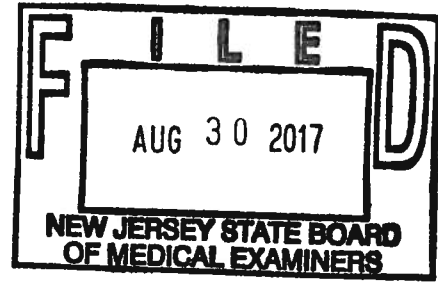


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STATE OF NEW JERSEY
DEPARTMENT OF LAW & PUBLIC SAFETY
DIVISION OF LAW
BOARD OF MEDICAL EXAMINERS

IN THE MATTER OF THE SUSPENSION :
OR REVOCATION OF THE LICENSE OF :
: Administrative Action
MOISHE STARKMAN, M.D. :
LICENSE NO. 25MA05096200 : VERIFIED COMPLAINT
:
TO PRACTICE MEDICINE AND SURGERY :
IN THE STATE OF NEW JERSEY :

Christopher S. Porrino, Attorney General of the State of New Jersey, by Delia DeLisi, Deputy Attorney General, with offices located at 124 Halsey Street, P.O. Box 45029, Newark, New Jersey 07101, by way of Verified Complaint says:

GENERAL ALLEGATIONS

1. Complainant, Attorney General of New Jersey, is charged with enforcing the laws of the State of New Jersey pursuant to N.J.S.A. 52:17A-4(h), and is empowered to initiate administrative disciplinary proceedings against persons licensed by the New Jersey State Board of Medical Examiners pursuant to N.J.S.A. 45:1-14 et seq.

2. The New Jersey State Board of Medical Examiners ("Board") is charged with the duty and responsibility of regulating the practice of medicine and surgery in the State of New Jersey pursuant to N.J.S.A. 45:9-1 et seq.

3. Pursuant to N.J.S.A. 45:1-22, the Board may enter an order of temporary suspension pending a plenary hearing on an Administrative Complaint upon a palpable showing by the Attorney General of a clear and imminent danger to the public health, safety, and welfare.

4. Moishe Starkman, M.D. ("Respondent"), is a 58 year-old physician, who, at all times relevant hereto, has been licensed to practice medicine in the State of New Jersey with License Number 25MA05096200. The current status of Respondent's license is "Active".

5. Respondent is a family practitioner who maintains the Bordentown Family Practice at 163 Route 130N, Bordentown, New Jersey. (Curriculum Vitae of Moishe Starkman, M.D. attached as Exhibit E to the Certification of Deputy Attorney General Delia DeLisi ("DeLisi Cert."))

6. On July 5, 2017, Enforcement Bureau ("EB") Investigators Kathleen Cefalu and Walter Mazariegos served Respondent with a Demand for Inspection of Professional Premises and a subpoena for the medical records of nine (9) patients. (Subpoena and Demand for Inspection of Professional Premises signed by DAG David M. Puteska

June 29, 2017, attached as Exhibits A and B respectively, to DeLisi Cert.).

7. On July 10, 2017, a second subpoena for seven (7) additional patient records was served upon Respondent's attorney. (Subpoena signed by DAG Delia DeLisi dated July 10, 2017, attached as Exhibit C to DeLisi Cert.)¹.

8. Among the Controlled Dangerous Substances that Respondent prescribed for the five (5) patients discussed below were Oxycodone HCL, Morphine Sulfate ER, Fentanyl, Carisoprodol, Percocet, Zolpidem and Alprazolam.

9. These CDS drugs, as the descriptions below from the United States Food and Drug Administration approved package inserts and/or the Physician's Desk Reference ("PDR") establish, are dangerous medications with habit forming potential to be utilized cautiously. The descriptions follow:

- a. Oxycodone HCL/Roxicodone are common names for oxycodone hydrochloride which is an opioid analgesic. It is used for management of moderate to severe acute and chronic pain. During all times relevant hereto, Oxycodone has been a Schedule II CDS as defined in

¹Patient records for T.A., C.D., G.A., J.T. and H.H. were obtained, among others not included for the purpose of this Complaint. Pursuant to Board policy, patient initials are being used throughout this Complaint to preserve confidentiality. The identities of the patients are known to Respondent.

N.J.S.A. 24:21-6 and N.J.A.C. 13:45H-10.1(a) (citing 21 C.F.R. 1308.12(b)(1)(xiii)).

b. MS Contin—Generic name: Morphine Sulfate. MS Contin is an opioid analgesic indicated for the management of pain severe enough to require daily, around-the-clock, long-term opioid treatment and for which alternative options are inadequate. During all times relevant hereto, MS Contin has been a Schedule II CDS as defined in N.J.S.A. 24:21-6 and N.J.A.C. 8:65-10.2(b)(1)(i).

c. Percocet (Endocet in generic form) is an opioid analgesic that contains both oxycodone hydrochloride and acetaminophen. Percocet is indicated for the relief of moderate to moderately severe pain. During all times relevant hereto, Percocet has been a Schedule II CDS as defined in N.J.S.A. 24:21-6 and N.J.A.C. 13:45H-10.1(a) (citing 21 C.F.R. 1308.12(b)(1)(vi)). Percocet contains a boxed warning indicating that it is "[a]ssociated with cases of acute liver failure, at times resulting in liver transplant and death. Most cases of liver injury are associated with APAP use at doses >4000mg/day, and often involve >1 APAP-containing product." (See <http://www.pdr.net>).

- d. Fentanyl Patch contains a high concentration of a potent Schedule II opioid agonist, fentanyl. It is indicated for management of persistent, moderate to severe chronic pain for use in patients who are already receiving opioid therapy and have opioid tolerance. During all times relevant hereto, Fentanyl is an opioid that has been classified as a Schedule II Controlled Dangerous Substance ("CDS") as defined in N.J.S.A. 24:21-6 and N.J.A.C. 13:45H-10.1.
- e. Xanax is the brand name for Alprazolam. Xanax is a benzodiazepine used to treat anxiety disorders and panic disorders. At all times relevant hereto Xanax was a Schedule IV CDS as defined by N.J.S.A. 24:21-8 and N.J.A.C. 13:45H-10.1(a) (citing 21 C.F.R. 1308.14(c)(2)).
- f. Ambien is the brand name for Zolpidem. Ambien is a hypnotic sedative primarily used for the treatment of insomnia. During all times relevant hereto, Ambien has been a Schedule IV CDS as defined by N.J.S.A. 24:21-8 and N.J.A.C. 13:45H-10.1(a) (citing 21 C.F.R. 1308.14(c)(54)).
- g. Soma is the brand name for Carisoprodol. It is a muscle relaxer and depressant used to relieve pain and discomfort caused by various muscle-related

injuries. Since 2011, it has been a Schedule IV CDS as defined in N.J.S.A. 24:21-8, N.J.A.C. 13:45H-10.1, and 21 C.F.R. § 1308.14.

COUNT I
(Patient T.A.)

10. The General Allegations are repeated and re-alleged as if set forth at length herein.

11. T.A. is currently a 29 year old female. (Patient Record of T.A., attached as Exhibit G to DeLisi Cert., Bates Stamp TA0009).

12. The first document in T.A.'s patient record is a laboratory report ordered by Respondent for blood work performed on July 9, 2015. The only progress note for T.A. in her entire patient record is dated January 6, 2016. (DeLisi Cert., Exhibit G, Bates Stamp TA0048). On that date, T.A. complained of chest pain, palpitations, neck and back pain, muscle/joint pain-knee, anxiety/stress/irritability, pre-menstrual symptoms, and "sjogren's (sic) joint pain." (DeLisi Cert., Exhibit G, TA0053). The only information recorded was T.A.'s vital signs, weight, complaint, medications prescribed and diagnoses, specifically MPS/Myalgias, Tobacco use, Trapez Strain, Insomnia, Cervical Radiculo, Cough and Opiate Use. (DeLisi Cert., Exhibit G, Bates Stamp TA0048-52).

There is no assessment or diagnostic testing to explain these diagnoses, no treatment plan and no pain scores documented.

