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

In the Matter of the Accusation Against: Jeffrey Lawrence Phillips, M.D. Physician's and Surgeon's License No. G64950 Respondent	Case No. 800-2018-050890

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 April 22, 2021.

IT IS SO ORDERED: March 23, 2021.

MEDICAL BOARD OF CALIFORNIA

Richard E. Thorp, M.D., Chair
Panel B

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Attorney General of California
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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: **JEFFREY LAWRENCE PHILLIPS, M.D.** 367 Del Norte #4 Yuba City, CA 95991 Physician's and Surgeon's Certificate No. G 64950 Respondent.	Case No. 800-2018-050890 OAH No. 2020050585 **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 John S. Gatschet, Deputy Attorney General.

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2. Respondent Jeffrey Lawrence Phillips, M.D. ("Respondent") is represented in this proceeding by attorney Jeffrey S. Kravitz, Esq., whose address is:

Kravitz & Chan, LLP
1851 Heritage Lane, Suite 128
Sacramento, CA 95815.

On or about January 17, 1989, the Board issued Physician's and Surgeon's Certificate No. G 64950 to Respondent. That Certificate was in full force and effect at all times relevant to the charges brought in Accusation No. 800-2018-050890, and will expire on March 31, 2022, unless renewed.

JURISDICTION

3. Accusation No. 800-2018-050890 was filed before the Board, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on March 20, 2020. Respondent timely filed his Notice of Defense contesting the Accusation.

4. A copy of Accusation No. 800-2018-050890 is attached as exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 800-2018-050890. Respondent has also carefully read, fully discussed with his counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

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

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

CULPABILITY

8. Respondent understands and agrees that the charges and allegations in Accusation No. 800-2018-050890, if proven at a hearing, constitute cause for imposing discipline upon his Physician's and Surgeon's Certificate.

9. Respondent agrees that, at a hearing, Complainant could establish a factual basis for the charges in the Accusation, and that Respondent hereby gives up his right to contest those charges.

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 imposition of discipline as set forth in the Disciplinary Order below.

CONTINGENCY

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

12. 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 No. 800-2018-050890 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.

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13. 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.

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

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. G 64950 issued to Respondent Jeffrey Lawrence Phillips, 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.

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

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

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

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

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

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

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

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

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

5. MONITORING - PRACTICE. Within 30 calendar days of the effective date of this Decision, Respondent shall submit to the Board or its designee for prior approval as a practice monitor(s), the name and qualifications of one or more licensed physicians and surgeons whose licenses are valid and in good standing, and who are preferably American Board of Medical Specialties (ABMS) certified. A monitor shall have no prior or current business or personal relationship with Respondent, or other relationship that could reasonably be expected to compromise the ability of the monitor to render fair and unbiased reports to the Board, including but not limited to any form of bartering, shall be in Respondent's field of practice, and must agree to serve as Respondent's monitor. Respondent shall pay all monitoring costs.

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

Within 60 calendar days of the effective date of this Decision, and continuing throughout probation, Respondent's practice shall be monitored by the approved monitor. Respondent shall

make all records available for immediate inspection and copying on the premises by the monitor at all times during business hours and shall retain the records for the entire term of probation.

If Respondent fails to obtain approval of a monitor within 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 monitor is approved to provide monitoring responsibility.

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

If the monitor resigns or is no longer available, Respondent shall, within 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 15 calendar days. If Respondent fails to obtain approval of a replacement monitor within 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.

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

The parties agree that this term and condition, requiring the monitoring of the Respondent's practice, shall expire eighteen (18) months after the effective date of the Decision and Order.

Upon the expiration of this term and condition, Respondent shall be relieved from the requirement to have a practice monitor. The remaining conditions of the Decision and Order shall remain in full force and effect following expiration of the practice monitor requirement.

6. 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.

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

8. 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.

9. 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.

10. 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.

11. 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.

