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

In the Matter of the Accusation Against: Patrick George McCallion, M.D. Physician's and Surgeon's Certificate No. G 64989 Respondent.	Case No.: 800-2018-045927

DECISION

The attached Stipulated Settlement 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 March 18, 2022.

IT IS SO ORDERED: February 17, 2022.

MEDICAL BOARD OF CALIFORNIA

Richard E. Thorp, M.D. , Chair
Panel B

ROB BONTA
Attorney General of California
ALEXANDRA M. ALVAREZ
Supervising Deputy Attorney General
KAROLYN M. WESTFALL
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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: **PATRICK GEORGE MCCALLION, M.D.** **5565 Grossmont Ctr. Dr., Bldg. 3, Ste. 101** **La Mesa, CA 91942** **Physician's and Surgeon's Certificate** **No. G 64989,** Respondent.	Case No. 800-2018-045927 OAH No. 2021070257 **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. William Prasifka (Complainant) is the Executive Director of the Medical Board of California (Board). He brought this action solely in his official capacity and is represented in this matter by Rob Bonta, Attorney General of the State of California, by Karolyn M. Westfall, Deputy Attorney General.

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2. Respondent Patrick George McCallion, M.D. (Respondent) is represented in this proceeding by attorney Robert W. Frank, Esq., whose address is: Neil, Dymott, Frank, McFall & Trexler, McCabe & Hudson, APLC, 110 West A Street, Suite 1200, San Diego, CA 92101.

3. On or about January 23, 1989, the Board issued Physician's and Surgeon's Certificate No. G 64989 to Respondent. The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought in Accusation No. 800-2018-045927, and will expire on July 31, 2022, unless renewed.

JURISDICTION

4. Accusation No. 800-2018-045927 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 10, 2021. Respondent timely filed his Notice of Defense contesting the Accusation.

5. A copy of Accusation No. 800-2018-045927 is attached hereto 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. 800-2018-045927. 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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CULPABILITY

9. Respondent admits that, at an administrative hearing, Complainant could establish a *prima facie* case with respect to the charges and allegations contained in Accusation No. 800-2018-045927, and agrees that he has thereby subjected his Physician's and Surgeon's Certificate No. G 64989 to disciplinary action.

10. Respondent further agrees that if he ever petitions for modification or early termination of probation, or if an accusation and/or petition to revoke probation is filed against him before the Medical Board of California, all of the charges and allegations contained in Accusation No. 800-2018-045927 shall be deemed true, correct, and fully admitted by Respondent for purposes of any such proceeding or any other licensing proceeding involving Respondent in the State of California or elsewhere.

11. Respondent agrees that his Physician's and Surgeon's Certificate is subject to discipline and he agrees to be bound by the Board's imposition of discipline as set forth in the Disciplinary Order below.

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 opportunity to be heard by the Respondent, issue and enter the following Disciplinary Order:

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. G 64989 issued to Respondent Patrick George McCallion, M.D., is revoked. However, the revocation is stayed and Respondent is placed on probation for three (3) years from the effective date of this Decision on the following terms and conditions:

1. 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.

2. 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.

3. 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

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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.

4. 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.

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

6. 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.

7. 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.

8. 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, subdivision (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.

9. 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.

10. 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' 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..

11. 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.

12. 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.

13. 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.

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

ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Robert W. Frank, 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: 1/4/22

PATRICK GEORGE MCCALLION, M.D.
Respondent

I have read and fully discussed with Respondent Patrick George McCallion, 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: 1-4-22

ROBERT W. FRANK, 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: 1/5/22

Respectfully submitted,

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

KAROLYN M. WESTFALL
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 800-2018-045927

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BEFORE THE
MEDICAL BOARD OF CALIFORNIA
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STATE OF CALIFORNIA

In the Matter of the Accusation Against: **PATRICK GEORGE MCCALLION, M.D.** **5565 Grossmont Ctr. Dr., Bldg. 3, Ste. 101** **La Mesa, CA 91942** **Physician's and Surgeon's Certificate** **No. G 64989,** Respondent.	Case No. 800-2018-045927 **A C C U S A T I O N**

PARTIES

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

2. On or about January 23, 1989, the Medical Board issued Physician's and Surgeon's Certificate No. G 64989 to Patrick George McCallion, M.D. (Respondent). The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought herein and will expire on July 31, 2022, unless renewed.

