

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

In the Matter of the Accusation Against:

Kathleen M. Toups, M.D.

Physician's & Surgeon's  
Certificate No. A 45048

Respondent.

Case No. 800-2020-065960

**DECISION**

The attached Stipulated Settlement and Disciplinary Order is hereby adopted as the Decision and Order of the Medical Board of California, Department of Consumer Affairs, State of California.

This Decision shall become effective at 5:00 p.m. on May 03, 2024.

IT IS SO ORDERED: April 04, 2024.

MEDICAL BOARD OF CALIFORNIA

  
\_\_\_\_\_  
Richard E. Thorp, M.D., Chair  
Panel B

1 ROB BONTA  
2 Attorney General of California  
3 GREG W. CHAMBERS  
4 Supervising Deputy Attorney General  
5 State Bar No. 237509  
6 455 Golden Gate Avenue, Suite 11000  
7 San Francisco, CA 94102-7004  
8 Telephone: (415) 510-3382  
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10 *Attorneys for Complainant*

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

In the Matter of the Accusation Against:

Case No. 800-2020-065960

KATHLEEN M. TOUPS, M.D.  
2900 Camino Diablo, Ste. 200  
Walnut Creek, CA 94597-3993

STIPULATED SETTLEMENT AND  
DISCIPLINARY ORDER

Physician's and Surgeon's Certificate No. A  
45048

Respondent.

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

**PARTIES**

1. Reji Varghese (Complainant) is the Executive Director of the Medical Board of California (Board). He brought this action solely in his official capacity and is represented in this matter by Rob Bonta, Attorney General of the State of California, by Greg W. Chambers, Supervising Deputy Attorney General.

1       2.    Respondent Kathleen M. Toups, M.D. (Respondent) is represented in this proceeding  
2 by attorney Marglyn E. Paseka, whose address is: 50 California Street, 34th Floor,  
3 San Francisco, CA 94111.

4       3. On or about July 18, 1988, the Board issued Physician's and Surgeon's Certificate No.  
5       A 45048 to Respondent. The Physician's and Surgeon's Certificate was in full force and effect at  
6       all times relevant to the charges brought in Accusation No. 800-2020-065960, and will expire on  
7       July 31, 2024, unless renewed.

## **JURISDICTION**

9       4.     Accusation No. 800-2020-065960 was filed before the Board, and is currently  
10    pending against Respondent. The Accusation and all other statutorily required documents were  
11    properly served on Respondent on February 28, 2023. Respondent timely filed her Notice of  
12    Defense contesting the Accusation.

13        5. A copy of Accusation No. 800-2020-065960 is attached as exhibit A and incorporated  
14        herein by reference.

## **ADVISEMENT AND WAIVERS**

16       6.    Respondent has carefully read, fully discussed with counsel, and understands the  
17 charges and allegations in Accusation No. 800-2020-065960. Respondent has also carefully read,  
18 fully discussed with her counsel, and understands the effects of this Stipulated Settlement and  
19 Disciplinary Order.

20       7. Respondent is fully aware of her legal rights in this matter, including the right to a  
21 hearing on the charges and allegations in the Accusation; the right to confront and cross-examine  
22 the witnesses against her; the right to present evidence and to testify on her own behalf; the right  
23 to the issuance of subpoenas to compel the attendance of witnesses and the production of  
24 documents; the right to reconsideration and court review of an adverse decision; and all other  
25 rights accorded by the California Administrative Procedure Act and other applicable laws.

26       8.    Respondent voluntarily, knowingly, and intelligently waives and gives up each and  
27       every right set forth above.

## **CULPABILITY**

9. For the purpose of resolving Accusation No. 800-2020-065960 without the expense and uncertainty of further proceedings, Respondent agrees that, at a hearing, Complainant could establish a factual basis for the allegations in the Accusation. Respondent hereby gives up her right to contest those charges.

10. Respondent agrees that her Physician's and Surgeon's Certificate, No. A 45048, is subject to discipline and she agrees to be bound by the Board's imposition of discipline as set forth in the Disciplinary Order below.