13. Despite the lack of progress notes, Respondent began prescribing T.A. large quantities of CDS in January 2016. Initially Respondent prescribed T.A. Percocet 10-325mg 120 pills for a 20 day supply. (Supplemental Patient Record of T.A., attached as Exhibit H to DeLisi Cert., Bates Stamp STA0005-6).

14. Respondent switched from prescribing her Percocet 10-325mg 120 pills in January 2016 to Oxycodone Hydrochloride 10mg 120 pills for a 20 day supply in February 2016. (Ibid.).

15. In March of 2016, Respondent increased the Oxycodone HCL dosage to 15 mg 120 pills for 20 days. (Id. at STA0006-7). Since April 12, 2016, Respondent has prescribed T.A. Oxycodone HCL 15 mg 120 pills q 3' prn (every 3 hours as needed). (Id. at STA0007-25). Respondent prescribes this medication without a coherent treatment plan, failing to record and follow through with objectives and goals for pain management and/or opioid use. Respondent's prescribing shows no attempts to taper the potency or dosage of CDS prescribed to T.A.

16. Respondent has consistently issued prescriptions early. As recently as June 2017, Respondent wrote T.A. six (6) different prescriptions for 120 pills of Oxycodone HCL 15 mg q 3' prn (with

each prescription giving T.A. at least a 15 day supply). (Id. at STA00023-25). This amounts to 720 pills in a thirty day period. If T.A. ingests all the opiates that Respondent prescribes to her, this would equal one (1) pill for every hour of the day.

17. Respondent continues to prescribe CDS to T.A. with no documentation in the record that he is treating her, only copies of the prescriptions. (Id. at STA0005-25). Despite this continued escalating pattern of prescribing opioid medications, Respondent did not administer any diagnostic testing in order to determine the cause of T.A.'s complaints of pain and never formulated a coherent treatment plan.

18. The following chart is an example of Respondent's escalating prescribing of CDS prescribed to T.A. as documented in the patient record for 2017. (DeLisi Cert., Exhibit H, Bates Stamp STA0005-STA0025).

Patient: T.A.

Date	Medication	Amount
12/23/2016 "May fill" 1/2/2017	Oxycodone 15mg	120
1/6/2017	Oxycodone 15mg	120
1/16/2017	Oxycodone 15mg	120
1/20/2017	Oxycodone 15mg	120
1/27/2017	Oxycodone 15mg	120
January 2017	Pill Total	600
2/3/2017	Oxycodone 15mg	120
2/8/2017	Oxycodone 15mg	120

2/15/2017	Oxycodone 15mg	120
2/22/2017	Oxycodone 15mg	120
2/27/2017	Oxycodone 15mg	120
February 2017	Pill Total	600
3/6/2017	Oxycodone 15mg	120
3/10/2017	Oxycodone 15mg	120
3/16/2017	Oxycodone 15mg	120
3/22/2017	Oxycodone 15mg	120
3/28/2017	Oxycodone 15mg	120
March 2017	Pill Total	600
4/5/2017	Oxycodone 15mg	120
4/10/2017	Oxycodone 15mg	120
4/14/2017	Oxycodone 15mg	120
4/20/2017	Oxycodone 15mg	120
4/24/2017	Oxycodone 15mg	120
April 2017	Pill Total	600
5/2/2017	Oxycodone 15mg	120
5/5/2017 "May fill" 5/8/2017	Oxycodone 15mg	120
5/11/2017 "May fill" 5/13/2017	Oxycodone 15mg	120
5/19/2017	Oxycodone 15mg	120
5/24/2017	Oxycodone 15mg	120
5/26/2017	Oxycodone 15mg	120
May 2017	Pill Total	720
6/2/2017	Oxycodone 15mg	120
6/9/2017	Oxycodone 15mg	120
6/14/2017	Oxycodone 15mg	120
6/14/2017	Oxycodone 15mg	120
6/26/2017	Oxycodone 15mg	120
6/30/2017	Oxycodone 15mg	120
June 2017	Pill Total	720
7/5/2017	Oxycodone 15mg	120
7/13/2017	Oxycodone 15mg	120
7/19/2017	Oxycodone 15mg	120
7/24/2017	Oxycodone 15mg	120
7/31/2017	Oxycodone 15mg	120
July 2017	Pill Total	600
8/05/2017	Oxycodone 15mg	120

	Total	4,440
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19. There is one drug screen in T.A.'s entire patient record and it was conducted on January 14, 2016. (DeLisi Cert., Exhibit G, Bates Stamp TA0038). Despite Respondent having prescribed Percocet to T.A. on January 6, 2016, T.A.'s January 14, 2016 drug screen is negative for all tested substances, including the prescribed opiate. (Ibid.). Respondent failed to discuss this result with T.A. and did not conduct any further drug screens.

20. Respondent continues to prescribe dangerous medications with habit forming potential to T.A. and has done so since at least January 2016 without documenting a treatment plan with objectives and goals for pain management or opioid use, making reasonable efforts to prescribe alternative medications or alternative treatments to alleviate the pain, or decreasing the dosage of the controlled substances. Respondent failed to assess the efficacy of the narcotics he prescribed.

21. Respondent failed to assess T.A. for any substance abuse problems, failed to conduct drug screens (other than the initial screen which yielded a questionable result) and failed to enter into a Controlled Substances Agreement with this patient.

22. Respondent diagnosed T.A. with Sjogren's, a serious autoimmune disease, yet there is no documentation within the record

to support this diagnosis. (DeLisi Cert., Exhibit G, Bates Stamp TA0007; Expert Report of Christopher Boni, D.O. ("Boni Report") attached as Exhibit S to DeLisi Cert., p.6). Respondent ordered blood tests but these tests did not test for autoimmune diseases. (Ibid.). Respondent's failure to conduct testing to form his diagnosis, to refer T.A. for evaluation by a rheumatologist and/or to consult with a rheumatologist is a gross deviation in the standard of care. (Ibid.).

23. Respondent's actions described herein constitute gross negligence that endangered the life, health, welfare or safety of T.A. in violation of N.J.S.A. 45:1-21(c); repeated acts of negligence in violation of N.J.S.A. 45:1-21(d); professional or occupational misconduct in violation of N.J.S.A. 45:1-21(e); failure to comply with the provisions of an act or regulation administered by the Board in violation of N.J.S.A. 45:1-21(h), specifically failure to perform a physical examination and formulate a treatment plan prior to issuing a prescription in violation of N.J.A.C. 13:35-7.1A and failure to establish and reevaluate treatment plans, failure to reassess the use and dosage of the narcotics prescribed, and exceeding 120 dosage units to a patient who does not suffer from pain from cancer, intractable pain or terminal illness in violation of N.J.A.C. 13:35-7.6; the issuing of prescriptions for controlled dangerous substances

indiscriminately or without good cause in violation of N.J.S.A. 45:1-21(m); and the failure to be of good moral character as required for licensing as a physician pursuant to N.J.S.A. 45:9-6.

24. Respondent's indiscriminate prescribing of CDS to T.A. and his failure to diagnose and/or treat T.A.'s underlying medical conditions, demonstrates such poor medical judgment that his continued practice places the public's health, safety, and welfare in clear and imminent danger and warrants the temporary suspension of his license to practice medicine pursuant to N.J.S.A. 45:1-22.

COUNT II
(Patient C.D.)

25. The General Allegations and those of Count I are repeated and re-alleged as if set forth at length herein.

26. C.D. is currently a 41 year old female. (Patient Record of C.D., attached as Exhibit J to DeLisi Cert., Bates Stamp CD0037).²

27. C.D. first became a patient of Respondent on December 9, 2013, at which time she complained of herniated discs in her neck, and severe pain spasms and knots in her neck and shoulder blades. (Id. at CD0037). C.D. further reported going to the Emergency Room numerous times and having an orthopedic surgeon recommend surgery,

² Prescriptions were issued to this patient under two different last names which appears to reflect her maiden and married names. For ease of reference the patient will be referred to as C.D. throughout this Complaint.

which she refused. (Ibid.). In addition, C.D. reported that she had been injured in a car accident more than five years prior. (Ibid.). C.D. noted that she was currently prescribed two (2) Oxycontin 15mg a day and took "Ventolin as a rescue inhaler" for her asthma. (Id. at CD0039; CD0041). She rated her pain on average as an 8. (Id. at CD0040).

