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

In the Matter of the Accusation Against: Thawat Eosakul, M.D. Physician's and Surgeon's Certificate No. A32349 Respondent	Case No. 800-2017-030769

DECISION

The attached Stipulated Surrender of License 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 26, 2021.

IT IS SO ORDERED January 28, 2021.

MEDICAL BOARD OF CALIFORNIA

By: _____
William Prasifka, Executive Director

XAVIER BECERRA
Attorney General of California
ALEXANDRA M. ALVAREZ
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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 Accusation Against: **THAWAT EOSAKUL, M.D.** **16860 Seville Avenue** **Fontana, CA 92335** **Physician's and Surgeon's Certificate No. A 32349,** Respondent.	Case No. 800-2017-030769 OAH No. 2020070916 **STIPULATED SURRENDER OF LICENSE 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). This action was brought by then Complainant Christine J. Lally solely in her official capacity. Complainant is represented in this matter by Xavier Becerra, Attorney General of the State of California, by Rosemary F. Luzon, Deputy Attorney General.

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2. Thawat Eosakul, M.D. (Respondent) is represented in this proceeding by attorney Craig G. Marinho, Esq., whose address is: Peterson Bradford Burkwitz, LLP, 100 North First Street, Suite 300, Burbank, CA 91502-1845.

3. On or about June 12, 1978, the Board issued Physician's and Surgeon's Certificate No. A 32349 to Respondent. The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought in Accusation No. 800-2017-030769 and will expire on July 31, 2021, unless renewed.

JURISDICTION

4. On or about March 9, 2020, Accusation No. 800-2017-030769 was filed before the Board, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on or about March 9, 2020, at his address of record. Respondent timely filed his Notice of Defense contesting the Accusation. A true and correct copy of Accusation No. 800-2017-030769 is attached as Exhibit A and hereby incorporated by reference as if fully set forth herein.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 800-2017-030769. Respondent also has carefully read, fully discussed with counsel, and understands the effects of this Stipulated Surrender of License 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 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, having been fully advised of same by his attorney of record, Craig G. Marinho, Esq.

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

CULPABILITY

8. Respondent does not contest that, at an administrative hearing, Complainant could establish a *prima facie* case with respect to all of the charges and allegations in Accusation No. 800-2017-030769, a true and correct copy of which is attached hereto as Exhibit A, and that he has thereby subjected his Physician's and Surgeon's Certificate No. A 32349 to disciplinary action. Respondent hereby surrenders his Physician's and Surgeon's Certificate No. A 32349 for the Board's formal acceptance.

9. Respondent agrees that his Physician's and Surgeon's Certificate No. A 32349 is subject to discipline and he agrees to be bound by the Board's imposition of discipline as set forth in the Disciplinary Order below.

10. Respondent further agrees that if he ever petitions for reinstatement of his Physician's and Surgeon's Certificate No. A 32349, or if an accusation or petition to revoke probation is ever filed against him before the Medical Board of California, all of the charges and allegations contained in Accusation No. 800-2017-030769 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 or elsewhere.

11. Respondent understands that, by signing this stipulation, he enables the Executive Director of the Board to issue an order, on behalf of the Board, accepting the surrender of his Physician's and Surgeon's Certificate No. A 32349 without further notice to, or opportunity to be heard by, Respondent.

CONTINGENCY

12. Business and Professions Code section 2224, subdivision (b), provides, in pertinent part, that the Medical Board "shall delegate to its executive director the authority to adopt a . . . stipulation for surrender of a license."

13. This Stipulated Surrender of License and Disciplinary Order shall be subject to approval of the Executive Director on behalf of the Medical Board. The parties agree that this Stipulated Surrender of License and Disciplinary Order shall be submitted to the Executive Director for his consideration in the above-entitled matter and, further, that the Executive Director

shall have a reasonable period of time in which to consider and act on this Stipulated Surrender of License and Disciplinary Order after receiving it. By signing this stipulation, Respondent fully understands and agrees that he may not withdraw his agreement or seek to rescind this stipulation prior to the time the Executive Director, on behalf of the Medical Board, considers and acts upon it.

