BEFORE THE

OREGON MEDICAL BOARD

STATE OF OREGON

In the Matter of	)	
	)	
PAUL NORMAN THOMAS	)	AMENDED COMPLAINT & NOTICE OF
LICENSE No. MD15689	)	PROPOSED DISCIPLINARY ACTION
	)	

1.

Parties

The Oregon Medical Board (Board) is the state agency responsible for licensing, regulating and disciplining certain health care providers, including physicians, in the State of Oregon. Paul Norman Thomas, MD (Licensee) is a licensed physician in the State of Oregon.

2.

Proposed Sanctions

The Board proposes to take disciplinary action against Licensee by imposing the maximum range of potential sanctions identified in ORS 677.205(2), which include the revocation of license, a $10,000 civil penalty per violation, and assessment of costs, for violations of the Medical Practice Act, specifically: ORS 677.190(1)(a) unprofessional or dishonorable conduct as defined in ORS 677.188(4)(a) any conduct or practice contrary to recognized standards of ethics of the medical profession or any conduct or practice which does or might constitute a danger to the health or safety of a patient or the public; ORS 677.190(9) making false or misleading statements regarding the efficacy of the licensee's treatments; ORS 677.190(13) repeated negligence and gross negligence in the practice of medicine; ORS 677.190(17) willfully violating any provision of this chapter including ORS 677.080 knowingly making a false statement or representation on a matter; and failing to comply with a Board request made under ORS 677.320 (Board investigations); and ORS 677.190(26) failing to report an adverse action.

3.

Jurisdiction

3.1 Licensee was at all relevant times licensed to practice medicine in the State of Oregon, and practiced in Portland, Oregon; his Oregon medical license is currently limited by a June 3, 2021, Interim Stipulated Order.

3.2 As a Licensee of the Oregon Medical Board, Licensee is subject to the laws, rules, and standards established by the Oregon Medical Board, including but not limited to Oregon Revised Statutes chapters 676 and 677 and Oregon Administrative Rules chapter 847.

3.3 The current, recognized standards of ethics for the medical profession are found in the 2016 edition of the American Medical Association's (AMA) Code of Ethics.

3.4 The current, recognized standard for child and adolescent immunization schedules is the Centers for Disease Control and Prevention's "Recommended Child and Adolescent Immunization Schedule for ages 18 years or younger, United States, 2020" (CDC Recommendations) and its predecessors.[1]

4.

Facts

4.1 At all relevant times, Licensee was board certified in pediatrics, practiced medicine in Portland, Oregon, and was the owner of pediatric medical clinic, Integrative Pediatrics.

4.2 Vaccine-preventable illnesses such as tetanus, hepatitis, pertussis (whooping cough), rotavirus gastroenteritis, pneumococcal pneumonia, polio, human papilloma virus, measles, mumps, and rubella are potentially debilitating and life-threatening. In addition to the threats posed directly to unvaccinated individuals, such individuals pose threats to other persons with whom they may come into contact, even casually,[2] including those who are ineligible for

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[1] Including by the American Pediatric Association, https://www.aap.org/en-us/advocacy-and-policy/aap-health-initiatives/immunizations/Pages/Immunization-Schedule.aspx

[2] https://www.cdc.gov/vaccines/hcp/conversations/downloads/not-vacc-risks-color-office.pdf

vaccines, including those who are allergic to one or more vaccines, too young to have been vaccinated yet, or unable to be vaccinated for reasons such as seizure disorders, pregnancy, Guillain-Barré Syndrome, compromised immune systems, and bleeding disorders.[3]

4.3 CDC Recommendations provide a schedule of vaccinations for children that start at birth and continue through the ages of childhood to provide immunizations for a number of potentially debilitating or fatal diseases that are preventable through vaccination. This schedule is updated periodically, and it provides vaccination schedules for diseases such as hepatitis, rotavirus gastroenteritis, diphtheria, tetanus, pertussis (whooping cough),[4] polio, influenza, pneumococcal pneumonia, measles, mumps, rubella, and human papilloma virus.[5]

4.4 Licensee has published, promoted to his patients, and – according to his clinic's claims – been using since 2008, vaccination schedules that differ significantly from the CDC Recommendations by delaying or decreasing the frequency of many standard vaccines and excluding others.[6]

4.5 Licensee promotes these irregular vaccination schedules to all his patients, claiming these irregular vaccination schedules provide superior results to the medical standard for vaccination, namely improved health on many measures. However, the study Licensee conducted to support his claims is fundamentally flawed.[7] The conclusions cannot be validated and are not credible in light of established facts.

