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

In the Matter of the Accusation Against:	)	
Peter J. Cotsirilos, M.D.	)	Case No. 02-2010-207588
Physician's and Surgeon's Certificate No. G 66322	)	
Respondent	)	

DECISION

The attached Stipulated Settlement and Disciplinary Order is hereby adopted as the Decision and Order of the Medical Board of California, Department of Consumer Affairs, State of California.

This Decision shall become effective at 5:00 p.m. on March 14, 2014.

IT IS SO ORDERED: February 12, 2014.

MEDICAL BOARD OF CALIFORNIA

Barbara Yaroslavsky, Chair
Panel A

KAMALA D. HARRIS
Attorney General of California
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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: **PETER J. COTSIRILOS, M.D.** **3941 Park Drive Suite 20-370** **El Dorado Hills, CA 95762** **Physician's and Surgeon's Certificate No. G 66322** Respondent.	Case No. 02-2010-207588 OAH No. 2013020161 **STIPULATED SETTLEMENT AND DISCIPLINARY ORDER**

In the interest of a prompt and speedy settlement of this matter, consistent with the public interest and the responsibility of the Medical Board of California of the Department of Consumer Affairs (Board), the parties hereby agree to the following Stipulated Settlement and Disciplinary Order which will be submitted to the Board for approval and adoption as the final disposition of the Accusation.

PARTIES

1. Kimberly Kirchmeyer ("Complainant") is the Interim Executive Director of the Board. She brought this action solely in her official capacity and is represented in this matter by Kamala D. Harris, Attorney General of the State of California, by E. A. Jones III, Supervising Deputy Attorney General.

2. Respondent Peter J. Cotsirilos, M.D. ("Respondent") is represented in this proceeding by attorney Matthew V. Brady, whose address is: 2339 Gold Meadow Way, Suite 230, Gold River, CA 95670.

3. On or about July 17, 1989, the Board issued Physician's and Surgeon's Certificate No.

G 66322 to Peter J. Cotsirilos, M.D. (Respondent). The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought in Accusation No. 02-2010-207588 and will expire on January 31, 2015, unless renewed.

JURISDICTION

4. Accusation No. 02-2010-207588 was filed before the Board and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on March 20, 2012. Respondent timely filed his Notice of Defense contesting the Accusation.

5. A copy of Accusation No. 02-2010-207588 is attached as exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

6. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 02-2010-207588. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

7. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to be represented by counsel at his own expense; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

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. 02-2010-207588, if proven at a hearing, constitute cause for imposing discipline upon his Physician's and Surgeon's Certificate.

10. For the purpose of resolving the Accusation without the expense and uncertainty of further proceedings, Respondent does not contest that there is a factual basis for imposing discipline and agrees to be bound by the Board's probationary terms as set forth in the Disciplinary Order below.

11. Respondent agrees that if he ever petitions for early termination or modification of probation, or if the Board ever petitions for revocation of probation, all of the charges and allegations contained in Accusation No. 02-2010-207588 shall be deemed true, correct and fully admitted by Respondent for purposes of that proceeding or any other licensing proceeding involving Respondent in the State of California.

CIRCUMSTANCES IN MITIGATION

12. Respondent Peter J. Cotsirilos, M.D. has never been the subject of any disciplinary action. He has cooperated with the Board and has changed from private practice to a practice in a psychiatric hospital setting only. Respondent has undertaken extensive course work to address the issues raised in the Accusation.

RESERVATION

13. 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

14. 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.

15. The parties understand and agree that Portable Document Format (PDF) and facsimile copies of this Stipulated Settlement and Disciplinary Order, including Portable Document Format (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 formal proceeding, issue and enter the following Disciplinary Order:

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. G 66322 issued to Respondent Peter J. Cotsirilos, M.D. (Respondent) is revoked. However, the revocation is stayed and Respondent is placed on probation for three (3) years on the following terms and conditions.

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

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

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 equivalent to the Prescribing Practices Course at the Physician Assessment and Clinical Education Program, University of California, San Diego School of Medicine (Program), approved in advance by the Board or its designee. Respondent shall provide the program with any information and documents that the Program may deem pertinent. Respondent shall participate in and successfully complete the classroom component of the course not later than six (6) months after Respondent's initial enrollment. Respondent shall successfully complete any other component of the course within one (1) year of enrollment. The prescribing practices course shall be at Respondent's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

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

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

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 equivalent to

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

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

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

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

A professionalism program taken after the acts that gave rise to the charges in the

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

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

6. CLINICAL TRAINING PROGRAM. Within 60 calendar days of the effective date of this Decision, Respondent shall enroll in a clinical training or educational program equivalent to the Physician Assessment and Clinical Education Program (PACE) offered at the University of California - San Diego School of Medicine ("Program"). Respondent shall successfully complete the Program not later than six (6) months after Respondent's initial enrollment unless the Board or its designee agrees in writing to an extension of that time.

