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

In the Matter of the Accusation Against, **GREGORY LEO MURPHY, M.D.** **1750 Calle del Oro** **Corona, CA 92882** **Physician's and Surgeon's Certificate No. G 52151,** Respondent.	Case No. 800-2019-059444 **DEFAULT DECISION AND ORDER** [Gov. Code, §11520]

FINDINGS OF FACT

1. On or about October 9, 2020, Complainant William Prasifka, in his official capacity as the Executive Director of the Medical Board of California, Department of Consumer Affairs, filed Accusation No. 800-2019-059444 against Gregory Leo Murphy, M.D. (Respondent) before the Medical Board of California.

2. On or about April 2, 1984, the Medical Board of California (Board) issued Physician's and Surgeon's Certificate No. G 52151 to Respondent. The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought therein and will expire on January 31, 2022, unless renewed. A true and correct copy of the

Certificate of Licensure is attached as Exhibit A to the accompanying Default Decision Evidence Packet.[1]

3. On or about September 22, 2020, following a noticed hearing, an Interim Suspension Order was issued by the Office of Administrative Hearings, immediately suspending Physician's and Surgeon's Certificate No. G 52151, and prohibiting Respondent from practicing medicine in the State of California. A true and correct copy of the Interim Suspension Order is attached as Exhibit B.

4. On or about October 9, 2020, Merlene Francis, an employee of the Board, served by Certified and First Class Mail a copy of the Accusation No. 800-2019-059444, Statement to Respondent, Notice of Defense, and Request for Discovery to Respondent's address of record with the Board, which was and is 1750 Calle del Oro, Corona, CA 92882. A copy of the Accusation, the related documents, and Declaration of Service are attached as Exhibit C.

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

6. On or about October 21, 2020, having not yet received the Notice of Defense, Deputy Attorney General, Karolyn M. Westfall (DAG Westfall), emailed Respondent a copy of the Accusation, the related documents, and Declaration of Service at his last known email address, and inquired of the status of his Notice of Defense. Shortly thereafter, DAG Westfall received a notice that the email was returned as undeliverable. (Exhibit D, Declaration of Deputy Attorney General, Karolyn M. Westfall, ¶ 6.)

7. On or about October 22, 2020, having not yet received the Notice of Defense, DAG Westfall left a voice mail for Respondent at his last known phone number, informing him of the returned email and inquired of the status of his Notice of Defense. (Exhibit D, ¶ 7.)

8. On or about October 26, 2020, Atur Gilou, an employee of Attorney General's office, served by Certified and First Class Mail a Courtesy Notice of Default along with a copy of the Accusation, related documents, and Declaration of Service to Respondent's address of record

[1] All exhibits are true and correct copies of the originals, and are attached to the accompanying Default Decision Evidence Packet. The Default Decision Evidence Packet is hereby incorporated by reference, in its entirety, as if fully set forth herein.

with the Board, which was and is 1750 Calle del Oro, Corona, CA 92882. (Exhibit D, ¶ 9.) A copy of the Courtesy Notice of Default and Declaration of Service are attached as Exhibit E.

9. On or about November 2, 2020, the Attorney General's office received a signed certified mail return receipt from the Courtesy Notice of Default that was mailed to Respondent's address of record on or about October 26, 2020. (Exhibit D, ¶ 10.) A copy of the signed certified mail return receipt is attached as Exhibit F.

10. Government Code section 11506 states, in pertinent part:

> (c) The respondent shall be entitled to a hearing on the merits if the respondent files a notice of defense, and the notice shall be deemed a specific denial of all parts of the accusation not expressly admitted. Failure to file a notice of defense shall constitute a waiver of respondent's right to a hearing, but the agency in its discretion may nevertheless grant a hearing.

11. To date, Respondent has not filed a Notice of Defense. (Exhibit D, ¶ 11.)

12. Respondent failed to file a Notice of Defense within 15 days after service upon him of the Accusation, and therefore waived his right to a hearing on the merits of Accusation No. 800-2019-059444.

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

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

14. Pursuant to its authority under Government Code section 11520, the Board finds Respondent is in default. The Board will take action without further hearing and, based on Respondent's express admissions by way of default and the evidence before it as contained in the separate accompanying Default Decision Evidence Packet, Exhibits A through J, finds that the allegations in Accusation No. 800-2019-059444, and each of them, separately and severally, are true and correct.

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JURISDICTION

15. Section 822 of the Code states:

If a licensing agency determines that its licentiate's ability to practice his or her profession safely is impaired because the licentiate is mentally ill, or physically ill affecting competency, the licensing agency may take action by any one of the following methods:

(a) Revoking the licentiate's certificate or license.

(b) Suspending the licentiate's right to practice.

(c) Placing the licentiate on probation.

(d) Taking such other action in relation to the licentiate as the licensing agency in its discretion deems proper.

The licensing agency shall not reinstate a revoked or suspended certificate or license until it has received competent evidence of the absence or control of the condition which caused its action and until it is satisfied that with due regard for the public health and safety the person's right to practice his or her profession may be safely reinstated.

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

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

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

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

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

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

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

...

