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

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| In the Matter of the Accusation Against:<br><br>Michael Martin Saal, M.D.<br><br>Physician's and Surgeon's Certificate No. A 45372<br><br>Respondent. | Case No.: 800-2018-041624 |

## 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 February 11, 2022.

IT IS SO ORDERED: January 12, 2022.

MEDICAL BOARD OF CALIFORNIA

Richard E. Thorp, M.D., Chair
Panel B

ROB BONTA
Attorney General of California
JANE ZACK SIMON
Supervising Deputy Attorney General
LYNNE K. DOMBROWSKI
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*Attorneys for Complainant*

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

| In the Matter of the Accusation Against:<br><br>**MICHAEL MARTIN SAAL, M.D.**<br>**311 Miller Ave Suite B**<br>**Mill Valley, CA 94941**<br><br>**Physician's and Surgeon's Certificate**<br>**No. A 45372**<br><br>Respondent. | Case No. 800-2018-041624<br><br>OAH No. 2021070669<br><br>**STIPULATED SETTLEMENT AND DISCIPLINARY ORDER** |
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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 Lynne K. Dombrowski, Deputy Attorney General.

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2. Respondent Michael Martin Saal, M.D. (Respondent) is represented in this proceeding by attorney Joseph C. Gharrity, whose address is: Hassard Bonnington LLP, 275 Battery Street, Suite 1600, San Francisco, CA 94111-3370.

3. On or about October 11, 1988, the Board issued Physician's and Surgeon's Certificate No. A 45372 to Michael Martin Saal, M.D. (Respondent). The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought in Accusation No. 800-2018-041624 and will expire on March 31, 2022, unless renewed.

## JURISDICTION

4. Accusation No. 800-2018-041624 was filed before the Board, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on February 16, 2021. Respondent timely filed his Notice of Defense contesting the Accusation.

5. A copy of Accusation No. 800-2018-041624 is attached as Exhibit A and is incorporated herein by reference.

## ADVISEMENT AND WAIVERS

6. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 800-2018-041624. Respondent has also carefully read, fully discussed with his counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

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

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

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## CULPABILITY

9. Respondent understands and agrees that the charges and allegations in Accusation No. 800-2018-041624, if proven at a hearing, constitute cause for imposing discipline upon his Physician's and Surgeon's Certificate. Respondent does not contest that, at an administrative hearing, Complainant could establish a factual basis for the charges in the Accusation.

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

## RESERVATION

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

## CONTINGENCY

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

13. Respondent agrees that if he ever petitions for early termination or modification of probation, or if an accusation and/or petition to revoke probation is filed against him before the Board, all of the charges and allegations contained in Accusation No. 800-2018-041624 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.

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

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

**DISCIPLINARY ORDER**

IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. A 45372 issued to Respondent Michael Martin Saal, M.D. is revoked. However, the revocation is stayed and Respondent is placed on probation for five (5) years on the following terms and conditions:

1. PROOF OF REGISTRATION/ACCESS -- CURES PDMP. Within 15 calendar days of the effective date of this Decision, Respondent shall submit to the Board or its designee proof that he is registered to obtain electronic access of information contained in the CURES Prescription Drug Monitoring Program maintained by the California Department of Justice.

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, specifically in the subject areas of diagnosing and prescribing controlled substances for psychiatric and/or sleep disorders, 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. MEDICAL RECORD KEEPING COURSE. Within 60 calendar days of the effective date of this Decision, Respondent shall enroll in a course in medical record keeping approved in advance by the Board or its designee. Respondent shall provide the approved course provider with any information and documents that the approved course provider may deem pertinent. Respondent shall participate in and successfully complete the classroom component of the course not later than six (6) months after Respondent's initial enrollment. Respondent shall successfully complete any other component of the course within one (1) year of enrollment. The medical record keeping course shall be at Respondent's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

A medical record keeping course taken after the acts that gave rise to the charges in the Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board

or its designee, be accepted towards the fulfillment of this condition if the course would have been approved by the Board or its designee had the course been taken after the effective date of this Decision.

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

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

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

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

6. 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 and Accusation, 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 and Accusation, fully understands the role of a monitor, and agrees or disagrees with the proposed monitoring plan. If the monitor disagrees with the proposed monitoring plan, the monitor shall submit a revised monitoring plan with the signed statement for approval by the Board or its designee.

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

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

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

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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. 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, subdivision (b).

Place of Practice

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

License Renewal

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

Travel or Residence Outside California

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

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

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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; and 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. 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.

18. FUTURE ADMISSIONS CLAUSE. If Respondent should ever apply or reapply for a new license or certification, or petition for reinstatement of a license, by any other health care

licensing action agency in the State of California, all of the charges and allegations contained in Accusation No. 800-2018-041624 shall be deemed to be true, correct, and admitted by Respondent for the purpose of any Statement of Issues or any other proceeding seeking to deny or restrict license.

## ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Joseph C. Gharrity. 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: 11-8-2021

MICHAEL MARTIN SAAL, M.D.
*Respondent*

I have read and fully discussed with Respondent Michael Martin Saal, 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: 11/8/2021

JOSEPH C. GHARRITY
HASSARD BONNINGTON LLP
*Attorney for Respondent*

## ENDORSEMENT

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

DATED: 11/09/2021

Respectfully submitted,

ROB BONTA
Attorney General of California
JANE ZACK SIMON
Supervising Deputy Attorney General

Lynne K. Dombrowski

LYNNE K. DOMBROWSKI
Deputy Attorney General
*Attorneys for Complainant*

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# Exhibit A

**Accusation No. 800-2018-041624**

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*Attorneys for Complainant*

**BEFORE THE**
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| In the Matter of the Accusation Against:<br><br>**Michael Martin Saal, M.D.**<br>**311 Miller Ave, Suite B**<br>**Mill Valley, CA 94941**<br><br>**Physician's and Surgeon's Certificate**<br>**No. A 45372,**<br><br>Respondent. | Case No. 800-2018-041624<br><br>**ACCUSATION** |

## 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 October 11, 1988, the Medical Board issued Physician's and Surgeon's Certificate Number A 45372 to Michael Martin Saal, 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 March 31, 2022, unless renewed.

3. At all times during the allegations herein, Respondent was practicing as a psychiatrist in a solo practice in Mill Valley, California.

## JURISDICTION

4. 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.

5. Section 2001.1 of the Code provides that the Board's highest priority shall be public protection.

6. Section 2227 of the Code provides that a licensee who is found guilty under the Medical Practice Act may have his or her license revoked, suspended for a period not to exceed one year, placed on probation and required to pay the costs of probation monitoring, or such other action taken in relation to discipline as the Board deems proper.

7. Section 2234 of the Code, states:

> The board shall take action against any licensee who is charged with unprofessional conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not limited to, the following:
>
> (a) Violating or attempting to violate, directly or indirectly, assisting in or abetting the violation of, or conspiring to violate any provision of this chapter.
>
> (b) Gross negligence.
>
> (c) Repeated negligent acts. To be repeated, there must be two or more negligent acts or omissions. An initial negligent act or omission followed by a separate and distinct departure from the applicable standard of care shall constitute repeated negligent acts.
>
> (1) An initial negligent diagnosis followed by an act or omission medically appropriate for that negligent diagnosis of the patient shall constitute a single negligent act.
>
> (2) When the standard of care requires a change in the diagnosis, act, or omission that constitutes the negligent act described in paragraph (1), including, but not limited to, a reevaluation of the diagnosis or a change in treatment, and the licensee's conduct departs from the applicable standard of care, each departure constitutes a separate and distinct breach of the standard of care.
>
> (d) Incompetence.
>
> (e) The commission of any act involving dishonesty or corruption that is substantially related to the qualifications, functions, or duties of a physician and surgeon.

(f) Any action or conduct that would have warranted the denial of a certificate.

(g) The failure by a certificate holder, in the absence of good cause, to attend and participate in an interview by the board. This subdivision shall only apply to a certificate holder who is the subject of an investigation by the board.

8. Section 2242 of the Code states:

(a) Prescribing, dispensing, or furnishing dangerous drugs as defined in Section 4022 without an appropriate prior examination and a medical indication, constitutes unprofessional conduct. An appropriate prior examination does not require a synchronous interaction between the patient and the licensee and can be achieved through the use of telehealth, including, but not limited to, a self-screening tool or a questionnaire, provided that the licensee complies with the appropriate standard of care.

(b) No licensee shall be found to have committed unprofessional conduct within the meaning of this section if, at the time the drugs were prescribed, dispensed, or furnished, any of the following applies:

(1) The licensee was a designated physician and surgeon or podiatrist serving in the absence of the patient's physician and surgeon or podiatrist, as the case may be, and if the drugs were prescribed, dispensed, or furnished only as necessary to maintain the patient until the return of the patient's practitioner, but in any case no longer than 72 hours.

(2) The licensee transmitted the order for the drugs to a registered nurse or to a licensed vocational nurse in an inpatient facility, and if both of the following conditions exist:

(A) The practitioner had consulted with the registered nurse or licensed vocational nurse who had reviewed the patient's records.

