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

In the Matter of the First Amended Accusation Against: Sheryl Marie Hakala , M.D. Physician's and Surgeon's Certificate No. C 145406 Respondent.	Case No.: 800-2021-079029

DECISION

The attached Stipulated Settlement 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 March 3, 2022.

IT IS SO ORDERED: February 1, 2022.

MEDICAL BOARD OF CALIFORNIA

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

ROB BONTA
Attorney General of California
JANE ZACK SIMON
Supervising Deputy Attorney General
ANA GONZALEZ
Deputy Attorney General
State Bar No. 190263
455 Golden Gate Avenue, Suite 11000
San Francisco, CA 94102-7004
Telephone: (415) 510-3608
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Attorneys for Complainant

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

In the Matter of the First Amended Accusation Against: **SHERYL MARIE HAKALA, M.D.** **701 S Howard Ave # 106-301** **Tampa, FL 33606-2473** **Physician's and Surgeon's Certificate No. C 145406** Respondent.	Case No. 800-2021-079029 OAH No. 2021100784 **STIPULATED SETTLEMENT AND DISCIPLINARY ORDER**

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

PARTIES

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

2. Respondent Sheryl Marie Hakala, M.D. (Respondent) is represented in this proceeding by attorney Alexis M. Buese, whose address is: 401 E. Jackson Street, Suite 1500 Tampa, FL 33602.

3. On October 4, 2016, the Board issued Physician's and Surgeon's Certificate No. C 145406 to Sheryl Marie Hakala, M.D. (Respondent). The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought in First Amended Accusation No. 800-2021-079029, and will expire on October 31, 2022, unless renewed.

JURISDICTION

4. First Amended Accusation No. 800-2021-079029 was filed before the Board, and is currently pending against Respondent. The First Amended Accusation and all other statutorily required documents were properly served on Respondent on September 1, 2021. Respondent timely filed her Notice of Defense contesting the First Amended Accusation.

5. A copy of First Amended Accusation No. 800-2021-079029 is attached as exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

6. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in First Amended Accusation No. 800-2021-079029. Respondent has also carefully read, fully discussed with her counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

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

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

CULPABILITY

9. Respondent understands and agrees that the charges and allegations in First Amended Accusation No. 800-2021-079029, if proven at a hearing, constitute cause for imposing discipline upon her Physician's and Surgeon's Certificate.

10. Respondent agrees that, at a hearing, Complainant could establish a prima facie case or factual basis for the charges in the First Amended Accusation, and that Respondent hereby gives up her right to contest those charges.

11. Respondent does not contest that, at an administrative hearing, complainant could establish a prima facie case with respect to the charges and allegations in First Amended Accusation No. 800-2021-079029, a true and correct copy of which is attached hereto as Exhibit A, and that he has thereby subjected her Physician's and Surgeon's Certificate, No. C 145406 to disciplinary action.

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

CONTINGENCY

13. 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 her counsel. By signing the stipulation, Respondent understands and agrees that she may not withdraw her 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.

14. Respondent agrees that if she ever petitions for early termination or modification of probation, or if an accusation and/or petition to revoke probation is filed against her before the

Board, all of the charges and allegations contained in First Amended Accusation No. 800-2021-079029 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.

15. 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.

16. 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. C 145406 issued to Respondent SHERYL MARIE HAKALA, M.D. is revoked. However, the revocations are stayed and Respondent is placed on probation for five (5) years on the following terms and conditions:

1. EDUCATION COURSE. Within 60 calendar days of the effective date of this Decision, and on an annual basis thereafter, Respondent shall submit to the Board or its designee for its prior approval educational program(s) or course(s) which shall not be less than 40 hours per year, for each year of probation. The educational program(s) or course(s) shall be aimed at correcting any areas of deficient practice or knowledge and shall be Category I certified. The educational program(s) or course(s) shall be at Respondent's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure. Following the completion of each course, the Board or its designee may administer an examination to test Respondent's knowledge of the course. Respondent shall provide proof of attendance for 65 hours of CME of which 40 hours were in satisfaction of this condition.

2. PRESCRIBING PRACTICES COURSE. Within 60 calendar days of the effective date of this Decision, Respondent shall enroll in a course in prescribing practices approved in advance by the Board or its designee. Respondent shall provide the approved course provider with any information and documents that the approved course provider may deem pertinent.

Respondent shall participate in and successfully complete the classroom component of the course not later than six (6) months after Respondent's initial enrollment. Respondent shall successfully complete any other component of the course within one (1) year of enrollment. The prescribing practices course shall be at Respondent's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

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

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

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

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

Respondent shall submit a certification of successful completion to the Board or its

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

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

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

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

5. PROFESSIONAL ENHANCEMENT PROGRAM. For a period of one year, Respondent will participate in a Professional Enhancement Program that has been approved in advance by the Board or its designee. The Professional Enhancement Program shall comport with the requirements set forth in the Board's Disciplinary Guidelines. If an out of state Professional Enhancement Program is approved by the Board or its designees, Respondent must submit all quarterly chart reviews to the Board or its designee, and will sign a release authorizing the Board or its designee to access and obtain all probation records relating to her Florida probation.

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

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

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

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

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

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

10. GENERAL PROBATION REQUIREMENTS.

Compliance with Probation Unit

Respondent shall comply with the Board's probation unit.

Address Changes

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

and Professions Code section 2021, subdivision (b).

Place of Practice

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

License Renewal

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

Travel or Residence Outside California

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

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

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

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

probation. Practicing medicine in another state of the United States or Federal jurisdiction while on probation with the medical licensing authority of that state or jurisdiction shall not be considered non-practice. A Board-ordered suspension of practice shall not be considered as a period of non-practice.

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

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

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

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

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

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

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

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

17. FUTURE ADMISSIONS CLAUSE. If Respondent should ever apply or reapply for a new license or certification, or petition for reinstatement of a license, by any other health care licensing action agency in the State of California, all of the charges and allegations contained in First Amended Accusation No. 800-2021-079029 shall be deemed to be true, correct, and admitted by Respondent for the purpose of any Statement of Issues or any other proceeding seeking to deny or restrict license.

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ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Alexis M. Buese. 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: 12/23/21

SHERYL MARIE HAKALA, M.D.
Respondent

I have read and fully discussed with Respondent Sheryl Marie Hakala, 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: 12/27/21

ALEXIS M. BUESE
Attorney for Respondent

ENDORSEMENT

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

DATED: 12/27/2021

Respectfully submitted,

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

Ana Gonzalez

ANA GONZALEZ
Deputy Attorney General
Attorneys for Complainant

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Attachment: First Amended Accusation 800-2021-079029

ROB BONTA
Attorney General of California
JANE ZACK SIMON
Supervising Deputy Attorney General
ANA GONZALEZ
Deputy Attorney General
State Bar No. 190263
455 Golden Gate Avenue, Suite 11000
San Francisco, CA 94102-7004
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E-mail: Ana.Gonzalez@doj.ca.gov
Attorneys for Complainant

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

In the Matter of the First Amended Accusation Against: **SHERYL MARIE HAKALA, M.D.** **701 S Howard Ave # 106-301** **Tampa, FL 33606-2473** **Physician's and Surgeon's Certificate No. C 145406,** Respondent.	Case No. 800-2021-079029 **FIRST AMENDED ACCUSATION**

PARTIES

1. William Prasifka (Complainant) brings this First Amended Accusation solely in his official capacity as the Executive Director of the Medical Board of California, Department of Consumer Affairs (Board).

