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

In the Matter of the First Amended Accusation Against: **Dharmakumar Wilson Gomer, M.D.** **Physician's and Surgeon's Certificate No. A 50690** **Respondent.**	**MBC File # 800-2017-037228**

ORDER CORRECTING NUNC PRO TUNC
CLERICAL ERROR IN "LICENSE NUMBER" PORTION OF DECISION

On its own motion, the Medical Board of California (hereafter "Board") finds that there is a clerical error in the "license number" portion of the Decision Order Page in the above-entitled matter, and that such clerical error should be corrected so that the license number will conform to the Board's issued license.

IT IS HEREBY ORDERED that the license number contained on the Decision Order Page in the above-entitled matter be and hereby is amended and corrected nunc pro tunc as of the date of entry of the decision to read as "A 50690".

October 5, 2021

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

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

In the Matter of the First Amended Accusation Against: Dharmakumar Wilson Gomer, M.D. Physician's & Surgeon's Certificate No. A 157176 Respondent.	Case No. 800-2017-037228

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 October 1, 2021.

IT IS SO ORDERED: September 1, 2021.

MEDICAL BOARD OF CALIFORNIA

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

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Attorney General of California
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Attorneys for Complainant

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

In the Matter of the First Amended Accusation Against: **DHARMAKUMAR WILSON GOMER, M.D.** **1800 Western Ave., Ste 103** **San Bernardino, CA 92411** **Physician's and Surgeon's Certificate No. A 50690** Respondent.	Case No. 800-2017-037228 OAH No. 2020100341 **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 Jason J. Ahn, Deputy Attorney General.

2. Respondent Dharmakumar Wilson Gomer, M.D. (Respondent) is represented in this proceeding by attorney Jennifer L. Sturges, Esq., whose address is Carroll, Kelly, Trotter & Franzen, 111 W. Ocean Boulevard, 14th Floor, P.O. Box 22636, Long Beach, California 90801.

3. On or about April 28, 1992, the Board issued Physician's and Surgeon's Certificate No. A 50690 to Dharmakumar Wilson Gomer, 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 First Amended Accusation No. 800-2017-037228, and will expire on January 31, 2022, unless renewed.

JURISDICTION

4. On September 23, 2020, Accusation No. 800-2017-037228 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 September 23, 2020. Respondent timely filed his Notice of Defense contesting the Accusation. On May 27, 2021, First Amended Accusation No. 800-2017-037228 was filed before the Board. The First Amended Accusation and all other statutorily required documents were properly served on Respondent on or about May 27, 2021.

5. A copy of First Amended Accusation No. 800-2017-037228 is attached as exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

6. Respondent has carefully read, fully discussed with counsel, and fully understands the charges and allegations in First Amended Accusation No. 800-2017-037228. Respondent has also carefully read, fully discussed with his counsel, and fully 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.

CULPABILITY

9. Respondent does not contest that, at an administrative hearing, Complainant could establish a *prima facie* case with respect to the charges and allegations contained in First Amended Accusation No. 800-2017-037228, a copy of which is attached hereto as Exhibit A, and that he has thereby subjected his Physician's and Surgeon's Certificate No. A 50690 to disciplinary action.

10. Respondent fully agrees that if an accusation is ever filed against him before the Medical Board of California, all of the charges and allegations contained in First Amended Accusation No. 800-2017-037228 shall be deemed true, correct, and fully admitted by Respondent for purposes of that proceeding or any other licensing proceeding involving Respondent in the State of California.

11. Respondent fully agrees that her Physician's and Surgeon's Certificate No. A 50690 is subject to discipline and he agrees to be bound by the Board's imposition of discipline as set forth in the Disciplinary Order below.

CONTINGENCY

12. 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.

13. Respondent agrees that if he ever petitions for early termination or modification of probation, or if an accusation and/or petition to revoke probation is filed against him before the Board, all of the charges and allegations contained in First Amended Accusation No. 800-2017-037228 shall be deemed true, correct and fully admitted by respondent for purposes of any such proceeding or any other licensing proceeding involving Respondent in the State of California.

