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

In the Matter of the First Amended Accusation Against:	)	
Jay Amin, M.D.	)	**Case No. 800-2016-023665**
Physician's and Surgeon's Certificate No. A 40490	)	
Respondent	)	

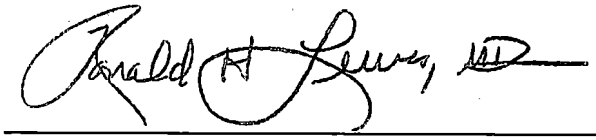
DECISION

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

This Decision shall become effective at 5:00 p.m. on May 6, 2020.

IT IS SO ORDERED: April 6, 2020.

MEDICAL BOARD OF CALIFORNIA



Ronald H. Lewis, M.D., Chair
Panel A

XAVIER BECERRA
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ALEXANDRA M. ALVAREZ
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: **Jay Amin, M.D.** **6027 E. West View Drive** **Orange, CA 92869** **Physician's and Surgeon's Certificate No. A 40490,** Respondent.	Case No. 800-2016-023665 OAH No. 2019090390 **STIPULATED SETTLEMENT AND DISCIPLINARY ORDER**

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

PARTIES

1. This action was brought by Complainant Kimberly Kirchmeyer in her official capacity as the then Executive Director of the Medical Board of California (Board). Kimberly Kirchmeyer became the Director of the Department of Consumer Affairs on October 28, 2019. On that date, Christine J. Lally became the Interim Executive Director of the Board, and the Complainant in this action. She is represented in this matter by Xavier Becerra, Attorney General of the State of California, by Karolyn M. Westfall, Deputy Attorney General.

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2. Respondent Jay Amin, M.D. (Respondent) is represented in this proceeding by Raymond J. McMahon, Esq., of Doyle Schafer McMahon, whose address is 5440 Trabuco Road, Irvine, California 92620.

3. On or about October 24, 1983, the Board issued Physician's and Surgeon's Certificate No. A 40490 to Jay Amin, 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. 800-2016-023665, and will expire on December 31, 2020, unless renewed.

JURISDICTION

4. First Amended Accusation No. 800-2016-023665 was filed before the Board, and is currently pending against Respondent. The First Amended Accusation and all other statutorily required documents were properly served on Respondent on August 12, 2019. Respondent timely filed his Notice of Defense contesting the First Amended Accusation. A true and correct copy of First Amended Accusation No. 800-2016-023665 is attached hereto as Exhibit A and is incorporated by reference as if fully set forth herein.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in First Amended Accusation No. 800-2016-023665. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary 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 First Amended Accusation; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

7. Having the benefit of counsel, Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

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 contained in First Amended Accusation No. 800-2016-023665, and agrees that he has thereby subjected his Physician's and Surgeon's Certificate No. A 40490 to disciplinary action.

9. Respondent further agrees that if he ever petitions for modification or early termination of probation, or if an accusation and/or petition to revoke probation is filed against him before the Medical Board of California, all of the charges and allegations contained in First Amended Accusation No. 800-2016-023665, shall be deemed true, correct, and fully admitted by Respondent for purposes of any such proceeding or any other licensing proceeding involving Respondent in the State of California.

10. Respondent agrees that his Physician's and Surgeon's Certificate No. A 40490 is subject to discipline and he agrees to be bound by the Board's imposition of discipline as set forth in the Disciplinary Order below.

CONTINGENCY

11. This Stipulated Settlement and Disciplinary Order shall be subject to approval of the Board. The parties agree that this Stipulated Settlement and Disciplinary Order shall be submitted to the Board for its consideration in the above-entitled matter and, further, that the Board shall have a reasonable period of time in which to consider and act on this Stipulated Settlement 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 Board considers and acts upon it.

12. The parties agree that this Stipulated Settlement and Disciplinary Order shall be null and void and not binding upon the parties unless approved and adopted by 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 Settlement and Disciplinary Order, 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 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 Board, in its discretion, does not approve and adopt this Stipulated Settlement 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 the Board reject this Stipulated Settlement and Disciplinary Order for any reason, Respondent will assert no claim that the Board, or any member thereof, was prejudiced by its/his/her review, discussion and/or consideration of this Stipulated Settlement and Disciplinary Order or of any matter or matters related hereto.

ADDITIONAL PROVISIONS

13. This Stipulated Settlement and Disciplinary Order is intended by the parties herein to be an integrated writing representing the complete, final and exclusive embodiment of the agreements of the parties in the above-entitled matter.

