Craig Wilder, M.D.

[redacted]

Date: June 19, 2019

Damean W. E. Freas, D.O., Chair
Disciplinary Panel B
Maryland State Board of Physicians
4201 Patterson Avenue, 4th Floor
Baltimore, MD 21215-2299

Re: Surrender of License to Practice Medicine
Craig Wilder, M.D., License Number: D66430
Case Number: 2219-0001B

Dear Dr. Freas and Members of Board Disciplinary Panel B,

Please be advised that, pursuant to Md. Code Ann., Health Occ. § 14-403 (2014 Repl. Vol. & 2017 Supp.), I have decided to **SURRENDER** my license to practice medicine in the State of Maryland, License Number D66430, effective upon the signature of the Executive Director of the Maryland State Board of Physicians (the "Board"). I understand that upon surrender of my license, I may not give medical advice or treatment to any individual, with or without compensation, and cannot prescribe medications or otherwise engage in the practice of medicine in the State of Maryland as it is defined in the Maryland Medical Practice Act (the "Act"), Health Occ. §§ 14-101 *et seq.* and other applicable laws. In other words, as of the effective date of this Letter of Surrender, I understand that the surrender of my license means that I am in the same position as an unlicensed individual in the State of Maryland.

I understand that this Letter of Surrender is a **PUBLIC DOCUMENT**, and upon Disciplinary Panel B's ("Panel B") acceptance, becomes a **FINAL ORDER** of Panel B of the Board.

I acknowledge that, and, on March 15, 2019, Panel B issued disciplinary charges against me under Health Occ. § 14-404(a)(1) (fraudulently or deceptively obtains . . . a license for the applicant), (3)(ii) (is guilty of unprofessional conduct in the practice of medicine), and (36) (willfully makes a false representation when seeking or making application for licensure). Specifically, Panel B alleged that I falsely answered "no" on my August 17, 2017 license renewal application filed with the Board to the question asking whether a licensing board had investigated me for any reason. Additionally, I was charged with violating Health Occ. § 14-404(a)(21) (is disciplined by a licensing authority for an act that would be grounds for disciplinary action under this section), specifically with grounds (3)(ii), (22) (fails to meet appropriate standards for the delivery of quality medical care), and (40) (fails to keep adequate medical records). A copy of the charges is attached

as Attachment 1. I have decided to surrender my license to practice medicine in the State of Maryland to avoid further prosecution of these disciplinary charges.

I wish to make it clear that I have voluntarily, knowingly and freely chosen to submit this Letter of Surrender. I acknowledge that for all purposes related to medical licensure, the charges will be treated as if proven.

I understand that by executing this Letter of Surrender I am waiving my right to a hearing to contest the disciplinary charges. In waiving my right to contest the charges, I am also waiving the right to be represented by counsel at the hearing, to confront witnesses, to give testimony, to call witnesses on my own behalf, and all other substantive and procedural protections provided by law, including the right to appeal to circuit court.

I understand that the Board will advise the Federation of State Medical Boards and the National Practitioner Data Bank of this Letter of Surrender. I also understand that in the event I would apply for licensure in any form in any other state or jurisdiction that this Letter of Surrender may be released or published by the Board to the same extent as a final order that would result from formal disciplinary action and that this Letter of Surrender constitutes a disciplinary action by Panel B.

I affirm that I will provide access to and copies of medical records to my patients in compliance with Title 4, subtitle 3 of the Health-General Article.

I further recognize and agree that by submitting this Letter of Surrender, my license will remain surrendered unless and until the Board grants reinstatement. In the event that I apply for reinstatement of my Maryland license, I understand that Panel B or its successor is not required to grant reinstatement and, if it does grant reinstatement, may impose any terms and conditions the disciplinary panel or its successor considers appropriate for public safety and the protection of the integrity and reputation of the profession. I further understand that if I file a petition for reinstatement, I will approach Panel B or its successor in the same position as an individual whose license has been revoked.

I acknowledge that I may not rescind this Letter of Surrender in part or in its entirety for any reason whatsoever. Finally, I wish to make clear that I have been advised of my right to be represented by an attorney of my choice throughout proceedings before Panel B, including the right to consult with an attorney prior to signing this Letter of Surrender. I understand both the nature of Panel B's actions and this Letter of Surrender fully. I acknowledge that I understand and comprehend the language, meaning and terms and effect of this Letter of Surrender. I make this decision knowingly and voluntarily.

Very truly yours,

Signature on File

Craig Wilder, M.D.

NOTARY

STATE OF Maryland

CITY/COUNTY OF Oxon Hill/Prince George's

I HEREBY CERTIFY that on this 17 day of June, 2019 before me, a Notary Public of the City/County aforesaid, personally appeared Craig Wilder, M.D., and declared and affirmed under the penalties of perjury that the signing of this Letter of Surrender was a voluntary act and deed.

