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

In the Matter of the Accusation Against: Karl Lee, M.D. Physician's and Surgeon's Certificate No. G 77379 Respondent.	Case No.: 800-2018-048981

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 March 4, 2022.

IT IS SO ORDERED: February 4, 2022.

MEDICAL BOARD OF CALIFORNIA

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

ROB BONTA
Attorney General of California
MARY CAIN-SIMON
Supervising Deputy Attorney General
CAROLYNE EVANS
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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: **KARL LEE, M.D.** **333 Gellert Blvd Suite 160** **Daly City, CA 94015** **Physician's and Surgeon's Certificate No. G 77379** Respondent.	Case No. 800-2018-048981 OAH No. 2021060262 **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 Carolyne Evans, Deputy Attorney General.

2. Respondent Karl Lee, M.D. (Respondent) is represented in this proceeding by attorney Thomas E. Still, whose address is: 12901 Saratoga Avenue, Saratoga, CA, 95070.

3. On August 11, 1993, the Board issued Physician's and Surgeon's Certificate

No. G 77379 to Karl Lee, M.D. The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought in Accusation No. 800-2018-048981, and will expire on January 31, 2023, unless renewed.

JURISDICTION

4. Accusation No. 800-2018-048981 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 March 27, 2020. Respondent timely filed his Notice of Defense contesting the Accusation. A copy of Accusation No. 800-2018-048981 is attached as Exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 800-2018-048981. Respondent has also carefully read, fully discussed with his counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

6. 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.

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

CULPABILITY

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

9. ACKNOWLEDGMENT. Respondent acknowledges the Disciplinary Order below, requiring the disclosure of probation pursuant to Business and Professions Code section 2228.1,

serves to protect the public interest.

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.

CONTINGENCY

11. 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.

12. 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. 800-2018-048981 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.

13. 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.

14. 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. G 77379 issued

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

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

At the end of the evaluation, the program will submit a report to the Board or its designee, which unequivocally states whether the Respondent has demonstrated the ability to practice safely and independently. Based on Respondent's performance on the clinical competence assessment, the program will advise the Board or its designee of its recommendation(s) for the scope and length of any additional educational or clinical training, evaluation or treatment for any medical condition or psychological condition, or anything else affecting Respondent's practice of medicine. Respondent shall comply with the program's recommendations.

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

If Respondent fails to enroll, participate in, or successfully complete the clinical competence assessment program within the designated time period, Respondent shall receive a

notification from the Board or its designee to cease the practice of medicine within three (3) calendar days after being so notified. The Respondent shall not resume the practice of medicine until enrollment or participation in the outstanding portions of the clinical competence assessment program have been completed. If the Respondent did not successfully complete the clinical competence assessment program, the Respondent shall not resume the practice of medicine until a final decision has been rendered on the accusation and/or a petition to revoke probation. The cessation of practice shall not apply to the reduction of the probationary time period.

2. CONTROLLED SUBSTANCES - PARTIAL RESTRICTION. Throughout probation, Respondent may order, prescribe, dispense, administer, furnish or possess Schedule IV and V controlled substances.[1] Respondent shall not order, prescribe, dispense, administer, furnish, or possess any Schedule II or Schedule III controlled substances, except for patients who require them for the treatment of acute pain, and then for only up to 30 days. If a patient requires Schedule II or Schedule III controlled substances for the treatment of pain, for more than 30 days, Respondent must refer the patient to a pain management specialist.

Respondent shall not issue an oral or written recommendation or approval to a patient or a patient's primary caregiver for the possession or cultivation of marijuana for the personal medical purposes of the patient within the meaning of Health and Safety Code section 11362.5. If Respondent forms the medical opinion, after an appropriate prior examination and medical indication, that a patient's medical condition may benefit from the use of marijuana, Respondent shall so inform the patient and shall refer the patient to another physician who, following an appropriate prior examination and medical indication, may independently issue a medically appropriate recommendation or approval for the possession or cultivation of marijuana for the personal medical purposes of the patient within the meaning of Health and Safety Code section 11362.5. In addition, Respondent shall inform the patient or the patient's primary caregiver that Respondent is prohibited from issuing a recommendation or approval for the possession or cultivation of marijuana for the personal medical purposes of the patient and that the patient or

[1] "Controlled substance" as used in this provision is defined by the California Uniform Controlled Substances Act.

the patient's primary caregiver may not rely on Respondent's statements to legally possess or cultivate marijuana for the personal medical purposes of the patient. Respondent shall fully document in the patient's chart that the patient or the patient's primary caregiver was so informed. Nothing in this condition prohibits Respondent from providing the patient or the patient's primary caregiver information about the possible medical benefits resulting from the use of marijuana.

