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8 **BEFORE THE**
9 **MEDICAL BOARD OF CALIFORNIA**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the First Accusation Against:

13 **JEANETTE RAE PONCE, M.D.**
14 **P.O. Box 741**
Santa Ana, CA 92702

15 **Physician's and Surgeon's Certificate No. A**
16 **68979**

17 Respondent.

Case No. 800-2014-008587

OAH No. 2019060745

STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER

18
19 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
20 entitled proceedings that the following matters are true:

21 **PARTIES**

22 1. Kimberly Kirchmeyer was the Executive Director of the Medical Board of California
23 (Board). She brought this action solely in her official capacity. Effective October 24, 2019,
24 Christine Lally (Complainant) is the Interim Executive Director of the Board, brings this action
25 solely in her official capacity, and is represented in this matter by Xavier Becerra, Attorney
26 General of the State of California, by Beneth A. Browne, Deputy Attorney General.

27 2. Respondent Jeanette Rae Ponce, M.D. (Respondent) is represented in this proceeding
28 by attorney Courtney E. Pilchman, whose address is: 2030 Main St., Suite 1300, Irvine, CA

1 92614.

2 3. On or about June 24, 1999, the Board issued Physician's and Surgeon's Certificate
3 No. A 68979 to Jeanette Rae Ponce, M.D. (Respondent). The Physician's and Surgeon's
4 Certificate was in full force and effect at all times relevant to the charges brought in First
5 Amended Accusation No. 800-2014-008587, and will expire on December 31, 2020, unless
6 renewed.

7 **JURISDICTION**

8 4. First Amended Accusation No. 800-2014-008587 was filed before the Board, and is
9 currently pending against Respondent. The First Amended Accusation and all other statutorily
10 required documents were properly served on Respondent on October 17, 2019. Respondent
11 timely filed her Notice of Defense contesting the First Amended Accusation.

12 5. A copy of First Amended Accusation No. 800-2014-008587 is attached as exhibit A
13 and incorporated herein by reference.

14 **ADVISEMENT AND WAIVERS**

15 6. Respondent has carefully read, fully discussed with counsel, and understands the
16 charges and allegations in First Amended Accusation No. 800-2014-008587. Respondent has
17 also carefully read, fully discussed with counsel, and understands the effects of this Stipulated
18 Settlement and Disciplinary Order.

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

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

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1 **CULPABILITY**

2 9. Respondent admits the truth of each and every charge and allegation in First
3 Amended Accusation No. 800-2014-008587.

4 10. Respondent agrees that her Physician's and Surgeon's Certificate is subject to
5 discipline and she agrees to be bound by the Board's probationary terms as set forth in the
6 Disciplinary Order below.

7 **CONTINGENCY**

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

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

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

24 **DISCIPLINARY ORDER**

25 IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. A 68979 issued
26 to Respondent JEANETTE RAE PONCE, M.D. is revoked. However, the revocation is stayed
27 and Respondent is placed on probation for five (5) years on the following terms and conditions.

28 ///

1 1. CONTROLLED SUBSTANCES - MAINTAIN RECORDS AND ACCESS TO
2 RECORDS AND INVENTORIES. Respondent shall maintain a record of all controlled
3 substances ordered, prescribed, dispensed, administered, or possessed by Respondent, and any
4 recommendation or approval which enables a patient or patient's primary caregiver to possess or
5 cultivate marijuana for the personal medical purposes of the patient within the meaning of Health
6 and Safety Code section 11362.5, during probation, showing all of the following: 1) the name and
7 address of the patient; 2) the date; 3) the character and quantity of controlled substances involved;
8 and 4) the indications and diagnosis for which the controlled substances were furnished.

9 Respondent shall keep these records in a separate file or ledger, in chronological order. All
10 records and any inventories of controlled substances shall be available for immediate inspection
11 and copying on the premises by the Board or its designee at all times during business hours and
12 shall be retained for the entire term of probation.

13 2. CONTROLLED SUBSTANCES - ABSTAIN FROM USE. Respondent shall abstain
14 completely from the personal use or possession of controlled substances as defined in the
15 California Uniform Controlled Substances Act, dangerous drugs as defined by Business and
16 Professions Code section 4022, and any drugs requiring a prescription. This prohibition does not
17 apply to medications lawfully prescribed to Respondent by another practitioner for a bona fide
18 illness or condition.

19 Within 15 calendar days of receiving any lawfully prescribed medications, Respondent
20 shall notify the Board or its designee of the: issuing practitioner's name, address, and telephone
21 number; medication name, strength, and quantity; and issuing pharmacy name, address, and
22 telephone number.

23 3. EDUCATION COURSE. Within 60 calendar days of the effective date of this
24 Decision, and on an annual basis thereafter, Respondent shall submit to the Board or its designee
25 for its prior approval educational program(s) or course(s) which shall not be less than 40 hours
26 per year, for each year of probation. The educational program(s) or course(s) shall be aimed at
27 correcting any areas of deficient practice or knowledge and shall be Category I certified. The
28 educational program(s) or course(s) shall be at Respondent's expense and shall be in addition to

1 the Continuing Medical Education (CME) requirements for renewal of licensure. Following the
2 completion of each course, the Board or its designee may administer an examination to test
3 Respondent's knowledge of the course. Respondent shall provide proof of attendance for 65
4 hours of CME of which 40 hours were in satisfaction of this condition.

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

14 A prescribing practices course taken after the acts that gave rise to the charges in the First
15 Amended Accusation, but prior to the effective date of the Decision may, in the sole discretion of
16 the Board or its designee, be accepted towards the fulfillment of this condition if the course would
17 have been approved by the Board or its designee had the course been taken after the effective date
18 of this Decision.

