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

In the Matter of the First Amended)
Accusation Against: )
) )
THOMAS H.T. LIN, M.D. ) Case No. 11-2010-209578
) )
Physician's and Surgeon's )
Certificate No. A 64211 )
) )
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 August 12, 2015.

IT IS SO ORDERED: July 13, 2015.

MEDICAL BOARD OF CALIFORNIA

Jamie Wright, J.D., Chair
Panel A
In the Matter of the First Amended Accusation Against:

THOMAS H. LIN, M.D.
790 S. Atlantic Boulevard, #102
Monterey Park, CA 91754
Physician's and Surgeon's Certificate No. A 64211

Respondent.

Case No. 11-2010-209578
OAH No. 2014071066
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. Kimberly Kirchmeyer ("Complainant") is the Executive Director of the Medical Board of California. 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 Vladimir Shalkevich, Deputy Attorney General.

2. Respondent THOMAS H. LIN, M.D. ("Respondent") is represented in this proceeding by attorney Tracy Green, whose address is: 800 West 6th Street, Suite 450
Los Angeles, CA 90017.

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3. On or about December 25, 1997, the Medical Board of California issued Physician's
was in full force and effect at all times relevant to the charges brought in First Amended
Accusation No. 11-2010-209578 and will expire on November 30, 2013, unless renewed.

JURISDICTION

4. First Amended Accusation No. 11-2010-209578 was filed before the Medical Board
of California (Board), Department of Consumer Affairs, and is currently pending against
Respondent. The First Amended Accusation and all other statutorily required documents were
properly served on Respondent on or about April 20, 2015. Respondent timely filed his Notice of
Defense contesting the First Amended Accusation.

5. A copy of First Amended Accusation No. 11-2010-209578 is attached as exhibit A
and incorporated herein by reference.

ADVICEMENT AND WAIVERS

6. Respondent has carefully read, fully discussed with counsel, and understands the
charges and allegations in First Amended Accusation No. 11-2010-209578. 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 First Amended 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.

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CULPABILITY

9. Respondent understands and agrees that the charges and allegations in First Amended Accusation No. 11-2010-209578, 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 First Amended Accusation without the expense and uncertainty of further proceedings, Respondent agrees that, at a hearing, Complainant could establish a factual basis for the charges in the First Amended Accusation, and that Respondent hereby gives up his right to contest those charges.

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. 11-2010-209578 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.

12. 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

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. A 64211 issued
to Respondent THOMAS H. LIN, M.D. (Respondent) is revoked. However, the revocation is
stayed and Respondent is placed on probation for ten (10) years on the following terms and
conditions.

1. **ACTUAL SUSPENSION.** As part of probation, Respondent is suspended from the
practice of medicine for ninety (90) days beginning the sixteenth (16th) day after the effective
date of this decision.

2. **CONTROLLED SUBSTANCES - TOTAL RESTRICTION.** Respondent shall not
order, prescribe, dispense, administer, furnish, or possess any controlled substances as defined in
the California Uniform Controlled Substances Act.

Respondent shall not issue an oral or written recommendation or approval to a patient or a
patient's primary caregiver for the possession or cultivation of marijuana for the personal medical
purposes of the patient within the meaning of Health and Safety Code section 11362.5.

If Respondent forms the medical opinion, after an appropriate prior examination and a
medical indication, that a patient’s medical condition may benefit from the use of marijuana,
Respondent shall so inform the patient and shall refer the patient to another physician who,
following an appropriate prior examination and a medical indication, may independently issue a
medically appropriate recommendation or approval for the possession or cultivation of marijuana
for the personal medical purposes of the patient within the meaning of Health and Safety Code
section 11362.5. In addition, Respondent shall inform the patient or the patient’s primary
caregiver that Respondent is prohibited from issuing a recommendation or approval for the
possession or cultivation of marijuana for the personal medical purposes of the patient and that
the patient or the patient’s primary caregiver may not rely on Respondent’s statements to legally
possess or cultivate marijuana for the personal medical purposes of the patient. Respondent shall
fully document in the patient’s chart that the patient or the patient’s primary caregiver was so
informed. Nothing in this condition prohibits Respondent from providing the patient or the
patient’s primary caregiver information about the possible medical benefits resulting from the use
of marijuana.

3. **CONTROLLED SUBSTANCES - SURRENDER OF DEA PERMIT.** Respondent is
prohibited from practicing medicine until Respondent provides documentary proof to the Board
or its designee that Respondent’s DEA permit has been surrendered to the Drug Enforcement
Administration for cancellation, together with any state prescription forms and all controlled
substances order forms. Thereafter, Respondent shall not reapply for a new DEA permit without
the prior written consent of the Board or its designee.

4. **CONTROLLED SUBSTANCES - ABSTAIN FROM USE.** Respondent shall abstain
completely from the personal use or possession of controlled substances as defined in the
California Uniform Controlled Substances Act, dangerous drugs as defined by Business and
Professions Code section 4022, and any drugs requiring a prescription. This prohibition does not
apply to medications lawfully prescribed to Respondent by another practitioner for a bona fide
illness or condition.

Within 15 calendar days of receiving any lawfully prescribed medications, Respondent
shall notify the Board or its designee of the: issuing practitioner’s name, address, and telephone
number; medication name, strength, and quantity; and issuing pharmacy name, address, and
telephone number.

If Respondent has a confirmed positive biological fluid test for any substance (whether or
not legally prescribed) and has not reported the use to the Board or its designee, Respondent shall receive a notification from the Board or its designee to immediately cease the practice of medicine. The Respondent shall not resume the practice of medicine until final decision on an First Amended Accusation and/or a petition to revoke probation. An First Amended Accusation and/or petition to revoke probation shall be filed by the Board within 15 days of the notification to cease practice. If the Respondent requests a hearing on the First Amended Accusation and/or petition to revoke probation, the Board shall provide the Respondent with a hearing within 30 days of the request, unless the Respondent stipulates to a later hearing. A decision shall be received from the Administrative Law Judge or the Board within 15 days unless good cause can be shown for the delay. The cessation of practice shall not apply to the reduction of the probationary time period.

If the Board does not file an First Amended Accusation or petition to revoke probation within 15 days of the issuance of the notification to cease practice or does not provide Respondent with a hearing within 30 days of a such a request, the notification of cease practice shall be dissolved.

5. **ALCOHOL - ABSTAIN FROM USE.** Respondent shall abstain completely from the use of products or beverages containing alcohol.

If Respondent has a confirmed positive biological fluid test for alcohol, Respondent shall receive a notification from the Board or its designee to immediately cease the practice of medicine. The Respondent shall not resume the practice of medicine until final decision on an First Amended Accusation and/or a petition to revoke probation. An First Amended Accusation and/or petition to revoke probation shall be filed by the Board within 15 days of the notification to cease practice. If the Respondent requests a hearing on the First Amended Accusation and/or petition to revoke probation, the Board shall provide the Respondent with a hearing within 30 days of the request, unless the Respondent stipulates to a later hearing. A decision shall be received from the Administrative Law Judge or the Board within 15 days unless good cause can be shown for the delay. The cessation of practice shall not apply to the reduction of the probationary time period.
If the Board does not file an First Amended Accusation or petition to revoke probation within 15 days of the issuance of the notification to cease practice or does not provide Respondent with a hearing within 30 days of a such a request, the notification of cease practice shall be dissolved.