(B) The practitioner was designated as the practitioner to serve in the absence of the patient's physician and surgeon or podiatrist, as the case may be.

(3) The licensee was a designated practitioner serving in the absence of the patient's physician and surgeon or podiatrist, as the case may be, and was in possession of or had utilized the patient's records and ordered the renewal of a medically indicated prescription for an amount not exceeding the original prescription in strength or amount or for more than one refill.

(4) The licensee was acting in accordance with Section 120582 of the Health and Safety Code.

9. 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.

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10. Section 725 of the Code states:

(a) Repeated acts of clearly excessive prescribing, furnishing, dispensing, or administering of drugs or treatment, repeated acts of clearly excessive use of diagnostic procedures, or repeated acts of clearly excessive use of diagnostic or treatment facilities as determined by the standard of the community of licensees is unprofessional conduct for a physician and surgeon, dentist, podiatrist, psychologist, physical therapist, chiropractor, optometrist, speech-language pathologist, or audiologist.

(b) Any person who engages in repeated acts of clearly excessive prescribing or administering of drugs or treatment is guilty of a misdemeanor and shall be punished by a fine of not less than one hundred dollars ($100) nor more than six hundred dollars ($600), or by imprisonment for a term of not less than 60 days nor more than 180 days, or by both that fine and imprisonment.

(c) A practitioner who has a medical basis for prescribing, furnishing, dispensing, or administering dangerous drugs or prescription controlled substances shall not be subject to disciplinary action or prosecution under this section.

(d) No physician and surgeon shall be subject to disciplinary action pursuant to this section for treating intractable pain in compliance with Section 2241.5.

## CALIFORNIA HEALTH AND SAFETY CODE

11. Section 11165.4 of the California Health and Safety Code, effective January 1, 2017, operative as of October 2, 2018, requires a health care practitioner to consult the CURES database to review a patient's controlled substance history before prescribing controlled substances (Schedule II – IV) to the patient for the first time, and at least once every four months thereafter, if the prescribing continues as treatment.

12. Section 11190 of the California Health and Safety Code sets forth the required contents of a prescriber's record when issuing prescriptions for controlled substances, in pertinent part, as follows:

(a) Every practitioner, other than a pharmacist, who prescribes or administers a controlled substance classified in Schedule II shall make a record that, as to the transaction, shows all of the following:

(1) The name and address of the patient.

(2) The date.

(3) The character, including the name and strength, and quantity of controlled substances involved.

(b) The prescriber's record shall show the pathology and purpose for which the controlled substance was administered or prescribed.

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## PERTINENT DRUGS/SUBSTANCES

13. Abilify is a trade name for aripiprazole, which is an atypical antipsychotic medication used to treat symptoms of psychotic conditions such as schizophrenia and bipolar disorder (manic depression). It is a dangerous drug as defined in Business and Professions Code Section 4022.

14. Adderall is a trade name for a combination drug containing four salts of amphetamine, also known as mixed amphetamine salts (MAS), and is a central nervous system (CNS) stimulant of the phenethylamine class. It is a Schedule II controlled substance under Health and Safety Code Section 11055(d) and is a dangerous drug as defined in Business and Professions Code Section 4022. It is used in the treatment of attention deficit disorder (ADD), attention deficit hyperactivity disorder (ADHD), and narcolepsy. It may cause new or worsening psychosis (unusual thoughts or behavior), especially in those with a history of depression, mental illness, or bipolar disorder.

15. Alprazolam, known by the trade name Xanax, is a psychotropic triazolo-analogue of the 1,4 benzodiazepine class of central nervous system-active compounds. It is used for the management of anxiety disorders or for the short-term relief of the symptoms of anxiety. It is a Schedule IV controlled substance as defined by section 11057, subdivision (d) of the Health and Safety Code, and by section 1308.14 (c) of Title 21 of the Code of Federal Regulations, and is a dangerous drug as defined in Business and Professions Code section 4022. Xanax has a central nervous system depressant effect and patients should be cautioned about the simultaneous ingestion of alcohol and other CNS depressant drugs during treatment with Xanax.

16. Ativan, a trade name for lorazepam, is a benzodiazepine and central nervous system (CNS) depressant used in the management of anxiety disorder for short-term relief from the symptoms of anxiety or anxiety associated with depressive symptoms. It is a Schedule IV controlled substance as defined by section 11057 of the Health and Safety Code and by section 1308.14 of Title 21 of the Code of Federal Regulations, and is a dangerous drug as defined in Business and Professions Code section 4022. Long-term or excessive use of Ativan can cause dependency. Concomitant use of alcohol or other CNS depressants may have an additive effect.

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17. Clonazepam, known by the trade named Klonopin, is an anti-convulsant of the benzodiazepine class of drugs. It is a Schedule IV controlled substance under Health and Safety Code section 11057(d)(7) and is a dangerous drug as defined in Business and Professions Code section 4022. It produces central nervous system (CNS) depression and should be used with caution with other CNS depressant drugs. Like other benzodiazepines, it can produce psychological and physical dependence. Withdrawal symptoms similar to those associated with withdrawal from barbiturates and alcohol have been noted upon abrupt discontinuance of Klonopin.

18. Diazepam, known by the trade name Valium, is a psychotropic drug used for the management of anxiety disorders or for the short-term relief of the symptoms of anxiety. It is a Schedule IV controlled substance as defined by section 11057 of the Health and Safety Code and section 1308.14 of Title 21 of the Code of Federal Regulations, and is a dangerous drug as defined in Business and Professions Code section 4022. Diazepam can produce psychological and physical dependence and it should be prescribed with caution particularly to addiction-prone individuals (such as drug addicts and alcoholics) because of the predisposition of such patients to habituation and dependence.

19. Gabapentin, known by the trade name Neurontin, is an anticonvulsant that is used to prevent and control seizures and is also used to relive nerve pain, peripheral neuropathy. It is a dangerous drug as defined in Business and Professions Code section 4022.

20. Hydrocodone bitartrate with acetaminophen, known by the trade names of Vicodin and Norco, combines hydrocodone bitartrate which is a semisynthetic narcotic analgesic with acetaminophen (Tylenol) which is a non-opiate, non-salicylate analgesic and antipyretic. It belongs to the class of medications called analgesics, opioid combos. It is used to treat symptoms of moderate to severe pain. It is a Schedule II controlled substance as defined by section 11055, subdivision (e) of the Health and Safety Code and is a dangerous drug as defined in Business and Professions Code section 4022.

21. Lamotrigine, known by the trade name Lamictal, is a medication in the class known as triazine anticonvulsants. It is used in the treatment of bipolar disorder, seizure prevention,

schizoaffective disorder, or epilepsy. It is a dangerous drug as defined in Business and Professions Code section 4022.

22. Modafinil, known by the trade name Provigil, is a stimulant that is used to improve wakefulness in adult patients with sleep disorders associated with excessive sleepiness, such as narcolepsy, obstructive sleep apnea, or shift-work disorder. It is a Schedule IV controlled substance as defined by section 11057 of the Health and Safety Code and is a dangerous drug as defined in Business and Professions Code section 4022.

23. Seroquel is a trade name for quetiapine and is in the class of medications called atypical antipsychotics. It is used as part of a treatment program for bipolar disorder (manic depression) and for symptoms of schizophrenia. It is not approved by the FDA for the treatment of behavioral problems in older adults with dementia. Close monitoring is advised at the start of treatment because of risks of new or worsening depression, suicidal thoughts, extreme worry, agitation, etc. One of its most common side effects is sleepiness. It is a dangerous drug as defined in Business and Professions Code section 4022.

24. Sertraline, known by the trade name Zoloft, is in the class of antidepressants called selective serotonin reuptake inhibitors (SSRIs). It works by increasing the amounts of serotonin, a natural substance in the brain that helps maintain mental balance. It is used in the treatment of depression, obsessive-compulsive disorder, panic attacks, post-traumatic stress disorder, and social anxiety disorder. It is a dangerous drug as defined in Business and Professions Code section 4022.

25. Strattera is a trade name for atomoxetine and is a non-stimulant used to treat symptoms of attention deficit hyperactivity disorder (ADHD or ADD). It is to be used as part of a total treatment plan which includes psychological, social, and other treatments. It is a dangerous drug as defined in Business and Professions Code section 4022.

26. Temazepam, known by the trade name Restoril, is in the class of medications known as sedative/hypnotics. It is used in the treatment of symptoms of insomnia. It is a Schedule IV controlled substance as defined by section 11057 of the Health and Safety Code and is a dangerous drug as defined in Business and Professions Code section 4022.

27. Tramadol, known by the trade name Ultram, is an opioid agonist of the morphine-type and a centrally acting synthetic analgesic compound that is indicated for the management of moderate to moderately severe pain. It is a Schedule IV controlled substance as defined by section 11057 of the Health and Safety Code and is a dangerous drug as defined in Business and Professions Code section 4022. Tramadol may be expected to have additive effects when used in conjunction with alcohol, other opioids, or illicit drugs that cause central nervous system depression.

