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

In the Matter of the First Amended Accusation Against: Thomas Robert Yarema, M.D. Physician's and Surgeon's Certificate No. C 41819 Respondent.	Case No.: 800-2017-038921

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 April 6, 2022.

IT IS SO ORDERED: March 3, 2022.

MEDICAL BOARD OF CALIFORNIA

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

ROB BONTA
Attorney General of California
JANE ZACK SIMON
Supervising Deputy Attorney General
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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: **THOMAS ROBERT YAREMA, M.D.** **3121 Park Ave. Ste. D** **Soquel CA 95073** **Physician's and Surgeon's Certificate No. C 41819** Respondent.	Case No. 800-2017-038921 OAH No. 2021080566 **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 Caitlin Ross, Deputy Attorney General.

2. Respondent Thomas Robert Yarema, M.D. (Respondent) is represented in this proceeding by attorney Marvin Firestone, MD, JD, whose address is: Marvin Firestone, MD, JD & Assoc., LLP, 1700 South El Camino Real, Ste. 408, San Mateo, CA 94402.

3. On or about April 22, 1985, the Board issued Physician's and Surgeon's Certificate No. C 41819 to Thomas Robert Yarema, 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. 800-2017-038921, and will expire on April 20, 2023, unless renewed.

JURISDICTION

4. First Amended Accusation No. 800-2017-038921 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 24, 2021. Respondent filed his Notice of Defense contesting the First Amended Accusation.

5. A copy of First Amended Accusation No. 800-2017-038921 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. 800-2017-038921. 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 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. 800-2017-038921, a true and correct copy of which is attached hereto as Exhibit A, that Respondent hereby gives up his right to contest those charges, and that he has thereby subjected his Physician's and Surgeon's Certificate, No. C 41819 to disciplinary action.

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 First Amended Accusation No. 800-2017-038921 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. C 41819 issued to Respondent THOMAS ROBERT YAREMA, M.D. is revoked. However, the revocation is stayed and Respondent is placed on probation for four (4) 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. 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, First Amended Accusation, 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 First Amended Accusation and/or a petition to revoke

probation. The cessation of practice shall not apply to the reduction of the probationary time period.

5. MONITORING - PRACTICE. Within 30 calendar days of the effective date of this Decision, Respondent shall submit to the Board or its designee for prior approval as a practice monitor, the name and qualifications of one or more licensed physicians and surgeons whose licenses are valid and in good standing, and who are preferably American Board of Medical Specialties (ABMS) certified. A monitor shall have no prior or current business or personal relationship with Respondent, or other relationship that could reasonably be expected to compromise the ability of the monitor to render fair and unbiased reports to the Board, including but not limited to any form of bartering, shall be in Respondent's field of practice, and must agree to serve as Respondent's monitor. Respondent shall pay all monitoring costs.

The Board or its designee shall provide the approved monitor with copies of the Decision(s) and First Amended Accusation, and a proposed monitoring plan. Within 15 calendar days of receipt of the Decision, First Amended Accusation, and proposed monitoring plan, the monitor shall submit a signed statement that the monitor has read the Decision and First Amended Accusation, fully understands the role of a monitor, and agrees or disagrees with the proposed monitoring plan. If the monitor disagrees with the proposed monitoring plan, the monitor shall submit a revised monitoring plan with the signed statement for approval by the Board or its designee.

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

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

The monitor(s) shall submit a quarterly written report to the Board or its designee which includes an evaluation of Respondent's performance, indicating whether Respondent's practices are within the standards of practice of medicine, and whether Respondent is practicing medicine safely. It shall be the sole responsibility of Respondent to ensure that the monitor submits the quarterly written reports to the Board or its designee within 10 calendar days after the end of the preceding quarter.

If the monitor resigns or is no longer available, Respondent shall, within 5 calendar days of such resignation or unavailability, submit to the Board or its designee, for prior approval, the name and qualifications of a replacement monitor who will be assuming that responsibility within 15 calendar days. If Respondent fails to obtain approval of a replacement monitor within 60 calendar days of the resignation or unavailability of the monitor, Respondent shall receive a notification from the Board or its designee to cease the practice of medicine within three (3) calendar days after being so notified. Respondent shall cease the practice of medicine until a replacement monitor is approved and assumes monitoring responsibility.

In lieu of a monitor, Respondent may participate in a professional enhancement program approved in advance by the Board or its designee that includes, at minimum, quarterly chart review, semi-annual practice assessment, and semi-annual review of professional growth and education. Respondent shall participate in the professional enhancement program at Respondent's expense during the term of probation.