6. **BIOLOGICAL FLUID TESTING.** Respondent shall immediately submit to biological fluid testing, at Respondent’s expense, upon request of the Board or its designee. “Biological fluid testing” may include, but is not limited to, urine, blood, breathalyzer, hair follicle testing, or similar drug screening approved by the Board or its designee. Prior to practicing medicine, Respondent shall contract with a laboratory or service approved in advance by the Board or its designee that will conduct random, unannounced, observed, biological fluid testing. The contract shall require results of the tests to be transmitted by the laboratory or service directly to the Board or its designee within four hours of the results becoming available. Respondent shall maintain this laboratory or service contract during the period of probation.

A certified copy of any laboratory test result may be received in evidence in any proceedings between the Board and Respondent.

If Respondent fails to cooperate in a random biological fluid testing program within the specified time frame, Respondent shall receive a notification from the Board or its designee to immediately cease the practice of medicine. The Respondent shall not resume the practice of medicine until final decision on an First Amended Accusation and/or a petition to revoke probation. An First Amended Accusation and/or petition to revoke probation shall be filed by the Board within 15 days of the notification to cease practice. If the Respondent requests a hearing on the First Amended Accusation and/or petition to revoke probation, the Board shall provide the Respondent with a hearing within 30 days of the request, unless the Respondent stipulates to a later hearing. A decision shall be received from the Administrative Law Judge or the Board within 15 days unless good cause can be shown for the delay. The cessation of practice shall not apply to the reduction of the probationary time period.

If the Board does not file an First Amended Accusation or petition to revoke probation within 15 days of the issuance of the notification to cease practice or does not provide
Respondent with a hearing within 30 days of a such a request, the notification of cease practice shall be dissolved.

7. COMMUNITY SERVICE. Within 60 calendar days of the effective date of this Decision, Respondent shall submit to the Board or its designee for prior approval a community service plan in which Respondent shall within the first 2 years of probation, provide 160 hours of free services to a community or non-profit organization. Respondent’s community service shall not include provision or oversight of any medical services. The community service hours must be completed not later than the end of second year of probation.

Prior to engaging in any community service Respondent shall provide a true copy of the Decision(s) to the chief of staff, director, office manager, program manager, officer, or the chief executive officer at every community or non-profit organization where Respondent provides community service and shall submit proof of compliance to the Board or its designee within 15 calendar days. This condition shall also apply to any change(s) in community service.

Community service performed prior to the effective date of the Decision shall not be accepted in fulfillment of this condition.

8. 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 First Amended 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.

9. **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
First Amended 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.

10. **PROFESSIONALISM PROGRAM (ETHICS COURSE).** Within 60 calendar days of
the effective date of this Decision, Respondent shall enroll in a professionalism program, that
meets the requirements of Title 16, California Code of Regulations (CCR) section 1358.
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 First Amended 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.

11. **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), First Amended 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 First Amended Accusation and/or a petition to revoke probation. The cessation of practice shall not apply to the reduction of the probationary time period.

Within 60 days after Respondent has successfully completed the clinical training program, Respondent shall 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, which shall include 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, or until the Board or its designee determines that further participation is no longer necessary.

12. **PSYCHIATRIC EVALUATION.** Within 30 calendar days of the effective date of
this Decision, and on whatever periodic basis thereafter may be required by the Board or its
designee, Respondent shall undergo and complete a psychiatric evaluation (and psychological
testing, if deemed necessary) by a Board-appointed board certified psychiatrist, who shall
consider any information provided by the Board or designee and any other information the
psychiatrist deems relevant, and shall furnish a written evaluation report to the Board or its
designee. Psychiatric evaluations conducted prior to the effective date of the Decision shall not
be accepted towards the fulfillment of this requirement. Respondent shall pay the cost of all
psychiatric evaluations and psychological testing.

Respondent shall comply with all restrictions or conditions recommended by the evaluating
psychiatrist within 15 calendar days after being notified by the Board or its designee.

Respondent shall not engage in the practice of medicine until notified by the Board or its
designee that Respondent is mentally fit to practice medicine safely. The period of time that
Respondent is not practicing medicine shall not be counted toward completion of the term of
probation.

13. **PSYCHOTHERAPY.** Within 60 calendar days of the effective date of this Decision,
Respondent shall submit to the Board or its designee for prior approval the name and
qualifications of a California-licensed board certified psychiatrist or a licensed psychologist who
has a doctoral degree in psychology and at least five years of postgraduate experience in the
diagnosis and treatment of emotional and mental disorders. Upon approval, Respondent shall
undergo and continue psychotherapy treatment, including any modifications to the frequency of
psychotherapy, until the Board or its designee deems that no further psychotherapy is necessary.

The psychotherapist shall consider any information provided by the Board or its designee
and any other information the psychotherapist deems relevant and shall furnish a written
evaluation report to the Board or its designee. Respondent shall cooperate in providing the
psychotherapist any information and documents that the psychotherapist may deem pertinent.

Respondent shall have the treating psychotherapist submit quarterly status reports to the
Board or its designee. The Board or its designee may require Respondent to undergo psychiatric
evaluations by a Board-appointed board certified psychiatrist. If, prior to the completion of
probation, Respondent is found to be mentally unfit to resume the practice of medicine without restrictions, the Board shall retain continuing jurisdiction over Respondent’s license and the period of probation shall be extended until the Board determines that Respondent is mentally fit to resume the practice of medicine without restrictions.

Respondent shall pay the cost of all psychotherapy and psychiatric evaluations.

14. MEDICAL EVALUATION AND TREATMENT. Within 30 calendar days of the effective date of this Decision, and on a periodic basis thereafter as may be required by the Board or its designee, Respondent shall undergo a medical evaluation by a Board-appointed physician who shall consider any information provided by the Board or designee and any other information the evaluating physician deems relevant and shall furnish a medical report to the Board or its designee. Respondent shall provide the evaluating physician any information and documentation that the evaluating physician may deem pertinent.

Following the evaluation, Respondent shall comply with all restrictions or conditions recommended by the evaluating physician within 15 calendar days after being notified by the Board or its designee. If Respondent is required by the Board or its designee to undergo medical treatment, Respondent shall within 30 calendar days of the requirement notice, submit to the Board or its designee for prior approval the name and qualifications of a California licensed treating physician of Respondent’s choice. Upon approval of the treating physician, Respondent shall within 15 calendar days undertake medical treatment and shall continue such treatment until further notice from the Board or its designee.

The treating physician shall consider any information provided by the Board or its designee or any other information the treating physician may deem pertinent prior to commencement of treatment. Respondent shall have the treating physician submit quarterly reports to the Board or its designee indicating whether or not the Respondent is capable of practicing medicine safely. Respondent shall provide the Board or its designee with any and all medical records pertaining to treatment, the Board or its designee deems necessary.

If, prior to the completion of probation, Respondent is found to be physically incapable of resuming the practice of medicine without restrictions, the Board shall retain continuing
jurisdiction over Respondent’s license and the period of probation shall be extended until the
Board determines that Respondent is physically capable of resuming the practice of medicine
without restrictions. Respondent shall pay the cost of the medical evaluation(s) and treatment.

