

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

**In the Matter of the Accusation
Against:**

David M. Bee, M.D.

Case No. 800-2014-006883

**Physician's and Surgeon's
Certificate No. G 14943**

Respondent

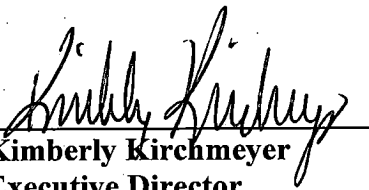
DECISION

The attached Stipulated Surrender of License and 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 November 9, 2017.

IT IS SO ORDERED November 2, 2017.

MEDICAL BOARD OF CALIFORNIA

By: 
Kimberly Kirchmeyer
Executive Director

1 XAVIER BECERRA
Attorney General of California
2 E. A. JONES III
Supervising Deputy Attorney General
3 BENETH A. BROWNE
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8
9 **BEFORE THE**
MEDICAL BOARD OF CALIFORNIA
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

Case No. 800-2014-006883

12 **DAVID M. BEE, M.D.**
13 **11685 Laurel Avenue**
14 **Loma Linda, CA 92354**

**STIPULATED SURRENDER OF
LICENSE AND ORDER**

15 **Physician's and Surgeon's Certificate No.**
G 14943

16 Respondent.

17
18 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
19 entitled proceedings that the following matters are true:

20 **PARTIES**

21 1. Kimberly Kirchmeyer (Complainant) is the Executive Director of the Medical Board
22 of California (Board). She brought this action solely in her official capacity and is represented in
23 this matter by Xavier Becerra, Attorney General of the State of California, by Beneth A. Browne,
24 Deputy Attorney General.

25 2. David M. Bee, M.D. (Respondent) is representing himself in this proceeding and has
26 chosen not to exercise his right to be represented by counsel.

27 3. On or about July 12, 1968, the Board issued Physician's and Surgeon's Certificate No.
28 G 14943 to Respondent. The Physician's and Surgeon's Certificate was in full force and effect at

1 all times relevant to the charges brought in Accusation No. 800-2014-006883 and will expire on
2 June 30, 2019, unless renewed.

3 JURISDICTION

4 4. Accusation No. 800-2014-006883 was filed before the (Board) and is currently
5 pending against Respondent. The Accusation and all other statutorily required documents were
6 properly served on Respondent on July 21, 2017. Respondent timely filed his Notice of Defense
7 contesting the Accusation. A copy of Accusation No. 800-2014-006883 is attached as Exhibit A
8 and incorporated by reference.

9 ADVISEMENT AND WAIVERS

10 5. Respondent has carefully read, and understands the charges and allegations in
11 Accusation No. 800-2014-006883. Respondent also has carefully read, and understands the
12 effects of this Stipulated Surrender of License and Order.

13 6. Respondent is fully aware of his legal rights in this matter, including the right to a
14 hearing on the charges and allegations in the Accusation; the right to be represented by counsel, at
15 his own expense; the right to confront and cross-examine the witnesses against him; the right to
16 present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel
17 the attendance of witnesses and the production of documents; the right to reconsideration and
18 court review of an adverse decision; and all other rights accorded by the California
19 Administrative Procedure Act and other applicable laws.

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

22 CULPABILITY

23 8. Respondent understands that the charges and allegations in Accusation No. 800-2014-
24 006883, if proven at a hearing, constitute cause for imposing discipline upon his Physician's and
25 Surgeon's Certificate.

26 9. For the purpose of resolving the Accusation without the expense and uncertainty of
27 further proceedings, Respondent agrees that, at a hearing, Complainant could establish a factual
28 basis for the charges in the Accusation and that those charges constitute cause for discipline.

1 Respondent hereby gives up his right to contest that cause for discipline exists based on those
2 charges.

3 10. Respondent understands that by signing this stipulation he enables the Board to issue
4 an order accepting the surrender of his Physician's and Surgeon's Certificate without further
5 process.

6 CIRCUMSTANCES IN MITIGATION

7 11. Respondent has never been the subject of any disciplinary action in nearly 50 years of
8 practice. He is admitting responsibility at an early stage of the proceedings.

9 CONTINGENCY

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

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

22 14. In consideration of the foregoing admissions and stipulations, the parties agree that
23 the Board may, without further notice or formal proceeding, issue and enter the following Order:

24 ORDER

25 IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. G 14943, issued
26 to Respondent DAVID M. BEE, M.D., is surrendered and accepted by the Medical Board of
27 California.

