

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

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

Robert Stephen Evans, M.D.

**Physician's and Surgeon's
Certificate No. G 36975**

Case No.: 800-2019-061414

Respondent.

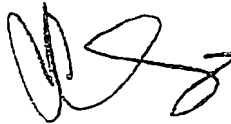
DECISION

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 July 26, 2023.

IT IS SO ORDERED: June 26, 2023.

MEDICAL BOARD OF CALIFORNIA



**Laurie Rose Lubiano, J.D., Chair
Panel A**

1 ROB BONTA
Attorney General of California
2 ALEXANDRA M. ALVAREZ
Supervising Deputy Attorney General
3 KEITH C. SHAW
Deputy Attorney General
4 State Bar No. 227029
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8 *Attorneys for Complainant*

10 **BEFORE THE**
11 **MEDICAL BOARD OF CALIFORNIA**
12 **DEPARTMENT OF CONSUMER AFFAIRS**
13 **STATE OF CALIFORNIA**

14 In the Matter of the Accusation Against:

15 **ROBERT STEPHEN EVANS, M.D.**
16 **58471 29 Palms Hwy, Ste. 303**
Yucca Valley, CA 92284-5818

17 **Physician's and Surgeon's Certificate**
18 **No. G 36975,**

19 Respondent.

Case No. 800-2019-061414

OAH No. 2022080156

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

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

23 **PARTIES**

24 1. William Prasifka (Complainant) was the Executive Director of the Medical Board of
25 California (Board) and brought this action solely in his official capacity. Reji Varghese is
26 presently the Interim Executive Director of the Medical Board of California and is represented in
27 this matter by Rob Bonta, Attorney General of the State of California, by Keith C. Shaw, Deputy
28 Attorney General.

2. Respondent Robert Stephen Evans, M.D. (Respondent) is represented in this proceeding by attorney Henry R. Fenton, Esq., whose address is: 1990 South Bundy Drive, Suite 777, Los Angeles, CA 90025.

3. On or about July 1, 1978, the Board issued Physician's and Surgeon's Certificate No. G 36975 to Robert Stephen Evans, 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. 800-2019-061414, and will expire on March 31, 2024, unless renewed.

JURISDICTION

4. Accusation No. 800-2019-061414 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 June 13, 2022. Respondent timely filed his Notice of Defense contesting the Accusation.

5. A copy of Accusation No. 800-2019-061414 is attached as Exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

6. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 800-2019-061414. Respondent has also carefully read, fully discussed with his 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. Having the benefit of counsel, Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

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

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

7 **DISCIPLINARY ORDER**

8 IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. G 36975 issued
9 to Respondent Robert Stephen Evans, M.D., is revoked. However, the revocation is stayed and
10 Respondent is placed on probation for five (5) years from the effective date of the Decision on the
11 following terms and conditions:

12 1. **CONTROLLED SUBSTANCES - MAINTAIN RECORDS AND ACCESS TO**
13 **RECORDS AND INVENTORIES.** Respondent shall maintain a record of all controlled
14 substances ordered, prescribed, dispensed, administered, or possessed by Respondent, and any
15 recommendation or approval which enables a patient or patient's primary caregiver to possess or
16 cultivate marijuana for the personal medical purposes of the patient within the meaning of Health
17 and Safety Code section 11362.5, during probation, showing all of the following: 1) the name and
18 address of the patient; 2) the date; 3) the character and quantity of controlled substances involved;
19 and 4) the indications and diagnosis for which the controlled substances were furnished.

20 Respondent shall keep these records in a separate file or ledger, in chronological order. All
21 records and any inventories of controlled substances shall be available for immediate inspection
22 and copying on the premises by the Board or its designee at all times during business hours and
23 shall be retained for the entire term of probation.

24 2. **EDUCATION COURSE.** Within 60 calendar days of the effective date of this
25 Decision, and on an annual basis thereafter, Respondent shall submit to the Board or its designee
26 for its prior approval educational program(s) or course(s) which shall not be less than 20 hours
27 per year, for each year of probation. The educational program(s) or course(s) shall be aimed at
28 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 20 hours of CME in satisfaction of this condition.

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

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

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

4. MEDICAL RECORD KEEPING COURSE. Within 60 calendar days of the effective date of this Decision, Respondent shall enroll in a course in medical record keeping approved in advance by the Board or its designee. Respondent shall provide the approved course provider with any information and documents that the approved course provider may deem pertinent. Respondent shall participate in and successfully complete the classroom component of the course not later than six (6) months after Respondent's initial enrollment. Respondent shall successfully

1 complete any other component of the course within one (1) year of enrollment. The medical
2 record keeping course shall be at Respondent's expense and shall be in addition to the Continuing
3 Medical Education (CME) requirements for renewal of licensure.