Respondent shall not engage in the practice of medicine until notified in writing by the
Board or its designee of its determination that Respondent is medically fit to practice safely.

15. 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 and billing monitor(s), 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 First Amended Accusation(s), and a proposed monitoring plan. Within 15 calendar days of
receipt of the Decision(s), First Amended Accusation(s), and proposed monitoring plan, the
monitor shall submit a signed statement that the monitor has read the Decision(s) and First
Amended 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 and billing 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 billing, and whether Respondent is practicing medicine safely and billing appropriately. 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.

16. SOLO PRACTICE PROHIBITION. Respondent is prohibited from engaging in the solo practice of medicine. Prohibited solo practice includes, but is not limited to, a practice where: 1) Respondent merely shares office space with another physician but is not affiliated for
purposes of providing patient care, or 2) Respondent is the sole physician practitioner at that location.

If Respondent fails to establish a practice with another physician or secure employment in an appropriate practice setting 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. The Respondent shall not resume practice until an appropriate practice setting is established.

If, during the course of the probation, the Respondent's practice setting changes and the Respondent is no longer practicing in a setting in compliance with this Decision, the Respondent shall notify the Board or its designee within 5 calendar days of the practice setting change. If Respondent fails to establish a practice with another physician or secure employment in an appropriate practice setting within 60 calendar days of the practice setting change, 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 practice until an appropriate practice setting is established.

17. **PROHIBITED PRACTICE.** During probation, Respondent is prohibited from participating in any medical practice involving weight loss. After the effective date of this Decision, all weight loss patients being treated by the Respondent shall be notified that the Respondent is prohibited from treating weight loss patients. Any new patients must be provided this notification at the time of their initial appointment.

Respondent shall maintain a log of all patients to whom the required oral notification was made. The log shall contain the: 1) patient’s name, address and phone number; patient’s medical record number, if available; 3) the full name of the person making the notification; 4) the date the notification was made; and 5) a description of the notification given. Respondent shall keep this log in a separate file or ledger, in chronological order, shall make the log available for immediate inspection and copying on the premises at all times during business hours by the Board or its designee, and shall retain the log for the entire term of probation.

18. **NOTIFICATION.** Within seven (7) days of the effective date of this Decision, the
Respondent shall provide a true copy of this Decision and First Amended 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.

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

20. **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.

21. **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.

22. **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 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.

23. 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.

24. 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.

25. COMPLETION OF PROBATION. Respondent shall comply with all financial
obligations (e.g., restitution, probation costs) not later than 120 calendar days prior to the
completion of probation. Upon successful completion of probation, Respondent’s certificate shall
be fully restored.

26. 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 First Amended 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.

27. 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.

28. **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, Tracy Green. 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: 5/13/15

THOMAS H. LIN, M.D.
Respondent

I have read and fully discussed with Respondent THOMAS H. LIN, 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: 5/13/15

Tracy Green
Attorney for Respondent

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

Dated: 14 15

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
E. A. JONES III
Supervising Deputy Attorney General

VLADIMIR SHALKEVICH
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

First Amended Accusation No. 11-2010-209578
BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the First Amended Accusation
Against:

THOMAS H. LIN, M.D.
725 S. Atlantic Boulevard, Unit H
Monterey Park, CA 91754

Physician's and Surgeon's Certificate
No. A 64211

Respondent.

Case No. 11-2010-209578
OAH Case No. 2014071066

FIRST AMENDED
ACCUSATION

Complainant alleges:

PARTIES

1. Kimberly Kirchmeyer (Complainant) brings this First Amended Accusation
solely in her official capacity as the Executive Director of the Medical Board of California,
Department of Consumer Affairs.

2. On or about December 25, 1997, the Medical Board of California issued
Physician's and Surgeon's Certificate Number A 64211 to THOMAS H. LIN, 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, 2015, unless renewed.

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JURISDICTION

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

4. Section 2227 of the Code states:

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

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

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

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

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

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

   "(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."

5. Section 2234 of the Code, states:

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

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

"(b) Gross negligence.

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

"(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.

"(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.

"(g) The practice of medicine from this state into another state or country without meeting the legal requirements of that state or country for the practice of medicine. Section 2314 shall not apply to this subdivision. This subdivision shall become operative upon the implementation of the proposed registration program described in Section 2052.5.

"(h) The repeated failure by a certificate holder, in the absence of good cause, to attend and participate in an interview by the board. This subdivision shall only apply to a certificate holder who is the subject of an investigation by the board."

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 2239 of the Code states, in pertinent part:

"(a) The use or prescribing for or administering to himself or herself, of any controlled substance; or the use of any of the dangerous drugs specified in Section 4022, or of alcoholic beverages, to the extent, or in such a manner as to be dangerous or injurious to the licensee, or to any other person or to the public, or to the extent that such use impairs the ability of the licensee to practice medicine safely or more than one misdemeanor or any felony involving the use, consumption, or self-administration of any of the substances referred to in this section, or any combination thereof, constitutes unprofessional conduct. The record of the conviction is conclusive evidence of such unprofessional conduct."

8. Health and Safety Code section 11170 states:

"No person shall prescribe, administer, or furnish a controlled substance for himself."

9. Health and Safety Code section 11155 states:

"Any physician, who by court order or order of any state or governmental agency, or who voluntarily surrenders his controlled substance privileges, shall not possess, administer, dispense, or prescribe a controlled substance unless and until such privileges have been restored, and he has obtained current registration from the appropriate federal agency as provided by law."

10. 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."

11. Section 3501 of the Code states, in pertinent part:

"(a) as used in this chapter:

"(4) ‘Physician assistant’ means a person who meets the requirements of this chapter and is licensed by the board.

"(5) ‘Supervising physician’ means a physician and surgeon licensed by the Medical Board of California or by the Osteopathic Medical Board of California who supervises one or more physician assistants, who possesses a current valid license to practice medicine, and who is not currently on disciplinary probation for improper use of a physician assistant.

"(6) ‘Supervision’ means that a licensed physician and surgeon oversees the activities of, and accepts responsibility for, the medical services rendered by a physician assistant."

12. Section 4170 of the Code, states:

"(a) No prescriber shall dispense drugs or dangerous devices to patients in his or her office or place of practice unless all of the following conditions are met:

"(1) The dangerous drugs or dangerous devices are dispensed to the prescriber's own patient, and the drugs or dangerous devices are not furnished by a nurse or physician attendant.

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“(2) The dangerous drugs or dangerous devices are necessary in the treatment of the
case for which the prescriber is attending the patient.

“(3) The prescriber does not keep a pharmacy, open shop, or drugstore, advertised or
otherwise, for the retailing of dangerous drugs, dangerous devices, or poisons.

“(4) The prescriber fulfills all the labeling requirements imposed upon pharmacists by
Section 4076, all of the recordkeeping requirements of this chapter, and all of the packaging
requirements of good pharmaceutical practice, including the use of childproof containers.

“(5) The prescriber does not use a dispensing device unless he or she personally owns the
device and the contents of the device, and personally dispenses the dangerous drugs or dangerous
devices to the patient packaged, labeled, and recorded in accordance with paragraph (4).

