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CLERK OF DISTRICT COURT  
CENTRAL DISTRICT OF CALIF.  
LOS ANGELES

BY: \_\_\_\_\_

UNITED STATES DISTRICT COURT  
FOR THE CENTRAL DISTRICT OF CALIFORNIA

June 2014 Grand Jury

CR 14 00591

UNITED STATES OF AMERICA,

CR No. 14-

Plaintiff,

I N D I C T M E N T

v.

DANIEL CHAM, and  
TRACY TOWNSEND,  
aka "Milton Turner,"  
aka "Michael Russo,"  
aka "Jim Pruitt,"  
aka "Thomas Sullivan,"  
aka "Henry Richards,"  
aka "Jason Harper,"  
aka "Jeffrey Pratt,"  
aka "Stephen Fisher,"  
aka "David Stanton,"  
aka "Davy Thomas,"  
aka "Ryan Tupper,"  
aka "Dell Shields,"  
aka "Brandon Clark,"  
aka "Leonard Jones,"  
aka "Mark Parker,"  
aka "Stanley David,"  
aka "Jacob Zalman,"  
aka "Shawn Miller,"  
aka "Gilbert Ives,"  
aka "James Johnson,"  
aka "Kenny Pierce,"  
aka "Jonathan Beals,"  
aka "Brian Carter,"  
aka "Erik Sommers,"

[21 U.S.C. §§ 841(a)(1),  
(b)(1)(C), (b)(1)(E), and  
(b)(2); Distribution and  
Possession with Intent to  
Distribute Oxycodone,  
Hydrocodone, Alprazolam, and  
Carisoprodol; 18 U.S.C.  
§ 1956(a)(1)(B)(i): Money  
Laundering; 21 U.S.C.  
§ 843(a)(4)(A): False and  
Fraudulent Information in an  
Application to Renew a DEA  
Registration Number; 18 U.S.C.  
§ 1001(a)(2): False Statement  
to a Federal Officer or Agency;  
21 U.S.C. § 843(a)(3):  
Acquiring a Controlled  
Substance by Misrepresentation,  
Fraud, Forgery, Deception, or  
Subterfuge; 18 U.S.C. § 2(a):  
Aiding and Abetting; 21 U.S.C.  
§ 853 and 18 U.S.C.  
§ 982(a)(1): Criminal  
Forfeiture]

Defendants.

KMM7

1 The Grand Jury charges:

2 COUNTS ONE and TWO

3 [21 U.S.C. §§ 841(a)(1), (b)(1)(C)]

4 On or about the following dates, in Los Angeles County,  
5 within the Central District of California, and elsewhere,  
6 defendant DANIEL CHAM, then a physician licensed to practice  
7 medicine in the State of California, while acting and intending  
8 to act outside the usual course of professional practice and  
9 without a legitimate medical purpose, knowingly and  
10 intentionally prescribed and distributed oxycodone, a Schedule  
11 II narcotic drug controlled substance:

12	COUNT	DATE
13	ONE	March 9, 2014
14	TWO	April 13, 2014

COUNT THREE

[21 U.S.C. §§ 841(a)(1), (b)(1)(E)]

On or about February 16, 2014, in Los Angeles County, within the Central District of California, and elsewhere, defendant DANIEL CHAM, then a physician licensed to practice medicine in the State of California, while acting and intending to act outside the usual course of professional practice and without a legitimate medical purpose, knowingly and intentionally prescribed and distributed hydrocodone, a Schedule III narcotic drug controlled substance.

COUNTS FOUR through SIX

[21 U.S.C. §§ 841(a)(1), (b)(2)]

On or about the following dates, in Los Angeles County, within the Central District of California, and elsewhere, defendant DANIEL CHAM, then a physician licensed to practice medicine in the State of California, while acting and intending to act outside the usual course of professional practice and without a legitimate medical purpose, knowingly and intentionally prescribed and distributed alprazolam, a Schedule IV controlled substance:

COUNT	DATE
FOUR	February 16, 2014
FIVE	March 9, 2014
SIX	April 13, 2014

COUNTS SEVEN through NINE

[21 U.S.C. §§ 841(a)(1), (b)(2)]

On or about the following dates, in Los Angeles County, within the Central District of California, and elsewhere, defendant DANIEL CHAM, then a physician licensed to practice medicine in the State of California, while acting and intending to act outside the usual course of professional practice and without a legitimate medical purpose, knowingly and intentionally prescribed and distributed carisoprodol, a Schedule IV controlled substance:

COUNT	DATE
SEVEN	February 16, 2014
EIGHT	March 9, 2014
NINE	April 13, 2014

COUNTS TEN and ELEVEN

[18 U.S.C. § 1956(a)(1)(B)(i)]

On or about the following dates, in Los Angeles County, within the Central District of California, and elsewhere, defendant DANIEL CHAM, knowing that the property involved in each of the financial transactions described below represented the proceeds of some form of unlawful activity, conducted, and willfully caused others to conduct, the following financial transactions affecting interstate commerce, which transactions, in fact, involved the proceeds of specified unlawful activity, namely, distribution of a controlled substance, in violation of Title 21, United States Code, Section 841(a)(1), knowing that each of the transactions was designed in whole and in part to conceal and disguise the nature, the location, the source, the ownership, and the control of the proceeds of said specified unlawful activity:

COUNT	DATE	FINANCIAL TRANSACTION
TEN	March 10, 2014	Deposit of money orders bearing serial numbers 21764567070, 21764567081, and 21764567092, into a Bank of America account ending in numbers 0392.
ELEVEN	April 14, 2014	Deposit of money orders bearing serial numbers 21903058023, 21903058012, and 21903058034, into a Bank of America account ending in numbers 0392.

COUNT TWELVE

[21 U.S.C. § 843(a)(4)(A)]

1  
2  
3 On or about July 25, 2012, in Los Angeles County, within  
4 the Central District of California, defendant DANIEL CHAM  
5 ("CHAM") knowingly and intentionally furnished false and  
6 fraudulent material information in an application required to be  
7 filed under Title 21, United States Code, Section 823, and Title  
8 21, Code of Federal Regulations, Section 1301, in that defendant  
9 CHAM submitted to the United States Drug Enforcement  
10 Administration ("DEA") an application to renew DEA controlled  
11 substance registration number FC0110231 stating that defendant  
12 CHAM had never had a state professional license placed on  
13 probation when, in truth and in fact, as defendant CHAM then  
14 well knew, on or about June 6, 2012, the Medical Board of  
15 California placed defendant CHAM's medical license on probation  
16 for a period of five years.

COUNT THIRTEEN

[21 U.S.C. § 843(a)(4)(A)]

1  
2  
3 On or about July 25, 2012, in Los Angeles County, within  
4 the Central District of California, defendant DANIEL CHAM  
5 ("CHAM") knowingly and intentionally furnished false and  
6 fraudulent material information in an application required to be  
7 filed under Title 21, United States Code, Section 823, and Title  
8 21, Code of Federal Regulations, Section 1301, in that defendant  
9 CHAM submitted to the United States Drug Enforcement  
10 Administration ("DEA") an application to renew DEA controlled  
11 substance registration number BC8744220 stating that defendant  
12 CHAM had never had a state professional license placed on  
13 probation when, in truth and in fact, as defendant CHAM then  
14 well knew, on or about June 6, 2012, the Medical Board of  
15 California placed defendant CHAM's medical license on probation  
16 for a period of five years.

COUNT FOURTEEN

[18 U.S.C. § 1001(a)(2)]

1  
2  
3 On or about May 13, 2014, in Los Angeles County, within the  
4 Central District of California, in a matter within the  
5 jurisdiction of the executive branch of the government of the  
6 United States, specifically, the United States Drug Enforcement  
7 Administration, defendant DANIEL CHAM ("CHAM") knowingly and  
8 willfully made a materially false, fictitious, and fraudulent  
9 statement and representation, in that defendant CHAM stated that  
10 he worked at his medical office located in La Puente,  
11 California, on May 12, 2014, when in truth and in fact, as  
12 defendant CHAM then well knew, defendant CHAM did not work at  
13 his medical office in La Puente, California, on May 12, 2014.

COUNTS FIFTEEN through TWENTY

[21 U.S.C. §§ 841(a)(1), (b)(1)(C); 18 U.S.C. § 2(a)]

On or about the following dates, in Los Angeles County, within the Central District of California, and elsewhere, defendants DANIEL CHAM, then a physician licensed to practice medicine in the State of California, while acting and intending to act outside the usual course of professional practice and without a legitimate medical purpose, and TRACY TOWNSEND, also known as ("aka") "Milton Turner," aka "Michael Russo," aka "Jim Pruitt," aka "Thomas Sullivan," aka "Henry Richards," aka "Jason Harper," aka "Jeffrey Pratt," aka "Stephen Fisher," aka "David Stanton," aka "Davy Thomas," aka "Ryan Tupper," aka "Dell Shields," aka "Brandon Clark," aka "Leonard Jones," aka "Mark Parker," aka "Stanley David," aka "Jacob Zalman," aka "Shawn Miller," aka "Gilbert Ives," aka "James Johnson," aka "Kenny Pierce," aka "Jonathan Beals," aka "Brian Carter," aka "Erik Sommers," each aiding and abetting the other, knowingly and intentionally possessed with intent to distribute oxycodone, a Schedule II narcotic drug controlled substance:

COUNT	DATE	ALIAS USED
FIFTEEN	October 1, 2012	Henry Richards
SIXTEEN	September 11, 2013	Milton Turner
SEVENTEEN	October 7, 2013	Michael Russo
EIGHTEEN	November 18, 2013	Michael Russo
NINETEEN	June 11, 2014	Jason Harper
TWENTY	July 7, 2014	Michael Russo

COUNTS TWENTY-ONE through TWENTY-SEVEN

[21 U.S.C. §§ 841(a)(1), (b)(1)(E); 18 U.S.C. § 2(a)]

On or about the following dates, in Los Angeles County, within the Central District of California, and elsewhere, defendants DANIEL CHAM, then a physician licensed to practice medicine in the State of California, while acting and intending to act outside the usual course of professional practice and without a legitimate medical purpose, and TRACY TOWNSEND, also known as ("aka") "Milton Turner," aka "Michael Russo," aka "Jim Pruitt," aka "Thomas Sullivan," aka "Henry Richards," aka "Jason Harper," aka "Jeffrey Pratt," aka "Stephen Fisher," aka "David Stanton," aka "Davy Thomas," aka "Ryan Tupper," aka "Dell Shields," aka "Brandon Clark," aka "Leonard Jones," aka "Mark Parker," aka "Stanley David," aka "Jacob Zalman," aka "Shawn Miller," aka "Gilbert Ives," aka "James Johnson," aka "Kenny Pierce," aka "Jonathan Beals," aka "Brian Carter," aka "Erik Sommers," each aiding and abetting the other, knowingly and intentionally possessed with intent to distribute hydrocodone, a Schedule III narcotic drug controlled substance:

COUNT	DATE	ALIAS USED
TWENTY-ONE	August 20, 2013	Jim Pruitt
TWENTY-TWO	September 24, 2013	Jim Pruitt
TWENTY-THREE	December 12, 2013	Jim Pruitt
TWENTY-FOUR	May 19, 2014	Thomas Sullivan
TWENTY-FIVE	May 31, 2014	Henry Richards
TWENTY-SIX	May 31, 2014	Henry Richards
TWENTY-SEVEN	June 9, 2014	Thomas Sullivan

## COUNTS TWENTY-EIGHT through THIRTY-ONE

[21 U.S.C. §§ 843(a)(3); 18 U.S.C. § 2(a)]

On or about the following dates, in Los Angeles County, within the Central District of California, and elsewhere, defendants DANIEL CHAM ("CHAM") and TRACY TOWNSEND ("TOWNSEND"), also known as ("aka") "Milton Turner," aka "Michael Russo," aka "Jim Pruitt," aka "Thomas Sullivan," aka "Henry Richards," aka "Jason Harper," aka "Jeffrey Pratt," aka "Stephen Fisher," aka "David Stanton," aka "Davy Thomas," aka "Ryan Tupper," aka "Dell Shields," aka "Brandon Clark," aka "Leonard Jones," aka "Mark Parker," aka "Stanley David," aka "Jacob Zalman," aka "Shawn Miller," aka "Gilbert Ives," aka "James Johnson," aka "Kenny Pierce," aka "Jonathan Beals," aka "Brian Carter," aka "Erik Sommers," each aiding and abetting the other, knowingly and intentionally obtained oxycodone, a Schedule II narcotic drug controlled substance, and hydrocodone, a Schedule III narcotic drug controlled substance, by misrepresentation, fraud, deception, and subterfuge, to wit, on each of the following dates, defendant TOWNSEND used a false alias to fill a prescription issued by defendant CHAM for controlled substances as follows:

COUNT	DATE	DRUG	ALIAS USED
TWENTY-EIGHT	October 1, 2012	Hydrocodone	Henry Richards
TWENTY-NINE	October 7, 2013	Oxycodone	Michael Russo
THIRTY	May 19, 2014	Hydrocodone	Thomas Sullivan
THIRTY-ONE	June 11, 2014	Oxycodone	Jason Harper

FORFEITURE ALLEGATION ONE

[21 U.S.C. § 853]

1  
2  
3 1. The allegations contained in Counts One through Nine,  
4 Counts 12 and 13, and Counts Fifteen through Thirty-One of this  
5 Indictment are hereby repeated, re-alleged, and incorporated by  
6 reference herein as though fully set forth at length for the  
7 purpose of alleging forfeiture pursuant to the provisions of  
8 Title 21, United States Code, Section 853. Pursuant to Rule  
9 32.2, Fed. R. Crim. P., notice is hereby given to the defendants  
10 that the United States will seek forfeiture as part of any  
11 sentence in accordance with Title 21, United States Code,  
12 Section 853, in the event of any defendant's conviction under  
13 any of Counts One through Nine or any of Counts Fifteen through  
14 Thirty-One of this Indictment.

15 2. Each defendant convicted of any of Counts One through  
16 Nine or any of Counts Fifteen through Thirty-One of this  
17 Indictment shall forfeit to the United States the following:

18 a. All right, title, and interest in any and all  
19 property, real or personal - - (i) constituting, or derived  
20 from, any proceeds obtained, directly or indirectly, as a result  
21 of any such offense; and (ii) used, or intended to be used, in  
22 any manner or part, to commit, or to facilitate the commission  
23 of any such offense; and

24 b. A sum of money equal to the total value of the  
25 property described in paragraph 2.a. For each of Counts One  
26 through Nine and for each of Counts Fifteen through Thirty-One  
27 of this Indictment for which more than one defendant is found  
28 guilty, each such defendant shall be jointly and severally

1 liable for the entire amount ordered forfeited pursuant to that  
2 Count.

