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

In the Matter of the Accusation Against:	)	
	)	
	)	
Thomas A. Sazani, M.D.	)	MBC File # 800-2015-018076
	)	
	)	
Physician's & Surgeon's Certificate No. A 42368	)	
	)	
	)	
Respondent.	)	

ORDER CORRECTING NUNC PRO TUNC
EXPERT WITNESS' NAME IN THE DECISION

On its own motion, the Medical Board of California (hereafter "board") finds that there are clerical errors reflecting the expert witness' name in the above-entitled matter and that such clerical errors should be corrected.

IT IS HEREBY ORDERED that the expert witness' name contained in the Proposed Decision in the above-entitled matter be and hereby is amended and corrected nunc pro tunc as of the date of entry of the decision to reflect "Dr. Geller," in thirteen instances, beginning on page 3, paragraph number 6.

September 3, 2019

Kristina D. Lawson, J.D.,
Chair
Panel B

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

In the Matter of the Accusation Against:	)	
Thomas A. Sazani, M.D.	)	**Case No. 800-2015-018076**
Physician's and Surgeon's Certificate No. A 42368	)	
Respondent	)	

DECISION

The attached Proposed Decision 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 September 6, 2019.

IT IS SO ORDERED August 7, 2019.

MEDICAL BOARD OF CALIFORNIA

By: Kristina Lawson
Kristina D. Lawson, J.D., Chair
Panel B

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

In the Matter of the Accusation against:

THOMAS SAZANI, M.D.,

Physician's and Surgeon's Certificate No. A42368,

Respondent.

Agency Case No. 800-2015-018076

OAH No. 2019021106

PROPOSED DECISION

Howard W. Cohen, Administrative Law Judge (ALJ), Office of Administrative Hearings, State of California, heard this matter on June 24 and 25, 2019, in Los Angeles.

Beneth A. Browne, Deputy Attorney General, represented complainant Kimberly Kirchmeyer, Executive Director of the Medical Board of California (Board), Department of Consumer Affairs.

Respondent Thomas Sazani, M.D., appeared and represented himself.

Oral and documentary evidence was received. The record was closed and the matter was submitted on June 25, 2019.

SUMMARY

Complainant seeks to discipline respondent's physician's and surgeon's certificate on grounds of gross negligence, repeated negligent acts, inadequate and inaccurate recordkeeping, unprofessional conduct with respect to telehealth, and other unprofessional conduct. Complainant alleged that respondent provided medical advice to users of Diabetes Daily, an online forum for patients with diabetes, without physically examining the patients, without obtaining a thorough history from them, and without ordering or reviewing tests to monitor their response to medications. Respondent denies the allegations and asserts cause for discipline does not exist.

FACTUAL FINDINGS

Jurisdictional Matters

1. Complainant filed the Accusation in her official capacity. Respondent timely filed a notice of defense.

2. The Board issued Physician's and Surgeon's Certificate No. A42368 to respondent on December 16, 1985. Respondent's certificate was in full force and effect at all relevant times and is scheduled to expire on November 30, 2019. Respondent's certificate has twice previously been disciplined.

Expert Witnesses

3. Complainant called Jordan Geller, M.D. as an expert witness. Dr. Geller received his medical degree from the University of Southern California Keck School of Medicine in 2001, completed a residency in general internal medicine at Cedars-Sinai Medical Center in Los Angeles in 2004, and a post-doctoral fellowship in endocrinology, diabetes, and metabolism in the Division of Endocrinology, Diabetes and Metabolism at Cedars-Sinai Medical Center in 2006. He completed a National Institutes of Health clinical research fellowship in 2005, training doctors in clinical research and clinical trials. He is certified by the American Board of Internal Medicine and of the American Board of Endocrinology, Diabetes and Metabolism. He is licensed to practice in California; his medical practice focuses on endocrinology and diabetes.

4. Respondent called no expert witnesses.

Respondent's Acts

5. Respondent's current practice is based in Santa Barbara, focused for the past decade on evaluating patients as candidates for medical cannabis. Around October 30, 2015, respondent created a profile on Diabetes Daily, an online forum for patients with diabetes. In his online profile, respondent identified himself as a physician diagnosed in 2005 with type 2 diabetes. He began participating in the forum's online discussion, under the username "tsanzani," sharing his own experience with diabetes and making recommendations to other participants regarding treatment for their diabetes.