“(6) The prescriber, prior to dispensing, offers to give a written prescription to the patient
that the patient may elect to have filled by the prescriber or by any pharmacy.

“(7) The prescriber, prior to dispensing, offers to give a written prescription to the patient
that the patient may elect to have filled by the prescriber or by any pharmacy.

“(8) A certified nurse-midwife who functions pursuant to a standardized procedure or
protocol described in Section 2746.51, a nurse practitioner who functions pursuant to a
standardized procedure described in Section 2836.1, or protocol, a physician assistant who
functions pursuant to Section 3502.1, or a naturopathic doctor who functions pursuant to Section
3640.5, may hand to a patient of the supervising physician and surgeon a properly labeled
prescription drug prepackaged by a physician and surgeon, a manufacturer as defined in this
chapter, or a pharmacist.

“(b) The Medical Board of California, the State Board of Optometry, the Bureau of
Naturopathic Medicine, the Dental Board of California, the Osteopathic Medical Board of
California, the Board of Registered Nursing, the Veterinary Medical Board, and the Physician
Assistant Committee shall have authority with the California State Board of Pharmacy to ensure
compliance with this section, and those boards are specifically charged with the enforcement of
this chapter with respect to their respective licensees.
“(c) ‘Prescriber,’ as used in this section, means a person, who holds a physician’s and
surgeon’s certificate, a license to practice optometry, a license to practice naturopathic medicine,
a license to practice dentistry, a license to practice veterinary medicine, or a certificate to practice
podiatry, and who is duly registered by the Medical Board of California, the State Board of
Optometry, the Bureau of Naturopathic Medicine, the Dental Board of California, the Veterinary
Medical Board, or the Board of Osteopathic Examiners of this state.”

13. Section 4172 of the Code, states:

“A prescriber who dispenses drugs pursuant to Section 4170 shall store all drugs to be
dispensed in an area that is secure. The Medical Board of California shall, by regulation, define
the term ‘secure’ for purposes of this section.”

Section 1356.3. states:

“For purposes of section 4172 of the code, the phrase ‘area which is secure’ means a locked
storage area within a physician’s office. The area shall be secure at all times. The keys to the
locked storage area shall be available only to staff authorized by the physician to have access
thereto.”

15. Section 2261 of the Code states:

“Knowingly making or signing any certificate or other document directly or indirectly
related to the practice of medicine or podiatry which falsely represents the existence or
nonexistence of a state of facts, constitutes unprofessional conduct.”

16. Section 2262 of the Code states:

“Altering or modifying the medical record of any person, with fraudulent intent, or creating
any false medical record, with fraudulent intent, constitutes unprofessional conduct.

“In addition to any other disciplinary action, the Division of Medical Quality\(^1\) or the
California Board of Podiatric Medicine may impose a civil penalty of five hundred dollars ($500)
for a violation of this section.”

\(^1\) 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
17. 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."

18. Section 810 of the Code states:
   "(a) It shall constitute unprofessional conduct and grounds for disciplinary action, including suspension or revocation of a license or certificate, for a health care professional to do any of the following in connection with his or her professional activities:

   "(1) knowingly present or cause to be presented any false or fraudulent claim for the payment of a loss under a contract of insurance.

   "(2) knowingly prepare, make, or subscribe any writing, with intent to present or use the same, or to allow it to be presented or used in support of any false or fraudulent claim.

   "(b) It shall constitute cause for revocation or suspension of a license or certificate for a health care professional to engage in any conduct prohibited under Section 1871.4 of the Insurance Code or Section 549 or 550 of the Penal Code.

   "(c) (1) It shall constitute cause for automatic suspension of a license or certificate issued pursuant to Chapter 4 (commencing with Section 1600), Chapter 5 (commencing with Section 2000), Chapter 6.6 (commencing with Section 2900), Chapter 7 (commencing with Section 3000), or Chapter 9 (commencing with Section 4000), or pursuant to the Chiropractic Act or the Osteopathic Act, if a licensee or certificate holder has been convicted of any felony involving fraud committed by the licensee or certificate holder in conjunction with providing benefits covered by worker's compensation insurance, or has been convicted of any felony involving Medi-Cal fraud committed by the licensee or certificate holder in conjunction with the Medi-Cal program, including the Denti-Cal element of the Medi-Cal program, pursuant to Chapter 7 (commencing with Section 14000), or Chapter 8 (commencing with Section 14200), of Part 3 of ...

(...continued)

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.
Division 9 of the Welfare and Institutions Code. The board shall convene a disciplinary hearing to determine whether or not the license or certificate shall be suspended, revoked, or some other disposition shall be considered, including, but not limited to, revocation with the opportunity to petition for reinstatement, suspension, or other limitations on the license or certificate as the board deems appropriate.

"(2) It shall constitute cause for automatic suspension and for revocation of a license or certificate issued pursuant to Chapter 4 (commencing with Section 1600), Chapter 5 (commencing with Section 2000), Chapter 6.6 (commencing with Section 2900), Chapter 7 (commencing with Section 3000), or Chapter 9 (commencing with Section 4000), or pursuant to the Chiropractic Act or the Osteopathic Act, if a licensee or certificate holder has more than one conviction of any felony arising out of separate prosecutions involving fraud committed by the licensee or certificate holder in conjunction with providing benefits covered by worker's compensation insurance, or in conjunction with the Medi-Cal program, including the Denti-Cal element of the Medi-Cal program pursuant to Chapter 7 (commencing with Section 14000), or Chapter 8 (commencing with Section 14200), of Part 3 of Division 9 of the Welfare and Institutions Code. The board shall convene a disciplinary hearing to revoke the license or certificate and an order of revocation shall be issued unless the board finds mitigating circumstances to order some other disposition.

"(3) It is the intent of the Legislature that paragraph (2) apply to a licensee or certificate holder who has one or more convictions prior to January 1, 2004, as provided in this subdivision.

"(4) Nothing in this subdivision shall preclude a board from suspending or revoking a license or certificate pursuant to any other provision of law.

"(5) "Board," as used in this subdivision, means the Dental Board of California, the Medical Board of California, the Board of Psychology, the State Board of Optometry, the California State Board of Pharmacy, the Osteopathic Medical Board of California, and the State Board of Chiropractic Examiners.
“(6) "More than one conviction," as used in this subdivision, means that the licensee or certificate holder has one or more convictions prior to January 1, 2004, and at least one conviction on or after that date, or the licensee or certificate holder has two or more convictions on or after January 1, 2004. However, a licensee or certificate holder who has one or more convictions prior to January 1, 2004, but who has no convictions and is currently licensed or holds a certificate after that date, does not have "more than one conviction" for the purposes of this subdivision.

"(d) As used in this section, health care professional means any person licensed or certified pursuant to this division, or licensed pursuant to the Osteopathic Initiative Act. or the Chiropractic Initiative Act."

19. Section 2271 of the Code states:

"Any advertising in violation of Section 17500, relating to false or misleading advertising, constitutes unprofessional conduct."