3 3. Pursuant to Title 21, United States Code, Section  
4 853(p), each defendant convicted of any of Counts One through  
5 Nine or any of Counts Fifteen through Thirty-One of this  
6 Indictment shall forfeit substitute property, up to the total  
7 value of the property described in the preceding paragraph if,  
8 as the result of any act or omission of a defendant, the  
9 property described in the preceding paragraph, or any portion  
10 thereof (a) cannot be located upon the exercise of due  
11 diligence; (b) has been transferred, sold to or deposited with a  
12 third party; (c) has been placed beyond the jurisdiction of the  
13 court; (d) has been substantially diminished in value; or (e)  
14 has been commingled with other property that cannot be divided  
15 without difficulty.

FORFEITURE ALLEGATION TWO

[18 U.S.C. § 982(a)(1)]

1  
2  
3 1. The allegations contained in Counts Ten and Eleven of  
4 this Indictment are hereby repeated, re-alleged, and  
5 incorporated by reference herein as though fully set forth at  
6 length for the purpose of alleging forfeiture pursuant to the  
7 provisions of Title 18, United States Code, Section 982(a)(1),  
8 in the event of defendant DANIEL CHAM's ("CHAM's") conviction  
9 under Count Ten or Eleven of this Indictment. Pursuant to Rule  
10 32.2(a) of the Federal Rules of Criminal Procedure, notice is  
11 hereby given to defendant CHAM that the United States will seek  
12 forfeiture as part of any sentence in accordance with Title 18,  
13 United States Code, Section 982(a)(1), in the event of defendant  
14 CHAM's conviction under either or both of Counts Ten and/or  
15 Eleven of this Indictment.

16 2. If convicted of either or both of Counts Ten and/or  
17 Eleven of this Indictment, defendant CHAM shall forfeit to the  
18 United States the following:

19 a. All right, title, and interest in any and all  
20 property, real or personal, involved in or traceable to the  
21 commission of any such offense or any transaction set forth in  
22 such Count; and

23 b. A sum of money equal to the total value of the  
24 property described in paragraph 2.a.

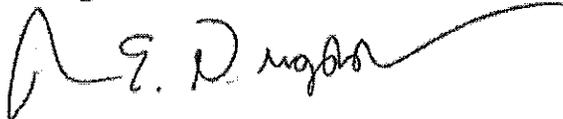
25 3. Pursuant to Title 21, United States Code, Section  
26 853(p), if convicted of either or both of Counts Ten and/or  
27 Eleven of this Indictment, defendant CHAM shall forfeit  
28 substitute property, up to the total value of the property

1 described in the preceding paragraph if, as the result of any  
2 act or omission of defendant CHAM, the property described in the  
3 preceding paragraph, or any portion thereof (a) cannot be  
4 located upon the exercise of due diligence; (b) has been  
5 transferred, sold to, or deposited with a third party; (c) has  
6 been placed beyond the jurisdiction of the court; (d) has been  
7 substantially diminished in value; or (e) has been commingled  
8 with other property that cannot be divided without difficulty.

9  
10 A TRUE BILL

11  
12 151  
13 Foreperson

14 STEPHANIE YONEKURA  
15 Acting United States Attorney

16   
17 ROBERT E. DUGDALE  
18 Assistant United States Attorney  
19 Chief, Criminal Division

20 KEVIN M. LALLY  
21 Assistant United States Attorney  
22 Chief, Organized Crime Drug Enforcement Task  
23 Force Section

24 ROB B. VILLEZA  
25 Assistant United States Attorney  
26 Deputy Chief, Organized Crime Drug  
27 Enforcement Task Force Section

28 BENJAMIN R. BARRON  
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8  
9 Attorneys for Plaintiff  
UNITED STATES OF AMERICA

10 UNITED STATES DISTRICT COURT

11 FOR THE CENTRAL DISTRICT OF CALIFORNIA

12 UNITED STATES OF AMERICA,

13 Plaintiff,

14 v.

15 DANIEL CHAM,

16 Defendant.

No. CR 14-591-DDP

PLEA AGREEMENT FOR DEFENDANT  
DANIEL CHAM

17  
18 1. This constitutes the plea agreement between defendant  
19 DANIEL CHAM ("defendant") and the United States Attorney's Office for  
20 the Central District of California (the "USAO") in the above-  
21 captioned case. This agreement is limited to the USAO and cannot  
22 bind any other federal, state, local, or foreign prosecuting,  
23 enforcement, administrative, or regulatory authorities.

24 DEFENDANT'S OBLIGATIONS

25 2. Defendant agrees to:  
26 a. At the earliest opportunity requested by the USAO and  
27 provided by the Court, appear and plead guilty to counts one and ten  
28 of the indictment in United States v. Daniel Cham, CR No. 14-591-DDP,

1 which charges defendant: as to count one, with distribution of  
2 oxycodone, in violation of Title 21, United States Code, Sections  
3 841(a)(1), (b)(1)(C); and, as to count ten, with money laundering, in  
4 violation of Title 18, United States Code, Section 1956(a)(1)(B)(i).

5 b. Not contest facts agreed to in this agreement.

6 c. Abide by all agreements regarding sentencing contained  
7 in this agreement.

8 d. Appear for all court appearances, surrender as ordered  
9 for service of sentence, obey all conditions of any bond, and obey  
10 any other ongoing court order in this matter.

11 e. Not commit any crime; however, offenses that would be  
12 excluded for sentencing purposes under United States Sentencing  
13 Guidelines ("U.S.S.G." or "Sentencing Guidelines") § 4A1.2(c) are not  
14 within the scope of this agreement.

15 f. Be truthful at all times with Pretrial Services, the  
16 United States Probation Office ("USPO"), and the Court.

17 g. Pay the applicable special assessment at or before the  
18 time of sentencing unless defendant lacks the ability to pay and  
19 prior to sentencing submits a completed financial statement on a form  
20 to be provided by the USAO.

21 FORFEITURE AND FINANCIAL ACCOUNTABILITY

22 3. Defendant further agrees:

23 i. Truthfully to disclose to law enforcement  
24 officials, at a date and time to be set by the USAO, the location of,  
25 defendant's ownership interest in, and all other information known to  
26 defendant about, all monies, properties, and/or assets of any kind,  
27 derived from or acquired as a result of, or used to facilitate the  
28 commission of, defendant's illegal activities, and to forfeit all

1 right, title, and interest in and to such items, specifically  
2 including all right, title, and interest in and to all United States  
3 currency, bank funds, property, and assets, specifically including  
4 the following assets seized by law enforcement officials on or about  
5 May 13, 2014: (i) \$44,780.00 in United States currency; and  
6 (ii) \$12,893.18, \$2,412.18, and \$1,590.40 in bank funds; all of which  
7 currency and bank funds defendant admits were involved in and/or  
8 constitute the proceeds of defendant's illegal activity in violation  
9 of 18 U.S.C. § 1956(a)(1)(B)(i) and/or 21 U.S.C. § 841(a)(1). The  
10 parties agree not to use any admission by defendant in this paragraph  
11 in any arguments before the Court regarding the Sentencing Guidelines  
12 calculation or the factors under 18 U.S.C. § 3553(a).

13           b. To the Court's entry of an order of forfeiture at or  
14 before sentencing with respect to these assets and to the forfeiture  
15 of the assets.

16           c. To take whatever steps are necessary to pass to the  
17 United States clear title to the assets described above, including,  
18 without limitation, the execution of a consent decree of forfeiture  
19 and the completing of any other legal documents required for the  
20 transfer of title to the United States.

21           d. Not to contest any administrative forfeiture  
22 proceedings or civil judicial proceedings commenced against the  
23 currency and bank funds specifically described in paragraph 3(a)  
24 pursuant to 18 U.S.C. §§ 981, 982, and 21 U.S.C. § 853(p) and  
25 881(a)(6). With respect to any criminal forfeiture ordered as a  
26 result of this plea agreement, defendant waives the requirements of  
27 Federal Rules of Criminal Procedure 32.2 and 43(a) regarding notice  
28 of the forfeiture in the charging instrument, announcements of the

1 forfeiture sentencing, and incorporation of the forfeiture in the  
2 judgment. Defendant acknowledges that forfeiture of the assets is  
3 part of the sentence that may be imposed in this case and waives any  
4 failure by the Court to advise defendant of this, pursuant to Federal  
5 Rule of Criminal Procedure 11(b)(1)(J), at the time the Court accepts  
6 defendant's guilty pleas.

7 e. Not to assist any other individual in any effort  
8 falsely to contest the forfeiture of the assets described above.

9 f. Not to claim that reasonable cause to seize the assets  
10 was lacking.

11 g. To prevent the transfer, sale, destruction, or loss of  
12 any and all assets described above to the extent defendant has the  
13 ability to do so.

14 h. To fill out and deliver to the USAO a completed  
15 financial statement listing defendant's assets on a form provided by  
16 the USAO.

17 i. That forfeiture of assets described above shall not be  
18 counted toward satisfaction of any special assessment, restitution,  
19 or costs the Court may impose.

20 THE USAO'S OBLIGATIONS

21 4. The USAO agrees to:

22 a. Not contest facts agreed to in this agreement.

23 b. Abide by all agreements regarding sentencing contained  
24 in this agreement.

25 c. At the time of sentencing, move to dismiss the  
26 remaining counts of the indictment as against defendant. Defendant  
27 agrees, however, that at the time of sentencing the Court may  
28 consider, or not consider, any dismissed charges in determining the

1 applicable Sentencing Guidelines range, the propriety and extent of  
2 any departure from that range, and the sentence to be imposed.

3 d. At the time of sentencing, provided that defendant  
4 demonstrates an acceptance of responsibility for the offense up to  
5 and including the time of sentencing, recommend a two-level reduction  
6 in the applicable Sentencing Guidelines offense level, pursuant to  
7 U.S.S.G. § 3E1.1, and recommend and, if necessary, move for an  
8 additional one-level reduction if available under that section.

9 e. Not recommend imposition of a fine against defendant  
10 in this matter.

11 f. Except for criminal tax violations (including  
12 conspiracy to commit such violations chargeable under 18 U.S.C.  
13 § 371), not seek further criminal charges against defendant for  
14 violations arising out of the facts set forth in the factual basis  
15 section of this agreement or in the supporting affidavit for the  
16 search warrant docketed in this district as 14-0934M and captioned  
17 "In the Matter of the Search of 1800 South Buenos Aires Drive,  
18 Covina, CA 91724." Defendant understands that the USAO is free to  
19 criminally prosecute defendant for any other unlawful past conduct or  
20 any unlawful conduct that occurs after the date of this agreement.  
21 Defendant agrees that at the time of sentencing the Court may  
22 consider the uncharged conduct in determining the applicable  
23 Sentencing Guidelines range, the propriety and extent of any  
24 departure from that range, and the sentence to be imposed after  
25 consideration of the Sentencing Guidelines and all other relevant  
26 factors under 18 U.S.C. § 3553(a).

NATURE OF THE OFFENSES

1  
2 5. Defendant understands that for defendant to be guilty of  
3 the crime charged in count one, that is, distribution of oxycodone,  
4 in violation of Title 21, United States Code, Sections 841(a)(1) and  
5 (b)(1)(C), the following must be true:

6 a. defendant knowingly and intentionally distributed  
7 oxycodone, knowing that it was a controlled substance;

8 b. the distribution of oxycodone was outside the usual  
9 course of professional practice and without a legitimate medical  
10 purpose; and

11 c. defendant acted with the intent to distribute the  
12 oxycodone outside the usual course of professional practice and  
13 without a legitimate medical purpose.

14 A doctor "distributes" a controlled substance by the act of  
15 writing a prescription for a controlled substance.

16 6. Defendant understands that for defendant to be guilty of  
17 the crime charged in count ten, that is money laundering, in  
18 violation of Title 18, United States Code, Section 1956(a)(1)(B)(i),  
19 the following must be true:

20 a. The defendant conducted a financial transaction  
21 involving property that represented the proceeds of a violation of  
22 Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(C)  
23 (distribution of oxycodone);

24 b. The defendant knew that the property represented the  
25 proceeds of such unlawful conduct; and

26 c. The defendant knew that the transaction was designed  
27 in whole or in part to conceal and disguise the nature and the source  
28 of the proceeds of such unlawful conduct.

PENALTIES

1  
2 7. Defendant understands that the statutory maximum sentence  
3 that the Court can impose for a violation of Title 21, United States  
4 Code, Sections 841(a)(1), (b)(1)(C), is: 20 years imprisonment; a  
5 lifetime period of supervised release; a fine of \$1,000,000 or twice  
6 the gross gain or gross loss resulting from the offense, whichever is  
7 greatest; and a mandatory special assessment of \$100. Defendant  
8 understands that the statutory minimum term of supervised release  
9 that the Court must impose is a term of supervised release not less  
10 than three years.

11 8. Defendant understands that the statutory maximum sentence  
12 that the Court can impose for a violation of Title 18, United States  
13 Code, Section 1956(a)(1)(B)(i), is: 20 years imprisonment; a three-  
14 year period of supervised release; a fine of \$500,000 or twice the  
15 gross gain or gross loss resulting from the offense, whichever is  
16 greatest; and a mandatory special assessment of \$100.

17 9. Defendant understands, therefore, that the total maximum  
18 sentence for the offenses to which defendant is pleading guilty is:  
19 40 years imprisonment; a lifetime period of supervised release; a  
20 fine of \$1,500,000 or twice the gross gain or gross loss resulting  
21 from the offenses, whichever is greatest; and a mandatory special  
22 assessment of \$200.

23 10. Defendant understands that supervised release is a period  
24 of time following imprisonment during which defendant will be subject  
25 to various restrictions and requirements. Defendant understands that  
26 if defendant violates one or more of the conditions of any supervised  
27 release imposed, defendant may be returned to prison for all or part  
28 of the term of supervised release authorized by statute for the

1 offense that resulted in the term of supervised release, which could  
2 result in defendant serving a total term of imprisonment greater than  
3 the statutory maximum stated above.

4 11. Defendant understands that, by pleading guilty, defendant  
5 may be giving up valuable government benefits and valuable civic  
6 rights, such as the right to vote, the right to possess a firearm,  
7 the right to hold office, and the right to serve on a jury.

8 Defendant understands that once the court accepts defendant's guilty  
9 plea, it will be a federal felony for defendant to possess a firearm  
10 or ammunition. Defendant understands that the conviction in this  
11 case may also subject defendant to various other collateral  
12 consequences, including but not limited to revocation of probation,  
13 parole, or supervised release in another case and suspension or  
14 revocation of a professional license (such as, for example, any  
15 medical license held by defendant and any federal registration  
16 relating to the prescription or dispensation of controlled  
17 substances). Defendant understands that unanticipated collateral  
18 consequences will not serve as grounds to withdraw defendant's guilty  
19 pleas.

