

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

**In the Matter of the Accusation
Against:**

Stephen Joseph Gerbich, M.D.

**Physician's and Surgeon's
Certificate No. G 59912**

Respondent.

Case No.: 800-2023-095367

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 7, 2025.

IT IS SO ORDERED: June 4, 2025.

MEDICAL BOARD OF CALIFORNIA

Michelle A. Bholat, MD

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

1 ROB BONTA
Attorney General of California
2 MICHAEL C. BRÜMMEL
Supervising Deputy Attorney General
3 JOHN S. GATSCHET
Deputy Attorney General
4 State Bar No. 244388
California Department of Justice
5 1300 I Street, Suite 125
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8 *Attorneys for Complainant*

9
10 **BEFORE THE**
MEDICAL BOARD OF CALIFORNIA
11 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA
12

13 In the Matter of the Accusation Against:

14 **STEPHEN JOSEPH GERBICH, M.D.**
15 **1926 Harbor Town Dr.**
16 **Yuba City, CA 95993-8224**

17 **Physician's and Surgeon's Certificate**
No. G 59912

18 Respondent.

Case No. 800-2023-095367

OAH No. 2022090810

STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER

19
20 **IT IS HEREBY STIPULATED AND AGREED** by and between the parties to the above-
21 entitled proceedings that the following matters are true:

22 **PARTIES**

23 1. Reji Varghese ("Complainant") is the Executive Director of the Medical Board of
24 California ("Board"). He brought this action solely in his official capacity and is represented in
25 this matter by Rob Bonta, Attorney General of the State of California, by John S. Gatschet,
26 Deputy Attorney General.

27 2. Respondent Stephen Joseph Gerbich, M.D. ("Respondent") is represented in this
28 proceeding by attorney Amelia F. Burroughs, Esq. whose address is:

1 Amelia F. Burroughs, Esq.
2 Law Offices of Leonard & Lyde
3 1600 Humboldt Road, Suite 1
4 Chico, CA 95928

5 3. On or about April 20, 1987, the Board issued Physician's and Surgeon's Certificate
6 No. G 59912 to Respondent. That Certificate was in full force and effect at all times relevant to
7 the charges brought in Accusation No. 800-2023-095367, and will expire on February 28, 2025,
8 unless renewed. Respondent's license is currently on a grant of four (4) years' of probation in
9 Case No. 800-2020-064826.

10 **JURISDICTION**

11 4. Accusation No. 800-2023-095367 was filed before the Board, and is currently
12 pending against Respondent. The Accusation and all other statutorily required documents were
13 properly served on Respondent on May 23, 2024. Respondent timely filed his Notice of Defense
14 contesting the Accusation.

15 5. A copy of Accusation No. 800-2023-095367 is attached as exhibit A and incorporated
16 herein by reference.

17 **ADVISEMENT AND WAIVERS**

18 6. Respondent has carefully read, fully discussed with counsel, and understands the
19 charges and allegations in Accusation No. 800-2023-095367. Respondent has also carefully read,
20 fully discussed with his counsel, and understands the effects of this Stipulated Settlement and
21 Disciplinary Order.

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

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

1 **CULPABILITY**

2 9. Respondent understands and agrees that the charges and allegations in Accusation
3 No. 800-2023-095367, if proven at a hearing, constitute cause for imposing discipline upon his
4 Physician's and Surgeon's Certificate.

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

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

11 **RESERVATION**

12 12. The admissions made by Respondent herein are only for the purposes of this
13 proceeding, or any other proceedings in which the Medical Board of California or other
14 professional licensing agency is involved, and shall not be admissible in any other criminal or
15 civil proceeding.

16 **CONTINGENCY**

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

27 14. Respondent agrees that if he ever petitions for early termination or modification of
28 probation, or if an accusation and/or petition to revoke probation is filed against him before the

1 Board, all of the charges and allegations contained in Accusation No. 800-2023-095367 shall be
2 deemed true, correct and fully admitted by respondent for purposes of any such proceeding or any
3 other licensing proceeding involving Respondent in the State of California.

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

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

10 **DISCIPLINARY ORDER**

11 **IT IS HEREBY ORDERED** that Physician's and Surgeon's Certificate No. G 59912
12 issued to Respondent Stephen Joseph Gerbich, M.D. is revoked based on the charges alleged in
13 the Accusation in MBC Case No. 800-2023-095367. However, the revocation is stayed, and Case
14 No. 800-2023-095367 is incorporated into Case No. 800-2020-064826. In both cases,
15 Respondent's probation is extended four (4) additional years for a total term of probation of eight
16 (8) years from the original effective date of probation in Case No. 800-2020-064826.

17 As a condition of the Board agreeing to extend probation, Respondent agrees to not seek or
18 be eligible to file a Petition for Penalty Relief for two (2) years from the effective date of this
19 Decision and Order.

20 1. **SUSPENSION**. As part of probation, Respondent is suspended from the practice of
21 medicine for ninety (90) days beginning the sixteenth (16th) day after the effective date of this
22 decision.

23 2. **CONTROLLED SUBSTANCES - PARTIAL RESTRICTION**. Respondent shall not
24 order, prescribe, dispense, administer, furnish, or possess any controlled substances as defined by
25 the California Uniform Controlled Substances Act, except for those drugs listed in Schedule(s)
26 III, IV, and V of the Act.

27 Respondent shall not issue an oral or written recommendation or approval to a patient or a
28 patient's primary caregiver for the possession or cultivation of marijuana for the personal medical

1 purposes of the patient within the meaning of Health and Safety Code section 11362.5. If
2 Respondent forms the medical opinion, after an appropriate prior examination and medical
3 indication, that a patient's medical condition may benefit from the use of marijuana, Respondent
4 shall so inform the patient and shall refer the patient to another physician who, following an
5 appropriate prior examination and medical indication, may independently issue a medically
6 appropriate recommendation or approval for the possession or cultivation of marijuana for the
7 personal medical purposes of the patient within the meaning of Health and Safety Code section
8 11362.5. In addition, Respondent shall inform the patient or the patient's primary caregiver that
9 Respondent is prohibited from issuing a recommendation or approval for the possession or
10 cultivation of marijuana for the personal medical purposes of the patient and that the patient or
11 the patient's primary caregiver may not rely on Respondent's statements to legally possess or
12 cultivate marijuana for the personal medical purposes of the patient. Respondent shall fully
13 document in the patient's chart that the patient or the patient's primary caregiver was so
14 informed. Nothing in this condition prohibits Respondent from providing the patient or the
15 patient's primary caregiver information about the possible medical benefits resulting from the use
16 of marijuana.

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

24 3. CONTROLLED SUBSTANCES - MAINTAIN RECORDS AND ACCESS TO
25 RECORDS AND INVENTORIES. Respondent shall maintain a record of all controlled
26 substances ordered, prescribed, dispensed, administered, or possessed by Respondent, and any
27 recommendation or approval which enables a patient or patient's primary caregiver to possess or
28 cultivate marijuana for the personal medical purposes of the patient within the meaning of Health

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

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

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

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

27 A prescribing practices course taken after the acts that gave rise to the charges in the
28 Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board

1 or its designee, be accepted towards the fulfillment of this condition if the course would have
2 been approved by the Board or its designee had the course been taken after the effective date of
3 this Decision.

4 Respondent shall submit a certification of successful completion to the Board or its
5 designee not later than 15 calendar days after successfully completing the course, or not later than
6 15 calendar days after the effective date of the Decision, whichever is later.

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

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

21 Respondent shall submit a certification of successful completion to the Board or its
22 designee not later than 15 calendar days after successfully completing the course, or not later than
23 15 calendar days after the effective date of the Decision, whichever is later.

