

**In the Matter of the
First Amended Accusation
Against:**

Case No. 800-2014-010471

Respondent

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.

IT IS SO ORDERED: April 6, 2020.

Ronald H Lewis, MD

DCU32 (Rev 01-2019)

1 XAVIER BECERRA
Attorney General of California
2 ROBERT MCKIM BELL
Supervising Deputy Attorney General
3 TRINA L. SAUNDERS
Deputy Attorney General
4 State Bar No. 207764
California Department of Justice
5 300 So. Spring Street, Suite 1702
Los Angeles, CA 90013
6 Telephone: (213) 269-6516
Facsimile: (213) 897-9395
7 *Attorneys for Complainant*

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

12 In the Matter of the First Amended Accusation
13 Against:

14 DAVID RICHARD JENSEN, M.D.
619 W Avenue Q
15 Suite B
Palmdale, CA 93551

16 Physician's and Surgeon's Certificate No.
17 G44704

18 Respondent.
19

Case No. 800-2014-010471

OAH No. 2019030086

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

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

22 **PARTIES**

23 1. Christine J. Lally (Complainant) is the Interim Executive Director of the Medical
24 Board of California (Board). She brought this action solely in her official capacity and is
25 represented in this matter by Xavier Becerra, Attorney General of the State of California, by Trina
26 L. Saunders, Deputy Attorney General.
27
28

2. Respondent David Richard Jensen, M.D. (Respondent) is represented in this proceeding by attorney Courtney E. Pilchman, whose address is 2030 Main St., Suite 1300 Irvine, CA 92614.

3. On or about June 8, 1981, the Board issued Physician's and Surgeon's Certificate No. G44704 to David Richard Jensen, 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. 800-2014-010471, and will expire on June 30, 2021, unless renewed.

JURISDICTION

First Amended Accusation No. 800-2014-010471 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 January 18, 2019. Respondent timely filed his Notice of Defense contesting the First Amended Accusation.

4. A copy of First Amended Accusation No. 800-2014-010471 is attached as exhibit A and incorporated herein 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. 800-2014-010471. 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. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

1 **CULPABILITY**

2 8. Respondent understands and agrees that the charges and allegations in First Amended
3 Accusation No. 800-2014-010471, if proven at a hearing, constitute cause for imposing
4 discipline upon his Physician's and Surgeon's Certificate.

5 9. For the purpose of resolving the First Amended Accusation without the expense and
6 uncertainty of further proceedings, Respondent agrees that, at a hearing, Complainant could
7 establish a factual basis for the charges in the First Amended Accusation, and that Respondent
8 hereby gives up his right to contest those charges.

9 10. Respondent agrees that if he ever petitions for early termination or modification of
10 probation, or if the Board ever petitions for revocation of probation, all of the charges and
11 allegations contained in First Amended Accusation No. 800-2014-010471 shall be deemed true,
12 correct and fully admitted by respondent for purposes of that proceeding or any other licensing
13 proceeding involving respondent in the State of California.

14 11. Respondent agrees that his Physician's and Surgeon's Certificate is subject to
15 discipline and he agrees to be bound by the Board's probationary terms as set forth in the
16 Disciplinary Order below.

17 **CONTINGENCY**

18 12. This stipulation shall be subject to approval by the Medical Board of California.
19 Respondent understands and agrees that counsel for Complainant and the staff of the Medical
20 Board of California may communicate directly with the Board regarding this stipulation and
21 settlement, without notice to or participation by Respondent or his counsel. By signing the
22 stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek
23 to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails
24 to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary
25 Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal
26 action between the parties, and the Board shall not be disqualified from further action by having
27 considered this matter.
28

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

14. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Disciplinary Order:

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. G44704 issued to Respondent David Richard Jensen, M.D. is revoked. However, the revocation is stayed and Respondent is placed on probation for five (5) years 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. The educational program(s) or course(s) shall be aimed at correcting any areas of deficient practice or knowledge and shall be Category I certified. The educational program(s) or course(s) shall be at Respondent's expense and shall be in addition to

1 the Continuing Medical Education (CME) requirements for renewal of licensure. Following the
2 completion of each course, the Board or its designee may administer an examination to test
3 Respondent's knowledge of the course. Respondent shall provide proof of attendance for 65
4 hours of CME of which 40 hours were in satisfaction of this condition, during each year of
5 probation.

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

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

21 Respondent shall submit a certification of successful completion to the Board or its
22 designee not later than 15 calendar days after successfully completing the course, or not later than
23 15 calendar days after the effective date of the Decision, whichever is later.

