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

In the Matter of the First Amended Accusation Against: Francis Dizon Cunanan, M.D. Physician's & Surgeon's Certificate No. A 81356 Respondent.	Case No. 800-2017-037476

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 September 29, 2022.

IT IS SO ORDERED: August 30, 2022.

MEDICAL BOARD OF CALIFORNIA

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

ROB BONTA
Attorney General of California
STEVE DIEHL
Supervising Deputy Attorney General
LYNETTE D. HECKER
Deputy Attorney General
State Bar No. 182198
California Department of Justice
2550 Mariposa Mall, Room 5090
Fresno, CA 93721
Telephone: (559) 705-2320
Facsimile: (559) 445-5106
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: **FRANCIS DIZON CUNANAN, M.D.** **93 North Villa Street** **Porterville, CA 93257** **Physician's and Surgeon's Certificate No. A 81356** Respondent.	Case No. 800-2017-037476 OAH No. 2020120321 **STIPULATED SETTLEMENT AND DISCIPLINARY ORDER**

In the interest of a prompt and speedy settlement of this matter, consistent with the public interest and the responsibility of the Medical Board of California of the Department of Consumer Affairs, the parties hereby agree to the following Stipulated Settlement and Disciplinary Order which will be submitted to the Board for approval and adoption as the final disposition of the First Amended Accusation.

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 Lynette D. Hecker, Deputy Attorney General.

2. Francis Dizon Cunanan, 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 December 11, 2002, the Board issued Physician's and Surgeon's Certificate No. A 81356 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. 800-2017-037476, and will expire on May 31, 2022, unless renewed.

JURISDICTION

4. First Amended Accusation No. 800-2017-037476 was filed before the Board, and is currently pending against Respondent. The original Accusation and all other statutorily required documents were properly served on Respondent on September 25, 2020. Respondent timely filed his Notice of Defense contesting the Accusation. The First Amended Accusation and all other statutorily required document were properly served on Respondent on November 4, 2021. This stipulation shall serve as Respondent's Notice of Defense pursuant to Government Code section 11506, subdivision (a)(4).

5. A copy of the First Amended Accusation No. 800-2017-037476 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. 800-2017-037476. Respondent has also carefully read, fully discussed with his counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

7. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the First Amended Accusation; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the

production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

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

CULPABILITY

9. Respondent understands and agrees that the charges and allegations in First Amended Accusation No. 800-2017-037476, if proven at a hearing, constitute cause for imposing discipline upon his Physician's and Surgeon's Certificate.

10. Respondent agrees that, at an administrative hearing, Complainant could establish a *prima facie* case or factual basis with respect to the charges and allegations in First Amended Accusation, that he has thereby subjected his Physician's and Surgeon's Certificate, No. A 81356 to disciplinary action, and Respondent hereby gives up his right to contest those charges.

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

RESERVATION

12. The admissions made by Respondent herein are only for the purposes of this proceeding, or any other proceedings in which the Board or other professional licensing agency is involved, and shall not be admissible in any other criminal or civil proceeding.

CONTINGENCY

13. This stipulation shall be subject to approval by the Medical Board of California. Respondent understands and agrees that counsel for Complainant and the staff of the Medical Board of California may communicate directly with the Board regarding this stipulation and settlement, without notice to or participation by Respondent or his counsel. By signing the stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary

Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

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

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

DISCIPLINARY ORDER

A. PUBLIC REPRIMAND

IT IS HEREBY ORDERED that Respondent, Francis Dizon Cunanan, M.D., Physician's and Surgeon's Certificate No. A 81356, shall be and is hereby Publicly Reprimanded pursuant to California Business and Professions Code section 2227, subdivision (a)(4). This Public Reprimand is issued in connection with Respondent's care and treatment of one patient, as set forth in the First Amended Accusation No. 800-2017-037476.

B. PRESCRIBING PRACTICES COURSE

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

A prescribing practices course taken after the acts that gave rise to the charges in the Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board

or its designee, be accepted towards the fulfillment of this condition if the course would have been approved by the Board or its designee had the course been taken after the effective date of this Decision.

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

C. MEDICAL RECORD KEEPING COURSE

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

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

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

D. EDUCATION COURSE

Within 60 calendar days of the effective date of this Decision 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. 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.

A 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.

