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

14 In the Matter of the Accusation Against:

Case No. 800-2018-044421

15 **JAMES ANTHONY NOVAK, M.D.**
16 **4440 Lamont Street**
San Diego, California 92109

A C C U S A T I O N

17 **Physician's and Surgeon's Certificate**
18 **No. G 44909,**

19 Respondent.

20
21 Complainant alleges:

22 **PARTIES**

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

25 2. On or about June 25, 1981, the Medical Board issued Physician's and Surgeon's
26 Certificate No. G 44909 to James Anthony Novak, M.D. (Respondent). The Physician's and
27 Surgeon's Certificate was in full force and effect at all times relevant to the charges brought
28 herein and will expire on September 30, 2022, unless renewed.

1 **PERTINENT CASE INFORMATION**

2 8. Respondent, at all times relevant to the charges and allegations brought in Accusation
3 No. 800-2018-044421, owned Novak Medical Group (NMG), where he also employed and
4 supervised Family Nurse Practitioner P.F. (FNP P.F.).

5 9. On January 22, 2020, Respondent, with his attorney present, was interviewed by a
6 Division of Investigation investigator and a district medical consultant working on behalf of the
7 Board. During the interview, Respondent answered a number of general background questions,
8 including questions about medical providers working at NMG whom he supervised, which are
9 relevant to the charges and allegations brought in Accusation No. 800-2018-044421. During the
10 interview, Respondent also admitted to having a "Scope of Practices" agreement with FNP P.F.,
11 and it was signed by them both. Respondent added that FNP P.F. had worked for him for
12 approximately twenty-one years.

13 10. Trina therapy is advertised as resolving complications for people with diabetes
14 through use of pulses of intravenous insulin administered by a pump, and delivered via catheter
15 into the patient. The weekly therapy is performed in outpatient settings and lasts four (4) hours at
16 each visit.

17 **FIRST CAUSE FOR DISCIPLINE**

18 **(Repeated Negligent Acts)**

19 11. Respondent has subjected his Physician's and Surgeon's Certificate No. G 44909 to
20 disciplinary action under sections 2227 and 2234, as defined in section 2234, subdivision (c), of
21 the Code, in that he committed repeated negligent acts in his care and treatment of Patients A and
22 B,¹ and that he also committed repeated negligent acts, as the supervising physician, by failing to
23 properly monitor FNP P.F.'s care and treatment of Patients A and B, as more particularly alleged
24 hereinafter:

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28 ¹ To protect the privacy of the patients involved in this matter, patient names have not
been included in this pleading. Respondent is aware of the identities of Patients A and B.

1 12. Patient A

2 (a) On or about June 23, 2017, Patient A, a then-34-year-old female, had
3 her first documented visit at Respondent's clinic. Respondent saw Patient A and
4 documented in the progress note for the initial visit that she was there "to discuss
5 Trina Therapy." Respondent documented a limited medical history of Patient A
6 and diabetes complications. The progress note indicated that Patient A had
7 diabetes since the age of twelve, that she was insulin dependent, and that she was
8 "currently on pump." The note did not document whether Respondent performed
9 a physical examination, whether Respondent reviewed home blood glucose
10 monitoring data, or whether Respondent reviewed the specific amounts of insulin
11 then-currently being taken by Patient A.

12 (b) Significantly, in the progress note from the first visit, Respondent did
13 not document whether Patient A should follow up with a primary care physician
14 (PCP) or an endocrinologist to manage her insulin pump and monitor her for
15 diabetic complications, once Trina therapy was started at NMG. Respondent
16 scheduled Patient A to begin Trina therapy without first attempting to review
17 medical records from other medical providers documenting information and/or
18 data about her diabetes complications. Furthermore, neither Respondent nor FNP
19 P.F. ever reviewed any medical records from other providers for Patient A during
20 her Trina therapy, according to the patient's medical record from NMG.

21 (c) Between in or around July 2017, and in or around August 2017, Patient A
22 had eight (8) documented visits at NMG for Trina therapy. The progress notes for
23 these visits were all signed by FNP P.F. Respondent did not counter-sign or initial any
24 of these notes. Significantly, during this timeframe, there is no documentation that
25 Respondent saw Patient A and/or monitored the Trina therapy that she was receiving at
26 his clinic.

