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

In the Matter of the Accusation Against:	)	
BENJAMIN G. COX, M.D.	)	Case No. 09-2010-204544
Physician's and Surgeon's Certificate No. G 6433	)	
Respondent.	)	

DECISION AND ORDER

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

This Decision shall become effective at 5:00 p.m. on June 5, 2013.

IT IS SO ORDERED May 6, 2013.

MEDICAL BOARD OF CALIFORNIA

By: _____
Barbara Yaroslavsky, Chair
Panel A

KAMALA D. HARRIS.
Attorney General of California
THOMAS S. LAZAR
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BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against: **BENJAMIN G. COX, M.D.** **29501 Springside Drive** **Menifee, CA 92584** **Physician's and Surgeon's** **Certificate No. G6433** Respondent.	Case No. 09-2010-204544 OAH No. 211120071 **STIPULATED SETTLEMENT AND DISCIPLINARY ORDER**

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

PARTIES

1. Linda K. Whitney (Complainant) is the Executive Director of the Medical Board of California (Board). She is represented in this matter by Kamala D. Harris, Attorney General of the State of California, by Samuel K. Hammond, Deputy Attorney General.

2. Respondent Benjamin G. Cox, M.D. (Respondent) is represented in this proceeding by attorney Courtney Pilchman, Esq., Pilchman & Kay, PLC, 2030 Main Street, Suite 1300, Irvine, CA 92614.

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3. On or about October 25, 1960, the Board issued Physician's and Surgeon's Certificate No. G6433 to Respondent Benjamin G. Cox, M.D. The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought in Accusation No. 09-2010-204544 and will expire on November 30, 2013, unless renewed.

JURISDICTION

4. On August 1, 2011, Accusation No. 09-2010-204544 was filed before the Medical Board of California, Department of Consumer Affairs, State of California (Board). A true and correct copy of the Accusation and all other statutorily required documents were properly served on Respondent's address of record on file with the Board: 29501 Springside Drive, Menifee, CA 92584. On or about August 9, 2011, a Notice of Defense was filed on Respondent's behalf by his attorney of record, Courtney G. Pilchman, Esq. A true and correct copy of Accusation No. 09-2010-204544 is attached hereto as Exhibit A and incorporated by reference as if fully set forth herein.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 09-2010-204544. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

6. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to 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. Having the benefit of counsel, Respondent hereby voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

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CULPABILITY

8. Respondent admits the complete truth and accuracy of each and every charge and allegation in Accusation No. 09-2010-204544 and agrees that he has thereby subjected his Physician's and Surgeon's Certificate No. G6433 to disciplinary action. Respondent further agrees to the Board's imposition of discipline as set forth in the Disciplinary Order below.

CONTINGENCY

9. The parties agree that this Stipulated Settlement and Disciplinary Order shall be submitted to the Board for its consideration in the above-entitled matter and, further, that the Board shall have a reasonable period of time in which to consider and act on this Stipulated Settlement and Disciplinary Order after receiving it.

10. The parties agree that this Stipulated Settlement and Disciplinary Order shall be null and void and not binding upon the parties unless approved and adopted by the Board, except for this paragraph, which shall remain in full force and effect. Respondent fully understands and agrees that in deciding whether or not to approve and adopt this Stipulated Settlement and Disciplinary Order, the Board may receive oral and written communications from its staff and/or the Attorney General's office. Communications pursuant to this paragraph shall not disqualify the Board, any member thereof, and/or any other person from future participation in this or any other matter affecting or involving Respondent. In the event that the Board, in its discretion, does not approve and adopt this Stipulated Settlement and Disciplinary Order, with the exception of this paragraph, it shall not become effective, shall not be of evidentiary value whatsoever, and shall not be relied upon or introduced in any disciplinary action by either party hereto. Respondent further agrees that should the Board reject this Stipulated Settlement and Disciplinary Order for any reason, Respondent will assert no claim that the Board, or any member thereof, was prejudiced by its/his/her review, discussion and/or consideration of this Stipulated Settlement and Disciplinary Order or of any matter or matters related hereto.