AS WITNESS my hand and Notarial seal.

Notary Public

My commission expires: Jan 06, 2021

CRYSTAL CENTENO
Notary Public
Prince George's County
Maryland
My Commission Expires January 6, 2021

ACCEPTANCE

On behalf of Board Disciplinary Panel B, on this 19th day of June, 2019, I, Christine A. Farrelly, accept the **PUBLIC SURRENDER** of Craig Wilder, M.D.'s license to practice medicine in the State of Maryland.

Signature on File

Christine A. Farrelly, Executive Director
Maryland Board of Physicians

ATTACHMENT 1

IN THE MATTER OF	*	**BEFORE THE MARYLAND**
Craig Wilder, M.D.	*	**STATE BOARD OF**
Respondent	*	**PHYSICIANS**
License Number: D66430	*	**Case Number: 2219-0001B**

****

CHARGES UNDER THE MARYLAND MEDICAL PRACTICE ACT

Disciplinary Panel B ("Panel B") of the Maryland State Board of Physicians (the "Board"), hereby charges **Craig Wilder, M.D.** (the "Respondent"), **License Number D66430**, under the Maryland Medical Practice Act (the "Act"), Md. Code Ann., Health Occ. ("Health Occ.") §§ 14-101 *et seq.* (2014 Repl. Vol. and 2018 Supp.).

The pertinent provisions of the Act provide the following:

Health Occ. § 14-404. Denials, reprimands, probations, suspensions, and revocations – Grounds

(a) **In general.** -- Subject to the hearing provisions of § 14-405 of this subtitle, a disciplinary panel, on the affirmative vote of a majority of the quorum of the disciplinary panel, may reprimand any licensee, place any licensee on probation, or suspend or revoke a license if the licensee:

(1) Fraudulently or deceptively obtains or attempts to obtain a license for the applicant or licensee or for another;

...

(3) Is guilty of:

...

(ii) Unprofessional conduct in the practice of medicine;

...

(36) Willfully makes a false representation when seeking or making application for licensure or any other application related to the practice of medicine[.]

Additionally, Panel B charges the Respondent under the reciprocal ground of Health Occ. § 14-404(a):

(21) Is disciplined by a licensing or disciplinary authority or convicted or disciplined by a court of any state or country or disciplined by any branch of the United States uniformed services or the Veterans' Administration for an act that would be grounds for disciplinary action under this section[.]

The underlying grounds for disciplinary action under Health Occ. § 14-404(a) (21) are as follows:

(3) Is guilty of:

...

(ii) Unprofessional conduct in the practice of medicine;

(22) Fails to meet appropriate standards as determined by appropriate peer review for the delivery of quality medical and surgical care performed in an outpatient surgical facility, office, hospital, or any other location in this State;

(40) Fails to keep adequate medical records as determined by appropriate peer review[.]

The pertinent Telemedicine regulations under **Md. Code Regs. 10.32.05.06** provide the following:

.05 Patient Evaluation

A. A physician shall perform a patient evaluation adequate to establish and identify underlying conditions or contraindications to recommend treatment options before providing treatment or prescribing medication[.]

.06 Standard of Quality Care

A. A physician shall ensure that the quality and quantity of data and other information is sufficient in making medical decisions.

B. Except when a physician is performing interpretive services, the physician shall perform a patient evaluation that meets the requirements set forth in Regulation .05 of this chapter before providing recommendations or making treatment decisions for a patient.

...

D. A physician practicing telemedicine shall:

(1) Except when providing interpretive services, obtain and document patient consent;

(2) Create and maintain adequate medical records[.]

I. ALLEGATIONS OF FACT[1]

Panel B bases its charges on the following facts that Panel B has cause to believe are true:

A. Background

1. The Respondent is a physician licensed to practice medicine in the State of Maryland. The Respondent was initially licensed by the Board on July 17, 2007. The Respondent's license is active and is scheduled to expire on September 30, 2019.

2. The Respondent is board-certified in emergency medicine.

3. The Respondent held a license in the District of Columbia, license # MD034904, which expired on December 31, 2008.

[1] The allegations set forth in this document are intended to provide the Respondent with notice of the charges. They are not intended as, and do not necessarily represent, a complete description of the evidence, either documentary or testimonial, to be offered against the Respondent in connection with these charges.

4. The Respondent held a license in California, license # A77700, which was revoked by the Medical Board of California (the "California Board") effective August 24, 2018, for reasons set forth below.

5. On or about July 2, 2018, the Federation of State Medical Boards ("FSMB") notified the Maryland Board that the California Board had ordered a revocation of the Respondent's medical license and provided notice of the basis for the revocation, as set forth in material part below.

6. Shortly after receiving the information referenced in ¶ 5, the Board initiated an investigation of the allegations, which is set forth in pertinent part below.