14. The parties agree that copies of this Stipulated Settlement and Disciplinary Order, including copies of the signatures of the parties, may be used in lieu of original documents and signatures and, further, that such copies and signatures shall have the same force and effect as originals.

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

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. A 40490 issued to Respondent Jay Amin, M.D., is revoked. However, the revocation is stayed and Respondent is placed on probation for four (4) years from the date of the Decision on the following terms and conditions.

1. CONTROLLED SUBSTANCES - MAINTAIN RECORDS AND ACCESS TO RECORDS AND INVENTORIES. Respondent shall maintain a record of all controlled substances ordered, prescribed, dispensed, administered, or possessed by Respondent, and any

recommendation or approval which enables a patient or patient's primary caregiver to possess or cultivate marijuana for the personal medical purposes of the patient within the meaning of Health and Safety Code section 11362.5, during probation, showing all of the following: 1) the name and address of the patient; 2) the date; 3) the character and quantity of controlled substances involved; and 4) the indications and diagnosis for which the controlled substances were furnished.

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

2. EDUCATION COURSE. Within 60 calendar days of the effective date of this Decision, and on an annual basis thereafter, Respondent shall submit to the Board or its designee for its prior approval educational program(s) or course(s) which shall not be less than 40 hours per year, for each year of probation, comprised of twenty (20) hours in the area of Mandated Reporting Requirements and twenty (20) hours in the area of Patient Confidentiality. The educational program(s) or course(s) shall be at Respondent's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure. Following the completion of each course, the Board or its designee may administer an examination to test Respondent's knowledge of the course. Respondent shall provide proof of attendance for 65 hours of CME of which 40 hours were in satisfaction of this condition.

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

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

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

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

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

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

5. PROFESSIONALISM PROGRAM (ETHICS COURSE). Within 60 calendar days of the effective date of this Decision, Respondent shall enroll in a professionalism program, that meets the requirements of Title 16, California Code of Regulations (CCR) section 1358.1.

Respondent shall participate in and successfully complete that program. Respondent shall provide any information and documents that the program may deem pertinent. Respondent shall successfully complete the classroom component of the program not later than six (6) months after Respondent's initial enrollment, and the longitudinal component of the program not later than the time specified by the program, but no later than one (1) year after attending the classroom component. The professionalism program shall be at Respondent's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

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

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

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

The Board or its designee shall provide the approved monitor with copies of the Decision and First Amended Accusation, and a proposed monitoring plan. Within 15 calendar days of receipt of the Decision, First Amended Accusation, and proposed monitoring plan, the monitor shall submit a signed statement that the monitor has read the Decision and First Amended

Accusation, fully understands the role of a monitor, and agrees or disagrees with the proposed monitoring plan. If the monitor disagrees with the proposed monitoring plan, the monitor shall submit a revised monitoring plan with the signed statement for approval by the Board or its designee.

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

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

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

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

In lieu of a monitor, Respondent may participate in a professional enhancement program

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

7. PROHIBITED PRACTICE. During probation, Respondent is prohibited from providing treatment for chronic pain. After the effective date of this Decision, all patients seeking chronic pain management from Respondent shall be notified that Respondent is prohibited from providing treatment for chronic pain. Any new patients seeking chronic pain treatment must be provided this notification at the time of their initial appointment.

Respondent shall maintain a log of all patients to whom the required oral notification was made. The log shall contain the: 1) patient's name, address and phone number; 2) patient's medical record number, if available; 3) the full name of the person making the notification; 4) the date the notification was made; and 5) a description of the notification given. Respondent shall keep this log in a separate file or ledger, in chronological order, shall make the log available for immediate inspection and copying on the premises at all times during business hours by the Board or its designee, and shall retain the log for the entire term of probation.

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

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

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

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

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

Respondent shall submit quarterly declarations not later than 10 calendar days after the end of the preceding quarter.

12. GENERAL PROBATION REQUIREMENTS.

Compliance with Probation Unit

Respondent shall comply with the Board's probation unit.

Address Changes

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

Place of Practice

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

License Renewal

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

Travel or Residence Outside California

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

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

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

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

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

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

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

Periods of non-practice for a Respondent residing outside of California will relieve

Respondent of the responsibility to comply with the probationary terms and conditions with the exception of this condition and the following terms and conditions of probation: Obey All Laws; General Probation Requirements; Quarterly Declarations; Abstain from the Use of Alcohol and/or Controlled Substances; and Biological Fluid Testing..

