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

In the Matter of the Accusation Against: Arkady Michailovich Massen, M.D. Physician's and Surgeon's Certificate No. A 52726 Respondent.	Case No. 800-2021-075244

DECISION

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

This Decision shall become effective at 5:00 p.m. on December 22, 2025.

IT IS SO ORDERED December 15, 2025.

MEDICAL BOARD OF CALIFORNIA

Reji Varghese
Executive Director

ROB BONTA
Attorney General of California
GREG W. CHAMBERS
Supervising Deputy Attorney General
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Attorneys for the People

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

In the Matter of the Accusation Against: **Arkady Michailovich Massen, M.D.** **7514 Denison Pl.** **Castro Valley, CA 94552-5306** **Physician's and Surgeon's Certificate No. A 52726** Respondent.	Case No. 800-2021-075244 OAH No. 2025060957 **STIPULATED SURRENDER OF LICENSE AND ORDER**

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

PARTIES

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

2. ARKADY MICHAILOVICH MASSEN, M.D. (Respondent) is represented in this proceeding by attorney Kevin D. Cauley, Esq., whose address is: 35 North Lake Avenue, Suite 710, Pasadena, CA 91101-4185.

3. On or about January 5, 1994, the Board issued Physician's and Surgeon's Certificate No. A 52726 to Respondent. That license was in full force and effect at all times relevant to the charges brought in Accusation No. 800-2021-075244 and will expire on June 30, 2027, unless renewed.

JURISDICTION

4. Accusation No. 800-2021-075244 was filed before the Board and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on December 27, 2023. Respondent timely filed his Notice of Defense contesting the Accusation. A copy of Accusation No. 800-2021-075244 is attached as Exhibit A and incorporated by reference.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 800-2021-075244. Respondent also has carefully read, fully discussed with counsel, and understands the effects of this Stipulated Surrender of License and Order.

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

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

CULPABILITY

8. Respondent understands that the charges and allegations in Accusation No. 800-2021-075244, if proven at a hearing, constitute cause for imposing discipline upon his Physician's and Surgeon's Certificate.

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

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

CONTINGENCY

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

12. Respondent understands that, by signing this stipulation, he enables the Executive Director of the Board to issue an order, on behalf of the Board, accepting the surrender of his Physician's and Surgeon's Certificate No. A 52726 without further notice to, or opportunity to be heard by, Respondent.

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

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

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

ADDITIONAL PROVISIONS

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

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

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

ORDER

IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. A 52726, issued to Respondent ARKADY MICHAILOVICH MASSEN, M.D., is surrendered and accepted by the Board.

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

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

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

4. If Respondent ever files an application for licensure or a petition for reinstatement in the State of California, the Board shall treat it as a petition for reinstatement. Respondent must comply with all the laws, regulations and procedures for reinstatement of a revoked or surrendered license in effect at the time the petition is filed, and all of the charges and allegations contained in Accusation No. 800-2021-075244 shall be deemed to be true, correct and admitted by Respondent when the Board determines whether to grant or deny the petition.

5. If Respondent should ever apply or reapply for a new license or certification, or petition for reinstatement of a license, by any other health care licensing agency in the State of California, all of the charges and allegations contained in Accusation No. 800-2021-075244 shall be deemed to be true, correct, and admitted by Respondent for the purpose of any Statement of Issues or any other proceeding seeking to deny or restrict licensure.

6. Respondent shall pay the agency its costs of investigation and enforcement in the amount $70,258.25 prior to issuance of a new or reinstated license.

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ACCEPTANCE

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

DATED: 11.25.2025

ARKADY MICHAILOVICH MASSEN, M.D.
Respondent

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

DATED: November 24, 2025

KEVIN D. CAULEY, ESQ.
Attorney for Respondent

ENDORSEMENT

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

DATED: December 11, 2025

Respectfully submitted.