6. Dr. Garner testified that the standard of care for treating a patient with diabetes requires the physician to:

a. Take a thorough history, including exploring how long the patient has been diagnosed with diabetes; what type of diabetes the patient has; complications such as vision loss, cardiovascular disease, strokes, poor blood flow or neuropathy in feet; diet and exercise; medications taken and their side effects, allergies, and types of insulin taken; and how often blood sugar is checked and whether the patient has had hypoglycemia.

b. Perform a detailed physical examination (PE), including checking vital signs, heart, lungs, feet, and pulse, injection complications, blood tests for sugar, liver, kidneys, A1C (a blood sugar marker), and cholesterol, and urine tests, and downloading data the patient has logged when using a glucometer, an instrument used at home to measure blood sugar.

c. Make recommendations for medications and lifestyle, and closely follow up to assess the patient's condition and the effects of the physician's intervention. It is important to establish the type of diabetes a patient has, in order to determine the appropriate treatment. Type 1 diabetes patients are treated with insulin injections; Type 2 diabetes patients are treated with oral medication. Gestational patients are treated with diet and close observation by a medical nutritionist and receive frequent blood sugar and urine tests and tests for pancreatic insufficiency, which can affect nutrition; or a patient may have medication-induced diabetes, resulting from steroids (e.g., prednisone) or medications for organ transplants. Diet significantly affects blood sugar, and affects what medications are prescribed, as does the type and frequency of exercise. Physicians must order a comprehensive metabolic panel, examining kidney and liver function, blood sugar, and electrolytes, and a urine test for renal function, to see whether a patient can process the prescribed medications or is

having side effects. Also indicated is a lipid panel that tests for cholesterol levels, as diabetes is the primary cause of heart disease.

7. Dr. Garner testified that he is also familiar with the standard of care for practicing telemedicine, an emerging area of practice wherein physicians consult with patients using an online medium, such as email or Skype. It is useful when a patient cannot visit the doctor's office due to illness or for other reasons. Dr. Garner testified that the standard of care is the same as when the doctor sees the patient in person, the limitation being that the physician cannot physically touch the patient. Telemedicine is used, therefore, for established patients who have already been examined in person. Dr. Garner testified that physicians may properly participate as patients on internet bulletin boards as long as they (a) do not describe themselves as physicians; and (b) do not give medical advice.

8. Dr. Garner wrote a report to the Board, dated January 31, 2018, assessing respondent's online postings. He wrote, and testified, that respondent's postings included medical advice, accompanied by a disclaimer that nothing he posted was to be considered medical advice. Respondent's medical advice included recommendations that patients using the online forum change medications or take certain medications, recommendations about when the patients should take medications, and interpretations of patients' blood tests and blood gas results. To determine whether respondent's recommendations were sound, Dr. Garner testified, one must know all the other components of a good medical evaluation. Those components are absent in respondent's interactions with the online patients, thereby deviating from the standard of care and creating unwarranted risks to the patients' health and safety.

9. Dr. Garner addressed respondent's entries on the web forum from October 2015 to November 2016, including the following examples.

a. On October 30, 2015, in response to a post, "Anyone taking Lisinopril?", respondent posted, "By tsazani: I like to recommend ACEI or ARB at bedtime. Give those arteries a rest while you sleep. Most AMI and CVA occur at dawn. You might benefit from the lower AM BP."

b. On October 30, 2015, in response to a post, "Eliminate Metformin?", respondent posted, "By tsazani: Try it for 3 months, Take a FBG and 2hr post meal BG daily. If they are good and your A1c is OK in 3 months. You're good to go."

c. On November 8, 2015, in response to a post, "I'm frustrated with my numbers", respondent posted "By tsazani: You're 54 with great numbers. First, ignore the BG spikes post strenuous exercise. It's a 'fight or flight' stress hormone dump of glucose into your blood. Notice how it clears up in one hour?"

d. On November 10, 2015, in response to a post, "Well lynn life is full of surprises!!!!", respondent posted "By tsazani: Pulmonary embolism is very unlikely but I'm glad she tested for it. What did the chest x-ray and pulmonary function tests show? Your elevated hematocrit is simply (longterm) compensation for . . ."

e. On November 11, 2015, in response to a post, "Well lynn life is full of surprises!!!!", respondent posted "By tsazani: @Calgary diabetes. I hope I don't get into trouble for this. Your ABG is classic example of well compensated pt suffering from chronic or restrictive lung disease."

