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FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO July 23 20 18
BY K. Young ANALYST

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

In the Matter of the Accusation Against:

Gary Royce Wisner, M.D.
621 S. Ham Lane, Suite A
Lodi, CA 95242

Physician's and Surgeon's Certificate
No. A 41236,

Respondent.

Case No. 800-2015-016673

ACCUSATION

Complainant alleges:

PARTIES

1. Kimberly Kirchmeyer (Complainant) brings this Accusation solely in her official capacity as the Executive Director of the Medical Board of California, Department of Consumer Affairs (Board).
2. On or about October 1, 1984, the Medical Board issued Physician's and Surgeon's Certificate Number A 41236 to Gary Royce Wisner, M.D. (Respondent). The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought herein and will expire on July 31, 2020, unless renewed.

JURISDICTION

1
2 3. This Accusation is brought before the Board, under the authority of the following
3 laws. All section references are to the Business and Professions Code (Code) unless otherwise
4 indicated.

5 4. Section 2227 of the Code states:

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

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

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

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

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

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

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

25 5. Section 2234 of the Code states:

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1 "The board shall take action against any licensee who is charged with unprofessional
2 conduct¹. In addition to other provisions of this article, unprofessional conduct includes, but is not
3 limited to, the following:

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

6 "(b) Gross negligence.

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

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

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

17 "(d) Incompetence.

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

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

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

25 _____
26 ¹ Unprofessional conduct under California Business and Professions Code section 2234 is
27 conduct which breaches the rules or ethical code of the medical profession, or conduct which is
28 unbecoming a member in good standing of the medical profession, and which demonstrates an
unfitness to practice medicine. (*Shea v. Board of Medical Examiners* (1978) 81 Cal.App.3d 564,
575.)

1 Respondent's plan was to obtain an MRI of the cervical spine, thoracic spine, and lumbar spine to
2 "rule out HNP." He also planned MRI's of both hips and pelvis, to "rule out AVN."

3 11. On or about November 17, 2015, Respondent obtained an MRI of Patient A's left
4 hip which revealed "moderate osteoarthritic changes left hip... Milder osteoarthritic changes right
5 hip..." An MRI of the lumbar spine was done that same day reportedly showing "mild discopathy
6 L1/2 - L4/5, mild L4/5 central stenosis." Respondent's request for a thoracic spine MRI was
7 denied by insurance for lack of symptoms.

8 12. On or about November 30, 2015, Respondent saw Patient A for an office visit.
9 Respondent documented the chief complaint as "CTL-spine left hip, right knee, both feet."
10 Respondent documented "his back is doing good-most pain is in left hip." Respondent also
11 documented "back pain radiates into his knees at times." Respondent ordered x-rays of Patient
12 A's right knee, right femur, right tibia, left tibia, left foot, left ankle, and left calcaneus.
13 Respondent's plan was to obtain an MRI of the cervical and thoracic spine to "rule out HNP" and
14 to obtain an MRI of the right hip and pelvis to "rule out AVN."

15 13. On or about December 8, 2015, Respondent obtained an MRI of Patient A's
16 cervical spine for "neck pain." The report of the study showed "disc bulges at C4/5, C5/6, C6/7.
17 Right-sided foraminal stenosis at C5/6, C6/7 with potential compression of right C6 and C7 nerve
18 roots."

19 14. On or about January 4, 2016, Respondent saw Patient A for an office visit.
20 Respondent documented Patient A's chief complaint as "CTL spine, left hip, both knees, both
21 shoulders, both feet/ankles." Respondent documented "CTL-spine has been doing okay-most
22 pain is in left hip still... C-spine pain radiates into his shoulders, and low back pain goes into his
23 feet/knee." Respondent ordered x-rays that included a scoliosis film, a full-length left lower
24 extremity x-ray, x-rays of Patient A's ankles, right shoulder, right humerus, left shoulder, and left
25 humerus. The chart notation states the review of the x-rays revealed "OA." Respondent's plan
26 was to obtain an MRI of the thoracic spine and an MRI of the right hip and pelvis. Respondent
27 documented, left total hip replacement was suggested "if/when he is ready." "Second opinion
28 encouraged."

1 22. On or about December 28, 2010, Respondent saw Patient B for a post-operation
2 visit. Respondent ordered x-rays of Patient B's left femur, left knee, left tibia, and full-length left
3 lower extremity.

4 23. During the period of January 2011 to December 2011, Respondent saw Patient B
5 monthly for office visits. At each of these visits, Respondent ordered x-rays of Patient B's left
6 femur, left knee, and left tibia.

7 24. During the period of January 2012 to December 2012, Respondent saw Patient B
8 multiple times for office visits. On or about March 16, 2012, Respondent ordered x-rays of
9 Patient B's left femur, left knee, and left tibia. On or about April 20, 2012, Respondent ordered
10 x-rays of Patient B's right and left lower extremities, full length. On or about August 1, 2012,
11 Respondent ordered x-rays of Patient B's left femur, left, knee, and left tibia. On or about
12 November 12, 2010, Respondent ordered x-rays of Patient B's right and left lower extremities,
13 full length.

14 25. During the period of January 2013 to December 2013, Respondent saw Patient B,
15 multiple times for office visits. On or about January 16, 2013, Respondent ordered repeat MRIs
16 of Patient B's left knee, showing osteoarthritis and a small medial meniscus tear. On or about
17 January 22, 2013, Respondent ordered x-rays of Patient B's left femur, left knee, and left tibia.
18 On or about March 5, 2013, Respondent ordered x-rays of Patient B's left femur, left knee, and
19 left tibia. On or about April 2, 2013, Respondent ordered x-rays of Patient B's right and left
20 lower extremities, full length. On or about May 3, 2013, Respondent ordered x-rays of Patient
21 B's left tibia, left calcaneus, left foot, and left ankle. Respondent failed to document any medical
22 indication of any foot or ankle complaints. On or about June 28, 2013, Respondent ordered x-
23 rays of Patient B's left femur, left knee, and left tibia. On or about October 10, 2013, Respondent
24 ordered repeat full-length lower extremity x-rays of Patient B's right and left legs. On or about
25 December 5, 2013, Respondent ordered x-rays of Patient B's left femur, left knee, and left tibia.
26 On or about December 27, 2013, Respondent ordered x-rays Patient B's left tibia, left calcaneus,
27 left foot, and left ankle.

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1 26. During the period of January 2014 to December 2014, Respondent saw Patient B
2 multiple times for office visits. On or about January 3, 2014, Respondent ordered a repeat MRI of
3 Patient B's left knee showing an "altered medial meniscus, not clearly torn, patellofemoral and
4 medial compartment osteoarthritis." On or about January 29, 2014, Respondent ordered x-rays of
5 Patient B's thoracic spine, lumbosacral spine, pelvis, and both hips. On or about February 19,
6 2014, Respondent ordered x-rays of Patient B's lumbosacral spine and a full-length spine x-ray,
7 which he documented as "scoliosis."

8 27. On or about March 12, April 9, May 13, June 20, 2014, Respondent saw Patient B
9 for follow up visits. During these visits, Respondent ordered x-rays of Patient B's left femur, left
10 knee, left tibia, left calcaneus, left foot, and left ankle, with additional x-rays taken of the full
11 length of the spine. During the March 12, 2014, and June 20, 2014 visits, Respondent
12 documented "scoliosis."

