

1 ROB BONTA
Attorney General of California
2 GREG W. CHAMBERS
Supervising Deputy Attorney General
3 State Bar No. 237509
4 455 Golden Gate Avenue, Suite 11000
San Francisco, CA 94102-7004
5 Telephone: (415) 510-3382
Facsimile: (415) 703-5480
Attorneys for Complainant

7 **BEFORE THE**
8 **MEDICAL BOARD OF CALIFORNIA**
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. 800-2021-078983

12 **DOUGLAS JOEL ABELES, M.D.**
13 **21030 Redwood Road**
Castro Valley, CA 94546

A C C U S A T I O N

14 **Physician's and Surgeon's Certificate**
15 **No. G 79953,**

Respondent.

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18 **PARTIES**

19 1. Reji Varghese (Complainant) brings this Accusation solely in his official capacity as
20 the Executive Director of the Medical Board of California, Department of Consumer Affairs
21 (Board).

22 2. On or about October 5, 1994, the Medical Board issued Physician's and Surgeon's
23 Certificate Number G 79953 to Douglas Joel Abeles, M.D. (Respondent). The Physician's and
24 Surgeon's Certificate was in full force and effect at all times relevant to the charges brought
25 herein and will expire on July 31, 2024, unless renewed.

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JURISDICTION

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2 3. This Accusation is brought before the Board, under the authority of the following
3 laws. All section references are to the Business and Professions Code (Code) unless otherwise
4 indicated.

5 4. Section 2227 of the Code provides that a licensee who is found guilty under the
6 Medical Practice Act may have his or her license revoked, suspended for a period not to exceed
7 one year, placed on probation and required to pay the costs of probation monitoring, or such other
8 action taken in relation to discipline as the Board deems proper.

9 5. Section 2234 of the Code, states:

10 The board shall take action against any licensee who is charged with
11 unprofessional conduct. In addition to other provisions of this article, unprofessional
12 conduct includes, but is not limited to, the following:

13 (a) Violating or attempting to violate, directly or indirectly, assisting in or
14 abetting the violation of, or conspiring to violate any provision of this chapter.

15 (b) Gross negligence.

16 (c) Repeated negligent acts. To be repeated, there must be two or more
17 negligent acts or omissions. An initial negligent act or omission followed by a
18 separate and distinct departure from the applicable standard of care shall constitute
19 repeated negligent acts.

20 (1) An initial negligent diagnosis followed by an act or omission medically
21 appropriate for that negligent diagnosis of the patient shall constitute a single
22 negligent act.

23 (2) When the standard of care requires a change in the diagnosis, act, or
24 omission that constitutes the negligent act described in paragraph (1), including, but
25 not limited to, a reevaluation of the diagnosis or a change in treatment, and the
26 licensee's conduct departs from the applicable standard of care, each departure
27 constitutes a separate and distinct breach of the standard of care.

28 (d) Incompetence.

1 (e) The commission of any act involving dishonesty or corruption that is
2 substantially related to the qualifications, functions, or duties of a physician and
3 surgeon.

4 (f) Any action or conduct that would have warranted the denial of a certificate.

5 (g) The failure by a certificate holder, in the absence of good cause, to attend
6 and participate in an interview by the board no later than 30 calendar days after being
7 notified by the board. This subdivision shall only apply to a certificate holder who is
8 the subject of an investigation by the board.

9 (h) Any action of the licensee, or another person acting on behalf of the
10 licensee, intended to cause their patient or their patient's authorized representative to
11 rescind consent to release the patient's medical records to the board or the
12 Department of Consumer Affairs, Health Quality Investigation Unit.

13 (i) Dissuading, intimidating, or tampering with a patient, witness, or any person
14 in an attempt to prevent them from reporting or testifying about a licensee.

15 COST RECOVERY

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

22 DEFINITIONS

23 7. Naprosyn, a trade name for naproxen, is a nonsteroidal anti-inflammatory drug
24 (NSAID) with analgesic and antipyretic properties. It is a dangerous drug within the meaning of
25 Code section 4022. Naprosyn is indicated for the treatment of rheumatoid arthritis, osteoarthritis,
26 ankylosing spondylitis, juvenile arthritis, tendonitis, bursitis, acute gout, and for the management
27 of pain and primary dysmenorrhea.
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1 shoulder revealed partial thickness interstitial chronic tearing of the superior portion of rotator
2 cuff with thinning, degenerated appearance; supraspinatus muscle atrophy; AC joint arthropathy
3 with mass effect on the cuff, risk factor for impingement.

4 13. On or about November 13, 2018, Respondent commenced prescribing Patient 1
5 Norco 10/325 mg #90 near monthly until March 12, 2019, when for five months the near monthly
6 dosage decreased to Norco 10/325 mg #60, along with Naprosyn 500 mg #60.

7 14. On or about August 6, 2019, Respondent commenced prescribing Patient 1 Norco
8 10/325 mg #90 on a near monthly basis. On June 22, 2020 and July 13, 2020, Respondent
9 increased the dosage prescribed to Patient 1 to Norco 10/325 mg #120.

10 15. During the course of treatment by Respondent, Patient 1 was never referred to a pain
11 management specialist or other therapeutic modalities, even after an attempted opioid taper
12 appears to have failed.

13 PATIENT 2

14 16. On or about August 29, 2017, Respondent commenced treating Patient 2, a then 66-
15 year-old male, for bilateral knee problems, but specifically for right knee swelling and pain.
16 Patient 2 had a significant medical history.

17 17. An August 31, 2017, MRI of the right knee revealed a complex degenerative tear
18 involving the posterior horn of the medial meniscus, among other issues.

19 18. On or about October 18, 2017, Respondent performed arthroscopy on Patient 2.
20 Respondent subsequently prescribed Percocet 10/325 mg #60 to Patient 2 for postoperative pain
21 with refills continuing monthly through January 15, 2018.

22 19. On or about February 5, 2018, Respondent prescribed Patient 2 oxycodone HCL 15
23 mg #90 monthly, for the next nine months, through November 1, 2018.

24 20. There are no records recommending taper of medications, referral of other
25 multimodal pain relief modalities, or referral to a pain management specialist.

26 **FIRST CAUSE FOR DISCIPLINE**

27 **(Unprofessional Conduct - Gross Negligence - Patient 1)**

28 21. Paragraphs 11 through 15 are incorporated by reference as if fully set forth.

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3. Ordering Respondent Douglas Joel Abeles, 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: APR 30 2024

JENNA JONES for
REJI VARGHESE
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant