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BEFORE THE
BOARD OF PODIATRIC MEDICINE
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Petition to Revoke Probation Against: **FRANKLYN COLLIER JONES, DPM** **726 Burgan Avenue** **Clovis, CA 93611** **Podiatrist License No. E-3875** Respondent.	Case No. 500-2017-000535 **DEFAULT DECISION AND ORDER** [Gov. Code §11520]

FINDINGS OF FACT

1. On or about August 3, 2017, Complainant Brian Naslund, in his official capacity as the Executive Officer of the Board of Podiatric Medicine, Department of Consumer Affairs (Board), filed Petition to Revoke Probation No. 500-2017-000535 against Franklyn Collier Jones, DPM (Respondent) before the Board. A true and correct copy of the Accusation and Petition to Revoke Probation No. 500-2017-000535 is attached as **Exhibit 1** in the separate accompanying "Default Decision Evidence Packet."

2. On or about April 12, 1993, the Board of Podiatric Medicine issued Podiatrist License No. E-3875 to Franklyn Collier Jones, DPM (Respondent). The Podiatrist License No. E-3875

expired on September 30, 2016, and has not been renewed. A certified copy of Respondent's Certificate of Licensure is attached as **Exhibit 2** in the separate accompanying Default Decision Evidence Packet.

3. Effective September 20, 2012 in a Decision and Order adopting the Stipulated Settlement and Disciplinary Order before the Board, Case No. 1B-2010-210403, Respondent's license was revoked, revocation stayed, and was placed on probation for three (3) years with terms and conditions. Effective February 19, 2016, in a Decision and Order adopting the Stipulated Settlement and Disciplinary Order before the Board, Case No. 500-2015-000242 (Order), Respondent's license was revoked, revocation stayed, and was placed on extended probation for another two (2) years with terms and conditions. True and correct copies of the Decision and Order in Case No. 1B-2010 210403 and 500-2015-000242 are attached as **Exhibit 3** in the separate accompanying Default Decision Evidence Packet.

4. On or about August 3, 2017, an employee of the Complainant Agency served by Certified and First Class Mail a copy of the Petition to Revoke Probation No. 500-2017-000535, and Statement to Respondent, Request for Discovery, Notice of Defense (two copies), and Government Code sections 11507.5, 11507.6, and 11507.7 to Respondent's address of record with the Board, which was and is 726 Burgan Avenue, Clovis, CA 93611. A true and correct copy of the Declaration of Service by Regular U.S. Mail and Certified Mail is attached as **Exhibit 1** in the separate accompanying Default Decision Evidence Packet.

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

6. On or about August 31, 2017 a Courtesy Notice of Default was sent to Respondent informing him that failure to file a Notice of Defense will result in a default decision against his license and his license may be revoked without any hearing. A true and correct copy of the Courtesy Notice of Default is attached as **Exhibit 1** in the separate accompanying Default Decision Evidence Packet.

7. Respondent failed to submit a Notice of Defense.

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

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

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

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

10. True and correct certified copies of certified violation reports, certified probation reports, and other documentary evidence are attached in the separate accompanying Default Decision Evidence Packet, and allege as follows:

11. Respondent's probation is subject to revocation, pursuant to Probation Conditions 9, 11, and 13 of the Order, because he failed to pay the costs of probation in the amount of $24,238.94. True and correct copies of the Decision and Order in Case No. 1B-2010-210403 and 500-2015-000242 are attached as **Exhibit 3** in the separate accompanying Default Decision Evidence Packet.

12. On or about September 20, 2012, Respondent started his probation. Cost of probation monitoring at the time was $217.35 per month. Costs for investigation and enforcement due to the Board was $7,746.25. The Board demanded payment of the total sum owed. The Board issued an invoice dated October 5, 2013, demanding payment in the amount of $1,805.25 for probation period 2012 to 2013. The Board issued a second invoice dated August 22, 2014, demanding payment in the amount of $2,608.20 for probation period 2013 to 2014. True and certified copies of the Non Compliance Report is attached as **Exhibit 4** in the separate accompanying Default Decision Evidence Packet. True and certified copies of the invoices are attached as **Exhibit 5** in the separate accompanying Default Decision Evidence Packet.

13. Respondent's probation was originally scheduled to end on September 20, 2015. Total probation costs were due not later than 120 days prior to the end of his probation. On or about April 22,2015, the Board sent a third invoice and demand letter demanding payment for $12,842.80. Respondent failed to pay the Board. True and certified copies of the Non Compliance Report is attached as **Exhibit 4** in the separate accompanying Default Decision Evidence Packet. True and certified copies of the invoices are attached as **Exhibit 5** in the separate accompanying Default Decision Evidence Packet.

14. On or about July 13, 2015, the Board agreed to extend probation by two years.

15. On or about March 21, 2017, the Board sent a letter and invoice demanding payment for cost recovery and probation monitoring due May 22, 2017. Respondent currently owes the Board a total of $24,238.94 as follows:

Cost Recovery:		
FY 12/13	(Order effective 9/20/2012)	$7746.25(-$3000 paid to date)
FY 15/16	(Order effective 2/19/2016)	$2734.00
Total Cost Recovery Due		**$7480.25**
Probation Monitoring:		
FY 12/13	(09/20/2012-06/30/2013)	$1805.25
FY 13/14	(07/01/2013-06/30/2014)	$2608.20
FY 14/15	(07/01/2014-06/30/2015)	$3461.19
FY 15/16	(07/01/2015-03/13/2016)	$4002.79
FY 16/17	(07/01/2016-06/30/2017)	$4002.84
FY 17/18	(07/01/2017-09/19/2017)	$ 878.42
TOTAL Monitoring Due		**$16758.69**
TOTAL COST AND MONITORING DUE		**$24,238.94**

16. Respondent's probation is scheduled to conclude on or about February 19, 2018. Total probation costs are due not later than 120 days prior to the end of his probation. True and

certified copies of the Non Compliance Report is attached as **Exhibit 4** in the separate accompanying Default Decision Evidence Packet. True and certified copies of the invoices are attached as **Exhibit 5** in the separate accompanying Default Decision Evidence Packet.

