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

In the Matter of the Accusation Against: **Scott Hamilton Davis, M.D.** **Physician's and Surgeon's Certificate No. A 83497** **Respondent.**	**Case No.: 800-2018-050710**

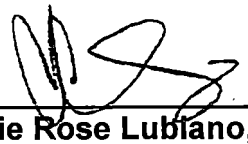
DECISION

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 September 23, 2021.

IT IS SO ORDERED: August 24, 2021.

MEDICAL BOARD OF CALIFORNIA



Laurie Rose Lubiano, J.D., Chair
Panel A

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

In the Matter of the Accusation Against: **SCOTT HAMILTON DAVIS, M.D.** **901 Oak Park Blvd., Ste 101** **Pismo Beach , CA 93449-3409** **Physician's and Surgeon's Certificate No. A 83497,** Respondent.	Case No. 800-2018-050710 OAH No. 2021010787 **STIPULATED SETTLEMENT AND DISCIPLINARY ORDER**

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

PARTIES

1. William Prasifka (Complainant) is the Executive Director of the Medical Board of California (Board). He brought this action solely in his official capacity and is represented in this matter by Rob Bonta, Attorney General of the State of California, by Vladimir Shalkevich, Deputy Attorney General.

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2. Respondent Scott Hamilton Davis, M.D. (Respondent) is represented in this proceeding by attorney Mark B. Connely, Esq., whose address is 1319 Marsh Street, 2nd Floor San Luis Obispo, CA 93401-3315.

3. On or about June 6, 2003, the Board issued Physician's and Surgeon's Certificate No. A 83497 to Scott Hamilton Davis, M.D. (Respondent). The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought in Accusation No. 800-2018-050710, and will expire on June 30, 2021, unless renewed.

JURISDICTION

4. Accusation No. 800-2018-050710 was filed before the Board, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on October 21, 2020. Respondent timely filed his Notice of Defense contesting the Accusation.

5. A copy of Accusation No. 800-2018-050710 is attached as exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

6. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 800-2018-050710. Respondent has also carefully read, fully discussed with his counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

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

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

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CULPABILITY

9. Respondent admits the truth of all charges and allegations in Accusation No. 800-2018-050710.

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

CONTINGENCY

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

12. The parties agree that this stipulation contains the entire agreement between the parties relating to the resolution of Accusation No. 800-2018-050710, and all prior or contemporaneous agreements, understanding, representations and statement, whether oral or written, and whether by a party of such party's counsel are merged in this stipulation.

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

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

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DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. A 83497 issued to Respondent SCOTT HAMILTON DAVIS, M.D. is revoked. However, the revocation is stayed and Respondent is placed on probation for seven (7) years on the following terms and conditions:

1. CONTROLLED SUBSTANCES - MAINTAIN RECORDS AND ACCESS TO RECORDS AND INVENTORIES. Respondent shall maintain a record of all controlled substances ordered, prescribed, dispensed, administered, or possessed by Respondent, and any recommendation or approval which enables a patient or patient's primary caregiver to possess or cultivate marijuana for the personal medical purposes of the patient within the meaning of Health and Safety Code section 11362.5, during probation, showing all of the following: 1) the name and address of the patient; 2) the date; 3) the character and quantity of controlled substances involved; and 4) the indications and diagnosis for which the controlled substances were furnished.

Respondent shall keep these records in a separate file or ledger, in chronological order. All records and any inventories of controlled substances shall be available for immediate inspection and copying on the premises by the Board or its designee at all times during business hours and shall be retained for the entire term of probation. All records and inventories of controlled substances shall be reviewed by the practice monitor, appointed pursuant to condition 7 hereof, MONITORING – PRACTICE, on a weekly basis.

2. CONTROLLED SUBSTANCES - ABSTAIN FROM USE. Respondent shall abstain completely from the personal use or possession of controlled substances as defined in the California Uniform Controlled Substances Act, dangerous drugs as defined by Business and Professions Code section 4022, and any drugs requiring a prescription. This prohibition does not apply to medications lawfully prescribed to Respondent by another practitioner for a bona fide illness or condition.

Within 15 calendar days of receiving any lawfully prescribed medications, Respondent shall notify the Board or its designee of the: issuing practitioner's name, address, and telephone number; medication name, strength, and quantity; and issuing pharmacy name, address, and

telephone number.

3. ALCOHOL - ABSTAIN FROM USE. Respondent shall abstain completely from the use of any products or beverages containing alcohol.

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

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

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

5. 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.

6. PSYCHIATRIC EVALUATION. Within 30 calendar days of the effective date of this Decision, and on whatever periodic basis thereafter may be required by the Board or its designee, Respondent shall undergo and complete a psychiatric evaluation (and psychological testing, if deemed necessary) by a Board-appointed board certified psychiatrist, who shall consider any information provided by the Board or designee and any other information the psychiatrist deems relevant, and shall furnish a written evaluation report to the Board or its designee. Psychiatric evaluations conducted prior to the effective date of the Decision shall not be accepted towards the fulfillment of this requirement. Respondent shall pay the cost of all psychiatric evaluations and psychological testing.

Respondent shall comply with all restrictions or conditions recommended by the evaluating psychiatrist within 15 calendar days after being notified by the Board or its designee.

