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

In the Matter of the First Amended Accusation Against: **Dawit Mamo, M.D.** **Physician's and Surgeon's Certificate No. A 54482** **Respondent.**	**Case No.: 800-2018-044890**

DECISION

The attached Stipulated Settlement and Disciplinary Orde 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 October 7, 2022.

IT IS SO ORDERED: September 7, 2022.

MEDICAL BOARD OF CALIFORNIA

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

ROB BONTA
Attorney General of California
JUDITH T. ALVARADO
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BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the First Amended Accusation Against: **DAWIT MAMO, M.D.** **16070 Tuscola Road, Suite 101** **Apple Valley, CA 92307** **Physician's and Surgeon's Certificate No. A 54482,** Respondent.	Case No. 800-2018-044890 OAH No. 2021080082 **STIPULATED SETTLEMENT AND DISCIPLINARY ORDER**

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

PARTIES

1. William Prasifka (Complainant) is the Executive Director of the Medical Board of California (Board). He brought this action solely in his official capacity and is represented in this matter by Rob Bonta, Attorney General of the State of California, by Christine R. Friar, Deputy Attorney General.

2. Respondent Dawit Mamo, M.D. (Respondent) is represented in this proceeding by attorney Raymond J. McMahon, Esq. of Doyle Schafer McMahon, LLP, located at 5440 Trabuco Road, Irvine, California 92620.

3. On or about August 9, 1995, the Board issued Physician's and Surgeon's Certificate No. A 54482 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. 800-2018-044890, and will expire on February 28, 2023, unless renewed.

JURISDICTION

4. Accusation No. 800-2018-044890 was filed before the Board on April 27, 2021, and was properly served on Respondent along with all other statutorily required documents. Respondent timely filed his Notice of Defense contesting the Accusation.

5. On March 4, 2022, First Amended Accusation No. 800-2018-044890 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 March 4, 2022.

6. A copy of First Amended Accusation No. 800-2018-044890 is attached as Exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

7. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in First Amended Accusation No. 800-2018-044890. Respondent has also carefully read, fully discussed with his counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

8. 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.

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

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CULPABILITY

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 First Amended Accusation No. 800-2018-044890 and that he has thereby subjected his license to disciplinary action.

11. Respondent agrees that if he ever petitions for early termination or modification of probation, or if the Board ever petitions for revocation of probation, all of the charges and allegations contained in First Amended Accusation No. 800-2018-044890 shall be deemed true, correct and fully admitted by Respondent for purposes of that proceeding or any other licensing proceeding involving Respondent in the State of California.

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

CONTINGENCY

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

14. Respondent agrees that if he ever petitions for early termination or modification of probation, or if an accusation and/or petition to revoke probation is filed against him before the Board, all of the charges and allegations contained in First Amended Accusation No. 800-2018-044890 shall be deemed true, correct and fully admitted by Respondent for purposes of any such

proceeding or any other licensing proceeding involving Respondent in the State of California.

15. 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.

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

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. A 54482 issued to Respondent Dawit Mamo, M.D. is revoked. However, the revocation is stayed and Respondent is placed on probation for two (2) years on the following terms and conditions:

1. CONTROLLED SUBSTANCES - MAINTAIN RECORDS AND ACCESS TO RECORDS AND INVENTORIES. Respondent shall maintain a record of all controlled substances ordered, prescribed, dispensed, administered, or possessed by Respondent, and any recommendation or approval which enables a patient or patient's primary caregiver to possess or cultivate marijuana for the personal medical purposes of the patient within the meaning of Health and Safety Code section 11362.5, during probation, showing all of the following: 1) the name and address of the patient; 2) the date; 3) the character and quantity of controlled substances involved; and 4) the indications and diagnosis for which the controlled substances were furnished.

Respondent shall keep these records in a separate file or ledger, in chronological order. All records and any inventories of controlled substances shall be available for immediate inspection and copying on the premises by the Board or its designee at all times during business hours and shall be retained for the entire term of probation.

2. EDUCATION COURSE. Within 60 calendar days of the effective date of this Decision, and on an annual basis thereafter, Respondent shall submit to the Board or its designee for its prior approval educational program(s) or course(s) which shall not be less than 40 hours per year, for each year of probation. The educational program(s) or course(s) shall be aimed at correcting any areas of deficient practice or knowledge and shall be Category I certified. The

educational program(s) or course(s) shall be at Respondent's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure. Following the completion of each course, the Board or its designee may administer an examination to test Respondent's knowledge of the course. Respondent shall provide proof of attendance for 65 hours of CME of which 40 hours were in satisfaction of this condition.

