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

In the Matter of the Seconded Amended Accusation Against David H. Betat Physician's and Surgeons License No. G 57755 Respondent.	Case No. 800-2017-030578

DECISION

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

This Decision shall become effective at 5:00 p.m. on January 8, 2021.

IT IS SO ORDERED: December 10, 2020.

MEDICAL BOARD OF CALIFORNIA

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

XAVIER BECERRA
Attorney General of California
JANE ZACK SIMON
Supervising Deputy Attorney General
LAWRENCE MERCER
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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 Second Amended Accusation Against: **David H. Betat, M.D.** 2255 Cedar Hill Way Lakeport, CA 95453 Physician's and Surgeon's Certificate No. G 57755, Respondent.	Case No. 800-2017-030578 OAH No. 2020060783 **STIPULATED SETTLEMENT AND DISCIPLINARY ORDER**

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

PARTIES

1. William Prasifka (Complainant) is the Executive Director of the Medical Board of California (Board). He brought this action solely in his official capacity and is represented in this matter by Xavier Becerra, Attorney General of the State of California, by Lawrence Mercer, Deputy Attorney General.

2. Respondent David H. Betat, M.D. (Respondent) is represented in this proceeding by attorney Ronald Kaldor, whose address is 455 Capitol Mall, Suite 330B, Sacramento, CA 95814

3. On or about July 14, 1986, the Medical Board issued Physician's and Surgeon's Certificate Number G 57755 to David H. Betat, 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 April 30, 2022, unless renewed.

JURISDICTION

4. Accusation No. 800-2017-030578 was filed before the Board, said pleading was twice amended and the Second Amended Accusation (hereinafter referred to as "Accusation") is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on August 21, 2018. Respondent timely filed his Notice of Defense contesting the Accusation.

5. A copy of Second Amended Accusation No. 800-2017-030578 is attached as exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

6. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 800-2017-030578. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

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

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

CULPABILITY

9. Respondent understands and agrees that the charges and allegations in Accusation No. 800-2017-030578, if proven at a hearing, constitute cause for imposing discipline upon his Physician's and Surgeon's Certificate.

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

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

RESERVATION

12. The admissions made by Respondent herein are only for the purposes of this proceeding, or any other proceedings in which the Medical Board of California or other professional licensing agency is involved, and shall not be admissible in any other criminal or civil proceeding.

CONTINGENCY

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

14. 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.

15. Respondent agrees that if he ever petitions for early termination or modification of probation, or if an accusation and/or petition to revoke probation is filed against him before the Board, all of the charges and allegations contained in Accusation No. 800-2017-030578 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.

16. 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. G57755 issued to Respondent DAVID H. BETAT, M.D. is revoked. However, the revocation is stayed and Respondent is placed on probation for three (3) years on the following terms and conditions.

1. MONITORING - PRACTICE. Within 30 calendar days of the effective date of this Decision, Respondent shall enroll in a monitoring program through 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.

If Respondent fails to enroll in and maintain a monitoring agreement with the professional enhancement program throughout the term of probation, 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.

2. 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.

3. 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 no later than 15 calendar days after successfully completing the course, or no later than 15 calendar days after the effective date of the Decision, whichever is later.

4. 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.

5. 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.

6. SUPERVISION OF PHYSICIAN ASSISTANTS AND ADVANCED PRACTICE NURSES. During probation, Respondent is permitted to supervise physician assistants while engaged in the practice of medicine at Lake County Tribal Health. Respondent is prohibited from supervising physician assistants and advanced practice nurses at any other location.

7. 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.

8. 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.

9. 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.

10. 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.

11. 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..

12. 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.

13. 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.

14. 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.

15. PROBATION MONITORING COSTS. Respondent shall pay the costs associated with probation monitoring each and every 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. 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: 09/20/2020

DAVID H. BETAT, M.D.
Respondent

I have read and fully discussed with Respondent David H. Betat, 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: 9/23/20

RONALD KALDOR
Attorney for Respondent

ENDORSEMENT

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

Dated: 2/24/2020

Respectfully Submitted,

XAVIER BECERRA
Attorney General of California
JANE ZACK SIMON
Supervising Deputy Attorney General

LAWRENCE MERCER
Deputy Attorney General
Attorneys for Complainant

Exhibit A

Second Amended Accusation No. 800-2017-030578

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FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO NOV. 12 2019
BY A. ESPERANZA ANALYST

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

In the Matter of the Second Amended Accusation Against: **David H. Betat, M.D.** 2255 Cedar Hill Way Lakeport, CA 95453 Physician's and Surgeon's Certificate No. G 57755, Respondent.	Case No. 800-2017-030578 **SECOND AMENDED ACCUSATION**

Complainant alleges:

PARTIES

1. Christine J. Lally (Complainant) brings this Second Amended Accusation solely in her official capacity as the Deputy Director of the Medical Board of California.

