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

| | |
|---|---|
| **In the Matter of the Accusation Against:**<br><br>**David Lewis Edelman, M.D.**<br><br>**Physician's and Surgeon's Certificate No. G 51844**<br><br>**Respondent.** | **Case No.: 800-2018-044464** |

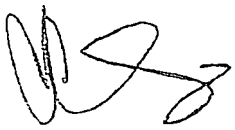
## DECISION

**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 March 16, 2023.**

**IT IS SO ORDERED: February 14, 2023.**

**MEDICAL BOARD OF CALIFORNIA**



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

ROB BONTA
Attorney General of California
ROBERT MCKIM BELL
Supervising Deputy Attorney General
BRIAN D. BILL
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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:<br><br>DAVID LEWIS EDELMAN, M.D.<br><br>3435 Torrance Boulevard.<br>Torrance, California 90503-5801<br><br>Physician's and Surgeon's Certificate G 51844,<br><br>Respondent. | Case No. 800-2018-044464<br><br>OAH No. 2022030840<br><br>**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 Brian D. Bill, Deputy Attorney General.

2. Respondent David Lewis Edelman, M.D. (Respondent) is represented in this proceeding by attorneys Peter R. Osinoff and Carolyn Lindholm of Bonne, Bridges, Mueller O'Keefe & Nichols, whose address is 355 South Grand Avenue, Suite 1750, Los Angeles, California 90071.

3. On January 17, 1984, the Board issued Physician's and Surgeon's Certificate No. G

51844 to the Respondent. That license was in full force and effect at all times relevant to the charges brought in Accusation No. 800-2018-044464, and will expire on November 30, 2023, unless renewed.

## JURISDICTION

4. Accusation No. 800-2018-044464 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 May 26, 2021. Respondent filed a timely Notice of Defense contesting the Accusation.

5. A copy of Accusation No. 800-2018-044464 is attached as Exhibit A and is 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. 800-2018-044464. 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. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

## CULPABILITY

9. Respondent understands and agrees that the charges and allegations in Accusation No. 800-2018-044464, if proven at a hearing, constitute cause for imposing discipline upon his Physician's and Surgeon's Certificate.

10. Respondent does not contest that, at an administrative hearing, Complainant could

establish a prima facie case with respect to the charges and allegations in Accusation No. 800-2018-044464, a true and correct copy of which is attached hereto as Exhibit A, and that he has thereby subjected his Physician's and Surgeon's Certificate, No. G 51844 to disciplinary action.

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

## RESERVATION

12. The admissions made by Respondent herein are only for the purposes of this proceeding, or any other proceedings in which the Medical Board of California or other professional licensing agency is involved, and shall not be admissible in any other criminal or civil proceeding.

## CONTINGENCY

13. 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.

14. Respondent agrees that if he ever petitions for early termination or modification of probation, or if an accusation and/or petition to revoke probation is filed against him before the Board, all of the charges and allegations contained in Accusation No. 800-2018-044464 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.

15. 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.

16. 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 51844 issued to Respondent David Lewis Edelman, M.D. is revoked. However, the revocation is stayed and Respondent is placed on probation for thirty-five (35) months on the following terms and conditions:

1. STANDARD STAY ORDER. The revocation is stayed and Respondent is placed on probation for thirty-five (35) months upon the following terms and conditions.

2. 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.

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

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

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

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

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

5. MONITORING - PRACTICE/BILLING. 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 monitor 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(s) 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.

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

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

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

advanced practice nurses.

8. 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.

9. INVESTIGATION/ENFORCEMENT COST RECOVERY. Respondent is hereby ordered to reimburse the Board its costs of enforcement, in the amount of $12,562.50 (twelve thousand five hundred sixty-two dollars and fifty cents). Costs shall be payable to the Medical Board of California. Failure to pay such costs shall be considered a violation of probation.

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

The filing of bankruptcy by Respondent shall not relieve Respondent of the responsibility to repay investigation and enforcement costs.

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, 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.

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. This term does not include cost recovery, which is due within 30 calendar days of the effective date of the Order, or by a payment plan approved by the Medical Board and timely satisfied. 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.

