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

In the Matter of the Accusation and Petition to Revoke Probation Against: **Douglas Alvin Schaller, M.D.** **Physician's and Surgeon's Certificate No. G 61159** **Respondent.**	**Case No. 800-2020-064104**

DECISION

The attached Stipulated Settlement and Disciplinary Order 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 24, 2020.

IT IS SO ORDERED: August 25, 2020.

MEDICAL BOARD OF CALIFORNIA

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

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

In the Matter of the Accusation/Petition to Revoke Probation Against: DOUGLAS ALVIN SCHALLER, M.D. 535 Pacific Street Tustin, CA 92780 Physician's and Surgeon's Certificate No. G 61159, Respondent.	Case No. 800-2020-064104 OAH No. 2020030650 **STIPULATED SETTLEMENT AND DISCIPLINARY ORDER**

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

PARTIES

1. William Prasifka ("Complainant") is the Executive Director of the Medical Board of California ("Board"). He brought this action solely in his official capacity and is represented in this matter by Xavier Becerra, Attorney General of the State of California, by Rebecca L. Smith, Deputy Attorney General.

2. Respondent Douglas Alvin Schaller, M.D. ("Respondent") is representing himself in this proceeding and has chosen not to exercise his right to be represented by counsel.

3. On or about August 24, 1987, the Board issued Physician's and Surgeon's Certificate No. G 61159 to Respondent. That license was in full force and effect at all times relevant to the charges brought in Accusation/Petition to Revoke Probation No. 800-2020-064104, and will expire on October 31, 2020, unless renewed.

JURISDICTION

4. Accusation/Petition to Revoke Probation No. 800-2020-064104 was filed before the Board, and is currently pending against Respondent. The Accusation/Petition to Revoke Probation and all other statutorily required documents were properly served on Respondent on February 19, 2020. Respondent timely filed his Notice of Defense contesting the Accusation/Petition to Revoke Probation.

5. A copy of Accusation/Petition to Revoke Probation No. 800-2020-064104 is attached as Exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

6. Respondent has carefully read, and understands the charges and allegations in Accusation/Petition to Revoke Probation No. 800-2020-064104. Respondent has also carefully read, and understands the effects of this Stipulated Settlement and Disciplinary Order.

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

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

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CULPABILITY

9. Respondent understands and agrees that the charges and allegations in Accusation/Petition to Revoke Probation No. 800-2020-064104, if proven at a hearing, constitute cause for imposing discipline upon his Physician's and Surgeon's Certificate.

10. Respondent agrees that, at a hearing, Complainant could establish a prima facie case or factual basis for the charges in the Accusation/Petition to Revoke Probation, and that Respondent hereby gives up his right to contest those charges.

11. Respondent does not contest that, at an administrative hearing, Complainant could establish a prima facie case with respect to the charges and allegations in Accusation/Petition to Revoke Probation No. 800-2020-064104, a true and correct copy of which is attached hereto as Exhibit A, and that he has thereby subjected his Physician's and Surgeon's Certificate No. G 61159 to disciplinary action.

12. ACKNOWLEDGMENT. Respondent acknowledges the Disciplinary Order below, requiring the disclosure of probation pursuant to Business and Professions Code section 2228.1, serves to protect the public interest.

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

CONTINGENCY

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

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the parties, and the Board shall not be disqualified from further action by having considered this matter.

15. Respondent agrees that if he ever petitions for early termination or modification of probation, or if an accusation and/or petition to revoke probation is filed against him before the Board, all of the charges and allegations contained in Accusation/Petition to Revoke Probation No. 800-2020-064104 shall be deemed true, correct and fully admitted by Respondent for purposes of any such proceeding or any other licensing proceeding involving Respondent in the State of California.

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

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

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. G 61159 issued to Respondent DOUGLAS ALVIN SCHALLER, M.D. is revoked. However, the revocation is stayed and Respondent is placed on probation for three (3) years on the following terms and conditions:

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

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

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

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

If Respondent has a confirmed positive biological fluid test for any substance (whether or not legally prescribed) and has not reported the use to the Board or its designee, Respondent shall receive a notification from the Board or its designee to immediately cease the practice of medicine. Respondent shall not resume the practice of medicine until the final decision on an accusation and/or a petition to revoke probation is effective. An accusation and/or petition to revoke probation shall be filed by the Board within thirty (30) days of the notification to cease practice. If Respondent requests a hearing on the accusation and/or petition to revoke probation, the Board shall provide Respondent with a hearing within thirty (30) days of the request, unless Respondent stipulates to a later hearing. If the case is heard by an Administrative Law Judge alone, he or she shall forward a Proposed Decision to the Board within fifteen (15) days of submission of the matter. Within fifteen (15) days of receipt by the Board of the Administrative Law Judge's proposed decision, the Board shall issue its Decision, unless good cause can be shown for the delay. If the case is heard by the Board, the Board shall issue its decision within fifteen (15) days of submission of the case, unless good cause can be shown for the delay. Good

cause includes, but is not limited to, non-adoption of the proposed decision, requests for reconsideration, remands and other interlocutory orders issued by the Board. The cessation of practice shall not apply to the reduction of the probationary time period.

If the Board does not file an accusation or petition to revoke probation within thirty (30) days of the issuance of the notification to cease practice or does not provide Respondent with a hearing within thirty (30) days of a such a request, the notification of cease practice shall be dissolved.

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

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

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

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

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

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

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

6. PROFESSIONALISM PROGRAM (ETHICS COURSE). Within sixty (60) calendar days of the effective date of this Decision, Respondent shall enroll in a professionalism program, that meets the requirements of Title 16, California Code of Regulations ("CCR") section 1358.1.

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

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

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

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

Failure to complete the entire program not later than six (6) months after Respondent's initial enrollment shall constitute a violation of probation unless the Board or its designee agrees in writing to a later time for completion. Based on Respondent's performance in and evaluations

from the assessment, education, and training, the program shall advise the Board or its designee of its recommendation(s) for additional education, training, psychotherapy and other measures necessary to ensure that Respondent can practice medicine safely. Respondent shall comply with program recommendations. At the completion of the program, Respondent shall submit to a final evaluation. The program shall provide the results of the evaluation to the Board or its designee. The professional boundaries program shall be at Respondent's expense and shall be in addition to the Continuing Medical Education ("CME') requirements for renewal of licensure.

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

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

If Respondent fails to complete the program within the designated time period, Respondent shall cease the practice of medicine within three (3) calendar days after being notified by the Board or its designee that Respondent failed to complete the program.

8. PSYCHIATRIC EVALUATION – Condition Satisfied. Within thirty (30) calendar days of the effective date of this Decision, and on whatever periodic basis thereafter may be required by the Board or its designee, Respondent shall undergo and complete a psychiatric evaluation (and psychological testing, if deemed necessary) by a Board-appointed board certified psychiatrist, who shall consider any information provided by the Board or designee and any other information the psychiatrist deems relevant, and shall furnish a written evaluation report to the Board or its designee. Psychiatric evaluations conducted prior to the effective date of the Decision shall not be accepted towards the fulfillment of this requirement. Respondent shall pay the cost of all psychiatric evaluations and psychological testing.

Respondent shall comply with all restrictions or conditions recommended by the evaluating psychiatrist within fifteen (15) calendar days after being notified by the Board or its designee.

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

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

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

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

10. THIRD PARTY FEMALE CHAPERONE. During probation, Respondent shall have a third party female chaperone present while consulting, examining or treatment female patients in all locations. Respondent shall, within thirty (30) calendar days of the effective date of the Decision, submit to the Board or its designee for prior approval name(s) of persons who will act as the third party chaperone.

If Respondent fails to obtain approval of a third party chaperone within sixty (60) calendar days of the effective date of this Decision, Respondent shall receive a notification from the Board

or its designee to cease the practice of medicine within three (3) calendar days after being so notified. Respondent shall cease the practice of medicine until a chaperone is approved to provide monitoring responsibility.

Each third party chaperone shall sign (in ink or electronically) and date each patient medical record at the time the chaperone's services are provided. Each third party chaperone shall read the Decision and the Accusation/Petition to Revoke Probation, and fully understand the role of the third party chaperone.