24 7. PROFESSIONALISM PROGRAM (ETHICS COURSE). Within 60 calendar days of
25 the effective date of this Decision, Respondent shall enroll in a professionalism program, that
26 meets the requirements of Title 16, California Code of Regulations (CCR) section 1358.1.
27 Respondent shall participate in and successfully complete that program. Respondent shall
28 provide any information and documents that the program may deem pertinent. Respondent shall

1 successfully complete the classroom component of the program not later than six (6) months after
2 Respondent's initial enrollment, and the longitudinal component of the program not later than the
3 time specified by the program, but no later than one (1) year after attending the classroom
4 component. The professionalism program shall be at Respondent's expense and shall be in
5 addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

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

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

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

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

1 signed statement for approval by the Board or its designee.

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

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

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

17 If the monitor resigns or is no longer available, Respondent shall, within 5 calendar days of
18 such resignation or unavailability, submit to the Board or its designee, for prior approval, the
19 name and qualifications of a replacement monitor who will be assuming that responsibility within
20 15 calendar days. If Respondent fails to obtain approval of a replacement monitor within 60
21 calendar days of the resignation or unavailability of the monitor, Respondent shall receive a
22 notification from the Board or its designee to cease the practice of medicine within three (3)
23 calendar days after being so notified. Respondent shall cease the practice of medicine until a
24 replacement monitor is approved and assumes monitoring responsibility.

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

1 expense during the term of probation.

2 9. SOLO PRACTICE PROHIBITION

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

7 If Respondent fails to establish a practice with physician or secure employment in an
8 appropriate practice setting within 60 calendar days of the effective date of this Decision,
9 Respondent shall receive a notification from the Board or its designee to cease the practice of
10 medicine within three (3) calendar days after being so notified. The Respondent shall not resume
11 practice until an appropriate practice setting is established.

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

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

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

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

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

7 13. INVESTIGATION/ENFORCEMENT COST RECOVERY. Respondent is hereby
8 ordered to reimburse the Board its costs of investigation and enforcement, in the amount of
9 \$29,604.60 (Twenty-Nine Thousand, Six Hundred and Four dollars and 60 cents). These costs
10 are in addition to all costs previously ordered in Case No. 800-2020-064826 and all owed
11 probation monitoring costs. Costs shall be payable to the Medical Board of California. Failure to
12 pay such costs shall be considered a violation of probation.

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

17 The filing of bankruptcy by respondent shall not relieve respondent of the responsibility to
18 repay investigation and enforcement costs.

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

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

24 15. GENERAL PROBATION REQUIREMENTS.

25 Compliance with Probation Unit

26 Respondent shall comply with the Board's probation unit.

27 Address Changes

28 Respondent shall, at all times, keep the Board informed of Respondent's business and

1 residence addresses, email address (if available), and telephone number. Changes of such
2 addresses shall be immediately communicated in writing to the Board or its designee. Under no
3 circumstances shall a post office box serve as an address of record, except as allowed by Business
4 and Professions Code section 2021, subdivision (b).

5 Place of Practice

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

9 License Renewal

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

12 Travel or Residence Outside California

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

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

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

22 17. NON-PRACTICE WHILE ON PROBATION. Respondent shall notify the Board or
23 its designee in writing within 15 calendar days of any periods of non-practice lasting more than
24 30 calendar days and within 15 calendar days of Respondent's return to practice. Non-practice is
25 defined as any period of time Respondent is not practicing medicine as defined in Business and
26 Professions Code sections 2051 and 2052 for at least 40 hours in a calendar month in direct
27 patient care, clinical activity or teaching, or other activity as approved by the Board. If
28 Respondent resides in California and is considered to be in non-practice, Respondent shall

1 comply with all terms and conditions of probation. All time spent in an intensive training
2 program which has been approved by the Board or its designee shall not be considered non-
3 practice and does not relieve Respondent from complying with all the terms and conditions of
4 probation. Practicing medicine in another state of the United States or Federal jurisdiction while
5 on probation with the medical licensing authority of that state or jurisdiction shall not be
6 considered non-practice. A Board-ordered suspension of practice shall not be considered as a
7 period of non-practice.

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

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

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

15 Periods of non-practice for a Respondent residing outside of California will relieve
16 Respondent of the responsibility to comply with the probationary terms and conditions with the
17 exception of this condition and the following terms and conditions of probation: Obey All Laws;
18 General Probation Requirements; and Quarterly Declarations.

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

25 19. VIOLATION OF PROBATION. Failure to fully comply with any term or condition
26 of probation is a violation of probation. If Respondent violates probation in any respect, the
27 Board, after giving Respondent notice and the opportunity to be heard, may revoke probation and
28 carry out the disciplinary order that was stayed. If an Accusation, or Petition to Revoke Probation,

1 or an Interim Suspension Order is filed against Respondent during probation, the Board shall have
2 continuing jurisdiction until the matter is final, and the period of probation shall be extended until
3 the matter is final.

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

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

19 22. FUTURE ADMISSIONS CLAUSE. If Respondent should ever apply or reapply for
20 a new license or certification, or petition for reinstatement of a license, by any other health care
21 licensing action agency in the State of California, all of the charges and allegations contained in
22 Accusation No. 800-2023-095367 shall be deemed to be true, correct, and admitted by
23 Respondent for the purpose of any Statement of Issues or any other proceeding seeking to deny or
24 restrict license.

25 ///

26 ///

27 ///

28 ///

ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Amelia F. Burroughs, 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: December 28, 2024 Stephen Joseph Gerbich
STEPHEN JOSEPH GERBICH, M.D.
Respondent

I have read and fully discussed with Respondent Stephen Joseph Gerbich, 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: 12/31/2024 Amelia F. Burroughs, Esq.
Attorney for Respondent

ENDORSEMENT

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

January 2, 2025

DATED: _____

Respectfully submitted,

ROB BONTA
Attorney General of California
STEVEN D. MUNI
Supervising Deputy Attorney General

John S. Gatschet
JOHN S. GATSCHET
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 800-2023-095367

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8 *Attorneys for Complainant*

10 **BEFORE THE**
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13 **STATE OF CALIFORNIA**

14 In the Matter of the Accusation Against:

Case No. 800-2023-095367

15 Stephen Joseph Gerbich, M.D.
16 1926 Harbor Town Drive
Yuba City, CA 95993-8224

A C C U S A T I O N

17 Physician's and Surgeon's Certificate
18 No. G 59912,

Respondent.

21 **PARTIES**

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

25 2. On or about April 20, 1987, the Medical Board issued Physician's and Surgeon's
26 Certificate No. G 59912 to Stephen Joseph Gerbich, M.D. ("Respondent"). That Certificate was
27 placed on probation on June 16, 2023, with various terms and conditions in MBC Case No. 800-
28

2020-064826. That Certificate was in full force and effect at all times relevant to the charges brought herein and will expire on February 28, 2025, unless renewed.

JURISDICTION

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

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

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

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

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

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

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

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

(b) Any matter heard pursuant to subdivision (a), except for warning letters, medical review or advisory conferences, professional competency examinations, continuing education activities, and cost reimbursement associated therewith that are agreed to with the board and successfully completed by the licensee, or other matters made confidential or privileged by existing law, is deemed public, and shall be made available to the public by the board pursuant to Section 803.1.

STATUTORY PROVISIONS

5. Section 2234 of the Code states, in pertinent part:

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.

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

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

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

13 ...

14 6. Unprofessional conduct under Code section 2234 is conduct, which breaches the
15 rules or ethical code of the medical profession, or conduct which is unbecoming to a member in
16 good standing of the medical profession, and which demonstrates an unfitness to practice
17 medicine.¹

18 7. Section 2051 of the Code states, in pertinent part:

19 The physician's and surgeon's certificate authorizes the holder to use drugs or
20 devices in or upon human beings and to sever or penetrate the tissue of human beings
21 and to use any and all other methods in the treatment of diseases, injuries,
22 deformities, and other physical and mental conditions.

