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

In the Matter of the Accusation Against **Gregory Edward Gray, M.D.** **Physician's and Surgeon's Certificate No. G 52593** **Respondent.**	**Case No. 800-2017-036125**

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 June 17, 2020.

IT IS SO ORDERED: May 18, 2020.

MEDICAL BOARD OF CALIFORNIA

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

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Supervising Deputy Attorney General
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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: **GREGORY EDWARD GRAY, M.D.** **1575 Spinnaker Drive, Suite 208** **Ventura, CA 93001-4381** **Physician's and Surgeon's Certificate No. G 52593,** Respondent.	Case No. 800-2017-036125 OAH No. 2019040756 **STIPULATED SETTLEMENT AND DISCIPLINARY ORDER**

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

PARTIES

1. Christine J. Lally (Complainant) is the Interim 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 Xavier Becerra, Attorney General of the State of California, by Christine R. Friar, Deputy Attorney General.

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2. Respondent Gregory Edward Gray, M.D. (Respondent) is represented in this proceeding by attorneys James C. Shaeffer and Charles A. Mainieri of Schaeffer Cota Rosen LLP, located at 500 Esplanade Drive, Suite 950, Oxnard, California 93036.

3. On or about June 25, 1984, the Board issued Physician's and Surgeon's Certificate No. G 52593 to Gregory Edward Gray, 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. 800-2017-036125, and will expire on September 30, 2021, unless renewed.

JURISDICTION

4. Accusation No. 800-2017-036125 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 March 28, 2019. Respondent timely filed his Notice of Defense contesting the Accusation.

5. A copy of Accusation No. 800-2017-036125 is attached as Exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

6. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 800-2017-036125. 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.

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CULPABILITY

9. Respondent does not contest that, at an administrative hearing, Complainant could establish a *prima facie* case with respect to the charges and allegations contained in Accusation No. 800-2017-036125 and that he has thereby subjected his license to disciplinary action.

10. Respondent agrees that if an accusation is ever filed against him before the Board, all of the charges and allegations contained in Accusation No. 800-2017-036125 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.

11. Respondent agrees to be bound by the Board's imposition of discipline 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:

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DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. G 52593 issued to Respondent GREGORY EDWARD GRAY, 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 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. Respondent shall not prescribe medication until Respondent has successfully completed the course and has been so notified by the Board or its designee in writing.

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

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

Respondent shall submit a certification of successful completion to the Board or its designee 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 1358.1. Respondent shall participate in and successfully complete that program. Respondent shall provide any information and documents that the program may deem pertinent. Respondent shall

successfully complete the classroom component of the program not later than six (6) months after Respondent's initial enrollment, and the longitudinal component of the program not later than the time specified by the program, but no later than one (1) year after attending the classroom component. The professionalism program shall be at Respondent's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

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

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

5. CLINICAL COMPETENCE ASSESSMENT PROGRAM. Within 60 calendar days of the effective date of this Decision, Respondent shall enroll in a clinical competence assessment program approved in advance by the Board or its designee. Respondent shall successfully complete the program not later than six (6) months after Respondent's initial enrollment unless the Board or its designee agrees in writing to an extension of that time.

The program shall consist of a comprehensive assessment of Respondent's physical and mental health and the six general domains of clinical competence as defined by the Accreditation Council on Graduate Medical Education and American Board of Medical Specialties pertaining to Respondent's current or intended area of practice. The program shall take into account data obtained from the pre-assessment, self-report forms and interview, and the Decision(s), Accusation(s), and any other information that the Board or its designee deems relevant. The program shall require Respondent's on-site participation for a minimum of three (3) and no more than five (5) days as determined by the program for the assessment and clinical education evaluation. Respondent shall pay all expenses associated with the clinical competence assessment program.

At the end of the evaluation, the program will submit a report to the Board or its designee which unequivocally states whether the Respondent has demonstrated the ability to practice safely and independently. Based on Respondent's performance on the clinical competence assessment, the program will advise the Board or its designee of its recommendation(s) for the scope and length of any additional educational or clinical training, evaluation or treatment for any medical condition or psychological condition, or anything else affecting Respondent's practice of medicine. Respondent shall comply with the program's recommendations.