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[3] https://www.cdc.gov/vaccines/vpd/should-not-vacc.html#:~:text=Some%20children%20should%20not%20get,severe%2C%20life%2Dthreatening%20allergies.

[4] DTaP.

[5] https://www.cdc.gov/vaccines/schedules/downloads/past/2020-child.pdf

[6] E.g, **https://www.integrativepediatricsonline.com/uploads/1/0/9/2/109222957/the_vaccine-friendly_plan.pdf**; Paul Thomas, MD, Jennifer Margulis, PhD, The Vaccine-Friendly Plan: Dr. Paul's Safe and Effective Approach to Immunity and Health-from Pregnancy Through Your Child's Teen Years, Ballantine Books, 2016.

[7] Among the flaws: No standard research controls are employed. Statistical analyses are not described. The purported control group (the US population at large) is not meaningfully comparable to the study (experimental) group. Diagnosis of the diseases supposedly eliminated, autism spectrum and attention deficit-hyperactive disorders, would not be possible in any infants or young children who left the practice before the age at which such diagnoses could be made, yet no criteria are provided for inclusion in the study group. Further, the duration of follow-up post-exposure to the various "toxins" described, including vaccines, is not controlled for. These provide abundant opportunity for missed diagnoses. None of the observations or diagnoses are made or confirmed by unbiased observers. In data provided to the OMB by Licensee, 34 children who are noted to have had no MMR vaccines are recorded as having developmental/behavioral issues possibly associated with autism. Twenty-seven of them have developmental issues, primarily delayed language development. Six are noted to have diagnoses of autism spectrum

4.6 Licensee further asserts that following his irregular vaccine schedule will prevent or decrease the incidences of autism and other developmental disorders. Credible research has repeatedly disproven the alleged association of autism spectrum disorders with vaccinations. Licensee's claims placed his patients at a higher risk of infection and transmission of a number of potentially debilitating or fatal diseases that are preventable through vaccination.

4.7 Licensee conducted a study of antibody responses to a single dose of MMR[8] vaccines based on the records and blood samples of 905 pediatric patients at his clinic. The standard of care requires a second dose of the recommended MMR vaccination. Licensee obtained serum antibody levels ("titers") to measles, mumps, and rubella on 905 patients between February 17, 2002, and July 23, 2015. In Licensee's data sheet, 122 patients are identified as having had an inadequate response to the mumps vaccine. Of these, 32 are identified as having received the appropriate second dose of mumps vaccine.[9] The remaining 90 children who had an inadequate response to the mumps vaccine are identified as having received no second vaccination.

4.8 The study did not indicate, nor has Licensee provided documentation, that he administered a second dose of the mumps vaccine to any of the 90 children from the study who had not received the second dose, but who he knows had an inadequate response to the mumps vaccine. On or about July 23, 2020, the Board sent Licensee a notice of investigation and requested the list of patient names from Licensee's study of antibody responses to a single dose of MMR vaccines.

4.9 On or about August 12, 2020, Licensee refused to provide the patient list, citing "WIRB" (Western Institutional Review Board, now called wcg IRB) requirements. WIRB/wcg

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disorders (ASD) or strong suspicions thereof. No independent evaluations have been employed, raising the possibility of bias in Licensee's claim that his unique approach to vaccination has dramatically decreased the incidence of ASD.

[8] MMR is a combination vaccine containing measles, mumps, and rubella.

[9] Regardless of antibody titers, the standard of care requires a second dose of the recommended MMR vaccination.

IRB is a division of WIRB-Copernicus Group, Inc., a private for-profit company that, among other services, provides review of medical research protocols and studies to researchers.

4.10 On or about August 25, 2020, the Board sent a follow-up letter to Licensee, informing him that his response was non-compliant and that he was required to comply with the Board request. On or around July 27, 2021, the Board sought judicial enforcement of its subpoena in Washington County Circuit Court proceeding 21CV30201. Following a hearing held on August 30, 2021, Licensee was ordered to provide the patient list requested by the Board. As of the date of issuance of this Amended Complaint and Notice, Licensee has provided names and dates of birth for patients in the study, but Licensee has not correlated those patient identifiers with the study data – which would identify the 90 children with an insufficient immune response to the mumps vaccine who did not receive a second MMR dose – despite being compelled to do so in Washington County Circuit Court.