19 Respondent shall submit a certification of successful completion to the Board or its
20 designee not later than 15 calendar days after successfully completing the course, or not later than
21 15 calendar days after the effective date of the Decision, whichever is later.

22 5. MEDICAL RECORD KEEPING COURSE. Within 60 calendar days of the effective
23 date of this Decision, Respondent shall enroll in a course in medical record keeping approved in
24 advance by the Board or its designee. Respondent shall provide the approved course provider
25 with any information and documents that the approved course provider may deem pertinent.
26 Respondent shall participate in and successfully complete the classroom component of the course
27 not later than six (6) months after Respondent's initial enrollment. Respondent shall successfully
28 complete any other component of the course within one (1) year of enrollment. The medical

1 record keeping course shall be at Respondent's expense and shall be in addition to the Continuing
2 Medical Education (CME) requirements for renewal of licensure.

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

8 Respondent shall submit a certification of successful completion to the Board or its
9 designee not later than 15 calendar days after successfully completing the course, or not later than
10 15 calendar days after the effective date of the Decision, whichever is later.

11 6. PROFESSIONALISM PROGRAM (ETHICS COURSE). Within 60 calendar days of
12 the effective date of this Decision, Respondent shall enroll in a professionalism program, that
13 meets the requirements of Title 16, California Code of Regulations (CCR) section 1358.1.
14 Respondent shall participate in and successfully complete that program. Respondent shall
15 provide any information and documents that the program may deem pertinent. Respondent shall
16 successfully complete the classroom component of the program not later than six (6) months after
17 Respondent's initial enrollment, and the longitudinal component of the program not later than the
18 time specified by the program, but no later than one (1) year after attending the classroom
19 component. The professionalism program shall be at Respondent's expense and shall be in
20 addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

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

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

1 7. PROFESSIONAL BOUNDARIES PROGRAM. Within 60 calendar days from the
2 effective date of this Decision, Respondent shall enroll in a professional boundaries program
3 approved in advance by the Board or its designee. Respondent, at the program's discretion, shall
4 undergo and complete the program's assessment of Respondent's competency, mental health
5 and/or neuropsychological performance, and at minimum, a 24 hour program of interactive
6 education and training in the area of boundaries, which takes into account data obtained from the
7 assessment and from the Decision(s), Accusation(s) and any other information that the Board or
8 its designee deems relevant. The program shall evaluate Respondent at the end of the training
9 and the program shall provide any data from the assessment and training as well as the results of
10 the evaluation to the Board or its designee.

11 Failure to complete the entire program not later than six (6) months after Respondent's
12 initial enrollment shall constitute a violation of probation unless the Board or its designee agrees
13 in writing to a later time for completion. Based on Respondent's performance in and evaluations
14 from the assessment, education, and training, the program shall advise the Board or its designee
15 of its recommendation(s) for additional education, training, psychotherapy and other measures
16 necessary to ensure that Respondent can practice medicine safely. Respondent shall comply with
17 program recommendations. At the completion of the program, Respondent shall submit to a final
18 evaluation. The program shall provide the results of the evaluation to the Board or its designee.
19 The professional boundaries program shall be at Respondent's expense and shall be in addition to
20 the Continuing Medical Education (CME) requirements for renewal of licensure.

21 The program has the authority to determine whether or not Respondent successfully
22 completed the program.

23 A professional boundaries course taken after the acts that gave rise to the charges in the
24 First Amended Accusation, but prior to the effective date of the Decision may, in the sole
25 discretion of the Board or its designee, be accepted towards the fulfillment of this condition if the
26 course would have been approved by the Board or its designee had the course been taken after the
27 effective date of this Decision.

28 If Respondent fails to complete the program within the designated time period, Respondent

1 shall cease the practice of medicine within three (3) calendar days after being notified by the
2 Board or its designee that Respondent failed to complete the program.

3 8. PSYCHOTHERAPY. Within 60 calendar days of the effective date of this Decision,
4 Respondent shall submit to the Board or its designee for prior approval the name and
5 qualifications of a California-licensed board certified psychiatrist or a licensed psychologist who
6 has a doctoral degree in psychology and at least five years of postgraduate experience in the
7 diagnosis and treatment of emotional and mental disorders. Upon approval, Respondent shall
8 undergo and continue psychotherapy treatment, including any modifications to the frequency of
9 psychotherapy, until the Board or its designee deems that no further psychotherapy is necessary.

10 The psychotherapist shall consider any information provided by the Board or its designee
11 and any other information the psychotherapist deems relevant and shall furnish a written
12 evaluation report to the Board or its designee. Respondent shall cooperate in providing the
13 psychotherapist with any information and documents that the psychotherapist may deem
14 pertinent.

15 Respondent shall have the treating psychotherapist submit quarterly status reports to the
16 Board or its designee. The Board or its designee may require Respondent to undergo psychiatric
17 evaluations by a Board-appointed board certified psychiatrist. If, prior to the completion of
18 probation, Respondent is found to be mentally unfit to resume the practice of medicine without
19 restrictions, the Board shall retain continuing jurisdiction over Respondent's license and the
20 period of probation shall be extended until the Board determines that Respondent is mentally fit
21 to resume the practice of medicine without restrictions.

