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

In the Matter of the Accusation Against: Dale Walter Fitzpatrick, M.D. Physician's and Surgeon's Certificate No. G 65940 Respondent.	Case No. 800-2018-050770

DECISION

The attached Stipulated Surrender of License and Order is hereby adopted as the Decision and Order of the Medical Board of California, Department of Consumer Affairs, State of California.

This Decision shall become effective at 5:00 p.m. on January 6, 2023.

IT IS SO ORDERED January 6, 2023.

MEDICAL BOARD OF CALIFORNIA

Reji Varghese, Deputy Director

ROB BONTA
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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 Accusation Against: **DALE WALTER FITZPATRICK, M.D.** **1717 Coffee Rd.** **Modesto, CA 95355** **Physician's and Surgeon's Certificate** **No. G 65940** Respondent.	Case No. 800-2018-050770 OAH No. 2022030421 **STIPULATED SURRENDER OF LICENSE AND ORDER**

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

PARTIES

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

2. Dale Walter Fitzpatrick, M.D. (Respondent) is representing himself in this proceeding and has chosen not to exercise his right to be represented by counsel.

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3. On or about June 12, 1989, the Board issued Physician's and Surgeon's Certificate No. G 65940 to Dale Walter Fitzpatrick, M.D. (Respondent). The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought in Accusation No. 800-2018-050770 and will expire on January 31, 2023, unless renewed.

JURISDICTION

4. Accusation No. 800-2018-050770 was filed before the Board, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on December 7, 2021. Respondent timely filed his Notice of Defense contesting the Accusation. A copy of Accusation No. 800-2018-050770 is attached as Exhibit A and incorporated by reference.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, and understands the charges and allegations in Accusation No. 800-2018-050770. Respondent also has carefully read, and understands the effects of this Stipulated Surrender of License and Order.

6. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to be represented by counsel, at his own expense; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

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

CULPABILITY

8. Respondent admits the truth of each and every charge and allegation in Accusation No. 800-2018-050770, agrees that cause exists for discipline and hereby surrenders his Physician's and Surgeon's Certificate No. G 65940 for the Board's formal acceptance.

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

CONTINGENCY

10. Business and Professions Code section 2224, subdivision (b), provides, in pertinent part, that the Medical Board "shall delegate to its executive director the authority to adopt a ... stipulation for surrender of a license."

11. Respondent understands that, by signing this stipulation, he enables the Executive Director of the Board to issue an order, on behalf of the Board, accepting the surrender of his Physician's and Surgeon's Certificate No. G 65940 without further notice to, or opportunity to be heard by, Respondent.

12. This Stipulated Surrender of License and Disciplinary Order shall be subject to the approval of the Executive Director on behalf of the Board. The parties agree that this Stipulated Surrender of License and Disciplinary Order shall be submitted to the Executive Director for his consideration in the above-entitled matter and, further, that the Executive Director shall have a reasonable period of time in which to consider and act on this Stipulated Surrender of License and Disciplinary Order after receiving it. By signing this stipulation, Respondent fully understands and agrees that he may not withdraw his agreement or seek to rescind this stipulation prior to the time the Executive Director, on behalf of the Medical Board, considers and acts upon it.

13. The parties agree that this Stipulated Surrender of License and Disciplinary Order shall be null and void and not binding upon the parties unless approved and adopted by the Executive Director on behalf of the Board, except for this paragraph, which shall remain in full force and effect. Respondent fully understands and agrees that in deciding whether or not to approve and adopt this Stipulated Surrender of License and Disciplinary Order, the Executive Director and/or the Board may receive oral and written communications from its staff and/or the Attorney General's Office. Communications pursuant to this paragraph shall not disqualify the Executive Director, the Board, any member thereof, and/or any other person from future participation in this or any other matter affecting or involving respondent. In the event that the

Executive Director on behalf of the Board does not, in his discretion, approve and adopt this Stipulated Surrender of License and Disciplinary Order, with the exception of this paragraph, it shall not become effective, shall be of no evidentiary value whatsoever, and shall not be relied upon or introduced in any disciplinary action by either party hereto. Respondent further agrees that should this Stipulated Surrender of License and Disciplinary Order be rejected for any reason by the Executive Director on behalf of the Board, Respondent will assert no claim that the Executive Director, the Board, or any member thereof, was prejudiced by its/his/her review, discussion and/or consideration of this Stipulated Surrender of License and Disciplinary Order or of any matter or matters related hereto.

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

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

ORDER

IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. G 65940, issued to Respondent Dale Walter Fitzpatrick, M.D., is surrendered and accepted by the Board.

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

2. Respondent shall lose all rights and privileges as a Physician and Surgeon in California as of December 31, 2022.

3. Respondent shall cause to be delivered to the Board his pocket license and, if one was issued, his wall certificate on or before December 31, 2022.

4. If Respondent ever files an application for licensure or a petition for reinstatement in the State of California, the Board shall treat it as a new application for licensure. Respondent

must comply with all the laws, regulations and procedures for reinstatement of a revoked or surrendered license in effect at the time the petition is filed, and all of the charges and allegations contained in Accusation No. 800-2018-050770 shall be deemed to be true, correct and admitted by Respondent when the Board determines whether to grant or deny the petition.

1. Respondent shall pay the agency its costs of investigation and enforcement in the amount of $23,910.00 (twenty-three thousand nine hundred and ten dollars and zero cents) prior to issuance of a new or reinstated license.