17. Respondent's probation is subject to revocation, pursuant to Probation Condition 16 of the Order, because he failed to submit adequate proof of fifty hours of approved continuing medical education and meet the continuing competence requirements for re-licensure during each two (2) year renewal period.

18. In a letter dated January 9, 2017, the Board acknowledged receipt of Respondent's 50 hours of Continuing Medical Education. However, the Board informed Respondent that the documentation supporting the required Continuing Competence pathways was not satisfactory. The Board demanded evidence of compliance for the Continuing Competence pathway requirement for the audit period of September 30, 2014 through September 30, 2016. True and certified copies of the CME Audit Notices are attached as **Exhibit 6**.

19. Respondent's probation is subject to revocation because he failed to comply with Probation Condition 5 of the Order, in that he failed to maintain a current and renewed California podiatric license. Respondent's license to practice podiatry expired on September 30, 2016 and is currently delinquent. A true and certified copy of Respondent's Certificate of Licensure is attached as **Exhibit 2.**

20. The Board incurred additional investigative and enforcement costs in the amount of $5067.50. A true and correct copy of the Declaration of Costs is attached herein as **Exhibit 7.**

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DETERMINATION OF ISSUES

1. Based on the foregoing findings of fact, Respondent Franklyn Collier Jones, DPM has subjected his Podiatrist License No. E-3875 to discipline.

2. Pursuant to its authority under Government Code section 11520, and based on the evidence before it, the Board hereby finds that the charges and allegations in Petition to Revoke Probation No.500-2017-000535, and the Findings of Fact contained in paragraphs 1 through 20 above, and each of them, separately and severally, are true and correct.

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

4. The Board is authorized to revoke Respondent's Podiatrist License based upon the following violations alleged in the Petition to Revoke Probation:

a. Violations of Probation Conditions 9,11, and 13 of the Order for failure to comply with all financial obligations (e.g.cost recovery, restitution, probation costs) not later than 120 calendar days prior to the completion of probation.;

b. Violation of Probation Condition 16 of the Order for failure to submit adequate proof of fifty hours of approved continuing medical education and meet the continuing competence requirements for re-licensure during each (2) year renewal period;

c. Violation of Probation Condition 5 of the Decision and Order in Case No. 500-2017-000535 for failing to maintain a current and renewed California Podiatric License.

ORDER

IT IS SO ORDERED that Podiatrist License No. E-3875, heretofore issued to Respondent Franklyn Collier Jones, DPM is revoked.

If Respondent ever files an application for relicensure or reinstatement in the State of California, the Board shall treat it as a petition for reinstatement of a revoked license. Respondent must comply with all the laws, regulations and procedures for reinstatement of a revoked license in effect at the time the petition is filed.

Respondent is ordered to reimburse the Board of Podiatric Medicine the amount of $5,067.50 for its investigative and enforcement costs in addition to the outstanding total costs and monitoring in the amount of $24,238.94. Respondent's Podiatrist License may not be renewed or

reinstated unless all costs ordered under Business and Professions Code section 2497.5 have been paid.

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

This Decision shall become effective on December 6, 2017.

It is so ORDERED November 6, 2017

FOR THE BOARD OF PODIATRIC MEDICINE
DEPARTMENT OF CONSUMER AFFAIRS

BRIAN NASLUND
Executive Officer

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO August 3 2017
BY Robyn Fitzwater ANALYST

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Attorneys for Complainant

BEFORE THE
BOARD OF PODIATRIC MEDICINE
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Petition to Revoke Probation Against: **FRANKLYN COLLIER JONES, DPM** **726 Burgan Avenue** **Clovis, CA 93611** **Podiatrist License No. E-3875** Respondent.	Case No. 500-2017-000535 **PETITION TO REVOKE PROBATION**

Complainant alleges:

PARTIES

1. Brian Naslund (Complainant) brings this Petition to Revoke Probation (Petition) solely in his official capacity as the Executive Officer of the Board of Podiatric Medicine, Department of Consumer Affairs.

2. On or about April 12, 1993, the Board of Podiatric Medicine issued Podiatrist License No. E-3875 to Franklyn Collier Jones, DPM (Respondent). The Podiatrist License No. E-3875 expired on September 30, 2016, and has not been renewed.

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JURISDICTION

3. This Petition is brought before the Board of Podiatric Medicine (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 118 of the Code states:

"(a) The withdrawal of an application for a license after it has been filed with a board in the department shall not, unless the board has consented in writing to such withdrawal, deprive the board of its authority to institute or continue a proceeding against the applicant for the denial of the license upon any ground provided by law or to enter an order denying the license upon any such ground.

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

"(c) As used in this section, board includes an individual who is authorized by any provision of this code to issue, suspend, or revoke a license, and 'license' includes 'certificate,' 'registration,' and 'permit.'"