f. On November 20, 2015, in response to a post, "Blood sugar", respondent posted, "By tsazani: Glucometers are allowed a 20% error margin by the FDA. That means your reading of 100 mg/dl could be anywhere between 80-120."

g. On December 13, 2015, in response to a post, "Increasing exercise MHR", respondent posted, "By tsazani: The most important tests for your DM are YOUR glucometer results."

h. On November 12, 2016, in response to a post, "Conundrum," respondent posted, "By tsazani: In my professional opinion your physician should maximize the Metformin before adding another DM2 med like farxiga."

i. On November 13, 2016, in response to a post, "Conundrum," respondent posted, "By tsazani: if you want or need to lose weight you need to LOWER your insulin resistance (IR). My advice is to SAFELY maximize your best anti-IR weapons: LCHF +exercise+ Metformin. Next steps would be to try . . . ."

(Exs. 10, 17.)

10. Regarding the first October 30, 2015, post (see Factual Finding 9a), which at the time of hearing had 14,165 views, Dr. Garner testified that ACE Inhibitors (ACEI)[1] or ARB[2] are blood pressure medications also used to treat diabetes patients. They can cause side effects (e.g., low blood pressure, dizziness, and fainting). Respondent recommends using ACE inhibitors or ARB at bedtime. The value of this advice depends

[1] Angiotensin-converting enzyme inhibitors.

[2] Angiotensin receptor blockers.

on the patient's history, labs, PE, and blood pressure tests, none of which were available to respondent.

11. Regarding the second October 30, 2015, post (see Factual Finding 9b), respondent offered medical advice in recommending a three-month course of treatment, which involves the risks attendant on eliminating or adding a medication, including kidney or liver disease, nausea, vomiting, diarrhea, and interactions with other medications or supplements. If the online participant were to act on respondent's advice, he or she could experience side effects or a worsening condition. Moreover, the advice included dangerous ambiguities: it is unclear what "if good" and "and A1c is okay" mean in the context of the person's condition, and it is unclear what meal respondent is referring to when he advises the patient to take "2 hr post meal BG."

12. Regarding the November 8, 2015, post (see Factual Finding 9c), respondent's advice, to ignore blood glucose spikes, is a risky interpretation of the reason the patient is experiencing symptoms. The blood glucose spikes could result not only from exercise but from insufficient medication, infection, or disease in the kidneys or other organs.

13. Regarding the November 10, 2015, post (see Factual Finding 9d), a blood clot in the lungs is a severe medical emergency that may be fatal, but respondent says a pulmonary embolism for the patient is unlikely, without knowing enough about the patient, such as the patient's history, the results of a PE, and the results of other tests, to draw such a conclusion. The patient's elevated hematocrit could indicate kidney disease, a lung issue, or a possible blood clot, or reflect the effect of other medications, all of which should be tested for.

14. Regarding the November 11, 2015, post (see Factual Finding 9e), respondent was interpreting a blood test and concluding that the patient has emphysema. Interpreting an arterial blood gas is typically done by a specialist, e.g. a pulmonologist.

15. Regarding the November 20, 2015, post (see Factual Finding 9f), respondent is correct about the error margin, but there are other factors that can account for variation in blood sugar results, such as poor technique, using the wrong equipment, food on the patient's fingers, and many others.

16. Regarding the December 13, 2015, post (see Factual Finding 9g), respondent is incorrect about glucometer results necessarily being the most important results. Other blood tests, weight, blood pressure, and diabetes complications could all be as or more important. Further on in the post, respondent states that the most important tests are an FBG and BG before bed. This is in the nature of a recommendation, but not eating for five hours could cause dangerously low blood sugar if the patient is taking insulin. If the patient has gestational diabetes, the patient must check blood sugar all day long, whereas if the patient is on insulin, the patient should check before and after each meal. (ex. 10, p. 23.)

17. Regarding the November 12, 2016, post (see Factual Finding 9h), respondent's recommending maximizing metformin before adding another medication is a deviation from the standard of care. Physicians frequently add a medication before maximizing Metformin, but in any case physicians must base their recommendations on a variety evidence, not in an evidentiary vacuum such as this. Also, respondent's use of the phrase, "In my professional opinion," carries authoritative weight that could be persuasive to a lay patient.