7. MONITORING - PRACTICE. Within 30 calendar days of the effective date of this Decision, Respondent shall submit to the Board or its designee for prior approval as a practice monitor(s), the name and qualifications of one or more licensed physicians and surgeons whose licenses are valid and in good standing, and who are preferably American Board of Medical Specialties (ABMS) certified. A monitor shall have no prior or current business or personal relationship with Respondent, or other relationship that could reasonably be expected to compromise the ability of the monitor to render fair and unbiased reports to the Board, including

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

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

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

The approved monitor shall review and approve the record of all controlled substances ordered, prescribed, dispensed, administered, or possessed by Respondent, as described in condition 1 hereof - CONTROLLED SUBSTANCES - MAINTAIN RECORDS AND ACCESS TO RECORDS AND INVENTORIES, on a weekly basis. The approved monitor shall notify the Respondent and the Board or its designee of any inappropriate ordering, prescribing or dispensing observed in Respondent's records. Respondent shall immediately correct any inappropriate ordering, prescribing or dispensing of controlled substances identified by the approved monitor.

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

The monitor(s) shall submit a quarterly written report to the Board or its designee which includes an evaluation of Respondent's performance, indicating whether Respondent's practices and prescribing are within the standards of practice of medicine, and whether Respondent is

practicing medicine and prescribing safely. The monitor's quarterly written report shall address the monitor's weekly review of the record of all controlled substances ordered, prescribed, dispensed, administered, or possessed by Respondent, and report to the Board or its designee whether Respondent is in compliance with condition 1 hereof.

It shall be the sole responsibility of Respondent to ensure that the monitor submits the quarterly written reports to the Board or its designee within 10 calendar days after the end of the preceding quarter.

If the monitor resigns or is no longer available, Respondent shall, within 5 calendar days of such resignation or unavailability, submit to the Board or its designee, for prior approval, the name and qualifications of a replacement monitor who will be assuming that responsibility within 15 calendar days. If Respondent fails to obtain approval of a replacement monitor within 60 calendar days of the resignation or unavailability of the monitor, Respondent shall receive a notification from the Board or its designee to cease the practice of medicine within three (3) calendar days after being so notified. Respondent shall cease the practice of medicine until a replacement monitor is approved and assumes monitoring responsibility.

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

8. SOLO PRACTICE PROHIBITION. Respondent is prohibited from engaging in the solo practice of medicine. Prohibited solo practice includes, but is not limited to, a practice where: 1) Respondent merely shares office space with another physician but is not affiliated for purposes of providing patient care, or 2) Respondent is the sole physician practitioner at that location.

If Respondent fails to establish a practice with another physician or secure employment in an appropriate practice setting within 60 calendar days of the effective date of this Decision,

Respondent shall receive a notification from the Board or its designee to cease the practice of medicine within three (3) calendar days after being so notified. The Respondent shall not resume practice until an appropriate practice setting is established.

If, during the course of the probation, the Respondent's practice setting changes and the Respondent is no longer practicing in a setting in compliance with this Decision, the Respondent shall notify the Board or its designee within five (5) calendar days of the practice setting change. If Respondent fails to establish a practice with another physician or secure employment in an appropriate practice setting within 60 calendar days of the practice setting change, Respondent shall receive a notification from the Board or its designee to cease the practice of medicine within three (3) calendar days after being so notified. The Respondent shall not resume practice until an appropriate practice setting is established.

9. PROHIBITED PRACTICE. During probation, Respondent is prohibited from providing medical care or prescribing any controlled substance or dangerous drug to any members of his family, including extended family. After the effective date of this Decision, all patients being treated by the Respondent shall be notified that the Respondent is prohibited from providing medical care or prescribing any controlled substance or dangerous drug to any members of his family, including extended family. Any new patients must be provided this notification at the time of their initial appointment.

Respondent shall maintain a log of all patients to whom the required oral notification was made. The log shall contain the: 1) patient's name, address and phone number; 2) patient's medical record number, if available; 3) the full name of the person making the notification; 4) the date the notification was made; and 5) a description of the notification given. Respondent shall keep this log in a separate file or ledger, in chronological order, shall make the log available for immediate inspection and copying on the premises at all times during business hours by the Board or its designee, and shall retain the log for the entire term of probation.

10. NOTICE OF EMPLOYER OR SUPERVISOR INFORMATION. Within seven (7) days of the effective date of this Decision, Respondent shall provide to the Board the names, physical addresses, mailing addresses, and telephone numbers of any and all employers and

supervisors. Respondent shall also provide specific, written consent for the Board, Respondent's worksite monitor, and Respondent's employers and supervisors to communicate regarding Respondent's work status, performance, and monitoring.

For purposes of this section, "supervisors" shall include the Chief of Staff and Health or Well Being Committee Chair, or equivalent, if applicable, when the Respondent has medical staff privileges.