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

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

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

22 A professionalism program taken after the acts that gave rise to the charges in the
23 Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board
24 or its designee, be accepted towards the fulfillment of this condition if the program would have
25 been approved by the Board or its designee had the program been taken after the effective date of
26 this Decision. Respondent shall submit a certification of successful completion to the Board or its
27 designee not later than 15 calendar days after successfully completing the program or not later
28 than 15 calendar days after the effective date of the Decision, whichever is later.

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

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

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

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

26 The monitor shall submit a quarterly written report to the Board or its designee which
27 includes an evaluation of Respondent's performance, indicating whether Respondent's practices
28 are within the standards of practice of medicine and whether Respondent is practicing medicine

1 safely. It shall be the sole responsibility of Respondent to ensure that the monitor submits the
2 quarterly written reports to the Board or its designee within 10 calendar days after the end of the
3 preceding quarter.

4 If the monitor resigns or is no longer available, Respondent shall, within 5 calendar days of
5 such resignation or unavailability, submit to the Board or its designee, for prior approval, the
6 name and qualifications of a replacement monitor who will be assuming that responsibility within
7 15 calendar days. If Respondent fails to obtain approval of a replacement monitor within 60
8 calendar days of the resignation or unavailability of the monitor, Respondent shall receive a
9 notification from the Board or its designee to cease the practice of medicine within three (3)
10 calendar days after being so notified. Respondent shall cease the practice of medicine until a
11 replacement monitor is approved and assumes monitoring responsibility.

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

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

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

26 8. SUPERVISION OF PHYSICIAN ASSISTANTS AND ADVANCED PRACTICE
27 NURSES. During probation, Respondent is prohibited from supervising physician assistants and
28 advanced practice nurses.

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

4 10. INVESTIGATION/ENFORCEMENT COST RECOVERY. Respondent is hereby
5 ordered to reimburse the Board its costs of investigation and enforcement, including, but not
6 limited to, expert review, amended accusations, legal reviews, investigation(s), and subpoena
7 enforcement, as applicable, in the amount of \$12,500.00 (twelve thousand five hundred dollars).
8 Costs shall be payable to the Medical Board of California. Failure to pay such costs shall be
9 considered a violation of probation.

10 Payment must be made in full within 30 calendar days of the effective date of the Order, or
11 by a payment plan approved by the Medical Board of California. Any and all requests for a
12 payment plan shall be submitted in writing by respondent to the Board. Failure to comply with
13 the payment plan shall be considered a violation of probation.

14 The filing of bankruptcy by respondent shall not relieve respondent of the responsibility to
15 repay investigation and enforcement costs, including expert review costs.

16 11. QUARTERLY DECLARATIONS. Respondent shall submit quarterly declarations
17 under penalty of perjury on forms provided by the Board, stating whether there has been
18 compliance with all the conditions of probation. Respondent shall submit quarterly declarations
19 not later than 10 calendar days after the end of the preceding quarter.

20 12. GENERAL PROBATION REQUIREMENTS.

21 Compliance with Probation Unit

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

23 Address Changes

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

1 Place of Practice

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

5 License Renewal

6 Respondent shall maintain a current and renewed California physician's and surgeon's
7 license.

8 Travel or Residence Outside California

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

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

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

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

1 on probation with the medical licensing authority of that state or jurisdiction shall not be
2 considered non-practice. A Board-ordered suspension of practice shall not be considered as a
3 period of non-practice.

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

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

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

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

16 15. COMPLETION OF PROBATION. Respondent shall comply with all financial
17 obligations (e.g., restitution, probation costs) not later than 120 calendar days prior to the
18 completion of probation. This term does not include cost recovery, which is due within 30
19 calendar days of the effective date of the Order, or by a payment plan approved by the Medical
20 Board and timely satisfied. Upon successful completion of probation, Respondent's certificate
21 shall be fully restored.

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

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

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

16 19. FUTURE ADMISSIONS CLAUSE. If Respondent should ever apply or reapply for
17 a new license or certification, or petition for reinstatement of a license, by any other health care
18 licensing action agency in the State of California, all of the charges and allegations contained in
19 Accusation No. 800-2019-061414 shall be deemed to be true, correct, and admitted by
20 Respondent for the purpose of any Statement of Issues or any other proceeding seeking to deny or
21 restrict license.