20 12. Defendant understands that, if defendant is not a United  
21 States citizen, the felony conviction in this case may subject  
22 defendant to: removal, also known as deportation, which may, under  
23 some circumstances, be mandatory; denial of citizenship; and denial  
24 of admission to the United States in the future. The court cannot,  
25 and defendant's attorney also may not be able to, advise defendant  
26 fully regarding the immigration consequences of the felony conviction  
27 in this case. Defendant understands that unexpected immigration  
28

1 consequences will not serve as grounds to withdraw defendant's guilty  
2 plea.

3 13. Defendant understands that under 21 U.S.C. § 862a,  
4 defendant will not be eligible for assistance under state programs  
5 funded under the Social Security Act or Federal Food Stamp Act or for  
6 federal food stamp program benefits, and that any such benefits or  
7 assistance received by defendant's family members will be reduced to  
8 reflect defendant's ineligibility.

9 FACTUAL BASIS

10 14. Defendant admits that defendant is, in fact, guilty of the  
11 offenses to which defendant is agreeing to plead guilty. Defendant  
12 and the USAO agree to the statement of facts provided below and agree  
13 that this statement of facts is sufficient to support pleas of guilty  
14 to the charges described in this agreement but is not meant to be a  
15 complete recitation of all facts relevant to the underlying criminal  
16 conduct or all facts known to either party that relate to that  
17 conduct.

18 On March 9, 2014, defendant, a medical doctor, issued  
19 prescriptions for controlled drugs including oxycodone  
20 ("the prescriptions") to a person posing as a patient but  
21 who was, in fact, an undercover law enforcement officer.  
22 Defendant issued the prescriptions while acting, and  
intending to act, outside the usual course of professional  
practice and without a legitimate medical purpose. In  
exchange for the prescriptions, the undercover officer gave  
defendant \$300 in money orders ("the money orders").

23 The following day, March 10, 2014, defendant deposited the  
24 money orders into a Bank of America account ending in  
25 numbers 0392, which was held in the name of a corporation  
26 called Good Life 2 LLC. Defendant made this deposit  
27 knowing that the money orders represented proceeds of the  
unlawful distribution of controlled substances via the  
prescriptions, and knowing that the transaction was  
designed to conceal and disguise the nature and source of  
the money orders.



1 17. Defendant understands that there is no agreement as to  
2 defendant's criminal history or criminal history category.

3 18. Defendant and the USAO reserve the right to argue for a  
4 sentence outside the sentencing range established by the Sentencing  
5 Guidelines based on the factors set forth in 18 U.S.C. § 3553(a)(1),  
6 (a)(2), (a)(3), (a)(6), and (a)(7).

7 WAIVER OF CONSTITUTIONAL RIGHTS

8 19. Defendant understands that by pleading guilty, defendant  
9 gives up the following rights:

10 a. The right to persist in a plea of not guilty.

11 b. The right to a speedy and public trial by jury.

12 c. The right to be represented by counsel -- and if  
13 necessary have the court appoint counsel -- at trial. Defendant  
14 understands, however, that, defendant retains the right to be  
15 represented by counsel -- and if necessary have the court appoint  
16 counsel -- at every other stage of the proceeding.

17 d. The right to be presumed innocent and to have the  
18 burden of proof placed on the government to prove defendant guilty  
19 beyond a reasonable doubt.

20 e. The right to confront and cross-examine witnesses  
21 against defendant.

22 f. The right to testify and to present evidence in  
23 opposition to the charges, including the right to compel the  
24 attendance of witnesses to testify.

25 g. The right not to be compelled to testify, and, if  
26 defendant chose not to testify or present evidence, to have that  
27 choice not be used against defendant.

28

1 h. Any and all rights to pursue any affirmative defenses,  
2 Fourth Amendment or Fifth Amendment claims, and other pretrial  
3 motions that have been filed or could be filed.

4 WAIVER OF APPEAL OF CONVICTION

5 20. Defendant understands that, with the exception of an appeal  
6 based on a claim that defendant's guilty pleas were involuntary, by  
7 pleading guilty defendant is waiving and giving up any right to  
8 appeal defendant's convictions on the offenses to which defendant is  
9 pleading guilty.

10 LIMITED MUTUAL WAIVER OF APPEAL OF SENTENCE AND COLLATERAL ATTACK

11 21. Defendant gives up the right to appeal the following:  
12 (a) the procedures, any and all notice provisions, and calculations  
13 and final sums and amounts described in Paragraph 3 of this agreement  
14 related to forfeiture; and (b) any of the following conditions of  
15 probation or supervised release imposed by the Court: the conditions  
16 set forth in General Orders 318, 01-05, and/or 05-02 of this Court;  
17 the drug testing conditions mandated by 18 U.S.C. §§ 3563(a)(5) and  
18 3583(d); and the alcohol and drug use conditions authorized by 18  
19 U.S.C. § 3563(b)(7).

20 22. The USAO and defendant reserve the right to appeal any  
21 other portion of the sentence.

22 23. Defendant also gives up any right to bring a post-  
23 conviction collateral attack on any order of forfeiture, whether  
24 civil, criminal, or administrative.

25 RESULT OF WITHDRAWAL OF GUILTY PLEA

26 24. Defendant agrees that if, after entering guilty pleas  
27 pursuant to this agreement, defendant seeks to withdraw and succeeds  
28 in withdrawing defendant's guilty pleas on any basis other than a

1 claim and finding that entry into this plea agreement was  
2 involuntary, then (a) the USAO will be relieved of all of its  
3 obligations under this agreement; and (b) should the USAO choose to  
4 pursue any charge that was either dismissed or not filed as a result  
5 of this agreement, then (i) any applicable statute of limitations  
6 will be tolled between the date of defendant's signing of this  
7 agreement and the filing commencing any such action; and  
8 (ii) defendant waives and gives up all defenses based on the statute  
9 of limitations, any claim of pre-indictment delay, or any speedy  
10 trial claim with respect to any such action, except to the extent  
11 that such defenses existed as of the date of defendant's signing this  
12 agreement.

13 EFFECTIVE DATE OF AGREEMENT

14 25. This agreement is effective upon signature and execution of  
15 all required certifications by defendant, defendant's counsel, and an  
16 Assistant United States Attorney.

17 BREACH OF AGREEMENT

18 26. Defendant agrees that if defendant, at any time after the  
19 signature of this agreement and execution of all required  
20 certifications by defendant, defendant's counsel, and an Assistant  
21 United States Attorney, knowingly violates or fails to perform any of  
22 defendant's obligations under this agreement ("a breach"), the USAO  
23 may declare this agreement breached. All of defendant's obligations  
24 are material, a single breach of this agreement is sufficient for the  
25 USAO to declare a breach, and defendant shall not be deemed to have  
26 cured a breach without the express agreement of the USAO in writing.  
27 If the USAO declares this agreement breached, and the Court finds  
28 such a breach to have occurred, then: (a) if defendant has previously

1 entered guilty pleas pursuant to this agreement, defendant will not  
2 be able to withdraw the guilty pleas, and (b) the USAO will be  
3 relieved of all its obligations under this agreement.

4 27. Following the Court's finding of a knowing breach of this  
5 agreement by defendant, then:

6 a. Defendant agrees that: (i) any statements made by  
7 defendant, under oath, at the guilty plea hearing (if such a hearing  
8 occurred prior to the breach); (ii) the agreed to factual basis  
9 statement in this agreement; and (iii) any evidence derived from such  
10 statements, shall be admissible against defendant in any such action  
11 against defendant, and defendant waives and gives up any claim under  
12 the United States Constitution, any statute, Rule 410 of the Federal  
13 Rules of Evidence, Rule 11(f) of the Federal Rules of Criminal  
14 Procedure, or any other federal rule, that the statements or any  
15 evidence derived from the statements should be suppressed or are  
16 inadmissible.

17 b. Should the USAO choose to pursue any charge that was  
18 either dismissed or not filed as a result of this agreement, then:

19 i. Defendant agrees that any applicable statute of  
20 limitations is tolled between the date of defendant's signing of this  
21 agreement and the filing commencing any such action.

22 ii. Defendant waives and gives up all defenses based  
23 on the statute of limitations, any claim of pre-indictment delay, or  
24 any speedy trial claim with respect to any such action, except to the  
25 extent that such defenses existed as of the date of defendant's  
26 signing this agreement.



NO ADDITIONAL AGREEMENTS

1  
2 31. Defendant understands that, except as set forth herein,  
3 there are no promises, understandings, or agreements between the USAO  
4 and defendant or defendant's attorney, and that no additional  
5 promise, understanding, or agreement may be entered into unless in a  
6 writing signed by all parties or on the record in court.

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PLEA AGREEMENT PART OF THE GUILTY PLEA HEARING

32. The parties agree that this agreement will be considered part of the record of defendant's guilty plea hearing as if the entire agreement had been read into the record of the proceeding.

AGREED AND ACCEPTED

UNITED STATES ATTORNEY'S OFFICE  
FOR THE CENTRAL DISTRICT OF  
CALIFORNIA

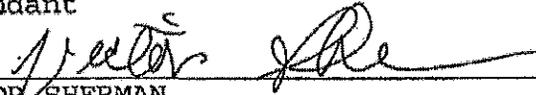
EILEEN M. DECKER  
United States Attorney

  
BENJAMIN R. BARRON  
Assistant United States Attorney

3/24/16  
Date

X  
DANIEL CHAM  
Defendant

3/23/16  
Date

  
VICTOR SHERMAN  
Attorney for Defendant

3/23/16  
Date

CERTIFICATION OF DEFENDANT

I have read this agreement in its entirety. I have had enough time to review and consider this agreement, and I have carefully and thoroughly discussed every part of it with my attorney. I understand the terms of this agreement, and I voluntarily agree to those terms. I have discussed the evidence with my attorney, and my attorney has advised me of my rights, of possible pretrial motions that might be filed, of possible defenses that might be asserted either prior to or at trial, of the sentencing factors set forth in 18 U.S.C. § 3553(a), of relevant Sentencing Guidelines provisions, and of the consequences of entering into this agreement. No promises, inducements, or representations of any kind have been made to me other than those

1 contained in this agreement. No one has threatened or forced me in  
2 any way to enter into this agreement. I am satisfied with the  
3 representation of my attorney in this matter, and I am pleading  
4 guilty because I am guilty of the charges and wish to take advantage  
5 of the promises set forth in this agreement, and not for any other  
6 reason.

*[Handwritten signature]*

*3/23/16*

8 DANIEL CHAM  
9 Defendant

Date

10 CERTIFICATION OF DEFENDANT'S ATTORNEY

11 I am DANIEL CHAM's attorney. I have carefully and thoroughly  
12 discussed every part of this agreement with my client. Further, I  
13 have fully advised my client of his rights, of possible pretrial  
14 motions that might be filed, of possible defenses that might be  
15 asserted either prior to or at trial, of the sentencing factors set  
16 forth in 18 U.S.C. § 3553(a), of relevant Sentencing Guidelines  
17 provisions, and of the consequences of entering into this agreement.  
18 To my knowledge: no promises, inducements, or representations of any  
19 kind have been made to my client other than those contained in this  
20 agreement; no one has threatened or forced my client in any way to  
21 enter into this agreement; my client's decision to enter into this  
22 agreement is an informed and voluntary one; and the factual basis set  
23 forth in this agreement is sufficient to support my client's entry of  
24 guilty pleas pursuant to this agreement.

*[Handwritten signature]*

*3/27/16*

26 VICTOR SHERMAN  
27 Attorney for Defendant

Date

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA  
CRIMINAL MINUTES -- CHANGE OF PLEA

Case No. CR 14-00591 DDP (1)

Date: April 11, 2016

=====

PRESENT: HONORABLE DEAN D. PREGERSON, JUDGE

Patricia Gomez  
Courtroom Deputy

Maria Bustillos  
Court Reporter

Benjamin R. Barron  
Asst. U.S. Attorney

=====

U.S.A. vs (Dfts listed below)

Attorneys for Defendants

1) DANIEL CHAM  
present in custody

1) Victor Sherman  
present retained

-----

**PROCEEDINGS: CHANGE OF PLEA**

Court and counsel confer re the change of plea. Defendant moves to change plea to the Indictment. Defendant now enters a new and different plea of Guilty to Counts One and Ten of the Indictment. The Court questions the defendant regarding the plea of Guilty and finds a factual and legal basis for the plea; waivers of constitutional rights are freely, voluntarily and intelligently made; plea is provident; plea is accepted and entered.

The Court refers the defendant to the Probation Office for the preparation of a presentence report and continues the matter to August 1, 2016 at 1:30 p.m., for sentencing.

The Court vacates the jury trial date.

**Counsel are notified that Federal Rule of Criminal Procedure 32(b)(6)(B) requires the parties to notify the Probation Officer, and each other, of any objections to the Presentence Report within fourteen (14) days of receipt. Alternatively, the Court will permit counsel to file such objections no later than twenty-one (21) days before Sentencing. The Court construes "objections" to include departure arguments. Requests for continuances shall be filed or requested no later than twenty-one (21) days before Sentencing. Strict compliance with the above is mandatory because untimely filings impede the abilities of the Probation Office and of the Court to prepare for Sentencing. Failure to meet these deadlines is grounds for sanctions.**

**cc: P. O. & P. S. A. L. A.**

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

In the Matter of the Amended Accusation and and Petition to Revoke Probation Against:	)	
	)	
DANIEL K. CHAM, M.D.	)	MBC No. 8002015016097
	)	
Physician's and Surgeon's Certificate No. A86714	)	<b>ORDER GRANTING STAY</b>
	)	(Government Code Section 11521)
	)	
<u>Respondent</u>	)	

Timothy A. Scott, Esq., on behalf of respondent, Daniel K. Cham, M.D., has filed a Request for Stay of execution of the Decision in this matter with an effective date of May 12, 2017, at 5:00 p.m.

Execution is stayed until June 9, 2017.

This stay is granted solely for the purpose of allowing the Respondent to file a Petition for Reconsideration.

DATED: May 10, 2017

  
Kimberly Kirchmeyer  
Executive Director  
Medical Board of California

1 XAVIER BACERRA  
Attorney General of California  
2 JUDITH T. ALVARADO  
Supervising Deputy Attorney General  
3 RANDALL R. MURPHY  
Deputy Attorney General  
4 State Bar No. 165851  
California Department of Justice  
5 300 South Spring Street, Suite 1702  
Los Angeles, CA 90013  
6 Telephone: (213) 897-2493  
Facsimile: (213) 897-9395  
7 *Attorneys for Complainant*

8 **BEFORE THE**  
**MEDICAL BOARD OF CALIFORNIA**  
9 **DEPARTMENT OF CONSUMER AFFAIRS**  
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation and Petition to  
Revoke Probation Against:  
12  
13 DANIEL K. CHAM, M.D.  
14 1014 South Marengo Avenue, Unit 6  
Alhambra, California 91803  
15  
16 Physician's and Surgeon's Certificate A86714,  
17 Respondent.

