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

In the Matter of the Accusation Against: **JOSEPH FRANCIS HUMENIK, M.D.** **PO BOX 293177** **PHELAN CA 92329-3177** **Physician's and Surgeon's Certificate No. G 27240,** **Respondent.**	Case No. 800-2018-044327 **DEFAULT DECISION AND ORDER** [Gov. Code, §11520]

FINDINGS OF FACT

1. On or about February 2, 2021, Complainant William Prasifka, in his official capacity as the Executive Director of the Medical Board of California, Department of Consumer Affairs, filed Accusation No. 800-2018-044327 against Joseph Francis Humenik, M.D. (Respondent) before the Medical Board of California.

2. On or about July 15, 1974, the Medical Board of California (Board) issued Physician's and Surgeon's Certificate No. G 27240 to 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 July 31, 2022, unless renewed. A true and correct copy of a Certificate

of Licensure for Respondent, including his address of record with the Board, is attached to the simultaneously submitted "Default Decision Evidence Packet" as **Exhibit A** and is incorporated herein by reference.

3. On or about February 2, 2021, an employee of the Board, served by Certified Mail (tracking number 7020 1290 0001 8787 1555) and First Class Mail a true and correct copy of the Accusation No. 800-2018-044327, Statement to Respondent, Notice of Defense (two copies), Request for Discovery, and Government Code sections 11507.5, 11507.6, and 11507.7 (collectively, referred to as "the Accusation Package"), at Respondent's address of record with the Board, which was and is P.O. Box 293177, Phelan CA 92329-3177 ("Phelan address"). A true and correct copy of the Accusation Package, and Declaration of Service are attached to the Default Decision Evidence Packet as **Exhibit B** and incorporated herein by reference.

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

5. On or about February 8, 2021, the Certified Mail Return Receipt ("green card") was returned by the U.S. Postal Service confirming that the Accusation Package described in paragraph 3 above, was delivered to Respondent at his address of record with the Board. A copy of the certified mail green card returned by the post office is attached as **Exhibit C**, to the accompanying Default Decision Evidence Packet, and are hereby incorporated herein by reference as if fully set forth herein.

6. On or about February 24, 2021, Deputy Attorney General Jason J. Ahn directed a search of Accurint for Law Enforcement database (Accurint LE) for Respondent's current address. Based upon matching information for Respondent including, full name, date of birth and social security number, Accurint LE indicated that a possible additional address for Respondent was P.O. Box 98, Idyllwild, CA 92549-0098 ("Idyllwild address"). On or about February 24, 2021, through his support staff, Deputy Attorney General Jason J. Ahn mailed a courtesy Notice of Default to the two (2) known addresses for Respondent – Phelan address and Idyllwild address – informing Respondent that if he failed to submit a Notice of Defense, within 15 days, a Default would be filed. A copy of the courtesy Notice of Default is attached as **Exhibit D**, to the

accompanying Default Decision Evidence Packet, and are hereby incorporated herein by reference as if fully set forth herein. (Declaration of Deputy Attorney General Jason J. Ahn, ¶ 7 and 8, **Exhibit G**)

7. On or about March 15, 2021, the certified mail packet sent to Idyllwild address, containing the Courtesy Notice of Default was returned to Deputy Attorney General Jason J. Ahn by the U.S. Postal Service. A copy of the envelope stamped "Returned to Sender, Unable to Forward" by the post office is attached as **Exhibit E**. Significantly, however, the courtesy notice of default mailed to respondent to the Phelan address, was not and has not been returned to Deputy Attorney General Jason J. Ahn. (Declaration of Deputy Attorney General Jason J. Ahn, ¶ 9, **Exhibit G**,)

8. On or about March 16, 2021 Deputy Attorney General Jason J. Ahn, instructed, Senior Legal Analyst, Lucia Rincon, to e-mail Respondent at his potential e-mail address, requesting his current contact information. A copy of said e-mail is attached as **Exhibit F**, to the accompanying Default Decision Evidence Packet, and are hereby incorporated herein by reference as if fully set forth herein. As of the date of the filing of this request for Default Decision and Order, Respondent has not sent a Notice of Defense nor responded in any form, to Deputy Attorney General Jason J. Ahn. (Declaration of Deputy Attorney General Jason J. Ahn, ¶ 10, **Exhibit G**)

9. 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.

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. 800-2018-044327.

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10. 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.

11. 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, contained in exhibits A-I, finds that the allegations in Accusation No. 800-2018-044327 are true and correct:

12. Section 2227 of the Code states:

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

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

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

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

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

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

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

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13. 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:

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

(b) Gross negligence.

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

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

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

"..."

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 2225 of the Code states:

"...

(e) If documents are lawfully requested from licensees in accordance with this section by the Attorney General or his or her agents or deputies, or investigators of the board or the California Board of Podiatric Medicine, the documents shall be provided within 15 business days of receipt of the request, unless the licensee is unable to provide the documents within this time period for good cause, including, but not limited to, physical inability to access the records in the time allowed due to illness or travel. Failure to produce requested documents or copies thereof, after being informed of the required deadline, shall constitute unprofessional conduct. The board may use its authority to cite and fine a physician and surgeon for any violation of this section. This remedy is in addition to any other authority of the board to sanction a licensee for a delay in producing requested records.

"..."

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16. Section 2225.5 of the Code provides:

(a)(1) A licensee who fails or refuses to comply with a request for the certified medical records of a patient, that is accompanied by that patient's written authorization for release of records to the board, within 15 days of receiving the request and authorization, shall pay to the board a civil penalty of one thousand dollars ($1,000) per day for each day that the documents have not been produced after the 15th day, up to ten thousand dollars ($10,000), unless the licensee is unable to provide the documents within this time period for good cause. .

"...

(e) Imposition of the civil penalties authorized by this section shall be in accordance with the Administrative Procedure Act (Chapter 5 (commencing with Section 11500) of Division 3 of Title 2 of the Government Code).

(f) For purposes of this section, "certified medical records" means a copy of the patient's medical records authenticated by the licensee or health care facility, as appropriate, on a form prescribed by the board.

"..."

17. Unprofessional conduct under Business and Professions Code section 2234 is conduct which breaches the rules or ethical code of the medical profession, or conduct which is unbecoming a member in good standing of the medical profession, and which demonstrates an unfitness to practice medicine. (*Shea v. Board of Medical Examiners* (1978) 81 Cal.App.3d 564, 575.)

18. Respondent is subject to disciplinary action under sections 2227 and 2234, as defined by section 2234, subdivision (b), of the Code, in that he committed gross negligence in his care and treatment of Patients A, B, and C,[1] as more particularly alleged hereinafter:

Patient A

19. On or about November 19, 2013[2], Patient A first presented to Respondent. At the time of this visit, Patient A was a sixty-eight (68) year-old female who had a history of chronic

[1] References to "Patient A, B, and C" are used to protect patient privacy.

[2] Conduct occurring more than seven (7) years from the filing date of this Accusation is for informational purposes only and is not alleged as a basis for disciplinary action.

low back pain with lower extremity sciatica[3], interstitial cystitis[4], hypertension[5], frequent falls/gait ataxia[6] and insomnia. Patient A had long history of opioid dependency and history of experiencing severe withdrawals whenever she stopped consuming opiates. (See Exh. I, Dr. Jain Decl., ¶ 7.)

20. Between on or about January 1, 2014, through February 24, 2018, Respondent prescribed controlled substances to Patient A as reflected in Exhibit B, attached hereto.

21. From on or about January 1, 2014, through February 24, 2018, Respondent prescribed to Patient A numerous opiates, benzodiazepines, and CNS depressant medications, despite Patient A's known contraindications including, but not limited to, opioid dependency and frequent falls. Respondent also failed to adequately utilize and/or failed to document having adequately utilized alternative treatment modalities, including, but not limited to, physical therapy, NSAIDs[7], heat/ice treatment, and home exercise program(s). (See Exh. I, Dr. Jain Decl., ¶ 9.)

22. From on or about January 1, 2014, through February 24, 2018, Respondent prescribed for Patient's concomitant use, opiates, CNS depressant muscle relaxants, and benzodiazepines. (See Exh. I, Dr. Jain Decl., ¶ 10.)

23. From on or about January 1, 2014 through February 24, 2018, Respondent failed to utilize and/or failed to document having utilized a pain management agreement with Patient A; Respondent failed to adequately utilize urine toxicology screens and/or failed to document having adequately utilized urine toxicology screens; Respondent failed to adequately review CURES reports and/or failed to document having adequately reviewed CURES reports. (See Exh. I, Dr. Jain Decl., ¶ 11.)

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[3] Sciatica refers to pain radiating along the sciatic nerve, which runs down one or both legs from the lower back.

[4] Interstitial cystitis refers to a chronic, painful bladder condition.

[5] Hypertension refers to high blood pressure.

[6] Gait ataxia refers to an unsteady, staggering gait.

[7] NSAIDs (Nonsteroidal Anti-inflammatory drugs) are medications that reliever or reduce pain. The most popular examples of this group of drugs are aspirin and ibuprofen.

24. Respondent committed gross negligence in his care and treatment of Patient A, which included, but was not limited to, the following:

(a) Respondent prescribed opiates, benzodiazepines, and CNS depressants to Patient A, despite Patient A's contraindications of history of opioid dependence and frequent falls;

(b) Respondent prescribed opiates, CNS depressants, and benzodiazepines to Patient A for Patient A's concomitant use; and

(c) Respondent failed to use a signed pain management and/or failed to document having used a pain management agreement; Respondent failed to periodically check CURES reports and/or failed to document having periodically checked CURES reports; Respondent failed to periodically use urine toxicology screens and/or failed to document having periodically used urine toxicology screens.