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

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

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

18. PROBATION MONITORING COSTS. Respondent shall pay the costs associated with probation monitoring each year of probation, as designated by the Board, which may be adjusted on an annual basis. Such costs shall be payable to the Medical Board of California and

delivered to the Board or its designee no later than January 31 of each calendar year.

ACCEPTANCE

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

DATED: 3/2/20

JAY AMIN, M.D.
Respondent

I have read and fully discussed with Respondent, Jay Amin, M.D., the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: 3/2/2020

RAYMOND J. MCMAHON, ESQ.
Attorney for Respondent

ENDORSEMENT

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

DATED: 3/2/20

Respectfully submitted,

XAVIER BECERRA
Attorney General of California
ALEXANDRA M. ALVAREZ
Supervising Deputy Attorney General

KAROLYN M. WESTFALL
Deputy Attorney General
Attorneys for Complainant

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Attorneys for Complainant

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO AUGUST 12 20 19
BY ANALYST

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

In the Matter of the First Amended Accusation Against: **Jay Amin, M.D.** **6027 E. West View Drive** **Orange, CA 92869** **Physician's and Surgeon's Certificate No. A 40490,** Respondent.	Case No. 800-2016-023665 **FIRST AMENDED ACCUSATION**

PARTIES

1. Kimberly Kirchmeyer (Complainant) brings this First Amended Accusation solely in her official capacity as the Executive Director of the Medical Board of California, Department of Consumer Affairs (Board).

2. On or about October 24, 1983, the Board issued Physician's and Surgeon's Certificate No. A40490 to Jay Amin, 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 December 31, 2020, unless renewed.

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JURISDICTION

3. This First Amended Accusation, which supersedes the Accusation filed on May 30, 2019, 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, in pertinent part:

> (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.
>
> ...

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:
>
> ...
>
> (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.
>
> ...

6. Section 2238 of the Code states:

> A violation of any federal statute or federal regulation or any of the statutes or regulations of this state regulating dangerous drugs or controlled substances constitutes unprofessional conduct.

7. Section 2242 of the Code states, in pertinent part:

(a) Prescribing, dispensing, or furnishing dangerous drugs as defined in Section 4022 without an appropriate prior examination and a medical indication, constitutes unprofessional conduct.

...

8. Section 2263 of the Code states: The willful, unauthorized violation of professional confidence constitutes unprofessional conduct.

9. 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.

10. 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.

11. Section 4022 of the Code states in pertinent part:

'Dangerous drug' or 'dangerous device' means any drug or device unsafe for self-use in humans or animals, 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.

...

(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.

...

12. Section 4081 of the Code states, in pertinent part:

(a) All records of manufacture and of sale, acquisition, receipt, shipment, or disposition of dangerous drugs or dangerous devices shall be at all times during business hours open to inspection by authorized officers of the law, and shall be preserved for at least three years from the date of making. A current inventory shall be kept by every ... physician...who maintains a stock of dangerous drugs or dangerous devices.

...

13. Section 4105 of the Code states, in pertinent part:

(a) All records or other documentation of the acquisition and disposition of dangerous drugs and dangerous devices by any entity licensed by the board shall be retained on the licensed premises in a readily retrievable form.

///

(b) The licensee may remove the original records or documentation from the licensed premises on a temporary basis for license-related purposes. However, a duplicate set of those records or other documentation shall be retained on the licensed premises.

(c) The records required by this section shall be retained on the licensed premises for a period of three years from the date of making.

...

14. Section 4170 of the Code states, in pertinent part:

(a) No prescriber shall dispense drugs or dangerous devices to patients in his or her office or place of practice unless all of the following conditions are met:

...

(4) The prescriber fulfills all of the labeling requirements imposed upon pharmacists by Section 4076, all of the recordkeeping requirements of this chapter, and all of the packaging requirements of good pharmaceutical practice, including the use of childproof containers.

...

15. Section 11165.7 of the Penal Code states, in pertinent part,

(a) As used in this article, "mandated reporter" is defined as any of the following:

...

(21) A physician and surgeon...

...

16. Section 11165.9 of the Penal Code states, in pertinent part:

Reports of suspected child abuse or neglect shall be made by mandated reporters, or in the case of reports pursuant to Section 11166.05, may be made, to any police department or sheriff's department, not including a school district police or security department, county probation department, if designated by the county to receive mandated reports, or the county welfare department...

