

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

In the Matter of the Accusation Against

Alan Mark Gross, M.D.

Physician's and Surgeons
License No. G 47080

Case No. 800-2016-028256

Respondent.

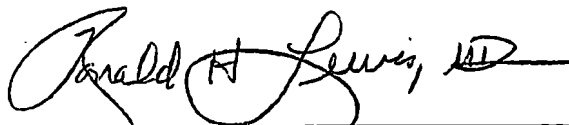
DECISION

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 February 12, 2021.

IT IS SO ORDERED: January 15, 2021.

MEDICAL BOARD OF CALIFORNIA



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

1 XAVIER BECERRA
Attorney General of California
2 JUDITH T. ALVARADO
Supervising Deputy Attorney General
3 VLADIMIR SHALKEVICH
Deputy Attorney General
4 California Department of Justice
State Bar No. 173955
5 300 So. Spring Street, Suite 1702
Los Angeles, CA 90013
6 Telephone: (213) 269-6538
Facsimile: (916) 731-2117
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 Accusation Against:

13 **ALAN MARK GROSS, M.D.**
14 **Central Orthopedic Medical Group**
15 **1801 Solar Drive, Suite 201**
Oxnard, CA 93030-8200

16 **Physician's and Surgeon's Certificate No. G**
17 **47080,**

18 Respondent.

Case No. 800-2016-028256

OAH No. 2020020352

STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER

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

21 **PARTIES**

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

26 2. Respondent Alan Mark Gross, M.D. (Respondent) is represented in this proceeding
27 by attorney Eric W. Cheung, whose address is: 555 South Flower Street, Suite 3300
28

1 Los Angeles, CA 90071-24112.1. On or about March 8, 1982, the Board issued Physician's and
2 Surgeon's Certificate No. G 47080 to Alan Mark Gross, M.D. (Respondent). The Physician's and
3 Surgeon's Certificate was in full force and effect at all times relevant to the charges brought in
4 Accusation No. 800-2016-028256, and will expire on September 30, 2021, unless renewed.

5 **JURISDICTION**

6 3. Accusation No. 800-2016-028256 was filed before the Board, and is currently
7 pending against Respondent. The Accusation and all other statutorily required documents were
8 properly served on Respondent on November 21, 2019. Respondent timely filed his Notice of
9 Defense contesting the Accusation.

10 4. A copy of Accusation No. 800-2016-028256 is attached as exhibit A and incorporated
11 herein by reference.

12 **ADVISEMENT AND WAIVERS**

13 5. Respondent has carefully read, fully discussed with counsel, and understands the
14 charges and allegations in Accusation No. 800-2016-028256. Respondent has also carefully read,
15 fully discussed with his counsel, and understands the effects of this Stipulated Settlement and
16 Disciplinary Order.

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

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

25 **CULPABILITY**

26 8. Respondent understands and agrees that the charges and allegations in Accusation
27 No. 800-2016-028256, a true and correct copy of which is attached hereto as Exhibit A, if proven
28

1 at a hearing, constitute cause for imposing discipline upon his Physician's and Surgeon's
2 Certificate.

3 9. Respondent does not contest that, at an administrative hearing, complainant could
4 establish a prima facie case with respect to the charges and allegations contained in Accusation
5 No. 800-2016-028256 and that he has thereby subjected his Physician's and Surgeon's Certificate,
6 No. G 47080 to disciplinary action.

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

10 11. Respondent agrees that if he ever petitions for early termination or modification of
11 probation, or if the Board ever petitions for revocation of probation, all of the charges and
12 allegations contained in Accusation No. 800-2016-028256 shall be deemed true, correct and fully
13 admitted by respondent for purposes of that proceeding or any other licensing proceeding
14 involving respondent in the State of California.”

15 CONTINGENCY

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

26 13. Respondent agrees that if he ever petitions for early termination or modification of
27 probation, or if an accusation and/or petition to revoke probation is filed against him before the
28 Board, all of the charges and allegations contained in Accusation No. 800-2016-028256 shall be

1 deemed true, correct and fully admitted by respondent for purposes of any such proceeding or any
2 other licensing proceeding involving Respondent in the State of California.

