

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

In the Matter of the First Amended
Accusation Against:

Elmer Reymond Symonett, M.D.

Physician's and Surgeon's
Certificate No. A50238

Respondent

Case No. 800-2015-014355

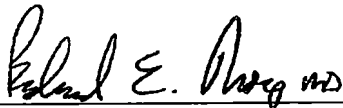
DECISION

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 May 20, 2021.

IT IS SO ORDERED: April 20, 2021.

MEDICAL BOARD OF CALIFORNIA



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

1 XAVIER BECERRA
Attorney General of California
2 ROBERT MCKIM BELL
Supervising Deputy Attorney General
3 COLLEEN M. MCGURRIN
Deputy Attorney General
4 State Bar Number 147250
California Department of Justice
5 300 South Spring Street, Suite 1702
Los Angeles, CA 90013
6 Telephone: (213) 269-6546
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7 *Attorneys for Complainant*

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

12 In the Matter of the First Amended Accusation
13 Against:

14 **ELMER REYMOND SYMONETT, M.D.**
15 **1035 S. Mount Vernon Avenue, Suite F**
Colton, CA 92324

16 **Physician's and Surgeon's Certificate**
17 **Number A 50238**

18 Respondent.

Case No. 800-2015-014355

OAH No. 2020080282

STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER

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

21 **PARTIES**

22 1. William Prasifka (Complainant) is the Executive Director of the Medical Board of
23 California (Board). He brought this action solely in his official capacity and is represented in this
24 matter by Xavier Becerra, Attorney General of the State of California, by Colleen M. McGurrin,
25 Deputy Attorney General.

26 2. Respondent Elmer Reymond Symonett, M.D. (Respondent) is represented in this
27 proceeding by attorney Raymond J. McMahon, whose address is DOYLE SCHAFER
28 McMAHON, 5440 Trabuco Road, Irvine, CA 92620.

1 3. On or about December 3, 1991, the Board issued Physician's and Surgeon's
2 Certificate Number A 50238 to Elmer Reymond Symonett, M.D. (Respondent). Said Physician's
3 and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought
4 in First Amended Accusation No. 800-2015-014355, and will expire on April 30, 2021, unless
5 renewed.

6 **JURISDICTION**

7 4. First Amended Accusation No. 800-2015-014355 was filed before the Board, and is
8 currently pending against Respondent. The First Amended Accusation and all other statutorily
9 required documents were properly served on Respondent on June 23, 2020. Respondent timely
10 filed his Notice of Defense contesting the First Amended Accusation.

11 5. A copy of First Amended Accusation No. 800-2015-014355 is attached as exhibit A
12 and incorporated herein by reference.

13 **ADVISEMENT AND WAIVERS**

14 6. Respondent has carefully read, fully discussed with counsel, and understands the
15 charges and allegations in First Amended Accusation No. 800-2015-014355. Respondent has
16 also carefully read, fully discussed with his counsel, and understands the effects of this Stipulated
17 Settlement and Disciplinary Order.

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

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

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28 //

1 **CULPABILITY**

2 9. Respondent understands and agrees that the charges and allegations in First Amended
3 Accusation No. 800-2015-014355, if proven at a hearing, constitute cause for imposing discipline
4 upon his Physician's and Surgeon's Certificate.

5 10. Respondent agrees that, at a hearing, Complainant could establish a prima facie case
6 and factual basis for the charges in the First Amended Accusation, and that Respondent hereby
7 gives up his right to contest those charges.

8 11. Respondent does not contest that, at an administrative hearing, Complainant could
9 establish a prima facie case with respect to the charges and allegations in First Amended
10 Accusation No. 800-2015-014355, a true and correct copy of which is attached hereto as Exhibit
11 A, and that he has thereby subjected his Physician's and Surgeon's Certificate Number A 50238 to
12 disciplinary action.

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

16 **CONTINGENCY**

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

27 14. Respondent agrees that if he ever petitions for early termination or modification of
28 probation, or if an accusation and/or petition to revoke probation is filed against him before the

1 Board, all of the charges and allegations contained in First Amended Accusation No. 800-2015-
2 014355 shall be deemed true, correct and fully admitted by respondent for purposes of any such
3 proceeding or any other licensing proceeding involving Respondent in the State of California.

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

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

10 **DISCIPLINARY ORDER**

11 IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate Number A 50238
12 issued to Respondent ELMER REYMOND SYMONETT, M.D. is revoked. However, the
13 revocation is stayed and Respondent is placed on probation for five (5) years on the following
14 terms and conditions:

15 1. AMERICAN MEDICAL ASSOCIATION (AMA) 20-HOUR EDUCATIONAL
16 COURSES IN "DIABETES CARE: RESEARCH, TREATMENT AND SUPPORT
17 CONTINUING MEDICAL EDUCATION (CME)". Within 60 calendar days of the effective
18 date of this Decision, Respondent shall enroll in the "Diabetes Care: Research, Treatment and
19 Support CME" 20-hour courses offered by the AMA EdHub approved in advance by the Board or
20 its designee. Respondent shall provide the approved course provider with any information and
21 documents that the approved course provider may deem pertinent. Respondent shall participate
22 in and successfully complete the classroom component of the courses no later than six (6) months
23 after Respondent's initial enrollment. Respondent shall successfully complete any other
24 component of the courses within one (1) year of enrollment. The courses shall be at
25 Respondent's expense and shall be in addition to the Continuing Medical Education (CME)
26 requirements for renewal of licensure or any other condition of this Decision.

27 Respondent shall submit a certification of successful completion to the Board or its
28 designee not later than 15 calendar days after successfully completing the course, or not later than

1 15 calendar days after the effective date of the Decision, whichever is later.