28 1. The surrender of Respondent's Physician's and Surgeon's Certificate and the

1 acceptance of the surrendered license by the Board shall constitute the imposition of discipline
2 against Respondent. This stipulation constitutes a record of the discipline and shall become a part
3 of Respondent's license history with the Medical Board of California.

4 2. Respondent shall lose all rights and privileges as a physician and surgeon in
5 California as of the effective date of the Board's Decision and Order.

6 3. Respondent shall cause to be delivered to the Board his pocket license and, if one was
7 issued, his wall certificate on or before the effective date of the Decision and Order.

8 4. If Respondent ever files an application for licensure or a petition for reinstatement in
9 the State of California, the Board shall treat it as a petition for reinstatement. Respondent must
10 comply with all the laws, regulations and procedures for reinstatement of a revoked license in
11 effect at the time the petition is filed, and all of the charges and allegations contained in
12 Accusation No. 800-2014-006883 shall be deemed to be true, correct and admitted by Respondent
13 when the Board determines whether to grant or deny the petition.

14 5. If Respondent should ever apply or reapply for a new license or certification, or
15 petition for reinstatement of a license, by any other health care licensing agency in the State of
16 California, all of the charges and allegations contained in Accusation, No. 800-2014-006883 shall
17 be deemed to be true, correct, and admitted by Respondent for the purpose of any Statement of
18 Issues or any other proceeding seeking to deny or restrict licensure.

19
20 ACCEPTANCE

21 I have carefully read the Stipulated Surrender of License and Order. I understand the
22 stipulation and the effect it will have on my Physician's and Surgeon's Certificate. I enter into
23 this Stipulated Surrender of License and Order voluntarily, knowingly, and intelligently, and
24 agree to be bound by the Decision and Order of the Medical Board of California.

25
26 DATED: 10-3-2017


27 DAVID M. BEE, M.D.
Respondent

28 ///

ENDORSEMENT

The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted for consideration by the Medical Board of California of the Department of Consumer Affairs.

Dated: October 17, 2017

Respectfully submitted,

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

Beneth A Browne

BENETH A. BROWNE
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 800-2014-006883

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO July 21 20 17
BY D. Richards ANALYST

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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. 800-2014-006883

David M. Bee, M.D.
11685 Laurel Avenue
Loma Linda, CA 92354

ACCUSATION

Physician's and Surgeon's Certificate
No. G 14943,

Respondent.

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 July 12, 1968, the Medical Board issued Physician's and Surgeon's Certificate Number G 14943 to David M. Bee, 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 June 30, 2019, 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 2229 of the Code states, in subdivision (a):

“Protection of the public shall be the highest priority for the Division of Medical Quality,^[1] the California Board of Podiatric Medicine, and administrative law judges of the Medical Quality Hearing Panel in exercising their disciplinary authority.”

5. Section 2004 of the Code states:

“The board shall have the responsibility for the following:

“(a) The enforcement of the disciplinary and criminal provisions of the Medical Practice Act.

“(b) The administration and hearing of disciplinary actions.

“(c) Carrying out disciplinary actions appropriate to findings made by a panel or an administrative law judge.

“(d) Suspending, revoking, or otherwise limiting certificates after the conclusion of disciplinary actions.

“(e) Reviewing the quality of medical practice carried out by physician and surgeon certificate holders under the jurisdiction of the board.

“...”

6. 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.

7. 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

¹ Pursuant to Business and Professions Code section 2002, the “Division of Medical Quality” or “Division” shall be deemed to refer to the Medical Board of California.

1 surgeon certificate holders, including those who hold certificates that do not permit them to
2 practice medicine, such as, but not limited to, retired, inactive, or disabled status certificate
3 holders, and the board shall have all the powers granted in this chapter for these purposes[.]”

4 “...”

5 8. Section 2230.5 of the Code states:

6 “(a) Except as provided in subdivisions (b) and (c), and (e), any accusation filed against a
7 licensee pursuant to Section 11503 of the Government Code shall be filed within three years after
8 the board, or a division thereof, discovers the act or omission alleged as the ground for
9 disciplinary action, or within seven years after the act or omission alleged as the ground for
10 disciplinary action occurs, whichever occurs first.