28. Despite his failure to perform a physical examination on December 9, 2013, Respondent recorded diagnostic codes and made a specific diagnosis of Cervical Radiculopathy, Asthma, unspecified, Myofascial Pain, Lumbar Sprain, Long term Concurnt (sic) Use of Meds, Cough, Tobacco use disorder. (Supplemental Patient Record of C.D., attached as Exhibit K to DeLisi Cert., Bates Stamp SCD0001; DeLisi Cert., Exhibit J, Bates Stamp CD0034.) In addition to Levaquin, Dexilant, Zantac, Vitamin D2, Ventolin and Medrol, Respondent prescribed Oxycontin 15 mg. (DeLisi Cert., Exhibit K, Bates Stamp SCD0001).

29. Also on December 9, 2013, C.D. signed an "Agreement for Opioid Maintenance Therapy for Noncancer/Cancer Pain." (DeLisi Cert., Exhibit J, Bates Stamp CD0109-CD0111).

30. Ten days later on December 19, 2013, C.D. reported "still in a lot of pain, turbo hasn't helped much, slipped on ice, made it hurt A LOT worse." (Id. at CD0032). Vital signs were taken on that date but there are no "physical findings" or "plan" and

documentation under the "Medications" section is illegible. (Id. at CD0031). Respondent failed to administer any diagnostic testing in order to determine the cause of C.D.'s complaints of pain.

31. C.D.'s progress notes show that she was seen on a monthly basis by Respondent from December, 2013 through May 9, 2014, although these notes are largely blank. (Id. at CD0010-CD0030). A medication list in C.D.'s record shows that she was prescribed Oxycontin in increasing dosages during this time period, yet her progress notes do not reflect this prescribing. (Id. at CD0002). The last documented progress note for C.D. is from July 10, 2014, although Respondent still ordered lab work on August 11, 2015 and January 6, 2016, February 4, 2016, March 7, 2016, April 7, 2016, June 9, 2016, August 9, 2016, and December 30, 2016. (Id., at CD0053-CD00062, CD0064, CD0117-122.). There is no documentation of visits during this period, no physical examination and no treatment plans.

32. Despite the fact that Respondent prescribed hundreds of opiates a month to C.D., the patient record does not reflect this. (DeLisi Cert., Exhibit K, Bates Stamp SCD0001-11; Exhibit J; Boyds Pharmacy Prescription Profiles for C.D., attached as Exhibit L to DeLisi Cert.). For instance, in 2017, Respondent routinely prescribed C.D. 120 pills of Oxycodone 30mg every 5-6 days. (DeLisi Cert., Exhibit L). Respondent also prescribed C.D. between 10-20

patches of Fentanyl 25mcg-75mcg a month during 2017. (Ibid.). There are no progress notes documenting any of this prescribing. Respondent engaged in this pattern of narcotic prescribing without a coherent treatment plan, failing to record and follow through with objectives and goals for pain management and/or opioid use.

33. The following chart shows the course of CDS prescribed to C.D. by Respondent in the last ten months as documented in the Prescription Profiles obtained from two pharmacies. (DeLisi Cert., Exhibit L).

Patient: C.D.

Date	Medication	Amount
9/21/2016	Fentanyl 100mcg	5
9/23/2016	Oxycodone 30mg	120
9/29/2016	Oxycodone 30mg	60
September 2016	Pill Total	180
10/04/2016	Fentanyl 100mcg	5
10/06/2016	Oxycodone 30mg	120
10/12/2016	Oxycodone 30mg	120
10/14/2016	Fentanyl 100mcg	5
10/19/2016	Oxycodone 30mg	120
10/25/2016	Oxycodone 30mg	120
10/27/2016	Fentanyl 100mcg	5
10/31/2016	Oxycodone 30mg	120
October 2016	Pill Total	600
11/07/2016	Oxycodone 30mg	120
11/08/2016	Fentanyl 100mcg	10
11/14/2016	Oxycodone 30mg	120
11/18/2016	Oxycodone 30mg	120
11/25/2016	Oxycodone 30mg	120
November 2016	Pill Total	480

12/01/2016	Fentanyl 100mcg	5
12/02/2106	Oxycodone 30mg	60
12/08/2016	Oxycodone 30mg	120
12/12/2016	Fentanyl 100mcg	5
12/14/2016	Oxycodone 30mg	120
12/20/2016	Oxycodone 30mg	120
12/20/2016	Fentanyl 100mcg	5
12/27/2016	Oxycodone 30mg	60
12/30/2016	Oxycodone 30mg	120
12/30/2016	Fentanyl 100mcg	5
December 2016	Pill Total	600
01/05/2017	Oxycodone 30mg	120
01/09/2017	Fentanyl 100mcg	5
01/11/2017	Oxycodone 30mg	120
01/18/2017	Oxycodone 30mg	120
01/18/2017	Fentanyl 75mcg	10
01/24/2017	Oxycodone 30mg	120
01/30/2017	Oxycodone 30mg	120
January 2017	Pill Total	600
02/04/2017	Oxycodone 30mg	120
02/04/2017	Fentanyl 75mcg	5
02/10/2017	Oxycodone 30mg	120
02/16/2017	Fentanyl 75mcg	5
02/16/2017	Oxycodone 30mg	120
02/22/2017	Oxycodone 30mg	120
02/24/2017	Fentanyl 75mcg	5
02/27/2017	Oxycodone 30mg	120
February 2017	Pill Total	600
03/03/2017	Oxycodone 30mg	120
03/04/2017	Fentanyl 75mcg	5
03/10/2017	Oxycodone 30mg	120
03/16/2017	Oxycodone 30mg	120
03/16/2017	Fentanyl 75mcg	5
03/22/2017	Oxycodone 30mg	120

03/28/2017	Oxycodone 30mg	120
03/28/2017	Fentanyl 50mcg	5
March 2017	Pill Total	480
04/03/2017	Oxycodone 30mg	120
04/07/2017	Oxycodone 30mg	120
04/07/2017	Fentanyl 50mcg	10
04/13/2017	Oxycodone 30mg	120
04/19/2017	Oxycodone 30mg	120
04/24/2017	Fentanyl 50mcg	5
04/24/2017	Oxycodone 30mg	120
04/28/2017	Oxycodone 30mg	120
April 2017	Pill Total	720
05/04/2017	Oxycodone 30mg	120
05/04/2017	Fentanyl 50mcg	10
05/10/2017	Oxycodone 30mg	120
05/15/2017	Oxycodone 30mg	120
05/19/2017	Oxycodone 30mg	120
05/19/2017	Fentanyl 50mcg	10
05/24/2017	Oxycodone 30mg	120
05/30/2017	Oxycodone 30mg	120
May 2017	Pill Total	720
06/05/2017	Oxycodone 30mg	120
06/05/2017	Fentanyl 50mcg	10
06/09/2017	Oxycodone 30mg	120
06/15/2017	Oxycodone 30mg	120
06/20/2017	Oxycodone 30mg	120
06/20/2017	Fentanyl 50mcg	10
06/26/2017	Oxycodone 30mg	120
06/30/2017	Oxycodone 30mg	120
June 2017	Pill Total	720
07/05/2017	Oxycodone 30mg	120
07/11/2017	Fentanyl 25mcg	10
07/11/2017	Oxycodone 30mg	120
07/17/2017	Oxycodone 30mg	120
07/21/2017	Oxycodone 30mg	120
07/27/2017	Oxycodone 30mg	120
July 2017	Pill Total	600

08/02/2017	Oxycodone 30mg	120
08/05/2017	Fentanyl 25mcg	10
08/08/2017	Oxycodone 30mg	120
August 2017 (up until 8/10/17)	Pill Total	240
	Total	6540

34. There are no drug screens in C.D.'s patient record after July 2014 despite Respondent's continued prescribing to her and there are no PMP printouts either. (DeLisi Cert., Exhibit J, Bates Stamp CD0001-0131).