11. BIOLOGICAL FLUID TESTING. Respondent shall immediately submit to biological fluid testing, at Respondent's expense, upon request of the Board or its designee. "Biological fluid testing" may include, but is not limited to, urine, blood, breathalyzer, hair follicle testing, or similar drug screening approved by the Board or its designee. Respondent shall make daily contact with the Board or its designee to determine whether biological fluid testing is required. Respondent shall be tested on the date of the notification as directed by the Board or its designee. The Board may order a Respondent to undergo a biological fluid test on any day, at any time, including weekends and holidays. Except when testing on a specific date as ordered by the Board or its designee, the scheduling of biological fluid testing shall be done on a random basis. The cost of biological fluid testing shall be borne by the Respondent.

During the first year of probation, Respondent shall be subject to 52 to 104 random tests. During the second year of probation and for the duration of the probationary term, up to five (5) years, Respondent shall be subject to 36 to 104 random tests per year. Only if there has been no positive biological fluid tests in the previous five (5) consecutive years of probation, may testing be reduced to one (1) time per month. Nothing precludes the Board from increasing the number of random tests to the first-year level of frequency for any reason.

Prior to practicing medicine, Respondent shall contract with a laboratory or service, approved in advance by the Board or its designee, that will conduct random, unannounced, observed, biological fluid testing and meets all of the following standards:

(a) Its specimen collectors are either certified by the Drug and Alcohol Testing Industry Association or have completed the training required to serve as a collector for the United States Department of Transportation.

(b) Its specimen collectors conform to the current United States Department of Transportation Specimen Collection Guidelines.

(c) Its testing locations comply with the Urine Specimen Collection Guidelines published by the United States Department of Transportation without regard to the type of test administered.

(d) Its specimen collectors observe the collection of testing specimens.

(e) Its laboratories are certified and accredited by the United States Department of Health and Human Services.

(f) Its testing locations shall submit a specimen to a laboratory within one (1) business day of receipt and all specimens collected shall be handled pursuant to chain of custody procedures. The laboratory shall process and analyze the specimens and provide legally defensible test results to the Board within seven (7) business days of receipt of the specimen. The Board will be notified of non-negative results within one (1) business day and will be notified of negative test results within seven (7) business days.

(g) Its testing locations possess all the materials, equipment, and technical expertise necessary in order to test Respondent on any day of the week.

(h) Its testing locations are able to scientifically test for urine, blood, and hair specimens for the detection of alcohol and illegal and controlled substances.

(i) It maintains testing sites located throughout California.

(j) It maintains an automated 24-hour toll-free telephone system and/or a secure on-line computer database that allows the Respondent to check in daily for testing.

(k) It maintains a secure, HIPAA-compliant website or computer system that allows staff access to drug test results and compliance reporting information that is available 24 hours a day.

(l) It employs or contracts with toxicologists that are licensed physicians and have knowledge of substance abuse disorders and the appropriate medical training to interpret and evaluate laboratory biological fluid test results, medical histories, and any other information relevant to biomedical information.

(m) It will not consider a toxicology screen to be negative if a positive result is obtained while practicing, even if the Respondent holds a valid prescription for the substance.

Prior to changing testing locations for any reason, including during vacation or other travel, alternative testing locations must be approved by the Board and meet the requirements above.

The contract shall require that the laboratory directly notify the Board or its designee of non-negative results within one (1) business day and negative test results within seven (7) business days of the results becoming available. Respondent shall maintain this laboratory or service contract during the period of probation.

A certified copy of any laboratory test result may be received in evidence in any proceedings between the Board and Respondent.

If a biological fluid test result indicates Respondent has used, consumed, ingested, or administered to himself or herself a prohibited substance, the Board shall order Respondent to cease practice and instruct Respondent to leave any place of work where Respondent is practicing medicine or providing medical services. The Board shall immediately notify all of Respondent's employers, supervisors and work monitors, if any, that Respondent may not practice medicine or provide medical services while the cease-practice order is in effect.

A biological fluid test will not be considered negative if a positive result is obtained while practicing, even if the practitioner holds a valid prescription for the substance. If no prohibited substance use exists, the Board shall lift the cease-practice order within one (1) business day.

After the issuance of a cease-practice order, the Board shall determine whether the positive biological fluid test is in fact evidence of prohibited substance use by consulting with the specimen collector and the laboratory, communicating with the licensee, his or her treating physician(s), other health care provider, or group facilitator, as applicable.

For purposes of this condition, the terms "biological fluid testing" and "testing" mean the acquisition and chemical analysis of a Respondent's urine, blood, breath, or hair.

For purposes of this condition, the term "prohibited substance" means an illegal drug, a lawful drug not prescribed or ordered by an appropriately licensed health care provider for use by Respondent and approved by the Board, alcohol, or any other substance the Respondent has been

instructed by the Board not to use, consume, ingest, or administer to himself or herself.

If the Board confirms that a positive biological fluid test is evidence of use of a prohibited substance, Respondent has committed a major violation, as defined in section 1361.52(a), and the Board shall impose any or all of the consequences set forth in section 1361.52(b), in addition to any other terms or conditions the Board determines are necessary for public protection or to enhance Respondent's rehabilitation.

12. SUBSTANCE ABUSE SUPPORT GROUP MEETINGS. Within thirty (30) days of the effective date of this Decision, Respondent shall submit to the Board or its designee, for its prior approval, the name of a substance abuse support group which he or she shall attend for the duration of probation. Respondent shall attend substance abuse support group meetings at least once per week, or as ordered by the Board or its designee. Respondent shall pay all substance abuse support group meeting costs.