28. Trazodone, known by the trade name Desyrel, is an antidepressant used in the treatment of depression and it is also used to treat insomnia, anxiety, or panic attacks. It is a dangerous drug as defined in Business and Professions Code section 4022.

29. Vyvanse is a trade name for lisdexamfetamine which is a central nervous system (CNS) stimulant that is indicated for the treatment of attention deficit hyperactivity disorder (ADHD) in adults and in children who are at least six years in age. It is a Schedule II controlled substance under Health and Safety Code Section 11055 and is a dangerous drug as defined in Business and Professions Code Section 4022. It is also used to treat moderate to severe binge-eating disorder in adults. It may cause new or worsening psychosis (unusual thoughts or behavior) especially in those with a history of depression, mental illness, or bipolar disorder.

30. Wellbutrin is a trade name for bupropion hydrochloride and is an antidepressant medication used to treat major depressive disorder and seasonal affective disorder. It is a dangerous drug as defined in Business and Professions Code section 4022. Once use is started, the dosage should not be suddenly changed or suddenly stopped. Drinking alcohol while taking bupropion may increase the risk of seizures. It is contraindicated for those who have seizures or an eating disorder or those who have suddenly stopped using alcohol, seizure medication, or a sedative (such as Xanax, Valium, Fiorinal, Klonopin, and others).

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## FIRST CAUSE FOR DISCIPLINE

**(Unprofessional Conduct re: Patient A[1]: Gross Negligence, Repeated Negligent Acts, Incompetence, Prescribing without Appropriate Examination and Medical Indication, Excessive Prescribing)**

31. Respondent Michael Martin Saal, M.D. is subject to disciplinary action for unprofessional conduct through his acts and omissions regarding Patient A under section 2234 subd. (b) [gross negligence] and/or subd. (c) [repeated negligent acts] and/or subd. (d) [incompetence] and/or section 2242 [furnishing dangerous drugs without appropriate examination and medical indication] and/or section 725 [excessive prescribing]. The circumstances are as follows:

32. On or about July 26, 2017, Respondent saw Patient A, a female patient born in 1998, whom he had last seen in 2015 or 2016. His progress notes list the following conditions: PTSD, anxiety at home (living at her parents' home), and panic attacks at her full-time restaurant job. Respondent prescribed: #60 Adderall XR 30 mg., #30 Xanax 1 mg. tablets, and #30 Wellbutrin XL 300 mg. (bupropion XL) plus two refills.

33. In his progress note of July 26, 2017, Respondent noted that Patient A spent one month in residential treatment in Florida, "the sober way," and that her boyfriend was a drug user. There is no documentation of the reasons for the residential treatment, the patient's substance abuse history, or her current rehabilitation efforts. The note also has no documentation of history of present illness, no past psychiatric history, mental status exam, family history or medical history, no examination to support a diagnosis of ADHD and no explanation for the patient's current medications and her prescribing history. Respondent made no attempt to obtain the patient's prior treatment and medical records, to contact her treating therapist and/or prescribing health care providers.

34. On or about July 27, 2017, Respondent received multiple text messages in the early morning hours from Patient A's mother asking if he had issued a prescription to Patient A and

[1] To protect the patients' privacy rights, they will be referred to by letters. Respondent will be provided their names during discovery.

informing him that Patient A had taken 8 pills (from the 30 prescribed) "plus drinking," that the paramedics were called at 1:24 a.m. and Patient A went off in an ambulance. She also informed him that her daughter left rehab, was drug-seeking, "does cocaine," and that she is also getting prescription drugs from several other doctors. The mother also texted Respondent that Patient A is not to set foot in his office. Respondent did not respond to the mother's messages.

35. In the evening on July 27, 2017, Respondent obtained CURES database reports of prescriptions of controlled substances issued in 2017 to Patient A and to her mother. According to the CURES report, Patient A filled a prescription from another physician for #30 Adderall 20 mg. on July 16, 2017. In May and June 2017, Patient A had filled prescriptions for Adderall in various doses from three different physicians which totaled: #60 Adderall 30 mg. and #60 Adderall 10 mg.

36. During the course of treatment, Respondent never again checked the CURES database for Patient A and Respondent never contacted any of Patient A's other prescribing physicians to coordinate care and/or to obtain records.

37. On or about August 2, 2017, Respondent saw Patient A and the entire progress note consists of the following: "Jordie – BF in Marin. took only one Xanax." The note is inadequate and does not contain any information about the July 27, 2017 events or about the patient's substance abuse history or her current medical history. There is no documentation of a discussion with the patient about the risks and benefits of the treatment and of alternative treatments.

38. On or about August 8, 2017, Respondent saw Patient A who reported that she was off to New York and then to Hawaii, back on August 22. Respondent noted that sleep and appetite were "good." Respondent documents what appear to be prescriptions for Adderall, in dosages of both XR 30 mg. and XR 15 mg., Xanax 1 mg., and Wellbutrin 300 mg. plus two refills, without documented findings or clinical rationale to support the treatment.

39. On or about August 21, 2017, Respondent saw Patient A who reported having been to Hawaii with her family. The progress note is inadequate and contains no findings or other assessment of treatment. It references prescriptions for #60 Adderall XR 30 mg. and #30 Wellbutrin XL 300 mg. plus two refills.

40. On or about September 11, 2017, Respondent saw Patient A and his progress note is scant. Respondent noted that the patient "stopped impulsive behavior – not using drugs." Respondent issued prescriptions for #60 Adderall XR 30 mg. and #30 Xanax 1 mg.

41. On or about September 18, 2017 (one week later), Respondent saw Patient A and issued a prescription for #30 Adderall XR 10 mg. There is not a documented medical indication or findings to support the prescribing.

42. On or about September 22 and 23, 2017, Patient A's mother sent text messages to Respondent stating that her daughter is "doctor shopping" and "double dipping" and that the patient has also obtained Adderall from another doctor, whom she named. Respondent did not respond.

43. On or about October 2, 2017, Patient A's mother sent text messages in the afternoon to Respondent that "last week" Patient A consumed an entire bottle of Xanax that he had prescribed for her. The mother also reported that Patient A has a severe eating disorder.

44. On or about October 2, 2017, Respondent saw Patient A who reported exercising three hours a day. The note is scant and contains no findings regarding the patient's condition and/or a review of the treatment. Respondent prescribed #90 Wellbutrin XL 300 mg.

45. On or about October 9, 2017, Respondent saw Patient A and his progress note is brief. He issued prescriptions for #60 Adderall XR 30 mg., plus for another dose of #30 Adderall XR 15 mg. This indicates a daily dosage of Adderall XR that is 75 mg/day when the usual maximum dosage is 60 mg./day. Respondent does not document an appropriate medical indication or rationale for the increased dosage of Adderall for Patient A.

46. On or about October 9, 2017, Respondent received text messages from Patient A's mother in the afternoon and in the evening. She reported that the patient is mis-using Adderall as an appetite suppressant and for energy. She accused him of "killing my child."

47. According to the CURES database report for Patient A, on October 3, 2017 and on October 31, 2017, she filled prescriptions issued by another physician for Adderall 20 mg., each for #30 pills.

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48. On or about October 19, 2017, Respondent received a text message from Patient A's mother that Patient A had been up all night from an Adderall high, that she was mis-using her prescription medications.

49. On or about October 23, 2017, Respondent saw Patient A and does not document any discussion with the patient about her mis-use of medications or any other review or monitoring of the treatment. The progress note is scant. Respondent issued a prescription for #30 Xanax 1 mg.

50. On or about October 25, 2017 (a Wednesday), Respondent received text messages from Patient A's mother reporting that Patient A went through an entire bottle of Xanax on Monday and consumed another bottle of Xanax on Friday and "took kava."[2]

51. In the early morning hours of October 27, 2017, Patient A sent text messages to Respondent asking to switch to an "instant" release version of Adderall, Adderall IR 20 mg. for taking in the afternoon "between working at Starbucks and the biking." She asked for a therapy appointment and said that she's been "feeling down lately and need to adjust medication."

52. On or about October 27, 2017, just four days after the last visit, Respondent saw Patient A. His handwritten progress note consists entirely of four words, not all legible. Respondent issued prescriptions for: #30 Adderall XR 10 mg. to be taken once at night and for #30 Xanax 0.25 mg.

53. On or about November 3, 2017, Respondent saw Patient A and his progress note only lists prescription medications. Respondent prescribed #30 Adderall XR 15 mg. and #90 Wellbutrin XL 300 mg. That night, Respondent received a text message from Patient A's mother stating that her daughter had already consumed the whole bottle of Adderall that he prescribed.

54. On or about November 8, 2017, Respondent saw Patient A and prescribed #60 Adderall XR 30 mg. His progress note is blank, except for the patient's name and date.

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[2] Kava is an herbal remedy made from the roots of a plant from islands in the Pacific Ocean. It contains substances that act much like alcohol on the brain, making one feel calm, relaxed, and happy. It is not regulated and is sold as an herbal supplement.

55. During an interview with the Board's investigator in July 2020, Respondent explained that when there is a date stamp in the patient's record but the page is blank, without any progress note, it means that he saw the patient on that date but that he did not write a progress note for the visit.