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

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

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

4. MEDICAL RECORD KEEPING COURSE. Within 60 calendar days of the effective date of this Decision, Respondent shall enroll in a course in medical record keeping approved in advance by the Board or its designee. Respondent shall provide the approved course provider with any information and documents that the approved course provider may deem pertinent. Respondent shall participate in and successfully complete the classroom component of the course not later than six (6) months after Respondent's initial enrollment. Respondent shall successfully

complete any other component of the course within one (1) year of enrollment. The medical record keeping course shall be at Respondent's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

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

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

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

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

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

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

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

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

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

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

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

7. SUPERVISION OF PHYSICIAN ASSISTANTS AND ADVANCED PRACTICE NURSES. During probation, Respondent is prohibited from supervising physician assistants and advanced practice nurses.

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

9. INVESTIGATION/ENFORCEMENT COST RECOVERY. Respondent is hereby ordered to reimburse the Board its costs of investigation and enforcement, including, but not limited to, expert review, amended accusations, legal reviews, joint investigations, and subpoena enforcement, as applicable, in the amount of $10,475.00. Costs shall be payable to the Medical Board of California. Failure to pay such costs shall be considered a violation of probation.

Any and all requests for a payment plan shall be submitted in writing by Respondent to the Board.

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

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

Respondent shall submit quarterly declarations not later than 10 calendar days after the end

of the preceding quarter.

11. GENERAL PROBATION REQUIREMENTS.

Compliance with Probation Unit

Respondent shall comply with the Board's probation unit.

Address Changes

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

Place of Practice

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

License Renewal

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

Travel or Residence Outside California

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

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

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

13. NON-PRACTICE WHILE ON PROBATION. Respondent shall notify the Board or

its designee in writing within 15 calendar days of any periods of non-practice lasting more than 30 calendar days and within 15 calendar days of Respondent's return to practice. Non-practice is defined as any period of time Respondent is not practicing medicine as defined in Business and Professions Code sections 2051 and 2052 for at least 40 hours in a calendar month in direct patient care, clinical activity or teaching, or other activity as approved by the Board. If Respondent resides in California and is considered to be in non-practice, Respondent shall comply with all terms and conditions of probation. All time spent in an intensive training program which has been approved by the Board or its designee shall not be considered non-practice and does not relieve Respondent from complying with all the terms and conditions of probation. Practicing medicine in another state of the United States or Federal jurisdiction while on probation with the medical licensing authority of that state or jurisdiction shall not be considered non-practice. A Board-ordered suspension of practice shall not be considered as a period of non-practice.

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

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

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

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

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

be fully restored.

15. VIOLATION OF PROBATION. Failure to fully comply with any term or condition of probation is a violation of probation. If Respondent violates probation in any respect, the Board, after giving Respondent notice and the opportunity to be heard, may revoke probation and carry out the disciplinary order that was stayed. If an Accusation, or Petition to Revoke Probation, or an Interim Suspension Order is filed against Respondent during probation, the Board shall have continuing jurisdiction until the matter is final, and the period of probation shall be extended until the matter is final.

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

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

18. FUTURE ADMISSIONS CLAUSE. If Respondent should ever apply or reapply for a new license or certification, or petition for reinstatement of a license, by any other health care licensing action agency in the State of California, all of the charges and allegations contained in First Amended Accusation No. 800-2018-044890 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.

ACCEPTANCE

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

DATED: 4/1/2022

DAWIT MAMO, M.D.
Respondent

I have read and fully discussed with Respondent Dawit Mamo, 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: April 1, 2022

RAYMOND J. MCMAHON, ESQ.
Attorney for Respondent

ENDORSEMENT

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

DATED: April 1, 2022

Respectfully submitted,

ROB BONTA
Attorney General of California
JUDITH T. ALVARADO
Supervising Deputy Attorney General

Christine R. Friar

CHRISTINE R. FRIAR
Deputy Attorney General
Attorneys for Complainant

ROB BONTA
Attorney General of California
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BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
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In the Matter of the First Amended Accusation Against: **DAWIT MAMO, M.D.** **16070 Tuscola Road, Suite 101** **Apple Valley, CA 92307** **Physician's and Surgeon's Certificate No. A 54482,** Respondent.	Case No. 800-2018-044890 OAH No. 2021080082 **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 August 9, 1995, the Medical Board issued Physician's and Surgeon's Certificate Number A 54482 to Dawit Mamo, 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 February 28, 2023, 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 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.