5. Section 2222 of the Code states the California Board of Podiatric Medicine shall enforce and administer this article as to doctors of podiatric medicine. Any acts of unprofessional conduct or other violations proscribed by this chapter are applicable to licensed doctors of podiatric medicine and wherever the Medical Quality Hearing Panel established under Section 11371 of the Government Code is vested with the authority to enforce and carry out this chapter as to licensed physicians and surgeons, the Medical Quality Hearing Panel also possesses that same authority as to licensed doctors of podiatric medicine.

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The California Board of Podiatric Medicine may order the denial of an application or issue a certificate subject to conditions as set forth in Section 2221, or order the revocation, suspension, or other restriction of, or the modification of that penalty, and the reinstatement of any certificate of a doctor of podiatric medicine within its authority as granted by this chapter and in conjunction with the administrative hearing procedures established pursuant to Sections 11371, 11372, 11373, and 11529 of the Government Code. For these purposes, the California Board of Podiatric Medicine shall exercise the powers granted and be governed by the procedures set forth in this chapter.

6. Section 2497 of the Code states:

"(a) The board may order the denial of an application for, or the suspension of, or the revocation of, or the imposition of probationary conditions upon, a certificate to practice podiatric medicine for any of the causes set forth in Article 12 (commencing with Section 2220) in accordance with Section 2222.

"(b) The board may hear all matters, including but not limited to, any contested case or may assign any such matters to an administrative law judge. The proceedings shall be held in accordance with Section 2230. If a contested case is heard by the board itself, the administrative law judge who presided at the hearing shall be present during the board's consideration of the case and shall assist and advise the board."

7. Section 2497.5 of the Code states:

"(a) The board may request the administrative law judge, under his or her proposed decision in resolution of a disciplinary proceeding before the board, to direct any licensee found guilty of unprofessional conduct to pay to the board a sum not to exceed the actual and reasonable costs of the investigation and prosecution of the case.

"(b) The costs to be assessed shall be fixed by the administrative law judge and shall not be increased by the board unless the board does not adopt a proposed decision and in making its own decision finds grounds for increasing the costs to be assessed, not to exceed the actual and reasonable costs of the investigation and prosecution of the case.

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"(c) When the payment directed in the board's order for payment of costs is not made by the licensee, the board may enforce the order for payment by bringing an action in any appropriate court. This right of enforcement shall be in addition to any other rights the board may have as to any licensee directed to pay costs.

"(d) In any judicial action for the recovery of costs, proof of the board's decision shall be conclusive proof of the validity of the order of payment and the terms for payment."(e)(1) Except as provided in paragraph (2), the board shall not renew or reinstate the license of any licensee who has failed to pay all of the costs ordered under this section."(2) Notwithstanding paragraph (1), the board may, in its discretion, conditionally renew or reinstate for a maximum of one year the license of any licensee who demonstrates financial hardship and who enters into a formal agreement with the board to reimburse the board within one year period for those unpaid costs.

"(f) All costs recovered under this section shall be deposited in the Board of Podiatric Medicine Fund as a reimbursement in either the fiscal year in which the costs are actually recovered or the previous fiscal year, as the board may direct."

FIRST CAUSE TO REVOKE PROBATION
(Failure to Pay Probation Costs)

8. In a prior disciplinary action entitled *In the Matter of the Accusation Against Franklyn Collier Jones, DPM*, before the Board of Podiatric Medicine, Case Number 1B-2010-210403, the Board issued an order adopting the stipulated settlement and disciplinary order effective September 20, 2012, in which Respondent's license to practice podiatric medicine was revoked. However, the revocation was stayed and Respondent's license was placed on probation for a period of three (3) years with other terms and conditions.

9. On or about July 13, 2015, a Petition to Revoke Probation was filed, alleging a violation of Condition 11 of the Order. It alleged that Respondent failed to pay probation costs totaling $12,842.80. The Board issued an order adopting the stipulated settlement and disciplinary order (Order). That Order is now final and a copy of the Order is attached as Exhibit A and is incorporated herein by reference.

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10. At all times after the effective date of Respondent's probation, Probation Condition 9 of the Order states:

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 will be fully restored.

11. At all times after the effective date of Respondent's probation, Probation Condition 11 of the Order states:

COST RECOVERY

Within 90 calendar days from the effective dare of the Decision or other period agreed to by the Board or its designee, respondent shall reimburse the Board the amount of $12,620.89 and $2,734.00 for its investigative and prosecution costs respectively. The filing of bankruptcy or period of non-practice by respondent shall not relieve the respondent of his/her obligation to reimburse the Board for its costs.

12. At all times after the effective date of Respondent's probation, Probation Condition 13 of the Order states:

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 Board of Podiatric Medicine and delivered to the Board or its designee within 60 days after the start of the new fiscal year. Failure to pay costs within 30 calendar days of this date is a violation of probation.

13. Respondent's probation is subject to revocation, pursuant to Conditions 9, 11, and 13 of the Order, because he failed to pay the costs of probation in the amount of $24,238.94. The facts and circumstances are as follows:

14. On or about September 20, 2012, Respondent started his probation. Cost of probation monitoring at the time was $217.35 per month. Costs for investigation and enforcement due to the Board was $7,746.25. The Board demanded payment of the total sum owed. The Board issued an invoice dated October 5, 2013, demanding payment in the amount of $1,805.25 for probation period 2012 to 2013. The Board issued a second invoice dated August 22, 2014, demanding payment in the amount of $2,608.20 for probation period 2013 to 2014.