## **CONTINGENCY**

11. This stipulation shall be subject to approval by the Medical Board of California. Respondent understands and agrees that counsel for Complainant and the staff of the Medical Board of California may communicate directly with the Board regarding this stipulation and settlement, without notice to or participation by Respondent or her counsel. By signing the stipulation, Respondent understands and agrees that she may not withdraw her agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

12. Respondent agrees that if an accusation is filed against her before the Board, all of the charges and allegations contained in Accusation No. 800-2020-065960 shall be deemed true, correct and fully admitted by Respondent for purposes of any such proceeding or any other licensing proceeding involving Respondent in the State of California.

13. The parties understand and agree that Portable Document Format (PDF) and facsimile copies of this Stipulated Settlement and Disciplinary Order, including PDF and facsimile signatures thereto, shall have the same force and effect as the originals.

14. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or opportunity to be heard by the Respondent, issue and enter the following Disciplinary Order:

## **DISCIPLINARY ORDER**

## **A. PUBLIC REPRIMAND**

IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. A 45048 issued to Respondent Kathleen M. Toups, M.D., shall be and hereby is publicly reprimanded pursuant to California Business and Professions Code section 2227, subdivision (a)(4). This public reprimand is issued in connection with Respondent's record keeping and self-prescribing, as set forth in Accusation 800-2020-065960.

## **B. MEDICAL RECORD KEEPING COURSE**

Within 60 calendar days of the effective date of this Decision, Respondent shall enroll in a course in medical record keeping approved in advance by the Board or its designee. Respondent shall provide the approved course provider with any information and documents that the approved course provider may deem pertinent. Respondent shall participate in and successfully complete the classroom component of the course not later than six (6) months after Respondent's initial enrollment. Respondent shall successfully complete any other component of the course within one (1) year of enrollment. The medical record keeping course shall be at Respondent's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

A medical record keeping course taken after the acts that gave rise to the charges in the Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board or its designee, be accepted towards the fulfillment of this condition if the course would have been approved by the Board or its designee had the course been taken after the effective date of this Decision.

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

1                   C.     COST RECOVERY

2                   Respondent is hereby ordered to reimburse the Board its costs of investigation and  
3                   enforcement, including, but not limited to, expert review, amended accusations, legal reviews,  
4                   investigation(s), and subpoena enforcement, as applicable, in the amount of \$16,853.75 (sixteen  
5                   thousand eight hundred fifty-three dollars and seventy-five cents). Costs shall be payable to the  
6                   Medical Board of California. Failure to pay such costs shall be considered a violation of  
7                   probation.

8                   Payment must be made in full within 30 calendar days of the effective date of the Order, or  
9                   by a payment plan approved by the Medical Board of California. Any and all requests for a  
10                   payment plan shall be submitted in writing by respondent to the Board. Failure to comply with  
11                   the payment plan shall be deemed unprofessional conduct in violation of Business and  
12                   Professions Code section 2234.

13                   The filing of bankruptcy by Respondent shall not relieve Respondent of the responsibility  
14                   to repay investigation and enforcement costs, including expert review costs (if applicable).

15                   ACCEPTANCE

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

21                   DATED: 03 / 12 / 2024



22                   KATHLEEN M. TOUPS, M.D.  
23                   Respondent

24                   I have read and fully discussed with Respondent Kathleen M. Toups, M.D. the  
25                   terms and conditions and other matters contained in the above Stipulated Settlement and  
26                   Disciplinary Order. I approve its form and content.

27                   DATED: 03 / 13 / 2024



28                   MARGLYN E. PASEKA  
Attorney for Respondent

1  
**ENDORSEMENT**

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

4 DATED: 3/13/2024

Respectfully submitted,

5 ROB BONTA  
6 Attorney General of California

7 *Greg W. Chambers*

8 GREG W. CHAMBERS  
9 Supervising Deputy Attorney General  
10 *Attorneys for Complainant*

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1 ROB BONTA  
2 Attorney General of California  
3 GREG W. CHAMBERS  
4 Supervising Deputy Attorney General  
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6 455 Golden Gate Avenue, Suite 11000  
7 San Francisco, CA 94102-7004  
8 Telephone: (415) 510-3382  
9 Facsimile: (415) 703-5480  
10 *Attorneys for Complainant*

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

10	In the Matter of the Accusation Against:	Case No. 800-2020-065960
11		
12	<b>KATHLEEN M. TOUPS, M.D.</b>	<b>ACCUSATION</b>
13	<b>2900 Camino Diablo, Ste. 200</b>	
14	<b>Walnut Creek, CA 94597-3993</b>	
15	<b>Physician's and Surgeon's Certificate</b>	
	<b>No. A 45048,</b>	
		Respondent.

