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

In the Matter of the Accusation and Petition to Revoke Probation Against: Walton James Montegut, M.D. Physician's and Surgeon's Certificate No. A 60845 Respondent.	Case No. 800-2021-077205

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 August 3, 2021.

IT IS SO ORDERED July 27, 2021.

MEDICAL BOARD OF CALIFORNIA

William Prasifka
Executive Director

ROB BONTA
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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 and Petition to Revoke Probation Against: **WALTON JAMES MONTEGUT, M.D.** **3111 Via Serena South, Unit N** **Laguna Woods, CA 92637-2701** **Physician's and Surgeon's Certificate No. A 60845,** Respondent.	Case No. 800-2021-077205 (800-2019-061084, 800-2018-051154) OAH No. 2021060679 **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). He brought this action solely in his official capacity and is represented in this matter by Rob Bonta, Attorney General of the State of California, by LeAnna E. Shields, Deputy Attorney General.

2. Walton James Montegut, M.D. (Respondent) is representing himself in this proceeding and has chosen not to exercise his right to be represented by counsel.

3. On or about September 5, 1996, the Board issued Physician's and Surgeon's Certificate No. A 60845 to Respondent. The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought in the Accusation and Petition to Revoke Probation No. 800-2021-077205, and will expire on June 30, 2022, unless renewed.

4. On or about February 3, 2017, in a prior disciplinary action entitled *In the Matter of the Accusation Against: Walton James Montegut, M.D.*, Case No. 04-2010-207017, the Board issued a Decision and Order in which Respondent's Physician's and Surgeon's Certificate No. A 60845 was revoked. The revocation was stayed pending three (3) years' probation with certain terms and conditions. Respondent's probation was in full force and effect as of the effective date of this Stipulated Surrender and Disciplinary Order.

5. On or about May 5, 2021, an Interim Order was issued by the Office of Administrative Hearings pursuant to Government Code section 11529, immediately imposing restrictions on Respondent's Physician's and Surgeon's Certificate No. A 60845, pending further order from the Board or the Office of Administrative Hearings. The Interim Order remains in full force and effect as of the effective date of this Stipulated Surrender and Disciplinary Order.

6. On or about June 10, 2021, a Cease Practice Order was issued by the Board which immediately prohibited Respondent from practicing medicine in the State of California pending a final decision on the Accusation and Petition to Revoke Probation Case No. 800-2021-077205. The Cease Practice Order remains in full force and effect as of the effective date of this Stipulated Surrender and Disciplinary Order.

JURISDICTION

7. On May 18, 2021, the Accusation and Petition to Revoke Probation No. 800-2021-077205 was filed before the Board, and is currently pending against Respondent. A true and correct copy of the Accusation and Petition to Revoke Probation No. 800-2021-077205 and all other statutorily required documents were properly served on Respondent on May 18, 2021. Respondent timely filed his Notice of Defense contesting the Accusation and Petition to Revoke

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Probation. A true and correct copy of the Accusation and Petition to Revoke Probation No. 800-2021-077205 is attached hereto as Exhibit A and incorporated by reference as if fully set forth herein.

ADVISEMENT AND WAIVERS

8. Respondent has carefully read, and fully understands the charges and allegations in the Accusation and Petition to Revoke Probation No. 800-2021-077205. Respondent has also carefully read, and fully understands the effects of this Stipulated Surrender of License and Disciplinary Order.

9. 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 and Petition to Revoke Probation; the right to be represented by counsel at his own expense; 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.

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

CULPABILITY

11. Respondent does not contest that, at an administrative hearing, Complainant could establish a *prima facie* case with respect to each and every charge and allegation contained in the Accusation and Petition to Revoke Probation No. 800-2021-077205, and agrees that he has thereby subjected his Physician's and Surgeon's Certificate No. A 60845 to disciplinary action, and hereby surrenders his Physician's and Surgeon's Certificate No. A 60845 for the board's formal acceptance.

12. Respondent agrees that if he files a petition for reinstatement or relicensure, or an accusation and/or petition to revoke probation is filed against him before the Medical Board of California, all of the charges and allegations contained in the Accusation and Petition to Revoke Probation No. 800-2021-077205 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

13. Respondent understands that by signing this stipulation he enables the Board to issue an order accepting the surrender of his Physician's and Surgeon's Certificate No. A 60845 without notice to, or opportunity to be heard by, Respondent.

14. With Respondent's early acknowledgment that cause exists for the Board's action, Complainant finds good cause under Business and Professions Code section 2307, subdivision (b)(1), and thereby agrees that Respondent may file a petition for reinstatement two years after the effective date of the Board's Decision.

CONTINGENCY

15. 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."

16. 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 60845 without further notice to, or opportunity to be heard by, Respondent.

17. This Stipulated Surrender of License and Disciplinary Order shall be subject to the approval of the Executive Director on behalf of the 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.

18. 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

19. 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.

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

21. 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 Disciplinary Order on behalf of the Board:

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DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. A 60845, issued to Respondent WALTON JAMES MONTEGUT, M.D. is hereby surrendered and accepted by the Medical Board of California.

1. The surrender of Respondent's Physician's and Surgeon's Certificate No. A 60845 and the acceptance of the surrendered license by the 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 Board.

