xanax) is a psychotropic triazolo analogue of the 1,4 benzodiazepine class of central nervous system-active compounds. Xanax is used for the (continued...)

23. Starting in 2019, Respondent went on to prescribe Adderall intermittently. Respondent also continued to frequently prescribe the excessive daily dosage of alprazolam 4 mg daily, from October 2020-December 2021. For all this time, Respondent did not order any urine toxicology testing. Respondent ignored the possible warning sign of addiction and dependency, in regard to the patient needing such a high dose.

24. Respondent's overall conduct, acts, and/or omissions, with regard to Patient P-2, as set forth in paragraphs 20 through 23 herein, constitute unprofessional conduct and is therefore subject to disciplinary action. More specifically, Respondent is guilty of unprofessional conduct through gross negligence and/or repeated negligent acts with regard to Patient P-2 as follows:

- Managing anxiety with long-term alprazolam;
- Failing to trial other safer and non-addictive antianxiety medications;
- Prescribing an excessive starting dose of benzodiazepines;
- Increasing the benzodiazepine dose to the excessive amount of 4 mg;
- Failing to recognize benzodiazepine dependency during 2020-2021;
- Prescribing alprazolam for insomnia without trying safer drugs; and
- Failing to thoroughly evaluate Patient P-2's insomnia.

THIRD CAUSE FOR DISCIPLINE

(Gross Negligence, Repeated Negligent Acts, Prescribing Without an Appropriate Prior Examination, and Inadequate Medical Recordkeeping re Patient P-3)

25. Respondent is subject to disciplinary action for unprofessional conduct under sections 2234 (b), 2234(c), 2242, and 2266 of the Code, in that Respondent's overall conduct, acts and omissions, with regard to Patient P-3, constitute gross negligence and/or repeated negligent acts

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management of anxiety disorders or for the short-term relief of the symptoms of anxiety. It is a dangerous drug as defined in Code section 4022 and a Schedule IV controlled substance and narcotic as defined by section 11057, subdivision (d) of the Health and Safety Code. Xanax has a central nervous system (CNS) depressant effect and patients should be cautioned about the simultaneous ingestion of alcohol and other CNS depressant drugs during treatment with Xanax. Addiction-prone individuals (such as drug addicts or alcoholics) should be under careful surveillance when receiving alprazolam because of the predisposition of such patients to habituation and dependence. The usual starting dose of Xanax is 0.25 to 0.5 mg. three times per day for benzodiazepine naive patients.

and/or prescribing without an appropriate prior examination, and/or inadequate medical recordkeeping, as more fully described herein below.

26. Patient P-3 was a 43-year-old male with bilateral hip pains. Patient P-3 commenced treating with Respondent in February 2016. Patient P-3 had left total hip replacement surgery in January 2015 and was waiting for right hip replacement surgery. Patient P-3 had previously obtained opiate medication prescriptions from a number of providers. Patient P-3 also suffered from obstructive sleep apnea, depression, and anxiety.

27. In around February 2016, Respondent began prescribing oxycodone 30-40 mg daily with tramadol as needed for pain management of the chronically painful hips. Respondent kept prescribing opiates for the next five years, with tramadol and hydrocodone added intermittently and oxycodone prescribed for large parts of that period of time.

28. Respondent continued the opiate therapy for multiple years. Tramadol and hydrocodone were added intermittently throughout the years, but oxycodone therapy was usually the patient's main opiate therapy.

29. Respondent did not evaluate non-psychiatric causes for anxiety, such as withdrawal from opioids. Respondent prescribed high dosage diazepam for at least five years, as reflected in the CURES database, while rarely documenting its dosage, indication, and instructions prescribed during the six years of prescribing this controlled substance. Respondent never assessed Patient P-3's functional limitations from anxiety, and performed no laboratory evaluation to assess non-psychiatric causes of anxiety. Respondent did try Patient P-3 on selective serotonin reuptake inhibitor (SSRI) medication, but failed to increase to an appropriate dose.

30. In November 2019 and again in November 2021, Patient P-3 had abnormal liver enzymes, which Respondent did not adequately investigate. Patient P-3 had a low platelet count, which is a potential warning sign for cirrhosis, but Respondent did not perform a physical examination of the patient's liver or abdomen, and failed to obtain a liver ultrasound.

31. Respondent's overall conduct, acts, and/or omissions, with regard to Patient P-3, as set forth in paragraphs 25 through 30 herein, constitute unprofessional conduct and is therefore subject to disciplinary action. More specifically, Respondent is guilty of unprofessional conduct

through gross negligence, and/or repeated negligent acts, and/or prescribing without an appropriate prior examination, and/or inadequate medical recordkeeping with regard to Patient P-3 as follows:

- Failed to sufficiently prescribe non-opiate medications instead of opiate medications;
- Failed to accurately perform an opiate risk assessment;
- Failed to perform more regular toxicology testing;
- Prescribed a high dosage of narcotics to a non-compliant patient with sleep apnea;
- Failed to perform or document functional assessments;
- Failed to evaluate Patient P-3's anxiety disorder;
- Prescribed benzodiazepines, and long term opiate therapy, without medical indication, and in a combination of medications that exposed Patient P-3 to increased risk of harm;
- Failed to discuss or obtain informed consent for the combination with benzodiazepines, as posing a risk to Patient P-3;
- Failed to investigate the cause of Patient P-3's abnormal liver function, or to obtain a liver ultrasound, or assess for cirrhosis;
- Failed to confront Patient P-3 about potential alcohol use disorder; and
- Respondent failed to document physical exams in the medical records, and rarely documented diazepam's dosage, indication, and instructions prescribed during the six years of prescribing diazepam.