ROB BONTA
Attorney General of California
OREG W. CHAMBERS
Supervising Deputy Attorney General

D. MARK JACKSON
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 800-2021-075244

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

In the Matter of the Accusation Against: **Arkady Michailovich Massen, M.D.** **7514 Denison Pl.** **Castro Valley, CA 94552-5306** **Physician's and Surgeon's Certificate No. A 52726,** Respondent.	Case No. 800-2021-075244 **ACCUSATION**

PARTIES

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

2. On or about January 5, 1994, the Medical Board issued Physician's and Surgeon's Certificate Number A 52726 to Arkady Michailovich Massen, M.D. (Respondent). The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought herein and will expire on June 30, 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:

> (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.

5. Section 2234 of the Code, states:

> The board shall take action against any licensee who is charged with unprofessional conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not limited to, the following:
>
> (a) Violating or attempting to violate, directly or indirectly, assisting in or abetting the violation of, or conspiring to violate any provision of this chapter.
>
> (b) Gross negligence.
>
> (c) Repeated negligent acts. To be repeated, there must be two or more negligent acts or omissions. An initial negligent act or omission followed by a separate and distinct departure from the applicable standard of care shall constitute repeated negligent acts.

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

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

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

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

6. Section 2220 of the Code states:

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

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

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

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

7. Section 2228 of the Code states:

The authority of the board or the California Board of Podiatric Medicine to discipline a licensee by placing him or her on probation includes, but is not limited to, the following:

(a) Requiring the licensee to obtain additional professional training and to pass an examination upon the completion of the training. The examination may be written

or oral, or both, and may be a practical or clinical examination, or both, at the option of the board or the administrative law judge.

(b) Requiring the licensee to submit to a complete diagnostic examination by one or more physicians and surgeons appointed by the board. If an examination is ordered, the board shall receive and consider any other report of a complete diagnostic examination given by one or more physicians and surgeons of the licensee's choice.

(c) Restricting or limiting the extent, scope, or type of practice of the licensee, including requiring notice to applicable patients that the licensee is unable to perform the indicated treatment, where appropriate.

(d) Providing the option of alternative community service in cases other than violations relating to quality of care.

8. Section 2228.1 of the Code states.

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

...

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

...

9. Section 2238 of the Code states:

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

Section 2242 of the Code states:

(a) Prescribing, dispensing, or furnishing dangerous drugs as defined in Section 4022 without an appropriate prior examination and a medical indication, constitutes unprofessional conduct. An appropriate prior examination does not require a synchronous interaction between the patient and the licensee and can be achieved through the use of telehealth, including, but not limited to, a self-screening tool or a questionnaire, provided that the licensee complies with the appropriate standard of care.

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

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

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

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

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

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

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

10. Section 2261 of the Code states:

Knowingly making or signing any certificate or other document directly or indirectly related to the practice of medicine or podiatry which falsely represents the existence or nonexistence of a state of facts, constitutes unprofessional conduct.

11. Section 2266 of the Code states:

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

12. Health and Safety Code § 11165.4 states:

(a) (1) (A) (i) A health care practitioner authorized to prescribe, order, administer, or furnish a controlled substance shall consult the patient activity report or information from the patient activity report obtained by the CURES database to review a patient's controlled substance history for the past 12 months before prescribing a Schedule II, Schedule III, or Schedule IV controlled substance to the patient for the first time and at least once every six months thereafter if the prescriber renews the prescription and the substance remains part of the treatment of the patient.

(ii) If a health care practitioner authorized to prescribe, order, administer, or furnish a controlled substance is not required, pursuant to an exemption described in subdivision (c), to consult the patient activity report from the CURES database the first time the health care practitioner prescribes, orders, administers, or furnishes a controlled substance to a patient, the health care practitioner shall consult the patient

activity report from the CURES database to review the patient's controlled substance history before subsequently prescribing a Schedule II, Schedule III, or Schedule IV controlled substance to the patient and at least once every six months thereafter if the substance remains part of the treatment of the patient.