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

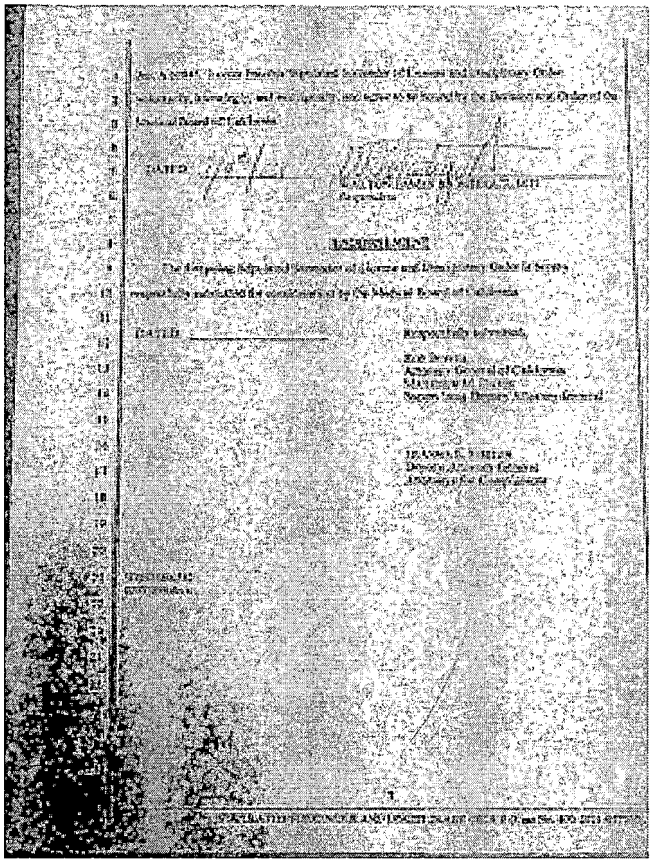
3. Respondent shall cause to be delivered to the Board his pocket license and, if one was issued, his wall certificate on or before the effective date of the Decision and Order.

4. If Respondent ever files an application for licensure or a petition for reinstatement in the State of California, the 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 the Accusation and Petition to Revoke Probation No. 800-2021-077205 shall be deemed to be true, correct and fully admitted by Respondent when the Board determines whether to grant or deny the petition.

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 action agency in the State of California, all of the charges and allegations contained in the Accusation and Petition to Revoke Probation No. 800-2021-077205 shall be deemed to be true, correct, and fully admitted by Respondent for the purpose of any Statement of Issues or any other proceeding seeking to deny or restrict license.

ACCEPTANCE

I have carefully read the Stipulated Surrender of License and Disciplinary Order. I fully understand the stipulation and the effect it will have on my Physician's and Surgeon's Certificate



No. A 60845. 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: _____

WALTON JAMES MONTEGUT, M.D.
Respondent

ENDORSEMENT

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

DATED: July 6, 2021

Respectfully submitted,

ROB BONTA
Attorney General of California
MATTHEW M. DAVIS
Supervising Deputy Attorney General

LEANNA E. SHIELDS
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation and Petition to Revoke Probation No. 800-2021-077205

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BEFORE THE
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STATE OF CALIFORNIA

In the Matter of the Accusation and Petition to Revoke Probation Against: **WALTON JAMES MONTEGUT, M.D.** **3111 Via Serena South, Unit N** **Laguna Woods, CA 92637-2701** **Physician's and Surgeon's Certificate No. A 60845,** Respondent.	Case No. 800-2021-077205 (800-2019-061084, 800-2018-051154) **ACCUSATION AND PETITION TO REVOKE PROBATION**

Complainant alleges:

PARTIES

1. William Prasifka (Complainant) brings this Accusation and Petition to Revoke Probation solely in his official capacity as the Executive Director of the Medical Board of California, Department of Consumer Affairs (Board).

2. On or about September 5, 1996, the Medical Board issued Physician's and Surgeon's Certificate No. A 60845 to Walton James Montegut, M.D. (Respondent). The Physician's and

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Surgeon's Certificate was in full force and effect at all times relevant to the charges brought herein and will expire on June 30, 2022, unless renewed.

3. On May 5, 2021, following a noticed hearing, an Interim Order was issued by the Office of Administrative Hearings (OAH), immediately imposing restrictions upon Respondent's Physician's and Surgeon's Certificate No. A 60845. Specifically, the Interim Order required Respondent to complete an evaluation with a Board-appointed forensic psychologist or psychiatrist, sign a release of records, abstain from the use and possession of controlled substances, abstain from the use of alcohol, submit to biological fluid testing, participate in psychiatric treatment, and attend AA meetings, pending further order from the Board or OAH. Respondent remains subject to these restrictions pending the issuance of a final decision in the instant Accusation and Petition to Revoke Probation.

4. In a prior disciplinary action entitled *In the Matter of the Accusation Against: Walton James Montegut, M.D.*, Case No. 04-2010-207017, the Board issued a Decision and Order, effective February 3, 2017, in which Respondent's Physician's and Surgeon's Certificate No. A 60845 was revoked. The revocation was stayed and Respondent's Physician's and Surgeon's Certificate No. A 60845 was placed on probation for a period of three (3) years with certain terms and conditions. A true and correct copy of that decision and order is attached hereto as Exhibit A and incorporated by reference as if fully set forth herein.

5. From on or about September 18, 2017, through on or about January 9, 2018, Respondent's Physician's and Surgeon's Certificate No. A 60845 was placed on non-practice status[1] for failure to practice medicine as required by the terms of his probation as set forth in the Decision and Order for Case No. 04-2010-207017, Condition No. 11.

6. From on or about April 19, 2018, through on or about October 12, 2019, Respondent's Physician's and Surgeon's Certificate No. A 60845 was placed on non-practice status for failure to practice medicine as required by the terms of his probation as set forth in the Decision and Order for Case No. 04-2010-207017, Condition No. 11.

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[1] As provided in Condition No. 11, periods of non-practice do not apply to the reduction of the probationary term.

7. From on or about December 1, 2019, through on or about February 1, 2021, Respondent's Physician's and Surgeon's Certificate No. A 60845 was placed on non-practice status for failure to practice medicine as required by the terms of his probation as set forth in the Decision and Order for Case No. 04-2010-207017, Condition No. 11.

JURISDICTION

8. This Accusation and Petition to Revoke Probation 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.

9. Section 822 of the Code states:

> If a licensing agency determines that its licentiate's ability to practice his or her profession safely is impaired because the licentiate is mentally ill, or physically ill affecting competency, the licensing agency may take action by any one of the following methods:
>
> (a) Revoking the licentiate's certificate or license.
>
> (b) Suspending the licentiate's right to practice.
>
> (c) Placing the licentiate on probation.
>
> (d) Taking such other action in relation to the licentiate as the licensing agency in its discretion deems proper.
>
> The licensing section shall not reinstate a revoked or suspended certificate or license until it has received competent evidence of the absence or control of the condition which caused its action and until it is satisfied that with due regard for the public health and safety the person's right to practice his or her profession may be safely reinstated.

10. 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.