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ADDITIONAL PROVISIONS

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

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

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

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. G6433 issued to Respondent Benjamin G. Cox, M.D., is revoked. However, the revocation is stayed and Respondent is placed on probation for five (5) years from the effective date of this Decision and Disciplinary Order on the following terms and conditions.

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

A medical record keeping course taken after the acts that gave rise to the charges in the Accusation, but prior to the effective date of the Decision may in the sole discretion of the Board

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

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

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

A prescribing practices course taken after the acts that gave rise to the charges in the Accusation, but prior to the effective date of the Decision may in the sole discretion of the Board or its designee, be accepted towards the fulfillment of this condition if the course would have been approved by the Board or its designee had the course been taken after the effective date of the Decision. Respondent shall submit a certification of successful completion to the Board or its designee not later than 15 calendar days after successfully completing the course, or not later than 15 calendar days after the effective date of the Decision, whichever is later.

3. PROFESSIONALISM PROGRAM (ETHICS COURSE) Within 60 calendar days of the effective date of this Decision, Respondent shall enroll in a professionalism program, that meets the requirement of Title 16, California Code of Regulations (CCR) section 1358. Respondent shall participate in and successfully complete the program. Respondent shall provide

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

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

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

4. EDUCATION COURSE Within 60 calendar days of the effective date of this Decision and on an annual basis, Respondent shall submit to the Board or its designee for its prior approval, an education program(s) or course(s) in Family Practice which shall not be less than 40 hours per year, for each year of probation. The educational program(s) or course(s) shall be aimed at correcting any areas of deficient practice or knowledge and shall be Category 1 certified. The educational program(s) or course(s) shall be at Respondent's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure. Following the completion of each course, the Board or its designee may administer an examination to test Respondent's knowledge of the course. Respondent shall provide proof of attendance for 65 hours of CME of which 40 hours were in satisfaction of this condition.

5. CONTROLLED SUBSTANCES – Total Restriction

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

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

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

6. CONTROLLED SUBSTANCES – Surrender of DEA Permit

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

7. PROHIBITED PRACTICE – During probation, respondent's practice shall be restricted to practice as a qualified medical examiner only which shall consist solely of examining patients, documents and writing reports. Respondent is prohibited from providing direct patient care or treatment during the period of probation. Respondent is also prohibited from writing any

prescription for any dangerous drug, as defined by Business and Professions Code section 4022, during the period of probation. After the effective date of this Decision, all patients being treated by respondent shall be notified that respondent is prohibited from providing direct patient care or treatment, or writing any prescription for any dangerous drug or controlled substance. Any new patients must be provided this notification at the time of their initial appointment.

Respondent shall maintain a log of all patients to whom the required oral notification was made. The log shall contain the: 1) patient's name, address and phone number; patient's medical record number, if available; 3) the full name of the person making the notification; 4) the date the notification was made; and 5) a description of the notification given. Respondent shall keep this log in a separate file or ledger, in chronological order, shall make the log available for immediate inspection and copying on the premises at all times during business hours by the Board or its designee, and shall retain the log for the entire term of probation.

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

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

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

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

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

compliance with all the conditions of probation. Respondent shall submit quarterly declarations not later than 10 calendar days after the end of the preceding quarter.

12. PROBATION UNIT COMPLIANCE Respondent shall comply with the Board's probation unit. Respondent shall, at all times, keep the Board informed of Respondent's business and residence addresses. Changes of such addresses shall be immediately communicated in writing to the Board or its designee. Under no circumstances shall a post office box serve as an address of record, except as allowed by Business and Professions Code section 2021(b).

Respondent shall not engage in the practice of medicine in Respondent's place of residence. Respondent shall maintain a current and renewed California physician's and surgeon's license. Respondent shall immediately inform the Board, or its designee, in writing, of travel to any areas outside the jurisdiction of California which lasts, or is contemplated to last, more than 30 calendar days.

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

14. RESIDING OR PRACTICING OUT-OF-STATE In the event Respondent should leave the State of California to reside or to practice, Respondent shall notify the Board or its designee in writing 30 calendar days prior to the dates of departure and return. Non-practice is defined as any period of time exceeding 30 calendar days in which Respondent is not engaging in any activities defined in Sections 2051 and 2052 of the Business and Professions Code.