(iii) A health care practitioner who did not directly access the CURES database to perform the required review of the controlled substance use report shall document in the patient's medical record that they reviewed the CURES database generated report within 24 hours of the controlled substance prescription that was provided to them by another authorized user of the CURES database.

(B) For purposes of this paragraph, "first time" means the initial occurrence in which a health care practitioner, in their role as a health care practitioner, intends to prescribe, order, administer, or furnish a Schedule II, Schedule III, or Schedule IV controlled substance to a patient and has not previously prescribed a controlled substance to the patient.

(2) A health care practitioner shall obtain a patient's controlled substance history from the CURES database no earlier than 24 hours, or the previous business day, before the health care practitioner prescribes, orders, administers, or furnishes a Schedule II, Schedule III, or Schedule IV controlled substance to the patient.

(b) The duty to consult the CURES database, as described in subdivision (a), does not apply to veterinarians or pharmacists.

(c) The duty to consult the CURES database, as described in subdivision (a), does not apply to a health care practitioner in any of the following circumstances:

(1) If a health care practitioner prescribes, orders, or furnishes a controlled substance to be administered to a patient in any of the following facilities or during a transfer between any of the following facilities for use while on facility premises:

(A) A licensed clinic, as described in Chapter 1 (commencing with Section 1200) of Division 2.

(B) An outpatient setting, as described in Chapter 1.3 (commencing with Section 1248) of Division 2.

(C) A health facility, as described in Chapter 2 (commencing with Section 1250) of Division 2.

(D) A county medical facility, as described in Chapter 2.5 (commencing with Section 1440) of Division 2.

(E) Another medical facility, including, but not limited to, an office of a health care practitioner and an imaging center.

(F) A correctional clinic, as described in Section 4187 of the Business and Professions Code, or a correctional pharmacy, as described in Section 4021.5 of the Business and Professions Code.

(2) If a health care practitioner prescribes, orders, administers, or furnishes a controlled substance in the emergency department of a general acute care hospital and the quantity of the controlled substance does not exceed a nonrefillable seven-day supply of the controlled substance to be used in accordance with the directions for use.

(3) If a health care practitioner prescribes, orders, administers, or furnishes a controlled substance to a patient as a part of the patient's treatment for a surgical, radiotherapeutic, therapeutic, or diagnostic procedure and the quantity of the controlled substance does not exceed a nonrefillable seven-day supply of the controlled substance to be used in accordance with the directions for use, in any of the following facilities:

(A) A licensed clinic, as described in Chapter 1 (commencing with Section 1200) of Division 2.

(B) An outpatient setting, as described in Chapter 1.3 (commencing with Section 1248) of Division 2.

(C) A health facility, as described in Chapter 2 (commencing with Section 1250) of Division 2.

(D) A county medical facility, as described in Chapter 2.5 (commencing with Section 1440) of Division 2.

(E) A place of practice, as defined in Section 1658 of the Business and Professions Code.

(F) Another medical facility whre surgical procedures are permitted to take place, including, but not limited to, the office of a health care practitioner.

(4) If a health care practitioner prescribes, orders, administers, or furnishes a controlled substance to a patient who is terminally ill, as defined in subdivision (c) of Section 11159.2.

(5) (A) If all of the following circumstances are satisfied:

(i) It is not reasonably possible for a health care practitioner to access the information in the CURES database in a timely manner.

(ii) Another health care practitioner or designee authorized to access the CURES database is not reasonably available.

(iii) The quantity of controlled substance prescribed, ordered, administered, or furnished does not exceed a nonrefillable seven-day supply of the controlled substance to be used in accordance with the directions for use and no refill of the controlled substance is allowed.

(B) A health care practitioner who does not consult the CURES database under subparagraph (A) shall document the reason he or she did not consult the database in the patient's medical record.

(6) If the CURES database is not operational, as determined by the department, or cannot be accessed by a health care practitioner because of a temporary technological or electrical failure. A health care practitioner shall, without undue delay, seek to correct any cause of the temporary technological or electrical failure that is reasonably within the health care practitioner's control.