17. Section 2228.1 of the Code states, in pertinent part:

(a) On and after July 1, 2019, except as otherwise provided in subdivision (c), the board shall require a licensee to provide a separate disclosure that includes the licensee's probation status, the length of the probation, the probation end date, all practice restrictions placed on the licensee by the board, the board's telephone number, and an explanation of

how the patient can find further information on the licensee's probation on the licensee's profile page on the board's online license information Internet Web site, to a patient or the patient's guardian or health care surrogate before the patient's first visit following the probationary order while the licensee is on probation pursuant to a probationary order made on and after July 1, 2019, in any of the following circumstances:

(1) A final adjudication by the board following an administrative hearing or admitted findings or prima facie showing in a stipulated settlement establishing any of the following:

...

(B) Drug or alcohol abuse directly resulting in harm to patients or the extent that such use impairs the ability of the licensee to practice safely.

...

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

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

...

(b) Gross negligence.

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

...

(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.

...

19. Section 2238 of the Code states:

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

20. Section 2239 of the Code states, in pertinent part:

(a) The use or prescribing for or administering to himself or herself, of any controlled substance; or the use of any of the dangerous drugs specified in Section 4022, or of alcoholic beverages, to the extent, or in such a manner as to be dangerous or injurious to the licensee, or to any other person or to the public, or to the extent that such use impairs the ability of the licensee to practice medicine safely or more than one misdemeanor or any felony involving the use, consumption, or self-administration of any of the substances referred to in this section, or any

combination thereof, constitutes unprofessional conduct. The record of the conviction is conclusive evidence of such unprofessional conduct.

...

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

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

...

22. Section 2261 of the Code states:

Knowingly making or signing any certificate or other document directly or indirectly related to the practice of medicine or podiatry which falsely represents the existence or nonexistence of a state of facts, constitutes unprofessional conduct.

23. Section 2262 of the Code states, in pertinent part:

Altering or modifying the medical record of any person, with fraudulent intent, or creating any false medical record, with fraudulent intent, constitutes unprofessional conduct.

...

24. 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.

25. Section 2280 of the Code states:

No licensee shall practice medicine while under the influence of any narcotic drug or alcohol to such extent as to impair his or her ability to conduct the practice of medicine with safety to the public and his or her patients. Violation of this section constitutes unprofessional conduct and is a misdemeanor.

26. Section 11170 of the Health and Safety Code states: No person shall prescribe, administer, or furnish a controlled substance for himself.

27. Section 11173 of the Health and Safety Code states, in pertinent part:

(a) No person shall obtain or attempt to obtain controlled substances, or procure or attempt to procure the administration of or prescription for controlled substances, (1) by fraud, deceit, misrepresentation, or subterfuge; or (2) by the concealment of a material fact.

(b) No person shall make a false statement in any prescription, order, report, or record, required by this division.

...

BUSINESS AND PROFESSIONS CODE VIOLATIONS

28. Respondent has subjected his Physician's and Surgeon's Certificate No. G 52151 to disciplinary action under sections 2227, and 2234, as defined by section 2239, subdivision (a), of the Code, in that he has administered controlled substances to himself, as more particularly alleged hereinafter:

(a) Between in or around 1984, through in or around 2019, Respondent worked as an emergency room physician at Pomona Valley Medical Center. (Exhibit G, Declaration of Investigator Anthony Harris, ¶ 18.)

(b) In or around 1987, Respondent was hospitalized for approximately one month for depression and suicidal ideation. (Exhibit G ¶ 10.)

(c) In or around 2010, Respondent began to prescribe himself antidepressant medications, including but not limited to, Prozac[2] and amitriptyline.[3] (Exhibit G, ¶¶ 10, 18.)

(d) Between in or around 2010, through in or around 2019, Respondent prescribed approximately 100 tabs of benzphetamine 60 mg each month to a relative (Patient A)[4] for the treatment of attention deficit disorder. Respondent did not perform and/or document a prior examination of the patient, and did not prepare medical records to support these prescriptions. Throughout that time, Respondent consumed over half of these pills each month, including on days when he was working in the emergency room. (Exhibit G, ¶ ¶ 11, 18.)

(e) Between in or around 2014, through in or around 2019, Respondent regularly prescribed 100 tabs of diazepam[5] 5mg to Patient A for pain. Respondent did not perform

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[2] Prozac (brand name for fluoxetine) is a selective serotonin reuptake inhibitor medication used to treat depression, and a dangerous drug pursuant to Business and Professions Code section 4022.

[3] Amitriptyline is a tricyclic antidepressant medication with sedative effects, and a dangerous drug pursuant to Business and Professions Code section 4022.

[4] To protect the privacy of the patients involved, patient names have not been included in this pleading. Respondent is aware of the identity of the patients referred to herein.

[5] Diazepam (brand name Valium) is a Schedule IV controlled substance pursuant to Health and Safety Code section 11057, subdivision (d), and a dangerous drug pursuant to

and/or document a prior examination of the patient, and did not prepare medical records to support these prescriptions. (Exhibit G, ¶¶ 8, 18.)

(f) Between in or around 2015, through in or around 2019, Respondent ordered medications through the mail from Henry Schein, Inc., for himself and his family, including but not limited to diazepam and amitriptyline. (Exhibit G, ¶¶ 8, 18.)