2 2. EDUCATION COURSE. Within 60 calendar days of the effective date of this
3 Decision, and on an annual basis thereafter, Respondent shall submit to the Board or its designee
4 for its prior approval educational program(s) or course(s), which shall not be less than 40 hours
5 per year, for each year of probation. The educational program(s) or course(s) shall be aimed at
6 correcting any areas of deficient practice or knowledge in the areas of the treatment and
7 assessment of diabetic patients, informed consent, chronic obstructive pulmonary disease
8 (COPD), reflex sympathetic dystrophy (RSD), polyarthritis, and any other areas determined by
9 the Board or its designee and shall be Category I certified. The educational program(s) or
10 course(s) shall be at Respondent's expense and shall be in addition to the Continuing Medical
11 Education (CME) requirements for renewal of licensure. Following the completion of each
12 course, the Board or its designee may administer an examination to test Respondent's knowledge
13 of the course. Respondent shall provide proof of attendance for 65 hours of CME of which 40
14 hours were in satisfaction of this condition.

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

24 A medical record keeping course taken after the acts that gave rise to the charges in the
25 Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board
26 or its designee, be accepted towards the fulfillment of this condition if the course would have
27 been approved by the Board or its designee had the course been taken after the effective date of
28 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. PROFESSIONALISM PROGRAM (ETHICS COURSE). Within 60 calendar days of the effective date of this Decision, Respondent shall enroll in a professionalism program, that meets the requirements of Title 16, California Code of Regulations (CCR) section 1358.1. Respondent shall participate in and successfully complete that program. Respondent shall provide any information and documents that the program may deem pertinent. Respondent shall successfully complete the classroom component of the program not later than six (6) months after Respondent's initial enrollment, and the longitudinal component of the program not later than the time specified by the program, but no later than one (1) year after attending the classroom component. The professionalism program shall be at Respondent's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

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

Respondent shall submit a certification of successful completion to the Board or its designee not later than 15 calendar days after successfully completing the program 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, 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

1 but not limited to any form of bartering, shall be in Respondent's field of practice, and must agree
2 to serve as Respondent's monitor. Respondent shall pay all monitoring costs.

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

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

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

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

25 If the monitor resigns or is no longer available, Respondent shall, within 5 calendar days of
26 such resignation or unavailability, submit to the Board or its designee, for prior approval, the
27 name and qualifications of a replacement monitor who will be assuming that responsibility within
28 15 calendar days. If Respondent fails to obtain approval of a replacement monitor within 60

1 calendar days of the resignation or unavailability of the monitor, Respondent shall receive a
2 notification from the Board or its designee to cease the practice of medicine within three (3)
3 calendar days after being so notified. Respondent shall cease the practice of medicine until a
4 replacement monitor is approved and assumes monitoring responsibility.

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

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

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

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

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

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

28 Respondent shall submit quarterly declarations not later than 10 calendar days after the end

1 of the preceding quarter.

2 10. GENERAL PROBATION REQUIREMENTS.

3 Compliance with Probation Unit

4 Respondent shall comply with the Board's probation unit.

5 Address Changes

6 Respondent shall, at all times, keep the Board informed of Respondent's business and
7 residence addresses, email address (if available), and telephone number. Changes of such
8 addresses shall be immediately communicated in writing to the Board or its designee. Under no
9 circumstances shall a post office box serve as an address of record, except as allowed by Business
10 and Professions Code section 2021, subdivision (b).

11 Place of Practice

12 Respondent shall not engage in the practice of medicine in Respondent's or patient's place
13 of residence, unless the patient resides in a skilled nursing facility or other similar licensed
14 facility.

15 License Renewal

16 Respondent shall maintain a current and renewed California physician's and surgeon's
17 license.

18 Travel or Residence Outside California

19 Respondent shall immediately inform the Board or its designee, in writing, of travel to any
20 areas outside the jurisdiction of California which lasts, or is contemplated to last, more than thirty
21 (30) calendar days.

22 In the event Respondent should leave the State of California to reside or to practice
23 ,Respondent shall notify the Board or its designee in writing 30 calendar days prior to the dates of
24 departure and return.

25 11. INTERVIEW WITH THE BOARD OR ITS DESIGNEE. Respondent shall be
26 available in person upon request for interviews either at Respondent's place of business or at the
27 probation unit office, with or without prior notice throughout the term of probation.

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

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

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

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

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

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

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

1 be fully restored.

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

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

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

24 17. FUTURE ADMISSIONS CLAUSE. If Respondent should ever apply or reapply for
25 a new license or certification, or petition for reinstatement of a license, by any other health care
26 licensing action agency in the State of California, all of the charges and allegations contained in
27 First Amended Accusation No. 800-2015-014355 shall be deemed to be true, correct, and
28 admitted by Respondent for the purpose of any Statement of Issues or any other proceeding

1 seeking to deny or restrict license.

2 **ACCEPTANCE**

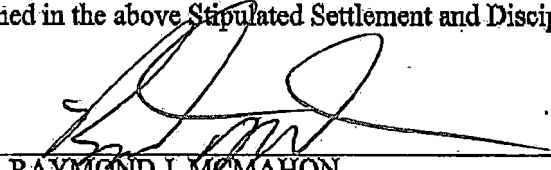
3 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
4 discussed it with my attorney, Raymond J. McMahon. I understand the stipulation and the effect
5 it will have on my Physician's and Surgeon's Certificate. I enter into this Stipulated Settlement
6 and Disciplinary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

8
9 DATED: 2-4-21


ELMER REYMOND SYMONETT, M.D.
Respondent

12 I have read and fully discussed with Respondent Elmer Raymond Symonett, M.D. the terms
13 and conditions and other matters contained in the above Stipulated Settlement and Disciplinary
14 Order. I approve its form and content.