E. <u>FUTURE ADMISSIONS CLAUSE</u>

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. 800-2017-037476 shall be deemed to be true, correct, and admitted by Respondent for the purpose of any Statement of Issues or any other proceeding seeking to deny or restrict license.

F. <u>ENFORCEMENT</u>

Failure to timely complete the courses outlined above shall constitute unprofessional conduct and is grounds for further disciplinary action.

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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: _____ _____
FRANCIS DIZON CUNANAN, M.D.
Respondent

I have read and fully discussed with Respondent Francis Dizon Cunanan, 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: _____ _____
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: _____

Respectfully submitted,

ROB BONTA
Attorney General of California
STEVE DIEHL
Supervising Deputy Attorney General

LYNETTE D. HECKER
Deputy Attorney General
Attorneys for Complainant

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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: 11/10/2021

FRANCIS DIZON CUNANAN, M.D.
Respondent

I have read and fully discussed with Respondent Francis Dizon Cunanan, 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: 11/10/2021

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: 11/10/2021

Respectfully submitted,

ROB BONTA
Attorney General of California
STEVE DIEHL
Supervising Deputy Attorney General

LYNETTE D. HECKER
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

First Amended Accusation No. 800-2017-037476

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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: **FRANCIS DIZON CUNANAN, M.D.** **93 North Villa Street** **Porterville, CA 93257-3215** **Physician's and Surgeon's Certificate No. A 81356,** Respondent.	Case No. 800-2017-037476 **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 December 11, 2002, the Board issued Physician's and Surgeon's Certificate Number A 81356 to Francis Dizon Cunanan, 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 May 31, 2022, unless renewed.

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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 states:

> (a) A licensee whose matter has been heard by an administrative law judge of the Medical Quality Hearing Panel as designated in Section 11371 of the Government Code, or whose default has been entered, and who is found guilty, or who has entered into a stipulation for disciplinary action with the board, may, in accordance with the provisions of this chapter:
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> (1) Have his or her license revoked upon order of the board.
>
> (2) Have his or her right to practice suspended for a period not to exceed one year upon order of the board.
>
> (3) Be placed on probation and be required to pay the costs of probation monitoring upon order of the board. 76
>
> (4) Be publicly reprimanded by the board. The public reprimand may include a requirement that the licensee complete relevant educational courses approved by the board.
>
> (5) Have any other action taken in relation to discipline as part of an order of probation, as the board or an administrative law judge may deem proper.
>
> (b) Any matter heard pursuant to subdivision (a), except for warning letters, medical review or advisory conferences, professional competency examinations, continuing education activities, and cost reimbursement associated therewith that are agreed to with the board and successfully completed by the licensee, or other matters made confidential or privileged by existing law, is deemed public, and shall be made available to the public by the board pursuant to Section 803.1.

STATUTORY PROVISIONS

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: 76
>
> (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 which is substantially related to the qualifications, functions, or duties of a physician and surgeon.

(f) Any action or conduct which 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 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."

7. Section 725 of the 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.

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(d) No physician and surgeon shall be subject to disciplinary action pursuant to this section for treating intractable pain in compliance with Section 2241.5.

DEFINITIONS

8. Controlled Substance Utilization Review and Evaluation System 2.0 (CURES) is a database of Schedule II, III, and IV controlled substance prescriptions dispensed in California serving the public health, regulatory and oversight agencies, and law enforcement. CURES 2.0 is committed to the reduction of prescription drug abuse and diversion without affecting legitimate medical practice or patient care.

9. Morphine equivalent dose (MED) or Morphine milligram equivalents (MME) are abbreviations used to evaluate the levels of opioids prescribed to a patient. The Centers for Disease Control recommends avoiding or carefully justifying any dosage greater than 90 MED/day or MME/day.

10. Morphine sulfate, an opioid analgesic, is a Schedule II controlled substance pursuant to Health and Safety Code section 11055, subdivision (e), and a dangerous drug pursuant to Business and Professions Code section 4022. When properly prescribed and indicated, it is used for the management of pain that is severe enough to require daily, around-the-clock, long-term opioid treatment and for which alternative treatment options are inadequate. The Drug Enforcement Administration (DEA) has identified morphine sulfate, as a drug of abuse. (Drugs of Abuse, A DEA Resource Guide (2011 Edition), at p. 39.) The Federal Drug Administration (FDA) has issued a black box warning for morphine sulfate which warns about, among other things, addiction, abuse and misuse, and the possibility of life-threatening respiratory distress. The warning also cautions about the risks associated with concomitant use of morphine sulfate with benzodiazepines or other central nervous system (CNS) depressants.