Case No. 800-2015-016097  
**DEFAULT DECISION AND ORDER;  
DECLARATION OF SOLARIO,  
GARCIA, CORONA AND MURPHY IN  
SUPPORT; EXHIBITS**

18  
19 **FINDINGS OF FACT**

20 1. On or about April 14, 2004, the Medical Board of California (Board) issued  
21 Physician's and Surgeon's Certificate No. A86714 to Respondent. That Physician's and  
22 Surgeon's Certificate was in full force and effect at all times relevant to the charges brought  
23 herein and expired on November 30, 2015. A true and correct copy of that Certificate of  
24 Licensure is attached hereto as Exhibit A.

25 2. On or about January 26, 2016, Complainant Kimberly Kirchmeyer, in her official  
26 capacity as the Executive Director of the Medical Board of California, Department of Consumer  
27 Affairs, filed Accusation and Petition to Revoke Probation No. 800-2015-016097 against Daniel  
28 K. Cham, M.D. (Respondent) before the Medical Board of California.

1           3.    On or about May 2, 2016, Complainant Kimberly Kirchmeyer, in her official capacity  
2 as the Executive Director of the Medical Board of California, Department of Consumer Affairs,  
3 filed Amended Accusation and Petition to Revoke Probation No. 800-2015-016097 against  
4 Daniel K. Cham, M.D. (Respondent) before the Medical Board of California.

5           4.    On or about May 2, 2016, Michelle Solario, an employee of the Complainant Agency,  
6 served by Certified and First Class Mail a copy of the Accusation and Petition to Revoke  
7 Probation No. 800-2015-016097, together with a Request for Discovery, Statement to  
8 Respondent, two forms of a Notice of Defense and the Board's Disciplinary Guidelines to  
9 Respondent's address of record with the Board, which was and is 1014 S Marengo Ave., Unit 6  
10 Alhambra, California 91803. (See Declaration of Michelle Solario, para. 3.) A copy of the  
11 Declaration of Service and Certified Mail Receipt are attached as Exhibit B to the Declaration of  
12 Michelle Solario, and are incorporated herein by reference. The documents were returned by the  
13 U.S. Postal service marked "Return to sender, Unclaimed". (*Id.*)

14           5.    On or about May 2, 2016, Michelle Solario, an employee of the Complainant Agency,  
15 served by Certified and First Class Mail a copy of the Amended Accusation and Petition to  
16 Revoke Probation No. 800-2015-016097, together with a Request for Discovery, Statement to  
17 Respondent, two forms of a Notice of Defense and the Board's Disciplinary Guidelines to  
18 Respondent's known place of residence, the Los Angeles Metro Detention Center, 535 North  
19 Alameda Street, Los Angeles, California 90012. (See Declaration of Michelle Solario, para. 3.)

20           6.    Service of both the Accusation and Petition to Revoke Probation and the Amended  
21 Accusation and Petition to Revoke Probation were effective as a matter of law under the  
22 provisions of Government Code section 11505, subdivision (c).

23           7.    On or about May 6, 2016, the signed Certified Mail Receipt for the documents  
24 delivered to the Los Angeles Metro Detention Center were accepted on behalf of Respondent and  
25 signed for by "S. Joiner". A copy of the Certified Mail receipt is attached as Exhibit C to the  
26 Declaration of Michelle Solario, and is incorporated herein by reference.

27           8.    On numerous occasions between February 1, 2016. and May 31, 2016, Deputy  
28 Attorney General Randall R. Murphy spoke with Respondent's criminal attorney, Victor

1 Sherman, Esq., regarding the failure of either Respondent or his attorney to return the Notice of  
2 Defense to DAG Murphy, or to the Medical Board of California. (Declaration of Randall R.  
3 Murphy (Murphy Declaration), paragraph 3.)

4 9. On or about April 15, 2016, Mr. Sherman filed a request for a continuance in a related  
5 matter, *In the Matter of the Interim Suspension Order Against Daniel K. Cham, M.D.*, OAH Case  
6 Number 2016031084. A true and correct copy of the e-mail sent by Mr. Sherman in that case is  
7 attached to the Murphy Declaration as Exhibit A. Although Mr. Sherman represents to OAH that  
8 he is Respondent's attorney, no Notice of Defense or other indicia of representation (other than  
9 the e-mail) was ever received in either *The Accusation and Petition to Revoke Probation, The*  
10 *Amended Accusation/Petition to Revoke Probation* or *In the Matter of the Interim Suspension*  
11 *Order Against Daniel K. Cham*. The Petition for an Interim Suspension Order was granted on  
12 April 29, 2016.<sup>1</sup>

13 10. Government Code section 11506 states, in pertinent part:

14 "(c) The respondent shall be entitled to a hearing on the merits if the respondent files a  
15 notice of defense, and the notice shall be deemed a specific denial of all parts of the accusation  
16 not expressly admitted. Failure to file a notice of defense shall constitute a waiver of  
17 respondent's right to a hearing, but the agency in its discretion may nevertheless grant a hearing."

18 11. Respondent failed to file a Notice of Defense within 15 days after service upon him  
19 of both the Accusation and Petition to Revoke Probation and the Amended Accusation and  
20 Petition to revoke Probation, and therefore waived his right to a hearing on the merits of the  
21 Amended Accusation and Petition to Revoke Probation No. 800-2015-016097.

22 12. California Government Code section 11520 states, in pertinent part:

23 "(a) If the respondent either fails to file a notice of defense or to appear at the hearing, the  
24 agency may take action based upon the respondent's express admissions or upon other evidence  
25 and affidavits may be used as evidence without any notice to respondent."

26  
27 <sup>1</sup> An *Ex Parte Petition for an Interim Suspension Order* was granted on April 5, 2016. A  
28 noticed hearing on the Petition was held on April 25, 2016.





1 **FIFTH CAUSE FOR DISCIPLINE**  
2 **(Unprofessional Conduct - Prescribing Dangerous Drugs without**  
3 **Prior Examination or Medical Indication)**

4 9. As set forth in the Accusation and Petition to Revoke Probation, attached hereto as  
5 Exhibit B, Respondent is subject to disciplinary action under section 2242, subdivision (a) of the  
6 Code, in that he prescribed dangerous drugs without an appropriate prior examination or medical  
7 indication. The circumstances are as follows:

8 A. Respondent repeatedly prescribed narcotics and controlled drugs on an ongoing  
9 basis without medical indication, an examination or otherwise determining a medical reason to  
10 prescribe opioids. See Declaration of Investigator Veronica Corona, para. 4.

11 **SIXTH CAUSE FOR DISCIPLINE**  
12 **(Unprofessional Conduct)**

13 10. As set forth in the Accusation and Petition to Revoke Probation, attached hereto as  
14 Exhibit B, Respondent is subject to disciplinary action under 2234, subdivision (a), of the Code in  
15 that he violated provisions of the Medical Practices Act. The circumstances are as follows:

16 A. Respondent misrepresented his prescribing of controlled substances to the  
17 Board. Respondent's misrepresentations are unprofessional conduct, in violation of the Medical  
18 Practice Act. See Declaration of Investigator Veronica Corona, para. 4; Declaration of Ruben  
19 Garcia, para. 2.

20 **SEVENTH CAUSE FOR DISCIPLINE**  
21 **(Dishonest Acts Constituting Unprofessional Conduct)**

22 11. As set forth in the Accusation and Petition to Revoke Probation, attached hereto as  
23 Exhibit B, Respondent is subject to disciplinary action under section 2234, subdivision (e), of the  
24 Code in that he engaged in dishonest acts substantially related to the qualifications, functions, or  
25 duties of a physician and surgeon. The circumstances are as follows:

26 A. Respondent wrote prescriptions and failed to record those prescriptions in a  
27 controlled substances prescription log, as required by the terms of his probation, thereby seeking  
28 to hide those prescriptions from the Board. Respondent's failure to properly record the

1 prescriptions was an act of dishonesty substantially related to the qualifications, functions, or  
2 duties of a physician and surgeon and is a violation of section 2234, subdivision (e), of the Code.  
3 See Declaration of Investigator Veronica Corona, para. 4; Declaration of Ruben Garcia, para. 2.

4 **EIGHTH CAUSE FOR DISCIPLINE**  
5 **(Failure to Maintain Adequate and Accurate Records)**

6 12. As set forth in the Accusation and Petition to Revoke Probation, attached hereto as  
7 Exhibit B, Respondent is subject to disciplinary action under section 2266 of the Code in that he  
8 failed to maintain adequate and accurate medical records. The circumstances are as follows:

9 A. Respondent failed to keep an accurate Controlled Substances log as required.  
10 Declaration of Ruben Garcia, para. 2.

11 **FIRST CAUSE TO REVOKE PROBATION**  
12 **(Violation of Terms of Probation)**

13 1. Respondent's probation is subject to revocation because he failed to comply with  
14 Probation Conditions as set forth in the Accusation and Petition to Revoke Probation, attached  
15 hereto as Exhibit B. The facts and circumstances regarding this violation are as follows:

16 A. Respondent failed to keep the records required by the terms of his probation  
17 and is therefore in violation of the probationary terms. Declaration of Ruben Garcia, para. 2.

18 B. On or about August 3, 2015, a CURES report was obtained for Respondent  
19 and the Controlled Substance logs that he was required to maintain as a condition of his probation  
20 in Case Number 23-2008-192858 were obtained from the Board Probation Inspector charged with  
21 monitoring Respondent's probation (See Declaration of Probation Monitor Rubin Garcia,  
22 para. 2);

23 C. Multiple patients listed on the CURES reports as having been prescribed  
24 controlled substances by Respondent were not reflected on Respondent's Controlled Substance  
25 logs during 2014. Several patients were selected for further investigation, including A.A., S.B.,  
26 T.M., W.P., J.R., A.C., and D.G. (See Declaration of Probation Monitor Rubin Garcia, para. 2);

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**ORDER**

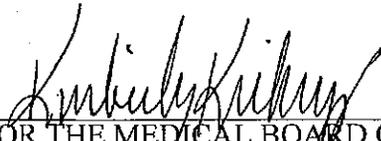
IT IS SO ORDERED that Physician's and Surgeon's Certificate No. A86714, heretofore issued to Respondent Daniel K. Cham, M.D., is revoked.

IT IS FURTHER ORDERED that Respondent Daniel K. Cham, M.D., pay to the Board \$14,751.00 in costs related to his probation monitoring and related violations.

Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

This Decision shall become effective on May 12, 2017.

It is so ORDERED. April 13, 2017.

  
\_\_\_\_\_  
FOR THE MEDICAL BOARD OF CALIFORNIA  
DEPARTMENT OF CONSUMER AFFAIRS  
KIMBERLY KIRCHMEYER, Executive Director

1 KAMALA D. HARRIS  
Attorney General of California  
2 E. A. JONES III  
Supervising Deputy Attorney General  
3 RANDALL R. MURPHY  
Deputy Attorney General  
4 State Bar No. 165851  
California Department of Justice  
5 300 South Spring Street, Suite 1702  
Los Angeles, California 90013  
6 Telephone: (213) 897-2493  
Facsimile: (213) 897-9395  
7 *Attorneys for Complainant*

FILED  
STATE OF CALIFORNIA  
MEDICAL BOARD OF CALIFORNIA  
SACRAMENTO *May 2 2016*  
BY *[Signature]* ANALYST

8  
9 **BEFORE THE**  
**MEDICAL BOARD OF CALIFORNIA**  
**DEPARTMENT OF CONSUMER AFFAIRS**  
10 **STATE OF CALIFORNIA**

11 In the Matter of the Amended Accusation and  
Petition to Revoke Probation Against:

Case No. 800-2015-016097

12 Daniel K. Cham, M.D.  
13 1014 S Marengo Ave., Unit 6  
Alhambra, CA 91803

**AMENDED ACCUSATION AND  
PETITION TO REVOKE PROBATION**

14 Physician's and Surgeon's Certificate  
15 No. A86714,

16 Respondent.

17  
18 Complainant alleges:

19 **PARTIES**

20 1. Kimberly Kirehmeyer (Complainant) brings this Amended Accusation and Petition to  
21 Revoke Probation solely in her official capacity as the Executive Director of the Medical Board  
22 of California (Board).

23 2. On April 14, 2004, the Board issued Physician's and Surgeon's Certificate number  
24 A86714 to Daniel K. Cham, M.D. (Respondent). That Certificate was in full force and effect at  
25 all times relevant to the charges brought herein and expired on November 30, 2015.

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

5           10. Section 2234 of the Code, states:

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

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

11           "(b) Gross negligence.

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

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

18           "(2) When the standard of care requires a change in the diagnosis, act, or  
19 omission that constitutes the negligent act described in paragraph (1), including, but  
20 not limited to, a reevaluation of the diagnosis or a change in treatment, and the  
21 licensee's conduct departs from the applicable standard of care, each departure  
22 constitutes a separate and distinct breach of the standard of care.

23           "(d) Incompetence.

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

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

27           "(g) The practice of medicine from this state into another state or country without  
28 meeting the legal requirements of that state or country for the practice of medicine. Section

1 2314 shall not apply to this subdivision. This subdivision shall become operative upon the  
2 implementation of the proposed registration program described in Section 2052.5.

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

6 11. Section 2242 of the Code states:

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

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

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

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

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

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

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

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



1 19. None of the original prescriptions written by Respondent for A.A., S.B., T.M., W.P.,  
2 J.R., A.C., and D.G. and obtained as part of the investigation of Respondent were listed in  
3 Respondent's Controlled Substance logs submitted to the Board Probation Inspector charged with  
4 monitoring Respondent's probation in 2014.

5 20. The Controlled Substances log submitted to the Board Probation Inspector charged  
6 with monitoring Respondent's probation, and certified as accurate by Respondent, contained only  
7 1 prescription for J.R., A.C., and D.G., but the CURES reports showed more than 1 prescription  
8 written by Respondent for each of those patients.

9 21. The controlled substances log submitted to the Board Probation Inspector charged  
10 with monitoring Respondent's probation, and certified as accurate by Respondent, contained no  
11 record of any prescriptions for A.A., S.B., T.M., and W.P., but the CURES reports showed  
12 prescriptions written by Respondent for each of those patients.

13 22. On or about October 23, 2014, Respondent was arrested on numerous federal felony  
14 charges involving prescribing controlled substances, including violations of: 21 U.S.C. §§ 841(a)  
15 (1), (b) (1)(C), (b)(1)(B) and (b)(2) (Distribution and Possession with Intent to Distribute  
16 Oxycodone, Hydrocodone, Alprazolam, and Carisoprodol; 18 U.S.C. § 1956 (a)(1)(B)(1) (Money  
17 Laundering); 21 U.S.C. § 843 (a)(4)(A) (False and Fraudulent Information in an Application to  
18 Renew a DEA Registration Number); 18 U.S.C. § 1001(a)(2) (False Statement to a Federal  
19 Officer or Agency); 21 U.S.C. § 843(a)(3) (Acquiring a Controlled Substance by  
20 Misrepresentation, Fraud, Forgery, Deception, or Subterfuge), and; 18 U.S.C. § 2(a) (Aiding and  
21 Abetting). (A true and correct copy of the underlying indictment and the Report Commencing  
22 Criminal Action against Respondent are attached hereto as Exhibit E.)