ADDITIONAL PROVISIONS

14. This Stipulated Settlement and Disciplinary Order is intended by the parties herein to be an integrated writing representing the complete, final, and exclusive embodiment of the agreements of the parties in the above-entitled matter.

15. The parties agree that copies of this Stipulated Settlement and Disciplinary Order, including copies of the signatures of the parties, may be used in lieu of original documents and signatures and, further, that such copies shall have the same force and effect as originals.

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

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. A 50690 issued to Respondent Dharmakumar Wilson Gomer, M.D. is revoked. However, the revocation is stayed and Respondent is placed on probation for five (5) years on the following terms and conditions:

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

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

2. 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.

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

Medical Education (CME) requirements for renewal of licensure.

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

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

4. CLINICAL COMPETENCE ASSESSMENT PROGRAM. Within 60 calendar days of the effective date of this Decision, Respondent shall enroll in a clinical competence assessment program approved in advance by the Board or its designee. Respondent shall successfully complete the program not later than six (6) months after Respondent's initial enrollment unless the Board or its designee agrees in writing to an extension of that time.

The program shall consist of a comprehensive assessment of Respondent's physical and mental health and the six general domains of clinical competence as defined by the Accreditation Council on Graduate Medical Education and American Board of Medical Specialties pertaining to Respondent's current or intended area of practice. The program shall take into account data obtained from the pre-assessment, self-report forms and interview, and the Decision(s), Accusation(s), and any other information that the Board or its designee deems relevant. The program shall require Respondent's on-site participation for a minimum of three (3) and no more than five (5) days as determined by the program for the assessment and clinical education evaluation. Respondent shall pay all expenses associated with the clinical competence assessment program.

At the end of the evaluation, the program will submit a report to the Board or its designee which unequivocally states whether the Respondent has demonstrated the ability to practice safely and independently. Based on Respondent's performance on the clinical competence assessment, the program will advise the Board or its designee of its recommendation(s) for the

scope and length of any additional educational or clinical training, evaluation or treatment for any medical condition or psychological condition, or anything else affecting Respondent's practice of medicine. Respondent shall comply with the program's recommendations.

Determination as to whether Respondent successfully completed the clinical competence assessment program is solely within the program's jurisdiction.

If Respondent fails to enroll, participate in, or successfully complete the clinical competence assessment program within the designated time period, 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 the practice of medicine until enrollment or participation in the outstanding portions of the clinical competence assessment program have been completed. If the Respondent did not successfully complete the clinical competence assessment program, the Respondent shall not resume the practice of medicine until a final decision has been rendered on the accusation and/or a petition to revoke probation. The cessation of practice shall not apply to the reduction of the probationary time period.

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

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

with the proposed monitoring plan, the monitor shall submit a revised monitoring plan with the signed statement for approval by the Board or its designee.

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

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

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

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

In lieu of a monitor, Respondent may participate in a professional enhancement program approved in advance by the Board or its designee that includes, at minimum, quarterly chart review, semi-annual practice assessment, and semi-annual review of professional growth and

education. Respondent shall participate in the professional enhancement program at Respondent's expense during the term of probation.

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

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

7. SUPERVISION OF PHYSICIAN ASSISTANTS. During probation, Respondent is prohibited from supervising physician assistants.

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

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

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

10. GENERAL PROBATION REQUIREMENTS.

Compliance with Probation Unit

Respondent shall comply with the Board's probation unit.

Address Changes

Respondent shall, at all times, keep the Board informed of Respondent's business and residence addresses, email address (if available), and telephone number. Changes of such addresses shall be immediately communicated in writing to the Board or its designee. Under no

circumstances shall a post office box serve as an address of record, except as allowed by Business and Professions Code section 2021, subdivision (b).

Place of Practice

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

License Renewal

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

Travel or Residence Outside California

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

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

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

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

practice and does not relieve Respondent from complying with all the terms and conditions of probation. Practicing medicine in another state of the United States or Federal jurisdiction while on probation with the medical licensing authority of that state or jurisdiction shall not be considered non-practice. A Board-ordered suspension of practice shall not be considered as a period of non-practice.

In the event Respondent's period of non-practice while on probation exceeds 18 calendar months, Respondent shall successfully complete the Federation of State Medical Boards' 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.

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

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

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

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

17. FUTURE ADMISSIONS CLAUSE. If Respondent should ever apply or reapply for a new license or certification, or petition for reinstatement of a license, by any other health care licensing action agency in the State of California, all of the charges and allegations contained in First Amended Accusation No. 800-2017-037228 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.

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ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Jennifer L. Sturges, Esq. I fully 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 fully agree to be bound by the Decision and Order of the Medical Board of California.

DATED: 06-07-21

DHARMAKUMAR WILSON GOMER, M.D.
Respondent

I have read and fully discussed with Respondent Dharmakumar Wilson Gomer, 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: 6/7/2021

Jennifer L. Sturges, 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 8, 2021

Respectfully submitted,

ROB BONTA
Attorney General of California
MATTHEW M. DAVIS
Supervising Deputy Attorney General

JASON J. AHN
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

First Amended Accusation No. 800-2017-037228

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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 First Amended Accusation Against: **Dharmakumar Wilson Gomer, M.D.** **1800 Western Ave., Ste. 103** **San Bernardino, CA 92411** **Physician's and Surgeon's Certificate No. A 50690,** Respondent.	Case No. 800-2017-037228 OAH No. 2020100341 **FIRST AMENDED A C C U S A T I O N**

PARTIES

1. William Prasifka (Complainant) brings this First Amended 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 April 28, 1992, the Medical Board issued Physician's and Surgeon's Certificate No. A 50690 to Dharmakumar Wilson Gomer, 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 January 31, 2022, unless renewed.

JURISDICTION

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

4. Section 2227 of the Code states:

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

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

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

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

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

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

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

5. Section 2234 of the Code, states, in pertinent part:

The board shall take action against any licensee who is charged with unprofessional conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not limited to, the following:

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

(b) Gross negligence.

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

(1) An initial negligent diagnosis followed by an act or omission medically

appropriate for that negligent diagnosis of the patient shall constitute a single negligent act.

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

6. Section 2266 of the Code states:

The failure of a physician and surgeon to maintain adequate and accurate records relating to the provision of services to their patients constitutes unprofessional conduct.

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

FIRST CAUSE FOR DISCIPLINE

(Repeated Negligent Acts)

8. Respondent has subjected his Physician's and Surgeon's Certificate No. A 50690 to disciplinary action under sections 2227 and 2234, as defined by section 2234, subdivision (c), of the Code, in that he committed repeated negligent acts in his care and treatment of Patient A[1] and Patient B, as more particularly alleged herein:

Patient A

9. Patient A first presented to Respondent around May 1999.[2] On or about July 26, 2012, Patient A, then a fifty-eight (58) year-old female, presented to Respondent with a history of cerebrovascular accident, rheumatoid arthritis, multiple sclerosis, hypertension, chronic insomnia, Hepatitis C, and chronic back pain. Respondent refilled hydrochlorothiazide[3] tablet, 25 MG, 1

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

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

[3] Hydrochlorothiazide is a medication which can be used to treat high blood pressure and fluid retention (edema).

tablet, orally, once a day, carisoprodol[4] tablet, 305 MG, 1 tablet, orally, three times a day; Vicodin[5] tablet, 5-500 MG, 1 tablet as needed for pain, orally, every six hours; and diazepam[6] tablet, 10 MG, as directed, orally, three times a day.

10. On or about October 29, 2012, Patient A returned to Respondent. Respondent refilled the prescriptions for hydrochlorothiazide tablet, 25 MG, 1 tablet, orally, once a day; carisoprodol tablet, 350 MG, 1 tablet, orally, three times a day; Vicodin tablet, 5-500 MG, 1 tablet, as needed for pain, orally, every six hours; Valium tablet, 10 MG, 1 tablet, orally, three times a day; and