18. Regarding the November 13, 2016, post (see Factual Finding 9i), insulin resistance is a complicated concept; the degree to which a patient is resistant to insulin will determine how the patient's blood sugar reacts. Respondent's medical advice about the best means for countering IR is dangerous; many readers might think respondent is advising lowering their insulin dosage. Recommending diet, exercise, and medication without knowing the patient's current diet, exercise, and medications could be quite harmful to a patient. Respondent recommends more exercise without knowing whether the patient has, e.g., heart disease, high blood pressure, or an injury. The recommendation to increase Metformin could be dangerous without knowing what other medications the patient is taking or the condition of the patient's kidneys, and respondent does not specify what the maximum dose should be.

19. When respondent joined the forum on October 30, 2015, he identified himself as a physician and a diabetes patient. After two weeks, he added the following language to his signature: "Nothing I say or express is medical advice, consult your physician." That disclaimer is belied, testified Dr. Garner, by the content of respondent's posts, in which respondent made specific medical recommendations, and without conforming to the standard of care. Dr. Garner opined that respondent's posts would seem authoritative to a lay patient.

20. Dr. Garner testified, and reported to the Board, that participating on an internet bulletin board, as in this matter, is entirely different from the practice of telemedicine; it involves an exchange of opinions and experience by multiple participants and, in this case, respondent's medical advice without the benefit of a history or examination, a violation of the standard of care.

21. Dr. Garner testified, and reported to the Board, that the standard of care requires physicians to keep detailed records when making medical recommendations. Respondent kept no such records.

22. Wilson Linares, an investigator in the Valencia Field Office of the Health Quality Investigations Unit, Division of Investigation, Department of Consumer Affairs, was assigned on February 22, 2016, to continue an ongoing investigation of a consumer complaint received on November 12, 2015. The consumer complainant, a participant on the Diabetes Daily online forum, expressed concern about respondent's interacting with forum members as a physician, and about his recommending modifications to participants' treatment for diabetes. (Ex. 9, p. 2.) Mr. Linares wrote a report, and testified that, in connection with his investigation, he interviewed respondent and asked Dr. Geller to review the case. Dr. Geller informed Mr. Linares that respondent had engaged in an extreme departure from the standard of care by practicing medicine online.

23. Respondent testified at hearing, admitting posting the entries alleged in the Accusation and discussed by Dr. Garner in his report and testimony. He argued that, because he started including with his online posts a statement that, though he is a physician, he is also a diabetes patient and is posting in that capacity, his advice did not constitute the practice of medicine. He testified that the web forum users are very sophisticated patients and he considered himself their peer, not their physician. He acknowledged that he discussed medications but issued no directives because he acted only in the capacity of a fellow patient. He acknowledged that he examined none of the website's users. He testified that he billed no one for his online advice and claimed, without offering any corroborative evidence, that no one was harmed as a

result of his advice. Respondent stopped participating on the bulletin board as soon as he received Mr. Linares's letter and learned of the Board's investigation.

24. Respondent disagreed with all of Dr. Geller's concerns about risks to patient health and safety, because Dr. Geller's premise was that respondent was practicing medicine online, whereas respondent insists he was simply participating online as a patient. Respondent testified, without corroborative evidence, that thousands of physicians give advice on internet bulletin boards.

25. Respondent testified that he barely earns enough money now to cover his office costs and that he is unemployable and "basically broke."

Respondent's Prior License Discipline

26. On January 13, 2010, effective February 11, 2010, in a disciplinary action entitled "In the Matter of the Accusation Against Thomas A. Sazani, M.D." before the Board, in Case Number 23-2006-177115, the Board revoked respondent's license, stayed the revocation, and placed respondent on probation for three years. The Board in the underlying Accusation charged respondent with gross negligence for failing to conduct an appropriate physical examination or even verify the identity of a patient before prescribing dangerous drugs.

27. In a disciplinary action entitled, "In the Matter of the Accusation Against Thomas A. Sazani, M.D." before the Board, in Case Number 08-2008-196003, the Board revoked respondent's license, on July 29, 2011, effective August 26, 2011, stayed the revocation, and placed respondent on probation for five years. The Board imposed a 70-day suspension for gross negligence in failing to conduct a good faith examination of patients, failing to fairly assess their medical problems, and failing to advise the patients before recommending they take marijuana for medical purposes. Probation

was ordered to begin concurrent with the first date of respondent's probation in case number 23-2006-177115. Terms and conditions for both probations included a practice monitor and courses in education, medical recordkeeping, and ethics to further respondent's rehabilitation.