23 23. Shortly after his arrest Respondent was released on bond. On or about September 10,  
24 2015, Respondent was ordered detained due to numerous violations of his Order of Pretrial  
25 Release. He was then remanded to the custody of the Federal Bureau of Prisons. He is currently  
26 incarcerated at the Los Angeles Metropolitan Detention Center, located at 535 North Alameda  
27 Street, Los Angeles, California. His petition for re-release on bond was denied.

28

1           24. On or about March 24, 2016, Respondent agreed to plead guilty to counts one and ten  
2 of the indictment in *United States v. Daniel Cham*, CR No. 14-591-DDP, Case 2:14-cr-00591,  
3 which charges defendant; as to count one, with distribution of oxycodone, in violation of Title 21,  
4 United States Code, Sections 841(a)(1), (b)(1)(C); and, as to count ten, with money laundering, in  
5 violation of Title 18, United States Code, Section 1956(a)(1)(B)(i).

6           25. In addition to the over-prescribing that is the focus of the federal indictment,  
7 Respondent has also been over prescribing dangerous drugs to many of his patients, without the  
8 benefit of a good faith medical examination.

9           26. The Board received information from the Drug Enforcement Administration (DEA)  
10 that Respondent was prescribing controlled substances without medical necessity. During the  
11 course of the DEA's investigation, several undercover (UC) operations were conducted.

12           27. During the UCs, Respondent provided the officers with prescriptions for controlled  
13 substances without doing physical exams or taking histories.<sup>1</sup>

14           28. During the UC's, Respondent would ask what medications they wanted and what they  
15 were for. No physical examination took place. Respondent did the exact same thing for all  
16 UC's.

17           29. Dr. C., the DEA medical expert opined that:

18           "In my opinion, based on the undercover DVD AUDIO/VIDEOS, there is gross and  
19 overwhelming evidence of inappropriate prescribing of narcotics and controlled drugs by DR.  
20 CHAM based on the types of drugs seen on C.U.R.E.S data (OPIATES, SEDATIVES,  
21 BENZODIAZEPENES like XANAX, and ADDICTIVE MUSCLE RELAXERS like SOMA)  
22 being prescribed. The undercover patient, MR. V., who visited DR. CHAM's office, lacked any  
23 objective obvious severe pain clinically and never clearly presented or described his pain in a  
24 manner that justified the need for being prescribed controlled opioid analgesic medications .. [sic]  
25 There were no findings or clinical syndromes diagnosed, and no objective evidence of pain to  
26 speak of, and therefore no justification for the use of doctor prescribed opioid medication therapy.

27           <sup>1</sup> The facts set out in this portion of the Amended Accusation are based on the federal  
28 indictment handed down and to be produced in Discovery.

1 There was no effort by DR. CHAM to try non-addictive medications or offer alternative  
2 adjunctive modalities of therapy. The World Health Organization recommendations for pain  
3 treatment are that opiate analgesic treatment be limited to, and only offered after, failure to  
4 respond to routine non-opiate medications or offer alternative adjunctive modalities of therapy.  
5 DR. CHAM did not do regular or random urine drug screens, nor did he order labs or diagnostic  
6 workup, and he failed to do an appropriate and focused pain evaluation in order to identify and  
7 match whether MR. V. suffered from underlying pain generators.

8 "DR. CHAM's behavior is seen and heard on the UNDERCOVER DVD CD AUDIO/  
9 VISUAL materials clearly and represents an EXTREME DEPARTURE from the standard of care  
10 expected of a licensed practicing physician in the U.S. today. Based on these findings and the  
11 findings of the C.U.R.E.S REPORT DATA, it is apparent that DR. CHAM's clinical approach to  
12 pain management is primarily to prescribe whatever controlled medications are requested by the  
13 patient for profit. In addition, based on the letter of reprimand and the previous medical board  
14 deliberations released publically regarding inappropriate prescribing of narcotics over the  
15 internet, it is unlikely that DR. CHAM will Change [sic] his behavior and use his talents for the  
16 public good. One would think that given a second Chance [sic] that he would not repeat his  
17 actions. This history is included in this report and must be considered when reviewing the current  
18 information."

19 **FIRST CAUSE FOR DISCIPLINE**  
20 **(Unprofessional Conduct - Gross Negligence)**

21 30. Respondent is subject to disciplinary action under Code section 2234, subdivision (b),  
22 for gross negligence in the care and treatment of patients A.A., S.B., T.M., W.P., J.R., A.C., and  
23 D.G. The circumstances are as follows:

24 31. Paragraphs 15 through 29 are incorporated herein by reference as if fully set forth  
25 herein.

26 32. Respondent failed to provide proper oversight in order to monitor the use of  
27 controlled substances by A.A., S.B., T.M., W.P., J.R., A.C., and D.G., which constitutes gross  
28 negligence and is a violation of section 2234, subdivision (b).



1 The circumstances are as follows:

2 40. Respondent never performed a complete history and physical exam over the course of  
3 treatment for patients A.A., S.B., T.M., and W.P., yet continued to prescribe controlled  
4 substances to those patients, which prescribing practice constitutes prescribing controlled  
5 substances without medical indication and is a violation of Health and Safety Code section 11154.

6 41. Respondent never ordered standard tests and follow up, nor established an  
7 appropriate differential diagnoses over the course of treatment for patients A.A., S.B., T.M., and  
8 W.P., yet continued to prescribe controlled substances to those patients, which prescribing  
9 practice constitutes prescribing controlled substances without medical indication and is a  
10 violation of Health and Safety Code section 11154.

11 **FOURTH CAUSE FOR DISCIPLINE**

12 (Unprofessional Conduct - Violating Statute Regulating Controlled Substances)

13 42. By reason of the matters set forth above in paragraphs 15 through 41, incorporated  
14 herein by this reference, Respondent is subject to disciplinary action under section 2238 of the  
15 Code, in that he violated Health and Safety Code section 11154. The circumstances are as  
16 follows:

17 43. Respondent prescribed controlled substances without medical indication to A.A.,  
18 S.B., T.M., and W.P., which constitutes a violation of Health and Safety Code section 11154 and,  
19 thus, section 2238 of the Code.

20 **FIFTH CAUSE FOR DISCIPLINE**

21 (Unprofessional Conduct - Prescribing Dangerous Drugs without  
22 Prior Examination or Medical Indication)

23 44. By reason of the matters set forth above in paragraphs 15 through 43, incorporated  
24 herein by this reference, Respondent is subject to disciplinary action under Code section 2242,  
25 subdivision (a) of the Code, in that he prescribed dangerous drugs without an appropriate prior  
26 examination and a medical indication to A.A., S.B., T.M., and W.P. The circumstances are as  
27 follows:

28 45. Respondent prescribed dangerous drugs without performing an appropriate prior  
examination to A.A., S.B., T.M., and W.P. Respondent's failure to properly examine any of the

1 foregoing patients while prescribing dangerous drugs to those patients constitutes a violation of  
2 Code section 2242, subdivision (a).

3 46. Respondent prescribed dangerous drugs to A.A., S.B., T.M., and W.P., without  
4 medical indication, which actions constitute a violation of Code section 2242, subdivision (a).

5 **SIXTH CAUSE FOR DISCIPLINE**  
6 **(Unprofessional Conduct)**

7 47. Respondent is subject to disciplinary action under Code section 2234, subdivision (a),  
8 of the Code in that he violated provisions of the Act. The circumstances are as follows:

9 48. Paragraphs 15 through 46 are incorporated herein by reference as if fully set forth  
10 herein.

11 49. The Medical Practice Act requires the Board to review the quality of medical practice  
12 carried out by physician and surgeon certificate holders under the jurisdiction of the Board.  
13 Respondent misrepresented his prescribing of controlled substances to the Board. Respondent's  
14 misrepresentations are unprofessional conduct, in violation of the Medical Practice Act.

15 **SEVENTH CAUSE FOR DISCIPLINE**  
16 **(Dishonest Acts Constituting Unprofessional Conduct)**

17 50. Respondent is subject to disciplinary action under section 2234, subdivision (e), of  
18 the Code in that he engaged in dishonest acts substantially related to the qualifications, functions,  
19 or duties of a physician and surgeon. The circumstances are as follows:

20 51. Paragraphs 15 through 49 are incorporated herein by reference as if fully set forth  
21 herein.

22 52. Respondent wrote prescriptions for patients A.A., S.B., T.M., W.P., J.R., A.C., and  
23 D.G., and failed to record those prescriptions in a controlled substances prescription log, as  
24 required by the terms of his probation, thereby seeking to hide those prescriptions from the Board.  
25 Respondent's failure to properly record the prescriptions was an act of dishonesty substantially  
26 related to the qualifications, functions, or duties of a physician and surgeon and is a violation of  
27 section 2234, subdivision (e), of the Code.

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**EIGHTH CAUSE FOR DISCIPLINE**

**(Failure to Maintain Adequate and Accurate Records)**

53. Respondent is subject to disciplinary action under section 2266 in that he failed to maintain adequate and accurate medical records for patients A.A., S.B., T.M., W.P., J.R., A.C., and D.G. The circumstances are as follows:

54. Paragraphs 15 through 52 are incorporated herein by reference as if fully set forth herein.

55. Respondent failed to keep an accurate Controlled Substances log for patients A.A., S.B., T.M., W.P., J.R., A.C., and D.G. Respondent's failure to maintain adequate and accurate medical records for patients A.A., S.B., T.M., W.P., J.R., A.C., and D.G., is a violation of section 2266 of the Code.

**FIRST CAUSE TO REVOKE PROBATION**

**(Violation of Terms of Probation)**

56. Respondent's probation is subject to revocation because he failed to comply with Probation Condition F., set forth below. The facts and circumstances regarding this violation are as follows:

57. Paragraphs 15 through 55 are incorporated herein by reference as if fully set forth herein and the allegations of the First, Second and Third Causes for Discipline are incorporated by reference as if set forth in full.

58. At all times after the effective date of Respondent's probation, Condition F., stated in part:

"Respondent shall maintain a record of all controlled substances ordered, prescribed, dispensed, administered, or possessed by respondent, and any recommendation or approval which enables a patient or patient's primary caregiver to possess or cultivate marijuana for the personal medical purposes of the patient within the meaning of Health and Safety Code section 11362.5, during probation, showing all the following:

- "1) the name and address of patient;
- "2) the date;
- "3) the character and quantity of controlled substances involved; and

1 "4) the indications and diagnosis for which the controlled substances were furnished.

2 "Respondent shall keep these records in a separate file or ledger, in chronological order. All  
3 records and any inventories of controlled substances shall be available for immediate inspection  
4 and copying on the premises by the Board or its designee at all times during business hours and  
5 shall be retained for the entire term of probation. Failure to maintain all records, to provide  
6 immediate access to the inventory, or to make all records available for immediate inspection and  
7 copying on the premises, is a violation of probation."

8 59. Respondent failed to keep the required records and is therefore in violation of  
9 probationary term F.

10 **SECOND CAUSE TO REVOKE PROBATION**  
11 **(Obey All Laws)**

12 60. At all times after the effective date of Respondent's probation, Condition I. stated in  
13 part: "Respondent shall obey all federal, state and local laws [and] all rules governing the  
14 practice of medicine in California . . ."

15 61. Respondent's probation is subject to revocation because he failed to comply with  
16 Probation Condition I., referenced above. The facts and circumstances regarding this violation  
17 are as follows:

18 62. Paragraphs 15 through 59 are incorporated herein by reference as if fully set forth  
19 herein and the allegations of the First, Second, Third, Fourth, Fifth, Sixth, Seventh and Eighth  
20 Causes for Discipline are incorporated by reference as if set forth in full.

21 **PRAYER**

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

24 1. Revoking the probation that was granted in Case No. 23-2008-192858 and imposing  
25 the disciplinary order that was stayed, thereby revoking Physician's and Surgeon's Certificate  
26 Number A86714, issued to Daniel K. Cham, M.D.;

27 2. Revoking or suspending his Physician's and Surgeon's Certificate No. A86714;

28 3. Revoking, suspending or denying approval of his authority to supervise physician

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assistants, pursuant to section 3527 of the Code;

4. If placed on probation, ordering him to pay the Board the costs of probation monitoring; and

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

DATED: May 3, 2016



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

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# **EXHIBIT A**

Decision, No. 23-2008-192858

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

In the Matter of the Accusation  
Against:

Daniel K. Cham, M.D.

Physician's and Surgeon's  
Certificate No. A 86714

Case No. 23-2008-192858

Respondent

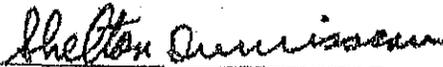
DECISION

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 June 6, 2012.

IT IS SO ORDERED: May 7, 2012.

MEDICAL BOARD OF CALIFORNIA



Shelton Duruisseau, Ph.D., Chair  
Panel A

1 KAMALA D. HARRIS,  
Attorney General of California  
2 ROBERT McKIM BELL  
Supervising Deputy Attorney General  
3 State Bar No. 56332  
KLINT JAMES MCKAY  
4 Deputy Attorney General  
State Bar No. 120881  
5 300 South Spring St., Suite 1702  
Los Angeles, California 90013  
6 Telephone: (213) 576 - 1327  
Facsimile: (213) 897 - 9395  
7 *Attorneys for Complainant*

8  
9 **BEFORE THE  
MEDICAL BOARD OF CALIFORNIA  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

10  
11  
12 In the Matter of the Accusation Against:

13 DANIEL K. CHAM, M.D.  
1014 S. Marengo Avenue, Unit 6  
14 Alhambra, California 91803

15 Physician & Surgeon's Certificate  
16 No A 86714,

17 Respondent

MBC Case No. 23-2008-192858

AG Case No. LA 2010503647

OAH Case No. 2010120870

**STIPULATED SETTLEMENT AND  
DISCIPLINARY ORDER**

18  
19 In the interest of a prompt and speedy settlement of this matter, consistent with the public  
20 interest and the responsibility of the Medical Board of California of the Department of Consumer  
21 Affairs ("Board"), the parties hereby agree to the following Stipulated Settlement and  
22 Disciplinary Order which will be submitted to the Board for approval and adoption as the final  
23 disposition of the Accusation.