3. CONTROLLED SUBSTANCES - MAINTAIN RECORDS AND ACCESS TO RECORDS AND INVENTORIES. Respondent shall maintain a record of all controlled substances ordered, prescribed, dispensed, administered, or possessed by Respondent, and any recommendation or approval which enables a patient or patient's primary caregiver to possess or cultivate marijuana for the personal medical purposes of the patient within the meaning of Health and Safety Code section 11362.5, during probation, showing all of the following: 1) the name and address of the patient; 2) the date; 3) the character and quantity of controlled substances involved; and 4) the indications and diagnosis for which the controlled substances were furnished.

Respondent shall keep these records in a separate file or ledger, in chronological order. All records and any inventories of controlled substances shall be available for immediate inspection and copying on the premises by the Board or its designee at all times during business hours and shall be retained for the entire term of probation.

4. 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, shall each year include courses in prescribing practices and medical records documentation, 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.

5. 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.

6. 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.

7. 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.

8. MONITORING – PRACTICE. Within 30 calendar days of the effective date of this Decision, Respondent shall submit to the Board or its designee for prior approval as a practice monitor(s), the name and qualifications of one or more licensed physicians and surgeons whose

licenses are valid and in good standing, and who are preferably American Board of Medical Specialties (ABMS) certified. A monitor shall have no prior or current business or personal relationship with Respondent, or other relationship that could reasonably be expected to compromise the ability of the monitor to render fair and unbiased reports to the Board, including but not limited to any form of bartering, shall be in Respondent's field of practice, and must agree to serve as Respondent's monitor. Respondent shall pay all monitoring costs.

The Board or its designee shall provide the approved monitor with copies of the Decision and Accusation, and a proposed monitoring plan. Within 15 calendar days of receipt of the Decision, Accusation, 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 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.

If the monitor resigns or is no longer available, Respondent shall, within five 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 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.

9. PATIENT DISCLOSURE. Before a patient's first visit following the effective date of this order and while Respondent is on probation, he must provide all patients, or patient's guardian or health care surrogate, with a separate disclosure that includes Respondent's probation status, the length of the probation, the probation end date, all practice restrictions placed on Respondent by the Board, the Board's telephone number, and an explanation of how the patient can find further information on Respondent's probation on his profile page on the Bboard's website. Respondent shall obtain from the patient, or the patient's guardian or health care surrogate, a separate, signed copy of that disclosure. Respondent shall not be required to provide a disclosure if any of the following applies: (1) The patient is unconscious or otherwise unable to comprehend the disclosure and sign the copy of the disclosure and a guardian or health care surrogate is unavailable to comprehend the disclosure and sign the copy; (2) The visit occurs in an emergency room or an urgent care facility or the visit is unscheduled, including consultations in inpatient facilities; (3) Respondent is not known to the patient until immediately prior to the start of the visit; (4) Respondent does not have a direct treatment relationship with the patient.

10. 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.

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

12. 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.

13. 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.

14. 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.

15. 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.

16. 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 Board's Special Purpose Examination, or, at the Board's discretion, a clinical competence assessment program that meets the criteria of Condition 18 of the current version of the Board's "Manual of Model Disciplinary Orders and Disciplinary Guidelines" prior to resuming the practice of medicine.

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

17. 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.

18. 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.

19. 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.

20. 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.