Respondent shall maintain a log of all patients seen for whom a third party chaperone is required. The log shall contain the: 1) patient initials, address and telephone number; 2) medical record number; and 3) date of service. Respondent shall keep this log in a separate file or ledger, in chronological order, shall make the log available for immediate inspection and copying on the premises at all times during business hours by the Board or its designee, and shall retain the log for the entire term of probation.

Respondent is prohibited from terminating employment of a Board-approved third party chaperone solely because that person provided information as required to the Board or its designee.

If the third party chaperone resigns or is no longer available, Respondent shall, within five (5) calendar days of such resignation or unavailability, submit to the Board or its designee, for prior approval, the name of the person(s) who will act as the third party chaperone. If Respondent fails to obtain approval of a replacement chaperone within sixty (60) calendar days of the resignation or unavailability of the chaperone, Respondent shall receive a notification from the Board or its designee to cease the practice of medicine within three (3) calendar days after being so notified. Respondent shall cease the practice of medicine until a replacement chaperone is approved and assumes monitoring responsibility.

11. THIRD PARTY CHAPERONE. During probation, Respondent shall have a third party chaperone present while handling and reviewing patient medication boxes in any facilities where patient medication boxes are normally maintained in a locked and secured manner to prevent unsupervised patient access to medications (i.e., drug and alcohol detoxification and

rehabilitation facilities). Respondent shall, within thirty (30) calendar days of the effective date of the Decision, submit to the Board or its designee for prior approval name(s) of persons who will act as the third party chaperone.

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

Each third party chaperone shall sign (in ink or electronically) and date each patient medical record at the time the chaperone's services are provided. Each third party chaperone shall read the Decision and the Accusation/Petition to Revoke, and fully understand the role of the third party chaperone.

Respondent shall maintain a log of all patients seen for whom a third party chaperone is required. The log shall contain the: 1) patient initials, address and telephone number; 2) medical record number; and 3) date of service. Respondent shall keep this log in a separate file or ledger, in chronological order, shall make the log available for immediate inspection and copying on the premises at all times during business hours by the Board or its designee, and shall retain the log for the entire term of probation.

Respondent is prohibited from terminating employment of a Board-approved third party chaperone solely because that person provided information as required to the Board or its designee.

If the third party chaperone resigns or is no longer available, Respondent shall, within five (5) calendar days of such resignation or unavailability, submit to the Board or its designee, for prior approval, the name of the person(s) who will act as the third party chaperone. If Respondent fails to obtain approval of a replacement chaperone within sixty (60) calendar days of the resignation or unavailability of the chaperone, Respondent shall receive a notification from the Board or its designee to cease the practice of medicine within three (3) calendar days after being so notified. Respondent shall cease the practice of medicine until a replacement chaperone is

approved and assumes monitoring responsibility.

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

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

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

The facilitator of the substance abuse support group meeting shall have a minimum of three (3) years' experience in the treatment and rehabilitation of substance abuse, and shall be licensed or certified by the state or nationally certified organizations. The facilitator shall not have a current or former financial, personal, or business relationship with Respondent within the last five (5) years. Respondent's previous participation in a substance abuse group support meeting led by the same facilitator does not constitute a prohibited current or former financial, personal, or business relationship.

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

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

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

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

Respondent shall pay all worksite monitoring costs.

The worksite monitor shall have face-to-face contact with Respondent in the work environment on as frequent a basis as determined by the Board or its designee, but not less than once per week; interview other staff in the office regarding Respondent's behavior, if requested by the Board or its designee; and review Respondent's work attendance.

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

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

If the worksite monitor resigns or is no longer available, Respondent shall, within five (5) calendar days of such resignation or unavailability, submit to the Board or its designee, for prior approval, the name and qualifications of a replacement monitor who will be assuming that responsibility within fifteen (15) calendar days. If Respondent fails to obtain approval of a replacement monitor within sixty (60) calendar days of the resignation or unavailability of the monitor, Respondent shall receive a notification from the Board or its designee to cease the practice of medicine within three (3) calendar days after being so notified. Respondent shall 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 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 accordance with section 1361.5, subdivision (c)(1), of Title 16 of the California Code of Regulations, at Respondent's expense;

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

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

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

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

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

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

19. QUARTERLY DECLARATIONS. Respondent shall submit quarterly declarations under penalty of perjury on forms provided by the Board, stating whether there has been compliance with all the conditions of probation.

Respondent shall submit quarterly declarations not later than ten (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, subdivision (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.

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

conditions of probation. Practicing medicine in another state of the United States or Federal jurisdiction while on probation with the medical licensing authority of that state or jurisdiction shall not be considered non-practice. A Board-ordered suspension of practice shall not be considered as a period of non-practice.

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

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

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

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

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

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

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

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

27. FUTURE ADMISSIONS CLAUSE. If Respondent should ever apply or reapply for a new license or certification, or petition for reinstatement of a license, by any other health care licensing action agency in the State of California, all of the charges and allegations contained in Accusation/Petition to Revoke Probation No. 800-2020-064104 shall be deemed to be true, correct, and admitted by Respondent for the purpose of any Statement of Issues or any other proceeding seeking to deny or restrict license.

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ACCEPTANCE

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

DATED: July 8, 2020

Douglas A. Schaller MD
DOUGLAS ALVIN SCHALLER, M.D.
Respondent

ENDORSEMENT

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

DATED: 7/8/2020

Respectfully submitted,

XAVIER BECERRA
Attorney General of California
JUDITH T. ALVARADO
Supervising Deputy Attorney General

REBECCA L. SMITH
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation/Petition to Revoke Probation No. 800-2020-064104

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO February 19 2020
BY: Sharon Wilkie ANALYST

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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 Accusation/Petition to Revoke Probation Against: **Douglas Alvin Schaller, M.D.** **535 Pacific Street** **Tustin, CA 92780** **Physician's and Surgeon's Certificate No. G 61159,** Respondent.	Case No. 800-2020-064104 **ACCUSATION AND PETITION TO REVOKE PROBATION**

PARTIES

1. Christine J. Lally (Complainant) brings this Accusation solely in her official capacity as the Interim Executive Director of the Medical Board of California, Department of Consumer Affairs (Board).

2. On or about August 24, 1987, the Medical Board issued Physician's and Surgeon's Certificate Number G 61159 to Douglas Alvin Schaller, 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 October 31, 2020, unless renewed.

3. In a matter entitled *In the Matter of the First Amended Accusation and Petition to Revoke Probation Against: Douglas A. Schaller, M.D.*, case no. 19-2013-230308, the Board

issued a decision, effective June 20, 2016. Respondent's license was revoked, that revocation was stayed and Respondent was placed on probation for a period of two-years on certain terms and conditions to run consecutive to the five-year term of probation implemented in case no. 04-2011-213435, effective September 19, 2012. A copy of the Decision in case no. 19-2013-230308, is attached as Exhibit A and incorporated herein by this reference.

JURISDICTION

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

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.

(f) Approving undergraduate and graduate medical education programs.

(g) Approving clinical clerkship and special programs and hospitals for the programs in subdivision (f).

(h) Issuing licenses and certificates under the board's jurisdiction.

(i) Administering the board's continuing medical education program.

6. Section 2227 of the Code states:

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

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

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

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

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

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

(b) Any matter heard pursuant to subdivision (a), except for warning letters, medical review or advisory conferences, professional competency examinations, continuing education activities, and cost reimbursement associated therewith that are agreed to with the board and successfully completed by the licensee, or other matters made confidential or privileged by existing law, is deemed public, and shall be made available to the public by the board pursuant to Section 803.1.

STATUTORY PROVISIONS

7. Section 726 of the Code states:

(a) The commission of any act of sexual abuse, misconduct, or relations with a patient, client, or customer constitutes unprofessional conduct and grounds for disciplinary action for any person licensed under this or under any initiative act referred to in this division.

(b) This section shall not apply to consensual sexual contact between a licensee and his or her spouse or person in an equivalent domestic relationship when that licensee provides medical treatment, to his or her spouse or person in an equivalent domestic relationship.