(See Exh. I, Dr. Jain Decl., ¶ 12.)

Patient B

25. On or about January 20, 2018, Patient B first presented to Respondent. At that time, Patient B was a twenty-three (23) year-old man who had a history of chronic low back pain from spinal stenosis[8] and chronic shoulder pain. (See Exh. I, Dr. Jain Decl., ¶ 13.)

26. From on or about February 2, 2018, through January 29, 2019, Respondent prescribed controlled substances to Patient B as reflected in Exhibit B, attached hereto.

27. From on or about February 2, 2018, through January 29, 2019, Respondent prescribed to Patient B's concomitant use, a high dose of opiates with CNS depressant muscle relaxants, and benzodiazepines. (See Exh. I, Dr. Jain Decl., ¶ 15.)

28. From on or about February 2, 2018, through January 29, 2019, Respondent failed to periodically review CURES reports and/or failed to document having conducted a periodic review of CURES reports; Respondent failed to check and/or failed to document having conducted urine toxicology screens of Patient B. (See Exh. I, Dr. Jain Decl., ¶ 16.)

[8] Spinal stenosis refers to a narrowing of the spinal canal, which can put pressure on the spinal cord and the nerves within the spine.

29. Respondent committed gross negligence in his care and treatment of Patient B, which included, but was not limited to, the following:

(a) Respondent prescribed opiates, CNS depressants, and benzodiazepines to Patient B for Patient B's concomitant use; and

(b) Respondent failed to periodically check CURES reports and/or failed to document having periodically checked CURES reports; Respondent failed to periodically use urine toxicology screens and/or failed to document having periodically used urine toxicology screens.

(See Exh. I, Dr. Jain Decl., ¶ 17.)

Patient C

30. Respondent began treating Patient C in or around 1997.[9] At the time, she was a thirty-eight (38) year-old female with a history of multiple sclerosis[10], chronic obstructive pulmonary disease (COPD)[11], and chronic hip pain, despite a total hip replacement. (See Exh. I, Dr. Jain Decl., ¶ 18.)

31. From January 1, 2014, through February 19, 2018, Respondent prescribed controlled substances to Patient C as reflected in Exhibit B, attached hereto.

32. From on or about January 1, 2014, through February 24, 2018, Respondent prescribed to Patient C's concomitant use, opiates with CNS depressant muscle relaxants, and benzodiazepines. (See Exh. I, Dr. Jain Decl., ¶ 20.)

33. From on or about January 1, 2014 through February 24, 2018, Respondent failed to periodically review CURES reports and/or failed to document having conducted a periodic review of CURES reports; Respondent failed to check and/or failed to document having conducted urine toxicology screens of Patient C; Respondent failed to utilize and/or failed to

[9] Conduct occurring more than seven (7) years from the filing date of the Accusation in this matter is for informational purposes only and is not alleged as a basis for disciplinary action.

[10] Multiple sclerosis (MS) is a disease in which the immune system eats away at the protective covering of the nerves.

[11] Chronic Obstructive Pulmonary Disease (COPD) is a group of lung diseases that block airflow and make it difficult to breathe.

document having utilized an opiate agreement form. (See Exh. I, Dr. Jain Decl., ¶ 21.)

34. Respondent committed gross negligence in his care and treatment of Patient C, which included, but was not limited to, the following:

(a) Respondent prescribed opiates, CNS depressants, and benzodiazepines to Patient C for Patient C's concomitant use; and

(b) Respondent failed to use a signed pain management and/or failed to document having used a pain management agreement; Respondent failed to periodically check CURES reports and/or failed to document having periodically checked CURES reports; Respondent failed to periodically use urine toxicology screens and/or failed to document having periodically used urine toxicology screens.

(See Exh. I, Dr. Jain Decl., ¶ 22.)

35. Respondent is further subject 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 in his care and treatment of Patients A, B, and C, as more particularly alleged hereinafter:

Patient A

36. Respondent committed repeated negligence in his care and treatment of Patient A, which included, but was not limited to, the following:

(a) Paragraphs 11 through 16, above, are hereby incorporated by reference and realleged as if fully set forth herein;

(b) Respondent prescribed opiates, benzodiazepines, and CNS depressants to Patient A, despite Patient A's contraindications of history of opioid dependence and frequent falls;

(c) Respondent prescribed opiates, CNS depressants, and benzodiazepines to Patient A for Patient A's concomitant use; and

(d) Respondent failed to use a signed pain management and/or failed to document having used a pain management agreement; Respondent failed to periodically check CURES reports and/or failed to document having periodically checked CURES reports; Respondent failed to periodically use urine toxicology screens and/or failed to document

having periodically used urine toxicology screens.

Patient B

37. Respondent committed repeated negligent acts in his care and treatment of Patient B, which included, but was not limited to, the following:

(a) Paragraphs 17 through 21, above, are hereby incorporated by reference and realleged as if fully set forth herein;

(b) Respondent prescribed opiates, CNS depressants, and benzodiazepines to Patient B for Patient B's concomitant use; and

(c) Respondent failed to periodically check CURES reports and/or failed to document having periodically checked CURES reports; Respondent failed to periodically use urine toxicology screens and/or failed to document having periodically used urine toxicology screens.

Patient C

38. Respondent committed repeated negligent acts in his care and treatment of Patient C, which included, but was not limited to, the following:

(a) Paragraphs 22 through 26, above, are hereby incorporated by reference and realleged as if fully set forth herein;

(b) Respondent prescribed opiates, CNS depressants, and benzodiazepines to Patient C for Patient C's concomitant use; and

(c) Respondent failed to use a signed pain management and/or failed to document having used a pain management agreement; Respondent failed to periodically check CURES reports and/or failed to document having periodically checked CURES reports; Respondent failed to periodically use urine toxicology screens and/or failed to document having periodically used urine toxicology screens.

39. Respondent is further subject to disciplinary action under sections 2227 and 2234, as defined by section 2266, of the Code, in that Respondent failed to maintain adequate and/or accurate records regarding his care and treatment of Patients A, B, and C, as more particularly alleged in paragraphs 18 through 38, above, which are hereby incorporated by reference and

realleged as if fully set forth herein.

40. Respondent is further subject to disciplinary action under sections 2227 and 2234, as defined by section 2225, subdivision (e) and section 2225.5, subdivision (a)(1), of the Code, in that Respondent failed and/or refused to produce medical records, as more particularly alleged hereinafter.

Patient D[12]

41. On or about August 12, 2019, on behalf of the Board, an investigator from California Department of Consumer Affairs, Division of Investigation, Health Quality Investigation Unit, San Bernardino District Office (HQIU), sent Respondent a request for certified medical records of Patient D, accompanied by Patient D's authorization for release of her medical records. The request contained a deadline of August 27, 2019, by which date Respondent had to produce the requested certified medical records of Patient D to HQIU. (Declaration of Investigator Kathryn Ochi-Norman, ¶ 5, **Exhibit H)**

42. Respondent failed to produce Patient D's certified medical records to HQIU within the specified deadline of August 27, 2019. (Declaration of Investigator Kathryn Ochi-Norman, ¶ 6, **Exhibit H)**

43. On or about September 5, 2019, Respondent requested an extension of the deadline within which to produce Patient D's certified medical records to HQIU. HQIU extended the deadline to September 26, 2019. (Declaration of Investigator Kathryn Ochi-Norman, ¶ 7, **Exhibit H)**

44. Respondent failed to produce Patient D's certified medical records to HQIU within the extended deadline of September 26, 2019. (Declaration of Investigator Kathryn Ochi-Norman, ¶ 8, **Exhibit H)**

45. Thereafter, HQIU inquired with Respondent multiple times regarding Respondent's failure and/or refusal to produce Patient D's certified medical records. Respondent has failed and/or refused to produce the certified medical records of Patient D to HQIU. (Declaration of Investigator Kathryn Ochi-Norman, ¶ 9, **Exhibit H)**

[12] References to "Patient D" are used to protect patient privacy.

46. Respondent is further subject to disciplinary action under sections 2227 and 2234 of the Code, in that he engaged in conduct which breaches the rules or ethical code of the medical profession, or conduct which is unbecoming of a member in good standing of the medical profession, and which demonstrates an unfitness to practice medicine, as more particularly alleged in paragraphs 40 through 45, above, which are hereby incorporated by reference as if fully set forth herein.

DETERMINATION OF ISSUES

1. Pursuant to California Government Code section 11520, the Board hereby takes this action based upon respondent's express admissions and other evidence contained in the separate accompanying Default Decision Evidence Packet filed herewith.

2. Pursuant to its authority under Government Code Section 11520, and based on the evidence before it, the Board hereby finds that the charges and allegations in Accusation No. 800-2018-044327, and the Findings of Fact 1 through 46, above and each of them, severally and separately, are true and correct.

3. Pursuant to its authority under Government Code Section 11520, and based on the evidence before it, the Board hereby finds that the charges and allegations in Accusation No. 800-2018-044327, and the Findings of Fact 1 through 46, above, and the Determination of Issues 1 and 2, above, the Board hereby finds that Respondent Joseph Francis Humenik, M.D., has subjected his Physician's and Surgeon's Certificate No. G 27240, to disciplinary action under sections 2227 and 2234, as defined by section 2234, subdivision (b), subdivision (c), subdivision (e) and section 2225.5, subdivision (a)(1), of the Code, in that:

(a) Respondent committed gross negligence in his care and treatment of Patients A, B, and C;

(b) Respondent committed repeated negligent acts in his care and treatment of Patients A, B, and C;

(c) Respondent failed to maintain adequate and/or accurate records regarding his care and treatment of Patients A, B, and C; and

(d) Respondent failed and/or refused to produce medical records of Patient D.

