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

In the Matter of the First Amended Accusation Against: Kumarasamy Sivakumar, M.D. Physician's and Surgeon's Certificate No. A 54211 Respondent.	Case No. 800-2018-043757

DECISION

The attached Stipulated Surrender of License and 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 August 26, 2022.

IT IS SO ORDERED August 19, 2022.

MEDICAL BOARD OF CALIFORNIA

William Prasifka
Executive Director

ROB BONTA
Attorney General of California
EDWARD KIM
Supervising Deputy Attorney General
CHRISTINA SEIN GOOT
Deputy Attorney General
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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: **KUMARASAMY SIVAKUMAR, M.D.** **43723 20th Street West, Suite 203** **Lancaster, CA 93534** **Physician's and Surgeon's Certificate No. A 54211,** Respondent.	Case No. 800-2018-043757 OAH No. 2021110081 **STIPULATED SURRENDER OF LICENSE AND 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 Christina Sein Goot, Deputy Attorney General.

2. Kumarasamy Sivakumar, M.D. (Respondent) is represented in this proceeding by attorney Mark B. Guterman, whose address is: 701 North Brand Boulevard, Suite 600, Glendale, CA 91203.

3. On or about May 17, 1995, the Board issued Physician's and Surgeon's Certificate No. A 54211 to Respondent. The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought in First Amended Accusation No. 800-2018-043757 and will expire on January 31, 2023, unless renewed.

JURISDICTION

4. First Amended Accusation No. 800-2018-043757 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 June 10, 2022. A copy of First Amended Accusation No. 800-2018-043757 is attached as Exhibit A and incorporated by reference.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in First Amended Accusation No. 800-2018-043757. Respondent also has carefully read, fully discussed with counsel, and understands the effects of this Stipulated Surrender of License and Order.

6. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the 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.

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

CULPABILITY

8. Respondent admits the truth of the charges and allegations contained in the Sixth Cause for Discipline in First Amended Accusation No. 800-2018-043757, provided that Respondent admits that the stroke occurred in August 2021 (not August 2011), and agrees that

cause exists for discipline based on those charges and allegations, and hereby surrenders his Physician's and Surgeon's Certificate No. A 54211 for the Board's formal acceptance.

9. Respondent understands and agrees that the charges and allegations contained in the First through Fifth Causes for Discipline in First Amended Accusation No. 800-2018-043757, if proven at a hearing, also constitute cause for imposing discipline upon his Physician's and Surgeon's Certificate. Respondent hereby gives up his right to contest those charges and allegations.

10. Respondent does not contest that, at an administrative hearing, Complainant could establish a *prima facie* case with respect to the charges and allegations contained in the First through Fifth Causes for Discipline in First Amended Accusation No. 800-2018-043757 and that his license is also subject to disciplinary action based on those charges and allegations.

11. Respondent understands that by signing this stipulation he enables the Board to issue an order accepting the surrender of his Physician's and Surgeon's Certificate without further process.

CONTINGENCY

12. This stipulation shall be subject to approval by the Board. Respondent understands and agrees that counsel for Complainant and the staff of the Board may communicate directly with the Board regarding this stipulation and surrender, 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 Surrender 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.

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

14. This Stipulated Surrender of License and Order is intended by the parties herein to be

an integrated writing representing the complete, final and exclusive embodiment of the agreement of the parties in this above entitled matter.

15. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Order:

ORDER

IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. A 54211, issued to Respondent Kumarasamy Sivakumar, M.D., is surrendered and accepted by the Board.

1. The surrender of Respondent's Physician's and Surgeon's Certificate and the acceptance of the surrendered license by the Board shall constitute the imposition of discipline against Respondent. This stipulation constitutes a record of the discipline and shall become a part of Respondent's license history with the Board.

2. Respondent shall lose all rights and privileges as a physician and surgeon in California as of the effective date of the Board's Decision and Order.

3. Respondent shall cause to be delivered to the Board his pocket license and, if one was issued, his wall certificate on or before the effective date of the Decision and Order.

4. If Respondent ever files an application for licensure or a petition for reinstatement in the State of California, the Board shall treat it as a petition for reinstatement. Respondent must comply with all the laws, regulations and procedures for reinstatement of a revoked or surrendered license in effect at the time the petition is filed, and all of the charges and allegations contained in First Amended Accusation No. 800-2018-043757 shall be deemed to be true, correct and admitted by Respondent when the Board determines whether to grant or deny the petition.