14. The parties agree that this Stipulated Surrender of License and Disciplinary Order shall be null and void and not binding upon the parties unless approved and adopted by the Executive Director on behalf of the Board, except for this paragraph, which shall remain in full force and effect. Respondent fully understands and agrees that in deciding whether or not to approve and adopt this Stipulated Surrender of License and Disciplinary Order, the Executive Director and/or the Board may receive oral and written communications from its staff and/or the Attorney General's Office. Communications pursuant to this paragraph shall not disqualify the Executive Director, the Board, any member thereof, and/or any other person from future participation in this or any other matter affecting or involving Respondent. In the event that the Executive Director on behalf of the Board does not, in his discretion, approve and adopt this Stipulated Surrender of License and Disciplinary Order, with the exception of this paragraph, it shall not become effective, shall be of no evidentiary value whatsoever, and shall not be relied upon or introduced in any disciplinary action by either party hereto. Respondent further agrees that should this Stipulated Surrender of License and Disciplinary Order be rejected for any reason by the Executive Director on behalf of the Board, Respondent will assert no claim that the Executive Director, the Board, or any member thereof, was prejudiced by its/his/her review, discussion and/or consideration of this Stipulated Surrender of License and Disciplinary Order or of any matter or matters related hereto.

ADDITIONAL PROVISIONS

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

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

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

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. A 32349, issued to Respondent Thawat Eosakul, M.D., is surrendered and accepted by the Medical Board of California.

1. The surrender of Respondent's Physician's and Surgeon's Certificate No. A 32349 and the acceptance of the surrendered license by the Medical Board shall constitute the imposition of discipline against Respondent. This stipulation constitutes a record of the discipline and shall become a part of Respondent's license history with the Medical Board of California.

2. Respondent shall lose all rights and privileges as a Physician and Surgeon in California as of the effective date of the Medical Board's Decision and Order.

3. Respondent shall cause to be delivered to the Medical Board his pocket license and, if one was issued, his wall certificate on or before the effective date of the Medical Board's Decision and Order.

4. If Respondent ever files an application for licensure or a petition for reinstatement of Physician's and Surgeon's Certificate No. A 32349 in the State of California, the Medical Board shall treat it as a petition for reinstatement. Respondent must comply with all the laws, regulations and procedures for reinstatement of a revoked or surrendered license in effect at the time the petition is filed, and all of the charges and allegations contained in Accusation No. 800-2017-030769 shall be deemed to be true, correct and admitted by Respondent when the Board determines whether to grant or deny the petition.

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5. If Respondent should ever apply or reapply for a new license or certification, or petition for reinstatement of a license, by any other health care licensing agency in the State of California, all of the charges and allegations contained in Accusation, No. 800-2017-030769 shall be deemed to be true, correct, and admitted by Respondent for the purpose of any Statement of Issues or any other proceeding seeking to deny or restrict licensure.

ACCEPTANCE

I have carefully read the Stipulated Surrender of License and Disciplinary Order and have fully discussed it with my attorney, Craig G. Marinho, Esq. I understand the stipulation and the effect it will have on my Physician's and Surgeon's Certificate No. A 32349. I enter into this Stipulated Surrender of License and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Medical Board of California.

DATED: 10.30.20

THAWAT EOSAKUL, M.D.
Respondent

I have read and fully discussed with Respondent Thawat Eosakul, M.D., the terms and conditions and other matters contained in this Stipulated Surrender of License and Disciplinary Order. I approve its form and content.

DATED: *October 30, 2020*

/s/ Craig G. Marinho, Esq.
CRAIG G. MARINHO, ESQ.
Attorney for Respondent

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ENDORSEMENT

The foregoing Stipulated Surrender of License and Disciplinary Order is hereby respectfully submitted for consideration by the Medical Board of California of the Department of Consumer Affairs.