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[4] Soma® (carisoprodol) is a Schedule IV controlled substance pursuant to Health and Safety Code section 11057, subdivision (d), and a dangerous drug pursuant to Business and Professions Code section 4022. When properly prescribed and indicated, it is used for the short-term treatment of acute and painful musculoskeletal conditions. Soma® is commonly used by those who abuse opioids to potentiate the euphoric effect of opioids, to create a better "high." According to the DEA, Office of Diversion Control, "[c]arisoprodol abuse has escalated in the last decade in the United States. According to Diversion Drug Trends, published by the DEA on the trends in diversion of controlled and noncontrolled pharmaceuticals, carisoprodol continues to be one of the most commonly diverted drugs. Diversion and abuse of carisoprodol is prevalent throughout the country. As of March 2011, street prices for [carisoprodol] Soma® ranged from $1 to $5 per tablet. Diversion methods include doctor shopping for the purposes of obtaining multiple prescriptions and forging prescriptions."

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

[6] Valium® (diazepam), a benzodiazepine, is a centrally acting hypnotic-sedative that is a Schedule IV controlled substance pursuant to Health and Safety Code section 11057, subdivision (d), and a dangerous drug pursuant to Business and Professions Code section 4022. When properly prescribed and indicated, it is used for the management of anxiety disorders or for short-term relief of anxiety. Concomitant use of Valium® with opioids "may result in profound sedation, respiratory depression, coma, and death." The Drug Enforcement Administration (DEA) has identified benzodiazepines, such as Valium®, as a drug of abuse. (Drugs of Abuse, DEA Resource Guide (2011 Edition), at p. 53.)

discontinued diazepam tablet, 10 MG, as directed.

11. On or about February 21, 2013, Patient A returned to Respondent. Respondent refilled the prescriptions for hydrochlorothiazide tablet, 25 MG, 1 tablet, orally, once a day; carisoprodol tablet, 350 MG, 1 tablet, orally, three times a day; and Vicodin tablet, 5-500 MG, 1 tablet, as needed for pain, orally, every six hours.

12. On or about April 3, 2013, Patient A returned to Respondent. Respondent refilled the prescriptions for hydrochlorothiazide tablet, 25 MG, 1 tablet, orally, once a day; carisoprodol tablet, 350 MG, 1 tablet, orally, three times a day; and Vicodin tablet, 5-500 MG, 1 tablet, as needed for pain, orally, every six hours.

13. On or about July 8, 2013, Patient A returned to Respondent. Respondent refilled the prescriptions for hydrochlorothiazide tablet, 25 MG, 1 tablet, orally, once a day; carisoprodol tablet, 350 MG, 1 tablet, orally, three times a day; and Vicodin tablet, 5-500 MG, 1 tablet, as needed for pain, orally, every eight hours. Respondent also referred Patient A for orthopedic surgery.

14. On or about November 13, 2013, Patient A returned to Respondent. Respondent refilled the prescriptions for hydrochlorothiazide tablet, 25 MG, 1 tablet, orally, once a day; carisoprodol tablet, 350 MG, 1 tablet, orally, three times a day; Valium tablet, 10 MG, 1 tablet, orally, three times a day; and Vicodin tablet, 5-500 MG, 1 tablet, as needed for pain, orally, every six hours.

15. On or about January 27, 2014, Patient A returned to Respondent. Respondent refilled the prescriptions for hydrochlorothiazide tablet, 25 MG, 1 tablet, orally, once a day; carisoprodol tablet, 350 MG, 1 tablet, orally, three times a day; and Vicodin tablet, 5-500 MG, 1 tablet, as needed for pain, orally, every six hours.

16. On or about April 16, 2014, Patient A returned to Respondent. Respondent refilled the prescriptions for Valium tablet, 10 MG, 1 tablet, orally, three times a day; carisoprodol tablet, 350 MG, 1 tablet, orally, three times a day; and Vicodin (hydrocodone-acetaminophen) tablet, 5-325 MG, 1 tablet, three times a day.

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17. On or about September 14, 2014, Patient A returned to Respondent. Respondent refilled the prescriptions for hydrochlorothiazide tablet, 25 MG, 1 tablet, orally, once a day; Soma tablet, 350 MG, 1 tablet, orally, three times a day; and Norco tablet, 10-325 MG, 1 tablet, by mouth, every six hours, as needed.