22 Respondent shall pay the cost of all psychotherapy and psychiatric evaluations.

23 9. MONITORING - PRACTICE. Within 30 calendar days of the effective date of this
24 Decision, Respondent shall submit to the Board or its designee for prior approval as a practice
25 monitor, the name and qualifications of one or more licensed physicians and surgeons whose
26 licenses are valid and in good standing, and who are preferably American Board of Medical
27 Specialties (ABMS) certified. A monitor shall have no prior or current business or personal
28 relationship with Respondent, or other relationship that could reasonably be expected to

1 compromise the ability of the monitor to render fair and unbiased reports to the Board, including
2 but not limited to any form of bartering, shall be in Respondent's field of practice, and must agree
3 to serve as Respondent's monitor. Respondent shall pay all monitoring costs.

4 The Board or its designee shall provide the approved monitor with copies of the Decision
5 and First Amended Accusation, and a proposed monitoring plan. Within 15 calendar days of
6 receipt of the Decision(s), First Amended Accusation(s), and proposed monitoring plan, the
7 monitor shall submit a signed statement that the monitor has read the Decision(s) and First
8 Amended Accusation(s), fully understands the role of a monitor, and agrees or disagrees with the
9 proposed monitoring plan. If the monitor disagrees with the proposed monitoring plan, the
10 monitor shall submit a revised monitoring plan with the signed statement for approval by the
11 Board or its designee.

12 Within 60 calendar days of the effective date of this Decision, and continuing throughout
13 probation, Respondent's practice shall be monitored by the approved monitor. Respondent shall
14 make all records available for immediate inspection and copying on the premises by the monitor
15 at all times during business hours and shall retain the records for the entire term of probation.

16 If Respondent fails to obtain approval of a monitor within 60 calendar days of the effective
17 date of this Decision, Respondent shall receive a notification from the Board or its designee to
18 cease the practice of medicine within three (3) calendar days after being so notified. Respondent
19 shall cease the practice of medicine until a monitor is approved to provide monitoring
20 responsibility.

21 The monitor shall submit a quarterly written report to the Board or its designee which
22 includes an evaluation of Respondent's performance, indicating whether Respondent's practices
23 are within the standards of practice of medicine and whether Respondent is practicing medicine
24 safely. It shall be the sole responsibility of Respondent to ensure that the monitor submits the
25 quarterly written reports to the Board or its designee within 10 calendar days after the end of the
26 preceding quarter.

27 If the monitor resigns or is no longer available, Respondent shall, within 5 calendar days of
28 such resignation or unavailability, submit to the Board or its designee, for prior approval, the

1 name and qualifications of a replacement monitor who will be assuming that responsibility within
2 15 calendar days. If Respondent fails to obtain approval of a replacement monitor within 60
3 calendar days of the resignation or unavailability of the monitor, Respondent shall receive a
4 notification from the Board or its designee to cease the practice of medicine within three (3)
5 calendar days after being so notified. Respondent shall cease the practice of medicine until a
6 replacement monitor is approved and assumes monitoring responsibility.

7 In lieu of a monitor, Respondent may participate in a professional enhancement program
8 approved in advance by the Board or its designee that includes, at minimum, quarterly chart
9 review, semi-annual practice assessment, and semi-annual review of professional growth and
10 education. Respondent shall participate in the professional enhancement program at Respondent's
11 expense during the term of probation.

12 10. CLINICAL DIAGNOSTIC EVALUATIONS AND REPORTS: Within thirty (30)
13 calendar days of the effective date of this Decision, and on whatever periodic basis thereafter as
14 may be required by the Board or its designee, Respondent shall undergo and complete a clinical
15 diagnostic evaluation, including any and all testing deemed necessary, by a Board-appointed
16 board certified physician and surgeon. The examiner shall consider any information provided by
17 the Board or its designee and any other information he or she deems relevant, and shall furnish a
18 written evaluation report to the Board or its designee.

19 The clinical diagnostic evaluation shall be conducted by a licensed physician and surgeon
20 who holds a valid, unrestricted license, has three (3) years' experience in providing evaluations of
21 physicians and surgeons with substance abuse disorders, and is approved by the Board or its
22 designee. The clinical diagnostic evaluation shall be conducted in accordance with acceptable
23 professional standards for conducting substance abuse clinical diagnostic evaluations. The
24 evaluator shall not have a current or former financial, personal, or business relationship with
25 Respondent within the last five (5) years. The evaluator shall provide an objective, unbiased, and
26 independent evaluation. The clinical diagnostic evaluation report shall set forth, in the
27 evaluator's opinion, whether Respondent has a substance abuse problem, whether Respondent is a
28 threat to himself or herself or others, and recommendations for substance abuse treatment,

1 practice restrictions, or other recommendations related to Respondent's rehabilitation and ability
2 to practice safely. If the evaluator determines during the evaluation process that Respondent is a
3 threat to himself or herself or others, the evaluator shall notify the Board within twenty-four (24)
4 hours of such a determination.

5 In formulating his or her opinion as to whether Respondent is safe to return to either part-
6 time or full-time practice and what restrictions or recommendations should be imposed, including
7 participation in an inpatient or outpatient treatment program, the evaluator shall consider the
8 following factors: Respondent's license type; Respondent's history; Respondent's documented
9 length of sobriety (i.e., length of time that has elapsed since Respondent's last substance use);
10 Respondent's scope and pattern of substance abuse; Respondent's treatment history, medical
11 history and current medical condition; the nature, duration and severity of Respondent's
12 substance abuse problem or problems; and whether Respondent is a threat to himself or herself or
13 the public.

14 For all clinical diagnostic evaluations, a final written report shall be provided to the Board
15 no later than ten (10) days from the date the evaluator is assigned the matter. If the evaluator
16 requests additional information or time to complete the evaluation and report, an extension may
17 be granted, but shall not exceed thirty (30) days from the date the evaluator was originally
18 assigned the matter.