All time spent in an intensive training program outside the State of California which has been approved by the Board or its designee shall be considered as time spent in the practice of medicine within the State. A Board-ordered suspension of practice shall not be considered as a period of non-practice. Periods of temporary or permanent residence or practice outside California will not apply to the reduction of the probationary term. Periods of temporary or permanent residence or practice outside California will relieve Respondent of the responsibility to comply with the probationary terms and conditions with the exception of this condition and the

following terms and conditions of probation: Obey All Laws; Probation Unit Compliance; and Cost Recovery.

Respondent's license shall be automatically cancelled if Respondent's periods of temporary or permanent residence or practice outside California total two years. However, Respondent's license shall not be cancelled as long as Respondent is residing and practicing medicine in another state of the United States and is on active probation with the medical licensing authority of that state, in which case the two year period shall begin on the date probation is completed or terminated in that state.

15. FAILURE TO PRACTICE MEDICINE - CALIFORNIA RESIDENT

In the event Respondent resides in the State of California and for any reason Respondent stops practicing medicine in California, Respondent shall notify the Board or its designee in writing within 30 calendar days prior to the dates of non-practice and return to practice. Any period of non-practice within California, as defined in this condition, will not apply to the reduction of the probationary term and does not relieve Respondent of the responsibility to comply with the terms and conditions of probation. Non-practice is defined as any period of time exceeding 30 calendar days in which Respondent is not engaging in any activities defined in sections 2051 and 2052 of the Business and Professions Code.

All time spent in an intensive training program which has been approved by the Board or its designee shall be considered time spent in the practice of medicine. For purposes of this condition, non-practice due to a Board-ordered suspension or in compliance with any other condition of probation, shall not be considered a period of non-practice.

Respondent's license shall be automatically cancelled if Respondent resides in California and for a total of two years, fails to engage in California in any of the activities described in Business and Professions Code sections 2051 and 2052.

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

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

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

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

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ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Courtney G. Pilchman, Esq. I understand the stipulation and the effect it will have on my Physician's and Surgeon's Certificate No. G6433. 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, Department of Consumer Affairs, State of California.

DATED: Jan 28, 2013

BENJAMIN G. COX, M.D.
Respondent

I have read and fully discussed with respondent Benjamin G. Cox, 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: 1-28-13

COURTNEY G. PILCHMAN, ESQ.
Attorney for Respondent

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ENDORSEMENT

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

DATED: 1/28/13

Respectfully Submitted,

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

SAMUEL K. HAMMOND
Deputy Attorney General
Attorneys for Complainant

SKH: ev
SD2011800512

Exhibit A

Accusation No. 09-2010-204544

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FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO AUGUST 1 2011
BY: K. MONTAUSONO ANALYST

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

In the Matter of the Accusation Against: **B. G. COX, JR., M.D** **aka BENJAMIN G. COX, JR., M.D.** **29501 Springside Drive** **Menifee, CA 92584** **Physician's and Surgeon's Certificate No. G6433** Respondent.	Case No. 09-2010-204544 **A C C U S A T I O N**

Complainant alleges:

PARTIES

1. Linda K. Whitney (hereinafter "Complainant") brings this Accusation solely in her official capacity as the Executive Director of the Medical Board of California, Department of Consumer Affairs.

2. On or about October 25, 1960, the Medical Board of California issued Physician's and Surgeon's Certificate Number G6433 to B. G. COX, JR., M.D. (hereinafter "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 November 30, 2011, unless renewed.

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JURISDICTION

3. This Accusation is brought before the Medical Board of California (Board), Department of Consumer Affairs, 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 provides that a licensee who is found guilty under the Medical Practice Act may have his or her license revoked, suspended for a period not to exceed one year, placed on probation and required to pay the costs of probation monitoring, be publicly reprimanded or have such other action taken in relation to discipline as the Division deems proper.

5. Section 2234 of the Code states:

"The Division of Medical Quality[1] shall take action against any licensee who is charged with unprofessional conduct.[2] 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 [Chapter 5, the Medical Practice Act].