5. Respondent shall pay the agency its costs of investigation and enforcement in the amount of $5,545.00 prior to issuance of a new or reinstated license.

6. 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 agency in the State of California, all of the charges and allegations contained in First Amended Accusation, No. 800-2018-043757 shall be deemed to be true, correct, and admitted by Respondent for the purpose of any Statement of Issues or any other proceeding seeking to deny or restrict licensure.

ACCEPTANCE

I have carefully read the above Stipulated Surrender of License and Order and have fully discussed it with my attorney Mark B. Guterman. I understand the stipulation and the effect it will have on my Physician's and Surgeon's Certificate. I enter into this Stipulated Surrender of License and Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Medical Board of California.

DATED: X 8/2/2022

X

KUMARASAMY SIVAKUMAR, M.D.
Respondent

I have read and fully discussed with Respondent Kumarasamy Sivakumar, M.D. the terms and conditions and other matters contained in this Stipulated Surrender of License and Order. I approve its form and content.

DATED: 7/26/22

MARK B. GUTERMAN, ESQ.
Attorney for Respondent

ENDORSEMENT

The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted for consideration by the Medical Board of California of the Department of Consumer Affairs.

DATED: _____

Respectfully submitted,

ROB BONTA
Attorney General of California
EDWARD KIM
Supervising Deputy Attorney General

CHRISTINA SEIN GOOT
Deputy Attorney General
Attorneys for Complainant

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ACCEPTANCE

I have carefully read the above Stipulated Surrender of License and Order and have fully discussed it with my attorney Mark B. Guterman. I understand the stipulation and the effect it will have on my Physician's and Surgeon's Certificate. I enter into this Stipulated Surrender of License and Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Medical Board of California.

DATED: _____ _____

KUMARASAMY SIVAKUMAR, M.D.
Respondent

I have read and fully discussed with Respondent Kumarasamy Sivakumar, M.D. the terms and conditions and other matters contained in this Stipulated Surrender of License and Order. I approve its form and content.

DATED: _____ _____

MARK B. GUTERMAN, ESQ.
Attorney for Respondent

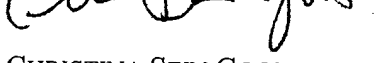
ENDORSEMENT

The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted for consideration by the Medical Board of California of the Department of Consumer Affairs.

DATED: 8/5/22

Respectfully submitted,

ROB BONTA
Attorney General of California
EDWARD KIM
Supervising Deputy Attorney General



CHRISTINA SEIN GOOT
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

First Amended Accusation No. 800-2018-043757

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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: **KUMARASAMY SIVAKUMAR, M.D.** **43723 20th Street West, Suite 203** **Lancaster, CA 93534-4784** **Physician's and Surgeon's Certificate No. A 54211,** Respondent.	Case No. 800-2018-043757 **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 May 17, 1995, the Board issued Physician's and Surgeon's Certificate Number A 54211 to Kumarasamy Sivakumar, M.D. (Respondent). That Certificate was in full force and effect at all times relevant to the charges brought herein and will expire on January 31, 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 states:

> The board shall take action against any licensee who is charged with unprofessional conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not limited to, the following:
>
> (a) Violating or attempting to violate, directly or indirectly, assisting in or abetting the violation of, or conspiring to violate any provision of this chapter.
>
> (b) Gross negligence.
>
> (c) Repeated negligent acts. To be repeated, there must be two or more negligent acts or omissions. An initial negligent act or omission followed by a separate and distinct departure from the applicable standard of care shall constitute repeated negligent acts.
>
> (1) An initial negligent diagnosis followed by an act or omission medically appropriate for that negligent diagnosis of the patient shall constitute a single negligent act.
>
> (2) When the standard of care requires a change in the diagnosis, act, or omission that constitutes the negligent act described in paragraph (1), including, but not limited to, a reevaluation of the diagnosis or a change in treatment, and the licensee's conduct departs from the applicable standard of care, each departure constitutes a separate and distinct breach of the standard of care.
>
> (d) Incompetence.
>
> (e) The commission of any act involving dishonesty or corruption that is substantially related to the qualifications, functions, or duties of a physician and surgeon.
>
> (f) Any action or conduct that would have warranted the denial of a certificate.
>
> (g) The failure by a certificate holder, in the absence of good cause, to attend and participate in an interview by the board. This subdivision shall only apply to a certificate holder who is the subject of an investigation by the board.