The facilitator of the substance abuse support group meeting shall have a minimum of three (3) years experience in the treatment and rehabilitation of substance abuse, and shall be licensed or certified by the state or nationally certified organizations. The facilitator shall not have a current or former financial, personal, or business relationship with Respondent within the last five (5) years. Respondent's previous participation in a substance abuse group support meeting led by the same facilitator does not constitute a prohibited current or former financial, personal, or business relationship.

The facilitator shall provide a signed document to the Board or its designee showing Respondent's name, the group name, the date and location of the meeting, Respondent's attendance, and Respondent's level of participation and progress. The facilitator shall report any unexcused absence by Respondent from any substance abuse support group meeting to the Board, or its designee, within twenty-four (24) hours of the unexcused absence.

13. WORKSITE MONITOR FOR SUBSTANCE-ABUSING LICENSEE. Within thirty (30) calendar days of the effective date of this Decision, Respondent shall submit to the Board or its designee for prior approval as a worksite monitor, the name and qualifications of one or more licensed physician and surgeon, other licensed health care professional if no physician and

surgeon is available, or, as approved by the Board or its designee, a person in a position of authority who is capable of monitoring the Respondent at work.

The worksite monitor shall not have a current or former financial, personal, or familial relationship with Respondent, or any other relationship that could reasonably be expected to compromise the ability of the monitor to render impartial and unbiased reports to the Board or its designee. If it is impractical for anyone but Respondent's employer to serve as the worksite monitor, this requirement may be waived by the Board or its designee, however, under no circumstances shall Respondent's worksite monitor be an employee or supervisee of the licensee.

The worksite monitor shall have an active unrestricted license with no disciplinary action within the last five (5) years, and shall sign an affirmation that he or she has reviewed the terms and conditions of Respondent's disciplinary order and agrees to monitor Respondent as set forth by the Board or its designee.

Respondent shall pay all worksite monitoring costs.

The worksite monitor shall have face-to-face contact with Respondent in the work environment on as frequent a basis as determined by the Board or its designee, but not less than once per week; interview other staff in the office regarding Respondent's behavior, if requested by the Board or its designee; and review Respondent's work attendance.

The worksite monitor shall verbally report any suspected substance abuse to the Board and Respondent's employer or supervisor within one (1) business day of occurrence. If the suspected substance abuse does not occur during the Board's normal business hours, the verbal report shall be made to the Board or its designee within one (1) hour of the next business day. A written report that includes the date, time, and location of the suspected abuse; Respondent's actions; and any other information deemed important by the worksite monitor shall be submitted to the Board or its designee within 48 hours of the occurrence.

The worksite monitor shall complete and submit a written report monthly or as directed by the Board or its designee which shall include the following: (1) Respondent's name and Physician's and Surgeon's Certificate number; (2) the worksite monitor's name and signature; (3) the worksite monitor's license number, if applicable; (4) the location or location(s) of the

worksite; (5) the dates Respondent had face-to-face contact with the worksite monitor; (6) the names of worksite staff interviewed, if applicable; (7) a report of Respondent's work attendance; (8) any change in Respondent's behavior and/or personal habits; and (9) any indicators that can lead to suspected substance abuse by Respondent. Respondent shall complete any required consent forms and execute agreements with the approved worksite monitor and the Board, or its designee, authorizing the Board, or its designee, and worksite monitor to exchange information.

If the worksite monitor resigns or is no longer available, Respondent shall, within five (5) calendar days of such resignation or unavailability, submit to the Board or its designee, for prior approval, the name and qualifications of a replacement monitor who will be assuming that responsibility within fifteen (15) calendar days. If Respondent fails to obtain approval of a replacement monitor within sixty (60) calendar days of the resignation or unavailability of the monitor, Respondent shall receive a notification from the Board or its designee to cease the practice of medicine within three (3) calendar days after being so notified. Respondent shall cease the practice of medicine until a replacement monitor is approved and assumes monitoring responsibility.

14. VIOLATION OF PROBATION CONDITION FOR SUBSTANCE ABUSING LICENSEES. Failure to fully comply with any term or condition of probation is a violation of probation.

A. If Respondent commits a major violation of probation as defined by section 1361.52, subdivision (a), of Title 16 of the California Code of Regulations, the Board shall take one or more of the following actions:

(1) Issue an immediate cease-practice order and order Respondent to undergo a clinical diagnostic evaluation to be conducted in accordance with section 1361.5, subdivision (c)(1), of Title 16 of the California Code of Regulations, at Respondent's expense. The cease-practice order issued by the Board or its designee shall state that Respondent must test negative for at least a month of continuous biological fluid testing before being allowed to resume practice. For purposes of determining the length of time a Respondent must test negative while undergoing continuous biological fluid testing following issuance of a cease-practice order, a month is

defined as thirty calendar (30) days. Respondent may not resume the practice of medicine until notified in writing by the Board or its designee that he or she may do so.

(2) Increase the frequency of biological fluid testing.

(3) Refer Respondent for further disciplinary action, such as suspension, revocation, or other action as determined by the Board or its designee.

