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

In the Matter of the Accusation Against:	)	
VORAKIAT CHARUVASTRA, M.D.	)	**Case No. 800-2017-030675**
Physician's and Surgeon's Certificate No. A29784	)	
Respondent	)	

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 June 14, 2019.

IT IS SO ORDERED May 17, 2019.

MEDICAL BOARD OF CALIFORNIA

By: _____
Ronald H. Lewis, M.D., Chair
Panel A

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

In the Matter of the Accusation Against: VORAKIAT CHARUVASTRA, M.D. P.O. Box 33317 Los Angeles, CA 90033 Physician's and Surgeon's Certificate No. A 29784 Respondent.	Case No. 800-2017-030675 **STIPULATED SETTLEMENT AND DISCIPLINARY ORDER**

IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-entitled proceedings that the following matters are true:

PARTIES

1. Kimberly Kirchmeyer (Complainant) is the Executive Director of the Medical Board of California (Board). She brought this action solely in her official capacity and is represented in this matter by Xavier Becerra, Attorney General of the State of California, by Cindy M. Lopez, Deputy Attorney General.

2. Respondent VORAKIAT CHARUVASTRA, M.D. (Respondent) is represented in this proceeding by Compliance Law Group, a Professional Law Corporation.

3. On or about December 8, 1975, the Board issued Physician's and Surgeon's Certificate No. A 29784 to Respondent. The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought in Accusation No. 800-2017-030675, and will expire on January 31, 2021, unless renewed.

JURISDICTION

4. Accusation No. 800-2017-030675 was filed before the Board, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on January 9, 2019. Respondent timely filed his Notice of Defense contesting the Accusation.

5. A copy of Accusation No. 800-2017-030675 is attached as exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

6. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 800-2017-030675. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

7. 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 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.

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

CULPABILITY

9. Respondent understands and agrees that the charges and allegations in Accusation No. 800-2017-030675, if proven at a hearing, constitute cause for imposing discipline upon his Physician's and Surgeon's Certificate.

10. For the purpose of resolving the Accusation without the expense and uncertainty of further proceedings, Respondent agrees that, at a hearing, Complainant could establish a factual basis for the charges in the Accusation, and that Respondent hereby gives up his right to contest those charges.

11. Respondent agrees that his Physician's and Surgeon's Certificate is subject to discipline and he agrees to be bound by the Board's imposition of discipline as set forth in the Disciplinary Order below.

CONTINGENCY

12. 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 his counsel. By signing the 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. 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.

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 formal proceeding, issue and enter the following Disciplinary Order:

DISCIPLINARY ORDER

A. PUBLIC REPRIMAND

It is hereby ordered that Respondent, as the holder of Physician's and Surgeon's Certificate No. A 29784 shall be and hereby is publicly reprimanded pursuant to Business and

Professions Code section 2227, subdivision (a)(4) as follows:

"Dr. Charuvastra committed several simple departures from the standard of care with regards to one patient."

B. **PRESCRIBING PRACTICES COURSE**. Within 60 calendar days of the effective date of this Decision, Respondent shall enroll in a course in prescribing practices 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 prescribing practices course shall be at Respondent's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

A prescribing practices 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.

C. **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 nine (9) 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.

ACCEPTANCE

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

DATED: 3/26/19

VORAKIAT CHARUVASTRA, M.D.
Respondent

I have read and fully discussed with Respondent the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: 3/27/2019

WAYNE J. MILLER, ESQ.
Compliance Law Group, A Professional Law Corporation
Attorneys for Respondent

ENDORSEMENT

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

Dated: 4.9.19

Respectfully submitted,

XAVIER BECERRA
Attorney General of California
E. A. JONES III
Supervising Deputy Attorney General

CINDY M. LOPEZ
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 800-2017-030675

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FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO Jan 9 2019
BY ANALYST

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

In the Matter of the Accusation Against: **Vorakiat Charuvastra, M.D.** **P.O. Box 33317** **Los Angeles, CA 90033** **Physician's and Surgeon's Certificate No. A 29784,** Respondent.	Case No. 800-2017-030675 **A C C U S A T I O N**

Complainant alleges:

PARTIES

1. Kimberly Kirchmeyer (Complainant) brings this Accusation solely in her official capacity as the Executive Director of the Medical Board of California, Department of Consumer Affairs (Board).