23 8. Section 2052 of the Code states, in pertinent part:

24 (a) Notwithstanding Section 146, any person who practices or attempts to
25 practice, or who advertises or holds himself or herself out as practicing, any system or
26 mode of treating the sick or afflicted in this state, or who diagnoses, treats, operates
27 for, or prescribes for any ailment, blemish, deformity, disease, disfigurement,
28 disorder, injury, or other physical or mental condition of any person, without having
at the time of so doing a valid, unrevoked, or unsuspended certificate as provided in
this chapter [Chapter 5, the Medical Practice Act], or without being authorized to
perform the act pursuant to a certificate obtained in accordance with some other
provision of law, is guilty of a public offense, punishable by a fine not exceeding ten
thousand dollars (\$10,000), by imprisonment pursuant to subdivision (h) of Section
1170 of the Penal Code, by imprisonment in a county jail not exceeding one year, or
by both the fine and either imprisonment.

(b) Any person who conspires with or aids or abets another to commit any act
described in subdivision (a) is guilty of a public offense, subject to the punishment
described in that subdivision.

(c) The remedy provided in this section shall not preclude any other remedy
provided by law.

¹ *Shea v. Board of Medical Examiners* (1978) 81 Cal.App.3d 564, 575.

1 9. Section 2264 of the Code states, in pertinent part:

2 The employing, directly or indirectly, the aiding, or the abetting of any
3 unlicensed person or any suspended, revoked, or unlicensed practitioner to engage in
4 the practice of medicine or any other mode of treating the sick or afflicted which
5 requires a license to practice constitutes unprofessional conduct.

6 10. Section 2266 of the Code states, in pertinent part:

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

9 11. Section 2286 of the Code states, in pertinent part:

10 It shall constitute unprofessional conduct for any licensee to violate, to attempt
11 to violate, directly or indirectly, to assist in or abet the violation of, or to conspire to
12 violate any provision or term of Article 18 (commencing with Section 2400), of the
13 Moscone-Knox Professional Corporation Act (Part 4 commencing with Section
14 13400) of Division 3 of Title 1 of the Corporations Code), or of any rules and
15 regulations duly adopted under those laws.

16 12. Section 2400 of the Code states, in pertinent part:

17 Corporations and other artificial legal entities shall have no professional rights,
18 privileges, or powers...

19 13. Section 2402 of the Code states, in pertinent part:

20 The provisions of Section 2400 do not apply to a medical or podiatry corporation
21 practicing pursuant to the Moscone-Knox Professional Corporation Act (Part 4
22 (commencing with Section 13400) of Division 3 of Title 1 of the Corporations Code) and
23 this article, when such corporation is in compliance with the requirements of these statutes
24 and all other statutes and regulations now or hereafter enacted or adopted pertaining to
25 such corporations and the conduct of their affairs.

26 14. Section 2406 of the Code states, in pertinent part:

27 A medical or podiatry corporation is a corporation which is authorized to render
28 professional services, as defined in Section 13401 of the Corporations Code, so long
29 as that corporation and its shareholders, officers, directors and employees rendering
30 professional services who are physicians and surgeons, psychologists, registered
31 nurses, optometrists, podiatrists, chiropractors, acupuncturists, naturopathic doctors,
32 physical therapists, occupational therapists, or, in the case of a medical corporation
33 only, physician assistants, marriage and family therapists, clinical counselors, or
34 clinical social workers, are in compliance with the Moscone-Knox Professional
35 Corporation Act [Corporations Code section 13400 et seq.], the provisions of this
36 article and all other statutes and regulations now or hereafter enacted or adopted
37 pertaining to the corporation and the conduct of its affairs.

1 With respect to a medical corporation ... the governmental agency referred to in
2 The Moscone-Knox Professional Corporation Act is the board.

3 15. Section 2410 of the Code states:

4 A medical or podiatry corporation shall not do or fail to do any act the doing of
5 which or the failure to do which would constitute unprofessional conduct under any
6 statute or regulation now or hereafter in effect. In the conduct of its practice, it shall
7 observe and be bound by such statutes and regulations to the same extent as a licensee
8 under this chapter [Chapter 5, the Medical Practice Act].

9 16. Section 13401 of the Corporations Code states, in pertinent part:

10 (a) "Professional services" means any type of professional services that may be
11 lawfully rendered pursuant to a license, certification, or registration authorized by the
12 Business and Professions Code...

13 (b) "Professional corporation" means a corporation organized under the General
14 Corporation Law or pursuant to subdivision (b) of Section 13406 that is engaged in
15 rendering professional services in a single profession, except as otherwise authorized in
16 Section 13401.5, pursuant to a certificate of registration issued by the governmental
17 agency regulating the profession as herein provided and that in its practice or business
18 designates itself as a professional or other corporation as may be required by statute.
19 However, any professional corporation or foreign professional corporation rendering
20 professional services by persons duly licensed by the Medical Board of California ...
21 shall not be required to obtain a certificate of registration in order to render those
22 professional services.

23 ...

24 (d) "Licensed person" means any natural person who is duly licensed under the
25 provisions of the Business and Professions Code, the Chiropractic Act, or the Osteopathic
26 Act to render the same professional services as are or will be rendered by the professional
27 corporation or foreign professional corporation of which the person is, or intends to
28 become, an officer, director, shareholder, or employee.

...

17. Section 13401.5 of the Corporations Code states, in pertinent part:

Notwithstanding subdivision (d) of Section 13401 and any other provision of law, the
following licensed persons may be shareholders, officers, directors, or professional
employees of the professional corporations designated in this section so long as the sum of
all shares owned by those licensed persons does not exceed 49 percent of the total number
of shares of the professional corporation so designated herein, and so long as the number
of those licensed persons owning shares in the professional corporation so designated
herein does not exceed the number of persons licensed by the governmental agency
regulating the designated professional corporation. This section does not limit
employment by a professional corporation designated in this section to only those licensed
professionals listed under each subdivision. Any person duly licensed under Division 2
(commencing with Section 500) of the Business and Professions Code, the Chiropractic
Act or the Osteopathic Act may be employed to render professional services by a
professional corporation designated in this section.

- (a) Medical corporation.
(1) Licensed doctors of podiatric medicine.
(2) Licensed psychologists.
(3) Registered nurses.
(4) Licensed optometrists.
(5) Licensed marriage and family therapists.
(6) Licensed clinical social workers.
(7) Licensed physician assistants.
(8) Licensed chiropractors.
(9) Licensed acupuncturists.
(10) Naturopathic doctors.
(11) Licensed professional clinical counselors.
(12) Licensed physical therapists.
(13) Licensed pharmacists.
(14) Licensed midwives.
(15) Licensed occupational therapists.

...

18. Section 13410 of the Corporations Code states, in pertinent part:

(a) A professional corporation or a foreign professional corporation qualified to render professional services in this state shall be subject to the applicable rules and regulations adopted by, and all the disciplinary provisions of the Business and Professions Code expressly governing the practice of the profession in this state, and to the powers of, the governmental agency regulating the profession in which such corporation is engaged. Nothing in this part shall affect or impair the disciplinary powers of any such governmental agency over licensed persons or any law, rule or regulation pertaining to the standards for professional conduct of licensed persons or to the professional relationship between any licensed person furnishing professional services and the person receiving such services.

...