20. Section 17500 of the Code states, in pertinent part:

"It is unlawful for any person, firm, corporation or association, or any employee thereof with intent … to perform services, professional or otherwise, … to make or disseminate or cause to be made or disseminated before the public in this state, … in any newspaper or other publication. … any statement, concerning … those services, professional or otherwise, or concerning any circumstance or matter of fact connected with the proposed performance or disposition thereof, which is untrue or misleading, and which is known, or which by the exercise of reasonable care should be known, to be untrue or misleading, or for any person, firm, or corporation to so make or disseminate or cause to be so made or disseminated any such statement as part of a plan or scheme with the intent not to sell… those services, professional or otherwise, so advertised at the price stated therein, or as so advertised…”

**FACTUAL ALLEGATIONS**

21. Medi-Cal is a government program that pays the cost of essential medical care for California’s qualifying poor. Medi-Cal is jointly funded by the state and federal governments and administered by the California Department of Health Care Services (DHCS). Independent
health care providers who voluntarily enroll as Medi-Cal providers. DHCS assigns unique identification numbers to Medi-Cal providers upon their acceptance into the program. In 1996, the California Legislature added a family planning component to Medi-Cal by enacting Welfare and Institutions Code sections 14500 et seq. which created the Office of Family Planning to administer the Family Planning, Access, Care and Treatment program, commonly referred to as the “Family PACT program.” In creating the Family PACT program, the Legislature intended “an effective means to improve reproductive health by disease prevention and treatment, to reduce the incidence of unintended pregnancies, and to reduce the demand for abortions.” The family planning services that are rendered to qualifying patients by the enrolled medical providers under the Family PACT program are billed directly to Medi-Cal under the provider’s unique identification number. To qualify for the Family PACT program, the patient’s income must be less than 200% of the federal poverty level. As access to immediate services is one of the core goals of the program, it features immediate on-site enrollment. This means that eligibility is determined on-site by the provider, during the first clinical visit giving the patient immediate access to care. Each eligible patient should be provided a green Health Access Program (HAP) card to use at any Family PACT provider. Because the program operates on presumption of eligibility based on patient and provider-given information, claims are quickly reimbursed on the assumption that the provider verified the patients eligibility and did in fact provide the services in the claim. Because it is strictly a family planning benefit, Family PACT program does not reimburse providers for rendering weight loss treatment, or any other care that is not related to family planning. At all times relevant hereto, Respondent, whose primary medical practice is in pediatrics, was an enrolled provider in Medi-Cal, and was issued a unique identification number which he used to bill Medi-Cal.

22. On or about August 17, 2010, a Monterey Park police officer stopped a suspicious vehicle driven by Ricardo Chavarria. In the vehicle, the officer found a small pill bottle with no labels or markings of any kind. Inside there were approximately fifteen pills of three different types. The officer also found a plain white envelope with the same contents. Chavarria told the police officer that he was employed by Respondent, and that his job was to
pick up and drop off potential patients for Respondent’s weight loss clinic, where the patients received free diet pills for the first week of weight loss treatment. Chavarria told the officer that if the patients like, they can return and pay $25.00 for a week’s supply of diet pills thereafter. Chavarria stated that he received $20 per pick up and drop off. The officer ascertained the location of Respondent’s clinic as 790 S. Atlantic Blvd, #102, Monterey Park, California. This information was later forwarded to the Medical Board of California (“MBC”).

23. On or about October 13, 2011, MBC Supervising Investigator Laura Gardhouse (Gardhouse hereafter) and Investigator Castro attempted to visit Respondent’s clinic, located at 790 S. Atlantic Boulevard, #102, Monterey Park, California. Upon arriving, the investigators were told the office was closed for lunch and Respondent didn’t see patients on Thursdays. Investigator Castro called the clinic later that day to ascertain more information about the clinic. She was told by employee “Elizabeth” that the first doctor’s visit was free and that she would get seven days worth of pills for free. If she was happy with the results, she could return for another week’s worth of pills for $25.

24. On or about March 14, 2012, Gardhouse visited Respondent’s clinic in an undercover capacity, posing as a potential patient. Gardhouse spoke to a front desk employee who identified herself as “Maribel.” Maribel told Gardhouse that the clinic was out of pills but would receive some later that day. Gardhouse returned to the clinic several hours later, but was told that the clinic still did not have pills available. Maribel explained that the weight loss clinic would give patients three medications for a one week trial period. Afterwards, patients could purchase a one week supply for $25 or four weeks for $100 with a fifth week free. She also stated to Gardhouse that there were no tests or physical exams, they will just check her heart beat and blood pressure and dispense the medication. Maribel wrote down the list of weight loss

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For officer safety, only the initials of the patient names used by the undercover officers during the investigation will be referred to herein.
medications that Gardhouse would receive: Phentermine$^3$ 37.5mg; Furosemide$^4$ 40mg; and Chromium Picolinate$^5$ 200 mcg. Maribel told Gardhouse that the nurse could dispense these medications to Gardhouse without Respondent present.

25. On or about March 15, 2012, Investigator Mercedes Lescaille (Lescaille) visited Respondent’s clinic in an undercover capacity, posing as a potential patient. Her interactions with Respondent and his staff were recorded. Lescaille was given the new patient paperwork and was told by the clinic that they had already run out of diet pills. While inside the clinic Lescaille was approached by Ricardo Chavarria who informed her that he worked at the clinic. Chavarria told Lescaille to tell Respondent she knows “Ricky” or that she is one of “Ricky’s patients.” He also offered to bring the pills to Lescaille and gave her his phone number.

26. On or about April 12, 2012, Gardhouse and Lescaille returned to Respondent’s clinic in undercover capacity, as patients seeking weight loss treatment. These investigators’ interactions with Respondent and his staff were recorded. At the entrance of the 790 S. Atlantic Boulevard, #102, Monterey Park clinic was a note indicating Respondent’s office had moved to another suite across the street, 725 South Atlantic Boulevard, Unit H, Monterey Park. The investigators walked to the new address across the street and were given new patient paperwork to complete. The new patient paperwork included a “Family PACT Program Client Eligibility Certification” form, and a “Family Planning Patient Rights,” documents that are necessary to complete in order to apply for Family PACT program benefits.

27. Gardhouse did not complete the Family PACT form initially, but she was then told by the clinic staff that she would need to complete the form before Respondent would see her. Gardhouse completed the Family PACT form using her undercover patient identity, L.K.,

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$^3$ Phentermine, phenyl-tertiary-butylamine, is a stimulant with effects similar to amphetamine, used medically as an appetite suppressant. It is a dangerous drug as defined by Business and Professions Code section 4022, and a Schedule IV controlled substance as defined by Health and Safety Code section 11057, subdivision (f) (4).

$^4$ Furosemide, also known as the active ingredient in LASIX®, is a prescription diuretic and a dangerous drug pursuant to Business and Professions Code section 4022.

$^5$ Chromium Picolinate is an over-the-counter nutritional supplement.
and was then weighed and had her blood pressure taken by Respondent’s staff. Then she was
taken to an exam room where Respondent touched her neck area, listened to her heart with a
stethoscope, and looked inside her mouth. Respondent discussed diet and exercise with her. No
follow-up with Respondent or any other medical provider. was scheduled. L.K’s medical records
did not reflect any recommendation of a weight loss program or dispensation of weight loss
medication. Instead, the medical records from this visit inaccurately reflected counseling and/or
provision of contraceptives and family planning counseling to this patient. The examination and
discussion with the patient, including information pertaining to informed consent by the patient,
was not documented.