8. Section 729 of the Code states:

(a) Any physician and surgeon, psychotherapist, alcohol and drug abuse counselor or any person holding himself or herself out to be a physician and surgeon, psychotherapist, or alcohol and drug abuse counselor, who engages in an act of sexual intercourse, sodomy, oral copulation, or sexual contact with a patient or client, or with a former patient or client when the relationship was terminated primarily for the purpose of engaging in those acts, unless the physician and surgeon, psychotherapist, or alcohol and drug abuse counselor has referred the patient or client to an independent and objective physician and surgeon, psychotherapist, or alcohol and drug abuse counselor recommended by a third-party physician and surgeon, psychotherapist, or alcohol and drug abuse counselor for treatment, is guilty of sexual exploitation by a physician and surgeon, psychotherapist, or alcohol and drug abuse counselor.

(b) Sexual exploitation by a physician and surgeon, psychotherapist, or alcohol and drug abuse counselor is a public offense:

(1) An act in violation of subdivision (a) shall be punishable by imprisonment in a county jail for a period of not more than six months, or a fine not exceeding one thousand dollars ($1,000), or by both that imprisonment and fine.

(2) Multiple acts in violation of subdivision (a) with a single victim, when the offender has no prior conviction for sexual exploitation, shall be punishable by imprisonment in a county jail for a period of not more than six months, or a fine not exceeding one thousand dollars ($1,000), or by both that imprisonment and fine.

(3) An act or acts in violation of subdivision (a) with two or more victims shall be punishable by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code for a period of 16 months, two years, or three years, and a fine not exceeding ten thousand dollars ($10,000); or the act or acts shall be punishable by imprisonment in a county jail for a period of not more than one year, or a fine not exceeding one thousand dollars ($1,000), or by both that imprisonment and fine.

(4) Two or more acts in violation of subdivision (a) with a single victim, when the offender has at least one prior conviction for sexual exploitation, shall be punishable by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code for a period of 16 months, two years, or three years, and a fine not exceeding ten thousand dollars ($10,000); or the act or acts shall be punishable by imprisonment in a county jail for a period of not more than one year, or a fine not exceeding one thousand dollars ($1,000), or by both that imprisonment and fine.

(5) An act or acts in violation of subdivision (a) with two or more victims, and the offender has at least one prior conviction for sexual exploitation, shall be punishable by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code for a period of 16 months, two years, or three years, and a fine not exceeding ten thousand dollars ($10,000).

For purposes of subdivision (a), in no instance shall consent of the patient or client be a defense. However, physicians and surgeons shall not be guilty of sexual exploitation for touching any intimate part of a patient or client unless the touching is outside the scope of medical examination and treatment, or the touching is done for sexual gratification.

(c) For purposes of this section:

(1) Psychotherapist has the same meaning as defined in Section 728.

(2) Alcohol and drug abuse counselor means an individual who holds himself or herself out to be an alcohol or drug abuse professional or paraprofessional.

(3) Sexual contact means sexual intercourse or the touching of an intimate part of a patient for the purpose of sexual arousal, gratification, or abuse.

(4) Intimate part and touching have the same meanings as defined in Section 243.4 of the Penal Code.

(d) In the investigation and prosecution of a violation of this section, no person shall seek to obtain disclosure of any confidential files of other patients, clients, or former patients or clients of the physician and surgeon, psychotherapist, or alcohol and drug abuse counselor.

(e) This section does not apply to sexual contact between a physician and surgeon and his or her spouse or person in an equivalent domestic relationship when that physician and surgeon provides medical treatment, other than psychotherapeutic treatment, to his or her spouse or person in an equivalent domestic relationship.

(f) If a physician and surgeon, psychotherapist, or alcohol and drug abuse

counselor in a professional partnership or similar group has sexual contact with a patient in violation of this section, another physician and surgeon, psychotherapist, or alcohol and drug abuse counselor in the partnership or group shall not be subject to action under this section solely because of the occurrence of that sexual contact.

9. 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.

(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.

(g) The repeated failure by a certificate holder, in the absence of good cause, to attend and participate in an interview by the board. This subdivision shall only apply to a certificate holder who is the subject of an investigation by the board.

FACTUAL ALLEGATIONS

Sexual Contact with a Patient

10. Respondent specializes in addiction medicine and internal medicine. Between September 2016 and March 2017, he was working at a drug and alcohol detoxification and rehabilitation facility in Santa Ana, California, which treated in-patients and out-patients for substance abuse ("facility").

11. Patient A,[1] a 68-year-old woman, was an in-patient at the facility and a patient of Respondent. She was admitted to the facility for treatment of alcohol abuse; she also had comorbidities of depression and anxiety.

12. On or about January 31, 2017, multiple staff members of the facility witnessed Respondent kissing and embracing Patient A in his office. Employee T.C. walked into Respondent's office and caught Respondent and Patient A embracing. Respondent and Patient A quickly separated, and Patient A pulled down her blouse and adjusted her clothing. Respondent stated he and Patient A were embracing because Patient A was upset.

13. Patient A later reported to facility staff that Respondent touched her hand, rubbed her arm and told her she had very soft skin. Respondent then kissed Patient A and put his hand up her shirt and grabbed her breast. He then stated, "Look what you do to me." When Patient A looked down she saw that Respondent had an ejaculate stain on his pants.

14. Patient A also reported that Respondent passed her notes to cover-up his misconduct. One note contained Respondent's personal cell phone number. Another note contained instructions on how Patient A should respond to questions regarding their sexual encounter. The note advised Patient A to say that they did not kiss and to "deny everything else."

Failure to Properly Secure Dangerous Drugs

15. On or about September 30, 2016, Respondent entered facility employee T.C.'s office. T.C. knew that Respondent was treating a patient and asked if he left the patient alone in his office with her medication box. Respondent answered in the affirmative. It was the policy of the facility and the standard of care that medications and dangerous drugs are kept locked in the facility's medication safe or in a locked office at all times, so that patients could not gain unintended access. Patients seeking treatment for substance abuse should not be left alone with unsupervised access to medication.

16. T.C. ran down to Respondent's office and found the patient bent over her open medication box which was on the floor in the center of the room. The medication box contained gabapentin 300 mg (an anticonvulsant used to treat nerve pain and a dangerous drug pursuant to

[1] The patient is identified as "Patient A" to protect her privacy.

section 4022 of the Code); methocarbamal 750 mg (a muscle relaxant and a dangerous drug pursuant to section 4022 of the Code); trazodone 150 mg (an SSRI antidepressant and a dangerous drug pursuant to section 4022 of the Code); Ativan 0.1 mg (a benzodiazepine anti-anxiolytic and a dangerous drug pursuant to section 4022 of the Code); and Zofran 8 mg (an antiemetic and a dangerous drug pursuant to section 4022 of the Code). T.C. admonished Respondent not to leave patients alone with their medications at any time. Respondent stated he would not do it again.

17. On or about February 9, 2017, Respondent removed a patient's medication box from the locked medication safe in the drug room. He took the medication box to his office for the purpose of determining if refills of medications were needed. Respondent left his office and failed to lock the door behind him, despite knowing that he should always lock his door if medications were left unattended. Facility employee M.D. noted that Respondent's office was empty, but an open medication box filled with medication bottles was on the floor. Facility employee M.D. confirmed with Respondent that the office door should be locked.

18. On or about February 12, 2017, at approximately 2:30 p.m., Respondent again removed two patients' medication boxes from the locked medication safe in the drug room for the purpose of determining if refills were needed. Respondent left his office to go to the bathroom. Respondent left his office door unlocked despite knowing that it was unsafe to do so. Facility employee J.E. observed the two medication boxes inside Respondent's unattended and unlocked office. J.E. admonished Respondent regarding the unsecured medication boxes.

19. Later, on February 12, 2017, at approximately 3:30 p.m., facility member K.B. noted that a box of Suboxone strips (an opioid medication used in the treatment of opiate use disorder and a dangerous drug pursuant to section 4022 of the Code) was missing. A facility surveillance camera was reviewed and a patient was seen going into Respondent's unlocked office. The patient removed the box of Suboxone strips from one of the medication boxes and walked out of Respondent's office toward the living room area. The patient was confronted and produced the box of Suboxone strips that he had removed from Respondent's unsecured office.

