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

In the Matter of the First Amended Accusation Against: **Alexander Lakowsky, M.D.** **Physician's & Surgeon's Certificate No A 86437** **Respondent**	**Case No. 800-2018-039976**

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 25, 2022.

IT IS SO ORDERED February 24, 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
CAITLIN ROSS
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BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the First Amended Accusation Against: **ALEXANDER LAKOWSKY, M.D.** **1860 El Camino Real, Suite 321** **Burlingame, CA 94010** **Physician's and Surgeon's Certificate No. A 86437** Respondent.	Case No. 800-2018-039976 OAH No. 2021070452 **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). A previous Interim Executive Director of the Board brought the original Accusation solely in her official capacity. William Prasifka brought the First Amended Accusation solely in his official capacity and is represented in this matter by Rob Bonta, Attorney General of the State of California, by Caitlin Ross, Deputy Attorney General.

2. Respondent Alexander Lakowsky, M.D. (Respondent) is represented in this proceeding by attorney Bradford J. Hinshaw, Esq., whose address is: 12901 Saratoga Ave. Saratoga, CA 95070

3. On or about March 24, 2004, the Board issued Physician's and Surgeon's Certificate No. A 86437 to Alexander Lakowsky, M.D. 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. 800-2018-039976, and will expire on March 31, 2022, unless renewed.

JURISDICTION

4. First Amended Accusation No. 800-2018-039976 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 December 7, 2021. The original Accusation and all other statutorily required documents were properly served on Respondent on April 7, 2020. Respondent timely filed his Notice of Defense contesting the Accusation.

5. A copy of First Amended Accusation No. 800-2018-039976 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. 800-2018-039976. Respondent has also carefully read, fully discussed with his counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

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

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

CULPABILITY

9. Respondent understands and agrees that the charges and allegations in First Amended Accusation No. 800-2018-039976, if proven at a hearing, constitute cause for imposing discipline upon his 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 his 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. 800-2018-039976, a true and correct copy of which is attached hereto as Exhibit A, and that he has thereby subjected his Physician's and Surgeon's Certificate, No. A 86437 to disciplinary action.

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

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 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.

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

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

DISCIPLINARY ORDER

A. PUBLIC REPRIMAND

IT IS HEREBY ORDERED that Respondent, Alexander Lakowsky, M.D., Physician's and Surgeon's Certificate No. A 86437, shall be and hereby is publicly reprimanded pursuant to California Business and Professions Code, section 2227, subdivision (a)(4). This Public Reprimand, which is issued in connection with Respondent's conduct as set forth in First Amended Accusation No. 800-2018-039976, is as follows:

> Respondent demonstrated unprofessional conduct when Respondent prescribed opiates to a patient for back pain without performing a physical back exam, and then failed over the course of several years to check CURES,[1] which would have identified other prescriptions the patient may have been receiving.

B. IT IS FURTHER ORDERED:

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

[1] The Controlled Substance Utilization Review and Evaluation System (CURES) is a database of Schedule II, III and IV controlled substance prescription dispensed in California serving the public health, regulatory oversight agencies, and law enforcement.

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.

Failure to enroll, participate in, or successfully complete the prescribing practices course within the designated time period shall constitute unprofessional conduct and grounds for further

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disciplinary action.

ACCEPTANCE

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

DATED: 12/15/21

ALEXANDER LAKOWSKY, M.D.
Respondent

I have read and fully discussed with Respondent Alexander Lakowsky, 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: 12-15-21

BRADFORD J. HINSHAW, ESQ.
Attorney for Respondent

ENDORSEMENT

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

DATED: 12-15-21

Respectfully submitted,

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

CAITLIN ROSS
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

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Attorneys for Complainant

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

In the Matter of the First Amended Accusation Against: **ALEXANDER LAKOWSKY, M.D.** **1860 El Camino Real, Suite 321** **Burlingame, CA 94010** **Physician's and Surgeon's Certificate No. A 86437,** Respondent.	Case No. 800-2018-039976 **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 or about March 24, 2004, the Board issued Physician's and Surgeon's Certificate Number A 86437 to Alexander Lakowsky, M.D. (Respondent). The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought herein and will expire on March 31, 2022, unless renewed.

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 2234 of the Code, states, in part:

The board shall take action against any licensee who is charged with unprofessional conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not limited to, the following:

(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.

...

6. Section 2242, subdivision (a) of the Code provides that prescribing, dispensing or furnishing dangerous drugs without an appropriate prior examination and a medical indication constitutes unprofessional conduct.