19. Section 2725 of the Code states, in pertinent part:

(a) In amending this section at the 1973-74 session, the Legislature recognizes that nursing is a dynamic field, the practice of which is continually evolving to include more sophisticated patient care activities. It is the intent of the Legislature in amending this section at the 1973-74 session to provide clear legal authority for functions and procedures that have common acceptance and usage. It is the legislative intent also to recognize the existence of overlapping functions between physicians and registered nurses and to permit additional sharing of functions within organized health care systems that provide for collaboration between physicians and registered nurses. These organized health care systems include, but are not limited to, health facilities licensed pursuant to Chapter 2 (commencing with Section 1250) of Division 2 of the Health and Safety Code, clinics, home health agencies, physicians' offices, and public or community health services.

(b) The practice of nursing within the meaning of this chapter means those functions, including basic health care, that help people cope with difficulties in daily living that are associated with their actual or potential health or illness problems or the treatment thereof,

1 and that require a substantial amount of scientific knowledge or technical skill, including all
2 of the following:

3 (1) Direct and indirect patient care services that ensure the safety, comfort, personal
4 hygiene, and protection of patients; and the performance of disease prevention and
5 restorative measures.

6 (2) Direct and indirect patient care services, including, but not limited to, the
7 administration of medications and therapeutic agents, necessary to implement a treatment,
8 disease prevention, or rehabilitative regimen ordered by and within the scope of licensure of
9 a physician, dentist, podiatrist, or clinical psychologist, as defined by Section 1316.5 of the
10 Health and Safety Code.

11 (3) The performance of skin tests, immunization techniques, and the withdrawal of
12 human blood from veins and arteries.

13 (4) Observation of signs and symptoms of illness, reactions to treatment, general
14 behavior, or general physical condition, and (A) determination of whether the signs,
15 symptoms, reactions, behavior, or general appearance exhibit abnormal characteristics, and
16 (B) implementation, based on observed abnormalities, of appropriate reporting, or referral,
17 or standardized procedures, or changes in treatment regimen in accordance with
18 standardized procedures, or the initiation of emergency procedures.

19 (c) "Standardized procedures," as used in this section, means either of the following:

20 (1) Policies and protocols developed by a health facility licensed pursuant to Chapter 2
21 (commencing with Section 1250) of Division 2 of the Health and Safety Code through
22 collaboration among administrators and health professionals including physicians and
23 nurses.

24 (2) Policies and protocols developed through collaboration among administrators and
25 health professionals, including physicians and nurses, by an organized health care system
26 which is not a health facility licensed pursuant to Chapter 2 (commencing with Section
27 1250) of Division 2 of the Health and Safety Code.

28 The policies and protocols shall be subject to any guidelines for standardized procedures
that the Division of Licensing of the Medical Board of California and the Board of
Registered Nursing may jointly promulgate. If promulgated, the guidelines shall be
administered by the Board of Registered Nursing.

20. Section 2836.1 of the Code states, in pertinent part:

Neither this chapter nor any other provision of law shall be construed to prohibit a nurse
practitioner from furnishing or ordering drugs or devices when all of the following apply:

(a) The drugs or devices are furnished or ordered by a nurse practitioner in accordance
with standardized procedures or protocols developed by the nurse practitioner and the
supervising physician and surgeon when the drugs or devices furnished or ordered are
consistent with the practitioner's educational preparation or for which clinical competency
has been established and maintained.

1 (b) The nurse practitioner is functioning pursuant to standardized procedure, as defined
2 by Section 2725, or protocol. The standardized procedure or protocol shall be developed
3 and approved by the supervising physician and surgeon, the nurse practitioner, and the
4 facility administrator or the designee.

5 (c)(1) The standardized procedure or protocol covering the furnishing of drugs or devices
6 devices may be furnished or ordered, under what circumstances, the extent of physician and
7 surgeon supervision, the method of periodic review of the nurse practitioner's competence,
8 including peer review, and review of the provisions of the standardized procedure.

9 (2) In addition to the requirements in paragraph (1), for Schedule II controlled substance
10 protocols, the provision for furnishing Schedule II controlled substances shall address the
11 diagnosis of the illness, injury, or condition for which the Schedule II controlled substance
12 is to be furnished.

13 (d) The furnishing or ordering of drugs or devices by a nurse practitioner occurs under
14 physician and surgeon supervision. Physician and surgeon supervision shall not be
15 construed to require the physical presence of the physician, but does include (1)
16 collaboration on the development of the standardized procedure, (2) approval of the
17 standardized procedure, and (3) availability by telephonic contact at the time of patient
18 examination by the nurse practitioner.

19 (e) For purposes of this section, no physician and surgeon shall supervise more than four
20 nurse practitioners at one time.

21 ...

22 REGULATORY PROVISIONS

23 21. California Code of Regulations, title 16, section 1343, states, in pertinent part:

24 A professional corporation shall comply with the following provisions:

25 (a) The corporation is organized and exists pursuant to the general corporation law and is
26 a professional corporation within the meaning of the Moscone-Knox Professional
27 Corporations Act (Corporations Code Section 13400 et seq.).

28 (b) Each shareholder, director or officer (except as provided in Section 13403 of the
Corporations Code and Section 2408 of the code) holds a valid physician's and surgeon's
certificate or certificate to practice podiatric medicine, as the case may be, provided that, a
licensed podiatrist, psychologist, optometrist, physician's assistant, clinical social worker,
marriage, family and child counselor, chiropractor or registered nurse may be a shareholder,
director or officer of a medical corporation so long as such licensed persons own no more
than 49% of the total shares issued by the medical corporation and the number of licensed
persons owning shares in the medical corporation does not exceed the number of physicians
owning shares in such a corporation, and a licensed physician may be a shareholder,
director or officer of a podiatry corporation so long as such physician owns no more than
49% of the total shares issued by the podiatry corporation and the number of licensed
physicians owning shares in the podiatry corporation does not exceed the number of
podiatrists owning shares in such a corporation. A physician, psychologist, optometrist and
registered nurse may also be a shareholder, director or officer in a podiatry corporation
subject to the same numerical restrictions.

1 (c) Each professional employee of the corporation who will practice medicine, podiatry,
2 psychology, optometry, clinical social work, marriage, family and child counselling,
3 chiropractic or nursing, whether or not a director, officer or shareholder, holds a valid
license.

4 (d) A physician and surgeon or podiatrist may be a shareholder, officer or director in
5 more than one professional corporation.

6 22. California Code of Regulations, title 16, section 1347, states, in pertinent part:

7 (a) A professional corporation may perform any act authorized in its articles of
8 incorporation or bylaws so long as that act is not in conflict with or prohibited by the
9 Medical Practice Act, and where applicable the Psychology Licensing Law, the Optometry
10 law, Physician Assistants Practice Act, the social worker licensing law and the marriage,
11 family and child counselor licensing law or the Nursing Practice Act in the case of a
corporation which has a licensed psychologist, optometrist or registered nurse as a
shareholder, director or officer, or the regulations adopted pursuant thereto.

12 23. California Code of Regulations, title 16, section 1379, states, in pertinent part:

13 A physician and surgeon or a podiatrist who collaborates in the development of
14 standardized procedures for registered nurses shall comply with Title 16 California
15 Administrative Code Sections 1470 through 1474 governing development and use of
standardized procedures.

16 24. California Code of Regulations, title 16, section 1470, states, in pertinent part:

17 The Board of Registered Nursing in conjunction with the Medical Board of California
18 (see the regulations of the Medical Board of California, Article 9.5, Chapter 13, Title 16 of
19 the California Code of Regulations) intends, by adopting the regulations contained in the
20 article, to jointly promulgate guidelines for the development of standardized procedures to
be used in organized health care systems which are subject to this rule. The purpose of
these guidelines is:

21 (a) To protect consumers by providing evidence that the nurse meets all requirements
22 to practice safely.

23 (b) To provide uniformity in development of standardized procedures.