28. Following Respondent’s cursory examination, Gardhouse returned to the front
counter, where she was handed a clear plastic bag containing pills by one of the female staff. The
bag contained 18 pills with a label: “UCLA Weight Loss Center” and “Rx Instructions: Take one
speckled blue pill, one large round pill, and ½ small pill with food every morning.” No other
information about the medication was provided on the label.

29. Subsequent investigation and research identified the medications that were
dispensed to Gardhouse at Respondent’s clinic on April 12, 2012, as follows: the clear plastic bag
contained seven Phentermine hydrochloride 37.5mg pills, seven Chromium Picolnate pills, and
four Furosemide pills.

30. On the same day, April 12, 2012, Lescaille also submitted new patient
paperwork required by Respondent’s clinic, including the Family PACT forms, to the front
counter using her undercover identity, C.P. Respondent then briefly examined Lescaille’s neck,
listened to her heart, and looked in her mouth. Respondent discussed diet and exercise with her.
No follow-up with Respondent or any other medical provider was scheduled. The examination
and discussion with the patient, including information pertaining to informed consent by the
patient, was not documented. C.P.’s medical records did not reflect any recommendation of a
weight loss program or dispensation of weight loss medication. Instead, the medical records from
this visit inaccurately reflected counseling and/or provision of contraceptives and family planning
counseling to this patient.
After Respondent’s cursory examination and a brief discussion, Lescaille returned to the front counter where she was provided a clear plastic bag containing 18 pills with a label: “UCLA Weight Loss Center” and “Rx Instructions: Take one speckled blue pill, one large round pill, and ½ small pill with food every morning.” No other information about the medication was provided on the label.

31. The medications that were dispensed to Lescaille at Respondent’s clinic on April 12, 2012, were as follows: the clear plastic bag contained seven Phentermine hydrochloride 37.5mg pills, seven Chromium Picolinate pills, and four Furosemide pills.

32. On or about September 6, 2012, Lescaille returned to Respondent’s Monterey Park clinic in her undercover capacity. She brought Monterey Park Police Detective Guevara, who posed as a patient with initials C.R. Both Lescaille’s and Guevara’s office visits were recorded. Investigator Lescaille, using her undercover identity as C.P., paid $25.00 to the front desk and received a week’s supply of diet pills. She was not examined and no inquiry into her medication compliance or effectiveness of the medication was made, and no prescription was issued to her. For referring C.R. to Respondent’s clinic, Lescaille received a $10 credit for her next diet pill purchase. The diet pills were dispensed to Lescaille by a female member of Respondent’s staff at the front desk. The pills were packaged in a pharmacy pill bottle with the number “55” written on the cap. There was no label or any other identifying information of any kind on or in the bottle. The pills dispensed to Lescaille on or about September 6, 2012 were seven Phentermine hydrochloride 37.5mg pills, seven Chromium Picolinate pills, and four Furosemide pills.

33. On or about September 6, 2012, Monterey Park Police Detective Guevara, posing as patient C.R. in an undercover capacity, was required by the Respondent’s office staff to complete the new patient paperwork given to her at the clinic, including the Family PACT forms. Her history, including a history of a hysterectomy and high blood pressure, was taken by a member of Respondent’s staff. Thereafter she was seen by Respondent’s Physician Assistant, Nobel Lin. Nobel Lin checked her eyes, mouth, and neck and listened to her heart and lungs. He explained the type of diet pills she was going to take and possible side effects. No follow-up with
Respondent or any other medical provider was scheduled. The examination and discussion with
the patient, including information pertaining to informed consent by the patient, was not
documented. C.R.’s medical records did not reflect any examination or recommendation of a
weight loss program. Instead, the medical records from this visit inaccurately reflected
counseling and/or provision of contraceptives and family planning counseling to this patient.
After a cursory examination and discussion of medications, Guevara was then taken to the front
counter where she received a bottle of pills with the label, “UCLA Weight Loss Center,” with
Respondent’s former address and “Rx Instructions: Take one speckled blue pill. one large round
pill, and ½ small pill with food every morning.” No other information was provided with these
medications. The medications dispensed to Guevara consisted of Phentermine, Furosemide and
Chromium Picolinate.

34. On or about October 4, 2012, Lescaille contacted Chavarria by the cell phone
number that he had given her during her prior visit, to arrange a purchase of additional pills. She
met Chavarria on or about October 11, 2012, in front of a condominium complex located at 1725
S. San Gabriel Boulevard, San Gabriel, California. During this meeting, Chavarria provided to
Lescaille five bottles of diet pills in exchange for $100.00. Lescaille asked if Chavarria had more
pills she could buy. Chavarria left the area and returned approximately ten to fifteen minutes later
and provided Lescaille with five more bottles of diet pills in exchange for an additional $100.00.
Each bottle provided to Lescaille was a pharmacy pill bottle with a white cap. Each bottle had a
handwritten number on top, and were numbered 54, 55, 56, 102, 103, 104, 110, 112, 113, and
116. There was no label or other identifying information of any kind on or in any of the bottles.

35. On or about October 15, 2012, Lescaille returned to Respondent’s Monterey
Park clinic in her undercover capacity. She brought with her Medical Board Investigator Caroline
Montgomery, who posed as a new patient referred by Lescaille. Montgomery was required by
Respondent’s office staff to complete a packet of new patient forms, including the Family PACT
forms, using the undercover identity M.M. She was then examined by Respondent’s Physician
Assistant, Nobel Lin. Nobel Lin performed a cursory examination of her ears, throat, and heart,
and then explained the diet program. He also stated to Montgomery that if she brought a new
client to the clinic, she would receive $10.00 off diet pills immediately. No follow-up with
Respondent or any other medical provider was scheduled. The examination and discussion with
the patient, including information pertaining to informed consent by the patient, was not
documented. M.M.’s medical records did not reflect any recommendation of a weight loss
program or dispensation of weight loss medication. Instead, the medical records from this visit
inaccurately reflected counseling and/or provision of contraceptives and family planning
counseling to this patient. Investigator Montgomery then went to the front counter where the
medical assistant opened an unlocked drawer and pulled out a pill bottle with a week’s supply of
diet pills. Montgomery observed that the drawer was set up with dividers and prepared bottles
inside. These bottles had numbers hand-written on the cap.

36. Lescaille asked the female staff at the front counter for a month’s supply of the
diet pills. This was after Lescaille had purchased a two and a half month supply of the pills four
days earlier. She was not asked when she last received pills. A staff member in green scrubs
mentioned that they had run out of the prepared diet pill bottles and were running out of empty
bottles. She then proceeded to prepare three empty bottles, placing the diet pills inside. She
provided two bottles with two week’s worth of diet pills (36 pills each, including Phentermine,
Furosemide and Chromium Picolinate), and one bottle with one week worth of diet pills (18 pills,
including Phentermine, Furosemide and Chromium Picolinate). The bottles were numbered 54,
55, and 56 handwritten on white caps. Lescaille received a $10.00 discount for the referral of
M.M. (Investigator Montgomery) and paid $90 total. Then two staff members began discussing
what number would start the next batch of pill bottles.