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15. Respondent's probation was originally scheduled to end on September 20, 2015. Total probation costs were due not later than 120 days prior to the end of his probation. On or about April 22,2015, the Board sent a third invoice and demand letter demanding payment for $12,842.80. Respondent failed to pay the Board.

16. On or about July 13, 2015, the Board agreed to extend probation by two years.

17. On or about March 21, 2017, the Board sent a letter and invoice demanding payment for cost recovery and probation monitoring due May 22, 2017. Respondent currently owes the Board a total of $24,238.94 as follows:

Cost Recovery:		
FY 12/13	(Order effective 9/20/2012)	$7746.25(-$3000 paid to date)
FY 15/16	(Order effective 2/19/2016)	$2734.00
Total Cost Recovery Due		**$7480.25**
Probation Monitoring:		
FY 12/13	(09/20/2012-06/30/2013)	$1805.25
FY 13/14	(07/01/2013-06/30/2014)	$2608.20
FY 14/15	(07/01/2014-06/30/2015)	$3461.19
FY 15/16	(07/01/2015-03/13/2016)	$4002.79
FY 16/17	(07/01/2016-06/30/2017)	$4002.84
FY 17/18	(07/01/2017-09/19/2017)	$ 878.42
TOTAL Monitoring Due		**$16758.69**
TOTAL COST AND MONITORING DUE		**$24,238.94**

18. Respondent's probation is scheduled to conclude on or about February 19, 2018. Total probation costs are due not later than 120 days prior to the end of his probation.

19. Respondent's probation is subject to revocation because he failed to comply with Probation Conditions 9, 11, and 13, in that he failed to comply with all financial obligations (e.g.

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cost recovery, restitution, probation costs) not later than 120 calendar days prior to the completion of probation.

SECOND CAUSE TO REVOKE PROBATION
(Failure to Comply with Required Continuing Medical Education)

20. Respondent's probation is subject to revocation, pursuant to Condition 16 of the Order, because he failed to submit adequate proof of fifty hours of approved continuing medical education and meet the continuing competence requirements for re-licensure during each two (2) year renewal period. The facts and circumstances are as follows:

21. In a letter dated January 9, 2017, the Board acknowledged receipt of Respondent's 50 hours of Continuing Medical Education. However, the Board informed Respondent that the documentation supporting the required Continuing Competence pathways was not satisfactory. The Board demanded evidence of compliance for the Continuing Competence pathway requirement for the audit period of September 30, 2014 through September 30, 2016.

22. Respondent's probation is subject to revocation because he failed to comply with Probation Condition 16, in that he failed to submit evidence of completion of the Continuing Competence pathway requirement.

THIRD CAUSE TO REVOKE PROBATION
(Failure to Maintain and Renew License)

23. Respondent's probation is subject to revocation because he failed to comply with Probation Condition 5 of the Order, in that he failed to maintain a current and renewed California podiatric license. Respondent's license to practice podiatry expired on September 30, 2016 and is currently delinquent.

DISCIPLINE CONSIDERATIONS

24. To determine the degree of discipline, if any, to be imposed on Respondent, Complainant alleges that on or about September 20, 2012, in a prior disciplinary action entitled *In the Matter of the Accusation Against Franklyn Collier Jones, DPM*, before the Board of Podiatric Medicine, Case Number 1B-2010-210403, the Board issued an order adopting the stipulated settlement and disciplinary order (Order), effective September 20, 2012, in which Respondent's

license to practice podiatric medicine was revoked. However, the revocation was stayed and Respondent's license was placed on probation for a period of three (3) years with other terms and conditions. That decision is now final and is incorporated by reference as if fully set forth.

PRAYER

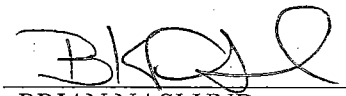
WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Podiatric Medicine issue a decision:

1. Revoking or suspending Podiatrist License No. Number E-3875, issued to Respondent, Franklyn Collier Jones, DPM

2. Ordering Respondent, Franklyn Collier Jones, DPM to pay the Board of Podiatric Medicine the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 2497.5; and,

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

DATED: August 3, 2017



BRIAN NASLUND
Executive Officer
Board of Podiatric Medicine
Department of Consumer Affairs
State of California
Complainant

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EXHIBIT A

BEFORE THE
BOARD OF PODIATRIC MEDICINE
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:	)	File No. 1B-2010-210403
FRANKLYN COLLIER JONES, D.P.M.	)	
Doctor of Podiatric Medicine License No. E 3875	)	
Respondent.	)	

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby accepted and adopted by the Board of Podiatric Medicine of the Department of Consumer Affairs, State of California as its Decision in the above-entitled matter.

This Decision shall become effective at 5:00 p.m. on September 20, 2012.

DATED August 21, 2012

BOARD OF PODIATRIC MEDICINE

Neil B. Mansdorf, D.P.M., President

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Attorneys for Complainant

BEFORE THE
BOARD OF PODIATRIC MEDICINE
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against: **FRANKLYN COLLIER JONES, DPM** **726 Burgan Avenue** **Clovis, CA 93611** **Doctor of Podiatric Medicine License No. E3875** Respondent.	Case No. 1B-2010-210403 **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. James H. Rathlesberger (Complainant) is the Executive Officer of the Board of Podiatric Medicine. He brought this action solely in his official capacity and is represented in this matter by Kamala D. Harris, Attorney General of the State of California, by Jannsen Tan, Deputy Attorney General.

2. Respondent Franklyn Collier Jones, DPM (Respondent) is representing himself in this proceeding and has chosen not to exercise his right to be represented by counsel.