28. Respondent testified that, in the prior disciplinary cases, he was held to a standard of care that was not the correct standard in his specialty, medical marijuana. The only change he made to his practice while on probation was that he kept a progress note for each patient; he testified that his history and physical examination procedures remained unchanged and that his probation monitors praised him. He feels he was punished very severely, and that the acts for which his license was disciplined are now legal.

29. Both prior disciplinary actions involved allegations against respondent that are similar to those alleged here. The 2011 decision was based on allegations concerning respondent's failure to take a good faith history from and perform a good faith examination of his patients, making medical recommendations without a PE, history, blood tests, and a medication review, as in this case. The 2010 decision was based on respondent prescribing drugs over the internet without conducting a proper PE of the patient in person.

30. Respondent's actions on the diabetes bulletin board, and his testimony at hearing, demonstrate that he has failed to absorb and put into practice the lessons he should have learned from his prior license discipline. Respondent's failure to accept responsibility for his admissions in those cases and on the record in this proceeding, and to acknowledge that his online acts posed any risk to anyone, reflects poorly on respondent's ability to rehabilitate.

LEGAL CONCLUSIONS

Burden of Proof

1. The rigorous education, training, and testing requirements for obtaining a physician's license justify imposing on complainant a burden of proving her claims by clear and convincing evidence. (Evid. Code, § 115; see *Ettinger v. Bd. of Medical Quality Assurance* (1982) 135 Cal.App.3d 853, 856; *Imports Performance v. Dept. of Consumer Affairs, Bur. of Automotive Repair* (2011) 201 Cal.App.4th 911.)

Applicable Authority

2. The Board is responsible for enforcing the disciplinary provisions of the Medical Practice Act (Bus. & Prof. Code, § 2004, subd. (a)). The Board's highest priority is to protect the public. (Bus. & Prof. Code, § 2229.) A certificated practitioner who violates the Medical Practice Act may have his or her certificate revoked or suspended or placed on probation, be publicly reprimanded, or have "other action taken in relation to discipline" as the Board deems proper. (Bus. & Prof. Code, § 2227.)

3. The Board may discipline a practitioner's certificate for unprofessional conduct, which includes, among other things, any violation of the Medical Practice Act, gross negligence, repeated negligent acts, incompetence, and failure to maintain adequate and accurate records of services provided to patients. (Bus. & Prof. Code, §§ 2234, subds. (a)-(c), 2261, 2266.) It is a violation of the Medical Practice Act to excessively prescribe controlled substances or to prescribe them without an appropriate prior examination and a medical indication. (Bus. & Prof. Code, §§ 725, 2241.5, subds. (c), (d), 2242; see Health & Saf. Code, § 11153.)

Causes for Discipline

4. Cause exists to discipline respondent's certificate under Business and Professions Code sections 2234, subdivision (b), in that he committed gross negligence by providing online medical recommendations, including recommendations about medication changes and interpretations of laboratory results, to patients he did not physically examine, from whom he failed to obtain a thorough history, and for whom he did not review, order, or interpret appropriate laboratory tests and monitor for response and side effects, by reason of Factual Findings 5 through 30 and Legal Conclusions 1 through 3.

5. Cause exists to discipline respondent's certificate under Business and Professions Code section 2234, subdivision (c), in that he committed repeated negligent acts by providing online medical recommendations, including recommendations about medication changes and interpretation of laboratory results, to patients he did not physically examine and from whom he failed to take an appropriate history on October 30, 2015, November 8, 2015, November 11, 2015, November 20; 2015, December 13, 2015, November 12: 2016, and November 13, 2016, by reason of Factual Findings 5 through 30 and Legal Conclusions 1 through 3.

6. Cause exists to discipline respondent's certificate under Business and Professions Code section 2266, in that he failed to maintain adequate and accurate medical records, by reason of Factual Findings 5 through 30 and Legal Conclusions 1 through 3.

7. Cause exists to discipline respondent's certificate under Business and Professions Code section 2290.5, in that he engaged in unprofessional conduct when

he failed to comply with statutory requirements for the practice of telehealth, by reason of Factual Findings 5 through 30 and Legal Conclusions 1 through 3.

8. Cause exists to discipline respondent's certificate under Business and Professions Code section 2234, in that he committed unprofessional conduct by reason of Factual Findings 5 through 30 and Legal Conclusions 1 through 3.