B. Prior Disciplinary History

7. The Maryland Board disciplined the Respondent in 2011 and 2013 based on reciprocal discipline imposed by the California Board:

Reciprocal Action based on 2011 California Order

8. On February 4, 2011, the California Board revoked the Respondent's medical license, stayed the revocation, and placed the Respondent on probation for four years under specified terms and conditions. The basis of the California Board's 2011 Order arose from the Respondent's 2009 conviction of: one count of health benefits fraud, two counts of grand theft, and one count of failure to file tax returns.

9. On April 30, 2012, the Respondent entered into a pre-charge Consent Order with the Maryland Board that imposed reciprocal disciplinary action on his Maryland medical license consistent with the California Board's 2011 Order; specifically, based on conclusions of law that the Respondent was guilty of immoral

and unprofessional conduct in the practice of medicine, the Maryland Board ordered revocation of the Respondent's medical license, an immediate stay of the revocation, and probation until the Respondent's California license was activated as full and unrestricted by the California Board, subject to specified terms and conditions.

Reciprocal Action based on 2013 California Order

10. On October 24, 2013, the California Board revoked the Respondent's medical license, stayed the revocation, and placed the Respondent on probation for an additional year. The basis of the California Board's 2013 Order arose from the Respondent's failure to comply with an October 18, 2011 Citation Order that the California Board issued against the Respondent for aiding and abetting in the unlicensed practice of medicine by providing services at a medical clinic owned by a layperson.

11. On January 14, 2015, the Maryland Board charged the Respondent with violating the Maryland Board's April 30, 2012 Consent Order, on grounds arising from the California Board's 2013 disciplinary Order.

12. On June 23, 2015, the Respondent entered into a Consent Order with the Maryland Board that again imposed reciprocal action against his medical license consistent with the California Board's 2013 Order; specifically, the Maryland Board ordered that the Respondent remain on probation until such time as the California Board terminated his probation.

13. On February 4, 2016, the Respondent satisfied the terms of his California orders (February 2011 and October 2013), and subsequently on March 8, 2016, the Maryland Board terminated the Respondent's probation.

C. The Present Complaint and Investigation

The California Board's 2018 Order

14. Based on its Findings of Fact, the California Board in its 2018 Order concluded that the Respondent had violated several grounds under its Medical Practice Act including gross negligence, repeated negligent acts, failure to maintain adequate and accurate medical records, failure to obtain consent for use of telemedicine, failure to perform an adequate physical examination, and unprofessional conduct. **[Attachment A, 2018 California Board Order]**

15. The California Board adopted the Administrative Law Judge's Findings of Fact that included but were not limited to, that the Respondent:

a. Failed to consider a differential diagnosis or alternative;
b. Failed to obtain a thorough patient history;
c. Recommended Controlled Dangerous Substance (CDS) without determining that the patient was seriously ill;
d. Failed to advise the patient of the risks and benefits of CDS use;
e. Failed to obtain informed consent from the patient regarding the use of marijuana;
f. Failed to develop a treatment plan with measurable objectives;
g. Failed to use a secure server when providing telemedicine to each patient;
h. Failed to obtain verbal informed consent from either patient before using telehealth;
i. Used telehealth to evaluate and treat each patient without ensuring that a thorough physical examination was performed; and
j. Failed to maintain adequate medical records for both patients.

16. On or about August 31, 2018, the Maryland Board received a Disciplinary Alert from the FSMB, stating that the Respondent's motion for rehearing/reconsideration was denied, and that on August 24, 2018, the California Board revoked the Respondent's license.[2]

17. Based on the California Board Order, the Respondent's conduct constitutes discipline by a licensing or disciplinary authority for acts that would be grounds for disciplinary action under Health Occ. § 14-404(a)(3)(ii) (unprofessional conduct in the practice of medicine), (22) (failure to meet appropriate standards as determined by appropriate peer review for the delivery of quality medical care), and (40) (fails to keep adequate medical records as determined by appropriate peer review).

False Response on Maryland renewal application

18. On or about August 17, 2017, the Responded applied to renew his medical license in Maryland.

19. On his application, the Respondent answered "NO" to character and fitness question 16c, which asks:

> Since your last registration:[3]
>
> Has any licensing or disciplinary board in any jurisdiction, or comparable body in the armed services, filed any complaints or charges against you or investigated you for any reason?

[2] The California Board granted the Respondent a temporary stay of the revocation allowing him time to file a Petition for Reconsideration.

[3]

20. On or about November 13, 2018, the Board received documentation from the California Board supporting its notification to the Respondent of its investigation that resulted in the 2018 Order, which included but was not limited to a June 12, 2017 Investigation Report from the California Board staff, outlining communications between the Respondent and California Board staff between March 2, 2016 and March 16, 2017; and a letter dated June 13, 2017 from the California Board to the Respondent addressing the status of its investigation.