2. On October 4, 2016, the Board issued Physician's and Surgeon's Certificate Number C 145406 to Sheryl Marie Hakala, 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 October 31, 2022, unless renewed.

JURISDICTION

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

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

5. Section 2305 of the Code provides, in part, that the revocation, suspension, or other discipline, restriction or limitation imposed by another state upon a license to practice medicine issued by that state, or the revocation, suspension, or restriction of the authority to practice medicine by any agency of the federal government, that would have been grounds for discipline in California under the Medical Practice Act, constitutes grounds for discipline for unprofessional conduct.

6. Section 141 of the Code states:

> (a) For any licensee holding a license issued by a board under the jurisdiction of the department, a disciplinary action taken by another state, by any agency of the federal government, or by another country for any act substantially related to the practice regulated by the California license, may be a ground for disciplinary action by the respective state licensing board. A certified copy of the record of the disciplinary action taken against the licensee by another state, an agency of the federal government, or another country shall be conclusive evidence of the events related therein.
>
> (b) Nothing in this section shall preclude a board from applying a specific statutory provision in the licensing act administered by that board that provides for discipline based upon a disciplinary action taken against the licensee by another state, an agency of the federal government, or another country.

COST RECOVERY

7. Effective January 1, 2022, Section 125.3 of the Code states:

> (a) Except as otherwise provided by law, in any order issued in resolution of a disciplinary proceeding before any board within the department or before the Osteopathic Medical Board, upon request of the entity bringing the proceeding, the administrative law judge may direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

(b) In the case of a disciplined licensee that is a corporation or a partnership, the order may be made against the licensed corporate entity or licensed partnership.

(c) A certified copy of the actual costs, or a good faith estimate of costs where actual costs are not available, signed by the entity bringing the proceeding or its designated representative shall be prima facie evidence of reasonable costs of investigation and prosecution of the case. The costs shall include the amount of investigative and enforcement costs up to the date of the hearing, including, but not limited to, charges imposed by the Attorney General.

(d) The administrative law judge shall make a proposed finding of the amount of reasonable costs of investigation and prosecution of the case when requested pursuant to subdivision (a). The finding of the administrative law judge with regard to costs shall not be reviewable by the board to increase the cost award. The board may reduce or eliminate the cost award, or remand to the administrative law judge if the proposed decision fails to make a finding on costs requested pursuant to subdivision (a).

(e) If an order for recovery of costs is made and timely payment is not made as directed in the board's decision, the board may enforce the order for repayment in any appropriate court. This right of enforcement shall be in addition to any other rights the board may have as to any licensee to pay costs.

(f) In any action for recovery of costs, proof of the board's decision shall be conclusive proof of the validity of the order of payment and the terms for payment.

(g) (1) Except as provided in paragraph (2), the board shall not renew or reinstate the license of any licensee who has failed to pay all of the costs ordered under this section.

(2) Notwithstanding paragraph (1), the board may, in its discretion, conditionally renew or reinstate for a maximum of one year the license of any licensee who demonstrates financial hardship and who enters into a formal agreement with the board to reimburse the board within that one-year period for the unpaid costs.

(h) All costs recovered under this section shall be considered a reimbursement for costs incurred and shall be deposited in the fund of the board recovering the costs to be available upon appropriation by the Legislature.

(i) Nothing in this section shall preclude a board from including the recovery of the costs of investigation and enforcement of a case in any stipulated settlement.

(j) This section does not apply to any board if a specific statutory provision in that board's licensing act provides for recovery of costs in an administrative disciplinary proceeding.

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CAUSE FOR DISCIPLINE

(Discipline, Restriction, or Limitation Imposed by Another State)

8. On or about June 16, 2021, the State of Florida Board of Medicine (Florida Board), imposed discipline on Respondent's Florida medical license. Respondent was placed on a one-year probation with requirements including a reprimand, a ten thousand dollar fine ($10,000.00), a medical records course, medical education on risk management, restrictions on prescribing/ordering Schedule I and II controlled substances, and requiring that Respondent have a practice monitor. The Florida Board Order incorporated by reference the filed Administrative Complaint. In part, the Florida Board Complaint alleged that as to one patient, for approximately seven years, Respondent engaged in multiple instances of prescribing narcotics without appropriate diagnosis or documentation, no controlled substances treatment contract, no adequate monitoring of the patients' drug abuse or relapses, excessive prescribing and adjusting dosages of controlled substances based on patient requests and not medical justification, and treating medical conditions for which Respondent had insufficient training. A copy of the Florida Board Final Order, Settlement Agreement, and Administrative Complaint, are attached as Exhibit A.

9. Respondent's conduct and the action of the Florida Board of Medicine as set forth in paragraph 7, above, constitute cause for discipline pursuant to sections 2305 and/or 141 of the Code.

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PRAYER

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

1. Revoking or suspending Physician's and Surgeon's Certificate Number C 145406, issued to Respondent Sheryl Marie Hakala, M.D.;

2. Revoking, suspending or denying approval of Respondent Sheryl Marie Hakala, M.D.'s authority to supervise physician assistants and advanced practice nurses;

3. Ordering Respondent Sheryl Marie Hakala, M.D., to pay the Board the costs of the investigation and enforcement of this case, and if placed on probation, the costs of probation monitoring; and

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

DATED: DEC 15 2021

Reji Varghese
Deputy Director

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

SF2021401682

Attachment A

Florida Board Final Order, Settlement Agreement, and Administrative Complaint

Mission:
To protect, promote & improve the health of all people in Florida through integrated state, county & community efforts.

Ron DeSantis
Governor

Scott A. Rivkees, MD
State Surgeon General

Vision: To be the Healthiest State in the Nation

CERTIFICATION OF PUBLIC RECORD(S)

I, **Shannon Bess**, hereby certify that I am an official custodian of records for the Florida Department of Health, Division of Medical Quality Assurance. I hereby verify that I have conducted a thorough search of the official records of the Division of Medical Quality Assurance and have determined that the attached records consisting of **44** pages, are true, correct and complete copies of **Case No. 2017-21484 for Sherly M. Hakala ME88217**. I further certify that these records are received and required to be filed or recorded, and originals are maintained in the public office of the Division of Medical Quality Assurance. The attached is a regularly received and retained record in the ordinary course of business. This certification is made pursuant to Sections 90.803(8), and 90.902(4), Florida Statutes (2016).

Shannon Bess 7/7/2021
Shannon Bess Date
Public Records Custodian

STATE OF FLORIDA
COUNTY OF LEON

Sworn to (or affirmed) and subscribed before me by means of □ physical presence or □ online notarization, this 7 day of July, 2021, by Shannon Bess.

Lawanda M. Bell
Signature-Notary Public-State of Florida

LAWANDA M. BELL
Notary Public - State of Florida
Commission # GG 967440
My Comm. Expires May 9, 2024
Bonded through National Notary Assn.

Typed, Stamped or Printed Name of Notary

Personally Known ✓ OR Produced Identification_____
Type of Identification Produced_____

Florida Department of Health
Division of Medical Quality Assurance
4052 Bald Cypress Way, Bin C-01 • Tallahassee, FL 32399-3251
Phone: 850/245-4252 Fax: 850/487-9537
FloridaHealth.gov

Final Order No. DOH-21-0774-S-MQA
FILED DATE - JUN 16 2021
Department of Health
By: Annie Mills
Deputy Agency Clerk

crycrSTATE OF FLORIDA
BOARD OF MEDICINE

DEPARTMENT OF HEALTH,

Petitioner,

vs.

