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

In the Matter of the First Amended Accusation Against:	)	
Jay Milton Beams, M.D.	)	**Case No. 800-2015-014375**
Physician's and Surgeon's Certificate No. G 15667	)	
Respondent	)	

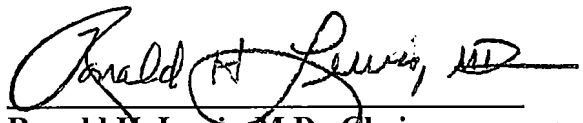
DECISION

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

This Decision shall become effective at 5:00 p.m. on August 8, 2019.

IT IS SO ORDERED: July 9, 2019.

MEDICAL BOARD OF CALIFORNIA



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

XAVIER BECERRA
Attorney General of California
STEVEN D. MUNI
Supervising Deputy Attorney General
MEGAN R. O'CARROLL
Deputy Attorney General
State Bar No. 215479
1300 I Street, Suite 125
P.O. Box 944255
Sacramento, CA 94244-2550
Telephone: (916) 210-7543
Facsimile: (916) 327-2247
Attorneys for Complainant

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

In the Matter of the First Amended Accusation Against: **JAY MILTON BEAMS, M.D.** **701 Nevada St.** **Susanville, CA 96130** **Physician's and Surgeon's Certificate No. G 15667** Respondent.	Case No. 800-2015-014375 OAH No. 2018100519 **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. Kimberly Kirchmeyer (Complainant) is the Executive Director of the Medical Board of California (Board). She brought this action solely in her official capacity and is represented in this matter by Xavier Becerra, Attorney General of the State of California, by Megan R. O'Carroll, Deputy Attorney General.

2. Respondent Jay Milton Beams, M.D. (Respondent) is represented in this proceeding by attorney Eugene B. Chittock, Esq., whose address is: 100 South Lassen Street Susanville, CA 96130

3. On or about October 23, 1968, the Board issued Physician's and Surgeon's Certificate No. G 15667 to Jay Milton Beams, M.D. (Respondent). The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought in the First Amended Accusation No. 800-2015-014375, and will expire on August 31, 2019, unless renewed.

JURISDICTION

4. The First Amended Accusation No. 800-2015-014375 (Accusation) was filed before the Board, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on July 19, 2018. Respondent timely filed his Notice of Defense contesting the Accusation.

5. A copy of the Accusation No. 800-2015-014375 is attached as exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

6. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 800-2015-014375. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

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

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

CULPABILITY

9. Respondent understands and agrees that the charges and allegations in Accusation No. 800-2015-014375, if proven at a hearing, constitute cause for imposing discipline upon his Physician's and Surgeon's Certificate.

10. Respondent agrees that if he ever petitions for early termination or modification of probation, or if an accusation and/or petition to revoke probation is filed against him, before the Medical Board of California, all of the charges and allegations contained in Accusation No. 800-2015-014375 shall be deemed true, correct and fully admitted by Respondent for purposes of that proceeding or any other licensing proceeding involving Respondent in the State of California.

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

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

RESERVATION

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

CONTINGENCY

14. This stipulation shall be subject to approval by the Medical Board of California. Respondent understands and agrees that counsel for Complainant and the staff of the Medical Board of California may communicate directly with the Board regarding this stipulation and settlement, without notice to or participation by Respondent or his counsel. By signing the stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary

Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

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

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

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. G 15667 issued to Respondent Jay Milton Beams, M.D. is revoked. However, the revocation is stayed and Respondent is placed on probation for five (5) years on the following terms and conditions.

1. 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.

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.

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

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

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

been approved by the Board or its designee had the course been taken after the effective date of this Decision.

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

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

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

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

5. 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 requirements of Title 16, California Code of Regulations (CCR) section 1358.1. Respondent shall participate in and successfully complete that program. Respondent shall provide any information and documents that the program may deem pertinent. Respondent shall successfully complete the classroom component of the program not later than six (6) months after

Respondent's 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 program 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 program or not later than 15 calendar days after the effective date of the Decision, whichever is later.

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

The program shall consist of a comprehensive assessment of Respondent's physical and mental health and the six general domains of clinical competence as defined by the Accreditation Council on Graduate Medical Education and American Board of Medical Specialties pertaining to Respondent's current or intended area of practice. The program shall take into account data obtained from the pre-assessment, self-report forms and interview, and the Decision(s), Accusation(s), and any other information that the Board or its designee deems relevant. The program shall require Respondent's on-site participation for a minimum of three (3) and no more than five (5) days as determined by the program for the assessment and clinical education evaluation. Respondent shall pay all expenses associated with the clinical competence assessment program.

At the end of the evaluation, the program will submit a report to the Board or its designee

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

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

If Respondent fails to enroll, participate in, or successfully complete the clinical competence assessment program within the designated time period, Respondent shall receive a notification from the Board or its designee to cease the practice of medicine within three (3) calendar days after being so notified. The Respondent shall not resume the practice of medicine until enrollment or participation in the outstanding portions of the clinical competence assessment program have been completed. If the Respondent did not successfully complete the clinical competence assessment program, the Respondent shall not resume the practice of medicine until a final decision has been rendered on the accusation and/or a petition to revoke probation. The cessation of practice shall not apply to the reduction of the probationary time period.]

7. PROFESSIONAL ENHANCEMENT PROGRAM (PEP). Within 30 calendar days of the effective date of this Decision, Respondent shall participate in a professional enhancement program approved in advance by the Board or its designee that includes, at minimum, quarterly chart review, semi-annual practice assessment, and semi-annual review of professional growth and education. Respondent shall participate in the professional enhancement program at Respondent's expense during the term of probation.

8. NOTIFICATION. Within seven (7) days of the effective date of this Decision, the Respondent shall provide a true copy of this Decision and Accusation to the Chief of Staff or the Chief Executive Officer at every hospital where privileges or membership are extended to Respondent, at any other facility where Respondent engages in the practice of medicine, including all physician and locum tenens registries or other similar agencies, and to the Chief

Executive Officer at every insurance carrier which extends malpractice insurance coverage to Respondent. Respondent shall submit proof of compliance to the Board or its designee within 15 calendar days.

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

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

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. GENERAL PROBATION REQUIREMENTS.

Compliance with Probation Unit

Respondent shall comply with the Board's probation unit.