## PARTIES

19       1. Reji Varghese (Complainant) brings this Accusation solely in his official capacity as  
20 the Interim Executive Director of the Medical Board of California, Department of Consumer  
21 Affairs (Board).

22        2. On or about July 18, 1988, the Medical Board issued Physician's and Surgeon's  
23        Certificate Number A 45048 to Kathleen M. Toups, M.D. (Respondent). The Physician's and  
24        Surgeon's Certificate was in full force and effect at all times relevant to the charges brought  
25        herein and will expire on July 31, 2024, unless renewed.

26 III

27 | III

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## JURISDICTION

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

4. Section 2220 of the Code states:

Except as otherwise provided by law, the board may take action against all persons guilty of violating this chapter. The board shall enforce and administer this article as to physician and surgeon certificate holders, including those who hold certificates that do not permit them to practice medicine, such as, but not limited to, retired, inactive, or disabled status certificate holders, and the board shall have all the powers granted in this chapter for these purposes including, but not limited to:

(a) Investigating complaints from the public, from other licensees, from health care facilities, or from the board that a physician and surgeon may be guilty of unprofessional conduct. The board shall investigate the circumstances underlying a report received pursuant to Section 805 or 805.01 within 30 days to determine if an interim suspension order or temporary restraining order should be issued. The board shall otherwise provide timely disposition of the reports received pursuant to Section 805 and Section 805.01.

(b) Investigating the circumstances of practice of any physician and surgeon where there have been any judgments, settlements, or arbitration awards requiring the physician and surgeon or his or her professional liability insurer to pay an amount in damages in excess of a cumulative total of thirty thousand dollars (\$30,000) with respect to any claim that injury or damage was proximately caused by the physician's and surgeon's error, negligence, or omission.

(c) Investigating the nature and causes of injuries from cases which shall be reported of a high number of judgments, settlements, or arbitration awards against a physician and surgeon.

5. Section 2221 of the Code states:

(a) The board may deny a physician's and surgeon's certificate to an applicant guilty of unprofessional conduct or of any cause that would subject a licensee to revocation or suspension of their license. The board, in its sole discretion, may issue a probationary physician's and

1       surgeon's certificate to an applicant subject to terms and conditions, including, but not limited to,  
2       any of the following conditions of probation:

3           (1) Practice limited to a supervised, structured environment where the licensee's activities  
4       shall be supervised by another physician and surgeon.

5           (2) Total or partial restrictions on drug prescribing privileges for controlled substances.

6           (3) Continuing medical or psychiatric treatment.

7           (4) Ongoing participation in a specified rehabilitation program.

8           (5) Enrollment and successful completion of a clinical training program.

9           (6) Abstention from the use of alcohol or drugs.

10           (7) Restrictions against engaging in certain types of medical practice.

11           (8) Compliance with all provisions of this chapter.

12           (9) Payment of the cost of probation monitoring.

13           (b) The board may modify or terminate the terms and conditions imposed on the  
14       probationary certificate upon receipt of a petition from the licensee. The board may assign the  
15       petition to an administrative law judge designated in Section 11371 of the Government Code.  
16       After a hearing on the petition, the administrative law judge shall provide a proposed decision to  
17       the board.

18           (c) The board shall deny a physician's and surgeon's certificate to an applicant who is  
19       required to register pursuant to Section 290 of the Penal Code. This subdivision does not apply to  
20       an applicant who is required to register as a sex offender pursuant to Section 290 of the Penal  
21       Code solely because of a misdemeanor conviction under Section 314 of the Penal Code.

22           (d) An applicant shall not be eligible to reapply for a physician's and surgeon's certificate  
23       for a minimum of three years from the effective date of the denial of his or her application, except  
24       that the board may, in its discretion and for good cause demonstrated, permit reapplication after  
25       not less than one year has elapsed from the effective date of the denial.