3. On or about April 12, 1993, the Board of Podiatric Medicine issued Doctor of Podiatric Medicine License No. E3875 to Franklyn Collier Jones, DPM (Respondent). The Doctor of Podiatric Medicine License was in full force and effect at all times relevant to the charges brought in Accusation No. 1B-2010-210403 and will expire on September 30, 2012, unless renewed.

JURISDICTION

4. Accusation No. 1B-2010-210403 was filed before the Board of Podiatric Medicine, Department of Consumer Affairs (Board), and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on November 7, 2011. Respondent timely filed his Notice of Defense contesting the Accusation.

5. A copy of Accusation No. 1B-2010-210403 is attached as exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

6. Respondent has carefully read, and understands the charges and allegations in Accusation No. 1B-2010-210403. Respondent has also carefully read, and understands the effects of this Stipulated Settlement and Disciplinary Order.

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

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

CULPABILITY

9. Respondent admits the truth of each and every charge and allegation in Accusation No. 1B-2010-210403.

10. Respondent agrees that his Doctor of Podiatric Medicine License is subject to discipline and he agrees to be bound by the Committee's probationary terms as set forth in the Disciplinary Order below.

CONTINGENCY

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

12. The parties understand and agree that facsimile copies of this Stipulated Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same force and effect as the originals.

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

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that the Doctor of Podiatric Medicine License No. E3875 issued to Franklyn Collier Jones, DPM (Respondent) is revoked. However, the revocation is stayed and Respondent is placed on probation for three (3) years on the following terms and conditions.

1. **PRESCRIBING PRACTICES COURSE**

Within 60 calendar days of the effective date of this Decision, Respondent shall enroll in a course in prescribing practices, at Respondent's expense, approved in advance by the Board or its

designee. Failure to successfully complete the course during the first 6 months of probation is a violation of probation. A prescribing practices course taken after the acts that gave rise to the charges in the Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board or its designee, be accepted towards the fulfillment of this condition if the course would have been approved by the Board or its designee had the course been taken after the effective date of this Decision. Respondent shall submit a certification of successful completionto 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. **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, at Respondent's expense, approved in advance by the Board or its designee. Failure to successfully complete the course during the first 6 months of probation is a violation of probation. 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 ifthe course would have been approved by the Board or its designee had the course been taken after the effective date of this Decision. Respondent shall submit a certification of successful completion to the Board or its designee not later than 15 calendar days after successfully completing the course, or not later than 15 calendar days after the effective date of the Decision, whichever is later.

3. **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 podiatric 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 Division or its designee within 15 calendar days. This condition shall apply to any change(s) in hospitals, other facilities or insurance carrier.

4. PHYSICIAN ASSISTANTS

Prior to receiving assistance from a physician assistant, Respondent must notify the supervising physician of the terms and conditions of his/her probation.

5. OBEY ALL LAWS

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

6. 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.

7. 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 podiatric medicine in Respondent's place of residence. Respondent shall, maintain a current and renewed California doctor of podiatric medicine'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 thirty (30) calendar days.

8. 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 notice throughout the term of probation.

9. **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 thirty calendar days in which Respondent is not engaging in any activities defined in section 2472 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, 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 Law; 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 totals two years. However, Respondent's license shall not be cancelled as long as Respondent is residing and practicing podiatric 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.

10. **FAILURE TO PRACTICE PODIATRIC MEDICINE – CALIFORNIA RESIDENT**

In the event the Respondent resides in the State of California and for any reason Respondent stops practicing podiatric 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 thirty calendar days in which Respondent is not engaging in any activities defined in

section 2472 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 section 2472.

11. 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 will be fully restored.

12. VIOLATION OF PROBATION

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

13. COST RECOVERY

Within 90 calendar days from the effective date of the Decision or other period agreed to by the Board or its designee, Respondent shall reimburse the Board the amount of $7,746.25 for its investigative and prosecution costs. The filing of bankruptcy or period of non-practice by Respondent shall not relieve the Respondent of his/her obligation to reimburse the Board for its costs.

14. 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 the Respondent's request and to exercise its discretion whether 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 podiatric 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 podiatric medical license, the application shall be treated as a petition for reinstatement of a revoked certificate.

15. PROBATION MONITORING COSTS

Respondent shall pay the costs associated with probation monitoring each and every year of probation, as designated by the Board, which may be adjusted on an annual basis. Such costs shall be payable to the Board of Podiatric Medicine and delivered to the Board or its designee within 60 days after the start of the new fiscal year. Failure to pay costs within 30 calendar days of this date is a violation of probation.

16. NOTICE TO EMPLOYEES

Respondent shall, upon or before the effective date of this Decision, post or circulate a notice which actually recites the offenses for which Respondent has been disciplined and the terms and conditions of probation, to all employees involved in his/her practice. Within fifteen (15) days of the effective date of this Decision, Respondent shall cause his/her employees to report to the Board in writing, acknowledging the employees have read the Accusation and Decision in the case and understand Respondent's terms and conditions of probation.

17. CHANGES OF EMPLOYMENT

Respondent shall notify the Board in writing, through the assigned probation officer, of any and all changes of employment, location, and address within thirty (30) days of such change.

18. COMPLIANCE WITH REQUIRED CONTINUING MEDICAL EDUCATION

Respondent shall submit satisfactory proof biennially to the Board of compliance with the requirement to complete fifty hours of approved continuing medical education, and meet continuing competence requirements for re-licensure during each two (2) year renewal period.