Determination as to whether Respondent successfully completed the clinical competence assessment program is solely within the program's jurisdiction.

If Respondent fails to enroll, participate in, or successfully complete the clinical competence assessment program within the designated time period, 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. The Respondent shall not resume the practice of medicine until enrollment or participation in the outstanding portions of the clinical competence assessment program have been completed. If the Respondent did not successfully complete the clinical competence assessment program, the Respondent shall not resume the practice of medicine until a final decision has been rendered on the accusation and/or a petition to revoke probation. The cessation of practice shall not apply to the reduction of the probationary time period.

6. 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(s), Accusation(s), and proposed monitoring plan, the monitor shall submit a signed statement that the monitor has read the Decision(s) and Accusation(s), 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 approved in advance by the Board or its designee that includes, at minimum, quarterly chart review, semi-annual practice assessment, and semi-annual review of professional growth and education. Respondent shall participate in the professional enhancement program at Respondent's expense during the term of probation.

7. 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.

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

9. 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.

10. 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.

11. GENERAL PROBATION REQUIREMENTS.

Compliance with Probation Unit

Respondent shall comply with the Board's probation unit.

Address Changes

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

Place of Practice

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

License Renewal

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

Travel or Residence Outside California

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

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

12. 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.

13. NON-PRACTICE WHILE ON PROBATION. Respondent shall notify the Board or its designee in writing within 15 calendar days of any periods of non-practice lasting more than 30 calendar days and within 15 calendar days of Respondent's return to practice. Non-practice is defined as any period of time Respondent is not practicing medicine as defined in Business and

Professions Code sections 2051 and 2052 for at least 40 hours in a calendar month in direct patient care, clinical activity or teaching, or other activity as approved by the Board. If Respondent resides in California and is considered to be in non-practice, Respondent shall comply with all terms and conditions of probation. All time spent in an intensive training program which has been approved by the Board or its designee shall not be considered non-practice and does not relieve Respondent from complying with all the terms and conditions of probation. Practicing medicine in another state of the United States or Federal jurisdiction while on probation with the medical licensing authority of that state or jurisdiction shall not be considered non-practice. A Board-ordered suspension of practice shall not be considered as a period of non-practice.

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

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

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

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

14. 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.

15. 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.

16. 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.

17. 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.

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ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorneys, James C. Schaeffer and Charles A. Mainieri. 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: 1-28-2020

GREGORY EDWARD GRAY, M.D.
Respondent

I have read and fully discussed with Respondent Gregory Edward Gray, 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: 1/28/2020

JAMES C. SCHAEFFER
CHARLES A. MAINIERI
Attorney for Respondent

ENDORSEMENT

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

DATED: 1/29/2020

Respectfully submitted,

XAVIER BECERRA
Attorney General of California
E. A. JONES III
Supervising Deputy Attorney General

CHRISTINE R. FRIAR
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation 800-2017-036125

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Attorneys for Complainant

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO Mar. 28 20 19
BY _____ ANALYST

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

In the Matter of the Accusation Against: **GREGORY EDWARD GRAY, M.D.** **1575 Spinnaker Drive, Suite 208** **Ventura, CA 93001** **Physician's and Surgeon's Certificate No. G52593,** Respondent.	Case No. 800-2017-036125 **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 June 25, 1984, the Medical Board issued Physician's and Surgeon's Certificate No. G52593 to Gregory Edward Gray, M.D. (Respondent). Physician's and Surgeon's

Certificate No. G52593 was in full force and effect at all times relevant to the charges brought herein and will expire on September 30, 2019, unless renewed.

JURISDICTION

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

4. Section 2227 of the Code states, in pertinent part:

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

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

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

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

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

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

"..."

5. 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:

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

"(b) Gross negligence.

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

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

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

"..."