13 28. On or about July 25, August 29, November 10, December 1 and December 22,
14 2014; Respondent saw Patient B for follow up visits. During these visits, Respondent ordered x-
15 rays of Patient B's left femur, left knee, and left tibia at each visit. Respondent also ordered x-
16 rays of Patient B's thoracic spine and lumbar spine. During the August 29, 2014 visit,
17 Respondent ordered a full-length study of both lower extremities, lumbosacral spine series and a
18 full-length spine x-ray. During the November 10, 2014, and December 1 and 22, 2014 visits,
19 Respondent ordered x-rays of Patient B's left foot, left calcaneus, and left ankle. During the
20 December 22, 2014 visit, Respondent ordered a repeat full-length spine x-ray and x-rays of the
21 cervical spine.

22 29. On or about January 15, 2014, Respondent saw Patient B for a right knee injury
23 that Patient B sustained on or about May 11, 2013. On or about January 15, 2014, and
24 September 22, 2014, Respondent ordered x-rays of Patient B's right knee, right femur, right tibia
25 and a full-length x-ray of the entire right lower extremity. On or about October 6, 2014, and
26 October 20, 2014, Respondent ordered x-rays of Patient B's right knee, right femur, right tibia,
27 right foot, right ankle, and right calcaneus.

28

1 30. During the period of January 2015 to September 2015, Respondent saw Patient B
2 multiple times for office visits. On or about January 12, 2015, Respondent saw Patient B for
3 “pain radiating to the back.” Respondent ordered x-rays of Patient B’s cervical, thoracic and
4 lumbar spine, pelvis, and hips. On or about February 17, 2015, Respondent ordered x-rays of
5 Patient B’s left femur, left knee, left tibia, as well as cervical and lumbosacral spine x-rays, and a
6 full-length or “scoliosis” x-ray. On or about March 10, 2015, Respondent saw Patient B for
7 complaints of “pain into the back on occasion.” Respondent ordered full-length x-rays of Patient
8 B’s spine, and lower extremities. On or about March 25, 2015, April 15, 2015, and May 12,
9 2015, Respondent ordered x-rays of Patient B’s left femur, left knee, left tibia, left calcaneus, left
10 foot, and left ankle. On or about July 24, 2015, Respondent ordered x-rays of Patient B’s
11 cervical, thoracic and lumbosacral spine, pelvis and both hips.

12 31. On or about February 2, February 23, March 16, April 6, April 27, June 16, July 3,
13 August 21, and September 25, 2015, Respondent saw Patient B for an office visit involving
14 Patient B’s prior right knee injury. During these visits, Respondent ordered x-rays of Patient B’s
15 right knee, right femur, right tibia, right foot, right ankle, and right calcaneus.

16 32. On or about October 1, 2015, Patient B had an arthroscopic procedure for his right
17 knee, an arthroscopic debridement, partial medial meniscectomy, microfracture chondroplasty,
18 and lateral release. Respondent saw Patient B six times post-operatively and at each of these
19 visits he had x-rays taken of the right knee, right femur, right tibia, right foot, right ankle, and
20 right calcaneus. Respondent also ordered an additional x-ray of Patient B’s left lower extremity a
21 day after surgery.

22 33. During the period of January 2016 to December 2016, Respondent saw Patient B
23 multiple times for office visits. On or about January 8 and 29, 2016, Respondent ordered x-rays
24 of Patient B’s right knee, right femur, right tibia, right foot, right ankle, and right calcaneus. On
25 or about February 19, 2016, Respondent ordered x-rays of Patient B’s right knee, right femur, and
26 right tibia. On or about March 11, 2016, Respondent ordered x-rays of Patient B’s right foot,
27 right ankle, and right calcaneus. On or about April 1, April 22, 2016 and May 19, 2016,
28 Respondent ordered x-rays of Patient B’s right knee, right femur, right tibia, right foot, right

1 ankle, and right calcaneus. On or about June 9 and July 11, 2016, Respondent ordered x-rays of
2 Patient B's right femur, right knee, and right tibia. On or about June 29, 2016, Respondent
3 ordered x-rays of Patient B's left lower extremity. On or about July 29, 2016, Respondent
4 ordered x-rays of Patient B's right tibia, right calcaneus, right foot, and right ankle. On or about
5 October, 21, 2016, Respondent ordered x-rays of Patient B's right femur, right knee, and right
6 tibia.

7 34. On or about August 18, 2016, Respondent saw Patient B for a qualified medical
8 examination for Patient B's knees. On or about December 2, 2016, Respondent ordered x-rays of
9 Patient B's left knee, left femur, and left tibia. On or about December 30, 2016, Respondent
10 ordered a full length x-ray of Patient B's left lower extremity.

11 35. On or about January 27, 2017, Respondent ordered x-rays of left tibia, left foot, left
12 ankle. On or about January 20 and February 17, 2017, Respondent ordered x-rays of Patient B's
13 right femur, right knee, and right tibia.

14 36. Respondent committed gross negligence in his care and treatment of Patient B in
15 that Respondent obtained excessive, non-medically necessary and repeated x-rays of Patient B's
16 knees, lower extremities, and spine, with no documented change in Patient B's complaints or
17 documented additional trauma.

18 **THIRD CAUSE FOR DISCIPLINE**
19 **(Gross Negligence Patient C)**

20 37. On or about January 12, 2004⁴, Respondent saw Patient C for an office visit.
21 Patient C was a 55-year-old female who presented with a chief complaint of left knee pain arising
22 from a work related injury she sustained on or about November 13, 2003. Respondent ordered x-
23 rays of Patient C's left knee during this visit. On or about March 22, 2004, Respondent saw
24 Patient C for a preoperative examination. During this visit, Respondent ordered x-rays of Patient
25 C's left knee.

26
27 ⁴ Conduct occurring prior to July, 2011, is for informational purposes only, and is not
28 alleged as a basis for disciplinary action.

1 38. On or about March 25, 2004, Patient C had an arthroscopic procedure on her left
2 knee, an arthroscopic debridement, partial medial meniscectomy, partial lateral meniscectomy,
3 and a microfracture chondroplasty of the trochlea and medial femoral condyle. During the
4 surgery, Patient C was found to have an absent or deficient anterior cruciate ligament.
5 Respondent saw Patient C post-operatively 3 times, with x-rays being taken on each visit.

6 39. On June 30, 2004, Respondent saw Patient C for a for preoperative examination
7 for another left knee surgery. During this visit, Respondent ordered x-rays of Patient C's left
8 knee.

9 40. On or about July 8, 2004, Patient C had another procedure on the left knee, another
10 arthroscopic debridement, partial medial meniscectomy, partial lateral meniscectomy,
11 microfracture chondroplasty of the trochlea, medial femoral condyle, lateral femoral condyle, and
12 an allograft anterior cruciate ligament reconstruction. Respondent saw Patient C on or about July
13 23, August 19, October 1, November 8 and December 31, 2004. Respondent ordered x-rays of
14 Patient C's left knee at every visit.

15 41. During the period of February to August, 2005, Respondent ordered x-rays of
16 Patient C' left knee on April 1, and August 10, 2005.

17 42. During the period February to December 2005, Respondent also saw Patient C for
18 upper extremity complaints arising from an injury on or about December 31, 2004. Respondent
19 ordered x-rays of both of Patient C's wrists on February 2, and April 25, 2005. On or about April
20 28, 2005, Respondent performed a right carpal tunnel release. On or about May 13, 2005,
21 Respondent ordered an x-ray of Patient C's right wrist during a postoperative visit. On or about
22 December 9, 2005, Respondent saw Patient C. Respondent documented, "bilateral wrist... left
23 greater than right due to using crutches..." During this visit Respondent ordered x-rays of Patient
24 C's hands and wrists.