15 DATED: Feb 4, 2021


RAYMOND J. MCMAHON
Attorney for Respondent

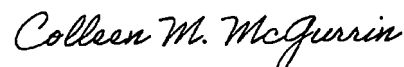
17 **ENDORSEMENT**

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

21 DATED: February 5, 2021

Respectfully submitted,

22 XAVIER BECERRA
23 Attorney General of California
24 ROBERT MCKIM BELL
Supervising Deputy Attorney General

25 
26 COLLEEN M. MCGURRIN
27 Deputy Attorney General
Attorneys for Complainant

28 LA2018500997; 63934098.docx

Exhibit A

First Amended Accusation No. 800-2015-014355

1 XAVIER BECERRA
Attorney General of California
2 ROBERT MCKIM BELL
Supervising Deputy Attorney General
3 COLLEEN M. MCGURRIN
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4 State Bar Number 147250
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5 300 South Spring Street, Suite 1702
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Facsimile: (916) 731-2117
7 *Attorneys for Complainant*

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

12 In the Matter of the First Amended Accusation
Against:

Case No. 800-2015-014355

13 ELMER REYMOND SYMONETT, M.D.

FIRST AMENDED ACCUSATION

14 1035 South Mount Vernon Avenue, Suite F
15 Colton, California 92324

16 Physician's and Surgeon's Certificate A 50238,
17 Respondent.

18
19 Complainant alleges:

20 **PARTIES**

21 1. William Prasifka (Complainant) brings this First Amended Accusation solely in his
22 official capacity as the Executive Director of the Medical Board of California (Board).

23 2. On December 3, 1991, the Board issued Physician's and Surgeon's Certificate
24 Number A 50238 to Elmer Reymond Symonett, M.D. (Respondent). That license was in full
25 force and effect at all times relevant to the charges brought herein and will expire on April 30,
26 2021, unless renewed.

27 //

28 //

JURISDICTION

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

4. Section 2227 of the Code provides that a licensee who is found guilty under the Medical Practice Act may have his license revoked, suspended for a period not to exceed one year, placed on probation and required to pay the costs of probation monitoring, or such other action taken in relation to discipline as the Board deems proper.

5. Section 2234 of the Code provides, 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, . . . any provision of this chapter.

"(b) Gross negligence.

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

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

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

"(d) . . . (e)."

"(f) Any action or conduct which would have warranted the denial of a certificate.

"(g) . . . (h)"

6. Section 2266 of the Code provides that "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."

PRELIMINARY FACTS

7. Respondent is a general family medicine physician treating adults and children for a wide variety of medical conditions. He also has a weight management program.

8. On or about December 10, 2007, Respondent became the primary care physician (PCP) for Patient 1¹, a then fifty-five-year-old female, after she suffered a heart attack requiring a coronary bypass² and the insertion of aortic stents.³ She also suffered from coronary artery disease,⁴ high blood pressure, osteoarthritis, and lumbar discopathy.

9. In February 2009, Respondent diagnosed the patient with borderline diabetes mellitus.⁵ On December 22, 2010, a comprehensive fasting laboratory panel was performed

¹ For privacy reasons, the patients in the First Amended Accusation are identified by numbers. The patients' full names will be disclosed to Respondent upon a timely request for discovery pursuant to Government Code section 11507.6.

² A coronary bypass surgery redirects blood around a section of a blocked or partially blocked artery in the heart to improve blood flow to the heart muscle. The procedure involves taking a healthy blood vessel from the leg, arm or chest and connecting it beyond the blocked arteries in the heart.

³ An aortic stent, also called an aortic stent graft, is a metal skeleton inside a fabric graft. A graft works by exerting pressure against the portions of the artery above and below the aneurysm to cut off circulation to the aneurysm.

⁴ Coronary artery disease (CAR) is a narrowing or blockage of the arteries and vessels that provide oxygen and nutrients to the heart. It is caused by atherosclerosis, an accumulation of fatty materials on the inner linings of arteries. The resulting blockage restricts blood flow to the heart. When the blood flow is completely cut off, the result is a heart attack.

⁵ Diabetes mellitus is an endocrine disease in which the body's ability to produce or respond to the hormone insulin is impaired, resulting in abnormal metabolism of carbohydrates and elevated levels of glucose in the blood and urine. There are two main types of diabetes: type 1 and type 2: Type 1 diabetes, also called juvenile onset diabetes, occurs because the insulin-producing cells of the pancreas (beta cells) are damaged. In type 1 diabetes, the pancreas makes little or no insulin, so sugar cannot get into the body's cells for use as energy. In type 2 diabetes, also known as adult onset diabetes, the pancreas makes insulin, but it either doesn't produce enough, or the insulin.

1 reflecting the patient's blood sugar (glucose) level was 292⁶ and the hemoglobin (A1C)⁷ was
2 14.5. On January 11, 2011, Patient 1 presented for her lab results. At that time, her non-fasting
3 blood sugar level was 367, and Respondent diagnosed her with diabetes; however, he failed to
4 document what type. He prescribed glucophage,⁸ a glucose meter with lancets, and test strips and
5 advised the patient to check her blood sugars once daily.

6 10. Patient 1 continued to treat with Respondent at his office for her primary care needs
7 in 2011, and on September 27, 2012, his treatment plan included a prescription for 5 mg/500 mg
8 of Vicodin⁹ four times a day.