"(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.

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[1] California Business and Professions Code section 2002, as amended and effective January 1, 2008, provides that, unless otherwise expressly provided, the term "board" as used in the State Medical Practice Act (Bus. & Prof. Code, §§ 2000, *et seq.*) means the "Medical Board of California," and references to the "Division of Medical Quality" and "Division of Licensing" in the Act or any other provision of law shall be deemed to refer to the Board.

[2] Unprofessional conduct is conduct which breaches the rules or ethical code of the medical profession, or conduct which is unbecoming a member in good standing of the medical profession, and which demostrates an unfitness to practice medicine. (*Shea v. Board of Medical Examiners* (1978) 81 Cal.App.3d, 564, 575.)

"(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.

"..."

6. Section 2242, subdivision (a), of the Code states: "Prescribing, dispensing, or furnishing dangerous drugs as defined in section 4022 without an appropriate prior examination and medical indication, constitutes unprofessional conduct."

7. Section 2266 of the Code states: "The failure of a physician and surgeon to maintain adequate and accurate records relating to the provision of services to their patients constitutes unprofessional conduct."

FIRST CAUSE FOR DISCIPLINE

(Gross Negligence)

8. Respondent is subject to disciplinary action under sections 2227 and 2234, as defined by section 2234, subdivision (b), of the Code, in that he has committed gross negligence in his care and treatment of patient J.W. The circumstances are as follows:

A. On or about August 30, 2005, patient J.W., then the 36-year old and stepdaughter of respondent, was seen by respondent at respondent's house[3] for complaints of cough, sweating, runny nose, chest congestion, and a fever of 102° F. Respondent noted that patient J.W. was not under the care of a doctor at that time. Patient J.W.'s past medical history included back pain in 1993, right sided sciatic problem in 1994, anxiety in 1995, and interstitial cystitis[4] in 2004. Respondent also noted that patient J.W. had a history of

[3] During his interview with the Medical Board investigator, respondent stated that he saw patient J.W. in a bedroom of his house during her visits.

[4] Interstitial cystitis (IC) is a chronic, painful inflammatory condition of the bladder wall (continued...)

depression and that she was on Paxil[5] for anxiety and Ambien for insomnia. Respondent noted that the patient's lungs were clear. Respondent's diagnoses were bronchitis and sinusitis, and he placed patient J.W. on Levaquin[6] 500 mg. daily for fourteen days. No vital signs were documented and no diagnostic tests were ordered.

B. On or about January 25, 2006, patient J.W. was seen by respondent at respondent's house for complaints associated with inflammation of the throat and nose exudate. Respondent noted that the patient's lungs were clear and the presence of "throat sounds." Respondent's diagnoses were bronchitis and sinusitis, and he prescribed Levaquin 500 mg. daily for fourteen days. No vital signs were documented and no diagnostic tests were ordered.

C. On or about July 10, 2006, patient J.W. was seen by respondent at respondent's house for complaints associated with inflammation of the throat, hoarseness, back pain, and insomnia. Respondent noted that the patient's lungs were clear, her voice hoarse, and "head clear." Respondent's diagnoses were bronchitis and pharyngitis, back pain, and insomnia, and he prescribed Azithromycin[7] Z-pack 6; 100 pills of Vicodin[8] 5/500, one or two pills every 4 hours for pain; and 30 pills of Zolpidem[9] 10 mg., one at bedtime. No vital signs were documented, and no diagnostic tests were ordered.

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characterized by pressure and pain above the pubic area along with increased frequency and urgency of urination.

[5] Paxil (paroxetine hydrochloride), is a dangerous drug under section 4022 of the Code. It is indicated for the treatment of depression.

[6] Levaquin (levofloxacin) is in a group of antibiotics called fluoroquinolones.

[7] Azithromycin is in a group of drugs called macrolide antibiotics. It is indicated for treatment of mild infection.

[8] Vicodin, a brand name for hydrocodone bitratate, is a Scheduled III Controlled Substance pursuant to Health and Safety Code section 11056. It is used to relieve moderate to severe pain.