6. Section 2242 of the Code states:

> (a) Prescribing, dispensing, or furnishing dangerous drugs as defined in Section 4022 without an appropriate prior examination and a medical indication, constitutes unprofessional conduct. An appropriate prior examination does not require a synchronous interaction between the patient and the licensee and can be achieved through the use of telehealth, including, but not limited to, a self-screening tool or a

questionnaire, provided that the licensee complies with the appropriate standard of care.

(b) No licensee shall be found to have committed unprofessional conduct within the meaning of this section if, at the time the drugs were prescribed, dispensed, or furnished, any of the following applies:

(1) The licensee was a designated physician and surgeon or podiatrist serving in the absence of the patient's physician and surgeon or podiatrist, as the case may be, and if the drugs were prescribed, dispensed, or furnished only as necessary to maintain the patient until the return of the patient's practitioner, but in any case no longer than 72 hours.

(2) The licensee transmitted the order for the drugs to a registered nurse or to a licensed vocational nurse in an inpatient facility, and if both of the following conditions exist:

(A) The practitioner had consulted with the registered nurse or licensed vocational nurse who had reviewed the patient's records.

(B) The practitioner was designated as the practitioner to serve in the absence of the patient's physician and surgeon or podiatrist, as the case may be.

(3) The licensee was a designated practitioner serving in the absence of the patient's physician and surgeon or podiatrist, as the case may be, and was in possession of or had utilized the patient's records and ordered the renewal of a medically indicated prescription for an amount not exceeding the original prescription in strength or amount or for more than one refill.

(4) The licensee was acting in accordance with Section 120582 of the Health and Safety Code.

7. 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.

8. Section 725 of the Business and Professions Code states:

(a) Repeated acts of clearly excessive prescribing, furnishing, dispensing, or administering of drugs or treatment, repeated acts of clearly excessive use of diagnostic procedures, or repeated acts of clearly excessive use of diagnostic or treatment facilities as determined by the standard of the community of licensees is unprofessional conduct for a physician and surgeon, dentist, podiatrist, psychologist, physical therapist, chiropractor, optometrist, speech-language pathologist, or audiologist.

(b) Any person who engages in repeated acts of clearly excessive prescribing or administering of drugs or treatment is guilty of a misdemeanor and shall be punished by a fine of not less than one hundred dollars ($100) nor more than six hundred dollars ($600), or by imprisonment for a term of not less than 60 days nor more than 180 days, or by both that fine and imprisonment.

(c) A practitioner who has a medical basis for prescribing, furnishing,

dispensing, or administering dangerous drugs or prescription controlled substances shall not be subject to disciplinary action or prosecution under this section.

....

9. Section 822 of the Code states:

"If a licensing agency determines that its licentiate's ability to practice his or her profession safely is impaired because the licentiate is mentally ill, or physically ill affecting competency, the licensing agency may take action by any one of the following methods:

"(a) Revoking the licentiate's certificate or license.

"(b) Suspending the licentiate's right to practice.

"(c) Placing the licentiate on probation.

"(d) Taking such other action in relation to the licentiate as the licensing agency in its discretion deems proper.

"The licensing section shall not reinstate a revoked or suspended certificate or license until it has received competent evidence of the absence or control of the condition which caused its action and until it is satisfied that with due regard for the public health and safety the person's right to practice his or her profession may be safely reinstated."

COST RECOVERY

10. Section 125.3 of the Code states:

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

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

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

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

reduce or eliminate the cost award, or remand to the administrative law judge if the proposed decision fails to make a finding on costs requested pursuant to subdivision (a).

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

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

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

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

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

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

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

CONTROLLED SUBSTANCES/DANGEROUS DRUGS

11. The following medications are controlled substances and dangerous drugs within the meaning of the Health and Safety Code and Business and Professions Code:

A. Fentanyl is a synthetic opioid analgesic used to help relieve severe pain.

B. Hydrocodone is a semi-synthetic opioid form of codeine. It is a narcotic analgesic taken orally for relief of moderate to severe pain. Norco is a brand name for hydrocodone with acetaminophen.

C. Oxycodone is an opioid analgesic used to help relieve moderate to severe pain. Endocet and Percocet are brand names for oxycodone with acetaminophen.