17. Section 11166 of the Penal Code states, in pertinent part,

(a) Except as provided in subdivision (d), and in Section 11166.05, a mandated reporter shall make a report to an agency specified in Section 11165.9 whenever the mandated reporter, in his or her professional capacity or within the scope of his or her employment, has knowledge of or observes a child whom the mandated reporter knows or reasonably suspects has been the victim of child abuse or neglect. The mandated reporter shall make an initial report by telephone to the agency immediately or as soon as is practicably possible, and shall prepare and send, fax, or electronically transmit a written followup report within 36 hours of receiving the information concerning the incident. The mandated reporter may include with the report any

nonprivileged documentary evidence the mandated reporter possesses relating to the incident.

(1) For purposes of this article, "reasonable suspicion" means that it is objectively reasonable for a person to entertain a suspicion, based upon facts that could cause a reasonable person in a like position, drawing, when appropriate, on his or her training and experience, to suspect child abuse or neglect. "Reasonable suspicion" does not require certainty that child abuse or neglect has occurred nor does it require a specific medical indication of child abuse or neglect; any "reasonable suspicion" is sufficient. For purposes of this article, the pregnancy of a minor does not, in and of itself, constitute a basis for a reasonable suspicion of sexual abuse.

...

(c) A mandated reporter who fails to report an incident of known or reasonably suspected child abuse or neglect as required by this section is guilty of a misdemeanor punishable by up to six months confinement in a county jail or by a fine of one thousand dollars ($1,000) or by both that imprisonment and fine. If a mandated reporter intentionally conceals his or her failure to report an incident known by the mandated reporter to be abuse or severe neglect under this section, the failure to report is a continuing offense until an agency specified in Section 11165.9 discovers the offense.

...

FIRST CAUSE FOR DISCIPLINE

(Gross Negligence)

18. Respondent has subjected his Physician's and Surgeon's Certificate No. A40490 to disciplinary action under sections 2227 and 2234, as defined by section 2234, subdivision (b), of the Code, in that he was grossly negligent in his care and treatment of Patients A, B, and C,[1] as more particularly alleged hereinafter:

19. Respondent is Board Certified in Internal Medicine. For approximately twenty-five (25) years, he owned a private practice clinic called, Tustin Place Medical Group. Respondent maintained a locked cabinet at this practice containing medications he dispensed to patients, including controlled substances. In or around January 2019, Respondent sold Tustin Place Medical Group to another practitioner.

20. On or about March 6, 2017, investigators from the Division of Investigations conducted an unannounced inspection at Tustin Place Medical Group. During that inspection, Respondent showed the investigators a cabinet fitted with a combination lock that contained

[1] To protect the privacy of the patients involved, patient names have not been included in this pleading. Respondent is aware of the identity of the patients referred to herein.

various medications including, but not limited to, Atenolol, Carisprodol,[2] Toradol,[3] and Botox.[4] When asked to produce his medication log, Respondent indicated that the log was "missing," and claimed he had not dispensed medications directly to patients "in a while."

PATIENT A

21. Sometime prior to January 14, 2014, Patient A and her husband, Patient D, were experiencing marital issues, and a friend referred them to Respondent for marriage counseling.

22. On or about January 14, 2014, Patients A and D presented to Respondent at Tustin Place Medical Group for treatment.[5] At this first visit, Respondent met with both parties and discussed their marital issues. Respondent obtained Patient A's vital signs and a brief medical history, and diagnosed her with obesity. Patient A's chart note for this clinical encounter does not reference the fact that the couple were seen together for marriage counseling, and contains no review of systems, detailed physical examination, or assessment/plan. Respondent did not prepare any chart notes for Patient D for this clinical encounter.

23. On or about January 21, 2014, Patient A and Patient D returned to see Respondent for marriage counseling. At this second visit, Respondent met with both parties and discussed their marital issues. Patient A's chart note for this visit identifies the reason for the appointment to be "walk-in." The documented treatment rendered was, "If you think you are stressed out, you can take Seroquel[6] at night. Do not discuss sensitive things. They are in the past. It will not help to discuss it now. Work on maximizing happiness at each moment. Most important thing is to take

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[2] Carisprodol (brand name Soma), is a muscle relaxant medication, 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.