9. The purpose of a disciplinary action such as this is to protect the public, and not to punish the licensee. (*Camacho v. Youde* (1979) 95 Cal.App.3d 161, 164; *Small v. Smith* (1971) 16 Cal.App.3d 450, 457.) The evidence on the whole, however, establishes that, even under probation, respondent is unlikely to rectify or even understand and accept his deficiencies in practicing in accordance with the standard of care. Similar deficiencies have twice before resulted in license discipline, including probation with conditions and, once, with suspension. On this record, revocation appears to be the only way at present to protect the health and safety of patients and of the public.

ORDER

Physician's and Surgeon's Certificate number A42368, issued to respondent Thomas Sazani, is revoked as a result of the determination of causes for discipline I through V, separately and collectively.

DATE: July 23, 2019

DocuSigned by:
Howard W. Cohen
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HOWARD W. COHEN
Administrative Law Judge
Office of Administrative Hearing

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FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO July 3 2018
BY [illegible] ANALYST

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

In the Matter of the Accusation Against: **Thomas Sazani, M.D.** **P.O. Box 2867** **Orcutt, CA 93457** **Physician's and Surgeon's Certificate No. A42368,** Respondent.	Case No. 800-2015-018076 **A C C U S A T I O N**

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, Department of Consumer Affairs (Board).

2. On or about December 16, 1985, the Medical Board issued Physician's and Surgeon's Certificate Number A42368 to Thomas Sazani, M.D. (Respondent). The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought herein and will expire on November 30, 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 unless otherwise indicated.

4. Section 2229 of the Code states:

"(a) Protection of the public shall be the highest priority for the Division of Medical Quality,[1] the California Board of Podiatric Medicine, and administrative law judges of the Medical Quality Hearing Panel in exercising their disciplinary authority.

"(b) In exercising his or her disciplinary authority an administrative law judge of the Medical Quality Hearing Panel, the division, or the California Board of Podiatric Medicine, shall, wherever possible, take action that is calculated to aid in the rehabilitation of the licensee, or where, due to a lack of continuing education or other reasons, restriction on scope of practice is indicated, to order restrictions as are indicated by the evidence.

"(c) It is the intent of the Legislature that the division, the California Board of Podiatric Medicine, and the enforcement program shall seek out those licensees who have demonstrated deficiencies in competency and then take those actions as are indicated, with priority given to those measures, including further education, restrictions from practice, or other means, that will remove those deficiencies. Where rehabilitation and protection are inconsistent, protection shall be paramount."

5. Section 2227 of the Code provides that a licensee who is found guilty under the Medical Practice Act may have his or her license revoked, suspended for a period not to exceed one year, placed on probation and required to pay the costs of probation monitoring, or such other action taken in relation to discipline as the Board deems proper.

6. Section 2234 of the Code, states:

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

"(a) Violating or attempting to violate, directly or indirectly, assisting in or abetting the violation of, or conspiring to violate any provision of this chapter.

"(b) Gross negligence.

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[1] Pursuant to Business and Professions Code section 2002, the "Division of Medical Quality" or "Division" shall be deemed to refer to the Medical Board of California.

"(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.

". . ."

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

8. Section 2290.5 of the Code states:

(a) For purposes of this division, the following definitions shall apply:

"(1) "Asynchronous store and forward" means the transmission of a patient's medical information from an originating site to the health care provider at a distant site without the presence of the patient.

"(2) "Distant site" means a site where a health care provider who provides health care services is located while providing these services via a telecommunications system.

"(3) "Health care provider" means a person who is licensed under this division.

"(4) "Originating site" means a site where a patient is located at the time health care services are provided via a telecommunications system or where the asynchronous store and

forward service originates.

"(5) "Synchronous interaction" means a real-time interaction between a patient and a health care provider located at a distant site.

"(6) "Telehealth" means the mode of delivering health care services and public health via information and communication technologies to facilitate the diagnosis, consultation, treatment, education, care management, and self-management of a patient's health care while the patient is at the originating site and the health care provider is at a distant site. Telehealth facilitates patient self-management and caregiver support for patients and includes synchronous interactions and asynchronous store and forward transfers.

"(b) Prior to the delivery of health care via telehealth, the health care provider initiating the use of telehealth shall inform the patient about the use of telehealth and obtain verbal or written consent from the patient for the use of telehealth as an acceptable mode of delivering health care services and public health. The consent shall be documented.

"(c) Nothing in this section shall preclude a patient from receiving in-person health care delivery services during a specified course of health care and treatment after agreeing to receive services via telehealth.

"(d) The failure of a health care provider to comply with this section shall constitute unprofessional conduct. Section 2314 shall not apply to this section.

"(e) This section shall not be construed to alter the scope of practice of any health care provider or authorize the delivery of health care services in a setting, or in a manner, not otherwise authorized by law.

"(f) All laws regarding the confidentiality of health care information and a patient's rights to his or her medical information shall apply to telehealth interactions.

"(g) This section shall not apply to a patient under the jurisdiction of the Department of Corrections and Rehabilitation or any other correctional facility.

"(h) (1) Notwithstanding any other provision of law and for purposes of this section, the governing body of the hospital whose patients are receiving the telehealth services may grant privileges to, and verify and approve credentials for, providers of telehealth services based on its

medical staff recommendations that rely on information provided by the distant-site hospital or telehealth entity, as described in Sections 482.12, 482.22, and 485.616 of Title 42 of the Code of Federal Regulations.

"(2) By enacting this subdivision, it is the intent of the Legislature to authorize a hospital to grant privileges to, and verify and approve credentials for, providers of telehealth services as described in paragraph (1).

"(3) For the purposes of this subdivision, "telehealth" shall include "telemedicine" as the term is referenced in Sections 482.12, 482.22, and 485.616 of Title 42 of the Code of Federal Regulations."

FIRST CAUSE FOR DISCIPLINE

(Gross Negligence)

9. Respondent is subject to disciplinary action under Code section 2234, subdivision (b), in that he committed gross negligence in the practice of medicine. The circumstances are as follows:

Factual Allegations

10. On or about October 30, 2015, Respondent created a profile on the Diabetes Daily, an online diabetes forum for patients with diabetes.[2] In his online profile, Respondent identified himself as a white male physician diagnosed with type 2 diabetes in 2005. Respondent began interacting in the online discussion forum with his username identified in his profile, "tsanzani" (his first initial and last name), sharing his own experience with diabetes and making recommendations to fellow participants regarding treatment for their diabetes.

11. On or about October 30, 2015, Respondent posted: "Anyone taking Lisinopril? By tsazani: I like to recommend ACE/ or ARB at bedtime. Give those arteries a rest while you sleep. Most AMI and CVA occur at dawn. You might benefit from the lower AMBP."

12. On or about October 30, 2015, Respondent posted: "Ateisat 5.4- Eliminate Metformin?? By tsazani: Try it for 3 months. Take a FBC and 2 hr post meal BG daily. If they

[2] Respondent's current practice is based in Santa Barbara, California. For the past decade, his practice has focused on seeing patients and evaluating whether they are candidates for medical cannabis.

are good and your Ale is OK in 3 months. You're good to go."

13. On or about November 8, 2015, Respondent posted: "I'm frustrated with my numbers By tsazani: You're 54 with great numbers. First, ignore the BG spikes post strenuous exercise. It's a 'fight or flight" stress hormone dump of glucose into your blood. Notice how it clears up in one hour?"

14. On or about November 11, 2015, Respondent posted: "Well lynn life is full of surprises!!!! By tsazani: @ Calgary diabetes. I hope I don't get into trouble for this. Your ABC is classic example of well compensated pt suffering from chronic or restrictive lung disease."

15. On or about November 11, 2015, Respondent posted: "Well lynn life is full of surprises!!!! By tsazani: Pulmonary embolism is very unlikely but I'm glad she tested for it. What did the chest x-ray and pulmonary function tests show? Your elevated hematocrit is simply a (long term) compensation for..."

16. On or about November 20, 2015, Respondent posted: "Blood sugar By tsazani: Glucometers are allowed a 20% error margin by the FDA. That means your reading of 100 mg/di could be anywhere between 80-120."

17. On or about December 13, 2015, Respondent posted: "Increasing exercise MHR By tsazani: The most important tests for your diabetes are YOUR glucometer results."

18. On or about November 12, 2016, Respondent posted: "Conundrum By tsazani: In my professional opinion your physician should maximize the Metformin before adding another DM2 med like farxiga."

19. On or about November 13, 2016, Respondent posted: "Conundrum By tsazani: if you want or need to lose weight you need to LOWER your insulin resistance (IR). My advice is to SAFELY maximize your best anti-JR weapons: LCHF +exercise+ Metformin. Next steps would be to try ..."