Address Changes

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

Place of Practice

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

License Renewal

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

Travel or Residence Outside California

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

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

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

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

In the event Respondent's period of non-practice while on probation exceeds 18 calendar

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

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

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

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

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

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

17. LICENSE SURRENDER. Following the effective date of this Decision, if Respondent ceases practicing due to retirement or health reasons or is otherwise unable to satisfy the terms and conditions of probation, Respondent may request to surrender his or her license. The Board reserves the right to evaluate Respondent's request and to exercise its discretion in determining whether or not to grant the request, or to take any other action deemed appropriate and reasonable under the circumstances. Upon formal acceptance of the surrender, Respondent

shall within 15 calendar days deliver Respondent's wallet and wall certificate to the Board or its designee and Respondent shall no longer practice medicine. Respondent will no longer be subject to the terms and conditions of probation. If Respondent re-applies for a medical license, the application shall be treated as a petition for reinstatement of a revoked certificate.

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

ACCEPTANCE

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

DATED: 05/31/19 Jay Milton Beams MD

JAY MILTON BEAMS, M.D.
Respondent

I have read and fully discussed with Respondent Jay Milton Beams, 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: May 31, 2019

EUGENE B. CHITTOCK, ESQ.
Attorney for Respondent

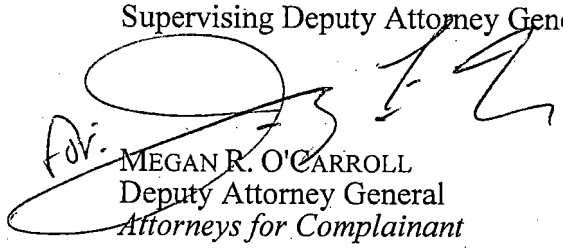
ENDORSEMENT

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

Dated:

Respectfully submitted,

XAVIER BECERRA
Attorney General of California
STEVEN D. MUNI
Supervising Deputy Attorney General



MEGAN R. O'CARROLL
Deputy Attorney General
Attorneys for Complainant

SA2018300320
Stipulated Settlement and Disciplinary Order.docx

Exhibit A

First Amended Accusation No. 800-2015-014375

XAVIER BECERRA
Attorney General of California
ALEXANDRA M. ALVAREZ
Supervising Deputy Attorney General
MARA FAUST
Deputy Attorney General
State Bar No. 111729
1300 I Street, Suite 125
P.O. Box 944255
Sacramento, CA 94244-2550
Telephone: (916) 210-7544
Facsimile: (916) 327-2247

Attorneys for Complainant

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO April 26 2018
BY D. Richards ANALYST

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

In the Matter of the Accusation Against:	Case No. 800-2015-014375
JAY MILTON BEAMS, M.D. **701 Nevada St.** **Susanville, CA 96130** **Physician's and Surgeon's Certificate No. G 15667,** Respondent.	**ACCUSATION**

Complainant alleges:

PARTIES

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

2. On or about October 23, 1968, the Medical Board issued Physician's and Surgeon's Certificate No. G15667 to Jay Milton Beams, M.D. (Respondent). Physician's and Surgeon's Certificate No. G15667 was in full force and effect at all times relevant to the charges brought herein and will expire on August 31, 2019, unless renewed.

///

///

JURISDICTION

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

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

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

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

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

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

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

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

"..."

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

"The board shall take action against any licensee who is charged with unprofessional conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not limited to, the following:

"...

"(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.

"..."

6. Unprofessional conduct under Section 2234 of the Code is conduct which breaches the rules or ethical code of the medical profession, or conduct which is unbecoming to a member in good standing of the medical profession, and which demonstrates an unfitness to practice medicine. (*Shea v. Board of Medical Examiners* (1978) 81 Cal.App.3d 564, 575.)

7. Section 2236 of the Code states, in pertinent part:

"(a) The conviction of any offense substantially related to the qualifications, functions, or duties of a physician and surgeon constitutes unprofessional conduct within the meaning of this chapter. The record of conviction shall be conclusive evidence only of the fact that the conviction occurred.

"...

"(c) The clerk of the court in which a licensee is convicted of a crime shall, within 48 hours after the conviction, transmit a certified copy of the record of conviction to the board. The division may inquire into the circumstances surrounding the commission of a crime in order to fix the degree of discipline or to determine if the

///

conviction is of an offense substantially related to the qualifications, functions, or duties of a physician and surgeon.

"(d) A plea or verdict of guilty or a conviction after a plea of nolo contendere is deemed to be a conviction within the meaning of this section and Section 2236.1. The record of conviction shall be conclusive evidence of the fact that the conviction occurred."

8. Section 2237 of the Code states:

"(a) The conviction of a charge of violating any federal statutes or regulations or any statute or regulation of this state, regulating dangerous drugs or controlled substances, constitutes unprofessional conduct. The record of the conviction is conclusive evidence of such unprofessional conduct. A plea or verdict of guilty or a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning of this section.

"(b) Discipline may be ordered in accordance with Section 2227 or the Division of Licensing[1] may order the denial of the license when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code allowing such person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, complaint, information, or indictment."

9. Section 2238 of the Code states:

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

///

///

[1] "Division of Licensing" shall be deemed to refer to the [Medical] Board (Bus. & Prof. Code, § 2002)

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

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

"..."

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

12. Section 4022 of the Code states, in pertinent part:

"'Dangerous drug' or 'dangerous device' means any drug or device unsafe for self-use in humans or animals, and includes the following:

"(a) Any drug that bears the legend: 'Caution: federal law prohibits dispensing without prescription,' 'Rx only,' or words of similar import.

"..."

13. California Code of Regulations, title 16, section 1360, states:

"For the purposes of denial, suspension or revocation of a license, certificate or permit pursuant to Division 1.5 (commencing with Section 475) of the code, a crime or act shall be considered to be substantially related to the qualifications, functions or duties of a person holding a license, certificate or permit under the Medical Practice Act if to a substantial degree it evidences present or potential unfitness of a person holding a license, certificate or permit to perform the functions authorized by the license, certificate or permit in a manner consistent with the public health, safety or welfare. Such crimes or acts shall include but not be limited to the following: Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate any provision of the Medical Practice Act."

///

///

///

FIRST CAUSE FOR DISCIPLINE
(Conviction of a Crime)

14. Respondent has subjected his Physician's and Surgeon's Certificate No. G15667 to disciplinary action under sections 2227 and 2234, as defined by section 2236, subdivision (a), and 2337, of the Code, and section 1360 of title 16 of the California Code of Regulations, in that he has been convicted of a crime substantially related to the qualifications, functions and duties of a physician and surgeon. The circumstances are as follows:

15. On or about June 5, 2015, in Lassen County Superior Court Case No. CR033033 entitled *The People of the State of California v. Jay Beams*, a felony complaint was filed. Respondent was charged with five (5) felony counts of a violation of Health and Safety Code section 11153, subdivision (a), or issuing a controlled substance prescription without legitimate medical purpose, for conduct occurring from in or around October 2014 through January 2015.