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FIRST CAUSE FOR DISCIPLINE

(Sexual Exploitation of a Patient)

20. Respondent Douglas Alvin Schaller, M.D. is subject to disciplinary action under section 729 of the Code in that he engaged in the sexual exploitation of Patient A. The circumstances are as follows:

21. Complainant refers to and, by this reference, incorporates paragraphs 10 through 14, above, as though fully set forth herein.

22. Respondent had an established doctor-patient relationship with Patient A. Respondent sexually exploited Patient A by improperly touching and making physical contact with an intimate part of Patient A's body on January 31, 2017, when his kissed her and put his hand up her shirt and grabbed her breast, for the purpose of sexual arousal and sexual gratification.

SECOND CAUSE FOR DISCIPLINE

(Sexual Misconduct with a Patient)

23. Respondent Douglas Alvin Schaller, M.D. is subject to disciplinary action under section 726 of the Code in that he committed sexual misconduct with Patient A. The circumstances are as follows:

24. Complainant refers to and, by this reference, incorporates paragraphs 10 through 14, above, as though fully set forth herein.

25. Respondent had an established doctor-patient relationship with Patient A. Respondent engaged in sexual misconduct by improperly touching and making physical contact with Patient A on January 31, 2017, when his kissed her and put his hand up her shirt and grabbed her breast.

THIRD CAUSE FOR DISCIPLINE

(Gross Negligence-Sexual Misconduct with a Patient)

26. Respondent Douglas Alvin Schaller, M.D. is subject to disciplinary action under section 2234, subdivision (b), of the Code in that he was grossly negligent by engaging in a sexual relationship with Patient A. The circumstances are as follows:

27. Complainant refers to and, by this reference, incorporates paragraphs 10 through 14, above, as though fully set forth herein.

28. The standard of professional care requires that physicians not engage in sexual relationships with patients.

29. The American Medical Association Code of Ethics, Section 8.14 states:

> Sexual contact that occurs concurrent with the patient-physician relationship constitutes sexual misconduct. Sexual or romantic interactions between physicians and patients detract from the goals of the physician-patient relationship, may exploit the vulnerability of the patient, may obscure the physician's objective judgment concerning the patient's health care, and ultimately may be detrimental to the patient's well-being.

30. Respondent had an established doctor-patient relationship with Patient A. Respondent was grossly negligent by improperly touching and making physical contact with Patient A on January 31, 2017, when his kissed her and put his hand up her shirt and grabbed her breast.

31. Respondent's acts and/or omissions as set forth in paragraphs 10 through 14 and 23 through 30, whether proven individually, jointly, or in any combination thereof, constitute gross negligence pursuant to section 2234, subdivision (b), of the Code. Therefore, cause for discipline exists.

FOURTH CAUSE FOR DISCIPLINE

(Gross Negligence-Failure to Secure Medications and Dangerous Drugs)

32. Respondent Douglas Alvin Schaller, M.D. is subject to disciplinary action under section 2234, subdivision (b), of the Code in that he was grossly negligent by failing to secure medications and dangerous drugs. The circumstances are as follows:

33. Complainant refers to and, by this reference, incorporates paragraphs 15 through 19, above, as though fully set forth herein.

34. The standard of care for a physician working in a substance abuse treatment program requires the physician to abide by the policies and protocols in place for the safe storage of medications and dangerous drugs. Patients in treatment for substance abuse are at higher risk of diverting medications and dangerous drugs, overdosing and stealing medications and dangerous

drugs. Therefore, medications are always secured and stored appropriately, with limited access to only trained employees.

35. On multiple occasions, Respondent was grossly negligent when he left medications and dangerous drugs unsecured, violating the policies and protocols of the facility and the standard of care. Respondent's failure to abide by the facility's policy and procedures and the standard of care, allowed unsupervised patients to be in his office with controlled substances and dangerous drugs. On one occasion, a patient stole a box of Suboxone strips from Respondent's unsecured office.

36. Respondent's acts and/or omissions as set forth in paragraphs 15 through 19 and 32 through 35, whether proven individually, jointly, or in any combination thereof, constitute gross negligence pursuant to section 2234, subdivision (b), of the Code. Therefore, cause for discipline exists.

FIFTH CAUSE FOR DISCIPLINE

(Repeated Negligent Acts)

37. Respondent Douglas Alvin Schaller, M.D. is subject to disciplinary action under section 2234, subdivision (c), of the Code. The circumstances are as follows:

38. Complainant refers to and, by this reference, incorporates paragraphs 10 through 36, above, as though fully set forth herein.

39. Respondent's acts and/or omissions as set forth in paragraphs 10 through 38, above, whether proven individually, jointly, or in any combination thereof, constitute repeated negligent acts pursuant to section 2234, subdivision (c), of the Code. Therefore, cause for discipline exists.

SIXTH CAUSE FOR DISCIPLINE

(Unprofessional Conduct)

40. Respondent Douglas Alvin Schaller, M.D. is subject to disciplinary action under sections 726 and 2234 of the Code. The circumstances are as follows:

41. Complainant refers to and, by this reference, incorporates paragraphs 10 through 39, above, as though fully set forth herein.

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42. Respondent's acts and/or omissions as set forth in paragraphs 10 through 41, above, whether proven individually, jointly, or in any combination thereof, constitute unprofessional conduct pursuant to sections 726 and 2234 of the Code. Therefore, cause for discipline exists.

FIRST CAUSE TO REVOKE PROBATION

(Failure to Comply: Obey All Laws)

43. At all times after the effective date of Respondent's probation, Condition 15 regarding general probation requirements, provided in pertinent part:

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

44. Complainant refers to and, by this reference, incorporates paragraphs 10 through 42, above, as though fully set forth herein.

45. The probation of the physician's and surgeon's certificate issued to Douglas Alvin Schaller, M.D. is subject to revocation because he failed to abide by Condition 15 of his probation, in that he failed to obey all federal, state, and local laws and rules governing the practice of medicine in California.

DISCIPLINARY CONSIDERATIONS

46. To determine the degree of discipline, if any, to be imposed on Respondent, Complainant alleges that on November 1, 2005, an Interim Order of Suspension was issued against the physician's and surgeon's certificate issued to Douglas Alvin Schaller, M.D., in case no. 04-2005-170654. By stipulation of the parties on January 9, 2006, the Interim Order of Suspension was amended and partial restrictions were placed on Dr. Shaller's physician's and surgeon's certificate. The Interim Suspension Order was terminated on April 30, 2007.

47. To determine the degree of discipline, if any, to be imposed on Respondent, Complainant further alleges that in the case entitled, *The People of the State of California v. Douglas Alvin Schaller*, Superior Court of the State of California, County of Orange, Harbor Justice Center-Newport Beach Facility, case no. 11HM05849, Respondent was convicted on September 22, 2011, upon his plea of guilty, of driving under the influence of alcohol or drugs, in violation of Vehicle Code section 23152, subdivision (a).

48. To determine the degree of discipline, if any, to be imposed on Respondent, Complainant further alleges that in the case entitled, *The People of the State of California v. Douglas Alvin Schaller*, Superior Court of the State of California, County of Orange, West Justice Center, case no. HBPD 11-19988, the Board obtained an Order restricting Respondent's practice as a physician and surgeon on March 14, 2012.

49. To determine the degree of discipline, if any, to be imposed on Respondent, Complainant further alleges that in the case entitled, *The People of the State of California v. Douglas Alvin Schaller*, Superior Court of the State of California, County of Orange, West Justice Center, case no. HBPD 11-19988. Respondent was convicted on March 20, 2012, upon his plea of guilty, of driving under the influence of alcohol or drugs, in violation of Vehicle Code section 23152, subdivision (a), and violating Health and Safety Code section 11550, subdivision (a), being under the influence of a controlled substance without a prescription.

50. To determine the degree of discipline, if any, to be imposed on Respondent, Complainant further alleges that in a decision effective September 19, 2012, *In the Matter of the First Amended Accusation Against: Douglas Alvin Schaller, M.D.*, case no. 04-2011-213435, Respondent's physician's and surgeon's certificate was revoked, revocation stayed and the certificate was placed on probation for a term of five-years, with terms and conditions, including a period of suspension of sixty-days.

