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

In the Matter of the Accusation/ Petition to Revoke Probation Against: William Howard Buchner, Jr., M.D. Physician's and Surgeon's Certificate No. A 109750 Respondent.	Case No.: 800-2020-073146

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 January 14, 2022.

IT IS SO ORDERED: December 16, 2021.

MEDICAL BOARD OF CALIFORNIA

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

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Attorneys for Complainant

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

In the Matter of the Accusation/Petition to Revoke Probation Against: **WILLIAM HOWARD BUCHNER, JR., M.D.** **3900 Fifth Avenue, Suite 110** **San Diego, CA 92103** **Physician's and Surgeon's Certificate No. A 109750** Respondent.	Case No. 800-2020-073146 OAH No. 2021020106 **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 Karolyn M. Westfall, Deputy Attorney General.

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2. Respondent William Howard Buchner, Jr., M.D. (Respondent) is represented in this proceeding by attorneys Nicole Irmer, Esq., and Kimberly J. Elkin, Esq., whose address is: 2550 Fifth Avenue, Suite 1060, San Diego, CA 92103.

3. On or about October 21, 2009, the Board issued Physician's and Surgeon's Certificate No. A 109750 to Respondent. The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought in Accusation/Petition to Revoke Probation No. 800-2020-073146, and will expire on April 30, 2023, unless renewed.

4. On or about July 6, 2016, the Board issued a Decision and Order that became effective on or about August 5, 2016, in an action entitled, *In the Matter of the Accusation Against William Howard Buchner, M.D.*, Medical Board of California Case No. 800-2014-005041, wherein Respondent's Physician's and Surgeon's Certificate No. A 109750 was revoked, stayed, and placed on probation for five (5) years, subject to various terms and conditions. Respondent's probation in case No. 800-2014-005041 is scheduled to expire on or about August 5, 2021.

5. On or about September 13, 2018, the Board issued a Decision and Order that became effective on or about October 12, 2018, in an action entitled, *In the Matter of the Accusation Against William Howard Buchner, M.D.*, Medical Board of California Case No. 800-2016-020267, wherein Respondent's Physician's and Surgeon's Certificate No. A 109750 was revoked, stayed, and placed on probation for three (3) years, subject to various terms and conditions, to run concurrent with the probationary term ordered in Medical Board of California Case No. 800-2014-005041. Respondent's probation in case No. 800-2016-020267 is scheduled to expire on or about October 12, 2021.

JURISDICTION

6. On December 9, 2020, Accusation/Petition to Revoke Probation No. 800-2020-073146 was filed before the Board, and is currently pending against Respondent. The Accusation/Petition to Revoke Probation and all other statutorily required documents were properly served on Respondent on December 9, 2020. Respondent timely filed his Notice of Defense contesting the Accusation/Petition to Revoke Probation.

7. A copy of Accusation/Petition to Revoke Probation No. 800-2020-073146 is attached hereto as Exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

8. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation/Petition to Revoke Probation No. 800-2020-073146. Respondent has also carefully read, fully discussed with his counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

9. 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/Petition to Revoke Probation; 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.

10. Having the benefit of counsel, Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

CULPABILITY

11. Respondent admits that, at an administrative hearing, complainant could establish a *prima facie* case with respect to the charges and allegations contained in Accusation/Petition to Revoke Probation No. 800-2020-073146, and agrees that he has thereby subjected his Physician's and Surgeon's Certificate No. A 109750 to disciplinary action.

12. Respondent further agrees that if he ever petitions for modification or early termination of probation, or if an accusation and/or petition to revoke probation is filed against him before the Medical Board of California, all of the charges and allegations contained in Accusation/Petition to Revoke Probation No. 800-2020-073146 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 or elsewhere.

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13. Respondent agrees that his Physician's and Surgeon's Certificate No. A 109750 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.

RESERVATION

14. The admissions made by Respondent herein are only for the purposes of this proceeding, or any other proceedings in which the Board or other professional licensing agency is involved, and shall not be admissible in any other criminal or civil proceeding.

CONTINGENCY

15. This Stipulated Settlement and Disciplinary Order shall be subject to approval of the Board. The parties agree that this Stipulated Settlement and Disciplinary Order shall be submitted to the Board for its consideration in the above-entitled matter and, further, that the Board shall have a reasonable period of time in which to consider and act on this Stipulated Settlement and Disciplinary Order after receiving it. By signing this stipulation, Respondent fully understands and agrees that he may not withdraw his agreement or seek to rescind this stipulation prior to the time the Board considers and acts upon it.