(g) In or around April 2019, multiple employees at Pomona Valley Hospital reported concerns about Respondent's behavior at work, including but not limited to, yelling at a patient, exhibiting slurred speech and a glazed affect, and taking routine breaks to the workroom where he was heard obtaining pills from his bag. As a result, his employer referred him for a fitness for duty evaluation. (Exhibit G, ¶ 6.)

(h) On or about May 17, 2019, Respondent underwent a fitness for duty evaluation by M.S., M.D. (Dr. M.S.). During this assessment, Respondent admitted experiencing stressors in his life, including the death of his sister in January 2018, and significant financial issues including filing for bankruptcy. Respondent admitted his prior hospitalization for depression and suicidal thoughts, as well as self-prescribing daily Prozac 10 mg for the last ten years. Part of this evaluation included a hair sample that was later tested and revealed a positive result for amphetamine and methamphetamine. (Exhibit G, ¶ 6.)

(i) On or about May 23, 2019, Respondent denied using illegally-produced methamphetamine and blamed the positive result on his use of nasal decongestants for allergies. Respondent was then given the option to submit nail samples for further confirmatory testing. Despite multiple opportunities, Respondent intentionally failed to provide adequate nail samples. (Exhibit G, ¶¶ 6, 10, 13.)

(j) In or around July 2019, Respondent attempted to order diazepam and phenobarbital[6] from Henry Schein, Inc. Respondent was feeling depressed and suicidal at

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Business and Professions Code section 4022.

[6] Phenobarbital is a Schedule IV controlled substance pursuant to Health and Safety Code section 11057, subdivision (d), and a dangerous drug pursuant to Business and Professions Code section 4022. It is a barbiturate that slows the activity of your brain and nervous system, and is used to treat or prevent seizures and as a short-term sedative to help with relaxation.

the time and intended to use the phenobarbital to attempt suicide. Henry Schein, Inc. requested additional information about this order, and on or about July 17, 2019, Respondent responded with a letter wherein he stated he has a small solo general practice out of his home where he sees approximately three to four patients per week. Respondent did not at that time, or anytime thereafter, have a small solo practice out of his home where he sees approximately three to four patients per week. Respondent's order for phenobarbital was flagged by Henry Schein, Inc., and his shipment was not processed. (Exhibit G, ¶ ¶ 8, 17, 18.)

(k) On or about August 30, 2019, Respondent prescribed phenobarbital to his relative, Patient B for his own use. Respondent was feeling depressed and suicidal at the time, and intended to use the phenobarbital to attempt suicide. Respondent did not perform a prior examination of Patient B, and did not prepare medical records to support this prescription. (Exhibit G, ¶¶ 12, 14, 18.)

(l) On or about October 29, 2019, an investigator for the Board spoke with Respondent at his home. During this conversation, Respondent denied providing treatment to any family members. (Exhibit G, ¶ 7.)

(m) On or about February 16, 2020, Respondent voluntarily submitted to a psychiatric evaluation by Board-appointed psychiatrist, T.B., M.D., M.P.H. (Dr. T.B.) After his review of records and mental status examination, Dr. T.B. concluded that Respondent suffers from major depression, recurrent, and a possible substance abuse disorder. Dr. T.B. further concluded that Respondent is unable to practice medicine safely at this time as a result of his major depression, and his continued practice of medicine without psychiatric treatment and monitoring, including random drug testing, will endanger the public health, safety, and welfare. (Exhibit H, Redacted Declaration of Dr. T.B.)

(n) On or about March 22, 2020, Respondent contacted an investigator for the Medical Board in response to his request for a certified copy of Patient A's medical records. Respondent informed the investigator that he did not maintain any records for Patient A and stated he only gave Patient A medications when she was sick. (Exhibit G, ¶ 15.)

(o) On or about May 4, 2020, Respondent voluntarily submitted to a physical evaluation by Board-appointed psychiatrist and neurologist, A.E., M.D. (Dr. A.E.) After his review of records and physical examination, Dr. A.E. concluded that Respondent suffers from unspecified mood [affective] disorder and markedly abnormal visual acuity. Dr. A.E. further concluded that Respondent is unable to practice medicine safely at this time as a result of these physical conditions, and his continued practice of medicine without psychiatric and ophthalmologic treatment and monitoring will endanger the public health, safety, and welfare. (Exhibit I, Redacted Declaration of Dr. A.E.)

(p) On or about June 15, 2020, Respondent spoke with an investigator for the Board by phone. During this conversation, Respondent claimed to have only prescribed antibiotics to his family members. (Exhibit G, ¶ 17.)

(q) On or about September 14, 2020, Respondent participated in a subject interview with an investigator for the Board. During this interview, Respondent denied any history of illicit or recreational drug use, including prescription drugs. When asked about prescriptions for his family members, Respondent repeatedly claimed to have only prescribed antibiotics for his family, and denied ever prescribing them medications for pain. Later in the interview, Respondent finally admitted prescribing diazepam to Patient A for pain, and knowing she took too many of them, but denied prescribing her any other controlled substances. When asked about the benzphetamine prescriptions, Respondent finally admitted prescribing benzphetamine to Patient A for ten years, that the prescriptions were primarily for his own use, and that he practiced medicine while under the influence of this medication. Respondent also admitted he failed to disclose those prescriptions earlier in the interview because he knew it was illegal. (Exhibit G, ¶ 18.)