16. On or about December 13, 2017, Respondent pleaded no contest to one count of a misdemeanor violation of Health and Safety Code section 11153, subdivision (a), or issuing a controlled substance prescription without legitimate medical purpose.

17. On or about December 13, 2017, Respondent was sentenced to two (2) years' summary probation with terms and conditions including but not limited to the following: obey all laws, fines, compliance with any terms provided by the Medical Board, one (1) day credit for time served, and 100 community service hours to a non-profit organization.

SECOND CAUSE FOR DISCIPLINE
(Gross Negligence)

18. Respondent has further subjected his Physician's and Surgeon's Certificate No. G15667 to disciplinary action under sections 2227 and 2234, subdivision (b), of the Code, in that he committed gross negligence in the care and treatment of Patients A, B, C, D, and E,[2] as more particularly alleged hereinafter:

///

[2] Letters are used in lieu of names to protect the patients' privacy.

Patient A

19. On or about August 20, 2015, Patient A, a fifty-six-year-old woman and a long-time patient of Respondent, saw Respondent in his office for her diabetes and a perirectal abscess. Patient A had gone to the emergency room on or about August 16, 2015, where the abscess had been drained and Patient A had been prescribed antibiotics. Respondent noted that Patient A still had induration and inflammation and an open wound with an incision approximately 1 inch wide. According to Respondent's records, Patient A was then taking the following medications: (1) Baclofen,[3] 10 mg, one tablet four times a day; (2) Glipizide,[4] 10 mg, one tablet twice a day; (3) Glipizide, 5 mg, one and a half tablets twice a day; (4) Hydrochlorothiaizide,[5] 12.5 mg, one capsule a day; (5) ibuprofen, 800 mg, one tablet three times a day; (6) Metformin,[6] 1,000 mg, one tablet twice a day; (7) Metformin, 850 mg, tablet, one tablet twice a day; (8) Metoprolol Tartrate,[7] 100 mg, one tablet twice a day; (9) Orphenadrine Citrate ER,[8] 100 mg, one tablet twice a day; and (10) Prevastatin,[9] 20 mg, one tablet per day. Respondent reviewed readings of Patient A's A1C[10] and glucose levels that were taken when she was in the hospital. Respondent increased Patient A's Metformin and Glipizide medications, and ordered her to continue the antibiotics that were prescribed while she was in the hospital.

20. On or about August 25, 2015, Patient A returned to Respondent's office for a follow up. Patient A said the abscess was better and was draining less fluid. Respondent ordered a culture of the abscess and a complete blood count.

21. On or about August 31, 2015, Patient A returned to Respondent's office for a follow up. Respondent documented that the abscess was mostly healed, and Patient A was able to return to work. Respondent noted that Patient A's blood pressure had increased, and that she would come back to the office the following week for a hypertension and diabetes follow up.

---

[3] Baclofen is a muscle relaxant used to treat muscle spasms.
[4] Glipizide is a medication used to treat diabetes.
[5] Hydrochlorothiazide is a medication used to treat high blood pressure and edema.
[6] Metformin is a medication used to treat diabetes.
[7] Metoprolol Tartrate is a beta blocker used to treat high blood pressure.
[8] Orphenadrine is a muscle relaxant used to treat muscle discomfort.
[9] Prevastatin is a statin used to treat high cholesterol and triglyceride levels.
[10] The A1C test measures the blood sugar levels in a patient's blood.

Respondent noted that Patient A was to bring her glucose and blood pressure log with her. The note does not mention the status of the culture and complete blood count ordered at the last visit.

22. On or about January 22, 2016, Patient A returned to Respondent's office complaining of muscle spasms. Patient A was asking for a new prescription for a muscle relaxant. Respondent prescribed Baclofen, 10 mg, one tablet four times a day, with three refills. The note for this visit does not include any follow up regarding Patient A's hypertension or diabetes that was documented in the previous visit.

23. On or about February 24, 2016, Patient A returned to Respondent's office to check her hypertension. Respondent noted that Patient A's blood pressure was high measuring at 172/98. Patient A told Respondent that she had been under a lot of stress and was having dental issues. Respondent prescribed Patient A Losartan,[11] 50 mg, one tablet twice a day.

24. On or about March 1, 2016, Patient A returned to Respondent's office to follow up on her hypertension. Patient A's blood pressure was measured to be 185/110. Respondent noted that Patient A's blood pressure had increased since the last visit, and he increased her Losartan prescription to 100 mg, one tablet twice daily. Respondent also prescribed Patient A Buspirone,[12] 10 mg, four times a day, for her nerves. At this visit, Patient A complained of a scratchy throat with pain, sinus pressure, and yellow snot. Respondent prescribed Cipro,[13] 500, mg, twice daily, quantity 30, and Astepro[14] nasal spray.

25. On or about March 8, 2016, Patient A returned to Respondent's office for a follow up on her hypertension. Respondent noted that Patient A's blood pressure was still high, measuring at 164/96 and 170/96. Patient A was complaining of cough and upper chest pain, as well as a painful blister on her heel. Respondent prescribed Tenex,[15] 1 mg, one tablet at bedtime, for Patient A's high blood pressure, and Tessalon Perles,[16] 100 mg, one capsule three times a day, for her cough.

---

[11] Losartan is a medication used to treat high blood pressure.
[12] Buspirone is an anxiolytic used to treat anxiety.
[13] Cipro, short for Ciprofloxacin, is an antibiotic.
[14] Astepro nasal spray, brand name for Azelastine, is a medication used to relieve nasal symptoms.
[15] Tenex, brand name for Guanfacine, is a high blood pressure medication.
[16] Tessalon Perles, brand name for Benzonatate, is a cough medication.

26. On or about March 16, 2016, Patient A returned to Respondent's office for a hypertension follow up. Respondent noted that Patient A's blood pressure had improved to 152/84 and 140/80, but that she was still coughing.

27. On or about March 29, 2016, Patient A returned to Respondent's office complaining of a blister and foot pain. Patient A told Respondent that she got a blister on the back of her foot, and after three days, it had become infected. Patient A also wore shoes that hurt the front of her toes, which left a red ring around her foot and turned her toes red. Respondent noted that Patient A had cellulitis,[17] and cleaned and bandaged the wound on Patient A's right heel. He prescribed Keflex,[18] 500 mg, one tablet every six hours, and SSD[19] 1% topical cream to be applied to the wound twice a day. Respondent advised Patient A to elevate her foot, and ordered her to follow up in one week.