24 25. California Code of Regulations, title 16, section 1471, states, in pertinent part:

25 For purposes of this article:

26 (a) "Standardized procedure functions" means those functions specified in Business
27 and Professions Code Section 2725(c) and (d) which are to be performed according to
28 "standardized procedures";

1 (b) "Organized health care system" means a health facility which is not licensed
2 pursuant to Chapter 2 (commencing with Section 1250), Division 2 of the Health and
3 Safety Code and includes, but is not limited to, clinics, home health agencies, physicians'
4 offices and public or community health services;

5 (c) "Standardized procedures" means policies and protocols formulated by organized
6 health care systems for the performance of standardized procedure functions.

7 26. California Code of Regulations, title 16, section 1472, states, in pertinent part:

8 An organized health care system must develop standardized procedures before
9 permitting registered nurses to perform standardized procedure functions. A registered
10 nurse may perform standardized procedure functions only under the conditions specified
11 in a health care system's standardized procedures; and must provide the system with
12 satisfactory evidence that the nurse meets its experience, training, and/or education
13 requirements to perform such functions.

14 27. California Code of Regulations, title 16, section 1474, states, in pertinent part:

15 Following are the standardized procedure guidelines jointly promulgated by the
16 Medical Board of California and by the Board of Registered Nursing:

17 (a) Standardized procedures shall include a written description of the method used in
18 developing and approving them and any revision thereof.

19 (b) Each standardized procedure shall:

20 (1) Be in writing, dated and signed by the organized health care system personnel
21 authorized to approve it.

22 (2) Specify which standardized procedure functions registered nurses may perform
23 and under what circumstances.

24 (3) State any specific requirements which are to be followed by registered nurses in
25 performing particular standardized procedure functions.

26 (4) Specify any experience, training, and/or education requirements for performance
27 of standardized procedure functions.

28 (5) Establish a method for initial and continuing evaluation of the competence of
those registered nurses authorized to perform standardized procedure functions.

(6) Provide for a method of maintaining a written record of those persons authorized
to perform standardized procedure functions.

(7) Specify the scope of supervision required for performance of standardized
procedure functions, for example, immediate supervision by a physician.

(8) Set forth any specialized circumstances under which the registered nurse is to
immediately communicate with a patient's physician concerning the patient's condition.

1 (9) State the limitations on settings, if any, in which standardized procedure functions
may be performed.

2 (10) Specify patient record keeping requirements.

3 (11) Provide for a method of periodic review of the standardized procedures.

4 **COST RECOVERY**

5 28. Business and Professions Code section 125.3 states that:

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

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

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

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

19 (e) If an order for recovery of costs is made and timely payment is not made as
directed in the board's decision, the board may enforce the order for repayment in any
20 appropriate court. This right of enforcement shall be in addition to any other rights
the board may have as to any licensee to pay costs.

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

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

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

28 (h) All costs recovered under this section shall be considered a reimbursement
for costs incurred and shall be deposited in the fund of the board recovering the costs

to be available upon appropriation by the Legislature.

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

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

FACTUAL ALLEGATIONS

29. The Board provides the following guidance to its licensees regarding the corporate practice of medicine on its website under the tab "Corporate Practice of Medicine"²:

The following is to provide guidance to physicians on the prohibition against the corporate practice of medicine. Corporate law can be complicated and it is encouraged that licensee's [sic] discuss their medical practices and business enterprises with knowledgeable legal counsel that specializes in this area of practice.

Listed below are the most frequently inquired topics in regards to corporate practice of medicine.

...

In addition, the following "business" or "management" decisions and activities, resulting in control over the physician's practice of medicine, should be made by a licensed California physician and not by an unlicensed person or entity:

- Ownership is an indicator of control of a patient's medical records, including determining the contents thereof, and should be retained by a California-licensed physician;
- Selection, hiring/firing (as it relates to clinical competency or proficiency) of physicians, allied health staff and medical assistants;
- Setting the parameters under which the physician will enter into contractual relationships with third-party payers;
- Decisions regarding coding and billing procedures for patient care services; and
- Approving of the selection of medical equipment and medical supplies for the medical practice.

The types of decisions and activities described above cannot be delegated to an unlicensed person, including (for example) management service organizations. While a physician may consult with unlicensed persons in making the "business" or "management" decisions described above, the physician must retain the ultimate responsibility for, or approval of, those decisions.

² <https://www.mbc.ca.gov/Licensing/Physicians-and-Surgeons/Practice-Information/>

According to Board Records, this information was first posted on March 30, 2006, and has continuously remained publically available and free of charge since that time.

1 The following types of medical practice ownership and operating structures also
2 are prohibited:

- 3 • Non-physicians owning or operating a business that offers patient evaluation, diagnosis,
4 care and/or treatment;
- 5 • Physician(s) operating a medical practice as a limited liability company, a limited liability
6 partnership, or a general corporation;
- 7 • Management service organizations arranging for, advertising, or providing medical
8 services rather than only providing administrative staff and services for a physician's
9 medical practice (non-physician exercising controls over a physician's medical practice,
10 even where physicians own and operate the business); and
- 11 • A physician acting as "medical director" when the physician does not own the practice.
12 For example, a business offering spa treatments that include medical procedures such as
13 Botox injections, laser hair removal, and medical microdermabrasion, that contracts with
14 or hires a physician as its "medical director."

15 In the examples above, non-physicians would be engaged in the unlicensed
16 practice of medicine, and the physician may be aiding and abetting the unlicensed practice
17 of medicine.

18 ...

19 30. Following Respondent's completion of medical school, Respondent completed a
20 residency in pediatrics in 1989. Between 1990 and 2020, according to his curriculum vitae
21 Respondent worked in California as a pediatrician. Between 2012 and July 2018, Respondent
22 worked at a clinic in Marysville, California. Between August 2018 and February 2020,
23 Respondent worked at a clinic in Red Bluff, California. Between March 1, 2021, and August 31,
24 2021, Respondent attended a pediatric retraining program in Colorado to reestablish Board
25 eligibility so that he could regain eligibility to take board certification in pediatric medicine.
26 Between 1990 and 2020, there is no evidence that Respondent had specialized training in wound
27 care and/or the care of adult patients.

28 31. On or about February 10, 2016³, a registered nurse practitioner, "NP1"⁴ incorporated
a corporation named "Active Life Wound Clinics" with the Secretary of State's Office, Entity #

³ All conduct described before July 1, 2017, is for informational purposes only and is used
to explain and understand conduct occurring after July 1, 2017. Conduct occurring before July 1,
2017, shall not serve as a basis for discipline unless it involves on-going conduct that occurred
after July 1, 2017. Bus. & Prof. Code § 2230.5.

⁴ All witnesses and patients are identified by an Alpha-Numeric in order to maintain
confidentiality. All witnesses and patients will be fully identified in discovery.

1 C3874476. The incorporating documents were for a general stock corporation with a purpose to
2 practice a profession as permitted by the California Corporations Code and issue 500,000 shares
3 of stock. On October 9, 2018, NP1 filed an Amendment of the Articles of Incorporation to
4 amend the name of the Corporation to "Active Life Wound Clinic, A Professional Nursing
5 Corporation" (ALWC) and listed that the purpose of the corporation was to engage in the
6 profession of nursing as a professional corporation. NP1 was listed as both the President and
7 Secretary of ALWC. On February 25, 2019, NP1 filed a Statement of Information for ALWC,
8 Entity C3874476 that listed NP1 as the only officer and director of ALWC and listed the purpose
9 of the corporation as "medical." On December 6, 2019, NP1 filed a Statement of Information for
10 ALWC that stated there were no changes with the corporation and affirmed the February 25,
11 2019, Statement of Information. There is no evidence that at any point on or between 2016 and
12 2022, that Respondent had an ownership interest in ALWC. There is no evidence that at any
13 point on or between 2016 and 2022, that ALWC was owned and controlled by a licensed
14 physician in possession of 51% of the outstanding shares of ALWC. On or between 2016 and
15 2022, ALWC was solely owned by NP1, ALWC was providing medical services, namely wound
16 care, including debridement, prescribing medication, and diagnosing and treating adults with
17 wound issues.