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:
>
> (a) Violating or attempting to violate, directly or indirectly, assisting in or abetting the violation of, or conspiring to violate any provision of this chapter.
>
> (b) Gross negligence.
>
> (c) Repeated negligent acts. To be repeated, there must be two or more negligent acts or omissions. An initial negligent act or omission followed by a separate and distinct departure from the applicable standard of care shall constitute repeated negligent acts.
>
> (1) An initial negligent diagnosis followed by an act or omission medically appropriate for that negligent diagnosis of the patient shall constitute a single negligent act.
>
> (2) When the standard of care requires a change in the diagnosis, act, or omission that constitutes the negligent act described in paragraph (1), including, but not limited to, a reevaluation of the diagnosis or a change in treatment, and the licensee's conduct departs from the applicable standard of care, each departure constitutes a separate and distinct breach of the standard of care.
>
> ...

6. Section 2266 of the Code states, "The failure of a physician and surgeon to maintain adequate and accurate records relating to the provision of services to their patients constitutes unprofessional conduct."

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COST RECOVERY

7. 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.

FIRST CAUSE FOR DISCIPLINE

(Gross Negligence)

8. Respondent Dawit Mamo, M.D. 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 Patient 1.[1] The circumstances are as follows:

9. Since 1998 and during all times relevant herein, Respondent operated a solo private practice, located in Apple Valley, California. Respondent specializes in internal medicine.

10. On or about January 10, 2014, Patient 1 presented to Respondent for an annual physical examination. Patient 1, an established patient of Respondent's, was a 77 year old female with a history of hypothyroidism, hypertension, hyperlipidemia, chronic kidney disease (CKD), stage III, and low back pain, swelling of legs due to degenerative joint disease (DJD). Patient 1's medication list included Xanax, brand name for alprazolam, a Schedule II benzodiazepine, and indomethacin, a non-steroidal anti-inflammatory (NSAID). Patient 1 was also on an opioid and gabapentin (generic for Neurontin, a Schedule V controlled substance) for her back pain and associated radiculopathy. Respondent ordered a chemistry panel, complete blood count, thyroid function, urine studies, fecal occult blood and a lipid panel. Respondent's assessment included hypothyroidism, hyperlipidemia, hypertension, sciatica, opioid dependence, unspecified abuse, CKD stage III, and DJD of the lumbar spine. Respondent's plan included continuing treatment and monitoring.[2]

11. On or about June 2, 2014, Patient 1 presented for numbness and tingling sensation to bilateral legs. Patient 1 reported a lack of feeling in her feet. Respondent's assessment and plan included her previous diagnoses and increasing her dose of gabapentin and Norco (brand name for hydrocodone, a Schedule II opiate). Mobic, ibuprofen (a NSAID), and Xanax were also

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[1] The patient whose care and treatment is at-issue in this charging document is designated by number to address privacy concerns. The patient's identity is known to Respondent and will be further disclosed during discovery.

[2] The care and treatment Respondent rendered to Patient 1 on January 10, 2014, falls outside the applicable statute of limitations in this case. The details are alleged here to provide relevant background information only.

documented as active medications. Respondent had prescribed Patient 1 Xanax, 1 mg, 30 count, on May 23, 2014. Patient 1 was advised to follow up with her pain management specialist.

12. On or about June 23, 2014, Patient 1 called Respondent's office complaining that indomethacin was causing numbness in her extremities and requesting a change in medication. Patient 1 was prescribed Naprosyn (brand name for naproxen, a NSAID).

13. On or about August 5, 2014, Patient 1 presented for arm pain and numbness. She also complained of frequent urination, difficulty urinating, back pain, and flank pain. It was documented that, "when gets up to urinate has bulge to right side." Patient 1's active medication list included ibuprofen, Norco and Xanax. Patient 1 was assessed with an overactive bladder and was to start oxybutynin, a bladder relaxant.

14. On or about September 23, 2014, Respondent documented that Patient 1 was started on Norco and prescribed Patient 1 Norco 10/325, 90 count.

15. On or about October 9, 2014, Respondent prescribed Patient 1 Xanax, 1 mg, 30 count.

16. On or about October 23, 2014, Respondent documented that Patient 1 was restarted on Norco and prescribed Patient 1 Norco 10/325, 90 count.