18. On or about December 18, 2014, Patient A returned to Respondent. Respondent refilled the prescriptions for hydrochlorothiazide tablet, 25 MG, 1 tablet, orally, once a day; Soma tablet, 350 MG, 1 tablet, orally, three times a day; and Norco tablet, 10-325 MG, 1 tablet, by mouth, every six hours, as needed.

19. On or about February 5, 2015, Patient A returned to Respondent. Respondent refilled the prescriptions for hydrochlorothiazide tablet, 25 MG, 1 tablet, orally, once a day; Valium tablet, 10 MG, 1 tablet, orally, three times a day; and Norco tablet, 10-325 MG, 1 tablet, by mouth, every six hours, as needed.

20. On or about April 20, 2015, Patient A returned to Respondent. Respondent refilled the prescriptions for hydrochlorothiazide tablet, 25 MG, 1 tablet, orally, once a day; Valium tablet, 10 MG, 1 tablet, orally, three times a day; and Norco tablet, 10-325 MG, 1 tablet, by mouth, every six hours, as needed.

21. On or about June 15, 2015, Patient A returned to Respondent. Respondent refilled the prescriptions for hydrochlorothiazide tablet, 25 MG, 1 tablet, orally, once a day; Valium tablet, 10 MG, 1 tablet, orally, three times a day; and Norco tablet, 10-325 MG, 1 tablet, by mouth, every six hours, as needed.

22. On or about August 17, 2015, Patient A returned to Respondent. Respondent refilled the prescriptions for hydrochlorothiazide tablet, 25 MG, 1 tablet, orally, once a day; Valium tablet, 10 MG, 1 tablet, orally, three times a day; and Norco tablet, 10-325 MG, 1 tablet, by mouth, every six hours, as needed. Respondent referred Patient A to radiology for a CT scan[7] of the head due to a fall Patient A had suffered.

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[7] A computerized tomography (CT or CAT scan) uses computers and rotating x-ray machines to create cross-sectional images of the body.

23. On or about November 16, 2015, Patient A returned to Respondent. Respondent started Patient A on methylprednisolone[8] tablet, 4 MG, orally, as directed, once a day, for chronic Hepatitis C and refilled Norco tablet, 10-325 MG, 1 tablet, by mouth, every six hours, as needed.

24. On or about February 29, 2016, Patient A returned to Respondent. Respondent refilled the prescriptions for hydrochlorothiazide tablet, 25 MG, 1 tablet, orally, once a day; Valium tablet, 10 MG, 1 tablet, orally, three times a day; and Norco tablet, 10-325 MG, 1 tablet, by mouth, every six hours, as needed.

25. On or about June 6, 2016, Patient A returned to Respondent. Respondent refilled the prescriptions for Valium tablet, 10 MG, 1 tablet, orally, three times a day; Norco tablet, 10-325 MG, 1 tablet, by mouth, every six hours, as needed; and discontinued diazepam tablet.

26. On or about September 7, 2016, Patient A returned to Respondent. Respondent refilled the prescriptions for methylprednisolone tablet, 4 MG, orally, as directed, once a day; hydrochlorothiazide tablet, 25 MG, 1 tablet, orally, once a day; Valium tablet, 10 MG, 1 tablet, orally, three times a day; and Norco tablet, 10-325 MG, 1 tablet, by mouth, every six hours, as needed.

27. On or about December 7, 2016, Patient A returned to Respondent. Respondent refilled the prescriptions for hydrochlorothiazide tablet, 25 MG, 1 tablet, orally, once a day; Valium tablet, 10 MG, 1 tablet, orally, three times a day; and Norco tablet, 10-325 MG, 1 tablet, by mouth, every six hours, as needed.

28. On or about March 8, 2017, Patient A returned to Respondent. Respondent refilled the prescriptions for methylprednisolone tablet, 4 MG, orally, as directed, once a day; hydrochlorothiazide tablet, 25 MG, 1 tablet, orally, once a day; Valium tablet, 10 MG, 1 tablet, orally, three times a day; and Norco tablet, 10-325 MG, 1 tablet, by mouth, every six hours, as needed.