9 11. She continued to treat with Respondent into 2013, and thereafter.

10 **FIRST CAUSE FOR DISCIPLINE**

11 (Gross Negligence – Patient 1)

12 12. Respondent Elmer Reymond Symonett, M.D. is subject to disciplinary action under
13 Code section 2234, subdivision (b), in that he committed gross negligence in his care and
14

15 ⁶ Normal blood sugar levels range between 65 to 100.

16 ⁷ A hemoglobin test, also known as glycated hemoglobin, glycosylated hemoglobin, hemoglobin
17 A1C, A1C and HbA1c, is a common blood test used to diagnose type 1 and type 2 diabetes and to monitor
18 how well one is managing their diabetes. The A1C test result reflects the average blood sugar levels for the
19 past two to three months. Specifically, the A1C test measures what percentage of your hemoglobin — a
20 protein in red blood cells that carries oxygen — is coated with sugar (glycated). The higher the A1C level,
the poorer the blood sugar control and the higher the risk of diabetes complications. A non-diabetic
person's A1C should be between 4.8 to 6.0. This test should be performed every three months to properly
monitor a patient's progress.

21 ⁸ Glucophage is the generic name for the brand name drug Metformin, which is a medication used
22 to treat Type 2 diabetes. It is used with a proper diet and exercise program and possibly with other
23 medications to control high blood sugar. Controlling high blood sugar helps prevent kidney damage,
24 blindness, nerve problems, loss of limbs, sexual function problems, and may also lessen one's risk of a
heart attack or stroke. This medication works by helping to restore the body's proper response to the
insulin one naturally produces and it also decreases the amount of sugar that the liver makes and that the
stomach/intestines absorb.

25 ⁹ Vicodin is a brand name of the Schedule II controlled substance, a narcotic drug containing a
26 combination of acetaminophen and hydrocodone (an opiate), which is used to relieve moderate to
27 moderately severe pain. Acetaminophen is a less potent pain reliever that increases the effects of
hydrocodone. Other brand names of this medication are Norco, Hycet, Lorcet, Lortab 10/325, Lortab
5/325, Lortab 7.5/325, Lortab Elixir, Verdrocet, and Xodol.

1 treatment of Patient 1. The facts and circumstances are as follows:

2 13. On or about August 6, 2013, the patient saw Respondent who noted, in the history
3 section of his medical documentation, that he personally spoke with the patient and informed her
4 that his clinic will no longer prescribe any controlled substances and that she would be referred to
5 a pain management clinic to determine if she needs the pain medications or not; however, he
6 failed to provide the patient with a referral to a pain management specialist or pain management
7 clinic. In addition, he failed to assess the patient's pain, if she had a history of substance abuse,
8 her prior pain treatments, and an assessment of other underlying or co-existing conditions.
9 Respondent noted the patient's family history included that her mother, who also had diabetes,
10 died of a heart attack at 62 years old. He noted the patient's medical history included diabetes,
11 coronary artery disease, heart failure, congestive heart failure¹⁰ and percutaneous coronary
12 intervention (PCI).¹¹

13 14. On August 7, 2013, the patient had lab work performed which recorded her A1C.

14 15. On or about November 4, 2013, the patient saw Respondent for a follow-up visit and
15 to refill her medications. Respondent repeated that he personally informed the patient his clinic
16 would no longer prescribe controlled substances and she would be referred out to determine if she
17 needed the pain medications; however, he again failed to provide the patient with a referral to
18 either a specialist or clinic. He further documented the patient had uncontrolled Type 1 diabetes;
19 however, he was treating her with glucophage, which is used to treat Type 2 diabetics.

20
21 ¹⁰ Congestive heart failure (CHF) occurs as a result of impaired pumping capability of the heart
22 that is not keeping up with the metabolic needs of body tissues and organs; it is associated with abnormal
23 retention of water and sodium. It ranges from mild congestion with few symptoms to life-threatening fluid
24 overload and heart failure. Congestive heart failure results in an inadequate supply of blood and oxygen to
the body's cells. The decreased cardiac output causes an increase in the blood volume within the vascular
system. Congestion within the blood vessels interferes with the movement of body fluids in and out of the
various fluid compartments, so that fluid accumulates in the tissue spaces, causing edema.

25 ¹¹ Percutaneous coronary intervention (PCI), formally known as an angioplasty with stent
26 placement, is a non-surgical procedure for the correction of narrowing or blockage of a branch of a
27 coronary artery by means of a balloon catheter passed through the skin and into an artery, along which it is
threaded to the site of the procedure. During the procedure a catheter (a thin flexible tube) is used to place
a small structure called a stent to open up blood vessels in the heart that have been narrowed by plaque
28 buildup, a condition known as atherosclerosis.

1 16. Patient 1 continued treating with Respondent, and on December 15, 2014, had labs
2 that recorded her A1C; however, this is the first A1C testing in over a year since August 2013.

3 17. On or about January 8, 2015, Respondent saw the patient and again noted the
4 personal conversation regarding controlled substance and the referral; however, he failed to
5 provide her with a referral, renewed her Norco prescription and dispensed 60 tablets. He further
6 dispensed 90 tablets of 800 mg Motrin¹² to be taken three times a day. On this visit, Respondent
7 failed to perform a full neurological and physical examinations of the patient, and assess the
8 patient's pain. He further failed to document any informed consent discussion with the patient
9 regarding the risks and benefits of taking controlled substances, opiate dependency, or the
10 medical indications for the continued prescriptions of opiates.