21. 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. 800-2018-048981 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, Thomas E. Still. 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: 12-17-2021

KARL LEE, M.D.
Respondent

I have read and fully discussed with Respondent Karl Lee, 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: 12-20-2021

THOMAS E. STILL
Attorney for Respondent

ENDORSEMENT

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

DATED: December 20, 2021

Respectfully submitted,

ROB BONTA
Attorney General of California
MARY CAIN-SIMON
Supervising Deputy Attorney General

CAROLYNE EVANS
Deputy Attorney General
Attorneys for Complainant

Exhibit A

XAVIER BECERRA
Attorney General of California
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Attorneys for Complainant

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

In the Matter of the Accusation Against: **Karl Lee, M.D.** 333 Gellert Blvd Suite 160 Daly City, CA 94015 Physician's and Surgeon's Certificate No. G77379, Respondent.	Case No. 800-2018-048981 **ACCUSATION**

PARTIES

1. Christine J. Lally (Complainant) brings this Accusation solely in her official capacity as the Interim Executive Director of the Medical Board of California, Department of Consumer Affairs (Board).

2. On August 11, 1993, the Medical Board issued Physician's and Surgeon's Certificate Number G77379 to Karl Lee, M.D. (Respondent). The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought herein and will expire on January 31, 2021, unless renewed.

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JURISDICTION

3. 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.

4. Section 2234 of the Code, in pertinent part, 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.

. . .

5. 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."

6. Section 2228.1 of the Code provides, in pertinent part, that the Board shall require a licensee who is disciplined based on inappropriate prescribing resulting in harm to patients, to disclose to his or her patients information regarding his or her probation status. The licensee is required to disclose: Probation status, the length of the probation, the probation end date, all practice restrictions placed on the licensee by the Board, the Board's telephone number, and an explanation of how the patient can find further information on the licensee's probation on the Board's Internet Web site.

RESPONDENT'S PRACTICE

7. Respondent practices as a primary care physician in Daly City, California. He was previously board certified in internal medicine, but did not re-certify in 2015. Respondent has operated a solo family and internal medicine practice since 2005.

FIRST CAUSE FOR DISCIPLINE

(Gross Negligence/Repeated Negligent Acts/Incompetence)

Patient 1[1]

8. Respondent treated Patient 1 for many years. Patient 1 was an obese man with a history of numerous injuries and surgeries, alcohol abuse and significant sleep apnea. Respondent saw Patient 1 only occasionally, and was aware that Patient 1 received most of his medical care from other practitioners, most commonly physicians within the Workers' Compensation system and a pain management physician.

9. Respondent's medical record for Patient 1 consists of brief notations, routinely lacking in significant discussion of the patient's complaints, his response to treatment or the rationale for prescribing. Most entries in the medical record lack a meaningful assessment of the patient's complaints, and the chart does not accurately or adequately list the patient's medications. While the chart mentions Patient 1's history of alcohol abuse, no meaningful history of the patient's alcohol use is ever documented, and references to the patient's alcohol use are inconsistent and unclear. Respondent acknowledged during an interview with the Board's investigator that he never obtained a detailed history of the patient's alcohol abuse.

[1] Patients are referred to by number to protect privacy.

10. Respondent prescribed a variety of medications over the years, including gabapentin[2] and modafinil[3]. Respondent's record does not document an indication for the prescriptions. Respondent was unable to articulate a basis for the prescriptions when asked during his Board interview. He stated that both gabapentin and modafinil were initiated by other physicians, he merely refilled the prescriptions, and did not consider himself to be a prescriber. Respondent prescribed antidepressant medication, without any documented evaluation or ongoing assessment of the effectiveness of the treatment.

11. In October 2018, Patient 1 complained of knee pain after a fall. Respondent's treatment plan was noted to be "reassurance," and he prescribed Norco [4]. Respondent issued additional Norco prescriptions in November 2018 and January 2019. Respondent's chart note for January 1, 2019 indicates that Patient 1 was a "walk in" and complained that "belbuca[5] buccal film" was not covered by his insurance and he was in pain. During his Board interview, Respondent acknowledged that he was aware Patient 1 was under treatment with a pain management specialist, but he did not know what medications were prescribed by other practitioners, and was not familiar with belbuca. Respondent did not check the CURES[6] system to determine what medications Patient 1 was receiving from other prescribers[7]. There is indication that Respondent considered information in his chart received from the patient's pain management physician indicating that Patient 1 was subject to a pain management agreement, and

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2 Gabapantin is an antiepileptic and is also used to treat nerve pain.