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

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

9 **DISCIPLINARY ORDER**

10 IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. G 47080 issued
11 to Respondent ALAN MARK GROSS, M.D. is revoked. However, the revocation is stayed and
12 Respondent is placed on probation for four (4) years on the following terms and conditions:

13 1. **CONTROLLED SUBSTANCES - SURRENDER OF DEA PERMIT.** Respondent is
14 prohibited from practicing medicine until Respondent provides documentary proof to the Board
15 or its designee that Respondent's DEA permit has been surrendered to the Drug Enforcement
16 Administration for cancellation, together with any state prescription forms and all controlled
17 substances order forms. Thereafter, Respondent shall not reapply for a new DEA permit without
18 the prior written consent of the Board or its designee.

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

28 A prescribing practices course taken after the acts that gave rise to the charges in the

1 Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board
2 or its designee, be accepted towards the fulfillment of this condition if the course would have
3 been approved by the Board or its designee had the course been taken after the effective date of
4 this Decision.

5 Respondent shall submit a certification of successful completion to the Board or its
6 designee not later than 15 calendar days after successfully completing the course, or not later than
7 15 calendar days after the effective date of the Decision, whichever is later.

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

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

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

26 4. MEDICAL EVALUATION AND TREATMENT. Within 30 calendar days of the
27 effective date of this Decision, and on a periodic basis thereafter as may be required by the Board
28 or its designee, Respondent shall undergo a medical evaluation by a Board-appointed physician

1 who shall consider any information provided by the Board or designee and any other information
2 the evaluating physician deems relevant and shall furnish a medical report to the Board or its
3 designee. Respondent shall provide the evaluating physician with any information and
4 documentation that the evaluating physician may deem pertinent.

5 Following the evaluation, Respondent shall comply with all restrictions or conditions
6 recommended by the evaluating physician within 15 calendar days after being notified by the
7 Board or its designee. If Respondent is required by the Board or its designee to undergo medical
8 treatment, Respondent shall within 30 calendar days of the requirement notice, submit to the
9 Board or its designee for prior approval the name and qualifications of a California licensed
10 treating physician of Respondent's choice. Upon approval of the treating physician, Respondent
11 shall within 15 calendar days undertake medical treatment and shall continue such treatment until
12 further notice from the Board or its designee.

13 The treating physician shall consider any information provided by the Board or its designee
14 or any other information the treating physician may deem pertinent prior to commencement of
15 treatment. Respondent shall have the treating physician submit quarterly reports to the Board or
16 its designee indicating whether or not the Respondent is capable of practicing medicine safely.
17 Respondent shall provide the Board or its designee with any and all medical records pertaining to
18 treatment that the Board or its designee deems necessary.

19 If, prior to the completion of probation, Respondent is found to be physically incapable of
20 resuming the practice of medicine without restrictions, the Board shall retain continuing
21 jurisdiction over Respondent's license and the period of probation shall be extended until the
22 Board determines that Respondent is physically capable of resuming the practice of medicine
23 without restrictions. Respondent shall pay the cost of the medical evaluation(s) and treatment.

24 5. PROHIBITED PRACTICE. Due solely to the state of his health, Respondent has not
25 performed surgery for more than 10 years. Therefore, during probation, Respondent is prohibited
26 from performing any surgical procedure. After the effective date of this Decision, all patients
27 being treated by the Respondent shall be notified that the Respondent is prohibited from
28 performing surgery. Any new patients must be provided this notification at the time of their

1 initial appointment.

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

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

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

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

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

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

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

1 10. GENERAL PROBATION REQUIREMENTS.