11 “(b) An accusation filed against a licensee pursuant to Section 11503 of the Government
12 Code alleging the procurement of a license by fraud or misrepresentation is not subject to the
13 limitation provided for by subdivision (a).

14 “(c) An accusation filed against a licensee pursuant to Section 11503 of the Government
15 Code alleging unprofessional conduct based on incompetence, gross negligence, or repeated
16 negligent acts of the licensee is not subject to the limitation provided for by subdivision (a) upon
17 proof that the licensee intentionally concealed from discovery his or her incompetence, gross
18 negligence, or repeated negligent acts.”

19 “(d) If an alleged act or omission involves a minor, the seven-year limitations period
20 provided for by subdivision (a) and the 10-year limitations period provided for by subdivision (e)
21 shall be tolled until the minor reaches the age of majority.

22 “(e) An accusation filed against a licensee pursuant to Section 11503 of the Government
23 Code alleging sexual misconduct shall be filed within three years after the board, or a division
24 thereof, discovers the act or omission alleged as the ground for disciplinary action, or within 10
25 years after the act or omission alleged as the ground for disciplinary action occurs, whichever
26 occurs first. This subdivision shall apply to a complaint alleging sexual misconduct received by
27 the board on and after January 1, 2002.

28 “(f) The limitations period provided by subdivision (a) shall be tolled during any period if

1 material evidence necessary for prosecuting or determining whether a disciplinary action would
2 be appropriate is unavailable to the board due to an ongoing criminal investigation.”

3 9. Section 2234 of the Code, states:

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

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

9 “(b) Gross negligence.

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

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

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

20 “(d) Incompetence.

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

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

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

28 “...”

1 10. Section 2242 of the Code states:

2 “(a) Prescribing, dispensing, or furnishing dangerous drugs as defined in Section 4022
3 without an appropriate prior examination and a medical indication, constitutes unprofessional
4 conduct.

5 “(b) No licensee shall be found to have committed unprofessional conduct within the
6 meaning of this section if, at the time the drugs were prescribed, dispensed, or furnished, any of
7 the following applies:

8 “(1) The licensee was a designated physician and surgeon or podiatrist serving in the
9 absence of the patient's physician and surgeon or podiatrist, as the case may be, and if the drugs
10 were prescribed, dispensed, or furnished only as necessary to maintain the patient until the return
11 of his or her practitioner, but in any case no longer than 72 hours.

12 “(2) The licensee transmitted the order for the drugs to a registered nurse or to a licensed
13 vocational nurse in an inpatient facility, and if both of the following conditions exist:

14 “(A) The practitioner had consulted with the registered nurse or licensed vocational nurse
15 who had reviewed the patient's records.

16 “(B) The practitioner was designated as the practitioner to serve in the absence of the
17 patient's physician and surgeon or podiatrist, as the case may be.

18 “(3) The licensee was a designated practitioner serving in the absence of the patient's
19 physician and surgeon or podiatrist, as the case may be, and was in possession of or had utilized
20 the patient's records and ordered the renewal of a medically indicated prescription for an amount
21 not exceeding the original prescription in strength or amount or for more than one refill.

22 “(4) The licensee was acting in accordance with Section 120582 of the Health and Safety
23 Code.”

24 11. Section 2266 of the Code states: “The failure of a physician and surgeon to maintain
25 adequate and accurate records relating to the provision of services to their patients constitutes
26 unprofessional conduct.”

27 12. Section 2290.5 of the Code states:

28 “(a) For purposes of this division, the following definitions shall apply:

1 “(1) “Asynchronous store and forward” means the transmission of a patient’s medical
2 information from an originating site to the health care provider at a distant site without the
3 presence of the patient.

4 “(2) “Distant site” means a site where a health care provider who provides health care
5 services is located while providing these services via a telecommunications system.

6 “(3) “Health care provider” means either of the following:

7 “(A) A person who is licensed under this division.

8 “(B) A marriage and family therapist intern or trainee functioning pursuant to Section
9 4980.43.

10 “(4) “Originating site” means a site where a patient is located at the time health care
11 services are provided via a telecommunications system or where the asynchronous store and
12 forward service originates.

13 “(5) “Synchronous interaction” means a real-time interaction between a patient and a health
14 care provider located at a distant site.

15 “(6) “Telehealth” means the mode of delivering health care services and public health via
16 information and communication technologies to facilitate the diagnosis, consultation, treatment,
17 education, care management, and self-management of a patient’s health care while the patient is
18 at the originating site and the health care provider is at a distant site. Telehealth facilitates patient
19 self-management and caregiver support for patients and includes synchronous interactions and
20 asynchronous store and forward transfers.