4.11 Patient A. Patient A was a newborn when Licensee first saw her for a well-child visit.

4.11.1 During Patient A's first two months of life, when Licensee saw her for a well-child visit, Patient A's mother requested polio and rotavirus vaccinations for her child from Licensee, according to CDC Recommendations. Licensee did not have those vaccines in his clinic, and Patient A was not able to get vaccinated against polio or rotavirus at that time. The degree of care, skill and diligence of an ordinarily careful pediatrician includes stocking CDC-recommended vaccines in the pediatrician's clinic.

4.11.2 During Patients A's appointments, Licensee questioned the patient's mother about why she was seeking the polio vaccine for her child and asked whether [it was because] they were traveling to Africa. Licensee also repeatedly verbally connected vaccines with autism during the clinic visit, and asked Patients A's mother "how awful [she] would feel if [Patient A] got autism and [she] could have prevented it." Discouraging patient parents from following the CDC Recommendations for vaccination

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and attempting to associate vaccination with a risk for autism spectrum disorders does not demonstrate the degree of care, skill and diligence of an ordinarily careful pediatrician.

4.12 Patient B. Patient B was at age 4 months while a patient at Licensee's clinic.

4.12.1 Patient B's mother noted to a subsequent provider that it had been difficult to get her child's vaccinations at Licensee's clinic, that there were multiple anti-vaccination pamphlets and other anti-vaccination literature in Licensee's clinic, some of which she was handed by Licensee's staff, and that Licensee entered the exam room specifically to strongly recommend against vaccination. Discouraging patient parents from vaccinating their children and promoting non-vaccination directly to patients, person or in print, does not demonstrate the degree of care, skill and diligence of an ordinarily careful pediatrician.

4.12.2 Patient B's mother further reported that Licensee did not provide any combination vaccines[10] and did not stock all the standard vaccines, but instead had to special order them at the mother's request in order to keep Patient B current with the CDC Recommendations. The degree of care, skill and diligence of an ordinarily careful pediatrician includes stocking the CDC-recommended vaccines in their clinic.

4.13 Patient C. Patient C was followed by Licensee and other providers in his clinic from approximately age 3 until age 6.

4.13.1 Patient C was unvaccinated, but there is no record of parental refusal of vaccines nor a record of discussion of the risks and benefits of vaccination versus non-vaccination. The degree of care, skill and diligence of an ordinarily careful pediatrician includes administering vaccines according to the CDC Recommendations or, if the CDC Recommendations are not followed because of parent refusal, documenting in detail the parent's refusal being made as an informed, independent choice.

4.13.2 Patient C was treated empirically for pneumonia by Licensee. Three weeks later, another provider in Licensee's clinic diagnosed pertussis. This provider

[10] MMR is a typical combination vaccine.

encouraged patient C's mother to follow up with Licensee. When she did so, Licensee noted possible pertussis, but there is no record of reporting to public health authorities. Pertussis was and is a "nationally notifiable" disease, per the United States Center for Disease Control. A notifiable disease is one for which regular, frequent, and timely information regarding individual cases is considered necessary for the prevention and control of the disease. Health care providers in Oregon are required by law to report cases and suspect cases of pertussis to local health departments. The degree of care, skill and diligence of an ordinary careful pediatrician includes following applicable law as it pertains to reportable contagious illnesses.

4.14 Patient D. Patient D was followed by Licensee and other providers in his clinic from infancy until approximately age 3.

4.14.1 Patient D was unvaccinated, but there is no record of parental refusal of vaccines nor a record of discussion of the risks and benefits of vaccination versus non-vaccination. The degree of care, skill and diligence of an ordinarily careful pediatrician includes administering vaccines according to the CDC Recommendations or, if the CDC Recommendations are not followed because of parent refusal, documenting in detail the parent's refusal being made as an informed independent choice.

4.14.2 Patient D was diagnosed with pertussis by another provider in Licensee's clinic and was also then referred to Licensee. There is no record of this illness being reported to local or national authorities. The degree of care, skill and diligence of an ordinary careful pediatrician includes following applicable law as it pertains to reportable contagious illnesses.