2. If Respondent should ever apply or reapply for a new license or certification, or petition for reinstatement of a license, by any other health care licensing agency in the State of California, all of the charges and allegations contained in Accusation, No. 800-2018-050770 shall be deemed to be true, correct, and admitted by Respondent for the purpose of any Statement of Issues or any other proceeding seeking to deny or restrict licensure.

ACCEPTANCE

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

DATED: 11/17/22

DALE WALTER FITZPATRICK, M.D.
Respondent

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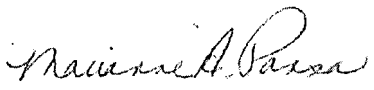
ENDORSEMENT

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

DATED: 11/17/22

Respectfully submitted,

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



MARIANNE A. PANSA
Deputy Attorney General
Attorneys for Complainant

Exhibit A

Accusation No. 800-2018-050770

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

In the Matter of the Accusation Against: **DALE WALTER FITZPATRICK, M.D.** **1717 Coffee Rd.** **Modesto, CA 95355** **Physician's and Surgeon's Certificate No. G 65940,** Respondent.	Case No. 800-2018-050770 **ACCUSATION**

PARTIES

1. William Prasifka (Complainant) brings this 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 June 12, 1989, the Board issued Physician's and Surgeon's Certificate Number G 65940 to Dale Walter Fitzpatrick, 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 January 31, 2023, unless renewed.

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JURISDICTION

3. This 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:

(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.

(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:

(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.

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6. Section 2242 of the Code states:

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

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

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

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

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

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

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

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

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7. Section 2266 of the Code states:

The failure of a physician and surgeon to maintain adequate and accurate records relating to the provision of services to their patients constitutes unprofessional conduct.

8. Section 4021 of the Code states:

"Controlled substance" means any substance listed in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code.

9. Section 4022 of the Code states:

"Dangerous drug" or "dangerous device" means any drug or device unsafe for self use, except veterinary drugs that are labeled as such, and includes the following:

(a) Any drug that bears the legend: "Caution: federal law prohibits dispensing without prescription," "Rx only," or words of similar import.

(b) Any device that bears the statement: "Caution: federal law restricts this device to sale by or on the order of a _____," "Rx only," or words of similar import, the blank to be filled in with the designation of the practitioner licensed to use or order use of the device.

(c) Any other drug or device that by federal or state law can be lawfully dispensed only on prescription or furnished pursuant to Section 4006.

COST RECOVERY

10. Section 125.3 of the Code states:

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

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

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

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

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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.

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,[1] 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.

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[1] As of November 18, 2021, Section 125.3 of the Code has been amended to remove subsection (k), which precluded the Board from collecting costs. The Board may collect investigation, prosecution, and other costs incurred for a disciplinary proceeding against a licensee as of January 1, 2022.

PERTINENT DRUGS AND DEFINITIONS

11. Alprazolam (Xanax) is a short-acting benzodiazepine used to treat anxiety and panic disorders. Alprazolam is a Schedule IV controlled substance, and is a dangerous drug pursuant to California Business and Professions Code section 4022.

12. Amantadine (Gocovri) is a medication used to treat involuntary movement caused by Parkinson's disease. It is a non-controlled substance.

13. Amitriptyline (Elavil) is a tricyclic antidepressant used to treat anxiety and depression, but can also be used to stop or reduce pain when used in low doses. Amitriptyline is a non-controlled substance.

14. Arrhythmia is an abnormality in the heart's rhythm, or heartbeat pattern.

15. Arteriosclerotic cardiovascular disease occurs when there is a thickening or blockage of the artery walls.

16. Atherosclerosis is a disease in which plaque builds up inside the arteries.

17. Buproprion (Wellbutrin and Zyban) is a typical antidepressant primarily used to treat major depressive disorder and to support smoking cessation. It is a non-controlled substance. There are two forms of this medication relevant to this case: Wellbutrin SR and Wellbutrin XL. Wellbutrin SR is the sustained-release version that is taken more frequently, while Wellbutrin XL is the extended-release dosage, which means it is released into the body more slowly and remains in the body for a longer period.

18. Butalbital (Fiorinal) is a barbiturate. When used in combination with acetaminophen and caffeine (Butalbital-Aspirin-Caffeine or Butal-Asa Caff Cap), it is used to treat headaches. Butalbital is a Schedule III controlled substance, and is a dangerous drug pursuant to California Business and Professions Code section 4022.

19. Carbidopa/Levodopa (Duopa) is a combination medication used to treat symptoms of Parkinson's disease such as shakiness, stiffness, and difficulty moving. It is a non-controlled substance.

20. Central nervous system depression is a physiological state that can result in a decreased rate of breathing, decreased heart rate, and loss of consciousness possibly leading to

coma or death. It can result from substance overdoses, poisoning, or other medical conditions and is the result of inhibited or suppressed brain activity.

21. Cerebral Arteriosclerosis is a thickening and hardening of the walls of the arteries of the brain. Symptoms include headache, facial pain, and impaired vision. If the walls of the arteries are too thick, or a blood clot becomes caught in the narrow passage, blood flow to the brain can become blocked and cause an ischemic stroke.

22. Ciprofloxacin hydrochloride (Cipro) is an antibiotic used to treat bacterial infections. It is a non-controlled substance.

23. Cheratussin AC is an antitussive-expectorant combination medicine used to treat cough and chest congestion caused by allergies, the common cold, and flu. This medication contains the opioid codeine, and is a Schedule V controlled substance.