[3] Toradol (brand name for Ketorolac), is a nonsteroidal anti-inflammatory drug used for the treatment of pain, and is a dangerous drug pursuant to Business and Professions Code section 4022.

[4] Botox (Botulinum Toxin Type-A) is a purified protein produced by Clostridium botulinum bacterium, used to treat frown lines and wrinkles, and is a dangerous drug pursuant to Business and Professions Code section 4022.

[5] At his subject interview, Respondent referred to this visit as a "curbside consult," but admitted to charging the couple for his services.

[6] Seroquel (brand name for Quetiapine) is an antipsychotic medication used to treat schizophrenia, bipolar, and depression, and is a dangerous drug pursuant to Business and Professions Code section 4022.

care of the child." During this visit, Respondent prescribed Patient A with sixty (60) tabs of Atenolol,[7] but did not document the clinical reason for this medication, the dosage prescribed, or administration instruction. Patient A's chart note for this clinical encounter does not reference the fact that the couple were seen together for marriage counseling, and contains no vital signs, review of systems, physical examination, or assessment/plan. Respondent did not prepare any chart notes for Patient D for this clinical encounter.

24. On or about April 9, 2014, Patient A and Patient D returned to see Respondent for marriage counseling. At this third and final visit, Respondent met with both parties and discussed their marital issues. Patient A's chart note for this visit identifies the reason for the appointment to be "walk-in." Respondent obtained Patient A's vital signs, identified her history of present illness to be "back pain for 2 months," and diagnosed her with obesity. Patient A's chart note for this clinical encounter does not reference the fact that the couple were seen together for marriage counseling, and contains no review of systems, detailed physical examination, or assessment/plan. Respondent did not prepare any chart notes for Patient D for this clinical encounter.

25. Sometime between on or about January 14, 2014, and on or about July 1, 2014, Patient D met with Respondent alone, and informed him that Patient A abused their young child. Respondent did not document this discussion in Patient A's chart, and did not report this alleged abuse to law enforcement or child welfare services at any time.

26. On or about July 14, 2014, in the Superior Court of San Bernardino County, Patient D separated from Patient A and petitioned for physical and legal custody of their child. In support of his Petition, Patient D filed a declaration signed by Respondent under penalty of perjury. In this declaration, Respondent indicated that he examined and treated Patient A, observed severe anger issues, diagnosed her with severe bipolar syndrome, prescribed her "Seracol," and believed she was in need of further treatment. Respondent further declared that Patient A was non-compliant with his recommended treatment and opined that her medical condition created a risk

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[7] Atenolol (brand name Tenormin) is a beta blocker medication used to treat high blood pressure and chest pain, and is a dangerous drug pursuant to Business and Professions Code section 4022.

of injury to the child. Respondent did not obtain consent from Patient A to release her personal medical information prior to signing this declaration.

PATIENT B

27. On or about February 2, 2011,[8] Patient B, a then seventeen (17) year old female, presented to Respondent with complaints of pain and trouble sleeping after experiencing a fall while ice skating. Respondent performed a physical examination and diagnosed the patient with, among other things, lumbar sprain and strain. At the conclusion of the visit, Respondent prescribed Patient B Hydrocodone-APAP[9] for her pain.

28. Between in or around February 2011, and in or around June 2014, Respondent provided pharmacologic treatment for Patient B's persistent back pain, which included but was not limited to, Hydrocodone, Vicodin, Norco, Tramadol,[10] Gabapentin,[11] Percocet, Roxicet,[12] and Oxycontin.[13] In addition, Respondent diagnosed Patient B with major depressive disorder and provided her pharmacologic treatment that included, but was not limited to, Lexapro.[14]

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[8] Conduct occurring more than seven years before the filing of this Accusation is for informational purposes only and is not alleged as a basis for disciplinary action. (Bus. & Prof. Code, § 2230.5.)

[9] Hydrocodone-APAP (brand names Vicodin, Lortab, Norco) is a Schedule III controlled substance pursuant to Health and Safety Code section 11056, subdivision (e), and a dangerous drug pursuant to Business and Professions Code section 4022. It is a combination medication used to treat pain that contains an opioid (hydrocodone) and a non-opioid (acetaminophen).

[10] Tramadol (brand name Ultram) is a Schedule IV controlled substance pursuant to Health and Safety Code section 11057, and a dangerous drug pursuant to Business and Professions Code section 4022. It is an opioid medication used to treat pain.