2 Compliance with Probation Unit

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

4 Address Changes

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

10 Place of Practice

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

14 License Renewal

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

17 Travel or Residence Outside California

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

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

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

27 12. NON-PRACTICE WHILE ON PROBATION. Respondent shall notify the Board or
28 its designee in writing within 15 calendar days of any periods of non-practice lasting more than

1 30 calendar days and within 15 calendar days of Respondent's return to practice. Non-practice is
2 defined as any period of time Respondent is not practicing medicine as defined in Business and
3 Professions Code sections 2051 and 2052 for at least 40 hours in a calendar month in direct
4 patient care, clinical activity or teaching, or other activity as approved by the Board. If
5 Respondent resides in California and is considered to be in non-practice, Respondent shall
6 comply with all terms and conditions of probation. All time spent in an intensive training
7 program which has been approved by the Board or its designee shall not be considered non-
8 practice and does not relieve Respondent from complying with all the terms and conditions of
9 probation. Practicing medicine in another state of the United States or Federal jurisdiction while
10 on probation with the medical licensing authority of that state or jurisdiction shall not be
11 considered non-practice. A Board-ordered suspension of practice shall not be considered as a
12 period of non-practice.

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

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

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

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

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

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

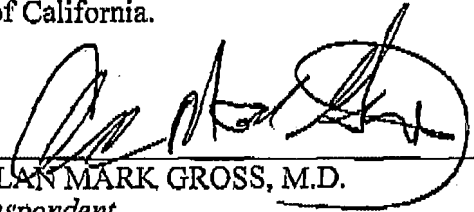
8 15. LICENSE SURRENDER. Following the effective date of this Decision, if
9 Respondent ceases practicing due to retirement or health reasons or is otherwise unable to satisfy
10 the terms and conditions of probation, Respondent may request to surrender his or her license.
11 The Board reserves the right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

18 16. PROBATION MONITORING COSTS. Respondent shall pay the costs associated
19 with probation monitoring each and every year of probation, as designated by the Board, which
20 may be adjusted on an annual basis. Such costs shall be payable to the Medical Board of
21 California and delivered to the Board or its designee no later than January 31 of each calendar
22 year.

23 17. FUTURE ADMISSIONS CLAUSE. If Respondent should ever apply or reapply for
24 a new license or certification, or petition for reinstatement of a license, by any other health care
25 licensing action agency in the State of California, all of the charges and allegations contained in
26 Accusation No. 800-2016-028256 shall be deemed to be true, correct, and admitted by
27 Respondent for the purpose of any Statement of Issues or any other proceeding seeking to deny or
28 restrict license.

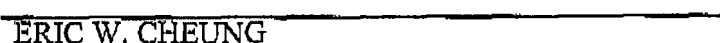
ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Eric W. Cheung. 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: 11/23/20
ALAN MARK GROSS, M.D.
Respondent

I have read and fully discussed with Respondent Alan Mark Gross, 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: _____


ERIC W. CHEUNG
*Attorney for Respondent*ENDORSEMENT

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

DATED: _____

Respectfully submitted,

XAVIER BECERRA
Attorney General of California
JUDITH T. ALVARADO
Supervising Deputy Attorney General

VLADIMIR SHALKEVICH
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 800-2016-028256

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO NOV. 21 20 19
BY D. GERMIDANALYST

1 XAVIER BECERRA
Attorney General of California
2 ROBERT MCKIM BELL
Supervising Deputy Attorney General
3 VLADIMIR SHALKEVICH
Deputy Attorney General
4 State Bar No. 173955
California Department of Justice
5 300 South Spring Street, Suite 1702
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6 Telephone: (213) 269-6538
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7 *Attorneys for Complainant*

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

11 In the Matter of the Accusation Against:

Case No. 800-2016-028256

12 ALAN MARK GROSS, M.D.

A C C U S A T I O N

13 1801 Solar Drive, Suite 201
14 Oxnard, California 93030-8200

15 Physician's and Surgeon's Certificate G 47080,
16 Respondent.

17
18 **PARTIES**

19 1. Christine J. Lally (Complainant) brings this Accusation solely in her official capacity
20 as the Interim Executive Director of the Medical Board of California (Board).