51. To determine the degree of discipline, if any, to be imposed on Respondent, Complainant further alleges that on September 10, 2015, the Medical Board of California issued a Cease Practice Order-No Practice, in case no. 04-2011-213435, for Respondent's violation of Condition 7 of his probation: failing to submit to biological fluid testing within the required timeframe.

52. To determine the degree of discipline, if any, to be imposed on Respondent, Complainant further alleges that in a decision effective July 20, 2016, *In the Matter of the First Amended Accusation and Petition to Revoke Probation Against: Douglas Alvin Schaller, M.D.*, case no. 19-2013-230308, Respondent's physician's and surgeon's certificate was revoked, revocation stayed and the certificate was placed on probation for a term of two additional years,

to run consecutive to the five-year probationary term from case no. 04-2011-213435, with terms and conditions.

53. To determine the degree of discipline, if any, to be imposed on Respondent, Complainant further alleges that on December 8, 2017, the Medical Board of California issued a Citation and Order of Abatement, number 800-2017-039073, for violation of Condition 9 of Respondent's probation: failing to submit to biological fluid testing within the required timeframe on November 22, 2017. The Citation was resolved by way of compliance with the order of abatement on December 20, 2017.

54. To determine the degree of discipline, if any, to be imposed on Respondent, Complainant further alleges that on July 3, 2018, the Medical Board of California issued a Citation and Order of Abatement, number 800-2018-045343, for violation of Condition 9 of Respondent's probation: failing to check in with FirstSource within the required timeframe on May 22, 2018. The Citation was resolved by way of compliance with the order of abatement on August 2, 2018.

55. To determine the degree of discipline, if any, to be imposed on Respondent, Complainant further alleges that on February 22, 2019, the Medical Board of California issued a Citation and Order of Abatement, number 800-2018-050807, for violation of Condition 9 of Respondent's probation: failing to check in with FirstSource during program hours on November 1, 2018. The Citation was resolved by way of compliance with the order of abatement on February 22, 2019.

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 Respondent's probation and carrying out the disciplinary order that was stayed in the Board's Decision of December 20, 2017 in case no. 19-2013-230308;

2. Revoking or suspending Physician's and Surgeon's Certificate Number G 61159, issued to Douglas Alvin Schaller, M.D.;

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3. Revoking, suspending or denying approval of Douglas Alvin Schaller, M.D.'s authority to supervise physician assistants and advanced practice nurses;

4. Ordering Douglas Alvin Schaller, M.D., if placed on probation, to pay the Board the costs of probation monitoring; and

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

DATED: FEB 19 2020

CHRISTINE J. LALLY
Interim Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant

LA2020500635

Exhibit A

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

In the Matter of the First Amended Accusation and Petition to Revoke Probation Against:	)	
DOUGLAS ALVIN SCHALLER, M.D.	)	Case No. 19-2013-230308
Physician's and Surgeon's Certificate No. G 61159	)	
Respondent.	)	

DECISION AND ORDER

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

This Decision shall become effective at 5:00 p.m. on July 20, 2016.

IT IS SO ORDERED June 20, 2016.

MEDICAL BOARD OF CALIFORNIA

By: _____
Howard Krauss, M.D., Chair
Panel B

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

In the Matter of the First Amended Accusation and Petition to Revoke Probation Against: **DOUGLAS A. SCHALLER, M.D.** **535 Pacific Street** **Tustin, CA 92780** **Physician's and Surgeon's Certificate No. G 61159,** **Respondent.**	Case No. 19-2013-230308 OAH No. 2014100059 **STIPULATED SETTLEMENT AND DISCIPLINARY ORDER**

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

PARTIES

1. Kimberly Kirchmeyer (Complainant) is the Executive Director of the Medical Board of California. She brought this action solely in her official capacity and is represented in this matter by Kamala D. Harris, Attorney General of the State of California, by E. A. Jones III, Supervising Deputy Attorney General.

2. Respondent DOUGLAS A. SCHALLER, M.D. ("Respondent") is representing himself in this proceeding and has chosen not to exercise his right to be represented by counsel.

3. On or about August 24, 1987, the Medical Board of California issued Physician's and Surgeon's Certificate No. G 61159 to DOUGLAS A. SCHALLER, M.D. (Respondent). The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the

charges brought in First Amended Accusation and Petition to Revoke Probation No. 19-2013-230308, and will expire on October 31, 2016, unless renewed.

JURISDICTION

4. First Amended Accusation and Petition to Revoke Probation No. 19-2013-230308 was filed before the Medical Board of California (Board), Department of Consumer Affairs, and is currently pending against Respondent. The First Amended Accusation and Petition to Revoke Probation and all other statutorily required documents were properly served on Respondent on September 22, 2015. Respondent timely filed his Notice of Defense contesting the First Amended Accusation and Petition to Revoke Probation.

5. A copy of First Amended Accusation and Petition to Revoke Probation No. 19-2013-230308 is attached as exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

6. Respondent has carefully read, and understands the charges and allegations in First Amended Accusation and Petition to Revoke Probation No. 19-2013-230308. Respondent has also carefully read, and understands the effects of this Stipulated Settlement and Disciplinary Order.

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

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

CULPABILITY

9. Respondent admits the truth of each and every charge and allegation in First

Amended Accusation and Petition to Revoke Probation No. 19-2013-230308.

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

CIRCUMSTANCES IN MITIGATION

11. Respondent DOUGLAS A. SCHALLER, M.D. is admitting responsibility at an early stage in the proceedings. He currently is employed at a rehabilitation facility where he is using his own experiences to help other professionals who suffer from drug dependency issues.

RESERVATION

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

CONTINGENCY

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

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

15. In consideration of the foregoing admissions and stipulations, the parties agree that

the Board may, without further notice or formal proceeding, issue and enter the following Disciplinary Order:

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. G 61159 issued to Respondent DOUGLAS A. SCHALLER, M.D. is revoked. However, the revocation is stayed and Respondent is placed on probation for two (2) additional years which term of probation will commence upon the expiration of the term of probation of five (5) years, as set forth in the Prior Case August 21, 2012, Disciplinary Order, effective September 19, 2012. Upon the effective date of this order Respondent shall comply with the following terms and conditions.

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

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

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

Within 15 calendar days of receiving any lawfully prescribed medications, Respondent

shall notify the Board or its designee of the: issuing practitioner's name, address, and telephone number; medication name, strength, and quantity; and issuing pharmacy name, address, and telephone number.

If Respondent has a confirmed positive biological fluid test for any substance (whether or not legally prescribed) and has not reported the use to the Board or its designee, Respondent shall receive a notification from the Board or its designee to immediately cease the practice of medicine. The Respondent shall not resume the practice of medicine until final decision on an accusation and/or a petition to revoke probation. An accusation and/or petition to revoke probation shall be filed by the Board within 15 days of the notification to cease practice. If the Respondent requests a hearing on the accusation and/or petition to revoke probation, the Board shall provide the Respondent with a hearing within 30 days of the request, unless the Respondent stipulates to a later hearing. A decision shall be received from the Administrative Law Judge or the Board within 15 days unless good cause can be shown for the delay. The cessation of practice shall not apply to the reduction of the probationary time period.

If the Board does not file an accusation or petition to revoke probation within 15 days of the issuance of the notification to cease practice or does not provide Respondent with a hearing within 30 days of a such a request, the notification of cease practice shall be dissolved.

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

4. PRESCRIBING PRACTICES COURSE. Within 60 calendar days of the effective

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

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

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

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

(CME) requirements for renewal of licensure.

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

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

6. PSYCHIATRIC EVALUATION. On whatever periodic basis may be required by the Board or its designee, Respondent shall undergo and complete a psychiatric evaluation (and psychological testing, if deemed necessary) by a Board-appointed, board certified psychiatrist, who shall consider any information provided by the Board or designee and any other information the psychiatrist deems relevant, and shall furnish a written evaluation report to the Board or its designee. Psychiatric evaluations conducted prior to the effective date of the Decision shall not be accepted towards the fulfillment of this requirement. Respondent shall pay the cost of all psychiatric evaluations and psychological testing.