28. On or about April 4, 2016, Patient A returned to Respondent's office to follow up on her wound and cellulitis. Patient A reported having a lot of nerve pain in her toes. Respondent noted that a scab had formed on the wound, and the redness had decreased. Respondent applied more SSD cream and put a new bandage on Patient A's heel. Respondent prescribed Gabapentin,[20] 300 mg, one tablet three times a day, for the nerve pain.

29. On or about April 11, 2016, Patient A returned to Respondent's office to follow up on her wound and cellulitis. Respondent noted that the scab on the wound was looking better, the ulcer was smaller, and the skin on Patient A's toes was improving. Respondent ordered an x-ray of Patient A's toes to ensure that the bone was not infected, and refilled her prescription for Keflex, 500 mg, one tablet every six hours.

30. On or about April 19, 2016, Patient A returned to Respondent's office to follow up on her wound. Respondent noted that the bottom of Patient A's heel was looking much better, and that Patient A did not have any pain at the ulcer but had pain above and under the ulcer.

---

[17] Cellulitis is a bacterial skin infection.

[18] Keflex, brand name for Cephalexin, is an antibiotic.

[19] SSD, or silver sulfadiazine cream, is a sulfa antibiotic used to help prevent and treat wound infections.

[20] Gabapentin is a medication used to treat nerve pain.

Respondent applied more SSD cream and put a new bandage on Patient A's heel. Respondent removed Patient A's middle toenail, applied SSD cream, and bandaged her toe. Respondent noted that Patient A had several sores on her toes, and instructed her to use the SSD cream and bandages wherever they were needed. Respondent ordered Patient A to continue taking Keflex, which he refilled.

31. On or about April 27, 2016, Patient A returned to Respondent's office to follow up on her wound. Respondent prescribed Pentoxifylline ER,[21] 400 mg, one tablet three times a day, to promote better blood flow and healing in Patient A's foot. Respondent noted that Patient A would likely lose another toenail, and that she still had a red ring around her foot and red toes. Patient A told Respondent she lost the x-ray order, and Respondent gave her a new one. For the pain, Respondent increased Gabapentin to 600 mg, one tablet three times a day. Patient A also complained of trouble sleeping, depression, and anger. Respondent prescribed Elavil,[22] 10 mg, one tablet at bedtime.

32. On or about May 5, 2016, Patient A returned to Respondent's office to follow up on her wound. Patient A told Respondent that her toes were bothering her, and that her socks and slippers were rubbing and irritating them. Respondent noted that the ulcer on Patient A's heel was improving, and documented five lesions on Patient A's right foot. Respondent had Patient A continue taking Pentoxifylline, and also prescribed Procardia XL,[23] 30 mg, once daily.

33. On or about May 19, 2016, Patient A returned to Respondent's office to follow up on her wound. Patient A complained of throbbing pain, numbness, redness, and swelling in her right foot. Respondent's medical record indicates that the wound was scarring over, but that the tips of Patient A's toes were "deeply cyanotic" and black. Respondent observed that while the heel was healing, there was a bullseye area around the wound that looked raw. Patient A complained of pain at the joint, and stated that she was taking Pentoxifylline, but had not yet filled the Procardia

[21] Pentoxyfylline is a vasodilator and anti-inflammatory used to treat poor blood circulation.
[22] Elavil, brand name for Amitriptyline, is a nerve pain medication and antidepressant.
[23] Procardia, brand name for Nifedipine, is a calcium channel blocker and antihypertensive drug used to treat high blood pressure.

prescription. Patient A also complained of sleep issues and a lack of appetite. Respondent increased her Elavil prescription to 25 mg, one tablet at bedtime.

34. On or about June 20, 2016, Patient A returned to Respondent's office to follow up on her wound. Patient A told Respondent that she had nerve pain when elevating her foot. Respondent noted that the tips of Patient A's toes and her ulcers looked better. He noted red skin around the toes and scabs, and a ring around the bottom of Patient A's foot. Respondent documented that Patient A's toes were no longer cyanotic. Patient A complained that the Procardia was making her depressed, and that her calves and feet were swollen. Respondent discontinued Procardia, and prescribed an increased dose of Elavil to alleviate Patient A's sleep issues. Respondent also increased Patient A's Gabapentin to 600 mg, two tablets twice a day, and prescribed Keflex, 500 mg, one tablet four times a day, for cellulitis.

35. On or about June 28, 2016, Patient A returned to Respondent's office to follow up on her wound and cellulitis. Respondent noted that he had discontinued Procardia because of leg swelling, which did not improve. Respondent restarted Procardia to increase the circulation in Patient A's toes. Patient A complained of feeling hungover in the morning because of the increased Elavail, and that she had no appetite and was not eating well.

36. On or about July 21, 2016, Patient A returned to Respondent's office to follow up on her wound. Respondent documented in his electronic records that the wound and the cellulitis looked the same, and ordered a follow up in two weeks. Respondent documented in his handwritten note for this date that Patient A's toes had turned purple, the scab had sloughed off, and the skin underneath looked better. In his handwritten note, Respondent ordered a complete blood count, a sed rate, a PTT, a pro-time, and an x-ray of Patient A's right foot. Respondent also prescribed Cipro, 500 mg, one tablet twice a day, quantity 30.

37. On or about August 16, 2016, Patient A returned to Respondent's office to follow up on her wound and cellulitis. Respondent noted that the wound on the right greater toe had grown, and that Patient A's second and third toes were black and grey with dry gangrene. Respondent documented that he wanted Patient A to see a wound care specialist in Redding. In his interview

with the Board, Respondent said that his office made an appointment for Patient A for a wound care specialist.

38. On or about November 17, 2016, Patient A returned to Respondent's office. Respondent did not document this visit in his chart. In an interview with the Board, Respondent stated that he could see all the tendons in Patient A's leg, and that her leg smelled like a dead animal. Respondent told Patient A's son to take Patient A to the hospital in Reno, Nevada. Respondent believed Patient A had gas gangrene, and that she had been septic for several days.

39. On or about November 17, 2016, Patient A was taken to Renown Regional Medical Center Emergency Department in Reno. The records from Renown show that Patient A had open wounds in both feet. Her right foot was noted as having dry black necrotic toes, and her left foot had macerated, weeping toes. Patient A was in an altered and confused mental state. Patient A was admitted to the Coronary Intensive Care unit, was administered antibiotics, and had her right foot amputated. She was diagnosed with diabetic ketoacidosis, diabetic foot infection, gangrene of the foot, pneumonia, sepsis, and acute renal failure. She died on or about November 19, 2016, two days after she was admitted to the hospital.