25 43. On or about February 6, 2006 Respondent saw Patient C for a preoperative visit.
26 During this visit, Respondent orderèd x-rays of Patient C's left wrist. On or about February 9,
27 2006 Respondent performed a left carpal tunnel release. On or about February 24, April 28,
28 2006, Respondent ordered x-rays of Patient C's left wrist. On or about July 6, 2006,

1 Respondent documented that Patient C was "happy with results." Respondent ordered x-rays of
2 Patient C's wrists.

3 44. On or about May 3, and September 8, 2006, Respondent ordered x-rays of Patient
4 C's left knee.

5 45. During the period of 2007 through 2011, Respondent ordered multiple x-rays of
6 Patient C's left knee and upper extremities

7 46. During the period of January to November 2012, Respondent saw Patient C
8 multiple times for office visits. On or about January 25, 2012, Respondent ordered full length x-
9 rays of Patient C's lower extremities. On or about July 30, and November 19, 2012, Respondent
10 ordered x-rays of Patient C's left knee, left femur, and left tibia. Respondent ordered an
11 additional full length x-ray of Patient C's lower extremities during the November 19, 2012 visit.

12 47. Respondent also saw Patient C for upper extremity complaints. On or about April
13 10, 2012, Respondent ordered x-rays of Patient C's wrists, hands, and elbows. On or about
14 August 2, 2012, Respondent documented "left elbow flare into left hand... Right elbow occasional
15 pain, right hand occasionally numb." During this visit, Respondent ordered x-rays of both
16 forearms. On or about October 25, 2012, Respondent documented "right long and ring fingers
17 stuck." During this visit, Respondent ordered x-rays of Patient C's wrists and hands. On or about
18 December 17, 2012, Respondent documented "pain right hand, finger gets stuck, left hand okay."
19 During this visit, Respondent ordered x-rays of Patient C's left and right humerus, elbows, and
20 forearms.

21 48. During the period of January to October, 2013, Respondent saw Patient C multiple
22 times for office visits. On or about January 30, March 1 and March 18, 2013, Respondent ordered
23 x-rays of Patient C's left knee, left femur, and left tibia. On or about March 28, 2013, Patient C
24 had another left knee surgery, an arthroscopic debridement with a partial medial meniscectomy
25 and partial lateral meniscectomy, finding absent anterior cruciate ligament. On or about March
26 29, April 5, April 12, April 29, May 21, June 10, July 29, and September 18, 2013, Respondent
27 saw Patient C postoperatively. During these visits, Respondent ordered x-rays of Patient C's left
28 knee, left femur, and left tibia. On or about September 24, 2013, Patient C had another left knee

1 surgery, an arthroscopic debridement with a partial medial meniscectomy and partial lateral
2 meniscectomy, a microfracture chondroplasty of the medial femoral condyle and an allograft
3 revision anterior cruciate ligament reconstruction. Following this surgery, Respondent saw
4 Patient C on or about September 27, October 7, October 14, October 28, November 4, and
5 November 18, 2013. During these visits, Respondent ordered x-rays of the left knee, left femur,
6 and left tibia. On or about September 27, 2013, Respondent ordered a full length x-ray of Patient
7 C's left lower extremity.

8 49. Respondent also saw Patient C for upper extremity complaints. On or about
9 January 28, June 17, July 8, August 19, 2013, Respondent documented triggering of fingers of
10 the right hand. On or about January 28, 2013, Respondent ordered x-rays of Patient C's wrists.
11 On or about June 17, 2013, Respondent ordered x-rays of Patient C's humeri, elbows, and
12 forearms. On or about July 17, 2013, Respondent ordered x-rays of Patient C's forearms, wrists,
13 and hands. On or about August 19, 2013, Respondent ordered x-rays of both wrists.

14 50. During the period of January to December 2014, Respondent saw Patient C
15 multiple times for office visits. On or about January 6, January 20, March 5, March 31, April 28,
16 May 21, July 9, July 30, September 3, October 17, November 20, 2014, Respondent ordered x-
17 rays of Patient C's left knee, left femur, and left tibia. On or about January 6, January 20, March
18 31, April 28, May 21, July 9, July 30, September 3, October 17, November 20, 2014, Respondent
19 also ordered x-rays of Patient C's left calcaneus, left foot, and left ankle. Respondent also
20 ordered full length x-rays of Patient C's lower extremity. Respondent documented that Patient C
21 complained of pain in the foot and ankle on or about January 20, March 31, April 28, May 21,
22 July 30, and November 20, 2014.

23 51. Respondent also saw Patient C for upper extremity complaints. On or about
24 January 8, 2014, Respondent ordered x-rays of Patient C's humeri, both elbows, and both
25 forearms. On or about June 11, 2014, Respondent ordered x-rays of Patient C's forearms, wrists,
26 and hands. On or about July 16, 2014, Respondent ordered x-rays of Patient C's humeri, elbows,
27 and forearms. On or about October 1, 2014, Respondent ordered x-rays of Patient C's forearms,
28 wrists, and hands. On or about November 13, 2014, Respondent documented Patient C's

1 complaints, "hands equal to last visit, increased pain and stiffness." Respondent ordered x-rays of
2 Patient C's wrists.

3 52. During the period of January to December 2015, Respondent saw Patient multiple
4 times for office visits. On or about February 2, February 9, February 13, March 12, April 14,
5 June 1, July 15, November 16, and December 7, 2015, Respondent ordered x-rays of Patient
6 C's left knee, left femur, and left tibia. On or about February 2, February 9, February 13,
7 March 12, June 1, July 15, November 16, and December 7, 2015, Respondent ordered x-rays
8 of Patient C's left calcaneus, left foot, and left ankle. On or about March 12, April 14, and
9 June 1, 2015, Respondent documented Patient C complained of back pain. During these
10 visits, Respondent ordered x-rays of Patient C's spine.

11 53. Respondent also saw Patient C for upper extremity complaints. On or about
12 January 14, 2015, Respondent ordered x-rays of Patient C's humeri, forearms, and elbows. On or
13 about February 11, 2015, Respondent ordered x-rays of Patient C's forearms, wrists, and hands.
14 On or about May 12, 2015, Respondent ordered x-rays of Patient C's humeri, elbows, forearms,
15 and wrists. On or about June 17, 2015, Respondent ordered x-rays of Patient C's forearms,
16 wrists, and hands. On or about July 16, 2015, Respondent ordered x-rays of Patient C's humeri,
17 elbows, and forearms. On or about October 6, 2015, Respondent ordered x-rays of Patient C's
18 right forearm, right wrist, and right hand. On or about November 13, 2015, Respondent ordered
19 x-rays of Patient C's left forearm, left wrist, and left hand. Respondent documented Patient C's
20 complaints for each of these visits as, "referred primarily to painful triggering of fingers in the
21 right hand."