[9] Zolpidem (Ambien) is a Scheduled Controlled Substance pursuant to Health and Safety Code section 11056 and is used for the short-term treatment of insomnia.

D. On or about September 12, 2006, patient J.W. was seen by respondent at respondent's house. Respondent's diagnoses were "stress over remodeling expenses," insomnia, and back pain. He prescribed 100 pills of Vicodin 5/500, one to two pills every 4 hours for pain; and 30 pills of Zolpidem 10 mg., one pill at bedtime. Respondent did not document a thorough history, a physical examination or an evaluation including vital signs, failed to order any diagnostic tests, and failed to consider and/or document he considered a treatment plan or follow-up care.

E. On or about October 22, 2006, patient J.W. was seen by respondent at respondent's house. Respondent noted an examination of the right buttock and sacrum, and his diagnoses were "sleeping poorly" and "right SIJ" upslip.[10] Respondent prescribed Zolpidem and Vicodin. Respondent did not document a thorough history, a physical examination or an evaluation, including vital signs, failed to order any diagnostic tests, and he failed to consider and/or document he considered a treatment plan or follow-up care.

F. Patient J.W. was next seen by respondent at respondent's house nine months later, on or about July 25, 2007. Respondent's diagnoses were anxiety and insomnia. Respondent renewed patient J.W.'s prescription for 30 pills of Zolpidem 10 mg., one pill at bedtime. Respondent did not document a thorough history, a physical examination or an evaluation including vital signs, and failed to order and/or document he ordered diagnostic tests. No referral was made for patient J.W.'s persistent complaints.

G. Respondent continued to prescribe medications for patient J.W. the remainder of 2007 through 2008 without any evaluation of the patient and without referring the patient to psychiatry or a pain management specialist. On or about October 4, 2007, patient J.W. obtained a prescription for 30 pills of Zolpidem 10 mg. plus four (4) refills. This prescription was filled on or about October 4, 2007, November 16, 2007, and December 31, 2007.

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[10] SIJ (sacroiliac joint) upslip involves half of the pelvis moving upward relative to the opposing side. This has a ripple effect on the rest of the lower body.

H. On or about April 15, 2008, patient J.W. received 30 pills of Zolpidem 10 mg. and 100 pills of Vicodin 5/500 by an oral prescription from respondent. On or about September 15, 2008, patient J.W. filled prescriptions for 30 pills of Zolpidem 10 mg. and 100 pills of Vicodin 5/500. On or about December 1, 2008, patient J.W. filled prescriptions for 30 pills of Zolpidem 10 mg. and 100 pills of Vicodin 5/500. There is no notation of these prescriptions in respondent's chart note for the patient.

I. Respondent next documented visit by patient J.W. was approximately 18 months later, on or about January 19, 2009. Patient J.W. was seen by respondent at respondent's house for complaints of inability to sleep due to domestic problem, cold with rough cough and green nasal mucus for the last two weeks, right SIJ upslip, and shingle paresthesia.[11] Respondent's diagnoses were insomnia, bronchitis, and back pain SIJ. Respondent noted that patient J.W. was going to have bladder and vaginal suspension surgery that month. Respondent's treatment was Zolpidem 10 mg. at bedtime for insomnia, Azithromycin #6 for bronchitis, and Vicodin 5/500 one to two pills every 4 hours for pain. Respondent did not document a thorough history, a physical examination or an evaluation including vital signs, failed to order diagnostic tests, and failed to consider and/ or note he considered a treatment plan or follow-up care. No referral was made for patient J.W.'s persistent complaints. Patient J.W. filled a prescription for 30 pills of Zolpidem 10 mg. on this day.

J. On or about January 23, 2009, patient J.W. filled a prescription for a 6 dose pack of Azithromycin 250 mg., and on or about January 27, 2009, filled a prescription for 100 pills of Vicodin 5/500.