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

1 not later than six (6) months after Respondent's initial enrollment. Respondent shall successfully
2 complete any other component of the course within one (1) year of enrollment. The medical
3 record keeping course shall be at Respondent's expense and shall be in addition to the Continuing
4 Medical Education (CME) requirements for renewal of licensure, and in addition to the Education
5 Course described in Probation Condition 2 herein.

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

11 Respondent shall submit a certification of successful completion to the Board or its
12 designee not later than 15 calendar days after successfully completing the course, or not later than
13 15 calendar days after the effective date of the Decision, whichever is later.

14 5. PROFESSIONALISM PROGRAM (ETHICS COURSE). Within 60 calendar days of
15 the effective date of this Decision, Respondent shall enroll in a professionalism program, that
16 meets the requirements of Title 16, California Code of Regulations (CCR) section 1358.1.
17 Respondent shall participate in and successfully complete that program. Respondent shall
18 provide any information and documents that the program may deem pertinent. Respondent shall
19 successfully complete the classroom component of the program not later than six (6) months after
20 Respondent's initial enrollment, and the longitudinal component of the program not later than the
21 time specified by the program, but no later than one (1) year after attending the classroom
22 component. The professionalism program shall be at Respondent's expense and shall be in
23 addition to the Continuing Medical Education (CME) requirements for renewal of licensure, and
24 in addition to the Education Course described in Probation Condition 2 herein.

25 A professionalism program taken after the acts that gave rise to the charges in the First
26 Amended Accusation, but prior to the effective date of the Decision may, in the sole discretion of
27 the Board or its designee, be accepted towards the fulfillment of this condition if the program
28 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(s), 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(s) and First Amended Accusation(s), and a proposed monitoring plan. Within 15 calendar days of receipt of the Decision(s), First Amended Accusation(s), and proposed monitoring plan, the monitor shall submit a signed statement that the monitor has read the Decision(s) and First Amended Accusation(s), 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

1 shall cease the practice of medicine until a monitor is approved to provide monitoring
2 responsibility.

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

9 If the monitor resigns or is no longer available, Respondent shall, within 5 calendar days of
10 such resignation or unavailability, submit to the Board or its designee, for prior approval, the
11 name and qualifications of a replacement monitor who will be assuming that responsibility within
12 15 calendar days. If Respondent fails to obtain approval of a replacement monitor within 60
13 calendar days of the resignation or unavailability of the monitor, Respondent shall receive a
14 notification from the Board or its designee to cease the practice of medicine within three (3)
15 calendar days after being so notified. Respondent shall cease the practice of medicine until a
16 replacement monitor is approved and assumes monitoring responsibility.

17 In lieu of a monitor, Respondent may participate in a professional enhancement program
18 approved in advance by the Board or its designee that includes, at minimum, quarterly chart
19 review, semi-annual practice assessment, and semi-annual review of professional growth and
20 education. Respondent shall participate in the professional enhancement program at Respondent's
21 expense during the term of probation.

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

1 15 calendar days.

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

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

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

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

11 10. GENERAL PROBATION REQUIREMENTS.

12 Compliance with Probation Unit

13 Respondent shall comply with the Board's probation unit.

14 Address Changes

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

20 Place of Practice

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

24 License Renewal

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

27 Travel or Residence Outside California

28 Respondent shall immediately inform the Board or its designee, in writing, of travel to any

1 areas outside the jurisdiction of California which lasts, or is contemplated to last, more than thirty
2 (30) calendar days.

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

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

9 12. NON-PRACTICE WHILE ON PROBATION. Respondent shall notify the Board or
10 its designee in writing within 15 calendar days of any periods of non-practice lasting more than
11 30 calendar days and within 15 calendar days of Respondent's return to practice. Non-practice is
12 defined as any period of time Respondent is not practicing medicine as defined in Business and
13 Professions Code sections 2051 and 2052 for at least 40 hours in a calendar month in direct
14 patient care, clinical activity or teaching, or other activity as approved by the Board. If
15 Respondent resides in California and is considered to be in non-practice, Respondent shall
16 comply with all terms and conditions of probation. All time spent in an intensive training
17 program which has been approved by the Board or its designee shall not be considered non-
18 practice and does not relieve Respondent from complying with all the terms and conditions of
19 probation. Practicing medicine in another state of the United States or Federal jurisdiction while
20 on probation with the medical licensing authority of that state or jurisdiction shall not be
21 considered non-practice. A Board-ordered suspension of practice shall not be considered as a
22 period of non-practice.