12. NON-PRACTICE WHILE ON PROBATION. Respondent shall notify the Board or its designee in writing within 15 calendar days of any periods of non-practice lasting more than 30 calendar days and within 15 calendar days of Respondent's return to practice. Non-practice is defined as any period of time Respondent is not practicing medicine as defined in Business and Professions Code sections 2051 and 2052 for at least 40 hours in a calendar month in direct patient care, clinical activity or teaching, or other activity as approved by the Board. If Respondent resides in California and is considered to be in non-practice, Respondent shall

comply with all terms and conditions of probation. All time spent in an intensive training program which has been approved by the Board or its designee shall not be considered non-practice and does not relieve Respondent from complying with all the terms and conditions of probation. Practicing medicine in another state of the United States or Federal jurisdiction while on probation with the medical licensing authority of that state or jurisdiction shall not be considered non-practice. A Board-ordered suspension of practice shall not be considered as a period of non-practice.

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

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

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

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

13. 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.

14. 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.

15. 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.

16. 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.

17. 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 No. 800-2018-050890 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 a license.

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ACCEPTANCE

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

DATED: 01-18-2021

JEFFREY LAWRENCE PHILLIPS, M.D.
Respondent

I have read and fully discussed with Respondent Jeffrey Lawrence Phillips, M.D. the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: 1-18-2021

JEFFREY S. KRAVITZ, ESQ.
Attorney for Respondent

ENDORSEMENT

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

DATED: 1-19-2021

Respectfully submitted,

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

JOHN S. GATSCHET
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 800-2018-050890

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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: **Jeffrey Lawrence Phillips, M.D.** 367 Del Norte #4 Yuba City, CA 95991 Physician's and Surgeon's Certificate No. G 64950, Respondent.	Case No. 800-2018-050890 **ACCUSATION**

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 January 17, 1989, the Medical Board issued Physician's and Surgeon's Certificate Number G 64950 to Jeffrey Lawrence Phillips, M.D. ("Respondent"). That Certificate was in full force and effect at all times relevant to the charges brought herein and will expire on March 31, 2022, unless renewed.

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JURISDICTION

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

4. Section 2228.1 of the Code states:

(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:

(A) The commission of any act of sexual abuse, misconduct, or relations with a patient or client as defined in Section 726 or 729.

(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.

(C) Criminal conviction directly involving harm to patient health.

(D) Inappropriate prescribing resulting in harm to patients and a probationary period of five years or more.

(2) An accusation or statement of issues alleged that the licensee committed any of the acts described in subparagraphs (A) to (D), inclusive, of paragraph (1), and a stipulated settlement based upon a nolo contendere or other similar compromise that does not include any prima facie showing or admission of guilt or fact but does include an express acknowledgment that the disclosure requirements of this section would serve to protect the public interest.

(b) A licensee required to provide a disclosure pursuant to subdivision (a) shall obtain from the patient, or the patient's guardian or health care surrogate, a separate, signed copy of that disclosure.

(c) A licensee shall not be required to provide a disclosure pursuant to subdivision (a) if any of the following applies:

(1) The patient is unconscious or otherwise unable to comprehend the disclosure and sign the copy of the disclosure pursuant to subdivision (b) and a guardian or health care surrogate is unavailable to comprehend the disclosure and sign the copy.

(2) The visit occurs in an emergency room or an urgent care facility or the visit is unscheduled, including consultations in inpatient facilities.

(3) The licensee who will be treating the patient during the visit is not known to the patient until immediately prior to the start of the visit.

(4) The licensee does not have a direct treatment relationship with the patient.

(d) On and after July 1, 2019, the board shall provide the following information, with respect to licensees on probation and licensees practicing under probationary licenses, in plain view on the licensee's profile page on the board's online license information Internet Web site.

(1) For probation imposed pursuant to a stipulated settlement, the causes alleged in the operative accusation along with a designation identifying those causes by which the licensee has expressly admitted guilt and a statement that acceptance of the settlement is not an admission of guilt.