18 32. NP1 possesses four licenses/certificates with the Board of Registered Nursing. First,
19 NP1 was issued a license (License Number 328206) as a Registered Nurse on March 31, 1981.
20 Second, NP1 was issued a license (License Number 35626) as a Public Health Nurse on February
21 1, 1984. Third, NP1 was issued a certificate (License Number 95007688) as a Nurse Practitioner,
22 with a qualification as a Family Nurse Practitioner, on October 11, 2017. Fourth, NP1 was issued
23 a certificate (License 95007688) as a Furnishing Nurse Practitioner, with a qualification to issue
24 Schedule II prescriptions, on October 27, 2017. NP1 is not and has never been a licensed
25 physician with the Medical Board of California or the Osteopathic Medical Board of California.
26 On October 6, 2023, in Case No. 400-2021-002982, OAH Case No. 2022090644, all of NP1's
27 licenses were placed on five years' probation by the Board of Registered Nursing following a
28 contested administrative hearing. According to the Decision and Order, NP1 engaged in gross

1 negligence, repeated negligent acts, and unprofessional conduct while owning and operating
2 ALWC between 2016 and 2020. As a term and condition of probation, it was determined that
3 Respondent shall not supervise NP1. That Decision and Order is final, with the time for appellate
4 review lapsed, and the factual findings from that Decision and Order are incorporated herein by
5 reference as if fully set forth.⁵

6 33. Respondent and NP1 had a close on-going friend relationship beginning in
7 approximately 2008, Respondent having met NP1 through a church that they both attended in
8 Yuba City, California. On or about late 2015 or early 2016, NP1 approached Respondent and
9 asked him if he would be willing to supervise NP1 while NP1 opened ALWC, a wound care
10 clinic. NP1 offered to pay Respondent \$500.00 a month per ALWC clinic location to serve as
11 NP1's supervising physician. NP1 would retain sole ownership and control of ALWC.
12 Respondent initially offered NP1 and ALWC space in his Marysville Clinic so NP1 could start
13 seeing patients. NP1 and Respondent had an oral agreement regarding their professional
14 arrangement and payment.

15 34. On January 1, 2016, Respondent and NP1 signed a Standardized Nurse Practitioner
16 Protocol⁶ ("Protocol") for ALWC. Respondent was not involved in the development of the
17 Protocol and did not document reviewing or authorizing the reference textbooks and other written
18 resources setting forth the standard of care in the Protocol. Respondent allowed NP1 to create the
19 Protocol and assemble the reference textbooks and resources. The terms of the Protocol stated
20 that the Protocol would be reviewed every two years. At the time NP1 originally signed the
21 Protocol he was not a nurse practitioner. Starting in February 2016, NP1 independently operated
22 ALWC out of Marysville office space that was also used by Respondent as Respondent operated
23 his pediatric practice. Prior to being licensed as a nurse practitioner, NP1 only saw two patients a
24 week. However, after October 2017 when he received his Nurse Practitioner Certificate, NP1
25 began receiving wound care referrals from outside medical providers. In late 2017 or early 2018,

26 ⁵ A copy of the unredacted Decision will be provided in discovery and is publically
27 available through the Board of Registered Nursing.

28 ⁶ The terms standardized nursing procedure and standardized nursing practitioner protocol
are used interchangeably in this Accusation and both refer to the documents legally required
under Title 16, Cal. Code of Regs., sections 1470-1474.

1 NP1 moved ALWC to a separate office in Yuba City, California. In the summer of 2018,
2 Respondent left his office space in Marysville, California and transitioned to a new job in Red
3 Bluff, California. Between October 2017 and 2023, NP1 opened additional clinic locations for
4 ALWC. Each time ALWC opened a new clinic location, NP1 would increase the amount of
5 money paid to Respondent. While Respondent originally received \$500.00 a month to supervise
6 NP1, Respondent's compensation eventually rose to \$2000.00 a month as ALWC opened
7 additional clinics and hired additional nurse practitioners.

8 35. On January 17, 2018, and on January 10, 2019, NP1 signed a Second Standardized
9 Nurse Protocol ("Second Protocol"). A second Nurse Practitioner, NP2, signed the Second
10 Protocol on February 1, 2019. NP2 was issued her registered nurse license on February 22, 1999.
11 NP2 was issued her Nurse Practitioner Certificate on August 10, 2009. When NP2 signed the
12 Second Protocol, her license was on probation with the Board of Registered Nursing. A signature
13 purported to be Respondent's signature is listed on the Second Protocol and dated January 15,
14 2018, and January 10, 2019. NP1 forged Respondent's signature on the Second Protocol on
15 January 15, 2018, and again on January 10, 2019. Respondent admitted that he did not sign the
16 Second Protocol and that his signature was forged. NP2 worked for ALWC from February 11,
17 2019, to August 1, 2019 at its Sacramento clinic location. Respondent stated he had no contact
18 with NP2, denied knowing her or supervising her, denied ever visiting the Sacramento location,
19 and never collaborated with NP2 to develop standardized procedures, including those set forth in
20 the Second Protocol. Between March 2019, and August 2019, NP1 documented his observations
21 of NP2's work performance despite the fact that he was not a licensed physician. On September
22 9th, 2022, the Board of Registered Nursing issued a Decision and Order in Case No. 400-2020-
23 002636 accepting the surrender of all of NP2's licenses and certificates issued by the Board of
24 Registered Nursing due to her failure to have a supervising physician at ALWC. That Decision
25 and Order is final, with the time for appellate review lapsed, and the factual findings from that
26 Decision and Order are incorporated herein by reference as if fully set forth.⁷

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28 ⁷ A copy of the unredacted Decision will be provided in discovery and is publically
available through the Board of Registered Nursing.

1 36. Between February 20, 2019, and September 16, 2019, NP3 worked at ALWC's clinic
2 location in Sacramento, California. NP3 received her registered nurse license from the Board of
3 Registered Nursing on November 4, 2015. NP3 received her Nurse Practitioner Certificate from
4 the Board of Registered Nursing on June 28, 2018. According to NP3 she did not have
5 standardized procedures and/or protocol with a licensed physician while working at ALWC.
6 Respondent stated he did not know or supervise NP3 while she worked at ALWC, that he had not
7 visited ALWC's Sacramento location, and that he did not sign the ALWC Second Protocol in
8 2018 and 2019. On July 9, 2021, Respondent denied ever reviewing NP3's competency checklist
9 and denied knowing who she was. On February 8, 2023, the Board of Registered Nursing issued
10 a Decision and Order in Case No. 4002020001619, OAH Case No. 2022090645, that publically
11 reproved the license of NP3 for failing to have a supervising physician while working at ALWC.
12 That Decision and Order is final, with the time for appellate review lapsed, and the factual
13 findings from that Decision and Order are incorporated herein by reference as if fully set forth.⁸

14 37. On April 17, 2020, NP1 signed a Third Standardized Nurse Protocol ("Third
15 Protocol".) A signature purporting to be Respondent's signature is listed on the Third Protocol
16 and dated April 17, 2020. On May 12, 2021, Respondent stated that his signature on the Third
17 Protocol dated April 17, 2020, did not appear to be his signature. NP1 forged Respondent's
18 signature on the Third Protocol. On July 9, 2021, Respondent confirmed that he did not sign the
19 Third Protocol. NP4 signed the Third Protocol on April 17, 2020, and NP5 signed the Third
20 Protocol on April 20, 2020. Respondent stated the first time he met NP4 was in June 2021, more
21 than a year after NP4 began working at ALWC. As of July 9, 2021, Respondent stated he had not
22 met NP5, despite NP5 working for ALWC for more than a year.