27 (d) All of the progress notes signed by FNP P.F. list Respondent's name as
28 "PCP" at the top of each note. However, the notes do not include diabetes

1 monitoring and screening information including, but not limited to: no referrals for
2 eye exams; no lab orders to check for microalbuminuria or dyslipidemia; and no
3 foot examinations to check for neuropathy.

4 13. **Patient B**

5 (a) On or about June 23, 2017, Patient B, a then-69-year-old male, had his
6 first documented visit at Respondent's clinic. Respondent saw Patient B and
7 documented a very brief progress note for the initial visit, with almost no medical
8 history and/or history of diabetes complications about Patient B in the note. The
9 note indicated that Patient B had insulin dependent diabetes, that he was starting to
10 get neuropathy, that he was currently on Humulin and Nvovolin insulins, and that
11 he complained of fatigue. The note did not document whether Respondent
12 performed a physical examination, whether Respondent reviewed home blood
13 glucose monitoring data, or whether Respondent reviewed the specific amounts of
14 insulin then-currently being taken by Patient B.

15 (b) Significantly, in the progress note from the first visit, Respondent did not
16 document whether Patient B should follow up with a PCP or an endocrinologist to
17 manage his insulin and monitor his diabetic complications, once Trina therapy was
18 started at NMG. Respondent scheduled Patient B to begin Trina therapy without first
19 attempting to review medical records from other medical providers documenting
20 information and/or data about his diabetes complications. Furthermore, neither
21 Respondent nor FNP P.F. ever reviewed any medical records from other providers for
22 Patient B during his Trina therapy, according to the patient's medical record from NMG.

23 (c) Between in or around July 2017, and in or around October 2018,
24 Patient B had approximately fifty-eight (58) documented visits at NMG for Trina
25 therapy. The progress notes for these visits were all signed by FNP P.F.
26 Respondent did not counter-sign or initial any of these notes. Significantly, during
27 this timeframe, there is limited documentation that shows Respondent monitored
28 the monthly Trina therapy that Patient B was receiving at his clinic.

1 (d) All of the progress notes signed by FNP P.F. list Respondent's name as
2 "PCP" at the top of each note. However, the notes do not include diabetes monitoring
3 and screening information including, but not limited to: no referrals for eye exams; no
4 foot examinations to check for neuropathy; only one (1) lipid panel was checked and
5 documented; and no substantive documentation related to managing Patient B's
6 elevated blood pressure readings and attendant cardiovascular risk factors.

7 14. Respondent committed repeated negligent acts in his care and treatment of Patients A
8 and B, and he also committed repeated negligent acts, as the supervising physician, by failing to
9 properly monitor FNP P.F. in her care and treatment of Patients A and B, which included, but was
10 not limited to, the following:

11 (a) Respondent failed to properly monitor the diabetes care and treatment that
12 Patient A received at his clinic;

13 (b) Respondent, as the supervising physician, failed to properly monitor
14 FNP P.F.'s care and treatment of Patient A at his clinic;

15 (c) Respondent failed to document an adequate medical history of Patient A;

16 (d) Respondent failed to properly monitor the diabetes care and treatment that
17 Patient B received at his clinic;

18 (e) Respondent, as the supervising physician, failed to properly monitor
19 FNP P.F.'s care and treatment of Patient B at his clinic; and

20 (f) Respondent failed to document an adequate medical history of Patient B.

21 **SECOND CAUSE FOR DISCIPLINE**

22 **(Failure to Maintain Adequate and Accurate Medical Records)**

23 15. Respondent has further subjected his Physician's and Surgeon's Certificate No.
24 G 44909 to disciplinary action under sections 2227 and 2234, as defined in section 2266, of the
25 Code, in that Respondent failed to maintain adequate and accurate records in connection with his
26 and FNP P.F.'s care and treatment, of Patients A and B, as more particularly alleged in
27 paragraphs 11 through 14, above, which are hereby incorporated by reference and realleged as if
28 fully set forth herein.