21 2. On March 8, 1982, the Board issued Physician's and Surgeon's Certificate Number G
22 47080 to Alan Mark Gross, M.D. (Respondent). That license was in full force and effect at all
23 times relevant to the charges brought herein and will expire on September 30, 2021, unless
24 renewed.

25 **JURISDICTION**

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

1 4. Section 2227 of the Business and Professions Code states:

2 (a) A licensee whose matter has been heard by an administrative law judge of
3 the Medical Quality Hearing Panel as designated in Section 11371 of the Government
4 Code, or whose default has been entered, and who is found guilty, or who has entered
5 into a stipulation for disciplinary action with the board, may, in accordance with the
6 provisions of this chapter:

7 (1) Have his or her license revoked upon order of the board.

8 (2) Have his or her right to practice suspended for a period not to exceed one
9 year upon order of the board.

10 (3) Be placed on probation and be required to pay the costs of probation
11 monitoring upon order of the board.

12 (4) Be publicly reprimanded by the board. The public reprimand may include a
13 requirement that the licensee complete relevant educational courses approved by the
14 board.

15 (5) Have any other action taken in relation to discipline as part of an order of
16 probation, as the board or an administrative law judge may deem proper.

17 (b) Any matter heard pursuant to subdivision (a), except for warning letters,
18 medical review or advisory conferences, professional competency examinations,
19 continuing education activities, and cost reimbursement associated therewith that are
20 agreed to with the board and successfully completed by the licensee, or other matters
21 made confidential or privileged by existing law, is deemed public, and shall be made
22 available to the public by the board pursuant to Section 803.1.

23 5. Section 2234 of the Business and Professions Code states, in pertinent part:

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

27 (b) Gross Negligence

28 (c) Repeated Negligent Acts...

 (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.

 6. Section 2238 of the Business and Professions 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 2239 of the Business and Professions Code states, in pertinent part:

 (a) The use or prescribing for or administering to himself or herself, of any
 controlled substance ... constitutes unprofessional conduct.

1 8. Section 2261 of the Business and Professions Code states:

2 Knowingly making or signing any certificate or other document directly or
3 indirectly related to the practice of medicine or podiatry, which falsely represents the
4 existence or nonexistence of a state of facts, constitutes unprofessional conduct.

5 9. Section 4324 of the Business and Professions Code states:

6 (a) Every person who signs the name of another, or of a fictitious person, or falsely
7 makes, alters, forges, utters, publishes, passes, or attempts to pass, as genuine, any
8 prescription for any drugs is guilty of forgery and upon conviction thereof shall be punished
9 by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code, or by
10 imprisonment in a county jail for not more than one year.

11 (b) Every person who has in his or her possession any drugs secured by a forged
12 prescription shall be punished by imprisonment pursuant to subdivision (h) of Section 1170 of the
13 Penal Code, or by imprisonment in the county jail for not more than one year.

14 10. Section 11170 of the Health and Safety Code states:

15 No person shall prescribe, administer, or furnish a controlled substance to himself.

16 11. Section 11173 of the Health and Safety Code states, in pertinent part:

17 (a) No person shall obtain or attempt to obtain controlled substances, or procure or
18 attempt to procure the administration of or prescription for a controlled substance, (1) by
19 fraud, deceit, misrepresentation, or subterfuge; or (2) by the concealment of a material fact.

20 FACTUAL ALLEGATIONS

21 12. On December 1, 2016, the Board received an anonymous complaint that Respondent
22 appeared "to be on drugs or heavily medicated," in that he was slurring his speech and had
23 trouble remembering what was discussed minutes earlier.

24 13. The Board conducted an investigation, which revealed that Respondent's medical
25 practice is currently limited to exclusively performing medical-legal evaluations. Respondent's
26 mental and physical health was evaluated by Board-appointed evaluators who concluded that
27 although he is seriously ill, and is a cancer survivor, Respondent's illness does not prevent him
28 from being able to safely perform medical-legal evaluations.