FOURTH CAUSE FOR DISCIPLINE

(Gross Negligence, Repeated Negligent Acts, Prescribing Without an Appropriate Examination, and Inadequate Medical Recordkeeping re Patient P-4)

32. Respondent is subject to disciplinary action for unprofessional conduct under sections 2234 (b), 2234(c), 2242, and 2266 of the Code, in that Respondent's overall conduct, acts and omissions, with regard to Patient P-4, constitute gross negligence and/or repeated negligent acts and/or prescribing without an appropriate prior examination, and/or inadequate medical recordkeeping, as more fully described herein below.

33. Patient P-4 was a 57-year-old woman with hypertension, who had a medical history including Graves's disease (an auto immune system disorder involving the thyroid gland) with iodine ablation on antithyroid medications, and anxiety disorder. She suffered from chronic neck and low back pains since a prior motor vehicular accident. According to her CURES report, the patient was chronically medicated on hydrocodone, carisoprodol, and benzodiazepine since 2015, and before she transferred her care to Respondent in May 2017. Respondent did not obtain Patient P-4's prior medical records. Respondent continued Patient P-4 on this same opiate and benzodiazepine controlled substance regimen for the next five years on a regular, nearly monthly basis. Patient P-4's daily hydrocodone averaged around 40 mg daily (MEDD of 40 mg). Respondent also continuously prescribed either diazepam 20 mg daily or lorazepam at usually 1-2 mg daily. Respondent furthermore prescribed carisoprodol (Soma) up to 3 times daily for several of the years.

34. The records show that Respondent had Patient P-4 sign a pain management agreement in 2017. The records show that CURES reports were only downloaded twice during the years of treatment, one in July 2020 and again in January 2022, but Respondent commented in other clinic notes that the CURES check was acceptable. The records also showed that Respondent documented in several clinical notes from 2021 through 2022, that urine tests had been done, but there was apparently only two lab reports for a urine test, from January 2022 and July 2022.

35. For the five years of treatment, Respondent never obtained or reviewed Patient P-4's prior medical records. Throughout five years of prescribing, Respondent never performed a functional assessment, and Respondent did not reduce Patient P-4's pain medications even when Patient P-4 complained to him that she was fatigued and appeared groggy. Respondent did request urine tests in 2021 and 2022, but Patient P-4 did not comply. Respondent continued to prescribe opiate medications, benzodiazepines and carisoprodol, thus exposing the patient to addiction and dependency risks, as well as the risks of accidental overdose and respiratory failure.

36. In 2022, Patient P-4 was admitted to the emergency room and hospital due to bradycardia and low blood pressure, consistent with a thyroid emergency known as myxedema

coma. For many months, Patient P-4 was found to have been taking two beta blocker medications (carvedilol and metoprolol). Respondent had been prescribing the two medications to Patient P-4 since 2020, but his chart records never elaborated on his reasoning or even documented prescribing both beta blockers concurrently. The side effects of the bradycardia and hypotensive were additive. This combination of medications, together with her hypothyroid state, most likely led to her thyroid myxedema emergency state in 2022 requiring acute hospitalization.

37. Respondent's overall conduct, acts, and/or omissions, with regard to Patient P-4, as set forth in paragraphs 32 through 36 herein, constitute unprofessional conduct and is therefore subject to disciplinary action. More specifically, Respondent is guilty of unprofessional conduct through gross negligence, and/or repeated negligent acts, and/or prescribing without an appropriate prior examination, and/or inadequate medical recordkeeping with regard to Patient P-4 as follows:

- Failed to perform necessary physical examinations or functional assessments throughout five years of pain management;
- Failed to reduce dosage of controlled substances even though patient showed signs of excessive sedation in 2021;
- Inadequate review of CURES reports for Patient P-4;
- Prescribed carisoprodol long term, exposing the patient to risks of accidental drug overdose, respiratory failure and drug dependency risks;
- Combined carisoprodol with another muscle relaxant at the same time;
- Failed to evaluate Patient P-4's anxiety disorder;
- Prescribed benzodiazepines and opiates simultaneously;
- Failed to document concurrent prescribing of two different beta blockers and their specific dosages, to the extent that records were so poor that Respondent was not even aware of the dangerous prescribing due to his poor records maintenance; and
- Respondent failed to document physical exams in the medical records regarding his care of Patient P-4.

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FIFTH CAUSE FOR DISCIPLINE

(Gross Negligence, Repeated Negligent Acts, Prescribing Without an Appropriate Examination, and Inadequate Medical Recordkeeping re Patient P-5)

38. Respondent is subject to disciplinary action for unprofessional conduct under sections 2234 (b), 2234(c), 2242, and 2266 of the Code, in that Respondent's overall conduct, acts and omissions, with regard to Patient P-5, constitute gross negligence and/or repeated negligent acts and/or prescribing without an appropriate prior examination, and/or inadequate medical recordkeeping, as more fully described herein below.

39. Patient P-5 was a 37-year-old woman with obesity, hypertension, chronic obstructive lung disease, post-traumatic stress disorder, and generalized anxiety disorder. Patient P-5 had suffered a gunshot wound injury to her abdomen in 2014 and developed chronic pelvic and low back pains since then. Patient P-5 had been chronically medicated on a regimen of tramadol, Tylenol with codeine, carisoprodol, and alprazolam prescribed by another provider since 2015, before transferring her care to Respondent for primary care and chronic pain management in May 2018.