11 18. Respondent saw the patient again on or about March 26, and April 27, 2015, and
12 repeated the same personal conversation with the patient regarding controlled substances and
13 referral; however, he failed to provide the referral and renewed and dispensed 60 tablets of Norco.
14 On this visit, Respondent failed to perform a physical examination of the patient's back, assess
15 the patient's pain, and failed to document the medical indications for the continued prescriptions
16 of opiates for pain control. He further failed to document any informed consent discussion
17 regarding the risks and benefits of controlled substances and opiate dependency.¹³ On the April
18 visit, he failed to take and record the patient's blood sugar level.

19 19. On or about September 30, 2015, Respondent saw the patient for a follow-up visit.
20 The chief complaint erroneously states the patient is 73 years-old and has uncontrolled Type 1
21 diabetes, with an onset of November 14, 2000; however, the patient was 63 years old and there
22 are no laboratory results confirming she had Type 1 diabetes, and no evidence that Respondent
23 ever placed the patient on insulin, which is necessary to treat Type 1 diabetes. Further, according

24 ¹² Motrin is the brand name for the generic drug ibuprofen, which is used in the treatment of back
25 pain; chronic myofascial pain; aseptic necrosis; costochondritis (inflammation and associated tenderness
26 of the cartilage [i.e., the costochondral joints]) that attaches the front of the ribs to the breastbone;
headache and belongs to the drug class nonsteroidal anti-inflammatory drugs.

27 ¹³ Respondent never documented any informed consent discussions with the patient regarding the
28 risks and benefits of use of controlled substances and opiate dependency throughout his care and treatment
of the patient.

1 to the chart, Respondent diagnosed the patient with diabetes in January 2011, not November
2 2000. In addition, he failed to document the patient's blood sugar levels on this visit and renewed
3 the patient's Norco and dispensed 60 tablets; however, he failed to assess the patient's pain and to
4 document the medical indications for the continued prescriptions of opiates for pain control.

5 20. On or about October 13, 2015, and January 7, 2016, the patient was again seen by
6 Respondent who documented the patient had uncontrolled Type 1 diabetes; however, there are no
7 confirming lab results that the patient had Type 1 diabetes, and there is no evidence that
8 Respondent ever placed the patient on insulin, which is necessary to treat Type 1 diabetes. In
9 addition, Respondent failed to document the patient's blood sugar levels. On the January visit he
10 discontinued the patient's Norco; however, he failed to document why. He further failed to assess
11 the patient's pain, if she had a history of substance abuse, her prior pain treatments, and an
12 assessment of other underlying or co-existing conditions.

13 21. On or about March 7, 2016, the patient had lab work performed which recorded her
14 A1C; however, this is the first A1C test Respondent had performed in over a year since December
15 2014.

16 22. On or about March 23, 2016, Respondent saw the patient and the chart still
17 erroneously states the patient had uncontrolled Type 1 diabetes; however, there are no lab results
18 confirming the patient had Type 1 diabetes, and there is no evidence that Respondent ever placed
19 the patient on insulin. On this visit the patient's non-fasting blood sugar level was 226;¹⁴
20 however, he failed to address the patient's high blood sugar.

21 23. On or about April 11, 2016, Respondent saw the patient again and noted she has
22 Type 2 diabetes, but the patient's problem list erroneously documents "Type 1 diabetes mellitus,
23 uncontrolled – Date of onset 11/14/2000" and suffers from "Hyperlipidemia due to Type 1
24 diabetes mellitus." The chart entries are internally inconsistent and there is no explanation noted.
25 The patient's blood sugar level was not taken or recorded. Respondent renewed the prescription
26 for Norco and dispensed 60 tablets; however, he failed to document why he renewed this
27

28 ¹⁴ Normal fasting blood sugar levels are between 65 and 100.

1 prescription when he discontinued it several months earlier. He further failed to assess the
2 patient's pain and document the medical indication for the prescription of an opiate.

3 24. On or about July 26, 2016, the patient was next seen by Respondent for a follow-up
4 visit noting she has Type 2 diabetes, but the problem list again erroneously states she has Type 1
5 diabetes mellitus, uncontrolled. The chart entries are internally inconsistent and there is no
6 explanation why. On this visit, the patient's non-fasting blood sugar level was 218; however, he
7 failed to address her high blood sugar levels.

8 25. The patient was next seen by Respondent on or about November 11, 2016, where the
9 chart erroneously states the patient was diagnosed with Type 1 diabetes. No blood sugar level
10 was taken or recorded on this visit. Respondent failed to perform a physical examination of the
11 patient's back, to assess the patient's pain level and document the medical indication for
12 continued opiates for pain control; however, he renewed her prescription for Norco and dispensed
13 60 tablets.

14 26. On or about February 10, 2017, Respondent saw the patient and a review of her
15 endocrinology system revealed she was fatigued; however, there was no blood sugar levels taken
16 or recorded on this visit.

17 27. On or about March 3, 9, April 11, and May 11, 2017, Respondent saw the patient
18 again; however, no blood sugar levels were taken on these visits, although he continued to record
19 the lab results from February 13, 2017.

20 28. On or about June 13, 2017, Respondent saw the patient again; however, no blood
21 sugar levels were taken on this visit, but he continued to record the lab results from four months
22 earlier. On this visit, a review of the patient's endocrinology system revealed she was still
23 fatigued; however, he failed to address why.

24 29. On or about June 28, 2017, at approximately 6:13 p.m., the patient presented to
25 Arrowhead Regional Medical Center Emergency Department (ARMC) for chest tightness and
26 pain rated as 6 out of 10 for several days that comes in episodes of 5-10 minutes during rest. She
27
28

1 reported waking up feeling nauseous and her arms felt strange. An electrocardiogram (ECG)¹⁵
2 was performed and was found to have ST elevation.¹⁶ After the ECG was performed, the patient
3 went into cardiac arrest and defibrillation and cardiopulmonary resuscitation (CPR)¹⁷ were
4 performed. She was subsequently transferred to the Emergency Department of Loma Linda
5 University (LLU) for higher level of care.

