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

In the Matter of the Accusation Against:	)	
Karen Marie Tierney, M.D.	)	**Case No. 800-2015-015032**
Physician's and Surgeon's Certificate No. G42421	)	
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 March 4, 2020.

IT IS SO ORDERED: February 3, 2020.

MEDICAL BOARD OF CALIFORNIA

Kristina D. Lawson, J.D., Chair
Panel B

XAVIER BECERRA
Attorney General of California
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BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against: **KAREN MARIE TIERNEY, M.D.** 530 RAMONA AVE MONTEREY , CA 93940 Physician's and Surgeon's Certificate No. G 42421 Respondent.	Case No. 800-2015-015032 OAH No. 2019061214 **STIPULATED SETTLEMENT AND DISCIPLINARY ORDER**

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

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PARTIES

1. Kimberly Kirchmeyer was the Executive Director of the Medical Board of California (Board) at the time of filing of this action action and brought this action as Complainant solely in her official capacity. Christine J. Lally, Deputy Director of the Board, assumes responsibility as Complainant solely in her professional capacity and is represented in this matter by Xavier Becerra, Attorney General of the State of California, by David Carr, Deputy Attorney General.

2. Karen Marie Tierney, M.D., (Respondent) is represented in this proceeding by attorney Thomas E. Still, of Hinshaw, Marsh, Still & Hinshaw, 12901 Saratoga Avenue, Saratoga CA 95070-9998.

3. On July 3, 1980, the Board issued Physician's and Surgeon's Certificate No. G 42421 to Respondent. The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the allegations of Accusation No. 800-2015-015032, and will expire on April 30, 2020, unless renewed.

JURISDICTION

Accusation No. 800-2015-015032 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 June 22, 2019. Respondent timely filed her Notice of Defense contesting the Accusation.

4. A copy of Accusation No. 800-2015-015032 is attached as Exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 800-2015-015032. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

6. Respondent is fully aware of her 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 her; the right to present evidence and to testify on her 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.

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

CULPABILITY

8. Respondent understands and agrees that the charges and allegations in Accusation No. 800-2015-015032, if proven at a hearing, constitute cause for imposing discipline upon her Physician's and Surgeon's Certificate.

9. For the purpose of resolving the Accusation without the expense and uncertainty of further proceedings, Respondent does not contest that, at an administrative hearing, Complainant could establish a *prima facie* case with respect to the allegations contained in Accusation No. 800-2015-015032, and that she has thereby subjected her license to disciplinary action. Respondent hereby gives up her right to contest those charges.

10. Respondent agrees that if she ever petitions for early termination or modification of probation, or if the Board ever petitions for revocation of probation, all of the charges and allegations contained in Accusation No. 800-2015-015032 shall be deemed true, correct, and fully admitted by Respondent for purposes of that proceeding or any other licensing proceeding involving Respondent in the State of California.

11. Respondent agrees that her Physician's and Surgeon's Certificate is subject to discipline and she agrees to be bound by the Board's probationary terms as set forth in the Disciplinary Order below.

RESERVATION

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

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CONTINGENCY

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

14. 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.

15. 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

IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. G 42421 issued to Respondent Karen Marie Tierney, M.D., is revoked. However, the revocation is stayed and Respondent is placed on probation for three (3) years on the following terms and conditions.

1. REVOCATION - MULTIPLE CAUSES. Certificate No. G 42421 issued to Respondent Karen Marie Tierney, M.D. is revoked pursuant to determination of Issues (e.g. I, II, and III), separately and for all of them.

2. CONTROLLED SUBSTANCES - MAINTAIN RECORDS AND ACCESS TO RECORDS AND INVENTORIES. Respondent shall maintain a record of all controlled substances ordered, prescribed, dispensed, administered, or possessed by Respondent, and any recommendation or approval which enables a patient or patient's primary caregiver to possess or

cultivate marijuana for the personal medical purposes of the patient within the meaning of Health and Safety Code section 11362.5, during probation, showing all of the following: 1) the name and address of the patient; 2) the date; 3) the character and quantity of controlled substances involved; and 4) the indications and diagnosis for which the controlled substances were furnished.

Respondent shall keep these records in a separate file or ledger, in chronological order. All records and any inventories of controlled substances shall be available for immediate inspection and copying on the premises by the Board or its designee at all times during business hours and shall be retained for the entire term of probation.