40. Respondent committed gross negligence in the care and treatment of Patient A, for the following: (1) failing to follow accepted guidelines in the care of Patient A related to her diabetes; (2) failing to assess the arteries in Patient A's feet or respond to signs of decreased artery flow; and (3) failing to properly assess and manage Patient A's foot ulcers.

Patient B

41. Patient B is Respondent's adult nephew who had a history of alcohol and drug abuse, acute and chronic pancreatitis, and diabetes. From the late 1990s onwards, Patient B had numerous hospital admissions for alcohol intoxication, drug overdose, stab wounds to his abdomen, a major car accident, severe lower extremity cellulitis, and acute epigastric pain, amongst other conditions. Multiple attempts were made to treat Patient B's substance abuse through various treatment facilities, including a drug rehab program in Kentucky in 2013. Respondent and Respondent's brother, also a physician, had treated Patient B as an adult since

approximately 1992. For many of Patient B's hospital admissions in Susanville, California, Respondent was his attending physician.[24]

42. On or about September 18, 1999, Respondent wrote an admission history and physical for Patient B at Lassen Community Hospital, in which he documented that at the time, Patient B was on a Methadone[25] maintenance plan from a clinic in Reno. Patient B's daily dose of Methadone at that time was 76 mg a day.

43. According to Respondent's records, in or around March and April 2008, Patient B received approximately eighteen (18) injections of Demerol[26] at doses ranging from 75 mg to 150 mg. Most of the injections were ordered by Respondent's brother. On or about October 30, 2008, Respondent's records indicate that Patient B received final injections of Demerol, 100 mg, and Phenergan,[27] 50 mg, because Patient B was about to start treatment with another provider, S.U., M.D.

44. From on or about January 4, 2010 through on or about November 30, 2010, Respondent was prescribing Patient B approximately 240 to 360 tablets of Methadone, 10 mg, every two or three weeks. Patient B was also receiving and filling Methadone prescriptions from S.U., M.D., and another treatment provider, D.S., M.D.

45. From on or about February 8, 2011 through on or about June 15, 2011, prescription records indicate that Patient B filled five (5) prescriptions for Methadone, 10 mg, quantity 600 tablets, for a total of 3,000 tablets, prescribed by Respondent. Unbeknownst to Respondent, Patient B also received 240 tablets of Methadone, 10 mg, from treatment provider S.U., M.D., on or about February 28, 2011. Patient B told Board investigators that he was intentionally "doctor shopping" to obtain narcotics. When asked by Board investigators about these Methadone

---

[24] Conduct occurring more than seven (7) years from the filing date of this Accusation is for informational purposes only and is not alleged as a basis for disciplinary action.

[25] Methadone is an opioid used to treat pain and as a maintenance therapy for opioid dependent patients. Methadone is a Schedule II controlled substance pursuant to Health and Safety Code section 11055, subdivision (c)(14).

[26] Demerol, brand name for Meperidine, is an opioid used to treat pain. Demerol is a Schedule II controlled substance pursuant to Health and Safety Code section 11055, subdivision (c)(17).

[27] Phenergan, brand name for Promethazine, is a sedative medication commonly used to treat motion sickness, nausea, or allergy symptoms.

prescriptions, Respondent denied prescribing that quantity, and said he was unaware that Patient B was being prescribed Methadone by other treatment providers. Respondent said that he prescribed Patient B Methadone to treat his pain. Respondent's medical records failed to document any treatment Respondent provided Patient B from February through June 2011.

46. From on or about September 12, 2011 through on or about January 1, 2012, prescription records appear to indicate that Patient B was at a skilled nursing facility. During this period of time, Respondent prescribed Patient B Hydromorphone,[28] Oxycontin,[29] Lorazepam,[30] and Morphine Sulfate.[31]

47. From on or about February 3, 2012 through on or about September 19, 2012, Respondent prescribed Patient B Hydromorphone, Methadone, Lorazepam, and Kadian[32] while Patient B was receiving Hydromorphone and Oxycodone from other treatment providers. Respondent failed to document that he prescribed these medications to Patient B during this time period.

48. On or about March 20, 2012, Respondent ordered a drug screen for Patient B. The results reported on or about March 29, 2012 show that the sample tested positive for the following: opiates, Morphine, Methadone, Meperidine, benzodiazepines and related metabolites including Nordiazepam,[33] Temazepam,[34] and Oxazepam.[35] The results of this drug screen were inconsistent with Patient B's prescribed medications.

---

[28] Hydromorphone, brand name Dilaudid, is an opioid used to treat pain, and is a Schedule II controlled substance pursuant to Health and Safety Code section 11055, subdivision (b)(1)(J).

[29] Oxycontin, brand name for Oxycodone, is an opioid used to treat pain, and is a Schedule II controlled substance pursuant to Health and Safety Code section 11055, subdivision (b)(1)(M).

[30] Lorazepam, brand name Ativan, is a benzodiazepine used to treat anxiety, and is a Schedule IV controlled substance pursuant to Health and Safety Code section 11057, subdivision (d)(16).

[31] Morphine Sulfate is an opioid used to treat pain, and is a Schedule II controlled substance pursuant to Health and Safety Code section 11055, subdivision (b)(1)(L).

[32] Kadian is Morphine Sulfate Extended Release.

[33] Nordiazepam is a metabolite of Diazepam. Diazepam, brand name Valium, is a benzodiazepine used to treat anxiety, and is a Schedule IV controlled substance pursuant to Health and Safety Code section 11057, subdivision (d)(9).

[34] Temazepam, brand name Restoril, is a benzodiazepine used to treat anxiety, and is a Schedule IV controlled substance pursuant to Health and Safety Code section 11057, subdivision (d)(29).

[35] Oxazepam is a metabolite of Diazepam and Temazepam.

49. From on or about September 20, 2012 through on or about October 11, 2012, prescription records appear to indicate that Patient B was at a skilled nursing facility. During this period of time, Respondent prescribed Patient B Oxycodone, Hydromorphone, Endocet,[36] and Alprazolam.[37] Respondent's records include a note dated October 16, 2012 from the skilled nursing facility, documenting that Patient B tested positive for Hydrocodone[38] with no valid prescription, and that discarded Vicodin[39] was found in a trash can.