21. By letter dated December 4, 2018, the Board requested that the Respondent provide a written response regarding why he failed to report on his renewal application the investigation by the California Board that resulted in the 2018 Order.

22. On December 13, 2018, the Respondent replied in writing, acknowledging that he had entered 'no' incorrectly to the question regarding – "if I was under investigation." He stated, "Please forgive my response and misunderstanding of the question."

23. The Respondent's false response to question 16c constitutes evidence that the Applicant fraudulently attempted to obtain a license in violation of Health Occ. § 14-404(a)(1), engaged in unprofessional conduct in the practice of medicine in violation of Health Occ. § 14-404(a)(3)(ii), and willfully made a false representation when making application for licensure in violation of Health Occ. § 14-404(a)(36).

II. NOTICE OF POSSIBLE SANCTIONS

If, after a hearing, a disciplinary panel of the Board finds that there are grounds for action under Health Occ. § 14-404(a)(21) with the underlying ground(s)

of Health Occ. § 14-404(a) (3)(ii) and/or (22) and/or (40) and/or the independent ground(s) of Health Occ. § 14-404(a) (1) and/or (3)(ii) and/or (36), it may impose disciplinary sanctions against the Respondent's license in accordance with the Board's regulations under Md. Code Regs. 10.32.02.09 and 10.32.02.10, including revocation, suspension, or reprimand. The panel may, in addition to one or more of the sanctions set forth above, impose a civil monetary fine upon the Respondent.

III. NOTICE OF DISCIPLINARY COMMITTEE FOR CASE RESOLUTION

A conference before the Disciplinary Committee for Case Resolution ("DCCR") in this matter is scheduled for **May 22, 2019, at 9:00 a.m.**, at the Board's office, 4201 Patterson Avenue, Baltimore, Maryland 21215. The Respondent must confirm in writing his intention to attend the DCCR. The Respondent should send his written confirmation of her intention to participate in the DCCR to: Christine A. Farrelly, Executive Director, Maryland State Board of Physicians, 4201 Patterson Avenue, 4th Floor, Baltimore, Maryland 21215. The nature and purpose of the DCCR and prehearing conference is described in the attached letter to the Respondent.

If the case cannot be resolved at the DCCR, a pre-hearing conference and a hearing in this matter will be scheduled at the Office of Administrative Hearings, 11101 Gilroy Road, Hunt Valley, Maryland 21031. The hearing will be conducted in accordance with Health Occ. § 14-405 of the Act and Md. Code Ann., State Gov't §§ 10-201 *et seq.* (2014 Repl. Vol. and 2018 Supp.).

BRIAN E. FROSH
ATTORNEY GENERAL OF MARYLAND

3/15/2019
Date

Dawn L. Rubin,
Assistant Attorney General
Maryland Office of the Attorney General
Health Occupations & Prosecution Division
300 West Preston Street, Suite 201
Baltimore, Maryland 21201
(410) 767-1874
dawn.rubin@maryland.gov

ATTACHMENT A

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

In the Matter of the Accusation Against:	)	
CRAIG RICHARD WILDER, M.D.	)	Case No. 800-2014-008662
Physician's and Surgeon's Certificate No. A 77700	)	OAH No. 2017110146
Respondent	)	

DECISION AND ORDER

The attached Proposed Decision 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 July 27, 2018.

IT IS SO ORDERED June 27, 2018.

MEDICAL BOARD OF CALIFORNIA

By: _____
Krisitina D. Lawson, J.D., Chair
Panel B

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

In the Matter of the Accusation Against: CRAIG RICHARD WILDER, M.D., Physician and Surgeon's Certificate No. A77700, Respondent.	Case No. 800-2014-008662 OAH No. 2017110146

PROPOSED DECISION

This matter was heard by Julie Cabos-Owen, Administrative Law Judge (ALJ) with the Office of Administrative Hearings (OAH), on May 14 and 15, 2018, in Los Angeles, California. Complainant was represented by Richard D. Marino, Deputy Attorney General. Craig Richard Wilder, M.D. (Respondent) was represented by Shannon Belsheim, with the Law Offices of Daniel V. Behesnilian.

Oral and documentary evidence was received, and argument was heard. The record was closed, and the matter was submitted for decision on May 15, 2018.

FACTUAL FINDINGS

1. On August 14, 2017, Complainant Kimberly Kirchmeyer filed the Accusation in this matter while acting in her official capacity as the Executive Director of the Medical Board of California (Board), Department of Consumer Affairs.

2. On January 16, 2002, the Board issued Physician and Surgeon's Certificate Number A77700 to Respondent. Respondent's Physician and Surgeon's Certificate (medical license) was in full force and effect at all relevant times and is scheduled to expire on July 31, 2019.

Prior Discipline

3A. In a Decision and Order, effective February 4, 2011 (2011 Probation Order), the Board revoked Petitioner's medical license, stayed the revocation, and placed Respondent on probation for four years under specified terms and conditions.