FIRST CAUSE FOR DISCIPLINE

(Unprofessional Conduct, Gross Negligence, Repeated Negligent Acts, and/or Prescribing Without an Appropriate Medical Examination/Medical Indication)

7. Respondent Alexander Lakowsky, M.D. is subject to disciplinary action under sections 2234; and/or 2234, subdivision (a); and/or 2234, subdivision (b); and/or 2234, subdivision (c); and/or 2242, subdivision (a) of the Code in that Respondent committed unprofessional conduct, and/or gross negligence, and/or repeated negligent acts, and/or prescribing without an appropriate medical examination or medical indication for Patient One.[1] The circumstances are as follows:

8. From 2012 through 2018, Respondent treated Patient One for a variety of issues, including chronic back pain. In August 2012, Dr. Y.C. informed Respondent that Patient One "will most likely require chronic spinal pain management."

9. On August 4, 2014, Patient One had an encounter with Respondent. Patient One complained of mid to lower back pain due to a vertebral fracture a few years before. Patient One informed Respondent that "[h]e tried some of his wife's Fentanyl patch and it worked very well. He is hoping to get his own prescription." On that date, Respondent prescribed fentanyl to Patient One, then followed up with three more refills before February 2015.

10. Respondent did not perform a physical back examination at the August 4, 2014 encounter when he began prescribing fentanyl to Patient One.

11. Fentanyl is a potent narcotic analgesic. It is a dangerous drug as defined in section 4022 and a Schedule II controlled substance and narcotic as defined by section 11055, subdivision (c)(8), of the Health and Safety Code. Other central nervous system depressant drugs will have additive or potentiating effects when combined with fentanyl. Fentanyl can produce drug dependence of the morphine type and therefore has the potential for being abused.

[1] The patient is referred to by number to protect his privacy. Respondent is aware of the name of the patient.

12. On February 5, 2015, Respondent documented, "He is trying to get off the patch (Fentanyl Patch) and he's had some success with it." Thirty-day refills commenced again in March and May, with the August prescription being a 90-day refill.

13. On January 5, 2016, Respondent noted, "He continues with back pain and he uses Fentanyl patch that only works for 2.5 days. He cannot get by with every 3rd day change of the patch."

14. On November 29, 2017, another physician provider for Patient One wrote, "Chronic constipation- in part exacerbated by chronic narcotic use has been non compliant with fiber and laxatives." (sic.)

15. On December 18, 2017, Respondent wrote of Patient One, "He's been having some issues with 'digestion'-> his stools are sometimes too hard causing too much straining. His pain is Ok, controlled with fentanyl patch and norco. This in turn, could be causing his constipation[.]" However, Patient One had only received a 5-day supply of Norco 14 months earlier on October 2, 2016, and another 5-day supply 41 months earlier on July 14, 2014.

16. On July 26, 2018, Respondent wrote, "He's mainly concerned about uncomfortable feeling in his abdomen; he feels like 'ants' are crawling on the inside of the abdomen. He thinks he may have some component of depression that he refused to treat (was prescribed sertraline in the past but he was too worried about side effects). He is on Fentanyl Patch due to chronic back pain for at least 3-4 years." Additionally, Respondent noted, "Symptoms are likely due to chronic fental use (sic); he will use biofeedback as he cannot go off of it due to chronic pain."

17. During the time Respondent was prescribing narcotics to Patient 1, beginning in 2014, Respondent did not check the CURES[2] report for Patient 1 until October 23, 2018. The CURES report should be checked at least yearly to be sure the patient is not getting opiates from multiple providers.

18. Respondent is guilty of unprofessional conduct and subject to disciplinary action under sections 2234; and/or 2234, subdivision (a); and/or 2234, subdivision (b); and/or 2234,

[2] The Controlled Substance Utilization Review and Evaluation System (CURES) is a database of Schedule II, III and IV controlled substance prescription dispensed in California serving the public health, regulatory oversight agencies, and law enforcement.

subdivision (c); and/or 2242, subdivision (a) of the Code, including but not limited to the following:

A. At the time of initiating the prescription of fentanyl to Patient One, Respondent failed to perform a physical back exam, in violation of the standard of care for evaluating a patient for long term use of narcotics.

B. Over many years of prescribing narcotics to Patient One, Respondent failed to check the CURES report yearly, in violation of the standard of care for monitoring a patient for whom a provider has prescribed narcotics.

PRAYER

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

1. Revoking or suspending Physician's and Surgeon's Certificate Number A 86437, issued to Respondent Alexander Lakowsky, M.D.;

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

3. Ordering Respondent Alexander Lakowsky, M.D., if placed on probation, to pay the Board the costs of probation monitoring; and

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

DATED: DEC 0 7 2021

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