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

In the Matter of the Accusation Against: Perry Roy Segal, M.D. Physician's and Surgeon's Certificate No. C 39242 Respondent.	Case No.: 800-2018-043355

DECISION

The attached Proposed Decision 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 January 14, 2022.

IT IS SO ORDERED: December 15, 2021.

MEDICAL BOARD OF CALIFORNIA

Richard E. Thorp, Chair
Panel B

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

In the Matter of the Accusation Against:

PERRY ROY SEGAL, M.D.,

Physician's and Surgeon's Certificate No. C 39242

Respondent.

Agency Case No. 800-2018-043355

OAH No. 2021030254

PROPOSED DECISION

Administrative Law Judge Karen Reichmann, State of California, Office of Administrative Hearings, heard this matter on October 12, 2021.

Deputy Attorney General Greg W. Chambers represented complainant William Prasifka, Executive Director of the Medical Board of California.

Attorney Thomas E. Still represented respondent Perry Roy Segal, M.D., who was present.

The record closed and the matter was submitted for decision on October 12, 2021.

FACTUAL FINDINGS

Jurisdictional Matters

1. On June 9, 1980, the Medical Board of California (Board) issued Physician's and Surgeon's Certificate No. C 39242 (Certificate) to respondent Perry Roy Segal, M.D. The Certificate was in full force and effect at all times relevant to the charges in the Accusation. The Certificate will expire on September 30, 2023, unless renewed. Respondent is a board-certified psychiatrist in private practice in Los Gatos.

2. On December 24, 2020, complainant William Prasifka filed the Accusation solely in his official capacity as the Board's Executive Director.

Prior Board Discipline

3. On July 14, 2015, an Accusation in Board case number 03-2013-234248 was filed against respondent, alleging cause for discipline for gross negligence, repeated negligent acts, incompetence, excessive prescribing, and failure to maintain accurate and adequate records. The allegations pertained to respondent's prescribing large quantities of multiple pain medications to a "family friend" who lived out of state, without performing a physical examination of the patient.

4. Respondent entered into a stipulated settlement agreement, which was adopted by the Board and became effective on August 19, 2016. Pursuant to the Board's Decision and Order, respondent's Certificate was revoked, the revocation stayed, and respondent was placed on probation for a period of three years, with a condition prohibiting him from prescribing for chronic pain management and from prescribing opiates. Respondent was required to maintain records, in a separate ledger or file in chronological order, of all controlled substances prescribed, administered,

possessed, or dispensed, and to permit the Board access to the records. Respondent was also required to complete a prescribing course, a medical record keeping course, and a professionalism program. Probation was completed on August 19, 2019.

Current Allegations

5. Complainant seeks to discipline respondent's Certificate based on conduct related to two separate patients.

Patient 1

6. On January 13, 2017, respondent prescribed hydrocodone[1] homatropine cough syrup to Patient 1, without conducting a physical examination. Respondent was on probation and prohibited from prescribing opiates at the time. Respondent had prescribed the same medication to Patient 1 in July 2016, shortly before the effective date of probation.

7. At a Board interview, respondent told the investigators that Patient 1 was a long-time patient with schizophrenia who was without access to a primary care physician, and that he prescribed the medication for a cough. She had been taking the medication on and off for a long time. Respondent stated that he did not "make the connection" when he wrote the prescription that he would be committing a controlled substance violation of his probation, and he called his actions a "minor lapse."

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[1] Hydrocodone is an opioid. It is a dangerous drug as defined by Health and Safety Code section 4022 and a Schedule II controlled substance as defined by Health and Safety Code section 11055.

Patient 2

8. Patient 2 first saw respondent in December 2018, to discuss altering her antidepressant regimen. Patient 2 was taking three different antidepressant medications at the time. She decided to wait until the new year before making any changes.

Patient 2 returned to respondent on January 16, 2019. Respondent advised Patient 2 that she could discontinue taking one of the medications, Celexa.[2] Patient 2 was taking 20 mg per day, by cutting 40 mg pills in half. Respondent advised her to taper by taking 10 mg per day for one week before discontinuing the drug entirely. Respondent offered to supply Patient 2 with Celexa pills in a smaller dose to take while she tapered. He then opened a cabinet in his office which contained numerous medications. He found a bottle presumably containing Celexa pills in a smaller dose that had been prescribed to another patient; the other patient's name was on a label on the bottle. Respondent told Patient 2 that the Celexa he was giving her was expired but still fine to take, and he poured several pills into Patient 2's pill dispenser.