(2) For probation imposed by an adjudicated decision of the board, the causes for probation stated in the final probationary order.

(3) For a licensee granted a probationary license, the causes by which the probationary license was imposed.

(4) The length of the probation and end date.

(5) All practice restrictions placed on the license by the board.

(e) Section 2314 shall not apply to this section.

5. 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.

...

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

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

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

...

6. 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.

DEFINITIONS

7. Fentanyl – Generic name for the drug Duragesic. Fentanyl is a potent, synthetic opioid analgesic with a rapid onset and short duration of action used for pain. The fentanyl transdermal patch is used for long term chronic pain. It has an extremely high danger of abuse and can lead to addiction as the medication is estimated to be 80 times more potent than morphine and hundreds of times more potent than heroin.[1] Fentanyl is a Schedule II controlled substance pursuant to Code of Federal Regulations Title 21 section 1308.12. Fentanyl is a dangerous drug pursuant to California Business and Professions Code section 4022 and is a Schedule II controlled substance pursuant to California Health and Safety Code section 11055(c).

8. Hydrocodone with acetaminophen – Generic name for the drugs Vicodin, Norco, and Lortab. Hydrocodone with acetaminophen is classified as an opioid analgesic combination product used to treat moderate to moderately severe pain. Prior to October 6, 2014, hydrocodone with acetaminophen was a Schedule III controlled substance pursuant to Code of Federal Regulations Title 21 section 1308.13(e).[2] Hydrocodone with acetaminophen is a dangerous drug pursuant to California Business and Professions Code section 4022 and is a Schedule II controlled substance pursuant to California Health and Safety Code section 11055, subdivision (b).

FIRST CAUSE FOR DISCIPLINE

(Repeated Negligent Acts)

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

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[1] http://www.cdc.gov/niosh/ershdb/EmergencyResponseCard_29750022.html

[2] On October 6, 2014, Hydrocodone combination products were reclassified as Schedule II controlled substances. Federal Register Volume 79, Number 163. Code of Federal Regulations Title 21 section 1308.12.

10. Respondent began providing treatment and care to Patient 1[3] on or about January 27, 2010.[4] According to Respondent, Patient 1 was referred to his office for pain issues related to neck pain and back pain that resulted from injuries received during her employment. Patient 1 documented that she was permanently disabled on the patient registration form. According to Respondent, Patient 1 was already being prescribed a 100 mcg fentanyl patch[5] when she became a new patient in his office. According to Respondent, in 2010, he asked Patient 1 about prior drug use and she reported that she had previously used methamphetamine but that she had been clean and sober since 1997 or 1998. Between 2010 and 2012, Respondent continued to treat Patient 1's pain problems and continued to prescribe fentanyl.

11. On December 26, 2012, Respondent documented that he saw Patient 1 in clinic. Respondent documented Patient 1's care at that time in handwritten notes that were placed on a pre-printed form. Many of the entries on Respondent's handwritten notes are illegible. According to Respondent, he attempted to taper Patient 1's fentanyl to a 75 mcg patch at that time. According to Respondent, the tapering attempt was unsuccessful and he continued her on a 100 mcg fentanyl patch. Respondent did not attempt to taper Patient 1's medication at any other points during her care and treatment following the December 2012 attempt to taper her medication. Respondent next documented a progress note on January 24, 2013. According to Respondent's note, Patient 1 had a pain level of three out of ten and her pain was "stable."

12. On or about January 21, 2013, another physician provided a comprehensive 42-page typed single spaced evaluation report regarding Patient 1's care and treatment to the State of California Department of Industrial Relations, Office of Benefit Determination. The report was included in the medical records Respondent kept for Patient 1. At page five of the report, it stated

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[3] Witness and patient names have been removed to protect confidentiality. All witnesses and patients will be fully identified in discovery.

[4] Events occurring before March 20, 2013, are for informational purposes and do not serve as an independent basis for discipline. These events are used to explain later care provided by Respondent which may be a basis for discipline.