The Program shall consist of a Comprehensive Assessment program comprised of a two-day assessment of Respondent's physical and mental health; basic clinical and communication skills common to all clinicians; and medical knowledge, skill and judgment pertaining to Respondent's area of practice in which Respondent was alleged to be deficient, and at minimum, a 40 hour program of clinical education in the area of practice in which Respondent was alleged to be deficient and which takes into account data obtained from the assessment, Decision(s), Accusation(s), and any other information that the Board or its designee deems relevant. Respondent shall pay all expenses associated with the clinical training program.

Based on Respondent's performance and test results in the assessment and clinical education, the Program will advise the Board or its designee of its recommendation(s) for the scope and length of any additional educational or clinical training, treatment for any medical condition, treatment for any psychological condition, or anything else affecting Respondent's practice of medicine. Respondent shall comply with Program recommendations.

At the completion of any additional educational or clinical training, Respondent shall submit to and pass an examination. Determination as to whether Respondent successfully

completed the examination or successfully completed the program is solely within the program's jurisdiction.

If Respondent fails to enroll, participate in, or successfully complete the clinical training program within the designated time period, Respondent shall receive a notification from the Board or its designee to cease the practice of medicine within three (3) calendar days after being so notified. The Respondent shall not resume the practice of medicine until enrollment or participation in the outstanding portions of the clinical training program have been completed. If the Respondent did not successfully complete the clinical training program, the Respondent shall not resume the practice of medicine until a final decision has been rendered on the accusation and/or a petition to revoke probation. The cessation of practice shall not apply to the reduction of the probationary time period.

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

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

Within 60 calendar days of the effective date of this Decision, and continuing throughout

the first two years of probation, Respondent's practice shall be monitored by the approved monitor. Respondent shall make all records available for immediate inspection and copying on the premises by the monitor at all times during business hours and shall retain the records for the entire term of probation.

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

The monitor(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 equivalent to the one offered by the Physician Assessment and Clinical Education Program at the University of California, San Diego School of Medicine, that includes, at minimum, quarterly chart review, semi-annual practice assessment, and semi-annual review of professional growth and education. Respondent shall participate in the professional enhancement program at

Respondent's expense during the term of probation.

8. 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.

9. SUPERVISION OF PHYSICIAN ASSISTANTS. During probation, Respondent is prohibited from supervising physician assistants.

10. 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.

11. 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.

12. GENERAL PROBATION REQUIREMENTS.

Compliance with Probation Unit

Respondent shall comply with the Board's probation unit and all terms and conditions of this Decision.

Address Changes

Respondent shall, at all times, keep the Board informed of Respondent's business and residence addresses, email address (if available), and telephone number. Changes of such addresses shall be immediately communicated in writing to the Board or its designee. Under no

circumstances shall a post office box serve as an address of record, except as allowed by Business and Professions Code section 2021(b).

Place of Practice

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

License Renewal

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

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.

13. 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.

14. NON-PRACTICE WHILE ON PROBATION. Respondent shall notify the Board or its designee in writing within 15 calendar days of any periods of non-practice lasting more than 30 calendar days and within 15 calendar days of Respondent's return to practice. Non-practice is defined as any period of time Respondent is not practicing medicine in California as defined in Business and Professions Code sections 2051 and 2052 for at least 40 hours in a calendar month in direct patient care, clinical activity or teaching, or other activity as approved by the Board. All time spent in an intensive training program which has been approved by the Board or its designee shall not be considered non-practice. Practicing medicine in another state of the United States or Federal jurisdiction while on probation with the medical licensing authority of that state or

jurisdiction shall not be considered non-practice. A Board-ordered suspension of practice shall not be considered as a period of non-practice.

In the event Respondent's period of non-practice while on probation exceeds 18 calendar months, Respondent shall successfully complete a clinical training program that meets the criteria of Condition 18 of the current version of the Board's "Manual of Model Disciplinary Orders and Disciplinary Guidelines" prior to resuming the practice of medicine.

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

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

Periods of non-practice will relieve Respondent of the responsibility to comply with the probationary terms and conditions with the exception of this condition and the following terms and conditions of probation: Obey All Laws; and General Probation Requirements.

15. COMPLETION OF PROBATION. Respondent shall comply with all financial obligations (e.g., 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.

16. 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, a Petition to Revoke Probation, or a Petition for 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.

17. 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.

18. 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, Matthew V. Brady. 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: 10-25-13

PETER J. COTSIRILOS, M.D.
Respondent

I have read and fully discussed with Respondent Peter J. Cotsirilos, 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: 10/25/13

Matthew V. Brady
Attorney for Respondent

Please contact me if you have any questions regarding this case.

Sincerely,

E. A. JONES III
Supervising Deputy Attorney General

For KAMALA D. HARRIS
Attorney General

EAJ:ml

cc: Medical Board of California
Matthew V. Brady

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Exhibit A

Accusation No. 02-2010-207588

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

In the Matter of the Accusation Against: **PETER J. COTSIRILOS, M.D.** **3941 Park Drive, Suite 20-370** **El Dorado, CA 95762** **Physician's and Surgeon's Certificate No. G 66322** Respondent.	Case No. 02-2010-207588 **A C C U S A T I O N**

Complainant alleges:

PARTIES

1. Linda K. Whitney (Complainant) brings this Accusation solely in her official capacity as the Executive Director of the Medical Board of California.

2. On or about July 17, 1989, the Medical Board of California (Board) issued Physician's and Surgeon's Certificate Number G 66322 to Peter J. Cotsirilos, 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 January 31, 2013, unless renewed.

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JURISDICTION

3. This Accusation is brought before the Board[1] under the authority of the following laws. All section references are to the California Business and Professions Code ("B&P Code") unless otherwise indicated.

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

5. Section 2234 of the Code states:

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

"(a) Violating or attempting to violate, directly or indirectly, assisting in or abetting the violation of, or conspiring to violate any provision of this chapter [Chapter 5, the Medical Practice Act].

"(b) Gross negligence.

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

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

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

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[1] California Business and Professions Code section 2002, as amended and effective January 1, 2008, provides that, unless otherwise expressly provided, the term "Board" as used in the State Medical Practice Act (Bus. & Prof. Code § 2000, et seq.) means the "Medical Board of California," and references to the "Division of Medical Quality" and "Division of Licensing" in the Act or any other provision of law shall be deemed to refer to the Board.

applicable standard of care, each departure constitutes a separate and distinct breach of the standard of care.

"(d) Incompetence.

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

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

6. Section 2238 of the Code states:

"A violation of any federal statute or federal regulation or any of the statutes or regulations of this state regulating dangerous drugs or controlled substances constitutes unprofessional conduct."

7. Section 2241 of the Code states:

"(a) A physician and surgeon may prescribe, dispense, or administer prescription drugs, including prescription controlled substances, to an addict under his or her treatment for a purpose other than maintenance on, or detoxification from, prescription drugs or controlled substances.

"(b) A physician and surgeon may prescribe, dispense, or administer prescription drugs or prescription controlled substances to an addict for purposes of maintenance on, or detoxification from, prescription drugs or controlled substances only as set forth in subdivision (c) or in Sections 11215, 11217, 11217.5, 11218, 11219, and 11220 of the Health and Safety Code. Nothing in this subdivision shall authorize a physician and surgeon to prescribe, dispense, or administer dangerous drugs or controlled substances to a person he or she knows or reasonably believes is using or will use the drugs or substances for a nonmedical purpose.

"(c) Notwithstanding subdivision (a), prescription drugs or controlled substances may also be administered or applied by a physician and surgeon, or by a registered nurse acting under his or her instruction and supervision, under the following circumstances:

"(1) Emergency treatment of a patient whose addiction is complicated by the presence of incurable disease, acute accident, illness, or injury, or the infirmities attendant upon age.

"(2) Treatment of addicts in state-licensed institutions where the patient is kept under restraint and control, or in city or county jails or state prisons.

"(3) Treatment of addicts as provided for by Section 11217.5 of the Health and Safety Code.

"(d)(1) For purposes of this section and Section 2241.5, "addict" means a person whose actions are characterized by craving in combination with one or more of the following:

"(A) Impaired control over drug use.

"(B) Compulsive use.

"(C) Continued use despite harm.

"(2) Notwithstanding paragraph (1), a person whose drug-seeking behavior is primarily due to the inadequate control of pain is not an addict within the meaning of this section or Section 2241.5."