2. On or about July 14, 1986, the Medical Board issued Physician's and Surgeon's Certificate Number G 57755 to David H. Betat, 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 April 30, 2020, unless renewed.

JURISDICTION

3. This Second 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, in pertinent part, 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."

6. Section 725, in pertinent part, states:

"(a) Repeated acts of clearly excessive prescribing, furnishing, dispensing, or administering of drugs or treatment . . . as determined by the standard of the community of licensees is unprofessional conduct for a physician and surgeon . . ."

7. Section 2266 of the Code states:

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

8. Section 2228.1 of the Code provides, in pertinent part, that the Board shall require a licensee who is disciplined based on inappropriate prescribing resulting in harm to patients, to disclose to his or her patients information regarding his or her probation status. The licensee is required to disclose: Probation status, the length of the probation, the probation end date, all practice restrictions placed on the license by the Board, the Board's telephone number, and an explanation of how the patient can find further information on the licensee's probation on the Board's Internet Web site.

FIRST CAUSE FOR DISCIPLINE

(Gross Negligence/Repeated Negligent Acts/Excessive Prescribing)

9. Respondent David H. Betat, M.D. is subject to disciplinary action under section 2234 and/or 2234(b) and/or 2234(c) and/or 725 in that Respondent was grossly negligent and/or committed repeated acts of negligence and/or prescribed excessively. The circumstances are as follows:

Patient 1[1]

10. In 2009, Patient 1, a 31-year old male roofer, came under Respondent's care and treatment for chronic low back pain. Respondent prescribed methadone, 10 mg, #120.[2] In his interview with the Board's investigator, Respondent stated that the patient had been started on methadone by a prior physician "for at least a year." Respondent also diagnosed the patient with depression, for which he prescribed Cymbalta, 60 mg.[3] In 2010, Respondent added lorazepam[4] to the patient's medications.

11. Respondent's records for Patient 1 are brief, routinely lack significant discussion of the patient's complaints, his response to treatment or the rationale for prescribing. Depo-

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[1] Patients' names are redacted to protect privacy.

[2] Methadone hydrochloride is a controlled substance and an opioid indicated for the treatment of pain severe enough to require around-the-clock long-term opioid management and for which alternative treatments have failed. Methadone exposes users to the risks of opioid addiction, misuse and abuse, which can lead to overdose and death.

[3] Cymbalta is a trade name for duloxetine, a selective serotonin and norepinephrine reuptake inhibitor used for treating depression, anxiety disorder and pain.

[4] Lorazepam, which is marketed under the trade name Ativan, is a controlled substance and a benzodiazepine used to treat anxiety, among other conditions. Benzodiazepines, when taken in conjunction with opiates, increase the risk of respiratory arrest.

testosterone, 200 mg, 1 ml, as an example, was presumably prescribed for opiate-induced hypogonadism, but Respondent's records do not discuss either the medical indication or the patient's response. Similarly, diazepam[5], 10 mg, #30, was prescribed in May 2013, without any discussion of the medical indication for its use or the rationale for adding another benzodiazepine to the patient's existing regimen of opiates and benzodiazepines. In his interview with the Board's investigator, Respondent stated that he discussed the risks with Patient 1 and warned him not to take lorazepam and diazepam together, but this is not documented in his records.

12. Patient 1 developed tolerance to methadone and his dosage increased to as much as 120 mg/day, which he then sought to taper. As of October, 2013, the patient's medications included methadone, 10 mg, #120, diazepam, 10 mg, #60, lorazepam, 1 mg, #60 and hydrocodone[6], 10/325 mg, #60.

13. On October 5, 2013, Patient 1 died. The Coroner listed "Polypharmacy (diazepam, methadone, hydrocodone)" as the probable cause of death.

Patient 2

14. In and before 2015, and continuing through June 2017, Patient 2, a 46-year old male with a history significant for multiple abdominal surgeries and chronic pain, was under Respondent's care for chronic pain management. During this time, Respondent prescribed methadone, 10 mg, and oxycodone[7], 30mg, for long-acting and short-acting pain relief. Although the plan documented in Respondent's records was for 300 tablets/month methadone and 120 tablets of oxycontin, Respondent regularly prescribed far in excess of the planned amount of methadone such that, between 2015 and 2017, the patient would receive from 500 to more than 1,000 tablets in a month. Moreover, the amount prescribed did not correlate to the patient's

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[5] Diazepam, which is marketed under the trade name Valium, is a controlled substance and benzodiazepine used to treat anxiety. When taken in conjunction with opiates, it can increase the risk of respiratory arrest.