3 Modafinil is a controlled substance. It is a stimulant prescribed to treat sleepiness. Its side effects include headache, anxiety, trouble sleeping, and nausea. It is a commonly abused drug.

4 Norco is hydrocodone bitartrate and acetaminophen. It is a narcotic pain reliever and a controlled substance. It can produce drug dependence and has the potential for abuse.

5 Belbuca buccal films contain buprenorphine, an opioid medication.

6 The Controlled Substance Utilization Review and Evaluation System (CURES) is a program operated by the California Department of Justice (DOJ) to assist health care practitioners in their efforts to ensure appropriate prescribing of controlled substances, and law enforcement and regulatory agencies in their efforts to control diversion and abuse of controlled substances.

7 Respondent admitted during his Board interview that his practice did not include checking the CURES system when prescribing controlled substances. He explained that he relied instead on his personal assessment of patients, and that he assumed pharmacists would notify him if there was a problem. He believed that he had registered for CURES, but never used it. It was only on the eve of his Board interview that Respondent activated his CURES account. He was unaware of the legal requirements for use of CURES.

was prescribed buprenorphine to reduce his dependence on more potent and riskier opioids. Respondent also did not take a history of the patient's use of alcohol. There is no documentation in the chart that Respondent discussed the risks and benefits of opioids, or that he took any steps to minimize the risk of inappropriate use of a narcotic drug.

12. Respondent's medical record contains a letter dated November 5, 2016, from Patient 1's domestic partner, requesting a referral for opioid treatment. The record contains notes from Patient 1 dated July 16, 2015 and November 5, 2015, requesting mental health assistance. Respondent's chart also contains a November 26, 2018 letter written by Patient 1, requesting assistance with a referral to a "substance rehabilitation program." There is no documentation in the record that Respondent addressed any of these requests or concerns, or that he evaluated Patient 1 in any manner in response to these communications. Respondent stated in his Board interview that his general practice was to manage depression and anxiety without referral to mental health practitioners, and he had no recollection of recent concerns for drug use or mental health concerns expressed by Patient 1 or his family.

13. Respondent is guilty of unprofessional conduct in his care and treatment of Patient 1, and is subject to disciplinary action under section 2234 and/or 2234(b) and/or 2234(c) and/or 2234(d) of the Code in that Respondent committed gross negligence and/or repeated negligent acts and/or demonstrated incompetence, including but not limited to the following:

A. Respondent failed to respond to, consider or in any manner address information from Patient 1 and his family that the patient had a substance abuse issue, or required additional mental health treatment.

B. Respondent prescribed dangerous drugs and controlled substances, without an appropriate evaluation and without assessment of the indication for the medications.

C. Respondent prescribed numerous medications, including narcotic painkillers, to a patient with a history of alcohol abuse, without conducting any evaluation of the patient's use of alcohol or the potential impact of the prescribed medications taken in conjunction with alcohol, and without any indication of an informed consent.

D. Respondent prescribed narcotics to Patient 1 without consulting CURES, or taking any steps to determine what other practitioners were prescribing. He prescribed opioids in a manner that interfered with the treatment plan of Patient 1's pain management physician.

E. Respondent prescribed and treated Patient 1 for numerous conditions, including pain, without knowledge or information regarding current standards for prescribing opioids, and refilled medications- some he was unfamiliar with- without realizing that in doing so, he was responsible as a prescriber.

SECOND CAUSE FOR DISCIPLINE

(Gross Negligence/Repeated Negligent Acts/Incompetence)

Patient 2

14. Patient 2 was under Respondent's treatment for many years. Patient 2 had a history of opioid and IV drug abuse, and was addicted to tramadol[8], which he told Respondent he illegally obtained from an online source. Between 2014 and 2019, Respondent saw Patient 2 frequently, for treatment of insomnia, migraine headache, finger pain and other conditions.