29. Respondent has further subjected his Physician's and Surgeon's Certificate No. G 52151 to disciplinary action under sections 2227, and 2234, as defined by section 2239, subdivision (a), of the Code, in that he has used dangerous drugs to an extent, or in a manner, as to be dangerous or injurious to himself, to another person, or to the public, as more particularly

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alleged in paragraphs 28 (a) through 28 (q), which are hereby incorporated by reference and realleged as if fully set forth herein.

30. Respondent has further subjected his Physician's and Surgeon's Certificate No. G 52151 to disciplinary action under sections 2227, and 2234, as defined by section 2242, subdivision (a), of the Code, in that he has prescribed, dispensed, or furnished dangerous drugs as defined in Section 4022 without an appropriate prior examination and a medical indication, as more particularly alleged in paragraphs 28 (a) through 28 (q), above, which are hereby incorporated by reference and realleged as if fully set forth herein.

31. Respondent has further subjected his Physician's and Surgeon's Certificate No. G 52151 to disciplinary action under sections 2227 and 2234, as defined by section 2238, of the Code, in that he has violated a state law or laws regulating dangerous drugs and/or controlled substances, as more particularly alleged in paragraphs 28 (a) through 28 (q), above, which are hereby incorporated by reference and realleged as if fully set forth herein.

32. Respondent has further subjected his Physician's and Surgeon's Certificate No. G 52151 to disciplinary action under sections 2227 and 2234, as defined by section 2234, subdivision (e), of the Code, in that he has committed an act or acts of dishonesty or corruption, as more particularly alleged in 28 (a) through 28 (q), above, which are hereby incorporated by reference and realleged as if fully set forth herein.

33. Respondent has further subjected his Physician's and Surgeon's Certificate No. G 52151 to disciplinary action under sections 2227 and 2234, as defined by section 2261, of the Code, in that he has knowingly made or signed a certificate or document directly or indirectly related to the practice of medicine which falsely represented the existence or nonexistence of a state of facts, as more particularly alleged in paragraphs 28 (a) through 28 (q), above, which are hereby incorporated by reference and realleged as if fully set forth herein.

34. Respondent has further subjected his Physician's and Surgeon's Certificate No. G 52151 disciplinary action under sections 2227 and 2234, as defined by section 2262, of the Code, in that he created false medical records with fraudulent intent, as more particularly alleged

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in paragraphs 28 (a) through 28 (q), above, which are hereby incorporated by reference and realleged as if fully set forth herein.

35. Respondent has further subjected his Physician's and Surgeon's Certificate No. G 52151 to disciplinary action under sections 2227 and 2234, as defined by section 2280, of the Code, in that he practiced medicine while under the influence of a narcotic drug to such an extent as to impair his ability to conduct the practice of medicine safely to the public and his patients, as more particularly alleged in paragraphs 28 (a) through 28 (q), above, which are hereby incorporated by reference and realleged as if fully set forth herein.

36. Respondent has further subjected his Physician's and Surgeon's Certificate No. G 52151 to disciplinary action under sections 2227 and 2234, as defined by section 2234, subdivision (b), of the Code, in that he engaged in gross negligence, as more particularly alleged in paragraphs 28 (a) through 28 (q), above, which are hereby incorporated by reference and realleged as if fully set forth herein., by (1) prescribing Valium and benzphetamine for several years to Patient A without medical indication, without an appropriate prior examination, and without preparing a medical record to support the prescriptions; and by (2) prescribing phenobarbital to Patient B without medical indication, without an appropriate prior examination, and without preparing a medical record to support the prescription. (Exhibit J, Declaration of Dr. S.S.)

37. Respondent has further subjected his Physician's and Surgeon's Certificate No. G 52151 to disciplinary action under sections 2227 and 2234, as defined by section 2234, subdivision (c), of the Code, in that he committed repeated negligent acts, as more particularly alleged in paragraphs 28 (a) through 28 (q), above, which are hereby incorporated by reference and realleged as if fully set forth herein, by (1) prescribing Valium and benzphetamine for several years to Patient A without medical indication, without an appropriate prior examination, and without preparing a medical record to support the prescriptions; and by (2) prescribing phenobarbital to Patient B without medical indication, without an appropriate prior examination, and without preparing a medical record to support the prescription. (Exhibit J.)

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38. Respondent has further subjected his Physician's and Surgeon's Certificate No. G 52151 to disciplinary action under sections 2227 and 2234, as defined by section 2266, of the Code, in that Respondent failed to maintain adequate and accurate records regarding his care and treatment of Patient A, as more particularly alleged in paragraphs 28 (a) through 28 (q), above, which are hereby incorporated by reference and realleged as if fully set forth herein.

822 ACTION

39. Respondent is subject to action under section 822 of the Code, in that his ability to practice medicine safely is impaired due to a mental illness and/or physical illness affecting competency, as more particularly alleged in paragraphs 28 (a) through 28 (q), above, which are hereby incorporated by reference and realleged as if fully set forth herein.

DETERMINATION OF ISSUES

1. Based on the foregoing findings of fact, Respondent Gregory Leo Murphy, M.D., has subjected his Physician's and Surgeon's Certificate No. G 52151 to discipline.

