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

In the Matter of the First Amended Accusation Against: Michael Lee Brodie, M.D. Physician's and Surgeon's Certificate No. A 31978 Respondent.	Case No. 800-2019-058384

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 March 2, 2023.

IT IS SO ORDERED February 23, 2023.

MEDICAL BOARD OF CALIFORNIA

Reji Varghese,
Interim Executive Director

ROB BONTA
Attorney General of California
STEVE DIEHL
Supervising Deputy Attorney General
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Attorneys for Complainant

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

In the Matter of the First Amended Accusation Against: **MICHAEL LEE BRODIE, M.D.** **2851 Geer Rd, Ste B** **Turlock, CA 95382-1116** **Physician's and Surgeon's Certificate No. A 31978** Respondent.	Case No. 800-2019-058384 OAH No. 2022010837 **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. Michael Lee Brodie, M.D. (Respondent) is represented in this proceeding by attorney Nicole D. Hendrickson, whose address is: 655 University Avenue, Suite 119, Sacramento, CA 95825.

3. On or about March 7, 1978, the Board issued Physician's and Surgeon's Certificate No. A 31978 to Michael Lee Brodie, 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 First Amended Accusation No. 800-2019-058384 and will expire on March 31, 2023, unless renewed.

JURISDICTION

4. Accusation No. 800-2019-058384 was filed on December 29, 2021, and was superseded when First Amended Accusation No. 800-2019-058384 was filed before the Board on July 7, 2022. The Accusation and the First Amended Accusation and all other statutorily required documents were properly served on Respondent on December 29, 2021, and July 7, 2022, respectively. The First Amended Accusation is currently pending against Respondent. Respondent timely filed his Notice of Defense contesting the Accusation. A copy of First Amended Accusation No. 800-2019-058384 is attached as Exhibit A and incorporated by reference.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in First Amended Accusation No. 800-2019-058384. Respondent also has carefully read, fully discussed with counsel, and understands the effects of this Stipulated Surrender of License and Order.

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

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

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CULPABILITY

8. Respondent does not contest that, at an administrative hearing, Complainant could establish a prima facie case with respect to the charges and allegations in First Amended Accusation No. 800-2019-058384, a true and correct copy of which is attached hereto as Exhibit A. Respondent agrees that the charges in First Amended Accusation No. 800-2019-058384 constitute cause for discipline, and hereby surrenders his Physician's and Surgeon's Certificate No. A 31978 for the Board's formal acceptance.

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. A 31978 without further notice to, or opportunity to be heard by, Respondent.

12. This Stipulated Surrender of License and Disciplinary Order shall be subject to 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:

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ORDER

IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. A 31978, issued to Respondent Michael Lee Brodie, M.D., is surrendered and accepted by the Board.

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

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

3. Respondent shall cause to be delivered to the Board his pocket license and, if one was issued, his wall certificate on or before the effective date of the Decision and Order, namely, thirty days after signature of this agreement by all parties.

4. If Respondent ever applies for licensure or petitions 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 licensure in effect at the time the application or petition is filed, and all of the charges and allegations contained in First Amended Accusation No. 800-2019-058384 shall be deemed to be true, correct and admitted by Respondent when the Board determines whether to grant or deny the application or petition.

5. Respondent shall pay the agency its costs of investigation and enforcement in the amount of $19,435.00 (nineteen thousand four hundred and thirty-five dollars and zero cents) prior to issuance of a new or reinstated license.

6. If Respondent should ever apply or reapply for a new license or certification, or petition for reinstatement of a license, by any other health care licensing agency in the State of California, all of the charges and allegations contained in First Amended Accusation No. 800-2019-058384 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.

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ACCEPTANCE

I have carefully read the above Stipulated Surrender of License and Order and have fully discussed it with my attorney Nicole D. Hendrickson. 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: 11/30/22

MICHAEL LEE BRODIE, M.D.
Respondent

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

DATED: 12/01/2022

NICOLE D. HENDRICKSON
Attorney for Respondent

ENDORSEMENT

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

DATED: 12/7/2022

Respectfully submitted,

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

MARIANNE A. PANSA
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

First Amended Accusation No. 800-2019-058384

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Attorneys for Complainant

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

In the Matter of the First Amended Accusation Against: **MICHAEL LEE BRODIE, M.D.** **2851 Geer Rd, Ste B** **Turlock, CA 95382-1116** **Physician's and Surgeon's Certificate No. A 31978,** Respondent.	Case No. 800-2019-058384 OAH No. 2022010837 **FIRST AMENDED 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 March 7, 1978, the Medical Board issued Physician's and Surgeon's Certificate No. A 31978 to Michael Lee Brodie, 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 March 31, 2023, unless renewed.

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JURISDICTION

3. This First Amended Accusation supersedes Accusation No. 800-2019-058384, filed on December 29, 2021, and is brought before the Board, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 2227 of the Code states:

> (a) A licensee whose matter has been heard by an administrative law judge of the Medical Quality Hearing Panel as designated in Section 11371 of the Government Code, or whose default has been entered, and who is found guilty, or who has entered into a stipulation for disciplinary action with the board, may, in accordance with the provisions of this chapter:
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> (1) Have his or her license revoked upon order of the board.
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> (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.
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> (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.
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> (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 in pertinent part:

> 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:
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> (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.

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.[1]

(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

[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.

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.

DEFINITIONS

11. Advair Diskus 250/50 is a prescription medication used to treat asthma and is used long-term to treat chronic pulmonary disease (COPD), including chronic bronchitis and emphysema.

12. Amlodipine is a calcium channel blocker, which can be used to treat high blood pressure and chest pain.

13. Amphetamine and dextroamphetamine are central nervous system stimulants of the amphetamine class, and affect chemicals in the brain and nerves that contribute to hyperactivity

and impulse control. Brand names are Adderall ® and Mydayis ®. Adderall is a Schedule II controlled substance pursuant to Health and Safety Code section 11055, subdivision (d), and a dangerous drug pursuant to Business and Professions Code section 4022. When properly prescribed and indicated, it is used for attention-deficit hyperactivity disorder and narcolepsy but can be used recreationally as an aphrodisiac and euphoriant.

14. Anemia refers to a condition in which the blood does not have enough healthy red blood cells.

15. Azithromycin is an antibiotic drug used to treat a wide variety of bacterial infections.

16. Bipolar disorder is a disorder associated with episodes of mood swings ranging from depressive lows to manic highs.

17. Cirrhosis of the liver is chronic liver damage from a variety of causes leading to scarring and liver failure.

18. 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.

19. Gentamicin Sulfate Ophthalmic solution is an antibiotic that fights bacterial eye infections.

20. Hepatitis B is a serious liver infection caused by the hepatitis B virus that is easily preventable by a vaccine.

21. Hepatitis C is an infection caused by a virus that attacks the liver and leads to inflammation.

22. Neomycin-Polymyxin-Gramicidin is a medication used to treat eye infections. The product contains three antibiotics that work together to stop the growth of bacteria.

23. Paranoid personality disorder (PPD) is a mental health condition marked by a pattern of distrust and suspicion of others without adequate reason to be suspicious.

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24. Phentermin HCL, an anorectic, is a Schedule IV controlled substance pursuant to Health and Safety Code section 11057, subdivision (f), and a dangerous drug pursuant to Business and Professions Code section 4022. When properly prescribed, Phentermine HCL is used as short-term medication as part of a regimen of weight reduction based on exercise, behavioral modification, and calorie restriction. Phentermine can produce amphetamine-like effects and is frequently encountered on the illicit market. Brand names are Lonamin®, Fastin®, and Adipex®.