4.15 Patient E. Patient E is a child who was seen by Licensee over a three-day period at approximately 10 weeks of life for complaint of a fever. Although Licensee reevaluated patient E daily and sent repeated labs, he made a clinical decision to treat a febrile child less than three months old with intramuscular ceftriaxone on the basis of a "bagged" and not catheterized urine sample and in the absence of blood cultures. Any child of this age is at significant risk of

life-threatening bacterial infection (late onset group B strep, pneumococcal bacteremia, urinary tract infection, pneumonia, meningitis) as well as inflammatory illnesses such as Kawasaki's disease. Licensee did not refer the child to hospital for definitive lab testing (ultrasound guided bladder tap, blood cultures, possible lumbar puncture) and observation. The degree of care, skill and diligence of an ordinarily careful pediatrician with a febrile child under 3 months of age in these circumstance dictates referral of the child to a hospital for definitive lab testing (ultrasound guided bladder tap, blood cultures, possible lumbar puncture) and observation.

4.16 Patient F. When Patient F was approximately seven years of age, Licensee followed her in clinic for constipation, food allergies, mold allergies, and possible "chronic Lyme disease." He ordered repeated IgE allergy panels,[11] recommended elimination diets and vitamin supplements, and provided antibiotics for acute infections. He made no referral to a pediatric gastroenterologist to evaluate for malabsorption or celiac disease. He made no referral to a pediatric allergy/immunology specialist. He made no referral to a pediatric nutrition specialist. The degree of care, skill and diligence of an ordinarily careful pediatrician treating a child with potentially morbid gastrointestinal symptoms requires thorough evaluation and the consultation and involvement of appropriate pediatric sub-specialists.

4.17 Patient G. Patient G was a previously healthy female patient of Licensee who presented at her annual well-child visit (age 6) on or about November 21, 2017, with concerns about growth of pubic hair.

4.17.1 Patient G saw a nurse practitioner in Licensee's practice at that visit who conducted the physical examination and made an initial assessment. The nurse practitioner confirmed pubic hair growth and correctly looked for other physical signs of pubertal development, which were absent at that time. Based only on her physical examination, especially due to the lack of breast development, Patient G would have been

[11] A blood test used to help diagnose an allergy to a specific substance or substances for a person who presents with acute or chronic allergy-like symptoms.

considered Tanner 1 (pre-pubertal). Laboratory tests were then ordered on Patient G to review Patient G's hormone levels.

4.17.2 The nurse practitioner consulted with Licensee; Licensee interpreted Patient G's lab results and formulated a treatment plan. The lab results were normal for pre-pubertal development. However, Licensee did not x-ray Patient G's hand to determine bone age and identify the risk for early puberty. Furthermore, instead of closely monitoring Patient G for progression of puberty and possible referral to a specialist, Licensee advised Patient G's parent that Patient G no longer needed annual well-child visits, and that a well-child visit every two years was sufficient.

4.17.3 On or about April 16, 2020, Licensee's office sent a letter to Patient G's parent regarding scheduling a well-child visit (age 8), claiming they had made previous attempts to contact the parent. Patient G's parent sent an email to Licensee's office on or about May 18, 2020, informing them that Patient G was transferring care to another practice. On or about October 29, 2020, Patient G's parent completed a new patient registration form for Patient G at a pediatric clinic in Hillsboro, Oregon. Patient G had begun menstruating. At the Hillsboro clinic, Patient G was diagnosed with precocious puberty with evaluation that included a hand x-ray for bone age, and was referred to a specialist who confirmed the precocious puberty diagnosis and recommended treatment with a GnRH-agonist to delay closure of Patient G's bone growth centers.

4.17.4 An ordinarily careful and skillful physician treating a 6-year-old patient who has developed pubic hair, in addition to conducting a physical examination for other signs of puberty and reviewing laboratory tests for hormone levels, orders a hand x-ray to determine bone age and closely monitors the patient for signs of pubertal progression and possible referral to a precocious puberty specialist.