56. Two days later, on or about November 11, 2017, Respondent saw Patient A who reported that she was going to London with her parents the next day. The progress note is scant. Respondent issued a prescription for #8 Klonopin 1 mg. without documenting findings or a reasonable medical indication for the prescribing.

57. On or about November 12, 2017, Respondent received text messages in the morning from Patient A's mother that Patient A is mis-using her controlled substances and had consumed 7 or 8 Klonopin pills all at once with alcohol. She asked if he recommended taking her to emergency. Respondent did not respond.

58. On or about November 20, 2017, Respondent saw Patient A, who was back from London. The progress note contains no review or monitoring of the patient's treatment. Respondent issued a prescription to Patient A for #30 Xanax 1 mg.

59. On or about November 22, 2017, Respondent received text messages in the early morning from Patient A's mother reporting that Patient A was up all night on an Adderall "HIGH."

60. On November 30, 2017, Respondent saw Patient A and his progress note is scant, with no documentation of a review or monitoring of the treatment. Respondent issued a prescription to Patient A for #30 Adderall XR 15 mg.

61. On or about December 7, 2017, Respondent saw Patient A and issued a prescription for an immediate release form of Adderall: #7 Adderall IR (immediate release) 15 mg. His progress note is blank, except for the patient's name and date.

62. On or about December 11, 2017, Respondent saw Patient A and prescribed #60 Adderall XR 30 mg. along with a change of the prescription for Xanax to #60 pills at a dosage of 0.5 mg. without documentation of a medical indication or rationale for the prescribing.

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63. On or about December 13, 2017, Respondent received text messages from Patient A's mother that her daughter was high on controlled substances he prescribed, is a threat to herself, and asking whether she should call the cops and have her involuntarily committed. Respondent did not respond.

64. On or about December 15, 2017, Respondent received a text message from Patient A's mother reporting that her daughter had consumed #60 Xanax in three days.

65. On or about December 28, 2017, Respondent saw Patient A and issued prescriptions for #30 Adderall XR 15 mg. and #30 Xanax 1 mg. His progress note is scant, with no documentation of a review of his treatment or monitoring of the patient's medication use.

66. In summary, from July 26, 2017 through December 2017, Respondent prescribed the following controlled substances to Patient A: #360 Adderall 30 mg.; #127 Adderall 15 mg.; #60 Adderall 10 mg.; #50 alprazolam 1 mg. (Xanax); #60 alprazolam 0.50 mg; and #30 alprazolam 0.25 mg.; #8 clonazepam 1 mg. (Klonopin).

67. In 2018, Respondent continued to see Patient A on approximately a weekly basis and continued to prescribe controlled substances to Patient A. Respondent also continued to receive text messages every month from Patient A's mother about her daughter's mis-use and abuse of the prescription drugs.

68. On or about February 19, 2018, Respondent saw Patient A and prescribed #30 Adderall XR 15 mg. Later that night, Patient A's mother notified Respondent by text message that the patient had consumed eight tramadol, which were the dog's pain pills, and that she was up all day and all night.

69. On or about February 20, 2018, Respondent saw Patient A but his progress note is blank.

70. On or about February 27, 2018, Respondent saw Patient A and his progress note basically contains only a list of prescription medications. He issued a prescription for #10 Adderall 10 mg. without any documented explanation.

71. On or about April 2, 2018, Respondent saw Patient A and issued prescriptions for #60 Adderall XL 30 mg. and #60 Xanax 1 mg.

72. On or about April 6, 2018, Respondent received multiple text messages from Patient A's mother reporting that her daughter was in a drug-induced psychosis, having consumed 10 Wellbutrin tablets, an entire bottle of Xanax, plus Adderall. Also, she stated that she was told by the mental hospital that Patient A might not pull out of a psychosis if it happens again.

73. On or about April 10, 2018, Respondent received text messages from Patient A's mother that the patient had consumed 60 pills in just 2 days.

74. On or about April 16, 2018, Respondent saw Patient A and his progress note merely lists prescription medications and that the patient is back from four days in Australia with her parents. Respondent prescribed to Patient A: #30 Adderall XR 15 mg. and #30 Wellbutrin 300 mg. plus two refills.

75. On or about April 16 and 17, 2018, Respondent received multiple text messages from Patient A's mother accusing him of keeping her daughter sedated and disabled. She said that the police were called, that Patient A was now "on the streets." She accused him of prescribing #60 pills to her daughter "knowing she can't stop" and stated that the hospital said that she is severely ill. Respondent replied by text message to the mother and said that the patient "might still need a higher level of care than what we can offer." He also stated that it was "hard to know what was going on with her yesterday because her mental state definitely seemed altered." Yet, there was no mention of the patient's altered mental state in his April 16, 2018 progress note.

76. On or about April 18, 2018, Respondent received an email from a licensed marriage and family therapist as a follow-up to his voicemail message left for Respondent the day before, to which Respondent had not replied. The therapist reported that he saw Patient A in his office on April 17 and that she "appears to be going into psychosis (and reports the same) as a result of the medications." He also reported that Patient A has been misusing her medication and taking them in extremely high doses. Respondent was asked to call the therapist immediately and the email attached the patient's release allowing them to speak about her condition. The therapist also asked Respondent to reach out to Patient A, stating that she is in a very chaotic state and may need hospitalization. Respondent did not document in the patient's chart that he responded to the

therapist's messages and/or that he conducted any investigation of the facts alleged by the therapist.

77. On or about April 19, 2018, Respondent saw Patient A and issued a new prescription for #30 gabapentin 600 mg. without documenting a medical indication. Respondent's progress note does not document any discussion with the patient about her use or mis-use of medications, the concerns raised by the therapist, or any review of the treatments and monitoring of the patient.

78. On or about April 20, 2018, Respondent saw Patient A and issued a prescription for #10 Adderall 10 mg. without a documented medical indication.

79. On or about April 23, 2018, Respondent saw Patient A and issued a new prescription for #5 Vyvanse 70 mg, without documenting an appropriate medical indication for the prescription.

80. In May 2018, Respondent received multiple messages from Patient A's mother and from her father in which they reported that they were in crises, that Patient A was abusing her medications and was physically violent. The patient's behaviors were attributed to Respondent's treatment. On May 22, 2018, it was reported that the patient had not slept for five nights, that she snorted gabapentin, and was consuming bottles of kratom.[3]

81. In May 2018, Respondent saw Patient A for five visits without any mention or review of the reports of her abuse of medications. One progress note is blank while the other four contain little information other than a list of prescription medications. In May 2018, Respondent prescribed to Patient A: #20 Adderall XR 10 mg, #30 Adderall XR 20 mg., and #60 Adderall XR 30 mg.

82. In June through August 2018, Respondent received numerous text messages from Patient A's mother about her daughter's mis-use and abuse of the prescription drugs from Respondent. She reported that Patient A was consuming bottles of medications at one time,

[3] Kratom is an herbal extract from a tropical evergreen tree native to Southeast Asia that has opioid-like and stimulant-like properties. It is not currently an illegal substance and is not regulated in the United States, although it is prohibited in some states and the FDA has issued multiple advisories about its use. It is sold as an energy booster, mood enhancer, pain reliever, and antidote for opioid withdrawal.

seeking street drugs, exhibiting very disruptive behaviors, and suffering with a severe eating disorder, binge-eating then vomiting.

83. On or about July 6, 2018, Respondent saw Patient A. His progress note basically consists only of a list of the patient's current medications. Respondent issued prescriptions for #15 Adderall XR 10 mg., #30 Wellbutrin 300 mg. plus two refills, and #30 gabapentin 600 mg. plus two refills.

84. On or about July 10, 2018, Patient A's mother reported in a text message to Respondent that the police had taken Patient A to Marin General Hospital in handcuffs. She stated that her daughter has gone through her prescriptions too soon, before the refill is due.

85. On or about July 13, 2018, Respondent saw Patient A and the scant progress note appears to indicate the patient's version of events: that her mother stole money from her, that the patient got angry, broke glass, and the mother called police. Respondent issued prescriptions for #60 Adderall XR 30 mg. and #30 Adderall XR 20 mg.

86. In August 2018, Respondent saw Patient A for six visits and the progress notes for two of those visits are blank. The other progress notes contain no documentation of findings, or of a review of Respondent's treatment.

87. In August 2018, Respondent issued the following prescription medications to Patient A: #30 Adderall XR 10 mg.; #30 Adderall XR 20 mg.; #60 Adderall XR 30 mg.; #60 Wellbutrin XL 150 mg. plus four refills.

88. On or about September 7, 2018, Respondent saw Patient A for their only visit in September and his progress note contains no findings regarding the patient's condition and treatment. Respondent issued prescriptions to Patient A for: #30 Vyvanse 70 mg. and #30 Adderall XR 10 mg.

89. In September 2018, Respondent received multiple messages from Patient A's parents about Patient A's abuse of the prescription drugs and kratom. It was reported that the patient was suicidal and was spiraling out of control. On September 19, 2018, it was reported that the police had arrested her and taken her away.