25. Schizoaffective disorder is a mental health condition including schizophrenia and mood disorder symptoms. Schizophrenia is a disorder that affects a person's ability to think, feel, and behave clearly.

26. Subdural hematoma is a buildup of blood on the surface of the brain.

27. Sulfamethoxazole and Trimethoprim (SMZ-TMP DS) is a combination of two antibiotics (sulfamethoxazole and trimethoprim) and is used to treat a wide variety of bacterial infections, such as middle ear, urine, respiratory, and intestinal infections. Brand names are Septra and Bactrim.

28. Tachycardia refers to a fast heart rate.

29. Thrombocytopenia refers to a low number of platelets in the blood.

30. Ventolin HFA aerosol (albuterol sulfate inhalation aerosol) is a bronchodilator used to treat or prevent bronchospasm in people with reversible obstructive airways disease and is also used to prevent exercise-induced bronchospasm.

31. Zolpidem Tartrate (Ambien®), a centrally acting hypnotic-sedative, is a Schedule IV controlled substance pursuant to Health and Safety Code section 11057, subdivision (d), and a dangerous drug pursuant to Business and Professions Code section 4022. When properly prescribed and indicated, it is used for the short-term treatment of insomnia characterized by difficulties with sleep initiation.

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FACTUAL ALLEGATIONS

Patient A

32. Patient A[2] is a licensed vocational nurse who worked with Respondent at a skilled nursing facility.

33. During the period of on or about March 26, 2012, until on or about September 26, 2018, Respondent prescribed the following medications to Patient A:[3]

Date	Drug Name	Drug Strength	Qty	Days Supply	Refills
03/26/12	Sulfamethoxazole –Trimethoprim *	800-160 Tablet	20	10	0
03/26/12	Neomycin-Polymyxin-Gramicidin Ophthalmic Solution	1.75 mg/10,000 units/0.025 mg per milliliter	10	10	0
03/26/12	Gentamicin Sulfate Ophthalmic Solution *	0.3 %	5	10	0
07/27/13	Ventolin HFA Aerosol	90 mcg/per inhalation	18	30	0
07/27/13	Advair Diskus	250MCG/50MCG	60	30	0
07/27/13	Azithromycin	250 MG	6	3	0
02/08/18	Amphetamine/Dextroamphetimine *	30 MG	30	30	0
03/15/18	Amphetamine/Dextroamphetimine *	30 MG	30	30	0
04/17/18	Amphetamine/Dextroamphetimine *	30 MG	30	30	0
05/24/18	Amphetamine/Dextroamphetimine *	30 MG	30	30	0
08/14/18	Amphetamine/Dextroamphetimine *	30 MG	30	30	0
09/26/18	Amphetamine/Dextroamphetimine *	30 MG	30	30	0

34. All of the medications were prescribed to Patient A without Respondent performing an examination of the patient, completing a medical assessment including taking a history, or devising and monitoring an appropriate treatment plan to monitor the patient's care. Respondent also failed to maintain adequate and complete medical records relating to the care and treatment of the patient.

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[2] The patients herein are identified by letter in order to maintain patient confidentiality.

[3] References to medications prescribed seven years prior to the filing of this Accusation are for information purposes only. Prescriptions that were filled by the patient are reflected with an asterisk (*).

Patient B

35. On or about November 30, 2010,[4] Patient B was admitted to a Modesto skilled nursing facility, with a diagnosis of schizoaffective disorder, bipolar disorder, insomnia, cirrhosis of liver, liver failure, chronic Hepatitis B and C, movement disorder, thrombocytopenia, anemia, paranoid personality disorder, essential hypertension, tachycardia, and unspecified injury of head. Respondent was Patient B's primary care provider and the Medical Director of the facility at the time of admission.