DATED: 10/30/2020

Respectfully submitted,

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

ROSEMARY F. LUZON
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 800-2017-030769

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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 Accusation Against: **Thawat Eosakul, M.D.** **16860 Seville Avenue** **Fontana, CA 92335** **Physician's and Surgeon's Certificate No. A 32349,** Respondent.	Case No. 800-2017-030769 **ACCUSATION**

Complainant alleges:

PARTIES

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

2. On or about June 12, 1978, the Medical Board issued Physician's and Surgeon's Certificate No. A 32349 to Thawat Eosakul, 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 July 31, 2021, unless renewed.

JURISDICTION

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

4. Section 2220 of the Code states:

> Except as otherwise provided by law, the board may take action against all persons guilty of violating this chapter. . .

5. Section 2227 of the Code states:

> (a) A licensee whose matter has been heard by an administrative law judge of the Medical Quality Hearing Panel as designated in Section 11371 of the Government Code, or whose default has been entered, and who is found guilty, or who has entered into a stipulation for disciplinary action with the board, may, in accordance with the provisions of this chapter:
>
> (1) Have his or her license revoked upon order of the board.
>
> (2) Have his or her right to practice suspended for a period not to exceed one year upon order of the board.
>
> (3) Be placed on probation and be required to pay the costs of probation monitoring upon order of the board.
>
> (4) Be publicly reprimanded by the board. The public reprimand may include a requirement that the licensee complete relevant educational courses approved by the board.
>
> (5) Have any other action taken in relation to discipline as part of an order of probation, as the board or an administrative law judge may deem proper.
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> . . .

6. 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.

. . .

7. Section 2238 of the Code states:

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

8. Section 2239 of the Code states:

(a) The use or prescribing for or administering to himself or herself, of any controlled substance; or the use of any of the dangerous drugs specified in Section 4022, or of alcoholic beverages, to the extent, or in such a manner as to be dangerous or injurious to the licensee, or to any other person or to the public, or to the extent that such use impairs the ability of the licensee to practice medicine safely or more than one misdemeanor or any felony involving the use, consumption, or self-administration of any of the substances referred to in this section, or any combination thereof, constitutes unprofessional conduct. The record of the conviction is conclusive evidence of such unprofessional conduct.

. . .

9. Section 2266 of the Code states:

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

10. Health and Safety Code section 11152 states:

No person shall write, issue, fill, compound, or dispense a prescription that does not conform to this division.

11. Health and Safety Code section 11153 states:

(a) A prescription for a controlled substance shall only be issued for a legitimate medical purpose by an individual practitioner acting in the usual course of his or her professional practice. The responsibility for the proper prescribing and dispensing of controlled substances is upon the prescribing practitioner, but a corresponding responsibility rests with the pharmacist who fills the prescription. Except as authorized by this division, the following are not legal prescriptions: (1) an

order purporting to be a prescription which is issued not in the usual course of professional treatment or in legitimate and authorized research; or (2) an order for an addict or habitual user of controlled substances, which is issued not in the course of professional treatment or as part of an authorized narcotic treatment program, for the purpose of providing the user with controlled substances, sufficient to keep him or her comfortable by maintaining customary use.

. . .

12. Health and Safety Code section 11170 states:

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

13. Health and Safety Code section 11180 states:

No person shall obtain or possess a controlled substance obtained by a prescription that does not comply with this division.

FIRST CAUSE FOR DISCIPLINE

(Gross Negligence)

14. Respondent has subjected his Physician's and Surgeon's Certificate No. A 32349 to disciplinary action under sections 2227 and 2234, as defined by section 2234, subdivision (b), of the Code, in that he committed gross negligence in his care and treatment of Patients A and B, as more particularly alleged hereinafter:[1]

Patient A

15. On or about June 4, 2014, Respondent saw Patient A for the first time. Patient A's chief complaints included fibromyalgia, sinus infection, swelling of the throat glands, asthma, and request for medication. Respondent documented a history of present illness, which included a "known case of fibromyalgia" from 2005, sinus complaints, swelling of the throat glands, and a history of asthma. No other history was noted. Patient A denied excessive alcohol use on an intake form. Patient A's vital signs were documented, including a blood pressure of 144/87, and the physical exam was unremarkable. The assessment was "Fibromyalgia [illegible]."