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

7. Section 2266 of the Code states: "The failure of a physician and surgeon to maintain adequate and accurate records relating to the provision of services to their patients constitutes unprofessional conduct."

FIRST CAUSE FOR DISCIPLINE
(Gross Negligence)

8. Respondent has subjected his Physician's and Surgeon's Certificate No. G52593 to disciplinary action under sections 2227 and 2234, as defined section 2234, subdivision (b), of the Code, in that he committed gross negligence in the care and treatment of Patient A,[1] as more particularly alleged hereinafter:

[1] The patient's identity is withheld to protect her privacy. Respondent knows Patient A's identity.

9. On or about February 28, 2011,[2] Respondent saw Patient A, a then thirty-six-year old woman, for an initial visit. Patient A reported a history of anxiety and depression since the age of fifteen, with numerous past medication trials of tricyclic antidepressants, selective serotonin reuptake inhibitor (SSRI) antidepressants, and Klonopin.[3] From her primary care physician, Patient A had been prescribed Prozac[4] and Xanax.[5] Respondent diagnosed Patient A with Panic Disorder and Major Depressive Disorder. He prescribed Prozac and increased Xanax from .25 mg, three times a day, to .50 mg, three times a day and as needed. Respondent failed to document Patient A's substance abuse history or any associated assessment at this initial visit.

10. Throughout the course of treatment, Respondent met with Patient A approximately every two (2) to three (3) weeks and adjusted her medications as her symptoms progressed. In the first six (6) months of treatment, Respondent prescribed Patient A Wellbutrin,[6] Ambien,[7] and Trazodone,[8] along with increasing doses of Xanax and Klonopin.

11. On or about August 22, 2011, Respondent was prescribing Patient A Prozac, Ambien, Trazodone, and Xanax, but had discontinued Klonopin as of an appointment on or about July 27, 2011. From February to August 2011, Respondent had quadrupled Patient A's Xanax dose, prescribing 3.50 mg daily.

12. Patient A's Controlled Substance Utilization Review and Evaluation System (CURES)[9] report shows that a Temazepam[10] prescription written by Respondent was filled on or about September 19, 2011. Respondent's medical records fail to document this prescription.

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[2] Conduct occurring more than seven (7) years from the filing date of the Accusation is for informational purposes only and is not alleged as a basis for disciplinary action.

[3] Klonopin, brand name for Clonazepam, is a benzodiazepine and a Schedule IV controlled substance pursuant to Health and Safety Code section 11057, subdivision (d)(7).

[4] Prozac, brand name for Fluoxetine, is a SSRI antidepressant.

[5] Xanax, brand name for Alprazolam, is a benzodiazepine and a Schedule IV controlled substance pursuant to Health and Safety Code section 11057, subdivision (d)(1).

[6] Wellbutrin, brand name for Bupropion, is an antidepressant.

[7] Ambien, brand name for Zolpidem Tartrate, is a sedative hypnotic and a Schedule IV controlled substance pursuant to Health and Safety Code section 11057, subdivision (d)(32).

[8] Trazodone is a sedative and antidepressant.

[9] The Controlled Substance Utilization Review and Evaluation System (CURES) is a database of Schedule II, III, and IV controlled substance prescriptions dispensed in California serving the public health, regulatory oversight agencies, and law enforcement.

[10] Temazepam, brand name Restoril, is a benzodiazepine and is a Schedule IV controlled substance pursuant to Health and Safety Code section 11057, subdivision (d)(29).

13. On or about September 20, 2011, Patient A saw Respondent and reported that she had experienced complications after surgery for a deviated septum and had to go to the emergency room. She complained of considerable facial pain and poor sleep. Respondent advised Patient A to continue taking Prozac, Xanax, Ambien, and an increased dose of Trazodone. Respondent also prescribed Elavil[11] and increased Patient A's Xanax dose to 4 mg daily.