36. On or about May 19, 2016, a note to the attending physician/prescriber (Dr. S) from J.G., Pharm. D., consultant pharmacist, stated, "the resident [Patient B] receives Ambien 5 mg, at night, for sleeplessness, M/B, insomnia, and appears effective. Sedative Hypnotics are to be taper assessed for effectiveness and possible gradual dose reductions on a quarterly basis per the regulatory process to taper assess to determine if reduction appropriate. Please taper assess Ambien for possible dose reduction, change to PRN [as needed], DC [discontinue], or indicate if the continued therapy outweigh the potential risks w/ rationale."

37. Dr. G., Pharm.D. advised of the tapering of Ambien on several more occasions including, but not limited to, the following dates: August 27, 2016, October 28, 2016, February 22, 2017, May 16, 2017, August 13, 2017, November 19, 2017, February 13, 2018, May 18, 2018, August 7, 2018, November 10, 2018, and February 11, 2019.

38. On or about November 24, 2018, Patient B was walking down the hallway and tripped over his feet. No head injury was reported, only a small finger injury.

39. On or about January 2, 2019, Respondent was notified via phone that Patient B was sent to the emergency room for a post-fall evaluation status.

40. On or about February 11, 2019, Patient B was found on the floor of a peer's bedroom, approximately one (1) hour after receiving his night time medication, including Ambien. After he was helped to his feet, Patient B was shaky with an unbalanced gait. Respondent was notified.

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[4] Conduct occurring more than seven (7) years from the filing date of this Accusation is for informational purposes only and is not alleged as a basis for disciplinary action.

41. The next day, on or about February 12, 2019, Patient B's blood pressure was elevated at 152/74, with a pulse of 61-76. Patient B was on Ambien 5 mg and Amlodipine 10 mg.

42. On or about February 16, 2019, Patient B was found lying on his right side in the TV room. Patient B denied striking his head and was helped to the couch. A new intervention had been put in place to consult with Respondent about night time medications and evaluate to see if a later time would be appropriate for Patient B to receive Ambien. Respondent was notified via fax.

43. On or about February 25, 2019, it was noted that Patient B has a history of falls when up and about, after taking Ambien.

44. On or about March 7, 2019, Patient B fell after his nighttime medication. Patient B had been ambulating well, but became drowsy after taking his evening prescriptions and fell on the patio. He was found lying on his back with his head resting against a trash can, with his eyes closed. He did not suffer any injuries. Patient B had an unsteady gait and was placed in a wheelchair. Respondent was made aware of the circumstances via an in-house message.

45. On or about March 13, 2019, there was an unwitnessed fall where Patient B reported he lost his balance. The next day, on or about March 14, 2019, Patient B also reported to nurses that he struck his head on the floor the previous night, but did not tell anyone. Patient B was assessed and found to have no injuries, although Patient B stated that he felt pulsating where he struck his head. Respondent was notified.

46. On or about March 27, 2019, Respondent signed a Physician's Progress Note, diagnosing Patient B with "falls" and "unsteady gait." Respondent recommended that Patient B's care plan be continued and that his orthostatic blood pressure be monitored for seven (7) days. Respondent also recommended a physical therapy evaluation and a CT scan of Patient B's head.

47. On or about March 28, 2019, Patient B reported being dizzy earlier in the day, but he denied pain and had no injuries post-fall. He was assisted to the couch by staff, but was resistant to sitting and using a wheelchair.

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48. On or about March 29, 2019, Patient B remained on safety watch. Patient B was monitored when walking to the bathroom and it was noted that he continued to drag his feet when walking.

49. On or about March 31, 2019, Patient B remained on 72-hour watch. Patient B had been somewhat lethargic, taking naps, and needed more assistance than usual. He had recent weakness, dizziness, and left arm pain, and he had been in a wheelchair. Patient B reported he felt more secure and that he had been wobbly and did not want to fall. Respondent was aware and did not make any new orders.

50. On or about April 1, 2019, it was noted in the medical record that Patient B had shoulder pain and a history of falling without specific injury. Patient B's blood pressure was 133/74. Patient B was now in a wheelchair to avoid falls, noting that he was dizzy when standing and leaning forward or up.