29. On or about June 7, 2017, Patient A returned to Respondent. Respondent refilled the prescriptions for hydrochlorothiazide tablet, 25 MG, 1 tablet, orally, once a day; Valium tablet, 10

[8] Methylprednisolone is a steroid, which can be used to treat inflammation, severe allergies, flares of chronic illnesses, and many other medical problems.

MG, 1 tablet, orally, three times a day; Norco tablet, 10-325 MG, 1 tablet, by mouth, every six hours, as needed; and metoprolol[9] tablet, 25 MG, with food, orally, twice a day.

30. On or about January 30, 2018, Patient A returned to Respondent. Respondent refilled the prescriptions for methylprednisolone tablet, 4 MG, orally, as directed, once a day; hydrochlorothiazide tablet, 25 MG, 1 tablet, orally, once a day; Valium tablet, 10 MG, 1 tablet, orally, three times a day; and Norco tablet, 10-325 MG, 1 tablet, by mouth, every six hours, as needed. Respondent stopped the prescription of metoprolol.

31. On or about April 11, 2018, Patient A returned to Respondent. Respondent refilled the prescriptions for hydrochlorothiazide tablet, 25 MG, 1 tablet, orally, once a day; Norco tablet, 10-325 MG, 1 tablet, by mouth, every six hours, as needed; and metoprolol tablet, 25 MG, with food, orally, twice a day.

32. On August 6, 2018, Patient A returned to Respondent. Respondent refilled the prescriptions for diazepam tablet, 10 MG, orally; and hydrochlorothiazide tablet, 25 MG, 1 tablet, orally, once a day.

33. On or about November 19, 2018, Patient A returned to Respondent. Respondent refilled the prescriptions for hydrochlorothiazide tablet, 25 MG, 1 tablet, orally, once a day; Valium tablet, 10 MG, 1 tablet, orally, three times a day; and metoprolol tablet, 25 MG, with food, orally, twice a day. Respondent started prescribing Ambien[10] tablet, 5 MG, to be taken orally, at bed time, once a day.

Evaluating Diagnoses of "Multiple Sclerosis" and "Rheumatoid Arthritis"

34. During the course of his care and treatment of Patient A, approximately from November 13, 2013 through November 19, 2018, Respondent failed to appropriately evaluate the diagnoses of "multiple sclerosis" and "rheumatoid arthritis." With respect to diagnosis of

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[9] Metoprolol is a medication which can be used to treat high blood pressure, chest pain (Angina), and heart failure.

[10] Zolpidem Tartrate (Ambien®), a centrally acting hypnotic-sedative, is a Schedule IV controlled substance pursuant to Health and Safety Code section 11057, subdivision (d), and a dangerous drug pursuant to Business and Professions Code section 4022. When properly prescribed and indicated, it is used for the short-term treatment of insomnia characterized by difficulties with sleep initiation.

"multiple sclerosis," Respondent failed to discuss and/or failed to document having discussed neurologic symptoms attributed to multiple sclerosis with Patient A, other than back pain; Respondent failed to review and/or failed to document having reviewed any prior neurology consultation reports; and Respondent failed to note and/or failed to document having noted objective neurologic abnormalities on physical examinations of Patient A or neurologic diagnostic testing such as MRI[11] or lumbar puncture.[12] With respect to diagnosis of "rheumatoid arthritis," Respondent failed to make and/or failed to document having made a rheumatology referral; and Respondent failed to inquire and/or failed to document having inquired about peripheral joint disease and/or objective evidence of inflammatory joint findings.

Documenting Attempts to Determine Underlying Causes of Chronic Pain

35. During the course of his care and treatment of Patient A, approximately from November 13, 2013 through November 19, 2018, Respondent failed to adequately attempt to investigate and/or failed to document having adequately attempted to investigate the underlying causes of Patient A's chronic pain other than "multiple sclerosis," "rheumatoid arthritis," and "chronic degenerative spine disease." Respondent failed to adequately investigate and/or failed to document having adequately investigated Patient A's history of pain and/or factors causing her pain.