K. On or about July 13, 2009, patient J.W. was seen by respondent at respondent's house for complaints of achy pain in the back and right hip on walking, stress, and feet pain. Respondent's diagnosis was insomnia and/or stress, and he prescribed 100 pills of Vicodin 5/100, one to two pills every 4 hours for pain; and 30 pills of Zolpidem 10 mg. one pill at

[11] Paresthesia is a sensation of numbness or tingling on the skin.

bedtime. Respondent did not document a thorough history, a physical examination or an evaluation including vital signs, failed to order any diagnostic tests, and failed to consider and/or note he considered a treatment plan or follow-up care and treatment plan. Respondent also failed to refer the patient to psychiatry or pain management specialist.

L. On or about July 15, 2009, patient J.W. filled prescriptions for 30 pills of Zolpidem 10 mg. and 100 pills of Hydrocodone 5/500.

M. On or about September 8, 2009, patient J.W. was seen by respondent at respondent's house for minor bladder suspension surgery discomfort, complaints related to right SIJ upslip, and insomnia due to domestic problem. Respondent prescribed 30 pills of Zolpidem 10 mg. to be taken at bedtime, and 100 pills of Vicodin 5/500, one to two pills every 4 hours for pain. Respondent did not document a thorough history, a physical examination or an evaluation including vital signs, failed to order diagnostic tests, and failed to consider and/or document he considered a treatment plan or follow-up care. There was no referral for patient J.W.'s persistent complaints.

N. On or about September 10, 2009, patient J.W. filled a prescription for 100 pills of Vicodin 5/500, and a prescription for 30 pills of Zolpidem 10 mg.

O. On or about October 6, 2009, patient J.W. was seen by respondent at respondent's house for complaints of sore throat and cough. Respondent noted that the patient's lungs were clear and that her abdomen was soft. Respondent's diagnoses were cough, chest heaviness, sore throat, insomnia, and back and groin pain. Respondent prescribed Zolpidem 10 mg to be taken at bedtime, Azithromycin Z-pack, and 100 pills of Vicodin 5/500, one to two tablets every 4 hours for pain. Respondent did not document a thorough history, a physical examination or an evaluation including vital signs, failed to order any diagnostic tests, and failed to consider and/or document he documented a treatment plan or follow-up care. There was no referral for patient J.W.'s persistent complaints.

P. On or about October 7, 2009, patient J.W. filled a prescription for 6 dose pack of Azithromycin 250 mg, 100 pills of Vicodin 5/500, and 30 pills of Zolpidem 10 mg.

Q. On or about October 29, 2009, patient J.W. was seen by respondent at respondent's house for complaints of major stress. Respondent noted that a friend had shared a Xanax[12] pill with patient J.W. and that it helped a lot. Respondent prescribed 90 pills of Xanax 0.5 mg. one-half to one pill three times a day. This prescription was filled on the same day. Respondent did not document a thorough history, a physical examination or an evaluation including vital signs, failed to order any diagnostic tests, and failed to consider and /or document he considered a treatment plan and follow-up care. There was no referral to psychiatry.

R. On or about November 27, 2009, patient J.W. was seen by respondent at respondent's house for complaints of sore throat, cold and nasal congestion, back and feet pain, and mixed anxiety and depression. Respondent noted that patient J.W. had a panic attack earlier in the month and was given Lexapro[13] by her OB/GYN physician which made her sick. Respondent noted that the patient's lungs were clear. Respondent's diagnoses were extended cold, major depression, back and feet pain, and insomnia. Respondent prescribed 6 dose pack of Azithromycin; 90 pills of Xanax 0.5 mg., one-half to one pill three times a day; 100 pills of Vicodin 5/500, one to two pills every 4 hours for pain; and 30 pills of Zolpidem 10 mg. one pill at bedtime. Respondent did not document a thorough history, a physical examination or an evaluation including vital signs, failed to order any diagnostic tests, and failed to consider and /or document he considered a treatment plan and follow-up care. There was no referral for patient J.W.'s persistent complaints and no referral to psychiatry. Patient J.W. filled the prescriptions for Xanax, Vicodin, and Zolpidem on this day, and her prescription for Azithromycin was filled on or about November 30, 2009.

S. On or about December 12, 2009, respondent documented a list of medications and number of pills that were previously prescribed to patient J.W. There is no

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[12] Xanax, a brand name for Alprazolam, is a Scheduled IV controlled substance pursuant to Health and Safety Codes section 11057, subdivision (d). It is a potent short-acting drug of the benzodiazepine class. It is primarily used to treat moderate to severe anxiety disorders.