ORDER

IT IS SO ORDERED that Physician's and Surgeon's Certificate No. G 27240, heretofore issued to respondent Joseph Francis Humenik, M.D., is revoked for each of the violations, separately and severally, of the California and Business and Professions Code found in the Determination of Issues, above.

Pursuant to Government Code section 11520, subdivision (c), respondent, Joseph Francis Humenik, M.D., 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 at 5:00 p.m. on April 29, 2021.

It is so ORDERED March 30, 2021.

WILLIAM PRASIKEA
EXECUTIVE 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: **Joseph Francis Humenik, M.D.** **PO BOX 293177** **PHELAN, CA 92329-3177** **Physician's and Surgeon's Certificate No. G 27240,** Respondent.	Case No. 800-2018-044327 **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 July 15, 1974, the Medical Board issued Physician's and Surgeon's Certificate No. G 27240 to Joseph Francis Humenik, 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 July 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 2227 of the Code states:

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

5. 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:
>
> (a) Violating or attempting to violate, directly or indirectly, assisting in or abetting the violation of, or conspiring to violate any provision of this chapter.
>
> (b) Gross negligence.
>
> (c) Repeated negligent acts. To be repeated, there must be two or more negligent acts or omissions. An initial negligent act or omission followed by a separate and distinct departure from the applicable standard of care shall constitute repeated negligent acts.

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(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.

7. Section 2225 of the Code states:

"...

(e) If documents are lawfully requested from licensees in accordance with this section by the Attorney General or his or her agents or deputies, or investigators of the board or the California Board of Podiatric Medicine, the documents shall be provided within 15 business days of receipt of the request, unless the licensee is unable to provide the documents within this time period for good cause, including, but not limited to, physical inability to access the records in the time allowed due to illness or travel. Failure to produce requested documents or copies thereof, after being informed of the required deadline, shall constitute unprofessional conduct. The board may use its authority to cite and fine a physician and surgeon for any violation of this section. This remedy is in addition to any other authority of the board to sanction a licensee for a delay in producing requested records.

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8. Section 2225.5 of the Code provides:

(a)(1) A licensee who fails or refuses to comply with a request for the certified medical records of a patient, that is accompanied by that patient's written authorization for release of records to the board, within 15 days of receiving the request and authorization, shall pay to the board a civil penalty of one thousand dollars ($1,000) per day for each day that the documents have not been produced after the 15th day, up to ten thousand dollars ($10,000), unless the licensee is unable to provide the documents within this time period for good cause.

"...

(e) Imposition of the civil penalties authorized by this section shall be in accordance with the Administrative Procedure Act (Chapter 5 (commencing with Section 11500) of Division 3 of Title 2 of the Government Code).

(f) For purposes of this section, "certified medical records" means a copy of the patient's medical records authenticated by the licensee or health care facility, as appropriate, on a form prescribed by the board.

"..."

9. Unprofessional conduct under Business and Professions Code section 2234 is conduct which breaches the rules or ethical code of the medical profession, or conduct which is unbecoming a member in good standing of the medical profession, and which demonstrates an unfitness to practice medicine. (*Shea v. Board of Medical Examiners* (1978) 81 Cal.App.3d 564, 575.)

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FIRST CAUSE FOR DISCIPLINE

(Gross Negligence)

10. Respondent has subjected his Physician's and Surgeon's Certificate No. G 27240 to disciplinary action under sections 2227 and 2234, as defined by section 2234, subdivision (b), of the Code, in that he committed gross negligence in his care and treatment of Patients A, B, and C,[1] as more particularly alleged hereinafter:

Patient A

11. On or about November 19, 2013[2], Patient A first presented to Respondent. At the time of this visit, Patient A was a sixty-eight (68) year-old female who had a history of chronic low back pain with lower extremity sciatica[3], interstitial cystitis[4], hypertension[5], frequent falls/gait ataxia[6] and insomnia. Patient A had long history of opioid dependency and history of experiencing severe withdrawals whenever she stopped consuming opiates.

12. Between January 1, 2014, through February 24, 2018, Respondent prescribed the following controlled substances to Patient A:

Date	Medication	Quantity	Days of Supply
02/24/18	TEMAZEPAM[7] 30 MG	60	30

[1] References to "Patient A, B, and C" are used to protect patient privacy.

[2] Conduct occurring more than seven (7) years from the filing date of this Accusation is for informational purposes only and is not alleged as a basis for disciplinary action.

[3] Sciatica refers to pain radiating along the sciatic nerve, which runs down one or both legs from the lower back.

[4] Interstitial cystitis refers to a chronic, painful bladder condition.

[5] Hypertension refers to high blood pressure.

[6] Gait ataxia refers to an unsteady, staggering gait.

[7] Restoril® (temazepam), a benzodiazepine, is a centrally acting hypnotic-sedative that 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. When properly prescribed and indicated, it is used to treat seizure disorders and panic disorders. Concomitant use of Restoril® with opioids "may result in profound sedation, respiratory depression, coma, and death." The Drug Enforcement Administration (DEA) has identified

02/19/18	OXYCODONE HCL[8] 30 MG	120	30
02/19/18	ALPRAZOLAM[9] 2 MG	90	30
02/19/18	HYDROCODONE BITARTRATE-ACETAMINOPHEN[10] 325 MG-10MG	220	30
02/02/18	CARISOPRODOL[11] 350 MG	120	30

benzodiazepines, such as Restoril®, as drug of abuse. (Drugs of Abuse, DEA Resource Guide (2011 Edition), at p. 53.)

[8] Oxycodone HCL (OxyContin®) is a Schedule II controlled substances pursuant to Health and Safety Code section 11055, subdivision (b), and a dangerous drug pursuant to Business and Professions Code section 4022. When properly prescribed and indicated, oxycodone HCL is used for the management of pain severe enough to require daily, around-the-clock, long term opioid treatment for which alternative treatment options are inadequate. The Drug Enforcement Administration (DEA) has identified oxycodone, as a drug of abuse. (Drugs of Abuse, A DEA Resource Guide (2011 Edition), at p. 41.) The risk of respiratory depression and overdose is increased with the concomitant use of benzodiazepines or when prescribed to patients with pre-existing respiratory depression.

[9] Xanax® (alprazolam), a benzodiazepine, is a centrally acting hypnotic-sedative that 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. When properly prescribed and indicated, it is used for the management of anxiety disorders. Concomitant use of Xanax® with opioids "may result in profound sedation, respiratory depression, coma, and death." The Drug Enforcement Administration (DEA) has identified benzodiazepines, such as Xanax®, as a drug of abuse. (Drugs of Abuse, DEA Resource Guide (2011 Edition), at p. 53.)

[10] Hydrocodone APAP (Vicodin®, Lortab® and Norco®) is a hydrocodone combination of hydrocodone bitartrate and acetaminophen which was formerly a Schedule III controlled substance pursuant to Health and Safety Code section 11056, subdivision (e), and a dangerous drug pursuant to Business and Professions Code section 4022. On August 22, 2014, the DEA published a final rule rescheduling hydrocodone combination products (HCPs) to Schedule II of the Controlled Substances Act, which became effective October 6, 2014. Schedule II controlled substances are substances that have a currently accepted medical use in the United States, but also have a high potential for abuse, and the abuse of which may lead to severe psychological or physical dependence. When properly prescribed and indicated, it is used for the treatment of moderate to severe pain. In addition to the potential for psychological and physical dependence there is also the risk of acute liver failure which has resulted in a black box warning being issued by the Federal Drug Administration (FDA). The FDA black box warning provides that "Acetaminophen has been associated with cases of acute liver failure, at times resulting in liver transplant and death. Most of the cases of liver injury are associated with use of the acetaminophen at doses that exceed 4000 milligrams per day, and often involve more than one acetaminophen containing product."

[11] Soma® (carisoprodol) 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. When properly prescribed and indicated, it is used for the short-term treatment of acute and painful musculoskeletal conditions. Soma® is commonly used by those who abuse opioids to potentiate the euphoric effect of opioids, to create a better "high." According to the DEA, Office of Diversion Control, "[c]arisoprodol abuse has escalated in the last decade in the United States. According to Diversion Drug Trends, published by the DEA on

01/23/18	ALPRAZOLAM 2 MG	60	30
01/23/18	OXYCODONE HCL 30 MG	120	30
01/23/18	TEMAZEPAM 30 MG	60	30
01/23/18	HYDROCODONE BITARTRATE-ACETAMINOPHEN 325 MG-10MG	220	30
01/08/18	CARISOPRODOL 350 MG	120	30
12/11/17	CARISOPRODOL 350 MG	120	30
11/29/17	TEMAZEPAM 30 MG	60	30
11/29/17	ALPRAZOLAM 2 MG	60	30
11/28/17	HYDROCODONE BITARTRATE-ACETAMINOPHEN 325 MG-10MG	220	25
11/28/17	OXYCODONE HCL 30 MG	120	30
11/14/17	CARISOPRODOL 350 MG	120	30
11/13/17	CARISOPRODOL 350 MG	120	30
11/02/17	ALPRAZOLAM 2 MG	60	30
10/30/17	TEMAZEPAM 30 MG	60	30
10/30/17	HYDROCODONE BITARTRATE-ACETAMINOPHEN 325 MG-10MG	220	25
10/30/17	OXYCODONE HCL 30 MG	120	30
10/17/17	CARISOPRODOL 350 MG	120	30
10/07/17	ALPRAZOLAM 2 MG	60	30
10/04/17	TEMAZEPAM 30 MG	60	30
10/02/17	HYDROCODONE BITARTRATE-ACETAMINOPHEN 325 MG-10MG	220	25
10/02/17	OXYCODONE HCL 30 MG	120	30
09/20/17	CARISOPRODOL 350 MG	180	30
09/11/17	ALPRAZOLAM 2 MG	60	30
09/05/17	TEMAZEPAM 30 MG	60	30
09/05/17	HYDROCODONE BITARTRATE-ACETAMINOPHEN 325 MG-10MG	220	19
09/05/17	OXYCODONE HCL 30 MG	120	30
08/28/17	CARISOPRODOL 350 MG	180	30

the trends in diversion of controlled and noncontrolled pharmaceuticals, carisoprodol continues to be one of the most commonly diverted drugs. Diversion and abuse of carisoprodol is prevalent throughout the country. As of March 2011, street prices for [carisoprodol] Soma® ranged from $1 to $5 per tablet. Diversion methods include doctor shopping for the purposes of obtaining multiple prescriptions and forging prescriptions."