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, except that Respondent may supervise one advanced practice nurse who shall not prescribe controlled substances.

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. INVESTIGATION/ENFORCEMENT COST RECOVERY. Respondent is hereby ordered to reimburse the Board its costs of investigation and enforcement, including, but not limited to, expert review, amended accusations, legal reviews, joint investigations, and subpoena enforcement, as applicable, in the amount of $6,280 (Six Thousand, Two Hundred and Eighty Dollars). Costs shall be payable to the Medical Board of California. Failure to pay such costs shall be considered a violation of probation.

Any and all requests for a payment plan shall be submitted in writing by Respondent to the Board. The Board will approve a payment plan that requires all costs to be paid before probation ends. If Respondent successfully petitions for a shorter probation term, all costs need to be paid before the end of the shortened probation term.

The filing of bankruptcy by respondent shall not relieve respondent of the responsibility to repay investigation and enforcement costs, including expert review costs (if applicable).

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

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

11. GENERAL PROBATION REQUIREMENTS.

Compliance with Probation Unit

Respondent shall comply with the Board's probation unit.

Address Changes

Respondent shall, at all times, keep the Board informed of Respondent's business and residence addresses, email address (if available), and telephone number. Changes of such addresses shall be immediately communicated in writing to the Board or its designee. Under no circumstances shall a post office box serve as an address of record, except as allowed by Business and Professions Code section 2021, subdivision (b).

Place of Practice

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

License Renewal

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

Travel or Residence Outside California

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

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

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

13. NON-PRACTICE WHILE ON PROBATION. Respondent shall notify the Board or its designee in writing within 15 calendar days of any periods of non-practice lasting more than 30 calendar days and within 15 calendar days of Respondent's return to practice. Non-practice is defined as any period of time Respondent is not practicing medicine as defined in Business and Professions Code sections 2051 and 2052 for at least 40 hours in a calendar month in direct patient care, clinical activity or teaching, or other activity as approved by the Board. If

Respondent resides in California and is considered to be in non-practice, Respondent shall comply with all terms and conditions of probation. All time spent in an intensive training program which has been approved by the Board or its designee shall not be considered non-practice and does not relieve Respondent from complying with all the terms and conditions of probation. Practicing medicine in another state of the United States or Federal jurisdiction while on probation with the medical licensing authority of that state or jurisdiction shall not be considered non-practice. A Board-ordered suspension of practice shall not be considered as a period of non-practice.

In the event Respondent's period of non-practice while on probation exceeds 18 calendar months, Respondent shall successfully complete the Federation of State Medical Boards'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..

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

15. VIOLATION OF PROBATION. Failure to fully comply with any term or condition of probation is a violation of probation. If Respondent violates probation in any respect, the Board, after giving Respondent notice and the opportunity to be heard, may revoke probation and carry out the disciplinary order that was stayed. If an Accusation, or Petition to Revoke Probation,

or an Interim Suspension Order is filed against Respondent during probation, the Board shall have continuing jurisdiction until the matter is final, and the period of probation shall be extended until the matter is final.

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

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

18. FUTURE ADMISSIONS CLAUSE. If Respondent should ever apply or reapply for a new license or certification, or petition for reinstatement of a license, by any other health care licensing action agency in the State of California, all of the charges and allegations contained in First Amended Accusation No. 800-2017-038921 shall be deemed to be true, correct, and admitted by Respondent for the purpose of any Statement of Issues or any other proceeding

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seeking to deny or restrict license.

ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Marvin Firestone, MD, JD. 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: January 14, 2022

THOMAS ROBERT YAREMA, M.D.
Respondent

I have read and fully discussed with Respondent Thomas Robert Yarema, 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: 1/14/2022 | 17:12 PST

M.H Firestone

MARVIN FIRESTONE, MD, JD
Attorney for Respondent

ENDORSEMENT

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

DATED: 1-18-22

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

First Amended Accusation No. 800-2017-038921

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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: **THOMAS ROBERT YAREMA, M.D.** **3121 Park Ave., Ste. D** **Soquel, CA 95073** **Physician's and Surgeon's Certificate No. C 41819,** Respondent.	Case No. 800-2017-038921 **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 April 22, 1985, the Board issued Physician's and Surgeon's Certificate Number C 41819 to Thomas Robert Yarema, M.D. (Respondent). The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought herein and will expire on April 30, 2023, 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, 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."