51. On or about April 3, 2019, Patient B was found lying in bed with his eyes closed, breathing with his mouth open, with his respirations at 16. Patient B was not responsive to verbal or physical stimuli, his pupils were even but not responding to light, his pulse was at 47, and his blood pressure was 117/84 with pulse oximetry at 96%. Respondent was called and he advised that Patient B should be sent to the emergency room. Patient B was then transported to the emergency room.

52. On or about April 3, 2019, the reason for transfer noted in the transfer report was, "Unable to arouse & res[ident] pupils reacting slow & sluggish. Recent Hx [history] of falls w/ head involvement. Send out to ER for further eval[uation] and Tx [treatment]." Patient B had suffered a major stroke.

53. On or about April 5, 2019, Patient B remained on life support, post a major stroke, awaiting family decision to withdraw life support.

54. On or about April 7, 2019, Patient B died due to brain death, secondary to subdural hematoma, etiology unknown, associated with hypertension, anemia and thrombocytopenia.

55. On or about April 9, 2019, a Care Plan Close Out Report stated that Patient B had an actual fall on January 2, 2019 (struck head and back), February 11, 2019, February 12, 2019

(scrape to right elbow), February 16, 2019, and March 7, 2019, and had unwitnessed falls reported by Patient B on March 14, 2019 and March 25, 2019. Patient B also had falls on April 21, 2018 and November 24, 2018 (skin tear to left fifth finger).

56. On or about April 9, 2019, a Discharge Summary noted that, "The patient [Patient B] had a steady downhill course." Patient B was discharged to Doctors Medical Center in Modesto.

57. Between September 28, 2016 through March 19, 2019, Respondent prescribed Ambien to Patient B, approximately twenty (20) of the thirty-one (31) times this prescription was written. Each prescription was for 5 mg of Ambien daily for thirty (30) days.

58. Between April 21, 2018 through March 25, 2019, Patient B suffered falls on or about the following dates: April 21, 2018; November 24, 2018; January 2, 2019; February 11, 2019; February 12, 2019; February 16, 2019; March 7, 2019; March 8, 2019; March 13, 2019; March 14, 2019; March 25, 2019; March 28, 2019; March 29, 2019; March 31, 2019; April 9, 2019; March 14, 2019, and March 25, 2019.

59. Ambien is indicated for short-term treatment of insomnia and is a strong risk factor for patient falls. Respondent failed to recognize the potential or actual side effects of the Ambien he prescribed.

Patient C

60. On or about March 18, 2019, Respondent prescribed Phentermine 37.5 mg to Patient C, an employee and/or staff member where Respondent practices medicine.

61. On or about April 19, 2019, Respondent prescribed Phentermine 37.5 mg to Patient C., an employee and/or staff member where Respondent practices medicine.

62. Respondent prescribed the Phentermine to Patient C, as described in Paragraphs 60 and 61, above, without performing an examination of Patient C, completing a medical assessment including taking a history, or devising and monitoring an appropriate treatment plan to monitor the patient's care. Respondent also failed to maintain adequate and complete medical records relating to his care and treatment of Patient C.

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FIRST CAUSE FOR DISCIPLINE

(Gross Negligence)

63. Respondent Michael Lee Brodie, M.D. has subjected his Physician's and Surgeon's Certificate No. A 31978 to disciplinary action under section 2234, subdivision (b) of the Code, in that he committed act(s) and/or omission(s) constituting gross negligence in his care and treatment of Patient A, Patient B, and Patient C. The circumstances giving rise to this cause for discipline are set forth in paragraphs 32 through 62 above, which are incorporated here by reference as if fully set forth herein. Additional circumstances are as follows:

64. The standard of care is to only provide controlled substances to patients based on a physical examination, taking a history, assessing the need for a controlled substance, devising a plan of care, and keeping appropriate medical records.