19 The Board shall review the clinical diagnostic evaluation report within five (5) business
20 days of receipt to determine whether Respondent is safe to return to either part-time or full-time
21 practice and what restrictions or recommendations shall be imposed on Respondent based on the
22 recommendations made by the evaluator. Respondent shall not be returned to practice until he or
23 she has at least thirty (30) days of negative biological fluid tests or biological fluid tests indicating
24 that he or she has not used, consumed, ingested, or administered to himself or herself a prohibited
25 substance, as defined in section 1361.51, subdivision (e), of Title 16 of the California Code of
26 Regulations.

27 Clinical diagnostic evaluations conducted prior to the effective date of this Decision shall
28 not be accepted towards the fulfillment of this requirement. The cost of the clinical diagnostic

1 evaluation, including any and all testing deemed necessary by the examiner, the Board or its
2 designee, shall be borne by the licensee.

3 Respondent shall not engage in the practice of medicine until notified by the Board or its
4 designee that he or she is fit to practice medicine safely. The period of time that Respondent is
5 not practicing medicine shall not be counted toward completion of the term of probation.
6 Respondent shall undergo biological fluid testing as required in this Decision at least two (2)
7 times per week while awaiting the notification from the Board if he or she is fit to practice
8 medicine safely.

9 Respondent shall comply with all restrictions or conditions recommended by the examiner
10 conducting the clinical diagnostic evaluation within fifteen (15) calendar days after being notified
11 by the Board or its designee.

12 11. NOTICE OF EMPLOYER OR SUPERVISOR INFORMATION. Within seven (7)
13 days of the effective date of this Decision, Respondent shall provide to the Board the names,
14 physical addresses, mailing addresses, and telephone numbers of any and all employers and
15 supervisors. Respondent shall also provide specific, written consent for the Board, Respondent's
16 worksite monitor, and Respondent's employers and supervisors to communicate regarding
17 Respondent's work status, performance, and monitoring.

18 For purposes of this section, "supervisors" shall include the Chief of Staff and Health or
19 Well Being Committee Chair, or equivalent, if applicable, when the Respondent has medical staff
20 privileges.

21 12. BIOLOGICAL FLUID TESTING. Respondent shall immediately submit to
22 biological fluid testing, at Respondent's expense, upon request of the Board or its designee.
23 "Biological fluid testing" may include, but is not limited to, urine, blood, breathalyzer, hair
24 follicle testing, or similar drug screening approved by the Board or its designee. Respondent shall
25 make daily contact with the Board or its designee to determine whether biological fluid testing is
26 required. Respondent shall be tested on the date of the notification as directed by the Board or its
27 designee. The Board may order a Respondent to undergo a biological fluid test on any day, at
28 any time, including weekends and holidays. Except when testing on a specific date as ordered by

1 the Board or its designee, the scheduling of biological fluid testing shall be done on a random
2 basis. The cost of biological fluid testing shall be borne by the Respondent.

3 During the first year of probation, Respondent shall be subject to 52 to 104 random tests.
4 During the second year of probation and for the duration of the probationary term, up to five (5)
5 years, Respondent shall be subject to 36 to 104 random tests per year. Only if there has been no
6 positive biological fluid tests in the previous five (5) consecutive years of probation, may testing
7 be reduced to one (1) time per month. Nothing precludes the Board from increasing the number
8 of random tests to the first-year level of frequency for any reason.

9 Prior to practicing medicine, Respondent shall contract with a laboratory or service,
10 approved in advance by the Board or its designee, that will conduct random, unannounced,
11 observed, biological fluid testing and meets all of the following standards:

12 (a) Its specimen collectors are either certified by the Drug and Alcohol Testing Industry
13 Association or have completed the training required to serve as a collector for the United
14 States Department of Transportation.

15 (b) Its specimen collectors conform to the current United States Department of
16 Transportation Specimen Collection Guidelines.

17 (c) Its testing locations comply with the Urine Specimen Collection Guidelines published
18 by the United States Department of Transportation without regard to the type of test
19 administered.

20 (d) Its specimen collectors observe the collection of testing specimens.

21 (e) Its laboratories are certified and accredited by the United States Department of Health
22 and Human Services.

23 (f) Its testing locations shall submit a specimen to a laboratory within one (1) business day
24 of receipt and all specimens collected shall be handled pursuant to chain of custody
25 procedures. The laboratory shall process and analyze the specimens and provide legally
26 defensible test results to the Board within seven (7) business days of receipt of the
27 specimen. The Board will be notified of non-negative results within one (1) business day
28 and will be notified of negative test results within seven (7) business days.

1 (g) Its testing locations possess all the materials, equipment, and technical expertise
2 necessary in order to test Respondent on any day of the week.

3 (h) Its testing locations are able to scientifically test for urine, blood, and hair specimens
4 for the detection of alcohol and illegal and controlled substances.

5 (i) It maintains testing sites located throughout California.

6 (j) It maintains an automated 24-hour toll-free telephone system and/or a secure on-line
7 computer database that allows the Respondent to check in daily for testing.

8 (k) It maintains a secure, HIPAA-compliant website or computer system that allows staff
9 access to drug test results and compliance reporting information that is available 24 hours a
10 day.

11 (l) It employs or contracts with toxicologists that are licensed physicians and have
12 knowledge of substance abuse disorders and the appropriate medical training to interpret
13 and evaluate laboratory biological fluid test results, medical histories, and any other
14 information relevant to biomedical information.