8. Section 2241.5 of the Code states:

"(a) A physician and surgeon may prescribe for, or dispense or administer to, a person under his or her treatment for a medical condition dangerous drugs or prescription controlled substances for the treatment of pain or a condition causing pain, including, but not limited to, intractable pain.

"(b) No physician and surgeon shall be subject to disciplinary action for prescribing, dispensing, or administering dangerous drugs or prescription controlled substances in accordance with this section.

"(c) This section shall not affect the power of the board to take any action described in Section 2227 against a physician and surgeon who does any of the following:

"(1) Violates subdivision (b), (c), or (d) of Section 2234 regarding gross negligence, repeated negligent acts, or incompetence.

"(2) Violates Section 2241 regarding treatment of an addict.

"(3) Violates Section 2242 regarding performing an appropriate prior examination and the existence of a medical indication for prescribing, dispensing, or furnishing dangerous drugs.

"(4) Violates Section 2242.1 regarding prescribing on the Internet.

"(5) Fails to keep complete and accurate records of purchases and disposals of substances listed in the California Uniform Controlled Substances Act (Division 10 (commencing with

Section 11000) of the Health and Safety Code) or controlled substances scheduled in the federal Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. Sec. 801 et seq.), or pursuant to the federal Comprehensive Drug Abuse Prevention and Control Act of 1970. A physician and surgeon shall keep records of his or her purchases and disposals of these controlled substances or dangerous drugs, including the date of purchase, the date and records of the sale or disposal of the drugs by the physician and surgeon, the name and address of the person receiving the drugs, and the reason for the disposal or the dispensing of the drugs to the person, and shall otherwise comply with all state recordkeeping requirements for controlled substances.

"(6) Writes false or fictitious prescriptions for controlled substances listed in the California Uniform Controlled Substances Act or scheduled in the federal Comprehensive Drug Abuse Prevention and Control Act of 1970.

"(7) Prescribes, administers, or dispenses in violation of this chapter, or in violation of Chapter 4 (commencing with Section 11150) or Chapter 5 (commencing with Section 11210) of Division 10 of the Health and Safety Code.

"(d) A physician and surgeon shall exercise reasonable care in determining whether a particular patient or condition, or the complexity of a patient's treatment, including, but not limited to, a current or recent pattern of drug abuse, requires consultation with, or referral to, a more qualified specialist.

"(e) Nothing in this section shall prohibit the governing body of a hospital from taking disciplinary actions against a physician and surgeon pursuant to Sections 809.05, 809.4, and 809.5."

9. Section 2242 of the Code states:

"(a) Prescribing, dispensing, or furnishing dangerous drugs as defined in Section 4022 without an appropriate prior examination and a medical indication, constitutes unprofessional conduct.

"(b) No licensee shall be found to have committed unprofessional conduct within the meaning of this section if, at the time the drugs were prescribed, dispensed, or furnished, any of the following applies:

"(1) The licensee was a designated physician and surgeon or podiatrist serving in the absence of the patient's physician and surgeon or podiatrist, as the case may be, and if the drugs were prescribed, dispensed, or furnished only as necessary to maintain the patient until the return of his or her practitioner, but in any case no longer than 72 hours.

"(2) The licensee transmitted the order for the drugs to a registered nurse or to a licensed vocational nurse in an inpatient facility, and if both of the following conditions exist:

"(A) The practitioner had consulted with the registered nurse or licensed vocational nurse who had reviewed the patient's records.

"(B) The practitioner was designated as the practitioner to serve in the absence of the patient's physician and surgeon or podiatrist, as the case may be.

"(3) The licensee was a designated practitioner serving in the absence of the patient's physician and surgeon or podiatrist, as the case may be, and was in possession of or had utilized the patient's records and ordered the renewal of a medically indicated prescription for an amount not exceeding the original prescription in strength or amount or for more than one refill.

"(4) The licensee was acting in accordance with Section 120582 of the Health and Safety Code."

10. 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."

11. Section 725 of the Code states:

"(a) Repeated acts of clearly excessive prescribing, furnishing, dispensing, or administering of drugs or treatment, repeated acts of clearly excessive use of diagnostic procedures, or repeated acts of clearly excessive use of diagnostic or treatment facilities as determined by the standard of the community of licensees is unprofessional conduct for a physician and surgeon, dentist, podiatrist, psychologist, physical therapist, chiropractor, optometrist, speech-language pathologist, or audiologist.