08/19/17	ALPRAZOLAM 2 MG	60	30
07/31/17	CARISOPRODOL 350 MG	180	30
07/31/17	TEMAZEPAM 30 MG	60	30
07/22/17	ALPRAZOLAM 2 MG	60	30
07/11/17	HYDROCODONE BITARTRATE-ACETAMINOPHEN 325 MG-10MG	220	19
07/11/17	OXYCODONE HCL 30 MG	120	30
07/10/17	CARISOPRODOL 350 MG	180	30
07/08/17	OXYCODONE HCL 30 MG	120	30
07/08/17	HYDROCODONE BITARTRATE-ACETAMINOPHEN 325 MG-10MG	220	19
07/03/17	TEMAZEPAM 30 MG	60	30
06/26/17	ALPRAZOLAM 2 MG	60	30
06/13/17	HYDROCODONE BITARTRATE-ACETAMINOPHEN 325 MG-10MG	220	19
06/13/17	OXYCODONE HCL 30 MG	120	30
06/12/17	CARISOPRODOL 350 MG	180	30
05/30/17	TEMAZEPAM 30 MG	60	30
05/26/17	ALPRAZOLAM 2 MG	60	30
05/17/17	OXYCODONE HCL 30 MG	120	30
05/17/17	CARISOPRODOL 350 MG	180	30
05/17/17	HYDROCODONE BITARTRATE-ACETAMINOPHEN 325 MG-10MG	220	19
04/27/17	TEMAZEPAM 30 MG	60	30
04/20/17	OXYCODONE HCL 30 MG	120	30
04/20/17	ALPRAZOLAM 2 MG	60	30
04/20/17	HYDROCODONE BITARTRATE-ACETAMINOPHEN 325 MG-10MG	220	19
04/19/17	CARISOPRODOL 350 MG	180	30
03/27/17	TEMAZEPAM 30 MG	60	30
03/25/17	HYDROCODONE BITARTRATE-ACETAMINOPHEN 325 MG-10MG	220	19
03/24/17	CARISOPRODOL 350 MG	180	30
03/22/17	ALPRAZOLAM 2 MG	60	30
03/22/17	OXYCODONE HCL 30 MG	120	30
02/28/17	CARISOPRODOL 350 MG	180	30

02/25/17	HYDROCODONE BITARTRATE-ACETAMINOPHEN 325 MG-10MG	220	19
02/21/17	TEMAZEPAM 30 MG	60	30
02/20/17	OXYCODONE HCL 30 MG	120	30
02/16/17	ALPRAZOLAM 2 MG	60	30
01/31/17	CARISOPRODOL 350 MG	180	30
01/30/17	TEMAZEPAM 30 MG	30	30
01/30/17	CARISOPRODOL 350 MG	180	30
01/27/17	HYDROCODONE BITARTRATE-ACETAMINOPHEN 325 MG-10MG	220	30
01/20/17	ALPRAZOLAM 2 MG	60	30
01/20/17	TEMAZEPAM 30 MG	30	30
01/18/17	OXYCODONE HCL 30 MG	120	30
12/29/16	HYDROCODONE BITARTRATE-ACETAMINOPHEN 325 MG-10MG	220	30
12/28/16	CARISOPRODOL 350 MG	180	30
12/22/16	TEMAZEPAM 30 MG	60	30
12/22/16	ALPRAZOLAM 2 MG	60	30
12/19/16	OXYCODONE HCL 30 MG	120	30
11/30/16	HYDROCODONE BITARTRATE-ACETAMINOPHEN 325 MG-10MG	220	30
11/30/16	CARISOPRODOL 350 MG	180	30
11/25/16	ALPRAZOLAM 2 MG	60	30
11/15/16	TEMAZEPAM 30 MG	60	30
11/12/16	OXYCODONE HCL 30 MG	120	30
11/02/16	CARISOPRODOL 350 MG	180	30
11/01/16	HYDROCODONE BITARTRATE-ACETAMINOPHEN 325 MG-10MG	220	30
10/27/16	ALPRAZOLAM 2 MG	60	30
10/18/16	TEMAZEPAM 30 MG	60	30
10/15/16	OXYCODONE HCL 30 MG	120	30
10/06/16	CARISOPRODOL 350 MG	180	30
10/02/16	ACETAMINOPHEN-HYDROCODONE BITARTRATE 325MG-10MG	220	19
09/30/16	ALPRAZOLAM 2 MG	60	30
09/17/16	OXYCODONE HCL 30 MG	120	30
09/16/16	TEMAZEPAM 30 MG	60	30

09/10/16	CARISOPRODOL 350 MG	180	30
09/07/16	HYDROCODONE BITARTRATE-ACETAMINOPHEN 325 MG-10MG	220	30
08/30/16	ALPRAZOLAM 2 MG	60	30
08/20/16	OXYCODONE HCL 30 MG	120	30
08/15/16	TEMAZEPAM 30 MG	60	30
08/11/16	CARISOPRODOL 350 MG	180	30
08/08/16	HYDROCODONE BITARTRATE-ACETAMINOPHEN 325 MG-10MG	220	30
08/02/16	TEMAZEPAM 30 MG	60	30
08/01/16	ALPRAZOLAM 2 MG	60	30
07/23/16	OXYCODONE HCL 30 MG	120	30
07/13/16	CARISOPRODOL 350 MG	180	30
07/11/16	TEMAZEPAM 30 MG	60	30
07/11/16	HYDROCODONE BITARTRATE-ACETAMINOPHEN 325 MG-10MG	220	19
07/02/16	ALPRAZOLAM 2 MG	60	30
06/25/16	OXYCODONE HCL 30 MG	120	30
06/15/16	CARISOPRODOL 350 MG	180	30
06/14/16	HYDROCODONE BITARTRATE-ACETAMINOPHEN 325 MG-10MG	220	27
06/13/16	TEMAZEPAM 30 MG	60	30
06/04/16	ALPRAZOLAM 2 MG	60	30
05/28/16	OXYCODONE HCL 30 MG	90	30
05/18/16	CARISOPRODOL 350 MG	120	30
05/17/16	HYDROCODONE BITARTRATE-ACETAMINOPHEN 325 MG-10MG	220	30
05/09/16	TEMAZEPAM 30 MG	60	30
05/05/16	ALPRAZOLAM 2 MG	60	30
05/05/16	ALPRAZOLAM 2 MG	60	30
04/30/16	OXYCODONE HCL 30 MG	90	30
04/21/16	CARISOPRODOL 350 MG	120	30
04/05/16	ALPRAZOLAM 2 MG	60	30
04/01/16	MORPHINE SULFATE[12] 30 MG	120	30

[12] MS Contin® (morphine sulfate), an opioid analgesic, is a Schedule II controlled substance pursuant to Health and Safety Code section 11055, subdivision (e), and a dangerous drug pursuant to Business and Professions Code section 4022. When properly prescribed and

03/24/16	CARISOPRODOL 350 MG	120	30
03/21/16	HYDROCODONE BITARTRATE-ACETAMINOPHEN 325 MG-10MG	220	27
03/11/16	TEMAZEPAM 30 MG	45	30
03/09/16	ALPRAZOLAM 2 MG	60	30
03/05/16	MORPHINE SULFATE 30 MG	120	30
02/24/16	HYDROCODONE BITARTRATE-ACETAMINOPHEN 325 MG-10MG	220	27
02/23/16	CARISOPRODOL 350 MG	120	30
02/11/16	ALPRAZOLAM 2 MG	60	30
02/11/16	TEMAZEPAM 30 MG	45	30
02/08/16	MORPHINE SULFATE 30 MG	120	30
01/27/16	HYDROCODONE BITARTRATE-ACETAMINOPHEN 325 MG-10MG	220	19
01/25/16	CARISOPRODOL 350 MG	120	30
01/12/16	TEMAZEPAM 30 MG	45	30
01/12/16	ALPRAZOLAM 2 MG	60	30
01/11/16	MORPHINE SULFATE 30 MG	120	30
12/14/15	MORPHINE SULFATE 30 MG	120	30
12/12/15	TEMAZEPAM 30 MG	45	30
12/12/15	ALPRAZOLAM 2 MG	60	30
12/04/15	HYDROCODONE BITARTRATE-ACETAMINOPHEN 325 MG-10MG	220	28
11/23/15	LORAZEPAM[13] 1 MG	120	30

indicated, it is used for the management of pain that is severe enough to require daily, around-the-clock, long-term opioid treatment and for which alternative treatment options are inadequate. The Federal Drug Administration has issued a black box warning for MS Contin® which warns about, among other things, addiction, abuse and misuse, and the possibility of life-threatening respiratory distress. The warning also cautions about the risks associated with concomitant use of MS Contin® with benzodiazepines or other central nervous system (CNS) depressants.