. . .

6. Section 2266 of the Code states:

"The failure of a physician and surgeon to maintain adequate and accurate records relating to the provision of services to their patients constitutes unprofessional conduct."

COST RECOVERY

7. Effective January 1, 2022, Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to 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, with failure of the licensee to comply subjecting the license to not being renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be included in a stipulated settlement.

FIRST CAUSE FOR DISCIPLINE

(Gross Negligence; Unprofessional Conduct; Repeated Negligent Acts – Failure to Obtain Informed Consent)

8. Respondent is subject to disciplinary action for gross negligence [Code section 2234, subdivision (b)], unprofessional conduct [Code section 2234], and repeated negligent acts [Code section 2234, subdivision (c)], based on the care provided to Patient A.[1] The circumstances are as follows:

9. Respondent operates a private practice in the Santa Cruz area, the "Center for Wellness & Integrative Medicine." He is a primary care practitioner and his practice includes providing alternative medicine.

10. Informed consent is a process of communication between a physician and patient that eventually leads to an agreement or permission for provision of care, treatment, and medical services. In order to obtain informed consent from a patient, a physician will provide a thorough and accurate description of the proposed therapy to a mentally competent patient and fully disclose and explain all possible risks and benefits of the particular procedure or therapeutic options before obtaining the patient's consent.

[1] In order to protect the patient's privacy, Patient A's identity has been withheld. Respondent is aware of Patient A's identity and may confirm her identity in discovery.

11. Because proposed therapies in alternative medicine may very well be experimental, controversial, untested, and not particularly based on conventional scientific knowledge, informed consent is inherent in the practice of alternative medicine.

12. Respondent has treated Patient A since 2010. In that time, Respondent has addressed multiple conditions and provided many treatments, including treatments such as "electric ionification" (acupuncture with an electric current), "major or minor autohemotherapy" (removal of a patient's blood and reinjection into body, sometimes after mixture with an additive such as ozone), and intravenous hydrogen peroxide. Respondent provided multiple alternative therapeutic interventions. Respondent does not have a written informed consent from Patient A that explains the side effects of any treatments he performed. Nor did Respondent explain, and/or document that he explained, the side effects of his treatments. As an example of a potential side effect from treatment, at his Board interview, Respondent described the intravenous hydrogen peroxide treatment as "harsh on the veins" and capable of causing vein inflammation (known as phlebitis). Patient A did eventually develop phlebitis.

13. Respondent is guilty of unprofessional conduct under section 2234, section 2234 subdivision (b), and section 2234 subdivision (c) of the Code, and is accordingly subject to disciplinary action based on the following:

a. Failure to obtain written informed consent from Patient A regarding the individualized therapeutic interventions; and

b. Failure to explain, and/or document that he explained, the side effects for treatments provided.

SECOND CAUSE FOR DISCIPLINE

(Unprofessional Conduct; Repeated Negligent Acts – Absence of Treatment Protocols)

14. Paragraphs 1 through 13 are incorporated as set forth herein.

15. Respondent is subject to disciplinary action for unprofessional conduct [Code section 2234] and repeated negligent acts [Code section 2234, subdivision (c)], based on the care provided to Patient A. The circumstances are as follows:

16. The standard of care requires accurate and adequate documentation of all treatment protocols for each therapeutic intervention. This standard is particularly important when a physician practices alternative medicine, since many of these treatments may be controversial or speculative and lacking in conventional scientific verification.

17. Respondent did not have clear and well-defined treatment protocols for each therapy provided to Patient A.

18. Respondent is guilty of unprofessional conduct under sections 2234 and 2234 subdivision (c) of the Code, and is accordingly subject to disciplinary action based on the following:

a. Failure to have clear and well-defined treatment protocols for each therapy provided to Patient A.

THIRD CAUSE FOR DISCIPLINE

(Unprofessional Conduct; Repeated Negligent Acts – Lack of Psychiatric Consultation)

19. Paragraphs 1 through 18 are incorporated as set forth herein.

20. Respondent is subject to disciplinary action for unprofessional conduct [Code section 2234] based on the care provided to Patient A. The circumstances are as follows:

21. Patient A's correspondence to the Board and her medical records with Respondent's practice indicate that Patient A had signs of psychiatric instability and possible mental disorder. At his Board interview, Respondent stated that Patient A had "psycho-emotional" issues going on with her family, and his medical records for Patient A include multiple references to a plan of "emotional support."