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90. On or about October 4, 2018, Respondent saw Patient A and noted that she had spent a night in the psychiatry ward. Respondent did not document any details, e.g. the reasons for the hospitalization, only a list of what appear to be the patient's current medications. Respondent issued prescriptions to Patient A for: #30 Vyvanse 70 mg.; #30 Adderall XR 10 mg.; #30 Adderall 5 mg.; and #30 Wellbutrin XL 150 mg. plus two refills. Respondent issued the same prescriptions to Patient A again on October 31, 2018.

91. On or about December 26, 2018, Respondent received a text message from Patient A's mother that her daughter had texted her from a locked hotel bathroom that she is slitting her wrist. On December 27, 2018, Respondent received a text message from Patient A stating that whatever her mother said was a lie and that she was "doing really well."

92. In summary, for 2018, Respondent issued prescriptions for the following medications to Patient A: #540 Adderall XR 30 mg.; #90 Adderall XR 20 mg.; #130 Adderall XR 15 mg.; #247 Adderall XR 10 mg.; #90 Adderall 5 mg.; # 125 Vyvanse 70 mg.; #60 Vyvanse 50 mg.; #60 Xanax 1 mg.; and, #90 Valium 2 mg.

93. On or about January 7, 2019, Respondent next saw Patient A, who had texted multiple messages that day that she needed to see him for refills of her medications, stating that she had been out of them for three weeks. Respondent's progress note for this visit is blank. Respondent issued the following prescriptions to Patient A: #30 Adderall XR 10 mg.; #30 Adderall 5 mg.; and #30 Vyvanse 70 mg.

94. On or about January 8, 2019, Respondent received a text message from Patient A's mother that her daughter needs professional help. She had previously texted to him that her daughter is an addict and has a severe eating disorder. Respondent did not respond.

95. On or about March 12, 2019, Respondent received multiple text messages from Patient A's mother indicating that her daughter was being violent, cutting her wrists, threatening harm, throwing and breaking things, and that the police were called in and she would be evaluated at Marin General.

96. On or about May 1, 2019, Respondent saw Patient A and his progress note consists only of a list of current medications. Respondent issued prescriptions to Patient A for: #30

Adderall XR 10 mg.; #30 Adderall 5 mg, and #30 Vyvanse 70 mg. This is the most recent progress note that was produced by Respondent to the Board during its investigation.

97. In summary, from January 1, 2019 to May 3, 2019, Respondent issued prescriptions to Patient A for the following medications: #150 Adderall XR 10 mg.; #150 Adderall XR 5 mg.; # 150 Vyvanse 70 mg.; and, #60 Valium 2 mg.

98. In summary, Respondent is subject to disciplinary action for unprofessional conduct through his acts and omissions regarding Patient A under section 2234 subd. (b) [gross negligence] and/or subd. (c) [repeated negligent acts] and/or subd. (d) [incompetence] and/or section 2242 [furnishing dangerous drugs without appropriate examination and medical indication] and/or section 725 [excessive prescribing] as follows:

a. In July 2017, after not seeing the patient for about one year, Respondent increased the patient's dosage of Adderall to the maximum daily dosage of 60 mg. without documenting the medical necessity for the increase. Respondent failed to appropriately consider alternative treatments to prescribing controlled substances to a patient who had recently emerged from residential treatment for substance abuse.

b. During the course of his treatment, Respondent failed to document the nature and history of the patient's substance abuse, which substances she was abusing and the rationale for her residential treatments.

c. Respondent failed to appropriately monitor the patient's treatment by conducting random urine testing and/or by reviewing the CURES database and/or by coordinating care with the patient's other prescribers and obtaining records of hospitalizations and police arrests. This conduct alone constitutes gross negligence, an extreme departure from the standard of care.

d. Respondent failed to appropriately monitor and conduct periodic review of the effectiveness of his treatment of Patient A. He demonstrated a lack of knowledge by ignoring clear evidence that the controlled prescriptions he prescribed were causing serious adverse side effects and by failing to take remedial action. This conduct alone constitutes gross negligence, an extreme departure from the standard of care.

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e. Respondent continued to prescribe Wellbutrin to the patient after being notified that the patient was taking excessive amounts and was also binging and purging, both behaviors which increase the risk for grand mal seizures. This conduct alone constitutes gross negligence, and extreme departure from the standard of care.

f. Respondent failed to acknowledge and investigate the claims from a therapist in 2018 that Patient A was abusing her medications and was becoming psychotic as a result. This conduct alone constitutes gross negligence, an extreme departure from the standard of care.

g. Respondent failed to appropriately monitor and evaluate his treatment of controlled substances to Patient A and failed to appropriately investigate the reports of the patient's aggressive behaviors and reports that the patient was consuming additional non-prescribed drugs and herbs (tramadol, cocaine, kratom, kava), and also failed to discontinue his prescribing of amphetamines. This conduct alone constitutes gross negligence, an extreme departure from the standard of care. It also demonstrates a lack of knowledge, incompetence, regarding the possible adverse reactions to amphetamines and evidence of mis-use or abuse.

h. Respondent prescribed controlled substances to Patient A without documenting an appropriate medical examination with findings to support a medical indication for his treatment.

i. During the course of his treatment of Patient A, Respondent failed to conduct and to document appropriate medical examinations to monitor the patient, e.g. the patient's vital signs and weight.

j. Respondent failed to respond to numerous reports from the patient's family of serious problems with the patient, including violent behavior and mis-use/abuse of her prescribed medications.

k. During the course of his treatment of Patient A, Respondent failed to properly investigate when notified of the patient's psychiatric hospitalizations and of her being removed from her home by the police.

l. Respondent failed to maintain adequate and accurate medical records for his treatment of Patient A.

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## SECOND CAUSE FOR DISCIPLINE

**(Unprofessional Conduct re: Patient B: Gross Negligence, Repeated Negligent Acts, Incompetence, Prescribing without Appropriate Examination and Medical Indication, Excessive Prescribing)**

99. Respondent Michael Martin Saal, M.D. is subject to disciplinary action for unprofessional conduct through his acts and omissions regarding Patient B under section 2234 subd. (b) [gross negligence] and/or subd. (c) [repeated negligent acts] and/or subd. (d) [incompetence] and/or section 2242 [furnishing dangerous drugs without appropriate examination and medical indication] and/or section 725 [excessive prescribing]. The circumstances are as follows:

100. In or about May 2015, Respondent first saw Patient B, a male born in 1967, for depression.

101. On or about October 6, 2017, approximately 29 months since their last visit, Respondent saw Patient B. The patient reported taking Seroquel 400 mg. at bedtime and Xanax 1 mg., as needed for flying. The patient said that he was not taking any anti-depressant, and that he feels tired in the morning. It is noted that the patient said he needs to lose weight but the patient's height and weight are not noted in the chart notes nor are there any vital signs or other findings documented. Respondent prescribed #60 Seroquel 200 mg. with two refills.

102. According to the CURES report, on November 6, 2017, Patient B filled prescriptions for the following controlled substances, which were issued by another physician: #90 Xanax 1 mg., and #120 Vicodin (hydrocodone and acetaminophen 10 mg./325 mg.).

103. On or about November 21, 2017, Respondent saw Patient B and noted that the patient said he had seen a sleep doctor and did not tolerate the CPAP well. The patient reported having a hard time sleeping because of apnea. Respondent noted that the patient had taken Xanax 3 mg. daily for years, as prescribed by his primary care physician, and that Xanax and trazodone help him sleep. It is unclear from the progress note whether Respondent issued prescriptions at this visit.

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104. On or about November 28, 2017, Respondent saw Patient B and noted that his sleep was better. Although the note lists Seroquel 400 mg. hs, Xanax 1 mg. prn, and trazodone 50 mg. hs, it is unclear whether Respondent issued prescriptions to the patient at this visit.

105. According to a CURES database report, on or about November 28, 2017, Patient B filled a prescription from Respondent for #60 Klonopin 1 mg. However, Respondent's progress notes for the patient's two November 2017 visits do not indicate that Klonopin was being prescribed to Patient B.

106. Respondent saw Patient B twice in December 2017 and noted that the patient was being prescribed Norco/Vicodin and Xanax by his primary care physician. It is unclear from Respondent's records exactly what was prescribed to Patient B at the two visits in December 2017. In both progress notes, Respondent lists Seroquel 200 mg, Xanax 1 mg., trazodone 50 mg. and Klonopin 1 mg. Respondent notes in his December 19, 2017 progress note that the patient said that the Klonopin didn't help.

107. In December 2017, according to CURES and pharmacy prescribing records, Patient B filled the following prescriptions issued by Respondent: #60 Xanax 2 mg., #60 Xanax 1 mg., #60 Ativan 1 mg., and #60 Seroquel 200 mg.