[13] Ativan® (lorazepam), a benzodiazepine, is a centrally acting hypnotic-sedative that 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. When properly prescribed and indicated, it is used for the management of anxiety disorders or for the short term relief of anxiety or anxiety associated with depressive symptoms. Concomitant use of Ativan® with opioids "may result in profound sedation, respiratory depression, coma, and death." The Drug Enforcement Administration (DEA) has identified benzodiazepines, such as Ativan®, as a drug of abuse. (Drugs of Abuse, DEA Resource Guide (2011 Edition), at p. 53.)

11/23/15	CARISOPRODOL 350 MG	120	30
11/17/15	MORPHINE SULFATE 30 MG	120	30
11/12/15	ALPRAZOLAM 2 MG	60	30
11/06/15	HYDROCODONE BITARTRATE-ACETAMINOPHEN 325 MG-10MG	220	20
11/06/15	TEMAZEPAM 30 MG	45	30
10/22/15	CARISOPRODOL 350 MG	120	30
10/20/15	MORPHINE SULFATE 30 MG	120	20
10/15/15	ALPRAZOLAM 2 MG	60	30
10/10/15	HYDROCODONE BITARTRATE-ACETAMINOPHEN 325 MG-10MG	220	19
10/08/15	TEMAZEPAM 30 MG	45	23
10/07/15	LORAZEPAM 1 MG	120	30
09/25/15	CARISOPRODOL 350 MG	120	30
09/24/15	MORPHINE SULFATE 30 MG	120	20
09/15/15	ALPRAZOLAM 2 MG	60	30
09/14/15	HYDROCODONE BITARTRATE-ACETAMINOPHEN 325 MG-10MG	220	27
09/08/15	TEMAZEPAM 30 MG	45	23
08/27/15	MORPHINE SULFATE 30 MG	120	20
08/26/15	CARISOPRODOL 350 MG	120	30
08/26/15	LORAZEPAM 1 MG	120	30
08/14/15	ALPRAZOLAM 2 MG	60	30
08/14/15	HYDROCODONE BITARTRATE-ACETAMINOPHEN 325 MG-10MG	220	19
08/06/15	TEMAZEPAM 30 MG	45	23
08/03/15	OXYCODONE HCL 30 MG	60	15
07/27/15	CARISOPRODOL 350 MG	120	30
07/27/15	LORAZEPAM 1 MG	120	30
07/16/15	HYDROCODONE BITARTRATE-ACETAMINOPHEN 325 MG-10MG	220	27
07/07/15	TEMAZEPAM 30 MG	45	23
07/06/15	OXYCODONE HCL 30 MG	60	30
06/29/15	LORAZEPAM 1 MG	120	30
06/29/15	CARISOPRODOL 350 MG	120	30
06/19/15	HYDROCODONE BITARTRATE-ACETAMINOPHEN 325 MG-10MG	220	27

06/09/15	TEMAZEPAM 30 MG	45	23
06/08/15	OXYCODONE HCL 30 MG	60	20
06/04/15	CARISOPRODOL 350 MG	120	30
06/04/15	LORAZEPAM 1 MG	120	30
05/28/15	HYDROCODONE BITARTRATE-ACETAMINOPHEN 325 MG-10MG	210	26
04/30/15	HYDROCODONE BITARTRATE-ACETAMINOPHEN 325 MG-10MG	180	30
04/13/15	CARISOPRODOL 350 MG	120	30
04/13/15	LORAZEPAM 1 MG	120	30
04/11/15	TEMAZEPAM 30 MG	45	23
04/11/15	OXYCODONE HCL 30 MG	60	15
04/04/15	HYDROCODONE BITARTRATE-ACETAMINOPHEN 325 MG-10MG	180	30
03/19/15	OXYCODONE HCL 30 MG	60	15
03/18/15	LORAZEPAM 1 MG	120	30
03/18/15	CARISOPRODOL 350 MG	120	30
03/13/15	TEMAZEPAM 30 MG	45	23
03/11/15	HYDROCODONE BITARTRATE-ACETAMINOPHEN 325 MG-10MG	180	30
02/23/15	CARISOPRODOL 350 MG	120	30
02/23/15	LORAZEPAM 1 MG	120	30
02/12/15	HYDROCODONE BITARTRATE-ACETAMINOPHEN 325 MG-10MG	150	25
02/12/15	OXYCODONE HCL 30 MG	60	15
02/03/15	TEMAZEPAM 30 MG	45	23
01/26/15	LORAZEPAM 1 MG	120	30
01/26/15	CARISOPRODOL 350 MG	120	30
01/16/15	HYDROCODONE BITARTRATE-ACETAMINOPHEN 325 MG-10MG	180	30
01/09/15	OXYCODONE HCL 30 MG	30	8
01/02/15	TEMAZEPAM 30 MG	45	23
12/30/14	LORAZEPAM 1 MG	120	30
12/30/14	CARISOPRODOL 350 MG	120	30
12/23/14	HYDROCODONE BITARTRATE-ACETAMINOPHEN 325 MG-10MG	180	30
12/16/14	OXYCODONE HCL 30 MG	30	7

12/05/14	TEMAZEPAM 30 MG	45	23
12/01/14	LORAZEPAM 1 MG	120	30
12/01/14	HYDROCODONE BITARTRATE-ACETAMINOPHEN 325 MG-10MG	180	30
12/01/14	CARISOPRODOL 350 MG	120	30
11/28/14	ACETAMINOPHEN-CODEINE PHOSPHATE[14] 300MG-60MG	40	10
11/07/14	TEMAZEPAM 30 MG	45	23
11/07/14	HYDROCODONE BITARTRATE-ACETAMINOPHEN 325 MG-10MG	180	30
11/04/14	CARISOPRODOL 350 MG	120	30
11/03/14	LORAZEPAM 1 MG	120	30
10/13/14	TEMAZEPAM 30 MG	30	30
10/13/14	HYDROCODONE BITARTRATE-ACETAMINOPHEN 325 MG-10MG	180	30
10/10/14	CARISOPRODOL 350 MG	120	30
10/09/14	LORAZEPAM 1 MG	120	30
09/16/14	TEMAZEPAM 30 MG	30	30
09/16/14	HYDROCODONE BITARTRATE ACETAMINOPHEN 325 MG-10MG	180	30
09/11/14	CARISOPRODOL 350 MG	120	30
08/20/14	TEMAZEPAM 30 MG	30	30
08/20/14	HYDROCODONE BITARTRATE-ACETAMINOPHEN 325 MG-10MG	180	30
08/13/14	CARISOPRODOL 350 MG	120	30
07/23/14	HYDROCODONE BITARTRATE-ACETAMINOPHEN 325 MG-10MG	180	30
07/23/14	TEMAZEPAM 30 MG	30	30
07/15/14	CARISOPRODOL 350 MG	120	30
06/28/14	TEMAZEPAM 30 MG	30	30
06/28/14	HYDROCODONE BITARTRATE-ACETAMINOPHEN 325 MG-10MG	180	30
06/18/14	CARISOPRODOL 350 MG	120	30

[14] Acetaminophen and codeine phosphate is a combination of a narcotic pain reliever and a non-salicylate analgesic and antipyretic (fever reducer) used to relieve moderate to severe pain. Codeine in combination with acetaminophen is a Schedule III controlled substance.

06/04/14	HYDROCODONE BITARTRATE-ACETAMINOPHEN 325 MG-10MG	180	30
06/03/14	TEMAZEPAM 30 MG	30	30
05/20/14	CARISOPRODOL 350 MG	120	30
05/07/14	HYDROCODONE BITARTRATE-ACETAMINOPHEN 325 MG-10MG	180	30
05/06/14	TEMAZEPAM 30 MG	30	30
04/22/14	CARISOPRODOL 350 MG	120	30
04/08/14	HYDROCODONE BITARTRATE-ACETAMINOPHEN 325 MG-10MG	180	30
04/01/14	TEMAZEPAM 30 MG	30	30
03/25/14	CARISOPRODOL 350 MG	120	30
03/10/14	HYDROCODONE BITARTRATE-ACETAMINOPHEN 325 MG-10MG	180	30
03/01/14	TEMAZEPAM 30 MG	30	30
02/27/14	CARISOPRODOL 350 MG	120	30
02/13/14	HYDROCODONE BITARTRATE-ACETAMINOPHEN 325 MG-10MG	180	30
01/30/14	CARISOPRODOL 350 MG	120	30
01/29/14	TEMAZEPAM 30 MG	30	30
01/22/14	HYDROCODONE BITARTRATE-ACETAMINOPHEN 325 MG-10MG	20	5
01/15/14	HYDROCODONE BITARTRATE-ACETAMINOPHEN 325 MG-10MG	180	30
01/13/14	HYDROCODONE BITARTRATE-ACETAMINOPHEN 325 MG-10MG	15	4
01/07/14	TEMAZEPAM 30 MG	30	30

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13. From on or about January 1, 2014, through February 24, 2018, Respondent prescribed to Patient A numerous opiates, benzodiazepines, and CNS depressant medications, despite Patient A's known contraindications including, but not limited to, opioid dependency and frequent falls. Respondent also failed to adequately utilize and/or failed to document having adequately utilized alternative treatment modalities, including, but not limited to, physical therapy, NSAIDs[15], heat/ice treatment, and home exercise program(s).

14. From on or about January 1, 2014, through February 24, 2018, Respondent prescribed for Patient's concomitant use, opiates, CNS depressant muscle relaxants, and benzodiazepines.

15. From on or about January 1, 2014 through February 24, 2018, Respondent failed to utilize and/or failed to document having utilized a pain management agreement with Patient A; Respondent failed to adequately utilize urine toxicology screens and/or failed to document having adequately utilized urine toxicology screens; Respondent failed to adequately review CURES reports and/or failed to document having adequately reviewed CURES reports.