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(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.

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

11. Section 2234 of the Code, states, in pertinent part:

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

...

(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.

...

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

...

12. Section 2236 of the Code states, in pertinent part:

(a) The conviction of any offense substantially related to the qualifications, functions, or duties of a physician and surgeon constitutes unprofessional conduct within the meaning of this chapter [Chapter 5, the Medical Practice Act]. The record of conviction shall be conclusive evidence only of the fact that the conviction occurred.

...

(c) The clerk of the court in which a licensee is convicted of a crime shall, within 48 hours after the conviction, transmit a certified copy of the record of conviction to the board. The division may inquire into the circumstances surrounding the commission of a crime in order to fix the degree of discipline or to determine if the conviction is of an offense substantially related to the qualifications, functions, or duties of a physician and surgeon.

(d) A plea or verdict of guilty or a conviction after a plea of nolo contendere is deemed to be a conviction within the meaning of this section and Section 2236.1. The record of conviction shall be conclusive evidence of the fact that the conviction occurred.

13. Section 2239 of the Code states, in pertinent part:

(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.

14. California Code of Regulations, title 16, section 1360, states:

For the purposes of denial, suspension or revocation of a license, certificate or permit pursuant to Division 1.5 (commencing with Section 475) of the code, a crime or act shall be considered to be substantially related to the qualifications, functions or duties of a person holding a license, certificate or permit under the Medical Practice Act if to a substantial degree it evidences present or potential unfitness of a person holding a license, certificate or permit to perform the functions authorized by the license, certificate or permit in a manner consistent with the public health, safety or welfare. Such crimes or acts shall include but not be limited to the following: Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate any provision of the Medical Practice Act.

15. 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.

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16. Unprofessional conduct under Business and Professions Code section 2234 is conduct which breaches the rules or ethical code of the medical profession, or conduct which is unbecoming a member in good standing of the medical profession, and which demonstrates an unfitness to practice medicine. (*Shea v. Board of Medical Examiners* (1978) 81 Cal.App.3d 564, 575.)

17. At all times after the effective date of the Decision and Order in Case No. 04-2010-207017, Probation Condition No. 13 states:

> 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.

FACTUAL ALLEGATIONS[2]

1st DUI

18. On or about February 3, 2016, at approximately 11:15 p.m., officers with the Laguna Beach Police Department conducted a traffic stop of a vehicle for drifting and straddling lanes. Respondent was identified as the sole occupant and driver of the vehicle. Respondent exhibited symptoms of being under the influence of alcohol, including, but not limited to, bloodshot, watery eyes, slurred speech, and a strong odor of an alcoholic beverage on his breath. Respondent admitted drinking two glasses of wine.

19. After evaluating Respondent's performance on field sobriety tests, officers determined Respondent exhibited symptoms consistent with being under the influence of alcohol and placed Respondent under arrest for violating Vehicle Code section 23152, subdivision (a), driving while under the influence of alcohol. Upon his arrest, Respondent submitted to a breath test which revealed Respondent's blood alcohol content to be 0.12% at 11:48 p.m., and 0.13% at 11:51 p.m.

[2] Any conduct occurring more than seven (7) years prior to the filing of the instant Accusation and Petition to Revoke Probation or more than three (3) years after discovery is not alleged as a basis for disciplinary action.

20. On or about February 23, 2016, in the case entitled *People of the State of California v. Walton James Montegut*, Case No. 16HM01763, Superior Court of California, County of Orange, Respondent was charged with violating Vehicle Code Section 23152, subdivision (a), driving while under the influence of alcohol, and Vehicle Code section 23152, subdivision (b), driving with a blood alcohol content of 0.08% or more, both misdemeanors.

21. On or about February 27, 2017, Respondent was convicted upon his plea of guilty to a lesser included offense, Vehicle Code section 23103 pursuant to 23103.5, alcohol-related reckless driving. Respondent was sentenced to three (3) years' probation with terms and conditions including, but not limited to, a prohibition against driving with any measurable alcohol, a 3-month first offender alcohol program, and a waiver of his Fourth Amendment rights.

Medical Care of Patient A[3]

22. On or about July 6, 2017, Patient A, a then 49-year-female, presented for a consultation for a mini-abdominoplasty.[4] According to records, Patient A was scheduled for a pre-operative visit on July 7, 2017, with surgery to be performed by Respondent on July 8, 2017.

23. On or about July 7, 2017, Patient A presented for her pre-operative visit with Respondent. Records for this visit indicate Respondent planned to proceed with the mini-abdominoplasty and micro-body contouring of Patient A's bilateral flanks. Records for this visit reflect a cursory physical examination by Respondent with no inquiry into Patient A's autoimmune disease, as indicated in her medical history.

24. On or about July 8, 2017, Patient A presented for surgery. According to records, Respondent performed the mini-abdominoplasty and micro-body contouring but did not perform any muscle repair to Patient A's lower abdominal muscles. Respondent's handwritten operative worksheet did not reflect the steps taken by Respondent during surgery and only minimal details

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[3] For patient privacy purposes, the patient's true name is not used in the instant Accusation and Petition to Revoke Probation to maintain patient confidentiality. The patient's identity is known to Respondent or will be disclosed to Respondent upon receipt of a duly issued request for discovery and in accordance with Government Code section 11507.6.

[4] A mini-abdominoplasty is a surgical procedure to remove excess skin and fatty tissue from the lower abdomen and to tighten the muscles of the abdominal wall.

of the surgical procedure. Records for Patient A do not include a dictated operative note by Respondent. Records for Patient A include several forms that were not signed by Patient A, including, but not limited to, post-operative instructions, medication use agreement, and billing forms.

Hospitalizations

25. On or about September 18, 2017, a friend brought Respondent to the emergency department at M.M.C., concerned about Respondent's own safety. According to records for this encounter, Respondent had made statements about wanting to hurt himself and attempted to leave the hospital against medical advice. Upon evaluation, a 72-hour hold pursuant to Welfare and Institutions Code section 5150 was issued. On or about October 2, 2017, Respondent was discharged from the hospital. According to records for this encounter, Respondent's final diagnosis included, among other things, major depression with psychotic features and alcohol use disorder. Respondent was discharged with a recommendation to seek treatment at the Betty Ford Center.[5]

26. On or about August 14, 2018, a call for service to Laguna Beach Police Department reported Respondent was making statements of wanting to hurt himself. Records for this encounter indicate a mental health specialist evaluated Respondent and diagnosed him with depression.