Utilization of Comprehensive Pain Management Strategy

36. During the course of his care and treatment of Patient A, approximately from November 13, 2013 through November 19, 2018, Respondent failed to adequately consider and/or utilize and/or failed to document having adequately considered and/or utilized non-controlled substance treatment modalities for management of Patient A's pain. Respondent also failed to adequately investigate and/or consider and/or failed to document having adequately investigated and/or considered psychosocial factors that may have contributed to Patient A's

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[11] Magnetic resonance imaging (MRI) is a type of scan that uses strong magnetic fields and radio waves to produce detailed images of the inside of the body.

[12] Lumbar puncture (LP), also called a spinal tap, is an invasive outpatient procedure used to remove a sample of cerebrospinal fluid (CSF) from the subarachnoid space in the spine. Cerebrospinal fluid is a clear, colorless body fluid found in the brain and spinal cord.

chronic pain. Respondent failed to document Patient A's functional improvement or lack thereof, as a result of using controlled substances Respondent prescribed. Respondent failed to document how and/or why the multiple pharmacologic agents are individually or collectively assisting in Patient A's pain management.

Identification/Evaluation of Potential Complications

37. During the course of his care and treatment of Patient A, approximately from November 13, 2013 through November 19, 2018, Respondent failed to adequately monitor and/or failed to document having adequately monitored side effects of Patient A's prescription drug use and interactions of prescription drugs with Patient A's underlying medical conditions.

Patient B

38. Patient B first presented to Respondent on November 16, 2015 complaining of a "10 out of 10 right arm and leg pain." She also complained of back pain. Patient B was a sixty-seven (67) year-old female with a history of hypertension, chronic back pain, and intravenous heroin use. Respondent's documentation of physical examination of Patient B noted, among other things, "Skin: extensive needle tracks from drug use." Respondent's medical records for this visit do not show any abnormal back examination or spine examination findings.

39. On or about December 7, 2015, Patient B returned to Respondent. Respondent prescribed Norco tablet, 10-325 MG, 1 tablet, as needed, every six (6) hours. Respondent failed to order and/or failed to document having ordered imaging or lab tests prior to initiation of the Norco prescription. Respondent failed to document how the sample(s) from the urine drug testing, if any, was collected.

40. On or about January 13, 2016, Patient B returned to Respondent. Respondent refilled the prescription for Norco tablet, 10-325 MG, 1 tablet, as needed, every six (6) hours.

41. On or about June 6, 2016, Patient B returned to Respondent. Respondent refilled the prescription for Norco tablet, 10-325 MG, 1 tablet, as needed, every six (6) hours.

42. On or about July 25, 2016, Patient B returned to Respondent. Respondent refilled the prescription for Norco tablet, 10-325 MG, 1 tablet, as needed, every six (6) hours.

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43. On or about October 12, 2016, Patient B returned to Respondent. Respondent refilled the prescription for Norco tablet, 10-325 MG, 1 tablet, as needed, every six (6) hours.

44. On or about March 22, 2017, Patient B returned to Respondent. Respondent refilled the prescription for Norco tablet, 10-325 MG, 1 tablet, as needed, every six (6) hours.

45. On or about November 15, 2017, Patient B returned to Respondent. Respondent refilled the prescription for Norco tablet, 10-325 MG, 1 tablet, as needed, every six (6) hours. Respondent referred Patient B to an orthopedic surgeon for treatment of Patient B's degenerative joint disease.

46. On or about January 24, 2018, Patient B returned to Respondent. Respondent refilled the prescription for Norco tablet, 10-325 MG, 1 tablet, as needed, every six (6) hours.

Appropriate Investigation of Patient B's Back Pain

47. During the course of his care and treatment of Patient B, approximately from November 16, 2015 through January 24, 2018, Respondent failed to appropriately investigate Patient B's back pain, even though Patient B was a patient with a history of intravenous drug use. Respondent failed to adequately investigate and/or failed to document having adequately investigated Patient B's history of pain and/or factors causing her pain. Respondent failed to consider and/or failed to document having considered the possibility of infectious spine disease, even though Patient B had a history of being an intravenous drug user.