24. Clindamycin is an antibiotic used to treat a variety of bacterial infections. It is a non-controlled substance.

25. 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.

26. Controlled substances agreement is also known as a pain management contract or pain management agreement. A pain management agreement is recommended for patients on short-acting opioids at the time of the third visit; on long-acting opioids; or expected to require more than three months of opioids. A pain management agreement outlines the responsibilities of the physician and patient during the time that controlled substances are prescribed. See Medical Board of California: Guidelines for Prescribing Controlled Substances for Pain, November 2014.

27. Diazepam (Valium) is a benzodiazepine sedative used to treat anxiety, seizures, and trouble sleeping. Diazepam is a Schedule IV controlled substance, and is a dangerous drug pursuant to California Business and Professions Code section 4022.

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28. Diltiazem (Cartia) is a benzothiazepine used to prevent chest pain and is an antiarrhythmic. It is also used to treat hypertension. It is a non-controlled substance.

29. Doxylamine is an antihistamine and is used to relieve symptoms of allergy, hay fever, and the common cold. It can also be used as a short-term sleep aid, and in combination with other drugs as a night-time cold and allergy relief drug. It is a non-controlled substance and can be an over-the-counter or a prescribed medication.

30. Electrocardiogram (ECG or EKG) is a test that records the electrical signals on the heart and depicts the information in the form of a graph. An ECG is used to monitor and detect heart problems.

31. Hydrochlorothiazide (Microzide) is a diuretic used to treat hypertension. It is a non-controlled substance.

32. Hydrocodone-Bitartrate-Acetaminophen (Vicodin and Norco) is a combination of two medicines 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 is a dangerous drug pursuant to California Business and Professions Code section 4022.

33. Levothyroxine (Synthroid, Levothroid) is a medication used to treat an underactive thyroid. It is a non-controlled substance.

34. Lisinopril (Prinivil, Zestril) is a medication used to treat high blood pressure. It is a non-controlled substance.

35. Lorazepam (Ativan) is a benzodiazepine and is a centrally acting hypnotic-sedative that works to enhance the activity of certain neurotransmitters in the brain. It is used to treat anxiety disorders. Lorazepam is a Schedule IV controlled substance and is a dangerous drug pursuant to California Business and Professions Code section 4022.

36. Methocarbamol (Robaxin) is a skeletal muscle relaxant and is used to treat muscle spasms. It is a non-controlled substance.

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37. Nortriptyline (Aventyl, Maelor) is an antidepressant used to treat mental/mood problems such as depression. It is a non-controlled substance.

38. Parkinson's disease is a disease affecting the central nervous system. It causes problems with body motions, including: tremors (shakiness), rigidity (muscle stiffness), slowed body movements, and unstable posture.

39. Promethazine hydrochloride and codeine phosphate (Phenergan-Codeine) is a Schedule V controlled substance and is combination of codeine, an opioid agonist, and promethazine. It is used to treat cold or allergy symptoms such as a runny nose, sneezing, and cough.

40. Tramadol (Ultram) is an opioid analgesic and an antidepressant medication used to treat severe pain. It is a Schedule IV controlled substance and is a dangerous drug pursuant to California Business and Professions Code section 4022.

41. QT prolongation occurs when the heart muscle takes a comparatively longer time to contract and relax than usual. QT prolongation may increase the risk of developing abnormal heart rhythms and may lead to sudden cardiac arrest.

42. Respiratory depression (hypoventilation) is a breathing disorder characterized by slow and ineffective breathing. During a normal breathing cycle, one inhales oxygen into the lungs. The blood carries the oxygen around the body, delivering it to the tissues. Respiratory depression happens when the lungs fail to exchange carbon dioxide and oxygen efficiently. This dysfunction leads to a buildup of carbon dioxide in the body, which can result in health complications. A common symptom of respiratory depression is taking breaths that are slower and shallower than normal. In most cases, breathing rates are as low as 8-10 breaths per minute. The normal breathing rate of a healthy adult is 12-20 breaths per minute. Respiratory depression can cause acid to build up in the body and lead to respiratory acidosis, a life-threatening condition associated with organ failure.

43. Zolpidem tartrate (Ambien) is a nonbenzodiazepine sedative and hypnotic used to treat sleep problems. Zolpidem tartrate is a Schedule IV controlled substance and is a dangerous drug pursuant to California Business and Professions Code section 4022.

FACTUAL ALLEGATIONS

44. On or about Monday, December 10, 2018, the Modesto Police Department responded to a report of a residential death of a 78-year-old female. The female suffered from Parkinson's disease and was found deceased in her bed by the caretaker when the caretaker reported for work in the morning. The deceased female was a patient at Sutter Health in Modesto, where she began receiving treatment on or about February 19, 2016.[2]

45. Respondent is a solo practitioner in Modesto, California, and had been the patient's primary care physician from approximately 2000 through 2009, and again from 2012 through 2016. Respondent continued prescribing medications to the patient after she began treatment at Sutter Health, until the time of her death. The patient had also been Respondent's massage therapist for many years, and he developed a close personal relationship with her.

46. As the patient's Parkinson's disease progressed, the patient became unable to care for herself. She required physical, occupational, and speech therapy, as well as in-home nursing care. She was unable to walk by herself, she needed help taking her medications, and she required assistance transferring to and from chairs and the bed. Respondent became the patient's primary caregiver, which included providing direct care, hiring caretakers, and prescribing and administering the patient's medications. Respondent had also been appointed the patient's power of attorney and was the first successor trustee of the patient's living trust. Respondent last saw the patient at her home on Sunday, December 9, 2018, the day before her death, at approximately 3:45 p.m., when he put her into bed.