[13] Lexapro, a brand name for Escitalopram, is used to treat anxiety and major depressive disorder.

documentation of a chief complaint, an assessment, a diagnosis, treatment, or history and physical in the patient's chart on this date. There was no referral for patient J.W.'s complaints.

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

(a) Respondent prescribed benzodiazepine (Xanax) and Zolidem (Ambien) for patient J.W. without a psychiatric evaluation or follow-up, a thorough physical examination and evaluation including vital signs, and failed to provide counseling and explanation to the patient about the potential side effects of the medications she was taking.

(b) Respondent initiated and continued to prescribe a narcotic (Vicodin) to patient J.W. without a thorough history, a physical examination or an evaluation including vital signs, and excessively prescribed medications without consideration to follow-up care and treatment plan.

SECOND CAUSE FOR DISCIPLINE

(Repeated Negligent Acts)

10. Respondent is further subject to disciplinary action under section under sections 2227 and 2234, as defined by section 2234, subdivision (c), of the Code, in that he engaged in repeated negligent acts in his care and treatment of patient J.W., as more particularly alleged hereinafter.

11. Paragraphs 8 and 9, above, is hereby incorporated by reference as if fully set forth herein.

12. Respondent committed repeated negligent acts in his care and treatment of patient J.W. which included, by not limited to, the following:

(a) Respondent prescribed benzodiazepine (Xanax) and Zolidem (Ambien) for patient J.W. without a psychiatric evaluation or follow-up, a thorough physical examination and an evaluation including vital signs, and failed to provide counseling and explanation to the patient about the potential side effects of the medications she was taking.

(b) Respondent initiated and continued to prescribe a narcotic (Vicodin) to patient J.W. without a thorough history, physical examination and evaluation including vital signs, and excessively prescribed medications without consideration to follow-up care and treatment plan.

(c) Respondent repeatedly prescribed controlled substances, including Vicodin, Xanax and Ambien, to a close family member.

THIRD CAUSE FOR DISCIPLINE

(Prescribing dangerous drugs without appropriate prior examination)

13. Respondent is further subject to disciplinary action under section 2227 and 2242, as defined by section 2242, subdivision (a), of the Code, in that respondent prescribed, dispensed, or furnished dangerous drugs for patient J.W. without an appropriate prior examination and medical indication, as more particularly alleged in paragraphs 8 through 12 above, which are hereby incorporated by reference and realleged as if fully set forth herein.

FOURTH CAUSE FOR DISCIPLINE

(Failure to Maintain Adequate and Accurate Medical Records)

14. Respondent is further subject to disciplinary action under section 2227 and 2266, as defined by section 2266, of the Code, in that respondent failed to maintain adequate and accurate records in his care and treatment of patient J.W., as more particularly alleged paragraphs 8 through 12, above, which are hereby incorporated by reference and realleged as if fully set forth herein.

FIFTH CAUSE FOR DISCIPLINE

(General Unprofessional Conduct)

15. Respondent is further subject to disciplinary action for unprofessional conduct under sections 2227 and 2234, as defined by section 2234, of the Code, in that respondent engaged in conduct which breaches the rules or ethical code of the medical profession, or conduct which is unbecoming a member in good standing of the medical profession, and which demostrates an unfitness to practice medicine in that respondent repeatedly evaluated patient J.W., a close family member, in a bedroom of respondent's home, and repeatedly prescribed

controlled substances and dangerous drugs, including Vicodin, Xanax and Ambien, to patient J.W., as more particularly alleged in paragraphs 8 thorugh 12, above which are incorporated as though 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 G6433, heretofore issued to respondent B. G. COX, JR., M.D.;

2. Revoking, suspending or denying approval of respondent B. G. COX, JR., M.D.'s authority to supervise physician's assistants, pursuant to section 3527 of the Code;

3. Ordering respondent B. G. COX, JR., M.D. to pay the Board the costs of probation, if placed on probation; and

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

DATED: August 1, 2011

LINDA K. WHITNEY
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant

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