DOH CASE NO.: 2017-21484
LICENSE NO.: ME0088217

SHERLY MARIE HAKALA, M.D.,

Respondent.
_____/

FINAL ORDER

THIS CAUSE came before the BOARD OF MEDICINE (Board) pursuant to Sections 120.569 and 120.57(4), Florida Statutes, on June 4, 2021, via a duly noticed video conference meeting, for the purpose of considering a Settlement Agreement (attached hereto as Exhibit A) entered into between the parties in this cause. Upon consideration of the Settlement Agreement, the documents submitted in support thereof, the arguments of the parties, and being otherwise fully advised in the premises,

IT IS HEREBY ORDERED AND ADJUDGED that the Settlement Agreement as submitted be and is hereby approved and adopted in toto and incorporated herein by reference with the following clarification:

The costs set forth in Paragraph 3 of the Stipulated Disposition shall be set at $6,778.18.

Accordingly, the parties shall adhere to and abide by all the terms and conditions of the Settlement Agreement as clarified above.

This Final Order shall take effect upon being filed with the Clerk of the Department of Health.

DONE AND ORDERED this 11th day of June, 2021.

BOARD OF MEDICINE

Crystal Sanford (Jun 11, 2021 17:04 EDT)

Paul A. Vazquez, J.D., Executive Director
For Zachariah P. Zachariah, M.D., Chair

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Final Order has been provided by U.S. Mail to: Sherly Marie Hakala, M.D., 701 S. Howard Avenue 106-301, Tampa, FL 33606 and Bruce D. Lamb, Esq., Gunster, Yoakley & Stewart, P.A., 401 E. Jackson Street, 25th Floor, Tampa, FL 33602; by email to: Chad Dunn, Assistant General Counsel, Department of Health, at **Chad.Dunn@flhealth.gov**; and Edward A. Tellechea, Chief Assistant Attorney General, at **Ed.Tellechea@myfloridalegal.com** this 16th day of June, 2021.

Deputy Agency Clerk

MEMORANDUM

DATE: June 11, 2021

TO: Joe Baker, Interim Bureau Chief
Bureau of Health Care Practitioner Regulation

FROM: Paul A. Vazquez
Executive Director, Board of Medicine

SUBJECT: Delegation of Authority

This is to advise you that while I am out of the office Friday afternoon, June 11, 2021, the following individual is delegated to serve as Acting Executive Director for the Board of Medicine:

Crystal Sanford Program Operations Administrator

Crystal can be reached at 850-245-4132.

PAV/rh

cc: Jessica Hollingsworth
Board of Medicine Staff
Board and Council Chairs

STATE OF FLORIDA
DEPARTMENT OF HEALTH

DEPARTMENT OF HEALTH,

Petitioner,

v. **DOH Case No. 2017-21484**

SHERYL MARIE HAKALA, M.D.,

Respondent.
_____/

SETTLEMENT AGREEMENT

Sheryl Marie Hakala, M.D., referred to as the "Respondent," and the Department of Health, referred to as "Department," stipulate and agree to the following Agreement and to the entry of a Final Order of the Board of Medicine, referred to as "Board," incorporating the Stipulated Facts and Stipulated Disposition in this matter.

Petitioner is the state agency charged with regulating the practice of medicine pursuant to section 20.43, Florida Statutes, and chapter 456, Florida Statutes, and chapter 458, Florida Statutes.

STIPULATED FACTS

1. At all times material hereto, Respondent was a licensed physician in the State of Florida having been issued license number ME 88217.

2. The Department charged Respondent with an Administrative Complaint that was filed and properly served upon Respondent alleging violations of chapter 458, Florida Statutes, and the rules adopted pursuant thereto. A true and correct copy of the Administrative Complaint is attached hereto as Exhibit A.

3. For purposes of these proceedings, Respondent neither admits nor denies the allegations of fact contained in the Administrative Complaint.

STIPULATED CONCLUSIONS OF LAW

1. Respondent admits that, in her capacity as a licensed physician, she is subject to the provisions of chapters 456 and 458, Florida Statutes, and the jurisdiction of the Department and the Board.

2. Respondent admits that the facts alleged in the Administrative Complaint, if proven, would constitute violations of chapter 458, Florida Statutes.

3. Respondent agrees that the Stipulated Disposition in this case is fair, appropriate and acceptable to Respondent.

STIPULATED DISPOSITION

1. **Reprimand** – The Board shall issue a Reprimand against Respondent's license.

2. **Fine** – The Board shall impose an administrative fine of *Ten Thousand Dollars and Zero Cents ($10,000.00)* against Respondent's license which Respondent shall pay to: Payments, Department of Health, Compliance Management Unit, Bin C-76, P.O. Box 6320, Tallahassee, FL 32314-6320, within thirty (30) days from the date of filing of the Final Order accepting this Agreement ("Final Order"). **All fines shall be paid by cashier's check or money order.** Any change in the terms of payment of any fine imposed by the Board **must be approved in advance by the Probation Committee of the Board**.

RESPONDENT ACKNOWLEDGES THAT THE TIMELY PAYMENT OF THE FINE IS HER LEGAL OBLIGATION AND RESPONSIBILITY AND RESPONDENT AGREES TO CEASE PRACTICING IF THE FINE IS NOT PAID AS AGREED IN THIS SETTLEMENT AGREEMENT. SPECIFICALLY, IF RESPONDENT HAS NOT RECEIVED WRITTEN CONFIRMATION WITHIN 45 DAYS OF THE DATE OF FILING OF THE FINAL ORDER THAT THE FULL AMOUNT OF THE FINE HAS BEEN RECEIVED BY THE BOARD OFFICE, RESPONDENT AGREES TO CEASE PRACTICE UNTIL RESPONDENT RECEIVES SUCH WRITTEN CONFIRMATION FROM THE BOARD.

3. **Reimbursement of Costs** - Pursuant to section 456.072, Florida Statutes, Respondent agrees to pay the Department for the Department's costs incurred in the investigation and prosecution of this case ("Department costs"). Such costs exclude the costs of obtaining supervision or monitoring of the practice, the cost of quality assurance reviews, any other costs Respondent incurs to comply with the Final Order, and the Board's administrative costs directly associated with Respondent's probation, if any. Respondent agrees that the amount of Department costs to be paid in this case is *Six Thousand One Hundred Eighty-One Dollars and Fifty-Two Cents ($6,181.52), but shall not exceed Eight Thousand One Hundred Eighty-One Dollars and Fifty-Two Cents ($8,181.52).* Respondent will pay such Department costs to: Payments, Department of Health, Compliance Management Unit, Bin C-76, P.O. Box 6320, Tallahassee, FL 32314-6320, within thirty (30) days from the date of filing of the Final Order. **All costs shall be paid by cashier's check or money order.** Any

change in the terms of payment of costs imposed by the Board **must be approved in advance by the Probation Committee of the Board**.

RESPONDENT ACKNOWLEDGES THAT THE TIMELY PAYMENT OF THE COSTS IS HER LEGAL OBLIGATION AND RESPONSIBILITY AND RESPONDENT AGREES TO CEASE PRACTICING IF THE COSTS ARE NOT PAID AS AGREED IN THIS SETTLEMENT AGREEMENT. SPECIFICALLY, IF RESPONDENT HAS NOT RECEIVED WRITTEN CONFIRMATION WITHIN 45 DAYS OF THE DATE OF FILING OF THE FINAL ORDER THAT THE FULL AMOUNT OF THE COSTS NOTED ABOVE HAS BEEN RECEIVED BY THE BOARD OFFICE, RESPONDENT AGREES TO CEASE PRACTICE UNTIL RESPONDENT RECEIVES SUCH WRITTEN CONFIRMATION FROM THE BOARD.