ACCEPTANCE

I have carefully read the Stipulated Settlement and Disciplinary Order. I understand the stipulation and the effect it will have on my Doctor of Podiatric Medicine License. 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 Board of Podiatric Medicine, Department of Consumer Affairs.

DATED: 06/29/12

FRANKLYN COLLIER JONES, DPM
Respondent

ENDORSEMENT

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

Dated:

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
GAIL M. HEPPELL
Supervising Deputy Attorney General

JANNSEN TAN
Deputy Attorney General
Attorneys for Complainant

SA2011102529
Stipulation.rtf

Exhibit A

Accusation No. 1B-2010-210403

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Attorneys for Complainant

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO November 7 20 11
BY Ian McClone ANALYST

BEFORE THE
BOARD OF PODIATRIC MEDICINE
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against: **FRANKLYN C. JONES, DPM** **P.O. Box 27195** **Fresno, California 93726** **License No. E 3875** Respondent.	Case No. 1B 2010 210403 **A C C U S A T I O N**

Complainant alleges:

PARTIES

1. James Rathlesberger (Complainant) brings this Accusation solely in his official capacity as the Executive Officer of the Board of Podiatric Medicine, Department of Consumer Affairs (Board).

2. On or about April 12, 1993, the Board issued license number E 3875 to Franklyn C. Jones, DPM (Respondent). The license was in full force and effect at all times relevant to the charges brought herein and will expire on September 30, 2012, unless renewed.

JURISDICTION

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

4. Section 2222 of the Code states:

"The California Board of Podiatric Medicine shall enforce and administer this article as to doctors of podiatric medicine. Any acts of unprofessional conduct or other violations proscribed by this chapter are applicable to licensed doctors of podiatric medicine and wherever the Medical Quality Hearing Panel established under Section 11371 of the Government Code is vested with the authority to enforce and carry out this chapter as to licensed physicians and surgeons, the Medical Quality Hearing Panel also possesses that same authority as to licensed doctors of podiatric medicine.

"The California Board of Podiatric Medicine may order the denial of an application or issue a certificate subject to conditions as set forth in Section 2221, or order the revocation, suspension, or other restriction of, or the modification of that penalty, and the reinstatement of any certificate of a doctor of podiatric medicine within its authority as granted by this chapter and in conjunction with the administrative hearing procedures established pursuant to Sections 11371, 11372, 11373, and 11529 of the Government Code. For these purposes, the California Board of Podiatric Medicine shall exercise the powers granted and be governed by the procedures set forth in this chapter."

5. Section 2497 of the Code states:

"(a) The [B]oard may order the denial of an application for, or the suspension of, or the revocation of, or the imposition of probationary conditions upon, a certificate to practice podiatric medicine for any of the causes set forth in Article 12 (commencing with Section 2220) in accordance with Section 2222.

"(b) The [B]oard may hear all matters, including but not limited to, any contested case or may assign any such matters to an administrative law judge. The proceedings shall be held in accordance with Section 2230. If a contested case is heard by the [B]oard itself, the administrative law judge who presided at the hearing shall be present during the [B]oard's consideration of the case and shall assist and advise the [B]oard."

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6. Section 2234 of the Code states:

"The Division of Medical Quality[1] 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 [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.

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

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

"(d) Incompetence.

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

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

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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 (Cal. 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.

7. 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."

8. Section 2241.5 of the Code states:

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

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

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

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

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

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

(4) Violates Section 2242.1 regarding prescribing on the Internet.

(5) Fails to keep complete and accurate records of purchases and disposals of substances listed in the California Uniform Controlled Substances Act (Division 10 (commencing with Section 11000) of the Health and Safety Code) or controlled substances scheduled in the federal Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. Sec. 801 et seq.), or pursuant to the federal Comprehensive Drug Abuse Prevention and Control Act of 1970. A physician and surgeon shall keep records of his or her purchases and disposals of these controlled substances or dangerous drugs, including the date of purchase, the date and records of the sale or disposal of the drugs by the physician and surgeon, the name and address of the person receiving

the drugs, and the reason for the disposal or the dispensing of the drugs to the person, and shall otherwise comply with all state recordkeeping requirements for controlled substances.

(6) Writes false or fictitious prescriptions for controlled substances listed in the California Uniform Controlled Substances Act or scheduled in the federal Comprehensive Drug Abuse Prevention and Control Act of 1970.

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

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

(e) Nothing in this section shall prohibit the governing body of a hospital from taking disciplinary actions against a physician and surgeon pursuant to Sections 809.05, 809.4, and 809.5."

9. 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.

"(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 his or her 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 2497.5 of the Code states:

"(a) The [B]oard may request the administrative law judge, under his or her proposed decision in resolution of a disciplinary proceeding before the [B]oard, to direct any licensee found guilty of unprofessional conduct to pay to the [B]oard a sum not to exceed the actual and reasonable costs of the investigation and prosecution of the case.

"(b) The costs to be assessed shall be fixed by the administrative law judge and shall not in any event be increased by the [B]oard. When the [B]oard does not adopt a proposed decision and remands the case to an administrative law judge, the administrative law judge shall not increase the amount of any costs assessed in the proposed decision.

"(c) When the payment directed in the [B]oard's order for payment of costs is not made by the licensee, the [B]oard may enforce the order for payment by bringing an action in any appropriate court. This right of enforcement shall be in addition to any other rights the [B]oard may have as to any licensee directed to pay costs.

"(d) In any judicial action for the recovery of costs, proof of the [B]oard's decision shall be conclusive proof of the validity of the order of payment and the terms for payment.