47. Upon a dispatch request from the Modesto Police Department, the Stanislaus County Coroner's Office arrived at the scene on the morning of December 10, 2018, and conducted an investigation. Several prescription medications prescribed by Respondent and other treating physicians at Sutter Health were found at the patient's residence. The medications were found in prescription bottles and in a pill box, and included drugs to be administered to the patient by caretakers in the upcoming week. Respondent filled the pill box each Sunday with the medications to be distributed by the caretakers throughout the week.

[2] The patient's full name is not used to protect her privacy.

48. Pill bottles containing medications prescribed by Sutter Health treating physicians found at the residence included: (1) amantadine; (2) amitriptyline; (3) carbidopa/levodopa; (4) lisinopril; and (4) clindamycin. Pill bottles containing medications prescribed by Respondent found at the residence included: (1) amantadine; (2) clindamycin; (3) diltiazem; (4) levothyroxine; (5) methocarbamol; (6) butalbital-aspirin-caffeine; (7) hydrochlorothiaz; (8) tramadol; and (9) approximately five other drugs to treat bacterial infections, cold sores, fever blisters, allergies, as well as mineral and vitamin supplements.

49. The pill box included medications to be administered Sunday through Saturday. Each day had a box for morning, noon, evening, and bedtime. The pills were identified and catalogued by the Coroner's Office. The morning pill box contained one pill of the following medications: (1) an unknown yellow gel capsule; (2) levothyroxine; (3) carbidopa/levodopa; (4) lisinopril; (5) ciprofloxacin hydrochloride; (6) Cartia; and (7) a vitamin supplement. The noon pill box was empty. The evening pill box contained one carbidopa/levodopa pill. The bedtime pill box contained the following medications: (1) one carbidopa/levodopa pill; (2) two Gocovri capsules; (3) one ciprofloxacin hydrochloride pill; and (4) an unknown yellow gel capsule. Each day contained the same dosage of medication except for Sunday, which contained only one noon dose of carbidopa/levodopa.

50. The Stanislaus County Coroner's report dated January 7, 2019, declared the cause of death to be sudden fatal cardiac arrhythmia due to arteriosclerotic cardiovascular disease with contributing factors of Parkinson's disease and arteriosclerosis of the cerebral arteries. A toxicology report dated December 26, 2018, found the presence of amitriptyline, tramadol, doxylamine, and nortriptyline.

51. During the course of his treatment, Respondent prescribed hundreds of medications to the patient spanning over several decades. From 2012 to 2018, pharmacy records indicate that the patient filled prescriptions issued by Respondent on over 300 occasions. Between 2012 and 2014, Respondent prescribed over 108 medications to the patient, 25 of which were controlled substances and included medications such as hydrocodeine-bitartrate-acetaminophen, zolpidem

tartrate, diazepam, alprazolam, butalbital-aspirin-caffeine, and promethazine hydrochloride and codeine phosphate.

52. Between December 2014 and December 2018, the patient filled the following prescriptions.[3]

Date Filled	Drug Name	Drug Strength	Qty	Prescriber Name
12/5/2014	ZOLPIDEM TARTRATE *	5 MG	90	E.R. M.D.
12/8/2014	BUPROPION HYDROCHLORIDE SR	UNKN	180	RESPONDENT
12/21/2014	HYDROCHLOROTHIAZIDE	UNKN	90	RESPONDENT
12/29/2014	AMANTADINE 100	100 MG	180	RESPONDENT
1/3/2015	LEVOTHYROXINE	UNKN	90	RESPONDENT
1/8/2015	CIPROFLOXACIN HYDROCHLORIDE	UNKN	24	RESPONDENT
1/8/2015	LISINOPRIL	40 MG	90	RESPONDENT
1/12/2015	DILTIAZEM 24HR	UNKN	90	RESPONDENT
1/27/2015	METHOCARBAMOL	750 MG	120	RESPONDENT
1/27/2015	TRAMADOL HCL *	50 MG	90	RESPONDENT
2/23/2015	CHERATUSSIN AC *	10 MG/5 ML-100 MG/5 ML	240	RESPONDENT
2/23/2015	CIPROFLOXACIN HYDROCHLORIDE	UNKN	20	RESPONDENT
3/3/2015	ZOLPIDEM TARTRATE *	5 MG	90	E.R. M.D.
3/6/2015	BUPROPION HYDROCHLORIDE SR	UNKN	180	RESPONDENT
3/17/2015	HYDROCHLOROTHIAZIDE	UNKN	90	RESPONDENT
3/28/2015	AMANTADINE 100	100 MG	180	RESPONDENT
3/29/2015	TRAMADOL HCL *	50 MG	90	RESPONDENT
3/31/2015	METHOCARBAMOL	750 MG	90	RESPONDENT
4/5/2015	LISINOPRIL	40 MG	90	RESPONDENT
4/10/2015	DILTIAZEM 24HR	UNKN	90	RESPONDENT
4/13/2015	CIPROFLOXACIN HYDROCHLORIDE	UNKN	28	RESPONDENT
4/26/2015	LEVOTHYROXINE	UNKN	90	RESPONDENT
6/2/2015	BUPROPION HYDROCHLORIDE SR	UNKN	180	RESPONDENT
6/13/2015	HYDROCHLOROTHIAZIDE	UNKN	90	RESPONDENT

[3] References to medications prescribed seven years prior to the filing of this Accusation are for information purposes only. Controlled substances are identified with an asterisk (*). Information about medications in categories that was unavailable are designated as unknown ("UNKN"). This list is not a complete inventory of all the medications Respondent prescribed but only contain those relevant to this case.