50. On or about October 24, 2012, Patient B was admitted to Banner Lassen Medical Center for cellulitis of the left hand. Patient B had diluted Oxycodone with water and tried to inject it into his hand, causing swelling and a fever. He was transferred to Renown Medical Center for further treatment, and was discharged on or about October 31, 2012.

51. On or about November 18, 2012, Patient B was admitted to the Banner Lassen Medical Center in Susanville, California, for a self-inflicted stab wound in the abdomen.

52. From on or about January 10, 2013 through on or about August 24, 2014, Respondent prescribed Patient B Alprazolam, Diazepam, Chlordiazepoxide,[40] Lorazepam, and Hydrocodone Bitartrate Acetaminophen. Respondent failed to maintain records documenting that he prescribed these medications to Patient B.

53. From on or about May 30, 2014 through on or about August 24, 2014, Respondent prescribed Patient B the following medications:

a. On or about May 30, 2014, Patient B filled a prescription for Alprazolam, 0.25 mg, quantity 15, prescribed by Respondent.

b. On or about June 4, 2014, Patient B filled a prescription for Diazepam, 10 mg, quantity 40, prescribed by Respondent.

---

[36] Endocet, brand name for Oxycodone and Acetaminophen, is an opioid used to treat pain.

[37] Alprazolam, brand name Xanax, is a benzodiazepine used to treat anxiety, and is a Schedule IV controlled substance pursuant to Health and Safety Code section 11057, subdivision (d)(1).

[38] Hydrocodone is an opioid used to treat pain, and is a Schedule II controlled substance pursuant to Health and Safety Code section 11055, subdivision (b)(1)(I).

[39] Vicodin, brand name for Hydrocodone Bitartrate and Acetaminophen, is an opioid used to treat pain.

[40] Chlordiazepoxide, brand name Librium, is a benzodiazepine used to treat anxiety, insomnia, and withdrawal symptoms from alcohol and drug abuse, and is a Schedule IV controlled substance pursuant to Health and Safety Code section 11057, subdivision (d)(5).

c. On or about June 11, 2014, Patient B filled a prescription for Chlordiazepoxide, 25 mg, quantity 40, prescribed by Respondent.

d. On or about July 4, 2014, Patient B filled a prescription for Chlordiazepoxide, 25 mg, quantity 30, prescribed by Respondent.

e. One day later, on or about July 5, 2014, Patient B filled two prescriptions for Chlordiazepoxide, 25 mg, for 30 capsules each, both prescribed by Respondent. Patient B filled the prescriptions at two different pharmacies.

f. On or about July 22, 2014, Patient B filled a prescription for Lorazepam, 0.5 mg, quantity 30, prescribed by Respondent.

g. On or about July 27, 2014, Patient B filled a prescription for Lorazepam, 0.5 mg, quantity 30, prescribed by Respondent.

h. On or about August 7, 2014, Patient B filled a prescription for Diazepam, 10 mg, quantity 30, prescribed by Respondent.

i. On or about August 18, 2014, Patient B filled a prescription for Lorazepam, 1 mg, quantity 15, prescribed by another treatment provider, P.H., M.D.

j. On or about August 24, 2014, Patient B filled a prescription for Diazepam, 5 mg, quantity 56, prescribed by P.H., M.D.

k. On or about August 24, 2014, Patient B filled a prescription for Lorazepam, 1 mg, quantity 30, prescribed by Respondent.

l. In his interview with Board investigators, Respondent stated that he prescribed Patient B Librium for the DTs (delirium tremens), but could not provide a justification for prescribing Patient B four different benzodiazepines during this time period, nor could he explain the amount of medications he was prescribing.

54. In his interview with Board investigators, Respondent was asked whether he used the CURES[41] system to check on his patients' prescription history. Respondent said that he started

[41] CURES is an acronym for the Controlled Substance Utilization Review and Evaluation System, and is a database maintained by the California Department of Justice "[t]o assist health care practitioners in their efforts to ensure appropriate prescribing, ordering, administering, furnishing, and dispensing of controlled substances" pursuant to Health and Safety Code section 11165, subdivision (a).

using CURES as soon as it was available, which was in or around 2014. Records obtained by the Board indicate that Respondent first accessed the CURES system in or around February 2015.

55. Respondent committed gross negligence in his care and treatment of Patient B for the following: (1) failing to treat Patient B's chronic, non-cancer pain with non-opioid measures; (2) failing to document the medical indication for increasing Patient B's Methadone dose; (3) prescribing four different benzodiazepines in a three-month time period in 2014; (4) failing to obtain an electrocardiogram for Patient B when prescribing Methadone; (5) failing to review Patient B's CURES report prior to prescribing controlled substances; and (6) failing to keep adequate and accurate records.

Patient C

56. On or about July 28, 2014, Patient C, a thirty-eight-year old man and an undercover special agent for the Bureau of Medi-Cal Fraud and Elder Abuse, presented to Respondent complaining of right ankle soreness. Respondent touched Patient C's inner right ankle and asked him if it hurt. Patient C explained to Respondent that he had previously tried taking his friend's Norco[42] pills which had alleviated his pain. Patient C asked Respondent for a Norco prescription, which Respondent declined to do. Respondent prescribed Patient C Tramadol,[43] 50 mg, quantity 50, one tablet every four to six hours for pain.

57. On or about August 18, 2014, Patient C returned to Respondent's office to follow up on his right ankle. Patient C complained that his right ankle was still sore, and that the medication did not work. Patient C told Respondent that he did not go to get an x-ray. Patient C also said that the Tramadol was not effective. Respondent did not perform a physical examination of Patient C's ankle. Respondent prescribed Patient C Norco, 5/325 mg, quantity 50, one tablet every four to six hours for pain as needed.

58. On or about September 22, 2014, Patient C returned to Respondent's office to follow up on his right ankle. Patient C reported that the Norco was helpful and that he wanted a refill or

[42] Norco, brand name for hydrocodone-acetaminophen, is an opioid used to treat pain.
[43] Tramadol, brand name Ultram, is an opioid agonist used to treat pain, and is a Schedule IV drug per the Controlled Substances Act of 1970.

something stronger. Patient C told Respondent that he had still not gotten an x-ray. Respondent did not perform a physical examination of Patient C's ankle. At the end of this visit, Respondent prescribed Patient C Norco, 5/325 mg, quantity 50.