14. On or about October 10, 2011, Patient A returned to Respondent for a follow up. She complained of depression with anhedonia[12] and insomnia. Respondent added Buspar[13] to her medication regimen, and added Klonopin, 2 mg to be taken at bedtime. Respondent decreased Xanax to 1 mg daily as needed for anxiety.

15. On or about October 24, 2011, Patient A returned to Respondent for a follow up. She disregarded Respondent's prescribing instructions for Xanax and reported that she was taking 1 mg of Xanax three times a day in addition to the Klonopin. Respondent increased her Klonopin dose from 2 mg to 4 mg daily and increased Patient A's Xanax prescription to reflect her increase dose.

16. Patient A continued seeing Respondent regularly through the end of 2011. Throughout November and December of 2011, Respondent prescribed Patient A Effexor[14] (discontinuing Prozac), Elavil, Remeron,[15] Ambien, and Nortriptyline.[16] Respondent also increased Patient A's Xanax prescription to 4 mg daily as needed, and continued her on 4 mg of Klonopin at bedtime.

17. On or about February 16, 2012, Patient A saw Respondent and reported that she had increased her Xanax consumption to 5 mg daily. Respondent continued to prescribe her Xanax, Klonopin, Ambien, and Nortriptyline.

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[11] Elavil, brand name for Amitriptyline, is a nerve pain medication and a tricyclic antidepressant.
[12] Anhedonia is the inability to feel pleasure, and is a common symptom of depression.
[13] Buspar, brand name for Buspirone, is an anxiolytic used to treat anxiety.
[14] Effexor, brand name for Venlafaxine, is a nerve pain and antidepressant.
[15] Remeron, brand name for Mirtazapine, is an antidepressant.
[16] Nortriptyline, brand name Pamelor, is a nerve pain medication and tricyclic antidepressant.

18. On or about March 6, 2012, Patient A saw Respondent for a follow up and complained of back pain. Without doing a physical exam, Respondent prescribed Patient A Robaxin[17] for pain, and had her continue her other medications.

19. On or about March 22, 2012, Patient A saw Respondent for a follow up. She had been in an accident at a store and hurt her right shoulder and hip. Patient A told Respondent she had gone to the emergency room and gotten prescriptions for Norco[18] and Valium.[19] Patient A reported that the Valium was helping more than the Klonopin and Xanax. Respondent prescribed Patient A the following: (1) Lithium;[20] (2) Valium, 10 mg, one tablet to be taken four times a day; and (3) Norco, 10-325 mg, quantity 30, one tablet to be taken four times a day as needed. Respondent told Patient A to discontinue taking Xanax and Klonopin.

20. At the next visit, on or about April 2, 2012, Patient A told Respondent she had stopped taking Valium. Respondent had Patient A restart Klonopin at 4 mg taken at bedtime and increased her Xanax to 5 mg per day as needed.

21. From in or around April 2012 through June 2012, Respondent continued seeing Patient A and prescribed her Ultram[21] (which was quickly discontinued because of an allergic reaction), Topamax,[22] Lithium, Amitriptyline, Xanax, and Klonopin.

22. On or about June 25, 2012, Patient A saw Respondent and reported that she had increased anxiety and had been taking more than the directed amount of Xanax. Respondent documented that Patient A was reluctant to replace Xanax with Klonopin to begin a tapering procedure. Respondent decreased Patient A's Klonopin dose from 4 mg to 2 mg at bedtime and maintained her Xanax dose at 5 mg per day.

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[17] Robaxin, brand name for Methocarbamol, is a muscle relaxant

[18] Norco is the brand name for Hydrocodone Bitartrate and Acetaminophen. Hydrocodone is a Schedule II controlled substance pursuant to Health and Safety Code section 11055, subdivision (b)(1)(I)(i).

[19] Valium, brand name for Diazepam, is a benzodiazepine and a Schedule IV controlled substance pursuant to Health and Safety Code section 11057, subdivision (d)(9).

[20] Lithium is a medication used to treat major depressive disorder and bipolar disorder.

[21] Ultram, brand name for Tramadol, is a narcotic-like analgesic.