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ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Henry R. Fenton, 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: 3/27/23

Robert Stephen Evans MD
ROBERT STEPHEN EVANS, M.D.
Respondent

I have read and fully discussed with Respondent Robert Stephen Evans, 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: 3-27/23

Henry R. Fenton, Esq.
HENRY R. FENTON, 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: March 27, 2023

Respectfully submitted,

ROB BONTA
Attorney General of California
ALEXANDRA M. ALVAREZ
Supervising Deputy Attorney General

Keith Shaw

KEITH C. SHAW
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 800-2019-061414

1 ROB BONTA
Attorney General of California
2 ALEXANDRA M. ALVAREZ
Supervising Deputy Attorney General
3 KEITH C. SHAW
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4 State Bar No. 227029
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15 **ROBERT STEPHEN EVANS, M.D.**
16 **58471 29 Palms Hwy, Ste. 303**
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A C C U S A T I O N

17 **Physician's and Surgeon's Certificate**
18 **No. G 36975,**

Respondent.

19
20
21 **PARTIES**

22 1. William Prasifka (Complainant) brings this Accusation solely in his official capacity
23 as the Executive Director of the Medical Board of California, Department of Consumer Affairs
24 (Board).

25 2. On or about July 1, 1978, the Medical Board issued Physician's and Surgeon's
26 Certificate No. G 36975 to Robert Stephen Evans, M.D. (Respondent). The Physician's and
27 Surgeon's Certificate was in full force and effect at all times relevant to the charges brought
28 herein and will expire on March 31, 2024, unless renewed.

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1 5. Section 2234 of the Code, states:

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

5 "...

6 "(b) Gross negligence.

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

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

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

17 "..."

18 6. Section 2266 of the Code states:

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

21 7. Section 2229 of the Code states that the protection of the public shall be the highest
22 priority for the Board in exercising their disciplinary authority. While attempts to rehabilitate a
23 licensee should be made when possible, Section 2229, subdivision (c), states that when
24 rehabilitation and protection are inconsistent, protection shall be paramount.

25 **COST RECOVERY**

26 8. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
27 administrative law judge to direct a licensee found to have committed a violation or violations of
28 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and

1 enforcement of the case, with failure of the licensee to comply subjecting the license to not being
2 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be
3 included in a stipulated settlement.

4 PERTINENT DRUGS

5 9. **Hydrocodone APAP** (Vicodin, Lortab, and Norco) is a hydrocodone combination of
6 hydrocodone bitartrate and acetaminophen and is a Schedule II controlled substance pursuant to
7 Health and Safety Code section 11056, subdivision (e), and a dangerous drug pursuant to Code
8 section 4022. Schedule II controlled substances are substances that have a currently accepted
9 medical use in the United States, but also have a high potential for abuse, and the abuse of which
10 may lead to severe psychological or physical dependence. When properly prescribed and
11 indicated, HCP's are used for the treatment of moderate to severe pain. In addition to the
12 potential for psychological and physical dependence, there is also the risk of acute liver failure
13 which has resulted in a black box warning being issued by the Federal Drug Administration
14 (FDA). The Drug Enforcement Administration (DEA) has identified opioids, such as
15 hydrocodone, as a drug of abuse. (Drugs of Abuse, DEA Resource Guide (2017 Edition), at p.
16 38.)

17 10. **Lorazepam**, known by the trade name Ativan, is used for anxiety and sedation in the
18 management of anxiety disorder for short-term relief from the symptoms of anxiety or anxiety
19 associated with depressive symptoms. It is a dangerous drug as defined in Code section 4022 and
20 a Schedule IV controlled substance as defined by section 11057 of the Health and Safety Code.
21 Lorazepam is not recommended for use in patients with primary depressive disorders. Sudden
22 withdrawal from lorazepam can produce withdrawal symptoms including seizures. The DEA has
23 identified benzodiazepines, such as lorazepam, as a drug of abuse. (Drugs of Abuse, DEA
24 Resource Guide (2017 Edition), at p. 59.)

25 11. **Xanax** (alprazolam), a benzodiazepine, is a centrally acting hypnotic-sedative that is
26 a Schedule IV controlled substance pursuant to Health and Safety Code section 11057,
27 subdivision (d), and a dangerous drug pursuant to Code section 4022. When properly prescribed
28 and indicated, it is used for the management of anxiety disorders. Concomitant use of Xanax

1 with opioids "may result in profound sedation, respiratory depression, coma, and death." The
2 DEA has identified benzodiazepines, such as Xanax, as a drug of abuse. (Drugs of Abuse, DEA
3 Resource Guide (2017 Edition), at p. 59.)