4. **Records Course** – Respondent shall document completion of a Board-approved medical records course within one (1) year from the date the Final Order is filed.

5. **Continuing Medical Education** – Respondent shall document completion of five (5) hours of Continuing Medical Education (CME) in boundaries within one (1) year from the date the Final Order is filed.

6. **Continuing Medical Education – "Risk Management"** – Respondent shall complete this requirement and document such completion within one (1) year from the date the Final Order is filed. **Respondent shall satisfy this requirement in one of the two following ways:**

(a) Respondent shall complete five (5) hours of CME in "Risk Management" after first obtaining written advance approval from the Board's Probation Committee of such proposed course, and shall submit documentation of such completion, in the form of certified copies of the receipts, vouchers, certificates, or other official proof of completion, to the Board's Probation Committee; or

(b) Respondent shall complete (5) five hours of CME in risk management by attending one full day or eight (8) hours, whichever is more, of disciplinary hearings at a regular meeting of the Board of Medicine. In order to receive such credit, Respondent must sign in with the Executive Director of the Board before the meeting day begins, Respondent must remain in continuous attendance during the full day or eight (8) hours of disciplinary hearings, whichever is more, and Respondent must sign out with the Executive Director of the Board at the end of the meeting day or at such other earlier time as affirmatively authorized by the Board. Respondent may not receive CME credit in risk management for attending the disciplinary hearings portion of a Board meeting unless the Respondent is attending the disciplinary hearings portion for the **sole** purpose of obtaining the CME credit in risk management. In other words, Respondent may not receive such credit if appearing at the Board meeting for any other purpose, such as pending action against Respondent's medical license.

7. **Restriction on Prescribing/Ordering Schedule I and Schedule II Controlled Substances** – Respondent is restricted from prescribing, ordering, and/or delegating the prescribing or ordering of, any substances listed in Schedules I-II, as defined in section 893.03, Florida Statutes (2020), and may from time-to-time be

redefined in Florida Statutes and/or the Florida Administrative Code. This restriction will remain in effect unless and until it is lifted or modified by the Board of Medicine upon a petition filed by Respondent. In the review of such a petition Respondent shall have the burden of proof to establish to the satisfaction of the Board, in its sole discretion, that Respondent can safely prescribe or order such substances. Any decision of the Board on such a petition shall not be subject to appeal or review.

8. **Probation Language** – Effective on the date of the filing of the Final Order, Respondent's license to practice medicine shall be placed on probation for a period of one (1) year. The purpose of probation is not to prevent Respondent from practicing medicine. Rather, probation is a supervised educational experience designed by the Board to make Respondent aware of certain obligations to Respondent's patients and the profession and to ensure Respondent's continued compliance with the high standards of the profession through interaction with another physician in the appropriate field of expertise. To this end, during the period of probation, Respondent shall comply with the obligations and restrictions set forth in this Paragraph.

(a) Indirect Supervision – Respondent shall practice only under the indirect supervision of a Board-approved physician, hereinafter referred to as the "Monitor," whose responsibilities are set by the Board. Indirect supervision does not require that the Monitor practice on the same premises as Respondent; however, the Monitor shall practice within a reasonable geographic proximity to Respondent, which shall be within 20 miles unless otherwise provided by the Board, and shall be readily available for consultation. The Monitor shall be Board Certified, and actively engaged, in

Respondent's specialty area unless otherwise provided by the Board. Respondent shall allow the Monitor access to Respondent's medical records, calendar, patient logs or other documents necessary for the Monitor to perform the duties set forth in this Paragraph.

(b) Restriction – Respondent shall not practice medicine without an approved Monitor, as specified in this Agreement, unless otherwise ordered by the Board.

(c) Eligibility of Monitor – The Monitor must be a licensee under chapter 458, Florida Statutes, in good standing and without restriction or limitation on his/her license. In addition, the Board may reject any proposed Monitor on the basis that he/she has previously been subject to any disciplinary action against his/her medical license in this or any other jurisdiction, is currently under investigation, or is the subject of a pending disciplinary action. The Board may also reject any proposed Monitor for good cause shown.

(d) Temporary Approval Of Monitor – The Board confers authority on the Chairman of the Probation Committee to temporarily approve Respondent's Monitor. To obtain temporary approval, Respondent shall submit to the Chairman of the Probation Committee the name and curriculum vitae of the proposed monitor at the time this agreement is considered by the Board. **Once a Final Order adopting the Agreement is filed, Respondent shall not practice medicine without an approved Monitor. Temporary approval shall only remain in effect until the next meeting of the Probation Committee.**

(e) Formal Approval Of Monitor – Prior to the consideration of the Monitor by the Probation Committee, Respondent shall provide a copy of the

Administrative Complaint and Final Order in this case to the Monitor. Respondent shall submit a copy of the proposed Monitor's current curriculum vita and a description of his/her current practice to the Board office no later than fourteen (14) days before Respondent's first scheduled probation appearance. Respondent shall ensure that the Monitor is present with Respondent at Respondent's first appearance before the Probation Committee. **It shall be Respondent's responsibility to ensure the appearance of the Monitor as directed.** If the Monitor fails to appear as required, this shall constitute a violation of this Settlement Agreement and shall subject Respondent to disciplinary action.

(f) Change In Monitor – In the event that the Monitor is unable or unwilling to fulfill the responsibilities of a Monitor as described above, Respondent shall immediately advise the Probation Committee of this fact and submit the name of a temporary Monitor for consideration. **Respondent shall not practice pending approval of the temporary Monitor by the Chairman of the Probation Committee.** Furthermore, Respondent shall make arrangements with her temporary Monitor to appear before the Probation Committee at its next regularly scheduled meeting. Respondent shall only practice under the auspices of the temporary Monitor (after approval by the Chairman) until the next regularly scheduled meeting of the Probation Committee at which the formal approval of Respondent's new Monitor shall be addressed.

(g) Responsibilities of Respondent – In addition to the other responsibilities set forth in this Agreement, Respondent shall be solely responsible for ensuring that:

(1) The Monitor submits tri-annual reports as required by this Agreement or directed by the Board;

(2) Respondent submits tri-annual reports as required by this Agreement or directed by the Board;

(3) The Monitor appears before the Probation Committee as required by this Agreement or directed by the Board; and

(4) Respondent appears before the Probation Committee as required by this Agreement or directed by the Board.

(5) Respondent shall pay all costs associated with probation.

Respondent understands and agrees that if either the approved Monitor or Respondent fails to appear before the Probation Committee as required, Respondent shall immediately cease practicing medicine until such time as both the approved Monitor (or approved alternate) and Respondent appear before the Probation Committee.

(h) Responsibilities of the Monitor – The Monitor shall:

(1) Review **all** of Respondent's patient records for patients treated with controlled substances. In this regard, Respondent shall maintain a log documenting all such patients.

(2) Submit reports to the Probation Committee on a tri-annual basis, in affidavit form, which shall include:

a. A brief statement of why Respondent is on probation;

b. A description of Respondent's practice (type and composition);

c. A statement addressing Respondent's compliance with the terms of probation;

d. A brief description of the Monitor's relationship with Respondent;

e. A statement advising the Probation Committee of any problems that have arisen; and

f. A summary of the dates the Monitor went to Respondent's office, the number of records reviewed, and the overall quality of the records reviewed.