27. On or about September 6, 2018, Respondent was evaluated and determined to be a danger to himself. Respondent was hospitalized with a 72-hour hold pursuant to Welfare and Institutions Code section 5150. On or about September 9, 2018, Respondent was discharged against medical advice.

28. On or about October 9, 2018, a call for service to Laguna Beach Police Department reported Respondent was seen pacing in the street, pulling out his hair and crying. Respondent was evaluated by a mental health specialist, who noted Respondent appeared confused and anxious, and that he was rambling and repeating phrases. Respondent was diagnosed with

[5] Betty Ford Center is a non-profit, residential treatment center for persons with substance dependence issues.

anxiety and major depressive disorder. Respondent was placed on a 72-hour hold pursuant to Welfare and Institutions Code section 5150. Upon hospitalization, Respondent's urine drug screen tested positive for amphetamines. On or about October 11, 2018, a psychiatrist diagnosed Respondent with bipolar affective disorder and stimulant use disorder. Respondent was discharged with a plan for him to discharge directly to Soul Sanctuary[6] for continued treatment. Respondent was discharged on October 12, 2018.

2nd DUI

29. On or about December 1, 2018, at approximately 11:30 p.m., officers with the Laguna Beach Police Department observed Respondent inside a store displaying a blank stare and glazed look. Officers observed Respondent walk slowly to his vehicle and begin to drive. Officer's observed Respondent drive his vehicle across lane markers and stop in the middle of a crosswalk. Officers conducted a traffic stop. Respondent exhibited symptoms of being under the influence of a drug and/or alcohol, including, but not limited to, constricted pupils, elevated pulse, and difficulty following instructions. Respondent admitted drinking a half glass of wine and taking medications for bipolar disease and depression. Respondent also admitted still being on probation for his prior conviction.

30. After evaluating Respondent's performance on field sobriety tests, officers determined Respondent was under the influence of a drug and placed Respondent under arrest. A breath test revealed Respondent's blood alcohol content to be 0.02%. A blood test at approximately 2:16 a.m. revealed the presence of methamphetamines (86.7 ng/mL) and a blood alcohol content of 0.017%.

31. On or about June 21, 2019, in the case entitled *People of the State of California v. Walton James Montegut*, Case No. 19HM06624, Superior Court of California, County of Orange, Respondent was charged with violating Vehicle Code Section 23152, subdivision (f), driving while under the influence of drug, a misdemeanor, and Vehicle Code section 23154, subdivision (a), driving with a blood alcohol concentration of 0.01% or greater while on probation, an

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[6] Soul Sanctuary is a residential rehabilitation treatment center and detoxification facility.

infraction. Respondent's prior conviction for Vehicle Code section 23103 pursuant to 23103.5 was also charged as a prior conviction.

32. On or about December 3, 2019, Respondent was convicted upon his plea of guilty to violating Vehicle Code section 23152, subdivision (f), driving while under the influence of a drug, to wit, methamphetamine, and admitted his prior conviction for Vehicle Code section 23103 pursuant to 23103.5. Respondent was sentenced to five (5) years' probation with terms and conditions including, but not limited to, four (4) days' custody, installation of an ignition interlock device (IID), participation in a 6-month residential treatment program, AA meetings, and a prohibition against driving with any measurable alcohol.

Drug and Alcohol Rehabilitation Program

33. On or about January 13, 2020, Respondent voluntarily participated in a drug and alcohol rehabilitation program at C.R. Upon admission, Respondent reported his last use of alcohol was three (3) years earlier, last use of methamphetamine in October 2019, and admitted using cannabis. According to records, Respondent was diagnosed with alcohol use disorder, stimulant use disorder, generalized anxiety disorder, major depressive disorder, bipolar I disorder, and other personality disorder.

34. On or about January 29, 2020, Respondent's toxicology drug screen revealed the presence of methamphetamines. As a result, Respondent took a temporary leave from C.R.

35. On or about February 10, 2020, Respondent returned to C.R. and indicated his last use of methamphetamine was on January 28, 2020.

36. On or about February 24, 2020, Respondent's toxicology drug screen revealed the presence of methamphetamines. As a result, Respondent was prematurely discharged from C.R. due to relapse.

False Representations to MBC Probation Unit

37. On or about February 3, 2017, the Board issued a Decision and Order in Case No. 04-2010-207017, in which Respondent's Physician's and Surgeon's Certificate No. A 60845 was placed on probation for a period of three (3) years with certain terms and conditions. According

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to Condition No. 11, Respondent was required to complete a minimum of forty (40) hours per month in direct patient care, clinical activity, or teaching.

38. In or around February 2020, Respondent's probation monitor contacted Respondent's employer to verify his work hours submitted for December 2019. Respondent's employer reviewed the verification forms and confirmed the purported signatures for the last three entries in December 2019 were not her signatures.

39. On or about March 10, 2020, during Respondent's quarterly meeting with his probation monitor, Respondent admitted signing his employer's name on the verification form to reflect forty (40) hours of work after only completing sixteen (16) hours of work in December.

Law Enforcement Encounter

40. On or about December 21, 2020, officers with the Newport Beach Police Department contacted Respondent in his home after locating methamphetamine in the bedroom Respondent was renting. Upon contact, Respondent became extremely nervous and urinated on himself. Officers noted Respondent exhibited symptoms consistent with being under the influence of a stimulant. When asked about the methamphetamine located in his room, Respondent reported he was holding onto it for a friend.

Mental Evaluation

41. On or about January 4, 2021, the Medical Board of California issued an order compelling Respondent to undergo a mental and physical examination pursuant to Business and Professions Code section 820.

42. On or about January 25, 2021, Respondent participated in a 75-minute interview and subsequent telephone conference calls with the Board-appointed psychiatrist, Dr. M.K.