Respondent did not document in Patient 2's medical record that he dispensed Celexa to her.

9. Patient 2 was uncomfortable with respondent's actions. She did not take the pills that he gave her because she was worried about their safety. On January 24, 2019, Patient 2 submitted an online consumer complaint.

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[2] Celexa is a trade name for citalopram hydrobromide. It is a dangerous drug as defined by Health and Safety Code section 4022.

10. On June 9, 2020, two Board investigators searched respondent's office. They found dozens of expired medication samples in a cabinet mixed in with unexpired samples. Some of the medications had expired many years before. They also found two expired medications that had been prescribed to another patient.

Respondent's Testimony

11. Respondent admitted prescribing hydrocodone cough syrup to Patient 1, while he was on probation and prohibited from prescribing opiates. He explained that Patient 1 was a long-time patient of his who asked him for the medication. He wrote the prescriptions for her as "a bridge" while she was switching insurance providers and did not have a primary care physician. He stated that the cough had been present for years and was not a new condition, but also stated that he did not have a complete understanding of her cough, and that he does not ordinarily treat coughs. He also stated that psychotropic medications can increase salivation and cause coughing.

Respondent stated that he was aware that hydrocodone cough syrup is an opiate, but that he did not realize he would be violating probation when he prescribed it, because he was not prescribing it for pain. Respondent testified "I was prohibited from prescribing opiates to chronic pain patients," but also testified that he was aware that he could not prescribe any opiates.

Respondent testified that he stopped prescribing Schedule II and III narcotics in April 2018, and that he gave up his DEA privileges to prescribe them. He added that he does not plan on ever prescribing any opiates again.

12. Respondent admitted dispensing Celexa tablets to Patient 2 to help her and make the taper easier. He stated that he offered to either write a prescription or give her some pills he had on hand. Respondent admitted that he gave her Celexa that

had been previously dispensed to another patient and had been returned to him. He said he "had no reason to question it." Respondent advised Patient 2 that it was expired, and he stated at hearing that "a few months' expiration is insignificant." Respondent acknowledged other instances of dispensing expired medications and medications returned by other patients, but stated that it is not his routine practice. Respondent acknowledged that he did not document dispensing Celexa to Patient 2 in her medical record, and called it "an oversight." He stated that he often gives patients samples and that his practice is to document when he does. Respondent stated that he will never dispense expired medications or returned medications again.

13. Respondent described himself as a rational, compassionate, and ethical physician who treats patients across the socioeconomic spectrum and supports single payer healthcare. He currently has more than 200 active patients, and he has treated many of his patients for decades. Respondent is 70 years old and hopes to continue practicing for two to four years before retiring.

14. Respondent stated that when he was on Board probation, it was "destructive" to his practice. He was dropped off of insurance plans and no longer allowed to perform workers' compensation agreed medical evaluations. He described probation as having a negative impact on his ability to practice and care for his patients. He requests a letter of reprimand and a requirement to take courses addressing the violations.

Expert Testimony

15. Complainant retained Herbert A. Cruz, M.D., as an expert to review this matter. Dr. Cruz is a psychiatrist practicing in Fresno. He has been licensed in California since 1984 and is board certified in psychiatry.

Dr. Cruz wrote two reports and testified at the hearing. He described a simple departure from the standard of care as a "failure to use knowledge" and an extreme departure as "not having a clue" or "not having the knowledge to render a decision."

16. Dr. Cruz explained that the standard of care for prescribing a medication requires a good faith examination of the body system that is being treated. For a patient with a respiratory system ailment, the physician should listen to the patient's lungs. Coughs can be caused by serious conditions, such as tuberculosis, cancer, or AIDS. Dr. Cruz concluded that respondent's prescribing of cough syrup to Patient 1, without a good faith examination, constituted a simple departure from the standard of care. He also opined that prescribing a controlled substance while on probation and prohibited from doing so constituted an extreme departure from the standard of care. Dr. Cruz explained that even if respondent did not "connect" that the medication he was prescribing was an opiate, this lack of knowledge would constitute an extreme departure. In Dr. Cruz's view, respondent committed an extreme departure whether he disregarded the terms of his probation or whether he did not realize he was prescribing an opiate.