[22] Topamax, brand name for Topiramate, is a nerve pain medication and anticonvulsant.

23. On or about June 27 and June 28, 2012, Patient A called Respondent complaining of headache. Respondent initially prescribed Patient A Midrin,[23] then prescribed Fiorecet[24] and advised her to go to urgent care or an emergency room.

24. On or about July 9, 2012, Patient A saw Respondent and told him that her mother had accused her of drinking alcohol. Respondent documented that Patient A denied drinking alcohol, but noted that she had had slurred speech in a phone call with him. Respondent failed to document any information about Patient A's substance abuse history or a substance abuse assessment. Respondent increased Patient A's Klonopin prescription to 3 mg at bedtime and lowered her Xanax prescription to 3 mg a day. Respondent failed to document his rationale for increasing Patient A's overall benzodiazepine prescription.

25. At the next appointment, on or about July 24, 2012, Patient A reported to Respondent that she had increased her Xanax prescription to 4 mg daily. Respondent documented that he spoke to Patient A about the increased addiction liability of Xanax. He diagnosed her with benzodiazepine dependence. Respondent continued Patient A at 3 mg of Xanax daily and documented a plan to switch her to Klonopin by gradually tapering off the Xanax. Respondent documented Patient A's Klonopin prescription as 6 mg daily.

26. On or about August 9, 2012, Respondent lowered Patient A's Xanax dose to 2 mg a day and kept her Klonopin dose the same, at 6 mg daily.

27. On or about September 10, 2012, Respondent increased Patient A's Klonopin dose to 8 mg daily and had her discontinue Xanax.

28. On or about October 3, 2012, Patient A saw Respondent and complained of chronic headaches, anxiety, oversedation and fatigue. Respondent prescribed Patient A Elavil and Topamax. He also continued to prescribe Klonopin, 8 mg daily, and prescribed Xanax, 2 mg daily as needed for anxiety.

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[23] Midrin, a combination of Acetaminophen, Isometheptene, and Dichloralphenazone, is a medication used to treat migraines.

[24] Fiorecet, brand name for Acetaminophen-Butalbital-caffeine, is an analgesic commonly used to treat headaches.

29. From in or around October through December 2012, Patient A continued to see Respondent and continued taking her medications. On or about December 10, 2012, Patient A called Respondent and complained of nausea, vomiting, and light headedness. She also told Respondent she had been to the emergency room three times, and had a neurological appointment in two weeks' time. Respondent documented that he advised Patient A to see her primary care physician and to decrease her Elavil dose.

30. On or about December 11, 2012, Patient A met with Respondent for a scheduled appointment. Respondent gave Patient A prescription for Percocet,[25] 10-325 mg, quantity 80, two tablets to be taken twice a day as needed for severe headache. Respondent noted in the medical record that he was prescribing Patient A enough medication to last until her neurological appointment. Respondent also prescribed Seroquel for sleep, and refilled Patient A's Klonopin and Xanax prescriptions. Respondent did not document an assessment of the risks of combining both substances or any discussion with Patient A of these risks.

31. One week later, on or about December 18, 2012, Patient A saw Respondent and reported that her Percocet had been stolen. Respondent gave her another prescription for Percocet, 10-325 mg, quantity 80, and warned her that he would not refill the prescription again if lost or stolen.

32. On or about January 2, 2013, Patient A saw Respondent and complained of depression, pain, and headaches. Respondent recommended that Patient A see a pain management specialist. Respondent increased Patient A's Klonopin prescription to 4 mg taken at bedtime and 2 mg taken twice daily, and continued Patient A's Xanax prescription to 2 mg daily as needed for panic. He also started Patient A on Effexor.