22 54. During the period of January to December 2016, Respondent saw Patient C
23 multiple times for office visits. On or about January 19 and February 9, 2016, Respondent saw
24 Patient C for an office visit with a chief complaint of left knee pain. During these visits,
25 Respondent ordered x-rays of Patient C's left knee, left femur, and left tibia. On or about
26 February 9, 2016, Respondent also ordered x-rays of Patient C's left calcaneus, left foot, and left
27 ankle. On or about February 18, 2016, Patient C had another arthroscopic procedure on her
28 left knee, an arthroscopic debridement with partial medial meniscectomy, a partial lateral

1 meniscectomy, and a microfracture chondroplasty of the patellofemoral joint, medial femoral
2 condyle, and medial tibial plateau. On or about February 19, 2016, Respondent ordered a
3 postoperative full length x-ray of Patient C's lower extremity. On or about February 19,
4 March 1, March 7, March 29, March 25, June 15, July 11, 2016, Respondent saw Patient C
5 postoperatively. During these visits, Respondent ordered x-rays of Patient C's left knee, left
6 femur, left tibia, left calcaneus, left foot, and left ankle. Respondent documented that Patient
7 C was improved or "doing good."

8 55. Respondent also saw Patient C for upper extremity complaints. On or about
9 January 27, 2016, Respondent ordered x-rays of Patient C's humeri, elbows, and forearms. On or
10 about March 22, 2016, Respondent ordered x-rays of Patient C's wrists. On or about July 27,
11 2016, Respondent ordered x-rays of Patient C's shoulders, forearms, and elbows. On or about
12 November 2, 2016, Respondent ordered x-rays of both wrists. Respondent documented that
13 Patient C had complained of some shoulder pain during the March and July visits, as well as
14 elbow pain during the July visit.

15 56. On or about January 9, 2017, Respondent saw Patient C for an office visit.
16 Respondent ordered full length x-rays of Patient C's lower extremity.

17 57. Respondent also saw Patient C for upper extremity complaints. On or about
18 January 18, and February 13, 2017, Respondent ordered x-rays of Patient C's humeri, elbows and
19 forearms. Respondent also ordered additional x-rays of Patient C's wrists and hands during the
20 February 13 visit. On or about February 23, 2017, Patient C had hand surgery. Respondent failed
21 to document an operative report with respect to this procedure. On or about February 24, March 6
22 and March 16, 2017, Respondent ordered x-rays of Patient C's humeri, elbows, forearms, wrists,
23 and hands.

24 58. Respondent committed gross negligence in his care and treatment of Patient C in
25 that Respondent obtained excessive, non-medically necessary and repeated x-rays of Patient C's
26 left lower extremity, both upper extremities, and spine.

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FOURTH CAUSE FOR DISCIPLINE
(Gross Negligence Patient D)

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2
3 59. On or about January 7, 2005⁵, Respondent first saw Patient D for an office visit.
4 Patient D was a 77-year-old female who presented with a chief complaint of left knee pain arising
5 from a work related injury she sustained on or about September 22, 2004. A prior MRI study
6 revealed a left medial meniscus tear. During this visit, Respondent decided to proceed with an
7 arthroscopic surgery for her left knee.

8 60. On or about March 10, 2005, Respondent saw Patient D for a preoperative
9 examination and x-ray of Patient D's left knee. On or about March 17, 2005, Patient D had
10 surgery on her left knee, an arthroscopic partial medial meniscectomy, lateral release, and
11 microfracture chondroplasty.

12 61. On or about April 1, 2005, Respondent saw Patient D for a postoperative exam.
13 Respondent ordered x-rays of Patient D's left knee. On or about May 13, 2005, Respondent saw
14 Patient D for another postoperative visit. During this visit, Respondent ordered x-rays of Patient
15 D's left knee.

16 62. During the period of June 2005 to 2009, Respondent saw Patient D multiple times
17 for office visits. During this period, Respondent ordered multiple x-rays of Patient D's left knee.

18 63. On or about July 24, 2006, Respondent also saw Patient D for lower back pain.
19 Respondent ordered x-rays of Patient D's lumbosacral spine, pelvis, and both hips. Respondent
20 documented Patient D's chief complaint as, "low back pain and bilateral leg pain." On or about
21 August 17, 2006, Respondent ordered an MRI study, which revealed degenerative disc disease
22 and lumbosacral spine and mild to moderate spinal stenosis at the L4/5 level.

23 64. During the period of February to December 2009, Respondent saw Patient D
24 multiple times for office visits. On or about May 1, 2009, Respondent ordered exploratory x-rays
25 of Patient D's left knee and both full length extremities. On or about September 4, 2009,
26 Respondent ordered x-rays of Patient D's left knee.

27 ⁵ Conduct occurring prior to July, 2011, is for informational purposes only, and is not
28 alleged as a basis for disciplinary action.

1 65. On or about September 25, 2009, Respondent saw Patient D for complaints with
2 respect to Patient D's left ankle, left hand, and right elbow, having fallen 2 days earlier. During
3 this visit, Respondent ordered x-rays of Patient D's left calcaneus, left foot, left ankle, right
4 elbow, both wrists, and both hands. On or about October 9, 2009, Respondent ordered x-rays of
5 Patient D's right elbow, right wrist, and right hand.

6 66. During the period of January to December 2010, Respondent saw Patient D for
7 multiple office visits. During these visits, Respondent ordered x-rays of Patient D's left knee, left
8 femur, and left tibia.

9 67. During the period of January to December 2011, Respondent saw Patient D for
10 multiple office visits. On or about January 22, 2011, Respondent ordered full-length x-rays of
11 Patient D's lower extremity. On or about April 28, 2011, Respondent ordered x-rays of Patient
12 D's left knee, left femur, and left tibia. On or about August 31, 2011, Respondent ordered full-
13 length x-rays of Patient D's lower extremities. On or about October 12, 2011, Respondent
14 ordered x-rays of Patient D's left femur, left knee, and left tibia.

15 68. During the period of January to December 2012, Respondent saw Patient D for
16 multiple office visits. On or about January 18, 2012, Respondent ordered full length x-rays taken
17 of Patient D's lower extremities. On or about April 9, 2012, Respondent ordered x-rays of Patient
18 D's left knee, left femur, and left tibia. On or about August 30, 2012, Respondent ordered full-
19 length x-rays of Patient D's lower extremities. On or about October 18, 2012, Respondent
20 ordered x-rays of Patient D's left femur, left knee, and left tibia.

21 69. On or about May 2, 2012, Patient D underwent another MRI of the lumbosacral
22 spine, upon orders of a third party physician. The MRI scan revealed L4/5 spinal stenosis.
23 Respondent saw Patient D on or about November 12, 2012 with a chief complaint of "TL spine...
24 Low back pain radiating into left leg." Respondent ordered x-rays of Patient D's lumbosacral
25 spine, pelvis, both hips, and the thoracic spine.

26 70. On or about December 5, 2012, Patient D had another MRI of her thoracic spine
27 and both hips. The spinal MRI revealed degenerative disc disease, and the hip study showed no
28

1 avascular necrosis. Respondent saw Patient D on or about December 13, 2012 with a complaint
2 of "TL spine" and had x-rays of the lumbosacral spine, left femur, and a scoliosis study.

3 71. During the period of January to December 2013, Respondent saw Patient D for
4 multiple office visits. On or about February 4, 2013, Respondent ordered full-length x-rays of
5 Patient D's lower extremities. On or about April 11, 2013, Respondent ordered x-rays of Patient
6 D's left femur, left knee, and left tibia. On or about August 30, 2013, Respondent ordered full
7 length x-rays of Patient D's lower extremities. On or about October 23, 2013, Respondent
8 ordered x-rays of the Patient D's left femur, left knee, and left tibia. On or about December 19,
9 2013, Respondent ordered x-rays of Patient D's left tibia, left calcaneus, left foot, and left ankle.