[5] A 100 mcg. fentanyl patch has a Morphine Equivalent Dose of 240. A Morphine Equivalent Dose ("MED"), is a numerical standard against which most opioids can be compared, yielding an apples-to-apples comparison of each medication's potency. The California Medical Board Guidelines issued in November 2014 stated that any physicians should proceed cautiously (yellow flag warning) once an MED reaches 80 mg per day. http://www.mbc.ca.gov/Licensees/Prescribing/Pain_Guidelines.pdf at page 17.

that Patient 1 had a significant history of methamphetamine and alcohol problems. The report noted that Patient 1's methamphetamine use included a decade-plus period of intravenous use. According to the report, Patient 1 was arrested and her children were removed from her residence due to neglect. According to the report, Patient 1 had been clean and sober from methamphetamine and alcohol since 1998 following court ordered treatment. According to the report, Patient 1 was concerned that "her chronic opiate use is complicating her sobriety, and reiterates at the time of this evaluation that she would like to enter a Pain Management Program to become free of opiates in the management of her pain." According to the report, Patient 1 made a suicide attempt when she was 22 years old by overdosing on aspirin. According to the report, Patient 1's sister had a history of drug problems and both her parents had a history of alcohol problems. Finally, according to the report, Patient 1 reported a prior history of using more oral opioid medication than prescribed. In Patient 1's medical records kept by Respondent there is a letter dated May 9, 2013, from Patient 1's workers' compensation attorney that is addressed to Respondent, which references the January 21, 2013, report, and notes that Respondent was taking over Patient 1's workers' compensation care.

13. Between January 24, 2013, and November 25, 2015, on a monthly basis, Respondent continually prescribed 10 patches[6] containing a dosage of 100 mcg fentanyl to Patient 1. According to Respondent, Patient 1 signed a pain contract in 2012 and 2015[7]. The 2015 contract, signed March 24, 2015, stated that Patient 1 would only obtain opioids and other controlled substances from Respondent. According to pharmacy records, Patient 1 received hydrocodone with acetaminophen from three other medical providers on June 6, 2013, June 12, 2013, and October 28, 2013, while receiving fentanyl from Respondent. Respondent did not document those prescriptions in the medical records he kept for Patient 1. According to a Primary Treating Physician Report dated on or about August 1, 2012, filled out by a different physician, Patient 1 had a history of urine tests that showed she was getting controlled substances from other sources. The August 1, 2012, report was contained in the medical records kept by Respondent. According

[6] The Duragesic patch is designed to be effective for three days before it needs replacement.

[7] A copy of the 2012 pain contract was not provided to the Medical Board of California.

to Respondent, he received this report sometime after it was generated but he could not provide a specific date. Respondent failed to conduct drug urine testing of Patient 1 in 2013, 2014, and 2015, while prescribing fentanyl.

14. Respondent documented in progress notes that he saw Patient 1 in clinic on February 21, 2013, March 21, 2013, and April 18, 2013. The progress notes do not document a treatment plan or describe the objectives of treatment. The progress notes do not evidence whether Respondent considered or ordered diagnostic testing, sought additional consultations, weighed other treatment modalities, or performed drug screening. On May 16, 2013, Respondent authored another handwritten progress note that lacked clinical information regarding Patient 1's controlled substances therapy. He also authored a more lengthy typed report to Patient 1's workers' compensation analyst setting forth that Respondent would continue to prescribe fentanyl under workers' compensation rather than as a private pay patient. Respondent documented in the May 16, 2013, letter that he didn't feel physical therapy would be beneficial but did document that efforts should be made to have an MRI scan performed. Respondent documented that "risks, benefits, side effects, plans, and goals were discussed" with Patient 1 but did not document any of the specific components of Patient 1's treatment plan in the letter.