37. On or about December 5, 2012, at 10:00 a.m., Investigator Lescaille conducted
another drug buy from Chavarria at 1725 S. San Gabriel Boulevard. Chavarria drove up to the
location in a white Kia with no plates. He provided five bottles of diet pills to Investigator
Lescaille for $100.00. The bottles were pharmacy bottles that were numbered 11, 12, 18, 20, and
25 handwritten on white caps. There were no labels or other identifying information of any kind
on the bottles.

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38. On or about September 5, 2012, Respondent placed, or caused to be placed an
advertisement into a Spanish-language publication called “Classificado.” The advertisement
offered a weight loss program with a free initial consultation and first week of the program, and
$25.00 per week thereafter. The advertisement promised “guaranteed results.” The
advertisement was false and misleading in that it did not disclose the fact that weight loss patients
would be required to enroll in the Family PACT program, or that Medi-Cal would be billed for
any services rendered to them.

39. On or about January 24, 2013, at approximately 9:15 a.m., a search warrant was
served on Respondent’s Monterey Park clinic. During the warrant service, evidence collectors
found numerous manufacturer/wholesale bottles of Phentermine and observed and collected
numerous other containers of drugs at the front office desk in an unlocked drawer. Included in
the front office desk unlocked drawer were packaging supplies for packaging the medications for
sale.

40. During service of the search warrant on or about January 24, 2013,
Respondent’s medical and billing records for undercover Medical Board Investigators, posing as
patients L.K. (Guardhouse), C.P. (Lescaille), C.R. (Guevara) and M.M. (Montgomery) were
located and seized from Respondent’s clinic. The medical records and billing for each of these
patients contained Family PACT Progress Notes that falsely represented that each of these
patients provided a complete sexual and OB/GYN history, a complete physical exam, and patient
education relating to family planning, and that an assessment and plan pertaining to family
planning was created for each of these patients.

41. From January 1, 2010 through November 30, 2012, Respondent’s office
submitted 4,124 Family PACT program claims and was paid by Medi-Cal for Family PACT
program services in the amount of $176,706.11.

42. The payments made to Respondent included Family PACT Program payment
for services rendered to patient L.K. (Gardhouse) for a visit on April 12, 2012, in the amount of
$109.19 and $12.72. Respondent billed Medi-Cal for evaluation and providing barriers and
spermicide to L.K., as well as for providing family planning counseling to her. This billing was
fraudulent, and represents a violation of Code sections 810 and 2234, subdivision (e), as
Gardhouse was not provided any family planning services or education/counseling by Respondent
or his staff during that April 12, 2012, visit, or at any other time.

43. Respondent also was paid by Medi-Cal for Family PACT program services
rendered to C.P. (Lescaille) during her visit to Respondent’s clinic on April 12, 2012.
Respondent billed Medi-Cal for evaluation and providing barriers and spermicide to C.P., as well
as for providing family planning education/counseling to her. Respondent was paid $109.19 and
$12.72 for that visit. This billing was fraudulent, and represents a violation of Code sections 810
and 2234, subdivision (e), as Lescaille was not provided family planning services or
education/counseling by Respondent or his staff during that April 12, 2012, visit, or at any other
time.

44. Respondent also was paid by Medi-Cal for Family PACT program services
rendered to C.R. (Guevara) for a visit on September 6, 2012. Respondent billed Medi-Cal for
providing an evaluation and oral contraceptives, as well as family planning and counseling to
C.R. Respondent was paid $109.19 and $12.72 for that visit. This billing was fraudulent, and
represents a violation of Code sections 810 and 2234, subdivision (e), as Guevara was not
provided contraceptives or family planning services or education/counseling by Respondent or his
staff during that September 6, 2012 visit, or at any other time. In fact, during her examination,
Guevara gave a history of a hysterectomy to Respondent’s office staff.

45. Respondent also was paid by Medi-Cal for Family PACT program services
rendered to M.M. (Montgomery) for a visit on October 15, 2012. Respondent billed Medi-Cal for
initial evaluation and providing of oral contraceptives, as well as for providing family planning
education/counseling to M.M. Respondent was paid $109.19 and $12.72 for M.M.’s October 15,
2012 visit. This billing was fraudulent, and represents a violation of Code sections 810 and 2234,
subdivision (e), as Montgomery was not provided family planning services or
education/counseling by Respondent or his staff during that October 15, 2012 visit, or at any
other time.

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47. Respondent and co-defendants were indicted on a total of fifty-five counts, including insurance fraud, grand theft, unlawful prescribing, and other charges, on or about September 17, 2013. Shortly thereafter, on or about September 27, 2013, as a condition of Respondent’s bail, the Superior Court issued an Order that prohibited Respondent from prescribing or dispensing Schedule II through V controlled substances.

48. On or about March 28, 2014, despite the court’s order, Respondent issued a prescription for Zantac, Xanax, Motrin and Deplin to patient S.C. Xanax is a brand name for alprazolam, a benzodiazepine and a schedule IV controlled substance pursuant to Health and Safety Code section 11057, subdivision (d) (1).

49. On or about May 6, 2014, despite the court’s order, Respondent issued, or caused to be issued a renewal of a previously expired prescription for Phentermine to patient E.J. Phentermine is a stimulant and a schedule IV controlled substance pursuant to Health and Safety Code section 11057, subdivision (f) (4).

DISCIPLINARY ALLEGATIONS

FIRST CAUSE FOR DISCIPLINE

(Medi-Cal Fraud)

50. Respondent is subject to disciplinary action under Code sections 2234, subdivision (e), and 810, jointly and separately, in that Respondent knowingly presented or caused to be presented false or fraudulent claims to Medi-Cal for services that were not rendered. The circumstances are as follows:

51. Allegations of paragraphs 21 through 49 are incorporated herein by reference.

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SECOND CAUSE FOR DISCIPLINE
(Fraud in Medical Documents)

52. Respondent is subject to disciplinary action under Code sections 2261 and 2262, jointly and separately, in that he made or signed, or caused to be made or signed, documents directly or indirectly related to the practice of medicine which falsely represented the existence or nonexistence of a state of facts, and created or caused to be created false medical records. Circumstances are as follows:

53. Allegations of paragraphs 21 through 49 are incorporated herein by reference.

THIRD CAUSE FOR DISCIPLINE
(Violation of Statutes Regulating Dangerous Drugs and Controlled Substances: Inappropriate Dispensing)

54. Respondent is subject to disciplinary action under Code sections 2238 and 2242, jointly and separately, in that Respondent prescribed and/or dispensed, or caused to be prescribed and/or dispensed, controlled substances and dangerous drugs in violation of the laws regulating controlled substances and dangerous drugs. The circumstances are as follows:

55. Allegations of paragraphs 21 through 49 are incorporated herein by reference.

56. Each of the following acts, together and separately, constituted a violation of the Medical Practice Act as follows:

A. Respondent’s failure to properly label the diet pills dispensed at his office as alleged hereinabove was a violation of Code section 2238.