[11] Gabapentin is a dangerous drug pursuant to Business and Professions Code section 4022. It is an anticonvulsant medication used to treat pain.

[12] Roxicet / Percocet (brand names for oxycodone/acetaminophen) is a Schedule II controlled substance pursuant to Health and Safety Code section 11055, subdivision (b), and a dangerous drug pursuant to Business and Professions Code section 4022. It is a combination medication used to treat pain that contains an opioid (oxycodone) and a non-opioid (acetaminophen).

[13] Oxycontin (brand name for oxycodone) is a Schedule II controlled substance pursuant to Health and Safety Code section 11055, subdivision (b), and a dangerous drug pursuant to Business and Professions Code section 4022.

[14] Lexapro (brand name for escitalopram) is a dangerous drug pursuant to Business and Professions Code section 4022. It is s selective serotonin reuptake inhibitor used to treat depression and generalized anxiety disorder.

29. On or about June 2, 2014, Patient B presented to Respondent approximately two weeks after having back surgery. The patient had been prescribed Dilaudid[15] 4mg and MS Contin 30mg, but complained of continued pain. At the conclusion of the visit, Respondent prescribed the patient Fentanyl,[16] increased her MS Contin[17] dose, and discontinued Dilaudid. The patient's chart does not indicate the amount or strength of the medications Respondent prescribed the patient on that date.

30. On or about June 9, 2014, Patient B presented to Respondent for a follow-up appointment with complaints of back pain, sore throat, and cough. At that visit, Respondent advised the patient to increase her Lazanda[18] nasal spray, and prescribed her 30 tabs of Amrix[19] 15mg, 120 Subsys Sublingual[20] 800mcg, an unknown number of Fentanyl 50 MCG patches, and 60 capsules of Nortriptyline HCl[21] 10mg. Respondent instructed the patient to return in two (2) weeks for a follow-up. Under "current medications," the patient's chart does not reference the MS Contin Respondent prescribed one week earlier, and does not indicate whether he discontinued that medication at this visit.

31. On or about June 13, 2014, Patient B presented to Respondent for a clinical appointment. The patient's chart does not indicate that Respondent discontinued any medications, but under "current medications," the patient's chart lists, "none."

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[15] Dilaudid (brand name for Hydromorphone) is a Schedule II controlled substance pursuant to Health and Safety Code section 11055, subdivision (b), and a dangerous drug pursuant to Business and Professions Code section 4022. It is an opioid medication used to treat pain.

[16] Fentanyl is a Schedule II controlled substance under Health and Safety Code section 11055(c)(8) and a dangerous drug within the meaning of California Business and Professions Code section 4022. It is an opioid medication used to treat pain.

[17] MS Contin (brand name for morphine) is a Schedule II controlled substance pursuant to Health and Safety Code section 11055, subdivision (b), and a dangerous drug pursuant to Business and Professions Code section 4022.

[18] Lazanda is a nasal spray containing fentanyl used for the treatment of pain.

[19] Amrix or Flexeril (brand names for Cyclobenzaprine) is a dangerous drug pursuant to Business and Professions Code section 4022. It is a muscle relaxant used to treat pain and muscle spasms.

[20] Subsys Sublingual is a mouth spray containing fentanyl used for the treatment of pain.

[21] Nortriptyline is a tricylic antidepressant used to treat depression, and a dangerous drug pursuant to Business and Professions Code section 4022.

32. On or about June 18, 2014, Patient B presented to Respondent for a clinical appointment related to her depression. The patient's chart does not indicate that Respondent discontinued any medications, but under "current medications," the patient's chart lists, "none."

33. On or about June 19, 2014, Respondent completed a progress note for treatment he provided Patient B for varicose veins. During a later interview with an investigator from the Division of Investigations that occurred on or about March 4, 2019, Respondent admitted that Patient B did not have varicose veins, and that this specific chart entry was intended for a different patient.

34. On or about July 2, 2014, Patient B presented to Respondent for a follow-up appointment with complaints of back, leg, and nerve pain. At the conclusion of this visit, Respondent prescribed the patient 60 tabs of MS Contin 100mg. The patient's chart does not indicate that Respondent discontinued any medications, but under "current medications," the patient's chart only lists Percocet and Cymbalta.[22]

35. On or about July 9, 2014, Patient B presented to Respondent for a follow-up appointment with complaints of pain. At the conclusion of this visit, Respondent prescribed the patient 120 tabs of Percocet 10/325mg. The patient's chart does not indicate that Respondent discontinued any medications, but under "current medications," the patient's chart only lists Percocet and Cymbalta.