4 **FIRST CAUSE FOR DISCIPLINE**

5 **(Gross Negligence)**

6 12. Respondent is subject to disciplinary action under sections 2227 and 2234, as defined
7 by section 2234, subdivision (b), of the Code, in that he committed gross negligence in his care
8 and treatment of Patients A, B, and C, as more particularly alleged hereinafter:

9 **PATIENT A**

10 13. Respondent, an urgent care physician, began treating Patient A,¹ a then 34-year-old
11 female, on or about February 7, 2018. Patient A presented with a chief complaint of back pain.
12 However, Respondent did not document a history of the patient's back pain. Respondent
13 recorded that Patient A complained of limited range of movement (ROM), but offered no other
14 details. Respondent started regular prescriptions for Norco and cyclobenzaprine, a muscle
15 relaxer, but did not document a discussion of informed consent.

16 14. On or about June 19, 2018, Respondent added regular prescriptions for Ativan, but
17 did not provide the reason it was being prescribed, conduct an evaluation, or document a
18 discussion of informed consent, including the elevated risks of the concurrent use of opiates and
19 benzodiazepines. Regular prescriptions for Norco and Ativan continued until approximately
20 March 2021 and October 2018, respectively. In early 2019, Respondent switched
21 cyclobenzaprine to another muscle relaxer, baclofen, but did not document the reason.

22 15. Patient A was seen on a regular monthly basis until at least approximately January
23 2021, but a history of present illness was never documented, and on many occasions, a chief
24 complaint was not recorded. Most visits only indicated "Back: Lumbar spine - ROM - limited
25 range of motion," but there was nothing to indicate that an actual physical examination was
26

27 ¹ The patients listed in this document are unnamed to protect their privacy. Respondent
28 knows the name of the patients and can confirm their identity through discovery.

1 performed. Further, Respondent prescribed controlled substances each month, but did not
2 conduct proper periodic reviews and assessments of Patient A's progress and treatment, including
3 efficacy and side effects of the prescribed medications, changes to her pain level, and the long-
4 term use of opiates. Additionally, Respondent failed to document any referrals to specialists, or if
5 outside consultation was not an option, a discussion with Patient A to discuss an alternative plan.

6 16. Respondent routinely did not keep complete records of office visits. Respondent was
7 aware that Patient A was occasionally being prescribed narcotics from another provider, but
8 failed to document that or discuss the increased risks associated with escalating narcotics dosages.
9 Also absent from the records was that Respondent started prescribing Norco for Patient A on or
10 about January 2, 2018. During the time that Respondent prescribed Ativan, the majority of notes
11 are void of any psychiatric review of symptoms or evaluation. Additionally, Respondent did not
12 document whether he reviewed CURES² or performed urine drug screenings during the course of
13 prescribing controlled substances to Patient A.

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

16 (a) Respondent failed to properly conduct a medical history and physical
17 examination for a chronic pain patient; and

18 (b) Respondent failed to properly conduct periodic review, assessment,
19 and consultation.

20 **PATIENT B**

21 18. Respondent started treating Patient B, a then 56-year-old female, on or about October
22 16, 2017. Respondent noted only "Back: Cervical spine - ROM - limited range of motion," and
23 complaints of pain and high blood pressure. However, no actual history of Patient B's back pain
24 was documented. Respondent similarly did not record any details of the patient's pain level,

25
26 ² Beginning October 2, 2018, state law requires all California physicians to consult
27 CURES before prescribing a Schedule II, III or IV controlled substance to a patient for the first
28 time and at least every four months thereafter if the substance remains part of the treatment. Prior
to this date, it was still prudent for physicians to consult CURES to assess for aberrant behavior.

1 quality, or triggers. Even though no chief complaint was recorded at the initial visit, Respondent
2 began prescribing Norco on a recurring monthly basis that would continue until approximately
3 February 2021. At no time did Respondent document a discussion of informed consent for the
4 risks and benefits of Norco use.

5 19. On or about December 26, 2017, Respondent noted complaints of anxiety, and started
6 Patient A on Ativan. Yet, Respondent failed to state a detailed diagnosis to justify Ativan,
7 conduct an evaluation, or document a discussion of informed consent, including the elevated risks
8 of the concurrent use of opiates and benzodiazepines. Ativan prescriptions would continue on a
9 recurring monthly basis until approximately March 2021.