6 30. On or about June 28, 2017, at approximately 7:48 p.m., the patient was transferred to
7 LLU and reported chest tightness which had remained unchanged since she presented to ARMC.
8 She was diagnosed with ST elevation myocardial infarction (STEMI)¹⁸ and was taken to the heart
9 catheterization lab for a coronary angioplasty that was treated with PCI and stent placement. She
10 was discharged on July 1, 2017.

11 31. On July 19, 2017, the patient was seen by Respondent after her hospitalization for a
12 heart attack a few weeks earlier. The patient had labs performed; however, Respondent failed to
13 order an A1C test to determine her average blood sugar levels for the last few months and to take
14 and record her blood sugar level.

15 32. On or about August 10, 2017, the patient presented to Respondent again who failed to
16 take and record the patient's blood sugar level and failed to order an A1C to determine the
17 patient's average blood sugar levels for the last three months. Respondent renewed her
18

19 ¹⁵ An electrocardiogram, abbreviated by ECG or EKG, is a recording of the electrical changes
20 occurring as the heart beats that can be used in the diagnosis of heart malfunction. Each cardiac cycle
21 produces three distinct ECG waves, designated as P, QRS, and T. These waves represent changes in
22 electrical potential between two regions on the surface of the heart. The spread of atrial depolarization
23 creates the P wave; spread of ventricular depolarization is represented by the QRS wave; repolarization of
the ventricles produces the T wave. To obtain an ECG, electrodes are attached to various parts of the body
surface, usually both arms, the left leg and the chest and connected in a specific order to a machine that,
when turned on, measures electrical activity all over the heart.

24 ¹⁶ ST-elevation refers to the ST segment, which is part of an ECG/EKG.

25 ¹⁷ Cardiopulmonary resuscitation, abbreviated CPR, is the manual application of chest
26 compressions and ventilations to patients in cardiac arrest, done in an effort to maintain viability until
advanced help arrives. This procedure is an essential component of basic life support (BLS), basic cardiac
life support (BCLS), and advanced cardiac life support (ACLS).

27 ¹⁸ ST-elevation myocardial infarction, abbreviated as STEMI, is a type of a myocardial infarction
28 (heart attack) used to describe a classic heart attack. It is one type of myocardial infarction in which a part
of the heart muscle (myocardium) has died due to the obstruction of blood supply to the area.

1 prescription for Norco and dispensed 60 tablets.

2 33. On or about September 14, and October 13, 2017, Respondent saw the patient;
3 however, he failed to take or record her blood sugar levels and to order an A1C to determine the
4 patient's average blood sugar levels for the last three months. He also renewed her prescription
5 for Norco and dispensed 60 tablets; however, he failed to perform and document a physical
6 examination of the patient's back, conduct a full neurological exam, assess the patient's pain, and
7 document the medical indications for the continued prescription of opiates.

8 34. On or about October 19, 2017, the patient saw Respondent again; however, he failed
9 to take or record her blood sugar level and to order an A1C.

10 35. On or about November 14, December 14, 2017, February 14, and March 14, 2018,
11 Respondent saw the patient again; however, he failed to take or record her blood sugar levels on
12 these visits and failed to order an A1C. He also renewed her prescription for Norco and
13 dispensed 60 tablets; however, he failed to document a physical examination of the patient's
14 back, assess the patient's pain, perform full neurological exam, and document the medical
15 indications for the continued prescription of opiates for pain control. In addition, the March
16 encounter type note indicates it was "Rx Refill (Phone)" encounter; however, the patient's vital
17 signs and weight are recorded.

18 36. On or about April 12, 2018, the patient presented to Respondent complaining of a
19 sprained ankle she sustained two months earlier that swells up on and off when she puts pressure
20 on it. On this visit, Respondent failed to take or record her blood sugar level and order an A1C.

21 37. On or about May 11, 2018, the patient presented to Respondent to refill her
22 medications. Respondent noted, in the history section, that he personally spoke with the patient
23 and informed her "there are no more refills"; however, he failed to refer her to a pain
24 management specialist or clinic to determine if the patient should obtain refills of her
25 medications. He further failed to take or record her blood sugar level on this visit and order an
26 A1C.

27 38. On or about May 18, 2018, the patient presented to Respondent who again noted his
28 personal conversation with the patient regarding controlled substances. On this visit, the patient's

1 non-fasting blood sugar level was 393; however, Respondent failed to properly evaluate and treat
2 the patient's elevated blood sugars by giving her a shot of insulin, referring her to the emergency
3 room for treatment, or having her return to his office in a day or two to reassess her glucose levels
4 and follow-up to determine the cause. This was the patient's last visit.

5 39. Respondent told the Board during an interview, that every diabetic patient is
6 supposed to have their blood sugar levels checked on every visit, and insulin is available in his
7 office to give to his patients; however, he failed to give the patient a shot of insulin to lower her
8 elevated blood sugars and take and record her blood sugar levels on each visit.

9 40. Respondent further told the Board that the other health care practitioners' in his
10 office, who sometime see his patients, all sign into the electronic medical records system using
11 his password and sign off under his name and/or signature. As a result, he is unable to determine
12 from the chart which visits he actually saw and treated the patient.