16. Respondent committed gross negligence in his care and treatment of Patient A, which included, but was not limited to, the following:

(a) Respondent prescribed opiates, benzodiazepines, and CNS depressants to Patient A, despite Patient A's contraindications of history of opioid dependence and frequent falls;

(b) Respondent prescribed opiates, CNS depressants, and benzodiazepines to Patient A for Patient A's concomitant use; and

(c) Respondent failed to use a signed pain management and/or failed to document having used a pain management agreement; Respondent failed to periodically check CURES reports and/or failed to document having periodically checked CURES reports; Respondent failed to periodically use urine toxicology screens and/or failed to document having periodically used urine toxicology screens.

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[15] NSAIDs (Nonsteroidal Anti-inflammatory drugs) are medications that reliever or reduce pain. The most popular examples of this group of drugs are aspirin and ibuprofen.

Patient B

17. On or about January 20, 2018, Patient B first presented to Respondent. At that time, Patient B was a twenty-three (23) year-old man who had a history of chronic low back pain from spinal stenosis[16] and chronic shoulder pain.

18. From February 2, 2018, through January 29, 2019, Respondent prescribed the following controlled substances to Patient B:

Date	Medication	Quantity	Days of Supply
01/29/19	OXYCODONE HCL 30 MG	180	30
01/29/19	HYDROMORPHONE[17] HCL 8 MG	120	30
12/30/18	OXYCODONE HCL 30 MG	180	30
12/30/18	HYDROMORPHONE HCL 8 MG	120	30
12/01/18	OXYCODONE HCL 30 MG	180	30
12/01/18	HYDROMORPHONE HCL 8 MG	120	30
10/27/18	OXYCODONE HCL 30 MG	180	30
10/27/18	HYDROMORPHONE HCL 8 MG	120	30
09/29/18	HYDROMORPHONE HCL 8 MG	120	30
09/29/18	OXYCODONE HCL 30 MG	180	30
09/05/18	OXYCODONE HCL 30 MG	180	30
09/05/18	HYDROMORPHONE HCL 8 MG	120	30
08/06/18	OXYCODONE HCL 30 MG	180	30
08/06/18	HYDROMORPHONE HCL 8 MG	120	30
07/07/18	OXYCODONE HCL 30 MG	180	30

[16] Spinal stenosis refers to a narrowing of the spinal canal, which can put pressure on the spinal cord and the nerves within the spine.

[17] Hydromorphone (Dilaudid®), an opioid analgesic, is a Schedule II controlled substance pursuant to Health and Safety Code section 11055, subdivision (b), and a dangerous drug pursuant to Business and Professions Code section 4022. When properly prescribed and indicated, it is used for the treatment of moderate to severe pain. The Drug Enforcement Administration (DEA) has identified hydromorphone, such as Dilaudid®, as a drug of abuse. (Drugs of Abuse, DEA Resource Guide (2011 Edition), at p. 37.) The Federal Drug Administration has issued black box warnings for Dilaudid® which warn about, among other things, addiction, abuse and misuse, and the possibility of life-threatening respiratory distress. The warnings also caution about the risks associated with concomitant use of Dilaudid® with benzodiazepines or other central nervous system (CNS) depressants.

07/02/18	HYDROMORPHONE HCL 8 MG	120	30
06/07/18	OXYCODONE HCL 30 MG	180	30
05/31/18	HYDROMORPHONE HCL 8 MG	120	30
05/29/18	DIAZEPAM 10 MG	60	30
04/30/18	HYDROMORPHONE HCL 8 MG	120	30
04/30/18	DIAZEPAM 10 MG	60	30
04/30/18	OXYCODONE HCL 30 MG	180	30
04/05/18	OXYCODONE HCL 30 MG	180	30
04/01/18	HYDROMORPHONE HCL 8 MG	120	30
03/09/18	OXYCODONE HCL 30 MG	180	30
03/08/18	DIAZEPAM 10 MG	60	30
03/02/18	HYDROMORPHONE HCL 8 MG	120	30
02/09/18	DIAZEPAM 10 MG	60	30
02/08/18	OXYCODONE HCL 30 MG	180	30
02/02/18	HYDROMORPHONE HCL 8 MG	120	30

19. From on or about February 2, 2018, through January 29, 2019, Respondent prescribed to Patient B's concomitant use, a high dose of opiates with CNS depressant muscle relaxants, and benzodiazepines.

20. From on or about February 2, 2018, through January 29, 2019, Respondent failed to periodically review CURES reports and/or failed to document having conducted a periodic review of CURES reports; Respondent failed to check and/or failed to document having conducted urine toxicology screens of Patient B.

21. Respondent committed gross negligence in his care and treatment of Patient B, which included, but was not limited to, the following:

(a) Respondent prescribed opiates, CNS depressants, and benzodiazepines to Patient B for Patient B's concomitant use; and

(b) Respondent failed to periodically check CURES reports and/or failed to document having periodically checked CURES reports; Respondent failed to periodically use urine toxicology screens and/or failed to document having periodically used urine toxicology screens.

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Patient C

22. Respondent began treating Patient C in or around 1997.[18] At the time, she was a thirty-eight (38) year-old female with a history of multiple sclerosis[19], chronic obstructive pulmonary disease (COPD)[20], and chronic hip pain, despite a total hip replacement.

23. From January 1, 2014, through February 19, 2018, Respondent prescribed the following controlled substances to Patient C.

Date	Medication	Quantity	Days of Supply
02/19/18	LORAZEPAM 2 MG	102	26
02/07/18	HYDROCODONE BITARTRATE ACETAMINOPHEN 325MG-10MG	180	30
02/07/18	OXYCODONE HCL 15 MG	180	30
02/06/18	CARISPRODOL 350 MG	180	30
02/06/18	TRAMADOL[21] HCL 50 MG	240	45
02/06/18	TEMAZEPAM 30 MG	30	30
01/24/18	LORAZEPAM 2 MG	102	26
01/19/18	TEMAZEPAM 15 MG	90	30
01/10/18	HYDROCODONE BITARTRATE-ACETAMINOPHEN 325MG-10MG	180	30
01/10/18	OXYCODONE HCL 15 MG	180	30

[18] Conduct occurring more than seven (7) years from the filing date of this Accusation is for informational purposes only and is not alleged as a basis for disciplinary action.

[19] Multiple sclerosis (MS) is a disease in which the immune system eats away at the protective covering of the nerves.

[20] Chronic Obstructive Pulmonary Disease (COPD) is a group of lung diseases that block airflow and make it difficult to breathe.

[21] Tramadol hydrochloride (Ultram®, Ultracet®), an opioid analgesic, 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. When properly prescribed and indicated, it is used for the treatment of moderate to severe pain. The FDA-approved labeling under the Drug Abuse and Dependence section provides warns, among other things, that "[t]ramadol hydrochloride may induce psychic and physical dependence … Dependence and abuse, including drug-seeking behavior and taking illicit actions to obtain the drug are not limited to those patients with prior history of opioid dependence. The risk in patients with substance abuse has been observed to be higher. Tramadol hydrochloride is associated with craving and tolerance development. Withdrawal symptoms may occur if tramadol hydrochloride is discontinued abruptly."

01/09/18	TRAMADOL HCL 50 MG	240	30
01/09/18	TEMAZEPAM 30 MG	30	30
01/09/18	CARISPRODOL 350 MG	180	45
12/12/17	OXYCODONE HCL 15 MG	150	30
12/12/17	HYDROCODONE BITARTRATE-ACETAMINOPHEN 325MG-10MG	180	30
12/08/17	TEMAZEPAM 30 MG	30	30
12/08/17	TRAMADOL HCL 50 MG	240	30
12/08/17	CARISPRODOL 350 MG	180	45
12/01/17	LORAZEPAM 2 MG	102	26
12/01/17	TEMAZEPAM 15 MG	90	30
11/13/17	HYDROCODONEBITARTRATE ACETAMINOPHEN325MG-10MG	180	30
11/13/17	OXYCODONE HCL 15 MG	180	30
11/09/17	LORAZEPAM 2 MG	102	26
11/09/17	TEMAZEPAM 30 MG	30	30
11/09/17	CARISPRODOL 350 MG	180	45
11/09/17	TRAMADOL HCL 50 MG	240	30
10/12/17	TRAMADOL HCL 50 MG	240	30
10/12/17	TEMAZEPAM 30 MG	30	30
10/12/17	CARISPRODOL 350 MG	180	45
10/12/17	LORAZEPAM 2 MG	102	26
10/07/17	HYDROCODONE BITARTRATE-ACETAMINOPHEN 325MG-10MG	180	30
10/07/17	OXYCODONE HCL 15 MG	180	30
09/19/17	TEMAZEPAM 15 MG	90	30
09/09/17	CARISPRODOL 350 MG	180	45
09/09/17	OXYCODONE HCL 15 MG	180	30
09/09/17	TEMAZEPAM 30 MG	30	30
09/09/17	TRAMADOL HCL 50 MG	240	30
09/09/17	HYDROCODONE BITARTRATE-ACETAMINOPHEN 325MG-10MG	180	30
09/09/17	LORAZEPAM 2 MG	102	26
07/10/17	CARISPRODOL 350 MG	180	45
07/10/17	TEMAZEPAM 30 MG	30	30
07/10/17	TRAMADOL HCL 50 MG	240	30
07/10/17	LORAZEPAM 2 MG	102	26
07/10/17	HYDROCODONE BITARTRATE-ACETAMINOPHEN 325MG-10MG	180	30