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

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

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

2 Periods of non-practice for a Respondent residing outside of California will relieve
3 Respondent of the responsibility to comply with the probationary terms and conditions with the
4 exception of this condition and the following terms and conditions of probation: Obey All Laws;
5 General Probation Requirements; Quarterly Declarations; Abstain from the Use of Alcohol and/or
6 Controlled Substances; and Biological Fluid Testing..

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

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

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

28 16. PROBATION MONITORING COSTS. Respondent shall pay the costs associated

1 with probation monitoring each and every year of probation, as designated by the Board, which
2 may be adjusted on an annual basis. Such costs shall be payable to the Medical Board of
3 California and delivered to the Board or its designee no later than January 31 of each calendar
4 year.

7 **ACCEPTANCE**

8 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
9 discussed it with my attorney, Courtney E. Pilchman. I understand the stipulation and the effect it
10 will have on my Physician's and Surgeon's Certificate. I enter into this Stipulated Settlement and
11 Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the
12 Decision and Order of the Medical Board of California.

14 DATED: 11/22/19

David R. Jensen M.D.
DAVID RICHARD JENSEN, M.D.
Respondent

17 I have read and fully discussed with Respondent David Richard Jensen, M.D. the terms and
18 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.
19 I approve its form and content.

20 DATED: 11/22/19

Courtney E. Pilchman
COURTNEY E. PILCHMAN
Attorney for Respondent

23 ///

24 ///

25 ///

26 ///

27 ///

28 ///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

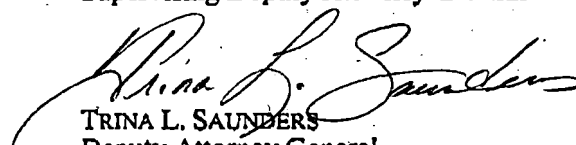
ENDORSEMENT

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

DATED: 11/22/19

Respectfully submitted,

XAVIER BECERRA
Attorney General of California
ROBERT MCKIM BELL
Supervising Deputy Attorney General


TRINA L. SAUNDERS
Deputy Attorney General
Attorneys for Complainant

LA2018600433
53908229.docx

1 XAVIER BECERRA
2 Attorney General of California
3 E. A. JONES III
4 Supervising Deputy Attorney General
5 CINDY M. LOPEZ
6 Deputy Attorney General
7 State Bar No. 119988
8 California Department of Justice
9 300 So. Spring Street, Suite 1702
10 Los Angeles, CA 90013
11 Telephone: (213) 269-6494
12 Facsimile: (213) 897-9395
13 *Attorneys for Complainant*

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO Jan 18 20 19
BY [Signature] ANALYST

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

In the Matter of the First Amended Accusation
Against:

Case No. 800-2014-010471

David Richard Jensen, M.D.
619 W Avenue Q
Suite B
Palmdale, CA 93551

FIRST AMENDED ACCUSATION

Physician's and Surgeon's Certificate
No. G44704,

Respondent.

Complainant alleges:

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 June 8, 1981, the Medical Board issued Physician's and Surgeon's Certificate Number G44704 to David Richard Jensen, 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 June 30, 2019, unless renewed.

JURISDICTION

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

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

5. Section 2234 of the Code, states:

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

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

"(b) Gross negligence.

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

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

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

"(d) Incompetence.

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

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

“(g) The practice of medicine from this state into another state or country without meeting the legal requirements of that state or country for the practice of medicine. Section 2314 shall not apply to this subdivision. This subdivision shall become operative upon the implementation of the proposed registration program described in Section 2052.5.

“(h) The repeated failure by a certificate holder, in the absence of good cause, to attend and participate in an interview by the board. This subdivision shall only apply to a certificate holder who is the subject of an investigation by the board.”

FIRST CAUSE FOR DISCIPLINE

(Gross Negligence)

6. Respondent David Richard Jensen, M.D. is subject to disciplinary action under Business and Professions Code section 2234, subdivision (b), in that he was grossly negligent in his care and treatment of four patients. The circumstances are as follows:

Factual Allegations Regarding Patients #1-3

A. Patient 1 saw Respondent from May 2012 to May 2015. The CURES report showed 68 prescriptions for Norco, Xanax, Tramadol, and Codeine syrup. This amounts to approximately 120 pills every 21 days, or 6.9 pills a day.

B. The records show she was seeing Respondent for anxiety, insomnia, and chronic back pain. There does not appear to have been any efforts to use other methods to control the pain or a referral to a pain management specialist.