B. Respondent’s failure to maintain controlled substances in the manner consistent with Code section 4172 and California Code of Regulations, Title 16, Division 13, Chapter 2, Article 1, Section 1356.3, was a violation of Code section 2238.

C. Respondent’s making of controlled substances and/or dangerous drugs to be dispensed and/or distributed by unlicensed members of his staff, in a manner alleged herein is a violation of Code section 2238.

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D. Respondent’s dispensing of controlled substances and/or dangerous drugs in the manner alleged herein, without an appropriate prior examination and a medical indication, was a violation of Code section 2242.

FOURTH CAUSE FOR DISCIPLINE
(Gross Negligence)

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

58. Allegations of paragraphs 21 through 49 are incorporated herein by reference.

59. Each of the following acts, together and separately, constituted an extreme departure from the standard of care:

A. Respondent’s inadequate history and physical examination and his failure to follow up and/or monitor patient L.K.’s weight loss treatment constituted an extreme departure from the standard of care.

B. Respondent’s fraud in prescribing, examination, counseling and documentation of contraceptive care to patient L.K. constituted an extreme departure from the standard of care.

C. Respondent’s method of dispensing controlled substances and dangerous drugs in his office to patient L.K. constituted an extreme departure from the standard of care.

D. Respondent’s inadequate history and physical examination and his failure to follow up and/or monitor patient C.P.’s weight loss treatment constituted an extreme departure from the standard of care.

E. Respondent’s fraud in prescribing, examination, counseling and documentation of contraceptive care to patient C.P. constituted an extreme departure from the standard of care.

F. Respondent’s method of dispensing controlled substances and dangerous drugs in his office to patient C.P. constituted an extreme departure from the standard of care.

G. Respondent’s Physician Assistant’s inadequate history and physical examination and his failure to follow up and/or monitor patient C.R.’s weight loss treatment.
constituted an extreme departure from the standard of care by Respondent pursuant to Code
section 3501, subdivision (a)(6).

H. Respondent's fraud in prescribing, examination, counseling and documentation
of contraceptive care to patient C.R. constituted an extreme departure from the standard of care.

I. Respondent's method of dispensing controlled substances and dangerous drugs
in his office to patient C.R. constituted an extreme departure from the standard of care.

J. Respondent's Physician Assistant's inadequate history and physical
examination, and his failure to follow up and/or monitor patient M.M.'s weight loss treatment,
constituted an extreme departure from the standard of care by Respondent pursuant to Code
section 3501, subdivision (a)(6).

K. Respondent's fraud in prescribing, examination, counseling and documentation
of contraceptive care to patient M.M. constituted an extreme departure from the standard of care.

L. Respondent's method of dispensing controlled substances and dangerous drugs
in his office to patient M.M. constituted an extreme departure from the standard of care.

FIFTH CAUSE FOR DISCIPLINE
(Repeated Negligent Acts)

60. Respondent is subject to disciplinary action under Code section 2234,
subdivision (c) in that he was repeatedly negligent in his care and treatment of four patients. The
circumstances are as follows:

61. Allegations of paragraphs 21 through 49 are incorporated herein by reference.

62. Each of the following acts, together and separately, constituted a departure from
the standard of care:

A. Respondent's inadequate history and physical examination and his failure to
follow up and/or monitor patient L.K.'s weight loss treatment constituted a departure from the
standard of care.

B. Respondent's fraud in prescribing, examination, counseling and documentation
of contraceptive care to patient L.K. constituted a departure from the standard of care.

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C. Respondent’s method of dispensing controlled substances and dangerous drugs in his office to patient L.K. constituted a departure from the standard of care.

D. Respondent’s inadequate history and physical examination and his failure to follow up and/or monitor patient C.P.’s weight loss treatment constituted a departure from the standard of care.

E. Respondent’s fraud in prescribing, examination, counseling and documentation of contraceptive care to patient C.P. constituted a departure from the standard of care.

F. Respondent’s method of dispensing controlled substances and dangerous drugs in his office to patient C.P. constituted a departure from the standard of care.

G. Respondent’s Physician Assistant’s inadequate history and physical examination and his failure to follow up and/or monitor patient C.R.’s weight loss treatment constituted a departure from the standard of care by Respondent pursuant to Code section 3501, subdivision (a)(6).

H. Respondent’s fraud in prescribing, examination, counseling and documentation of contraceptive care to patient C.R. constituted a departure from the standard of care.

I. Respondent’s method of dispensing controlled substances and dangerous drugs in his office to patient C.R. constituted a departure from the standard of care.

J. Respondent’s Physician Assistant’s inadequate history and physical examination and his failure to follow up and/or monitor patient M.M.’s weight loss treatment constituted a departure from the standard of care by Respondent pursuant to Code section 3501, subdivision (a)(6).

K. Respondent’s fraud in prescribing, examination, counseling and documentation of contraceptive care to patient M.M. constituted a departure from the standard of care.

L. Respondent’s method of dispensing controlled substances and dangerous drugs in his office to patient M.M. constituted a departure from the standard of care.
SIXTH CAUSE FOR DISCIPLINE

(Inadequate Record Keeping)

63. Respondent is subject to disciplinary action under Code section 2266 in that he
failed to keep adequate and accurate medical records of four patients, L.K., C.P., C.R., and M.M.

64. The allegations of paragraphs 21 through 49 are incorporated herein by
reference.

SEVENTH CAUSE FOR DISCIPLINE

(False Advertising)

65. Respondent is subject to disciplinary action under Code section 2271 in that
Respondent engaged in false and/or misleading advertising. The circumstances are as follows:

66. The allegations of paragraphs 21 through 49 are incorporated herein by
reference.

67. Respondent's advertisement, which he placed, or caused to be placed in a
Spanish-language publication called “Classificado” on or about September 5, 2012, was false and
misleading as to the cost of the weight loss program, in that the advertisement offered a weight
loss program with a free initial consultation and free medications or pills for the first week of the
program, and $25.00 per week thereafter, but omitted any information that weight loss patients
would be required to enroll in the Family PACT program, and that Medi-Cal would be billed for
any services rendered to them in connection with the weight loss program that was being
advertised.

EIGHTH CAUSE FOR DISCIPLINE

(Self-Prescribing)

68. Respondent is subject to disciplinary action under Health and Safety Code
section 11170 and Business and Professions Code sections 2238 and 2239 in that Respondent
prescribed controlled substances to himself. The circumstances are as follows:

69. The allegations of paragraphs 21 through 49 are incorporated herein by
reference.

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NINTH CAUSE FOR DISCIPLINE

(Prescribing Controlled Substances While Prescribing Privileges Were Restricted Pursuant to Court Order)

70. Respondent is subject to disciplinary action under Health and Safety Code section 11155 and Business and Professions Code section 2238 in that Respondent issued or renewed prescriptions for the schedule IV controlled substances Xanax and Phentermine, while his authority to issue controlled substance prescriptions was restricted pursuant to a court order. The circumstances are as follows:

71. The allegations of paragraphs 21 through 49 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 of California issue a decision:

1. Revoking or suspending Physician's and Surgeon's Certificate Number A 64211, issued to THOMAS H. LIN, M.D.;

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

3. If placed on probation, ordering Thomas H. Lin, M.D. 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: April 30, 2015

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

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