3B. The 2011 Probation Order arose from Respondent's 2009 conviction of the following: one count of violating Penal Code section 550 (health benefits fraud); two counts of violating Penal Code 487 (grand theft); and one count of violating Revenue and Taxation Code section 19806 (failure to file tax returns).

3C. Respondent's conviction resulted from his 2003 through 2004 involvement in a "scheme to defraud Medicare and Medi-Cal by fraudulently obtaining five separate provider numbers for himself without disclosing that a provider number previously issued to him had been suspended." (Exhibit 14.) In order to escape criminal prosecution after investigators discovered the criminal plot, Respondent cooperated with the law enforcement agencies investigating and prosecuting the criminal actions. Over the course of many years, Respondent provided extensive information about his physician co-conspirators. However, Respondent was still convicted of several of the counts with which he had been charged.

4A. In a Decision and Order, effective October 24, 2013 (2013 Order), the Board revoked Petitioner's medical license, stayed the revocation, and placed Respondent on probation an additional year beyond his four-year probation as set forth in the 2011 Order, for a total probationary term of five years, effective February 4, 2011.

4B. The 2013 Order arose after the Board issued an October 18, 2011 Citation Order (Citation) against Respondent for aiding and abetting the unlicensed practice of medicine by providing services at a medical clinic owned by a layperson. The Citation ordered Respondent to pay an administrative fine of $2,500 within 30 days of receipt of the Citation. The Board attempted several times to contact Respondent to advise him that his failure to comply with the Citation would result in disciplinary action against his license. However, Respondent did not pay the administrative fine and failed to comply with the Citation, prompting the filing of an Accusation and Petition to Revoke Probation.

4C. Respondent's acts giving rise to the Citation occurred between February 4, 2011, and October 18, 2011. During that time, while he was on Board-ordered probation, Respondent provided medical marijuana recommendations at a Venice Beach medical clinic which was illegally controlled by non-physicians.

Facts re: September 18, 2014 Undercover Operation at Harbor Evaluations

5A. On September 18, 2014, an undercover investigator with the Board went to Harbor Evaluations in Costa Mesa, posing as a patient seeking a medical marijuana recommendation. The investigator used a false patient name, David Le (Patient Le).

5B. Patient Le spoke to a female clerk and filled out several forms which included a patient questionnaire but did not include any informed consent document. The clerk discussed Patient Le's history which included the sudden onset of headache which came and

went. Patient Le told the clerk that he had tried a friend's marijuana which made him feel better. He stated that he rarely took over-the-counter medication for pain, and he denied using physical therapy or acupuncture.

5C. Patient Le was told that Dr. Wilder would be contacting him by Skype from Washington, D.C., and the clerk thereafter took Patient Le to another room with computer monitor on a desk. After Patient Le waited a while, a Skype call was answered and. Respondent appeared on the screen. During their conversation, Patient Le told Respondent that he had a sudden onset of headaches for about four months. He denied seeing a physician, and he reported that he tried a friend's marijuana and that it worked really well.

5D. Nobody at Harbor Evaluations physically examined Patient Le. Although he completed a patient questionnaire, Respondent did not review that form with him. Respondent did not tell Patient Le what telehealth or telemedicine was. Nobody asked Patient Le for his informed consent to use Skype or telemedicine, and nobody assured him that secured devices were used.

5E. Respondent issued Patient Le a medical marijuana recommendation for which Patient Le paid the clerk $80 in cash. The medical marijuana recommendation was pre-signed with Respondent's signature, so Patient Le was able to take a hard copy of the medical marijuana recommendation with him that day.

Facts re: February 9, 2015 Undercover Operation at Gamble Medical Group

6A. On February 9, 2015, another undercover investigator with the Board went to Gamble Medical Group in Garden Grove, posing as a patient seeking a medical marijuana recommendation. The investigator used a false patient name, Ky Linden (Patient Linden).

6B. Patient Linden spoke to a female clerk and filled out several forms which included a patient history form and two additional pages. After Patient Linden gave the clerk his paperwork, the clerk asked him about his chronic pain. Patient Linden stated that he had pain all over his body, including his back. He denied seeing a physician during the prior four years, and he reported that he had used marijuana for 10 years.

6C. Thereafter, the clerk told Patient Linden that Dr. Wilder was ready, and she took Patient Linden to another room with computer monitor on a desk. When Patient Linden sat down in front of the computer, Respondent appeared on the screen and identified himself as Dr. Wilder. Patient Linden told Respondent that he wanted to get a recommendation for marijuana.