Utilization of Comprehensive Pain Management Strategy

48. During the course of his care and treatment of Patient B, approximately from November 16, 2015 through January 24, 2018, Respondent failed to adequately consider and/or utilize and/or failed to document having adequately considered and/or utilized non-controlled substance treatment modalities for management of Patient B's pain. Respondent also failed to adequately investigate and/or consider and/or failed to document having adequately investigated and/or considered psychosocial factors that may have contributed to Patient B's chronic pain. Respondent failed to document Patient B's functional improvement or lack thereof, as a result of using controlled substances Respondent prescribed.

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Monitoring for Prescription Drug Misuse

49. Respondent failed to adequately consider and/or failed to document having adequately considered the heightened risk of prescribing opiates to Patient B, a patient with a history of intravenous heroin use and physical evidence of recent intravenous use. Respondent failed to consider and/or failed to document having considered how to collect Patient B's sample(s) from her urine drug screen even though Patient B was a patient with a high risk for prescription drug abuse. Other than urine drug testing, if any, Respondent failed to implement and/or failed to document having implemented an ongoing monitoring program, such as arm examinations for signs of intravenous drug use.

50. Respondent committed repeated negligent acts in his care and treatment of Patient A and Patient B, including, but not limited to:

(a) Respondent failed to appropriately evaluate the diagnoses of "multiple sclerosis" and "rheumatoid arthritis" in Patient A;

(b) Respondent failed to attempt and/or failed to document having attempted to fully investigate underlying causes of Patient A's chronic pain;

(c) Respondent failed to implement a comprehensive pain management strategy for Patient A;

(d) Respondent failed to identify and/or evaluate and/or failed to document having identified and/or evaluated potential complications of medications Respondent prescribed to Patient A;

(e) Respondent failed to appropriately investigate Patient B's back pain;

(f) Respondent failed to implement a comprehensive pain management strategy for Patient B; and

(g) Respondent failed to appropriately monitor Patient B's potential prescription drug misuse.

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SECOND CAUSE FOR DISCIPLINE

(Failure to Maintain Adequate and Accurate Records)

51. Respondent has further subjected his Physician's and Surgeon's Certificate No. A 50690 to disciplinary action under sections 2227 and 2234, as defined by section 2266, of the Code, in that Respondent failed to maintain adequate and accurate records regarding his care and treatment of Patient A and Patient B, as more particularly alleged in paragraphs 8 through 50, above, which are hereby incorporated by reference and realleged as if fully set forth herein.

THIRD CAUSE FOR DISCIPLINE

(General Unprofessional Conduct)

52. Respondent has further subjected his Physician's and Surgeon's Certificate No. A 50690 to disciplinary action under sections 2227 and 2234 of the Code, in that he has engaged in conduct which breaches the rules or ethical code of the medical profession, or conduct which is unbecoming of a member in good standing of the medical profession, and which demonstrates an unfitness to practice medicine, as more particularly alleged in paragraphs 8 through 51, above, which are hereby incorporated by reference as if fully set forth herein.

DISCIPLINARY CONSIDERATIONS

53. To determine the degree of discipline, if any, to be imposed on Respondent Dharmakumar Wilson Gomer, M.D., Complainant alleges that on July 24, 2002, in a prior disciplinary action titled In the Matter of the Accusation Against Dharmakumar Wilson Gomer, M.D. before the Medical Board of California, in Case No. 09-1999-102886, Respondent's license was publicly reprimanded and Respondent was ordered to complete the Physician Assessment and Clinical Education (PACE) program and a PACE Record Keeping Course. That decision is now final and is incorporated by reference as if fully set forth herein.

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PRAYER

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

1. Revoking or suspending Physician's and Surgeon's Certificate No. A 50690, issued to Dharmakumar Wilson Gomer, M.D.;

2. Revoking, suspending or denying approval of Dharmakumar Wilson Gomer, M.D.'s authority to supervise physician assistants and advanced practice nurses;

3. Ordering Dharmakumar Wilson Gomer, 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: MAY 27 2021

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

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