40. Respondent dramatically increased the patient's MEDD by prescribing oxycodone 60 mg daily (total MEDD of 90 mg daily) during the first month of primary care. The medical record from the initial visit, and the following records from 2018-2019, lacked any relevant musculoskeletal examinations and functional assessments.

41. By early 2020, Patient P-5 had stopped seeing Respondent in the office due to the COVID pandemic, and no vital signs or physical examinations were recorded at subsequent encounters.

42. Pain management consultations were requested in January and August of 2020. Patient P-5 apparently was seen by a rheumatologist during 2018-2020, but Respondent's record contains no documentation that the referral was requested. The consultation report/recommendations were also not contained in Respondent's records. Respondent prescribed

a high dose of zolpidem[7] for insomnia, but never assessed the insomnia and the medicine was eventually discontinued. Patient P-5 apparently was evaluated by a pain management specialist in late 2020; the specialist prescribed buprenorphine to Patient P-5 to manage her opiate dependency. Patient P-5 was frustrated by the specialist's insistence on monthly urine drug testing, and she requested a different pain specialist by early 2021.

43. While Respondent prescribed pain management medicines to Patient P-5 from 2018 to February 2022, Respondent did not have any urine toxicology testing done for Patient P-5. During Respondent's care of Patient P-5, the patient had a pattern of obtaining different narcotics and other controlled substances from various other health and dental providers. Respondent stated in his Board interview that he was not aware of Patent P-5's aberrant behavior as he was not querying the CURES database regularly.

44. Respondent never tried safer, non-addictive medications to reduce Patient P-5's opiate dependency.

45. Respondent's overall conduct, acts, and/or omissions, with regard to Patient P-5, as set forth in paragraphs 38 through 44, constitute unprofessional conduct and is therefore subject to disciplinary action. More specifically, Respondent is guilty of unprofessional conduct through gross negligence, and/or repeated negligent acts, and/or prescribing without an appropriate prior examination, and/or inadequate medical recordkeeping with regard to Patient P-5 as follows:

- Prescribed oxycodone rather than a less potent opiate from the very first encounter;
- Rapidly escalated Patient P-5's MEDD to 180 mg daily, during a short period;
- Failed to sufficiently review CURES reports for Patient P-5;

[7] Ambien, a trade name for zolpidem tartrate, is a non-benzodiazepine hypnotic of the imidazopyridine class. It is a dangerous drug as defined in Code section 4022 and a Schedule IV controlled substance as defined by section 11057 of the Health and Safety Code. It is indicated for the short-term treatment of insomnia. It is a central nervous system depressant and should be used cautiously in combination with other central nervous system depressants. Any central nervous system depressant could potentially enhance the CNS depressive effects of Ambien. It should be administered cautiously to patients exhibiting signs or symptoms of depression because of the risk of suicide. Because of the risk of habituation and dependence, individuals with a history of addiction to or abuse of drugs or alcohol should be carefully monitored while receiving Ambien.

- Failed to recognize Patient P-5's aberrant behaviors or to refer her to a drug treatment program to slowly taper her off of controlled substances;
- Failed to perform and or document frequent functional assessments and relevant musculo-skeletal examinations;
- Prescribed carisoprodol long term, exposing Patient P-5 to the risks of accidental drug overdose and respiratory failure;
- Failed to try safer, non-addictive muscle relaxants instead of carisoprodol;
- Prescribed either diazepam or alprazolam continuously for four years from 2018-2022 without ever documenting the medical indication or dosage;
- Failed to evaluate Patient P-5's anxiety;
- Failed to strongly recommend a mental health consultation for Patient P-5;
- Prescribed long term benzodiazepines without proper medical indication, thereby exposing the patient to unnecessary risks of overdose and death, especially in combination with chronic obstructive lung disease;
- Failed to obtain and/or document informed consent regarding the risks of combining opiate and benzodiazepine medications;
- Failed to properly manage Patient P-5's high blood pressure;
- Failed to thoroughly evaluate and manage the patient's insomnia;
- Exceeded the safe dosage of Zolpidem (ambien) for Patient P-5; and
- Respondent failed to document physical exams in the medical records for Patient P-5, failed to document in the medical chart the indication and dosage for narcotics medications, and failed to document the clinical reasoning behind the benzodiazepine change.

SIXTH CAUSE FOR DISCIPLINE

(Unprofessional Conduct: Gross Negligence, Repeated Negligent Acts, Prescribing without Appropriate Prior Exam and Inadequate Medical Recordkeeping re Patient P-6)

46. Respondent is subject to disciplinary action for unprofessional conduct under sections 2234 (b), 2234(c), 2242, and 2266 of the Code, in that Respondent's overall conduct, acts and

omissions, with regard to Patient P-6, constitute gross negligence and/or repeated negligent acts and/or prescribing without an appropriate prior exam and/or inadequate medical recordkeeping, as more fully described herein below.

47. Patient P-6 was a 43-year-old man who had suffered a gunshot injury to his back at a young age in 1997, leaving him paraplegic with chronic pain syndrome. Respondent referred Patient P-6 to physical therapy in 2018, mental health psychotherapy for management of bipolar illness in mid-2018, and pain management clinic at UCSF in early 2019.