C. Patient 2 was a regular patient of Respondent. Her daughter complained that patient 2 abused Xanax and Vicodin. Patient 2 would finish a 30-day supply of pills within two weeks. Although the patient's husband called Respondent, he continued to prescribe.

D. She was treated for a variety of conditions including migraines, insomnia, menopausal syndrome, chronic low back pain.

E. The CURES reports showed prescriptions from May 2012 thru May 2015. There were 106 prescriptions for Xanax, Vicodin, Phentermine, Zolpidem, Valium and Restoril. This

1 amounts to a continuous pattern of opiates and benzodiazepines at a rate of 120 pills a month, or 4
2 pills a day. She was not referred to a pain management specialist or mental health specialist.

3 F. Patient 3 had severe fibromyalgia which affected her brain. She had a variety of other
4 ailments including attention deficit disorder (ADD) and post traumatic stress disorder (PTSD) and
5 was afraid to leave her home. She was also treated for migraines, bipolar disorder, and chronic
6 low back pain. She took Depakote and Xanax for anxiety and Norco and Percocet for pain. She
7 was "allergic" to electricity and gets "electrocuted" when she used a phone.

8 G. The CURES report revealed 162 prescriptions from May 2012 to May 2015. She was
9 prescribed Xanax, Restoril, Vicodin, Clonazepam, Percocet, and other drugs. This pattern
10 amounted to approximately 7.3 pills a day. There was no referral to a pain management specialist
11 or mental health specialist.

12 Allegations of Gross Negligence

13 H. There was no documentation of an effort to wean the patients off opiates.

14 I. There was no evidence of using other methods to treat their pain.

15 J. There was no documentation of a referral to pain management or mental health
16 specialists.

17 Factual Allegations regarding Patient 4

18 K. Patient 4 saw Respondent when she was diagnosed with breast cancer. The patient's
19 daughter complained that her mother was overprescribed painkillers, which caused her to become
20 addicted and contributed to her diagnosis of cirrhosis. The family asked Respondent's office to
21 stop prescribing, but he refused.

22 L. Patient 4 had jaundice and a swollen abdomen which were symptoms of cirrhosis but
23 Respondent never referred her to a liver specialist.

24 M. A review of the CURES report revealed a pattern of prescribing opiates and
25 benzodiazepines. There were 64 prescriptions over a 3-year period of Vicodin, Oxycodone,
26 Xanax, and Clonazepam. It approximated 4.5 opiate pills a day.

27 Allegations of Gross Negligence:

28 N. Respondent prescribed a dangerous number of opiate pills to this patient.

- 1 O. The co-administration of benzodiazepines in some months was unsafe.
2 P. There was no referral to a pain management specialist.
3 Q. Respondent did not use alternative methods to treat pain.

4 **SECOND CAUSE FOR DISCIPLINE**

5 **(Repeated Negligent Acts)**

6 7. Respondent is subject to disciplinary action under code section 2234, subdivision (c),
7 in that he was negligent in his care and treatment of six patients. The circumstances are as
8 follows:

- 9 A. The facts and circumstances as alleged in paragraph 6, A-M, are incorporated here as
10 if fully set forth herein.

11 **Factual Allegations Regarding Patient 5:**

- 12 B. The Medical Board received a complaint from the patient's family detailing that they
13 asked Respondent on numerous occasions to stop prescribing to Patient 5 because she
14 was an addict. Respondent continued to prescribe to the patient after her husband
15 suddenly passed away. On January 6, 2017, Respondent contacted Patient 5 and tried
16 to convince her into not releasing her medical records as he was in fear it would harm
17 him.
- 18 C. The records show that Patient 5 saw Respondent from January 2012 through the end
19 of 2016, however his records were illegible so Respondent transcribed them. He
20 transcribed visits from January 2015 to 2016, and for some reason, he did not
21 transcribe visits on October 12, 2015, November 9, 2015, December 7, 2015, and
22 January 7, 2016.
- 23 D. On January 8, 2015, Patient 5 was seen for chronic lower back pain and anxiety. She
24 was prescribed Norco, Soma, Ativan and Tramadol. CURES showed that this
25 regimen of medications basically remained the same through 2017.
- 26 E. There are several comments in Respondent's transcribed notes that do not appear in
27 the original handwritten notes. On March 3, 2016, Respondent notes that when the
28 pharmacy called to request the prescription for Lorazepam, he denied the refill. In his

1 transcribed notes he writes that he denied refill requests for Tramadol on April 19,
2 2016, Ativan on May 5, 2016, Soma on May 24, 2016, and Tramadol on May 26,
3 2016, but these comments do not appear in his handwritten notes.