(3) Report immediately to the Board any violations by Respondent of chapters 456 or 458, Florida Statutes, and the rules promulgated thereto.

(I) Respondent's Required Appearance Before Probation Committee — Respondent shall appear before the Probation Committee at the **first** meeting of said Committee following commencement of the probation, at the **last** meeting of the Committee preceding scheduled termination of the probation, **and** at such other times as directed by the Committee. Respondent shall be noticed by the Board staff of the date, time and place of the Committee meeting at which Respondent's appearance is required. **Failure of Respondent to appear as directed, and/or failure of Respondent to comply with any of the terms of this Agreement, shall be considered a violation**

of the terms of this Agreement, and shall subject Respondent to disciplinary action.

(j) Monitor's Required Appearance – Respondent's Monitor shall appear before the Probation Committee at the first meeting of said Committee following commencement of the probation, and at such other times as directed by the Committee. It shall be Respondent's responsibility to ensure the appearance of Respondent's monitor to appear as directed. **If the approved Monitor fails to appear as directed by the Probation Committee, Respondent shall immediately cease practicing medicine until such time as the approved Monitor or alternate approved monitor appears before the Probation Committee.**

(k) Reporting by Respondent – Respondent shall submit tri-annual reports, in affidavit form, the contents of which may be further specified by the Board, but which shall include:

(1) A brief statement of why Respondent is on probation;

(2) A description of practice location;

(3) A description of current practice (type and composition);

(4) A brief statement of compliance with probationary terms;

(5) A description of the relationship with the Monitor;

(6) A statement advising the Board of any problems that have arisen; and

(7) A statement addressing compliance with any restrictions or requirements imposed.

(l) Tolling Provisions – In the event Respondent physically leaves the State of Florida for a period of thirty (30) days or more or otherwise does not engage in the active practice of medicine in the State of Florida, then certain provisions of Respondent's probation (and only those provisions of the probation) shall be tolled as enumerated below and shall remain in a tolled status until Respondent returns to active practice in the State of Florida:

(1) The time period of probation shall be tolled;

(2) The provisions regarding direct and indirect supervision and required reports from the monitor shall be tolled;

(3) The provisions regarding preparation of investigative reports detailing compliance with this Settlement Agreement shall be tolled; and

(4) Any provisions regarding community service shall be tolled.

(m) Active Practice – In the event that Respondent leaves the active practice of medicine for a period of one year or more, the Board may require Respondent to appear before the Board and demonstrate his ability to practice medicine with skill and safety to patients prior to resuming the practice of medicine in this State.

STANDARD PROVISIONS

1. **Appearance** – Respondent is required to appear before the Board at the meeting of the Board where this Agreement is considered.

2. **No Force or Effect until Final Order** – It is expressly understood that this Agreement is subject to the approval of the Board and the Department. In this regard,

the foregoing paragraphs (and only the foregoing paragraphs) shall have no force and effect unless the Board enters a Final Order incorporating the terms of this Agreement.

3. **Continuing Medical Education** – Unless otherwise provided in this Agreement Respondent shall first submit a written request to the Probation Committee for approval prior to performance of said CME course(s). Respondent shall submit documentation to the Board's Probation Committee of having completed a CME course in the form of certified copies of the receipts, vouchers, certificates, or other papers, such as physician's recognition awards, documenting completion of this medical course within one (1) year of the filing of the Final Order in this matter. All such documentation shall be sent to the Board's Probation Committee, regardless of whether some or any of such documentation was provided previously during the course of any audit or discussion with counsel for the Department. CME hours required by this Agreement shall be in addition to those hours required for renewal of licensure. Unless otherwise approved by the Board's Probation Committee, such CME course(s) shall consist of a formal, live lecture format.

4. **Addresses** – Respondent must provide current residence and practice addresses to the Board. Respondent shall notify the Board in writing within ten (10) days of any changes of said addresses

5. **Future Conduct** – In the future, Respondent shall not violate Chapter 456, 458 or 893, Florida Statutes, or the rules promulgated pursuant thereto, or any other state or federal law, rule, or regulation relating to the practice or the ability to practice medicine to include, but not limited to, all statutory requirements related to practitioner

profile and licensure renewal updates. Prior to signing this agreement, the Respondent shall read Chapters 456, 458 and 893 and the Rules of the Board of Medicine, at Chapter 64B8, Florida Administrative Code.

6. **Violation of Terms** – It is expressly understood that a violation of the terms of this Agreement shall be considered a violation of a Final Order of the Board, for which disciplinary action may be initiated pursuant to Chapters 456 and 458, Florida Statutes.

7. **Purpose of Agreement** – Respondent, for the purpose of avoiding further administrative action with respect to this cause, executes this Agreement. In this regard, Respondent authorizes the Board to review and examine all investigative file materials concerning Respondent prior to or in conjunction with consideration of the Agreement. Respondent agrees to support this Agreement at the time it is presented to the Board and shall offer no evidence, testimony or argument that disputes or contravenes any stipulated fact or conclusion of law. Furthermore, should this Agreement not be accepted by the Board, it is agreed that presentation to and consideration of this Agreement and other documents and matters by the Board shall not unfairly or illegally prejudice the Board or any of its members from further participation, consideration or resolution of these proceedings.

8. **No Preclusion Of Additional Proceedings** – Respondent and the Department fully understand that this Agreement and subsequent Final Order will in no way preclude additional proceedings by the Board and/or the Department against

Respondent for acts or omissions not specifically set forth in the Administrative Complaint attached as Exhibit A.

9. **Waiver Of Attorney's Fees And Costs** – Upon the Board's adoption of this Agreement, the parties hereby agree that with the exception of Department costs noted above, the parties will bear their own attorney's fees and costs resulting from prosecution or defense of this matter. Respondent waives the right to seek any attorney's fees or costs from the Department and the Board in connection with this matter.

10. **Waiver of Further Procedural Steps** – Upon the Board's adoption of this Agreement, Respondent expressly waives all further procedural steps and expressly waives all rights to seek judicial review of or to otherwise challenge or contest the validity of the Agreement and the Final Order of the Board incorporating said Agreement.

[Signatures appear on the following page.]

24707

SIGNED this 2nd day of April, 2021.

Sheryl Marie Hakala, M.D.

STATE OF FLORIDA
COUNTY OF Hillsborough

BEFORE ME personally appeared Sheryl Hakala, whose identity is known to me or who produced Florida ID (type of identification) and who, under oath, acknowledges that his/her signature appears above.

SWORN TO and subscribed before me this 2nd day of April, 2021.

Demetrius A. Williams
Notary Public
State of Florida
Commit HH087746
Expires 2/1/2025

NOTARY PUBLIC

My Commission Expires: 2/1/25

APPROVED this 5th day of April, 2021.

Scott Rivkees, MD
State Surgeon General

By: Sarah Corrigan
Assistant General Counsel
Department of Health

STATE OF FLORIDA
DEPARTMENT OF HEALTH

DEPARTMENT OF HEALTH,

PETITIONER,

v. **CASE NO. 2017-21484**

SHERYL MARIE HAKALA, M.D.,

RESPONDENT.

_____/

ADMINISTRATIVE COMPLAINT

Petitioner, Department of Health, by and through its undersigned counsel, and files this Administrative Complaint ("Complaint") before the Board of Medicine ("Board") against Respondent, Sheryl Marie Hakala, M.D., and alleges:

1. Petitioner is the state agency charged with regulating the practice of medicine pursuant to section 20.43, Florida Statutes; Chapter 456, Florida Statutes and Chapter 458, Florida Statutes.