Date Filled	Drug Name	Drug Strength	Qty	Prescriber Name
6/29/2015	DILTIAZEM 24HR	UNKN	90	RESPONDENT
7/3/2015	LEVOTHYROXINE	UNKN	90	RESPONDENT
7/6/2015	DILTIAZEM 24HR	UNKN	90	RESPONDENT
8/23/2015	METHOCARBAMOL	750 MG	180	RESPONDENT
8/23/2015	TRAMADOL HCL *	50 MG	180	RESPONDENT
8/28/2015	BUPROPION HYDROCHLORIDE SR	UNKN	180	RESPONDENT
9/21/2015	HYDROCHLOROTHIAZIDE	UNKN	15	RESPONDENT
10/3/2015	HYDROCHLOROTHIAZIDE	UNKN	15	RESPONDENT
10/8/2015	DILTIAZEM 24HR	UNKN	90	RESPONDENT
10/11/2015	METHOCARBAMOL	750 MG	90	RESPONDENT
10/19/2015	TRAMADOL HCL *	50 MG	90	RESPONDENT
10/30/2015	HYDROCHLOROTHIAZIDE	UNKN	90	RESPONDENT
11/3/2015	LEVOTHYROXINE	UNKN	90	RESPONDENT
11/4/2015	AMANTADINE 100	100 MG	180	RESPONDENT
11/16/2015	METHOCARBAMOL	750 MG	90	RESPONDENT
12/14/2015	BUPROPION HYDROCHLORIDE SR	UNKN	180	RESPONDENT
1/4/2016	DILTIAZEM 24HR	UNKN	90	RESPONDENT
1/11/2016	DILTIAZEM HYDROCHLORIDE ER	UNKN	90	RESPONDENT
1/11/2016	TRAMADOL HCL *	50 MG	90	RESPONDENT
1/27/2016	HYDROCODONE BITARTRATE-ACETAMINOPHEN *	325 MG-7.5 MG	24	D.G. M.D.
1/30/2016	HYDROCHLOROTHIAZIDE	UNKN	90	RESPONDENT
1/30/2016	LEVOTHYROXINE	UNKN	90	RESPONDENT
2/15/2016	CIPROFLOXACIN HYDROCHLORIDE	UNKN	10	V.W. M.D.
2/19/2016	HYDROCODONE BITARTRATE-ACETAMINOPHEN *	325 MG-7.5 MG	60	N.H. M.D.
3/19/2016	HYDROCODONE BITARTRATE-ACETAMINOPHEN *	325 MG-7.5 MG	60	N.H. M.D.
4/6/2016	DILTIAZEM HYDROCHLORIDE ER	UNKN	90	RESPONDENT
4/19/2016	AMANTADINE 100	100 MG	60	RESPONDENT
4/26/2016	BUPROPION HYDROCHLORIDE SR	UNKN	180	RESPONDENT
4/27/2016	HYDROCHLOROTHIAZIDE	UNKN	90	RESPONDENT
4/29/2016	DILTIAZEM 24HR	UNKN	90	RESPONDENT
4/30/2016	LEVOTHYROXINE	UNKN	30	N.H. M.D.
5/22/2016	CIPROFLOXACIN HYDROCHLORIDE	UNKN	14	RESPONDENT
5/24/2016	LISINOPRIL	40 MG	90	RESPONDENT
5/27/2016	LEVOTHYROXINE	UNKN	30	N.H. M.D.
6/3/2016	AMANTADINE 100	100 MG	90	N.H. M.D.
6/23/2016	LEVOTHYROXINE	UNKN	30	N.H. M.D.