B. If Respondent commits a minor violation of probation as defined by section 1361.52, subdivision (c), of Title 16 of the California Code of Regulations, the Board shall take one or more of the following actions:

(1) Issue a cease-practice order;

(2) Order practice limitations;

(3) Order or increase supervision of Respondent;

(4) Order increased documentation;

(5) Issue a citation and fine, or a warning letter;

(6) Order Respondent to undergo a clinical diagnostic evaluation to be conducted in accordance with section 1361.5, subdivision (c)(1), of Title 16 of the California Code of Regulations, at Respondent's expense;

(7) Take any other action as determined by the Board or its designee.

C. Nothing in this Decision shall be considered a limitation on the Board's authority to revoke Respondent's probation if he or she has violated any term or condition of probation. If Respondent violates probation in any respect, the Board, after giving Respondent notice and the opportunity to be heard, may revoke probation and carry out the disciplinary order that was stayed. If an Accusation, or Petition to Revoke Probation, or an Interim Suspension Order is filed against Respondent during probation, the Board shall have continuing jurisdiction until the matter is final, and the period of probation shall be extended until the matter is final.

15. NOTIFICATION. Within seven (7) days of the effective date of this Decision, the Respondent shall provide a true copy of this Decision and Accusation to the Chief of Staff or the Chief Executive Officer at every hospital where privileges or membership are extended to Respondent, at any other facility where Respondent engages in the practice of medicine,

including all physician and locum tenens registries or other similar agencies, and to the Chief Executive Officer at every insurance carrier which extends malpractice insurance coverage to Respondent. Respondent shall submit proof of compliance to the Board or its designee within 15 calendar days.

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

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

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

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

Respondent shall submit quarterly declarations not later than 10 calendar days after the end of the preceding quarter.

19. GENERAL PROBATION REQUIREMENTS.

Compliance with Probation Unit

Respondent shall comply with the Board's probation unit.

Address Changes

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

Place of Practice

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

facility.

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License Renewal

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

Travel or Residence Outside California

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

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

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

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

considered non-practice. A Board-ordered suspension of practice shall not be considered as a period of non-practice.

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

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

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

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

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

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

24. LICENSE SURRENDER. Following the effective date of this Decision, if Respondent ceases practicing due to retirement or health reasons or is otherwise unable to satisfy the terms and conditions of probation, Respondent may request to surrender his or her license.

The Board reserves the right to evaluate Respondent's request and to exercise its discretion in determining whether or not to grant the request, or to take any other action deemed appropriate and reasonable under the circumstances. Upon formal acceptance of the surrender, Respondent shall within 15 calendar days deliver Respondent's wallet and wall certificate to the Board or its designee and Respondent shall no longer practice medicine. Respondent will no longer be subject to the terms and conditions of probation. If Respondent re-applies for a medical license, the application shall be treated as a petition for reinstatement of a revoked certificate.

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

26. FUTURE ADMISSIONS CLAUSE. If Respondent should ever apply or reapply for a new license or certification, or petition for reinstatement of a license, by any other health care licensing action agency in the State of California, all of the charges and allegations contained in Accusation No. 800-2018-050710 shall be deemed to be true, correct, and admitted by Respondent for the purpose of any Statement of Issues or any other proceeding seeking to deny or restrict license.

ACCEPTANCE

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

DATED: 06/11/2021

SCOTT HAMILTON DAVIS, M.D.
Respondent

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

DATED: 6/14/21

MARK B. CONNELY, ESQ.
Attorney for Respondent

ENDORSEMENT

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

DATED: June 14, 2021

Respectfully submitted,

ROB BONTA
Attorney General of California
JUDITH T. ALVARADO
Supervising Deputy Attorney General

VLADIMIR SHALKEVICH
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 800-2018-050710

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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:	Case No. 800-2018-050710
Scott Hamilton Davis, M.D. **P.O. Box 1340** **100 Crest Drive** **Pismo Beach, CA 93448** **Physician's and Surgeon's Certificate No. A 83497,** Respondent.	**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 June 6, 2003, the Medical Board issued Physician's and Surgeon's Certificate Number A 83497 to Scott Hamilton Davis, 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 June 30, 2021, 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 provides that a licensee who is found guilty under the Medical Practice Act may have his or her 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, states:

> The board shall take action against any licensee who is charged with unprofessional conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not limited to, the following:
>
> (a) Violating or attempting to violate, directly or indirectly, assisting in or abetting the violation of, or conspiring to violate any provision of this chapter.
>
> (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) Incompetence.
>
> (e) The commission of any act involving dishonesty or corruption that is substantially related to the qualifications, functions, or duties of a physician and surgeon.
>
> (f) Any action or conduct that would have warranted the denial of a certificate.
>
> (g) The failure by a certificate holder, in the absence of good cause, to attend and participate in an interview by the board. This subdivision shall only apply to a certificate holder who is the subject of an investigation by the board.

6. Section 2238 of the Code states:

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

7. Section 2239 of the Code states:

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

(b) A plea or verdict of guilty or a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning of this section. The Medical Board may order discipline of the licensee in accordance with Section 2227 or the Medical Board may order the denial of the license when the time for appeal has elapsed or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code allowing such person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, complaint, information, or indictment.