6D. During their conversation, Respondent asked Patient Linden about his medical problem, and Patient Linden said he had stomach pain with sensitivity to dairy and inability to

drink cold water in the morning. Respondent asked if Patient Linden had back pain, and Patient Linden indicated that he did experience pain stemming from a prior skateboarding accident. Patient Linden denied undergoing any medical evaluation or MRI for his back pain or having been tested for ulcers. Patient Linden confirmed that he had tried marijuana before. Although Respondent asked if Patient Linden had "read the form" and "underst[ood] the risk," Respondent did not discuss with Patient Linden the risks, benefits or alternatives to marijuana. Respondent told Patient Linden to follow up with his doctor, and he suggested physical therapy or anti-inflammatories for his back. Respondent instructed Patient Linden to return for follow-up in three months.

6E. Nobody at Gamble Medical Group physically examined Patient Linden or measured his blood pressure, height or weight. No detailed history was taken. Respondent did not tell Patient Linden what telehealth or telemedicine was. Nobody asked Patient Linden for his informed consent to use Skype or telemedicine, and nobody assured him that secured devices were used.

6F. Respondent issued Patient Linden a medical marijuana recommendation for which Patient Linden paid the clerk $90 in cash. The medical marijuana recommendation was pre-signed with Respondent's signature, so Patient Linden was able to take a hard copy of the medical marijuana recommendation with him that day.

Certification of No Records

7A. The Board requested the medical records for patients Le and Linden from Harbor Evaluation Center, Gamble Medical Group, and Respondent.

7B. The Supreme Team Medical Group, Inc. (Supreme), which owned Harbor Evaluation Center and Gamble Medical Group, provided to the Board copies of: the medical marijuana recommendation issued to Patient Linden; a copy of Patient Linden's driver's license; a two-page completed patient intake form; a two-page typewritten Release of Liability, signed by Patient Linden; and a form discussing the different types of medical cannabis, their varying benefits, and common side effects of cannabis.

7C. Respondent did not provide the Board with any records for patients Le or Linden. Instead, he submitted a Certification of No Records, which he signed on September 23, 2015.

//

//

Standard of Care

8A. Complainant offered the testimony and a March 27, 2017 expert report of Robert M. Franklin, M.D., to establish the standard of care in this case. Dr. Franklin received his medical degree from George Washington University School of Medicine in 1990, and he completed his residence in family practice at the University of California, San Francisco in 1993. Dr. Franklin is board certified in family medicine.

8B. Dr. Franklin's report and his credible and uncontroverted testimony established the following regarding the standard of care for recommending medical marijuana in 2014:

(1). The standard of care regarding the recommendation of medical marijuana requires that the physician recommend it only when it is clinically indicated and only as part of a treatment plan with specific identifiable goals. The standard of care also requires documentation of all aspects of the evaluation process which support the decision to recommend medical marijuana.

(2). The standard of care is the same standard followed by a reasonable and prudent physician when recommending any other medication to treat a medical condition. This includes: taking a history and performing an appropriate examination of the patient; developing a treatment plan with objectives; providing informed consent including a discussion of side effects (set forth in further detail below); periodic review of the treatment's efficacy; consultation, as necessary; and proper record keeping that supports the decision to recommend the use of medical marijuana.

(3). Informed consent is a process between the physician and patient during which the physician informs the patient of the potential benefits and risks of the proposed treatment, solicits and answers questions, and ascertains that the patient understands the risk/benefit ratio and consents to accept the risks in order to obtain the benefits of the proposed treatment. Although detailed written forms that include a list of potential adverse effects of medical marijuana are often part of the informed consent process, these forms alone are insufficient to constitute informed consent.

(4). In California during 2014, the use of medical marijuana was limited to the treatment of "seriously ill" individuals. (Exhibit 12, p.12-012.) The physician was required to determine: that medical marijuana is not masking an acute or treatable progressive condition; that medical marijuana use will lead to a worsening of the patient's condition; and that the risk/benefit ratio of medical marijuana is as good, or better, than other medications that could be used for that individual patient. Additionally, it is incumbent upon the recommending physician to consult with the patient's primary treating physical or to obtain the appropriate patient records to confirm the patient's underlying diagnosis and prior treatment history.

8C. Dr. Franklin's report and his credible and uncontroverted testimony established the following regarding the standard of care for use of telehealth technologies:

(1). It is the standard of practice in California that verbal consent from the patient must be obtained and documented.

(2). Telehealth may only be used when it can adequately address the problem under evaluation (e.g., by assisted physical examination as needed). Telehealth may not be used when there is a need for physical actions that cannot be accomplished in the clinic where the recommending physician is located.

(3). All telemedicine connections must be secure. Skype is a free, unsecured platform which provides video conferencing over an Internet connection; Skype cannot be used for telemedicine in California.

8D. Dr. Franklin's report, his credible and uncontroverted testimony, and relevant law, established that the standard of care requires a physician to keep adequate medical records documenting all patient care.