17. Respondent refilled Patient 1's Norco prescription on November 20, 2014, December 19, 2014 and January 19, 2015.

18. On or about January 19, 2015, Patient 1 presented to Respondent for her annual physical examination. Patient 1's active medication list included gabapentin, ibuprofen, Mobic, Naprosyn/naproxen, oxybutynin, Norco and Xanax. Respondent's plan was to continue treatment and monitoring.

19. On or about February 6, 2015, Patient 1 complained that her sciatica was worsening despite Norco. Baclofen, a muscle relaxant, was prescribed.

20. On or about February 27, 2015, Patient 1 presented to Respondent for follow up after an emergency room visit. Patient 1 had been suffering from twitching and spasms. Patient 1's medication list included gabapentin, Mobic, naproxen, oxybutynin, Norco, Baclofen, and Xanax. Respondent's plan included a prescription for Xanax.

21. On or about June 16, 2015, Patient 1 presented to Respondent post-hospitalization. She had seizures and back surgery. Patient 1 complained of foot pain and swelling post-surgery and reported a right foot drop and a referral was made. Patient 1's active medication list included gabapentin, Mobic, naproxen, oxybutynin, Norco, Baclofen, and Xanax. Respondent's plan included a prescription for Xanax.

22. On or about June 30, 2015, Patient 1 was prescribed Bactrim, an antibiotic.

23. On or about February 26, 2016, Patient 1 presented to Respondent for her annual physical examination. Patient 1's active medication list included gabapentin, Mobic, ibuprofen, naproxen, oxybutynin, Norco, Baclofen and Xanax. Respondent's plan was to continue the same course of treatment.

24. On or about February 7, 2017, Patient 1 presented to Respondent for her annual physical examination, including urinalysis. Patient 1's active medication list included gabapentin, ibuprofen, oxybutynin, and Xanax. Respondent's plan included monitoring renal function, labs and a mammogram.

25. On or about February 9, 2017, Patient 1's urinalysis revealed pH of 8.5, 2+ leukocyte esterase, 2+ protein, 2+ occult blood, and positive nitrite. According to Respondent, she did not have symptoms of a urinary tract infection (UTI) at her annual examination. Patient 1 also had a creatinine (Cr) level of 1.34, corresponding to a eGFR (estimated glomerular filtration rate) of 37.

26. On or about February 28, 2017, Patient 1 was prescribed phenazopyridine, for urinary pain relief.

27. On or about March 6, 2017, Patient 1 was prescribed Augmentin 500/125, a penicillin antibiotic.

28. On or about April 19, 2017, Patient 1's urinalysis results showed 2+ leukocyte esterase, 1+ protein, 2+ occult blood, and positive nitrite. The results also showed 11-30 white blood cell (WBC) count and greater than 30 red blood cell (RBC) count. The urine culture resulted in a greater than 1,000 colony forming units (cfu) *Escherichia coli* on April 22, 2017.

29. On or about April 24, 2017, Respondent again prescribed Patient 1 Augmentin. Patient 1 did not report any symptoms of a UTI.

30. On or about May 2, 2017, it was documented that Patient 1 complained of blood when urinating. Respondent's plan included a urinalysis, culture, KUB and renal ultrasound.

31. The renal ultrasound was negative for hydronephrosis, calculi and mass. There was significant postvoid residual.

32. The May 2, 2017, urinalysis showed 11-30 RBC and normal WBC. The culture resulted in 25,000-50,000 cfu *Escherichia coli.*

33. On or about May 8, 2017, Patient 1 was prescribed doxycycline, an antibiotic.

34. On or about May 16, 2017, Patient 1 presented to Respondent to discuss her lab and ultrasound results. Her active medications included gabapentin, ibuprofen, oxybutynin and Xanax. Patient 1 was diagnosed with a urinary tract infection (UTI). The plan was to complete the doxycycline course and to conduct a follow up urinalysis. Respondent did not document making a referral to a urologist.

35. On or about June 6, 2017, a urinalysis was conducted of Patient 1. The culture grew more than 100,000 cfu of *Escherichia coli.* The results further showed a pH of 8.5, 2+ protein, and 3+ occult blood. WBC was normal and RBC was greater than 30. The urinalysis was otherwise not interpretable due to interference.