D. Hydromorphone (brand name includes Dilaudid) is an opioid analgesic used to help relieve moderate to severe pain.

E. Morphine (brand name includes MS Contin) is an opioid analgesic used to help

relieve moderate to severe pain.

F. Benzodiazepines are depressants that produce sedation and hypnosis, relieve anxiety and muscle spasms, and reduce seizures. Lorazepam (brand name includes Ativan) is a benzodiazepine used to treat anxiety. Alprazolam (brand name includes Xanax) is a benzodiazepine used to treat anxiety. Clonazepam (brand name includes Klonopin) is a benzodiazepine and sedative used to treat anxiety, panic disorder, and seizures. Diazepam (brand name includes Valium) is a benzodiazepine used to treat anxiety, alcohol withdrawal symptoms, or muscle spasms.

G. Zolpidem (brand name includes Ambien) is used to treat insomnia. It is a sedative and hypnotic.

H. Amphetamine salt combo (brand name includes Adderall) is a combination of amphetamine and dextroamphetamine salts. It is a stimulant used to treat ADHD.

I. Methylphenidate is a stimulant used to treat ADHD.

J. Carisoprodol (brand name includes Soma) is a muscle relaxer.

FACTUAL ALLEGATIONS

12. At all times relevant to the allegations herein, Respondent was a licensed physician practicing internal medicine.

Patient 1[1]

13. Respondent treated Patient 1, a 69-year-old male, from May 8, 2014 until October 29, 2019. On or about August 28, 2014, Respondent began prescribing Patient 1 hydrocodone bitartrate-acetaminophen 325 mg-10 mg, 240 tablets over a thirty-day period (equivalent to a prescription of 2 tablets every six hours), fentanyl transdermal system 100 mcg/1 hour, 45 patches over a ninety-day period (equivalent to the application of two patches transdermally every forty-eight hours), and carisoprodol 350 mg, 120 tablets over a thirty-day period (equivalent to a prescription of one tablet every six hours).

14. In October 2014, Respondent added lorazepam 1 mg and oxycodone hydrochloride-acetaminophen 325 mg-10 mg, 240 tablets for thirty days (equivalent to 2 tablets every six hours),

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

to the medications prescribed to Patient 1. Respondent continued this medication treatment regimen through at least July 2018.

15. Respondent's chart for Patient 1 consisted of three different modalities of medical record documentation. Two modalities spanned the period of approximately 2014 through 2017, and the third modality spanned the period of 2017 through 2019.

16. Respondent did not record a list of medications prescribed to Patient 1 for nearly three years of medical care. The Review of Systems on most, if not all, notes had a "normal" template. Respondent's treatment of Patient 1 with high doses of fentanyl, oxycodone, and carisoprodol required detailed documentation to justify such doses. However, in the "musculoskeletal" section of the chart, many of the entries followed the "normal" template stating there were "no muscle aches, no muscle weakness nor arthralgia/joint pain, no back pain . . . ."

17. Respondent did not provide medical justifications or specified diagnoses with sufficient significance to substantiate the high doses of prescribed medications. Respondent frequently diagnosed "low back pain" or "osteoarthritis;" however, these diagnoses are generic and non-specific, such that they did not provide the specific diagnoses required for chronic, underlying conditions warranting the degree of opioid analgesia and antispasmodic medication prescribed to Patient 1. There was little to no documentation explaining why these medications were needed, what treatments and/or medications had been tried and failed, and why such high doses of these medications were warranted.

18. In or about 2017, Respondent added "chronic low back pain," "chronic pain syndrome," and "cervical radiculopathy and lumbar radiculopathy" to Patient 1's diagnoses, but he did not correlate these diagnoses with physical findings or explain the type of pain caused and why only high doses of these medications were needed to provide pain relief. There was no documentation of a history of prior substance use, prior pain treatments, or diagnostic imaging studies to provide the basis by which a diagnosis of chronic pain or chronic pain syndrome could be justified. There was no documentation of improvement in the activities of daily living that occurred in the life of Patient 1 upon receiving these medications. There was no pain contract or performance of any urinalysis.

19. Although Respondent continued the same dosage and frequency of opioid analgesia prescribed by Patient 1's prior physician, there was no attempt by Respondent to initiate gradual dose reduction of opioid analgesia or documentation of a failure to wean. There was also no documentation of the justification for adding a benzodiazepine to the overall treatment regimen of Patient 1.