2. At all times material to this Complaint, Respondent was a licensed physician within the State of Florida, having been issued license number ME 88217.

3. Respondent's address of record is 701 S. Howard Avenue, 06-301, Tampa, FL 33606.

4. On or about February 6, 2011, Patient C.S. presented to Respondent with complaints of opiate withdrawal, anxiety, depression, and sleep disturbances.

5. From on or about February 6, 2011 through August 4, 2018 (hereinafter "the treatment period"), Respondent treated Patient C.S. for numerous complaints.

6. During the treatment period, Respondent prescribed Suboxone[1], Subutex[2], Adderall[3], Xanax[4], Valium[5], Ambien[6], and Tramadol[7] to Patient C.S. in various quantities and doses.

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[1] Suboxone contains buprenorphine and is prescribed to treat pain. According to Section 893.05(5), Florida Statutes, buprenorphine is a Schedule V controlled substance that has a low potential for abuse relative to the substances in Schedule IV and has a currently accepted medical use in treatment in the United States, and abuse of buprenorphine may lead to limited physical or psychological dependence relative to the substances in Schedule IV. Suboxone also contains naloxone (Narcan) an opioid antagonist that minimizes the CNS effects of opioid drugs – often used to manage chronic pain in an opioid/opiate dependent person or to wean an opioid/opiate dependent person)

[2] Subutex is the brand name for buprenorphine.

[3] Adderall is the brand name for a drug that contains amphetamine, commonly prescribed to treat attention deficit disorder. According to Section 893.03(2), Florida Statutes, amphetamine is a Schedule II controlled substance that has a high potential for abuse and has a currently accepted but severely restricted medical use in treatment in the United States, and abuse of amphetamine may lead to severe psychological or physical dependence.

[4] Xanax is the brand name for alprazolam. Alprazolam is prescribed to treat anxiety. According to Section 893.03(4), Florida Statutes, alprazolam is a Schedule IV controlled substance that has a low potential for abuse relative to the substances in Schedule III and has a currently accepted medical use in treatment in the United States, and abuse of the substance may lead to limited physical or psychological dependence relative to the substances in Schedule III.

[5] Diazepam, commonly known by the brand name Valium, is prescribed to treat anxiety. According to Section 893.03(4), Florida Statutes, diazepam is a Schedule IV controlled substance that has a low potential for abuse relative to the substances in Schedule III and has a currently accepted medical use in treatment in the United States, and abuse of diazepam may lead to limited physical or psychological dependence relative to the substances in Schedule III.

[6] Zolpidem, commonly known by the brand name Ambien, is prescribed to treat insomnia. According to Title 21, Section 1308.14, Code of Federal Regulations, zolpidem is a Schedule IV controlled substance. Zolpidem can cause dependence and is subject to abuse.

[7] Tramadol, commonly known by the brand name Ultrem, is an opioid class medication prescribed to treat pain. Tramadol is a legend drug, but not a controlled substance. Tramadol, like all opioid class drugs, can affect mental alertness, is subject to abuse, and can be habit forming.

7. At no point during the treatment period did Respondent appropriately diagnose, or document appropriately diagnosing, Patient C.S. with attention-deficit hyperactivity disorder (ADHD).

8. At no point during the treatment period did Respondent appropriately diagnose, or document appropriately diagnosing, Patient C.S. with insomnia.

9. During the treatment period, Respondent prescribed Tramadol to Patient C.S., specifically for the treatment of obsessive compulsive disorder.

10. At no point during the course of treatment did Respondent appropriately diagnose, or document appropriately diagnosing, Patient C.S. with obsessive compulsive disorder.

11. At no point during the treatment period did Respondent perform, or document performing, an appropriate assessment to determine whether the aforementioned controlled substances were appropriate treatments for Patient C.S.

12. During the treatment period, Respondent prescribed the aforementioned controlled substances inappropriately and/or without justification.

13. At no point during the treatment period did Respondent develop and execute, or document developing and executing, a mutually agreed upon treatment plan for Patient C.S.'s treatment with the aforementioned controlled substances.

14. Respondent prescribed the aforementioned controlled substances to Patient C.S. in the absence of a signed patient treatment contract.

15. After the patient treatment contract was executed, Respondent did not adhere to the signed patient treatment contract.

16. Respondent saw Patient C.S. infrequently, and in an erratic and inconsistent manner.

17. At no point during the treatment period did Respondent attempt to, or document attempting to, coordinate with Patient C.S.'s other treating physicians and medical providers.

18. At no point during the treatment period did Respondent utilize, or document utilizing, non-pharmacological psychosocial treatments for Patient C.S.'s complaints.

19. At no point during the treatment period did Respondent establish and/or enforce, or document establishing and/or enforcing, consequences for non-compliance, relapse, and/or treatment failure.

20. At no point during the treatment period did Respondent appropriately treat, or document appropriately treating, Patient C.S.'s withdrawal symptoms.

21. At no point during the treatment period did Respondent adequately monitor, or document adequately monitoring, Patient C.S.'s ongoing drug abuse.

22. At no point during the treatment period did Respondent recognize, or document recognizing, Patient C.S.'s failure to progress with the treatment Respondent provided.

23. At no point during the treatment period did Respondent address, or document addressing, Patient C.S.'s multiple relapses.

24. At no point during the treatment period did Respondent monitor, or document monitoring, Patient C.S. for illicit drug use, non-compliance, and/or diversion.

25. Respondent did not consider and/or discuss, or did not document considering and discussing, the risks, benefits, and side effects of the aforementioned controlled substances with Patient C.S.

26. Respondent prescribed Adderall to Patient C.S. in excessive quantities.

27. Respondent adjusted the dosages of the aforementioned controlled substances based solely on Patient C.S.'s requests and without medical justification.

28. Respondent provided refills and changed Patient C.S.'s medications and dosages without seeing Patient C.S. for an office visit.

29. At no point during the treatment period did Respondent obtain, or document obtaining, a thorough medical history.

30. At no point during the treatment period did Respondent obtain, or document obtaining, Patient C.S.'s pharmacy profile.

31. Respondent prescribed the aforementioned controlled substances, despite evidence of their ineffectiveness and evidence of tolerance, dependence, and abuse.

32. During the treatment period, Respondent failed to maintain appropriate physician-patient boundaries with Patient C.S.

33. Respondent has only received training and education in psychiatry.

34. During the treatment period, Respondent prescribed Linzess[8] to Patient C.S. for his complaints of gastrointestinal issues.

35. During the treatment period, Respondent also prescribed Amitiza[9] to Patient C.S. for his complaints of gastrointestinal issues.

36. Based on her lack of training and experience, Respondent was not competent to treat, and/or to prescribe medication for the treatment of, gastrointestinal issues.

37. During the treatment period, Respondent prescribed Podofilox[10] to Patient C.S. for complaints on an infection on his inner thigh.

38. Based on her lack of training and experience, Respondent was not competent to treat, and/or to prescribe medication for the treatment of, external genital warts.

39. During the treatment period, Respondent prescribed Valtrex[11] to Patient C.S. for the treatment of blisters in his genital area.

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[8] Linzess is a medication prescribed for the treatment of irritable bowel syndrome and chronic idiopathic constipation.
[9] Amitiza is a medication used to treat chronic idiopathic constipation and irritable bowel syndrome with constipation.
[10] Podofilox is a medication used to treat external genital warts.
[11] Valtrex is a medication used to treat herpes.