15 (m) It will not consider a toxicology screen to be negative if a positive result is obtained
16 while practicing, even if the Respondent holds a valid prescription for the substance.

17 Prior to changing testing locations for any reason, including during vacation or other travel,
18 alternative testing locations must be approved by the Board and meet the requirements above.

19 The contract shall require that the laboratory directly notify the Board or its designee of
20 non-negative results within one (1) business day and negative test results within seven (7)
21 business days of the results becoming available. Respondent shall maintain this laboratory or
22 service contract during the period of probation.

23 A certified copy of any laboratory test result may be received in evidence in any
24 proceedings between the Board and Respondent.

25 If a biological fluid test result indicates Respondent has used, consumed, ingested, or
26 administered to himself or herself a prohibited substance, the Board shall order Respondent to
27 cease practice and instruct Respondent to leave any place of work where Respondent is practicing
28 medicine or providing medical services. The Board shall immediately notify all of Respondent's

1 employers, supervisors and work monitors, if any, that Respondent may not practice medicine or
2 provide medical services while the cease-practice order is in effect.

3 A biological fluid test will not be considered negative if a positive result is obtained while
4 practicing, even if the practitioner holds a valid prescription for the substance. If no prohibited
5 substance use exists, the Board shall lift the cease-practice order within one (1) business day.

6 After the issuance of a cease-practice order, the Board shall determine whether the positive
7 biological fluid test is in fact evidence of prohibited substance use by consulting with the
8 specimen collector and the laboratory, communicating with the licensee, his or her treating
9 physician(s), other health care provider, or group facilitator, as applicable.

10 For purposes of this condition, the terms "biological fluid testing" and "testing" mean the
11 acquisition and chemical analysis of a Respondent's urine, blood, breath, or hair.

12 For purposes of this condition, the term "prohibited substance" means an illegal drug, a
13 lawful drug not prescribed or ordered by an appropriately licensed health care provider for use by
14 Respondent and approved by the Board, alcohol, or any other substance the Respondent has been
15 instructed by the Board not to use, consume, ingest, or administer to himself or herself.

16 If the Board confirms that a positive biological fluid test is evidence of use of a prohibited
17 substance, Respondent has committed a major violation, as defined in section 1361.52(a), and the
18 Board shall impose any or all of the consequences set forth in section 1361.52(b), in addition to
19 any other terms or conditions the Board determines are necessary for public protection or to
20 enhance Respondent's rehabilitation.

21 13. SUBSTANCE ABUSE SUPPORT GROUP MEETINGS. Within thirty (30) days of
22 the effective date of this Decision, Respondent shall submit to the Board or its designee, for its
23 prior approval, the name of a substance abuse support group which he or she shall attend for the
24 duration of probation. Respondent shall attend substance abuse support group meetings at least
25 once per week, or as ordered by the Board or its designee. Respondent shall pay all substance
26 abuse support group meeting costs.

27 The facilitator of the substance abuse support group meeting shall have a minimum of three
28 (3) years experience in the treatment and rehabilitation of substance abuse, and shall be licensed

1 or certified by the state or nationally-certified organizations. The facilitator shall not have a
2 current or former financial, personal, or business relationship with Respondent within the last five
3 (5) years. Respondent's previous participation in a substance abuse group support meeting led by
4 the same facilitator does not constitute a prohibited current or former financial, personal, or
5 business relationship.

6 The facilitator shall provide a signed document to the Board or its designee showing
7 Respondent's name, the group name, the date and location of the meeting, Respondent's
8 attendance, and Respondent's level of participation and progress. The facilitator shall report any
9 unexcused absence by Respondent from any substance abuse support group meeting to the Board,
10 or its designee, within twenty-four (24) hours of the unexcused absence.

11 14. WORKSITE MONITOR FOR SUBSTANCE-ABUSING LICENSEE. Within thirty
12 (30) calendar days of the effective date of this Decision, Respondent shall submit to the Board or
13 its designee for prior approval as a worksite monitor, the name and qualifications of one or more
14 licensed physician and surgeon, other licensed health care professional if no physician and
15 surgeon is available, or, as approved by the Board or its designee, a person in a position of
16 authority who is capable of monitoring the Respondent at work.

17 The worksite monitor shall not have a current or former financial, personal, or familial
18 relationship with Respondent, or any other relationship that could reasonably be expected to
19 compromise the ability of the monitor to render impartial and unbiased reports to the Board or its
20 designee. If it is impractical for anyone but Respondent's employer to serve as the worksite
21 monitor, this requirement may be waived by the Board or its designee, however, under no
22 circumstances shall Respondent's worksite monitor be an employee or supervisee of the licensee.

23 The worksite monitor shall have an active unrestricted license with no disciplinary action
24 within the last five (5) years, and shall sign an affirmation that he or she has reviewed the terms
25 and conditions of Respondent's disciplinary order and agrees to monitor Respondent as set forth
26 by the Board or its designee.

27 Respondent shall pay all worksite monitoring costs.

28 The worksite monitor shall have face-to-face contact with Respondent in the work

1 environment on as frequent a basis as determined by the Board or its designee, but not less than
2 once per week; interview other staff in the office regarding Respondent's behavior, if requested
3 by the Board or its designee; and review Respondent's work attendance.

4 The worksite monitor shall verbally report any suspected substance abuse to the Board and
5 Respondent's employer or supervisor within one (1) business day of occurrence. If the suspected
6 substance abuse does not occur during the Board's normal business hours, the verbal report shall
7 be made to the Board or its designee within one (1) hour of the next business day. A written
8 report that includes the date, time, and location of the suspected abuse; Respondent's actions; and
9 any other information deemed important by the worksite monitor shall be submitted to the Board
10 or its designee within 48 hours of the occurrence.