Patient 2

20. Respondent treated Patient 2, a 63-year-old female, from July 27, 2007, until March 20, 2016. From July 2007 to May 2013, Respondent prescribed an increasingly expanding list of medications with duplicative medications of the same class, including opioids, stimulants, anxiolytics, hypnotics, anti-depressants, and muscle relaxants. New medications were added with no evidence of a medication reconciliation or patient counseling on safety. Medications from previous appointments remained as part of Patient 2's treatment regimen while new medications of the same class were often added. There was no documentation in the medical records providing the explanation, reasoning, or justification for prescribing the new or current medications. As of May 29, 2013, Respondent was prescribing Dilaudid 2 mg, Percocet 10mg-325mg, Norco 10 mg/325 mg, Adderall 20 mg, Venlafaxine 150 mg (an antidepressant), Ambien 12.5 mg, Klonopin 0.5 mg, Xanax 2 mg, Flexeril 10 mg (a muscle relaxer), and Soma 350 mg.

21. Throughout Respondent's treatment of Patient 2, there were multiple instances where Patient 2 obtained controlled substances in the same class as those prescribed by Respondent, concurrently from another physician. On some occasions, Patient 2 filled such prescriptions on the same date.

22. From July 17, 2013, through March 30, 2016, Respondent's medical records did not contain any medication lists for Patient 2. During this same period, according to the Controlled Substances Utilization Review and Evaluation (CURES)[2] report, Patient 2 filled 165 prescriptions for controlled substances written by Respondent. Specifically, Respondent treated Patient 2 with 44 prescriptions for hypnotic/anxiolytic class medications (alprazolam, clonazepam, zolpidem,

[2] CURES is a platform, maintained by the Department of Justice, that tracks all Schedule II – IV controlled substances dispensed to patients in California.

and lorazepam), 56 prescriptions for opioids (hydromorphone, oxycodone-acetaminophen, hydrocodone bitartrate-acetaminophen), 31 prescriptions for antispasmodics (Soma with an unknown number of Flexeril[3]), 11 stimulants (methylphenidate, Adderall XR, and mixed amphetamine salts), and an unknown number of anti-depressants, as these are not documented in CURES reports.

23. Respondent did not document an assessment of Patient 2's pain in adequate detail or provide the appropriate diagnoses required to justify his medical decision-making for prescribing numerous controlled substances. Respondent's medical records did not include documentation of a functional status, substance abuse history, history of prior pain treatment, treatment objectives and how the medication treatment regimen impacted the chronic pain of Patient 2. There was no documentation of improvement of activities of daily living or ability to carry on routine functions of daily life, which could have provided justification for the use of some of these medications. There was no documentation of an informed consent discussing the risks and benefits of using these controlled substances. There was no pain contract or performance of any urinalyses. There was no evidence of an attempt at a gradual dose reduction or any statement about a failure to wean.

Patient 3

24. From May 14, 2017, until February 4, 2020, Respondent treated Patient 3, a 62-year-old female, for chronic pain and generalized anxiety. Respondent treated Patient 3 in the past but subsequently referred her to a pain management specialist. She returned to Respondent's care in May 2017. During the course of his treatment, Respondent prescribed Ambien 10 mg, MS Contin 100 mg Extended Release, Percocet 10 mg-325 mg, Soma 350 mg, and Valium 5 mg.

25. When Patient 3's medications changed, Respondent did not document his reasoning for the change. There was no evidence Respondent performed medication reconciliations during his care of Patient 3. Respondent repeatedly used "normal" templates for his medical record documentation when, instead, significant Review of Systems or Physical Examination findings should have been documented to justify the medication regimen.

[3] Flexeril is not a controlled substance and, therefore, not documented in CURES reports.

26. Respondent's medical records did not document functional status, substance abuse history, history of prior pain treatment, treatment objectives or how the medication treatment regimen impacted the chronic pain. There was no documentation of improvement of activities of daily living or ability to carry on routine functions of everyday life, which could have justified the use of some of the controlled substances. There was no documentation of an informed consent discussing the risks and benefits of using the controlled substances. There was no pain contract or performance of any urinalysis.

FIRST CAUSE FOR DISCIPLINE

(Gross Negligence – Patients 1 and 2)

27. Respondent's license is subject to disciplinary action under section 2234, subdivision (b), of the Code in that he committed gross negligence in his care and treatment of Patients 1 and 2. The circumstances are as follows:

28. Complainant refers to and, by this reference, incorporates paragraphs 11 through 23, above, as though set forth fully herein.

