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

In the Matter of the First Amended Accusation Against: **Peter Hamilton Stein, M.D.** **Physician's & Surgeon's Certificate No. A 48620** **Respondent.**	**Case No. 800-2018-048020**

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 January 12, 2023.

IT IS SO ORDERED: December 13, 2022.

MEDICAL BOARD OF CALIFORNIA

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

ROB BONTA
Attorney General of California
STEVE DIEHL
Supervising Deputy Attorney General
CAITLIN ROSS
Deputy Attorney General
State Bar No. 271651
455 Golden Gate Avenue, Suite 11000
San Francisco, CA 94102-7004
Telephone: (415) 510-3615
Facsimile: (415) 703-5480
E-mail: Caitlin.Ross@doj.ca.gov
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: **PETER HAMILTON STEIN, M.D.** **75 Rowland Way, Suite 101** **Novato, CA 94945-5057** **Physician's and Surgeon's Certificate No. A 48620** Respondent.	Case No. 800-2018-048020 **STIPULATED SETTLEMENT AND DISCIPLINARY ORDER**

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

PARTIES

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

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2. Respondent PETER HAMILTON STEIN, M.D. (Respondent) is represented in this proceeding by attorney Joseph C. Gharrity, whose address is: Hassard Bonnington LLP, 275 Battery Street, Suite 1600, San Francisco, CA 94111.

3. On or about August 30, 1990, the Board issued Physician's and Surgeon's Certificate No. A 48620 to PETER HAMILTON STEIN, M.D. The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought in First Amended Accusation No. 800-2018-048020, and will expire on March 31, 2024, unless renewed.

JURISDICTION

4. The original Accusation No. 800-2018-048020 was filed before the Board on September 3, 2021. The original Accusation and all other statutorily required documents were properly served on Respondent on September 3, 2021. The First Amended Accusation, the current operative pleading, was filed before the Board on December 31, 2021, and is currently pending against Respondent. The First Amended Accusation and all other statutorily required documents were properly served on Respondent on December 31, 2021. Respondent filed his Notice of Defense contesting the charges and allegations against him.

5. A copy of First Amended Accusation No. 800-2018-048020 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. 800-2018-048020. 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. 800-2018-048020, if proven at a hearing, constitute cause for imposing discipline upon his Physician's and Surgeon's Certificate.

10. For purposes of resolving the First Amended Accusation without the expense and uncertainty of further proceedings, Respondent does not contest 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 No. 800-2018-048020, a true and correct copy of which is attached hereto as Exhibit A, and that he has thereby subjected his Physician's and Surgeon's Certificate, No. A 48620 to disciplinary action. 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.

CONTINGENCY

12. 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.

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

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

DISCIPLINARY ORDER

A. PUBLIC REPRIMAND

IT IS HEREBY ORDERED that Respondent PETER HAMILTON STEIN, M.D., Physician's and Surgeon's Certificate No. A 48620, shall be and hereby is publicly reprimanded pursuant to California Business and Professions Code, section 2227, subdivision (a)(4). This Public Reprimand, which is issued in connection with Respondent's conduct as set forth in First Amended Accusation No. 800-2018-048020, is as follows: Respondent demonstrated unprofessional conduct when Respondent failed to appropriately manage Patient 1's chronic pain conditions with controlled substances. Consequently, the Board issues this Public Reprimand.

B. IT IS FURTHER ORDERED

1. 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 per year for the year following the effective date of this Decision. The educational program(s) or course(s) shall be related to prescribing 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.

Failure to enroll, participate in, or successfully complete this education course within the designated time period shall constitute unprofessional conduct and grounds for further disciplinary action.

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

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

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

Failure to enroll, participate in, or successfully complete the prescribing practices course within the designated time period shall constitute unprofessional conduct and grounds for further disciplinary action.

3. MEDICAL RECORD KEEPING COURSE. Within 60 calendar days of the effective date of this Decision, Respondent shall enroll in a course in medical record keeping approved in advance by the Board or its designee. Respondent shall provide the approved course provider with any information and documents that the approved course provider may deem pertinent. Respondent shall participate in and successfully complete the classroom component of the course

not later than six (6) months after Respondent's initial enrollment. Respondent shall successfully complete any other component of the course within one (1) year of enrollment. The medical record keeping course shall be at Respondent's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

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

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

Failure to enroll, participate in, or successfully complete the medical record keeping course within the designated time period shall constitute unprofessional conduct and grounds for further disciplinary action.

4. 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, investigation(s), and subpoena enforcement, as applicable, in the amount of $6,977.50 (six thousand, nine hundred and seventy-seven dollars and fifty cents). Costs shall be payable to the Medical Board of California.

Payment must be made in full within 30 calendar days of the effective date of the Order, or by a payment plan approved by the Medical Board of California. Any and all requests for a payment plan shall be submitted in writing by respondent to the Board.