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[1] References to "Patient A" and "Patient B" herein are used to protect patient privacy.

Respondent prescribed Soma[2] and Flonase nasal spray to Patient A. The two remaining notations regarding the treatment plan are, respectively, illegible and blank.

16. On or about June 6, 2014, Respondent saw Patient A for complaints of pain in the middle to upper back with a pain level of 7 out of 10, as well as to follow up on Patient A's fibromyalgia and asthma. Respondent did not document any additional history or details regarding these conditions. Patient A's vital signs were documented, including a blood pressure of 142/89. No abnormalities were noted on the physical exam. Respondent's assessment was fibromyalgia with back pain and the plan was to continue motrin.

17. On or about June 17, 2014, June 20, 2014, and June 30, 2014, Respondent saw Patient A for complaints of left toe nail pain, left leg pain, and to follow up on Patient A's back pain, asthma, and fibromyalgia.

18. On or about July 3, 2014, Respondent saw Patient A for complaints of fibromyalgia, joint pain, and muscle spasms, as well as to refill medications. Respondent did not document any additional history or details regarding these conditions, nor did he note any abnormalities on the physical exam. Patient A's vital signs were documented, including a blood pressure of 126/109. Respondent's assessment was fibromyalgia and he prescribed Soma to Patient A.

19. On or about July 25, 2014, Respondent saw Patient A for complaints of chronic joint pain and muscle spasms, follow up on Patient A's fibromyalgia and asthma, and to refill medications. Respondent did not document any additional history or details regarding these conditions. Patient A's vital signs were documented, including a blood pressure of 160/99. No abnormalities were noted on the physical exam. Respondent's assessments were fibromyalgia and muscle spasm. Respondent prescribed tramadol[3] and Soma to Patient A.

20. On or about August 19, 2014, September 15, 2014, September 25, 2014, October 13, 2014, November 7, 2014, December 3, 2014, and January 2, 2015, January 28, 2015, February

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[2] Soma (carisoprodol) is a Schedule IV controlled substance pursuant to Health and Safety Code section 11057, subdivision (d), and a dangerous drug pursuant to Business and Professions Code section 4022.

[3] Tramadol is a Schedule IV controlled substance pursuant to Health and Safety Code section 11057, subdivision (d), and a dangerous drug pursuant to Business and Professions Code section 4022.

24, 2015, and March 20, 2015, Respondent saw Patient A regarding fibromyalgia, asthma, chronic joint pain, muscle spasms, prescription refills, and medication changes, among other issues. For each of these visits, Respondent did not document any additional history or details regarding these conditions.

21. During the January 28, 2015, visit, Patient A's vital signs were documented, including a blood pressure of 166/94. No abnormalities were noted on the physical exam. Respondent's assessments included fibromyalgia. The remaining notations are illegible. Respondent prescribed Soma and tramadol to Patient A, however, the remaining notations regarding the treatment plan are also illegible.

22. On or about April 7, 2015, Respondent saw Patient A to follow up on her fibromyalgia. Respondent documented a pain score of 7 out of 10 and that the pain had increased in intensity and duration. Respondent also noted that Patient A requested more medication. Respondent did not document any additional history or details regarding Patient A's condition. Patient A's vital signs were documented, including a blood pressure of 160/90. No abnormalities were noted on the physical exam. Respondent's assessment was fibromyalgia and he prescribed Soma and Neurontin[4] to Patient A.

23. On or about April 15, 2015, Respondent saw Patient A to follow up on her fibromyalgia, among other complaints, including stomach ache, constipation, itchy skin, and white spots on the body. Respondent did not document any additional history or details regarding these conditions. Patient A's vital signs were documented, including a blood pressure of 130/90. No abnormalities were noted on the physical exam. Respondent's assessment was fibromyalgia and he prescribed tramadol and Soma to Patient A.