108. In 2018, Respondent continued to prescribe multiple benzodiazepines to Patient B while the patient was also being prescribed #90 Vicodin monthly by another physician. In summary, Respondent prescribed the following controlled substances to Patient B in 2018: #300 Xanax 2 mg.; #930 Xanax 1 mg.; #45 Ativan 2 mg.; and #30 Temazepam 15 mg. Respondent also prescribed to Patient B in 2018: #180 trazodone 50 mg.; #315 Abilify 5 mg.; #60 Abilify 10 mg.; #30 Abilify 15 mg.; #30 Seroquel 100 mg.

109. On or about January 8, 2019, Respondent saw Patient B and noted that the patient said the trazodone was not working and that he is using "extra" Xanax, without further details. It is also noted that he falls asleep at 4 or 5 a.m. and awakes at 10 or 11 a.m. However, instead of treating to realign the patient's circadian timing of sleep and wakefulness, Respondent increased the number of benzodiazepines prescribed, without documenting a reasonable medical indication for the treatment in the progress note.

110. On or about January 22, 2019, Respondent saw Patient B and added a prescription for #60 Adderall 10 mg. to his treatment regimen of Ativan and Xanax.

111. Respondent's progress notes for February 20, 2019 and March 5, 2019 are totally blank, except for the date. According to other prescribing records, on February 20, 2019, Respondent prescribed #120 Xanax 1 mg and #30 trazodone 300 mg. with two refills. On March 5, 2019, Respondent prescribed #60 Ativan 2 mg.

112. The allegations in Paragraph 55 regarding Respondent's blank progress notes are incorporated herein by reference, as if fully set forth.

113. On or about March 19, 2019, Respondent saw Patient B and noted "still anxiety," trazodone "helps sleep," and Adderall 10 mg "helps, motivates to do more." It is unclear from Respondent's progress notes whether the list of medications are current medications or ones that are being prescribed. According to other prescribing records, Respondent prescribed to Patient B on or about March 19, 2019 the following prescription medications that were filled by the patient: #120 Xanax 1 mg.; #60 trazodone 150 mg.; and; #30 Abilify 15 mg. (an increased dosage). The progress note does not document a reasonable medical indication for the prescribing. This is Respondent's last progress note for Patient B.

114. In 2019, through at least March 23, 2019, Respondent continued to prescribe multiple benzodiazepines to Patient B, along with other sedating medications, while the patient continued to be prescribed Vicodin monthly by his primary care physician.

115. On or about April 17, 2019, Patient B was found dead in his apartment. The coroner's amended death certificate lists the cause of death as fatal cardiac dysrhythmia, with hypertensive and atherosclerotic cardiovascular disease. A toxicology report showed acetone 11 mg./dL, a level that can be associated with diabetic ketoacidosis.

116. In summary, Respondent is subject to disciplinary action for unprofessional conduct under section 2234 subd. (b) [gross negligence] and/or subd. (c) [repeated negligent acts] and/or subd. (d) [incompetence] and/or section 2242 [furnishing dangerous drugs without appropriate examination and medical indication] and/or section 725 [excessive prescribing] through his acts and omissions regarding Patient B as follows:

a. Respondent prescribed to Patient B high doses of two benzodiazepines while the patient was also being prescribed opiates, without documenting a medical indication or rationale for his treatment, without consulting with the patient's other treating physician, and without documenting a discussion with the patient the risks of the combining of benzodiazepines and opiates, i.e. obtaining informed consent.

b. In his treatment of Patient B, Respondent demonstrated a lack of knowledge, incompetence, regarding the variety of sleep disorders and their treatment.

c. During the course of his treatment of Patient B, Respondent failed to conduct appropriate monitoring and periodic reviews of his treatment, and failed to monitor the patient's weight and serum glucose levels when prescribing two atypical antipsychotics, Abilify and Seroquel.

d. Respondent failed to maintain adequate and accurate medical records for his treatment of Patient B, including two progress notes of visits that were totally blank.

**THIRD CAUSE FOR DISCIPLINE**

**(Unprofessional Conduct re: Patient C: Gross Negligence, Repeated Negligent Acts, Incompetence, Prescribing without Appropriate Examination and Medical Indication, Excessive Prescribing)**

117. Respondent Michael Martin Saal, M.D. is subject to disciplinary action for unprofessional conduct through his acts and omissions regarding Patient C under section 2234 subd. (b) [gross negligence] and/or subd. (c) [repeated negligent acts] and/or subd. (d) [incompetence] and/or section 2242 [furnishing dangerous drugs without appropriate examination and medical indication] and/or section 725 [excessive prescribing]. The circumstances are as follows:

118. On or about June 23, 2016, Respondent first saw Patient C, a female born in 1959, for anxiety. He prescribed #60 Ativan 0.5 mg, #120 Xanax 0.25 mg., and #30 sertraline 25 mg.

119. On or about September 21, 2016 and October 14, 2016, Respondent issued prescriptions to Patient C for #60 Ativan 0.5 mg.

120. On or about January 3, 2017, Respondent saw Patient C. The progress note consists only of her birth date and "Ativan 0.5 mg. qid, Anxiety, Lyme."

121. Respondent saw Patient C on an approximately monthly basis from January 3, 2017 through December 1, 2017, except for May, August, and November, for a total of nine visits. All of Respondent's progress notes are extremely sparse, without pertinent information and findings to support Respondent's treatment.

122. In his progress note for the December 1, 2017 visit with Patient C, Respondent notes that the patient has attended some AA meetings. Nowhere in his records for Patient C does Respondent document Patient C's history of substance/alcohol abuse.

123. In 2018, Respondent saw Patient C for five visits. His progress notes are all very sparse, without information and findings to support his treatment.

124. Respondent's progress note for April 20, 2018, states: "Working from home. Distracted. Wants to try Modafinil for attn. issues." Respondent issued prescriptions for #120 Ativan 0.5 mg and #60 modafinil 100 mg. Respondent did not document any details and findings to provide a reasonable clinical basis for the prescribing of both a stimulant (modafinil) and Ativan which provides sedation and cognitive impairment.

125. During his interview with the Board's investigator in July 2020, Respondent stated that he views modafinil (Provigil) as a very low risk medication and that he will accept a patient's "request to give it a try" even though he has not seen very great success when he uses it. He also incorrectly stated that modafinil is not a controlled substance, when it is a Schedule IV controlled substance.

126. On September 7, 2018, after a break of about five months, Respondent saw Patient C and prescribed #120 Ativan 0.5 mg. and #60 modafinil 100 mg. without documenting adequate information in the progress note to support his treatment.

127. Respondent next saw Patient C on or about December 6, 2018. Respondent's progress note contains no findings. Respondent lists: #120 Ativan and modafinil 100 mg. bid. However, according to other prescribing records, Respondent did not issue a prescription for

modafinil but prescribed #30 Valium 10 mg. to Patient C, without documenting the prescription and without findings to support a medical indication for this treatment.

128. During his interview with the Board's investigator in July 2020, Respondent could not explain why he prescribed 10 mg. of Valium to Patient C on December 6, 2018 and why he was prescribing two benzodiazepines (Ativan and Valium) to a patient who had an alcohol use disorder.

129. Respondent's next progress note for Patient C is for a visit on March 4, 2019. About three months since the previous visit. Respondent's progress note is inadequate, with no objective or subjective findings. In addition to Ativan, Respondent prescribed #30 hydrocodone/ibuprofen 7.5 mg./200 mg. "For back pain? Related to Lyme's Disease." There is no documentation about the prior prescribing of modafinil or of Valium.

130. On or about July 22, 2019, over four months since the last visit, Respondent saw Patient C. In his sparse progress note, Respondent stated that a low dose of Adderall would be tried "for attention issues." Without any documented findings to support the treatment, Respondent issued a prescription for #60 Adderall 5 mg. Respondent also noted that the patient would "titrate off Ativan" and yet he continued to prescribe #120 Ativan to the patient.

131. On or about October 8, 2019, Respondent saw Patient C, more than two months since the last visit, and the only information about the patient documented is "Feeling constant anxiety lately." There are no findings and no mention about the trial of Adderall that was started in July 2019 or any titration of Ativan. In addition to prescribing #120 Ativan 0.5 mg., Respondent prescribed #90 Valium 2 mg., without a documented medical indication.

132. On or about November 27, 2019, Respondent next saw Patient C. The progress note merely documents "Ativan 0.5 mg. qid" with no further information or findings.

133. On or about December 20, 2019, Respondent saw Patient C and merely documents "back spasm" and then prescriptions for #20 Motrin, modafinil 100 mg bid, and Klonopin 1 mg. #30 (muscle relaxer). Respondent documents no findings to support his prescribing and makes no mention of why he is not continuing to prescribe Ativan.

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134. In 2019, Respondent issued nine prescriptions in 2019 to Patient C for #120 Ativan each, according to the CURES report. However, Respondent's records for Patient C only document issuing four prescriptions for #120 Ativan to Patient C in 2019, which coincide with patient visits.

135. On or about March 12, 2020, Respondent saw Patient C, which was almost three months after the last visit. Respondent's progress note is essentially blank, it simply lists #120 Ativan 0.5 mg. and modafinil 100 mg. bid with no findings or other information. This is the last progress note for Patient C that Respondent produced to the Board during its investigation.