43. On or about March 7, 2021, after an extensive review of additional investigation materials, including, but not limited to, Respondent's treatment records and criminal records, Dr. M.K. issued an opinion finding Respondent suffers from methamphetamine use disorder, moderate in early remission; alcohol use disorder, severe in early remission; cannabis use disorder, presumed moderate; methamphetamine induced depressive disorder with onset during withdrawal; alcohol induced depressive disorder with onset during withdrawal; methamphetamine

induced psychotic disorder with onset during withdrawal, currently in remission; alcohol induced psychotic disorder with onset during withdrawal, currently in remission; and rule out minor cognitive disorder. According to Dr. M.K., Respondent's mental condition impairs his ability to practice medicine with safety to the public.

44. On or about May 5, 2021, an Interim Order was issued by OAH, imposing restrictions on Respondent's Physician's and Surgeon's Certificate No. A 60845, including, but not limited to, requiring a forensic psychiatric and/or psychological evaluation, release of current psychiatric treatment records, abstain from use and possession of controlled substances, abstain from use of alcohol, submit to biological fluid testing, continued psychiatric treatment, and AA meetings.

SECTION 822 CAUSE FOR ACTION

(Mental Illness Affecting Competency)

45. Respondent is subject to action under section 822 of the Code in that his ability to practice medicine safely is impaired due to mental illness affecting competency, as more particularly alleged in paragraphs 18 through 44, above, which are hereby incorporated by reference and realleged as if fully set forth herein.

FIRST CAUSE FOR DISCIPLINE

(Conviction of a Crime Substantially Related to the Qualifications, Functions, or Duties of a Physician and Surgeon)

46. Respondent has subjected his Physician's and Surgeon's Certificate No. A 60845 to disciplinary action under sections 2227 and 2234, as defined by 2236, of the Code, in that he has been convicted of a crime substantially related to the qualifications, functions, or duties of a physician and surgeon, as more particularly alleged in paragraphs 29 through 32, above, which are hereby incorporated by reference and realleged as if fully set forth herein.

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SECOND CAUSE FOR DISCIPLINE

(Use of Alcohol and/or Dangerous Drugs to an Extent, or in a Manner, as to be Dangerous or Injurious to Self, Others or the Public)

47. Respondent has further subjected his Physician's and Surgeon's Certificate No. A 60845 to disciplinary action under sections 2227 and 2234, as defined by 2239, subdivision (a), of the Code, in that he has used, or administered to himself, a dangerous drug and/or alcohol, to the extent, or in a manner, as to be dangerous or injurious to himself, others, or the public, as more particularly alleged in paragraphs 25 through 36, and 40 through 44, above, which are hereby incorporated by reference and realleged as if fully set forth herein.

THIRD CAUSE FOR DISCIPLINE

(Acts of Dishonesty and/or Corruption)

48. Respondent has further subjected his Physician's and Surgeon's Certificate No. A 60845 to disciplinary action under sections 2227 and 2234, as defined by 2234, subdivision (e), of the Code, in that he committed acts of dishonesty and/or corruption, as more particularly alleged in paragraphs 37 through 39, above, which are hereby incorporated by reference and realleged as if fully set forth herein.

FOURTH CAUSE FOR DISCIPLINE

(Repeated Negligent Acts)

49. Respondent has further subjected his Physician's and Surgeon's Certificate No. A 60845 to disciplinary action under sections 2227 and 2234, as defined by 2234, subdivision (c), of the Code, in that he committed repeated negligent acts in his care and treatment of Patient A, as more particularly alleged hereinafter:

A. Paragraphs 22 through 24, above, are hereby incorporated by reference and realleged as if fully set forth herein;

B. Respondent failed to perform and/or document the performance of, an adequate and thorough physical examination of Patient A prior to performing surgery on Patient A;

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C. Respondent failed to repair Patient A's lower abdominal muscles when performing a mini-abdominoplasty on Patient A;

D. Respondent failed to prepare a formal operative note documenting the details and steps of his surgical procedure performed on Patient A; and

E. Respondent failed to require Patient A's signature on standard forms, including, but not limited to, post-operative instructions, medication use agreement, and billing forms.

FIFTH CAUSE FOR DISCIPLINE

(Inadequate and/or Inaccurate Records)

50. Respondent has further subjected his Physician's and Surgeon's Certificate No. A 60845 to disciplinary action under sections 2227 and 2234, as defined by 2266, of the Code, in that he failed to maintain adequate and/or accurate medical records in his care and treatment of Patient A, as more particularly alleged in paragraphs 22 through 24, and 49, above, which are hereby incorporated by reference and realleged as if fully set forth herein.

SIXTH CAUSE FOR DISCIPLINE

(General Unprofessional Conduct)

51. Respondent has further subjected his Physician's and Surgeon's Certificate No. A 60845 to disciplinary action under sections 2227 and 2234, of the Code, in that Respondent engaged in conduct which breached the rules or ethical code of the medical profession or which was unbecoming of a member in good standing of the medical profession, and which demonstrates an unfitness to practice medicine, as more particularly alleged in paragraphs 22 through 50, above, which are hereby incorporated by reference and realleged as if fully set forth herein.

FIRST CAUSE TO REVOKE PROBATION

(Obey All Laws)

52. At all times after the effective date of the Board's Decision and Order in Case No. 04-2010-207017, Probation Condition No. 7 provided:

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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.

53. Respondent's probation is subject to revocation because he failed to comply with Probation Condition No. 7, referenced above, in that Respondent failed to obey all state laws after the effective date of the Board's Decision and Order in Case No. 04-2010-207017, by driving while under the influence of a drug, in violation of Vehicle Code section 23152, subdivision (f), as more particularly alleged in paragraphs 29 through 32, above, which are hereby incorporated by reference and realleged as if fully set forth herein.

54. Respondent's probation is subject to revocation because he failed to comply with Probation Condition No. 7, referenced above, in that Respondent failed to obey all court ordered probation terms and conditions after the effective date of the Board's Decision and Order in Case No. 04-2010-207017, by driving with a measurable amount of alcohol in his blood in violation of Vehicle Code section 23154, subdivision (a), as more particularly alleged in paragraphs 18 through 21, and 29 through 32, above, which are hereby incorporated by reference and realleged as if fully set forth herein.

