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

In the Matter of the Accusation Against:	)	
DONALD JAY McCAULEY, P.A.	)	**Case No. 950-2017-001259**
Physician Assistant License No. PA 51774	)	
Respondent	)	

DECISION AND ORDER

The attached Stipulated Surrender of License is hereby adopted as the Decision and Order of Physician Assistant Board, Medical Board of California, Department of Consumer Affairs, State of California.

This Decision shall become effective at 5:00 p.m. on August 1, 2018.

IT IS SO ORDERED July 25, 2018.

PHYSICIAN ASSISTANT BOARD

By: Maureen L. Forsyth
Maureen L. Forsyth
Executive Officer

XAVIER BECERRA
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Physician Assistant Board

BEFORE THE
PHYSICIAN ASSISTANT BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against: **DONALD JAY McCAULEY, P.A.** P.O. Box 1079 Pawleys Island, SC 29585 Physician Assistant License No. PA 51774	**Case No.: 950-2017-001259** **STIPULATED SURRENDER OF LICENSE**

IT IS HEREBY STIPULATED AND AGREED by and between the parties in this proceeding, that the following matters are true:

1. Maureen L. Forsyth (Complainant) is the Executive Officer of the Physician Assistant Board of California. She brought this action solely in the official capacity, and is represented by Xavier Becerra, Attorney General of the State of California, by Jane Zack Simon, Supervising Deputy Attorney General.

2. Respondent Donald Jay McCauley, P.A. (Respondent) is representing himself in this matter. His current address is 2368 Heritage Loop, Myrtle Beach, SC 29577.

3. On July 21, 2014, the Physician Assistant Board of California (Board) issued Physician Assistant License No. PA 51774 to Respondent. The license is in delinquent status, having expired on September 30, 2017.

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4. Respondent has received, read, and understands the Accusation which is presently on file and pending in case number 950-2017-001259 (Accusation) a copy of which is attached as Exhibit A. Respondent also has carefully read and understands the effects of this Stipulated Surrender of License (Stipulation).

5. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to be represented by counsel, at his own expense; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

6. For the purpose of resolving the charges and allegations in the Accusation, without the expense and uncertainty of further proceedings, Respondent agrees that cause exists to discipline his California Physician Assistant license. Respondent wishes to surrender his California license at this time.

7. Respondent understands that this Stipulation for Surrender of License shall be subject to the approval of the Board. Respondent understands and agrees that the Physician Assistant Board's staff and counsel for Complainant may communicate directly with the Board regarding this Stipulation without notice to or participation by Respondent. By signing this Stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek to rescind the Stipulation prior to the time the Board considers and acts upon it. In the event that this Stipulation is rejected for any reason by the Board, it will be of no force or effect for either party. The Board will not be disqualified from further action in this matter by virtue of its consideration of this Stipulation.

8. Upon acceptance of this Stipulation by the Board, Respondent understands that he will no longer be permitted to practice as a physician assistant in California, and also agrees to surrender and cause to be delivered to the Board any license and wallet certificate in his

possession before the effective date of the Decision.

9. The admissions made by Respondent herein are only for the purposes of this proceeding, or any other proceedings in which the Physician Assistant Board or other professional licensing agency is involved, and shall not be admissible in any other criminal or civil proceeding.

10. Respondent fully understands and agrees that if he ever files an application for relicensure or reinstatement in the State of California, the Board shall treat it as a petition for reinstatement, and Respondent must comply with all laws, regulations and procedures for reinstatement of a revoked license in effect at the time the petition is filed.

11. Respondent understands that he may not petition for reinstatement as a physician assistant for a period of three (3) years from the effective date of his surrender. Information gathered in connection with Accusation number 950-2017-001259 may be considered by the Board in determining whether or not the grant the petition for reinstatement. For the purposes of the reinstatement hearing, the allegations contained in Accusation number 950-2017-001259 shall be deemed to be admitted by Respondent, and Respondent waives any and all defenses based on a claim of laches or the statute of limitations.

12. Respondent shall pay the Board some of the costs incurred in investigation and enforcement of this action in the amount of $1,500.00 upon submission of a petition for issuance of a new or reinstated license.