15. Beginning on June 13, 2013, and through December 4, 2014, Respondent documented Patient 1's care and treatment for chronic pain management on a form document titled "Primary Treating Physician's Progress Report," also known as a PR-2 form, which is used by the workers' compensation program. The approximately seventeen PR-2 reports, with the exception of the dates entered on each form, are photocopies of the first form that Respondent filled out on or about June 13, 2013. For example, Respondent copied all of the subsequent information contained in the sections titled "subjective complaints," "objective complaints," and "treatment plan." The seventeen PR-2 reports do not document whether Respondent considered the information regarding Patient 1's substance abuse history contained in the January 21, 2013, report, nor does it document whether or not Respondent reviewed or modified Patient 1's treatment plan by pursuing additional diagnostic evaluations, consultations or drug screening. The PR-2 reports kept between June 13, 2013, and December 4, 2014, do not provide any

relevant or current clinical information to detail how Patient 1 was doing on chronic pain therapy despite Respondent's continued prescriptions of fentanyl.

16. On November 27, 2012, Respondent originally filled out a document titled, "Checklist for Long-Term Opioid Therapy." He noted on the upper corner of the document that the document was up-to-date on January 6, 2013, January 2, 2014, and January 1, 2015. The document stated that Patient 1 had no history of substance abuse. Despite the January 21, 2013, report, which clearly set forth Patient 1's substance abuse history with methamphetamine and alcohol, Respondent continued to sign off on this checklist in January 2014 and January 2015 without making changes to Patient 1's past substance abuse history. In addition, he continued to document that he monitored Patient 1's compliance with her pain management therapy when in fact he did not conduct urine drug screening in 2013, 2014, and 2015.

17. As noted above, Respondent continued to prescribe fentanyl between January 2015 and November 2015 on a monthly basis. Stating on January 29, 2015, and through November 2015, Respondent began documenting Patient 1's visits in typed reports to Patient 1's workers' compensation analyst rather than in monthly progress notes or on pre-printed PR2 forms. On January 29, 2015, Respondent documented in the report that he was requesting approval to perform urine testing from workers' compensation, that he was continuing Patient 1's medication in the short term, but that he could foresee terminating her care or referring her to a pain clinic. Respondent wrote that he doubted Patient 1's veracity based on the lack of improvement in her pain despite taking a major narcotic analgesic and her statements that she could walk a mile. Respondent continued to prescribe fentanyl.

18. On March 24, 2015, and in the subsequent reports, Respondent documented that Patient 1 needed urine toxicology screen testing, but he continued to prescribe fentanyl despite not receiving any results of urine drug testing. On September 15, 2015, Respondent documented that Patient 1 had a pain level 3 out of ten. In the September 15, 2015, report Respondent incorrectly documented that the patient's family history is otherwise "noncontributory" and that the patient denied a history of alcohol use or illicit drug use despite a documented history of extensive problems with drug and alcohol use. Despite Respondent's previously documented

concerns on January 29, 2015, regarding Patient 1's veracity, Respondent documented in the September 2015 report that Patient 1 was doing well on fentanyl and that the prescription would be continued.

19. Between January 29, 2015, and December 30, 2015, Respondent only drafted seven total reports relating to Patient 1's care despite prescribing ten patches of 100 mcg fentanyl on 12 separate occasions to Patient 1. Between January 29, 2015, and November 2015, Respondent's seven reports failed to document the following issues: whether he considered non-opioid pain management methodologies rather than opioid therapy; whether he consulted with a specialist in addiction medicine; whether he was closely monitoring and assessing pain, functioning, and aberrant behaviors; whether he created and reviewed a treatment plan; whether he was checking CURES[8]; and whether he was performing urine drug screening tests on Patient 1. On or about May 29, 2015, Respondent filled out a document entitled Opioid Risk Tool and added it to Patient 1's file. Respondent marked that Patient 1 was at a low risk for opioid abuse. However, Respondent failed to document that Patient 1 had a family history of alcohol and drug abuse and failed to document Patient 1's own alcohol and drug abuse history on the form. Respondent's omission created a false impression that Patient 1 was at low risk for opioid abuse when in fact her risk for opioid abuse was as a moderate to high-risk patient.