22. Respondent prescribed benzodiazepines (alprazolam, available under trade name Xanax)[2] to Patient A over the course of several years. Benzodiazepines can alter mental function, produce drug dependence, and have the potential for abuse. He recognized that Patient A had an

[2] Alprazolam, also known by the trade name Xanax, is a benzodiazepine used for the management of certain types of anxiety disorders for the short-term relief of symptoms. It is a Schedule IV controlled substance as defined in Health and Safety Code section 11057. It is a central nervous system depressant.

anxiety disorder, and he frequently prescribed .25 mg alprazolam to Patient A in 150-pill increments as a 25-day supply.

23. The acquisition of a psychiatric consultant would have been beneficial with regard to managing Patient A's oral medication, including her benzodiazepine medication. Acquiring a psychiatric consultant would also have assisted in facilitating Patient A's mental stability.

24. Respondent is guilty of unprofessional conduct under section 2234 of the Code and is accordingly subject to disciplinary action based on the following:

a. Failure to provide a psychiatric consultation for Patient A.

FOURTH CAUSE FOR DISCIPLINE

(Unprofessional Conduct; Repeated Negligent Acts - Benzodiazepine Prescribing)

25. Paragraphs 1 through 24 are incorporated as set forth herein.

26. Respondent is subject to disciplinary action for unprofessional conduct [Code section 2234] and repeated negligent acts [Code section 2234, subdivision (c)], based on the care provided to Patient A. The circumstances are as follows:

27. In 2013, Respondent began prescribing benzodiazepines to Patient A. He continued prescribing benzodiazepines through 2017.

28. Anti-anxiety medication, like benzodiazepines, is considered short-term therapy. Therefore, it is appropriate to prescribe anti-anxiety medication for short-term therapy (such as a matter of months) as opposed to long-term therapy (such as a matter of years).

29. Respondent prescribed benzodiazepines to Patient A on multiple occasions without appropriately re-evaluating her with regard to potential side effects or addiction. Moreover, acquiring a psychiatric consult would have been beneficial for Patient A by assisting Respondent in managing Patient A's anti-anxiety medications or perhaps switching to other more efficacious medication to stabilize Patient A's mental status.

30. Respondent is guilty of unprofessional conduct under section 2234 and section 2234 subdivision (c) of the Code, and is accordingly subject to disciplinary action based on the following:

a. Prescribing benzodiazepines over a course of multiple years without appropriate re-evaluation for side effects or addiction.

FIFTH CAUSE FOR DISCIPLINE

(Unprofessional Conduct - Medical Recordkeeping)

31. Paragraphs 1 through 30 are incorporated as set forth herein.

32. Respondent is subject to disciplinary action for unprofessional conduct [Code section 2234] and failure to maintain adequate and accurate medical records [Code section 2266] based on the care provided to Patient A. The circumstances are as follows:

33. Respondent kept medical records for Patient A, but the records are frequently illegible and incomprehensible. Respondent also used abbreviations which were not considered standard scientific abbreviations commonly used in the medical community.

34. Respondent is guilty of unprofessional conduct under sections 2234 and 2266 of the Code, and is accordingly subject to disciplinary action based on the following:

a. Failure to maintain adequate and accurate records of Patient A's medical care.

DISCIPLINARY CONSIDERATIONS

35. To determine the degree of discipline, if any, to be imposed on Respondent Thomas Robert Yarema, M.D., Complainant alleges two instances of prior discipline.

36. On August 17, 2012, in a prior disciplinary action entitled *In the Matter of the Accusation Against Thomas Robert Yarema, M.D.* before the Medical Board of California, in Case Number 03-2011-213087, Respondent entered into a Stipulated Settlement with the Board. Per the terms of the Stipulated Settlement, Respondent's license was revoked, with the revocation stayed and Respondent's license was placed on probation for three years. Respondent had terms and conditions applied to his probationary term, and Respondent completed his probation in August 2015. This discipline arose from an Accusation charging Respondent with improper

actions related to the recommendation of medical marijuana. That Decision is now final and is incorporated by reference as if fully set forth herein.

37. In addition, Respondent was reprimanded in 2006 by the Hawaii Medical Board. The reprimand arose from Respondent's acupuncture practice.

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 41819, issued to Respondent Thomas Robert Yarema, M.D.;

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

3. Ordering Respondent Thomas Robert Yarema, 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 24 2021

Reji Varghese
Deputy Director

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

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