10 72. During the period of January to December 2013, Respondent also saw Patient D
11 multiple times for back pain. On or about January 31, 2013, Respondent ordered x-rays of Patient
12 D's cervical spine, right humerus, right elbow, right forearm, left tibia, left calcaneus, left foot,
13 and left ankle. On or about February 5, 2013 Respondent ordered an MRI study of Patient D's
14 cervical spine, which revealed degenerative disc disease. On or about February 14, 2013,
15 Respondent documented complaints of "CTL spine, left sciatica" and ordered x-rays of Patient
16 D's cervical spine, a full-length right lower extremity x-ray, x-rays of Patient D's left forearm,
17 wrists, and hands. On or about March 14, 2013, Respondent documented complaints of "CTL
18 spine, left sciatica, right hand, left and right ankle begin." Respondent ordered x-rays Patient D's
19 right tibia, right calcaneus, right foot, and right ankle. On or about May 2, 2013, Respondent
20 documented complaints of "CTL spine, right hand, both ankles." Respondent ordered x-rays of
21 Patient D's left foot, and left ankle. On or about May 20, 2013, Respondent documented
22 complaints of "CTL spine, both ankles." Respondent ordered x-rays of Patient D's cervical spine
23 and lumbosacral spine. Respondent's chart notation for that day stated "CTL spine good." On or
24 about May 28, 2013 Respondent ordered an MRI study of Patient D's cervical, thoracic, and
25 lumbar spine, which revealed degenerative disc disease. On or about June 28, 2013, Respondent
26 documented complaints of "CTL spine, both ankles." Respondent ordered a scoliosis x-ray, x-
27 rays of Patient D's pelvis and both hips. On or about the July 26, 2013, Respondent documented
28 complaints of "CTL spine, both feet." Respondent ordered x-rays of Patient D's cervical spine,

1 and a scoliosis study. Respondent documented "CTL spine okay." On or about August 30, 2013,
2 Respondent ordered an MRI of Patient D's left ankle and left foot, which revealed left midfoot
3 osteoarthritis. On the same day, Patient D had an MRI of her chest showing left sternoclavicular
4 osteoarthritis. On or about September 6, 2013, Respondent documented a chief complaint of
5 "CTL spine, both feet." Respondent ordered an x-ray of Patient D's left ankle and sternum, with
6 a chart notation that stated "chest bump."

7 73. On or about October 15, 2013, Respondent saw Patient D for her 2009 fall and
8 complaints of the left ankle, left hand, and right elbow pain. Respondent ordered x-rays of Patient
9 D's right elbow, right wrist, right hand, left calcaneus, left foot, and left ankle.

10 74. During the period of January to December 2014, Respondent saw Patient D for
11 multiple office visits. On or about January 16, 2014, Respondent ordered full length x-rays of
12 Patient D's lower extremities. On or about February 11, 2014, Respondent documented Patient
13 D's chief complaint of "left knee and CTL-spine." During this visit, Respondent ordered x-rays
14 of Patient D's thoracic spine, lumbosacral spine, pelvis, and both hips. On or about March 4,
15 2014, Respondent documented a chief complaint of "left knee" and a notation stating "pain
16 radiating into [Patient D's] back." During this visit, Respondent ordered x-rays of Patient D's
17 lumbosacral spine and a full-length scoliosis film. On or about April 1, 2014, Respondent
18 documented a chief complaint of "left knee pain radiating into the back." Respondent ordered x-
19 rays of Patient D's left femur, left knee, left tibia, and another full-length scoliosis x-ray. On or
20 about May 6, 2014, Respondent documented a chief complaint of "knee pain radiating into the
21 lower back and into both feet and ankles." Respondent ordered x-rays of Patient D's left tibia,
22 left calcaneus, left foot, and left ankle. On or about July 28, 2014, Respondent documented a
23 chief complaint of "left knee pain radiating into the left foot and ankle." Respondent ordered full
24 length x-rays taken of Patient D's lower extremities. On or about August 22, and September 12,
25 2014, Respondent ordered x-rays of Patient D's left femur, left knee, and left tibia. On or about
26 October 10, 2014, Respondent documented a chief complaint of "left knee, CTL-spine."
27 Respondent ordered x-rays of Patient D's thoracic spine, lumbosacral spine, pelvis, and both hips.
28 On or about November 7, 2014, Respondent documented a chief complaint of "left knee, CTL-

1 spine... knee pain radiating into back.” Respondent ordered x-rays of Patient D’s lumbosacral
2 spine, a full-length scoliosis study, and x-rays of both femurs. On or about December 5, 2014,
3 Respondent ordered x-rays of Patient D’s left femur, left knee, and left tibia x-rays, and another
4 scoliosis film.

5 75. During the period of January to December 2015, Respondent saw Patient D for
6 multiple office visits. On or about January 7, 2015, Respondent ordered x-rays of Patient D’s left
7 femur, left knee, left tibia, left calcaneus, left foot, left ankle. On or about February 9, 2015,
8 Respondent documented a chief complaint of “left knee, CTL spine... Pain/stiffness radiating into
9 the neck and mid lower back.” Respondent ordered x-rays of Patient D’s cervical spine and lower
10 extremities, full length. On or about March 2, 2015, Respondent ordered x-rays of the Patient D’s
11 left femur, left knee, left tibia, and cervical spine. On or about April 6, 2015, Respondent ordered
12 x-rays of Patient D’s left femur, left knee, and left tibia. On or about May 11, 2015, Respondent
13 documented a chief complaint of “left knee... Pain into back and neck.” Respondent ordered x-
14 rays of Patient D’s thoracic spine, lumbosacral spine, pelvis, hips, and both femurs. On or about
15 June 11, 2015, Respondent documented a chief complaint of “left knee... pain into back.”
16 Respondent ordered x-rays of Patient D’s lumbosacral spine and a full length scoliosis study. On
17 or about July 16, 2015, Respondent ordered a full length scoliosis film, x-rays of the left femur,
18 left knee, and left tibia. On or about August 20, 2015, Respondent ordered x-rays of Patient D’s
19 cervical spine, and full length lower extremities. On or about December 4, 2015, Respondent
20 ordered x-rays Patient D’s left femur, left knee, and left tibia.

21 76. During the period of January to December 2016, Respondent saw Patient D for
22 multiple office visits. On or about January 11, 2016, Respondent ordered x-rays of Patient D’s
23 thoracic and lumbosacral spine, pelvis, hips, and femur. On or about February 10, Respondent
24 ordered x-rays of Patient D’s lumbosacral spine, and a full-length lateral scoliosis study. On or
25 about March 16, 2016, Respondent ordered x-rays of Patient D’s left femur, left tibia, left knee,
26 and an AP scoliosis study. On or about April 29, 2016, Respondent ordered x-rays of Patient D’s
27 left lower extremity, full length, x-rays of the left tibia, left calcaneus, left foot, and left ankle. On
28 or about June 13, 2016, Respondent ordered x-rays of Patient D’s left femur, left knee, and left

1 tibia. On or about July 28, 2016, Respondent ordered x-rays Patient D's left tibia, left calcaneus,
2 left foot, and left ankle. On or about October 19, 2016, Respondent ordered x-rays of Patient D's
3 left lower extremity.

4 77. On or about January 4, 2017, Respondent ordered x-rays of Patient D's left femur,
5 left knee, and left tibia. On or about February 24, 2017, Respondent ordered x-rays of Patient D's
6 left tibia, left calcaneus, left foot, and left ankle.