55. Respondent's probation is subject to revocation because he failed to comply with Probation Condition No. 7, referenced above, in that Respondent failed to obey all state laws and court ordered probation terms and conditions after the effective date of the Board's Decision and Order in Case No. 04-2010-207017, by committing an act of dishonesty, in violation of section 2234, subdivision (e), of the Code, as more particularly alleged in paragraphs 37 through 39, above, which are hereby incorporated by reference and realleged as if fully set forth herein.

SECOND CAUSE TO REVOKE PROBATION

(Periods of Non-Practice)

56. At all times after the effective date of the Board's Decision and Order in Case No. 04-2010-207017, Probation Condition No. 11 provided:

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 in California 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.

...

57. Respondent's probation is subject to revocation because he failed to comply with Probation Condition No. 11, referenced above, in that Respondent failed to notify the Board or its designee in writing within 15 calendar days of his periods of non-practice lasting more than 30 calendar days, including, but not limited to, from on or about September 18, 2017, through on or about January 9, 2018; from on or about April 19, 2018, through on or about October 12, 2019; and from on or about December 1, 2019, through on or about February 1, 2021.

THIRD CAUSE TO REVOKE PROBATION

(Quarterly Declarations)

58. At all times after the effective date of the Board's Decision and Order in Case No. 04-2010-207017, Probation Condition No. 8 provided:

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.

59. Respondent's probation is subject to revocation because he failed to comply with Probation Condition No. 8, referenced above, in that Respondent failed to submit timely and/or complete quarterly declarations for the following quarters, including, but not limited to, First Quarter of 2017, Third Quarter of 2017, Fourth Quarter of 2017, First Quarter of 2018, Third Quarter of 2018, Fourth Quarter of 2018, Fourth Quarter of 2019, and First Quarter of 2020.

FOURTH CAUSE TO REVOKE PROBATION

(Practice Monitor Reports)

60. At all times after the effective date of the Board's Decision and Order in Case No. 04-2010-207017, Probation Condition No. 5 provided:

5. MONITORING - PRACTICE. Within 30 calendar days of the effective date of this Decision, Respondent shall submit to the Board or its designee for prior approval as a practice monitor, the name and qualifications of one or more licensed

physicians and surgeons whose licenses are valid and in good standing, and who are preferably American Board of Medical Specialties (ABMS) certified. A monitor shall have no prior or current business or personal relationship with Respondent, or other relationship that could reasonably be expected to compromise the ability of the monitor to render fair and unbiased reports to the Board, including but not limited to any form of bartering, shall be in Respondent's field of practice, and must agree to serve as Respondent's monitor. Respondent shall pay all monitoring costs.

...

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

...

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

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

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

...

61. Respondent's probation is subject to revocation because he failed to comply with Probation Condition No. 5, referenced above, in that Respondent failed to timely submit for approval a practice monitor within 30 days of the effective date of the Board's Decision and Order in Case No. 04-2010-207017.

62. Respondent's probation is subject to revocation because he failed to comply with Probation Condition No. 5, referenced above, in that Respondent failed to ensure his practice monitors submitted timely and/or complete quarterly written reports for the following quarters, including, but not limited to, First Quarter of 2017, Second Quarter of 2017, Third Quarter of 2017, Fourth Quarter of 2017, First Quarter of 2018, Second Quarter of 2018, and Fourth Quarter of 2019.

63. Respondent's probation is subject to revocation because he failed to comply with Probation Condition No. 5, referenced above, in that Respondent only submitted select case files for his practice monitor to review during the Fourth Quarter of 2019.

FIFTH CAUSE TO REVOKE PROBATION

(Professionalism Program - Ethics Course)

64. At all times after the effective date of the Board's Decision and Order in Case No. 04-2010-207017, Probation Condition No. 4 provided:

> 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. 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.
>
> ...
>
> 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.

65. Respondent's probation is subject to revocation because he failed to comply with Probation Condition No. 4, referenced above, in that Respondent failed to timely enroll in and/or complete an approved professionalism program and/or the longitudinal components within one year of attending the classroom component.

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SIXTH CAUSE TO REVOKE PROBATION

(General Probation Requirements)

66. At all times after the effective date of the Board's Decision and Order in Case No. 04-2010-207017, Probation Condition No. 9 provided:

> 9. GENERAL PROBATION REQUIREMENTS.
>
> Compliance with Probation Unit
>
> Respondent shall comply with the Board's probation unit and all terms and conditions of this Decision.
>
> 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).
>
> ...

67. Respondent's probation is subject to revocation because he failed to comply with Probation Condition No. 9, referenced above, in that Respondent failed to immediately notify the Board or its designee in writing of a change in his business address during the First Quarter of 2021.

SEVENTH CAUSE TO REVOKE PROBATION

(Attendance at Interviews)

68. At all times after the effective date of the Board's Decision and Order in Case No. 04-2010-207017, Probation Condition No. 10 provided:

> 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

69. Respondent's probation is subject to revocation because he failed to comply with Probation Condition No. 10, referenced above, in that Respondent failed to attend an interview scheduled by his probation monitor during the Fourth Quarter of 2017.

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DISCIPLINARY CONSIDERATIONS

Prior Criminal Conviction

70. To determine the degree of discipline, if any, to be imposed on Respondent Walton James Montegut, M.D., Complainant alleges that on or about February 27, 2017, in a prior criminal proceeding entitled *People of the State of California v. Walton James Montegut*, in Orange County, Superior Court of California, Case No. 16HM01763, Respondent was convicted of violating Vehicle Code section 23103 pursuant to Vehicle Code section 23103.5, alcohol-related reckless driving, a misdemeanor, and was ordered to complete three (3) years' probation with standard terms and conditions including, but not limited to, a prohibition against driving with any measurable alcohol, a 3-month first offender alcohol program, and a waiver of his Fourth Amendment rights. The record of the criminal proceeding is incorporated as if fully set forth herein.