4.18 On or about July 15, 2019, the Oregon Health Authority (OHA) terminated Licensee as the primary individual provider formally accountable for Integrative Pediatrics, and terminated Integrative Pediatrics from OHA's Vaccines for Children (VFC) Program. Licensee

was terminated from the program for failing to follow the medical standard, failing to stock or have on order HPV or rotavirus vaccines, and failing to offer HPV vaccines throughout 2017 and 2018. The Oregon Health Authority is a government agency. Licensee was the primary individual provider formally accountable for his clinic's compliance with OHA's VFC Program. The degree of care, skill and diligence of an ordinarily careful pediatrician includes stocking and offering the CDC-recommended vaccines in their clinic. Additionally, Licensee did not report the OHA action the Board.

4.19 On or before March 22, 2021, OHA terminated Licensee's participation in the Oregon Health Plan/Medicaid. OHA terminated Licensee's participation in the Oregon Health Plan/Medicaid for the reasons outlined in its termination of Licensee from its VFC Program and for failing to furnish medically necessary services when required by law, including Licensee's 2018 refusal to correct his clinics deficiencies related to stocking and offering rotavirus and HPV vaccines and Licensee's refusal to stock, offer, or administer HPV vaccines in the future.[12] The degree of care, skill and diligence of an ordinarily careful pediatrician includes furnishing medically necessary services and stocking and offering the CDC recommended vaccines in their clinic.

4.20 On or about April 17, 2019, during the Board's investigation of Licensee, the Board requested from Licensee the following information, in pertinent part:

> *[A] list of patients (name/date of birth/time frame) that were under your care and within the last 10 years that have developed any of the following diseases:*
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> a. *Autism, Measles, Mumps, Rubella, Varicella, Tetanus, Diphtheria, Pertussis, Hepatitis A or B, Rotavirus, Pneumococcal pneumonia or sepsis, and Influenza requiring hospitalization.*

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[12] OHA also terminated Licensee's participation in OHP/Medicaid based on the Board emergency suspension of his license, but reciprocal discipline by other agencies for discipline this Board has issued is not the basis of any violations alleged in this Complaint and Notice.

4.21 On or about May 8, 2019, the Licensee submitted his response to the April 17 request, but he redacted patient first names, dates of birth and time frames and submitted his response unsigned despite the Board's request and instructions.[13]

4.22 The AMA Code of Ethics opinion 1.1.3(d) provides the following pertinent ethics standards for physicians:

> Physicians can best contribute to a mutually respectful alliance with patients by serving as their patients' advocates and by respecting patients' rights. These include the right:
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> * * *
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> (d) To make decisions about the care the physician recommends and to have those decisions respected.

5.

Law

5.1 ORS 677.190(1)(a), (13), (17), (26) and ORS 677.205(1)(b) and (2)(b) to (f) authorize the Board to place conditions on, suspend or revoke a license to practice, place a licensee on probation, and take other disciplinary action, including assessment of the costs of the disciplinary proceedings or a civil penalty for the reasons of: unprofessional or dishonorable conduct; repeated negligence or gross negligence in the practice of medicine; willfully violating any provision of this chapter; failing to comply with a board request pursuant to ORS 677.320; and failure by the licensee to report to the board any adverse action taken against the licensee by another licensing jurisdiction or any governmental agency for acts or conduct similar to acts or conduct that would constitute grounds for disciplinary action as described in this section.

5.2 Under ORS 677.188(4)(a), unprofessional or dishonorable conduct means conduct unbecoming a person licensed to practice medicine, or detrimental to the best interests of the public, and includes:

> Any conduct or practice contrary to recognized standards of ethics of the medical or podiatric profession or any conduct or practice which does or might constitute a danger to the health or safety of a patient or the public or any conduct, practice or condition which

[13] On or about May 10, 2019, the Board sent Licensee a letter notifying him that his response was non-compliant and made a second request for the patient list. Almost a month after its second request, on or about June 5, 2019, Licensee submitted an un-redacted patient list in response to the second Board request.

does or might adversely affect a physician's ability to safely and skillfully practice medicine.

5.3 Professional negligence in Oregon occurs when a professional breaches the standard of care.

5.3.1 ORS 677.095(1) and ORS 677.265(1)(c) define the standard of care as "that degree of care, skill and diligence that is used by ordinarily careful physicians in the same or similar circumstances in the community of the physician or a similar community."