36. On or about June 29, 2017, a urinalysis of Patient 1 showed a pH of 8.5, 3+ leukocyte esterase, 2+ protein, 3+ occult blood, positive nitrite, over 30 WBC and over 30 RBC. The culture grew more than 100,000 cfu of *Escherichia coli.* According to Respondent, Patient 1 was otherwise asymptomatic for UTI. It was documented that a urology referral was made. Nitrofurantoin, an antibiotic, was prescribed.

37. On or about July 10, 2017, Patient 1 presented for bilateral leg swelling. She had a red rash on her left leg. Patient 1's active medication list included gabapentin, ibuprofen, oxybutynin, Xanax and nitrofurantoin. Patient 1 was noted to have ankle edema and the treatment plan included a low salt diet, continue diuretics and elevate the legs.

38. On July 26, 2017, another urinalysis was conducted. The results showed a pH of 8, 3+ leukocyte esterase, 2+ protein, 3+ occult blood, positive nitrite, 6-10 WBC and 11-30 RBC. The culture grew more than 100,000 cfu of *Escherichia coli.*

39. On or about August 9, 2017, Patient 1 had her first consultation with a urologist. On August 14, 2017, Patient 1 had a cystoscopy which revealed a tumor/mass in her bladder covered with necrotic tissue.

40. On or about August 24, 2017, Patient 1 had a pre-operative visit with Respondent. Her medication list included gabapentin, ibuprofen, oxybutynin, and Xanax. No assessment and plan were documented.

41. On or about October 3, 2017, Patient 1 saw Respondent for a follow up visit. She was awaiting cardiac clearance for bladder cancer surgery. She complained of bloating. She was prescribed simethicone, an anti-gas medication. This was her final visit with Respondent.

42. On or about October 10, 2017, Patient 1 requested medication for severe pain in the vaginal area, not alleviated by a NSAID. Respondent prescribed Tramadol, a Schedule IV pain reliever.

43. On or about October 11, 2017, Patient 1 had a PET scan which showed intense uptake in the bladder and a right paraspinal mass.

44. On or about January 18, 2018, Patient 1 died. The cause of death on her Death Certificate is listed as acute cardiopulmonary arrest and bladder cancer with metastasis.

45. The standard of care in the medical community provides that nonsteroidal anti-inflammatory medications (NSAIDs) should be limited in patients with compromised kidney function. More specifically, NSAIDs, a class of medication with analgesic and anti-inflammatory uses, can induce several forms of kidney injury, including hemodynamically mediated acute kidney injury (AKI), acute interstitial nephritis (AIN), nephrotic syndrome, papillary necrosis, electrolyte and acid-based disorders. Accordingly, use of NSAIDs should be limited in patients with reduced eGRF. Chronic use of NSAIDs should be avoided, if possible, in patients with an eGFR of less than 60 and used cautiously even if the reduction is mild (eGFR between 60 and 89). If the use of NSAIDs is unavoidable, the patient should be advised on the risk and their renal function should be followed closely.

46. Respondent committed an extreme departure from the standard of care when he repeatedly prescribed Patient 1 NSAIDs without consideration of avoiding or minimizing their

use in her care given that she had chronic kidney disease (CKD). Despite a known diagnosis of CKD, stage III, and an eGFR baseline around 30 to 40, Respondent's treatment plan consistently included various NSAIDs, including indomethacin, ibuprofen, Mobic, and naxopren. Respondent did not document counseling Patient 1 on the risks of these medications, given her CKD, over the course of numerous clinical visits.

47. The standard of care in the medical community discourages the concurrent use of benzodiazepines and opiates. Both classes of medications cause central nervous system depression and can decrease respiratory drive. Concurrent use of benzodiazepines and opiates has been associated with the risks of overdose death almost four fold compared with opiate prescription alone. Physicians should avoid prescribing both narcotics and benzodiazepines whenever possible. When confronted with a patient on both medications already, physicians should attempt to taper the patient off one of the medications first. If the medications must be prescribed concurrently, the risks and benefits should be discussed with the patient and documented, as the risk of accidental drug overdose and respiratory failure becomes significant with concurrent use of benzodiazepines and narcotics. Psychiatry consults for cognitive behavioral therapy and alternative therapy should be utilized when necessary. Patients and caregivers should also be educated and prescribed naloxone antidote therapy. A patient receiving high doses without side effects or with negative urine toxicology should raise concerns for diversion.