[6] Hydrocodone bitartrate and acetaminophen, also marketed under the trade name Norco, is a controlled substance and a short-acting opiate medication. When taken in combination with a long-acting opiate, such as methadone, and benzodiazepines, hydrocodone increases the risk of respiratory arrest.

[7] Oxycodone is a narcotic analgesic with multiple actions similar to those of morphine. Oxycodone is a controlled substance and is available in combination with other drugs or alone. It can produce drug dependence and therefore has the potential for being abused.

documented pain complaints, with some additional prescriptions being written at times that the patient reported feeling better. Although Respondent's records stated that the patient "admitted to taking extreme amounts of methadone per day," it was stated that the patient's finances would not permit a change of opiate medication. Respondent also noted that the patient was utilizing multiple pharmacies to obtain additional amounts of opiates and, although at one point in time Respondent restricted the patient to a single pharmacy, Respondent continued to prescribe the opiate medication in high doses. It was only when Respondent closed his private practice that Patient 2 was referred to a pain specialist for management of his chronic pain.

Patient 3

15. In and before 2015, and continuing through June 2017, Patient 3, a 51-year old female, was under Respondent's care and treatment for myofascial pain syndrome and mild degenerative arthritis. Respondent prescribed oxycodone/acetaminophen, 10/325 mg, #120, and hydrocodone bitartrate/acetaminophen, 10/325 mg, #120, for management of Patient 3's chronic pain. Beginning in or about April 2016, Respondent added Baclofen[8], 10 mg, #120, to the patient's medication regimen. Respondent did not chart the medical indication or rationale for utilizing a combination of two short-acting opiates and a muscle relaxant, nor did he document his discussion of the risks of this drug combination with the patient.

Patient 4

16. Patient 4, a 54-year old male with a history significant for Bipolar Disorder, chronic pain treated with high dose opiates and chronic obstructive pulmonary disease (COPD). Beginning in or about January 2015, Patient 4 complained of feeling tired and his mother, who accompanied him to his appointment on January 20, 2015, reported that he looked yellow to her. No additional history regarding the patient's fatigue or the mother's report of a jaundiced appearance was recorded and the objective findings in the record for the visit were identical to three previous visits, which suggests that the findings were simply carried forward from prior visits. Although the patient had chronic COPD and recurrent pneumonia, his lungs were reported

[8] Baclofen is a muscle relaxant that may potentially have adverse reactions, including drowsiness. When Baclofen is taken in combination with opiate medications, the risk of respiratory depression and hypotension is increased.

to be clear, with no rales or wheezes, as had been the finding on every prior visit. Respondent did not order any lab tests or otherwise assess the new complaint of fatigue. On June 8, 2015, Patient 4 reported left lateral pain over the upper abdomen and ribs. Respondent noted tenderness to the area, but did not further describe or investigate the new complaint. On July 6, Patient 4 returned, complaining of left sharp pain, which was made worse with taking deep breaths. The patient was noted to be very drowsy and he reported that he had been unable to sleep at night. The objective finding from the prior visit was carried forward in the note of the visit, but no further description was stated and no diagnostic or lab tests were ordered. The patient's lungs were again reported to be clear. Respondent discharged the patient from his care for illicit drug use.

17. On July 13, 2015, Patient 4 was seen in the local emergency room with complaints of shortness of breath over the previous 8 or 9 days. A chest x-ray showed a patchy consolidation in the right upper lobe. A CT scan identified a number of lesions in the lung and in the liver. Lab studies showed significant elevated alkaline phosphatase (382), elevated AST (115), anemia, elevated bilirubin (1.3) and abnormal creatinine (1.20). Patient 4 was diagnosed with metastatic cancer and died on July 25, 2015.

Patient 5

18. Patient 5, a 70-year old man with COPD had been prescribed morphine sulfate[9] as well as other opiates and sedative hypnotics for an extended period. In 2013, Patient 5 was receiving prescriptions from another physician until March, when Respondent recommenced prescribing to him. On March 19, 2013, Respondent noted that the patient "feels tired a lot. feels week. overmedicated by opiates?" Nevertheless, Respondent prescribed a full month supply of the patient's opiate medications. On April 17, 2013, Respondent carried forward the patient's past complaints of fatigue, as well as the possibility that the patient was overmedicated; however, Respondent did not alter his prescribing. Patient 5 died on April 21, 2013, of cardiorespiratory arrest.