8E. Dr. Franklin's report and his credible and uncontroverted testimony established that Respondent engaged in a series of separate extreme departures from the standard of care in his treatment of Patients Le and Linden when he:

(1). failed to consider a differential diagnosis or alternative;

(2). failed to obtain a thorough patient history;

(3). failed to perform any physical examination;

(4). recommended marijuana without determining that the patient was seriously ill;

(5). failed to advise the patient of the risks and benefits of marijuana use;

(6). failed to obtain informed consent from the patient regarding the use of marijuana; and

(7). failed to develop a treatment plan with measurable objectives.

8F. Dr. Franklin's report and his credible and uncontroverted testimony established that Respondent engaged in a series of separate extreme departures from the standard of care for providing telemedicine to Patients Le and Linden when he:

(1). failed to use a secure server when providing telemedicine to each patient;

(2). failed to obtained verbal informed consent from either patient before using telehealth; and

(3). used telehealth to evaluate and treat each patient without ensuring that a thorough physical examination was performed.

9. The totality of the evidence established that Respondent failed to maintain adequate medical records for both patients.

10. In the Accusation's Third Cause for Discipline, Complainant alleges that Respondent demonstrated incompetence in his care and treatment of patients Le and Linden. This allegation was not established by the evidence.

Respondent's Background, Rehabilitation & Character Evidence

11. Respondent seeks to maintain his California licensure without being placed on probation. At the administrative hearing he presented as a vague, evasive, and withdrawn witness, and he expressed no remorse for the risk to patients which his actions had caused.

12. Respondent provided a circuitous and sketchy timeline of his work history. From what could be gleaned, Respondent completed a residency in emergency medicine in 2003 at Martin Luther King, Jr. - Charles R. Drew Medical Center, and immediately began working at Centinela Hospital Medical Center in Inglewood. In 2003, Respondent became involved in the fraud scheme which eventually led to his conviction. Respondent left California in May 2004 to begin four years of employment as an assistant professor at Howard University in Washington D.C., and during that time, he also worked Washington Adventist Hospital in Maryland.

13. After 2008, Respondent had difficulty obtaining employment since he was facing criminal charges, was prohibited from billing Medicare and Medi-Cal, was subject to Board probation, and was also subject to discipline in Maryland (from 2010 until 2015). Respondent practiced medicine in the United States Virgin Islands for a while before returning to Maryland to open a private practice, which he noted was "not lucrative" due to his continued inability to bill Medicare. During that time, in about 2010, Respondent began issuing medical marijuana recommendations at the Venice Beach clinic, which Respondent noted was "a good way to make money." This led to the 2011 Citation (see Factual Finding 4). After discontinuing work at the Venice Beach clinic, Respondent went to Saudi Arabia for an unspecified time frame.

14A. Respondent eventually returned to Maryland where he held a medical license and operated a private practice. However, according to Respondent, his private practice was not generating income. In 2014, Respondent began working for Supreme, issuing medical marijuana recommendations "long distance" via Skype to approximately 20 patients per day, for five to six days per month. Respondent lived in Maryland, but flew to California once per month to pre-sign stacks of blank medical marijuana recommendations. Respondent was paid a flat fee of $2,500 per month for his work. According to Respondent, he worked for Supreme for only one year.

14B. Respondent would not admit any wrongdoing in issuing the medical marijuana recommendations to patients Le and Linden. He did not address his failure to conduct physical examinations of the patients prior to issuing pre-signed medical marijuana recommendations. Instead, Respondent insisted that he reviewed patient histories prior to initiating the Skype interactions, that he believed every patient signed a consent form for telemedicine, and that he was not responsible for maintaining the Supreme database.

15. It is unclear from Respondent's testimony what employment he held from 2015 through 2017.

16. Respondent has been employed as an emergency room physician at the University of Maryland for approximately seven months (i.e., since about the end of 2017).

17. Respondent does not currently practice medicine in California. If placed on probation in this action, he intends to continue living and working in Maryland, and he does not intend to resume practicing medicine in California. Respondent noted that he could suffer discipline on his Maryland medical license based on any discipline imposed in California. Respondent stated that the only reason he is contesting this case is that if his California license is revoked or placed on probation "that will follow [him] to Maryland."

18. Respondent does not believe his California medical license should be disciplined because he has completed his probation and he now treats patients "in the emergency room every day." Respondent acknowledged that he failed to comply with Board probation once before.

19. J. Timothy Fives, retired Special Agent for the California Department of Justice, testified on Respondent's behalf and lauded Respondent's lengthy cooperation with law enforcement in the healthcare fraud case (see Factual Finding 3.)

//

//

LEGAL CONCLUSIONS

1. Cause exists to revoke or suspend Respondent's physician's and surgeon's certificate, pursuant to Business and Professions Code section 2234, subdivision (b), in that Respondent committed gross negligence in his care of patients Le and Linden, as set forth in Factual Findings 5 through 8.