16. The parties agree that this Stipulated Settlement and Disciplinary Order shall be null and void and not binding upon the parties unless approved and adopted by the Board, except for this paragraph, which shall remain in full force and effect. Respondent fully understands and agrees that in deciding whether or not to approve and adopt this Stipulated Settlement and Disciplinary Order, the Board may receive oral and written communications from its staff and/or the Attorney General's office. Communications pursuant to this paragraph shall not disqualify the Board, any member thereof, and/or any other person from future participation in this or any other matter affecting or involving Respondent. In the event that the Board, in its discretion, does not approve and adopt this Stipulated Settlement and Disciplinary Order, with the exception of this paragraph, it shall not become effective, shall be of no evidentiary value whatsoever, and shall not be relied upon or introduced in any disciplinary action by either party hereto. Respondent further agrees that should the Board reject this Stipulated Settlement and Disciplinary Order for any reason, Respondent will assert no claim that the Board, or any member thereof, was

prejudiced by its/his/her review, discussion and/or consideration of this Stipulated Settlement and Disciplinary Order or of any matter or matters related hereto.

ADDITIONAL PROVISIONS

17. 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.

18. 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 and signatures shall have the same force and effect as originals.

19. 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 109750 issued to Respondent William Howard Buchner, Jr., M.D., is revoked. However, that revocation is stayed and Respondent is placed on probation for a period of one (1) year from October 12, 2021, upon the following terms and conditions. This new Disciplinary Order is to run consecutive to the Disciplinary Order in Case No. 800-2016-020267, and extends those probationary terms and conditions by one (1) year.[1]

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 20 hours per year, for each year of probation. The educational program(s) or course(s) shall be in the area of evidence-based methods and proven treatment techniques/protocols, and shall be Category I certified. The educational program(s) or course(s) shall be at Respondent's expense and shall be

[1] The Disciplinary Order in Case No. 800-2014-005041 is to expire naturally on its own terms on or about August 5, 2021.

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 45 hours of CME of which 20 hours were in satisfaction of this condition.

2. 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 in Case No. Case No. 800-2016-020267 shall 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. 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 accepted in Case No. Case No. 800-2016-020267 shall 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.

4. MONITORING - PRACTICE/BILLING. 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.

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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 practice monitor 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.

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

location.

If Respondent fails to establish a practice with another physician or secure employment in an appropriate practice setting within 60 calendar days of the effective date of this Decision, Respondent shall receive a notification from the Board or its designee to cease the practice of medicine within three (3) calendar days after being so notified. The Respondent shall not resume practice until an appropriate practice setting is established.

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

6. PROHIBITED PRACTICE. During probation, Respondent is prohibited from holding any type of ownership interest in any medical clinic.

7. 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.

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

9. 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.

10. 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.

11. 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(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.

12. 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.

13. 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.

14. 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.

15. 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.

16. 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.

17. 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. 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.

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ACCEPTANCE

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

DATED: 07/16/2021

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WILLIAM HOWARD BUCHNER, JR., M.D.
Respondent

I have read and fully discussed with Respondent, William Howard Buchner, Jr., 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: 07/26/2021

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NICOLE IRMER, ESQ.
KIMBERLY J. ELKIN, ESQ.
Attorneys for Respondent

ENDORSEMENT

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

DATED: 7/27/21

Respectfully submitted,

ROB BONTA
Attorney General of California
ALEXANDRA M. ALVAREZ
Supervising Deputy Attorney General

KAROLYN M. WESTFALL
Deputy Attorney General
Attorneys for Complainant

Exhibit A

Accusation/Petition to Revoke Probation No. 800-2020-073146

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Attorneys for Complainant

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

In the Matter of the Accusation/Petition to Revoke Probation Against: **WILLIAM HOWARD BUCHNER, JR., M.D.** **3900 Fifth Avenue, Suite 110** **San Diego, CA 92103-3121** **Physician's and Surgeon's Certificate No. A 109750,** Respondent.	Case No. 800-2020-073146 **ACCUSATION AND PETITION TO REVOKE PROBATION**

PARTIES

1. William Prasifka (Complainant) brings this Accusation and Petition to Revoke Probation solely in his official capacity as the Executive Director of the Medical Board of California, Department of Consumer Affairs (Board).

2. On or about October 21, 2009, the Medical Board issued Physician's and Surgeon's Certificate No. A 109750 to William Howard Buchner, Jr., 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 April 30, 2021, unless renewed.