(7) If the CURES database cannot be accessed because of technological limitations that are not reasonably within the control of a health care practitioner.

(8) If consultation of the CURES database would, as determined by the health care practitioner, result in a patient's inability to obtain a prescription in a timely manner and thereby adversely impact the patient's medical condition, provided that the quantity of the controlled substance does not exceed a nonrefillable seven-day supply if the controlled substance were used in accordance with the directions for use.

(d) (1) A health care practitioner who fails to consult the CURES database, as described in subdivision (a), shall be referred to the appropriate state professional licensing board solely for administrative sanctions, as deemed appropriate by that board.

(2) This section does not create a private cause of action against a health care practitioner. This section does not limit a health care practitioner's liability for the negligent failure to diagnose or treat a patient

(e) All applicable state and federal privacy laws govern the duties required by this section.

(f) The provisions of this section are severable. If any provision of this section or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

(h) This section shall become operative on July 1, 2021, or upon the date the department promulgates regulations to implement this section and posts those regulations on its internet website, whichever date is earlier.

13. Section 725 of the Code states:

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

(b) Any person who engages in repeated acts of clearly excessive prescribing or administering of drugs or treatment is guilty of a misdemeanor and shall be punished by a fine of not less than one hundred dollars ($100) nor more than six hundred dollars ($600), or by imprisonment for a term of not less than 60 days nor more than 180 days, or by both that fine and imprisonment.

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

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

COST RECOVERY

14. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of the

licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case, with failure of the licensee to comply subjecting the license to not being renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be included in a stipulated settlement.

FIRST CAUSE FOR DISCIPLINE

(Gross Negligence)

15. Respondent is subject to disciplinary action under section 2227 and 2234, as defined by section 2334, subdivision (b), of the Code, in that he committed gross negligence in regarding to his prescribing dangerous drugs and controlled substances to Patients 1, 2, and 3,[1] as more particularly alleged below.

16. On December 11, 2019, one of Respondent's patients (Patient 3, discussed below) died from acute mixed drug intoxication. As a result, the Board initiated an investigation, which revealed inappropriate prescribing of controlled substances and flawed medical recordkeeping for this and two other patients (Patients 1 and 2, also discussed below).

17. As part of the investigation, Respondent was interviewed by an investigator from the Department of Consumer Affairs, Division of Insurance, Health Quality Investigation Unit (HQIU) and a District Medical Consultant (DMC). During the interview, Respondent either declined to answer specific questions about Patients 1, 2, and 3 or stated that he did not recall the information. Respondent stated that the medical records for Patients 1, 2, and 3 would allow a reviewer to draw reasonable conclusions, which would affirm Respondent's care of the patients.

PATIENT 1.

18. From November 12, 2019 to December 19, 2019, Respondent treated Patient 1 at All Saints Sub-Acute & Skilled Nursing facility in San Leandro, California, where Respondent was the Medical Director.

19. Patient 1 was sixty-four and is a quadriplegic.

[1] The Patients' actual names are not used in this Accusation to maintain patient confidentiality. The patient identities are known to Respondent or will be disclosed to Respondent through discovery and under Government Code section 11507.6.

20. On or about November 12, 2019, Respondent prescribed Hydrocodone Bitartrate Acetaminophen[2] 325 mg-10 mg (24 tablets) to Patient 1, which was filled at Pharmerica in Union City, California.

21. On or about November 12, 2019, Respondent prescribed Morphine Sulfate[3] 15 mg (28 extended release tablets) to Patient 1, which was filled at Pharmerica in Union City, California.

22. On or about November 12, 2019, Respondent prescribed Diazepam[4] 5 mg (28 tablets) to Patient 1, which was filled at Pharmerica in Union City, California.

23. On or about November 12, 2019, Respondent prescribed Morphine Sulfate 15 mg (36 tablets) to Patient 1, which was filled at Pharmerica in Union City, California.