5.3.2 ORS 677.097(2) provides the same definition for the standard of care required for appropriate informed consent.

5.3.3 Professional gross negligence in Oregon is an error "of such magnitude or recurrence" that a willful indifference to the consequences of the act may be inferred. *Hambleton v. Bd. of Engineering Examiners*, 40 Or App 9, 12, 594 P2d 416 (1979).

5.4 ORS 677.080(1) provides, in pertinent part, no person shall knowingly make any false statement or representation on a matter.

5.5 ORS 677.320 provides the Board's investigative authority.

6.

Violations - Unprofessional Conduct -- Medical Ethics Standards

6.1 License engaged in conduct contrary to the AMA Code of Ethics Opinion 1.1.3 by attempting to discourage Patient A's mother from obtaining CDC-recommended vaccines when she requested them and further indicating to the mother that she would be subjecting her child to autism spectrum disorders if she had her child vaccinated. Licensee failed to respect the parent's right to make decisions about Patient A's care and failed to respect her decision.

6.2 Licensee's above-described conduct is contrary to the AMA Code of Ethics Opinion 1.1.3(d) and therefore constitutes unprofessional conduct under ORS 677.188(4)(a), conduct contrary to recognized ethics standards of the medical profession. Engaging in unprofessional conduct is grounds for discipline under ORS 677.190(1)(a).

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Violations – Unprofessional Conduct – Conduct or practice which does or might constitute a danger to the health or safety of a patient or the public

7.1 By failing to carry or offer vaccines for HPV, polio, and rotavirus, Licensee failed to protect his patients against those debilitating and sometimes deadly diseases, which practice thereby did or might have constituted a danger to the health or safety of his patients. Licensee therefore engaged in unprofessional conduct under ORS 677.188(4)(a), which is grounds for discipline under ORS 677.190(1)(a).

7.2 By failing to carry or offer vaccines for polio and rotavirus, Licensee failed to immunize his patients against those diseases. Because his patients were not immunized, they could contract those diseases, which are contagious, and then expose other members of the Portland community and general public to them. By exposing other members of the Portland community and general public to debilitating and deadly diseases, Licensee engaged in a practice that did or might have constituted a danger to the health and safety of the public. Licensee thereby engaged in unprofessional conduct under ORS 677.188(4)(a), which is grounds for discipline under ORS 677.190(1)(a).

7.3 By promoting an incomplete vaccine schedule that did not meet the standard of care and by falsely representing that vaccines can cause autism spectrum disorders to all of his patients and their parents (not only to those who were explicitly opposed to vaccination), Licensee needlessly exposed his patients to debilitating and fatal diseases. This was conduct that did or might have constituted a danger to the health and safety of his patients. Licensee thereby engaged in unprofessional conduct under ORS 677.188(4)(a), which is grounds for discipline under ORS 677.190(1)(a).

7.4 By promoting an incomplete vaccine schedule that did not meet the standard of care and falsely representing that vaccines can cause autism spectrum disorders to all of his patients and patient parents (not only to those who were explicitly opposed to vaccination), Licensee needlessly exposed his patients and, thereby, the wider pediatric population, to

debilitating or fatal diseases. This was conduct that did or might have constituted a danger to the health and safety of the public. Licensee thereby engaged in unprofessional conduct under ORS 677.188(4)(a), which is grounds for discipline under ORS 677.190(1)(a).

8.

Violations – Repeated Negligence

Licensee's care of Patients A through G constitutes multiple acts of negligence in the following ways:

8.1 Licensee breached the standard of care by failing to stock CDC-recommended vaccines at the time of Patient A's visit.

8.2 Licensee breached the standard of care by discouraging Patient A's parent from following the CDC Recommendations for vaccinations.

8.3 Licensee breached the standard of care by attempting to associate vaccination with a risk for autism spectrum disorders to the parent of Patient A.

8.4 Licensee breached the standard of care by failing to stock CDC-recommended vaccines during the period that Patient B was a patient of Licensee, requiring that they be special-ordered upon parental request.

8.5 Licensee breached the standard of care by recommending against vaccination to the parent of Patient B.

8.6 Licensee breached the standard of care by discouraging all of his patients from following the CDC Recommendations on vaccine via literature in his pediatrics clinic.

8.7 Licensee breached the standard of care for Patient C by failing to discuss the risks and benefits of vaccination and non-vaccination with the patient's parents, by failing to document parental refusal in the event it had occurred.