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

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

9. Section 2261 of the Code states:

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

10. Section 2262 of the Code states:

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

In addition to any other disciplinary action, the Division of Medical Quality or the California Board of Podiatric Medicine may impose a civil penalty of five hundred dollars ($500) for a violation of this section.

11. Section 11153 of the Health and Safety Code provides:

(a) A prescription for a controlled substance shall only be issued for a legitimate medical purpose by an individual practitioner acting in the usual course of his or her professional practice. The responsibility for the proper prescribing and dispensing of controlled substances is upon the prescribing practitioner, but a corresponding responsibility rests with the pharmacist who fills the prescription. Except as authorized by this division, the following are not legal prescriptions: (1) an order purporting to be a prescription which is issued not in the usual course of professional treatment or in legitimate and authorized research; or (2) an order for an addict or habitual user of controlled substances, which is issued not in the course of professional treatment or as part of an authorized narcotic treatment program, for the purpose of providing the user with controlled substances, sufficient to keep him or her comfortable by maintaining customary use.

(b) Any person who knowingly violates this section shall be punished by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code, or in a county jail not exceeding one year, or by a fine not exceeding twenty thousand dollars ($20,000), or by both that fine and imprisonment.

(c) No provision of the amendments to this section enacted during the second year of the 1981–82 Regular Session shall be construed as expanding the scope of practice of a pharmacist.

12. Section 11157 of the Health and Safety Code states:

No person shall issue a prescription that is false or fictitious in any respect.

13. Section 822 of the Code states:

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

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

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

(c) Placing the licentiate on probation.

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

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

DEFINITIONS

14. a. Percocet is a combination narcotic used for relief of moderate to severe pain. It contains an opioid pain reliever oxycodone and a non-opioid pain reliever acetaminophen. Percocet is a dangerous drug pursuant to Business and Professions Code section 4022, and, because it contains oxycodone, it a Schedule II controlled substance pursuant Health and Safety Code section 11055, subdivision (M).

b. Amphetamine Salt Combo is a combination medication, generally used to treat attention deficit hyperactivity disorder and narcolepsy, known by the brand name Adderall. It contains a combination of amphetamine salts, a stimulant, and is a dangerous drug pursuant to Business and Professions Code section 4022, and a Schedule II controlled substance pursuant Health and Safety Code section 11055, subdivision (d)(1).

c. Diazepam is a medication generally used to treat anxiety and alcohol withdrawals, known by the brand name Valium. It is a benzodiazepine, a depressant, and is a dangerous drug pursuant to Business and Professions Code section 4022, and a Schedule IV controlled substance pursuant to Health and Safety Code section 11057, subdivision (d)(9).

d. Hycodan cough syrup is a combination medication containing hydrocodone bitatrate an opioid agonist, and homatoprine, a muscarinic antagonist, generally used to treat cough in adult patients. Because it contains hydrocodone bitartrate, it is a dangerous drug pursuant to Business and Professions Code section 4022 and a Schedule II controlled substance, pursuant to Health and Safety Code section 11055, subdivision (I).

e. Phentermine is a medication generally used to treat obesity. It is a stimulant, and is a dangerous drug pursuant to Business and Professions Code section 4022, and a Schedule IV controlled substance, pursuant to Health and Safety Code section 11507, subdivision (f)(4).

f. Phenohytro, NDC PACKAGE CODE 75826-118-10, is a combination medication, used to treat irritable bowel syndrome and ulcers in the intestine, also known under the trade name Donnatal. It contains phenobarbital, atropine, hyoscyamine and scopolamine. Because it contains phenobarbital, a depressant, it is a dangerous drug pursuant to Business and

Professions Code section 4022, and a Schedule IV controlled substance pursuant to Health and Safety Code section 11507, subdivision (d)(26).

FACTUAL ALLEGATIONS

15. Between approximately September 6, 2017 and October 26, 2018, Patient 1[1] was Respondent's fiancé, and subsequently became his spouse. During this period Patient 1 was dispensed controlled substances, as follows:

a. On or about March 14, 2017, Costco Wholesale Pharmacy in San Luis Obispo, California, dispensed 90 tablets of phentermine, 37.5 m.g. and 90 tablets of diazepam, 10 m.g. to Patient 1, pursuant to a prescription written to her by Respondent.

b. On or about April 28, 2017, Costco Wholesale Pharmacy in San Luis Obispo, California, dispensed 90 tablets of phentermine, 37.5 m.g. and 90 tablets of diazepam, 10 m.g. to Patient 1, pursuant to a prescription written to her by Respondent.

c. On or about August 29, 2017, CVS Pharmacy in Pismo Beach, California, dispensed 50 tablets of Percocet, 10 and 325 m.g. to Patient 1, pursuant to a prescription written to her by Respondent.

d. On or about September 6, 2017, CVS Pharmacy in Pismo Beach, California, dispensed 60 tablets of diazepam, 10 m.g. to Patient 1, pursuant to a prescription written to her by Respondent.

e. On or about October 24, 2017, CVS Pharmacy in Pismo Beach, California, dispensed 60 tablets of diazepam, 10 m.g. and 60 tablets of Percocet, 10 and 325 m.g. to Patient 1, pursuant to a prescription written to her by Respondent.

f. On or about November 19, 2017, CVS Pharmacy in Pismo Beach, California, dispensed 100 tablets of Phenohytro, NDC PACKAGE CODE 75826-118-10 to Patient 1, pursuant to a prescription written to her by Respondent.