Date Filled	Drug Name	Drug Strength	Qty	Prescriber Name
7/2/2016	DILTIAZEM HYDROCHLORIDE ER	UNKN	90	RESPONDENT
7/23/2016	HYDROCHLOROTHIAZIDE	UNKN	90	RESPONDENT
7/23/2016	LEVOTHYROXINE	UNKN	30	N.H. M.D.
7/25/2016	DILTIAZEM 24HR	UNKN	90	RESPONDENT
8/20/2016	LEVOTHYROXINE	UNKN	30	N.H. M.D.
8/22/2016	ALPRAZOLAM *	0.5 MG	20	E.N. M.D.
8/23/2016	LISINOPRIL	40 MG	90	RESPONDENT
8/25/2016	BUPROPION HYDROCHLORIDE SR	UNKN	180	RESPONDENT
8/30/2016	AMANTADINE 100	100 MG	90	N.H. M.D.
9/3/2016	HYDROCODONE BITARTRATE-ACETAMINOPHEN *	325 MG-10 MG	40	E.N. M.D.
9/3/2016	METHOCARBAMOL	500 MG	40	E.N. M.D.
9/16/2016	LEVOTHYROXINE	UNKN	30	N.H. M.D.
9/21/2016	HYDROCODONE BITARTRATE-ACETAMINOPHEN *	325 MG-10 MG	60	E.N. M.D.
9/29/2016	CIPROFLOXACIN HYDROCHLORIDE	UNKN	14	J.D. M.D.
9/29/2016	DILTIAZEM HYDROCHLORIDE ER	UNKN	90	RESPONDENT
10/13/2016	LEVOTHYROXINE	UNKN	30	N.H. M.D.
10/19/2016	DILTIAZEM 24HR	UNKN	90	RESPONDENT
10/23/2016	HYDROCHLOROTHIAZIDE	UNKN	90	RESPONDENT
11/8/2016	LEVOTHYROXINE	UNKN	30	N.H. M.D.
11/19/2016	LISINOPRIL	40 MG	90	RESPONDENT
11/26/2016	BUPROPION HCL S	UNKN	180	RESPONDENT
11/28/2016	AMANTADINE 100	100 MG	90	N.H. M.D.
11/30/2016	CHERATUSSIN AC *	10 MG/5 ML-100 MG/5 ML	240	RESPONDENT
12/6/2016	LEVOTHYROXINE	UNKN	30	N.H. M.D.
12/23/2016	DILTIAZEM HYDROCHLORIDE ER	UNKN	90	RESPONDENT
1/6/2017	LEVOTHYROXINE	UNKN	30	N.H. M.D.
1/19/2017	HYDROCHLOROTHIAZIDE	UNKN	90	RESPONDENT
2/3/2017	LEVOTHYROXINE	UNKN	30	N.H. M.D.
3/29/2017	METHOCARBAMOL	750 MG	90	RESPONDENT
5/5/2017	CLINDAMYCIN	300 MG	16	C.K. M.D.
7/7/2017	BUPROPION XL	150 MG	180	RESPONDENT
8/3/2017	CARBIDOPA/LEVODOPA	25-10 MG	90	P.G. M.D.
8/30/2017	LORAZEPAM *	1 MG	30	P.G. M.D.
9/18/2017	TRAMADOL HCL *	50 MG	45	RESPONDENT
9/19/2017	HYDROCODONE BITARTRATE-ACETAMINOPHEN *	325 MG-5 MG	12	L.J. M.D.
9/27/2017	CARBIDOPA/LEVODOPA	25-10 MG	90	P.G. M.D.

Date Filled	Drug Name	Drug Strength	Qty	Prescriber Name
9/28/2017	LORAZEPAM *	1 MG	30	P.J. M.D.
9/28/2017	METHOCARBAMOL	750 MG	90	RESPONDENT
10/2/2017	BUPROPION XL	150 MG	180	RESPONDENT
10/25/2017	CARBIDOPA/LEVODOPA	25-10 MG	90	P.G. M.D.
11/1/2017	DILTIAZEM	240MG	90	RESPONDENT
11/24/2017	CARBIDOPA/LEVODOPA	25-10 MG	90	P.G. M.D.
12/26/2017	CARBIDOPA/LEVODOPA	25-10 MG	90	P.G. M.D.
12/31/2017	CIPROFLOXACIN HYDROCHLORIDE	500 MG	14	RESPONDENT
12/31/2017	METHOCARBAMOL	750 MG	90	RESPONDENT
1/3/2018	BUPROPION XL	150 MG	180	RESPONDENT
1/17/2018	HYDROCHLOROTHIAZIDE	25 MG	90	A.O. M.D.
1/24/2018	CARBIDOPA/LEVODOPA	25-100 MG	90	P.G. M.D.
1/28/2018	DILTIAZEM	240MG	90	RESPONDENT
2/22/2018	CARBIDOPA/LEVODOPA	25-100 MG	90	P.G. M.D.
2/26/2018	CIPROFLOXACIN HYDROCHLORIDE	500 MG	14	RESPONDENT
3/8/2018	NORTRIPTYLINE	10 MG	30	P.G. M.D.
3/19/2018	TRAMADOL HCL *	50 MG	90	M.F. D.D.S.
3/22/2018	METHOCARBAMOL	750 MG	90	RESPONDENT
4/1/2018	BUPROPION XL	150 MG	180	RESPONDENT
4/4/2018	AMITRIPTYLINE	25 MG	90	P.G. M.D.
4/4/2018	CARBIDOPA/LEVODOPA	25-100 MG	540	RESPONDENT
4/27/2018	DILTIAZEM	240MG	90	RESPONDENT
4/28/2018	TRAMADOL HCL *	50 MG	90	M.F. D.D.S.
4/29/2018	METHOCARBAMOL	750 MG	90	RESPONDENT
5/1/2018	LORAZEPAM *	1 MG	30	P.G. M.D.
5/11/2018	CIPROFLOXACIN HYDROCHLORIDE	250 MG	14	RESPONDENT
6/8/2018	CLINDAMYCIN	300 MG	16	C.K. M.D.
6/19/2018	TRAMADOL HCL *	50 MG	45	RESPONDENT
7/1/2018	AMITRIPTYLINE	25 MG	90	P.G. M.D.
7/1/2018	BUPROPION XL	150 MG	180	RESPONDENT
7/6/2018	METHOCARBAMOL	750 MG	90	RESPONDENT
7/18/2018	CARBIDOPA/LEVODOPA	25-100 MG	540	P.G. M.D.
7/24/2018	DILTIAZEM	240MG	90	RESPONDENT
9/25/2018	AMITRIPTYLINE	25 MG	90	P.G. M.D.
9/25/2018	BUPROPION XL	150 MG	180	RESPONDENT
10/13/2018	CARBIDOPA/LEVODOPA	25-100 MG	540	RESPONDENT
10/13/2018	DILTIAZEM	240MG	90	RESPONDENT
10/15/2018	METHOCARBAMOL	750 MG	90	RESPONDENT