36. On or about July 16, 2014, Patient B presented to Respondent for a follow-up appointment with complaints of her whole body jerking. At the conclusion of this visit, Respondent prescribed the patient 90 tabs of MS Contin 100 MG, 120 tabs of Percocet 10-325mg, and 60 tabs of Clonazepam[23] 1mg.

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[22] Cymbalta (brand name for Duloxetine) is a dangerous drug pursuant to Business and Professions Code section 4022. It is used to treat depression and anxiety.

[23] Clonazepam 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. It is an anti-anxiety medication in the benzodiazepine family.

37. On or about July 29, 2014, Respondent prescribed Patient B 60 tabs of Diazepam[24] 10mg, and 120 tabs of Robaxin[25] 750mg. The patient's chart does not contain a clinical note for a visit that date, any documented reason for these prescribed medications, or a notation that he discontinued any medications.

PATIENT C

38. On or about December 10, 2013, Patient C, a then sixty-six (66) year old female, presented to Respondent for the first time for an initial check-up, and complained of allergy symptoms. Respondent performed a physical exam and diagnosed the patient with hypertension, allergic rhinitis, coronary artherosclerosis of artery bypass graft, asthma, chronic rhinitis, and shortness of breath. Allergy testing was performed at this visit, and although the results were reviewed with the patient, the chart notes do not contain the results of the test. Respondent did not prescribe the patient any medication on that date.

39. On or about December 12, 2013, Patient C presented to Respondent for a follow-up visit. At this visit, Respondent noted that the patient had a morphine pump installed in 2009. The chart note for this visit indicates that the patient's current medications were Lipitor, Amlodipine, Ambien, Albuterol, Fexeril, Citalopram, Oxycodone, and Bystolic. Respondent did not prescribe the patient any medication on that date.

40. On or about February 20, 2014, Patient C presented to Respondent for a follow-up and for a refill of medications. At the conclusion of this visit, Respondent prescribed the patient various medications, including but not limited to, an unknown number of Oxycodone HCl 10mg. The chart notes for this visit do not indicate a clinical indication for this medication.

41. On or about March 24, 2014, Patient C presented to Respondent for a follow-up on medications. At this visit, Patient C complained of back pain, and informed Respondent that when she went to have her morphine pump checked at the pain clinic, she was provided

[24] Diazepam (brand name Valium) 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. It is an anti-anxiety medication in the benzodiazepine family.

[25] Robaxin (brand name for Methocarbamol) is a central nervous system (CNS) depressant and muscle relaxant used to treat muscle spasms, tension, and pain. It is a dangerous drug pursuant to Business and Professions Code section 4022

additional medication that she believed caused her to have an allergic reaction. Respondent did not perform and/or document the results of a physical examination of the patient's back, but he diagnosed her with spinal stenosis of the lumbar region, lumbar radiculopathy, bursitis of the left hip, and lower back pain. X-rays of the patient's left hip and lower back were taken in the office, the results of which were not included in the patient's chart. The patient's chart for this visit indicates that an x-ray arthogram[26] of the left hip was taken. During a later interview with an investigator from the Division of Investigations that occurred on or about March 4, 2019, Respondent admitted that the chart was probably "misquoting" the procedure, as only a normal x-ray was performed on that date. At the conclusion of the visit, Respondent prescribed the patient Zofran[27] and Flector.[28] Under "current medications," approximately fifteen (15) other medications were listed in the patient's chart on that date.

42. On or about April 8, 2014, Patient C presented to Respondent with complaints of increasing blood pressure and requested a change in medication. The patient's chart does not indicate that Respondent discontinued any medications, but under "current medications," the patient's chart lists, "none."

43. On or about April 29, 2014, Patient C presented to Respondent for a follow-up. At the conclusion of the visit, Respondent prescribed various medications to Patient C, including but not limited to, 120 tabs of Oxycodone HCl 10mg. The chart notes for this visit do not indicate a clinical indication for this medication. The patient's chart also does not indicate that Respondent discontinued any medications, but under "current medications," the patient's chart lists only Spironolactone and Citalopram.

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[26] An arthrogram is a series of images of a joint after injection of a contrast medium, usually done by fluoroscopy or MRI.