20. Respondent's license is subject to disciplinary action under section 2234, subdivision (c), of the Code in that he committed repeated negligent acts during the care and treatment of Patient 1, including, but not limited to the following:

a) Between March 21, 2013, and December 4, 2014, Respondent repeatedly engaged in negligent acts in that he failed to document at each visit a comprehensive treatment plan, failed to state the objectives of pain therapy, failed to pursue diagnostic evaluations, and failed to perform drug screening on Patient 1, despite repeatedly prescribing fentanyl;

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[8] Controlled Substance Utilization Review and Evaluation System (CURES) is a database maintained by the California Department of Justice, which tracks all controlled drug prescriptions that are dispensed in the State of California.

b) Between March 21, 2013, and May 16, 2013, Respondent repeatedly engaged in negligent acts by keeping inadequate and inaccurate medical records documenting Patient 1's chronic pain therapy that were illegible and lacked current clinical information;

c) Between June 13, 2013, and through December 4, 2014, Respondent repeatedly engaged in negligent acts by keeping inadequate and inaccurate medical records documenting Patient 1's chronic pain therapy by using photocopies of the June 13, 2013, visit that provided no current or relevant clinical information;

d) Between January 29, 2015, and December 30, 2015, Respondent repeatedly engaged in negligent acts by keeping inadequate and inaccurate medical records documenting Patient 1's chronic pain therapy by only documenting seven total visits despite issuing twelve prescriptions; and,

e) Between January 29, 2015, and December 30, 2015, Respondent repeatedly engaged in negligent acts by failing to consider and/or document considering, in the seven reports that he created, whether non-opioid pain management methodologies rather than opioid therapy were appropriate, whether a referral to a specialist in addiction medicine was appropriate, whether Patient 1 exhibited pain, functioning, and aberrant behaviors; whether Patient 1's treatment plan was appropriate, whether he was checking CURES, and whether he was performing urine drug screening tests on Patient 1.

SECOND CAUSE FOR DISCIPLINE

(Inadequate and Inaccurate Medical Record Keeping)

21. Respondent's license is subject to disciplinary action under section 2266 of the Code in that he failed to keep adequate and accurate records during his care and treatment of Patient 1. The circumstances are set forth in paragraphs 9 through 20, and those paragraphs are incorporated by reference as if fully set forth herein.

DISCIPLINARY CONSIDERATIONS

22. To determine the degree of discipline, if any, to be imposed on Respondent Jeffrey Lawrence Phillips, M.D.'s license, Complainant alleges that on or about April 8, 2011, in a prior disciplinary action titled In the Matter of the Accusation Against Jeffrey Lawrence Phillips, M.D.

before the Medical Board of California, in Case Number 02-2008-192071, Respondent's license was placed on five (5) years' probation with terms and conditions after entering a stipulation where he admitted the truth of each and every charge in the First Amended Accusation. The First Amended Accusation alleged that between January 1, 2006, and January 25, 2008, Respondent had defrauded Medi-Care and Medi-Cal by submitting false claims for payment. Respondent was convicted of violating Penal Code section 550(a)(f) and ordered to repay $83,270.24 in restitution. That decision is now final and is incorporated by reference as if fully set forth herein.

PRAYER

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

1. Revoking or suspending Physician's and Surgeon's Certificate Number G 64950, issued to Jeffrey Lawrence Phillips, M.D.;

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

3. Ordering Jeffrey Lawrence Phillips, M.D., if placed on probation, to pay the Board the costs of probation monitoring;

4. Ordering Jeffrey Lawrence Phillips, M.D., if placed on probation, to disclose the disciplinary order to patients pursuant to section 2228.1 of the Code; and,

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

DATED: MAR 20 2020

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

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