59. On or about October 13, 2014, Patient C returned to Respondent's office to follow up on his right ankle. Patient C told Respondent his ankle was feeling good, but he finished his Norco prescription early and had borrowed some Norco pills from a friend. Patient C asked for a Norco refill to pay his friend back. Respondent told Patient C that it was against the law, and that he was not supposed to hear that Patient C was going to pay his friend back. At the end of the visit, Respondent gave Patient C a prescription for Norco at an increased strength, 10/325 mg, quantity 50. Respondent did not perform a physical examination of Patient C's ankle. Respondent's medical records for Patient C failed to document the medical indication for increasing the strength of Patient C's pain medication. Respondent's electronic medical records inaccurately documented that Patient C was prescribed Norco, 5/325 mg, quantity 50, at this visit.

60. On or about November 13, 2014, Patient C returned to Respondent's office for a follow up. Patient C told Respondent's medical assistant that his ankle was "doing good," which was documented in Respondent's chart. When Respondent appeared in the exam room, Respondent failed to question Patient C about his right ankle. Despite Patient C's reported progress, Respondent gave Patient C a prescription for Norco, 10/325 mg, quantity 50. Respondent did not perform a physical examination of Patient C's ankle. Respondent's electronic medical records inaccurately documents that Patient C was prescribed Norco, 5/325 mg, quantity 50, at this visit.

61. On or about December 8, 2014, Patient C returned to Respondent's office for a follow up. Patient C was given additional documentation to complete, including a chronic pain management questionnaire and a pain diary, which Patient C was instructed to fill out at home and bring back at his next appointment. Patient C told Respondent that his right ankle pain had resolved, but that he still wanted a refill for Norco. Patient C told Respondent and his medical assistant that despite being given a 30-day supply at his last visit, he had finished his Norco pills early. Respondent refused to give Patient C another prescription for Norco, but offered to

prescribe him Tramadol. Instead, Respondent prescribed Patient C Motrin, 800 mg, quantity 90, three times a day.

62. In his interview with Board investigators, Respondent stated that he checked Patient C's prescription history in CURES, and that nothing had shown up. In fact, records obtained by the Board indicate that Respondent first accessed the CURES system in or around February 2015.

63. Respondent committed gross negligence in his care and treatment of Patient C for the following: (1) failing to perform a physical examination on Patient C prior to prescribing controlled substances for pain; (2) prescribing Norco with no demonstrated pain pathology; (3) prescribing Norco to Patient C, who exhibited aberrant, drug-seeking behavior; and (4) failing to review Patient C's CURES report prior to prescribing controlled substances.

Patient D

64. On or about September 22, 2014, Patient D, a thirty-two-year old man and an undercover special agent for the Bureau of Medi-Cal Fraud and Elder Abuse, presented to Respondent complaining of right elbow pain. Patient D said he was training in martial arts and had injured his elbow before, and that he had tried ibuprofen which did not help. Patient D also told Respondent that he had previously tried Vicodin and Soma[44] which he obtained from a training partner. Respondent conducted a physical examination of Patient D. Respondent ordered an x-ray of Patient D's elbow. To treat the elbow pain, Respondent gave Patient D prescriptions for Mobic,[45] 15 mg daily, quantity 30, and Norco, 10/325 mg, quantity 50, one tablet every four hours as needed for pain. Respondent's handwritten medical record failed to document that Respondent gave Patient D a prescription for Norco. Respondent's electronic records erroneously document that Respondent prescribed 180 Norco tablets at this visit.

65. On or about October 14, 2014, Patient D returned to Respondent's office for a follow up. Patient D told Respondent that his right elbow was doing okay, and that the Mobic and Norco were helping. Patient D said that he was taking several Norco pills a day. Patient D said he had

[44] Soma, brand name for Carisoprodol, is a muscle relaxant and a Schedule IV controlled substance per the Controlled Substances Act of 1970.

[45] Mobic, brand name for Meloxicam, is a nonsteroidal anti-inflammatory drug (NSAID).

looked into getting x-rays done but had not gotten them done yet. At the end of the visit, Respondent prescribed Patient D Mobic, 15 mg, quantity 30, and Norco, 10/325 mg, quantity 60, one tablet every four to six hours as needed for pain.

66. On or about November 12, 2014, Patient D returned to Respondent's office for a follow up. Patient D told Respondent that he did not get his elbow x-rayed and that he was going to cancel that day's appointment, but he needed to come in because he had run out of medication. Patient D explained that he had been giving his medication to other men that he trained with because they did not have insurance. A medical assistant told Patient D that he had to give a urine specimen for drug screening. Patient D was permitted to provide a mouth swab instead. Patient D told the medical assistant that his elbow was "so so" and that it felt better when he limited his activity. Respondent refilled Patient D's prescriptions for Mobic, 15 mg, quantity 30, and Norco, 10/325 mg, quantity 60. Patient D told Respondent that he had not taken his medication for a few weeks, and asked if that would affect his drug screen. Respondent told Patient D that he could not share his medications, and that the drug screen may show that there were no medications in his system.

67. On or about November 20, 2014, the results were reported for Patient D's drug screening taken on November 12, 2014. Patient D's buccal swab tested negative for Hydrocodone, which was inconsistent with his prescribed medications.

68. On or about December 8, 2014, Patient D returned to Respondent's office for a follow up. Respondent went over Patient D's x-ray results, which were normal. Respondent also went over the inconsistent drug screen results with Patient D. Patient D explained his inconsistent test results to Respondent, saying that he had run out of Norco early because he had given some of his medication to some guys he had been training with. Respondent told Patient D that he could not give Norco pills to his training partners. Patient D requested 90 tablets for the next refill, which Respondent refused to do. Despite the normal x-ray and inconsistent drug screen, Respondent refilled Patient D's prescriptions for Mobic, 15 mg, quantity 30, and Norco, 10/325 mg, quantity 60.

69. On or about January 22, 2015, Patient D returned to Respondent's office for a follow up. Patient D told Respondent's medical assistant that he was trying to get over a cold, but that he had come to the office for his elbow. Respondent's medical assistant gave Patient D a pain contract, and told him that it was an agreement between Patient D and Respondent; that Patient D would only get medication from one doctor and use one pharmacy to fill those prescriptions. Patient D signed the pain contract. Respondent documented and performed a physical examination of Patient D's upper respiratory system relating to Patient D's cold symptoms. Respondent refilled Patient D's prescriptions for Mobic, 15 mg, quantity 30, and Norco, 10/325 mg, quantity 60. During this visit, Patient D reminded Respondent of a conversation they had at the previous visit, when Patient D told him that he would bring in his training partner to obtain his own prescription for pain medication. Respondent agreed to see the training partner who was an undercover investigator for the California Department of Health Care Services. Patient D and the training partner both spoke to Respondent in the exam room, telling Respondent that Patient D gave the training partner some of his Norco pills. Respondent declined to prescribe the training partner Norco, but gave him a prescription for Tramadol.

70. In his interview with Board investigators, Respondent stated that he checked Patient D's prescription history in CURES, and that nothing had shown up. In fact, records obtained by the Board indicate that Respondent first accessed the CURES system in or around February 2015.

71. Respondent committed gross negligence in the care and treatment of Patient D for the following: (1) prescribing Norco when there was no demonstrated pain pathology, (2) prescribing Norco when Patient D admitted to diverting his medication; and (3) failing to review Patient D's CURES report prior to prescribing controlled substances.

Patient E

72. On or about November 17, 2014, Patient E, a forty-five-year-old man and an undercover special agent for the Bureau of Medi-Cal Fraud and Elder Abuse, presented to Respondent complaining of right wrist pain. Patient E told Respondent that it hurt when he used a screw driver and when he used a computer mouse. Respondent physically examined Patient E's

wrist and noted tenderness. At this visit, Respondent advised Patient E to use a neutral wrist splint and prescribed Meloxicam, 15 mg. Patient E was to follow up in one month.

73. On or about December 9, 2014, Patient E returned to Respondent's office for a follow up on his arm. Patient E told Respondent and his medical assistant that the wrist pain had worsened, and that he was also having trouble falling asleep. Patient E also asked Respondent to prescribe him Norco. When Respondent asked Patient E which wrist hurt, Patient E pointed to his left wrist. Respondent incorrectly noted in Patient E's medical record that Patient E was following up on his right wrist pain. Respondent noted that the Meloxicam had not been helping, and prescribed Ultram, 50 mg, quantity 60, one to two tablets every four to six hours as needed for pain.

74. On or about January 21, 2015, Patient E returned to Respondent's office for a follow up, and submitted to a buccal drug screen. Patient E reported to Respondent that the pain was getting better, but that he had not been working much. Patient E told Respondent that he might test positive for marijuana on the drug screen because he smoked. Respondent said that was okay. Patient E told Respondent that he had started a new job in Reno, and wanted to get a prescription for Marinol[46] because his new employer was going to drug test him, and he knew he would test positive for marijuana. Patient E wanted a Marinol prescription so that he would not get in trouble at work. Respondent asked Patient E if he knew the price of Marinol, and whether his new employer would care if he smoked marijuana on the job. Patient E told Respondent that he would be okay as long as he had a prescription. Respondent asked Patient E how often he smoked, to which Patient E replied "here and there to relax." Respondent asked if Patient E had any nausea. Patient E said he did sometimes, and added "if that's what it takes." Respondent prescribed Patient E Marinol, 2.5 mg, quantity 10. Respondent failed to document in Patient E's medical record that Patient E wanted the prescription to pass a drug screening with his employer.

75. On or about January 30, 2015, Patient E's drug screen results were reported, showing that they were consistent with his prescribed medications.

[46] Marinol, brand name for Dronabinol, is a cannabinoid used to treat anorexia associated with weight loss in patients with AIDS and nausea and vomiting caused by cancer chemotherapy.

76. In his interview with Board investigators, Respondent stated that he checked Patient E's prescription history in CURES, and that nothing had shown up. In fact, Records obtained by the Board indicate that Respondent first accessed the CURES system in or around February 2015.

77. Respondent committed gross negligence in the care and treatment of Patient E for prescribing Marinol for the purpose of justifying a positive drug test with Patient E's employer, and for failing to review Patient E's CURES report prior to prescribing controlled substances.

THIRD CAUSE FOR DISCIPLINE
(Repeated Negligent Acts)

78. Respondent has further subjected his Physician's and Surgeon's Certificate No. G15667 to disciplinary action under sections 2227 and 2234, subdivision (c), of the Code, in that he committed repeated negligent acts in the care and treatment of Patients A, B, C, D, and E, as more particularly alleged in paragraphs 19 through 77, above, which are hereby incorporated by reference and re-alleged as if fully set forth herein.

FOURTH CAUSE FOR DISCIPLINE
(Prescribing Without an Appropriate Prior Examination and Medical Indication)

79. Respondent has further subjected his Physician's and Surgeon's Certificate No. G15667 to disciplinary action under sections 2227 and 2242, of the Code, in that he furnished dangerous drugs without appropriate prior examination and medical indication to Patient C, as more particularly alleged in paragraphs 56 through 63, above, which are hereby incorporated by reference and re-alleged as if fully set forth herein.

FIFTH CAUSE FOR DISCIPLINE
(Violation of State Statutes Regulating Dangerous Drugs or Controlled Substances)

80. Respondent has further subjected his Physician's and Surgeon's Certificate No. G15667 to disciplinary action under sections 2227 and 2238, of the Code, in that he violated state statutes regulating dangerous drugs or controlled substances in his care and treatment of Patient C, as more particularly alleged in paragraphs 56 through 63 and 79, above, which are hereby incorporated by reference and re-alleged as if fully set forth herein.

///

///

SIXTH CAUSE FOR DISCIPLINE
(Failure to Maintain Adequate and Accurate Records)

81. Respondent has further subjected his Physician's and Surgeon's Certificate No. G15667 to disciplinary action under sections 2227 and 2234, as defined by section 2266, of the Code, in that he failed to maintain adequate and accurate records regarding his care and treatment of Patients A, B, C, D and E, as more particularly alleged in paragraphs 38, 41 through 55, 59 through 60, 64, and 73 through 74, above, which are hereby incorporated by reference and re-alleged as if fully set forth herein.

SEVENTH CAUSE FOR DISCIPLINE
(Unprofessional Conduct)

82. Respondent's Physician's and Surgeon's Certificate No. G15667 is further subject to disciplinary action under sections 2227 and 2234, of the Code, in that he has engaged in conduct which breaches the rules or ethical code of the medical profession, or conduct which is unbecoming to a member in good standing of the medical profession, and which demonstrates an unfitness to practice medicine, as more particularly alleged in paragraphs 14 through 81, above, which are hereby incorporated by reference and re-alleged as if fully set forth herein.

PRAYER

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

1. Revoking or suspending Physician's and Surgeon's Certificate No. G15667, issued to Respondent Jay Milton Beams, M.D.;

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

///

///

///

///

///

///

3. Ordering Respondent Jay Milton Beams, M.D., if placed on probation, to pay the Board the costs of probation monitoring; and

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

DATED: April 26, 2018

KIMBERLY KIRCHMEYER
Executive Director
Medical Board of California
State of California
Complainant

SA2018300320
81960045.doc