[27] Zofran (brand name for Ondansetron) is a dangerous drug pursuant to Business and Professions Code section 4022. It is used to treat nausea and vomiting.

[28] Flector (name brand for diclofenac) is a nonsteroiodal anti-inflammatory drug used to treat pain.

44. Respondent committed gross negligence in his care and treatment of Patients A, B, and C, which included, but was not limited to, the following:

A. Failing to obtain written consent from Patient A authorizing the release of her personal sensitive health information;

B. Failing to obtain and document a review of systems, physical examination, and assessment/plan at each clinical visit with Patient A;

C. Prescribing medication to Patient A without documenting clinical indication, dosage, or administration instruction;

D. Inappropriately prescribing concomitant high dose opiates, benzodiazepines, and a CNS muscle relaxant to Patient B in or around July 2014; and

E. Failing to appropriately document care provided to Patient C, including clinical diagnoses, medications prescribed, procedures performed, and imaging results.

SECOND CAUSE FOR DISCIPLINE

(Repeated Negligent Acts)

45. Respondent has further subjected his Physician's and Surgeon's Certificate No. A40490 to disciplinary action under sections 2227 and 2234, as defined by section 2234, subdivision (c), of the Code, in that he committed repeated negligent acts in his care and treatment of Patients A, B, and C, as more particularly alleged in paragraphs 18 through 44, above, which are hereby incorporated by reference and realleged as if fully set forth herein.

THIRD CAUSE FOR DISCIPLINE

(Unauthorized Violation of Professional Confidence)

46. Respondent has further subjected his Physician's and Surgeon's Certificate No. A40490 to disciplinary action under sections 2227 and 2234, as defined by section 2263, of the Code, in that Respondent engaged in the willful, unauthorized violation of professional confidence of Patient A, as more particularly alleged in paragraphs 18 through 44, above, which are hereby incorporated by reference and realleged as if fully set forth herein.

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FOURTH CAUSE FOR DISCIPLINE

(Failure to Maintain Adequate and Accurate Records)

47. Respondent has further subjected his Physician's and Surgeon's Certificate No. A40490 to disciplinary action under sections 2227 and 2234, as defined by section 2266, of the Code, in that Respondent failed to maintain adequate and accurate records regarding his care and treatment of Patients A, B, and C, as more particularly alleged in paragraphs 18 through 44, above, which are hereby incorporated by reference and realleged as if fully set forth herein.

FIFTH CAUSE FOR DISCIPLINE

(Prescribing, Dispensing, or Furnishing Dangerous Drugs without Appropriate Prior Examination and Medical Indication)

48. Respondent has further subjected his Physician's and Surgeon's Certificate No. A40490 to disciplinary action under sections 2227 and 2242, subdivision (a), of the Code, in that he prescribed, dispensed, or furnished dangerous drugs without an appropriate prior examination and medical indication as more particularly alleged in paragraphs 18 through 44 above, which are incorporated by reference and realleged, as if fully set forth herein.

SIXTH CAUSE FOR DISCIPLINE

(Violation of any Federal Statute or Federal Regulation or any State Statute or Regulation Regulating Dangerous Drugs or Controlled Substances)

49. Respondent has further subjected his Physician's and Surgeon's Certificate No. A40490 to disciplinary action under sections 2227 and 2238, as defined by sections 4081, 4105, and 4170, of the Code, in that he has violated Federal or State statutes or regulations regulating dangerous drugs or controlled substances, as more particularly alleged in paragraphs 18 through 44 above, which are incorporated by reference and realleged, as if fully set forth herein.

SEVENTH CAUSE FOR DISCIPLINE

(Failure to Comply with Mandated Reporting Requirements)

50. Respondent has further subjected his Physician's and Surgeon's Certificate No. A40490 to disciplinary action under sections 2227 and 2234, of the Code, as defined by sections 11165.7, 11165.9, and 11166 of the Penal Code, in that he failed to comply with mandated

reporting requirements, as more particularly alleged in paragraphs 18 through 44 above, which are incorporated by reference and realleged, as if fully set forth herein.

PRAYER

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

1. Revoking or suspending Physician's and Surgeon's Certificate No. A 40490, issued to Respondent, Jay Amin, M.D.;

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

3. Ordering Respondent, Jay Amin, M.D., 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: August 12, 2019

KIMBERLY KIRCHMEYER
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant

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