136. In summary, Respondent is subject to disciplinary action for unprofessional conduct through his acts and omissions regarding Patient C under section 2234 subd. (b) [gross negligence] and/or subd. (c) [repeated negligent acts] and/or subd. (d) [incompetence] and/or section 2242 [furnishing dangerous drugs without appropriate examination and medical indication] and/or section 725 [excessive prescribing] as follows:

a. Respondent failed to conduct and document an appropriate initial psychiatric visit with Patient C. During the course of his treatment, Respondent continued to fail to document appropriate examinations and findings, past medical and psychiatric histories of the patient, diagnoses, and treatment plans.

b. Respondent prescribed multiple benzodiazepines concurrently, while the patient was also being prescribed opiates, without documenting a clinical rationale for his treatment;

c. Respondent prescribed Adderall to Patient C without a diagnostic evaluation or rationale to support the treatment.

d. Respondent prescribed hydrocodone to Patient C without a documented medical examination and medical indication, particularly when the patient was receiving hydrocodone from another physician.

e. Respondent demonstrated a lack of knowledge, incompetence, regarding the drug modafinil which he prescribed to Patient C.

f. During the course of his treatment of Patient C, Respondent did not conduct appropriate review of the treatment, did not consult with the patient's other treating physician to

coordinate care, and did not discuss with the patient the risks of the combining of benzodiazepines and opiates, i.e. obtain informed consent.

g. Respondent failed to maintain adequate and accurate medical records for his treatment of Patient C.

## FOURTH CAUSE FOR DISCIPLINE

**(Unprofessional Conduct re: Patient D: Gross Negligence, Repeated Negligent Acts, Incompetence, Prescribing without Appropriate Examination and Medical Indication, Excessive Prescribing)**

137. Respondent Michael Martin Saal, M.D. is subject to disciplinary action for unprofessional conduct through his acts and omissions regarding Patient D under section 2234 subd. (b) [gross negligence] and/or subd. (c) [repeated negligent acts] and/or subd. (d) [incompetence] and/or section 2242 [furnishing dangerous drugs without appropriate examination and medical indication] and/or section 725 [excessive prescribing]. The circumstances are as follows:

138. On or about January 8, 2018, Respondent first saw Patient D, a male born in 1967, who was referred by his primary care physician. The patient reported that he had atrial fibrillation (AFib) during times of stress and had seen a cardiologist. The patient said that he worked long hours in construction and that he had "OCD," Lyme disease, and anxiety attacks. The patient requested cognitive behavioral therapy (CBT). The patient was currently taking diltiazem 50 mg. bid and flecainide 200 mg. daily. He reported that his referring physician had tried him on an SSRI (selective serotonin reuptake inhibitor) and a mood stabilizer, Zoloft and possibly Lamictal, but both were stopped. There are no details in the progress notes about the patient's trial of the SSRI treatment. There is no documentation of any prescriptions or treatment plan.

139. On or about January 12, 2018, Respondent saw Patient D and his progress notes do not document any treatment plan or prescriptions.

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140. On or about January 17, 2018, Respondent saw Patient D and noted that Ativan 1 mg. led to sleep. Respondent also noted Klonopin 1 mg. and "Fleckanide for AFib." There is no documentation of a treatment plan or details about any prescriptions issued.

141. For the date of January 19, 2018, Respondent's progress note for Patient D is blank except for the date.

142. The allegations in Paragraph 55 regarding Respondent's blank progress notes are incorporated herein by reference, as if fully set forth.

143. On or about January 24, 2018, Respondent saw Patient D and noted that the patient reported that he was taking only one Klonopin and that it helped his anxiety. It was also noted that the patient reported not needing to take the Ativan for sleep. There is no documentation of the patient's current medications or of the issuance of any prescription medications.

144. Patient D continued to see Respondent on a regular basis in 2018, about every 6-14 days.

145. During the course of treatment of Patient D, Respondent's progress notes are blank on at least seven separate dates while other progress notes contain scant information. All of Respondent's progress notes are handwritten.

146. Respondent's progress notes for Patient D's visits on March 13 and on March 22, 2018 appear to indicate that the patient had two 16-hour episodes of AFib but without further details. There is no documentation of the patient's current medications or if any prescriptions were issued.

147. On or about April 6, 2018, Respondent saw Patient D and noted prescribing Klonopin 1 mg. as needed (prn) and Ativan 1 mg. as needed (prn) without documenting the quantities.

148. According to the CURES report, Patient D filled the following prescriptions issued by Respondent: #60 Klonopin 1 mg. (15 days' supply) on April 5, 2018 and #60 Ativan 1 mg. (30 days' supply) on April 13, 2018.

149. On or about April 19, 2018, Respondent saw Patient D and noted that he had 24-hours of serious AFib that required cardioversion and may need an ablation. There is no documentation of the details of his cardiac problems and no list of current medications.

150. On or about April 26, 2018, Respondent saw Patient D and noted that the patient had a panic attack lasting two hours the day before and has had six days of AFib. The patient said that the Klonopin was "not working as well." Respondent noted that the patient's flecainide had been increased to the maximum of three times daily. Respondent's progress notes document Klonopin 1 mg. prn and Ativan 1.0 mg. prn but without the quantities and whether these are prescriptions issued or a list of current medications. Respondent did not document that he also issued a prescription for Valium to Patient D.

151. According to a CURES database report, on April 27, 2018, Patient D filled a prescription issued by Respondent for #60 Valium 2 mg.

152. On or about May 11, 2018, Respondent saw Patient D and noted that the patient reported another episode of AFib that took 18 hours to "cardiovert" to sinus rhythm. The patient reported being light-headed and having "brain fog." Respondent listed three different benzodiazepines: Ativan 10 mg. prn; Klonopin 1.0 mg. prn; and Valium 2 mg. bid.

153. Respondent's progress notes for Patient D from May 11, 2018 through at least May 6, 2019, continue to list three benzodiazepines (Ativan, Klonopin, Valium) being prescribed to Patient D. However, according to the CURES report, the last prescription written by Respondent for #60 Ativan was filled by Patient D on June 18, 2018.

154. In 2019, Respondent saw Patient D on approximately a monthly basis between January 24, 2019 and September 25, 2019, except for the months of April and August, for a total of seven visits. Of those seven visits, Respondent's progress notes are blank for four of the visits. The last handwritten progress note for Patient D that was produced by Respondent is dated May 6, 2019.

155. According to the CURES database for 2019, between January 1, 2019 and September 25, 2019, Respondent issued the following controlled substances prescriptions that were filled by Patient D: #420 Valium 2 mg. and #60 Klonopin 1 mg.

156. In summary, Respondent is subject to disciplinary action for unprofessional conduct through his acts and omissions regarding Patient D under section 2234 subd. (b) [gross negligence] and/or subd. (c) [repeated negligent acts] and/or subd. (d) [incompetence] and/or

section 2242 [furnishing dangerous drugs without appropriate examination and medical indication] and/or 725 [excessive prescribing] as follows:

a. Respondent prescribed multiple benzodiazepines concurrently without documenting a clinical rationale for his treatment;

b. Respondent demonstrated a lack of knowledge, incompetence, regarding the use of benzodiazepines to control Patient D's anxiety by prescribing multiple members of the same class, each at sub-therapeutic dosages rather than using one medication at adequate dosage.

c. Respondent failed to conduct appropriate periodic review of the effectiveness of the treatment.

d. Respondent failed to maintain adequate and accurate medical records for his treatment of Patient D, including at least four progress notes of visits that were totally blank.

## FIFTH CAUSE FOR DISCIPLINE

**(Unprofessional Conduct re: Patient E: Gross Negligence, Repeated Negligent Acts, Incompetence, Prescribing without Appropriate Examination and Medical Indication, Excessive Prescribing)**

157. Respondent Michael Martin Saal, M.D. is subject to disciplinary action for unprofessional conduct through his acts and omissions regarding Patient E under section 2234 subd. (b) [gross negligence] and/or subd. (c) [repeated negligent acts] and/or subd. (d) [incompetence] and/or section 2242 [furnishing dangerous drugs without appropriate examination and medical indication] and/or section 725 [excessive prescribing]. The circumstances are as follows:

158. On or about June 24, 2015, Respondent first saw Patient E, a female born in 1980, for treatment of generalized anxiety disorder and ADHD. According to Respondent, the patient reported a history of ADHD and of problems controlling her anger. She had been prescribed Adderall 30 mg. daily and reported that she had been on mood stabilizers for four years but they made her tired. Respondent prescribed Adderall 15 mg. bid to continue her treatment. It appears that Respondent did not seek to obtain the patient's prior treating records.

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159. On or about July 28, 2015, Respondent saw Patient E and added a prescription for #60 Xanax 1 mg. and also prescribed #60 Adderall 10 mg. (20 mg. daily).

160. On or about August 21, 2015, Respondent saw Patient E and increased the dosage of Adderall to 50 mg. daily.

161. During the course of treatment, Respondent continued to see Patient E on an approximately monthly basis and continued to prescribe Adderall and Xanax.