18. FUTURE ADMISSIONS CLAUSE. If Respondent should ever apply or reapply for a new license or certification, or petition for reinstatement of a license, by any other health care licensing action agency in the State of California, all of the charges and allegations contained in Accusation No. 800-2018-044464 shall be deemed to be true, correct, and admitted by Respondent for the purpose of any Statement of Issues or any other proceeding seeking to deny or restrict license.

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## ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Carolyn Lindholm, 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: _____ _____
DAVID LEWIS EDELMAN, M.D.
*Respondent*

I have read and fully discussed with Respondent David Lewis Edelman, 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: _____ _____
CAROLYN LINDHOLM
*Attorney for Respondent*

## ENDORSEMENT

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

DATED: November 17, 2022

Respectfully submitted,

ROB BONTA
Attorney General of California
ROBERT MCKIM BELL
Supervising Deputy Attorney General

BRIAN D. BILL
Deputy Attorney General
*Attorneys for Complainant*

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## ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Carolyn Lindholm, Esq. I understand the stipulation and the effect it will have on my Physician's and Surgeon's Certificate. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Medical Board of California.

DATED: 11/17/22

DAVID LEWIS EDELMAN, M.D.
*Respondent*

I have read and fully discussed with Respondent David Lewis Edelman, 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: 11/17/22

CAROLYN LINDHOLM
*Attorney for Respondent*

## ENDORSEMENT

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

DATED: _____

Respectfully submitted,

ROB BONTA
Attorney General of California
ROBERT MCKIM BELL
Supervising Deputy Attorney General

BRIAN D. BILL
Deputy Attorney General
*Attorneys for Complainant*

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**BEFORE THE**
**MEDICAL BOARD OF CALIFORNIA**
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| In the Matter of the Accusation Against:<br><br>**David Lewis Edelman, M.D.**<br>**4201 Torrance Blvd., Suite 735**<br>**Torrance, CA 90503**<br><br>**Physician's and Surgeon's Certificate**<br>**No. G 51844,**<br><br>Respondent. | Case No. 800-2018-044464<br><br>**ACCUSATION** |

**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 17, 1984, the Medical Board issued Physician's and Surgeon's Certificate Number G 51844 to David Lewis Edelman, 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 November 30, 2021, 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 2004 of the Code states:

The board shall have the responsibility for the following:

(a) The enforcement of the disciplinary and criminal provisions of the Medical Practice Act.

(b) The administration and hearing of disciplinary actions.

(c) Carrying out disciplinary actions appropriate to findings made by a panel or an administrative law judge.

(d) Suspending, revoking, or otherwise limiting certificates after the conclusion of disciplinary actions.

(e) Reviewing the quality of medical practice carried out by physician and surgeon certificate holders under the jurisdiction of the board.

(f) Approving undergraduate and graduate medical education programs.

(g) Approving clinical clerkship and special programs and hospitals for the programs in subdivision (f).

(h) Issuing licenses and certificates under the board's jurisdiction.

(i) Administering the board's continuing medical education program.

5. Section 2220 of the Code states:

Except as otherwise provided by law, the board may take action against all persons guilty of violating this chapter. The board shall enforce and administer this article as to physician and surgeon certificate holders, including those who hold certificates that do not permit them to practice medicine, such as, but not limited to, retired, inactive, or disabled status certificate holders, and the board shall have all the powers granted in this chapter for these purposes including, but not limited to:

(a) Investigating complaints from the public, from other licensees, from health care facilities, or from the board that a physician and surgeon may be guilty of unprofessional conduct. The board shall investigate the circumstances underlying a report received pursuant to Section 805 or 805.01 within 30 days to determine if an interim suspension order or temporary restraining order should be issued. The board shall otherwise provide timely disposition of the reports received pursuant to Section 805 and Section 805.01.

(b) Investigating the circumstances of practice of any physician and surgeon where there have been any judgments, settlements, or arbitration awards requiring the

physician and surgeon or his or her professional liability insurer to pay an amount in damages in excess of a cumulative total of thirty thousand dollars ($30,000) with respect to any claim that injury or damage was proximately caused by the physician's and surgeon's error, negligence, or omission.

(c) Investigating the nature and causes of injuries from cases which shall be reported of a high number of judgments, settlements, or arbitration awards against a physician and surgeon.

6. 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.