48. During the time he treated Patient P-6, Respondent slowly up-titrated the gabapentin dosage for pain management in place of narcotics, prescribing gabapentin at twice the daily recommended maximum dosage. Dr. Huen proactively convinced the patient to taper down his oxycodone dosage. Despite successful tapering of the oxycodone, Respondent did not obtain regularly scheduled urine drug testing during 2018-2019 while Patient P-6 was on high dosage narcotic therapy, or in 2021-2022 when Patient P-6 was on high dose gabapentin. Also, Patient P-6's COPD lung condition increased his risks of accidental overdose from high dosage oxycodone of 180 mg MEDD daily. Naloxone antidote should have been offered to Patient P-6 to reduce his overdose risks during 2018-2019 while he was medicated with a high dosage of oxycodone.

49. Respondent's overall conduct, acts, and/or omissions, with regard to Patient P-6, as set forth in paragraphs 46-48, constitute unprofessional conduct and is therefore subject to disciplinary action. More specifically, Respondent is guilty of unprofessional conduct through gross negligence, and/or repeated negligent acts, and/or prescribing without an appropriate prior examination, and/or inadequate medical recordkeeping with regard to Patient P-6 as follows:

- Prescribed gabapentin at twice the maximum recommended dosage;
- Failed to regularly check urine toxicology to monitor for diversion behaviors;
- Failed to conduct urine toxicology testing for high dosage, long term gabapentin therapy;
- Failed to document relevant physical examinations and functional assessments of oxycodone therapy during 2018-2019;

- Failed to document the proper dosage and frequency of oxycodone prescribed in many chart notes, with many paper clinic notes left mostly blank;
- Failed to document the detailed process of oxycodone tapering and its withdrawal risks;
- Failed to recommend self-monitoring of hypertension at home;
- Failed to monitor for long-term complications of long-standing hypertension on a regular basis;
- Failed to document the diagnosis regularly and the treatment plans in the patient's chart; and
- Failed to hold or document informed consent discussion regarding the risks of excessive dosage of oxycodone.

CAUSE TO REVOKE PROBATION

(Probation Violation)

50. At all times after the effective date of Respondent's probation, Condition No. 8 provided: "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."

51. Respondent's probation is subject to revocation, per Condition No. 14, because he failed to comply with Probation Condition No. 8, in that he has committed repeated acts of negligence, gross negligence, prescribing without prior examination or proper medical indication, and failures to maintain adequate or accurate medical records in regard to Patients P1-P6, as set forth more fully in the factual allegations contained within paragraphs 10-49, and incorporated by this reference.

DISCIPLINARY CONSIDERATIONS

52. To determine the degree of discipline, if any, to be imposed on Respondent Floyd Huen, M.D., Complainant alleges that on July 30, 2020, in a prior disciplinary action titled In the Matter of the Accusation Against Floyd Huen, M.D., before the Medical Board of California, in Case Number 800-2017-030682, Respondent's license was revoked with revocation stayed, and

placed on three years' probation for gross negligence, repeated negligent acts, prescribing without a prior examination or medical indication and failure to maintain adequate or accurate medical records in the care and treatment of three patients. That decision is now final and is incorporated by reference as if fully set forth herein. That decision also states that Respondent agrees that if the Board ever petitions for revocation of probation, all of the charges and allegations contained in Accusation No. 800-2017-030682 shall be deemed true, correct, and fully admitted by Respondent for purposes of that proceeding.

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. 800-2017-030682 and imposing the disciplinary order that was stayed thereby revoking Physician's and Surgeon's Certificate No. G 41373 issued to Respondent Floyd Huen, M.D.;

2. Revoking or suspending Physician's and Surgeon's Certificate Number G 41373, issued to Respondent Floyd Huen, M.D.;

3. Revoking, suspending or denying approval of Respondent Floyd Huen, M.D.'s authority to supervise physician assistants and advanced practice nurses;

4. Ordering Respondent Floyd Huen, M.D., to pay the Board the costs of the investigation and enforcement of this case, and if placed on probation, the costs of probation monitoring; and

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

DATED: NOV 18 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

Medical Board of California Case No. 800-2017-030682

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

In the Matter of the Accusation Against:	
Floyd Huen, M.D.	MBC File # 800-2017-030682
Physician's and Surgeon's Certificate No. G 41373	
Respondent.	

ORDER CORRECTING NUNC PRO TUNC
CLERICAL ERROR IN "DISCIPLINARY ORDER" PORTION OF DECISION

On its own motion, the Medical Board of California (hereafter "Board") finds that there is a clerical error in the "Disciplinary Order" portion of the Decision in the above-entitled matter and that such clerical error should be corrected so that the Disciplinary Order will conform to the Board's issued Decision.

IT IS HEREBY ORDERED that the Decision in the above-entitled matter be and hereby is amended and corrected nunc pro tunc to add probation conditions: "Condition 7 – Notification, Condition 8 - Obey All Laws, Condition 9 - Quarterly Declarations, and Condition 10 - General Probation Requirements". All subsequent probation conditions are renumbered in sequential order.

July 31, 2020

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

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

In the Matter of the Accusation Against: Floyd Huen, M.D. Physician's and Surgeon's Certificate No. G 41373 Respondent.	Case No. 800-2017-030682

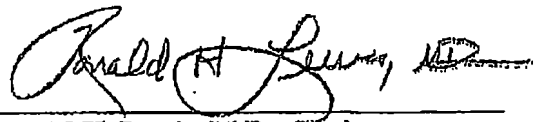
DECISION

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 July 30, 2020.