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JURISDICTION

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

4. Section 2227 of the Code states:

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

5. Section 2234 of the Code, states:

> The board shall take action against any licensee who is charged with unprofessional conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not limited to, the following:
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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.
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6. Section 2266 of the Code states: The failure of a physician and surgeon to maintain adequate and accurate records relating to the provision of services to their patients constitutes unprofessional conduct.

FIRST CAUSE FOR DISCIPLINE

(Gross Negligence)

7. Respondent has subjected his Physician's and Surgeon's Certificate No. G 64989 to disciplinary action under sections 2227 and 2234, as defined by section 2234, subdivision (b), of the Code, in that he was grossly negligent in his care and treatment of Patients A and B,[1] as more particularly alleged hereinafter:

PATIENT A

8. On or about April 23, 2015, Patient A, a then twenty-six-year-old male patient, presented to ENT Associates of San Diego - La Mesa (ENT Associates) with complaints of sleep apnea, nasal congestion, and headaches, and was seen by R.B., M.D. (Dr. R.B.). Patient A weighed approximately 375 lbs., and was taking Celexa,[2] Norco,[3] and Wellbutrin[4] at the time. Dr. R.B. diagnosed Patient A with severe sleep apnea, headaches secondary to sleep apnea, and abnormal mucus and nasal congestion with possible rhinitis medicamentosa. At the conclusion of this visit, Dr. R.B. referred Patient A for a sinus CT and prescribed him Bactrim[5] and prednisone.[6]

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[1] To protect the privacy of the patients involved, the patients' names have not been included in this pleading. Respondent is aware of the identity of the patients referred to herein.

[2] Celexa (brand name for citalopram) is an antidepressant selective serotonin reuptake inhibitor medication, and a dangerous drug pursuant to Business and Professions Code section 4022.

[3] Norco (brand name for hydrocodone-acetaminophen combination) is a Schedule III controlled substance pursuant to Health and Safety Code section 11056, subdivision (e), and a dangerous drug pursuant to Business and Professions Code section 4022.

[4] Wellbutrin (brand name for bupropion) is an antidepressant medication, and a dangerous drug pursuant to Business and Professions Code section 4022.

[5] Bactrim (brand name for sulfamethoxazole and trimethoprim combination) is an antibiotic medication used to treat a wide variety of bacterial infections, and a dangerous drug pursuant to Business and Professions Code section 4022.

[6] Prednisone is a steroid medication used to treat many conditions associated with inflammation, and a dangerous drug pursuant to Business and Professions Code section 4022.

9. On or about May 14, 2015, Patient A obtained a sinus CT that revealed sinonasal disease.

10. On or about June 4, 2015, Patient A presented to Dr. R.B. for a follow-up. At this visit, Dr. R.B. reviewed the patient's CT results and referred him for surgical management to A.D., M.D. (Dr. A.D.) at U.C.S.D.

11. On or about June 10, 2015, Patient A called ENT Associates with complaints of pain and requested a prescription. The next day, Dr. R.B. prescribed Patient A antibiotics and thirty (30) tabs of Percocet[7] 5-325 mg.

12. On or about June 19, 2015, Patient A presented to ENT Associates with complaints of facial pain and was seen by Respondent. Respondent diagnosed Patient A with chronic sinusitis with septal deviation and turbinate hypertrophy, and underlying allergic rhinitis. At the conclusion of this visit, Respondent prescribed Patient A a corticosteroid injection and fifty (50) tabs of Percocet 5-325 mg. Respondent did not check CURES at this visit or any visit thereafter, and did not discuss and/or document a detailed discussion with Patient A regarding the risks and benefits of opioid therapy at this visit or any visit thereafter.