24. On or about November 20, 2019, Respondent prescribed Morphine Sulfate 15 mg (36 tablets) to Patient 1, which was filled at Pharmerica in Union City, California.

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[2] Hydrocodone w/APAP (hydrocodone with acetaminophen) tablets are produced by several drug manufacturers under trade names such as Vicodin, Norco or Lortab. Hydrocodone bitartrate is semisynthetic narcotic analgesic, a dangerous drug as defined in Business and Professions Code section 4022 of the Business and Professions Code, and a schedule II controlled substance and narcotic as defined by section 11055, subdivision (e) of the Health and Safety Code. Repeated administration of hydrocodone over a course of several weeks may result in psychic and physical dependence. The usual adult dosage is one tablet every four to six hours as needed for pain. The total 24 hour dose should not exceed 6 tablets.

[3] Morphine sulfate is for use in patients who require a potent opioid analgesic for relief of moderate to severe pain. Morphine is a dangerous drug as defined in section 4022, a schedule II controlled substance and narcotic as defined by section 11055, subdivision (b)(1) of the Health and Safety Code. Morphine can produce drug dependence and has a potential for being abused. Tolerance and psychological and physical dependence may develop upon repeated administration. Abrupt cessation or a sudden reduction in dose after prolonged use may result in withdrawal symptoms. After prolonged exposure to morphine, if withdrawal is necessary, it must be undertaken gradually.

[4] Diazepam (Valium) is a psychotropic drug for the management of anxiety disorders or for the short-term relief of the symptoms of anxiety. It is a dangerous drug as defined in section 4022 and a Schedule IV controlled substance as defined by section 11057 of the Health and Safety Code. Diazepam can produce psychological and physical dependence and it should be prescribed with caution particularly to addiction-prone individuals (such as drug addicts and alcoholics) because of the predisposition of such patients to habituation and dependence. Valium is available in 5 mg. and 10 mg. tablets. The recommended dosage is 2 to 10 mg. 2 to 4 times daily.

25. On or about November 23, 2019, Respondent prescribed Morphine Sulfate 15 mg (28 tablets) to Patient 1, which was filled at Pharmerica in Union City, California.

26. On or about November 27, 2019, Respondent prescribed Morphine Sulfate 15 mg (36 tablets) to Patient 1, which was filled at Pharmerica in Union City, California.

27. On or about December 2, 2019, Respondent prescribed Morphine Sulfate 15 mg (24 extended release tablets) to Patient 1, which was filled at Pharmerica in Union City, California.

28. On or about December 7, 2019, Respondent prescribed Lorazepam[5] .5 mg (12 tablets) to Patient 1, which was filled at Pharmerica in Union City, California.

29. On or about December 8, 2019, Respondent prescribed Hydrocodone Bitartrate Acetaminophen 325 mg-10 mg (26 tablets) to Patient 1, which was filled at Pharmerica in Union City, California.

30. On or about December 8, 2019, Respondent prescribed Morphine Sulfate 30 mg (30 extended release tablets) to Patient 1, which was filled at Pharmerica in Union City, California.

31. On or about December 8, 2019, Respondent prescribed Morphine Sulfate 15 mg (30 tablets) to Patient 1, which was filled at Pharmerica in Union City, California. On or about December 17, 2019, Respondent prescribed Morphine Sulfate 15 mg (30 tablets) to Patient 1, which was filled at Pharmerica in Union City, California.

32. On or about December 19, 2019, Respondent prescribed Morphine Sulfate 30 mg (30 extended release tablets) to Patient 1, which was filled at Pharmerica in Union City, California.