Respondent shall comply with all restrictions or conditions recommended by the evaluating psychiatrist within 15 calendar days after being notified by the Board or its designee.

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

The psychotherapist shall consider any information provided by the Board or its designee and any other information the psychotherapist deems relevant and shall furnish a written

evaluation report to the Board or its designee. Respondent shall cooperate in providing the psychotherapist any information and documents that the psychotherapist may deem pertinent.

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

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

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

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

During the first year of probation, respondent shall be subject to 52 to 104 random tests. During the second year of probation and for the duration of the probationary term, up to five (5)

years, respondent shall be subject to 36 to 104 random tests per year. Only if there has been no positive biological fluid tests in the previous five (5) consecutive years of probation, may testing be reduced to one (1) time per month. Nothing precludes the Board from increasing the number of random tests to the first-year level of frequency for any reason.

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

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

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

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

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

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

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

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

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

(i) It maintains testing sites located throughout California.

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

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

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

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

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

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

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

If a biological fluid test result indicates respondent has used, consumed, ingested, or administered to himself or herself a prohibited substance, the Board shall order respondent to cease practice and instruct respondent to leave any place of work where respondent is practicing medicine or providing medical services. The Board shall immediately notify all of respondent's employers, supervisors and work monitors, if any, that respondent may not practice medicine or provide medical services while the cease-practice order is in effect.

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

After the issuance of a cease-practice order, the Board shall determine whether the positive

biological fluid test is in fact evidence of prohibited substance use by consulting with the specimen collector and the laboratory, communicating with the licensee, his or her treating physician(s), other health care provider, or group facilitator, as applicable.

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

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

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

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

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

The facilitator of the substance abuse support group meeting shall have a minimum of three (3) years experience in the treatment and rehabilitation of substance abuse, and shall be licensed or certified by the state or nationally certified organizations. The facilitator shall not have a current or former financial, personal, or business relationship with respondent within the last five (5) years. Respondent's previous participation in a substance abuse group support meeting led by

the same facilitator does not constitute a prohibited current or former financial, personal, or business relationship.

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

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

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

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

Respondent shall pay all worksite monitoring costs.

The worksite monitor shall have face-to-face contact with respondent in the work environment on as frequent a basis as determined by the Board or its designee, but not less than once per week; interview other staff in the office regarding respondent's behavior, if requested by the Board or its designee; and review respondent's work attendance.

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

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

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

12. <u>VIOLATION OF PROBATION CONDITION FOR SUBSTANCE ABUSING LICENSEES</u> 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 the 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 accordance with section 1361.5, subdivision (c)(1), of Title 16 of the California Code of Regulations, at respondent's expense;

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

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

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

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

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

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

16. QUARTERLY DECLARATIONS. Respondent shall submit quarterly declarations under penalty of perjury on forms provided by the Board, stating whether there has been compliance with all the conditions of probation.

Respondent shall submit quarterly declarations not later than 10 calendar days after the end of the preceding quarter.

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17. GENERAL PROBATION REQUIREMENTS.

Compliance with Probation Unit

Respondent shall comply with the Board's probation unit and all terms and conditions of this Decision.

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.

18. 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.

19. NON-PRACTICE WHILE ON PROBATION. Respondent shall notify the Board or

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

In the event Respondent's period of non-practice while on probation exceeds 18 calendar months, Respondent shall successfully complete a clinical training program that meets the criteria of Condition 18 of the current version of the Board's "Manual of Model Disciplinary Orders and Disciplinary Guidelines" prior to resuming the practice of medicine.

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

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

Periods of non-practice will relieve Respondent of the responsibility to comply with the probationary terms and conditions with the exception of this condition and the following terms and conditions of probation: Obey All Laws; and General Probation Requirements.

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

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

Board shall have continuing jurisdiction until the matter is final, and the period of probation shall be extended until the matter is final.

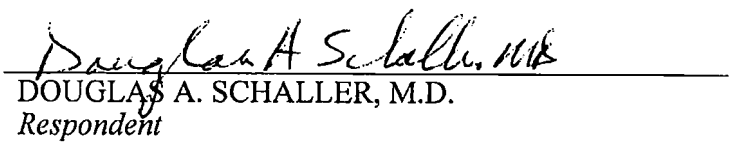
22. LICENSE SURRENDER. Following the effective date of this Decision, if Respondent ceases practicing due to retirement or health reasons or is otherwise unable to satisfy the terms and conditions of probation, Respondent may request to surrender his or her license. The Board reserves the right to evaluate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

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

ACCEPTANCE

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

DATED: 5/29/2016



DOUGLAS A. SCHALLER, M.D.
Respondent

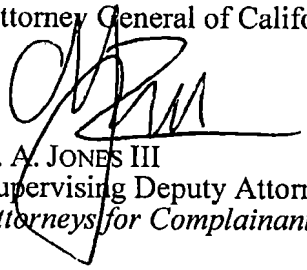
ENDORSEMENT

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

Dated: April 29, 2016

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California



E. A. JONES III
Supervising Deputy Attorney General
Attorneys for Complainant

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Exhibit A

First Amended Accusation and Petition to Revoke Probation No. 19-2013-230308

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FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO September 22 2015
BY R. FIRDAUS ANALYST

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

In the Matter of the First Amended Accusation and Petition to Revoke Probation Against: DOUGLAS A. SCHALLER, M.D. 535 Pacific Street Tustin, California 92780 Physician's and Surgeon's Certificate No. G 61159, Respondent.	Case No. 19-2013-230308 **FIRST AMENDED ACCUSATION and PETITION TO REVOKE PROBATION**

Complainant alleges:

PARTIES

1. Kimberly Kirchmeyer (Complainant) brings this First Amended Accusation and Petition to Revoke Probation solely in her official capacity as the Executive Director of the Medical Board of California, Department of Consumer Affairs (Board).

2. On or about August 24, 1987, the Medical Board of California issued Physician's and Surgeon's Certificate Number G 61159 to Douglas A. Schaller, 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 October 31, 2016, unless renewed. On or about September 10, 2015, based on his failure to successfully complete biological fluid testing, a Cease Practice Order was issued to Respondent prohibiting him from practicing medicine effective September 13, 2015.

3. In a disciplinary action entitled *In the Matter of Accusation Against Douglas A. Schaller, M.D.*, Case Nos. 04-2011-213435 and 04-2012-220871, the Board issued a decision, effective September 19, 2012, in which Respondent's Physician's and Surgeon's Certificate was revoked. However, the revocation was stayed and Respondent's Physician's and Surgeon's Certificate was placed on probation for a period of five years on certain terms and conditions. A copy of that decision is attached as Exhibit A and is incorporated by reference.

JURISDICTION

4. This First Amended Accusation and Petition to Revoke Probation is brought before the Board under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

5. The Medical Practice Act ("MPA") is codified at sections 2000-2521 of the Code.

6. Pursuant to Code section 2001.1, the Board's highest priority is public protection.

7. Code section 2227, subdivision (a), provides as follows:

> "(a) A licensee whose matter has been heard by an administrative law judge of the Medical Quality Hearing Panel as designated in Section 11371 of the Government Code, or whose default has been entered, and who is found guilty, or who has entered into a stipulation for disciplinary action with the board, may, in accordance with the provisions of this chapter:
>
> (1) Have his or her license revoked upon order of the board.
>
> (2) Have his or her right to practice suspended for a period not to exceed one year upon order of the board.
>
> (3) Be placed on probation and be required to pay the costs of probation monitoring upon order of the board.
>
> (4) Be publicly reprimanded by the board. The public reprimand may include a requirement that the licensee complete relevant educational courses approved by the board.
>
> (5) Have any other action taken in relation to discipline as part of an order of probation, as the board or an administrative law judge may deem proper.
>
> (b) Any matter heard pursuant to subdivision (a), except for warning letters, medical review or advisory conferences, professional competency examinations, continuing education activities, and cost reimbursement associated therewith that are agreed to with the board and successfully completed by the licensee, or other matters made confidential or privileged by existing law, is deemed public, and shall be made available to the public by the board pursuant to Section 803.1."

8. Section 2234 of the Code reads, in relevant part, as follows:

"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:

...