"(b) Any person who engages in repeated acts of clearly excessive prescribing or administering of drugs or treatment is guilty of a misdemeanor and shall be punished by a fine of

not less than one hundred dollars ($100) nor more than six hundred dollars ($600), or by imprisonment for a term of not less than 60 days nor more than 180 days, or by both that fine and imprisonment.

"(c) A practitioner who has a medical basis for prescribing, furnishing, dispensing, or administering dangerous drugs or prescription controlled substances shall not be subject to disciplinary action or prosecution under this section.

"(d) No physician and surgeon shall be subject to disciplinary action pursuant to this section for treating intractable pain in compliance with Section 2241.5."

12. Alprazolam is commonly known by its trade name Xanax. It is a dangerous drug as defined in section 4022, a schedule IV controlled substance and narcotic as defined by section 11057, subdivision (d) of the Health and Safety Code, and a schedule IV controlled substance as defined by Section 1308.14 (c) of Title 21 of the Code of Federal Regulations.

13. Buprenorphine is commonly known by its trade name Suboxone. It is a dangerous drug as defined in section 4022, a schedule III controlled substances as defined by section 11056 of the Health and Safety Code, and a Schedule III controlled substance as defined by Section 1308.32 of Title 21 of the Code of Federal Regulations.

14. OxyContin is the trade name for Oxycodone. Oxycodone is a Schedule II controlled substance under Health and Safety Code Section 1105(b)(1)(N) and a dangerous drug under Code section 4022.

15. Carisoprodol is commonly known by its trade name Soma. It is a muscle-relaxant and sedative. It is a dangerous drug as defined in section 4022, a Schedule IV controlled substance and narcotic as defined by section 11057, subdivision (d) of the Health and Safety Code, and a schedule IV controlled substance as defined by Section 1308.14 (c) of Title 21 of the Code of Federal Regulations.

16. Diazepam is commonly known by its trade name Valium. It is a dangerous drug as defined in former section 4211, a Schedule IV controlled substance as defined by section 11507 of the Health and Safety Code, and a Schedule IV controlled substance as defined by Section 1308.14 of Title 21 of the Code of Federal Regulations.

17. Lorazepam is commonly known by its trade name Ativan. It is a dangerous drug as defined in section 4022 of the Business and Professions Code, a schedule IV controlled substance as defined by section 11057, subdivision (d) of the Health and Safety Code, and a Schedule IV controlled substance as defined by section 1308.14 (c) of Title 21 of the Code of Federal regulations.

18. Klonopin is the trade name for Clonazepam. It is an anticonvulsant of the benzodiazepine class of drugs. It is a dangerous drug as defined in section 4022, a schedule IV controlled substance as defined by section 11057 of the Health and Safety Code, and a Schedule IV controlled substance as defined by Section 1308.14 of Title 21 of the Code of Regulations.

FIRST CAUSE FOR DISCIPLINE

(Gross Negligence)

[B&P Code § 2234(b)]

19. Respondent is subject to disciplinary action under section 2234, subdivision (b), of the Code in that he was grossly negligent in the care and treatment of four patients.[2] The circumstances are as follows:

20. The long-term side effects of chronic benzodiazepine use have been well recognized for over twenty-five years. These include, but are not limited to psychomotor slowing, drowsiness, memory impairment, and specific deficits in visual-spatial ability and sustained attention. In addition, many patients are subject to paradoxical disinhibition as well as an emotional blunting state known as "emotional amnesia." It is well recognized that tolerance to benzodiazepines routinely forms after approximately four months of routine usage and at that point attempts to withdraw from these agents often mimics symptoms of anxiety, causing patients to continue to use rather than recognize that they have become overly dependent. It has also become well recognized that the most insidious of these agents are the short acting, high potency

[2]In this Accusation, each patient will be referred to by his or her initials. The full name of each patient will be disclosed to Respondent when discovery is provided pursuant to Government Code section 11507.6.

agents such as alprazolam[3] which causes dependency sooner. The two benzodiazepines with the highest street value are alprazolam and clonazepam. Benzodiazepines are rarely abused as a "sole drug"; rather they are often abused in conjunction with opioids or alcohol. As many as 80% of alcoholics under the age of thirty use an additional recreational drug, often a benzodiazepine. Most commonly, benzodiazepines are used to boost the euphoria associated with opiates. Consequently, in the late 1980's benzodiazepines became unfavored as a first line treatment for anxiety disorders. It is has since been the standard of care to treat generalized anxiety disorder and panic disorder with antidepressants as first line agents. If they are used at all, benzodiazepines are relegated to a position of acute treatment of anxiety in the first one to two weeks before the antidepressant fully takes hold. The benzodiazepines are then generally either completely discontinued or, at most, used on an as needed basis.