35. On July 25, 2014, BlueCross BlueShield wrote to Respondent that C.D.'s prescription drug use "may warrant additional review" by Respondent. (Id. at CD0129). The letter notes an attached claim history reflecting 18 prescription drug claims filled at four different pharmacies. Respondent failed to take any action in response to the letter.

36. In 2016, C.D.'s insurance provider alerted Respondent that C.D. met her threshold of opioid use for a 120 day period. (Id. at CD0076). The page, which states the information is current through March 14, 2016, lists seven Fentanyl prescriptions issued by Respondent totaling a 150 day supply for a 120 day period covering December 2015 through March 2016. (Ibid.). Respondent failed to take any action in response to this letter.

37. Despite these warnings, Respondent persists in prescribing these dangerous, habit forming prescriptions to C.D. Respondent

failed to refer C.D. for an evaluation by a pain management specialist.

38. Respondent continues to prescribe CDS for three or more months without documenting a treatment plan with objectives and goals for pain management or opioid use, making reasonable efforts to prescribe alternative medications or alternative treatments to alleviate the pain, or decreasing the dosage of the controlled substances.

39. Respondent failed to treat C.D.'s iron deficiency anemia which was first seen on the March 13, 2014 blood test. Her hemoglobin reading dropped as low as 8.5g/dl on January 6, 2016. (DeLisi Cert., Exhibit S, Boni Report at 5). Nothing in C.D.'s record indicates that Respondent treated her for this anemia. (Ibid.). Respondent's failure to manage C.D.'s medical condition is a gross deviation of the standard of care. (Ibid.).

40. Respondent's actions described herein constitute gross negligence that endangered the life, health, welfare or safety of C.D. in violation of N.J.S.A. 45:1-21(c); repeated acts of negligence in violation of N.J.S.A. 45:1-21(d); professional or occupational misconduct in violation of N.J.S.A. 45:1-21(e); failure to comply with the provisions of an act or regulation administered by the Board in violation of N.J.S.A. 45:1-21(h), specifically failure to perform a physical examination and

formulate a treatment plan prior to issuing a prescription in violation of N.J.A.C. 13:35-7.1A and failure to establish and reevaluate treatment plans, failure to reassess the use and dosage of the narcotics prescribed, and exceeding 120 dosage units to a patient who does not suffer from pain from cancer, intractable pain or terminal illness in violation of N.J.A.C. 13:35-7.6; the issuing of prescriptions for controlled dangerous substances indiscriminately or without good cause in violation of N.J.S.A. 45:1-21(m); and the failure to be of good moral character as required for licensing as a physician pursuant to N.J.S.A. 45:9-6.

41. Respondent's prescribing of Schedule II pain medication to C.D. after November 16, 2016 without performing quarterly PMP lookups constitutes a violation of N.J.A.C. 13:45A-35.9(a)(2). As such Respondent has engaged in Professional Misconduct pursuant to N.J.A.C. 13:45A-35.11(a) and N.J.S.A. 45:1-21(e).

42. Respondent's indiscriminate prescribing of CDS to C.D. and the failure to diagnose and/or treat C.D.'s underlying medical conditions demonstrates such poor medical judgment that his continued practice places the public's health, safety, and welfare in clear and imminent danger and warrants the temporary suspension of his license to practice medicine pursuant to N.J.S.A. 45:1-22.

COUNT III
(Patient J.T.)

43. The General Allegations and those of Count I and II are repeated and re-alleged as if set forth at length herein.

44. J.T. is currently a 42 year old male. He began seeing Respondent on April 14, 2016. The five page progress note for that date notes minimal information such as vitals, weight, that J.T. smokes, what medications he is prescribed and more than ten diagnoses checked off. (Patient Record of J.T., attached as Exhibit M to DeLisi Cert., Bates Stamp JT0077-0081). In a patient questionnaire, J.T. describes his pain as "all the time sharp, stabbing." (Id. at JT0095). Next to "Reason for Being Seen" are some illegible notes likely written by Respondent. (Id. at JT0094). On another separate form regarding health history, J.T. gave reasons for the visit as "pain due to two total knee replacements, lower back pain and rotator cuff." (Id. at JT0100). J.T. listed his current pain medications as Oxycodone 30Mg 8 pills a day and Xanax 2Mg 3 pills a day. (Id. at JT0093).

45. Despite no physical examination, detailed history, review of prior treatment records or diagnostic testing, Respondent's initial prescription for J.T. included 20 pills of MS Contin 30Mg and 20 pills of MSIR (Morphine Sulfate) 15Mg. (Supplemental Patient Record of J.T., attached as Exhibit N to DeLisi Cert., Bates Stamp SJT0026).

46. One week later, J.T. saw Respondent for a "routine f/u, med refill, broke out in a rash after taking the medicine." (Id. at JT0071). Respondent discontinued the Morphine and prescribed J.T. 30 pills of Hydromorphone HCL 12Mg, 60 pills of Dilaudid and 90 pills of Xanax 2Mg. (Id. at JT0074. Other than vitals documented, there is no physical examination. Id., at JT0071-76). Despite a note on May 19, 2016, that J.T. is to follow up in two weeks, he does not see Respondent again until September 1, 2016. (Id., at JT0066; JT0059). At the September visit, the information recorded is sparse, i.e., "routine f/u, med. refill." (Id. at JT0055).

47. On September 23, 2016, J.T. "wants to discuss increase in meds" and is prescribed 10 Duragesic 25MCG patches in addition to 120 pills of Oxycodone 30Mg and 90 pills of Xanax 2Mg. (Id., at JT0045-48; SJT0028). There is no assessment in the progress note or discussion noted with J.T. regarding prescribing Fentanyl patches. (Ibid.). Duragesic is not mentioned in the progress note at all and is only known of by way of the photocopied prescription in the record. (DeLisi Cert., Exhibit N, Bates Stamp SJT0028).

48. Respondent continues to prescribe J.T. between 240-360 pills of Oxycodone 30Mg and between 45-120 pills of Xanax 2Mg a month through the end of February 2017. (Id. at SJT0028-0033).

49. The following chart shows the course of CDS prescribed to J.T. by Respondent as documented in the patient record.

Patient: J.T.

Date	Medication	Amount
4/14/2016	MS Contin 30mg	20
4/14/2016	MSIR 15mg	20
4/21/2016	Hydromorphone 12mg	30
4/21/2016	Xanax 2mg	90
4/21/2016	Dilaudid 2mg	60
April 2016	Pill Total	220
5/19/2016	Xanax 2mg	90
5/19/2016	Oxymorphone 5mg	60
5/19/2016	Oxymorphone ER 10mg	30
May 2016	Pill Total	180
9/1/2016	Oxycodone 30mg	120
9/1/2016	Xanax 2mg	90
9/23/2016	Oxycodone 30mg	120
9/23/2016	Duragesic Patch 25mg	10
9/23/2016 "May fill" 9/30/2016	Xanax 2mg	90
September 2016	Pill Total	430
10/14/2016	Oxycodone 30mg	120
10/28/2016	Xanax 2mg	45
10/28/2016	Oxycodone 30mg	120
October 2016	Pill Total	285
11/11/2016	Xanax 2mg	60
11/11/2016	Oxycodone 30mg	120
11/23/2016	Oxycodone 30mg	120
11/23/2016 "May fill" 11/28/16	Xanax 2mg	60
November 2016	Pill Total	360
11/23/2016 "May fill" 12/9/2016	Oxycodone 30mg	120
12/14/2016 "May fill" 12/25/2016	Oxycodone 30mg	120
12/14/2016	Xanax 2mg	90
December 2016	Pill Total	330
12/14/2016 "May fill" 1/6/2017	Oxycodone 30mg	120
1/12/2017	Xanax 2mg	90
1/12/2017	Oxycodone 30mg	120

"May fill" 1/20/2017		
January 2017	Pill Total	330
2/2/2017	Oxycodone 30mg	120
2/2/2017 "May fill" 2/8/2017	Xanax 2mg	90
2/2/2017 "May fill" 2/17/2017	Oxycodone 30mg	120
February 2017	Pill Total	330
3/2/2017	Xanax 2mg	24
3/2/2017	Oxycodone 30mg	60
March 2017	Pill Total	84
	Total	2669

50. Respondent conducts urine drug screens of J.T. which are often either negative for the drugs prescribed or positive for illicit substances. On September 1, 2016, J.T.'s urine drug screen is positive for Tramadol, which is not prescribed to him by Respondent. (DeLisi Cert., Exhibit M, Bates Stamp JT0181). On September 23, 2016, J.T. is positive for both Carisoprodol and Tramadol, which are not prescribed to him by Respondent, and negative for Alprazolam which Respondent prescribed to him on September 1, 2016. (Id. at JT0172-176). In his urine drug screens, taken on both October 14, 2016 and October 28, 2016, J.T. is again negative for the prescribed drug Alprazolam. (Id. at JT0168, JT0164). At no point do Respondent's progress notes reflect that he reviewed these concerning results or had any discussion with J.T.