13. On or about June 29, 2015, Patient A's mother called ENT Associates multiple times with complaints of Patient A's continued pain, frequent headaches and bloody noses, and requested a refill of his Percocet. The next day, Respondent noted that the patient's pain and reaction seemed out of proportion to his sinus disease, but prescribed fifty (50) tabs of Percocet 5-325 mg.

14. On or about July 9, 2015, Patient A called ENT Associates and requested a refill of antibiotics and Percocet. That day, Respondent prescribed Patient A fifty (50) tabs of Percocet 5-325 mg.

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[7] Percocet (brand name for oxycodone and acetaminophen combination) is a Schedule II controlled substance pursuant to Health and Safety Code section 11055, subdivision (b), and a dangerous drug pursuant to Business and Professions Code section 4022.

15. On or about July 16, 2015, Patient A presented to Respondent for a preoperative visit. At the conclusion of this visit, Respondent prescribed Patient A an allergy nasal spray, an antibiotic, and fifty (50) tabs of Percocet 5-325 mg.

16. On or about July 22, 2015, Respondent performed a septoplasty and submucous resection of inferior turbinate and fracture nasal inferior turbinate on both sides of Patient A. The next day, Respondent prescribed Patient A fifty (50) tabs of Percocet 5-325 mg. Respondent did not consider and/or recommend non-opioid medication for post-operative pain management.

17. On or about July 28, 2015, Patient A presented to Respondent for a post-operative visit with complaints of pain and bleeding. Respondent recommended the patient begin saline rinses and allergy nasal spray, and prescribed fifty (50) tabs of Percocet 5-325 mg.

18. On or about August 5, 2015, Respondent's mother called ENT Associates multiple times with complaints of Patient A's continued pain and requested a refill of his pain medication. That day, Respondent prescribed Patient A fifty (50) tabs of Percocet 5-325 mg.

19. On or about August 11, 2015, Patient A presented to Respondent for a follow-up with complaints of facial pain on a scale of 9/10 even with his pain medication, and continued bleeding.

20. On or about August 13, 2015, Patient A called ENT Associates with complaints of facial pain and requested a refill of his pain medication. On that day, Respondent prescribed Patient A fifty (50) tabs of Percocet 5-325 mg.

21. On or about August 20, 2015, Patient A was seen by Respondent for a follow-up with complaints of facial pain on a scale of 9/10 even with his pain medication, and bloody greenish discharge out of the right nostril. At the conclusion of this visit, Respondent documented that the patient's medicines would be changed from Norco to Ultram, but prescribed Patient A fifty (50) tabs of Norco 5-325 mg, and forty (40) tabs of tramadol.[8]

22. Between on or about August 20, 2015, and on or about December 15, 2015, Respondent prescribed Patient A approximately 680 tabs of Norco 5-325 mg, for an average of

[8] Tramadol (brand name Ultram) is a Schedule IV controlled substance pursuant to Health and Safety Code section 11057, and a dangerous drug pursuant to Business and Professions Code section 4022.

approximately five (5) tabs per day, and a morphine equivalent daily dose (MEDD) of approximately 25 mg. During that time period, Patient A and/or his family members called ENT Associates over twenty (20) times to complain of continued pain and to request medication refills.

23. On or about September 3, 2015, Patient A presented to Respondent for a follow-up with complaints of continued bleeding nose, headaches, and fluctuating facial pain.

24. On or about October 1, 2015, Patient A presented to Respondent for a follow-up with complaints of continued facial pain and congestion with blood.

25. On or about October 8, 2015, Patient A presented to Respondent for a follow-up with complaints of worsening headaches. Respondent referred the patient for an allergy evaluation and sinus CT, noting that a pain management referral may be necessary if the CT of his sinuses are clear. At the conclusion of this visit, Respondent prescribed Patient A forty (40) tabs of Norco 5-325 mg and forty (40) tabs of tramadol 50 mg.