24. Between on or about May 6, 2015, and August 3, 2017, Respondent continued to see Patient A for multiple complaints. For each of these visits, Respondent did not document any additional history or details regarding these conditions, and his assessments and plans were only partially legible.

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[4] Neurontin (gabapentin) is an anticonvulsant medication that is used with other medications to prevent and control seizures and relieve postherpetic neuralgia.

25. During visits that took place on or about November 28, 2016, and April 3, 2017, Patient A's vital signs were documented, including a blood pressure of 161/115 and 192/115, respectively. No abnormalities were noted on the physical exam, and Patient A's blood pressure was not addressed or explained by Respondent.

26. On or about August 17, 2017, Respondent saw Patient A, who requested stronger medication for pain. Respondent denied the request. On or about August 22, 2017, Respondent dismissed Patient A from his practice.

27. According to the Controlled Substances Utilization and Evaluation System (CURES) report for Patient A, between on or about June 4, 2014, and August 3, 2017, Patient A filled approximately forty-two (42) prescriptions of Soma and fifty-four (54) prescriptions of tramadol, which Respondent prescribed.

28. Between on or about June 4, 2014, and August 3, 2017, Respondent's handwritten progress notes were often illegible and the progress notes reflected minimal, if any, documentation with respect to Patient A's medical conditions, physical examinations, assessments of chief complaints, including those relating to pain, and assessments of elevated blood pressure readings.

29. Between on or about June 4, 2014, and August 3, 2017, Respondent did not document a complete history of Patient A's painful condition, fibromyalgia, including the parts of the body experiencing pain.

30. Between on or about June 4, 2014, and August 3, 2017, Respondent did not confirm the presence of a condition necessitating Patient A's use of Soma and tramadol.

31. Between on or about June 4, 2014, and August 3, 2017, Respondent did not document Patient A's response to treatment with Soma and tramadol.

32. Between on or about June 4, 2014, and August 3, 2017, Respondent did not document the justifications for changes in the quantities of Soma and tramadol prescribed to Patient A.

33. Between on or about June 4, 2014, and August 3, 2017, Respondent did not document Patient A's informed consent for the use of Soma and tramadol.

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34. Between on or about June 4, 2014, and August 3, 2017, Respondent did not document any safer alternatives before the use of Soma and tramadol or Patient A's response to any such alternatives.

35. Between on or about June 4, 2014, and August 3, 2017, Respondent did not document any information related to Patient A's functional status with or without the use of Soma and tramadol.

36. Between on or about June 4, 2014, and August 3, 2017, Respondent did not regularly review the CURES database to evaluate and track Patient A's prescription history and patterns and he did not otherwise monitor or document all medications that Patient A was taking.

37. Between on or about June 4, 2014, and August 3, 2017, Respondent did not order any urine drug screenings for Patient A and did not perform any ongoing review for substance or alcohol use.

38. Between on or about June 4, 2014, and August 3, 2017, despite Patient A's elevated blood pressure readings, Respondent did not assess Patient A for symptoms related to hypertension, nor did he address the elevated readings in his progress notes or offer any appropriate blood pressure treatments.

39. Respondent committed gross negligence in his care and treatment of Patient A, which included, but was not limited to, the following:

A. Respondent failed to maintain complete, accurate, and timely medical records for Patient A.

B. Respondent failed to properly prescribe controlled substances to Patient A by:

(1) Failing to document a complete history of Patient A's painful condition, fibromyalgia, including the parts of the body experiencing pain.

(2) Prescribing Soma and tramadol to Patient A without confirming the presence of a condition necessitating Patient A's use of these controlled substances.

(3) Prescribing Soma and tramadol to Patient A without documenting Patient A's response to treatment with these controlled substances.

(4) Failing to document the justifications for changes in the quantities of Soma and tramadol prescribed to Patient A.

(5) Prescribing Soma and tramadol to Patient A without documenting Patient A's informed consent for the use of these controlled substances.

(6) Prescribing Soma and tramadol to Patient A without documenting any safer alternatives before the use of controlled substances or Patient A's response to any such alternatives.

(7) Prescribing Soma and tramadol to Patient A without documenting any information related to Patient A's functional status with or without the use of these controlled substances.