40. Respondent also prescribed Valtrex to Patient C.S. for the treatment of shingles.

41. Based on her lack of training and experience, Respondent was not competent to treat, and/or to prescribe medication for the treatment of, herpes.

42. Based on her lack of training and experience, Respondent was not competent to treat, and/or to prescribe medication for the treatment of, shingles.

43. During the treatment period, Respondent prescribed Cialis to Patient C.S. for complaints related to Patient C.S.'s Peyronie's disease[12].

44. Based on her lack of training and experience, Respondent was not competent to treat, and/or to prescribe medication for the treatment of, Peyronie's disease.

45. During the treatment period, Respondent prescribed Zithromax[13] to Patient C.S. without sufficient documentation and justification.

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[12] Peyronie's disease is the development of scar tissue inside the penis, which results in erectile dysfunction.
[13] Zithromax is the brand name of azithromycin, an antibiotic.

46. During the treatment period, Respondent prescribed clindamycin[14] to Patient C.S. without sufficient documentation and justification.

47. Based on her lack of training and experience, Respondent was not competent to prescribe antibiotics to Patient C.S.

48. During the treatment period, Respondent prescribed anastrozole[15] to Patient C.S. for complaints of depression.

49. Based on her lack of training and experience, Respondent was not competent to prescribe anastrozole.

50. During the treatment period, Respondent prescribed buprenorphine to Patient C.S. for complaints of acute pain.

51. Based on her lack of training and experience, Respondent was not competent to treat, and/or to prescribe medication for, acute pain.

52. During the treatment period, Respondent failed to keep legible and complete records that justified the course of treatment.

53. The prevailing professional standard of care required Respondent to:

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[14] Clindamycin is an antibiotic.
[15] Anastrozole is an estrogen blocker and is commonly used to treat breast cancer.

a. Appropriately diagnose Patient C.S. with attention-deficit hyperactivity disorder (ADHD);

b. Appropriately diagnose Patient C.S. with insomnia;

c. Appropriately diagnose Patient C.S. with obsessive compulsive disorder;

d. Perform an appropriate assessment to determine whether the aforementioned controlled substances were appropriate treatments for Patient C.S.;

e. Prescribe the aforementioned controlled substances appropriately and/or with justification;

f. Develop and execute a mutually agreed upon treatment plan for Patient C.S.'s treatment with the aforementioned controlled substances;

g. Prescribe the aforementioned controlled substances under a signed patient treatment contract;

h. Adhere to the signed patient treatment contract;

i. See Patient C.S. frequently and regularly;

j. Attempt to coordinate with Patient C.S.'s other treating physicians and medical providers;

k. Utilize non-pharmacological psychosocial treatments for Patient C.S.'s complaints;

l. Establish and/or enforce, consequences for non-compliance, relapse, and/or treatment failure;

m. Appropriately treat Patient C.S.'s withdrawal symptoms;

n. Adequately monitor Patient C.S.'s ongoing drug abuse;

o. Recognize Patient C.S.'s failure to progress with the treatment Respondent provided;

p. Address Patient C.S.'s multiple relapses;

q. Monitor Patient C.S. for illicit drug use, non-compliance, and/or diversion;

r. Consider and/or discuss the risks, benefits, and side effects of the aforementioned controlled substances with Patient C.S.;

s. Refrain from prescribing Adderall to Patient C.S. in excessive quantities;

t. Refrain from adjusting the dosages of the aforementioned controlled substances based solely on Patient C.S.'s requests and without medical justification;

u. Refrain from providing refills and changing Patient C.S.'s medications and dosages without seeing Patient C.S. for an office visit;

v. Obtain a thorough medical history;

w. Obtain Patient C.S.'s pharmacy profile;

x. Cease prescribing the aforementioned controlled substances, when faced with evidence of their ineffectiveness and evidence of tolerance, dependence, and abuse;

y. Maintain appropriate physician-patient boundaries with Patient C.S.

COUNT ONE
Section 458.331(1)(t)

54. Petitioner re-alleges and incorporates paragraphs one (1) through fifty-three (53) as if fully set forth herein.

55. Section 458.331(1)(t), Florida Statutes (2013-2018), subjects a doctor to discipline for committing medical malpractice as defined in Section 456.50. Section 456.50, Florida Statutes (2013-2018), defines medical malpractice as the failure to practice medicine in accordance with the level of care, skill, and treatment recognized in general law related to health care licensure.

56. Level of care, skill, and treatment recognized in general law related to health care licensure means the standard of care specified in Section 766.102. Section 766.102(1), Florida Statutes, defines the standard of care to mean "that level of care, skill, and treatment which, in light of all relevant surrounding circumstances, is recognized as acceptable and appropriate by reasonably prudent similar healthcare providers...."

57. Respondent failed to meet the required standard of care in one or more of the following ways:

a. By failing to correctly diagnose Patient C.S. with ADHD;

b. By failing to diagnose Patient C.S. with insomnia;

c. By failing to appropriately diagnose Patient C.S. with obsessive compulsive disorder;

d. By failing to perform an appropriate assessment to determine whether the aforementioned controlled substances were appropriate treatments for Patient C.S.;

e. By prescribing the aforementioned controlled substances inappropriately and/or without justification;

f. By seeing Patient C.S. infrequently, erratically, and/or inconsistently;

g. By failing to develop and execute a mutually agreed upon treatment plan for Patient C.S.'s treatment with the aforementioned controlled substances;

h. By prescribing the aforementioned controlled substances to Patient C.S. in the absence of a signed patient treatment contract;

i. By failing to adhere to the signed patient treatment contract after it was signed;

j. By seeing Patient C.S. infrequently, and in an erratic and inconsistent manner;

k. By failing to attempt to coordinate with Patient C.S.'s other treating physicians and medical providers;

l. By failing to utilize non-pharmacological psychosocial treatments for Patient C.S.'s complaints;

m. By failing to establish and/or enforce consequences for non-compliance, relapse, and/or treatment failure;

n. By failing to appropriately treat Patient C.S.'s withdrawal symptoms;

o. By failing to adequately monitor Patient C.S.'s ongoing drug abuse;

p. By failing to recognize Patient C.S.'s failure to progress with the treatment Respondent provided;

q. By failing to address Patient C.S.'s multiple relapses;

r. By failing to monitor Patient C.S. for illicit drug use, non-compliance, and/or diversion;

s. By failing to consider and/or discuss the risks, benefits, and side effects of the aforementioned controlled substances with Patient C.S.;

t. By prescribing Adderall to Patient C.S. in excessive quantities;

u. By failing to address Patient C.S.'s non-compliance in relation to his prescription for Adderall;

v. By adjusting the dosages of the aforementioned controlled substances based solely on Patient C.S.'s requests and without medical justification;

w. By providing refills and changing Patient C.S.'s medications and dosages without seeing Patient C.S. for an office visit;

x. By failing to obtain a thorough medical history;

y. By failing to obtain Patient C.S.'s pharmacy profile;

z. By continuing to prescribe the aforementioned controlled substances despite evidence of their ineffectiveness and evidence of tolerance, dependence, and abuse;

aa. By prescribing Zithromax to Patient C.S. without justification;

bb. By prescribing clindamycin to Patient C.S. without justification; and/or

cc. By failing to maintain appropriate physician-patient boundaries with Patient C.S.