IT IS SO ORDERED: June 30, 2020.

MEDICAL BOARD OF CALIFORNIA



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

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

In the Matter of the Accusation Against: **FLOYD HUEN, M.D.** **2181 Braemar Rd.** **Oakland, CA 94602-2003** **Physician's and Surgeon's Certificate No. G 41373** Respondent.	Case No. 800-2017-030682 OAH No. 2020010721 **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. William Prasifka (Complainant) is the Executive Director of the Medical Board of California (Board). This action was brought solely in the official capacity of the Board's Executive Director, who is represented in this matter by Xavier Becerra, Attorney General of the State of California, by Mary Cain-Simon, Supervising Deputy Attorney General.

2. Respondent Floyd Huen, M.D. (Respondent) is represented in this proceeding by attorney Alan Yee, whose address is: 475 14th Street, Suite 500, Oakland, California 94612.

3. On January 7, 1980, the Board issued Physician's and Surgeon's Certificate No. G 41373 to Floyd Huen, M.D. (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. 800-2017-030682, and will expire on May 31, 2021, unless renewed.

JURISDICTION

4. Accusation No. 800-2017-030682 was filed before the Board, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on May 29, 2019. Respondent timely filed his Notice of Defense contesting the Accusation.

5. A copy of Accusation No. 800-2017-030682 is attached as exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

6. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 800-2017-030682. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

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

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

CULPABILITY

9. Respondent understands and agrees that the charges and allegations in Accusation No. 800-2017-030682, if proven at a hearing, constitute cause for imposing discipline upon his Physician's and Surgeon's Certificate.

10. For the purpose of resolving the Accusation without the expense and uncertainty of further proceedings, Respondent agrees that the charges and allegations in Accusation No. 800-

2017-030682, if proven at a hearing, constitute cause for imposing discipline upon his Physician's and Surgeon's Certificate. Complainant could establish a factual basis for the charges in the Accusation, and that Respondent hereby gives up his right to contest those charges.

11. Respondent agrees that if he ever petitions for early termination or modification of probation, or if the Board ever petitions for revocation of probation, all of the charges and allegations contained in Accusation No. 800-2017-030682 shall be deemed true, correct, and fully admitted by Respondent for purposes of that proceeding or any other licensing proceeding involving Respondent in the State of California

CONTINGENCY

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

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

14. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Disciplinary Order:

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. G 41373 issued to Respondent FLOYD HUEN, M.D. is revoked. However, the revocation is stayed and

Respondent is placed on probation for three (3) years on the following terms and conditions.

1. 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 25 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, shall be Category I certified, and shall include courses addressing prescribing and medical records documentation. 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 50 hours of CME of which 25 hours were in satisfaction of this condition.

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

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

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

15 calendar days after the effective date of the Decision, whichever is later.

3. MEDICAL RECORD KEEPING COURSE. Within 60 calendar days of the effective date of this Decision, Respondent shall enroll in a course in medical record keeping approved in advance by the Board or its designee. Respondent shall provide the approved course provider with any information and documents that the approved course provider may deem pertinent. Respondent shall participate in and successfully complete the classroom component of the course not later than six (6) months after Respondent's initial enrollment. Respondent shall successfully complete any other component of the course within one (1) year of enrollment. The medical record keeping course shall be at Respondent's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

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

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

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

The program shall consist of a comprehensive assessment of Respondent's physical and mental health and the six general domains of clinical competence as defined by the Accreditation Council on Graduate Medical Education and American Board of Medical Specialties pertaining to Respondent's current or intended area of practice. The program shall take into account data obtained from the pre-assessment, self-report forms and interview, and the Decision, Accusation,

and any other information that the Board or its designee deems relevant. The program shall require Respondent's on-site participation for a minimum of three (3) and no more than five (5) days as determined by the program for the assessment and clinical education evaluation. Respondent shall pay all expenses associated with the clinical competence assessment program.

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

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

The following language shall be included in this condition unless Option #1 is included: If Respondent fails to enroll, participate in, or successfully complete the clinical competence assessment program within the designated time period, Respondent shall receive a notification from the Board or its designee to cease the practice of medicine within three (3) calendar days after being so notified. The Respondent shall not resume the practice of medicine until enrollment or participation in the outstanding portions of the clinical competence assessment program have been completed. If the Respondent did not successfully complete the clinical competence assessment program, the 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.

5. 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 and Accusation, and a proposed monitoring plan. Within 15 calendar days of receipt of the Decision, Accusation, and proposed monitoring plan, the monitor shall submit a signed statement that the monitor has read the Decision and Accusation, 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.

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

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

If, during the course of the probation, the Respondent's practice setting changes and the Respondent is no longer practicing in a setting in compliance with this Decision, the Respondent shall notify the Board or its designee within five (5) calendar days of the practice setting change. If Respondent fails to establish a practice with another physician or secure employment in an appropriate practice setting within 60 calendar days of the practice setting change, Respondent shall receive a notification from the Board or its designee to cease the practice of medicine within three (3) calendar days after being so notified. The Respondent shall not resume practice until an

appropriate practice setting is established.

STANDARD CONDITIONS

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

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

8. 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.

9. 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.

10. 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.

11. 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.

12. 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.

13. COMPLETION OF PROBATION. Respondent shall comply with all financial obligations (e.g., 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.

14. 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. 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.

16. 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, Alan Yee. I understand the stipulation and the effect it will have on my Physician's and Surgeon's Certificate. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Medical Board of California.