11 The worksite monitor shall complete and submit a written report monthly or as directed by
12 the Board or its designee which shall include the following: (1) Respondent's name and
13 Physician's and Surgeon's Certificate number; (2) the worksite monitor's name and signature; (3)
14 the worksite monitor's license number, if applicable; (4) the location or location(s) of the
15 worksite; (5) the dates Respondent had face-to-face contact with the worksite monitor; (6) the
16 names of worksite staff interviewed, if applicable; (7) a report of Respondent's work attendance;
17 (8) any change in Respondent's behavior and/or personal habits; and (9) any indicators that can
18 lead to suspected substance abuse by Respondent. Respondent shall complete any required
19 consent forms and execute agreements with the approved worksite monitor and the Board, or its
20 designee, authorizing the Board, or its designee, and worksite monitor to exchange information.

21 If the worksite monitor resigns or is no longer available, Respondent shall, within five (5)
22 calendar days of such resignation or unavailability, submit to the Board or its designee, for prior
23 approval, the name and qualifications of a replacement monitor who will be assuming that
24 responsibility within fifteen (15) calendar days. If Respondent fails to obtain approval of a
25 replacement monitor within sixty (60) calendar days of the resignation or unavailability of the
26 monitor, Respondent shall receive a notification from the Board or its designee to cease the
27 practice of medicine within three (3) calendar days after being so notified. Respondent shall
28 cease the practice of medicine until a replacement monitor is approved and assumes monitoring

responsibility.

15. VIOLATION OF PROBATION CONDITION FOR SUBSTANCE ABUSING LICENSEES . Failure to fully comply with any term or condition of probation is a violation of probation.

A. If Respondent commits a major violation of probation as defined by section 1361.52, subdivision (a), of Title 16 of the California Code of Regulations, the Board shall take one or more of the following actions:

(1) Issue an immediate cease-practice order and order Respondent to undergo a clinical diagnostic evaluation to be conducted in accordance with section 1361.5, subdivision (c)(1), of Title 16 of the California Code of Regulations, at Respondent's expense. The cease-practice order issued by the Board or its designee shall state that Respondent must test negative for at least a month of continuous biological fluid testing before being allowed to resume practice. For purposes of determining the length of time a Respondent must test negative while undergoing continuous biological fluid testing following issuance of a cease-practice order, a month is defined as thirty calendar (30) days. Respondent may not resume the practice of medicine until notified in writing by the Board or its designee that he or she may do so.

(2) Increase the frequency of biological fluid testing.

(3) Refer Respondent for further disciplinary action, such as suspension, revocation, or other action as determined by the Board or its designee.

B. If Respondent commits a minor violation of probation as defined by section 1361.52, subdivision (c), of Title 16 of the California Code of Regulations, the Board shall take one or more of the following actions:

(1) Issue a cease-practice order;

(2) Order practice limitations;

(3) Order or increase supervision of Respondent;

(4) Order increased documentation;

(5) Issue a citation and fine, or a warning letter;

(6) Order Respondent to undergo a clinical diagnostic evaluation to be conducted in

1 accordance with section 1361.5, subdivision (c)(1), of Title 16 of the California Code of
2 Regulations, at Respondent's expense;

3 (7) Take any other action as determined by the Board or its designee.

4 C. Nothing in this Decision shall be considered a limitation on the Board's authority
5 to revoke Respondent's probation if he or she has violated any term or condition of probation. If
6 Respondent violates probation in any respect, the Board, after giving Respondent notice and the
7 opportunity to be heard, may revoke probation and carry out the disciplinary order that was
8 stayed. If an Accusation, or Petition to Revoke Probation, or an Interim Suspension Order is filed
9 against Respondent during probation, the Board shall have continuing jurisdiction until the matter
10 is final, and the period of probation shall be extended until the matter is final.

11 16. NOTIFICATION. Within seven (7) days of the effective date of this Decision, the
12 Respondent shall provide a true copy of this Decision and First Amended Accusation to the Chief
13 of Staff or the Chief Executive Officer at every hospital where privileges or membership are
14 extended to Respondent, at any other facility where Respondent engages in the practice of
15 medicine, including all physician and locum tenens registries or other similar agencies, and to the
16 Chief Executive Officer at every insurance carrier which extends malpractice insurance coverage
17 to Respondent. Respondent shall submit proof of compliance to the Board or its designee within
18 15 calendar days.

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

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

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

26 19. QUARTERLY DECLARATIONS. Respondent shall submit quarterly declarations
27 under penalty of perjury on forms provided by the Board, stating whether there has been
28 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.

20. 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.

21. 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.

1 22. NON-PRACTICE WHILE ON PROBATION. Respondent shall notify the Board or
2 its designee in writing within 15 calendar days of any periods of non-practice lasting more than
3 30 calendar days and within 15 calendar days of Respondent's return to practice. Non-practice is
4 defined as any period of time Respondent is not practicing medicine as defined in Business and
5 Professions Code sections 2051 and 2052 for at least 40 hours in a calendar month in direct
6 patient care, clinical activity or teaching, or other activity as approved by the Board. If
7 Respondent resides in California and is considered to be in non-practice, Respondent shall
8 comply with all terms and conditions of probation. All time spent in an intensive training
9 program which has been approved by the Board or its designee shall not be considered non-
10 practice and does not relieve Respondent from complying with all the terms and conditions of
11 probation. Practicing medicine in another state of the United States or Federal jurisdiction while
12 on probation with the medical licensing authority of that state or jurisdiction shall not be
13 considered non-practice. A Board-ordered suspension of practice shall not be considered as a
14 period of non-practice.