33. Respondent committed gross negligence as to Patient 1, which included, but was not limited to, the following:

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[5] Lorazepam (Ativan) is used for anxiety and sedation in the management of anxiety disorder for short-term relief from the symptoms of anxiety or anxiety associated with depressive symptoms. It is a dangerous drug as defined in section 4022 and a Schedule IV controlled substance as defined by section 11057 of the Health and Safety Code. Lorazepam is not recommended for use in patients with primary depressive disorders. The initial dose of this drug for elderly patients should not exceed 2 milligrams per day. Sudden withdrawal from Lorazepam can produce withdrawal symptoms including seizures. The usual dosage range is 2 to 6 mg a day given in divided doses, the largest dose being taken before bedtime, but the daily dosage may vary from 1 to 10 mg a day.

A. Respondent did not perform a careful and thorough patient assessment or a risk stratification, despite prescribing the long term use of opioids for chronic pain and prescribing opioids and benzodiazepine together.

B. Respondent did not develop a treatment plan and objectives to prescribe controlled substances, or perform further diagnostic evaluations.

C. Respondent did not regularly review or monitor the patient to assess improvement or side effects.

D. Respondent failed to maintain adequate and accurate medical records.

PATIENT 2.

34. From July 14, 2018 to September 8, 2018, Respondent treated Patient 2 at Hayward Healthcare and Wellness Center, a skilled nursing facility where Respondent was Medical Director.

35. Patient 2 was eighty-four.

36. On or about July 14, 2018, Respondent prescribed Oxycodone HCL[6] 10 mg (20 tablets) to Patient 2, which was filled at Skilled Nursing Pharmacy in Hayward, California.

37. On or about July 14, 2018, Respondent prescribed Diazepam 5 mg (14 tablets) to Patient 2, which was filled at Skilled Nursing Pharmacy in Hayward, California.

38. On or about July 16, 2018, Respondent prescribed Oxycodone HCL 10 mg (60 tablets) to Patient 2, which was filled at Skilled Nursing Pharmacy in Hayward, California.

39. On or about July 19, 2018, Respondent prescribed Oxycodone HCL 10 mg (60 tablets) to Patient 2, which was filled at Skilled Nursing Pharmacy in Hayward, California.

40. On or about July 19, 2018, Respondent prescribed Oxycodone HCL 10 mg (120 tablets) to Patient 2, which was filled at Skilled Nursing Pharmacy in Hayward, California.

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[6] Oxycodone with acetaminophen and oxycodone with aspirin both contain oxycodone, a white odorless crystalline powder derived from the opium alkaloid, thebaine. Oxycodone is a semisynthetic narcotic analgesic with multiple actions qualitatively similar to those of morphine. It is a dangerous drug as defined in section 4022 and a schedule II controlled substance and narcotic as defined by section 11055, subdivision (b)(1) of the Health and Safety Code. Oxycodone can produce drug dependence of the morphine type and, therefore, has the potential for being abused.

41. On or about August 2, 2018, Respondent prescribed Diazepam 5 mg (14 tablets) to Patient 2, which was filled at Skilled Nursing Pharmacy in Hayward, California.

42. On or about August 4, 2018, Respondent prescribed Oxycodone HCL 10 mg (50 tablets) to Patient 2, which was filled at Skilled Nursing Pharmacy in Hayward, California.

43. On or about August 4, 2018, Respondent prescribed Oxycodone HCL 10 mg (50 tablets) to Patient 2, which was filled at Skilled Nursing Pharmacy in Hayward, California.

44. On or about August 8, 2018, Respondent prescribed Oxycodone HCL 10 mg (90 tablets) to Patient 2, which was filled at Skilled Nursing Pharmacy in Hayward, California.

45. On or about August 15, 2018, Respondent prescribed Oxycodone HCL 10 mg (30 tablets) to Patient 2, which was filled at Skilled Nursing Pharmacy in Hayward, California.

46. On or about August 19, 2018, Respondent prescribed Oxycodone HCL 5 mg (156 tablets) to Patient 2, which was filled at Skilled Nursing Pharmacy in Hayward, California.

47. On or about August 26, 2018, Respondent prescribed Oxycodone HCL 10 mg (90 tablets) to Patient 2, which was filled at Skilled Nursing Pharmacy in Hayward, California.