DATED: 7/24/20

FLOYD HUEN, M.D.
Respondent

I have read and fully discussed with Respondent Floyd Huen, 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: 7-24-20

ALAN YEE
Attorney for Respondent

ENDORSEMENT

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

DATED: July 27, 2020

Respectfully submitted,

XAVIER BECERRA
Attorney General of California
MARY CAIN-SIMON
Supervising Deputy Attorney General

MARY CAIN-SIMON
Supervising Deputy Attorney General
Attorneys for Complainant

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Final Huen corrected stipulation.docx

Exhibit A

Accusation No. 800-2017-030682

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

In the Matter of the Accusation Against: **Floyd Huen, M.D.** **2181 Braemar Rd.** **Oakland, CA 94602-2003** **Physician's and Surgeon's Certificate No. G 41373,** Respondent.	Case No. 800-2017-030682 **ACCUSATION**

Complainant alleges:

PARTIES

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

2. On or about January 7, 1980, the Medical Board issued Physician's and Surgeon's Certificate Number G 41373 to Floyd Huen, M.D. (Respondent). The Physician's and Surgeon's

Certificate was in full force and effect at all times relevant to the charges brought herein and will expire on May 31, 2021, unless renewed.

JURISDICTION

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

4. Section 2227 of the Code provides that a licensee who is found guilty under the Medical Practice Act may have his or her license revoked, suspended for a period not to exceed one year, placed on probation and required to pay the costs of probation monitoring, or such other action taken in relation to discipline as the Board deems 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.

"(c) Repeated negligent acts. To be repeated, there must be two or more negligent acts or omissions. An initial negligent act or omission followed by a separate and distinct departure from the applicable standard of care shall constitute repeated negligent acts.

"(1) An initial negligent diagnosis followed by an act or omission medically appropriate for that negligent diagnosis of the patient shall constitute a single negligent act.

"(2) When the standard of care requires a change in the diagnosis, act, or omission that constitutes the negligent act described in paragraph (1), including, but not limited to, a reevaluation of the diagnosis or a change in treatment, and the licensee's conduct departs from the applicable standard of care, each departure constitutes a separate and distinct breach of the standard of care.

"(d) Incompetence.

"(e) The commission of any act involving dishonesty or corruption which is substantially related to the qualifications, functions, or duties of a physician and surgeon.

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

"(g) The practice of medicine from this state into another state or country without meeting the legal requirements of that state or country for the practice of medicine. Section 2314 shall not apply to this subdivision. This subdivision shall become operative upon the implementation of the proposed registration program described in Section 2052.5.

"(h) The repeated failure by a certificate holder, in the absence of good cause, to attend and participate in an interview by the board. This subdivision shall only apply to a certificate holder who is the subject of an investigation by the board."

6. Section 2242 of the Code states, in pertinent part:

"(a) Prescribing, dispensing, or furnishing dangerous drugs as defined in Section 4022 without an appropriate prior examination and a medical indication, constitutes unprofessional conduct. . . ."

7. 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."

8. Section 725 of the Code states:

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

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

imprisonment for a term of not less than 60 days nor more than 180 days, or by both that fine and imprisonment.

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

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

FIRST CAUSE FOR DISCIPLINE

(Unprofessional Conduct: Gross Negligence, Repeated Negligent Acts, Prescribing without Appropriate Prior Exam re Patient P-1[1] and Inadequate Medical Recordkeeping)

9. Respondent is subject to disciplinary action for unprofessional conduct under sections 2234 (b), 2234(c), and 2242, and 2266, in that Respondent's overall conduct, acts and omissions, with regard to Patient P-1 constitutes gross negligence and/or repeated negligent acts and/or prescribing without an appropriate prior examination, and/or inadequate medical recordkeeping, as more fully described herein below.

10. From 2006-2013, Respondent treated Patient P-1, a male born in April 1946, for a variety of issues, including arthritis, hepatitis C, Bell's Palsy, and abdominal pain. Patient also had a history of being an intravenous drug user.

11. From 2008 through 2013, Respondent treated Patient P-1 for back and shoulder pain with Toradol[2] injections and Norco[3] prescriptions. Respondent's notes regarding the Toradol injections and Norco prescriptions are handwritten and difficult to read, but primarily say "back

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[1] The patients are designated as Patients P-1 through P-3 to protect their privacy. Respondent knows the names of the patients and can confirm their identities through discovery.

[2] Toradol is a nonsteroidal anti-inflammatory drug that is used to treat pain.

[3] Hydrocodone bitartrate with acetaminophen, which is known by the trade names Norco or Vicodin, is a semi-synthetic opioid analgesic. It is a schedule II controlled substance as defined by section 11055, subdivision (b) of the Health and Safety Code, and is a Schedule II controlled substance as defined by section 1308.13(e) of Title 21 of the Code of Federal Regulations, and is a dangerous drug as defined in Business and Professions Code section 4022.

or shoulder pain" with plan "toradol shot and refill meds." There is little to no physical exam or other recommendations documented.

12. Patient P-1's urine toxicology dated August 3, 2009 was positive for marijuana but negative for opiates. Respondent did not mention the urine toxicology results in Patient P-1's medical chart and did not take any action regarding the results, such as stopping the opiate prescriptions due to likely diversion.