15. In March 2014, Patient 2 was seen for tramadol withdrawal. After Patient 2 declined Respondent's suggestion he seek substance abuse treatment, Respondent prescribed methadone [9] for Patient 2's withdrawal symptoms. No follow up plan was documented. Respondent saw Patient 2 on several occasions between March 2014 and June 2015, mostly to treat a trigger finger problem. In June 2015 and again in July 2015, Patient 2 presented with tramadol withdrawal and was prescribed methadone for diagnosed opioid dependence. Respondent also prescribed methadone during 2017. On March 30, 2017, Respondent noted that Patient 2 "tried to go to detox", but was advised to see his primary care physician for a "tapering dose" of tramadol. Respondent diagnosed tramadol dependence, without contacting the source of this advice, and without taking any further history, Respondent prescribed tramadol. He prescribed both tramadol and methadone through October 2017. Respondent also issued regular prescriptions for

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[8] Tramadol is a controlled substance. It is a opioid-like analgesic that carries potential for abuse

[9] Methadone hydrochloride is a controlled substance and an opioid.

lorazepam [10]. In December 2017, Respondent prescribed Suboxone[11]. Prescriptions for Suboxone and lorazepam continued through 2018, and in June 2018, Respondent issued a prescription for tramadol as well. On June 1, 2018, Patient 2 was transported by ambulance and admitted to a hospital for treatment of tramadol withdrawal and referred to an addiction specialist.

16. Respondent's medical record for Patient 2 contains little, if any, assessment of Patient 2's ongoing and persistent tramadol abuse. Respondent did not document a basis for the prescriptions he issued, or set forth a treatment plan with objectives. Although he noted he advised the patient to seek substance abuse treatment, there is no indication in the record that Respondent made any effort to assist Patient 2 in obtaining the treatment. Respondent's record contains no indication that he took any steps to verity Patient 2 was properly using the prescribed medication, or to see if he was obtaining medication from other sources: Respondent did not require the patient to sign a medication agreement, did not conduct urine testing, and did not clearly and accurately record the medications he prescribed. At no time did Respondent document a coherent or rational plan to taper Patient 2 off of tramadol. Respondent stated during his Board interview that he did not know where to send Patient 2 for treatment, and did not know how to get the patient off tramadol. When asked for his rationale in prescribing Suboxone, Respondent stated that Patient 2 had requested it after looking it up online, and that Respondent was not familiar with the medication; he also acknowledged he was not familiar with the use of methadone to treat addiction. Respondent acknowledged during the interview that he was unfamiliar with guidelines published by the Medical Board and the Centers for Disease Control pertaining to prescribing controlled substances.

17. Respondent is guilty of unprofessional conduct in his care and treatment of Patient 2, and is subject to disciplinary action under section 2234 and/or 2234(b) and/or 2234(c) and/or

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[10] Lorazepam (Ativan) is a benzodiazepine. It is a sedative used to treat anxiety and is a controlled substance. Since Lorazepam has a central nervous system depressant effect, special care should be taken with prescribing lorazepam with other CNS depressant drugs.

[11] Suboxone is a combination of buprenorphine hydrochloride and naloxone. It is indicated for the treatment of opioid addiction. Buprenorphine is an opioid similar to morphine, codeine, and heroin; however, it produces less euphoria and therefore may be easier to stop taking; it is a controlled substance, and can only be prescribed with a certificate issued by the Drug Enforcement Administration.

2234(d) of the Code in that Respondent committed gross negligence and/or repeated negligent acts and/or demonstrated incompetence, including but not limited to the following:

A. Respondent prescribed multiple controlled substances to a tramadol addicted patient, without conducting an appropriate evaluation and assessment, without creating a treatment plan or identifying objectives, and without appropriate follow up.

B. Respondent prescribed opioid medication to an addicted patient, without checking CURES to determine if the patient was receiving prescriptions elsewhere, and without implementing steps to ensure the medications were safely and appropriately used.

C. Respondent prescribed methadone and Suboxone, without knowledge of the drugs, outside of a treatment program, without referring or even consulting with a substance abuse specialist, and when he was not registered or authorized to prescribe Suboxone.

D. Respondent prescribed narcotics to an addicted patient without taking any meaningful steps to refer Patient 2 for appropriate treatment, or taking steps to assist the patient in locating appropriate treatment.

E. Respondent prescribed a dangerous combination of drugs, including narcotics and a benzodiazepine, to Patient 2, whom he knew also obtained tramadol from illegal sources, without taking any steps to monitor the Patient's safe use of medications.