13. The parties understand and agree that facsimile or electronic copies of this Stipulated Surrender of License, including facsimile or electronic signatures thereto, shall have the same force and effect as the originals.

ACCEPTANCE

I have carefully read the above Stipulated Surrender of License. I enter into it freely and voluntarily and with full knowledge of its force and effect do hereby surrender my Physician Assistant License Number PA 51774 to the Physician Assistant Board of California, for its formal acceptance. By signing this stipulation to surrender my license, I recognize that upon its formal acceptance by the Board, I will lose all rights and privileges to practice as a physician assistant in

the State of California and I also will cause to be delivered to the Board any license and wallet certificate in my possession before the effective date of the decision.

DATED: _____

_____
DONALD JAY McCAULEY, P.A.
Respondent

ENDORSEMENT

The foregoing Stipulated Surrender of License is hereby respectfully submitted for consideration by the Physician Assistant Board of California.

DATED: 7/3/18

XAVIER BECERRA
Attorney General of the State of California

_____
JANE ZACK SIMON
Supervising Deputy Attorney General

Attorneys for Complainant

I have carefully read the above Stipulated Surrender of License. I enter into it freely and voluntarily and with full knowledge of its force and effect do hereby surrender my Physician Assistant License Number PA 51774 to the Physician Assistant Board of California, for its formal acceptance. By signing this stipulation to surrender my license, I recognize that upon its formal acceptance by the Board, I will lose all rights and privileges to practice as a physician assistant in the State of California and I also will cause to be delivered to the Board any license and wallet certificate in my possession before the effective date of the decision.

DATED: July 18

DONALD JAY McCAULEY, P.A.
Respondent

ENDORSEMENT

The foregoing Stipulated Surrender of License is hereby respectfully submitted for consideration by the Physician Assistant Board of California.

DATED: _____

XAVIER BECERRA
Attorney General of the State of California

_____
JANE ZACK SIMON
Supervising Deputy Attorney General

Attorneys for Complainant

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO May 24 2018
BY R. Fitzwater ANALYST

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BEFORE THE
PHYSICIAN ASSISTANT BOARD
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against: **DONALD JAY McCAULEY, P.A.** P.O. Box 1079 Pawleys Island, SC 29585-1079 Physician Assistant License No. PA 51774 Respondent.	Case No. 950-2017-001259 **ACCUSATION**

Complainant alleges:

PARTIES

1. Maureen L. Forsyth (Complainant) brings this Accusation solely in her official capacity as the Executive Officer of the Physician Assistant Board, Department of Consumer Affairs.

2. On July 21, 2014, the Physician Assistant Board issued Physician Assistant License Number PA 51774 to Donald Jay McCauley, P.A. (Respondent). The Physician Assistant License is in delinquent status, having expired on September 30, 2017.

JURISDICTION

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

4. Section 3527 of the Code states, in pertinent part:

"(a) The board may order the denial of an application for, or the issuance subject to terms and conditions of, or the suspension or revocation of, or the imposition of probationary conditions upon a physician assistant license after a hearing as required in Section 3528 for unprofessional conduct that includes, but is not limited to, a violation of this chapter, a violation of the Medical Practice Act, or a violation of the regulations adopted by the board or the Medical Board of California. . . .

"(f) The board may order the licensee to pay the costs of monitoring the probationary conditions imposed on the license.

"(g) The expiration, cancellation, forfeiture, or suspension of a physician assistant license by operation of law or by order or decision of the board or a court of law, the placement of a license on a retired status, or the voluntary surrender of a license by a licensee shall not deprive the board of jurisdiction to commence or proceed with any investigation of, or action or disciplinary proceeding against, the licensee or to render a decision suspending or revoking the license."

5. Section 2234 of the Code states, in pertinent part:

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

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

...

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

6. Section 2238 of the Code provides that a violation of any federal or state statute or regulation related to dangerous drugs or controlled substances constitutes unprofessional conduct.

7. Section 2239 of the Code provides, in part, that the use or prescribing for or administering to himself or herself, of any controlled substance constitutes unprofessional conduct.