13. On February 12, 2013, Respondent noted in the medical records that Patient P-1 had a cough, arthritis and a positive stool test. Respondent's noted physical exam was one handwritten line that was illegible. The noted assessment was to continue Toradol injections every three weeks and return in six weeks. In 2013, Respondent was prescribing 240 Norco (5 mg hydrocodone) per month to Patient P-1.

14. On March 24, 2013, Patient P-1 complained of decreased energy and joint pain. Respondent did not document a physical exam. Respondent documented that the plan was to increase Salsalate[4], continue Vicodin, and get records from the Veterans Administration regarding a colonoscopy.

15. On April 23, 2013, Respondent documented in Patient P-1's medical chart that the patient had hay fever and was not eating well and that the patient had lost 30 pounds over the last two years. Respondent noted in the exam section that the patient appeared well and that the plan was to follow up with a colonoscopy. Respondent did not perform or document a physical exam in the medical records.

16. On July 23, 2013, Respondent saw Patient P-1 for a follow up and also ordered a urine toxicology. The urine toxicology showed marijuana in the patient's system but no opiates. Respondent did not document the urine toxicology results in Patient P-1's medical chart and did not stop prescribing opiates despite the fact that the toxicology report indicated a diversion of opiates.

[4] Salsalate is a nonsteroidal anti-inflammatory drug (NSAID). Salsalate belongs in a group of drugs called salicylates, which are used to reduce pain, swelling, and joint stiffness caused by arthritis.

17. On December 13, 2013, Respondent refilled 240 Vicodin tablets for Patient P-1. Respondent did not check a CURES report in 2013 to make sure the patient was not getting opiates from multiple providers.

18. Respondent's overall conduct, acts, and/or omissions, with regard to Patient P-1, as set forth in paragraphs 10 through 17 herein, constitute unprofessional conduct and is therefore subject to disciplinary action. More specifically, Respondent is guilty of unprofessional conduct through gross negligence, and/or repeated negligent acts, and/or prescribing without an appropriate prior examination, and/or inadequate medical recordkeeping with regard to Patient P-1 as follows:

a. Respondent prescribed large quantities of controlled substances to Patient P-1 without regular physical exams.

b. Respondent continued prescribing large amounts of opioids to Patient P-1 despite the patient's negative opiates toxicology tests, that indicated that Patient P-1 was diverting opiates.

c. Respondent failed to adequately monitor Patient P-1, who was being prescribed large amounts of opioids on a long term basis, and who had a history of intravenous drug use, by reviewing a CURES reports to ensure that Patient P-1 was not obtaining opiates from other providers.

d. Respondent failed to document physical exams in the medical records and failed to maintain legible notes regarding his care of Patient P-1.

SECOND CAUSE FOR DISCIPLINE

(Unprofessional Conduct: Gross Negligence, Repeated Negligent Acts, Prescribing without Appropriate Prior Exam re Patient P-2, Excessive Prescribing, and Inadequate Medical Recordkeeping)

19. Respondent is subject to disciplinary action for unprofessional conduct under sections 2234 (b), 2234(c), 2242, 725, and 2266, in that Respondent's overall conduct, acts and omissions, with regard to Patient P-2 constitute gross negligence and/or repeated negligent acts/ and/or prescribing without an appropriate prior examination, and/or excessive prescribing, and/or inadequate medical recordkeeping, as more fully described herein below.

20. From 2012-2014, Respondent treated Patient P-2, a male born on February 2, 1940. Patient P-2 had a history of diabetes, renal insufficiency, hypertension, chronic pain, Hepatitis C and memory issues. Patient P-2 was also a smoker with a history of substance and alcohol abuse.

21. On or about June 4, 2012, Respondent prescribed 60 Temazepam[5] (15 mg) and 240 pills of hydrocodone (7.5 mg). However, Respondent did not document these prescriptions in Patient P-2's medical record. Respondent did not document any type of treatment plan or objective for opiate use, or prior medical examination.

22. During the year 2013, Respondent regularly prescribed 240 Norco (7.5 mg), 120 Dilaudid[6] (4 mg), and 30 Temazepam (25 mg).

23. On or about June 17, 2013, a different medical provider, who worked at the same clinic as Respondent, noted in Patient P-2's medical chart that the patient was seen in the emergency room at Kaiser on June 6, 2013 because the patient was found unresponsive. The medical doctor ordered that Patient P-2 see Respondent in 1 month.

24. On or about July 16, 2013, Respondent ordered a urine toxicology for Patient P-2. Patient P-2's urine toxicology came back negative for opiates. Respondent ordered another urine toxicology on August 19, 2013, which also came back negative for opiates.

25. On or about September 16, 2013, a different medical provider other than Respondent noted in Patient P-2's chart that the patient's September 2013 urine toxicology screen had come back negative for opiates. The provider noted that Patient P-2 explained that the reason that the urine screen had come back negative for opiates was because he had run out of them. Subsequently, the provider issued refills to Patient P-2 for Dilaudid, Norco, and Temazepam. The provider noted that the refills were to treat back and neck pain.

26. On or about October 11, 2013, Patient P-2 saw Respondent for depression and benign prostatic hyperplasia (BPH).[7] Respondent noted in the medical chart that he was going to

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[5] Temazepam is a benzodiazepine, that is generally used to treat insomnia.

[6] Hydromorphone, which is known by the trade name of Dilaudid, is a potent Schedule II opioid.

[7] BPH is enlargement of the prostate gland.

prescribe Celexa (an anti-depressant) to treat Patient P-2's depression and that the patient's BPH was to be monitored. Patient P-2 was to return in 3 weeks.