13 41. Respondent committed acts and omissions constituting gross negligence in his care
14 and treatment of Patient 1 when he:

15 A. Failed to properly evaluate and treat the patient's high blood sugar levels by failing to
16 give her a shot of insulin at his office, referring her to the emergency room for treatment, or
17 having her return to his office in a day or two to reassess her glucose levels and determine the
18 cause of her elevated glucose;

19 B. Failed to properly treat the patient's diabetes;

20 C. Failed to properly medically evaluate and follow-up with a patient with chronic pain
21 who was taking controlled substances when he failed to include an assessment of the patient's
22 pain, physical and psychological status and functioning, substance abuse history, history of prior
23 pain treatments and assessment of other underling or co-existing conditions, and documentation
24 of the medical indications for the use of opiates for pain control; and

25 D. Allowed other providers, who may have treated the patient, to use his password to log
26 into the electronic medical records system and use his name and/or signature when logging out
27 making it impossible to determine which provider saw the patient.

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1 SECOND CAUSE FOR DISCIPLINE

2 (Gross Negligence – Failure to Maintain Adequate and Accurate Records – Patients 2, 3 & 4)

3 42. Respondent Elmer Reymond Symonett, M.D. is subject to disciplinary action under
4 Code section 2234, subdivision (b), in that he committed gross negligence when failed to
5 maintain adequate and accurate medical records for Patients 2, 3, and 4. The circumstances are as
6 follows:

7 Patient 2:

8 43. Respondent saw Patient 2 four times between October 2014 and December 2014, and
9 current medications, assessments and plans are unclear. Clinic notes lack a clear explanation of
10 why certain medications are used and there is an incomplete work up of diagnoses. The patient
11 was prescribed clonazepam,¹⁹ Norco,²⁰ and Soma.²¹

12 44. Respondent failed to document any examinations in November and December.

13 45. The final visit was February 2, 2015. The notes indicate the patient would be given a
14 one-month supply of controlled substances and dismissed because it was alleged that the patient
15 was known to be “usually buying and selling pain medications;” however, Respondent never

16
17 ¹⁹ Clonazepam is the generic name for the brand name drug Klonopin, a Schedule IV controlled
18 substance, which is a benzodiazepine that affects chemicals in the brain that may be unbalanced to treat
19 seizures, certain types of anxiety disorders, and is used to treat panic disorder (including agoraphobia - an
20 irrational and often disabling fear of being out in public) in adults. There is a warning associated with the
21 use of benzodiazepines with opioid drugs that have led to slowed or trouble breathing and death, and
22 advises to get medical help right away if one feels very sleepy or dizzy, has slow, shallow, or trouble
23 breathing, or passes out.

24 ²⁰ Norco is a brand name of the Schedule II controlled substance, a narcotic drug containing a
25 combination of acetaminophen and hydrocodone (an opiate), which is used to relieve moderate to
26 moderately severe pain. Acetaminophen is a less potent pain reliever that increases the effects of
27 hydrocodone. Other brand names of this medication are Hycet, Lorcet, Lortab 10/325, Lortab 5/325,
28 Lortab 7.5/325, Lortab Elixir, Verdrocet, Vicodin and Xodol.

²¹ Carisoprodol is the generic name for the Schedule IV controlled substance, also known by the
brand names Soma and Vanadom, which is a muscle relaxer that blocks pain sensations between the
nerves and the brain. It is used together with rest and physical therapy to treat skeletal muscle conditions
such as pain or injury and should only be used for short periods (up to two or three weeks) because there is
no evidence of its effectiveness in long term use, and most skeletal muscle injuries are generally of short
duration.

1 performed any surveillance labs. He further failed to refer the patient for a GI evaluation for her
2 HCV (Hepatitis C infection) and failed to refer her to a pain management specialist.

3 Patient 3:

4 46. Patient 3, a then 61-year-old female, first presented to Respondent on September 8,
5 2011, with a history of chronic L1 vertebral compression fracture with chronic low back pain and
6 anxiety.

7 47. From July 2014 to June 2015, this patient was prescribed lorazepam,²² Soma and
8 Percocet²³ on a monthly basis. Most of the clinic visits lacked adequate subjective reviews of the
9 conditions and physical exams, assessment or management plan. There was no documented
10 consent for the use of estrogen. There was an inadequate history and no exam recorded for four
11 visits in December 2012; seven visits in 2013; nine visits in 2014; and, eight visits in 2015.

12 48. One of the patient's main problems was back pain; however, Respondent failed to
13 perform and to document the patient's motor strength, gait, or leg raise tests.

14 49. Respondent admitted, during his interview, that he had no documentation of
15 counseling the patient regarding the risks of Depo-estradiol therapy for menopausal symptoms
16 and that he had no knowledge of the complications of systemic hormone therapy for use in
17 menopause. He further admitted that he failed to run a CURES report on Patient 3, despite
18 prescribing chronic opiates, benzodiazepines and Soma for at least seven years.

19 Patient 4:

20 50. Patient 4 was a 76-year-old man who had bronchitis, benign prostatic hyperplasia,
21 lumbar disc disease and hypertension. Most of the clinic visits lacked a physical exam,
22

23 ²² Lorazepam is the generic name for the Schedule IV controlled substance, also known by the
24 brand name Ativan, and is a benzodiazepine, which acts to produce a calming effect as it affects chemicals
25 in the brain that may be unbalanced in people with anxiety. It is used to treat anxiety disorders and seizure
26 disorders and is a dangerous drug.

27 ²³ Percocet is the brand name for the generic drug combination of acetaminophen and oxycodone
28 (an opiate), and is a Schedule II controlled substance that is used to relieve moderate to severe pain. Due
of the risks of addiction, abuse, and misuse, even at recommended doses, Percocet is only prescribed when
treatment with non-opioid pain relieving medication has not been tolerated or has not provided adequate
pain relief.