24 **PARTIES**

25 1. Linda K. Whitney ("Complainant") is the Executive Director of the Board, and  
26 the Complainant in this matter. Ms. Whitney brought this action solely in her official capacity  
27 and is represented in this matter through Kamala D. Harris, Attorney General of the State of  
28 California, by Klint James McKay, Deputy Attorney General.



1 CULPABILITY

2 7. Respondent understands and agrees that the charges and allegations in Accusation 23-  
3 2008-192858, if proven at a hearing, constitute cause for imposing discipline upon his Physician  
4 and Surgeon's Certificate,

5 8. For the purpose of resolving the Accusation without the expense and uncertainty of  
6 further proceedings, Plaintiff admits that at a hearing, Complainant could establish a *prima facie*  
7 case for each and every allegation in the Accusation; Respondent hereby gives up his right to  
8 contest those charges.

9 9. Respondent agrees that if, in the future, a new Accusation or Petition to Revoke  
10 Probation is filed against him before the Board, all of the charges and allegations contained in  
11 Accusation No. 23-2008-192858 shall be deemed true, correct and fully admitted by Respondent  
12 for purposes of any such proceeding or any other licensing proceeding involving Respondent in  
13 the State of California.

14 10. This Stipulated Settlement and Disciplinary Order is intended by the parties herein to  
15 be an integrated writing representing the complete, final and exclusive embodiment of the  
16 agreements of the parties in the above-entitled matter.

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

20 CONTINGENCY

21 12. This Stipulation shall be subject to approval by the Board. Respondent  
22 understands and agrees that counsel for Complainant and the staff of the Board may communicate  
23 directly with the Board regarding this Stipulation and settlement, without notice to or  
24 participation by Respondent or his counsel. By signing the Stipulation, Respondent understands  
25 and agrees that he may not withdraw his agreement or seek to rescind the Stipulation prior to the  
26 time the Board considers and acts upon it. If the Board fails to adopt this Stipulation as its  
27 Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or  
28

1 effect, except for this paragraph, it shall be inadmissible in any legal action between the parties,  
2 and the Board shall not be disqualified from further action by having considered this matter.

3 13. The parties understand and agree that facsimile copies of this Stipulated  
4 Settlement and Disciplinary Order, including facsimile signatures thereon, shall have the same  
5 force and effect as the originals.

6 14. In consideration of the foregoing admissions and Stipulations, the parties agree  
7 that the Board may, without further notice or formal proceeding, issue and enter the following  
8 Disciplinary Order.

9 15. This Stipulation shall be effective, *nunc pro tunc*, as of January 13, 2012.

10 **DISCIPLINARY ORDER**

11 16. IT IS HEREBY ORDERED that Physician and Surgeon's Certificate No. A 86714  
12 issued to Respondent is revoked. However, the revocation is stayed and Respondent is placed on  
13 probation for five years from the date set forth in Paragraph 15 above, subject to the following  
14 terms and conditions.

15 A. PRACTICE MONITOR

16 i. Within 30 calendar days of the effective date of this Decision, Respondent shall  
17 submit to the Board or its designee for prior approval as a practice monitor(s), the name and  
18 qualifications of one or more licensed physicians and surgeons whose licenses are valid and in  
19 good standing, and who are preferably American Board of Medical Specialties (ABMS) certified.

20 ii. A monitor shall have no prior or current business or personal relationship with  
21 Respondent, or other relationship that could reasonably be expected to compromise the ability of  
22 the monitor to render fair and unbiased reports to the Board, including but not limited to any form  
23 of bartering, shall be in Respondent's field of practice, and must agree to serve as Respondent's  
24 monitor.

25 iii. Respondent shall pay all monitoring costs. The Board or its designee shall provide the  
26 approved monitor with copies of the Decision and Accusation, and a proposed monitoring plan.  
27 Within 15 calendar days of receipt of the Decision(s), Accusation(s), and proposed monitoring  
28 plan, the monitor shall submit a signed statement that the monitor has read the Decision(s) and

1 Accusation(s), fully understands the role of a monitor, and agrees or disagrees with the proposed  
2 monitoring plan. If the monitor disagrees with the proposed monitoring plan, the monitor shall  
3 submit a revised monitoring plan with the signed statement.

4 iv. Within 60 calendar days of the effective date of this Decision, and continuing  
5 throughout probation, Respondent's (Le., practice, billing, or practice and billing) shall be  
6 monitored by the approved monitor. Respondent shall make all records available for immediate  
7 inspection and copying on the premises by the monitor at all times during business hours and  
8 shall retain the records for the entire term of probation.

9 v. The monitor(s) shall submit a quarterly written report to the Board or its designee  
10 which includes an evaluation of Respondent's performance, indicating whether Respondent's  
11 practices are within the standards of practice of medicine or billing, or both, and whether  
12 Respondent is practicing medicine safely, billing appropriately or both. It shall be the sole  
13 responsibility of Respondent to ensure that the monitor submits the quarterly written reports to  
14 the Board or its designee within 10 calendar days after the *end* of the preceding quarter.

15 vi. If the monitor resigns or is no longer available, Respondent shall, within 5 calendar  
16 days of such resignation or unavailability, submit to the Board or its designee, for prior approval,  
17 the name and qualifications of a replacement monitor who will be assuming that responsibility  
18 within 15 calendar days. If Respondent fails to obtain approval of a replacement monitor within  
19 60 days of the resignation or unavailability of the monitor, Respondent shall be suspended from  
20 the practice of medicine until a replacement monitor is approved and prepared to assume  
21 immediate monitoring responsibility.

22 vii. In the event Respondent fails to submit a replacement monitor as set forth in the  
23 preceding paragraph, and the Board therefore desires to notify Respondent to therefore cease the  
24 practice of medicine, Respondent shall do so within 3 calendar days after being so notified by the  
25 Board or designee. In lieu of a monitor, Respondent may participate in a professional  
26 enhancement program equivalent to the one offered by the Physician Assessment and Clinical  
27 Education Program at the University of California, San Diego School of Medicine, that includes,  
28 at minimum, quarterly chart review, semi-annual practice assessment, and semi-annual review of

1 professional growth and education. Respondent shall participate in the professional enhancement  
2 program at Respondent's expense during the term of probation.

3           viii. Failure to maintain all records, or to make all appropriate records available for  
4 immediate inspection and copying on the premises, or to comply with this condition as outlined  
5 above is a violation of probation.

6           B.    PRESCRIBING PRACTICES COURSE

7           Within 60 calendar days of the effective date of this Decision, Respondent shall enroll in a  
8 course in prescribing practices, at Respondent's expense, approved in advance by the Board or its  
9 designee. Failure to successfully complete the course during the first 6 months of probation is a

10 violation of probation. A prescribing practices course taken after the acts that gave rise to the  
11 charges in the Accusation, but prior to the effective date of the Decision may, in the sole  
12 discretion of the Board or its designee, be accepted towards the fulfillment of this condition if the  
13 course would have been approved by the Board or its designee had the course been taken after the  
14 effective date of this Decision. Respondent shall submit a certification of successful completion  
15 to the Board or its designee not later than 15 calendar days after successfully completing the  
16 course, or not later than 15 calendar days after the effective date of the Decision, whichever is  
17 later.

18           C.    MEDICAL RECORD KEEPING COURSE

19           Within 60 calendar days of the effective date of this decision, Respondent shall enroll in a  
20 course in medical record keeping, at Respondent's expense, approved in advance by the Board or  
21 its designee. Failure to successfully complete the course during the first 6 months of probation is  
22 a violation of probation. A medical record keeping course taken after the acts that gave rise to the  
23 charges in the Accusation, but prior to the effective date of the Decision may, in the sole  
24 discretion of the Board or its designee, be accepted towards the fulfillment of this condition if the  
25 course would have been approved by the Board or its designee had the course been taken after the  
26 effective date of this Decision. Respondent shall submit a certification of successful completion  
27 to the Board or its designee not later than 15 calendar days after successfully completing the  
28

1 course, or not later than 15 calendar days after the effective date of the Decision, whichever is  
2 later.

3 D. ETHICS COURSE

4 Within 60 calendar days of the effective date of this Decision, Respondent shall enroll in a  
5 course in ethics, at Respondent's expense, approved in advance by the Board or its designee.  
6 Failure to successfully complete the course during the first year of probation is a violation of  
7 probation. An ethics course taken after the acts that gave rise to the charges in the Accusation, but  
8 prior to the effective date of the Decision may, in the sole discretion of the Board or its designee,  
9 ~~be accepted towards the fulfillment of this condition if the course would have been approved by~~  
10 the Board or its designee had the course been taken after the effective date of this Decision.

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

14 E. EDUCATION COURSE

15 Within 60 calendar days of the effective date of this Decision, and on an annual basis  
16 thereafter, Respondent shall submit to the Board or its designee for its prior approval educational  
17 program(s) or course(s) which shall not be less than 40 hours per year, until such time as  
18 Respondent successfully completes probation. The educational program(s) or course(s) shall be  
19 aimed at correcting any areas of deficient practice or knowledge and shall be Category I certified,  
20 limited to classroom, conference, or seminar settings. The educational program(s) or course(s)  
21 shall be at Respondent's expense and shall be in addition to the Continuing Medical Education  
22 (CME) requirements for renewal of licensure. Following the completion of each course, the  
23 Board or its designee may administer an examination to test Respondent's knowledge of the  
24 course. Respondent shall provide proof of attendance for 65 hours of continuing medical  
25 education annually to the Board, of which 40 hours were in satisfaction of this condition.

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1 F. MAINTAIN RECORDS AND ACCESS TO RECORDS AND INVENTORIES OF  
2 CONTROLLED SUBSTANCES

3 Respondent shall maintain a record of all controlled substances ordered, prescribed,  
4 dispensed, administered, or possessed by respondent, and any recommendation or approval which  
5 enables a patient or patient's primary caregiver to possess or cultivate marijuana for the personal  
6 medical purposes of the patient within the meaning of Health and Safety Code section 11362.5,  
7 during probation, showing all the following:

8 1) the name and address of patient;

9 2) the date;

10 3) the character and quantity of controlled substances involved; and

11 4) the indications and diagnosis for which the controlled substances were furnished.

12 Respondent shall keep these records in a separate file or ledger, in chronological order. All  
13 records and any inventories of controlled substances shall be available for immediate inspection  
14 and copying on the premises by the Board or its designee at all times during business hours and  
15 shall be retained for the entire term of probation. Failure to maintain all records, to provide  
16 immediate access to the inventory, or to make all records available for immediate inspection and  
17 copying on the premises, is a violation of probation.

18 G. NO TELEHEALTH OR TELEMEDICINE

19 Respondent shall not participate in nor provide telehealth services, as defined in California  
20 Business and Professions Code section 2290.5, nor telemedicine services of any other type.  
21 Telemedicine, as used herein, means the provision of medical services, including but not limited  
22 to patient examination, diagnosis, treatment, and/or prescription of drugs, by any method in which  
23 the patient is not physically present in the same room as Respondent.

24 H. NOTIFICATION

25 Prior to engaging in the practice of medicine, the Respondent shall provide a true copy of  
26 the Decision and Accusation to the Chief of Staff or the Chief Executive Officer at every hospital  
27 where privileges or membership are extended to Respondent, at any other facility where  
28 Respondent engages in the practice of medicine, including all physician and locum tenens

1 registries or other similar agencies, and to the Chief Executive Officer at every insurance carrier  
2 which extends malpractice insurance coverage to Respondent. Respondent shall submit proof of  
3 compliance to the Board or its designee within 15 calendar days.

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

5 I. OBEY ALL LAWS

6 Respondent shall obey all federal, state and local laws, all rules governing the practice of  
7 medicine in California, and remain in full compliance with any court ordered criminal probation,  
8 payments and other orders.

9 J. QUARTERLY DECLARATIONS

10 Respondent shall submit quarterly declarations under penalty of perjury on forms provided  
11 by the Board, stating whether there has been compliance with all the conditions of probation.

12 Respondent shall submit quarterly declarations not later than 10 calendar days after the end of the  
13 preceding quarter.

14 K. PROBATION UNIT COMPLIANCE

15 i. Respondent shall comply with the Board's probation unit. Respondent shall, at all times,  
16 keep the Board informed of Respondent's business and residence addresses. Changes of such  
17 addresses shall be immediately communicated in writing to the Board or its designee. Under no  
18 circumstances shall a post office box serve as an address of record, except as allowed by Business  
19 and Professions Code section 2021(b).

20 ii. Respondent shall not engage in the practice of medicine in Respondent's place of  
21 residence. Respondent shall maintain a current and renewed California physician and surgeon's  
22 license.

23 iii. Respondent shall immediately inform the Board, or its designee, in writing, of travel to  
24 any areas outside the jurisdiction of California which lasts, or is contemplated to last, more than  
25 30 calendar days.

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1 L. INTERVIEW WITH THE BOARD OR ITS DESIGNEE

2 Respondent shall be available in person for interviews either at Respondent's place of  
3 business or at the probation unit office, with the Board or its designee, upon request at various  
4 intervals, and either with or without prior notice throughout the term of probation.

5 M. RESIDING OR PRACTICING OUT-OF-STATE

6 i. In the event Respondent should leave the State of California to reside or to practice,  
7 Respondent shall notify the Board or its designee in writing 30 calendar days prior to the dates of  
8 departure and return. Non-practice is defined as any period of time exceeding 30 calendar days in  
9 which Respondent is not engaging in any activities defined in Sections 2051 and 2052 of the  
10 Business and Professions Code.

11 ii. All time spent in an intensive training program outside the State of California which has  
12 been approved by the Board or its designee shall be considered as time spent in the practice of  
13 medicine within the State. A Board-ordered suspension of practice shall not be considered as a  
14 period of non-practice. Periods of temporary or permanent residence or practice outside  
15 California will not apply to the reduction of the probationary term. Periods of temporary or  
16 permanent residence or practice outside California will relieve Respondent of the responsibility to  
17 comply with the probationary terms and conditions with the exception of this condition and the  
18 following terms and conditions of probation: Obey All Laws; Probation Unit Compliance; and  
19 Cost Recovery.

20 iii. Respondent's license shall be automatically cancelled if Respondent's periods of  
21 temporary or permanent residence or practice outside California total two years. However,  
22 Respondent's license shall not be cancelled as long as Respondent is residing and practicing  
23 medicine in another state of the United States and is on active probation with the medical  
24 licensing authority of that state, in which case the two year period shall begin on the date  
25 probation is completed or terminated in that state.

26 N. FAILURE TO PRACTICE MEDICINE - CALIFORNIA RESIDENT

27 i. In the event Respondent resides in the State of California and for any reason Respondent  
28 stops practicing medicine in California, Respondent shall notify the Board or its designee in

1 writing within 30 calendar days prior to the dates of non-practice and return to practice. Any  
2 period of non-practice within California, as defined in this condition, will not apply to the  
3 reduction of the probationary term and does not relieve Respondent of the responsibility to  
4 comply with the terms and conditions of probation. Non-practice is defined as any period of time  
5 exceeding 30 calendar days in which Respondent is not engaging in any activities defined in  
6 sections 2051 and 2052 of the Business and Professions Code.