15 In the event Respondent's period of non-practice while on probation exceeds 18 calendar
16 months, Respondent shall successfully complete the Federation of State Medical Boards' Special
17 Purpose Examination, or, at the Board's discretion, a clinical competence assessment program
18 that meets the criteria of Condition 18 of the current version of the Board's "Manual of Model
19 Disciplinary Orders and Disciplinary Guidelines" prior to resuming the practice of medicine.

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

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

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

27 23. COMPLETION OF PROBATION. Respondent shall comply with all financial
28 obligations (e.g., restitution, probation costs) not later than 120 calendar days prior to the

1 completion of probation. Upon successful completion of probation, Respondent's certificate shall
2 be fully restored.

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

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

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

25 ///

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27 ///

28 ///

1 ACCEPTANCE

2 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
3 discussed it with my attorney, Courtney E. Pilchman. I understand the stipulation and the effect it
4 will have on my Physician's and Surgeon's Certificate. I enter into this Stipulated Settlement and
5 Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the
6 Decision and Order of the Medical Board of California.

7
8 DATED: 12/11/19

Jeanette Rae Ponce
9 JEANETTE RAE PONCE, M.D.
Respondent

10 I have read and fully discussed with Respondent Jeanette Rae Ponce, M.D. the terms and
11 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.
12 I approve its form and content.

13 DATED: 12/10/19

Courtney E. Pilchman
14 COURTNEY E. PILCHMAN
Attorney for Respondent

15
16 ENDORSEMENT

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

19
20 DATED: 12/12/2019

Respectfully submitted,

21 XAVIER BECERRA
Attorney General of California
22 STEVE DIEHL
Supervising Deputy Attorney General

23 Beneth A Browne
24 BENETH A. BROWNE
25 Deputy Attorney General
26 Attorneys for Complainant

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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:

Case No. 800-2014-008587

JEANETTE RAE PONCE, M.D.
P.O. Box 741
Santa Ana, CA 92702

FIRST AMENDED ACCUSATION

Physician's and Surgeon's Certificate
No. A 68979,

Respondent.

Complainant alleges:

PARTIES

1. Kimberly Kirchmeyer (Complainant) brings this First Amended 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 June 24, 1999, the Medical Board issued Physician's and Surgeon's Certificate Number A 68979 to Jeanette Rae Ponce, 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 December 31, 2020, unless renewed.

///

JURISDICTION

3. This First Amended 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, in subdivision (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."

5. Section 2004 of the Code states:

"The board shall have the responsibility for the following:

"(a) The enforcement of the disciplinary and criminal provisions of the Medical Practice Act.

"(b) The administration and hearing of disciplinary actions.

"(c) Carrying out disciplinary actions appropriate to findings made by a panel or an administrative law judge.

"(d) Suspending, revoking, or otherwise limiting certificates after the conclusion of disciplinary actions.

"(e) Reviewing the quality of medical practice carried out by physician and surgeon certificate holders under the jurisdiction of the board.

"..."

6. 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.

7. Section 2234 of the Code, states:

"The board shall take action against any licensee who is charged with unprofessional

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.

1 conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not
2 limited to, the following:

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

5 “(b) Gross negligence.

6 “(c) Repeated negligent acts. To be repeated, there must be two or more negligent acts or
7 omissions. An initial negligent act or omission followed by a separate and distinct departure from
8 the applicable standard of care shall constitute repeated negligent acts.

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

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

16 “(d) Incompetence.

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

19 “...”

20 8. Section 2238 of the Code states:

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

24 9. Section 2242 of the Code states:

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

28 “(b) No licensee shall be found to have committed unprofessional conduct within the

1 meaning of this section if, at the time the drugs were prescribed, dispensed, or furnished, any of
2 the following applies:

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

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

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

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

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

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

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

24 **FIRST CAUSE FOR DISCIPLINE**

25 **(Gross Negligence)**

26 11. Respondent Jeanette Rae Ponce, M.D. is subject to disciplinary action under Code
27 section 2234, subdivision (b), in her prescribing to patient T.M. The circumstances are as
28 follows:

12. In or around October of 2011 until the beginning of July of 2014, Respondent served as a physician for the Vietnamese Community of Orange County (VNCOC), a nonprofit organization. She was hired to treat and diagnose patients and worked at five different locations. It was the policy of VNCOC that Respondent only use her work prescription pad referencing VNCOC when treating and prescribing to patients at any VNCOC location.

13. Over the course of her employment, as early as November of 2011 and as late as June of 2014, prescriptions for multiple controlled substances written by Respondent on her work prescription pads were filled at various pharmacies in or around Orange County. They were written for T.M., Respondent's boyfriend, who was not her patient. T.M. had never been a patient of the VNCOC.

14. The prescriptions are documented in the following charts, each from a different pharmacy, referencing the date the prescription was filled, the medication, quantity of pills, amount of refills and the prescription number.