17. Dr. Cruz explained that psychiatrists are often provided samples of medications from pharmaceutical companies. It is within the standard of care to dispense unopened, unexpired sample medications to patients, as long as it is documented in the patient's medical record. This documentation is important for patient safety because it enables the physician to track what medications were given and how many doses, and to notify the patient if the medication has been recalled. It is also important for public safety because diversion of medications is a concern.

Dr. Cruz explained the dangers of dispensing expired medications to patients. Medications can lose their potency over time, and some can become toxic. If a patient

is taking an expired medication, it can be difficult for a physician to truly ascertain what dose the patient is getting, and there can be adverse consequences if the patient later receives a full-strength dose of the medication. Dr. Cruz opined that dispensing a medication sample that was expired by one or two months due to inattentiveness would be a simple departure from the standard of care. Dispensing an opened medication that had been prescribed to another patient is an extreme departure from the standard of care. The physician has no idea how the prior patient handled the medication, which could have been tampered with, contaminated, or swapped with another medication. Dr. Cruz believes it is not acceptable to do so even if the physician wants to help a patient with limited financial means.

Dr. Cruz further explained that the standard of care requires physicians to document all medications dispensed to a patient. He opined that respondent's failure to keep a record of what medication and the doses that he dispensed to Patient 2 constituted an extreme departure from the standard of care.

18. Dr. Cruz's opinions were persuasive and unrefuted. Clear and convincing evidence established that respondent committed a simple departure from the standard of care by prescribing hydrocodone cough syrup to Patient 1 without an examination, and committed three extreme departures from the standard of care by prescribing hydrocodone to Patient 1 while on probation and prohibited from prescribing opiates; by dispensing expired medication returned by another patient to Patient 2; and by failing to document dispensing medication to Patient 2.

Other Evidence

19. Patrick Fitzsimmons, M.D., a psychiatrist in private practice in San Jose, wrote a letter and testified in support of respondent. Dr. Fitzsimmons has known

respondent since moving to California in 1980. They were on the staff at Good Samaritan Hospital and have collaborated on cases. Dr. Fitzsimmons described respondent as professional, appropriate, competent, compassionate, and highly regarded in the local medical community. He has referred patients to respondent for care, and will continue to do so. Dr. Fitzsimmons has sought advice from respondent on difficult cases and values his sound advice and generosity. Dr. Fitzsimmons also values respondent's friendship and appreciated the support respondent gave him when Dr. Fitzsimmons's wife died.

20. Michael Borkowski, an attorney who practices in the Sacramento area, testified on behalf of respondent. Borkowski met respondent in 2019, when he represented a woman who was being treated by respondent. The woman's children had been removed from her custody, and she was facing the possible termination of her parental rights. Respondent helped the woman, who has bipolar disorder, restore her mental health. Borkowski was impressed with respondent's expertise and his commitment to the patient and her children. Respondent made recommendations to serve the children's best interests, even if it displeased the mother. Respondent was accessible and available to Borkowski throughout the legal proceedings, and testified at court hearings. The children were returned to their mother. Borkowski believes that people learn from their mistakes, and he hopes respondent will be allowed to continue practicing. Respondent testified that restoring the mother to fitness and advocating for her in court was a highlight of his career.

LEGAL CONCLUSIONS

1. It is complainant's burden to demonstrate the truth of the allegations by "clear and convincing evidence to a reasonable certainty," and that the allegations

constitute cause for discipline of respondent's Certificate. (*Ettinger v. Board of Medical Quality Assurance* (1982) 135 Cal.App.3d 853, 856.)

2. Business and Professions Code section 2227 authorizes the Board to take disciplinary action against licensees who have been found to have committed violations of the Medical Practice Act. Business and Professions Code section 2234, included in the Medical Practice Act, provides that a licensee may be subject to discipline for committing unprofessional conduct, which includes conduct that is grossly negligent (Bus. & Prof. Code, § 2234, subd. (b)) and repeatedly negligent (Bus. & Prof. Code, § 2234, subd. (c)). Business and Professions Code section 2266 provides that a licensee may be subject to discipline for failing to maintain adequate and accurate records relating to the provision of services.