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[1] In this Accusation the patient is identified by a number to protect her privacy. The identity of Patient 1 is known to the Respondent.

g. On or about December 15, 2017, CVS Pharmacy in Pismo Beach, California, dispensed 90 tablets of Percocet, 10 and 325 m.g. to Patient 1, pursuant to a prescription written to her by Respondent

h. On or about December 17, 2017, CVS Pharmacy in Pismo Beach, California, dispensed Hycodan cough syrup to Patient 1, pursuant to a prescription written to her by Respondent.

i. On or about January 1, 2018, CVS Pharmacy in Pismo Beach, California, dispensed 90 tablets of diazepam, 10 m.g. to Patient 1, pursuant to a prescription written to her by Respondent.

j. On or about February 5, 2018, CVS Pharmacy in Pismo Beach, California, dispensed 60 tablets of amphetamine salt combo, 10 m.g. and 90 tablets of Percocet, 10 and 325 m.g. to Patient 1, pursuant to a prescription written to her by Respondent.

k. On or about February 16, 2018, CVS Pharmacy in Pismo Beach, California, dispensed 90 tablets of diazepam, 10 m.g. to Patient 1, pursuant to a prescription written to her by Respondent.

l. On or about March 2, 2018, CVS Pharmacy in Pismo Beach, California, dispensed 30 tablets of Percocet, 10 and 325 m.g. to Patient 1, pursuant to a prescription written to her by Respondent.

m. On or about March 9, 2018, CVS Pharmacy in Pismo Beach, California, dispensed 90 tablets of Percocet, 10 and 325 m.g. to Patient 1, pursuant to a prescription written to her by Respondent.

n. On or about March 17, 2018, CVS Pharmacy in Pismo Beach, California, dispensed Hycodan cough syrup to Patient 1, pursuant to a prescription written to her by Respondent.

o. On or about March 30, 2018, CVS Pharmacy in Pismo Beach, California, dispensed 60 tablets of amphetamine salt combo, 20 m.g. 90 tablets of diazepam, 10 m.g. and 90 tablets of Percocet, 10 and 325 m.g. to Patient 1, pursuant to a prescription written to her by Respondent.

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p. On or about April 20, 2018, CVS Pharmacy in Pismo Beach, California, dispensed 90 tablets of diazepam, 10 m.g. and 90 tablets of Percocet, 10 and 325 m.g. to Patient 1, pursuant to a prescription written to her by Respondent.

q. On or about April 30, 2018, CVS Pharmacy in Pismo Beach, California, dispensed 60 tablets of amphetamine salt combo, 20 m.g. to Patient 1, pursuant to a prescription written to her by Respondent.

r. On or about May 7, 2018, CVS Pharmacy in Pismo Beach, California, dispensed Hycodan cough syrup to Patient 1, pursuant to a prescription written to her by Respondent.

s. On or about June 13, 2018, CVS Pharmacy in Pismo Beach, California, dispensed 60 tablets of amphetamine salt combo, 20 m.g. and 90 tablets of diazepam, 10 m.g. to Patient 1, pursuant to a prescription written to her by Respondent.

t. On or about July 17, 2018, CVS Pharmacy in Pismo Beach, California, dispensed 30 tablets of amphetamine salt combo, 20 m.g. and 30 tablets of diazepam, 10 m.g. to Patient 1, pursuant to a prescription written to her by Respondent.

u. On or about July 24, 2018, CVS Pharmacy in Pismo Beach, California, dispensed 30 tablets of Percocet, 10 and 325 m.g. to Patient 1, pursuant to a prescription written to her by Respondent.

v. On or about September 4, 2018, CVS Pharmacy in Pismo Beach, California, dispensed 90 tablets of diazepam, 10 m.g. to Patient 1, pursuant to a prescription written to her by Respondent.

w. On or about September 5, 2018, CVS Pharmacy in Pismo Beach, California, dispensed 60 tablets of oxycodone HCL, 10 m.g. to Patient 1, pursuant to a prescription written to her by Respondent.

x. On or about September 17, 2018, CVS Pharmacy in Pismo Beach, California, dispensed 60 tablets of amphetamine salt combo, 30 m.g. to Patient 1, pursuant to a prescription written to her by Respondent.

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y. On or about October 16, 2018, CVS Pharmacy in Pismo Beach, California, dispensed 60 tablets of Percocet, 10 and 325 m.g. to Patient 1, pursuant to a prescription written to her by Respondent.

z. On or about October 22, 2018, CVS Pharmacy in Pismo Beach, California, dispensed 60 tablets of amphetamine salt combo, 30 m.g. to Patient 1, pursuant to a prescription written to her by Respondent.

aa. On or about October 26, 2018, CVS Pharmacy in Pismo Beach, California, dispensed 90 tablets of diazepam, 10 m.g. to Patient 1, pursuant to a prescription written to her by Respondent.

16. Beginning on or about March 17, 2017 and through approximately October 26, 2018, Respondent made several false medical chart entries for Patient 1, wherein he documented detailed medical examinations that never occurred and documented false indications for prescribing controlled substances to Patient 1. Respondent created these chart entries with fraudulent intent to avoid detection of inappropriate prescribing by documenting false justifications for prescribing controlled substances to Patient 1.