10 20. Patient B was seen on a regular monthly basis until at least approximately March
11 2021, but a history of present illness was never documented, and the physical exam section of the
12 monthly notes are very limited. Most visits only indicated "Back: Lumbar spine - ROM - limited
13 range of motion," but there was nothing to indicate that an actual physical examination was ever
14 performed, even when new neurological symptoms were reported. Further, Respondent
15 prescribed controlled substances each month, but did not conduct proper periodic reviews and
16 assessments of Patient B's progress and treatment, including efficacy and side effects of the
17 prescribed medications, changes to her pain level, as well as the long-term and concurrent use of
18 opiates and benzodiazepines. Additionally, Respondent failed to document any referrals to
19 specialists, or if outside consultation was not an option, a discussion with Patient B to discuss an
20 alternative plan.

21 21. Respondent routinely did not keep complete records of office visits. Respondent also
22 made no record that Patient B received prescriptions for Norco and Ativan from two other
23 providers that worked in the same urgent care clinic as Respondent. During the many years that
24 Respondent prescribed Ativan, the majority of notes are void of any psychiatric review of
25 symptoms or evaluation, only documenting "complaints of anxiety." Additionally, Respondent
26 did not document whether he reviewed CURES or performed urine drug screenings during the
27 course of prescribing controlled substances to Patient B.

1 22. Respondent committed gross negligence in his care and treatment of Patient B which
2 included, but was not limited to, the following:

3 (a) Respondent failed to properly conduct a medical history and physical
4 examination for a chronic pain patient;

5 (b) Respondent failed to properly conduct periodic review, assessment,
6 and consultation; and

7 (c) Respondent prescribed Ativan without a detailed diagnosis,
8 evaluation, periodic review of efficacy, and/or discussion of the
9 increased risks of the concurrent use of benzodiazepines and opiates.

10 **PATIENT C**

11 23. Respondent began treating Patient C, a then 28-year-old male, on or about January 3,
12 2018. Respondent noted only "Back: Lumbar spine - ROM - limited range of motion," and
13 complaints of low back pain. However, no actual history of Patient C's back pain was
14 documented. Respondent similarly did not record any details of the patient's pain level, quality,
15 or triggers. The following month, Respondent began prescribing Norco on a recurring monthly
16 basis that would continue until approximately January 2021. At no time did Respondent
17 document a discussion of informed consent for the risks and benefits of Norco use.

18 24. On or about August 27, 2018, Respondent permanently doubled the dosage of Norco,
19 but did not document the reason for the increase. On the same day, Respondent noted complaints
20 of anxiety for the first time, and started Patient C on Ativan. However, Respondent failed to state
21 a detailed diagnosis to justify Ativan, conduct an evaluation, or document a discussion of
22 informed consent, including the elevated risks of the concurrent use of opiates and
23 benzodiazepines. Ativan would continue on a recurring monthly basis until approximately
24 November 2020, then Respondent switched Patient C to Xanax until approximately March 2021.

25 25. Even though Patient C was seen on a regular monthly basis until approximately
26 March 2021, a history of present illness was never documented, and the physical exam section of
27 the monthly notes are very limited. Most visits only indicated "Back: Lumbar spine - ROM -
28 limited range of motion," but there was nothing to indicate that an actual physical examination

1 was ever performed. Only on a single occasion on or about October 1, 2019, were reflexes
2 recorded. Further, Respondent prescribed controlled substances each month, but did not conduct
3 proper periodic reviews and assessments of Patient C's progress and treatment, including efficacy
4 and side effects of the prescribed medications, changes to his pain level, as well as the long-term
5 and concurrent use of opiates and benzodiazepines. Additionally, Respondent failed to document
6 any referrals to specialists, or if outside consultation was not an option, a discussion with Patient
7 C to discuss an alternative plan.

8 26. Respondent routinely did not keep complete records of office visits. During the
9 numerous years that Respondent prescribed Ativan, the majority of notes are void of any
10 psychiatric review of symptoms or evaluation, only documenting "complaints of anxiety." Even
11 when Respondent switched Patient C from Ativan to Xanax in approximately February 2021, no
12 reason is provided for the change in medication. Additionally, Respondent did not document
13 whether he reviewed CURES or performed urine drug screenings during the course of prescribing
14 controlled substances to Patient C.