Failure to complete payment of these costs in accordance with the terms of this Stipulated Settlement and Disciplinary Order shall constitute unprofessional conduct and grounds for further disciplinary action.

5. 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. 800-2018-048020 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, Joseph C. Gharrity. 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: _____ _____

PETER HAMILTON STEIN, M.D.
Respondent

I have read and fully discussed with Respondent PETER HAMILTON STEIN, 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: _____ _____

JOSEPH C. GHARRITY
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

CAITLIN ROSS
Deputy Attorney General
Attorneys for Complainant

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I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Joseph C. Gharrity. 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: 9/13/22

PETER HAMILTON STEIN, M.D.
Respondent

I have read and fully discussed with Respondent PETER HAMILTON STEIN, 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: 9/13/22

JOSEPH C. GHARRITY
Attorney for Respondent

ENDORSEMENT

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

DATED: 9/14/22

Respectfully submitted,

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

CAITLIN ROSS
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

First Amended Accusation No. 800-2018-048020

ROB BONTA
Attorney General of California
JANE ZACK SIMON
Supervising Deputy Attorney General
CAITLIN ROSS
Deputy Attorney General
State Bar No. 271651
455 Golden Gate Avenue, Suite 11000
San Francisco, CA 94102-7004
Telephone: (415) 510-3615
Facsimile: (415) 703-5480
E-mail: Caitlin.Ross@doj.ca.gov
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: **PETER HAMILTON STEIN, M.D.** **2 Bon Air Rd, Ste 150** **Larkspur, CA 94939-1142** **Physician's and Surgeon's Certificate No. A 48620,** Respondent.	Case No. 800-2018-048020 **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 August 30, 1990, the Board issued Physician's and Surgeon's Certificate Number A 48620 to Peter Hamilton Stein, M.D. (Respondent). The certificate is renewed and current, with an expiration date of March 31, 2022.

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, in pertinent part, 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 provides, in pertinent part:

The board shall take action against any licensee who is charged with unprofessional conduct. 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 negligent acts or omission. 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 provides that the failure of a physician and surgeon to maintain adequate and accurate records relating to the provision of services to their patients constitutes unprofessional conduct.

COST RECOVERY

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

FIRST CAUSE FOR DISCIPLINE

(Gross Negligence/Repeated Negligent Acts)

8. Respondent began treating Patient 1[1] in 2012. Patient 1, a female now in her late 50s, presented with a number of medical problems, including back pain with prior back surgery, along with insomnia. When Respondent initially began treating Patient 1, Respondent knew that Patient 1 had previously been on very high doses of different medications, including opiates and benzodiazepines. Patient 1 reported to Respondent that her previous primary care provider had cut her off from these medications, and that she had accordingly obtained the drugs from friends.

9. Between 2014 and 2019, Respondent, a rheumatologist, saw Patient 1 at regular intervals, usually every 1-2 months. Over the course of his treatment, Respondent regularly prescribed Patient 1 a wide variety of medications. Notably, he treated Respondent's complaints by prescribing (1) opiates—including methadone, hydrocodone, and (in 2014) oxycodone;[2] (2) the benzodiazepine temazepam[3] (trade name Restoril); and (3) the muscle relaxer carisoprodol (trade name Soma).[4] All of these drugs have the potential for being abused. Tolerance and psychological and physical dependence may develop upon repeated administration that can alter

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[1] Patient 1's name has been withheld to protect her privacy. Respondent is aware of Patient 1's identity.

[2] Methadone, hydrocodone, and oxycodone are opioid medications used for certain types of pain. They are Schedule II controlled substances and are often habit-forming drugs.

[3] Temazepam is a benzodiazepine. Benzodiazepines, a controlled substance, are central nervous system depressants. They are Schedule IV controlled substances and highly habit forming. Respondent prescribed temazepam to treat Patient 1's complaints of insomnia.

[4] Carisoprodol is a muscle relaxant and sedative. This is a Schedule IV controlled substance and often a habit-forming drug.

mental function and produce drug dependence. When combined, these drugs become even more dangerous, with a very serious risk of overdose and death. By late 2014, Respondent was prescribing 60 mg of methadone per day (240 pills per prescription), along with hydrocodone, temazepam, carisoprodol, oxycodone,[5] and cyclobenzaprine.[6]

10. Despite the lack of evidence of progress toward treatment objectives, Respondent continued prescribing dangerous amounts and combinations of medications. By early 2017, Respondent was prescribing 90 mg of methadone per day (270 pills per prescription), approximately 1000 mg per day of carisoprodol, 30 mg per day of temazepam, 30 mg per day of hydrocodone, and 20 mg per day of cyclobenzaprine. This is a voluminous and unsafe combination of medications. Respondent eventually began tapering the medication.

11. Combining benzodiazepines and opioids places patients at an increased risk for respiratory depression. Respondent's concurrent prescribing of opiates, benzodiazepines, and muscle relaxants increased the risk of Patient 1 experiencing respiratory depression, coma, or even death.

