

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

1 ROB BONTA
Attorney General of California
2 JANE ZACK SIMON
Supervising Deputy Attorney General
3 CAITLIN ROSS
Deputy Attorney General
4 State Bar No. 271651
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5 San Francisco, CA 94102-7004
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7 *Attorneys for Complainant*

8
9 **BEFORE THE**
MEDICAL BOARD OF CALIFORNIA
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the First Amended Accusation
13 Against:

14 **THOMAS ROBERT YAREMA, M.D.**
15 **3121 Park Ave. Ste. D**
Soquel CA 95073

16 **Physician's and Surgeon's Certificate No. C**
17 **41819**

18 Respondent.

Case No. 800-2017-038921

OAH No. 2021080566

STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER

19
20
21 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
22 entitled proceedings that the following matters are true:

23 **PARTIES**

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

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

4 3. On or about April 22, 1985, the Board issued Physician's and Surgeon's Certificate
5 No. C 41819 to Thomas Robert Yarema, M.D. The Physician's and Surgeon's Certificate was in
6 full force and effect at all times relevant to the charges brought in First Amended Accusation No.
7 800-2017-038921, and will expire on April 20, 2023, unless renewed.

8 JURISDICTION

9 4. First Amended Accusation No. 800-2017-038921 was filed before the Board, and is
10 currently pending against Respondent. The First Amended Accusation and all other statutorily
11 required documents were properly served on Respondent on December 24, 2021. Respondent
12 filed his Notice of Defense contesting the First Amended Accusation.

13 5. A copy of First Amended Accusation No. 800-2017-038921 is attached as Exhibit A
14 and incorporated herein by reference.

15 ADVISEMENT AND WAIVERS

16 6. Respondent has carefully read, fully discussed with counsel, and understands the
17 charges and allegations in First Amended Accusation No. 800-2017-038921. Respondent has
18 also carefully read, fully discussed with his counsel, and understands the effects of this Stipulated
19 Settlement and Disciplinary Order.

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

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

1 CULPABILITY

2 9. Respondent does not contest that, at an administrative hearing, Complainant could
3 establish a prima facie case with respect to the charges and allegations in First Amended
4 Accusation No. 800-2017-038921, a true and correct copy of which is attached hereto as Exhibit
5 A, that Respondent hereby gives up his right to contest those charges, and that he has thereby
6 subjected his Physician's and Surgeon's Certificate, No. C 41819 to disciplinary action.

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

10 CONTINGENCY

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

21 12. Respondent agrees that if he ever petitions for early termination or modification of
22 probation, or if an accusation and/or petition to revoke probation is filed against him before the
23 Board, all of the charges and allegations contained in First Amended Accusation No. 800-2017-
24 038921 shall be deemed true, correct and fully admitted by respondent for purposes of any such
25 proceeding or any other licensing proceeding involving Respondent in the State of California.

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

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

4 **DISCIPLINARY ORDER**

5 IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. C 41819 issued
6 to Respondent THOMAS ROBERT YAREMA, M.D. is revoked. However, the revocation is
7 stayed and Respondent is placed on probation for four (4) years on the following terms and
8 conditions:

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

19 2. PRESCRIBING PRACTICES COURSE. Within 60 calendar days of the effective
20 date of this Decision, Respondent shall enroll in a course in prescribing practices approved in
21 advance by the Board or its designee. Respondent shall provide the approved course provider
22 with any information and documents that the approved course provider may deem pertinent.
23 Respondent shall participate in and successfully complete the classroom component of the course
24 not later than six (6) months after Respondent's initial enrollment. Respondent shall successfully
25 complete any other component of the course within one (1) year of enrollment. The prescribing
26 practices course shall be at Respondent's expense and shall be in addition to the Continuing
27 Medical Education (CME) requirements for renewal of licensure.

28 A prescribing practices course taken after the acts that gave rise to the charges in the First

1 Amended Accusation, but prior to the effective date of the Decision may, in the sole discretion of
2 the Board or its designee, be accepted towards the fulfillment of this condition if the course would
3 have been approved by the Board or its designee had the course been taken after the effective date
4 of this Decision.

5 Respondent shall submit a certification of successful completion to the Board or its
6 designee not later than 15 calendar days after successfully completing the course, or not later than
7 15 calendar days after the effective date of the Decision, whichever is later.

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

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

22 Respondent shall submit a certification of successful completion to the Board or its
23 designee not later than 15 calendar days after successfully completing the course, or not later than
24 15 calendar days after the effective date of the Decision, whichever is later.

25 4. CLINICAL COMPETENCE ASSESSMENT PROGRAM. Within 60 calendar days
26 of the effective date of this Decision, Respondent shall enroll in a clinical competence assessment
27 program approved in advance by the Board or its designee. Respondent shall successfully
28 complete the program not later than six (6) months after Respondent's initial enrollment unless

1 the Board or its designee agrees in writing to an extension of that time.