21. The standard of care is that physicians order urine toxicologies to assure patients' abstinence from the use of illicit substances.

Patient C.B.

22. Respondent treated patient C.B. between 2009 and 2010 for opioid dependence, generalized anxiety disorder, and panic disorder. Upon initial consultation, patient C.B. informed Respondent that he was a heroin addict taking Suboxone. Without verifying the existence of a prior prescription, Respondent continued to prescribe the scheduled agent for patient C.B. Upon his initial examination on September 9, 2009, patient C.B. admitted that he was an addict who could not be trusted. Respondent nevertheless prescribed the psycho stimulant Adderall to help the patient stay awake for his "shift work" at a rate of 10 mg. to be taken three times per day. Respondent neither substantiated the prescription nor adequately monitored its use.

[3] Alprazolam is used to treat anxiety disorders and panic disorder (sudden, unexpected attacks of extreme fear and worry about these attacks). Alprazolam is in a class of medications called benzodiazepines. It works by decreasing abnormal excitement in the brain. http://www.nlm.nih.gov/medlineplus/druginfo/meds/a684001.html

23. Respondent saw patient C.B. on February 4, 2010. He noted that the patient forgot to take his Suboxone with him during a camping trip and instead "took Methadone x3 days." Respondent did not document how patient C.B. acquired the Methadone or that he was counseled as to the consequences of using it. Respondent instead noted that he offered the patient a "rescue medication" of Oxycontin for the next time he would "forget" his Suboxone.

24. Over a ten-day period in March 2009, Respondent prescribed over 200 2mg. Xanax tablets. Similarly, over a nineteen-day period in August 2009, Respondent prescribed the patient 160 2 mg. alprazolam tablets and 60 10 mg. diazepam. Between May and June 2009, Respondent increased the dosage of Suboxone from 24 to 32 mg. per day in response to patient C.B.'s reported cravings.

25. Rather than ordering routine random testing, or checking with the patient's prior physicians, Respondent relied on the patient to self-govern the use of the potentially abusable medications that have high street value simply because Respondent gave him an "advisement" to do so.

26. Respondent engaged in extreme departures from the standard of care, both singularly and collectively, in his care and treatment of patient C.B. as follows:

a. By providing an addict with supraordinate doses of alprazolam, clonazepam, and Adderall;

b. By not including random urine testing as a standard part of the patient's treatment plan;

c. By not checking with the prior physicians who treated the patient; and

d. By prescribing Suboxone to a patient with a prior heroin addiction.

Patient E.S.

27. Over the last decade, the drug Soma has come to be understood as an abusable agent. Of particular importance is the fact that alcohol and benzodiazepines are cross tolerant agents and tend to synergistically affect each other's actions, causing enhanced motor impairment, capacity for falls, motor vehicle accidents, and enhancing the dependency of each other. The standard of care for treatment of a patient with a preexisting opiate dependence who is prescribed Suboxone

requires that the physician follow up on the patient with routine urine toxicologies, breathalyzers, and corroborative information sources to determine if the patient is abusing alcohol or opiates.

28. Patient E.S. consulted with Respondent between June 16, 2009 and February 23, 2011. During this time, Respondent treated her for a combination of opiate dependence, back pain, leg swelling, generalized anxiety disorder, and attention deficit disorder (ADD). Patient E.S. initially presented to Respondent showing anhedonia[4], decreased appetite, decreased social ability, and somatic symptoms of generalized anxiety disorder. She was on a Methadone program, addicted to opiates and abused opiates.

29. During 2009, Respondent simultaneously prescribed inordinate quantities of three different benzodiazepines to patient E.S with no treatment plan to reduce their consumption. He explained their clinical justification was to treat patient E.S.' anxiety disorder. Between August 4, 2009 and September 16, 2009, he prescribed 240 alprazolam 2 mg. tablets, 120 clonazepam 2 mg. tablets, and 120 diazepam 10 mg. tablets. In addition, he prescribed 350 mg. of Soma under the premise that the patient had leg and back pain. His notes are completely devoid of any rationale for the use of Soma. This pattern of persistent overprescribing continued throughout 2010.

30. On March 23, 2010, Respondent advised the patient not to take all three diazepines, but just one. He continued to prescribe all three medications and trusted patient E.S. to choose which medication to take. Patient E.S. admitted that due to the excessive amounts of medications she received from Respondent, she either hoards them or gives them to her friends.