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

25 “(c) Nothing in this section shall preclude a patient from receiving in-person health care
26 delivery services during a specified course of health care and treatment after agreeing to receive
27 services via telehealth.

28 “(d) The failure of a health care provider to comply with this section shall constitute

unprofessional conduct. Section 2314 shall not apply to this section.

“(e) This section shall not be construed to alter the scope of practice of any health care provider or authorize the delivery of health care services in a setting, or in a manner, not otherwise authorized by law.

“(f) All laws regarding the confidentiality of health care information and a patient’s rights to his or her medical information shall apply to telehealth interactions.

“(g) This section shall not apply to a patient under the jurisdiction of the Department of Corrections and Rehabilitation or any other correctional facility.

“(h) (1) Notwithstanding any other provision of law and for purposes of this section, the governing body of the hospital whose patients are receiving the telehealth services may grant privileges to, and verify and approve credentials for, providers of telehealth services based on its medical staff recommendations that rely on information provided by the distant-site hospital or telehealth entity, as described in Sections 482.12, 482.22, and 485.616 of Title 42 of the Code of Federal Regulations.

“(2) By enacting this subdivision, it is the intent of the Legislature to authorize a hospital to grant privileges to, and verify and approve credentials for, providers of telehealth services as described in paragraph (1).

“(3) For the purposes of this subdivision, “telehealth” shall include “telemedicine” as the term is referenced in Sections 482.12, 482.22, and 485.616 of Title 42 of the Code of Federal Regulations.”

13. Section 725 of the Code states:

“(a) Repeated acts of clearly excessive prescribing, furnishing, dispensing, or administering of drugs or treatment, repeated acts of clearly excessive use of diagnostic procedures, or repeated acts of clearly excessive use of diagnostic or treatment facilities as determined by the standard of the community of licensees is unprofessional conduct for a physician and surgeon, dentist, podiatrist, psychologist, physical therapist, chiropractor, optometrist, speech-language pathologist, or audiologist.

“(b) Any person who engages in repeated acts of clearly excessive prescribing or

1 administering of drugs or treatment is guilty of a misdemeanor and shall be punished by a fine of
2 not less than one hundred dollars (\$100) nor more than six hundred dollars (\$600), or by
3 imprisonment for a term of not less than 60 days nor more than 180 days, or by both that fine and
4 imprisonment.

5 "(c) A practitioner who has a medical basis for prescribing, furnishing, dispensing, or
6 administering dangerous drugs or prescription controlled substances shall not be subject to
7 disciplinary action or prosecution under this section.

8 "(d) No physician and surgeon shall be subject to disciplinary action pursuant to this section
9 for treating intractable pain in compliance with Section 2241.5."

10 **FIRST CAUSE FOR DISCIPLINE**

11 **(Repeated Negligent Acts)**

12 14. Respondent David M. Bee, M.D. is subject to disciplinary action under section 2234,
13 subdivision (c), in that he committed repeated acts of negligence in the care and treatment of
14 patient J.D.² The circumstances are as follows:

15 15. In or around the early 1970's, Respondent had a private medical practice in Glendale,
16 California and he began treating patient J.D., a female in her twenties. He treated her for several
17 decades. Respondent admits that around 1975, he dated patient J.D. for about four months and
18 sometime during the 1990's, he had casual, sexual relations with patient J.D.³ Patient J.D. has
19 had a lengthy history of depression, panic attacks and suicidal episodes.

20 16. In 1984, patient J.D. suffered a work injury that has continued to cause her pain. In
21 1993, Respondent closed his private practice in Glendale and began to work as a hospitalist at
22 Loma Linda Medical Center. In 1997, patient J.D. moved out-of-state. Although she resided out-
23 of-state and although he had closed his private practice, between 1997 and 2012, Respondent
24 occasionally had a medical appointment with patient J.D. when she traveled to Southern
25 California. Respondent prescribed her medication for depression and panic attacks. Respondent

26 ² Initials J.D. stand for Jane Doe and are used for patient privacy. Respondent will be
27 provided the name of the patient through discovery.

28 ³ This is not alleged as a cause for discipline. The applicable statute of limitations has
expired.