7 78. Respondent committed gross negligence in his care and treatment of Patient D in
8 that Respondent obtained excessive, non-medically necessary and repeated x-rays of Patient D's
9 left knee, left femur, left tibia, spine, left foot, left ankle, left calcaneus, right elbow, right
10 wrist, and right hand.

11 **FIFTH CAUSE FOR DISCIPLINE**
12 **(Gross Negligence Patient E)**

13 79. On or about August 6, 2014, Respondent first saw Patient E for an office visit.
14 Patient E was a 65-year-old female who presented with a chief complaint of "both knees left
15 greater than right and both hips." Patient E's knees had been popping, locking and have
16 interfered with her sleep. Patient E also complained that she had "pain in both hips especially at
17 night when lying down or doing activities." Respondent documented "I firmly believe that her
18 pain is sciatic from her back." Respondent ordered x-rays of Patient E's pelvis, hips, right femur,
19 right knee, right tibia, left femur, left knee, and left tibia. Respondent documented his plan was to
20 obtain MRIs of both hips, pelvis, and both knees.

21 80. On or about August 20, 2014 Patient E had an MRI study of both hips and pelvis.
22 This study was unremarkable for any bony abnormalities. On or about August 22, 2014, Patient E
23 had an MRI study of both knees showing medial and lateral meniscus tears, osteoarthritis and
24 mild patellar tilt on the left, and medial and lateral meniscal tears and osteoarthritis on the right.

25 81. On or about August 25, 2014, Respondent saw Patient E for an office visit.
26 Respondent documented Patient E's chief complaint as "both knees left greater than right, both
27 hips, C-T-L-spine, left foot, ankle." During this visit Respondent ordered x-rays of Patient E's
28

1 lower extremities, full length, a scoliosis x-ray, x-rays of Patient E's cervical and lumbar spine,
2 left foot, left ankle, left heel, and left tibia.

3 82. On or about September 10, 2014, Respondent saw Patient E for a preoperative
4 examination of her left knee. Respondent documented Patient E's chief complaint as "bilateral
5 knees left greater than right and bilateral hips." Respondent documented that both hips had some
6 pain and that the knees continue to have pain, popping, and catching. Respondent documented
7 that Patient E had pain into her back and neck. Respondent ordered x-rays of Patient E's cervical
8 and lumbar spine, a scoliosis x-ray, left femur, left knee, left tibia, left ankle, left foot, and left
9 heel. Patient E had surgery on September 25, 2014.

10 83. On or about September 26, 2014, Respondent saw Patient E for a post operative
11 visit. Respondent ordered x-rays of Patient E's left lower extremity, full length, the left knee, left
12 femur, left tibia, left heel, left ankle, and left foot.

13 84. On or about October 3, 2014, Respondent saw Patient E for an office visit.
14 Respondent ordered x-rays of Patient E's left knee, left femur, left tibia, left foot, left ankle, and
15 the left heel.

16 85. On or about October 10, 2014, Respondent saw Patient E for an office visit.
17 Respondent ordered x-rays of Patient E's left knee, left femur, left tibia, left foot, left ankle, and
18 the left heel.

19 86. On or about October 24, 2014, Respondent saw Patient E for an office visit.
20 Respondent documented "status post left knee, both hips, right knee," knee is "50% better, at the
21 C-T-L-spine is fine, feet and ankle are good." During this visit, Respondent ordered x-rays of
22 Patient E's left femur, left knee, left ankle, left foot, and left heel, with no acute changes noted.

23 87. On or about November 18, 2014, Respondent saw Patient E for an office visit.
24 Respondent documented, "left knee 90% better, C-T-L-spine doing good." Respondent ordered
25 x-rays of Patient E's left knee, left femur, left tibia, left foot, left ankle, left heel, and thoracic
26 spine. Respondent noted "no acute changes."

27 88. On or about November 13, 2015, Respondent saw Patient E for an office visit.
28 Respondent documented a "15 mm diameter mass left lateral anterior knee." Patient E stated that

1 a bump appeared on the knee approximately 6 months prior to the office visit. Patient E noted
2 that there was some pain at this location. She also stated that her "left knee was 90-95% better
3 and that her right knee was doing good." During this visit, Respondent ordered x-rays of Patient
4 E's left femur, left knee, left tibia, right femur, right knee, and right tibia.

5 89. On or about December 1, 2015, Respondent saw Patient E for an office visit.
6 Respondent documented a "both knees left greater than right, C-T-L-spine." Respondent noted
7 that Patient E had a left knee flare up because of prolonged walking, and that the right knee was
8 95% better. Respondent ordered x-rays of Patient E's cervical, thoracic, and lumbar spine, pelvis,
9 and both hips. Respondent failed to note any information regarding the left knee mass discussed
10 in the November 13, 2015 visit.

11 90. Respondent committed gross negligence in his care and treatment of Patient E in
12 that Respondent obtained excessive, non-medically necessary and repeated x-rays of Patient E's
13 lower extremities, and cervical and lumbar spine.

14 **SIXTH CAUSE FOR DISCIPLINE**
15 **(Gross Negligence Patient F)**

16 91. On or about November 20, 2014, Respondent first saw Patient F for an office visit.
17 Patient F was a 56-year-old male who presented with a chief complaint of "bilateral shoulder
18 pain, right greater than left." He had a history of right shoulder pain with overhead activities for
19 approximately 3 months. During this visit, Respondent ordered x-rays of Patient F's shoulders,
20 humeri, and clavicles. Patient F also had an MRI of his right shoulder which revealed "adhesive
21 capsulitis, tendinopathy, bursitis, degenerative changes."

22 92. On or about December 4, 2014, Respondent saw Patient F for an office visit.
23 Respondent documented a chief complaint of "both shoulders right greater than left," and "left
24 shoulder doing good." Respondent ordered x-rays of Patient F's shoulders, humeri, and clavicles.

25 93. On or about December 18, 2014, Respondent saw Patient F for an office visit.
26 Respondent saw Patient F for shoulder pain and an additional chief complaint of "pain radiating
27 into both hands." Respondent ordered x-rays of Patient F's forearms, wrists, and hands.

28

1 94. On or about January 7, 2015, Respondent saw Patient F for a pre-operative
2 examination of Patient F's right shoulder scheduled for January 15, 2015. Respondent
3 documented Patient F's chief complaint as "both shoulders, right greater than left." Respondent
4 ordered x-rays of Patient F's right shoulder, right humerus, right elbow, right forearm, wrists,
5 cervical spine, thoracic spine, lumbar spine, pelvis, and hips. Respondent failed to document any
6 spinal or hip issues.

7 95. On or about January 15, 2015, Patient F had a right shoulder arthroscopy that
8 included a glenohumeral joint debridement, a microfracture chondroplasty, a subacromial
9 bursectomy, and a subacromial decompression.

10 96. During the period of January 15 to February 20, 2015, Respondent saw Patient F
11 multiple times for post operative visits. On or about January 16, 2015, Respondent ordered x-rays
12 of Patient F's right shoulder, right humerus, right elbow, right forearm, and clavicles. On or
13 about January 23, 2015, Respondent documented "CTL spine, left/right shoulder" and ordered x-
14 rays of Patient F's right shoulder, right humerus, right elbow, and right forearm. On or about
15 January 30, 2015, Respondent documented "CTL spine, right/left shoulder." Respondent ordered
16 x-rays of Patient F's right shoulder, right humerus, right elbow, and right forearm, cervical and
17 lumbar spine, and a full-length of the spine. On or about February 20, 2015, Respondent
18 documented "S/P right shoulder, left shoulder CTL-spine" and a "history of gout both knees and
19 both ankles/feet last attack 03/2014." Respondent ordered x-rays of Patient F's right shoulder,
20 right humerus, right elbow, right forearm, left knee, left femur, left tibia, right tibia, right ankle,
21 right foot, right heel. On or about March 6, 2015, Respondent documented "CTL-spine, S/P
22 right shoulder." Respondent also documented that Patient F was "about 70% better since
23 surgery-CTL-spine pain radiates into both lower extremities." Respondent ordered x-rays of
24 Patient F's right femur, right knee, both tibias, left calcaneus, left foot, left ankle, right
25 humerus, and right shoulder.