33. On or about January 15, 2013, Patient A saw Respondent and complained of depression and pain. She reported that Effexor exacerbated her headaches. She told Respondent that she had an appointment with a pain specialist in February but needed a referral. Respondent documented that Patient A had lost ten pounds. He also noted that Patient A had facial and

[25] Percocet is the brand name for Oxycodone and Acetaminophen. Oxycodone is a Schedule II controlled substance pursuant to Health and Safety Code section 11055, subdivision (b)(1)(M).

shoulder pain and chronic headaches. Respondent prescribed Patient A Cymbalta,[26] Elavil, Klonopin, and Percocet, and wrote a referral for the pain specialist. The Percocet prescription was for 80 tablets, one tablet to be taken four times a day, for pain or headache.

34. On or about January 31, 2013, Patient A saw Respondent and said that the pain specialist had canceled her appointment. She also reported that she had increased her Percocet dose to two tablets, four times a day because of her severe shoulder pain. Respondent noted that this was the second instance of Patient A increasing her medication dose without consulting with him. He referred Patient A to another pain management specialist and continued prescribing her Cymbalta, Elavil, Klonopin, and Xanax. He advised Patient A that her Percocet use was excessive and that she should not exceed three tablets per day. He gave Patient A prescription for Percocet, 90 tablets, one tablet to be taken every six to eight hours as needed for pain.

35. On or about February 26, 2013, Patient A saw Respondent and complained of anxiety, depression, and severe right shoulder and facial pain. She reported that she had run out of Klonopin and Xanax. Patient A's CURES report shows that she filled her Klonopin and Xanax prescriptions on or about January 31, 2013, again implying that she had taken more than the prescribed doses for these medications. Patient A said she was unable to make her appointment with the pain management specialist. Respondent refilled Patient A's prescriptions for Cymbalta and Elavil and gave her another referral to a different pain management specialist. He refilled Patient A's Klonopin and Xanax prescriptions and advised her that she should not increase the doses for these medications. The Klonopin prescription was for 2 mg twice daily and 4 mg at bedtime. The Xanax prescription was for 1 mg twice daily as needed for panic. Respondent also refilled Patient A's Percocet prescription, quantity 90, one tablet taken three times a day.

36. On or about March 19, 2013, Patient A saw Respondent and reported that her anxiety and depression had improved. She told Respondent she was unable to get an appointment with the pain management specialist he referred her to at her last visit. Respondent documented that he advised Patient A that she needed to see a pain management specialist and he would not continue to prescribe her Percocet indefinitely. Respondent referred Patient A to another pain

[26] Cymbalta, brand name for Duloxetine, is a nerve pain medication and antidepressant.

management specialist, and Patient A agreed to make an appointment. He discontinued Cymbalta and prescribed Effexor, Elavil, Klonopin, Xanax, and Percocet.

37. On or about March 29, 2013, Patient A called Respondent and said she lost her Klonopin medication. Respondent called in a prescription for Klonopin, 2 mg, quantity 30, and told Patient A that he would not replace any lost Klonopin again.

38. On or about April 12, 2013, Patient A saw Respondent and reported that she did not make an appointment with the last pain management specialist Respondent referred her to. She complained of severe right shoulder pain, depression, anxiety, and a tremor. Respondent reduced Patient A's Effexor dose, increased her Elavil dose, and added Propanolol[27] to treat her tremor. He prescribed Klonopin, 2 mg, quantity 90, and Xanax, 1 mg, quantity 60, and advised Patient A not to increase her Xanax dose. He also prescribed her 90 tablets of Percocet, one tablet to be taken three times a day, and emphasized that she had to go to a pain specialist.

39. On or about May 2, 2013, Patient A saw Respondent for the last time. She complained of anxiety at night, severe shoulder pain, and severe headaches. She once again reported that she had not made an appointment with a pain management specialist. Respondent reduced Patient A's Effexor dose, increased her Elavil, and prescribed Topamax for her migraines and advised her to see a neurologist. He also prescribed Patient A Klonopin, Xanax, and Percocet. Respondent documented that he told Patient A that he was concerned that she had become dependent on Percocet and that she still had not made an appointment with a pain management specialist. He also provided her with the name of a psychiatrist for an evaluation.

40. On or about May 16, 2013, Respondent documented that he had received a phone call from the Ventura County Medical Examiners office, notifying him that Patient A had died.