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

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

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

21 If Respondent fails to enroll, participate in, or successfully complete the clinical
22 competence assessment program within the designated time period, Respondent shall receive a
23 notification from the Board or its designee to cease the practice of medicine within three (3)
24 calendar days after being so notified. The Respondent shall not resume the practice of medicine
25 until enrollment or participation in the outstanding portions of the clinical competence assessment
26 program have been completed. If the Respondent did not successfully complete the clinical
27 competence assessment program, the Respondent shall not resume the practice of medicine until a
28 final decision has been rendered on the First Amended Accusation and/or a petition to revoke

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

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

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

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

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

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

7 If the monitor resigns or is no longer available, Respondent shall, within 5 calendar days of
8 such resignation or unavailability, submit to the Board or its designee, for prior approval, the
9 name and qualifications of a replacement monitor who will be assuming that responsibility within
10 15 calendar days. If Respondent fails to obtain approval of a replacement monitor within 60
11 calendar days of the resignation or unavailability of the monitor, Respondent shall receive a
12 notification from the Board or its designee to cease the practice of medicine within three (3)
13 calendar days after being so notified. Respondent shall cease the practice of medicine until a
14 replacement monitor is approved and assumes monitoring responsibility.

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

20 6. NOTIFICATION. Within seven (7) days of the effective date of this Decision, the
21 Respondent shall provide a true copy of this Decision and First Amended Accusation to the Chief
22 of Staff or the Chief Executive Officer at every hospital where privileges or membership are
23 extended to Respondent, at any other facility where Respondent engages in the practice of
24 medicine, including all physician and locum tenens registries or other similar agencies, and to the
25 Chief Executive Officer at every insurance carrier which extends malpractice insurance coverage
26 to Respondent. Respondent shall submit proof of compliance to the Board or its designee within
27 15 calendar days.

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

1 7. SUPERVISION OF PHYSICIAN ASSISTANTS AND ADVANCED PRACTICE
2 NURSES. During probation, Respondent is prohibited from supervising physician assistants and
3 advanced practice nurses, except that Respondent may supervise one advanced practice nurse
4 who shall not prescribe controlled substances.

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

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

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

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

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

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

25 11. GENERAL PROBATION REQUIREMENTS.

26 Compliance with Probation Unit

27 Respondent shall comply with the Board's probation unit.

28 Address Changes

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

6 Place of Practice

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

10 License Renewal

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

13 Travel or Residence Outside California

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

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

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

23 13. NON-PRACTICE WHILE ON PROBATION. Respondent shall notify the Board or
24 its designee in writing within 15 calendar days of any periods of non-practice lasting more than
25 30 calendar days and within 15 calendar days of Respondent's return to practice. Non-practice is
26 defined as any period of time Respondent is not practicing medicine as defined in Business and
27 Professions Code sections 2051 and 2052 for at least 40 hours in a calendar month in direct
28 patient care, clinical activity or teaching, or other activity as approved by the Board. If

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

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

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

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

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

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

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

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

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

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

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

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1 seeking to deny or restrict license.

2 **ACCEPTANCE**

3 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
4 discussed it with my attorney, Marvin Firestone, MD, JD. I understand the stipulation and the
5 effect it will have on my Physician's and Surgeon's Certificate. I enter into this Stipulated
6 Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be
7 bound by the Decision and Order of the Medical Board of California.

8

9 DATED: January 14, 2022



10 THOMAS ROBERT YAREMA, M.D.
Respondent

11 I have read and fully discussed with Respondent Thomas Robert Yarema, M.D. the terms
12 and conditions and other matters contained in the above Stipulated Settlement and Disciplinary
13 Order. I approve its form and content.

14 DATED: 1/14/2022 | 17:12 PST



15 MARVIN FIRESTONE, MD, JD
Attorney for Respondent

17 **ENDORSEMENT**

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

20

21 DATED: 1-18-22

Respectfully submitted,

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



24 CAITLIN ROSS
25 Deputy Attorney General
Attorneys for Complainant

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SF2020401280 / Yarema - Stipulated Settlement [1-14-22] [419pm].docx

28

Exhibit A

First Amended Accusation No. 800-2017-038921

1 ROB BONTA
Attorney General of California
2 JANE ZACK SIMON
Supervising Deputy Attorney General
3 CAITLIN ROSS
Deputy Attorney General
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7 *Attorneys for Complainant*

8
9 **BEFORE THE**
MEDICAL BOARD OF CALIFORNIA
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the First Amended Accusation
13 Against:

Case No. 800-2017-038921

14 **THOMAS ROBERT YAREMA, M.D.**
15 **3121 Park Ave., Ste. D**
Soquel, CA 95073

FIRST AMENDED ACCUSATION

16 **Physician's and Surgeon's Certificate**
17 **No. C 41819,**

Respondent.