17. Respondent did not prescribe controlled substances to Patient 1, as alleged in paragraph 15, for any legitimate medical purpose, but rather, to enable Respondent to gain access to those controlled substances for himself. During the period alleged in paragraph 15 herein, and before that period, Respondent suffered from substance and/or alcohol abuse disorders and/or dependence and/or addiction. Respondent sought treatment for substance and/or alcohol abuse before 2017, but relapsed prior to 2017. The controlled substances dispensed to Patient 1 as alleged in paragraph 15 were diverted for Respondent's personal use.

18. On or about November 7, 2018, Respondent required emergent hospitalization for aspiration pneumonia and altered level of consciousness, caused by polysubstance intoxication, which required week-long mechanical ventilator support in the ICU. Respondent was hospitalized until approximately November 20, 2018. Following his hospitalization, Respondent once again sought treatment for substance abuse.

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FIRST CAUSE FOR DISCIPLINE

(Dangerous Use of Controlled Substances and/or Alcohol)

19. Respondent Scott Hamilton Davis, M.D. is subject to disciplinary action under section 2239 of the Code in that he administered to himself and/or used controlled substances and/or alcohol to an extent and in such manner as to be dangerous to himself. The circumstances are as follows:

20. The allegations of paragraphs 15 through 18, inclusive, are incorporated herein by reference.

SECOND CAUSE FOR DISCIPLINE

(Gross Negligence)

21. Respondent Scott Hamilton Davis, M.D. is subject to disciplinary action under section 2234, subdivision (b) of the Code in that he committed acts of gross negligence in his purported treatment of Patient 1. The circumstances are as follows:

22. The allegations of paragraphs 15 through 18, inclusive, are incorporated herein by reference. The manner in which Respondent prescribed controlled substances to Patient 1 represents an extreme departure from the standard of care.

THIRD CAUSE FOR DISCIPLINE

(Repeated Negligent Acts)

23. Respondent Scott Hamilton Davis, M.D. is subject to disciplinary action under section 2234, subdivision (c) of the Code, in that Respondent committed repeated acts of negligence in his purported treatment of Patient 1. The circumstances are as follows:

24. The allegations of paragraphs 15 through 18, inclusive, are incorporated herein by reference. Each instance when Respondent prescribed controlled substances to Patient 1, as alleged herein, represents a departure from the standard of care.

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FOURTH CAUSE FOR DISCIPLINE

(Falsification of Medical Records)

25. Respondent Scott Hamilton Davis, M.D. is subject to disciplinary action under sections 2261 and/or 2262 of the Code in that he falsified Patient 1's medical records. The circumstances are as follows:

26. The allegations of paragraphs 15 through 18, inclusive, are incorporated herein by reference.

FIFTH CAUSE FOR DISCIPLINE

(Inappropriate Prescribing)

27. Respondent Scott Hamilton Davis, M.D. is subject to disciplinary action under section 2242 of the Code in that he prescribed controlled substances to Patient 1 without an appropriate prior examination and a medical indication. The circumstances are as follows:

28. The allegations of paragraphs 15 through 18, inclusive, are incorporated herein by reference.

SIXTH CAUSE FOR DISCIPLINE

(Violation of Laws Regulating Prescribing of Controlled Substances)

29. Respondent Scott Hamilton Davis, M.D. is subject to disciplinary action under section 2238 of the Code, as well as Health and Safety Code sections 11153 and 11157 in that he violated laws that regulate prescribing of controlled substances. The circumstances are as follows:

30. The allegations of paragraphs 15 through 18, inclusive, are incorporated herein by reference.

SEVENTH CAUSE FOR DISCIPLINE

(Corruption or Dishonesty)

31. Respondent Scott Hamilton Davis, M.D. is subject to disciplinary action under section 2234, subdivision (e) of the Code, in that he committed acts of dishonesty and corruptions. The circumstances are as follows:

32. The allegations of paragraphs 15 through 18, inclusive, are incorporated herein by reference.

EIGHTH CAUSE FOR DISCIPLINE

(Impairment)

33. Respondent Scott Hamilton Davis, M.D. is subject to disciplinary action under section 822 in that Respondent suffers from a medical or mental condition that impacts his ability to safely practice medicine without restrictions on his license. The circumstances are as follows:

34. The allegations of paragraphs 15 through 18, inclusive, are incorporated herein by reference.

35. As a part of the Board's investigation, Respondent submitted to a mental examination by a board-certified psychiatrist, who examined Respondent and administered various psychiatric tests to him. The Board's examiner concluded that Respondent is able to practice medicine safely, if various restrictions are imposed to maintain his abstinence and to safeguard his patients.

PRAYER

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

1. Revoking or suspending Physician's and Surgeon's Certificate Number A 83497, issued to Scott Hamilton Davis, M.D.;

2. Revoking, suspending or denying approval of Scott Hamilton Davis, M.D.'s authority to supervise physician assistants and advanced practice nurses;

3. Ordering Scott Hamilton Davis, M.D., if placed on probation, to pay the Board the costs of probation monitoring; and

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

DATED: OCT 21 2020

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

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