11. Norco® is a combination of two medicines (acetaminophen and hydrocodone bitartrate) used to treat moderate to severe pain. Hydrocodone is an opioid pain medication, commonly referred to as a narcotic. Acetaminophen is a less potent pain reliever that increases the effects of hydrocodone. Hydrocodone has a high potential for abuse. Hydrocodone is a Schedule II controlled substance and narcotic as defined by section 11055, subdivision (b)(1) of

the Health and Safety Code, and a Schedule II controlled substance as defined by Section 1308.12 (b)(1) of Title 21 of the code of Federal Regulations and a dangerous drug as defined in Business and Professions Code section 4022.

12. Seen on a prescription, b.i.d. means twice (two times) a day. It is an abbreviation for "bis in die" which, in Latin, means twice a day. The abbreviation b.i.d. is sometimes written without a period either in lower-case letters as "bid" or in capital letters as "BID."

FACTUAL ALLEGATIONS

13. Respondent was the primary care provider (PCP) for the patient[1] on or about 2007 through on or about July of 2017.[2] Respondent initially saw and treated the patient at Family Health Care. In or about July of 2009, Respondent started seeing the patient in his private practice in Porterville, California, where he provided care for her medical problems and chronic pain. The patient was seen by Respondent in his office 49 times from on or about January 23, 2014 to on or about June 7, 2017, generally at monthly intervals, although occasionally as often as thrice monthly.

Low Back Pain

14. Respondent treated the patient's complaint of lower back pain for a number of years, predominantly with analgesics.

15. On or about July 20, 2009, Respondent performed a physical examination of and began treating the patient's lower back. On or about August 22, 2013, the patient filled a prescription from Respondent for Morphine Sulphate Extended Release (MS ER) 30 mg BID, receiving 60 capsules for a 30-day supply. As of on or about January 23, 2014, Respondent was still prescribing MS ER, at the same dose for the patient, as well as 30 Norco 7.5 mg/325 tablets for her to take every 8-12 hours. Respondent continued prescribing these two analgesics, at these doses, for the patient until on or about October 5, 2015.

16. On or about October 5, 2015, Respondent doubled the patient's daily dose of MS ER from 30 mg BID to 60 mg BID. When the doubled MS ER prescription is combined with the

[1] The patient's name is not utilized herein to protect her privacy.

[2] Additional dates are included herein for background purposes. However, only the events occurring from 2013, to and through 2017, are stated as support for the causes for discipline.

above Norco prescription it equates to an average of 127.5 MED/MME per day that Respondent was prescribing to the patient.

17. The only appreciable difference in the patient's pain history on or about October 5, 2015, when compared to the previous 13 visits, was that the patient's back felt worse after rain the day before. Aside from that note, there is no indication of any other change in the patient's condition or exam findings. Respondent continued to prescribe MS ER, at the doubled dose, along with the above Norco prescription for the patient through on or about July 10, 2017.

18. Respondent failed to document the increase in daily dosage he ordered of MS ER from 30 mg BID to 60 mg BID he ordered for the patient, on or about October 5, 2015. Further, though the patient filled a prescription for 30 mg capsules of MS ER written by Respondent, on or about June 20, 2014, Respondent failed to document prescribing it for the patient on that date. However, Respondent documented MS ER at 30 mg to be taken BID as one of the patient's current medications in the visits both immediately before and after that date.

19. From on or about January 23, 2014, through on or about May 22, 2017, Respondent documented the patient's pain history in mostly identically worded descriptions from visit to visit, including impossibly and unvaryingly that "pain started 14 years ago."

20. The standard of care for medical record documentation is to document the history and exam findings that were elicited or demonstrated on the date of service. The standard of care is to keep accurate records of medications prescribed. Respondent's copying of prior history that could not have been accurately elicited from the patient into subsequent evaluations, manifest by the impossible unchanging duration of symptoms of several years' visits, accordingly constitutes negligence. Respondent's failure to document the MS ER prescription he wrote for the patient on or about June 20, 2014, accordingly constitutes negligence. Respondent's failure to record the increase in dosage of MS ER for the patient from 30 mg BID to 60 mg BID on or about October 5, 2015, accordingly constitutes negligence.