2. Cause exists to revoke or suspend Respondent's physician's and surgeon's certificate, pursuant to Business and Professions Code section 2234, subdivision (c), in that Respondent committed repeated negligent acts in his care of patients Le and Linden, as set forth in Factual Findings 5 through 8.

3. Cause does not exist to revoke or suspend Respondent's physician's and surgeon's certificate, pursuant to Business and Professions Code section 2234, subdivision (d), in that Complainant failed to establish, by clear and convincing evidence, that Respondent demonstrated incompetence in his care of patients Le and Linden, as set forth in Factual Findings 5 through 10.

4. Cause exists to revoke or suspend Respondent's physician's and surgeon's certificate, pursuant to Business and Professions Code section 2266, in that Respondent failed to maintain adequate and accurate records in his care of patients Le and Linden, as set forth in Factual Findings 5 through 9.

5A. Cause exists to revoke or suspend Respondent's physician's and surgeon's certificate, pursuant to Business and Professions Code section 2290.5, subdivision (b), in that Respondent failed to obtain consent for the use of telehealth in his care of patients Le and Linden, as set forth in Factual Findings 5 through 9, and Legal Conclusion 5B.

5B. Business and Professions Code section 2290.5, subdivision (b) provides:

> Prior to the delivery of health care via telehealth, the health care provider initiating the use of telehealth shall inform the patient about the use of telehealth and obtain verbal or written consent from the patient for the use of telehealth as an acceptable mode of delivering health care services and public health. The consent shall be documented.

6. Cause exists to revoke or suspend Respondent's physician's and surgeon's certificate, pursuant to Business and Professions Code section 2242, in that Respondent provided recommendations for marijuana, a Schedule I controlled substance under Health and Safety Code section 11054, subdivision (d)(13), without performing adequate physical examinations on patients Le and Linden, as set forth in Factual Findings 5 through 9.

7. Cause exists to revoke or suspend Respondent's physician's and surgeon's certificate, pursuant to Business and Professions Code section 2234, in that Respondent engaged in unprofessional conduct in his care of patients Le and Linden, as set forth in Factual Findings 5 through 9.

8A. Respondent committed gross negligence and repeated negligent acts, failed to obtain consent for telemedicine, failed to conduct any physical examination prior to issuing pre-signed medical marijuana recommendations, and failed to maintain adequate patient records. The remaining question is the nature of the discipline to be imposed against Respondent's medical license for his violations. Respondent seeks a public letter of reprimand; Complainant seeks revocation of Respondent's medical license.

8B. In her opening statement, Respondent's counsel noted that acquisition of recreational marijuana is now legal in California. However, this case is not about the current legality and non-medical availability of marijuana. Instead, this case examines Respondent's flouting of the laws and standards of medical practice at the time of his misconduct. Respondent's current violations are underscored by his prior disciplinary history all of which comprehensively evidence his continued disregard for the law and for patient safety.

8C. Since 2003 (when he began engaging in healthcare fraud), Respondent has used his California medical license as a tool for making easy money rather than for its intended purpose, as certification of his clinical skills. While physicians are not required to practice medicine for solely altruistic purposes, they are required to act with regard for patient welfare and with honesty and integrity. Respondent has failed to do so. After his 2009 fraud conviction, Respondent aided and abetted the unlicensed practice of medicine in a medical marijuana clinic, and he more recently engaged in gross negligence by providing pre-signed medical marijuana recommendations without any physical examination of the patients.

8D. Additionally, Respondent's testimony illustrates his continued focus on his own gain rather than on patient welfare. Respondent testified that he wishes to retain his unrestricted licensure in California solely in order to prevent reciprocal discipline of his Maryland license. While Respondent is purportedly practicing medicine appropriately in another state, this does not indicate that he would be willing or able to practice in California in a manner that would take into account the welfare of California patients.

8E. Moreover, Respondent expressed no remorse and refused to fully admit his current violations. This precludes a finding of rehabilitation or at least the possibility of working toward rehabilitation. Furthermore, Respondent failed to provide any assurance that, if he was allowed to remain licensed in California, he would become more compliant with the laws governing the practice of medicine. The foregoing, coupled with his prior failed probation, bodes poorly for Respondent's future compliance.

8F. Business and Professions Code section 2229, subdivision (a), provides, "Protection of the public shall be the highest priority for the [Board] . . . and administrative law judges of the Medical Quality Hearing Panel in exercising their disciplinary authority." Based on the totality of the evidence, the Board's priority of public protection necessitates revocation of Respondent's medical license.

ORDER

Physician's and Surgeon's Certificate Number A77700, issued to Respondent, Craig Richard Wilder, M.D., is hereby revoked.

DATED: May 25, 2018

DocuSigned by:
Julie Cabos-Owen
[illegible]
JULIE CABOS-OWEN
Administrative Law Judge
Office of Administrative Hearings