23 38. Between 2016 and through 2022, Respondent was paid a monthly fee (originally
24 starting at \$500.00 and eventually rising to \$2000.00) as the supervising physician for ALWC.
25 During the period of time between 2016 to 2022, investigations into the professional and
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28 ⁸ A copy of the unredacted Decision will be provided in discovery and is publically
available through the Board of Registered Nursing.

1 supervision relationship that existed between Respondent and NP1, NP2, NP3, NP4, and NP5
2 revealed the following information:

- 3 • Respondent referred to himself during Board investigations as a medical
4 consultant to ALWC rather than NP1's supervising physician.
- 5 • Respondent was available to discuss patient care but that NP1 had never
6 consulted him.
- 7 • Respondent did not have any share of ownership or control in ALWC, despite
8 ALWC providing medical services.
- 9 • Respondent did not have any control or authority over ALWC's billing
10 practices, bank accounts, or payroll.
- 11 • Respondent did not have ownership and control of any of the medical records at
12 ALWC and never reviewed the care provided by NP1.
- 13 • Respondent was unfamiliar with NP2 and NP3 and did not know NP4 or NP5.
14 Respondent never consulted with NP2, NP3, NP4, or NP5 on patients.
- 15 • Respondent never reviewed the competencies of NP2, NP3, NP4, and NP5
16 while they practiced at ALWC.
- 17 • Respondent was not involved in the development of the standardized
18 procedures (Protocol, Second Protocol, and Third Protocol) used at ALWC.
19 Respondent only signed a Protocol in 2016 and he signed no subsequent
20 Protocols despite being paid as ALWC's supervising physician on or between
21 2016 and 2022. Respondent did not sign a Protocol each time a new NP started
22 working at ALWC.
- 23 • Respondent did not review ALWC patient files when he worked in Red Bluff,
24 California from 2018 to 2020 and worked in Colorado in 2021.
- 25 • Respondent had no remote access to ALWC's electronic patient files.
- 26 • Respondent allowed NP1 and ALWC to hire nurse practitioners, review
27 competencies and supervise NP2, NP3, NP4, and NP5, despite NP1 not being a
28 licensed physician and ALWC engaging in the practice of medicine by

1 providing wound care, including debridement and dispensing medication.

- 2 • Respondent stated he did not consult with NP1 on any patients in 2020 and
- 3 2021. Respondent stated he consulted with NP1 on patients less than five times
- 4 in each of 2018 and 2019.
- 5 • Respondent later stated that he visited the ALWC office in Sacramento once or
- 6 twice around the time that NP1 opened it. Respondent stated he never visited
- 7 the Yuba City Office.
- 8 • Respondent stated he may have spoken to other Nurse Practitioners other than
- 9 NP1 3-4 times per year, and that there were months he never spoke to them.
- 10 • Respondent stated he never reviewed nurse practitioners' work while they were
- 11 on probation with ALWC and that the review of their work was solely handled
- 12 by NP1 despite the fact that he is not a licensed physician. Respondent stated
- 13 he never cosigned a patient chart at ALWC.
- 14 • Respondent stated he did not seek legal guidance from an attorney or guidance
- 15 from experienced supervising physicians before agreeing to be NP1's
- 16 supervising physician.
- 17 • On August 21, 2019, Respondent was first provided notice by investigators that
- 18 the Second Protocol contained his forged signatures and that NP2 was under
- 19 Respondent's supervision without his prior knowledge. Respondent failed to
- 20 immediately terminate his professional relationship with NP1 and continued to
- 21 receive monthly compensation from ALWC through early 2022.

22 39. Patient J.B., paralyzed from the waist down since 1989, has dealt with ulcers and
23 wounds for many years. In January 2019, Patient J.B. was referred to ALWC for care related to
24 ongoing pressure ulcers. On February 1, 2019, and February 14, 2019, NP1 treated Patient J.B.
25 During both the visits on February 1, 2019, and February 14, 2019, Patient J.B. asked NP1 if the
26 wounds should be debrided. NP1 declined to perform a debridement, and choose to dress the
27 wounds. On both February 1, 2019, and February 14, 2019, NP1 documented that he treated the
28 wounds in Patient J.B.'s chart by dressing the wounds. However, NP1 billed Patient J.B.'s

1 insurance for performing a debridement on both February 1, 2019, and February 14, 2019, despite
2 not providing that treatment. NP1 never consulted Respondent about Patient J.B.'s care despite
3 complications such as osteomyelitis, the need for blood transfusions, or atrophy of the legs.
4 Respondent was NP1's supervising physician when NP1 provided care to Patient J.B. and billed
5 for debridement services he did not provide.

6 40. Patient B.G. was referred to ALWC for wound care. On January 18, 2019, and
7 January 28, 2019, NP1 provided wound care to Patient B.G. On January 18, 2019, NP1
8 documented in Patient B.G.'s chart that the wound needed immediate surgical debridement and
9 that he advised Patient B.G. to seek immediate medical treatment at a hospital. NP1 signed the
10 note on January 21, 2019. According to two staff members working at ALWC on January 18,
11 2019, NP1 did not perform debridement of Patient B.G.'s wound on January 18, 2019. However,
12 according to billing records, NP1 billed Patient B.G.'s insurance for debridement. Respondent
13 was NP1's supervising physician when NP1 provided care to Patient B.G. and billed for
14 debridement services he did not provide.

15 FIRST CAUSE FOR DISCIPLINE

16 (Aiding and Abetting the Unlicensed Practice of Medicine)

17 41. Respondent's license is subject to disciplinary action under sections 2227 and 2234,
18 as defined by sections 2052, subdivision (b), 2264, 2234, subdivision (a), 2725, and 2836.1, of
19 the Code, and California Code of Regulations, title 16, sections 1379, 1471, and 1472, in that he
20 aided and abetted in the unlicensed practice of medicine by NP1, NP2, NP3, NP4, NP5, and
21 ALWC, on or between 2016 and 2022, by failing to follow the legal requirements regarding the
22 supervision of nurse practitioners. The circumstances are as follows:

23 42. Complainant realleges paragraphs 29 through 40, and those paragraphs are
24 incorporated by reference as if fully set forth herein.

25 43. Specifically, but not limited to the following, Respondent aided and abetted in the
26 unlicensed practice of medicine in the following ways:

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1 a. Respondent failed to perform periodic review of any Nurse Practitioner's
2 competencies, including peer review and review of the provisions of the standard
3 procedures of ALWC between 2016 and 2022 when he was the supervising physician;

4 b. Respondent failed to be involved in the development of the standardized
5 procedures for ALWC and Respondent failed to sign the Second and Third Protocol despite
6 ALWC hiring additional nurse practitioners between 2016 and 2022 when Respondent was
7 their supervising physician;

8 c. Respondent failed to review and authorize any of the referenced textbooks and
9 written resources listed in the standardized procedures for the period between 2016 and
10 2022, when Respondent was the supervising physician at ALWC; and/or,

11 d. Respondent failed to immediately suspend supervision of NP1 and resign as the
12 supervising physician of ALWC upon learning on August 21, 2019, that Respondent's
13 signature was forged on the Second Protocol.

14 e. Respondent entered into an oral contract with ALWC and NP1, which allowed
15 ALWC to engage in the profession of medicine despite the fact that ALWC was solely
16 owned and operated by a non-physician licensee.

17 44. As set forth above, Respondent aided and abetted in the unlicensed practice of
18 medicine by NP1, NP2, NP3, NP4, NP5, and ALWC, on or between 2016 and 2022, and engaged
19 in unprofessional conduct.