26 97. On or about March 19, 2015, Patient F called Respondent's office asking for an
27 appointment for an evaluation for injuries sustained in an accident on March 2, 2015. He reported
28

1 that "a chair fell down on him while he was sitting in it and that he had fallen backward hurting
2 his right shoulder/arm." He also complained of pain in his right ankle.

3 98. On or about March 19, 2015, Respondent saw Patient F for an office visit.
4 Respondent documented Patient F's chief complaint as "right shoulder, ankle." Respondent
5 ordered x-rays of Patient F's right tibia, right calcaneus, right foot, right ankle, right shoulder,
6 right humerus, right elbow, and right forearm.

7 99. During the period of April 2015 to December 30, 2015, Respondent saw Patient F
8 multiple times for office visits. On or about April 7, April 10, April 17, April 24, May 4, May 18,
9 June 1, June 22, July 14, July 8, August 12, September 2, September 16, October 7, November 4,
10 December 9, and December 30, 2015, Respondent ordered x-rays of Patient F's right tibia, right
11 calcaneus, right foot, right ankle, right shoulder, right humerus, right elbow, and right forearm.
12 During this period, Respondent also ordered x-rays of Patient F's spine three times.

13 100. During the period of January 2016 to November 2016, Respondent saw Patient F
14 multiple times for office visits. On or about January 20, 2016, Respondent documented that
15 Patient F's right shoulder was "75% better." Respondent ordered x-rays of Patient F's right
16 shoulder and right humerus. On or about February 10, 2016, Respondent ordered x-rays of
17 Patient F's right shoulder and right humerus. On or about February 29, 2016, Respondent
18 documented that the right foot was "about 90% better." Respondent ordered x-rays of Patient F's
19 right tibia, right calcaneus, right foot, and right ankle, with the right foot. On or about April 8,
20 2016, Respondent documented that Patient F's right shoulder felt "about 75% better", right foot
21 "about 90% better." Respondent ordered x-rays of Patient F's shoulders and humeri. On or about
22 May 6, 2016, Respondent documented that Patient F's right foot was "about 90%." Respondent
23 ordered x-rays of Patient F's right foot, right ankle, right heel, and right tibia. On or about May
24 27, 2016 Respondent documented Patient F's right shoulder was "75% better." Respondent
25 ordered x-rays of Patient F's right shoulder, left shoulder, right humerus, and left humerus. On or
26 about June 24, 2016, Respondent documented Patient F's right shoulder was "75-80% better,"
27 "his right foot still same as last visit, with pain on and off." Respondent ordered x-rays of Patient
28 F's right foot, right ankle, right heel, and right tibia. On or about July 15, 2016, Patient F left

1 without being seen, due to reported illness. On or about August 17, 2016, Respondent ordered x-
2 rays of Patient F's left tibia, left foot, left ankle, and left heel. On or about September 14, 2016,
3 Respondent documented Patient F's chief complaint as "S/P right shoulder, right foot, both
4 knees." Respondent ordered x-rays of Patient F's left shoulder and left humerus. On or about
5 October 10, 2016, Patient F called and asked to come in to talk to Respondent "about working."
6 Respondent documented Patient F's chief complaint as "S/P right shoulder, right foot, both knees,
7 CTL-spine." Respondent documented "right shoulder feels better since last visit-75-80%," and
8 that "Patient has pain in CTL-spine (especially lower) because of falling out of a chair@ Jiffy
9 Lube." Respondent ordered x-rays of Patient F's cervical spine, thoracic spine, lumbar spine,
10 pelvis, and hips. On or about November 7, 2016, Respondent documented Patient F's chief
11 complaint as "S/P right shoulder, right foot, CTL-spine; right shoulder feels about 75% better-
12 occasional pain into his foot." Respondent ordered x-rays of Patient F's cervical spine, lumbar
13 spine, and both clavicles.

14 101. Respondent committed gross negligence in his care and treatment of Patient F in
15 that Respondent obtained excessive, non-medically necessary and repeated x-rays of remote areas,
16 without complaints specific to that area, and/or without a change in complaint, and/or sufficient
17 time to demonstrate radiographic degenerative changes.

18 **SEVENTH CAUSE FOR DISCIPLINE**
19 **(Gross Negligence Patient G)**

20 102. On or about June 26, 2012, Respondent first saw Patient G for an office visit.
21 Patient G was a 59-year-old female who presented with a chief complaint of "low back pain
22 spasms into both legs," and "TL spine." Respondent ordered x-rays of Patient G's thoracic
23 and lumbar spine, pelvis, and both hips. Respondent also referred Patient G for an MRI of
24 her thoracolumbar spine to "R/O HNP," and an MRI of her pelvis and both hips, "R/O
25 AVN."

26 103. During the period of June 29, 2012 to December 31, 2012, Respondent saw
27 Patient G multiple times for office visits. Respondent ordered x-rays of Patient G's spine,
28

1 left ankle, both knees, both femurs, and both tibias, multiple times without any acute
2 changes.

3 104. During the period of January 2013 to December 31, 2013, Respondent saw Patient
4 G, multiple times for office visits. Throughout the year, Respondent ordered 8 spinal x-ray sets, 2
5 sets of x-rays of Patient G's knees, 17 x-rays of Patient G's left tibia, 18 x-rays of Patient G's left
6 calcaneus, 18 x-rays of Patient G's left foot, 18 x-rays of Patient G's left ankle, 4 full-length x-
7 rays of Patient G's lower extremity, 4 x-rays of both of Patient G's wrists, 2 x-rays of Patient G's
8 hands, 4 x-rays of Patient G's shoulders, 4 x-rays of Patient G's humeri, and 3 x-rays of Patient
9 G's clavicles. Patient G's February 22, 2013 x-ray reveal no rotator cuff tears. Patient G's July
10 23, 2013 MRI of both wrists reveal only mild osteoarthritis of the thumb carpometacarpal joints.
11 Patient G's July 14 and July 24, 2013, MRI reveal mild osteoarthritis of the thumb
12 carpometacarpal joints. Respondent also documented no upper extremity complaints during the
13 February 4, 2013 and July 8, 2013, visits.

14 105. During the period of January 2014 to December 31, 2014, Respondent saw Patient
15 G, multiple times for office visits. On or about March 12, 2014, Patient G had an MRI of her
16 cervical, thoracic, and lumbar spines which revealed degenerative disc disease. Patient G also
17 had an MRI of her right hip which revealed "no avascular necrosis." On or about March 13,
18 2014, Patient G had an MRI of her left hip which revealed "avascular necrosis." Patient G also
19 had an MRI of her pelvis which revealed "avascular necrosis." Throughout the year, Respondent
20 ordered 18 x-ray sets of Patient G's left femur, 18 x-rays of Patient G's left knee, 20 x-rays of
21 Patient G's left tibia, 17 x-rays of Patient G's left calcaneus, 17 x-rays of Patient G's left foot, 17
22 x-rays of Patient G's left ankle, 10 x-rays of Patient G's spine, 3 x-rays of Patient G's pelvis, and
23 3 x-rays of both Patient G's hips. On or about May 29, 2014, Patient G underwent left knee
24 arthroscopy, for an arthroscopic debridement, a microfracture chondroplasty of a lesion of the
25 medial femoral condyle, and a lateral release.