26. On or about October 15, 2015, Patient A called ENT Associates and expressed concern that he will be out of Norco because he is taking more due to pain and his inability to sleep. That day, Respondent prescribed Patient A forty (40) tabs of Norco 5-325 mg and forty (40) tabs of tramadol.

27. On or about October 16, 2015, ENT Associates called Patient A to inform him that the results of his recent CT scan revealed his sinuses were clear. Respondent did not refer the patient to pain management at that time.

28. On or about October 20, 2015, Patient A presented to Respondent for a follow-up with complaints of nasal and facial pain, and postnasal drainage with mucous and blood. Respondent diagnosed Patient A with chronic rhinitis, chronic sinusitis, multifactorial headaches, and allergic rhinitis.

29. On or about November 5, 2015, Patient A presented to Respondent for a follow-up with continued complaints of nasal and facial pain, and postnasal drainage with mucous and blood. At this visit, Respondent noted that a neurologist would not treat Patient A until his sinuses were under control, diagnosed Patient A with persistent right sinusitis with sub-optimal healing in septum, and recommended a revision surgery.

30. On or about December 1, 2015, Patient A presented to Respondent with complaints of facial pain and trouble sleeping. Respondent noted that Patient A was not responding to medical or surgical therapy, recommended additional surgery, and refilled his Norco prescription.

31. On or about December 7, 2015, Respondent performed a left and right submucous resection of the inferior turbinate, septoplasty, and nasal endoscopy on Patient A. On that date, Respondent prescribed Patient A an antibiotic and thirty (30) tabs of Percocet 5-325 mg for postoperative pain. Respondent did not consider and/or recommend non-opioid medication for post-operative pain management.

32. On or about December 22, 2015, Patient A presented to ENT Associates for a follow-up with complaints of severe pain with no response to Norco, and was seen by R.L., M.D. (Dr. R.L.). At the conclusion of this visit, Dr. R.L. increased Patient A's pain medication prescription to fifty-five (55) tabs of Norco 10-325 mg to adjust for his weight of approximately 365 lbs.

33. On or about December 29, 2015, Patient A presented to Respondent for a follow-up with complaints of continued facial pain and headaches. At this visit, Respondent informed the patient and his mother that he believed the patient was addicted to pain medications and that it was important for him to get off of these medications. Respondent documented this discussion in the patient's chart by stating, "pain medicine use discussed with patient and mother." The next day, Respondent prescribed Patient A forty (40) tabs of Norco 10-325 mg.

34. On or about January 4, 2016, Patient A presented to Respondent with continued complaints of headaches and facial pain, but with less irritation on the right side. Respondent determined Patient A's turbinates were healing well, and prescribed him forty (40) tabs of Norco 10-325 mg.

35. On or about January 8, 2016, Patient A called ENT Associates with complaints of a possible sinus infection and requested a Norco refill because he was going to be out of town. Respondent discussed with Patient A only using two Norco tabs per day, and prescribed him forty (40) tabs of Norco 10-325 mg.

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36. On or about January 14, 2016, Patient A presented to Respondent for a follow-up with complaints of green mucous, pain, and headaches. Respondent noted the patient's sinuses were improving, and prescribed forty (40) tabs of Norco 10-325 mg.

37. On or about January 19, 2016, Patient A called ENT Associates with complaints of a raw bleeding nose and requested a Norco refill due to being out of town. On that day, Respondent lowered Patient A's prescription to forty (40) tabs of Norco 5-325 mg.

38. On or about January 25, 2016, Patient A's wife called ENT Associates with complaints of Patient A's continued pain and green stuff in his nose. On that day, Respondent prescribed Patient A forty (40) tabs of Norco 5-325 mg.

39. On or about January 28, 2016, Patient A called ENT Associates with complaints of continued pain and requested an increase in his Norco. On that day, Respondent increased Patient A's prescription to forty (40) tabs of Norco 10-325 mg.

40. Between on or about February 3, 2016, and on or about August 30, 2017, Respondent prescribed Patient A approximately 2,080 tabs of Norco 10-325 mg, for an average of approximately 9 tabs per day, and a MEDD of approximately 90 mg. During that time period, Patient A and/or his family members called ENT Associates approximately fifty (50) times to complain of continued pain and to request medication refills.