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

7. Section 2228 of the Code states:

The authority of the board or the California Board of Podiatric Medicine to discipline a licensee by placing him or her on probation includes, but is not limited to, the following:

(a) Requiring the licensee to obtain additional professional training and to pass an examination upon the completion of the training. The examination may be written or oral, or both, and may be a practical or clinical examination, or both, at the option of the board or the administrative law judge.

(b) Requiring the licensee to submit to a complete diagnostic examination by one or more physicians and surgeons appointed by the board. If an examination is ordered, the board shall receive and consider any other report of a complete diagnostic examination given by one or more physicians and surgeons of the licensee's choice.

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(c) Restricting or limiting the extent, scope, or type of practice of the licensee, including requiring notice to applicable patients that the licensee is unable to perform the indicated treatment, where appropriate.

(d) Providing the option of alternative community service in cases other than violations relating to quality of care.

## STATUTORY PROVISIONS

8. 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:

...

(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.

...

9. Section 2266 of the Code states:

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

## DEFINITIONS

10. Controlled Substance: A drug which has been declared by federal or state law to be illegal for sale or use but may be dispensed under a physician's prescription. The basis for control and regulation is the danger of addiction, abuse, physical or mental harm, and death. Controlled substances include:

a. Opioids: Drugs that are generally prescribed for moderate to severe pain that have a high potential for abuse, dependence, and addiction. The dangers of using such drugs include, but are not limited to, drug abuse, psychic dependence, immunosuppression, hormonal

changes, central nervous system depression, and death. Common opioids include oxycodone, oxycontin, morphine sulfate, and oxymorphone.

b. Benzodiazepines: Drugs that are generally prescribed to treat anxiety. Benzodiazepines are habit-forming and have significant addiction potential when improperly prescribed and/or used over prolonged periods. Negative side effects include drowsiness, dizziness, increased saliva, mood changes, hallucinations, thoughts of suicide, slurred speech, loss of coordination, difficulty walking, coma, respiratory failure, and death. Benzodiazepines include clonazepam and alprazolam.

11. Standard of care for prescribing controlled substances for pain:

a. Medical history and physical examination: The standard of care requires a medical history and physical examination to include an assessment of the pain, physical and psychological status and functioning, substance abuse history, prior pain treatments and evaluation of any other underlying conditions. It should include documentation of medical indications for the use of controlled substances such as opioids for pain control.

b. Treatment Plan and Objectives: The standard of care requires the medical records to contain stated objectives that may include relief of pain or improved physical or psychological function or ability to perform certain tasks or activities of daily living. This should include any plans for further diagnostic evaluations and treatments, such as rehabilitation programs.

c. Informed consent: The standard of care requires the medical records document that the physician discussed risks and benefits of the use of controlled substances along with other treatment modalities. An actual written consent is not required but is recommended.

d. Periodic review: The standard of care requires the medical records to reflect that the physician is periodically reviewing the course of pain treatment for the patient and making appropriate modifications in the treatment based on the patient's progress or lack of progress.

e. Consultation: The standard of care requires the physician to consider obtaining additional evaluations and consultations when it comes to complex pain problems. Special

attention should be given to patients who are at risk for misusing their medications or have a history of drug addiction/substance abuse disorder. The above patient requires extra care and monitoring along with documentation and consultation with an addiction medicine specialist and pain management specialist.

f. Maintenance of medical records: The standard of care requires that the physician must maintain accurate and complete records, demonstrating a history and exam along with evaluations and consultations, treatment plans and objectives, informed consent, medications prescribed and periodic review of documentation. Controlled Substance Utilization Review and Evaluation System (CURES)[1] report should be assessed.

## FACTUAL ALLEGATIONS

**Patient No. 1[2]**

12. Respondent treated Patient No. 1 (also "Patient") for epilepsy, depression, and pain between 2013 and 2018.[3] The medical records also document that Patient No. 1 had meningitis and a spinal cord injury which caused paraplegia and chronic pain with spasms. According to a CURES report for the period June 12, 2011 through June 12, 2018, Patient No. 1 was prescribed a combination of methylphenidate,[4] clonazepam, oxycodone, and alprazolam. The morphine equivalent dose (MED)[5] was approximately 540 mg per day.

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[1] CURES 2.0 (Controlled Substance Utilization Review and Evaluation System) 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. CURES 2.0 is committed to the reduction of prescription drug abuse and diversion without affecting legitimate medical practice or patient care.

[2] Patients herein are identified by numbers to protect their privacy.