58. Based on the foregoing, Respondent has violated section 458.331(1)(t), Florida Statutes (2013-2018), by committing medical malpractice.

COUNT TWO
Violation of Section 458.331(1)(m)
and/or Section 458.331(1)(nn)

59. Petitioner re-alleges and incorporates paragraphs one (1) through fifty-three (53) as if fully set forth herein.

60. Section 458.331(1)(m), Florida Statutes (2013-2018), subjects a licensee to discipline for failing to keep legible, as defined by department rule in consultation with the board, medical records that identify the licensed

physician or the physician extender and supervising physician by name and professional title who is or are responsible for rendering, ordering, supervising, or billing for each diagnostic or treatment procedure and that justify the course of treatment of the patient, including, but not limited to, patient histories; examination results; test results; records of drugs prescribed, dispensed, or administered; and reports of consultations and hospitalizations.

61. Section 458.331(1)(nn), Florida Statues (2013-2018), provides that violating any provision of Chapter 458 or 456, or any rules adopted pursuant thereto constitutes grounds for disciplinary action by the Board of Medicine.

62. Chapter 64B8-9.003(d)(3), Florida Administrative Code (2006), provides that medical records shall contain sufficient information to identify the patient, support the diagnosis, justify the treatment and document the course and results of treatment accurately, by including, at a minimum, patient histories; examination results; test results; records of drugs prescribed, dispensed, or administered; reports of consultations and hospitalizations; and copies of records or reports or other documentation obtained from other health care practitioners at the request of the physician

and relied upon by the physician in determining the appropriate treatment of the patient.

63. Respondent failed to create and/or maintain adequate, legible medical records that justify the course of treatment of Patient C.S. and/or satisfy the requirements of Chapter 64B8-9.003(d)(3), Florida Administrative Code (2006), in one or more of the following ways:

a. By failing to create and/or maintain adequate, legible medical records that document correctly diagnosing Patient C.S. with ADHD;

b. By failing to create and/or maintain adequate, legible medical records that document diagnosing Patient C.S. with insomnia;

c. By failing to create and/or maintain adequate, legible medical records that document appropriately diagnosing Patient C.S. with obsessive compulsive disorder;

d. By failing to create and/or maintain adequate, legible medical records that document performing an appropriate assessment to determine whether the aforementioned controlled substances were appropriate treatments for Patient C.S.;

e. By failing to create and/or maintain adequate, legible medical records that document developing and executing a mutually agreed upon treatment plan for Patient C.S.'s treatment with the aforementioned controlled substances;

f. By failing to create and/or maintain adequate, legible medical records that document attempting to coordinate with Patient C.S.'s other treating physicians and medical providers;

g. By failing to create and/or maintain adequate, legible medical records that document utilizing non-pharmacological psychosocial treatments for Patient C.S.'s complaints;

h. By failing to create and/or maintain adequate, legible medical records that document establishing and/or enforcing, consequences for non-compliance, relapse, and/or treatment failure;

i. By failing to create and/or maintain adequate, legible medical records that document appropriately treating Patient C.S.'s withdrawal symptoms;

j. By failing to create and/or maintain adequate, legible medical records that document adequately monitoring Patient C.S.'s ongoing drug abuse;

k. By failing to create and/or maintain adequate, legible medical records that document recognizing Patient C.S.'s failure to progress with the treatment Respondent provided;

l. By failing to create and/or maintain adequate, legible medical records that document addressing Patient C.S.'s multiple relapses;

m. By failing to create and/or maintain adequate, legible medical records that document monitoring Patient C.S. for illicit drug use, non-compliance, and/or diversion;

n. By failing to create and/or maintain adequate, legible medical records that document considering and discussing, the risks, benefits, and side effects of the aforementioned controlled substances with Patient C.S.;

o. By failing to create and/or maintain adequate, legible medical records that document obtaining a thorough medical history;

p. By failing to create and/or maintain adequate, legible medical records that document prescribing Zithromax to Patient C.S.;

q. By failing to create and/or maintain adequate, legible medical records that document prescribing clindamycin to Patient C.S.; and/or

r. By failing to create and/or maintain adequate, legible medical records that document obtaining Patient C.S.'s pharmacy profile.

64. Based on the foregoing, Respondent violated section 458.331(1)(m), Florida Statutes (2013-2018), and/or section 458.331(1)(nn), Florida Statutes (2013-2018).

COUNT THREE
Section 458.331(1)(v)

65. Petitioner re-alleges and incorporates paragraphs thirty-three (33) through fifty-three (53) as if fully set forth herein.

66. Section 458.331(1)(v), Florida Statutes (2013-2018), subjects a licensee to discipline for accepting and performing professional responsibilities which she knows or has reason to know that she is not competent to perform.

67. Respondent accepted and performed professional responsibilities which she knows or has reason to know that she is not competent to perform in one or more of the following ways:

a. By treating, and/or prescribing medication for the treatment of, gastrointestinal issues;

b. By treating, and/or prescribing medication for the treatment of, external genital warts;

c. By treating, and/or prescribing medication for the treatment of, herpes;

d. By treating, and/or prescribing medication for the treatment of, shingles;

e. By treating, and/or prescribing medication for the treatment of, Peyronie's disease;

f. By prescribing antibiotics;

g. By prescribing anastrozole; and/or

h. By treating, and/or prescribing medication for the treatment of, acute pain.

68. Based on the foregoing, Respondent violated section 458.331(1)(v), Florida Statutes (2013-2018).

WHEREFORE, the Petitioner respectfully requests that the Board of Medicine enter an order imposing one or more of the following penalties: permanent revocation or suspension of Respondent's license, restriction of practice, imposition of an administrative fine, issuance of a reprimand, placement of the Respondent on probation, corrective action, refund of fees billed or collected, remedial education and/or any other relief that the Board deems appropriate.

SIGNED this 9th day of September, 2019.

Scott Rivkees, M.D.
State Surgeon General

FILED
DEPARTMENT OF HEALTH
DEPUTY CLERK
CLERK: Annette Marcus
DATE: SEP 0 9 2019

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SEC/

PCP: September 6, 2019

PCP Members: Mark Avila, M.D.; Zachariah Zachariah, M.D.

NOTICE OF RIGHTS

Respondent has the right to request a hearing to be conducted in accordance with Section 120.569 and 120.57, Florida Statutes, to be represented by counsel or other qualified representative, to present evidence and argument, to call and cross-examine witnesses and to have subpoena and subpoena duces tecum issued on his or her behalf if a hearing is requested. A request or petition for an administrative hearing must be in writing and must be received by the Department within 21 days from the day Respondent received the Administrative Complaint, pursuant to Rule 28-106.111(2), Florida Administrative Code. If Respondent fails to request a hearing within 21 days of receipt of this Administrative Complaint, Respondent waives the right to request a hearing on the facts alleged in this Administrative Complaint pursuant to Rule 28-106.111(4), Florida Administrative Code. Any request for an administrative proceeding to challenge or contest the material facts or charges contained in the Administrative Complaint must conform to Rule 28-106.2015(5), Florida Administrative Code.

Please be advised that mediation under Section 120.573, Florida Statutes, is not available for administrative disputes involving this agency action.

NOTICE REGARDING ASSESSMENT OF COSTS

Respondent is placed on notice that Petitioner has incurred costs related to the investigation and prosecution of this matter. Pursuant to Section 456.072(4), Florida Statutes, the Board shall assess costs related to the investigation and prosecution of a disciplinary matter, which may include attorney hours and costs, on the Respondent in addition any other discipline imposed.