7 ii. All time spent in an intensive training program which has been approved by the Board  
8 or its designee shall be considered time spent in the practice of medicine. For purposes of this  
9 condition, non-practice due to a Board-ordered suspension or in compliance with any other  
10 condition of probation, shall not be considered a period of non-practice.

11 iii. Respondent's license shall be automatically canceled if Respondent resides in California  
12 and for a total of two years, fails to engage in California in any of the activities described in  
13 Business and Professions Code sections 2051 and 2052.

14 O. COMPLETION OF PROBATION Respondent shall comply with all financial  
15 obligations (e.g., cost recovery, restitution, probation costs) not later than 120 calendar days prior  
16 to the completion of probation. Upon successful completion of probation, Respondent's  
17 certificate shall be fully restored.

18 P. VIOLATION OF PROBATION Failure to fully comply with any term or condition  
19 of probation is a violation of probation. If Respondent violates probation in any respect, the  
20 Board, after giving Respondent notice and the opportunity to be heard, may revoke probation and  
21 carry out the disciplinary order that was stayed. If an Accusation, Petition to Revoke Probation,  
22 or an Interim Suspension Order is filed against Respondent during probation, the Board shall have  
23 continuing jurisdiction until the matter is final, and the period of probation shall be extended until  
24 the matter is final.

25 Q. LICENSE SURRENDER Following the effective date of this Decision, if  
26 Respondent ceases practicing due to retirement, health reasons or is otherwise unable to satisfy  
27 the terms and conditions of probation, Respondent may request the voluntary surrender of  
28 Respondent's license. The Board reserves the right to evaluate Respondent's request and to

1 exercise its discretion whether or not to grant the request, or to take any other action deemed  
2 appropriate and reasonable under the circumstances. Upon formal acceptance of the surrender,  
3 Respondent shall within 15 calendar days deliver Respondent's wallet and wall certificate to the  
4 Board or its designee and Respondent shall no longer practice medicine. Respondent will no  
5 longer be subject to the terms and conditions of probation and the surrender of Respondent's  
6 license shall be deemed disciplinary action. If Respondent re applies for a medical license, the  
7 application shall be treated as a petition for reinstatement of a revoked certificate.

8 R. PROBATION MONITORING COSTS - Respondent shall pay the costs associated  
9 with probation monitoring each and every year of probation, as designated by the Board, which  
10 may be adjusted on an annual basis. Such costs shall be payable to the Medical Board of  
11 California and delivered to the Board or its designee no later than January 31 of each calendar  
12 year. Failure to pay costs within 30 calendar days of the due date is a violation of probation.

13 ACCEPTANCE

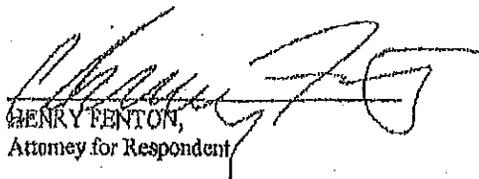
14 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully  
15 discussed it with my attorney, Henry Fenton. I understand the Stipulation and the effect it will  
16 have on my Physician and Surgeon's Certificate. I enter into this Stipulated Settlement and  
17 Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the  
18 Decision and Order of the Medical Board of California.

19  
20 DATED: 4/22/12

  
21 DANIEL K. CHAM, M.D.,  
22 Respondent

23 I have read and fully discussed the terms and conditions and other matters  
24 contained in the above Stipulated Settlement and Disciplinary Order with Daniel K. Cham, M.D.  
25 I approve its form and content.

26  
27 DATED: 4-23-12

  
28 HENRY FENTON,  
Attorney for Respondent

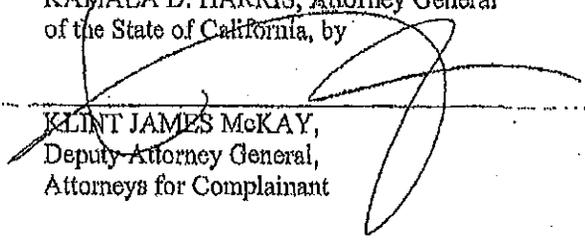
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ENDORSEMENT

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

DATED: 24 April, 2012

KAMALA D. HARRIS, Attorney General  
of the State of California, by



KLINT JAMES MCKAY,  
Deputy Attorney General,  
Attorneys for Complainant

Matter ID Number: 23-2008-192858

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**EXHIBIT A**

**Accusation No. 23-2008-192858**

1 EDMUND G. BROWN, JR.  
Attorney General of California  
2 KLINT JAMES MCKAY  
Deputy Attorney General  
3 State Bar No. 120881  
300 So. Spring Street, Suite 1702  
4 Los Angeles, California 90013  
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6 Attorneys for Complainant

FILED  
STATE OF CALIFORNIA  
MEDICAL BOARD OF CALIFORNIA  
SACRAMENTO SEPT 29 2010  
BY: K. MONTALBANO ANALYST

7  
8 BEFORE THE  
MEDICAL BOARD OF CALIFORNIA  
DEPARTMENT OF CONSUMER AFFAIRS  
9 STATE OF CALIFORNIA

10  
11 In the Matter of the Accusation Against:

Case No. 23-2008-192858

12 DANIEL K. CHAM, M.D.  
1014 S. Marengo Avenue, Unit 6  
13 Alhambra, California 91803

ACCUSATION

14 Physician's & Surgeon's Certificate  
No A 86714,

15  
16 Respondent

17 Complainant alleges:

18 PARTIES

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

21 2. On or about April 14, 2004, the Board issued Physician's and Surgeon's Certificate  
22 number A 86714 to Daniel K. Cham, M.D. ("Respondent"). The Certificate was in full force and  
23 effect at all times relevant to the charges brought herein. It will expire on November 30, 2011,  
24 unless renewed.

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JURISDICTION

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

STATUTORY PROVISIONS

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 division,<sup>1</sup> may, in accordance with the provisions of this chapter:

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

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

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

"(4) Be publicly reprimanded by the division.

"(5) Have any other action taken in relation to discipline as part of an order of probation, as the division 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 division 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.

<sup>1</sup> California Business and Professions Code section 2002, as amended and effective January 1, 2008, provides that, unless otherwise expressly provided, the term "board" as used in the State Medical Practice Act (Cal. 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.

1           5.    Section 2228 of the Code states:

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

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

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

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

16          "(d) Providing the option of alternative community service in cases other than violations  
17   relating to quality of care, as defined by the Division of Medical Quality.

18          6.    Section 2234 of the Code states:

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

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

25          "(b) Gross negligence.

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



1 consultation with the patient. Respondent's notes from Delta Health on this visit consists of one  
2 line. He wrote, "34 yo m lf knee tenderness decr rom patella femoral syndrome." He did not see  
3 this patient in person. Nonetheless, Respondent prescribed Hydrocodone/APAP 10/325mg  
4 (Norco 10) #90 tablets after this phone consultation.

5 B. Subsequently, Respondent made another phone consultation with the patient on June  
6 9, 2008. Respondent wrote, "lf knee arthropathy s/p football acl and work related mcl from fall  
7 decr ambulation 8-9/10." Respondent prescribed Norco 10 again #90 tablets. He did not see the  
8 patient in person before or after either of these phone consultations.

9 C. Respondent prescribed a total of 620 doses of Hydrocodone during this two-month  
10 time period.

11 D. S.C. personally selected hydrocodone as his medication choice from the Delta  
12 website. During S.C.'s phone conversation with Respondent, Respondent did not offer or  
13 recommend any other medication and Respondent did not provide a treatment plan.

14 E. S.C. was charged a \$200 consultation fee to speak with Respondent. He said  
15 Respondent spoke to him on the second consultation as if he did not know him and had not  
16 prescribed to him in the past. The patient said Respondent did not ask him any follow up  
17 questions about how the medication had worked from the first prescription. At no time did the  
18 patient meet with Respondent or anyone associated with Respondent or Delta Health before or  
19 after being prescribed the hydrocodone.

20 10. Respondent's prescription of controlled and dangerous drugs without any  
21 examination or treatment plan constitutes gross negligence within the meaning of Code section  
22 2234(b).

23 SECOND CAUSE FOR DISCIPLINE  
24 (Repeated Negligent Acts as to Patient S.C.)

25 11. Respondent is subject to disciplinary action for repeated negligent acts pursuant to  
26 Business and Professions Code section 2234(e) based on the facts set forth above.

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1 THIRD CAUSE FOR DISCIPLINE

2 (Record Keeping as to Patient S.C.)

3 12. Respondent is subject to disciplinary action for unprofessional conduct pursuant to  
4 Business and Professions Code section 2266 due to his failure to maintain adequate and accurate  
5 records relating to the provision of services to Patient S.C., based on the facts set forth in the First  
6 Cause for Discipline.

7  
8 FOURTH CAUSE FOR DISCIPLINE

(Gross Negligence as to Patient P.D.)  
9

10 13. Respondent is subject to disciplinary action for unprofessional conduct pursuant to  
11 Business and Professions Code sections 2234(b) based on his failure to examine P.D. before  
12 prescribing drugs to her, and Respondent's further failure to develop a treatment plan or  
13 otherwise follow up with her. The facts and circumstances are as follows:

14 A. Respondent first saw P.D., a 43-year-old woman, on a home visit on March 19, 2008  
15 through the Delta Health program. Respondent used his New Image Clinic preprinted progress  
16 notes to write up this visit. The patient's chief complaints were headache and neck pain.  
17 Respondent described the headaches as bandlike and what appears to be "occipital". There is no  
18 other history for the neck pain.

19 B. Thus, for the headache and the neck pain, there is no other history documented as to  
20 the severity of the symptoms, when they started, how often the patient experienced the symptoms,  
21 what made the headaches or neck pain better, what made them worse, what associated symptoms  
22 the patient had, what workup was performed in the past for them, what consultations, if any were  
23 done for them.

24 C. On the physical exam, no vital signs were recorded. Respondent checked off that he  
25 performed a general appearance, chest, cardiovascular and spine exam. The assessment was  
26 cervical spasm secondary to another ailment, headache - occipital, and GAD (generalized anxiety  
27

28 <sup>3</sup> Each Patient is referenced by initials to protect their privacy.

1 disorder). The plan was diet/fluid/exercise/ bed rest Vicodin, Valium, and behavior modification.  
2 The patient was to RTC (return to clinic) in 3 months and other recommendations were  
3 "observation" and "continuing present management."

4 D. Subsequently, Respondent made seven phone consultations through Delta Health with  
5 this patient on a monthly basis over the ensuing seven months. None of these phone consultations  
6 were followed up by a face-to-face visit, and Respondent's notes were minimal. None contained  
7 a medically sufficient analysis of the patient's subjective complaint, objective observation,  
8 analysis or plan.

9 E. After each of these phone consultations, Respondent would prescribe the patient  
10 APAP/Hydrocodone Bitartrate (Vicodin ES) #90 tablets. In addition, after some of the phone  
11 consultations, Respondent would also prescribe diazepam (Valium) 10 mg #60. In total,  
12 Respondent prescribed Vicodin ES #90 on nine separate occasions and Valium #60 on three  
13 occasions over this approximately seven month period.

14 F. The vast majority of the progress notes Respondent did make contain only one or two  
15 lines of subjective history. There are typically no other descriptors of the patient's symptoms. The  
16 assessments were usually "arthropathy", "spasm", "anxiety", or similar diagnosis. The plan was  
17 typically "diet fluid exercise" or opim (continue present management) or "stress management  
18 technique." Respondent did not document that he refilled Vicodin ES or Valium on any of these  
19 phone consultations.

20 14. There was an extreme departure from the standard of care due to excessive  
21 prescribing of Vicodin ES and Valium without an ongoing good faith medical history and  
22 updated informed consent. Respondent failed to perform this duty for this patient. No other  
23 significant treatment modalities were rendered. No additional workup was rendered, and no  
24 referrals for consultations were accomplished for this patient who was experiencing chronic pain.

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1 FIFTH CAUSE FOR DISCIPLINE  
(Repeated Negligent Acts as to Patient P.D.)

2 15. Respondent is subject to disciplinary action for repeated negligent acts pursuant to  
3 Business and Professions Code section 2234(c) based on the facts set forth above.

4 SIXTH CAUSE FOR DISCIPLINE  
5 (Record Keeping as to Patient P.D.)

6 16. Respondent is subject to disciplinary action for unprofessional conduct pursuant to  
7 Business and Professions Code section 2266 due to his failure to maintain adequate and accurate  
8 records relating to the provision of services to Patient P.D., based on the facts set forth in the First  
9 Cause for Discipline.

10 SEVENTH CAUSE FOR DISCIPLINE  
11 (Gross Negligence as to Patient K.D.<sup>4</sup>)

12 17. Respondent is subject to disciplinary action for unprofessional conduct pursuant to  
13 Business and Professions Code sections 2234(b) based on his failure to examine K.D. before  
14 prescribing drugs to her, and Respondent's further failure to develop a treatment plan or  
15 otherwise follow up with her. The facts and circumstances are as follows:

16 A. K.D. is a 29-year-old woman; Respondent initially met her through a phone  
17 consultation on a referral from Delta Health on March 12, 2008. Respondent's notes documenting  
18 this phone consultation consist of him writing, "The patient understands the analgesic properties  
19 of this medication and is requesting to continue this medication for pain control." He prescribed  
20 APAP/Hydrocodone Bitartrate 750/7.5 (Vicodin BS). However, no face-to-face visit or physical  
21 examination was performed before or after this phone consultation. It was discovered later that  
22 the patient was unable to fill the order due to problems with the prescription.

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28 <sup>4</sup> Each Patient is referenced by initials to protect their privacy.

1 B. On April 14, 2008, Respondent had another phone consultation with the patient  
2 through Delta Health. Respondent's notes contain the one line statement, "rt tmj steroid inj."  
3 Respondent did not see the patient in person for this phone consultation. However, Respondent  
4 prescribed APAP/Hydrocodone Bitartrate 750/7.5 (Vicodin ES) #60 afterward.

5 C. On May 13, 2008, Respondent performed another phone consultation with the patient.  
6 Respondent's notes from this visit include the following. "29 frt tmj s/p mva 6110 rad neck  
7 jawline endometriosis." Respondent prescribed another course of Vicodin ES #60 based on this  
8 phone consultation. No face-to-face visit occurred.

9 D. K.D. was prescribed 120 Hydrocodones to this patient over a two month period. She  
10 also received prescriptions from other physicians, and used 16 separate pharmacies to dispense  
11 her medication.