07/10/17	OXYCODONE HCL 15 MG	180	30
06/27/17	TEMAZAPAM 15 MG	90	30
06/13/17	TEMAZAPAM 30 MG	30	30
06/13/17	LORAZEPAM 2 MG	102	26
06/13/17	CARISPRODOL 350 MG	180	45
06/13/17	TRAMADOL HCL 50 MG	240	30
06/08/17	OXYCODONE HCL 15 MG	180	30
06/08/17	HYDROCODONE BITARTRATE-ACETAMINOPHEN 325MG-10MG	180	30
05/12/17	CARISPRODOL 350 MG	180	45
05/12/17	LORAZEPAM 2 MG	102	26
05/12/17	TEMAZAPAM 30 MG	30	30
05/12/17	TRAMADOL HCL 50 MG	240	30
04/22/17	OXYCODONE HCL 15 MG	180	30
04/22/17	HYDROCODONE BITARTRATE-ACETAMINOPHEN 325MG-10MG	180	30
04/11/17	TEMAZAPAM 30 MG	30	30
04/11/17	LORAZEPAM 2 MG	102	26
04/11/17	CARISPRODOL 350 MG	180	45
04/11/17	TRAMADOL HCL 50 MG	240	30
03/29/17	TEMAZAPAM 15 MG	90	30
03/15/17	HYDROCODONE BITARTRATE-ACETAMINOPHEN 325MG-10MG	180	30
03/09/17	CARISPRODOL 350 MG	180	45
03/09/17	OXYCODONE HCL 15 MG	180	30
03/09/17	LORAZEPAM 2 MG	102	26
03/09/17	TRAMADOL HCL 50 MG	240	30
03/09/17	TEMAZEPAM 30 MG	30	30
02/16/17	HYDROCODONE BITARTRATE-ACETAMINOPHEN 325MG-10MG	180	30
02/07/17	TEMAZEPAM 30 MG	30	30
02/07/17	LORAZEPAM 2 MG	102	26
02/07/17	CARISPRODOL 350 MG	180	45
02/07/17	TRAMADOL HCL 50 MG	240	30
01/18/17	OXYCODONE HCL 15 MG	180	30
01/12/17	TRAMADOL HCL 50 MG	240	30
01/12/17	TEMAZEPAM 30 MG	30	30
01/12/17	LORAZEPAM 2 MG	102	26

01/12/17	CARISPRODOL 350 MG	180	45
01/09/17	HYDROCODONE BITARTRATE-ACETAMINOPHEN 325MG-10MG	180	30
12/28/16	TEMAZEPAM 15 MG	90	30
12/19/16	CARISPRODOL 350 MG	180	45
12/16/16	TRAMADOL HCL 50 MG	240	30
12/06/16	TEMAZEPAM 30 MG	30	30
12/06/16	LORAZEPAM 2 MG	102	26
12/05/16	HYDROCODONE BITARTRATE-ACETAMINOPHEN 325MG-10MG	180	30
12/05/16	OXYCODONE HCL 15 MG	180	30
11/16/16	TRAMADOL HCL 50 MG	240	30
11/15/16	CARISPRODOL 350 MG	180	45
11/09/16	TEMAZEPAM 30 MG	30	30
11/04/16	LORAZEPAM 2 MG	102	26
10/14/16	HYDROCODONE BITARTRATE-ACETAMINOPHEN 325MG-10MG	180	30
10/14/16	TRAMADOL HCL 50 MG	240	30
10/14/16	CARISPRODOL 350 MG	180	45
10/14/16	TEMAZEPAM 15 MG	90	30
10/14/16	OXYCODONE HCL 15 MG	180	30
10/06/16	LORAZEPAM 2 MG	102	26
09/19/16	HYDROCODONE BITARTRATE-ACETAMINOPHEN 325MG-10MG	180	30
09/15/16	TEMAZEPAM 15 MG	90	30
09/15/16	CARISPRODOL 350 MG	180	45
09/15/16	TRAMADOL HCL 50 MG	240	30
09/02/16	LORAZEPAM 2 MG	102	26
08/19/16	HYDROCODONE BITARTRATE-ACETAMINOPHEN 325MG-10MG	180	30
08/19/16	TEMAZEPAM 30 MG	30	30
08/19/16	OXYCODONE HCL 15 MG	180	30
08/15/16	CARISPRODOL 350 MG	180	45
08/15/16	TEMAZEPAM 15 MG	90	30
08/15/16	TRAMADOL HCL 50 MG	240	30
08/01/16	LORAZEPAM 2 MG	102	26
07/22/16	TEMAZEPAM 15 MG	90	30
07/11/16	HYDROCODONE BITARTRATE-ACETAMINOPHEN 325MG-10MG	180	30

07/06/16	TEMAZEPAM 30 MG	30	30
07/06/16	TRAMADOL HCL 50 MG	240	30
07/06/16	CARISPRODOL 350 MG	180	30
07/06/16	CARISPRODOL 350 MG	180	45
06/29/16	LORAZEPAM 2 MG	102	26
06/17/16	OXYCODONE HCL 15 MG	180	30
06/11/16	HYDROCODONE BITARTRATE-ACETAMINOPHEN 325MG-10MG	180	30
06/07/16	TRAMADOL HCL 50 MG	240	30
06/07/16	TEMAZEPAM 30 MG	30	30
06/01/16	CARISPRODOL 350 MG	180	30
05/31/16	LORAZEPAM 2 MG	102	26
05/13/16	TEMAZEPAM 30 MG	30	30
05/13/16	HYDROCODONE BITARTRATE-ACETAMINOPHEN 325MG-10MG	180	30
05/13/16	OXYCODONE HCL 15 MG	180	30
05/11/16	TRAMADOL HCL 50 MG	240	30
05/09/16	CARISPRODOL 350 MG	180	30
05/09/16	TRAMADOL HCL 50 MG	240	30
05/09/16	CARISPRODOL 350 MG	180	30
05/04/16	LORAZEPAM 2 MG	102	26
04/15/16	HYDROCODONE BITARTRATE-ACETAMINOPHEN 325MG-10MG	180	30
04/08/16	LORAZEPAM 2 MG	102	26
04/06/16	TRAMADOL HCL 50 MG	240	30
04/06/16	CARISPRODOL 350 MG	180	30
03/19/16	OXYCODONE HCL 15 MG	180	23
03/19/16	HYDROCODONE BITARTRATE-ACETAMINOPHEN 325MG-10MG	180	30
03/11/16	TRAMADOL HCL 50 MG	240	30
03/11/16	LORAZEPAM 2 MG	102	26
03/11/16	CARISPRODOL 350 MG	180	30
02/17/16	HYDROCODONE BITARTRATE-ACETAMINOPHEN 325MG-10MG	180	30
02/10/16	TRAMADOL HCL 50 MG	240	30
02/10/16	LORAZEPAM 2 MG	102	26
02/06/16	OXYCODONE HCL 15 MG	180	23
01/22/16	LORAZEPAM 2 MG	102	26

01/20/16	HYDROCODONE BITARTRATE-ACETAMINOPHEN 325MG-10MG	180	30
01/14/16	CARISPRODOL 350 MG	180	30
12/18/15	HYDROCODONE BITARTRATE-ACETAMINOPHEN 325MG-10MG	180	30
12/09/15	OXYCODONE HCL 15 MG	180	30
11/30/15	LORAZEPAM 2 MG	102	26
11/30/15	CARISPRODOL 350 MG	180	30
11/30/15	TRAMADOL HCL 50 MG	240	30
11/20/15	HYDROCODONE-BITARTRATE ACETAMINOPHEN 325MG-10MG	180	30
11/03/15	LORAZEPAM 2 MG	102	26
11/02/15	CARISPRODOL 350 MG	180	30
11/02/15	TRAMADOL HCL 50 MG	240	30
10/10/15	HYDROCODONE BITARTRATE-ACETAMINOPHEN 325MG-10MG	180	30
10/07/15	LORAZEPAM 2 MG	102	26
10/07/15	CARISPRODOL 350 MG	180	30
10/07/15	TRAMADOL HCL 50 MG	240	30
09/18/15	OXYCODONE HCL 15 MG	180	30
09/18/15	HYDROCODONE BITARTRATE-ACETAMINOPHEN 325MG-10MG	180	30
09/10/15	TRAMADOL HCL 50 MG	240	30
09/10/15	LORAZEPAM 2 MG	102	26
09/10/15	CARISPRODOL 350 MG	180	30
08/19/15	LORAZEPAM 2 MG	102	26
08/12/15	HYDROCODONE BITARTRATE-ACETAMINOPHEN 325MG-10MG	180	30
08/06/15	CARISPRODOL 350 MG	180	30
08/06/15	TRAMADOL HCL 50 MG	240	30
07/25/15	LORAZEPAM 2 MG	102	26
07/10/15	OXYCODONE HCL 15 MG	180	30
07/10/15	HYDROCODONE BITARTRATE-ACETAMINOPHEN 325MG-10MG	180	30
06/30/15	CARISPRODOL 350 MG	180	30
06/30/15	LORAZEPAM 2 MG	102	23
06/30/15	TRAMADOL HCL 50 MG	240	30
06/02/15	LORAZEPAM 2 MG	102	23
06/02/15	CARISPRODOL 350 MG	180	30