18
19
20 **PARTIES**

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

24 2. On or about April 22, 1985, the Board issued Physician's and Surgeon's Certificate
25 Number C 41819 to Thomas Robert Yarema, M.D. (Respondent). The Physician's and
26 Surgeon's Certificate was in full force and effect at all times relevant to the charges brought
27 herein and will expire on April 30, 2023, unless renewed.

JURISDICTION

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

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

9 5. Section 2234 of the Code, in pertinent part, states:

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

13 “(a) Violating or attempting to violate, directly or indirectly, assisting in or abetting the
14 violation of, or conspiring to violate any provision of this chapter.

15 “(b) Gross negligence.

16 “(c) Repeated negligent acts. To be repeated, there must be two or more negligent acts or
17 omissions. An initial negligent act or omission followed by a separate and distinct departure from
18 the applicable standard of care shall constitute repeated negligent acts.

19 “(1) An initial negligent diagnosis followed by an act or omission medically appropriate for
20 that negligent diagnosis of the patient shall constitute a single negligent act.

21 “(2) When the standard of care requires a change in the diagnosis, act, or omission that
22 constitutes the negligent act described in paragraph (1), including, but not limited to, a
23 reevaluation of the diagnosis or a change in treatment, and the licensee’s conduct departs from the
24 applicable standard of care, each departure constitutes a separate and distinct breach of the
25 standard of care.”

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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.

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

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

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

- 18 a. Failure to obtain written informed consent from Patient A regarding the
19 individualized therapeutic interventions; and
20 b. Failure to explain, and/or document that he explained, the side effects for treatments
21 provided.

22 **SECOND CAUSE FOR DISCIPLINE**

23 **(Unprofessional Conduct; Repeated Negligent Acts**

24 **– Absence of Treatment Protocols)**

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

26 15. Respondent is subject to disciplinary action for unprofessional conduct [Code section
27 2234] and repeated negligent acts [Code section 2234, subdivision (c)], based on the care
28 provided to Patient A. The circumstances are as follows:

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

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

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

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

12 **THIRD CAUSE FOR DISCIPLINE**
13 **(Unprofessional Conduct; Repeated Negligent Acts**

14 **– Lack of Psychiatric Consultation)**

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

16 20. Respondent is subject to disciplinary action for unprofessional conduct [Code section
17 2234] based on the care provided to Patient A. The circumstances are as follows:

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

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

26 _____
27 ² Alprazolam, also known by the trade name Xanax, is a benzodiazepine used for the
28 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.

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

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

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

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

9
10 **FOURTH CAUSE FOR DISCIPLINE**

11 **(Unprofessional Conduct; Repeated Negligent Acts**

12 **- Benzodiazepine Prescribing)**

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

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

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

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

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

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

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

6 **FIFTH CAUSE FOR DISCIPLINE**

7 **(Unprofessional Conduct - Medical Recordkeeping)**

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

9 32. Respondent is subject to disciplinary action for unprofessional conduct [Code section
10 2234] and failure to maintain adequate and accurate medical records [Code section 2266] based
11 on the care provided to Patient A. The circumstances are as follows:

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

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

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

18 **DISCIPLINARY CONSIDERATIONS**

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

21 36. On August 17, 2012, in a prior disciplinary action entitled *In the Matter of the*
22 *Accusation Against Thomas Robert Yarema, M.D.* before the Medical Board of California, in
23 Case Number 03-2011-213087, Respondent entered into a Stipulated Settlement with the Board.
24 Per the terms of the Stipulated Settlement, Respondent's license was revoked, with the revocation
25 stayed and Respondent's license was placed on probation for three years. Respondent had terms
26 and conditions applied to his probationary term, and Respondent completed his probation in
27 August 2015. This discipline arose from an Accusation charging Respondent with improper
28

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


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

5 **PRAYER**

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

- 8 1. Revoking or suspending Physician's and Surgeon's Certificate Number C 41819,
9 issued to Respondent Thomas Robert Yarema, M.D.;
- 10 2. Revoking, suspending or denying approval of Respondent Thomas Robert Yarema,
11 M.D.'s authority to supervise physician assistants and advanced practice nurses;
- 12 3. Ordering Respondent Thomas Robert Yarema, M.D. to pay the Board the costs of the
13 investigation and enforcement of this case, and if placed on probation, the costs of probation
14 monitoring; and
- 15 4. Taking such other and further action as deemed necessary and proper.

16 **DEC 24 2021**
17 DATED: _____


18 **WILLIAM PRASIFKA**
19 Executive Director
20 Medical Board of California
21 Department of Consumer Affairs
22 State of California
23 *Complainant*

24 **Reji Varghese**
25 Deputy Director

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