a. Respondent prescribed medications to Patient A, who was not his patient, without performing an examination, completing a medical assessment including taking a history, devising and monitoring an appropriate treatment plan, and keeping appropriate medical records. Respondent's treatment of Patient A is an extreme departure from the standard of care and constitutes gross negligence.

b. Respondent prescribed Phentermine, a Schedule IV controlled substance, to Patient C, who was not his patient, without taking a history, performing a physical exam, assessing the need for Phentermine, devising a plan of care, and keeping appropriate medical records. Respondent's treatment of Patient C is an extreme departure from the standard of care and constitutes gross negligence.

65. The standard of care for controlled substances (sedatives/hypnotics) is to discontinue use in the face of significant potential side effects.

a. Respondent, as Patient B's Physician, and as the Medical Director of the skilled nursing facility, failed to recognize the potential or actual side effects of daily Ambien (sedative/hypnotic) use. Ambien is indicated for short-term treatment of insomnia. There were several recommendations from the pharmacist to taper and discontinue Ambien. Ambien is a strong independent and potentially modifiable risk factor for inpatient falls. As a result of

Respondent's failure, Patient B suffered numerous and significant injuries from falls. Respondent's treatment of Patient B is an extreme departure from the standard of care and constitutes gross negligence.

SECOND CAUSE FOR DISCIPLINE

(Repeated Acts of Negligence)

66. Respondent Michael Lee Brodie, M.D. has subjected his Physician's and Surgeon's Certificate No. A 31978 to disciplinary action under section 2234, subdivision (c), of the Code, in that he committed repeated acts of negligence in his care and treatment of Patient A, Patient B, and Patient C. The circumstances giving rise to this cause for discipline set forth in paragraphs 32 through 65 above, are incorporated here by reference as if fully set forth herein.

67. Respondent inappropriately prescribed controlled substances to Patient A.

68. Respondent inappropriately prescribed controlled substances to Patient B.

69. Respondent inappropriately prescribed controlled substances to Patient C.

THIRD CAUSE FOR DISCIPLINE

(Prescribing Without Prior Examination)

70. Respondent Michael Lee Brodie, M.D. has subjected his Physician's and Surgeon's Certificate No. A 31978 to disciplinary action under section 2242 of the Code, in that he prescribed dangerous drugs as defined in section 4022 for Patients A and C, without an appropriate prior examination and medical indication. The circumstances giving rise to this cause for discipline set forth in paragraphs 32 through 34 above and paragraphs 60 through 62, above, are incorporated here by reference as if fully set forth herein. Additional circumstances are as follows:

71. The standard of care requires physicians to perform a physical examination and assess the need for a controlled substance.

a. Respondent prescribed controlled substances to Patient A without an appropriate prior examination and medical indication.

b. Respondent prescribed a controlled substance to Patient C without an appropriate prior examination and medical indication.

FOURTH CAUSE FOR DISCIPLINE

(Failure to Maintain Adequate and Accurate Medical Records)

72. Respondent Michael Lee Brodie, M.D. has subjected his Physician's and Surgeon's Certificate No. A 31978 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 set forth in paragraphs 32 through 34 and paragraphs 60 through 62 above, are incorporated here by reference as if fully set forth herein. Additional circumstances are as follows:

73. The standard of care requires a physician to document in a medical record the medical evaluation process of taking a history, performing a physical examination, assessing the need for a controlled substance, and devising a plan of care.

a. Respondent failed to document a medical record of performing a physical examination, taking a history, assessing the need for a controlled substance, and devising a plan of care for Patient A as required.

b. Respondent failed to document a medical record of performing a physical examination, taking a history, assessing the need for a controlled substance, and devising a plan of care for Patient C as required.

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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 No. A 31978, issued to Respondent Michael Lee Brodie, M.D.;

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

3. Ordering Respondent Michael Lee Brodie, 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: JUL 0 7 2022

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

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