1 made and retained progress notes for only one such appointment during this timeframe, in 2003.
2 Patient J.D. indicated that as of August of 2015, she had not physically seen Respondent in about
3 three years (since around August of 2012).

4 17. Between 2013 and 2015, patient J.D. would periodically call Respondent from out-of-
5 state and discuss her concerns and situations, including panic attacks and disabling anxiety that
6 made her unable to leave her residence. Respondent did not make or retain progress notes
7 regarding any of his phone conversations with patient J.D.

8 18. Between February 14, 2013, and May 21, 2015, without any physical examination,
9 Respondent prescribed patient J.D. dangerous drugs pursuant to section 4022 and controlled
10 substances regulated by the federal and state Controlled Substances Acts, as described below.
11 Respondent did not make or retain progress notes regarding any of the prescriptions he issued to
12 patient J.D. or any of the refills of prescriptions that he authorized for patient J.D. In or around
13 March of 2017, Respondent recalled issuing such prescriptions and authorizing refills for
14 controlled substances for patient J.D. during at least February of 2013 until May of 2015.
15 Respondent did not document patient consent to the use of telehealth.

16 19. On or about February 14, 2013, Respondent prescribed patient J.D. 100 pills of
17 Hydrocodone-Acetaminophen 10-325 mg.⁴ The prescription or refills thereof were dispensed
18 from a Costco pharmacy in Portland, Oregon (the Costco pharmacy) on or about May 14, 2013
19 and June 10, 2013.

20 20. On or about September 20, 2013, Respondent called the Costco pharmacy and
21 prescribed patient J.D. 100 pills of Hydrocodone-Acetaminophen 10-325. The prescription was
22 dispensed the same day. Based on Respondent's authorization, refills of the prescription were
23 also dispensed on October 24, 2013, December 21, 2013, and February 14, 2014.

24 21. On or about December 9, 2013, Respondent called a pharmacy at a Fred Meyer store

25 ⁴ Hydrocodone-Acetaminophen is generic for the brand names Vicodin and Norco. At the
26 time, it was classified as a schedule III Controlled Substance although it has subsequently been
27 reclassified as a schedule II Controlled Substance under Health and Safety Code section 11055,
28 subdivision (b)(1), due to its high potential for abuse. Hydrocodone is a narcotic pain reliever.
Acetaminophen is a less potent pain reliever that increases the effects of hydrocodone.

1 in Portland, Oregon (the Fred Meyer pharmacy) and prescribed patient J.D. 50 pills of
2 Alprazolam⁵ 0.5 mg, and 100 tablets of Clonazepam⁶ 2 mg.

3 22. On or about March 21, 2014, Respondent called the Fred Meyer pharmacy and
4 prescribed patient J.D. 100 tablets of Alprazolam 1 mg and 100 tablets of Clonazepam 2 mg. The
5 medications were dispensed on March 24, 2014. Based on Respondent's authorization, refills of
6 the prescription were dispensed on May 24, 2014, June 18, 2014, and July 2, 2014.

7 23. On or about May 30, 2014, Respondent called the Costco pharmacy and prescribed
8 patient J.D. 100 pills of Hydrocodone-Acetaminophen 10-325. The medication was dispensed on
9 the same day. Based on Respondent's authorization, refills of the prescription were dispensed on
10 June 19, 2014, August 18, 2014, and September 22, 2014.

11 24. On or about August 23, 2014, Respondent called the Fred Meyer pharmacy and
12 prescribed patient J.D. 100 tablets of Alprazolam 1 mg. The medication was dispensed on
13 August 24, 2014. Based on Respondent's authorization, a refill of the prescription was dispensed
14 on September 22, 2014.

15 25. On or about October 1, 2014, Respondent called the Fred Meyer pharmacy and
16 prescribed patient J.D. 100 tablets of Clonazepam 2 mg. The prescription was dispensed on the
17 same day.