2. On or about December 8, 1975, the Medical Board issued Physician's and Surgeon's Certificate Number A 29784 to Vorakiat Charuvastra, M.D. (Respondent). The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought herein and will expire on January 31, 2021, unless renewed.

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 unless otherwise indicated.

4. Section 2227 of the Code provides that a licensee who is found guilty under the Medical Practice Act may have his or her license revoked, suspended for a period not to exceed one year, placed on probation and required to pay the costs of probation monitoring, or such other action taken in relation to discipline as the Board deems proper.

5. Section 2234 of the Code, states:

"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.

"(b) Gross negligence.

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

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

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

"(d) Incompetence.

"(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.

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

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

"(h) The repeated failure by a certificate holder, in the absence of good cause, to attend and participate in an interview by the board. This subdivision shall only apply to a certificate holder who is the subject of an investigation by the board."

CAUSE FOR DISCIPLINE

(Repeated Negligent Acts)

6. Respondent is subject to disciplinary action under section 2234, subdivision (c), in that he was repeatedly negligent in his care and treatment of patient B.H. The circumstances are as follows:

A. Patient B.H. was identified as a patient whose cause of death was related to prescription drugs issued by Respondent. He apparently died of an accidental overdose of medications.

B. Patient B.H. was referred to Respondent through worker's compensation. They met in 2007 for a surgical clearance B.H. dealt with depression and abused alcohol. B.H. treated with Respondent from March 2007 through June 2013 for psychiatric treatment.

C. During this time, Respondent prescribed combinations of Wellbutrin/bupropion (an anti-depressant); Celexa/Citalopram (an anti depressant that treats major depressive disorder); Buspar/Buspirone (to treat anxiety); Risperdal/Risperidone (antipsychotic); Seroquel/Quetiapine (another antipsychotic); Valium/Diazepam (for anxiety and sleep); Ambien (for sleep); Theramine (helps with pain); and, Klonopin (treats seizures and panic disorder).

D. This patient was also prescribed morphine, Soma and hydrocodone by other physicians, at the same time that Respondent was prescribing his variety of

medications. Patient B.H. never seemed to have a prolonged improvement in his symptoms, and eventually developed an opioid dependence.

E. According to the patient's wife, when B.H. would return home after an appointment with the Respondent, he had a brown paper bag with pills in them, but his wife was not allowed to see them.

F. Respondent admitted he knew the patient was simultaneously being prescribed significant doses of morphine, Norco, Soma.

G. During these visits, there was no assessment of cognition, substance use and abuse, nor an estimation of the patient's suicide risk. There was no documentation of a discussion of respiratory risks associated with this medication combination.

Allegations of Negligence:

H. Respondent's prescriptions of Ambien (up to twice the FDA maximum), while also prescribing other respiratory depressants in high doses, without documenting an informed consent of the risks, is a simple departure each time he did so. There were 15 departures from January 2012 through May 2013, specifically: January 11, 2012; February 14, 2012; March 13, 2012; May 8, 2012; May 29, 2012; June 16, 2012; July 24, 2012; September 18, 2012; October 16, 2012; November 13, 2012; January 2, 2013; February 19, 2013; March 17, 2013; April 9, 2013; and, May 9, 2013.

I. Between the dates of January 11, 2012, through May 9, 2013, Respondent was negligent when he failed to do an assessment of the patient's substance abuse and use; failed to estimate his suicide risk; and failed to document a specific discussion of the respiratory risks given the combination of Ambien and the many other medications he was prescribed.

PRAYER

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

1. Revoking or suspending Physician's and Surgeon's Certificate Number A 29784, issued to Vorakiat Charuvastra, M.D.;

2. Revoking, suspending or denying approval of Vorakiat Charuvastra, M.D.'s authority to supervise physician assistants and advanced practice nurses;

3. Ordering Vorakiat Charuvastra, M.D., 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: January 9 2019

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

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