41. On or about February 9, 2016, Patient A presented to Respondent for a follow-up with complaints of nosebleeds and facial pain. At this visit, Respondent diagnosed Patient A with persistent sinusitis not responding to medical or surgical therapy, and chronic facial pains requiring narcotics, and referred him to Dr. A.D. at U.C.S.D.

42. On or about March 22, 2016, Patient A presented to Respondent for a follow-up with complaints of constant facial pains, headaches, and a foul odor and blood when he blows his nose. Respondent diagnosed the patient with chronic sinusitis with left ethmoid polyps, chronic headaches, and allergic rhinitis. At the conclusion of this visit, Respondent prescribed the patient prednisone.

43. On or about April 6, 2016, Patient A called ENT Associates claiming Walmart Pharmacy was out of Norco and requested his prescription be sent to another location. ENT

Associates confirmed Patient A actually picked up his prescription at Walmart on April 5, 2016, at approximately 7:08 p.m., and denied his request.

44. On or about April 27, 2016, ENT Associates received a call from Patient A's insurance company informing them that Patient A had exceeded his fill limit for Norco with three fills in 75 days.

45. On or about May 9, 2016, Patient A was seen by Dr. A.C. at U.C.S.D. and was diagnosed with chronic rhinosinusitis. Because Patient A was medically recalcitrant, Dr. A.C. recommended revision surgery.

46. On or about June 14, 2016, Patient A presented to Respondent for a follow-up with complaints of no improvement and requested a medication refill. At this visit, Respondent noted Patient A's continued chronic headaches and need for narcotics, and referred him to pain management for the first time.

47. On or about August 24, 2016, Patient A received revision surgery from Dr. A.C.

48. Between on or about September 2, 2016, and on or about February 7, 2017, Respondent prescribed Patient A approximately 2,250 tabs of Norco 10-325 mg, for an average of approximately 14 tabs per day, an MEDD of approximately 140 mg, and an acetaminophen daily dose of approximately 4,550 mg. Respondent did not order or obtain a liver blood panel on Patient A to monitor the patient for hepatic side effects during that time period, or any time thereafter. During that time period, Patient A and/or his family members called ENT Medical Associates over forty (40) times to complain of continued pain and to request medication refills.

49. On or about September 29, 2016, Patient A presented to Respondent for a follow-up with complaints of daily headaches. At the conclusion of this visit, Respondent referred Patient A to a headache specialist.

50. On or about October 25, 2016, Patient A's wife contacted ENT Associates to inform them that Patient A had seen a pain specialist who recommended Respondent continue to prescribe the patient pain medications until he can receive Botox injections in a few weeks. Respondent did not communicate and/or document any communication with the pain specialist at that time, or any time thereafter.

51. On or about November 16, 2016, Patient A presented to Respondent for a follow-up with complaints of continued headaches. Respondent noted the patient had another surgery planned with Dr. A.C., was scheduled to receive Botox injections that month from his pain management specialist, and had an appointment with a headache specialist the following month. At this visit, Respondent discussed the long term risks of prolonged narcotic use with Patient A and his wife, but maintained him on his Norco prescription.

52. On or about December 5, 2016, Patient A called ENT Associates and informed them that the headache doctor did not know what was wrong with him and requested a prescription for Percocet. Respondent spoke with Patient A's wife that day and informed her that Patient A needed to get off narcotics at some point, but maintained him on his Norco prescription and added Effexor[9] for treatment of his chronic headaches.

53. On or about February 2, 2017, Patient A presented to Respondent for a follow-up with complaints of continued headaches. At this visit, Respondent informed the patient that narcotics would need to be tapered once his sinuses healed.

54. On or about February 14, 2017, in response to a request for pain medication, Respondent prescribed Patient A fifty (50) tabs of Percocet 5-325 mg.