4 F. This patient was on the same medication regimen from at least 2012, but there was
5 nothing in the record to indicate if they were working.

6 Allegations of Negligence:

7 G. Respondent failed to do urine toxicology screens.

8 H. Respondent failed to document the family's concerns about his prescribing.

9 I. Respondent failed to attempt to minimize dosage.

10 J. Respondent failed to meaningfully address the patient's anxiety diagnosis.

11 K. Respondent failed to refer Patient 5 for physical therapy and pain medicine in a
12 timely manner.

13 Factual Allegations Regarding Patient 6:

14 L. Patient 6 died from a "morphine effect" and the death was listed as an accident.

15 M. Respondent had been treating the patient for years for liver cancer, Diabetes and
16 obesity. The patient was being prescribed Morphine, Hydrocodone, Lisinopril,
17 Furosemide and Terazosine.

18 N. There were about 37 visits to Respondent from January 7, 2011, to October 30, 2013.
19 Initially, Respondent noted the patient had "metastatic carcinoma of liver."
20 Subsequently he was diagnosed with hypertension, Hepatitis C, and metastatic tumor
21 in the liver. He was treated with Percocet, which is used to treat severe to moderate
22 pain.

23 O. The tumor was felt to be the source of the chronic pain.

24 P. The CURES report for this patient starts in January 2010 and ends in October 2013.

25 While a few other physicians prescribed to Patient 6 at that time, most of the
26 prescriptions are from Respondent. For approximately the first 9 months, the patient
27 received Norco (used to treat pain but has a high risk for abuse and dependence) of
28

1 180 pills per month, which is equivalent to 60 mg morphine daily, a dose concerning
2 for higher mortality.¹

3 Q. In August 2011, Patient 6 was prescribed MS Contin (contains Morphine) in addition
4 to the Percocet. In March 2012, the MS Contin was increased to 60 mg. In
5 September 2012, his pain regimen was Morphine Sulfate 60 mg and Morphine
6 Sulfate 30 mg per day. Morphine is an opiate used to treat pain and is addictive and
7 prone to abuse.

8 R. On October 14, 2010, Respondent switched to Endocet (relieves moderate to severe
9 pain) which was 90 mg morphine equivalents daily.

10 S. On August 29, 2011, he began to receive Morphine sulfate 30 mg on a monthly basis,
11 in addition to the Endocet. At this rate, he was taking 165 Morphine milligram
12 equivalents per day.

13 T. On June 28, 2012, he began receiving Morphine sulfate 60 mg #60 monthly, together
14 with Vicodin. At this rate he was taking 180 Morphine milligrams equivalents a day.

15 U. On October 19, 2012, he began receiving an additional dose of Morphine sulfate 30
16 mg monthly, increasing his Morphine milligrams equivalents to 210 per day.

17 V. On July 29, 2013, the patient was receiving Morphine sulfate 60 mg 90 monthly, in
18 addition to the 180 pills of Vicodin. This increased his Morphine equivalents to 240
19 milligrams per day.

20 Allegations of Negligence:

21 W. Patient 6 was on a crescendo course of opiate administration from Respondent over
22 time. The patient's morphine equivalent dosing quadrupled over four years' time.

23 X. Respondent failed to do urine toxicology screens.

24 Y. Respondent failed to document a social history.

25
26 ¹ The Centers for Disease Control and Prevention (CDC) use this Morphine milligram equivalent
27 (MME) equation. Patients prescribed higher opioid dosages are at higher risk of overdose
28 death. Calculating the total daily dose of opioids helps identify patients who may benefit from
closer monitoring, reduction or tapering of opioids, or other measures to reduce risk of overdose.

1 Z. Respondent failed to score the patient's pain and assess his prognosis.

2 **PRAYER**

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

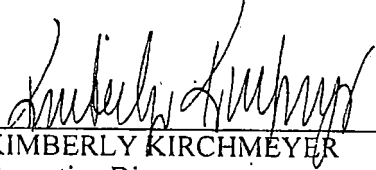
5 1. Revoking or suspending Physician's and Surgeon's Certificate Number G44704,
6 issued to David Richard Jensen, M.D.;

7 2. Revoking, suspending or denying approval of David Richard Jensen, M.D.'s authority
8 to supervise physician assistants and advanced practice nurses;

9 3. Ordering David Richard Jensen, M.D., if placed on probation, to pay the Board the
10 costs of probation monitoring; and

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

12
13 DATED: January 18, 2019


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

14
15
16
17
18 LA2018600433
53214803.docx