[3] These are approximate dates based upon the records available for review. Patient No. 1 may have treated with Respondent before or after these dates.

[4] A controlled substance classified as central nervous system (CNS) stimulant. The drug contains amphetamine and dextroamphetamine and is prescribed to treat attention deficit hyperactivity disorder and narcolepsy. CNS stimulants have a high potential for abuse and dependence. Side effects include insomnia, nervousness, dizziness, mood swings, bodily weakness, new or worsened mental health issues, and circulatory problems.

[5] A tool to compare opioid doses between multiple different formulations of opioid pain medications. The MED was developed to equate the many different opioids into one (cont.)

13. Respondent failed to perform and/or document that an assessment for substance use disorder was conducted. Additionally, Respondent failed to perform and/or document a comprehensive history and examination, including whether the Patient was prescribed opioid pain medication by prior physicians, the Patient's psychological status, and medical indications for continuous use of controlled substance pain relief medications. This constitutes a simple departure from the standard of care.

**Patient No. 2**

14. Patient No. 2 (also "Patient") was a 53-year-old male who was treated by Respondent from December 2017 through June 2019[6] for severe back and upper extremity pain. According to the medical records, Patient No. 2 was taking oxycodone 30 mg, oxycontin 80 mg, maraviroc[7] 300 mg, and dolutegravir[8] 50 mg per day. The CURES report for the period July 2013 through July 2019, documents that the Patient was taking oxycodone 30 mg, 1 tab per day; and oxycontin 80 mg, 2 tabs per day. The MED was 284 mg per day.

15. Respondent failed to refer the Patient and/or document referrals to a pain management specialist, an outpatient rehabilitation center, or an addiction specialist. This constitutes a simple departure from the standard of care.

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standard value. This standard value is based on morphine and its potency, which allows ease of comparison and risk evaluations. The CDC advises prescribers to take extra precautions when increasing to 50 MEDs per day and to avoid or carefully justify increasing dosage to 90 MEDs per day.

[6] These are approximate dates based upon the records available for review. Patient No. 2 may have treated with Respondent before or after these dates.

[7] Maraviroc is a prescription medicine approved by the U.S. Food and Drug Administration (FDA) for the treatment of human immunodeficiency virus (HIV) infection in adults and children weighing at least 4.4 lb (2 kg). Maraviroc is always used in combination with other HIV medicines.

[8] Dolutegravir is used with other medications to treat HIV infection in adults and children 4 weeks of age and older who weigh at least 6.6 lbs (3 kg). It is also used in combination with other drugs to treat HIV. Dolutegravir is in a class of medications called HIV integrase inhibitors. It works by decreasing the amount of HIV in your blood and increasing the number of immune cells that help fight infections in the body.

**Patient No. 3**

16. Patient No. 3 (also "Patient") was treated by Respondent from March 2018 through August 2019,[9] for complaints of pain. According to a CURES report for the period July 2013 through July 2019, Patient No. 3 was prescribed oxycodone 30 mg, six tabs per day; and oxymorphone 40 mg, two tabs per day. The MED was 510 mg per day.

17. Respondent failed to conduct a periodic review and/or document a periodic review of Patient No. 3's medications. Specifically, Respondent failed to modify the prescribed opioid medications and/or document any attempt to modify the prescribed opioid medications. Additionally, Respondent failed to document whether the treatment improved the Patient's pain. It appears that medications were just refilled during visits without any discussion as to whether the Patient's pain was improving or worsening. This constitutes a simple departure from the standard of care.

**Patient No. 4.**

18. Patient No. 4 (also "Patient") was treated by Respondent from June 2012 through June 2019,[10] for complaints of pain. The medical record indicates the Patient had a history of peripheral neuropathy.[11] The medical record contains only three progress notes for visits on June 25, 2012, May 8, 2013, and June 26, 2019. According to a CURES report for the period July 16, 2013 through June 26, 2019, Respondent prescribed Patient No. 4 morphine sulfate 60 mg, five tablets per day. The MED was 300 mg per day.

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[9] These are approximate dates based upon the records available for review. Patient No. 3 may have treated with Respondent before or after these dates.

[10] These are approximate dates based upon the records available for review. Patient No. 4 may have treated with Respondent before or after these dates.