12. Respondent was prescribing dangerously, and his medical records failed to document objectives by which a treatment plan could be evaluated. His records failed to document objective measures related to pain relief, improved physical health, or improved psychological function. Respondent failed to document if Patient 1's pain was associated with physical or psychological impairment. His records failed to document treatment plan objectives or periodic reviews of the treatment plan.

13. Patient 1 continually complained of back pain, and Respondent appeared to rely on that complaint when prescribing pain medication. However, Respondent's medical records failed to contain regular assessments of the pain, and there is no indication that Respondent performed a physical exam involving Patient 1's back.

14. Respondent's documentation in his medical records does not assess whether Patient 1's pain was better or worse given the pain medication ordered or changes made to her overall

[5] Oxycodone is a Schedule II opioid medication, often a habit-forming drug.
[6] Cyclobenzaprine is a muscle relaxant that may enhance the effects of central nervous system depressants.

pain regimen. When prescribing pain medication, Respondent failed to document Patient 1's functional status or whether Patient 1 was physically and psychologically better or worse with the prescribed medicine. Respondent failed to document continuation or modification of controlled substances as it related to progress towards treatment objectives.

15. Respondent failed to document a urine drug screen while prescribing opiates, benzodiazepines, and muscle relaxants. A urine drug screen was needed to periodically evaluate if Patient 1 was taking the prescribed controlled substances and for evaluation of other substances either not prescribed or known to be illicit.

16. Respondent prescribed very high doses of methadone, a drug known to cause life threatening cardiac arrhythmias. However, Respondent failed to document an electrocardiogram while prescribing methadone. Respondent also failed to prescribe naloxone[7] for the treatment of an opiate overdose.

17. Respondent failed to document frequent review of CURES[8] to assure Patient 1 was not receiving controlled substances from other providers. Even though he was prescribing opiates, benzodiazepines, and muscle relaxers, Respondent's medical records do not show that he inquired about any past history of substance abuse, including alcohol abuse. The use of alcohol with the medications Respondent prescribed can make an overdose even more likely.

18. Respondent is guilty of unprofessional conduct in his care and treatment of Patient 1, and is subject to disciplinary action under sections 2234, and/or 2234(b), and/or 2234(c) of the Code, in that Respondent committed gross negligence, and/or repeated negligent acts, including but not limited to the following:

A. Failing to document the required elements of the medical history and physical exam for prescribing controlled substances;

B. Failing to document a physical back exam or evaluation when prescribing controlled substances for back pain between September 2014 and March 2019;

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[7] Naloxone is a fast-acting medication that, if taken shortly after an opiate overdose, may counteract the overdose and save the person's life.

[8] The Controlled Substance Utilization Review and Evaluation System (CURES) is a database of Schedule II, III and IV controlled substance prescriptions dispensed in California serving the public health, regulatory oversight agencies, and law enforcement.

C. Failing to document a treatment plan and objectives when prescribing controlled substances;

D. Failure to document continuation or modification of controlled substances as it related to progress toward treatment objectives;

E. Failure to perform a urine drug test between September 2014 and March 2019;

F. Failure to document periodic CURES review while prescribing controlled substances;

G. Failure to perform periodic electrocardiograms to document any cardiac abnormalities related to the known side effects of methadone;

H. Failure to prescribe naloxone to treat opiate overdose;

I. Failure to inquire about Patient 1's past history of any substance abuse;

J. Failing to appropriately manage Patient 1's chronic pain conditions with controlled substances.

SECOND CAUSE FOR DISCIPLINE

(Failure to Maintain Accurate and Adequate Medical Records)

19. Paragraphs 1-18 are incorporated here as if set out in full.

20. Physicians must keep accurate and adequate records, including the medical history and physical exam, other evaluations and consultations, treatment plan objectives, treatments, prescribed medication, rationale for changes in the treatment plan or medications, agreements with the patient, and periodic reviews of the treatment plan. But Respondent's records failed to document treatment plan objectives or periodic reviews of the treatment plan. Respondent failed to use standard guidelines for documentation applicable to the use of controlled substances for a patient with chronic pain.

21. Respondent is guilty of unprofessional conduct and/or gross negligence, and/or repeated negligent acts, and subject to discipline for violation of sections 2234 subdivision (a), and/or 2234 subdivision (b), and/or 2234 subdivision (c), and/or 2266 of the Code based on his failure to maintain adequate and accurate medical records for Patient 1, and in the maintenance of medical records, failure to use standard guidelines in the use of controlled substances for a patient with chronic pain.

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 48620, issued to Respondent Peter Hamilton Stein, M.D.;

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

3. Ordering Respondent Peter Hamilton Stein, M.D. to pay the Board the costs of the investigation and enforcement of this case, and if placed on probation, the costs of probation monitoring; and

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

DATED: DEC 3 1 2021

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

Reji Varghese
Deputy Director

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