18 26. On or about December 3, 2014, Respondent called the Fred Meyer pharmacy and
19 prescribed patient J.D. 90 tablets of Clonazepam 2 mg. The prescription was dispensed on the
20 same day. Based on Respondent's authorization, refills of the prescription were dispensed on

21 ⁵ Alprazolam is the generic form of Xanax. It is a Schedule IV controlled substance
22 pursuant to Health and Safety Code section 11057, subdivision (d)(1), and a dangerous drug
23 pursuant to Business and Professions Code section 4022. It is a short-acting benzodiazepine.
24 Benzodiazepines are a class of drugs known as tranquilizers that produce sedation by acting on
25 the central nervous system. They can be used for anxiety, insomnia and seizure control. Using
26 benzodiazepines long term or in high doses can lead to physical and psychological dependence,
which can cause withdrawal symptoms when stopping usage or lowering dosage. Withdrawal
symptoms often mimic the symptoms of anxiety. Benzodiazepines are commonly abused in
conjunction with other sedatives, muscle relaxants, opiates or alcohol and the combinations can
be dangerous or lethal. They have been used as a "date rape" drug.

27 ⁶ Clonazepam is the generic form of Klonopin, a Schedule IV controlled substance
28 pursuant to Health and Safety Code section 11057, subdivision (d)(1), and a dangerous drug
pursuant to Business and Professions Code section 4022. Like Alprazolam, it is also a
benzodiazepine.

1 March 29, 2015, April 27, 2015, and May 27, 2015.

2 27. Respondent committed repeated negligent acts in his care and treatment of patient
3 J.D. between August of 2010 and June of 2015, individually or collectively, each time that he
4 failed to create or maintain sufficient medical records including, at a minimum, any progress
5 notes regarding appointments or phone conversations with patient J.D. and any prescribing to
6 patient J.D.

7 28. Respondent committed repeated negligent acts in his care and treatment of patient J.D.
8 between August of 2010 and June of 2015, individually or collectively, each time that he
9 prescribed to patient J.D. or authorized refills for prescriptions for patient J.D. as documented
10 above, given any of the following factors, individually or in any combination: Patient J.D. had a
11 lengthy history of depression, panic attacks and suicidal episodes; Respondent failed to obtain
12 patient J.D.'s pertinent history; Respondent failed to perform a physical examination of patient
13 J.D.; Respondent failed to monitor patient J.D.'s receipt and use of controlled substances;
14 Respondent failed to effectively insist that patient J.D. obtain treatment from a qualified
15 physician, preferably a psychiatrist, to appropriately care, treat and prescribe for her; and/or
16 Respondent issued prescriptions and refills to J.D. that, taken in combination, were potentially
17 toxic.

18 **SECOND CAUSE FOR DISCIPLINE**

19 **(Prescribing Without a Good Faith Examination)**

20 29. Respondent David M. Bee, M.D. is subject to disciplinary action under section 2242
21 in that he prescribed patient J.D. dangerous drugs as defined in Section 4022 without an
22 appropriate prior examination and a medical indication. The circumstances are as follows:

23 30. The facts and circumstances referenced in the First Cause for Discipline are
24 incorporated herein as if fully set forth.

25 **THIRD CAUSE FOR DISCIPLINE**

26 **(Excessive Prescribing Without a Legitimate Medical Basis)**

27 31. Respondent David M. Bee, M.D. is subject to disciplinary action under section 725 in
28 that he excessively prescribed controlled substances to her without a legitimate medical basis.

1 The circumstances are as follows:

2 32. The facts and circumstances referenced in the First Cause for Discipline are
3 incorporated herein as if fully set forth.

4 **FOURTH CAUSE FOR DISCIPLINE**

5 **(Failure to Maintain Adequate and Accurate Medical Records)**

6 33. Respondent David M. Bee, M.D. is subject to disciplinary action under section 2266
7 in that he failed to maintain adequate and accurate medical records regarding his care and
8 treatment of patient J.D. The circumstances are as follows:

9 34. The facts and circumstances referenced in the First Cause for Discipline are
10 incorporated herein as if fully set forth.

11 **FIFTH CAUSE FOR DISCIPLINE**

12 **(General Unprofessional Conduct)**

13 35. Respondent David M. Bee, M.D. is subject to disciplinary action under section 2234
14 in that he committed general unprofessional conduct. The circumstances are as follows:

15 36. The facts and circumstances referenced in paragraphs 14 through 34 are incorporated
16 herein as if fully set forth.

17 **PRAYER**

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

20 1. Revoking or suspending Physician's and Surgeon's Certificate Number G 14943,
21 issued to David M. Bee, M.D.;

22 2. Revoking, suspending or denying approval of Respondent's authority to supervise
23 physician assistants and advanced practice nurses;

24 3. Ordering Respondent, if placed on probation, to pay the Board the costs of probation
25 monitoring; and

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

DATED: July 21, 2017


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

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