2. A copy of the Accusation and the related documents and Declaration of Service are attached.

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

4. The Medical Board of California is authorized to revoke Respondent's Physician's and Surgeon's Certificate based upon the following violations alleged in the Accusation:

a. Respondent administered controlled substances to himself,

b. Respondent used dangerous drugs to an extent, or in a manner, as to be dangerous or injurious to himself, to another person, or to the public;

c. Respondent prescribed, dispensed, or furnished dangerous drugs as defined in Section 4022 without an appropriate prior examination and a medical indication;

d. Respondent violated a state law or laws regulating dangerous drugs and/or controlled substances;

e. Respondent committed an act or acts of dishonesty or corruption;

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f. Respondent knowingly made or signed a certificate or document directly or indirectly related to the practice of medicine which falsely represented the existence or nonexistence of a state of facts;

g. Respondent created false medical records with fraudulent intent;

h. Respondent practiced medicine while under the influence of a narcotic drug to such an extent as to impair his ability to conduct the practice of medicine safely to the public and his patients;

i. Respondent engaged in gross negligence;

j. Respondent engaged in repeated negligent acts;

k. Respondent failed to maintain adequate and accurate records regarding his care and treatment of Patient A; and

l. Respondent's ability to practice medicine safely is impaired due to a mental illness and/or physical illness affecting competency.

ORDER

IT IS SO ORDERED that Physician's and Surgeon's Certificate No. G 52151, heretofore issued to Respondent GREGORY LEO MURPHY, M.D., is revoked.

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

This Decision shall become effective on JAN 29 2021 at 5:00 pm

It is so ORDERED DEC 31 2020

REJI VARGHESE, DEPUTY DIRECTOR
FOR THE MEDICAL BOARD OF
CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS

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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 Against: **GREGORY LEO MURPHY, M.D.** **1750 Calle del Oro** **Corona, CA 92882** **Physician's and Surgeon's Certificate No. G 52151,** Respondent.	Case No. 800-2019-059444 **A C C U S A T I O N**

PARTIES

1. William Prasifka (Complainant) brings this Accusation solely in his official capacity as the Executive Director of the Medical Board of California, Department of Consumer Affairs (Board).

2. On or about April 2, 1984, the Medical Board issued Physician's and Surgeon's Certificate No. G 52151 to Gregory Leo Murphy, 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 January 31, 2022, unless renewed.

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3. On or about September 22, 2020, an Interim Order of Suspension was issued by the Office of Administrative Hearings, immediately suspending Physician's and Surgeon's Certificate No. G 52151, and prohibiting Respondent from practicing medicine in the State of California. As a result, Respondent remains suspended from the practice of medicine pending the issuance of a final decision after an administrative hearing on the Accusation.

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 822 of the Code states:

> If a licensing agency determines that its licentiate's ability to practice his or her profession safely is impaired because the licentiate is mentally ill, or physically ill affecting competency, the licensing agency may take action by any one of the following methods:
>
> (a) Revoking the licentiate's certificate or license.
>
> (b) Suspending the licentiate's right to practice.
>
> (c) Placing the licentiate on probation.
>
> (d) Taking such other action in relation to the licentiate as the licensing agency in its discretion deems proper.
>
> The licensing agency shall not reinstate a revoked or suspended certificate or license until it has received competent evidence of the absence or control of the condition which caused its action and until it is satisfied that with due regard for the public health and safety the person's right to practice his or her profession may be safely reinstated.

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

> (a) A licensee whose matter has been heard by an administrative law judge of the Medical Quality Hearing Panel as designated in Section 11371 of the Government Code, or whose default has been entered, and who is found guilty, or who has entered into a stipulation for disciplinary action with the board, may, in accordance with the provisions of this chapter:
>
> (1) Have his or her license revoked upon order of the board.
>
> (2) Have his or her right to practice suspended for a period not to exceed one year upon order of the board.
>
> (3) Be placed on probation and be required to pay the costs of probation monitoring upon order of the board.

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

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

...

7. Section 2228.1 of the Code states, in pertinent part:

(a) On and after July 1, 2019, except as otherwise provided in subdivision (c), the board shall require a licensee to provide a separate disclosure that includes the licensee's probation status, the length of the probation, the probation end date, all practice restrictions placed on the licensee by the board, the board's telephone number, and an explanation of how the patient can find further information on the licensee's probation on the licensee's profile page on the board's online license information Internet Web site, to a patient or the patient's guardian or health care surrogate before the patient's first visit following the probationary order while the licensee is on probation pursuant to a probationary order made on and after July 1, 2019, in any of the following circumstances:

(1) A final adjudication by the board following an administrative hearing or admitted findings or prima facie showing in a stipulated settlement establishing any of the following:

...

(B) Drug or alcohol abuse directly resulting in harm to patients or the extent that such use impairs the ability of the licensee to practice safely.

...

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

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

...

(b) Gross negligence.

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

...

(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.

...

///

9. Section 2238 of the Code states:

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

10. Section 2239 of the Code states, in pertinent part:

(a) The use or prescribing for or administering to himself or herself, of any controlled substance; or the use of any of the dangerous drugs specified in Section 4022, or of alcoholic beverages, to the extent, or in such a manner as to be dangerous or injurious to the licensee, or to any other person or to the public, or to the extent that such use impairs the ability of the licensee to practice medicine safely or more than one misdemeanor or any felony involving the use, consumption, or self-administration of any of the substances referred to in this section, or any combination thereof, constitutes unprofessional conduct. The record of the conviction is conclusive evidence of such unprofessional conduct.

...

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

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

...

12. Section 2261 of the Code states:

Knowingly making or signing any certificate or other document directly or indirectly related to the practice of medicine or podiatry which falsely represents the existence or nonexistence of a state of facts, constitutes unprofessional conduct.

13. Section 2262 of the Code states, in pertinent part:

Altering or modifying the medical record of any person, with fraudulent intent, or creating any false medical record, with fraudulent intent, constitutes unprofessional conduct.

...

14. 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.

15. Section 2280 of the Code states:

No licensee shall practice medicine while under the influence of any narcotic drug or alcohol to such extent as to impair his or her ability to conduct the practice of medicine with safety to the public and his or her patients. Violation of this section constitutes unprofessional conduct and is a misdemeanor.

16. Section 11170 of the Health and Safety Code states: No person shall prescribe, administer, or furnish a controlled substance for himself.

17. Section 11173 of the Health and Safety Code states, in pertinent part:

> (a) No person shall obtain or attempt to obtain controlled substances, or procure or attempt to procure the administration of or prescription for controlled substances, (1) by fraud, deceit, misrepresentation, or subterfuge; or (2) by the concealment of a material fact.
>
> (b) No person shall make a false statement in any prescription, order, report, or record, required by this division.
>
> ...

FIRST CAUSE FOR DISCIPLINE

(Prescribing or Administering Controlled Substances to Himself)

18. Respondent has subjected his Physician's and Surgeon's Certificate No. G 52151 to disciplinary action under sections 2227, and 2234, as defined by section 2239, subdivision (a), of the Code, in that he has administered controlled substances to himself, as more particularly alleged hereinafter:

19. Between in or around 1984, through in or around 2019, Respondent worked as an emergency room physician at Pomona Valley Medical Center.

20. In or around 1987, Respondent was hospitalized for approximately one month for depression and suicidal ideation. Upon his release, Respondent received treatment from a psychiatrist for approximately six (6) months. Since that time, Respondent has not sought psychiatric treatment.

21. In or around 2010, Respondent began to prescribe himself antidepressant medications, including but not limited to, Prozac[1] and amitriptyline.[2]

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[1] Prozac (brand name for fluoxetine) is a selective serotonin reuptake inhibitor medication used to treat depression, and a dangerous drug pursuant to Business and Professions Code section 4022.

[2] Amitriptyline is a tricyclic antidepressant medication with sedative effects, and a dangerous drug pursuant to Business and Professions Code section 4022.

22. Between in or around 2010, through in or around 2019, Respondent prescribed approximately 100 tabs of benzphetamine 60 mg each month to a relative (Patient A)[3] for the treatment of attention deficit disorder. Respondent did not perform and/or document a prior examination of the patient, and did not prepare medical records to support these prescriptions. Throughout that time, Respondent consumed over half of these pills each month, including on days when he was working in the emergency room.

23. Between in or around 2014, through in or around 2019, Respondent regularly prescribed 100 tabs of diazepam[4] 5mg to Patient A for pain. Respondent did not perform and/or document a prior examination of the patient, and did not prepare medical records to support these prescriptions.

24. Between in or around 2015, through in or around 2019, Respondent ordered medications through the mail from Henry Schein, Inc., for himself and his family.

25. In or around April 2019, multiple employees at Pomona Valley Hospital reported concerns about Respondent's behavior at work, including but not limited to, yelling at a patient, exhibiting slurred speech and a glazed affect, and taking routine breaks to the workroom where he was heard obtaining pills from his bag. As a result, his employer referred him for a fitness for duty evaluation.

26. On or about May 17, 2019, Respondent underwent a fitness for duty evaluation by M.S., M.D. (Dr. M.S.). During this assessment, Respondent admitted experiencing stressors in his life, including the death of his sister in January 2018, and significant financial issues including filing for bankruptcy. Respondent admitted his prior hospitalization for depression and suicidal thoughts, as well as self-prescribing daily Prozac 10 mg for the last ten years. Part of this evaluation included a hair sample that was later tested and revealed a positive result for amphetamine and methamphetamine.

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[3] To protect the privacy of the patients involved, patient names have not been included in this pleading. Respondent is aware of the identity of the patients referred to herein.

[4] Diazepam (brand name Valium) is a Schedule IV controlled substance pursuant to Health and Safety Code section 11057, subdivision (d), and a dangerous drug pursuant to Business and Professions Code section 4022.

27. On or about May 23, 2019, Respondent denied using illegally-produced methamphetamine and blamed the positive result on his use of nasal decongestants for allergies. Respondent was then given the option to submit nail samples for further confirmatory testing. Despite multiple opportunities, Respondent intentionally failed to provide adequate nail samples.