51. A note in the patient record dated October 24, 2016 states, "He's selling your scripts on the street as per C*.³ Also he is using someone else's pee to pass your drug screen." (Id. at JT0109). There is no indication that Respondent did anything in response to this information. In the months subsequent to this note, Respondent continued to prescribe J.T. large quantities of both Xanax 2Mg and Oxycodone 30Mg. (DeLisi Cert., Exhibit N, Bates Stamp SJT0029-0033).

52. J.T.'s drug screen from November 23, 2016 is positive for cocaine. (Id. at JT0152-JT0154). J.T.'s drug screen from December 14, 2016 is again positive for cocaine. (Id. at JT0147-150). On January 12, 2017, J.T.'s screen is positive for cocaine and Gabapentin, neither of which were prescribed to him by Respondent. (Id. at JT0141-0144). Respondent documents no discussion with J.T. concerning any of these results.

53. J.T.'s screen dated February 2, 2017 is again positive for both of these drugs. (Id. at JT0136-0139). Scribbled on this last drug screen is "D/C pt." (Id. at JT0136). During these four months when J.T. was consistently positive for cocaine, Respondent continued to prescribe him hundreds of pills of Xanax and Oxycodone. It is a gross deviation of care to continuing

³C's name is redacted to protect his/her confidentiality. C.C. is a patient and his/her identity is known to Respondent.

prescribing opiates where there is evidence of illicit drug use and to not help that patient. (DeLisi Cert., Exhibit S, p. 5).

54. A copy of the PMP in J.T.'s patient record shows that he filled CDS prescriptions issued by seven different physicians within a one year period from September 23, 2015 through September 23, 2016. (DeLisi Cert., Exhibit M, Bates Stamp JT0128-JT0133). The PMP shows that while Respondent was prescribing J.T. MS Contin and Dilaudid, he was also being prescribed Tramadol and Percocet by two other physicians. (Ibid.). There is no indication in the record that Respondent discussed these findings with his patient or altered his prescribing in any way.

55. On December 14, 2016, the first page of J.T.'s progress note states "discuss UDS" and on the fifth page is written "Seabrook House" under the referral section with reason as "Addiction..." (Id. at JT0010-JT0014). Seabrook House is a drug rehabilitation facility. There is also a note written on a prescription for Seabrook House to evaluate J.T. for what appears to be "Cocaine" and "Morphine or Fentanyl." (DeLisi Cert., Exhibit N, Bates Stamp SJT0031). Respondent prescribed J.T. 90 pills of Xanax 2Mg and 240 pills of Oxycodone 30Mg on that date. (Id. at SJT0031-SJT0032).

56. At J.T.'s next visit on January 12, 2015, the notes state "f/u to pain & med refill, discuss UDS!" (DeLisi Cert., Exhibit M, Bates Stamp JT0005). The documentation for this visit is scant;

there is no mention of J.T. entering treatment at Seabrook House. Respondent did, however, record that J.T. was prescribed 90 pills of Xanax 2Mg and 120 pills of Oxycodone 30Mg as well as something that is circled as "E-scribe." (Id. at JT0008).

57. Respondent continues to see J.T. monthly until March 2, 2017. JT0082. On February 2, 2017, Respondent continues to prescribe J.T. Xanax and Oxycodone. Vitals are recorded but there is no physical exam. (Id. at JT0087-JT0093).

58. On March 2, 2017, again there is no physical examination, but Respondent prescribes J.T. five medications including the usual Xanax and Oxycodone. (Id. at JT0085). This is apparently J.T.'s last visit with Respondent, yet there is no documentation of his record of a discussion with J.T. about this or his care going forward.

59. In March 2016, J.T. had been discharged from St. Francis Medical Center with a diagnosis of chest pain and medications including Ranolazine, Clopidogrel and Atorvastatin routinely used to treat coronary heart disease. (DeLisi Cert., Exhibit S, Boni Report p.6). There is no indication that J.T. was being seen by a cardiologist and nothing in Respondent's record to show that he followed up to manage this issue. (Ibid.). Respondent should have managed or coordinated the care for this patient's cardiac disease. (Ibid.).

60. Respondent's actions described herein constitute gross negligence that endangered the life, health, welfare or safety of J.T. in violation of N.J.S.A. 45:1-21(c); repeated acts of negligence in violation of N.J.S.A. 45:1-21(d); professional or occupational misconduct in violation of N.J.S.A. 45:1-21(e); failure to comply with the provisions of an act or regulation administered by the Board in violation of N.J.S.A. 45:1-21(h), specifically failure to perform a physical examination and formulate a treatment plan prior to issuing a prescription in violation of N.J.A.C. 13:35-7.1A; failure to establish and reevaluate treatment plans, failure to reassess the use and dosage of the narcotics prescribed, and exceeding 120 dosage units to a patient who does not suffer from pain from cancer, intractable pain or terminal illness in violation of N.J.A.C. 13:35-7.6; failure to properly terminate the licensee-patient relationship in violation of N.J.A.C. 13:35-6.22; the issuing of prescriptions for controlled dangerous substances indiscriminately or without good cause in violation of N.J.S.A. 45:1-21(m); and the failure to be of good moral character as required for licensing as a physician pursuant to N.J.S.A. 45:9-6.

61. Respondent's indiscriminate prescribing of CDS to J.T. demonstrates such poor judgment that his continued practice places the public's health, safety, and welfare in clear and imminent

danger and warrants temporary suspension of his license to practice medicine pursuant to N.J.S.A. 45:1-22.

COUNT IV
(Patient H.H.)

62. The General Allegations and those of Count I through III are repeated and re-alleged as if set forth at length herein.

63. H.H. is deceased. He began seeing Respondent at the age of nineteen on July 31, 2012 through March 16, 2015. (Patient Record of H.H., attached as Exhibit O to DeLisi Cert., Bates Stamp HH0234, HH0340).

64. At his first visit, on July 31, 2012, H.H. listed the medications he was currently taking as Adderall XR, Flexeril, Dalmane, Alprazolam, Minocycline and 5mg of what he called a "recently finished pain medication from wisdom teeth removal." (DeLisi Cert., Exhibit O, Bates Stamp HH0237). As to frequency regarding this pain medication, H.H. wrote "as needed, have had to take it for my back when Flexeril does not work." (Ibid.).

65. H.H.'s chief complaint as documented at this first visit was "NP - get established - lower back pain x couple of years." (Id. at HH0234). Despite his failure to perform a physical examination on this date, Respondent prescribed H.H. Flexeril 10 mg. (Id. at HH0038, HH0234). The following month, Respondent prescribed H.H. Butrans 10 mg. (Id. at HH0040).

66. On September 14, 2012, H.H. complained that the Butrans did not help his pain and caused a burning irritation at the site of the patch. (Id. at HH0226). On that date, Respondent prescribed H.H. 40 pills of Oxycodone 5 mg and 30 pills of Exalgo 8 mg. (Id. at HH0040; HH0225). This prescribing is not documented in the progress note and only found in review of copies of prescriptions kept in H.H.'s record.