(8) Prescribing Soma and tramadol to Patient A without regularly reviewing the CURES database to evaluate and track Patient A's prescription history and patterns and without otherwise monitoring or documenting all medications that Patient A was taking.

(9) Prescribing Soma and tramadol to Patient A without ordering any urine drug screenings for Patient A and without performing any ongoing review for substance or alcohol use.

C. Respondent failed to assess Patient A for symptoms related to hypertension, despite Patient A's elevated blood pressure readings, and he failed to address the elevated readings in his progress notes or offer any appropriate blood pressure treatments.

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Patient B

40. On or about February 27, 2019, Respondent saw Patient B for chief complaints of an "old injury" to his right knee, which he reportedly sustained five years ago while playing softball. Patient B also reported that he twisted his right knee, resulting in swelling and pain. According to Patient B, he had not undergone surgery for his right knee and had been taking either Vicodin or Norco,[5] but was unsure which one. Patient B sought a new PCP to check on his right knee due to some concerns that the knee was "not moving where it should be." Patient B reported no present or past illness and no current medications that he was taking.

41. During this visit with Respondent, Patient B told Respondent that he had been recently working extended hours and started taking Norco to help him sleep. Initially, Patient B told Respondent that he obtained Norco from a friend, but Patient B later stated that he obtained it from a family member who had pain. Patient B told Respondent that he had a work-related drug test later in the day and was worried Norco would show up on the drug test, which may negatively impact his employment. Patient B stated that he needed a prescription to justify his recent use of Norco and that a letter would not suffice. Patient B told Respondent his right knee did not hurt, but that he would say it hurts if he had to in order to keep his job.

42. Although Respondent performed an examination of Patient B's right knee, he did not document his findings in the Progress Note for this visit. Respondent's impression was right knee pain and his treatment plan was Norco. Respondent's additional handwritten notes pertaining to his impressions and treatment plan are illegible.

43. On or about February 28, 2019, Patient B filled a prescription of Norco 10/325 #10, which Respondent prescribed.

44. For the February 27, 2019, visit, Respondent's Progress Note is difficult to read and partially illegible.

45. During the February 27, 2019, visit, Respondent did not confirm the presence of a medical indication for prescribing Norco to Patient B.

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[5] Norco (hydrocodone-acetaminophen) is a Schedule II controlled substance pursuant to Health and Safety Code section 11055, subdivision (b), and a dangerous drug pursuant to Business and Professions Code section 4022.

46. During the February 27, 2019, visit, Respondent did not document any safer alternatives before the use of Norco, such as an anti-inflammatory medication.

47. During the February 27, 2019, visit, Respondent did not document Patient B's functional capacity to justify the use of Norco.

48. During the February 27, 2019, visit, Respondent prescribed Norco to Patient B, notwithstanding Patient B's non-medical justification for requesting the prescription.

49. Respondent committed gross negligence in his care and treatment of Patient A, which included, but was not limited to, the following:

A. Respondent failed to properly prescribe controlled substances to Patient A by:

(1) Prescribing Norco to Patient B without confirming the presence of a medical indication for prescribing this controlled substance.

(2) Prescribing Norco to Patient B without documenting any safer alternatives before the use of this controlled substance, such as an anti-inflammatory medication.

(3) Prescribing Norco to Patient B without documenting Patient B's functional capacity to justify the use of this controlled substance.

(4) Prescribing Norco to Patient B, despite Patient B's non-medical justification for requesting a prescription of this controlled substance.