55. Between on or about February 17, 2017, and on or about May 5, 2017, Respondent prescribed Patient A regular prescriptions of Percocet until his sinus treatment was taken over by Dr. A.D.

56. Between on or about June 16, 2015 and on or about February 10, 2017, Respondent prescribed opioids to Patient A and did not assess and document his risk for addiction, did not check CURES, did not obtain any urine screens, did not obtain and document detailed clinical pain assessments, did not properly assess and document the patient's response to the opioid therapy, did not enter into a pain management agreement with the patient, and did not prescribe the patient Naloxone.

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[9] Effexor (brand name for venlafaxine) is an antidepressant and nerve pain medication, and a dangerous drug pursuant to Business and Professions Code section 4022.

57. Respondent committed gross negligence in his care and treatment of Patient A by initiating and failing to appropriately monitor the patient's chronic opiate pain medication.

PATIENT B

58. On or about May 25, 2015, Patient B, a then fifty-five-year-old female patient, presented to ENT Associates with complaints of pain and hearing problems in her right ear, and was seen by Respondent. Patient B was a heavy smoker, and her medical history included migraine, sleep apnea, chronic anxiety, and hypertension. Respondent was aware at this initial visit that Patient B was taking Soma[10] and Valium,[11] but did not discuss and/or document how much of each medication she took daily. At the conclusion of this visit, Respondent diagnosed Patient B with acute serous otitis media developing after ear infection, and prescribed a course of prednisone.

59. On or about June 23, 2015, Patient B presented to Respondent for a follow-up with continued complaints of pain and hearing problems in her right ear. At this visit, Respondent performed a nasal endoscopy and myringotomy[12] with aspiration, and diagnosed Patient B with serous otitis media AD with nasopharyngeal mass likely adenoid issue. At the conclusion of this visit, Respondent prescribed Patient B twenty (20) tabs of Norco 10-325 mg for pain. Respondent did not consider and/or recommend non-opioid medication for post-operative pain management, did not ask Patient B if she was taking any opioids at that time, and did not check CURES before prescribing opioids to the patient. Respondent also did not discuss and/or document a discussion with Patient B regarding the risks and benefits of opioid therapy at this visit or any visit thereafter.

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[10] Soma (brand name for carisoprodol) is a muscle relaxant, a Schedule IV controlled substance pursuant to Health and Safety Code section 11057, and a dangerous drug pursuant to Business and Professions Code section 4022.

[11] Valium (brand name for diazepam) is a Schedule IV controlled substance pursuant to Health and Safety Code section 11057, subdivision (d), and a dangerous drug pursuant to Business and Professions Code section 4022.

[12] A myringotomy is a surgical procedure in which a tiny incision is created in the eardrum to relieve pressure caused by excessive buildup of fluid, or to drain pus from the middle ear.

60. On or about June 25, 2015, Patient B called ENT Associates with complaints of pain and requested another Norco prescription. On that date, Respondent prescribed Patient B an additional forty (40) tabs of Norco 5-325 mg.

61. On or about July 23, 2015, Patient B presented to Respondent for a follow-up with continued complaints of pain and hearing problems in her right ear. At the conclusion of this visit, Respondent recommended a biopsy of the mass and tube replacement, and prescribed Patient B forty (40) tabs of Norco 5-325 mg.

62. On or about July 27, 2015, Patient B called ENT Associates with complaints of pain and requested a refill of Norco. On that date, Respondent prescribed Patient B fifty (50) tabs of Percocet 5-325 mg.

63. On or about August 4, 2015, Patient B called ENT Associates with complaints of pain and requested a refill of Percocet. On that date, Dr. R.L., denied the request and advised Patient B to take Tylenol or Aleve for pain.

64. On or about August 6, 2015, Patient B called ENT Associates again and requested Respondent refill her pain medication. On that date, Respondent prescribed Patient B fifty (50) tabs of Percocet 5-325 mg.

65. On or about August 11, 2015, Patient B called ENT Associates and requested a pain medication refill. On that date, Respondent prescribed Patient B fifty (50) tabs of Percocet 5-325 mg.