(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."

9. Section 2238 states as follows:

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

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

11. Health & Safety Code section 11172 states:

"No person shall antedate or postdate a prescription."

FIRST CAUSE FOR DISCIPLINE

(Repeated Negligent Acts

12. Respondent is subject to disciplinary action under section 2234, subdivision (c), of the Code in that Respondent was repeatedly negligent in the care and treatment of a two patients. The circumstances are as follows:

Patient D.A.[1]

13. On or about January 2, 2012, patient D.A. presented to Respondent complaining of

[1] Patients are referred to by initials in this pleading to protect their privacy.

pain in her neck and low back radiating down her left arm; multiple herniated discs in the cervical and lumbar spine as seen on a CT scan; "arthritis" (pain and swelling) in both hands and knees confirmed by x-ray; and bilateral torn menisci (knee cartilages). An MRI scan of the cervical spine on January 22, 2010, shows mild disc bulging with mild-moderate central stenosis and narrowing of the neuroforamina at C5-6 and C6-7.

14. D.A. also suffered from multiple basal cell carcinomas (minor skin cancers) on the face, and severe emphysema with only 35% of normal lung capacity, requiring continuous nasal oxygen supplementation. At the time of the January 2, 2012 visit, D.A. had prescriptions for OxyContin (60 mg four times a day), oxycodone (30 mg every 4 hours as needed), Valium (10 mg as needed for anxiety), and two inhalers for her emphysema. Respondent's examination of D.A. stated that she exhibited pain in the neck and low back with any movement, and weakness and numbness in the left arm. The physical examination also noted scars on her face from skin surgery, abnormal lung exam compatible with her emphysema, and an abnormal neurologic exam of the left upper extremity. Respondent diagnosed her with degenerative cervical and lumbar disc disease with left arm radicular symptoms, arthritis in hands and knees with bilateral degeneration of the menisci, COPD (chronic obstructive pulmonary disease), and basal cell carcinomas. He recommended treatment and referred her to the Cedars-Sinai Spine Center for her spine and to an orthopedist for her knees. He also continued her medications at the same levels.

15. On or about February 23, 2012, D.A. again presented to Respondent reporting that her pain was unchanged, and the swelling of her knees was worse. Again, Respondent prescribed her ongoing medications at the same levels as previously prescribed, substituting Xanax at 2 mg instead of continuing the Valium.

16. On or about February 28, 2012, patient D.A. returned to Respondent with greater knee swelling. Respondent advised her to stay off her feet and prescribed another 120 OxyContin at 60 mg, 180 oxycodone at 30 mg, and 90 Valium at 10 mg.

17. On or about March 26, 2012, D.A. returned to Respondent saying her knee swelling had decreased. Respondent noted that she would need a pulmonary consultation prior to seeing an orthopedist because of the severity of her lung disease.

18. On or about March 26, 2012, Respondent wrote and postdated prescriptions for five months of each of the following: 120 OxyContin 60 mg; 180 oxycodone 30 mg; 90 Valium 10 mg; 120 Robaxin 750 mg; and 120 ibuprofen 800 mg. This was D.A.'s last visit with Respondent.

Patient T.A.

19. On or about July 21, 2011, patient T.A., a male, presented to Respondent complaining of pain resulting from a fall on the ice in Big Bear, California on February 23, 2011, resulting in multiple fractured ribs, a lung contusion, and a possible spinal injury. At the time of the initial visit, T.A. was prescribed OxyContin (dosage unknown-records illegible) and 4-6 30-mg Roxicodone per day.

20. T.A. had torn his right biceps tendon and rotator cuff in a previous injury in 2010, and was treated with OxyContin (dosage unknown-medical records illegible) and up to 12 Percocet (dosage unknown-medical records illegible) per day.

21. T.A. had also suffered a spinal injury in an automobile accident and the medical records reflect T.A. stating that he had also suffered an injury on or about June 2, 2010 causing "nerve root sciatic nerve pain."

22. The medical records are unclear, but appear to reference a lumbar MRI showing three 8-10-mm disc herniations that cause pain radiating down the left lower extremity to the foot. As a result, T.A. had received prescriptions since 2010 for three OxyContin 60 mg/day and 4-6 Roxicodone/day.

23. Respondent diagnosed T.A. as having an "opiate addiction with increased tolerance to opiates due to [illegible] long-term opiates for chronic back and spinal problems." Respondent's treatment plan is difficult to read but apparently involved tapering the opiate dose and supplementing with non-narcotics like clonidine. The treatment plan also indicates that if the patient exhibited withdrawal symptoms, buprenorphine would be administered.

24. A continued diagnosis on the second page of the records refers to "chronic back spinal pain due to multiple traumas, now with radicular pain and reduced range of motion and due to chronic opiate use and increased tolerance with minimal effectiveness." The treatment plan is continued on the second page and states Respondent was going to:

"Attempt a taper rapid until withdrawal starts, then start buprenorphine up to maximal dose and supplement with other nonopiate pain [illegible] to stop increased tolerance to opiates therefore full effect can be achieved again. May have to utilize other pain doctor to place indwelling epidural [catheter] during transition but will first attempt without."

As part of this plan Respondent prescribed:

"20 buprenorphine 8 mg, 1-3/day to start after full withdrawal begins; 2) clonidine 0.2 mg, three a day to decrease withdrawal symptoms; 3) phenobarbital 60 mg as needed for sedation; 4) Robaxin 750 mg three times a day for muscle discomfort; 5) Ambien 10 mg as needed for sleep; and 6) OxyContin 60 mg four times a day as needed for seven days after taking buprenorphine for seven days."

25. On or about July 24, 2012, Respondent spent the day at home with the patient to begin the treatment plan with buprenorphine. The records reflect that at 7:00 a.m., the patient was "experiencing heavy withdrawal symptoms." He was given 8 mg of buprenorphine at 10:00 a.m., and by noon had a "major increase in withdrawal symptoms." T.A. was then given another 8 mg of buprenorphine. At 3:00 p.m., Respondent notes that T.A., had "withdrawal progressively increasing now with nausea/vomiting pain level intolerable. May have to abandon plan to alternate and utilize epidural during transition." At 6:00 p.m., Respondent notes that: "patient extremely sick with withdrawal symptoms, shaking chills, nausea/vomiting, pain at unbearable." And at 7:00 p.m., "[t]ransition attempt failed will restart OxyContin, one 60 mg given." And at 9:00 p.m., "[p]ain and withdrawal still severe. Second OxyContin 60 mg given. Patient instructed to resume regular medication." At 11:00 p.m., "[p]ain decreased, will reexamine patient tomorrow."[2]

26. T.A. visited Respondent on or about August 23, 2011 (see footnote 2). On that visit Respondent notes that T.A., "states had terrible experience with attempted transition, now hesitant to try again even with use of epidural. No change in pain level, bedridden for days at a time." Respondent prescribed 180 oxycodone 60 mg, 180 OxyContin 60 mg, 30 Ambien 10 mg, and 90 Robaxin 750 mg. These prescriptions were repeated nearly exactly at subsequent visits of September 9, 2011, October 25, 2011, November 18, 2011, and December 20, 2011, except Respondent prescribed 60 Valium 10 mg on November 18, 2011 instead of the Ambien, and he

[2] Although the chart clearly states that these events occurred in 2012, it seems probable that they actually occurred in 2011, due to the totality of the records. No visit the next day was reflected in the records.

switched to Ambien CR 12.5 mg on December 20, 2011.

27. The same prescription pattern was repeated on January 20, 2012 and February 20, 2012.

28. On or about March 26, 2012, Respondent wrote and postdated prescriptions for OxyContin, Oxycodone, Valium, Robaxin, and Ambien CR for T.A. There are no laboratory or other tests reflected in the medical records.

29. At the subject interview, Respondent acknowledged that he did not check a CURES report to see if either D.A. or T.A. were receiving medications from other physicians.