"(e)(1) Except as provided in paragraph (2), the [B]oard shall not renew or reinstate the license of any licensee who has failed to pay all of the costs ordered under this section.

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"(2) Notwithstanding paragraph (1), the [B]oard may, in its discretion, conditionally renew or reinstate for a maximum of one year the license of any licensee who demonstrates financial hardship and who enters into a formal agreement with the [B]oard to reimburse the [B]oard within one year period for those unpaid costs.

"(f) All costs recovered under this section shall be deposited in the Podiatry Fund as a reimbursement in either the fiscal year in which the costs are actually recovered or the previous fiscal year, as the [B]oard may direct."

CONTROLLED SUBSTANCES AT ISSUE

11. Butorphanol Tartrate is known by its trade name "Stadol." It is a synthetically derived opioid agonist-antagonist analgesic. It is a dangerous drug within the meaning of Section 4022. One mg. of Stadol is equianalgesic to 5 mg. of morphine. Stadol's principal therapeutic use is relief of pain.

12. Hydrocodone with APAP is known by the trade name "Tylenol #3 or #4." Hydrocodone is semisynthetic narcotic analgesic, a dangerous drug as defined in Section 4022, a schedule III controlled substance and narcotic as defined by Section 11056 (E) (4) of the Health and Safety Code[not more than 15 mg dihydocodeineone (an early pharmaceutical term currently known as hydrocodone) per dosage unit with a non-narcotic ingredient], and a schedule III controlled substance as defined by Section 1308.13 (e) of Title 21 of the Code of Federal Regulations. Used primarily for pain control, it has a moderately high potential for abuse. Repeated administration of Hydrocodone over a course of several weeks may result in psychological and physical dependence.

FIRST CAUSE FOR DISCIPLINE

(Gross Negligence)

[Bus. & Prof. Code §§ 2234(b)]

13. Respondent is subject to disciplinary action under Section 2234(b) of the Code in that his care and treatment of M.M. constitutes gross negligence. The circumstances are as follows:

14. Respondent is a Podiatrist who presently practices under the business name Mclean-Jones Podiatry, with business address at 6335 N. Fresno, Suite 102 Fresno, CA 93710.

15. "M.M." is a physician assistant who worked with Respondent sometime in 2002-2003. On or about 2002-2003 M.M. examined Respondent one or two times while they worked together in the same clinic during this time period.

16. On or about 2004-2005, Respondent treated M.M. for cortisone injections, orthotics shoe gear modification, strapping and bracing.

17. Respondent treated M.M. again sometime in 2007. Respondent prescribed several controlled medication for what he describes as neuropathic pain from chronic lower back issues with previous back surgery. Respondent prescribed the following medication to M.M.

Date	Drug	Quantity
7/02/2007	Butorphanol-10 MG/ML	2.5
7/16/2007	Butorphanol-10 MG/ML	2.5
8/08/2007	Butorphanol-10 MG/ML	2.5
8/21/2007	Butorphanol-10 MG/ML	2.5
1/11/2008	Butorphanol-10 MG/ML	2.5
1/31/2008	Butorphanol-10 MG/ML	2.5
4/09/2008	Butorphanol-10 MG/ML	2.5
4/11/2008	Butorphanol-10 MG/ML	2.5
4/11/2008	Butorphanol-10 MG/ML	2.5
6/09/2008	Butorphanol-10 MG/ML	2.5
7/02/2008	Butorphanol-10 MG/ML	2.5
7/17/2008	Butorphanol-10 MG/ML	2.5
7/17/2008	Butorphanol-10 MG/ML	2.5
8/27/2008	Butorphanol-10 MG/ML	2.5
9/25/2008	Butorphanol-10 MG/ML	2.5
9/29/2008	Butorphanol-10 MG/ML	2.5
10/17/2008	Butorphanol-10 MG/ML	2.5
11/04/2008	Butorphanol-10 MG/ML	2.5

11/04/2008	Butorphanol-10 MG/ML	2.5
11/25/2008	Butorphanol-10 MG/ML	2.5
12/16/2008	Butorphanol-10 MG/ML	2.5
12/29/2008	Butorphanol-10 MG/ML	2.5
1/14/2009	Butorphanol-10 MG/ML	2.5
2/2/2009	Butorphanol-10 MG/ML	2.5
4/9/2010	Butorphanol-10 MG/ML	2.5
4/23/2010	Butorphanol-10 MG/ML	2.5
5/04/2010	Butorphanol-10 MG/ML	2.5
5/12/2010	Butorphanol-10 MG/ML	2.5
5/25/2010	Butorphanol-10 MG/ML	2.5
6/02/2010	Butorphanol-10 MG/ML	2.5
6/09/2010	Butorphanol-10 MG/ML	2.5
6/18/2010	Butorphanol-10 MG/ML	2.5
6/28/2010	Butorphanol-10 MG/ML	2.5
7/06/2010	Butorphanol-10 MG/ML	2.5
9/14/2007	Hydrocodone/APAP 10/325 10M	60
10/16/2007	Hydrocodone/APAP 10/325 10M	60
11/11/2007	Hydrocodone/APAP 10/325 10M	60
11/29/2007	Hydrocodone/APAP 10/325 10M	60
1/02/2008	Hydrocodone/APAP 10/325 10M	60
2/11/2008	Hydrocodone/APAP 10/325 10M	60
2/11/2008	Hydrocodone/APAP 10/325 10M	60
4/24/2008	Hydrocodone/APAP 10/325 10M	60
5/04/2008	Hydrocodone/APAP 10/325 10M	60
6/26/2008	Hydrocodone/APAP 10/325 10M	60
7/26/2008	Hydrocodone/APAP 10/325 10M	60