JURISDICTION

3. This Accusation and Petition to Revoke Probation is brought before the Board, under the authority of the following laws, and the Board's Decision and Order in the case entitled *In the Matter of the Accusation Against William Howard Buchner, Jr., M.D.*, Medical Board of California Case No. 800-2014-005041. A true and correct copy of the Board's Decision and Order in Case No. 800-2014-005041 is attached hereto as Exhibit A and incorporated herein by reference as if fully set forth herein. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

4. Section 2227 of the Code states, in pertinent part:

> (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.
>
> ...

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:
>
> ...
>
> (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.
>
> ...

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.

FIRST CAUSE FOR DISCIPLINE

(Repeated Negligent Acts)

7. Respondent has subjected his Physician's and Surgeon's Certificate No. A 109750 to disciplinary action under sections 2227 and 2234, as defined by section 2234, subdivision (c), of the Code, in that Respondent committed repeated negligent acts in his care and treatment of Patients A[1] and B, as more particularly alleged hereinafter:

PATIENT A

8. On or about September 8, 2016, Patient A, a then 65-year-old female with a complicated history of chronic morbid obesity, hypertension, high cholesterol, asthma, diabetes mellitus, lymphedema, fatigue, depression, pain, and psoriasis, established primary care with Respondent. Prior to this visit, Patient A had undergone extensive preoperative evaluation for bariatric weight loss surgery. At this initial visit, the patient complained of, among other things, obesity, her inability to lose weight despite diet, and depression. At the conclusion of this visit, Respondent prescribed the patient Qsymia[2] for appetite suppression, and ordered comprehensive labs that later revealed normal cortisol, normal thyroid hormones, and normal testosterone levels.

9. On or about September 21, 2016, Patient A was seen by Respondent for a follow-up visit, with continued complaints of weight problems, depression, and fatigue. Respondent discussed the lab results with the patient, and identified comorbid conditions of metabolic disease and hormone deficiency. At the conclusion of the visit, Respondent prescribed Patient A multiple prescriptions with refills, including Nature-Throid 32.5 mg, estradiol patch .025 mg, progesterone 100 mg, testosterone gel 1mg, and dehydroepiandrosterone (DHEA) 10 mg. Respondent did not

[1] To protect the privacy of all patients involved, patient names have not been included in this pleading. Respondent is aware of the identity of the patients referred to herein.

[2] Qsymia (brand name for phentermine/topiramate) is a Schedule IV controlled substance pursuant to Health and Safety Code section 11057, subdivision (f), and a dangerous drug pursuant to Business and Professions Code section 4022. It is a stimulant and an appetite suppressant.

perform a breast exam at this visit, he did not discuss and/or document a detailed discussion with the patient regarding the risks and benefits of hormone therapy, and he did not diagnose the patient with hypoactive sexual disorder or low libido.

10. On or about October 28, 2016, Patient B was seen by Respondent for a follow-up visit. The patient reported that she had lost twenty pounds and was feeling better. At the conclusion of this visit, Respondent ordered lab work that later revealed normal thyroid hormones.

11. On or about November 7, 2016, Patient A was seen by Respondent for a follow-up. The patient reported that she was doing well with her weight loss, her swelling was down, and her appetite decreased. At the conclusion of this visit, Respondent increased the patient's DHEA to 12.5 mg and her Nature-Throid to 48.75 mg.

12. On or about November 25, 2016, Patient A was seen by Respondent to discuss a medication clarification as a result of the pharmacy mistakenly providing her with a higher dose of Nature-Throid. At the conclusion of this visit, Respondent increased the patient's Nature-Throid dose to 130 mg.

13. Between in or around November 2016 and in or around July 2017, Respondent maintained Patient A on her medication regimen of Nature-Throid, estradiol, progesterone, testosterone, and DHEA.

14. On or about February 3, 2017, Patient A was seen by Respondent for her annual wellness exam, with multiple complaints, including hair loss. At this visit, Respondent did not perform and/or document a thorough scalp examination or document a detailed discussion with the patient regarding the potential causes for her hair loss.

15. On or about July 27, 2017, Patient A was seen by Respondent for a follow-up visit, with complaints of increased anxiety and depression. At the conclusion of this visit, Respondent maintained the patient on her medications, increased the dose of her antidepressant medication, and prescribed hydrocortisone 20 mg for adrenal insufficiency.