26           (e) The board shall disclose a probationary physician's and surgeon's certificate issued  
27       pursuant to this section and the operative statement of issues to an inquiring member of the public  
28       and shall post the certificate and statement on the board's internet website for 10 years from

1 issuance.

2       6. Section 2234 of the Code, states in part:

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

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

8       (b) Gross negligence.

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

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

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

19       (d) Incompetence.

20       (e) The commission of any act involving dishonesty or corruption that is substantially  
21       related to the qualifications, functions, or duties of a physician and surgeon.

22       (f) Any action or conduct that would have warranted the denial of a certificate.

23       ...

24       7. Section 2239 of the Code states:

25       (a) The use or prescribing for or administering to himself or herself, of any controlled  
26       substance; or the use of any of the dangerous drugs specified in Section 4022, or of alcoholic  
27       beverages, to the extent, or in such a manner as to be dangerous or injurious to the licensee, or to  
28       any other person or to the public, or to the extent that such use impairs the ability of the licensee

1 to practice medicine safely or more than one misdemeanor or any felony involving the use,  
2 consumption, or self-administration of any of the substances referred to in this section, or any  
3 combination thereof, constitutes unprofessional conduct. The record of the conviction is  
4 conclusive evidence of such unprofessional conduct.

5 (b) A plea or verdict of guilty or a conviction following a plea of nolo contendere is deemed  
6 to be a conviction within the meaning of this section. The Medical Board may order discipline of  
7 the licensee in accordance with Section 2227 or the Medical Board may order the denial of the  
8 license when the time for appeal has elapsed or the judgment of conviction has been affirmed on  
9 appeal or when an order granting probation is made suspending imposition of sentence,  
10 irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code  
11 allowing such person to withdraw his or her plea of guilty and to enter a plea of not guilty, or  
12 setting aside the verdict of guilty, or dismissing the accusation, complaint, information, or  
13 indictment.

14 8. Section 2266 of the Code states: The failure of a physician and surgeon to maintain  
15 adequate and accurate records relating to the provision of services to their patients constitutes  
16 unprofessional conduct.

#### COST RECOVERY

17 9. Section 125.3 of the Code provides, in pertinent part, that the Board may request the  
18 administrative law judge to direct a licensee found to have committed a violation or violations of  
19 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
20 enforcement of the case, with failure of the licensee to comply subjecting the license to not being  
21 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be  
22 included in a stipulated settlement.

#### DEFINITIONS

24 10. Budesonide is a corticosteroid or steroid (cortisone-like medicine). It works by  
25 preventing inflammation (swelling) in the lungs, which makes an asthma attack less severe. It is a  
26 dangerous drug as defined in Business and Professions Code section 4022.  
27

1       11. Clobetasol reduces swelling, redness, itching, or rashes caused by skin conditions,  
2 such as eczema and psoriasis. It works by decreasing inflammation of the skin. It belongs to a  
3 group of medications called topical steroids. It is a dangerous drug as defined in Business and  
4 Professions Code section 4022.

5       12. Doxycycline belongs to the class of medicines known as tetracycline antibiotics. It is  
6 used to treat bacterial infections in many different parts of the body. It works by killing bacteria  
7 or preventing their growth. However, this medicine will not work for colds, flu, or other virus  
8 infections. It is a dangerous drug as defined in Business and Professions Code section 4022.  
9 Doxycycline is used to treat a variety of infections caused by certain types of bacteria.

10       Doxycycline is also used to treat or prevent anthrax in people who may have been exposed to  
11 anthrax in the air and to treat plague and tularemia. It is also used to prevent malaria. Doxycycline  
12 is also used along with other medications to treat acne and rosacea (a skin disease that causes  
13 redness, flushing, and pimples on the face).

14       13. Hydroxychloroquine belongs to a group of medicines known as antimalarials. It  
15 works by preventing or treating malaria, a red blood cell infection transmitted by the bite of a  
16 mosquito. However, this medicine is not used to treat severe or complicated malaria.  
17 Hydroxychloroquine is also used to treat discoid lupus erythematosus (DLE) or systemic lupus  
18 erythematosus (SLE or lupus), and to treat acute and chronic rheumatoid arthritis. It is a  
19 dangerous drug as defined in Business and Professions Code section 4022.