41. Respondent's medical records fail to accurately document when Respondent issued prescriptions to Patient A. When comparing Respondent's medical records to Patient A's CURES report within a 13-month time period between August 4, 2011 and September 9, 2012, Patient A filled approximately 24 Xanax prescriptions and 26 Klonopin prescriptions, each

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[27] Propanolol, brand name Inderal, is a beta-blocker used to treat high blood pressure and tremors.

allegedly a 30-day supply. Respondent's medical records fail to fully document all the prescriptions given to Patient A.

42. Respondent committed gross negligence in the care and treatment of Patient A for the following:

a. From in or around March through September 2012, Respondent failed to recognize a pattern of overuse of prescribed benzodiazepines and adjust the treatment plan accordingly;

b. On or about July 9, 2012, Respondent failed to assess the potential for oversedation from benzodiazepines after he observed Patient A slurring her speech, failed to re-assess Patient A's alcohol use beyond accepting her denial, and prescribed an increase in benzodiazepine dosing after a finding of slurred speech and possible alcohol use;

c. On or about October 3, 2012, Respondent prescribed Xanax to Patient A, whom he had previously diagnosed benzodiazepine dependence and was attempting to taper down her use of benzodiazepines. He prescribed Xanax despite the fact that Patient A had previously complained of oversedation on Klonopin and without any documentation demonstrating that Patient A was experiencing benzodiazepine withdrawal syndrome;

d. Respondent failed to recognize or document that he was issuing approximately twice as many benzodiazepine prescriptions as were called for in his treatment plan;

e. From on or about December 11, 2012 through May 2, 2013, Respondent continued to prescribe Percocet to Patient A, a patient with a history of benzodiazepine dependence who was taking high doses of benzodiazepines, without documenting a discussion of the risks of combining opioids with benzodiazepines, including oversedation, respiratory depression, and death;

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f. On or about December 18, 2012, Respondent failed to recognize patterns of unreliable and/or aberrant use of prescription medications and adequately assess the patient before deciding to re-issue another Percocet prescription; and

g. Throughout his treatment and care of Patient A, Respondent failed to adequately and accurately document the issuance of controlled substance prescriptions for Klonopin and Xanax.

SECOND CAUSE FOR DISCIPLINE
(Repeated Negligent Acts)

43. Respondent has further subjected his Physician's and Surgeon's Certificate No. G52593 to disciplinary action under sections 2227 and 2234, as defined by section 2234, subdivision (c), of the Code, in that he committed repeated negligent acts in the care and treatment of Patient A, as more particularly alleged hereinafter:

44. Paragraphs 9 through 42, above, are hereby incorporated by reference and re-alleged as if fully set forth herein.

45. Respondent committed repeated negligent acts in the care and treatment of Patient A for the following:

a. On or about April 23, 2012, Respondent failed to perform and document an adequate assessment of Patient A's headache complaints prior to prescribing Topamax;

b. On or about June 27, 2012 and June 28, 2012, Respondent continued to treat Patient A's headache complaints with prescription medications without completing an adequate assessment of her complaint; and

c. From December 11, 2012 through on or about May 2, 2013, Respondent failed to perform and document an adequate assessment of Patient A's pain prior to prescribing Percocet.

THIRD CAUSE FOR DISCIPLINE
(Failure to Maintain Adequate and Accurate Records)

46. Respondent has further subjected his Physician's and Surgeon's Certificate No. G52593 to disciplinary action under sections 2227 and 2234, as defined by section 2266, of the

Code, in that he failed to maintain adequate and accurate records for Patient A, as more particularly alleged in paragraphs 9 through 45, above, which are hereby incorporated by reference and re-alleged as if fully set forth herein.

PRAYER

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

1. Revoking or suspending Physician's and Surgeon's Certificate No. G52593, issued to Respondent Gregory Edward Gray, M.D.;

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

3. Ordering Respondent Gregory Edward Gray, 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: March 28, 2019

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

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