Date Filled	Drug Name	Drug Strength	Qty	Prescriber Name
10/18/2018	METHOCARBANMOL	750 MG	90	RESPONDENT
10/13/2018	TRAMADOL HCL *	50 MG	90	RESPONDENT
10/20/2018	CIRPROFLOXACIN	500 MG	28	RESPONDENT
10/30/2018	CARTIA (DILTIAZEM)	240 MGXT	90	RESPONDENT
12/4/2018	METHOCARBAMOL	750 MG	90	RESPONDENT
12/4/2018	TRAMADOL HCL *	50 MG	90	RESPONDENT
12/5/2018	METHOCARBAMOL	750 MG	90	RESPONDENT

53. All of the medications prescribed after 2016 by Respondent were prescribed without performing an examination of the patient, or devising and monitoring an appropriate treatment plan to monitor the patient's care. There was no diagnosis of chronic pain after 2017 in the patient's Sutter Health medical records, yet Respondent prescribed controlled substances and other medications for pain, without informing the patient's other physicians of the medications he was prescribing, and without following the standard of care for prescribing controlled substances for pain. Respondent also failed to check the CURES reports while prescribing controlled substances to the patient.

54. Respondent prescribed several medications to the patient that have potential interactions with each other and with medications being prescribed by physicians at Sutter Health, as well as over-the-counter medications. Respondent failed to take into account the patient's allergies and potential interactions with the patient's other medications, and failed to advise the patient of the risks of these interactions, or obtain the patient's consent regarding these serious risks. These drug interactions include interactions between the following drugs: (1) medications found in the pill box (levothyroxine, carbidopa/levodopa, lisinopril, ciprofloxacin, diltiazem (Cartia), amantadine (Gocovri); (2) medications in the toxicology report (amitriptyline, tramadol, and doxylamine); and (3) methocarbamol and bupropion prescribed by Respondent. These interactions include the following:

a. Tramadol combined with carbidopa/levodopa can cause profound central nervous system and respiratory depression, as well as psychomotor impairment;

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b. Tramadol combined with amitriptyline can cause profound central nervous system and respiratory depression, psychomotor impairment, QT prolongation, and cardiac arrhythmia, and it is advised to check with an ECG;

c. Tramadol combined with ciprofloxacin can cause central nervous system and respiratory depression, psychomotor impairment, seizure, QT prolongation, and cardiac arrhythmia, and it is advised to check with an ECG;

d. Tramadol combined with diltiazem (Cartia XL) can cause central nervous system and respiratory depression, psychomotor impairment, seizure, QT prolongation, and cardiac arrhythmia, and it is advised to check with an ECG;

e. Tramadol combined with bupropion can cause central nervous system and respiratory depression, psychomotor impairment, seizure, QT prolongation, and cardiac arrhythmia, and it is advised to check with an ECG;

f. Tramadol combined with methocarbamol can cause central nervous system and respiratory depression, psychomotor impairment, and seizures;

g. Tramadol combined with doxylamine can cause central nervous system and respiratory depression, and psychomotor impairment;

h. Methocarbamol combined with carbidopa/levodopa can cause central nervous system depression and psychomotor impairment;

i. Methocarbamol combined with doxylamine can cause central nervous system depression and psychomotor impairment;

j. Methocarbamol combined with amitriptyline can cause central nervous system depression and psychomotor impairment;

k. Methocarbamol combined with bupropion can cause seizures;

l. Bupropion combined with amitriptyline can cause QT prolongation, cardiac arrhythmia, and seizures, and it is advised to check with an ECG;

m. Bupropion combined with ciprofloxacin can cause seizures;

n. Bupropion in combination with amantadine (Gocovri) can cause central nervous system side effects;

o. Doxylamine in combination with amitriptyline can cause central nervous system depression and psychomotor impairment;

p. Doxylamine in combination with carbidopa/levodopa can cause central nervous system depression and psychomotor impairment;

q. Amitriptyline in combination with carbidopa/levodopa can cause central nervous system depression and psychomotor impairment; and

r. Amitriptyline in combination with levothyroxine can cause cardiac arrhythmia.

55. In addition to failing to monitor the possible interactions between the above medications, Respondent also failed to check ECGs as advised.

56. Respondent also failed to regularly consult with and advise the patient's physicians at Sutter Health of the medications he was prescribing to the patient so that they would be aware of and monitor any potential drug interactions with medications they were prescribing. Because Respondent was the patient's care provider and was also prescribing her medications, he was the only physician who knew what medications the patient was taking, yet he failed to follow the standard of care for prescribing controlled substances for pain.

FIRST CAUSE FOR DISCIPLINE

(Gross Negligence)

57. Respondent Dale Walter Fitzpatrick, M.D., has subjected his Physician's and Surgeon's Certificate No. G 65940 to disciplinary action under section 2234, subdivision (b) of the Code, in that he committed act(s) and/or omission(s) constituting gross negligence. The circumstances giving rise to this cause for discipline are set forth in paragraphs 44 through 56 above, which are incorporated here by reference as if fully set forth herein. Additional circumstances are as follows:

58. The standard of care for prescribing controlled substances for pain, as well as other medications, requires a physician to perform and document in a medical record the medical evaluation process including taking a history, performing a physical exam, making a diagnosis, developing a treatment plan, discussing the risks and benefits of treatment with the patient (including pain medications), obtaining consent once the risks and benefits are reviewed,

reviewing the course of treatment (including pain treatment) periodically with the patient, utilizing a controlled substances agreement between the provider and patient if appropriate, and referring the patient for additional consultation with a pain management specialist as needed.