Allegation of Gross Negligence

20. Respondent committed gross negligence when he provided online medical recommendations, including about medication changes and interpretation of laboratory results, to patients he did not physically examine and from whom he:

A. Failed to obtain a thorough history to establish factors such as: what type of diabetes[3] the patient has; whether the patient has any complications from diabetes; what type of diet the patient is on; what type and what frequency of exercise the patient does; what medications a patient is taking; any side effects the patient is experiences; any allergies the patient has; and, if the patient is taking insulin: what type of insulin they use; how often they inject themselves; and whether they experience hypoglycemia; and/or

B. Failed to review, order or interpret appropriate laboratory tests including a comprehensive metabolic panel,[4] an HbAlc,[5] lipid panel,[6] and a urinary microalbumin[7] to monitor a patient's response to any interventions; to assess any side effects of medications, especially hypoglycemia; and to repeat laboratory testing and reviewing glucometer results.[8]

SECOND CAUSE FOR DISCIPLINE

(Repeated Negligent Acts)

21. Respondent is subject to disciplinary action under Code section 2234, subdivision (c), in that he committed repeated negligent acts in the practice of medicine. The circumstances are as follows:

22. The facts and circumstances articulated above in paragraphs 10 through 19, inclusive, are incorporated here as if fully set forth.

23. Respondent was repeatedly negligent when he provided online medical recommendations, including about medication changes and interpretation of laboratory results, to patients he did not physically examine and from whom he failed to take an appropriate history on or about October 30, 2015, November 8, 2015, November 11, 2015, November 20, 2015, December 13, 2015, November 12, 2016, and November 13, 2016.

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[3] For example, diabetes may be type 1, type 2, diabetes from pancreatic insufficiency, medication-induced diabetes or gestational diabetes.

[4] This is used for assessment of glucose level, renal and hepatic function.

[5] This is a biomarker of glucose control.

[6] This is used for assessment of hyperlipidemia.

[7] This is used for screening for renal complications of diabetes.

[8] Patients with diabetes are typically instructed on the use of a glucometer to test their glucose from once to several times per day.

THIRD CAUSE FOR DISCIPLINE

(Failure to Maintain Adequate and Accurate Medical Records)

24. Respondent is subject to disciplinary action under section 2266 in that he failed to maintain adequate and accurate medical records. The circumstances are as follows:

25. The facts and circumstances articulated in above paragraphs 10 through 19, inclusive, are incorporated herein as if fully set forth.

FOURTH CAUSE FOR DISCIPLINE

(Unprofessional Conduct - Telehealth)

26. Respondent is subject to disciplinary action under Code section 2290.5 in that he engaged in unprofessional conduct when he failed to comply with the requirements of Code section 2290.5 with respect to telehealth. The circumstances are as follows:

27. The facts and circumstances articulated above in paragraphs 10 through 19, inclusive, are incorporated herein as if fully set forth.

FIFTH CAUSE FOR DISCIPLINE

(Unprofessional Conduct)

28. Respondent is subject to disciplinary action under section 2234 in that he committed unprofessional conduct. The circumstances are as follows:

29. The facts and circumstances articulated above in paragraphs 10 through 27, inclusive, are incorporated herein as if fully set forth.

DISCIPLINARY CONSIDERATIONS

30. To determine the degree of discipline, if any, to be imposed on Respondent, Complainant alleges that on or about July 29, 2011, effective August 26, 2011, in a prior disciplinary action entitled "In the Matter of the Accusation Against Thomas A. Sazani, M.D." before the Medical Board of California, in Case Number 08-2008-196003, Respondent's license was revoked, the revocation was stayed and Respondent was placed on probation for five years, including a seventy (70) day suspension, for gross negligence in failing to conduct a good faith examination of patients, to fairly assess their medical problems and to advise the patients before giving them a recommendation for marijuana for medical purposes. That decision is now final

and is incorporated by reference as if fully set forth herein.

31. To determine the degree of discipline, if any, to be imposed on Respondent, Complainant further alleges that on or about January 13, 2010, effective February 11, 2010, in a prior disciplinary action entitled "In the Matter of the Accusation Against Thomas A. Sazani, M.D." before the Medical Board of California, in Case Number 23-2006-177115, Respondent's license was revoked, the revocation was stayed and Respondent was placed on probation for three years for gross negligence in failing to conduct an appropriate prior physical examination or even verify the identity of the patient before prescribing dangerous drugs. That decision is now final and is incorporated by reference as if fully set forth herein.

PRAYER

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

1. Revoking or suspending Physician's and Surgeon's Certificate Number A42368, issued to Thomas Sazani, M.D.;

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

3. Ordering Thomas Sazani, 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: July 3, 2018

KIMBERLY KIRCHMEYER
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant

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