16. On or about November 22, 2017, Patient A was seen by Respondent for a follow-up visit with complaints of thinning hair. At this visit, Respondent did not document a detailed

discussion with the patient regarding the potential causes for her hair loss, but on examination he noted erythema and some posterior scale scalp with thinning hair. At the conclusion of the visit, Respondent maintained the patient on her medications and ordered comprehensive labs.

17. In or around November 2017, and in or around December 2017, Patient A underwent repeat labs that later revealed low normal cortisol levels.

18. On or about January 3, 2018, Patient A was seen by Respondent for a follow-up visit with complaints of weight gain and feeling poorly. At the conclusion of the visit, Respondent diagnosed the patient with, among other things, cortisol deficiency. Respondent maintained Patient A on her medications and increased her hydrocortisone dose to 30 mg.

19. On or about April 12, 2018, Patient A is seen by Respondent for a follow-up visit with complaints of continued hair loss. The patient reported that she was still taking her testosterone, estradiol, and progesterone, but that she had stopped taking her thyroid hormone medication three to four days earlier. During this visit, Respondent did not document a detailed discussion with the patient regarding the potential causes for her hair loss, but on examination noted the patient's hair appeared brittle, with some splitting ends, but no scalp rash. At the conclusion of this visit, Respondent maintained the patient on her hormone medication regimen.

20. On or about July 12, 2018, Patient A learned from her pharmacist that hair loss was a side-effect of the hormone medications she had been prescribed, and discontinued her care with Respondent.

21. Respondent committed repeated negligent acts in his care and treatment of Patient A, which included but was not limited to, the following:

A. Prescribing hormone replacement therapy in an elderly woman for weight loss without first performing a thorough breast exam.

B. Prescribing testosterone therapy to a postmenopausal woman who did not have hypoactive sexual disorder or low libido, without a documented detailed informed consent discussion.

C. Prescribing thyroid replacement therapy without clear indication.

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D. Prescribing oral hydrocortisone without adequate evaluation and confirmation of adrenal insufficiency diagnosis.

E. Failing to adequately explain and/or document a discussion with the patient regarding potential causes for hair loss, failing to perform and/or document a thorough scalp examination to confirm active hair loss, and failing to proactively discontinue androgen therapy to determine cause of hair loss.

PATIENT B

22. On or about October 9, 2017, Patient B, a then 65-year-old male patient with a history of acute pulmonary emboli in 2015, established primary care with Respondent. At the conclusion of this initial visit, Respondent diagnosed the patient with, among other things, erectile dysfunction, and prescribed the patient Cialis.[3] Lab work ordered by Respondent on that day later revealed the patient had low normal testosterone and free testosterone.

23. In or around late October 2017, Patient B traveled to Hawaii for vacation. While in Hawaii, the patient fainted and was taken to a local emergency department (ED). The ED evaluated and treated the patient for dehydration. Due to his history of pulmonary emboli, the ED ordered chest CT imaging of Patient B that detected some anomalies in his lungs. The ED discharged Patient B with a CD containing his chest images and encouraged him to discuss the findings with his primary care physician.

24. On or about November 1, 2017, Patient B emailed Respondent informing him of his treatment in Hawaii. Patient B further informed Respondent that the ED found some anomalies in his lungs and that he was going bring the CD containing his chest images to the clinic for Respondent to review. Sometime thereafter, Patient B dropped the CD off at the clinic.

25. On or about November 14, 2017, having received no communication from Respondent, Patient B sent an email to Respondent to follow-up on his thoughts regarding his chest images.

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[3] Cialis (brand name for tadalafil) is a vasodilator medication used to treat erectile dysfunction and enlarged prostate, and is a dangerous drug pursuant to Business and Professions Code section 4022.

26. On or about November 27, 2017, having received no communication from Respondent, Patient B called into the clinic to follow-up on Respondent's thoughts regarding his chest images.

27. On or about December 14, 2017, having received no communication from Respondent, Patient B called the clinic to follow-up on Respondent's thoughts regarding his chest images, and to inform him that he wanted to come in to retrieve the CD.

28. On or about January 8, 2018, having received no communication from Respondent, Patient B called the clinic to inform them that he was going to come in that day to retrieve his CD.

29. On or about February 5, 2018, Patient B was seen by Respondent. At that time, Respondent informed the patient that he was unable to interpret the images on the CD and needed to request additional records from the ED. During this visit, Patient B complained of continuing erectile dysfunction and informed Respondent that the Cialis had not helped. Lab work ordered by Respondent on that day later revealed the patient had low normal testosterone and free testosterone.