67. The progress note from September 14, 2012 does not indicate what these medications are being prescribed to treat. Under "Assessment", Respondent notes Shin splints, Dermatitis, MPS, Radiculopathy and two other illegible notations. (Id. at HH0225). Sections of the note for review of systems, physical findings, diagnostics, medications and plan are all blank.

68. In October and November 2013, H.H. sees Dr. Mahmud Ibrahim, a physician in Physical Medicine and Rehabilitation and Pain Management. The consultation notes from Dr. Ibrahim to Respondent state that H.H. was referred by his mother. (Id. at HH0504). Dr. Ibrahim's assessment of H.H. is Lumbar Radiculopathy (Primary), Lumbar spondylosis, Strain of Lumbar region, Degeneration of lumbar intervertebral disc, displacement of lumbar intervertebral disc without myelopathy, numbness, and myalgia. (Id. at HH0506). Dr. Ibrahim notes that H.H.'s symptoms are better in November 2013. (Id. at 0504). He further notes that H.H. did not

fill the Nucynta because the pharmacy did not have it so H.H. went back to the Oxycodone 15 mg prescribed by Respondent. Dr. Ibrahim's treatment plan for H.H. in November of 2013 is to continue with the Oxycodone 15 mg, 1 tablet every 4-6 hours as it makes H.H. drowsy, and continue with Physical Therapy. (Id. at HH0504-506). There is no documentation from Dr. Ibrahim to Respondent after this time. There is no documentation from a Physical Therapist.

69. Despite the five page progress note that Respondent keeps for each visit, the actual documentation is sparse. H.H.'s progress notes often contain only basic information such as his name, date of birth, height, weight, vital signs, complaint, with various diagnoses numbered and type of medications prescribed. (Id. at HH0097-101).

70. On December 6, 2013, H.H.'s complaint is "f/u, having a lot of anxiety, was seen in ER for it." (Id. at HH0178-179). Respondent documents the first Xanax 1mg prescription to H.H. for 100 pills. (Id. at HH0179). There are no notes to document a discussion or an assessment prior to prescribing this drug to H.H. In H.H.'s questionnaire he describes his reason for the visit as "follow up and anxiety attacks....Also, I will not need my pain medication refills because I am tapering off of it." (Id. at HH0180). Respondent recorded no discussion regarding H.H.'s

comment about tapering off the pain medications and H.H. had no patient visit the following month. (Id. at HH0171).

71. On February 18, 2014, Respondent prescribes H.H. 40 pills of Oxycodone 15 mg followed by another 80 pills ten days later when H.H. calls the office for a refill after running out of pills. (Id. at HH0040-0041, HH0064). The progress note for February 18, 2014 does not even indicate this medication being prescribed to H.H. or that H.H. complained of pain. (Id. at HH0171-0175).

72. H.H. filled out a questionnaire which he signed on February 18, 2013, although the year is questionable as the progress note immediately preceding it is dated February 18, 2014. In that questionnaire, H.H. writes "I want to only have to see one doctor for all of my medication ADHD, Anxiety/Depression, Occasional Acute Back Pain." (Id. at HH0176). H.H. also writes that he would like to discuss other medications he was on in the past for pain and blood pressure and that he is no longer seeing Dr. Negrón for medication management. (Ibid.).

73. Respondent continued to see H.H. monthly in 2014 and prescribed Xanax 1 mg, Oxycodone 15 mg and Oxycontin 40 mg without documenting anything as to the etiology of H.H.'s pain, assessment of the efficacy of the drugs prescribed or treatment plan going forward. (Id. at HH0089-0168). H.H.'s progress notes do not reflect any actual examination of his pain or an assessment or

discussion regarding his anxiety. Respondent prescribes CDS without a coherent treatment plan, failing to record and follow through with objectives and goals for pain management and/or opioid use. Despite H.H.'s desire to taper the opiates, Respondent shows no attempts to taper the potency or dosage of CDS prescribed to H.H. for what H.H. characterized as "occasional acute back pain." (Id. at HH0176).

74. Within H.H.'s patient record are PMP print outs regarding the CDS he is prescribed. On April 8, 2014, Respondent printed a PMP that shows H.H. filled prescriptions for Alprazolam between February 4, 2014 and March 17, 2014 written by four different physicians totaling 171 pills. (Id. at HH0381). There is nothing in the progress note from this date documenting that Respondent addressed H.H.'s obtaining Alprazolam from multiple physicians. (Id. at HH0157-HH0161).

75. On September 1, 2014, H.H. sent an e-mail to Respondent. Id., at HH0122. H.H. writes that he needs to speak with Respondent about his "pain management regimen and how the Oxycontin has negatively impacted (his) executive function unlike the Oxycodone." (Ibid.). H.H. goes on to write how he disposed of the Oxycontin and needs to work and attend school and how the new regimen has made that impossible for him. H.H. further writes "And finally, I think it is time I received a physical" and how "you haven't given

me a physical yet and I haven't had one since I was a minor so this is important." (Ibid.). At the time, H.H. had been a patient of Respondent's for more than two years and was almost 22 years old.

76. Respondent does not prescribe Oxycontin to H.H. between September and November of 2014 but continues to prescribe him Oxycodone 15 mg and Xanax 1 mg. In December of 2014, Respondent prescribes H.H. 210 pills of Oxycodone 15 mg, 120 pills of Xanax 1 mg and 30 pills of Oxycontin 40 mg. (Id. at HH0045-0046). Respondent records no documentation as to why he prescribed Oxycontin again. (Id. at HH0076-0080).

77. Respondent continues to prescribe CDS for three or more months without documenting a treatment plan with objectives and goals for pain management or opioid use, making reasonable efforts to prescribe alternative medications or alternative treatments to alleviate the pain, or decreasing the dosage of the controlled substances.

78. Noted in the progress note for December 9, 2014 is that H.H. went to the ER for "R foot pain; swollen" and "plantar fasciitis - was given Motrin." (Id. at HH0076). This progress note also documents that H.H. is "slurring and falling asleep." (Id. at HH0076). There is no documentation of a physical examination other than vital signs and weight recorded. (Id. at HH076-0080). On H.H.'s questionnaire he writes "ER follow up -

Plantar Fasciitis, crying pain, wake up, unable to stand...my pain medicine is not accessible. My father has a steel safe that he keeps his hunting rifles and guns in." (Id. at HH082). Despite the documentation on this date that H.H. is "slurring & falling asleep", Respondent prescribes him Oxycontin 40mg. (Id. at HH0076).

79. The following chart shows the course of CDS prescribed to H.H. by Respondent collected from copies of prescriptions in the patient record. (DeLisi Cert., Exhibit O, Bates Stamp HH0036-HH0047).

Patient: H.H.

Date	Medication	Amount
7/31/2012	Flexeril 10mg	90
July 2012	Pill Total	90
8/29/2012	Butrans 10mg	4
August 2012	Total Patches	4
9/14/2012	Oxycodone 5mg	40
9/14/2012	Axalgo 8 mg	30
September 2012	Pill Total	70
10/24/2012	Oxycodone 5mg	60
October 2012	Pill Total	60
3/6/2013	Oxycodone 10mg	90
3/6/2013	Oxycodone 5mg	60
March 2013	Pill Total	150
4/30/2013	Oxycodone 10mg	90
April 2013	Pill Total	90
5/21/2013	Flexeril 10mg	90
5/21/2013	Oxycodone 10mg	90
May 2013	Pill Total	180
6/7/2013	Valium 5mg	10
6/7/2013	Oxycodone 10mg	120
June 2013	Pill Total	130