Prior Discipline

71. To determine the degree of discipline, if any, to be imposed on Respondent Walton James Montegut, M.D., Complainant alleges that on or about February 3, 2017, in a prior disciplinary proceeding entitled *In the Matter of the Accusation Against: Walton James Montegut, M.D.,* Case No. 04-2010-207017, Respondent's Physician's and Surgeon's Certificate No. A 60845 was revoked, with revocation stayed pending three (3) years' probation subject to terms and conditions. Respondent's anticipated completion date of probation is on or about January 19, 2023.

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. Taking action as authorized by section 822 of the Code as the Board, in its discretion, deems necessary and proper;

2. Revoking probation and carrying out the discipline that was stayed in Case No. 04-2010-207017, revoking Physician's and Surgeon's Certificate No. A 60845, issued to Respondent Walton James Montegut, M.D.;

3. Revoking or suspending Physician's and Surgeon's Certificate No. A 60845, issued to Respondent Walton James Montegut, M.D.;

4. Revoking, suspending or denying approval of Respondent Walton James Montegut, M.D.'s authority to supervise physician assistants and advanced practice nurses;

5. Ordering Respondent Walton James Montegut, M.D., if placed on probation, to pay the Board the costs of probation monitoring; and

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

DATED: MAY 18 2021

WILLIAM PRASIFKA
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant

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EXHIBIT A

In the Matter of the Accusation Against: Walton James Montegut, M.D.

MBC Decision and Order

Case No. 04-2010-207017

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

In the Matter of the Accusation Against:	)	
WALTON JAMES MONTEGUT, M.D.	)	Case No. 04-2010-207017
Physician's and Surgeon's Certificate No. A 60845	)	
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 3, 2017.

IT IS SO ORDERED: January 5, 2017.

MEDICAL BOARD OF CALIFORNIA

Michelle Anne Bholat, M.D., Chair
Panel B

MEDICAL BOARD OF CALIFORNIA
I do hereby certify that this document is a true and correct copy of the original on file in this office.
S. Woods
Signature
For Custodian of Records
Title
5/4/2021
Date

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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: WALTON MONTEGUT, M.D. 1401 Avocado Avenue, Suite 610 Newport Beach, CA 92660 Physician's and Surgeon's Certificate No. A 60845 Respondent.	Case No. 04-2010-207017 OAH No. 2016060059 **STIPULATED SETTLEMENT AND DISCIPLINARY ORDER**

PARTIES

1. Kimberly Kirchmeyer (Complainant) is the Executive Director of the Medical Board of California (Board). She brought this action solely in her official capacity and is represented in this matter by Kamala D. Harris, Attorney General of the State of California, by Cindy M. Lopez, Deputy Attorney General.

2. Respondent WALTON MONTEGUT, M.D. (Respondent) is represented in this proceeding by attorney Henry Lewin, Esq., whose address is: 11377 West Olympic Blvd., 5th Floor, Los Angeles, CA 90064-1683.

3. On or about September 5, 1996, the Board issued Physician's and Surgeon's Certificate No. A 60845 to WALTON MONTEGUT, M.D. (Respondent). The Physician's and

Surgeon's Certificate was in full force and effect at all times relevant to the charges brought in Accusation No. 04-2010-207017, and will expire on June 30, 2018, unless renewed.

JURISDICTION

4. Accusation No. 04-2010-207017 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 July 14, 2015. Respondent timely filed his Notice of Defense contesting the Accusation.

5. A copy of Accusation No. 04-2010-207017 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. 04-2010-207017. 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. 04-2010-207017, 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 todiscipline and he agrees to be bound by the Board's probationary terms as set forth in the Disciplinary Order below.

CONTINGENCY

12. 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.

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

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

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. A 60845 issued to Respondent WALTON MONTEGUT, 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. EDUCATION COURSE. Within 60 calendar days of the effective date of this Decision, and on an annual basis thereafter, Respondent shall submit to the Board or its designee

for its prior approval educational program(s) or course(s) which shall not be less than 40 hours per year, for each year of probation. The educational program(s) or course(s) shall be aimed at correcting any areas of deficient practice or knowledge and shall be Category I certified. The educational program(s) or course(s) shall be at Respondent's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure. Following the completion of each course, the Board or its designee may administer an examination to test Respondent's knowledge of the course. Respondent shall provide proof of attendance for 65 hours of CME of which 40 hours were in satisfaction of this condition.

2. PRESCRIBING PRACTICES COURSE. Within 60 calendar days of the effective date of this Decision, Respondent shall enroll in a course in prescribing practices equivalent to the Prescribing Practices Course at the Physician Assessment and Clinical Education Program, University of California, San Diego School of Medicine (Program), approved in advance by the Board or its designee. Respondent shall provide the program with any information and documents that the Program 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 equivalent to the Medical Record Keeping Course offered by the Physician Assessment and Clinical Education Program, University of California, San Diego School of Medicine (Program), approved in advance by the Board or its designee. Respondent shall provide the program with any information and documents that the Program may deem pertinent. Respondent shall participate in and successfully complete the classroom component of the course not later than six (6) months after Respondent's initial enrollment. Respondent shall successfully complete any other component of the course within one (1) year of enrollment. The medical record keeping course shall be at Respondent's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

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

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

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

The Board or its designee shall provide the approved monitor with copies of the Decision(s) and Accusation(s), and a proposed monitoring plan. Within 15 calendar days of receipt of the Decision, Accusation, and proposed monitoring plan, the monitor shall submit a signed statement that the monitor has read the Decision and Accusation, fully understands the role of a monitor, and agrees or disagrees with the proposed monitoring plan. If the monitor disagrees with the proposed monitoring plan, the monitor shall submit a revised monitoring plan with the signed statement for approval by the Board or its designee.

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

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

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

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

In lieu of a monitor, Respondent may participate in a professional enhancement program equivalent to the one offered by the Physician Assessment and Clinical Education Program at the University of California, San Diego School of Medicine, 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.

6. NOTIFICATION. Within seven (7) days of the effective date of this Decision, the Respondent shall provide a true copy of this Decision and Accusation to the Chief of Staff or the Chief Executive Officer at every hospital where privileges or membership are extended to

Respondent, at any other facility where Respondent engages in the practice of medicine, including all physician and locum tenens registries or other similar agencies, and to the Chief Executive Officer at every insurance carrier which extends malpractice insurance coverage to Respondent. Respondent shall submit proof of compliance to the Board or its designee within 15 calendar days.