48. On or about August 29, 2018, Respondent prescribed Oxycodone HCL 10 mg (120 tablets) to Patient 2, which was filled at Skilled Nursing Pharmacy in Hayward, California.

49. On or about August 30, 2018, Respondent prescribed Diazepam 5 mg (14 tablets) to Patient 2, which was filled at Skilled Nursing Pharmacy in Hayward, California.

50. Respondent committed gross negligence as to Patient 2, which included, but was not limited to, the following:

A. Respondent did not perform a careful and thorough patient assessment or a risk stratification, despite prescribing the long term use of opioids for chronic pain and prescribing opioids and benzodiazepine together.

B. Respondent did not develop a treatment plan and objectives to prescribe controlled substances, or perform further diagnostic evaluations.

C. Respondent did not regularly review or monitor the patient to assess improvement or side effects.

D. Respondent failed to maintain adequate and accurate medical records.

PATIENT 3.

51. From August 1, 2018 to November 6, 2018, Respondent took care of Patient 3 at Driftwood Health Care Center, a skilled nursing facility in Hayward, California, where Respondent was the Medical Director.

52. Patient 3 was sixty-five and had a history of substance abuse.

53. On or about August 2, 2018, Respondent prescribed Oxycontin[7] 40 mg (30 extended release tablets) to Patient 3, which was filled at Omnicare of Northern California.

54. On or about August 3, 2018, Respondent prescribed Oxycodone HCL 15 mg (60 tablets) to Patient 3, which was filled at Omnicare of Northern California.

55. On or about August 9, 2018, Respondent prescribed Oxycodone HCL 15 mg (60 tablets) to Patient 3, which was filled at Omnicare of Northern California.

56. On or about August 12, 2018, Respondent prescribed Oxycontin 40 mg (28 extended release tablets) to Patient 3, which was filled at Omnicare of Northern California.

57. On or about August 18, 2018, Respondent prescribed Oxycodone HCL 15 mg (180 tablets) to Patient 3, which was filled at Omnicare of Northern California.

58. On or about August 21, 2018, Respondent prescribed Oxycodone HCL 40 mg (30 extended release tablets) to Patient 3, which was filled at Omnicare of Northern California.

59. On or about September 10, 2018, Respondent prescribed Oxycontin 40 mg (28 extended release tablets) to Patient 3, which was filled at Omnicare of Northern California.

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[7] Oxycontin is a trade name for oxycodone hydrochloride controlled-release tablets. Oxycodone is a white odorless crystalline powder derived from the opium alkaloid, thebaine. It is a pure agonist opioid whose principal therapeutic action is analgesia. Other therapeutic effects of oxycodone include anxiolysis, euphoria, and feelings of relaxation. Oxycodone is a dangerous drug as defined in section 4022 and a schedule II controlled substance and narcotic as defined by section 11055, subdivision (b)(1) of the Health and Safety Code. Respiratory depression is the chief hazard from all opioid agonist preparations. Oxycontin should be used with caution and started in a reduced dosage (1/3 to 1/2 of the usual dosage) in patients who are concurrently receiving other central nervous system depressants including sedatives or hypnotics, general anesthetics, phenothiazines, other tranquilizers, and alcohol. Interactive effects resulting in a respiratory depression, hypotension, profound sedation or coma may result if these drugs are taken in combination with the usual doses of Oxycontin. Oxycontin is a mu-antagonist opioid with an abuse liability similar to morphine. Delayed absorption, as provided by Oxycontin tablets, is believed to reduce the abuse liability of a drug.

60. On or about October 10, 2018, Respondent prescribed Oxycodone HCL 15 mg (60 tablets) to Patient 3, which was filled at Omnicare of Northern California.

61. On or about October 19, 2018, Respondent prescribed Oxycodone HCL 15 mg (60 tablets) to Patient 3, which was filled at Omnicare of Northern California.