162. On or about September 23, 2016, Respondent increased the dosage of Xanax to 1.5 mg. daily for about two months.

163. On or about October 12, 2017, Respondent saw Patient E and increased the dosage of Xanax to 2 mg. daily, added a prescription for #30 Lamictal 25 mg., and continued to prescribe 50 mg. daily of Adderall.

164. On or about December 29, 2017, Respondent saw Patient E and briefly noted "new job" and "some improvement re: mood, explosiveness." Respondent's scant note, however, does not describe the nature of the patient's explosiveness and the improvement. Respondent doubles the prescription for Lamictal from 25 mg to 50 mg., without a documented medical indication.

165. In 2017, Respondent saw Patient E for a total of fifteen visits. The progress notes for eleven of those fifteen visits are essentially blank, containing only the date of the visit. The progress notes for the remaining four visits contain scant information and are inadequate. There is no documentation of any objective findings, vital signs, or an assessment of a treatment plan/goals.

166. The allegations in Paragraph 55 regarding Respondent's blank progress notes are incorporated herein by reference, as if fully set forth.

167. On or about January 25, 2018, Respondent saw Patient E and increased the dose of alprazolam to 3 mg. daily, added a prescription for temazepam 15 mg. daily, and continued to prescribed 50 mg. Adderall daily. Respondent's progress note is blank, with no findings or documentation of a medical indication for his treatment.

168. On or about February 23, 2018, Respondent saw Patient E and noted that the patient reported occasionally taking double the dosage of temazepam (30 mg.). Respondent continued to

prescribe temazepam, added a prescription for #30 Lamictal 100 mg., and also prescribed Adderall 50 mg. daily and Xanax 2 mg. daily. Respondent's progress notes are scant and merely mention that the patient is "finally sleeping" and "stays asleep." Respondent does not appear to recognize or assess that the daily dosage of 50 mg of Adderall may be contributing to the patient's insomnia.

169. From February 23, 2018 through at least June 24, 2020, Respondent prescribed to Patient E high dosages of controlled substances on a monthly basis.

170. In 2018, Respondent saw Patient E for a total of thirteen visits. The progress notes for six of those thirteen visits are blank, containing only the date of the visit. The progress notes for the remaining seven visits contain scant information, often with nothing more than a list of prescribed medications, and are inadequate. There is no documentation of any objective findings, vital signs, or assessment of a treatment plan/goals.

171. In 2019, Respondent saw Patient E for a total of thirteen visits. The progress notes for two of those thirteen visits are blank, containing only the date of the visit. The remaining eleven progress notes contain scant information, often with nothing more than a list of prescribed medications, and are inadequate. There is no documentation of any objective findings, vital signs, or assessment of a treatment plan/goals.

172. From January to June 24, 2020, Respondent saw Patient E for a total of seven visits. The progress notes for five of those seven visits are blank, containing only the date of the visit. The remaining two progress notes contain scant information, nothing more than a list of prescribed medications, and are inadequate. There is no documentation of any subjective/objective findings, vital signs, or assessment of a treatment plan/goals.

173. According to Respondent's records, from January 10, 2020 through June 24, 2020, he prescribed the following medications to Patient E: #420 Adderall 20 mg.; #210 Adderall 10 mg.; #420 Xanax 1.0 mg; #420 Xanax 0.5 mg.; #420 Temazepam 15 mg.; and #630 Lamictal.

174. In summary, Respondent is subject to disciplinary action for unprofessional conduct through his acts and omissions regarding Patient E under section 2234 subd. (b) [gross negligence] and/or subd. (c) [repeated negligent acts] and/or subd. (d) [incompetence] and/or

section 2242 [furnishing dangerous drugs without appropriate examination and medical indication] as follows:

a. Respondent failed to conduct appropriate examinations of Patient E and failed to appropriately monitor the patient, including vital signs, while prescribing a stimulant (Adderall) on an ongoing basis.

b. Respondent demonstrated a lack of knowledge, incompetence, regarding sleep disorders and their appropriate treatments.

c. Respondent prescribed controlled substances to Patient E, increased the dosages, and continued to prescribe high dosages without documenting a reasonable clinical rationale for his treatment.

d. Respondent failed to conduct appropriate periodic review of the effectiveness of the treatment.

e. Respondent failed to maintain adequate and accurate medical records for his treatment of Patient E, including about twenty progress notes of visits that were totally blank.

## SIXTH CAUSE FOR DISCIPLINE

**(Unprofessional Conduct re Patient F and Patient G: Gross Negligence, Repeated Negligent Acts, Prescribing without Appropriate Examination and Medical Indication, Excessive Prescribing)**

175. Respondent Michael Martin Saal, M.D. is subject to disciplinary action for unprofessional conduct through his acts and omissions regarding Patient F and Patient G under section 2234 subd. (b) [gross negligence] and/or subd. (c) [repeated negligent acts] and/or subd. (d) [incompetence] and/or section 2242 [furnishing dangerous drugs without appropriate examination and medical indication] and/or section 725 [excessive prescribing]. Respondent issued prescription medications, including Schedule II controlled substances prescriptions, to two of his children (Patient F and Patient G) without maintaining any medical records, therefore without documenting an appropriate examination and medical indication for the prescriptions. The circumstances are as follows:

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176. According to the CURES database, Respondent prescribed the following controlled substances to his child, Patient F:

a. On or about June 7, 2014: #30 Vyvanse 50 mg.

b. On or about October 25, 2014: #60 Adderall 20 mg.

c. On or about June 8, 2019: #90 Adderall 20 mg.

177. According to pharmacy prescribing records, Respondent also prescribed the following dangerous drugs to Patient F:

a. On or about February 5, 2013 to June 6, 2013: #150 Strattera 60 mg.

b. On or about July 5, 2013 to January 27, 2014: #210 Strattera 80 mg.

c. In March and in May 2014: total of #60 Strattera 100 mg.

178. According to the CURES database, from September 7, 2013 through at least April 28, 2018, Respondent prescribed #1400 Adderall 20 mg. tablets to his child, Patient G.

179. During his interview with the Board's investigator in July 2020, Respondent stated that he began treating two of his children (Patient F and Patient G) for types of ADHD when one was ten years of age and the other was six and one-half years of age. He has no documentation of conducting any evaluations or testing to support his diagnoses. He did not create and maintain any medical records regarding his treatments and the issuance of prescriptions to Patient F and Patient G.

180. In summary, Respondent is subject to disciplinary action for unprofessional conduct under section 2234 subd. (b) [gross negligence] and/or subd. (c) [repeated negligent acts] and/or section 2242 [furnishing dangerous drugs without appropriate examination and medical indication] and/or section 725 [excessive prescribing] through his acts and omissions regarding Patient F and Patient G, each individually, as follows:

a. Respondent's prescribing of psychiatric medications to his children, Patient F and Patient G, which included Schedule II controlled substances on an ongoing basis for years constitutes gross negligence, an extreme departure from the standard of care, with regard to each patient.

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b. Respondent's failure to keep medical records relating to his examination, diagnosis and treatment of Patient F and of Patient G, over a period of many years, constitutes gross negligence, an extreme departure from the standard of care, with regard to each patient.

**SEVENTH CAUSE FOR DISCIPLINE**

**(Unprofessional Conduct re: Patients A through G: Failure to Maintain Adequate and Accurate Medical Records - 2266)**

181. Respondent Michael Martin Saal, M.D. is subject to disciplinary action, jointly and severally, for unprofessional conduct under Business and Professions Code section 2266 for his failure to maintain adequate and accurate medical records regarding his treatment of Patient A, Patient B, Patient C, Patient D, Patient E, Patient F, and Patient G.

182. Paragraphs 31 through 180 are incorporated herein by reference, as if fully set forth.

**EIGHTH CAUSE FOR DISCIPLINE**

**(Unprofessional Conduct: Failure to review CURES database for Patients A, B, C, D, and E)**

183. Respondent Michael Martin Saal, M.D. is subject to disciplinary action for unprofessional conduct under section 2234 through violations of California Health and Safety Code section 11165.4, which sets forth requirements for health care practitioners to review the CURES database prior to issuing an initial prescription and also at least once every four months when prescribing controlled substances on a periodic basis. This requirement went into operative effect for all health care practitioners as of October 2, 2018.

184. Paragraphs 31 through 181 are incorporated herein by reference, as if fully set forth.

185. During his interview with the Board's investigator in July 2020, Respondent provided the following information:

(a) He is unfamiliar with the regulations requiring the review of CURES reports;

(b) He does not always check CURES before prescribing controlled substances to his patients.

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186. Respondent did not conduct appropriate periodic review of the CURES database, as required by statute on October 2, 2018, when prescribing controlled substances on an ongoing basis to Patient A, Patient B, Patient C, Patient D, and Patient E.

## PRAYER

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

1. Revoking or suspending Physician's and Surgeon's Certificate Number A 45372, issued to Michael Martin Saal, M.D.;

2. Revoking, suspending or denying approval of Michael Martin Saal, M.D.'s authority to supervise physician assistants and advanced practice nurses;

3. Ordering Michael Martin Saal, 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: FEB 16 2021

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

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