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

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 and all terms and conditions of this Decision.

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 in California 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. All time spent in an intensive training program which has been approved by the Board or its designee shall not be considered non-practice. 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 a clinical training 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 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; and General Probation Requirements.

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, Henry Lewin, Esq.. I understand the stipulation and the effect it will have on my Physician's and Surgeon's Certificate. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Medical Board of California.

DATED: 11/3/16

WALTON MONTEGUT, M.D.
Respondent

I have read and fully discussed with Respondent WALTON MONTEGUT, 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: November 3, 2016

HENRY LEWIN, ESQ.
Attorney for Respondent

ENDORSEMENT

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

Dated: 11.15.2016

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
E. A. JONES III
Supervising Deputy Attorney General

CINDY M. LOPEZ
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 04-2010-207017

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO July 14, 2015
BY: ANALYST

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

In the Matter of the Accusation Against: Walton Montegut, M.D. 1401 Avocado Avenue, Suite 610 Newport Beach, CA 92660 Physician's and Surgeon's Certificate No. A 60845, Respondent.	Case No. 04-2010-207017 **ACCUSATION**

Complainant alleges:

PARTIES

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

2. On or about September 5, 1996, the Medical Board issued Physician's and Surgeon's Certificate Number A 60845 to Walton Montegut, M.D. (Respondent). The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought herein and will expire on June 30, 2016, unless renewed.

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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 unless otherwise indicated.

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

5. Section 2234 of the Code, states:

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

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

"(b) Gross negligence.

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

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

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

"(d) Incompetence.

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

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

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

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

6. 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."

FIRST CAUSE FOR DISCIPLINE

(Gross Negligence)

7. Respondent Walton Montegut, M.D., is subject to disciplinary action under section 2234, subdivision (b), in that he was grossly negligent in the care and treatment of four patients. The circumstances are as follows:

Factual Allegations:

A. Patient M.B. was a 63-year-old female when she went to first see Respondent in July 2008. She had no history of any chronic pain syndrome or treatments. M.B. saw Respondent for fat transfer procedures.

B. M.B. had the following procedures performed by Respondent: On September 15, 2008, fat transfer to the face and upper and lower extremities; on August 20, 2009, a local procedure to the face; on October 27, 2009, breast augmentation and revision abdominoplasty; August 30, 2010, revision of buttocks; and, June 5, 2011, breast capsulectomy.

C. The medical records have 52 pages of consents but no history or physicals. There are no pre-operative or post-operative photographs. The progress notes are not dated and not in the proper format.

D. Controlled Substance Utilization Review and Evaluation System ("CURES") and the prescription records show that from August 16, 2009, to July 11, 2014, a total of about 60

months, M.B. had 55 prescriptions for controlled substances, such as hydrocodone (also known as Vicodin, a pain killer for moderate to severe pain); zolpidem (also known as Ambien, helps with sleep); and lorazepam (also known as Ativan, used for the management of anxiety disorder). This was approximately 60-100 pills per month for five years.

E. The second patient, C.C., was a 59-year-old female who started seeing Respondent in August 2007. She had a history of narcolepsy and daily use of phentermine (appetite suppressant). C.C. saw Respondent from August 2007 to August 2011. She received botox treatments and refills for phentermine, 500 tablets at a time. CURES showed she received 200 pills bi-monthly until January 7, 2014. Respondent's medical records are not sufficiently documented and do not show dosage or amounts of pills. C.C. received refills from Respondent three years beyond the last entry in the medical record.

F. The third patient, M.H., was a 42-year-old female who first visited Respondent in October 2007. In the summer of 2008, she underwent a fat transfer procedure to her face. There was no history, physical or photographs in Respondent's medical records for her.

G. Prescription records show that M.H. received 25 prescriptions for Ambien and alprazolam (also known as Xanax, used to treat anxiety caused by depression) 25 times from October 2009 to February 2013, which is 40 months. There are eight entries in Respondent's progress notes but they are incomplete. There is no documentation to justify the need for almost daily, long-term use of zolpidem or alprazolam.

H. The fourth patient, R.H., was a 58-year old male and married to patient M.H. He first presented to Respondent in April 2008. On July 7, 2008, he had a face and neck lift, and fat injections. The records do not show a physical or history. He had minor skin excisions in July 2008, and March 2011. On April 29, 2009, Respondent performed a liposuction, blepharoplasty, (a procedure to repair eyelids), rhinoplasty (reconstructing the nose) and scar revision. There is no physical or history or photos in Respondent's medical records for R.H.

I. Prescription records show that R.H. received 49 prescriptions for zolpidem and 49 times he received alprazolam, from August 2008 to April 2014. There are only three entries in the medical records for a prescription for zolpidem. There is no indication as to the need for the

chronic, long term use of these drugs.

Allegations of Gross Negligence:

J. In a standard plastic surgery setting, a doctor should only prescribe narcotics as it is reasonably related to the type of procedure performed. With each of these patients, Respondent wrongfully overprescribed.

K. Patient M.B.: The drugs that were prescribed were over and beyond what was indicated given the procedures performed.

L. Patient C.C.: The dosage of 5-8 pills of phentermine daily was far larger than the accepted dosage of one pill twice daily. Phentermine is not indicated for long term use.

M. Patients M.H. and R.H. received prescriptions for zolpidem and alprazolam in excess of any medical indication; these drugs are for short term use only.

SECOND CAUSE FOR DISCIPLINE

(Inadequate Medical Records)

8. Respondent Walton Montegut, M.D. is subject to disciplinary action under section 2266 for failure to maintain adequate records. The circumstances are as follows:

A. Complainant realleges the allegations in paragraphs 7, A-I, as though fully set forth herein.

B. There were no photos contained in the records. The progress notes were not dated. History and physicals, and operative reports are missing. Most of the controlled substance prescriptions are missing or not sufficiently documented.

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 Number A 60845, issued to Walton Montegut, M.D.;

2. Revoking, suspending or denying approval of Walton Montegut, M.D.'s authority to supervise physician assistants, pursuant to section 3527 of the Code;

3. Ordering Walton Montegut, 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: July 14, 2015

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

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