[9] Morphine sulfate is a controlled substance and a potent opioid intended for the management of pain severe enough to require daily, around-the-clock, long-term opioid management and for which alternative treatment options are inadequate. Morphine sulfate tablets expose patients and other users to the risks of opioid addiction, abuse, and misuse, which can lead to overdose and death.

19. On March 19, 2013, when Patient 5's wife raised the concern that he was overmedicated, Respondent obtained and recorded an abnormal oxygen saturation level of 87%. He also noted "crackles" in the right lower base of the lungs. Respondent did not record the patient's respiratory rate. Despite these abnormal findings, Patient 5's COPD was stated to be stable. On April 17, 2013, abnormal findings in the lung continued, as did the patient's complaints of fatigue. Neither an oxygen saturation level nor a respiratory rate was obtained. Although the patient was hypertensive with a blood pressure of 152/98, the assessment stated that he was "normotensive, in no acute distress."

Patient 6

20. Patient 6, a 77-year old female, was admitted to a nursing home for which Respondent was the Medical Director on November 16, 2016. Patient 6 had a history significant for atrial fibrillation, hypertension, diabetes, end-stage renal disease on hemodialysis, DNR status and recent wheelchair-bound status. On November 18, 2016, Respondent evaluated the patient. Although she was receiving pain medication, hydrocodone, 5 mg, Respondent did not perform and/or did not document an assessment of the patient's pain, its etiology, frequency or severity. No treatment plan for the patient's pain was documented in the chart. On December 5, 2016, Respondent documented that the patient had developed bed sores and that she was noncompliant with directions to turn in bed to relieve pressure; however, there is no documented examination of the sores, nor a treatment plan other than to continue recommendations for patient compliance. The patient's pain increased about that time and Respondent increased the dosage of her opioid medications, but did not document an assessment and plan for her condition. On December 23, 2016, Respondent documented a face-to-face encounter with the patient, but the note omits a chief complaint and vital signs and lacks a physical examination of the patient's skin or assessment of her pain. Respondent did order a wound assessment, which was performed by a consultant and revealed large bilateral buttock pressure sores with necrotic skin. Respondent continued to increase the patient's pain medication, adding morphine sulfate, 15 mg, extended release tablets on January 3, 2017, but he did not reassess her condition. The patient's daughter complained that her mother was over sedated and the medication was changed to a short-acting

opioid, but without a documented evaluation. The patient's bed sores worsened and she was transferred to another facility, where she expired from sepsis on January 15, 2017.

Patients 1 through 6

21. Respondent is guilty of unprofessional conduct and Respondent's certificate is subject to disciplinary action based on his gross negligence, repeated negligent acts and/or excessive prescribing as set forth above and including, but not limited to, the following:

A. Respondent prescribed excessively and/or inappropriately to Patients 1 through 6;

B. Respondent failed to follow up appropriately on acute changes in Patients 4, 5 and 6.

SECOND CAUSE FOR DISCIPLINE

(Failure to Maintain Adequate and Accurate Records)

22. Complainant incorporates the allegations of the First Cause for Discipline as though fully set out here. Respondent is guilty of unprofessional conduct and Respondent's certificate is subject to disciplinary action for violation of Section 2266 of the Code for failure to keep adequate and accurate medical records, including but not limited to the following deficiencies.

23. In addition to the patients described in the First Cause for Discipline, complainant alleges that Patient 7, a former landscaper, was under Respondent's care for chronic pain management. As with the other patients, Respondent's records for Patient 7 are inaccurate and/or omit important information about the patient's vital signs or how abnormal findings were managed. As with the other patients, high blood pressure readings were described as "normotensive" on some occasions, while no reading was obtained on other occasions, yet the patient was still described as normotensive.

24. Respondent's records regularly lacked a description of the condition in question as well as supportive facts, such as palliative or provocative factors, quality, quantity, region, radiation, severity at timing.

25. Respondent's records regularly stated that a medication had been prescribed or refilled for the patient, but did not state the medical indication or rationale for the prescription or refill.

PRAYER

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

1. Revoking or suspending Physician's and Surgeon's Certificate Number G 57755, issued to David H. Betat, M.D.;

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

3. Ordering David H. Betat, M.D., if placed on probation, to pay the Board the costs of probation monitoring;

4. Ordering Respondent, if placed on probation, to provide patient notification in accordance with Business and Professions Code section 2228.1.

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

DATED: November 12, 2019

CHRISTINE J. LALLY
Deputy Director
Medical Board of California
State of California
Complainant

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