26 106. During the period of January 2015 to December 31, 2015, Respondent saw Patient
27 G, multiple times for office visits. On or about April 21, 2015 Patient G had an MRI of her
28 cervical and thoracic spine showing degenerative disease disc disease. On or about April 22,

1 2015, Patient G had an MRI of her lumbosacral spine showing an "L2/3 disk bulge." On or about
2 August 4, 2015, Patient G had a left total hip replacement. Throughout the year, Respondent
3 ordered x-rays of Patient G's left femur 23 times, left knee 23 times, left tibia 22 times, left
4 calcaneus 15 times, left foot 16 times, left ankle 16 times, 7 separate spine studies, x-rays of
5 Patient G's pelvis 11 times, x-rays of Patient G's left hip 16 times, and x-rays of Patient G's right
6 hip 5 times.

7 107. During the period of January 2016 to June, 2016, Respondent saw Patient G,
8 multiple times for office visits. During these visits, Respondent ordered x-rays of Patient G's
9 pelvis 7 times, left hip 7 times, left femur 9 times, left knee 5 times, left tibia 5 times, calcaneus 2
10 times, left foot 2 times, left ankle 2 times, and 3 spinal studies.

11 108. Respondent committed gross negligence in his care and treatment of Patient G in
12 that Respondent ordered excessive and/or non-medically necessary x-rays without complaints
13 specific to that area, and/or without a change in complaint, and/or sufficient time to demonstrate
14 radiographic degenerative changes

15 **EIGHTH CAUSE FOR DISCIPLINE**
16 **(Gross Negligence Patient H)**

17 109. On or about December 31, 2015, Respondent first saw Patient H for an office visit.
18 Patient H was a 37-year-old male who was seen by another provider with complaints of "pain in
19 the left knee for 1 month, swelling of the left knee for 4 days." Before being seen by Respondent,
20 Patient H had an MRI which revealed "horizontal cleavage tear left medial meniscus." Patient H
21 was referred to Respondent. Patient H completed a patient questionnaire that noted "meniscus
22 tear 2-3 weeks", and "knee pain." Respondent documented a chief complaint of "both knees left
23 greater than right" and states "patient states he kneeled down and felt some popping and burning."
24 Respondent ordered x-rays of Patient H's left knee, the left femur, left tibia, right knee, right
25 femur, and right tibia. Respondent also ordered an MRI of the right knee to "R/O internal
26 derangement," and extensive laboratory studies including a "CBC, complete chem panel, uric
27 acid, sed rate, C-reactive protein, Lyme disease panel, RA panel."
28

1 110. On or about January 15, 2016, Respondent saw Patient H for an office visit.
2 Respondent documented the chief complaint as "bilateral knee pain left greater than right."
3 Under the "history of present illness," Respondent noted "patient states he feels about 80% better
4 since last visit," and "pain radiates into feet." Respondent noted the results of the MRI, revealing
5 "complex tear right medial meniscus." Respondent ordered x-rays of Patient H's full-length left
6 lower extremity x-ray, x-rays of the right ankle, right heel, right tibia, left ankle, left heel, left
7 tibia, and left foot. Respondent prescribed physical therapy and documented a discussion of
8 conservative treatment and surgical intervention options.

9 111. On or about March 1, 2016, Respondent saw Patient H for an office visit.
10 Respondent documented the chief complaint as "bilateral knees, CTL spine." Under the "history
11 of present illness." Respondent noted "patient states that therapy is helpful and feels about 70%
12 better-occasional pain with activities-pain radiates up into his back at times." Respondent ordered
13 x-rays of Patient H's cervical spine, thoracic spine, lumbar spine, pelvis, and both hips.

14 112. On or about March 22, 2016, Respondent saw Patient H for an office visit.
15 Respondent documented the chief complaint as "both knees, CTL spine, both shoulders." Under
16 the "history of present illness," Respondent noted "patient states that he feels about 90% better
17 and therapy was helpful. CTL spine and shoulders are doing good." Respondent ordered x-rays
18 of Patient H's cervical spine, lumbar spine, right shoulder, right humerus, left shoulder, left
19 humerus and a full-length right lower extremity.

20 113. Respondent committed gross negligence in his care and treatment of Patient H in
21 that Respondent obtained excessive, non-medically necessary and repeated x-rays (with the
22 exception of the x-ray of Patient H's left knee) without complaints specific to that area, and/or
23 without a change in complaint, and/or sufficient time to demonstrate radiographic degenerative
24 changes.

25 **NINTH CAUSE FOR DISCIPLINE**
26 **(Repeated Negligent Acts)**

27 114. Respondent is further subject to disciplinary action under sections 2227 and 2234,
28 as defined by section 2234, subdivision (c), of the Code, in that he committed repeated negligent

1 acts in his care and treatment of Patient A, B, C, D, E, F, G, and H, as more particularly alleged
2 hereinafter: Paragraphs 7 through 113, above, are hereby incorporated by reference and realleged
3 as if fully set forth herein.

4 **TENTH CAUSE FOR DISCIPLINE**
5 **(Failure to Keep Adequate Records)**

6 115. Respondent is further subject to discipline under sections 2227 and 2334, as
7 defined by section 2266, of the Code, in that he failed to maintain adequate and accurate medical
8 records in the care and treatment of Patient A, B, C, D, E, F, G, and H, as more particularly
9 alleged in paragraphs 7 through 113, above, which are hereby incorporated by reference and
10 realleged as if fully set forth herein.

11 **ELEVENTH CAUSE FOR DISCIPLINE**
12 **(General Unprofessional Conduct)**

13 116. Respondent is further subject to discipline under sections 2227 and 2234, as
14 defined by section 2234 of the Code, in that he has engaged in conduct which breaches the rules
15 or ethical code of the medical profession, or conduct which is unbecoming a member in good
16 standing of the medical profession, and which demonstrates an unfitness to practice medicine, as
17 more particularly alleged hereinafter: Paragraphs 7 to 113, above, are hereby incorporated by
18 reference and realleged as if fully set forth herein.

19 **PRAYER**

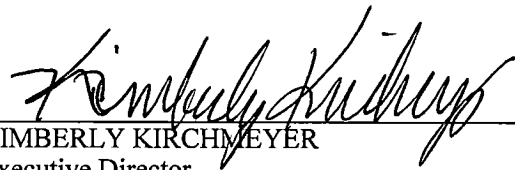
20 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
21 and that following the hearing, the Medical Board of California issue a decision:

- 22 1. Revoking or suspending Physician's and Surgeon's Certificate Number A 41236,
23 issued to Gary Royce Wisner, M.D.;
- 24 2. Revoking, suspending or denying approval of Gary Royce Wisner, M.D.'s
25 authority to supervise physician assistants and advanced practice nurses;
- 26 3. Ordering Gary Royce Wisner, M.D., if placed on probation, to pay the Board the
27 costs of probation monitoring; and
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4. Taking such other and further action as deemed necessary and proper.

DATED: July 23, 2018


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

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