31. Respondent also treated patient E.S. for presumptive ADD during this time with Adderall 10 mg. three times per day. His notes, however, contain no consultative note that would have verified the diagnoses of ADD.

32. Respondent started the patient on Suboxone to make sure she was not taking Methadone. He confirmed the patient was not taking Methadone by asking her; he did not run a urinalysis. Respondent prescribed Suboxone despite not knowing the original amount of

[4] Anhedonia is defined as the inability to gain pleasure from normally pleasurable experiences. http://www.medterms.com/script/main/art.asp?articlekey=17900

Methadone. He made no effort to check where she had previously been treated with Methadone, how long she had been on it, how she respondent to it, and whether she had used other opiates on top of it.

33. During her treatment with Respondent, patient E.S. was arrested for Driving Under the Influence of alcohol (DUI). Respondent discussed the benefits of alprazolam and told patient E.S. not to mix it with alcohol, apparently disregarding her serious alcohol problem.

34. Respondent engaged in extreme departures from the standard of care, both singularly and collectively, in his care and treatment of patient E.S. as follows:

a. By prescribing Suboxone to a patient with a preexisting opiate dependence problem;

b. By not including random urine testing, breathalyzers, and corroborative information sources to determine if she was abusing alcohol or opiates as a standard part of the patient's treatment plan;

c. By providing her with nearly unlimited amounts of benzodiazepines;

d. By prescribing Soma without justification; and

e. By failing to try to communicate with prior treating physicians.

Patient J.F.

35. Patients who are using both benzodiazepines and opiates are at extremely high risk for negative outcomes which include synergistic effects of both medications resulting in increased morbidity or mortality, and/or worsening of both addictions. Consequently, the standard of care for such patients requires an extremely heightened degree of monitoring such as formal enrollment in opiate treatment programs, urine toxicologies performed at such programs, interactions with staff counselors and social workers, and attendance at 12-step meetings.

36. Patient J.F. had a history of treatment for major depression, anxiety, and opiate dependence when he first consulted with Respondent in 2009. At this time, patient J.F. was facing a felony assault charge on a police officer and apparently had been shot in the testicles during the incident. Patient J.F. had been treated with Subutex and Ritalin by his prior physician. He was taking Norco at the time but wanted to resume taking Suboxone. Patient J.F.'s medical

history was significant for a recent myocardial infarction, chronic muscle inflammation, and systemic Lupus.

37. Respondent diagnosed patient J.F. with panic disorder with agoraphobia and indicated that he had some form of post-traumatic stress disorder as a result of the shooting. Respondent claims he induced the patient on Suboxone at the patient's home; however, he never documented such.

38. In September of 2009, patient J.F. received 75 1.0 mg of alprazolam, 30 3 mg. of alprazolam XR, and 14 8 mg. of Subutex from Respondent. Due to Respondent's lack of communication with the patient's other physicians, Respondent was unaware that patient was simultaneously receiving 60 10 mg. of hydrocodone, which is a gross contraindication for Suboxone. This concurrent prescribing of hydrocodone continued all through 2010. During this time, Respondent simultaneously prescribed alprazolam and diazepam. He switched between a combination of alprazolam and diazepam, alprazolam and lorazepam, and alprazolam and clonazepam.

39. There is no indication from the patient record that Respondent kept an adequate check on patient J.F.'s general anxiety level or level of panic attacks, partial panic attacks, or his ongoing need for such inordinate levels of benzodiazepines. Respondent did not check on the adverse effects of the benzodiazepines such as impairment of motor functioning, attention, sleep impairment, daytime drowsiness, or memory impairment.

40. Despite deriding the patient as irresponsible, Respondent decided urine testing was unnecessary due to his implicit trust in the patient as an accurate historian.

41. Respondent engaged in extreme departures from the standard of care, both singularly and collectively, in his care and treatment of patient J.F. as follows:

a. By failing to provide proper diagnostic work up;

b. By failing to properly communicate and coordinate with other treating physicians;

c. By prescribing unreasonable amounts of benzodiazepines;

d. By failing to properly observe and monitor the patient.

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Patient T.R.

42. The standard of care for psychiatric notes requires a delineated treatment plan with elaboration to rationalize the medication(s) prescribed. In the event a patient with a substance abuse problem misses an appointment and then claims to have suddenly lost medication, the standard of care requires the physician to document that he counseled the patient regarding missed appointments, the need to protect medication, and office policy regarding the losses of medication.