15 27. Respondent committed gross negligence in his care and treatment of Patient C which
16 included, but was not limited to, the following:

- 17 (a) Respondent failed to properly conduct a medical history and physical
18 examination for a chronic pain patient;
- 19 (b) Respondent failed to properly conduct periodic review, assessment,
20 and consultation; and
- 21 (c) Respondent prescribed Ativan without a detailed diagnosis,
22 evaluation, periodic review of efficacy, and/or discussion of the
23 increased risks of the concurrent use of benzodiazepines and opiates.

24 **COLLECTIVE TREATMENT OF PATIENTS A, B, AND C**

25 28. Patients A, B, and C were all family members with the same last name who
26 lived in the same household while being treated by Respondent. Patients A, B, and C
27 presented with the same primary medical issues, back pain and anxiety, and were
28 prescribed the same medications by Respondent for treatment, which included Norco for

1 back pain and Ativan for anxiety. Additionally, all three patients were seen by
2 Respondent during extensively overlapping time periods. Patient B was prescribed
3 Norco and Ativan starting in approximately December 2017. One month later, Patient A
4 was started on Norco. The following month, Patient C was started on Norco. By mid-
5 2018, all three patients were receiving regular prescriptions for Norco and Ativan. All
6 these concerning factors should have placed Respondent on high alert for the possibility
7 of diversion or sharing the prescribed medications, but they did not. Instead,
8 Respondent's treatment of the three related patients was on "autopilot" for multiple years
9 where he prescribed the same controlled substances each month without even the
10 slightest periodic review, drug testing, or assessment.

11 29. Respondent committed gross negligence in his care and treatment of Patients A, B
12 and C which included, but was not limited to, the following:

- 13 (a) Respondent improperly prescribed controlled substances to Patients
14 A, B, and C.

15 **SECOND CAUSE FOR DISCIPLINE**

16 **(Repeated Negligent Acts)**

17 30. Respondent is further subject to disciplinary action under sections 2227 and 2234, as
18 defined by section 2234, subdivision (c), of the Code, in that he committed repeated negligent
19 acts in his care and treatment of Patients A, B, and C, as more particularly alleged herein.

20 **PATIENT A**

21 31. Respondent committed repeated negligent acts in his care and treatment of Patient A
22 which included, but was not limited to, the following:

- 23 (a) Paragraphs 13 through 29, above, are hereby incorporated by reference
24 and realleged as if fully set forth herein;
25 (b) Respondent failed to document a discussion of informed consent,
26 including the risks and benefits of the use of controlled substances;
27 (c) Respondent failed to maintain adequate and accurate records; and
28

(d) Respondent prescribed Ativan without a detailed diagnosis, evaluation, review of efficacy, and/or discussion of the increased risks of the concurrent use of benzodiazepines and opiates.

PATIENT B

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

- (a) Paragraphs 13 through 29, above, are hereby incorporated by reference and realleged as if fully set forth herein;
- (b) Respondent failed to document a discussion of informed consent, including the risks and benefits of the use of controlled substances; and
- (c) Respondent failed to maintain adequate and accurate records.

PATIENT C

33. Respondent committed repeated negligent acts in his care and treatment of Patient C which included, but was not limited to, the following:

- (a) Paragraphs 13 through 29, above, are hereby incorporated by reference and realleged as if fully set forth herein;
- (b) Respondent failed to document a discussion of informed consent, including the risks and benefits of the use of controlled substances; and
- (c) Respondent failed to maintain adequate and accurate records.

THIRD CAUSE FOR DISCIPLINE

(Failure to Maintain Adequate and Accurate Records)

34. Respondent is further subject to disciplinary action under sections 2227 and 2234, as defined by section 2266, of the Code, in that Respondent failed to maintain adequate and accurate records regarding his care and treatment of Patients A, B, and C, as more particularly alleged in paragraphs 13 through 33, above, which are hereby incorporated by reference and realleged as if fully set forth herein.

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1 PRAYER

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

4 1. Revoking or suspending Physician's and Surgeon's Certificate No. G 36975, issued
5 to Robert Stephen Evans, M.D.;

6 2. Revoking, suspending or denying approval of Robert Stephen Evans, M.D.'s
7 authority to supervise physician assistants and advanced practice nurses;

8 3. Ordering Robert Stephen Evans, M.D., to pay the Board the costs of the investigation
9 and enforcement of this case, and if placed on probation, the costs of probation monitoring;

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

11
12 DATED: JUN 13 2022


13 WILLIAM PRASIFKA
14 Executive Director
15 Medical Board of California
16 Department of Consumer Affairs
17 State of California
18 Complainant

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