SECOND CAUSE FOR DISCIPLINE

(Repeated Negligent Acts)

50. Respondent has subjected his Physician's and Surgeon's Certificate No. A 32349 to disciplinary action under sections 2227 and 2234, as defined by section 2234, subdivision (c), of the Code, in that he committed repeated negligent acts in his care and treatment of Patients A and B, as more particularly alleged hereinafter:

Patient A

51. Paragraphs 15 through 39, above, are hereby incorporated by reference and re-alleged as if fully set forth herein.

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Patient B

52. Paragraphs 40 through 49, above, are hereby incorporated by reference and re-alleged as if fully set forth herein.

53. Respondent committed further repeated negligent acts in his care and treatment of Patient B, which included, but were not limited to, the following:

A. Respondent failed to maintain complete, accurate, and timely medical records for Patient B.

THIRD CAUSE FOR DISCIPLINE

(Using or Prescribing for or Administering Controlled Substances to Himself)

54. Respondent has subjected his Physician's and Surgeon's Certificate No. A 32349 to disciplinary action under sections 2227 and 2234, as defined by section 2239, subdivision (a), of the Code, in that he used, prescribed for, or administered a controlled substance to himself, as more particularly alleged hereinafter:

55. Between on or about April 10, 2014, and August 12, 2019, Respondent filled thirteen (13) prescriptions for testosterone,[6] which he prescribed to himself.

FOURTH CAUSE FOR DISCIPLINE

(Violation of State Laws Regulating Dangerous Drugs and/or Controlled Substances)

56. Respondent has subjected his Physician's and Surgeon's Certificate No. A 32349 to disciplinary action under sections 2227 and 2234, as defined by section 2238, of the Code, in that he has violated a state law or laws regulating dangerous drugs and/or controlled substances, as more particularly alleged hereinafter:

A. Paragraphs 40 through 49, and paragraph 55, above, are hereby incorporated by reference and re-alleged as if fully set forth herein.

B. Respondent used, prescribed for, or administered a controlled substance to himself, in violation of Health and Safety Code sections 11152, 11170, and 11180.

[6] Testosterone is a Schedule III controlled substance pursuant to Health and Safety Code section 11056, subdivision (f), and a dangerous drug pursuant to Business and Professions Code section 4022.

C. Respondent issued a prescription to Patient B for controlled substances outside the usual course of his professional practice, in violation of Health and Safety Code sections 11152 and 11153.

FIFTH CAUSE FOR DISCIPLINE

(Failure to Maintain Adequate and Accurate Medical Records)

57. Respondent has subjected his Physician's and Surgeon's Certificate No. A 32349 to disciplinary action under sections 2227 and 2234, as defined by section 2266, of the Code, in that he failed to maintain adequate and accurate records regarding his care and treatment of Patients A and B, as more particularly alleged in paragraphs 15 through 49, and paragraph 53, above, which are hereby incorporated by reference and re-alleged as if fully set forth herein.

SIXTH CAUSE FOR DISCIPLINE

(General Unprofessional Conduct)

58. Respondent has subjected his Physician's and Surgeon's Certificate No. A 32349 to disciplinary action under sections 2227 and 2234 of the Code, in that he has engaged in conduct which breaches the rules or ethical code of the medical profession, or conduct which is unbecoming to a member in good standing of the medical profession, and which demonstrates an unfitness to practice medicine, as more particularly alleged in paragraphs 15 through 49, and paragraph 55, above, which are hereby incorporated by reference and realleged as if fully set forth herein.

SEVENTH CAUSE FOR DISCIPLINE

(Violating or Attempting to Violate Any Provision of the Medical Practice Act)

59. Respondent has subjected his Physician's and Surgeon's Certificate No. A 32349 to disciplinary action under sections 2227 and 2234, subdivision (a), of the Code, in that he has violated or attempted to violate, directly or indirectly, provisions or terms of the Medical Practice Act, as more particularly alleged in paragraphs 15 through 58, above, which are hereby incorporated by reference and realleged as if fully set forth herein.

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PRAYER

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

1. Revoking or suspending Physician's and Surgeon's Certificate No. A 32349, issued to Respondent Thawat Eosakul, M.D.;

2. Revoking, suspending or denying approval of Respondent Thawat Eosakul, M.D.'s authority to supervise physician assistants, pursuant to section 3527 of the Code, and advanced practice nurses;

3. Ordering Respondent Thawat Eosakul, M.D., if placed on probation, to pay the Board the costs of probation monitoring; and

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

DATED: MAR 09 2020

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

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