8.8 Licensee breached the standard of care by failing to report to the Oregon Health Authority and the Centers for Disease Control Patient C's diagnosis of pertussis as required by law.

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8.9 Licensee breached the standard of care for patient D by failing to discuss the risks and benefits of vaccination and non-vaccination with the parents, and by failing to document parental refusal in the event it had occurred.

8.10 Licensee breached the standard of care by failing to make the mandatory report of Patient D's contagious disease as required by law and/or, in the operation of his clinic, ensure mandatory reporting.

8.11 Licensee breached the standard of care in his care of Patient E by failing to refer a febrile child (for three days) under three months of age to a hospital for definitive lab testing (ultrasound guided bladder tap, blood cultures, possible lumbar puncture) and observation.

8.12 Licensee breached the standard of care in his care of Patient F by failing to refer a child with potentially morbid gastrointestinal symptoms to appropriate pediatric sub-specialists.

8.13 Licensee breached the standard of care in his care of Patient G by failing to order a hand x-ray for bone age when she was 6 years of age and presented with pubic hair, and by failing to closely monitor her afterwards for pubertal progression.

8.14 Licensee breached the standard of care by failing to stock or offer CDC-recommended vaccines during 2017 and 2018.

8.15 Licensee breached the standard of care by failing to furnish medically necessary services when required by law, including Licensee's 2018 refusal to correct his clinic's deficiencies related to stocking and offering rotavirus and HPV vaccines and Licensee's refusal to stock, offer, or administer HPV vaccines in the future.

8.16 Each of the 15 instances of negligence detailed above is a ground for discipline under ORS 677.190(13).

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Violations - Gross Negligence

9.1 Licensee's commission of 15 instances of negligence are errors of such recurrence that Licensee's willful indifference to the consequences of his acts may be inferred. Licensee

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thereby committed gross negligence in the practice of medicine, which is grounds for discipline under ORS 677.190(13).

9.2 Licensee's promotion of an inadequate vaccine schedule, which did not meet the standard of care, to all of his patients and patient parents – not only to those who were adamantly opposed to vaccination – needlessly exposed not only his patients, but also the wider Oregon pediatric community, to debilitating or fatal, but preventable, diseases. This was an error of such recurrence and magnitude that Licensee's willful indifference to the consequences of his acts may be inferred. Licensee thereby committed gross negligence in the practice of medicine, which is grounds for discipline under ORS 677.190(13).

9.3 Licensee's repeated but false association of autism with vaccines, made repeatedly to all his patients and patient parents, to actively discourage his patient parents from vaccinating their children according to the recommended schedule were errors of such magnitude that a willful indifference to the consequences of his acts may be inferred. License thereby committed gross negligence in the practice of medicine, which is grounds for discipline under ORS 677.190(13).

10.

Violation – the False or Misleading Statement Regarding Efficacy of Treatment

By promoting to and vaccinating patients under his irregular vaccination schedules, claiming they provide improved health on many measures in comparison to the CDC Recommendations, when the study Licensee created to support his claims is fundamentally flawed and its conclusions cannot be validated, Licensee made statements that the Licensee knew, or with the exercise of reasonable care should have known, were false or misleading, regarding the efficacy or value medicine or a treatment he prescribed or administered in treatment of a condition of the human body. Doing so is grounds for discipline under ORS 677.190(9).

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Violations – Willfully Violating the law – Untruthful or Misleading Statements

11.1 By associating vaccines with autism and other developmental disorders, and by asserting to his patients that following his irregular vaccine schedule will prevent or decrease the incidences of autism and other developmental disorders, Licensee knowingly made false statements or representations on a matter.

11.2 By knowingly making false statements or representations on a matter, Licensee violated ORS 677.080(1). By violating ORS 677.080(1), Licensee willfully violated a provision of ORS chapter 677, which is grounds for discipline under ORS 677.190(17).

12.

Violation – Failure to Comply with Board Request

12.1 By failing to provide full patient names, dates of birth or relevant dates in response to the Board's request for those items as related to a list of patients who had been under his care and developed: autism, measles, mumps, rubella, varicella, tetanus, diphtheria, pertussis, hepatitis A or B, rotavirus, pneumococcal pneumonia or sepsis, and influenza requiring hospitalization, Licensee willfully failed to comply with a Board request. By doing so while he was under investigation, he is subject to discipline under ORS 677.190(17).