43. The standard of care in treating a patient with a severe benzodiazepine dependence problem requires the physician to either hospitalize the patient, perform an outpatient benzodiazepine taper, or defer to an experienced addictionologist.

44. Patient T.R first consulted with Respondent on March 10, 2010. She was previously diagnosed with bipolar disorder, status post motor vehicle accident with spinal surgery on neck and lower back. Patient T.R was at that time taking Lamictal and Oxycontin 60 mg. per day. Respondent prescribed 8 mg. per day of Klonopin, which he deemed was the usual treatment for an anxiety disorder.

45. During a subsequent appointment later that month, patient T.R told Respondent that she takes "massive doses" of benzodiazepines that she buys over the internet. Respondent feared that she would have a seizure if she were to abruptly stop taking the drugs. He planned for patient T.R to go to an in-patient unit to detoxify. Instead, Respondent made the "difficult" decision to treat her with ultrahigh dose benzodiazepines for approximately nine months. In January 2011, Respondent finally decided that he would no longer treat the patient. His rationale was that he would rather keep the patient safe and alive while trying to convince her to go to the hospital. At the time, patient T.R was taking up to 200 mg. of Valium per day.

46. Respondent's progress note of March 10, 2010 simply says, "underuses Oxycontin 20 T/D, DX 296.3, Klonopin 2 mg. Q/D". There is no additional documentation for an anxiety disorder and bipolar disorder to rationalize the use of 8 mg. per day on Klonopin in a patient who was already using a very large dose of one of the most addicting narcotics, Oxycontin. Shortly thereafter, Respondent's note of March 24, 2010 shows patient T.R to be a "no show". His note

merely two days later says, "patient lost meds while travelling by air. Will replace Klonopin." Respondent replaced the medication without documenting that he counseled the patient regarding her missed appointment, her need to protect her medication, and his office policy dealing with losses of medication.

47. By June 2010, Respondent prescribed 32 mg. of Klonopin per day and 160 mg. of Valium per day. Patient T.R was also taking 150 mg. of Lamictal per day. Respondent made no delineated treatment plan to lower her dangerously high doses of Valium and Klonopin. He made no documentation that he was making any effort to reduce patient T.R.'s overall benzodiazepine load on an out-patient basis. In addition, there is no evidence that Respondent sought consultation on the case.

48. Respondent engaged in extreme departures from the standard of care, both singularly and collectively, in his care and treatment of patient T.R. as follows:

a. By failing to provide adequate documentation and rationalization for his prescription of Klonopin;

b. By replacing purportedly lost medication without documenting that he counseled the patient regarding her missed appointment, her need to protect her medication, and his office policy dealing with losses of medication;

c. By failing to delineate a treatment plan to lower the dosage of Valium and Klonopin;

d. By failing to make a greater effort to have the patient hospitalized, treated with an out-patient benzodiazepine taper, or defer to an addictionologist with more experience.

SECOND CAUSE FOR DISCIPLINE

(Excessive Prescribing)

[B&P Code § 725]

49. Respondent is subject to disciplinary action under section 725 in that he excessively prescribed controlled substances to four patients. The circumstances are as follows:

50. The facts and circumstances alleged in paragraphs 8 through 48 inclusive are incorporated herein by reference.

THIRD CAUSE FOR DISCIPLINE

(Prescribing to an Addict)

[B&P Code §§ 2241, 2241.5]

51. Respondent is subject to disciplinary action under sections 2241 and 2241.5 in that he prescribed controlled substances to addicts. The circumstances are as follows:

52. The facts and circumstances alleged in paragraphs 8 through 48 inclusive are incorporated herein by reference.

FOURTH CAUSE FOR DISCIPLINE

(Failure to Maintain Adequate Records)

[B&P Code § 2266]

53. Respondent is subject to disciplinary action under section 2266 in he failed to maintain adequate records of four patients. The circumstances are as follows:

54. The facts and circumstances alleged in paragraphs 8 through 48 inclusive are incorporated herein by reference.

PRAYER

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

1. Revoking or suspending Physician's and Surgeon's Certificate Number G 66322, issued to Peter J. Cotsirilos, M.D.;

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

3 Ordering Peter J. Cotsirilos, M.D., if placed on probation, to pay the Medical Board of California the costs of probation monitoring; and

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

DATED: March 20, 2012

LINDA K. WHITNEY
Executive Director
Medical Board of California
State of California
Complainant

SA2011103550