48. Respondent committed an extreme departure from the standard of care when he concurrently prescribed Patient 1 narcotics and benzodiazepines without discussion of the risks and benefits of the combination therapy or consideration for tapering or antidote therapy. Specifically, Respondent prescribed Patient 1 Norco and Xanax over the course of multiple clinical visits. Anxiety, however, was not one of Patient 1's diagnosis according to Respondent's clinical notes. It was unclear then from the record whether first line and safer therapy for anxiety disorder, such as serotonergic antidepressants or cognitive behavioral therapy, had been tried for the patient prior to initiating or resuming Xanax. Further, there is no record that Respondent counseled Patient 1 on the risks and benefits of concurrent usage.

49. The standard of care in the medical community requires adequate evaluation and treatment when presented with a patient with hematuria (blood in the urine). Hematuria may be a symptom of an underlying disease, ranging from easily treatable to life threatening. The standard of care provides that a patient should be evaluated based on presenting symptoms and laboratory results. Acute onset of flank pain should raise concerns for nephrolithiasis (kidney stones). Symptoms of a urinary tract infections (UTI) should prompt urinalysis and urine culture. Patients with dysuria (painful urination) without edema (swelling), worsening blood pressure and elevated creatinine levels should be evaluated by nephrology. Risk factors for malignancy should prompt evaluation with imaging and cystoscopy.

50. Respondent committed an extreme departure from the standard of care when he failed to adequately evaluate and treat Patient 1's hematuria. Specifically, Respondent failed to evaluate Patient 1 for genitourinary malignancy even though Patient 1 presented with persistent microscopic hematuria and asymptomatic bacteria. Instead, Respondent treated her for UTI, prescribing multiple rounds of antibiotics to Patient 1. Patient 1, however, did not present with the classic symptoms of UTI before each round of antibiotics and was at times, asymptomatic. Asymptomatic bacteria and pyuria (pus in the urine) are common symptoms in clinical practice and do not indicate a UTI or warrant treatment. Patient 1, however, had persistent microscopic hematuria and malignancy risk factors (age, history of analgesic use, possible history of recurrent UTIs in the recent past) and should have been evaluated to rule out genitourinary malignancy rather than treated for recurrent UTIs. Given Patient 1's symptoms and laboratory findings, Respondent should have conducted imaging and referred her to nephrology earlier during the course of her care and treatment.

51. Respondent's acts and/or omissions as set forth in paragraphs 9 through 50 above, whether proven individually, jointly, or in any combination thereof, constitute gross negligence pursuant to section 2234, subdivision (b), of the Code. As such, cause for discipline exists.

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SECOND CAUSE FOR DISCIPLINE

(Repeated Negligent Acts)

52. Respondent is subject to disciplinary action under Code section 2234, subdivision (c), in that he committed repeated negligent acts in the care and treatment of Patient 1. The circumstances are as follows:

53. Paragraphs 9 through 50 above are incorporated by reference and re-alleged as if fully set forth herein.

54. Respondent's acts and/or omissions as set forth in paragraph 53 above, whether proven individually, jointly, or in any combination thereof, constitute repeated negligent acts, pursuant to section 2234, subdivision (c), of the Code. As such, cause for discipline exists.

THIRD CAUSE FOR DISCIPLINE

(Failure to Maintain Adequate Records)

55. Respondent is subject to disciplinary action under section 2266 of the Code, in that he failed to maintain adequate and accurate records relating to the provision of services to Patient 1. The circumstances are as follows:

56. Paragraphs 9 through 50 above are incorporated by reference and re-alleged as if fully set forth herein.

57. Respondent's acts and/or omissions as set forth in paragraph 56 above, whether proven individually, jointly, or in any combination thereof, represent the failure to maintain adequate and accurate records in violation of Code 2266. As such, cause for discipline exists.

DISCIPLINARY CONSIDERATIONS

58. To determine the degree of discipline, if any, to be imposed on Respondent, Complainant alleges that on or about March 21, 2018, in a prior disciplinary action titled *In the Matter of the Accusation Against: Dawit Mamo, M.D.*, before the Medical Board of California, in Case Number 800-2014-006184, Respondent's license was revoked. However, the revocation was stayed and Respondent was placed on probation for thirty-five (35) months. Respondent's probation terms included completion of a Prescribing Practices course and a Medical Record Keeping course. Respondent was charged with gross negligence in his care and treatment of a

patient and repeated negligent acts, prescribing without indication and inadequate record keeping in his care and treatment of five (5) patients. That decision is now final and is 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 54482, issued to Dawit Mamo, M.D.;

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

3. Ordering Dawit Mamo, 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: MAR 04 2022

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