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Controlled Substance Prescriptions

21. As noted previously, on or about October 5, 2015, Respondent doubled the patient's prescription MS ER from 30 mg BID to 60 mg BID, without indication for the increase other than that the patient's back felt worse after rain the day before.

22. The standard of care for prescribing controlled substances for chronic pain is to gradually increase the dose until the patient's functional goals are achieved, and to titrate off these medications if their use does not show progress toward functional goals. It includes an awareness of MED/MME levels at which toxicity and adverse effects of abuse, dependency, and addiction rise, at which time pain management specialist consultation is prudent. At higher MED/MME levels, the standard also includes limiting dose escalation or decreases to avoid respiratory depression and death. Respondent's increasing the patient's daily dose of MS ER merely based on the indication that the rain the day before made her pain worse accordingly constitutes negligence. Respondent's doubling the patient's daily dose of MS ER from 30 mg BID to 60 mg BID, rather than a lesser incremental increase, accordingly constitutes negligence.

Abdominal Pain

23. On or about May 9, 2017, the patient presented to Respondent with documented chief complaints that included abdominal pain. Respondent entered approximately five lines of pertinent related history of the character of the patient's abdominal pain. However, the only vital sign obtained was the patient's blood pressure and no abdominal exam was performed. Respondent had no differential diagnosis and merely diagnosed the patient with "Generalized abdominal pain." Respondent failed to order any imaging or testing. Respondent's plan was "Referral initiated to a general surgeon (Dr. []; for evaluation of severe Abdominal RUQ pain due to Gallbladder sludge; to perform Laparoscopic Cholecystectomy)." This plan is identical to the plan that Respondent entered in the patient's chart when he saw her on or about October 16, 2014, subsequent to which the patient previously had a cholecystectomy performed (on or about October 19, 2014).

24. The standard of care in evaluating abdominal pain is to take a history, perform a physical exam, and order any adjunctive testing to arrive at the most probable cause from which

to determine treatment. Sufficient information must be gathered at the initial visit to assess if a cause at risk of acute progression to disability or death might be present warranting emergent testing in a hospital, rather than what can be accomplished in a timely manner as an outpatient. Examination should include a temperature for infectious causes, a pulse and respiratory rate for hemorrhagic and acid-base disorder causes, and an abdominal exam for significant tenderness, guarding, or rebound that may indicate emergent surgical diseases like bowel obstruction, perforated viscus, or ruptured aneurysm. A careful differential diagnosis should be formulated and a determination made as to whether transfer to a higher level of care or more leisurely outpatient workup is appropriate.

25. Respondent failed to: (1) obtain the patient's temperature, pulse, and respiratory assessment; (2) conduct an abdominal exam; (3) order pertinent ancillary testing; (4) formulate a specific diagnosis and differential diagnosis; and (4) formulate a plan according to the patient's actual, physical condition. Respondent failed to adequately assess the patient to assure serious cause risking death or disability was absent. These failures by Respondent accordingly constitute negligence. Further, Respondent's failure to update the patient's past surgical history to reflect the cholecystectomy that was performed years prior accordingly constitutes negligence.

FIRST CAUSE FOR DISCIPLINE

(Repeated Negligent Acts)

26. Respondent has subjected his Physician's and Surgeon's Certificate License No. A 81356 under section 2234, subdivision (c) of the Code, in that he committed repeated acts of negligence. The factual circumstances set forth above relating to the patient in paragraphs 13 through 25 are hereby incorporated by reference as if set forth fully herein.

SECOND CAUSE FOR DISCIPLINE

(Failure to Maintain Adequate and Accurate Medical Records)

27. Respondent has subjected his Physician's and Surgeon's Certificate License No. A 81356 to disciplinary action under section 2266 of the Code, in that he failed to maintain adequate and accurate records in connection with his care and treatment of the patient as more particularly

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alleged in paragraphs 13 through 25 which are hereby incorporated by reference as if fully set forth herein.

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 81356, issued to Respondent Francis Dizon Cunanan, M.D.;

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

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

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

DATED: NOV 04 2021

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

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