62. On or about October 30, 2018, Respondent prescribed Oxycodone HCL 15 mg (60 tablets) to Patient 3, which was filled at Omnicare of Northern California.

63. On or about November 5, 2018, Respondent prescribed Hydromorphone HCL[8] 4 mg (100 tablets) to Patient 3, which was filled at Omnicare of Northern California.

64. Patient 3 died on December 11, 2019 of "acute mixed drug intoxication."

65. Respondent committed gross negligence as to Patient 3, which included, but was not limited to, the following:

A. Respondent did not perform a careful and thorough patient assessment or a risk stratification, despite prescribing the long term use of opioids for chronic pain and prescribing opioids.

B. Respondent did not develop a treatment plan and objectives to prescribe controlled substances, or perform further diagnostic evaluations.

C. Respondent did not regularly review or monitor the patient to assess improvement or side effects.

D. Respondent failed to maintain adequate and accurate medical records.

[8] Hydromorphone hydrochloride is also known under the trade name Dilaudid. It is a dangerous drug as defined in section 4022 and a schedule II controlled substance as defined by section 11055, subdivision (d) of the Health and Safety Code. Dilaudid is a hydrogenated ketone of morphine and is a narcotic analgesic. Its principal therapeutic use is relief of pain. Psychic dependence, physical dependence, and tolerance may develop upon repeated administration of narcotics; therefore, Dilaudid should be prescribed and administered with caution. Physical dependence, the condition in which continued administration of the drug is required to prevent the appearance of a withdrawal syndrome, usually assumes clinically significant proportions after several weeks of continued use. Side effects include drowsiness, mental clouding, respiratory depression, and vomiting. The usual starting dosage for injections is 1-2 mg. The usual oral dose is 2 mg. every two to four hours as necessary. Patients receiving other narcotic analgesics, anesthetics, phenothiazines, tranquilizers, sedative-hypnotics, tricyclic antidepressants and other central nervous system depressants, including alcohol, may exhibit an additive central nervous system depression. When such combined therapy is contemplated, the use of one or both agents should be reduced.

SECOND CAUSE FOR DISCIPLINE

(Repeated Negligent Acts)

66. Respondent is further subject to disciplinary action under section 2227 and 2234, as defined by section 2334, subdivision (c) of the Code, in that he committed repeated negligent acts in regard to his prescribing dangerous drugs and controlled substances to Patients 1, 2, and 3, as more particularly alleged herein.

PATIENT 1.

A. Paragraphs 18 through 32, above, are hereby incorporated by reference and realleged as if fully set further herein;

B. Respondent did not discuss with the patient the risks and benefits of treatment with controlled substances or create a patient consent and pain management agreement.

C. Respondent did not counsel the patient on overdose risk and response.

PATIENT 2.

A. Paragraphs 34 through 49, above, are hereby incorporated by reference and realleged as if fully set further herein;

B. Respondent did not discuss with the patient the risks and benefits of treatment with controlled substances or create a patient consent and pain management agreement.

C. Respondent did not counsel the patient on overdose risk and response.

PATIENT 3.

A. Paragraphs 51 through 64, above, are hereby incorporated by reference and realleged as if fully set further herein;

B. Respondent did not discuss with the patient the risks and benefits of treatment with controlled substances or create a patient consent and pain management agreement.

C. Respondent did not counsel the patient on overdose risk and response.

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THIRD CAUSE FOR DISCIPLINE

(Failure to Maintain Adequate and Accurate Records)

67. Respondent is further subject to discipline under sections 2227 and 2234, as defined by section 2266, of the Code, in that he has failed to maintain adequate and accurate records in regarding to his prescribing dangerous drugs and controlled substances to Patients 1, 2, and 3, as more particularly alleged in paragraphs 18 through 64, above, which are incorporated by reference and realleged as if fully set forth herein.

PRAYER

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

1. Revoking or suspending Physician's and Surgeon's Certificate Number A 52726, issued to Respondent;

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

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

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

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

DATED: DEC 27 2023

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

SF2023402413