12 E. Respondent never at any time suggested an alternative medication or treatment for her  
13 ailment. He did not discuss a treatment plan with K.D. When Respondent spoke with her on the  
14 telephone, he did not acknowledge knowing who she was, did not acknowledge previously  
15 prescribing medication, and did not ask her how the medication was working.

16 F. Respondent also repeatedly instructed the patient to back date documents as of March  
17 12, 2008, (the date of the initial phone consultation through Delta Health seven months earlier).  
18 These four documents were imprinted with Respondent's other practice, "New Image Clinic," and  
19 were an "Informed Consent to Treatment and Care", "Review of Systems", "Patient Personal  
20 Information", and "HIPAA Notice of Privacy Practices". As instructed by Respondent, although  
21 the patient signed the documents on October 29, 2008, she back dated the documents to March  
22 12, 2008.

23 18. There was an extreme departure from the standard of care due to the multiple  
24 instances of prescribing a dangerous drug, Vicodin ES, without a good faith medical examination  
25 after conducting three separate phone consultations. The standard of care requires an appropriate  
26 history, physical examination, and medical analysis be performed before prescription of  
27 medications, which here included dangerous and controlled substances.

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1 EIGHTH CAUSE FOR DISCIPLINE

2 (Dishonesty as to Patient K.D.)

3 19. Respondent is subject to disciplinary action for unprofessional conduct pursuant to  
4 Business and Professions Code sections 2234(e) based on his unannounced appearance at the  
5 house of K.D. to induce her to assist him in committing fraud by backdating documents. The  
6 facts and circumstances are as follows:

7 A. It is the standard of care when a physician makes home visits to schedule an  
8 appointment or inform the patient before the visit occurs. It is also the standard of care when  
9 making home visits to conduct them at an appropriate time unless there is an extenuating  
10 circumstance that requires such.

11 B. More than five months after Respondent conducted his last phone consultation with  
12 K.D., he made an unscheduled and unannounced home visit on this patient on October 28, 2009  
13 at 11:00 PM. Respondent went to the patient's home in an attempt to get her to sign forms. This  
14 patient had never met Respondent in person so she would not be able to recognize or certify that  
15 this was indeed a doctor coming to her home late at night.

16 20. Such conduct was an extreme departure from the standard of care due to  
17 unprofessional conduct and dishonesty by going to a patient's home unannounced at an  
18 exceptionally late hour to get a patient to sign forms for a fraudulent purpose, especially when he  
19 had never met the patient before and had last contacted her more than five months previously  
20 solely by telephone.

21 NINTH CAUSE FOR DISCIPLINE

22 (Dishonesty as to Patient K.D.)

23  
24 21. Respondent is subject to disciplinary action for unprofessional conduct pursuant to  
25 Business and Professions Code sections 2234(e) based on his fraudulently preparing documents  
26 which falsely indicated that he had personally examined K.D. The facts and circumstances are as  
27 follows:  
28

1 A. It is the standard of care for physicians to be honest when conducting his medical  
2 practice and to be honest with his documentation. Respondent wrote a progress note dated March  
3 12, 2008 where he records he saw this patient on that date. On this progress note, Respondent  
4 records the chief complaints were "Rt. TMJ", some illegible writing, adjustment disorder, and  
5 GERD. Respondent documents that he performed a physical examination and he checked off that  
6 he performed an exam of the patient's General Appearance, Integument, and "HEENT". He  
7 checked off that those systems were WNL (within normal limits). His plan was "diet fluid  
8 exercise, Vicodin, physical therapy consult", and another plan that is illegible. However, in fact  
9 Respondent never met K.D. nor examined her. The notes were fraudulent, and prepared to give  
10 the false impression that Respondent had complied with his obligations as a physician, when in  
11 fact he had not.

12 22. Falsifying records to appear as if the physician had made a face-to-face visit and  
13 performed a physical examination of K.D. was dishonest and an extreme departure from the  
14 standard of care.

15 TENTH CAUSE FOR DISCIPLINE  
16 (Repeated Negligent Acts as to Patient K.D.)

17 23. Respondent is subject to disciplinary action for repeated negligent acts pursuant to  
18 Business and Professions Code section 2234(e) based on the facts set forth above.

19 ELEVENTH CAUSE FOR DISCIPLINE  
20 (Record Keeping as to Patient K.D.)

21 24. Respondent is subject to disciplinary action for unprofessional conduct pursuant to  
22 Business and Professions Code section 2266 due to his failure to maintain adequate and accurate  
23 records relating to the provision of services to Patient K.D., based on the facts set forth above.

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25 ///  
26 ///  
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TWELFTH CAUSE FOR DISCIPLINE  
(Gross Negligence as to Patient R.K.<sup>5</sup>)

25. Respondent is subject to disciplinary action for unprofessional conduct pursuant to Business and Professions Code sections 2234(b) based on his failure to examine R.K. before prescribing drugs to her, and Respondent's further failure to develop a treatment plan or otherwise follow up with her. The facts and circumstances are as follows:

A. Respondent first evaluated R.K., a 49-year-old woman, by phone consultation through Delta Health, on March 20, 2008. Respondent's notes indicate "49 yo f l bp left sciatic spasm 5 yrs 8/10." No other information was written.

B. Based solely on this telephone conversation, Respondent prescribed Hydrocodone/APAP 10/325 mg (Generic Norco 10) #90 tablets. Respondent did not see this patient face-to-face.

C. Subsequently, Respondent had five additional phone consultations with this patient on April 17, 2008, May 29, 2008, June 27, 2008, July 28, 2008, and September 2, 2008. On each, Respondent wrote one line notes to document the visit, and with the exception of the September conversation, on each of these phone consultations, Respondent prescribed Norco 10 #90. Respondent did not see the patient in person after any of these phone consultations.

D. The additional progress notes of his phone consultations with this patient on Respondent's personal computer contain about 2 lines, mostly listing the severity of the back pain such as 8/10.

E. At no time did Respondent suggest any other type of treatment or suggest a treatment plan, nor did the patient have contact with Respondent between the consultation and ordering medication.

F. Two months after the Medical Board interview with this patient, Respondent made his first home visit with this patient on November 4, 2008. Even then, his notes were inadequate, and did not contain vital signs. Respondent nonetheless prescribed Vicodin.

//

<sup>5</sup> Each Patient is referenced by initials to protect their privacy.

1 G. It is the standard of care to prescribe medications, including controlled substances,  
2 after an appropriate history, physical examination, and medical indication have been performed.  
3 Furthermore, it is the standard of care when prescribing controlled substances on a chronic basis  
4 that an ongoing history and physical examination, treatment plan, periodic review of the course of  
5 pain treatment, consultations, proper record keeping, and an informed consent be documented  
6 during the course of care.

7 26. There was an extreme departure from the standard of care due to prescribing a  
8 controlled substance, Norco 10, without prior examination of the patient. Furthermore, there was  
9 an extreme departure from the standard of care due to excessive prescribing of drugs without  
10 proper justification.

11 THIRTEENTH CAUSE FOR DISCIPLINE  
12 (Repeated Negligent Acts as to Patient R.K.)

13 27. Respondent is subject to disciplinary action for repeated negligent acts pursuant to  
14 Business and Professions Code section 2234(c) based on the facts set forth above.

15 FOURTEENTH CAUSE FOR DISCIPLINE  
16 (Record Keeping as to Patient R.K.)

17 28. Respondent is subject to disciplinary action for unprofessional conduct pursuant to  
18 Business and Professions Code section 2266 due to his failure to maintain adequate and accurate  
19 records relating to the provision of services to Patient R.K. based on the facts set forth above.  
20 Respondent's record keeping was deficient; there was a lack of subjective and no physical exam  
21 documentation. There was inadequate documentation of the assessment/plan for a patient who  
22 was having chronic back pain. Since this patient was taking a significant amount of controlled  
23 substances and she had persistent symptoms, documentation was required to detail the nature of  
24 the patient's symptoms, what made her symptoms improve or get worse. There should have been  
25 more information written as to what further action Respondent was going to take in this patient.  
26 More documentation was required to justify continuing to prescribe Norco.

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28

FIFTEENTH CAUSE FOR DISCIPLINE  
(Gross Negligence as to Patient S.L.<sup>6</sup>)

29. Respondent is subject to disciplinary action for unprofessional conduct pursuant to Business and Professions Code sections 2234(b) based on his failure to examine S.L. before prescribing drugs to him, and Respondent's further failure to develop a treatment plan or otherwise follow up with him. The facts and circumstances are as follows:

A. Dr. Cham first saw S.L., a 55-year-old male, on a referral from Delta Health. Respondent made a home visit for the patient on March 3, 2008 using his pre-printed New Image Clinic progress notes. The patient's chief complaint was LBP (low back pain). The severity of the pain was rated as 8/10. Other descriptors of the back pain include a notation that appears to say "radiates to right flank"; however, the writing is illegible. There are no other descriptors of the back pain problem. There is no other history written regarding the nature of the back pain. There is nothing written regarding how long the patient experienced back pain, what factors made it worse, what made it better, what work-up the patient had in the past, and what treatments for the back pain the patient had utilized.

B. The physical exam documented a spine exam. Respondent checked off tenderness in the lumbar spine. The assessment was "LBP/OA and D/D". The plan was diet/fluid/exercise and Lorcet 10/650 #90 was prescribed. Respondent checked the box for the patient to return in 3 months.

C. After this initial visit, Respondent had eight more encounters with the patient during a seven month period; all were phone consultations without any additional face-to-face visits. All of the phone consultations dealt with the low back pain. Respondent only wrote one line progress notes in the medical records for each of his Delta Health phone consultations. He did not ask (or check) whether the patient was obtaining drugs from another physician, and in fact, the patient was getting concurrent prescriptions of AP AP/Hydrocodone Bitartrate from other physicians at Kaiser during this time period. While Respondent had prescribed 720 Lorcets total (8 X #90), the

<sup>6</sup> Each Patient is referenced by initials to protect their privacy.

1 patient received an additional 530 opiate tablets from two other physicians during this same time  
2 period.

3 D. Respondent also kept progress notes on his own personal computer regarding his  
4 phone consultations with this patient. All of the notes contain a one to two line subjective  
5 essentially listing the severity of the patient's pain. The patient's pain scale during this time period  
6 ranged from 3-9/10. Occasionally, Respondent would write other descriptors such as "Long  
7 driving between work, Poor posture." or "Decr. Focus, Poor sleep." For the assessment,  
8 Respondent would write "lumbar d/d" or would put nothing down. For his plan, he would

9 typically write "diet fluid exercise" and opm (continue present management) without  
10 documenting that he continued to prescribe Lorcet.

11 E. It is the standard of care to prescribe medications, including controlled substances,  
12 after an appropriate history, physical examination, and medical indication have been performed.  
13 Furthermore, it is the standard of care when prescribing controlled substances on a chronic basis  
14 that an ongoing history and physical examination, treatment plan, periodic review of the course of  
15 pain treatment, consultations, proper record keeping, and an informed consent be documented  
16 during the course of care.

17 30. There was an extreme departure from the standard of care due to excessive  
18 prescribing of Lorcet 6501J O. When prescribing controlled substances such as Loreet, there  
19 needs to be an ongoing good faith medical history and physical examination. There was a  
20 significant deficiency of an ongoing good faith medical history and physical examination.  
21 Respondent saw this patient once initially, but failed to see this patient again in person over a  
22 seven month time period where he made eight phone consultations without performing any  
23 additional physical examinations but continued to prescribe Lorcet on a monthly basis. When  
24 prescribing controlled substances on a regular basis, there must be an updated informed consent  
25 regarding the risks and benefits of continuing the opiate medication. Moreover, there needs to be  
26 a monitoring of the progress of the patient and documentation as to the efficacy of the  
27 medications. Respondent failed to perform these duties for this patient. No other treatment  
28

1 modalities were rendered. No additional workup was rendered. And no referrals for consultations  
2 were made.

3  
4 SIXTEENTH CAUSE FOR DISCIPLINE  
(Record Keeping as to Patient S.L.)

5 31. Respondent is subject to disciplinary action for unprofessional conduct pursuant to  
6 Business and Professions Code section 2266 due to his failure to maintain adequate and accurate  
7 records relating to the provision of services to Patient S.L, based on the following, as well as the  
8 facts set forth above.

9 A. Respondent's record keeping was deficient; there was a lack of subjective and no  
10 physical exam documentation. There was inadequate documentation of the assessment/plan for a  
11 patient who was having chronic back pain. Since this patient was taking a significant amount of  
12 controlled substances and she had persistent symptoms, documentation was required to detail the  
13 nature of the patient's symptoms, what made her symptoms improve or get worse. There should  
14 have been more information written as to what further action Respondent was going to take in  
15 this patient. More documentation was required to justify continuing to prescribe Norco.

16 B. The standard of practice in California is to maintain adequate medical records. In the  
17 Delta Health Medical Records, Respondent's notes only consist of one line descriptors of all of  
18 his nine phone consultations. Respondent also kept additional progress notes on his personal  
19 computer. These notes also include only one or two lines on the subjective (history) portion and  
20 the NP portion of the progress note respectively. Most of the progress notes in the subjective  
21 section only indicate to what severity the low back pain was. For the assessment, Respondent  
22 would write "lumbar djd" or would put nothing down. For his plan, he would typically write "diet  
23 fluid exercise" and cpm (continue present management) without documenting that he continued to  
24 prescribe Lorcet. As a result, Respondent's record keeping of this patient's medical problems was  
25 deficient.

26 C. There was a lack of subjective and no physical exam documentation. There was a  
27 deficiency in documentation of the assessment/plan for a patient who was having chronic and  
28 persistent low back pain. Since this patient was taking a significant amount of controlled

1 substances and he had persistent symptoms, there should have been more documentation to detail  
2 the nature of the patient's symptoms, what made his symptoms worse or better, etc. There should  
3 have been more detail as to what further action Respondent was going to take in this patient.  
4 There should have been more documentation to justify continually prescribing high amounts of  
5 Lorcet.

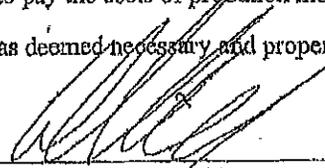
6 32. There was an extreme departure from the standard of care for failure to provide  
7 adequate documentation in a patient who was continually prescribed Lorcet 650110 on a monthly  
8 basis.

9  
10 PRAYER

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

- 13 1. Revoking or suspending Physician's & Surgeon's Certificate No. A86714, issued to  
14 Daniel K. Cham, M.D.;
- 15 2. Revoking, suspending or denying approval of his authority to supervise physician  
16 assistants, pursuant to Section 3527 of the Code;
- 17 3. If placed on probation, ordering him to pay the costs of probation monitoring; and  
18 4. Taking such other and further action as deemed necessary and proper.

19 DATED: September 29, 2010,

20   
21 LINDA K. WHITNEY,  
22 Executive Director,  
23 Medical Board of California,  
24 Complainant

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