20       14. Lithium, indicated in the treatment of manic episodes of Bipolar Disorder, is a  
21 dangerous drug within the meaning of Business and Professions Code section 4022.

22       15. Nystatin belongs to the group of medicines called antifungals. The dry powder,  
23 lozenge (pastille), and liquid forms of this medicine are used to treat fungus infections in the  
24 mouth. It is a dangerous drug as defined in Business and Professions Code section 4022.

25       16. Prednisone is a glucocorticoid (hydrocortisone and cortisone), indicated for the  
26 treatment of certain endocrine disorders, rheumatic disorders, collagen diseases, dermatologic  
27 diseases, allergic states, ophthalmic diseases, respiratory diseases, hematologic disorders,  
28 neoplastic diseases, edematous states, gastrointestinal diseases (ulcerative colitis and regional

1 enteritis), and acute exacerbations of multiple sclerosis, tuberculous meningitis, and trichinosis.  
2 It is a dangerous drug as defined in section 4022. Psychic derangements may appear when  
3 corticosteroids are used, ranging from euphoria, insomnia, mood swings, personality changes, and  
4 severe depression to frank psychotic manifestations.

5        17. Sumatriptan, known by the trade name Imitrex, is used to treat migraines. Side  
6        effects include tingling/numbness/prickling/heart pain, tiredness, weakness, drowsiness, or  
7        dizziness. It is a dangerous drug as defined in section 4022 of the Code.

8        18. Tacrolimus topical is used on the skin to treat moderate to severe atopic dermatitis in  
9 patients who have received other medicines that have not worked well. Atopic dermatitis is a skin  
10 condition where there is itching, redness, and inflammation, much like an allergic reaction.  
11 Tacrolimus helps to suppress these symptoms which are reactions caused by the body's immune  
12 system. It is a dangerous drug as defined in section 4022 of the Code.

13        19. Xifaxan, known by the brand name Rifaximin, is used to treat diarrhea caused by the  
14 common bacteria known as E. coli. It works by stopping the growth of bacteria. This antibiotic treats  
15 only bacterial infections. It will not work for viral infections (such as common cold, flu).

16        20. Zolpidem, known by the trade name Ambien, is a non-benzodiazepine hypnotic of the  
17        imidazopyridine class. It is a dangerous drug as defined in Business and Professions Code section  
18        4022 and a schedule IV controlled substance as defined by section 11057 of the Health and Safety  
19        Code. It is indicated for the short-term treatment of insomnia.

20        21. Zolmitriptan is in a class of medications called selective serotonin receptor agonists.  
21 It works by narrowing blood vessels around the brain, stopping pain signals from being sent to the  
22 brain, and blocking the release of certain natural substances that cause pain, nausea, and other  
23 symptoms of migraine. It is a dangerous drug as defined in section 4022 of the Code.

## **FACTUAL ALLEGATIONS**

24 22. From 2016 through 2020, Respondent, a psychiatrist, self-prescribed the following  
25 medications in non-emergent situations:  
26

- Sumatriptan 50 mg (#261 tabs total in 2020, #117 tabs total in 2019);
- Sumatriptan 100mg (#36 tabs in 2019);

1                     • Clobetasol lotion on January 15, 2020;  
2                     • Xifaxan 550 mg tabs #42 each on September 29, 2020 and October 12, 2020;  
3                     • Tacrolimus ointment on November 25, 2020;  
4                     • Nystatin 500U #180 on April 24, 2020;  
5                     • Budesonide 9 mg #60 on May 9, 2020;  
6                     • Budesonide 3 mg #120 each on June 20, 2020 and on July 16, 2020);  
7                     • Hydroxychloroquine 200 mg #36 on March 16, 2020.

8                     23. Respondent also self-prescribed a continuous glucose monitor despite not carrying a  
9 diagnosis of prediabetes, diabetes, or metabolic syndrome. On August 12, 2020, Respondent also  
10 ordered a chest X-ray for herself, and on August 21, 2021, Respondent ordered a pulmonary  
11 function test for herself.