10/27/2008	Hydrocodone/APAP 10/325 10M	60
11/14/2008	Hydrocodone/APAP 10/325 10M	60
12/09/2008	Hydrocodone/APAP 10/325 10M	60
1/05/2009	Hydrocodone/APAP 10/325 10M	60
2/10/2009	Hydrocodone/APAP 10/325 10M	60
5/12/2010	Hydrocodone/APAP 10/325 10M	60

18. Radiographs taken by Respondent on February 25, 2004 show some posterior and plantar calcaneal spurring with some calcification in the plantar fascia with no other bony abnormality. The radiographs provide no support for the prescribing of controlled substances. Respondent failed to perform examinations and/or document his examinations of patient M.M. during the extended time 2007-2010 he was prescribing narcotics to M.M.

19. During the period of 2007-2009, Respondent's patient, M.M., who was employed as a physician assistant at the time by a separate clinic, prescribed controlled medication to Respondent as well. At no time did M.M.'s supervising physician authorize M.M. to prescribe to Respondent. At no time was Respondent a patient at the clinic where M.M. worked. M.M. did not maintain records of his treatment of Respondent. M.M. transmitted these prescriptions to the pharmacy by calling them and/or faxing them, without authorization from his supervising physician.

20. Respondent actions constitute gross negligence and subject him to discipline within the meaning of Section 2234(b) of Code in that:

a. Respondent prescribed long term controlled substances without adequate follow up or examination of the patient and monitoring his progress or dependency issues.

b. Respondent failed to refer M.M. to a medical practitioner who is well versed in opioid dependency and management, instead treating M.M. on a long term basis.

c. Respondent failed to document detailed records of examination of the patient, failing to document the supposed pathology that was being treated.

d. Respondent prescribed controlled medication to M.M., who in turn *quid pro*

quo, prescribed controlled medication to him.

SECOND CAUSE FOR DISCIPLINE

(Repeated Negligent Acts)

[Bus. & Prof. Code §§ 2234(c)]

21. Complainant hereby incorporates paragraphs 1-17 of the instant Accusation as though fully set forth herein.

22. Respondent's conduct as described above is in violation of section 2234 (c), and constitutes unprofessional conduct. Respondent's repeated negligent acts for each of his patients constitute a separate cause of action under section 2234(c). The repeated negligent acts are as follows:

a. Respondent prescribed long term controlled substances without adequate follow up or examination of the patient and monitoring his progress or dependency issues.

b. Respondent failed to refer M.M. to a medical practitioner who is well versed in opioid dependency and management instead treating M.M. on a long term basis.

c. Respondent failed to document detailed records of examination of the patient, failing to document the supposed pathology that was being treated.

d. Respondent prescribed controlled medication to M.M., who in turn *quid pro quo*, prescribed controlled medication to him.

THIRD CAUSE FOR DISCIPLINE

(Prescribing Dangerous Drugs without an Examination or Medical Indication)

[Bus. & Prof. Code §§ 2242]

23. Complainant hereby incorporates paragraphs 1-17 of the instant Accusation as though fully set forth herein.

24. Respondent's conduct as set forth above is in violation of section 2242 of the Code and constitutes unprofessional conduct in that Respondent prescribed dangerous drugs without adequate follow up or examination and/or without any medical indication.

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FOURTH CAUSE FOR DISCIPLINE

(Failure to Keep Records of Purchases and Disposals of Dangerous Drugs)

[Bus. & Prof. Code §§ 2241.5(c)(5)]

25. Complainant hereby incorporates paragraphs 1-17 of the instant Accusation as though fully set forth herein.

26. Respondent's conduct as set forth above is in violation of section 2241.5 of the Code and constitutes unprofessional conduct in that Respondent prescribed dangerous drugs without keeping records of his purchases or disposals of the dangerous drugs to M.M.

FIFTH CAUSE FOR DISCIPLINE

(Failure to Refer to a more Qualified Specialist in Prescribing Dangerous Drugs)

[Bus. & Prof. Code §§ 2241.5(7)(d)]

27. Complainant hereby incorporates paragraphs 1-17 of the instant Accusation as though fully set forth herein.

28. Respondent's conduct as set forth above is in violation of section 2241.5 (7)(d) of the Code and constitutes unprofessional conduct in that Respondent prescribed dangerous drugs without exercising reasonable care in determining that M.M., requires consultation with, or referral to, a more qualified specialist.

SIXTH CAUSE FOR DISCIPLINE

(Failure to Maintain Adequate and Accurate Records)

[Bus. & Prof. Code §§ 2266]

29. Complainant hereby incorporates paragraphs 1-17 of the instant Accusation as though fully set forth herein.

30. Respondent's conduct as set forth above is in violation of section 2266 of the Code and constitutes unprofessional conduct in that Respondent failed to maintain adequate and accurate patient records for M.M.

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PRAYER

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

1. Revoking, suspending or imposing other discipline on Doctor of Podiatric Medicine License No. E 3875, issued to Franklyn Jones, D.P.M.;

2. Ordering Franklyn Jones, DPM, to pay the Board of Podiatric Medicine the reasonable costs of the investigation and enforcement of this case, and, if ultimately placed on probation, the costs of probation monitoring;

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

DATED: November 7, 2011

JAMES RATHLESBERGER
Executive Officer
Board of Podiatric Medicine
Department of Consumer Affairs
State of California
Complainant

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