8. Section 3502.1 of the Code provides, in pertinent part, that a physician assistant is authorized to issue a drug prescription provided that the physician assistant is under the supervision of a licensed physician and is acting on behalf of, and as an agent for, the supervising physician.

9. Section 11153 of the Health and Safety Code provides, in pertinent part, that a prescription for a controlled substance shall only be issued for a legitimate medical purpose by an individual practitioner acting in the usual course of his or her professional practice. An order purporting to be a prescription which is issued not in the usual course of professional treatment is not a legal prescription.

10. Section 11157 of the Health and Safety Code provides that: "No person shall issue a prescription that is false or fictitious in any respect."

11. Section 11170 of the Health and Safety Code provides that: "No person shall prescribe, administer, or furnish a controlled substance for himself."

12. Section 11173 of the Health and Safety Code provides, in pertinent part:

"(a) No person shall obtain or attempt to obtain controlled substances, or procure or attempt to procure the . . prescription for controlled substances, (1) by fraud, deceit, misrepresentation, or subterfuge; or (2) by the concealment of a material fact.

"(b) No person shall make a false statement in any prescription, order, report, or record, required by this division. . . ."

COST RECOVERY

13. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

FACTS COMMON TO ALL CAUSES FOR DISCIPLINE

14. In 2015, Respondent worked as a physician assistant at a medical practice in Bakersfield, California. In the course of his employment, Respondent had access to prescription pads belonging to his physician supervisor.

15. Between January and November, 2015, Respondent wrote prescriptions to himself for his own use, using the prescription pad and name of his supervising physician, for the controlled substances lorazepam[1], diazepam[2] and tramadol[3]. Respondent was not under the care and treatment of his supervising physician, and wrote the prescriptions without her knowledge or consent. Respondent presented and filled these false and fraudulent prescriptions at local pharmacies.

FIRST CAUSE FOR DISCIPLINE

(Unprofessional Conduct; Self Prescribing)

16. Respondent has committed unprofessional conduct and is subject to disciplinary action under sections 3527, 2239, 3502.1 of the Code, and Health and Safety Code section 11170, in that he prescribed controlled substances to himself and wrote prescriptions without the authority of his supervising physician, as alleged in paragraphs 14 and 15.

SECOND CAUSE FOR DISCIPLINE

(Unprofessional Conduct; Violator of Drug Laws)

17. Respondent has committed unprofessional conduct and is subject to disciplinary action under sections 3537 and 2238 of the Code, and Health and Safety Code section 11153, in that he violated state laws regulating dangerous drugs and/or controlled substances, and issued prescriptions for controlled substances without a legitimate medical purpose, as alleged in paragraphs 14 and 15.

THIRD CAUSE FOR DISCIPLINE

(Unprofessional Conduct; Dishonesty, Fraudulent or False Prescriptions)

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[1] Lorazepam (trade name Ativan) is a benzodiazepine and central nervous system depressant used to manage and/or treat anxiety. It is a Schedule IV controlled substance.

[2] Diazepam (trade name Valium) is a psychotropic drug used for short-term relief of anxiety. It is a Schedule IV controlled substance.

[3] Tramadol (tradename Ultram) is a synthetic analgesic compound use to treat pain. It is a Schedule IV controlled substance.

18. Respondent has committed unprofessional conduct and is subject to disciplinary action under sections 3537 and 2234(e) of the Code, and Health and Safety Code sections 11157 and 11173, in that he committed acts of dishonesty or corruption by the issuance of false, fraudulent and forged prescriptions, as alleged in paragraphs 14 and 15.

PRAYER

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

1. Revoking or suspending Physician Assistant License Number PA 51774, issued to Donald Jay McCauley, P.A.;

2. Ordering Respondent to pay the Physician Assistant Board the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;

3. Ordering Donald McCauley, P.A., if placed on probation, to pay the Board the costs of probation monitoring; and,

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

DATED: May 24, 2018

Maureen L. Forsyth
Executive Officer
Physician Assistant Board
Department of Consumer Affairs
State of California
Complainant