20 **SECOND CAUSE FOR DISCIPLINE**

21 **(Gross Negligence)**

22 45. Respondent's license is subject to disciplinary action under section 2227 and 2234, as
23 defined by sections 2234, subdivision (b), 2725, 2836.1, of the Code, and California Code of
24 Regulations, title 16, sections 1379, 1471, and 1472, in that he committed gross negligence during
25 his supervision of NP1, NP2, NP3, NP4, and NP5, on or between 2016 and 2022. The
26 circumstances are as follows:

27 46. Complainant realleges paragraphs 29 through 44, and those paragraphs are
28 incorporated by reference as if fully set forth herein.

1 47. Complainant realleges each of the distinct and separate ways Respondent aided and
2 abetted the unlicensed practice of medicine as set forth in paragraph 43, as distinct and separate
3 extreme departures from the standard of care, which establish he engaged in gross negligence.

4 48. Respondent committed gross negligence in the following additional way:

5 a. On or about February 1, 2019, and February 14, 2019, NP1 billed Patient J.B.'s
6 insurance for debridement services he did not perform. Respondent was NP1's physician
7 supervisor and failed to provide adequate supervision.

8 49. As set forth above, Respondent committed gross negligence during his supervision of
9 NP1, NP2, NP3, NP4, and NP5, on or between 2016 and 2022, and engaged in unprofessional
10 conduct.

11 THIRD CAUSE FOR DISCIPLINE

12 (Repeated Negligent Acts)

13 50. Respondent's license is subject to disciplinary action under sections 2227 and 2234,
14 as defined by sections 2234, subdivision (c), 2725, and 2836.1, of the Code, and California Code
15 of Regulations, title 16, sections 1379, 1471, 1472, in that he committed repeated negligent acts
16 during his supervision of NP1, NP2, NP3, NP4, and NP5, on or between 2016 and 2022. The
17 circumstances are as follows:

18 51. Complainant realleges paragraphs 29 through 49, and those paragraphs are
19 incorporated by reference as if fully set forth herein.

20 52. Complainant realleges each of the distinct and separate ways Respondent aided and
21 abetted the unlicensed practice of medicine and committed gross negligence as set forth in
22 paragraphs 43 and 48, as distinct and separate simple departures from the standard of care.

23 53. Respondent committed a simple departure in the following additional way:

24 a. On or about January 18, 2019, NP1 billed Patient B.G.'s insurance for
25 debridement services he did not perform. Respondent was NP1's physician supervisor and
26 failed to provide adequate supervision.

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54. As set forth above, Respondent committed repeated negligent acts during his supervision of NP1, NP2, NP3, NP4, and NP5, on or between 2016 and 2022, and engaged in unprofessional conduct

FOURTH CAUSE FOR DISCIPLINE

(Failure to Maintain Adequate and Accurate Records)

55. Respondent's license is subject to disciplinary action under sections 2227 and 2234, as defined by sections 2266, 2725, and 2836.1, of the Code, and California Code of Regulations, title 16, sections 1379, 1471, and 1472, in that Respondent failed to keep any records related to the supervision of NP1, NP2, NP3, NP4, and NP5, on or between 2016 and 2022. Furthermore, NP1 billed for procedures he did not perform while under Respondent's supervision. The circumstances are as follows:

56. Complainant realleges paragraphs 29 through 54, and those paragraphs are incorporated by reference as if fully set forth herein.

57. As set forth above, Respondent failed to maintain adequate and accurate records during his supervision of NP1, NP2, NP3, NP4, and NP5, on or between 2016 and 2022, and engaged in unprofessional conduct.

FIFTH CAUSE FOR DISCIPLINE

**(Aiding and Abetting a Violation of the Moscone-Knox Professional Corporations Act
and/or Corporate Practice of Medicine Ban)**

58. Respondent's license is subject to disciplinary action under sections 2227 and 2234, as defined by sections 2234, subdivision (a), 2286, 2400, 2402, 2406, and 2410, of the Code, Corporations Code sections 13401 and 13401.5, and California Code of Regulations, title 16, sections 1343, and 1347, in that he violated, directly or indirectly, and/or assisted in or abetted the violation of, the Moscone-Knox Professional Corporation Act and the ban on the corporate practice of medicine. The circumstances are as follows:

59. Complainant realleges paragraphs 29 through 57, and those paragraphs are incorporated by reference as if fully set forth herein.

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1 60. Respondent, a licensed physician, entered into an oral agreement with ALWC, a
2 professional corporation, that was engaged in the practice of medicine, specifically the care and
3 treatment of patients in need of wound care including debridement and dispensing medications, to
4 supervise ALWC's nurse practitioners. ALWC was wholly owned and operated by NP1, who
5 was also supervised by Respondent. Further, Respondent had no control, shares, or rights in
6 ALWC, despite being the only licensed physician affiliated with ALWC. As such, Respondent
7 impermissibly allowed ALWC and NP1 to exert authority and control over Respondent's medical
8 license, including the hiring and supervision of additional nurse practitioners to be supervised by
9 Respondent without his knowledge. Further, Respondent aided and abetted ALWC to engage in
10 the practice of medicine through the unrestricted use of his medical license, despite ALWC not
11 being under physician ownership and control, while receiving monthly compensation.

12 61. As set forth above, Respondent aided and abetted ALWC in the unlawful corporate
13 practice of medicine on or between 2016 and 2022, and engaged in unprofessional conduct.

14 **SIXTH CAUSE FOR DISCIPLINE**

15 **(General Unprofessional Conduct)**

16 62. Respondent's license is subject to disciplinary action under sections 2234 and 2410 of
17 the Code, and Corporations Code sections 13410 and 13410.5, in that he engaged in general
18 unprofessional conduct on or between 2016 and 2022, while supervising NP1, NP2, NP3, NP4,
19 and NP5. Further, Respondent entered into an oral agreement with a professional corporation that
20 was illegally engaged in the practice of medicine on or between 2016 and 2022.

21 63. Complainant realleges paragraphs 29 through 61, and those paragraphs are
22 incorporated by reference as if fully set forth herein.

23 64. As set forth above, Respondent engaged in general unprofessional conduct.

24 **DISCIPLINARY CONSIDERATIONS⁹**

25 65. To determine the degree of discipline, if any, to be imposed on Respondent Stephen
26 Joseph Gerbich, M.D., Complainant alleges that on or about June 16, 2023, in a prior disciplinary

27 ⁹ The filing of the new Accusation in 800-2023-095367 will not serve as a basis for a
28 petition to revoke probation in 800-2020-064826 as the allegations contained within the
Accusation occurred before Respondent was placed on probation.

1 action titled In the Matter of the Accusation Against Stephen Joseph Gerbich, M.D. before the
2 Medical Board of California, in Case Number 800-2020-064826, Respondent's license was
3 placed on 4 years' probation with various terms and conditions including a Schedule II Drug
4 Restriction and Practice Monitor. Respondent entered *prima facie* admissions that he
5 inappropriately accessed patient medical records without a legitimate purpose and improperly
6 prescribed controlled substances to five patients. That decision is now final, the time for appeal
7 has lapsed, and is incorporated by reference as if fully set forth herein.¹⁰

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28 ¹⁰ A copy of the unredacted Decision will be provided in discovery and is publically
available through the Medical Board of California.


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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 No. G 59912, issued to Respondent Stephen Joseph Gerbich, M.D.;
2. Revoking, suspending or denying approval of Respondent Stephen Joseph Gerbich, M.D.'s authority to supervise physician assistants and advanced practice nurses;
3. Ordering Respondent Stephen Joseph Gerbich, 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,
4. Taking such other and further action as deemed necessary and proper.

DATED: MAY 23 2024



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

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