30. By reason of the matters set forth above in paragraphs 13 through 29, incorporated herein by this reference, Respondent is subject to disciplinary action under section 2234, subdivision (c), of the Code, in that he was repeatedly negligent in the care and treatment of D.A. and T.A., as more particularly alleged hereinafter. The circumstances are as follows:

31. Respondent prescribed large quantities of opiates and sedatives to T.A., who acknowledged a previous history of addiction, and he did not evaluate whether D.A. or T.A. had an addiction problem. Respondent did not obtain a CURES report or urine toxicology screen on either patient, nor did he attempt to obtain previous records or coordinate care with other providers. Because Respondent did not perform even the minimal due diligence to address these issues, he did not act in accordance with the standard of care and was repeatedly negligent.

32. Respondent continued to prescribe strong opiate medications to both T.A. and D.A. even though neither patient demonstrated reduced symptoms and improved function. Continuing to prescribe high-dose medication without evidence of benefit is a simple departure from the standard of care, demonstrates lack of knowledge about proper use of strong opiates, and constitutes repeated negligence.

33. In attempting to treat T.A.'s opiate dependence, Respondent gave T.A. 8 mg of buprenorphine, a dose significantly higher than the standard 2 or 4 mg initial dose. Respondent then compounded his error by immediately giving two more 8-mg doses resulting in a worsening of T.A.'s withdrawal symptoms. Moreover, Respondent's plan to alternate oxycodone and buprenorphine at weekly intervals means the patient would have undergone precipitated

withdrawal every two weeks, whenever the buprenorphine was restarted. Respondent's lack of knowledge of the proper use of buprenorphine is a simple departure from the standard of care, demonstrates lack of knowledge about treatment for opiate dependence, and constitutes negligence.

SECOND CAUSE FOR DISCIPLINE

(Unprofessional Conduct - Postdating Prescriptions)

34. Respondent is subject to disciplinary action under Code section 2238 in that he violated a statute of this state regulating dangerous drugs or controlled substances, to wit, Health and Safety Code section 11172, by postdating prescriptions. The circumstances are as follows:

35. On or about June 5, 2013, Respondent admitted to a Board that, in anticipation of his upcoming license suspension in a disciplinary action entitled *In the Matter of Accusation Against Douglas A. Schaller, M.D.*, Case Nos. 04-2011-213435 and 04-2012-220871, he had postdated prescriptions for his patients so that they would not be without pain medication during his suspension. By postdating prescriptions Respondent violated Health and Safety Code section 11172.

THIRD CAUSE FOR DISCIPLINE

(Failure to Maintain Adequate and Accurate Records)

36. Respondent is subject to disciplinary action under Code section 2266 in that he failed to maintain adequate and accurate medical records for patients D.A. and T.A. The circumstances are as follows:

37. The facts and circumstances alleged in paragraphs 13 through 33 are incorporated here as if fully set forth.

38. Respondent failed to document all important aspects of patient encounters for both D.A. and T.A., including: history, current medications, physical examination results, tests, assessment, and the treatment plan.

39. Respondent failed to detail which symptoms occurred and how they were diagnosed and treated; who else was currently treating the patient; a description of current complaints; an assessment of either patient's psychological status and social functioning; and either patient's

addiction history. Respondent failed to perform adequate physical examinations.

40. Respondent failed to follow the results of treatment and reevaluate the treatment over time. Respondent's records are not clear and legible and contain obvious errors as to dates.

CAUSE TO REVOKE PROBATION

(Failure to Comply with Biological Fluid Testing)

41. On or about August 21, 2012, the Board issued a Decision and Order in the case entitled *In the Matter of Accusation Against Douglas A. Schaller, M.D.*, Case Nos. 04-2011-213435 and 04-2012-220871 adopting a Stipulated Settlement and Disciplinary Order as its final decision. The Decision and Order, which was effective September 19, 2012, placed Respondent on probation with terms and conditions for five years.

42. Probation Condition 20 of the August 21, 2012, disciplinary order states as follows:

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

43. Probation Condition 7 of the August 21, 2012, disciplinary order states as follows:

"Respondent shall immediately submit to biological fluid testing, at Respondent's expense, upon request of the Board or its designee. 'Biological fluid testing' may include, but is not limited to, urine, blood, breathalyzer, hair follicle testing, or similar drug screening approved by the Board or its designee. Prior to practicing medicine, Respondent shall contract with a laboratory or service approved in advance by the Board or its designee that will conduct random, unannounced, observed, biological fluid testing. The contract shall require results of the tests to be transmitted by the laboratory or service directly to the Board or its designee within four hours of the results becoming available. Respondent shall maintain this laboratory or service contract during the period of probation.

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

"If Respondent fails to cooperate in a random biological fluid testing program within the specified time frame, Respondent shall receive a notification from the Board or its designee to immediately cease the practice of medicine. The Respondent shall not resume the practice of medicine until final decision on an accusation and/or a petition to revoke probation. An accusation and/or petition to revoke probation shall be filed by the Board within 15 days of the notification to cease practice. If the Respondent requests a hearing on the accusation and/or petition to revoke probation, the Board shall provide the Respondent with a hearing within 30 days of the request, unless the Respondent stipulates to a later hearing. A decision shall be received from the Administrative Law Judge or the Board within 15 days unless good cause can be shown for the delay. The cessation of practice shall not apply to the reduction of the probationary time period.

"If the Board does not file an accusation or petition to revoke probation within 15 days of the issuance of the notification to cease practice or does not provide Respondent with a hearing within 30 days of a such a request, the notification of cease practice shall be dissolved."

44. Respondent's probation is subject to revocation because he failed to comply with Probation Condition 7, referenced above. The facts and circumstances regarding this violation are as follows.

45. Respondent's random biological fluid testing program requires him to call in daily to determine whether he needs to report for biological fluid testing. Respondent failed to call in to check if he needed to report for testing on the following dates: July 5, 2014, July 6, 2014, July 19, 2014, July 23, 2014, July 25, 2014, July 26, 2014, August 2, 2014, August 11, 2014, August 15, 2014, August 16, 2014, August 17, 2014, August 24, 2014, August 29, 2014, August 31, 2014, September 4, 2014, September 5, 2014, September 7, 2014, September 8, 2014, September 19, 2014, October 6, 2014, October 12, 2014, October 18, 2014, October 27, 2014, November 3, 2014, November 12, 2014, November 22, 2014, November 23, 2014, November 24, 2014,

November 25, 2014, November 26, 2014, November 28, 2014, November 29, 2014, November 30, 2014, December 28, 2014, January 2, 2015, January 3, 2015, January 4, 2015, January 8, 2015, January 14, 2015, January 21, 2015, January 24, 2015, January 25, 2015, January 26, 2015, February 2, 2015, February 8, 2015, February 14, 2015, February 21, 2015, February 23, 2015, March 2, 2015, March 24, 2015, March 28, 2015, March 31, 2015, April 25, 2015, April 29, 2015, May 9, 2015, May 18, 2015, May 27, 2015, June 3, 2015, June 6, 2015, June 18, 2015, June 30, 2015, July 3, 2015, July 9, 2015, and July 17, 2015. Respondent's failure to call in on the above-listed dates represents 64 violations of Probation Condition 7.

46. As a consequence of failing to call in to check if he was required to be tested, Respondent failed to be tested on July 23, 2014, September 5, 2014, September 8, 2014, September 19, 2014, November 25, 2014, January 26, 2015, March 31, 2015, and June 22, 2015. Respondent's failure to submit to testing on the above-listed dates represents eight additional violations of Probation Condition 7.

47. On or about September 10, 2015, based on his failure to successfully complete biological fluid testing as alleged above in paragraphs 44 and 45, a Cease Practice Order was issued to Respondent prohibiting him from practicing medicine effective September 13, 2015.

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 the probation that was granted by the Medical Board of California in Case Nos. 04-2011-213435 and 04-2012-220871 and imposing the disciplinary order that was stayed thereby revoking Physician's and Surgeon's Certificate No. G 61159 issued to Respondent Douglas A. Schaller, M.D.;

2. Revoking Physician's and Surgeon's Certificate No. G 61159 issued to Respondent;

3. Revoking, suspending or denying approval of his authority to supervise physician assistants, pursuant to section 3527 of the Code;

4. If placed on probation, ordering him to pay the Medical Board of California the costs of probation monitoring; and

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

DATED: September 22, 2015

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

Complainant

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