59. The standard of care for prescribing any medication must also take into account a patient's allergies and potential interactions with the patient's other medications, including both prescribed and over-the counter medications.

60. Respondent failed to perform a physical examination or complete a medical assessment of the patient prior to prescribing medications including medications for controlled substances for pain, as well as other prescription medications, or over the counter medications. Respondent also failed to develop a treatment plan including making a diagnosis, monitoring and adjusting the treatment plan, discussing the risks and benefits of the treatment plan including prescribing pain medications with the patient, obtaining consent once the risks and benefits of medications were reviewed, reviewing the course of treatment periodically with the patient, utilizing a controlled substances agreement if appropriate, or referring the patient for additional consultation with a pain management specialist as needed. Each such failure constitutes gross negligence.

61. Respondent failed to take into account the patient's allergies and potential interactions with the patient's other medications, including both prescribed and over-the counter medications, even though he was the patient's caregiver and the only physician who was aware of all of the medications the patient was taking. Respondent prescribed several medications to the patient that have potential interactions with each other, and with medications prescribed by Sutter Health physicians and over-the-counter medications. Respondent failed to advise the patient of the risks of these interactions and get the patient's consent regarding these serious risks. In addition to failing to monitor the possible interactions medications, Respondent also failed to check ECGs due to several of the risk factors. Each such failure constitutes gross negligence.

62. Respondent also failed to maintain adequate and complete medical records relating to the care and treatment of the patient including documenting a medical history and physical examination, evaluations and consultations, treatment plan and objectives, informed consent,

treatments, medications, rationale for changes in the treatment plan or medications, agreements with the patient, and periodic reviews of the patient's treatment plan. Respondent failed to document an informed consent for the use of controlled substances prior to prescribing pain medications, and document the periodical review with the patient while prescribing controlled substances. Each such failure constitutes gross negligence.

SECOND CAUSE FOR DISCIPLINE

(Repeated Negligent Acts)

63. Respondent Dale Walter Fitzpatrick, M.D., has subjected his Physician's and Surgeon's Certificate No. G 65940 to disciplinary action under section 2234, subdivision (c) of the Code, in that he committed repeated acts of negligence. The circumstances giving rise to this cause for discipline are set forth in paragraphs 44 through 56 above, which are incorporated here by reference as if fully set forth herein.

THIRD CAUSE FOR DISCIPLINE

(Prescribing Without Prior Examination)

64. Respondent Dale Walter Fitzpatrick, M.D., has subjected his Physician's and Surgeon's Certificate No. G 65940 to disciplinary action under section 2242 of the Code, in that he prescribed dangerous drugs as defined in section 4022 for the patient, without an appropriate prior examination and medical indication. The circumstances giving rise to this cause for discipline are set forth in paragraphs 44 through 56 above, which are incorporated here by reference as if fully set forth herein. Additional circumstances are as follows:

65. The standard of care requires a physician to document in a medical record the medical evaluation process of taking a medical history, performing a physical exam, making a diagnosis, assessing pain, assessing underlying or coexisting diseases or conditions, and then prescribing a therapy, including controlled substances if needed, for each patient. Respondent failed to document a medical record of taking a history, performing a physical exam, making a diagnosis, and then prescribing a therapy for the patient.

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FOURTH CAUSE FOR DISCIPLINE

(Failure to Maintain Adequate and Accurate Medical Records)

66. Respondent Dale Walter Fitzpatrick, M.D., has subjected his Physician's and Surgeon's Certificate No. G 65940 to disciplinary action under section 2266 of the Code, in that he failed to maintain adequate and accurate medical records. The circumstances giving rise to this cause for discipline are set forth in paragraphs 44 through 56 above, which are incorporated here by reference as if fully set forth herein. Additional circumstances are as follows:

67. The standard of care for the contents of medical records in California is that medical records contain adequate documentation for the care and treatment rendered to a patient for a minimum of ten years. Physicians are required to keep accurate and complete records including a medical history and physical examination, other evaluations and consultations, treatment plan objectives, informed consent, treatments, medications, rationale for changes in the treatment plan or medications, agreements with the patient, and periodic reviews of the treatment plan.

68. Respondent failed to document a medical record of taking a history, doing a physical exam, making a diagnosis, and then prescribing a therapy for the patient as required.

DISCIPLINARY CONSIDERATIONS

69. To determine the degree of discipline, if any, to be imposed on Respondent Dale Walter Fitzpatrick, M.D., Complainant alleges that on or about July 1, 2003, in a prior disciplinary action entitled "In the Matter of the Accusation Against Dale Walter Fitzpatrick, M.D," before the Medical Board of California, in Case Number 02-2001-124381, Respondent's license was suspended for thirty days, and he was subsequently placed on five years' probation with terms and conditions for sexual misconduct after having sexual relations with a patient, gross negligence, and failure to maintain adequate records. That Decision is now final and is incorporated by reference as if fully set forth herein.

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PRAYER

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

1. Revoking or suspending Physician's and Surgeon's Certificate Number G 65940, issued to Respondent Dale Walter Fitzpatrick, M.D.;

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

3. Ordering Respondent Dale Walter Fitzpatrick, M.D., to pay the Board the costs of the investigation and enforcement of this action, and 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: DEC 07 2021

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

FR2021303802