1 assessment and plan. Respondent never ran a CURES report on the patient.

2 51. Patient 4 was prescribed prednisone; however, Respondent's records fail to support
3 why. He allegedly had "chronic bronchitis," so if he was prescribed chronic steroids, it was an
4 unconventional use of steroids. He was also prescribed Phenergan with codeine, and oxycodone.

5 52. A urine screen was obtained in July 2014, which was positive for cannabinoids;
6 however, Respondent admitted that he did not counsel the patient on the risk of respiratory
7 depression when using high doses of opiates prescribed, which was 180 milligrams a day of
8 morphine equivalents; this is well above the typical dosing for opiate use in a non-cancer patient.

9 53. Respondent engaged in acts and omissions constituting gross negligence in his care
10 and treatment of Patients 2, 3 and 4 when he failed to document a sufficient history, exam,
11 assessment and plan, and there was no routine documentation of a pain assessment for any of the
12 patients.

13 THIRD CAUSE FOR DISCIPLINE

14 (Repeated Negligent Acts – All Patients)

15 54. Respondent is subject to disciplinary action under section 2234, subdivision (c), in
16 that he was negligent in his care and treatment of Patients 1, 2, 3, and 4. The circumstances are as
17 follows:

18 55. Paragraphs 13 to 40, and 43 to 52, inclusive, above are incorporated by reference as if
19 fully set forth herein.

20 56. Respondent committed repeated negligent acts in his care and treatment of the
21 patients when he:

22 Patient 1:

23 A. Failed to properly evaluate and treat the patient's high blood sugar levels by failing to
24 give her a shot of insulin at his office, referring her to the emergency room for treatment, or
25 having her return to his office in a day or two to reassess her glucose levels and determine the
26 cause of her elevated glucose;

27 B. Failed to properly treat the patient's diabetes;

28 C. Failed to properly medically evaluate and follow-up with a patient with chronic pain

1 who was taking controlled substances when he failed to include an assessment of the patient's
2 pain, physical and psychological status and functioning, substance abuse history, history of prior
3 pain treatments and assessment of other underlying or co-existing conditions, and documentation
4 of the medical indications for the use of opiates for pain control; and

5 D. Allowed other providers, who may have treated the patient, to use his password to log
6 into the electronic medical records system and use his name and/or signature when logging out
7 making it impossible to determine which provider saw the patient.

8 E. Failed to document the patient's response to treatment and to consider referrals,
9 physical rehabilitation, or further evaluation of the patient for her condition;

10 F. Failed to document any informed consent discussions with the patient regarding the
11 risks and benefits of controlled substances use, and opiate dependency until the last visit;

12 G. Failed to document periodic reviews of the course of his pain treatment and the
13 patient's progress or lack thereof; and

14 H. Failed to refer the patient to an orthopedic specialist, physical rehabilitation, or a pain
15 management specialist for her chronic back pain until the final visit.

16 Patients 2, 3 and 4:

17 I. Failed to take and perform a sufficient medical history and physical exam for patients
18 to whom he prescribed controlled substances;

19 J. Failed to perform a substance abuse history or risk assessment prior to prescribing
20 controlled substances to the patients;

21 K. Failed to document an adequate treatment plan with objective goals for the patients;

22 L. Failed to have documented informed consents for patients 2 and 3;

23 M. Failed to periodically review and monitor the pain treatment for the patients by
24 running a CURES report or performing random drug screens for the patients; and

25 N. Failed to consult with specialists for the patients' risk for abusing or misusing their
26 controlled substances.

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1 **FOURTH CAUSE FOR DISCIPLINE**

2 (Failure to Maintain Adequate and Accurate Records – All Patients)

3 57. Respondent is subject to disciplinary action under section 2266 of the Code in that he
4 failed to maintain adequate and accurate medical records in his care and treatment of Patients 1, 2
5 3, and 4. The circumstances are as follows:

6 58. Paragraphs 13-41, 44-53, and 56 A-N, above, inclusive, are incorporated by reference
7 as if fully set forth herein.

8 **DISCIPLINARY CONSIDERATION**

9 59. To determine the degree of discipline, if any, to be imposed on Respondent Elmer
10 Reymond Symonett, M.D., Complainant alleges that on or about August 9, 2012, in a prior
11 disciplinary action entitled *In the Matter of the Accusation Against Elmer Reymond Symonett,*
12 *M.D.*, before the Medical Board of California, in Case Number 09-2010-209245, Respondent's
13 license was placed on three years probation for allegations related to aiding and abetting the
14 unlicensed practice of medicine. That decision is now final and is incorporated by reference as if
15 fully set forth herein.

16 **PRAAYER**

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

19 1. Revoking or suspending Physician's and Surgeon's Certificate Number A 50238,
20 issued to Elmer Reymond Symonett, M.D.;

21 2. Revoking, suspending or denying approval of Elmer Reymond Symonett, M.D.'s
22 authority to supervise physician assistants and advanced practice nurses;

23 3. If placed on probation, ordering Elmer Reymond Symonett, M.D. to pay the Board
24 the costs of probation monitoring; and

25 //

26 //

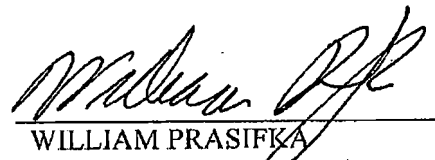
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4. Taking such other and further action as deemed necessary and proper.

DATED: **JUN 23 2020**


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

Complainant

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