06/02/15	TRAMADOL HCL 50 MG	240	30
05/26/15	HYDROCODONE BITARTRATE-ACETAMINOPHEN 325MG-10MG	240	30
04/13/15	HYDROCODONE BITARTRATE-ACETAMINOPHEN 325MG-10MG	240	30
04/06/15	CARISPRODOL 350 MG	180	30
04/06/15	TRAMADOL HCL 50 MG	240	30
03/30/15	LORAZEPAM 2 MG	102	23
03/20/15	LORAZEPAM 2 MG	102	23
03/13/15	OXYCODONE HCL 15 MG	180	30
03/07/15	CARISPRODOL 350 MG	180	30
03/07/15	TRAMADOL HCL 50 MG	240	30
03/06/15	HYDROCODONE BITARTRATE ACETAMINOPHEN 325MG-10MG	240	30
02/07/15	LORAZEPAM 2 MG	120	30
02/07/15	CARISPRODOL 350 MG	180	30
02/07/15	TRAMADOL HCL 50 MG	240	30
01/29/15	HYDROCODONE BITARTRATE-ACETAMINOPHEN 325MG-10MG	240	30
01/03/15	CARISPRODOL 350 MG	180	30
01/02/15	LORAZEPAM 2 MG	120	30
01/02/15	TRAMADOL HCL 50 MG	240	30
12/11/14	HYDROCODONE BITARTRATE-ACETAMINOPHEN 325MG-10MG	240	30
12/04/14	CARISPRODOL 350 MG	180	30
12/04/14	TRAMADOL HCL 50 MG	240	30
12/04/14	LORAZEPAM 2 MG	120	30
11/06/14	LORAZEPAM 2 MG	120	30
11/06/14	TRAMADOL HCL 50 MG	240	30
11/06/14	CARISPRODOL 350 MG	180	30
10/17/14	HYDROCODONE BITARTRATE-ACETAMINOPHEN 325MG-10MG	240	30
10/17/14	OXYCODONE HCL 15 MG	180	30
10/09/14	LORAZEPAM 2 MG	120	30
09/30/14	CARISPRODOL 350 MG	120	30
09/09/14	LORAZEPAM 2 MG	120	30
09/09/14	HYDROCODONE BITARTRATE-ACETAMINOPHEN 325MG-10MG	240	30
08/29/14	CARISPRODOL 350 MG	120	30

08/29/14	TRAMADOL HCL 50 MG	240	30
08/08/14	HYDROCODONE BITARTRATE-ACETAMINOPHEN 325MG-10MG	240	30
08/08/14	LORAZEPAM 2 MG	120	30
07/29/14	CARISPRODOL 350 MG	120	30
07/09/14	HYDROCODONE BITARTRATE-ACETAMINOPHEN 325MG-10MG	240	30
07/09/14	LORAZEPAM 2 MG	120	30
06/28/14	CARISPRODOL 350 MG	120	30
06/10/14	LORAZEPAM 2 MG	120	30
06/10/14	HYDROCODONE BITARTRATE-ACETAMINOPHEN 325MG-10MG	240	30
05/30/14	OXYCODONE HCL 15 MG	180	30
05/28/14	CARISPRODOL 350 MG	120	30
05/13/14	HYDROCODONE BITARTRATE-ACETAMINOPHEN 325MG-10MG	240	30
05/13/14	LORAZEPAM 2 MG	120	30
04/28/14	CARISPRODOL 350 MG	120	30
04/14/14	HYDROCODONE BITARTRATE-ACETAMINOPHEN 325MG-10MG	240	30
04/14/14	LORAZEPAM 2 MG	120	30
03/28/14	CARISPRODOL 350 MG	120	30
03/19/14	LORAZEPAM 2 MG	120	30
03/19/14	HYDROCODONE BITARTRATE-ACETAMINOPHEN 325MG-10MG	240	30
02/28/14	CARISPRODOL 350 MG	120	30
02/27/14	OXYCODONE HCL 15 MG	180	30
02/21/14	LORAZEPAM 2 MG	120	30
02/21/14	HYDROCODONE BITARTRATE-ACETAMINOPHEN 325MG-10MG	240	30
01/09/14	LORAZEPAM 2 MG	120	30
01/09/14	HYDROCODONE BITARTRATE-ACETAMINOPHEN 325MG-10MG	240	30
01/09/14	CARISPRODOL 350 MG	120	30

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24. From on or about January 1, 2014, through February 24, 2018, Respondent prescribed to Patient C's concomitant use, opiates with CNS depressant muscle relaxants, and benzodiazepines.

25. From on or about January 1, 2014 through February 24, 2018, Respondent failed to periodically review CURES reports and/or failed to document having conducted a periodic review of CURES reports; Respondent failed to check and/or failed to document having conducted urine toxicology screens of Patient C; Respondent failed to utilize and/or failed to document having utilized an opiate agreement form.

26. Respondent committed gross negligence in his care and treatment of Patient C, which included, but was not limited to, the following:

(a) Respondent prescribed opiates, CNS depressants, and benzodiazepines to Patient C for Patient C's concomitant use; and

(b) Respondent failed to use a signed pain management and/or failed to document having used a pain management agreement; Respondent failed to periodically check CURES reports and/or failed to document having periodically checked CURES reports; Respondent failed to periodically use urine toxicology screens and/or failed to document having periodically used urine toxicology screens.

SECOND CAUSE FOR DISCIPLINE

(Repeated Negligent Acts)

27. Respondent has further subjected his Physician's and Surgeon's Certificate No. G 27240 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 in his care and treatment of Patients A, B, and C, as more particularly alleged hereinafter:

Patient A

28. Respondent committed gross negligence in his care and treatment of Patient A, which included, but was not limited to, the following:

(a) Paragraphs 11 through 16, above, are hereby incorporated by reference and realleged as if fully set forth herein;

(b) Respondent prescribed opiates, benzodiazepines, and CNS depressants to Patient A, despite Patient A's contraindications of history of opioid dependence and frequent falls;

(c) Respondent prescribed opiates, CNS depressants, and benzodiazepines to Patient A for Patient A's concomitant use; and

(d) Respondent failed to use a signed pain management and/or failed to document having used a pain management agreement; Respondent failed to periodically check CURES reports and/or failed to document having periodically checked CURES reports; Respondent failed to periodically use urine toxicology screens and/or failed to document having periodically used urine toxicology screens.

Patient B

29. Respondent committed repeated negligent acts in his care and treatment of Patient B, which included, but was not limited to, the following:

(a) Paragraphs 17 through 21, above, are hereby incorporated by reference and realleged as if fully set forth herein;

(b) Respondent prescribed opiates, CNS depressants, and benzodiazepines to Patient B for Patient B's concomitant use; and

(c) Respondent failed to periodically check CURES reports and/or failed to document having periodically checked CURES reports; Respondent failed to periodically use urine toxicology screens and/or failed to document having periodically used urine toxicology screens.

Patient C

30. Respondent committed repeated negligent acts in his care and treatment of Patient C, which included, but was not limited to, the following:

(a) Paragraphs 22 through 26, above, are hereby incorporated by reference and realleged as if fully set forth herein;

(b) Respondent prescribed opiates, CNS depressants, and benzodiazepines to Patient C for Patient C's concomitant use; and

(c) Respondent failed to use a signed pain management and/or failed to document having used a pain management agreement; Respondent failed to periodically check CURES reports and/or failed to document having periodically checked CURES reports; Respondent failed to periodically use urine toxicology screens and/or failed to document having periodically used urine toxicology screens.

THIRD CAUSE FOR DISCIPLINE

(Failure to Maintain Adequate and/or Accurate Records)

31. Respondent has further subjected his Physician's and Surgeon's Certificate No. G 27240 to disciplinary action under sections 2227 and 2234, as defined by section 2266, of the Code, in that Respondent failed to maintain adequate and/or accurate records regarding his care and treatment of Patients A, B, and C, as more particularly alleged in paragraphs 10 through 26, above, which are hereby incorporated by reference and realleged as if fully set forth herein.

FOURTH CAUSE FOR DISCIPLINE

(Failure to Produce Medical Records)

32. Respondent has further subjected his Physician's and Surgeon's Certificate No. G 27240 to disciplinary action under sections 2227 and 2234, as defined by section 2225, subdivision (e) and section 2225.5, subdivision (a)(1), of the Code, in that Respondent failed and/or refused to produce medical records, as more particularly alleged hereinafter.

Patient D[22]

33. On or about August 12, 2019, on behalf of the Board, an investigator from California Department of Consumer Affairs, Division of Investigation, Health Quality Investigation Unit, San Bernardino District Office (HQIU), sent Respondent a request for certified medical records of Patient D, accompanied by Patient D's authorization for release of her medical records. The request contained a deadline of August 27, 2019, by which date Respondent had to produce the requested certified medical records of Patient D to HQIU.

34. Respondent failed to produce Patient D's certified medical records to HQIU within the specified deadline of August 27, 2019.

[22] References to "Patient D" are used to protect patient privacy.

35. On or about September 5, 2019, Respondent requested an extension of the deadline within which to produce Patient D's certified medical records to HQIU. HQIU extended the deadline to September 26, 2019.

36. Respondent failed to produce Patient D's certified medical records to HQIU within the extended deadline of September 26, 2019.

37. Thereafter, HQIU inquired with Respondent multiple times regarding Respondent's failure and/or refusal to produce Patient D's certified medical records. To date, Respondent has failed and/or refused to produce the certified medical records of Patient D to HQIU.

FIFTH CAUSE FOR DISCIPLINE

(General Unprofessional Conduct)

38. Respondent has further subjected his Physician's and Surgeon's Certificate No. G 27240 to disciplinary action under sections 2227 and 2234 of the Code, in that he engaged in conduct which breaches the rules or ethical code of the medical profession, or conduct which is unbecoming of a member in good standing of the medical profession, and which demonstrates an unfitness to practice medicine, as more particularly alleged in paragraphs 10 through 37, above, which are hereby 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 No. G 27240, issued to Joseph Francis Humenik, M.D.;

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

3. Ordering Joseph Francis Humenik, M.D., if placed on probation, to pay the Board the costs of probation monitoring;

4. Ordering Joseph Frances Humenik M.D. to pay a civil penalty to the Board in the amount of ten thousand dollars ($10,000.00); and

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

DATED: FEB 0 2 2021

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

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