THIRD CAUSE FOR DISCIPLINE

(Gross Negligence/Repeated Negligent Acts/Incompetence)

Patient 3

18. Respondent treated Patient 3, an elderly woman, for a number of years. Patient 3 suffered from depression and chronic pain resulting from a number of accidents and surgical procedures.

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19. Patient 3 came to Respondent already on a number of pain medications, including a fentanyl[12] patch. Between 2014 and 2019, Respondent saw Patient 3 on a periodic basis, and undertook to manage and treat Patient 3's chronic pain and depression, as well as complaints of insomnia and other issues.

20. In 2015, Patient 3 informed Respondent that she was no longer seeing her surgeon and asked him to refill her pain medications. Respondent thereafter regularly prescribed pain medication, including fentanyl and Norco. In June 2016, he added tramadol, without explanation. At no time did Respondent check the CURES system to verify Patient 3 was not receiving other prescriptions. He did not utilize a pain management agreement, or document any sort of patient education or informed consent for the prescription of potent opioid analgesics. He did not utilize urine drug testing. During his Board interview, Respondent conceded he was unfamiliar with current standards relating to prescribing opioids for pain treatment.

21. Respondent also prescribed a number of medications to treat Patient 3's complaints of depression and difficulty sleeping. In 2014 he prescribed an antidepressant along with lorazepam[13]. In January 2016, he added a prescription for Soma[14] but did not document a rationale for adding the medication. Between 2016 and 2019, Respondent prescribed a variety of benzodiazepines, including temazepam[15] clonazepam, and zolpidem[16], without documenting a reason for the change in medication, or how the patient responded to treatment.

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[12] Fentanyl patch is a transdermal system to administer a potent opioid analgesic. Fentanyl is a strong opioid medication and is indicated only for treatment of chronic pain (such as that of malignancy) that cannot be managed by lesser means and requires continuous opioid administration. Fentanyl presents a risk of serious or life-threatening hypoventilation, and should be used with extreme caution in conjunction with other CNS depressants.

[13] Lorazepam (Ativan) is a controlled substance and a benzodiazepine used to treat anxiety. Benzodiazepines, when taken in conjunction with opiates, increase the risk of respiratory arrest.

[14] Soma is a brand name for carisoprodol, a controlled substance. When properly prescribed and indicated, it is used as a muscle relaxant. It has a potential for diversion and abuse, and is a central nervous system depressant.

[15] Temazepam is a controlled substance and benzodiazepine.

[16] Ambien, another benzodiazepine.

22. On several occasions in 2018, Patient 3 and her husband reported multiple falls, including one head first fall down stairs. Respondent's medical record contains no assessment of the possibility that the medication he prescribed could have contributed to the falls. Respondent's record contains no indication that he considered the risks associated with prescribing large amounts of narcotic medications together with benzodiazepines and other CNS depressants, or that he ever discussed with Patient 3 the risks associated with these drug combinations.

23. Respondent is guilty of unprofessional conduct in his care and treatment of Patient 3, and is subject to disciplinary action under section 2234 and/or 2234(b) and/or 2234(c) and/or 2234(d) of the Code in that Respondent committed gross negligence and/or repeated negligent acts and/or demonstrated incompetence, including but not limited to the following:

A. Respondent prescribed large amounts of opioid medications to Patient 3 without conducting periodic appropriate evaluations of the medical indication for the prescriptions, the efficiency of the medication, and in the absence of a coherent treatment plan with objectives. Respondent prescribed pain medication without consulting the CURES system, without a pain management agreement, without urine drug testing, and without providing the patient with informed consent regarding the risks of the medications prescribed.

B. Respondent prescribed a number of benzodiazepines to Patient 3, for prolonged periods of time without explanation of medication changes, and without an apparent treatment plan. He prescribed without checking CURES to determine if the patient was receiving prescriptions elsewhere, and without implementing steps to ensure the medications were safely used. Respondent did not inform Patient 3 of the risks of long term use of benzodiazepines, or of the risks associated with use of these medications together with opioids and other CNS depressants.

C. Respondent regularly prescribed pain medication, over a long period of time, without current knowledge regarding the standard of care for prescribing to treat chronic pain. Respondent also prescribed in dangerous and risky combinations, without knowledge or understanding of the risks posed by his prescribing.