[11] Peripheral neuropathy, a result of damage to the nerves outside of the brain and spinal cord (peripheral nerves), often causes weakness, numbness and pain, usually in hands and feet. It can also affect other areas of the body. Peripheral neuropathy can result from traumatic injuries, infections, metabolic problems, inherited causes and exposure to toxins. One of the most common causes is diabetes. Patients with peripheral neuropathy generally describe the pain as stabbing, burning or tingling. A proper diagnosis generally requires a physical exam, a full medical history, and a neurological examination.

19. During the treatment period, Respondent failed to perform and/or document a neuromuscular exam,[12] an assessment of psychological status and functioning, or prior substance abuse issues or treatment. This constitutes a simple departure from standard of care.

20. During the treatment period, Respondent failed to implement and/or document a proper treatment plan and objectives. Specifically, Respondent failed to plan a course of pain treatment for the Patient, making appropriate modifications in the treatment based on the patient's progress or lack of progress. This constitutes a simple departure from the standard of care.

21. During the treatment period, Respondent failed to periodically review the efficacy of the treatment. Respondent failed to document any attempt to quantify the Patient's pain or the Patient's response to the treatment. This constitutes a simple departure from the standard of care.

22. During the treatment period, Respondent failed to refer the Patient and/or document patient referrals to specialists to obtain additional evaluations and consultations. Specifically, Respondent failed to refer the Patient to pain management, outpatient rehabilitation, or an addiction specialist. This constitutes a simple departure from the standard of care.

## FIRST CAUSE FOR DISCIPLINE

**(Repeated Negligent Acts)**

23. Respondent David Lewis Edelman, M.D. is subject to disciplinary action under section 2234, subdivision (c) of the Code in that:

a. As to Patient No. 1, Respondent failed to:

i. Perform and/or document that an assessment for substance use disorder was conducted.

ii. Perform and/or document a comprehensive history and examination, including whether the Patient was prescribed opioid pain medication by

[12] A neuromuscular examination, also known as a Electromyography (EMG), measures muscle response or electrical activity in response to a nerve's stimulation of the muscle. The test is used to help detect neuromuscular abnormalities. During the test, one or more small needles (also called electrodes) are inserted through the skin into the muscle. The electrical activity picked up by the electrodes is then displayed on an oscilloscope (a monitor that displays electrical activity in the form of waves). EMG measures the electrical activity of muscle during rest, slight contraction and forceful contraction.

prior physicians, the Patient's psychological status, and medical indications for continuous use of controlled substance pain relief medications.

b. As to Patient No. 2, Respondent failed to:

i. Refer the Patient and/or document referrals to a pain management specialist, an outpatient rehabilitation center, or an addiction specialist.

c. As to Patient No. 3, Respondent failed to:

i. Conduct a periodic review and/or document a periodic review of Patient No. 3's medications.

ii. Modify the prescribed opioid medications and/or document any attempt to modify the prescribed opioid medications.

iii. Document whether the treatment improved the Patient's pain.

d. As to Patient No. 4, Respondent failed to:

i. Perform and/or document a neuromuscular exam, an assessment of psychological status and functioning, or prior substance abuse issues or treatment.

ii. Implement and/or document a proper treatment plan and objectives. Respondent failed to plan a course of pain treatment for the Patient, making appropriate modifications in the treatment based on the patient's progress or lack of progress.

iii. Periodically review the efficacy of the treatment and failed to document any attempt to quantify the Patient's pain or the Patient's response to the treatment.

iv. Failed to refer the Patient and/or document patient referrals to specialists to obtain additional evaluations and consultations.

24. The facts set forth in paragraphs 12 through 22, above, are incorporated by reference as if set forth in full herein.

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## SECOND CAUSE FOR DISCIPLINE

**(Inadequate Record Keeping)**

25. Respondent David Lewis Edelman, M.D. is subject to disciplinary action under section 2266 of the Code, in that Respondent failed to create and maintain proper medical records of his care and treatment of Patients 1 through 4. The facts set forth in paragraphs 12 through 22, above, are incorporated by reference as if set forth in full 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 Number G 51844, issued to David Lewis Edelman, M.D.;

2. Revoking, suspending or denying approval of David Lewis Edelman, M.D.'s authority to supervise physician assistants and advanced practice nurses;

3. Ordering David Lewis Edelman, 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: MAY 26 2021

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

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