29. Respondent's treatment of Patients 1 and 2, as discussed above, include the following acts and/or omissions, which constitute extreme departures from the standard of care:

A. Respondent's failure to record a list of medications prescribed to Patient 1 for nearly three years of medical care.

B. Respondent's failure to document justification for prescribing high doses of opioid analgesia in combination with other controlled substances to Patient 1. There was an overall absence of justification in the medical records supporting the medication treatment regimen.

C. Respondent's prescribing of controlled substances to Patient 1 without obtaining an appropriate medical history, performing a physical examination, adequately assessing the patient's pain, pain relief, or improvement in activities of daily living, and obtaining informed consent.

D. Respondent's failure to document justification for the volume and combination of duplicative controlled substances prescribed and to record a list of medications prescribed to

Patient 2 for nearly three years of medical care.

E. Respondent's prescribing of controlled substances to Patient 2 without obtaining an appropriate medical history, performing a physical examination, adequately assessing the patient's pain, pain relief, or improvement in activities of daily living, and obtaining informed consent.

SECOND CAUSE FOR DISCIPLINE

(Repeated Negligent Acts – Patients 1, 2, and 3)

30. Respondent's license is subject to disciplinary action under section 2234, subdivision (c), of the Code in that he committed repeated negligent acts in his care and treatment of Patients 1, 2, and 3. The circumstances are as follows:

31. Complainant refers to and, by this reference, incorporates paragraphs 11 through 26, above, as though set forth fully herein.

32. Respondent's treatment of Patients 1, 2, and 3, include the following acts and/or omissions, which constitute repeated negligent acts:

A. The allegations of the First Cause for Discipline are incorporated by reference as if fully set forth herein.

B. With respect to his care and treatment of Patient 3, Respondent's failure to document his reasoning for changing medications, the failure to perform medication reconciliations, and repeated use of "normal" templates in his charting.

C. Respondent's failure to substantiate ongoing prescribing of duplicative controlled substances to Patient 3.

THIRD CAUSE FOR DISCIPLINE

(Prescribing Without Exam/Indication – Patients 1 and 2)

33. Respondent's license is subject to disciplinary action under section 2242 of the Code in that he prescribed controlled substances and/or dangerous drugs to Patients 1 and 2 without an appropriate prior examination or medical indication. The circumstances are as follows:

34. Complainant refers to and, by this reference, incorporates paragraphs 11 through 23, above, as though set forth fully herein.

35. The allegations of the First Cause for Discipline are incorporated by reference as if fully set forth herein.

FOURTH CAUSE FOR DISCIPLINE

(Excessive Prescribing – Patients 1 and 2)

36. Respondent's license is subject to disciplinary action under section 725 of the Code in that he excessively prescribed controlled substances to Patients 1 and 2. The circumstances are as follows:

37. Complainant refers to and, by this reference, incorporates paragraphs 11 through 23, above, as though set forth fully herein.

38. The allegations of the First Cause for Discipline are incorporated by reference as if fully set forth herein.

FIFTH CAUSE FOR DISCIPLINE

(Failure to Maintain Adequate Records – Patients 1, 2, and 3)

39. Respondent's license is subject to disciplinary action under section 2266 of the Code in that he failed to maintain adequate records for Patients 1, 2, and 3. The circumstances are as follows:

40. Complainant refers to and, by this reference, incorporates paragraphs 11 through 26, above, as though set forth fully herein.

SIXTH CAUSE FOR DISCIPLINE

(Impaired Ability to Practice Safely)

41. Respondent's license is subject to disciplinary action under section 822 of the Code in that his ability to practice medicine safely is impaired because he is mentally and/or physically ill in a manner affecting competency. The circumstances of Respondent's mental and/or physical illness are as follows:

42. In or around August 2011, Respondent suffered a stroke, and as a result, is mentally and/or physically unfit to practice medicine safely. Respondent has not practiced medicine since his stroke in or around August 2011.

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PRAYER

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

1. Revoking or suspending Physician's and Surgeon's Certificate Number A 54211, issued to Kumarasamy Sivakumar, M.D.;

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

3. If placed on probation, ordering Kumarasamy Sivakumar, 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: JUN 10 2022

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

Complainant

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