7/12/2013	Oxycodone 10mg	120
July 2013	Pill Total	120
8/9/2013	Oxycodone 15mg	120
8/30/2013	Oxycodone 15mg	120
August 2013	Pill Total	240
10/18/2013	Oxycodone 15mg	120
October 2013	Pill Total	120
11/8/2013	Oxycodone 15mg	120
11/8/2013 "May fill" 11/22/2013	Oxycodone 15mg	120
November 2013	Pill Total	240
12/6/2013	Xanax 1mg	100
December 2013	Pill Total	100
2/18/2014	Oxycodone 15mg	40
2/28/2014	Oxycodone 15mg	80
February 2014	Pill Total	120
3/18/2014	Oxycodone 15mg	120
March 2014	Pill Total	120
4/3/2014	Xanax 1mg	120
4/8/2014 "May fill" 4/15/2014	Oxycodone 15mg	120
April 2014	Pill Total	240
5/27/2014	Oxycodone 15mg	120
May 2014	Pill Total	120
6/11/2014	Xanax 1mg	120
6/18/2014	Oxycontin 40mg	60
6/18/2014	Oxycodone 15mg	120
June 2014	Pill Total	300
7/23/2014	Oxycontin 40mg	60
7/23/2014	Oxycodone 15mg	30
July 2014	Pill Total	90
8/25/2014	Oxycontin 40mg	60
8/25/2014	Oxycodone 15mg	30
8/25/2014	Xanax 1mg	120
August 2014	Pill Total	210
9/5/2014	Oxycodone 15mg	120
9/24/2014	Xanax 1mg	120
September 2014	Pill Total	240
9/29/2014 "May fill" 10/3/2014	Oxycodone 15mg	60

10/24/2014	Xanax 1mg	120
10/24/2014	Oxycodone 15mg	60
October 2014	Pill Total	240
12/3/2014	Xanax 1mg	120
12/3/2014	Oxycodone 15mg	90
12/9/2014	Oxycontin 40mg	30
12/23/2014	Oxycodone 15mg	120
December 2014	Pill Total	360
12/23/2014 "May fill" 1/2/2015	Xanax 1mg	120
1/15/2015	Oxycodone 30mg	120
January 2015	Pill Total	240
1/15/2015 "May fill" 2/1/2015	Xanax 1 mg	120
2/12/2015 "May fill" 2/13/2015	Oxycodone 30mg	120
February 2015	Pill Total	240
2/12/2015 "May fill" 3/2/2015	Xanax 1mg	120
3/16/15	Oxycodone 30mg	120
March 2015	Pill Total	240
	Pill Total	4354

80. In early 2015, Respondent prescribed H.H. 120 pills of Xanax 1 mg and 120 pills of Oxycodone 30 mg, an increased dosage from 15Mg, monthly. H.H.'s progress note from January 15, 2015 shows he was there for a visit due to "sick" and "*ran out of all meds early again." (Id. at HH0301). Respondent prescribed him 120 pills of Oxycodone 30 mg and 120 pills of Xanax 1 mg "may fill 2/1/2015." (Id. at HH0046). On February 12, 2015, Respondent only documented H.H.'s pain as "pain feet, back." (Id. at HH0328). Despite H.H. noting on his questionnaire that he saw "Dr. Elliot Gurley psychiatry" since his last visit with Respondent, Respondent continues to prescribe Xanax to him. (Id. at HH0333).

81. At H.H.'s final visit with Respondent he writes that since his last visit he was at "Brattleboro Retreat/Brattleboro, VT" from March 7, 2015 - March 13, 2015. (DeLisi Cert., Exhibit O, Bates Stamp HH0334). Documentation within the record from Brattleboro Retreat shows that H.H.'s reason for admission was anxiety and panic attacks. (Id. at HH0345). H.H. had several mental health diagnoses including Anxiety Disorder NOS, ADHD NOS, Impulse Control Disorder NOS and PTSD. (Ibid.). The Aftercare Plan for H.H. shows that he had an appointment for counseling in New Jersey on March 19, 2015. (Ibid.).

82. On March 16, 2015, Respondent prescribed H.H. 120 pills of 1Mg Xanax and 120 pills of Oxycodone 30Mg. (Id. at HH0343). Noted in the patient record for why H.H. is there to see Respondent is "f/u pain meds." Missing from H.H.'s five page progress note for this final visit is any documentation regarding the nature of his pain, how he is functioning on the medications prescribed, a treatment plan or any attempts to wean H.H. off the opiates after two and one half years, especially in light of his recent inpatient status. (Id. at HH0340-HH0344).

83. H.H. has no further visits with Respondent. A note in H.H.'s record dated May 19, 2015, states that a family member advised that H.H. was deceased after having overdosed. (Id. at HH0065).

84. The Medical Examiner's report for H.H. shows his date of death as May 19, 2015. (Report of External Examination by Medical Examiner, attached as Exhibit U to DeLisi Cert.). The toxicology report dated May 20, 2015 notes H.H.'s blood was positive for Morphine and 7-Amino-Clonazepam. H.H.'s urine was positive for 6-Acetylmorphine, Morphine, Codeine, Oxazepam, Clonazepam, 7-Amino-Clonazepam and Quetiapine. (Ibid.).

85. Respondent's actions described herein constitute gross negligence that endangered the life, health, welfare or safety of H.H. in violation of N.J.S.A. 45:1-21(c); repeated acts of negligence in violation of N.J.S.A. 45:1-21(d); professional or occupational misconduct in violation of N.J.S.A. 45:1-21(e); failure to comply with the provisions of an act or regulation administered by the Board in violation of N.J.S.A. 45:1-21(h), specifically failure to perform a physical examination and formulate a treatment plan prior to issuing a prescription in violation of N.J.A.C. 13:35-7.1A and failure to establish and reevaluate treatment plans, failure to reassess the use and dosage of the narcotics prescribed, and exceeding 120 dosage units to a patient who does not suffer from pain from cancer, intractable pain or terminal illness in violation of N.J.A.C. 13:35-7.6; the issuing of prescriptions for controlled dangerous substances indiscriminately or without good cause in violation of N.J.S.A.

45:1-21(m); and the failure to be of good moral character as required for licensing as a physician pursuant to N.J.S.A. 45:9-6.

86. Respondent's indiscriminate prescribing of CDS to H.H. and the failure to diagnose and/or treat H.H.'s underlying medical conditions demonstrates such poor medical judgment that his continued practice places the public's health, safety, and welfare in clear and imminent danger and warrants the temporary suspension of his license to practice medicine pursuant to N.J.S.A. 45:1-22.

COUNT V
(Patient G.A.)

87. The General Allegations and those of Counts I through IV are repeated and re-alleged as if set forth at length herein.

88. G.A. is currently a 27 year old male. He began seeing Respondent on September 4, 2013. (Patient Record of G.A., attached as Exhibit P to DeLisi Cert., Bates Stamp AG0402).

89. On that date, G.A. complained of back and neck pain, herniated T1 & T2. (Ibid.). Despite his failure to perform a physical examination on September 4, 2013, Respondent recorded diagnostic codes for diagnoses of thoracic or lumbosacral neuritis or radiculitis, unspecified, sprain of other specified sites of shoulder and upper arm, lumbral sprain, myofascial pain, long term concurnt use of meds, cough, tobacco use disorder. (Supplemental

Patient Record of G.A., attached as Exhibit Q to DeLisi Cert., Bates Stamp SGA0001).

90. G.A. reported the medications he was taking at this first visit as Endocet three times a day, which amounts to 90 pills for a 30 day period, and Skelaxin, a muscle relaxant, as needed. (DeLisi Cert., Exhibit P, Bates Stamp AG0405). Respondent prescribed G.A. 24 pills of Percocet on that date and an additional 90 pills of Percocet nine days later on September 13, 2013. (DeLisi Cert., Exhibit Q, Bates Stamp SGA0160, SGA0159).

91. During October 2013, Respondent prescribed G.A. 268 pills of opiates, specifically 60 pills of Oxycontin 20mg, 180 pills of Percocet 10/325 and 28 pills of Exalgo (Dilaudid) 8mg. (Id. at SGA0159-SGA0160). By November 25, 2013, Respondent increased the potency of the Oxycontin to 40mg and on December 16, 2013 increased it to 80mg. (Id. at SGA0159, SGA0161). By January 2014, Respondent no longer prescribed G.A. Percocet, having switched to prescribing G.A. Oxycodone and Oxycontin. (Id. at SGA0152-SGA0159). Respondent fails to indicate why this change in prescribing is made. (DeLisi Cert., Exhibit P, Bates Stamp AG0377-AG0380).