30. On or about February 26, 2018, Patient B was seen by Respondent for a follow-up visit. At that visit, Respondent reviewed the lab results with the patient and diagnosed him with low testosterone, and a plan to repeat testing at a later time.

31. On or about March 5, 2018, Patient B was seen by Respondent for a follow-up visit and to review the records Respondent had received from Hawaii. During this visit, Respondent diagnosed Patient B with low normal testosterone with symptoms of hypogonadism. Respondent did not perform a digital prostate on the patient at that visit, or any prior visit. Respondent discussed the risks and benefits of testosterone replacement with the patient, but the medical records did not include a specific discussion regarding FDA black box warnings. Patient B informed Respondent that he wanted to proceed with testosterone treatment due to his fatigue, low libido, and erectile dysfunction.

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32. On or about March 9, 2018, Respondent prescribed Patient B Axiron[4] 30mg transdermal with two refills.

33. Respondent committed repeated negligent acts in his care and treatment of Patient B, which included but was not limited to, the following:

A. Failing to provide appropriate post-ED aftercare to the patient by failing to timely review CT images provided by the patient, failing to timely obtain medical records from the ED visit, and failing to communicate with the patient regarding the reasons for the delay.

B. Initiating testosterone therapy without first performing a digital prostate exam and properly documenting a discussion with the patient regarding the risks and benefits of therapy, including FDA warnings.

SECOND CAUSE FOR DISCIPLINE

(Failure to Maintain Adequate and Accurate Records)

34. Respondent has further subjected his Physician's and Surgeon's Certificate No. A 109750 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 Patients A and B, as more particularly alleged in paragraphs 7 through 33, above, which are hereby incorporated by reference and realleged as if fully set forth herein.

FIRST CAUSE TO REVOKE PROBATION

(Obey All Laws)

35. At all times after the effective date of the Board's Decision and Order in Case No. 800-2014-005041, Probation Condition No. 11 stated:

"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."

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[4] Axiron is a Schedule III controlled substance pursuant to Health and Safety Code section 11056, subdivision (f), and a dangerous drug pursuant to Business and Professions Code section 4022. It is a topical testosterone medication used to treat males with low testosterone.

36. At all times after the effective date of the Board's Decision and Order in Case No. 800-2014-005041, Probation Condition No. 17 stated:

"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."

37. Respondent's probation is subject to revocation because he failed to comply with Probation Condition No. 11, in that he failed to comply with all rules governing the practice of medicine in California, as more particularly alleged in paragraphs 7 through 34, above, which are hereby incorporated by reference and realleged as if fully set forth herein.

DISCIPLINARY CONSIDERATIONS

38. To determine the degree of discipline, if any, to be imposed on Respondent, Complainant alleges that on or about July 6, 2016, the Board issued a Decision and Order that became effective on or about August 5, 2016, in an action entitled, *In the Matter of the Accusation Against William Howard Buchner, Jr., M.D.*, Medical Board of California Case No. 800-2014-005041. In that matter, and as a result of Respondent's unprofessional conduct in 2010 and 2014, Respondent's Physician's and Surgeon's Certificate No. A 109750 was revoked, stayed, and placed on probation for five (5) years, subject to various terms and conditions.

39. In addition, Complainant alleges that on or about September 13, 2018, the Board issued a Decision and Order that became effective on or about October 12, 2018, in an action entitled, *In the Matter of the Accusation Against William Howard Buchner, Jr., M.D.*, Medical Board of California Case No. 800-2016-020267. In that matter, and as a result of Respondent's unprofessional conduct in 2015 and 2016, Respondent's Physician's and Surgeon's Certificate No. A 109750 was revoked, stayed, and placed on probation for three (3) years, subject to various

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terms and conditions, to run concurrent with the probationary term ordered in Case No. 800-2014-005041.

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 the probation that was granted to Respondent, William Howard Buchner, Jr., M.D., by the Medical Board of California in Case No. 800-2014-005041, and carrying out the disciplinary order that was stayed, i.e., revocation of Physician's and Surgeon's Certificate No. A 109750

2. Revoking or suspending Physician's and Surgeon's Certificate No. A 109750, issued to Respondent, William Howard Buchner, Jr., M.D.;

3. Revoking, suspending or denying approval of Respondent, William Howard Buchner, Jr., M.D.'s authority to supervise physician assistants and advanced practice nurses;

4. Ordering Respondent, William Howard Buchner, Jr., M.D., if placed on probation, to pay the Board the costs of probation monitoring; and

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

DATED: DEC 0 9 2020

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