3. Cause for discipline for unprofessional conduct, repeated negligent acts and for gross negligence was established, in light of the matters set forth in Findings 6 through 10 and 16 through 18. Cause for discipline for inadequate and inaccurate records relating to the provision of services to Patient 2 was established, in light of the matters set forth in Findings 8 and 17.

4. In exercising its disciplinary functions, protection of the public is the Board's highest priority. (Bus. & Prof. Code, § 2229, subd. (a).) The Board is also required to take disciplinary action that is calculated to aid the rehabilitation of the physician whenever possible, as long as the Board's action is not inconsistent with public safety. (Bus. & Prof. Code, § 2229, subds. (b), (c).)

5. The Board's Manual of Disciplinary Orders and Disciplinary Guidelines (12th ed., 2016; Cal. Code Regs., tit. 16, § 1361) provide for a minimum discipline of five years' probation and a maximum discipline of revocation for licensees who have

committed gross negligence, repeated negligent acts or maintained inadequate medical records. Respondent seeks a letter of reprimand. Complainant recommends a five-year period of probation with numerous special conditions to provide additional training and oversight of respondent's practice.

6. Despite prior Board probation, and despite having recently taken medical record keeping, prescribing, and professionalism courses, respondent continues to demonstrate a lax attitude towards the prescribing, possessing, dispensing, and documentation of prescription medications. This attitude endangers patients and public safety. Respondent demonstrated no insight into the wrongfulness of his misconduct, and instead justified his actions as motivated by his desire to help his patients.

Respondent has a long history as a psychiatrist and enjoys a good reputation. He expressed his intention not to repeat the misconduct. The evidence established that respondent is not safe to practice without additional education and oversight. A five-year probation with appropriate conditions will serve the public interest and assist in rehabilitating respondent. Respondent will be ordered to complete additional education, professional ethics, and prescribing courses, as well as a clinical competence assessment program to determine his fitness to practice. Practice monitoring, solo practice prohibition, and controlled substance record maintenance and access conditions are also warranted.

ORDER

Physician's and Surgeon's Certificate No. C 39242, issued to respondent Perry Roy Segal, M.D., is revoked; however, revocation is stayed, and respondent is placed on probation for five years under 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 the following: 1) the name and address of 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.

2. 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.

3. 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.

4. Professionalism Program (Ethics Course)

Within 60 calendar days of the effective date of this Decision, respondent shall enroll in a professionalism program, that meets the requirements of Title 16, California Code of Regulations (CCR) section 1358.1. Respondent shall participate in and successfully complete that program. Respondent shall provide any information and documents that the program may deem pertinent. Respondent shall successfully complete the classroom component of the program not later than six (6) months after respondent's initial enrollment, and the longitudinal component of the program not later than the time specified by the program, but no later than one (1) year after attending the classroom component. The professionalism program shall be at respondent's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

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

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

or not later than 15 calendar days after the effective date of the Decision, whichever is later.

5. 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 3 and no more than 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. 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 respondent did not successfully complete the clinical competence assessment program, 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.

Within 60 days after respondent has successfully completed the clinical competence assessment program, respondent shall participate in a professional enhancement program approved in advance by the Board or its designee, which shall include 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, or until the Board or its designee determines that further participation is no longer necessary.

6. Monitoring - Practice

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

7. 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. Respondent shall not resume practice until an appropriate practice setting is established.

If, during the course of the probation, 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 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. Respondent shall not resume practice until an appropriate practice setting is established.

8. Notification

Within seven days of the effective date of this Decision, 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.

9. Supervision of Physician Assistants and Advanced Practice Nurses

During probation, respondent is prohibited from supervising physician assistants and advanced practice nurses.

10. 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.

11. 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.

12. General Probation Requirements

Compliance with Probation Unit: Respondent shall comply with the Board's probation unit and all terms and conditions of this Decision.

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(b).

Place of Practice: Respondent shall not engage in the practice of medicine in respondent's or a 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 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.

13. 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.

14. 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 in California 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 Board'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 years.

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

Periods of non-practice for 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; and Quarterly Declarations.

15. 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.

16. 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.

17. 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 Certificate. 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.

18. 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.