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14. The investigation further revealed that Respondent prescribed Lunesta¹, to himself. Respondent filled self-prescribed prescriptions for Lunesta, also known as eszopiclone, on or about April 18, 2014, May 29, 2014, July 15, 2014, August 7, 2014, and December 15, 2014, at CVS pharmacy in Thousand Oaks, California.

15. The investigation further revealed that Respondent obtained another physician's prescription pad and that Respondent forged the other physician's signature on prescriptions for Hycet² to himself. These prescriptions were dated February 3, 2016, March 23, 2016, May 1, 2016, and August 1, 2016. These prescriptions were filled at a CVS pharmacy in Thousand Oaks, California.

FIRST CAUSE FOR DISCIPLINE

(Self-Prescribing of Controlled Substances)

16. By reason of the facts set forth in paragraphs 12 through 15 above, Respondent Alan Mark Gross, M.D. is subject to disciplinary action under Business and Professions Code section 2239 and Health and Safety Code section 11170 in that he prescribed controlled substances to himself.

SECOND CAUSE FOR DISCIPLINE

(Violation of Laws Regulating Controlled Substances)

17. By reason of the facts set forth in paragraphs 12 through 15 above, Respondent Alan Mark Gross, M.D. is subject to disciplinary action under Business and Professions Code sections 2238 and 2239 and Health and Safety Code sections 11170 and 11173, in that he violated state or federal laws regulating controlled substances.

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¹ Eszopiclone, sold under the brand-name Lunesta, is a nonbenzodiazepine hypnotic agent used for the treatment of insomnia. It is a dangerous drug pursuant to Business and Professions Code section 4022, and in April 2005, it was designated as a Schedule IV controlled substance by the Federal Register.

² Hycet is a combination medication used to relieve moderate to severe pain. It contains opioid pain reliever hydrocodone and a non-opioid pain reliever acetaminophen. It is a dangerous drug pursuant to Business and Professions Code section 4022, and a Schedule II controlled substance pursuant to Health and Safety Code section 11055, subdivision (b)(1)(I)(i).

1 **THIRD CAUSE FOR DISCIPLINE**

2 (Falsification of Medical Documents)

3 18. By reason of the facts set forth in paragraphs 12 through 15 above, Respondent Alan
4 Mark Gross, M.D. is subject to disciplinary action under Business and Professions Code section
5 2261 in that he created or signed false documents directly related to the practice of medicine.

6 **FOURTH CAUSE FOR DISCIPLINE**

7 (Acts of Dishonesty or Corruption)

8 19. By reason of the facts set forth in paragraphs 12 through 15 above, Respondent Alan
9 Mark Gross, M.D. is subject to disciplinary action under Business and Professions Code section
10 2234, subdivision (e), in that he committed acts of dishonesty or corruption.

11 **FIFTH CAUSE FOR DISCIPLINE**

12 (Gross Negligence)

13 20. By reason of the facts set forth in paragraphs 12 through 15 above, Respondent Alan
14 Mark Gross, M.D. is subject to disciplinary action under Business and Professions Code section
15 2234, subdivision (b), in that he committed acts of gross negligence.

16 **SIXTH CAUSE FOR DISCIPLINE**

17 (Repeated Negligent Acts)

18 21. By reason of the facts set forth in paragraphs 12 through 15 above, Respondent Alan
19 Mark Gross, M.D. is subject to disciplinary action under Business and Professions Code section
20 2234, subdivision (c), in that he committed repeated acts of negligence.

21 **PRAYER**

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

24 1. Revoking or suspending Physician's and Surgeon's Certificate Number G 47080,
25 issued to Alan Mark Gross, M.D.;

26 2. Revoking, suspending or denying approval of his authority to supervise physician
27 assistants and advanced practice nurses;

1 3. If placed on probation, ordering him to pay the Board the costs of probation
2 monitoring; and

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

4
5 DATED: November 21, 2019


CHRISTINE J. JALLY
Interim Executive Director
Medical Board of California
Department of Consumer Affairs
State of California

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9 *Complainant*

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