D. Respondent failed to assess or consider the possible role of prescribed medication when he learned that Patient 3 had numerous falls in 2018.

FOURTH CAUSE FOR DISCIPLINE

(Gross Negligence/Repeated Negligent Acts/Incompetence)

Patient 4

24. Patient 4 had a number of issues, including spinal stenosis and pain, and osteoarthritis. Patient 4 was a smoker. Between 2014 and 2019, Respondent prescribed Norco to treat Patient 4's complaints of pain. In June 2017, Respondent noted that Patient 4 had a cough and sore throat. Respondent prescribed Phenergan with codeine cough syrup[17]. In June 2017 Patient 4 continued to report a cough. Respondent prescribed the codeine cough syrup on at least seven occasions. He prescribed Norco as well. At no time did Respondent conduct a full or adequate evaluation of Patient 4's cough, or obtain a chest x-ray.

25. Respondent is guilty of unprofessional conduct in his care and treatment of Patient 4, and is subject to disciplinary action under section 2234 and/or 2234(b) and/or 2234(c) and/or 2234(d) of the Code in that Respondent committed gross negligence and/or repeated negligent acts and/or demonstrated incompetence, including but not limited to the following:

A. Respondent prescribed Phenergan and codeine cough syrup on a frequent basis without conducting an appropriate evaluation and assessment, and in the absence of documented medical indication.

B. Respondent prescribed both Phenergan with codeine and Norco, without any apparent consideration of the possible impact of combining both medications.

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17 Phenergan is a trade name for promethazine HCl. With codeine, it is a controlled substance which has antihistaminic, sedative, antimotion-sickness, antiemetic, and anticholinergic effects. The concomitant use of alcohol, sedative hypnotics (including barbiturates), general anesthetics, narcotics, narcotic analgesics, tranquilizers or other central nervous system depressants may have additive sedative effects and patients should be warned accordingly. Phenergan may significantly affect the actions of other drugs. It may increase, prolong, or intensify the sedative action of central-nervous-system depressants. For this reason, the dose of narcotics used with Phenergan should be reduced by one quarter to one half reduced dosages of other drugs.

C. Respondent failed to obtain a chest x-ray or otherwise investigate the cause of persistent cough in a smoker.

FIFTH CAUSE FOR DISCIPLINE

(Failure to Maintain Accurate and Adequate Medical Records)

26. Respondent is guilty of unprofessional conduct and subject to discipline for violation of Section 2266 of the Code for failure to keep adequate and accurate medical records for each of the four patients alleged above.

27. In each case, Respondent's medical records fail to include a complete assessment of the patient's presenting condition, an assessment of the patient, the rationale for prescribing, or response to treatment. Respondent's records regularly stated that a medication had been prescribed for the patient, but did not state the medical indication or rational for the prescription. Respondents records for each patient lack a clear and understandable list of medications prescribed, and it is impossible to determine what medication the patients were on at any given time. Respondent failed to document an appropriate or adequate informed consent was provided to any of the four patients, at any time over the course of treatment, or for the types, amounts and combinations of drugs prescribed.

PRESCRIBING RESULTING IN HARM TO PATIENTS

28. Respondent's patterns of prescribing controlled substances to the four patients described in this Accusation subjected the patients to unnecessary polypharmacy. His indiscriminate and incautions prescribing of controlled medications increased the chance of many adverse outcomes, including adverse drug reactions, adverse drug interactions, falls, cognitive impairment and mortality. Respondent further subjected his patients to an unwarranted risk of harm when he undertook to prescribe controlled substances to treat complex patient conditions, when Respondent conceded he lacked the necessary knowledge to appropriately manage these patients. Respondent's failure to refer Patient 2 to an appropriate specialists for treatment of his addiction, and even adding additional addictive drugs, resulting in an emergency hospitalization.

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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 G77379, issued to Karl Lee, M.D.;

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

3. Ordering Karl Lee, M.D., if placed on probation, to pay the Board the costs of probation monitoring;

4. Ordering Karl Lee, M.D., if placed on probation, to provide patient notification in accordance with Business and Professions Code section 2228.1; and,

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

DATED: MAR 27 2020

CHRISTINE J. LALLY
Interim Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant

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