DATE: November 12, 2021

Karen Reichmann

KAREN REICHMANN
Administrative Law Judge
Office of Administrative Hearings

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

In the Matter of the Accusation Against: **Perry Roy Segal, M.D.** **250 Blossom Hill Road, Suite 101** **Los Gatos, CA 95032** **Physician's and Surgeon's Certificate No. C 39242,** Respondent.	Case No. 800-2018-043355 **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 9, 1980, the Medical Board issued Physician's and Surgeon's Certificate Number C 39242 to Perry Roy Segal, 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 September 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 Business and Professions Code authorizes the Board to take action against a licensee by revoking, suspending for a period not to exceed one year, placing the license on probation and requiring payment of costs of probation monitoring, or taking such other action taken 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 which is substantially related to the qualifications, functions, or duties of a physician and surgeon.

"(f) Any action or conduct which 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 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."

DEFINITIONS

7. Celexa, a trade name for citalopram hydrobromide, is a selective serotonin reuptake inhibitor ("SSRI") with a chemical structure unrelated to that of other SSRIs or of tricyclic, tetracyclic, or other available antidepressant agents and is used in the treatment of depression. It has primary CNS depressant effects and should be used with caution in combination with other centrally acting drugs. Celexa is a dangerous drug as defined in section 4022 of the Health and Safety Code.

8. Hydrocodone is an opioid and a dangerous drug as defined in section 4022 of the Health and Safety Code, and a Schedule II controlled substance and narcotic as defined by section 11055 of the Health and Safety Code.

FACTUAL ALLEGATIONS

9. Effective August 19, 2016, Respondent's Physician's and Surgeon's Certificate was on probation for three years. The terms and conditions of probation included the prohibition of prescribing opiates, as well as the requirement to "maintain a record of all controlled substances ordered, prescribed, dispensed, administered or possessed by Respondent . . ." Further, Respondent was to keep "these records in a separate file or ledger, in chronological order."

10. On January 13, 2017, Respondent wrote a prescription to Patient 1 consisting of hydrocodone homatropine cough syrup without conducting an appropriate physical examination of the patient. The product prescribed by Respondent contained an opioid in contravention to the terms and conditions of his probation.

11. On January 16, 2019, Respondent provided Patient 2 with a sample of Celexa, which was allegedly previously prescribed to another patient. The Respondent possesses no medical records regarding the prescribing or the dosing of the medication.

12. Respondent admits that he dispensed expired medication to patients.

CAUSE FOR DISCIPLINE

(Unprofessional Conduct: Gross Negligence; Repeated Negligent Acts; Inadequate Records)

13. Paragraphs 9 through 12 are incorporated by reference as if fully set forth.

14. Respondent Perry Roy Segal, M.D. is subject to disciplinary action under section 2234 [unprofessional conduct], and/or 2234(b) [gross negligence], and/or 2234(c) [repeated negligent acts], and 2266 [inadequate medical records], of the Code in that the care and treatment of Patient 1 and Patient 2 included departures from the standard of care constituting gross negligence, and/or repeated negligent acts, and/or failure to maintain accurate and adequate medical records. The circumstances are as follows:

A. Prescribing cough syrup containing an opioid to Patient 1 without sufficient physical examination.

B. Prescribing cough syrup containing an opioid to Patient 1 in contravention to probation terms and conditions.

C. Prescribing sample medication that was expired.

D. Failing to document dispensing of medications.

DISCIPLINARY CONSIDERATIONS

12. To determine the degree of discipline, if any, to be imposed on Respondent Perry Roy Segal, M.D., Complainant alleges that on or about August 19, 2016, in a prior disciplinary action titled In the Matter of the Accusation Against Perry Roy Segal, M.D. before the Medical Board of California, in Case Number 03-2013-234248, Respondent's license was revoked, stayed, and placed on probation for three years for prescribing pain medications without appropriate examination to a single out-of-state patient. That decision is now final and is incorporated by reference as if fully set forth herein.

PRAYER

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

1. Revoking or suspending Physician's and Surgeon's Certificate Number C 39242, issued to Perry Roy Segal, M.D.;

2. Revoking, suspending or denying approval of Perry Roy Segal, M.D.'s authority to supervise physician assistants and advanced practice nurses;

3. Ordering Perry Roy Segal, 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: DEC 24 2020

REJI VARGHESE
DEPUTY DIRECTOR

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