12                     24. Respondent prescribed the following medications to Patient 1,<sup>1</sup> a family member, in  
13 non-emergent situations:

14                     • Zolpidem 5 mg., #60 on May 22, 2018;  
15                     • Zolmitriptan on February 10, 2017; March 9, 2017; May 4, 2017; and May 22,  
16                     2018;  
17                     • Doxycycline on November 29, 2018 and January 9, 2019;  
18                     • Prednisone 10 mg. #60 on June 6, 2020.

19                     25. On October 17, 2020, Respondent prescribed for Patient 1 lithium carbonate 300 mg  
20                     #180 with 3 refills.

21                     26. From September 2016 to January 2021, Respondent ordered lab tests for Patient 1.<sup>2</sup>  
22                     Respondent's medical records only document the rationale for two tests: September 20, 2016  
23                     (mold labs) and January 7, 2021 (lab ordering visit). The medical records fail to contain  
24                     documentation regarding the tests, such as patient history, examination, reason for the tests,  
25

26                     <sup>1</sup> To protect the privacy of all patients involved, patient names have not been included in this  
27                     pleading. Respondent is aware of the identity of all patients referred to herein.  
28                     <sup>2</sup> Respondent ordered lab tests for Patient 1 on the following dates: September 21, 2016;  
                           December 23, 2016; December 27, 2016; December 28, 2016; December 30, 2016, April 8, 2017;  
                           September 24, 2019; June 15, 2020; January 7, 2021.

1 assessment, plan, and follow up of results. The records also fail to note the rationale for the  
2 prescribing of medications to Patient 1, any assessment, plan or follow up of results.

3 **FIRST CAUSE FOR DISCIPLINE**  
4 (Unprofessional Conduct: Gross Negligence and Repeated Negligent Acts)

5 27. Paragraphs 22 through 26 are incorporated by referenced as if fully set forth.  
6 28. Respondent has subjected Physician's and Surgeon's Certificate No. A 45048 to  
7 disciplinary action under sections 2234(b) [gross negligence] and 2234(c) [repeated negligent  
8 acts] of the Code, in that Respondent self-prescribed medication and treatments on a non-  
9 emergent basis, and outside the scope of Respondent's practice.

10 **SECOND CAUSE FOR DISCIPLINE**  
11 (Unprofessional Conduct: Gross Negligence/Repeated Negligent Acts – Patient 1)

12 29. Paragraphs 22 through 26 are incorporated by referenced as if fully set forth.  
13 30. Respondent has subjected Physician's and Surgeon's Certificate No. A 45048 to  
14 disciplinary action under sections 2234(b) [gross negligence] and 2234(c) [repeated negligent  
15 acts] of the Code, in that Respondent prescribed medications and ordered lab tests for a family  
16 member on a non-emergent basis.

17 **THIRD CAUSE FOR DISCIPLINE**  
18 (Unprofessional Conduct: Repeated Negligent Acts/Failure to Keep  
Adequate and Accurate Records)

19 31. Paragraphs 22 through 26 are incorporated by referenced as if fully set forth.  
20 32. Respondent has subjected Physician's and Surgeon's Certificate No. A 45048 to  
21 disciplinary action under sections 2234(c) [repeated negligent acts] and 2266 [failure to keep  
22 adequate and accurate records] of the Code, in that Respondent prescribed medications and  
23 ordered tests for Patient 1 without documenting these actions or the rationale for them.

24 **PRAYER**

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

27 1. Revoking or suspending Physician's and Surgeon's Certificate Number A 45048,  
28 issued to Kathleen M. Toups, M.D.;

1        2. Revoking, suspending or denying approval of Kathleen M. Toups, M.D.'s authority to  
2 supervise physician assistants and advanced practice nurses;  
3        3. Ordering Kathleen M. Toups, M.D., to pay the Board the costs of the investigation  
4 and enforcement of this case, and if placed on probation, the costs of probation monitoring; and  
5        4. Taking such other and further action as deemed necessary and proper.

6        DATED: FEB 28 2023



7        REJI VARGHSE  
8        Interim Executive Director  
9        Medical Board of California  
10       Department of Consumer Affairs  
11       State of California  
12       *Complainant*

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