28. In or around July 2019, Respondent attempted to order diazepam and phenobarbital[5] from Henry Schein, Inc. Respondent was feeling depressed and suicidal at the time and intended to use the phenobarbital to attempt suicide. Henry Schein Inc. requested additional information about this order, and on or about July 17, 2019, Respondent responded with a letter wherein he stated he has a small solo general practice out of his home where he sees approximately three to four patients per week. Respondent did not at that time, or anytime thereafter, have a small solo practice out of his home where he sees approximately three to four patients per week. Respondent's order for phenobarbital was flagged by Henry Schein, Inc., and his shipment was not processed.

29. On or about August 30, 2019, Respondent prescribed phenobarbital to another relative (Patient B) for his own use. Respondent was feeling depressed and suicidal at the time, and intended to use the phenobarbital to attempt suicide. Respondent did not perform a prior examination of Patient B, and did not prepare medical records to support this prescription.

30. On or about October 29, 2019, an investigator for the Board spoke with Respondent at his home. During this conversation, Respondent denied providing treatment to any family members.

31. On or about February 16, 2020, Respondent voluntarily submitted to a psychiatric evaluation by Board-appointed psychiatrist, T.B., M.D., M.P.H. (Dr. T.B.) After his review of records and mental status examination, Dr. T.B. concluded that Respondent suffers from major depression, recurrent, and a possible substance abuse disorder. Dr. T.B. further concluded that Respondent is unable to practice medicine safely at this time as a result of his major depression,

[5] Phenobarbital is a Schedule IV controlled substance pursuant to Health and Safety Code section 11057, subdivision (d), and a dangerous drug pursuant to Business and Professions Code section 4022. It is a barbiturate that slows the activity of your brain and nervous system, and is used to treat or prevent seizures and as a short-term sedative to help with relaxation.

and his continued practice of medicine without psychiatric treatment and monitoring, including random drug testing, will endanger the public health, safety, and welfare.

32. On or about March 22, 2020, Respondent contacted an investigator for the Medical Board in response to his request for a certified copy of Patient A's medical records. Respondent informed the investigator that he did not maintain any records for Patient A and stated he only gave Patient A medications when she was sick.

33. On or about May 4, 2020, Respondent voluntarily submitted to a physical evaluation by Board-appointed psychiatrist and neurologist, A.E., M.D. (Dr. A.E.) After his review of records and physical examination, Dr. A.E. concluded that Respondent suffers from unspecified mood [affective] disorder and markedly abnormal visual acuity. Dr. A.E. further concluded that Respondent is unable to practice medicine safely at this time as a result of these physical conditions, and his continued practice of medicine without psychiatric and ophthalmologic treatment and monitoring will endanger the public health, safety, and welfare.

34. On or about June 15, 2020, Respondent spoke with an investigator for the Board by phone. During this conversation, Respondent claimed to have only prescribed antibiotics to his family members.

35. On or about September 14, 2020, Respondent participated in a subject interview with an investigator for the Board. During this interview, Respondent denied any history of illicit or recreational drug use, including prescription drugs. When asked about prescriptions for his family members, Respondent repeatedly claimed to have only prescribed antibiotics for his family, and denied ever prescribing them medications for pain. Later in the interview, Respondent finally admitted prescribing diazepam to Patient A for pain, and knowing she took too many of them, but denied prescribing her any other controlled substances. When asked about the benzphetamine prescriptions, Respondent finally admitted prescribing benzphetamine to Patient A for ten years, that the prescriptions were primarily for his own use, and that he practiced medicine while under the influence of this medication. Respondent also admitted he failed to disclose those prescriptions earlier in the interview because he knew it was illegal.

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SECOND CAUSE FOR DISCIPLINE

(Use of Dangerous Drugs to an Extent, or in a Manner, as to be Dangerous to Himself, to Others, or to the Public)

36. Respondent has further subjected his Physician's and Surgeon's Certificate No. G 52151 to disciplinary action under sections 2227, and 2234, as defined by section 2239, subdivision (a), of the Code, in that he has used dangerous drugs to an extent, or in a manner, as to be dangerous or injurious to himself, to another person, or to the public, as more particularly alleged in paragraphs 18 through 35 above, which are hereby incorporated by reference and realleged as if fully set forth herein.

THIRD CAUSE FOR DISCIPLINE

(Prescribing, Dispensing, or Furnishing Dangerous Drugs without Prior Examination and Medical Indication)

37. Respondent has further subjected his Physician's and Surgeon's Certificate No. G 52151 to disciplinary action under sections 2227, and 2234, as defined by section 2242, subdivision (a), of the Code, in that he has prescribed, dispensed, or furnished dangerous drugs as defined in Section 4022 without an appropriate prior examination and a medical indication, as more particularly alleged in paragraphs 18 through 35 above, which are hereby incorporated by reference and realleged as if fully set forth herein.

FOURTH CAUSE FOR DISCIPLINE

(Violation of State Laws Regulating Dangerous Drugs and/or Controlled Substances)

38. Respondent has further subjected his Physician's and Surgeon's Certificate No. G 52151 to disciplinary action under sections 2227 and 2234, as defined by section 2238, of the Code, in that he has violated a state law or laws regulating dangerous drugs and/or controlled substances, as more particularly alleged hereinafter:

A. Paragraphs 18 through 35 above, are hereby incorporated by reference and realleged as if fully set forth herein;

B. Respondent has repeatedly used dangerous drugs and controlled substances, to the extent, or in such a manner as to be dangerous or injurious to himself, or to another person, or the public in violation of section 2239, subdivision (a), of the

Code;

C. Respondent has repeatedly administered controlled substances to himself, in violation of Health and Safety Code section 11170, and section 2239, subdivision (a), of the Code;

D. Respondent has repeatedly obtained controlled substances by (1) fraud, deceit, misrepresentation, or subterfuge, in violation of Health and Safety Code section 11170, subdivision (a); and

E. Respondent has repeatedly made a false statement on a prescription, order, report, or record, in violation of Health and Safety Code section 11170, subdivision (b).