12.2 By failing to provide the names of the patients who he listed as not having received a second dose of the MMR vaccine when requested by the Board to provide them, Licensee willfully failed to comply with a Board request. By doing so while he was under investigation, he is subject to discipline under ORS 677.190(17).

13.

Violation – Failure to Report

Because the OHA is a government agency who removed privileges (participation in VFC) from Licensee as the practitioner responsible for his clinic's actions and failures, and from his clinic, and because the OHA action was based on Licensee's failure to stock or offer CDC-recommended vaccines in his clinic, which is negligence in the practice of medicine and

therefore grounds for disciplinary action under ORS 677.190(13), Licensee was required to report the OHA action to the Board. By failing to report the OHA actions, Licensee failed to report an adverse action against him by a government agency for conduct similar to conduct described in ORS 677.190, which is therefore grounds for discipline under ORS 677.190(26).

14.

Committing dishonorable or unprofessional conduct; committing repeated negligence in the practice of medicine; committing gross negligence in the practice of medicine; making false or misleading statements the person knows or with the exercise of reasonable care should know, are false or misleading, regarding skill or the efficacy or value of the medicine, treatment or remedy prescribed or administered by the Licensee or at the direction of the Licensee in the treatment of any disease or other condition of the human body or mind; willfully violating any provision of ORS 677 or any rule adopted by the Board; failing to comply with a board request pursuant to ORS 677.320; and failing to report to the board any adverse action taken against the licensee by another governmental agency for acts or conduct similar to acts or conduct that would constitute grounds for disciplinary action as described in this section are all grounds for license discipline including revocation, civil penalties up to $10,000 per violation, and the costs of the proceeding under ORS 677.205(1) and (2).

15.

Licensee is entitled to a hearing as provided by the Administrative Procedures Act (ORS chapter 183), Oregon Revised Statutes. Licensee may be represented by counsel at the hearing. If Licensee desires a hearing, the Board must receive Licensee's written request for hearing within twenty-one (21) days of the mailing of this Notice to Licensee. Upon receipt of a request for a hearing, the Board will notify Licensee of the time and place of the hearing.

16.

16.1 If Licensee requests a hearing, Licensee will be given information on the procedures, right of representation, and other rights of parties relating to the conduct of the hearing as required under ORS 183.413(2) before commencement of the hearing.

16.2 In the event of a hearing, the Board proposes to assess against Licensee the Board's costs of this disciplinary process and action, including but not limited to all legal costs from the Oregon Department of Justice, all hearing costs from the Office of Administrative Hearings, all costs associated with any expert or witness, all costs related to security and transcriptionist services for the hearing and administrative costs specific to this proceeding in an amount not to exceed $100,000, pursuant to ORS 677.205(2)(f).

17.

Pursuant to OAR 137-003-0505(1)(i), the Board may impose the maximum penalties against Licensee without amending its notice, up to and including revocation of license, a $10,000 civil penalty per violation, and the costs of the proceeding.

18.

NOTICE TO ACTIVE DUTY SERVICEMEMBERS: Active duty Servicemembers have a right to stay these proceedings under the federal Servicemembers Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 503-584-3571 or the nearest United States Armed Forces Legal Assistance Office through http://legalassistance.law.af.mil. The Oregon Military Department does not have a toll-free telephone number.

19.

Failure by Licensee to timely request a hearing, failure to appear at any hearing scheduled by the Board, withdrawal of the request for hearing, or failure to appear at any hearing scheduled by the Board on time will constitute waiver of the right to a contested case hearing. Waiver of the right to a contested case hearing may result in a default order by the Board, including the potential revocation of Licensee's medical license and assessment of such penalty and costs as the Board deems appropriate under ORS 677.205. If the Board issues a final order by default, the Board designates the discoverable material which comprises the file, including all submissions by Licensee, as the record for the purpose of proving a prima facie case.

20.

Licensee may appeal any final order issued in this case by filing a petition for review with the Oregon Court of Appeals within 60 days after it is served upon Licensee. See ORS 183.480 et seq.

DATED this 22nd day of November, 2021.

OREGON MEDICAL BOARD
State of Oregon

[redacted]

NICOLE KRISHNASWAMI, JD
EXECUTIVE DIRECTOR