66. On or about August 12, 2015, Respondent performed a right pressure equalizing tube placement and adenoidectomy on Patient B.

67. On or about August 17, 2015, Patient B called ENT Associates and requested a pain medication refill. Respondent spoke with Patient B the next day and informed her that she needs to reduce her pain medication use, but prescribed her thirty (30) tabs of Norco 5-325 mg, and fifty (50) tabs of tramadol 50 mg with three (3) refills.

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68. On or about August 26, 2015, Patient B presented to Respondent for a post-operative visit. At the conclusion of this visit, Respondent diagnosed Patient B with persistent right otalgia likely due to temporomandibular joint (TMJ) dysfunction and myofascial pain. Respondent recommended the patient obtain an MRI and physical therapy.

69. On or about September 14, 2015 Patient B obtained a TMJ MRI that revealed evidence of mild degeneration of the intra-articular discs of both TMJs, with probable partial tearing of the intermediate zones.

70. On or about September 17, 2015, Respondent referred Patient B to oral surgery for treatment of her TMJ.

71. Between on or about May 26, 2015, and on or about August 18, 2015, Patient B received regular prescriptions of Valium, Soma, Butrans,[13] and hydromorphone[14] from another physician. During that time frame, Respondent repeatedly prescribed opioids to Patient B and did not check CURES, did not ask her if she was receiving controlled substances from another provider, did not refer her to pain management, did not obtain any urine screens, did not obtain and document a detailed clinical pain assessment, and did not assess and/or document the patient's response to the opioid therapy.

72. Respondent committed gross negligence in his care and treatment of Patient B by initiating and failing to appropriately monitor the patient's chronic opiate pain medication.

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[13] Butrans (brand name for buprenorphine) is a Schedule III controlled substance pursuant to Health and Safety Code section 11056, subdivision (e), and a dangerous drug pursuant to Business and Professions Code section 4022. It is used to treat pain as well as addiction to narcotic pain relievers.

[14] Hydromorphone (brand name Dilaudid) is a Schedule II controlled substance pursuant to Health and Safety Code section 11055, subdivision (b), and a dangerous drug pursuant to Business and Professions Code section 4022. It is used to treat pain.

SECOND CAUSE FOR DISCIPLINE

(Repeated Negligent Acts)

73. Respondent has further subjected his Physician's and Surgeon's Certificate No. G 64989 to disciplinary action under sections 2227 and 2234, as defined by section 2234, subdivision (c), of the Code, in that he committed repeated negligent acts in his care and treatment of Patients A and B, as more particularly alleged hereinafter:

A. Paragraphs 7 through 72, above, are hereby incorporated by reference and realleged as if fully set forth herein;

B. Failing to appropriately manage Patient A's postoperative surgical pains;

C. Failing to first utilize non-opiate medical therapy for chronic pain management in Patient A;

D. Failing to discuss and/or document a detailed discussion with Patient A regarding the risks and benefits of long-term opiate therapy;

E. Failing to appropriately monitor Patient A's acetaminophen hepatoxicity between on or about September 2, 2016, and on or about February 7, 2017;

F. Failing to appropriately manage Patient B's postoperative surgical pains;

G. Failing to first utilize non-opiate medical therapy for chronic pain management in Patient B, and failing to refer the patient for a pain management consultation; and

H. Failing to discuss and/or document a discussion with Patient B regarding the risks and benefits of long-term opiate therapy.

THIRD CAUSE FOR DISCIPLINE

(Failure to Maintain Adequate and Accurate Records)

74. Respondent has further subjected his Physician's and Surgeon's Certificate No. G 64989 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 and B, as more particularly alleged in paragraphs 7 through 73, above, which are hereby incorporated by reference and realleged 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. G 64989, issued to Respondent, Patrick George McCallion, M.D.;

2. Revoking, suspending or denying approval of Respondent, Patrick George McCallion, M.D.'s authority to supervise physician assistants and advanced practice nurses;

3. Ordering Respondent, Patrick George McCallion, 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: JUN 10 2021

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

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