FIFTH CAUSE FOR DISCIPLINE

(Dishonesty or Corruption)

39. Respondent has further subjected his Physician's and Surgeon's Certificate No. G 52151 to disciplinary action under sections 2227 and 2234, as defined by section 2234, subdivision (e), of the Code, in that he has committed an act or acts of dishonesty or corruption, as more particularly alleged in paragraphs 18 through 35, above, which are hereby incorporated by reference and realleged as if fully set forth herein.

SIXTH CAUSE FOR DISCIPLINE

(False Representations)

40. Respondent has further subjected his Physician's and Surgeon's Certificate No. G 52151 to disciplinary action under sections 2227 and 2234, as defined by section 2261, of the Code, in that he has knowingly made or signed a certificate or document directly or indirectly related to the practice of medicine which falsely represented the existence or nonexistence of a state of facts, as more particularly alleged in paragraphs 18 through 35, above, which are hereby incorporated by reference and realleged as if fully set forth herein.

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SEVENTH CAUSE FOR DISCIPLINE

(Creation of False Medical Records, with Fraudulent Intent)

41. Respondent has further subjected his Physician's and Surgeon's Certificate No. G 52151 disciplinary action under sections 2227 and 2234, as defined by section 2262, of the Code, in that he created false medical records with fraudulent intent, as more particularly alleged in paragraphs 18 through 35, above, which are hereby incorporated by reference and realleged as if fully set forth herein.

EIGHTH CAUSE FOR DISCIPLINE

(Practice Under the Influence of Narcotic Drug)

42. Respondent has further subjected his Physician's and Surgeon's Certificate No. G 52151 to disciplinary action under sections 2227 and 2234, as defined by section 2280, of the Code, in that he practiced medicine while under the influence of a narcotic drug to such an extent as to impair his ability to conduct the practice of medicine safely to the public and his patients, as more particularly alleged in paragraphs 18 through 35, above, which are hereby incorporated by reference and realleged as if fully set forth herein.

NINTH CAUSE FOR DISCIPLINE

(Gross Negligence)

43. Respondent has further subjected his Physician's and Surgeon's Certificate No. G 52151 to disciplinary action under sections 2227 and 2234, as defined by section 2234, subdivision (b), of the Code, in that he engaged in gross negligence, as more particularly alleged hereinafter:

A. Paragraphs 18 through 35, above, are hereby incorporated by reference and realleged as if fully set forth herein; .

B. By prescribing Valium and benzphetamine for several years to Patient A without medical indication, without an appropriate prior examination, and without preparing a medical record to support the prescriptions; and

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C. By prescribing phenobarbital to Patient B without medical indication, without an appropriate prior examination, and without preparing a medical record to support the prescription.

TENTH CAUSE FOR DISCIPLINE

(Repeated Negligent Acts)

44. Respondent has further subjected his Physician's and Surgeon's Certificate No. G 52151 to disciplinary action under sections 2227 and 2234, as defined by section 2234, subdivision (c), of the Code, in that he committed repeated negligent acts, as more particularly alleged in paragraphs 18 through 35, and 43, above, which are hereby incorporated by reference and realleged as if fully set forth herein.

ELEVENTH CAUSE FOR DISCIPLINE

(Failure to Maintain Adequate and Accurate Records)

45. Respondent has further subjected his Physician's and Surgeon's Certificate No. G 52151 to disciplinary action under sections 2227 and 2234, as defined by section 2266, of the Code, in that Respondent failed to maintain adequate and accurate records regarding his care and treatment of Patient A, as more particularly alleged in paragraphs 18 through 35, above, which are hereby incorporated by reference and realleged as if fully set forth herein.

SECTION 822 CAUSE FOR ACTION

(Mental Illness and/or Physical Illness Affecting Competency)

46. Respondent is subject to action under section 822 of the Code in that his ability to practice medicine safely is impaired due to a mental illness and/or physical illness affecting competency, as more particularly alleged in paragraphs 18 through 35, above, which are hereby incorporated by reference and realleged as if fully set forth herein.

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PRAYER

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

1. Revoking or suspending Physician's and Surgeon's Certificate No. G 52151, issued to Respondent, Gregory Leo Murphy, M.D.;

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

3. Ordering Respondent, Gregory Leo Murphy, M.D., if placed on probation, to pay the Board the costs of probation monitoring;

4. Ordering Respondent, Gregory Leo Murphy, M.D., if placed on probation, to disclose the disciplinary order to patients pursuant to section 2228.1 of the Code;

5. Taking action as authorized by section 822 of the Code as the Board, in its discretion, deems necessary and proper; and

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

DATED: OCT 09 2020

WILLIAM PRASIFKA
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant

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