27. On or about October 30, 2013, Patient P-2's urine toxicology results came back as positive for hydrocodone but negative for hydromorphone (Dilaudid).

28. On or about November 2, 2013, Respondent ordered a urine toxicology screen for Patient P-2. On November 13, 2013, Respondent met with Patient P-2 and noted the following in the medical chart: "told about contract. Need to be consistent. Reviewed UTOX in past, which showed July 2013 and neg opiates; when on diluadid and vicodin; and then more recently when alleges was OUT of dilaudid for the week before the test but WAS taking vicodin. Told that NO MORE OPIATES until this gets clarified." In the assessment and plan section of the chart, Respondent wrote: "Suspicious for drug diversion; will get another UTOX but [Patient P-2] said does not have time; will recheck in am... Next visit to do UTOX."

29. On or about November 14, 2013, Patient P-2's urine toxicology came back as positive for hydrocodone and Dilaudid.

30. On or about January 2, 2014, Respondent dispensed 240 hydrocodone (7.5 mg) to Patient P-2. Respondent did not document in the medical chart a functional status or even the reason that Patient P-2 was being prescribed opiates. Respondent did not document any type of treatment plan or objective for opiate use.

31. On or about May 6, 2014, Patient P-2 saw Respondent. Respondent stated that he was no longer looking for narcotics but that he was having left shoulder pain. Respondent prescribed naproxen (500 mg) and gabapentin (100 mg). Respondent also issued a physical therapy referral to Patient P-2 and advised another follow up appointment in 6 weeks.

32. On or about June 17, 2014, Patient P-2 saw Respondent for a diabetes follow up. Respondent noted that Patient P-2 was off of opiates.

33. Respondent's overall conduct, acts, and/or omissions, with regard to Patient P-2, as set forth in paragraphs 20 through 32 herein, constitute unprofessional conduct and is therefore subject to disciplinary action. More specifically, Respondent is guilty of unprofessional conduct through gross negligence, and/or repeated negligent acts, and/or excessive prescribing, and/or

prescribing without an adequate prior medical examination, and/or inadequate medical recordkeeping with regard to Patient P-2 as follows:

a. Respondent prescribed a high risk combination of opiates to Patient P-2, including 2 short acting opiates, which would increase the risk of side effects.

b. Respondent routinely prescribed more than 90 MME (morphine milligram equivalents) to Patient P-2. Respondent prescribed approximately 156 MME per day to the patient. Respondent also inappropriately prescribed benzodiazepines to the patient in conjunction with the opiates, which greatly increases the lethal risk to the patient.

c. Respondent did not document any treatment plan or objectives for opiate use.

d. Respondent did not document a functional status or provide any reason to justify the opioid prescriptions that he was prescribing to Patient P-2.

e. Respondent continued to prescribe large amounts of opiates to Patient P-2 despite the fact that the patient's urine toxicology reports were strongly consistent with diversion of opiates. During 2013, Respondent was regularly prescribing opiates to Patient P-2. However, Patient P-2's July 16, 2013 and August 19, 2013 toxicology results tested negative for opiates and the patient's October 30, 2013 toxicology results only showed hydrocodone and no hydromorphone.

f. Respondent failed to adequately monitor Patient P-2, who was regularly being prescribed large amounts of opioids, and who had a history of substance abuse and negative opiate toxicology reports, indicating diversion of prescribed medications, by reviewing CURES reports to ensure that Patient P-2 was not obtaining opiates from other providers.

g. Respondent failed to adequately document physical exams for Patient P-2 in the medical records and failed to maintain legible notes regarding his care of Patient P-2.

THIRD CAUSE FOR DISCIPLINE

(Unprofessional Conduct: Inadequate Medical Recordkeeping with Respect to Patient P-3)

34. Respondent is subject to disciplinary action for unprofessional conduct under section 2266, in that Respondent failed to maintain adequate and accurate medical recordkeeping with respect to Patient P-3, as more fully described herein below.

35. From 2007-2013, Respondent treated Patient P-3, a female born on October 19, 1927, for neck pain, hand pain, and Chronic Obstructive Pulmonary Disease (COPD).

36. During Patient P-3's first visit with Respondent on May 1, 2007, Respondent failed to perform and/or document a physical exam. Respondent documented: "COPD and Pulmonary function testing" in the assessment and plan section of the medical chart. However, most of Respondent's notes are illegible.

37. Respondent saw Patient P-3 on April 2 and 25, 2009, but his recordkeeping regarding these visits is largely illegible and there are no physical exams documented other than the patient's vitals.

38. Respondent saw Patient P-3 on various other dates including: June 18, 2009, April 20, 2010, May 25, 2010, August 19, 2010, August 23, 2011, March 20, 2012, and February 26, 2013. Respondent's notes related to these visits are mostly illegible.

39. Respondent saw Patient P-3 on September 19, 2013 and documented in the medical records that the patient was generally doing well but did not document a physical exam.

40. Respondent's overall conduct, acts, and/or omissions, with regard to Patient P-3, as set forth in paragraphs 34 through 39 herein, constitute unprofessional conduct and is therefore subject to disciplinary action. More specifically, Respondent is guilty of unprofessional conduct in that he failed to document appropriate physical examinations and failed to maintain legible notes in the patient's medical chart.

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 G 41373, issued to Respondent;

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

3. Ordering Respondent, if placed on probation, to pay the Board the costs of probation monitoring; and

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

DATED: May 29, 2019

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