Harbor Health Living Pharmacy - Fountain Valley				
Date	Medication	Quantity	Refills	Rx Number
01/28/13	Phentermine	60	0	38997
08/06/13	Phentermine	60	0	51649
02/04/14	Phentermine	40	0	64610
5/28/14	Phentermine	40	1	74085

West Drug Pharmacy - Westminster				
Date	Medication	Quantity	Refills	Rx Number
04/09/14	Phentermine	30	1	534321
06/27/14	Xanax	60	1	537721

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CVS Pharmacy, 480 South Main Street, Orange				
Date	Medication	Quantity	Refills	Rx Number
04/08/12	Vicodin	60	1	C1055684
04/20/12	Vicodin	60	2	C1060778
05/21/12	Vicodin	60	0	C1082557
07/27/12	Vicodin	60	0	C1099040
08/21/12	Vicodin	60	2	C1108674
01/19/13	Vicodin	60	2	C1171059
03/27/13	Vicodin	60	2	C1204632
06/04/13	Vicodin	60	2	C1234786
11/13/13	Norco	60	2	C1298741

Target Pharmacy - E 17 th Street, Santa Ana				
Date	Medication	Quantity	Refills	Rx Number
11/12/11	Vicodin	30	0	4419379
11/23/11	Vicodin	30	1	4419507
12/23/11	Vicodin	30	1	4419788
01/13/12	Vicodin	60	1	4420034
03/08/12	Vicodin	60	2	4420721
04/18/12	Vicodin	60	2	4421157
04/18/12	Phentermine 37.5 mg	60	2	4421158
06/12/12	Vicodin	60	2	4421782
08/02/12	Vicodin	60	0	4422295
09/21/12	Vicodin	60	2	4422832
11/01/12	Vicodin	60	2	4423260
11/09/12	Phentermine 37.5 mg	60	2	4423342
12/24/12	Vicodin	60	2	4423836

Date	Medication	Quantity	Refills	Rx Number
03/08/13	Phentermine 37.5 mg	60	2	4424684
03/26/13	Promethazine with codeine	8 oz.	0	4424849
04/25/13	Soma	60	1	4425208
05/17/13	Vicodin	60	2	4425415
09/12/13	Phentermine 37.5 mg	60	2	4426633

15. The medications referenced above include Phentermine,² Xanax,³ Vicodin,⁴ Norco⁵ and Promethazine with Codeine.⁶

16. Respondent failed to produce any medical records related to the prescriptions. There is no evidence that Respondent conducted a full evaluation of the medical history or a good faith examination of T.M. prior to prescribing him controlled substances.

17. Between in or around December 2011 and June 2014, considered individually or collectively, Respondent committed gross negligence on the 34 occasions she prescribed a controlled substance, as referenced in paragraph 14 above, to a personal acquaintance, T.M., without the benefit of a full evaluation including a good faith exam.

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² Phentermine is a psychostimulant drug similar to amphetamine. It is used for weight loss. It is a Schedule IV controlled substance and a dangerous drug as defined in Section 4022 of the Code.

³ Xanax is a benzodiazepine used to treat anxiety. It is a Schedule IV controlled substance and a dangerous drug as defined in Section 4022 of the Code.

⁴ Vicodin is an opioid analgesic. It is a Schedule II controlled substance and a dangerous drug as defined in Section 4022 of the Code. Vicodin is only available as 5 mg of hydrocodone and 500 mg of acetaminophen.

⁵ Norco is the same as Vicodin. However, it is available in two strengths: 7.5 mg of hydrocodone and 325 mg of acetaminophen and 10 mg of hydrocodone and 325 mg of acetaminophen.

⁶ Promethazine with codeine is used as a cough suppressant. Promethazine is an antihistamine and codeine is an opioid analgesic. It is a Schedule V controlled substance and a dangerous drug as defined in Section 4022 of the Code.

1. **SECOND CAUSE FOR DISCIPLINE**

2. **(Repeated Negligent Acts)**

3. 18. Respondent Jeanette Rae Ponce, M.D. is subject to disciplinary action under Code
4. section 2234, subdivision (c), in her prescribing to patient T.M. The circumstances are set forth
5. in paragraphs 12 through 17, above, which are incorporated here by reference as if fully set forth.
6. Additional circumstances are as follows:

7. 19. Between in or around December 2011 and June 2014, Respondent committed
8. repeated negligent acts on the 33 occasions when she prescribed controlled substances, as
9. referenced in paragraph 14 above, to T.M., a personal acquaintance, without the benefit of a full
10. evaluation including a good faith exam.

11. **THIRD CAUSE FOR DISCIPLINE**

12. **(Prescribing Without Prior Exam and Medical Indication)**

13. 20. Respondent Jeanette Rae Ponce, M.D. is subject to disciplinary action under sections
14. 2238 and 2242 in that she prescribed dangerous drugs to patient T.M. without an appropriate prior
15. examination and a medical indication, thereby committing unprofessional conduct and violating
16. state drug statutes. The circumstances are set forth in paragraphs 12 through 17, above, which
17. are incorporated here by reference as if fully set forth.

18. **FOURTH CAUSE FOR DISCIPLINE**

19. **(Failure to Maintain Adequate and Accurate Records)**

20. 21. Respondent Jeanette Rae Ponce, M.D. is subject to disciplinary action under Code
21. section 2266 in that she failed to maintain adequate and accurate records relating to the provision
22. of services to patient T.M. thereby committing unprofessional conduct. The circumstances are set
23. forth in paragraphs 12 through 17, above, which are incorporated here by reference as if fully set
24. forth.

25. **PRAYER**

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

28. ///

1 1. Revoking or suspending Physician's and Surgeon's Certificate Number A 68979,
2 issued to Jeanette Rae Ponce, M.D.;

3 2. Revoking, suspending or denying approval of Jeanette Rae Ponce, M.D.'s authority to
4 supervise physician assistants and advanced practice nurses;

5 3. Ordering Jeanette Rae Ponce, M.D., if placed on probation, to pay the Board the costs
6 of probation monitoring; and

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

8
9 DATED: October 17, 2019


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

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