92. For the next three plus years, Respondent continued to prescribe these drugs while failing to conduct a physical examination to justify the need for opiates in such large quantities. Failure to do a proper history and physical puts a patient at risk. (DeLisi Cert., Exhibit S, Boni report at 2). It is

a gross deviation of the standard of care to not conduct a proper initial history and physical and to not fully assess and diagnose a patient. (Ibid.). In addition, Respondent deviated grossly from the standard of care by failing to consider other modalities to treat G.A. and using only opiates to treat his pain. (Ibid.)

93. Respondent prescribed CDS to G.A. without a coherent treatment plan, failing to record and follow through with objectives and goals for pain management and/or opioid use. Respondent's prescribing shows no attempts to taper the potency or dosage of CDS prescribed to G.A.

94. The following chart shows the course of CDS Respondent prescribed to G.A. since January 2017 as documented in the patient record. (DeLisi Cert., Exhibit Q, Bates Stamp SGA0102-SGA0117).

Patient G.A.:

12/16/2016 "May fill" 1/6/2017	Oxycodone 30mg	120
12/23/2016	Oxycodone 30mg	120
1/10/2017 "May fill" 1/13/2017	Oxycodone 30mg	120
1/19/2017	Oxycodone 30mg	120
1/19/2017	Oxycontin 80mg	60
1/19/2017 "May fill" 1/24/2017	Oxycontin 80mg	60
January 2017	Pill Total	600
1/19/2017 "May fill" 2/3/2017	Oxycodone 30mg	120
1/19/2017 "May fill" 1/27/2017	Oxycodone 30mg	120
1/19/2017 "May fill" 1/30/2017	Oxycodone 30mg	120

2/16/2017 "May fill" 2/17/2017	Oxycodone 30mg	120
2/16/2017 "May fill" 2/24/2017	Oxycodone 30mg	120
February 2017	Pill Total	600
2/16/2017 "May fill" 3/3/2017	Oxycodone 30mg	120
2/16/2017 "May fill" 3/10/2017	Oxycodone 30mg	120
2/20/2017	Oxycontin 80mg	60
3/17/2017	Oxycontin 80mg	60
3/20/2017	Oxycontin 80mg	60
3/20/2017	Oxycodone 30mg	120
3/20/2017 "May fill" 3/27/2017	Oxycodone 30mg	120
March 2017	Pill Total	660
3/20/2017 "May fill" 4/3/2017	Oxycodone 30mg	120
3/20/2017 "May fill" 4/10/2017	Oxycodone 30mg	120
4/17/2017	Oxycodone 30mg	120
4/17/2017	Oxycontin 80mg	60
4/17/2017 "May fill" 4/24/2017	Oxycodone 30mg	120
April 2017	Pill Total	540
4/17/2017 "May fill" 5/1/2017	Oxycodone 30mg	120
4/17/2017 "May fill" 5/8/2017	Oxycodone 30mg	120
5/15/2017	Oxycodone 30mg	120
5/19/2017	Oxycontin 80mg	16
5/26/2017	Oxycontin 80mg	60
5/26/2017	Oxycontin 80mg	60
5/26/2017	Oxycodone 30mg	120
May 2017	Pill Total	616
5/26/2017 "May fill" 6/2/2017	Oxycodone 30mg	120
5/26/2017 "May fill" 6/9/2017	Oxycodone 30mg	120
5/26/2017 "May fill" 6/16/2017	Oxycodone 30mg	120
June 2017	Pill Total	360

7/12/2017	Oxycodone 30mg	120
7/12/2017	Oxycontin 80mg	60
7/12/2017 "May fill" 7/19/2017	Oxycodone 30g	120
7/12/2017 "May fill" 7/26/2017	Oxycodone 30mg	120
July 2017	Pill Total	420
	Total	3,796

95. At G.A.'s first visit, he filled out a "Brief Pain Inventory" where he rated his worst pain a "9" and least pain at "5" in the previous 24 hour period. (DeLisi Cert., Exhibit P, Bates Stamp AG0406). Despite Respondent prescribing opiates to G.A. in large dosages and quantities for almost four years, the pain scores which G.A. circles at each visit are consistently the same over this period of time. G.A.'s worst pain is a 9 or 10 with his least pain at a 5 or 6. (Id. at AG0057, AG0111, AG0123, AG0139, AG0224, AG0278, AG0297, AG0318, AG330, AG0336, AG0344, AG0365, AG0379, AG0406). Respondent failed to reassess the efficacy of his narcotic prescribing and consider alternative treatments for G.A.

96. Respondent regularly drug tested G.A. and G.A. was regularly positive for marijuana. (Id. at AG0455, AG0460, AG0465, AG0471, AG0476, AG0481, AG0486, AG0491, AG0501, AG0525). Of the roughly 45 Urine Drug Screens (UDS) that Respondent conducted between the dates of September 4, 2013 and January 10, 2017, G.A. tested positive for marijuana on thirty nine (39) occasions. (Id. at AG0455-AG0632).

97. There are no notes of any discussions Respondent had with G.A. regarding his illicit drug use. Each drug screen positive for an illicit substance is a violation of the "Agreement for Opioid Maintenance Therapy for Noncancer/Cancer Pain" which G.A. signed at his initial visit on September 4, 2013. (Id. at AG0671-0673). To not address another controlled dangerous substance found on screening is a gross deviation of care. (DeLisi Cert., Exhibit S, Boni Report p.3.).

98. Respondent's actions described herein constitute gross negligence that endangered the life, health, welfare or safety of G.A. in violation of N.J.S.A. 45:1-21(c); repeated acts of negligence in violation of N.J.S.A. 45:1-21(d); professional or occupational misconduct in violation of N.J.S.A. 45:1-21(e); failure to comply with the provisions of an act or regulation administered by the Board in violation of N.J.S.A. 45:1-21(h), specifically failure to perform a physical examination and formulate a treatment plan prior to issuing a prescription in violation of N.J.A.C. 13:35-7.1A; failure to establish and reevaluate treatment plans, failure to reassess the use and dosage of the narcotics prescribed, and exceeding 120 dosage units to a patient who does not suffer from pain from cancer, intractable pain or terminal illness in violation of N.J.A.C. 13:35-7.6; failure to properly terminate the licensee-patient relationship in violation of N.J.A.C. 13:35-6.22; the issuing of prescriptions for controlled

dangerous substances indiscriminately or without good cause in violation of N.J.S.A. 45:1-21(m); and the failure to be of good moral character as required for licensing as a physician pursuant to N.J.S.A. 45:9-6.

99. Respondent's indiscriminate prescribing of CDS to G.A. demonstrates such poor judgment that his continued practice places the public's health, safety, and welfare in clear and imminent danger and warrants temporary suspension of his license to practice medicine pursuant to N.J.S.A. 45:1-22.

WHEREFORE, Complainant demands the entry of an Order:

1. Temporarily suspending Respondent's license to practice medicine in the State of New Jersey pending the conclusion of a plenary hearing in this matter, pursuant to N.J.S.A. 45:1-22;

2. Suspending or revoking the Respondent's license to practice medicine in the State of New Jersey following a plenary hearing;

3. Assessing civil penalties against Respondent for each and every separate unlawful act as set forth in the individual counts above, pursuant to N.J.S.A. 45:1-21;

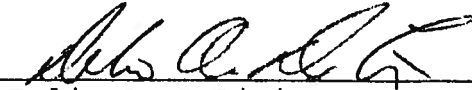
4. Assessing a civil penalty against Respondent for these acts as violations subsequent to an administrative order having been entered in a prior, separate and independent proceeding, pursuant to N.J.S.A. 45:1-25;

5. Requiring Respondent to pay costs, including investigative costs, attorney's fees and costs, expert and fact witness fees and costs, expert and fact witness costs, costs of trial, and transcript costs, pursuant to N.J.S.A. 45:1-25; and

6. Ordering such other and further relief as the Board shall deem just and appropriate under the circumstances.

CHRISTOPHER S. PORRINO
ATTORNEY GENERAL OF NEW JERSEY

BY:



Delia A. DeLisi
Deputy Attorney General

DATED: August 25, 2017