3. 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.

4. MEDICAL RECORD KEEPING COURSE. Within 60 calendar days of the effective date of this Decision, Respondent shall enroll in a course in medical record keeping approved in advance by the Board or its designee. Respondent shall provide the approved course provider

with any information and documents that the approved course provider may deem pertinent. Respondent shall participate in and successfully complete the classroom component of the course not later than six (6) months after Respondent's initial enrollment. Respondent shall successfully complete any other component of the course within one (1) year of enrollment. The medical record keeping course shall be at Respondent's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

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

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

STANDARD CONDITIONS OF PROBATION

5. NOTIFICATION. Within seven (7) days of the effective date of this Decision, the Respondent shall provide a true copy of this Decision and Accusation to the Chief of Staff or the Chief Executive Officer at every hospital where privileges or membership are extended to Respondent, at any other facility where Respondent engages in the practice of medicine, including all physician and locum tenens registries or other similar agencies, and to the Chief Executive Officer at every insurance carrier which extends malpractice insurance coverage to Respondent. Respondent shall submit proof of compliance to the Board or its designee within 15 calendar days.

This condition shall apply to any change(s) in hospitals, other facilities or insurance carrier.

6. SUPERVISION OF PHYSICIAN ASSISTANTS AND ADVANCED PRACTICE NURSES. During probation, Respondent is prohibited from supervising physician assistants and advanced practice nurses.

7. OBEY ALL LAWS. Respondent shall obey all federal, state and local laws, all rules

governing the practice of medicine in California and remain in full compliance with any court ordered criminal probation, payments, and other orders.

8. QUARTERLY DECLARATIONS. Respondent shall submit quarterly declarations under penalty of perjury on forms provided by the Board, stating whether there has been compliance with all the conditions of probation.

Respondent shall submit quarterly declarations not later than 10 calendar days after the end of the preceding quarter.

9. GENERAL PROBATION REQUIREMENTS.

Compliance with Probation Unit

Respondent shall comply with the Board's probation unit.

Address Changes

Respondent shall, at all times, keep the Board informed of Respondent's business and residence addresses, email address (if available), and telephone number. Changes of such addresses shall be immediately communicated in writing to the Board or its designee. Under no circumstances shall a post office box serve as an address of record, except as allowed by Business and Professions Code section 2021(b).

Place of Practice

Respondent shall not engage in the practice of medicine in Respondent's or patient's place of residence, unless the patient resides in a skilled nursing facility or other similar licensed facility.

License Renewal

Respondent shall maintain a current and renewed California physician's and surgeon's license.

Travel or Residence Outside California

Respondent shall immediately inform the Board or its designee, in writing, of travel to any areas outside the jurisdiction of California which lasts, or is contemplated to last, more than thirty (30) calendar days.

In the event Respondent should leave the State of California to reside or to practice,

Respondent shall notify the Board or its designee in writing 30 calendar days prior to the dates of departure and return.

10. INTERVIEW WITH THE BOARD OR ITS DESIGNEE. Respondent shall be available in person upon request for interviews either at Respondent's place of business or at the probation unit office, with or without prior notice throughout the term of probation.

11. NON-PRACTICE WHILE ON PROBATION. Respondent shall notify the Board or its designee in writing within 15 calendar days of any periods of non-practice lasting more than 30 calendar days and within 15 calendar days of Respondent's return to practice. Non-practice is defined as any period of time Respondent is not practicing medicine as defined in Business and Professions Code sections 2051 and 2052 for at least 40 hours in a calendar month in direct patient care, clinical activity or teaching, or other activity as approved by the Board. If Respondent resides in California and is considered to be in non-practice, Respondent shall comply with all terms and conditions of probation. All time spent in an intensive training program which has been approved by the Board or its designee shall not be considered non-practice and does not relieve Respondent from complying with all the terms and conditions of probation. Practicing medicine in another state of the United States or Federal jurisdiction while on probation with the medical licensing authority of that state or jurisdiction shall not be considered non-practice. A Board-ordered suspension of practice shall not be considered as a period of non-practice.

In the event Respondent's period of non-practice while on probation exceeds 18 calendar months, Respondent shall successfully complete the Federation of State Medical Boards's Special Purpose Examination, or, at the Board's discretion, a clinical competence assessment program that meets the criteria of Condition 18 of the current version of the Board's "Manual of Model Disciplinary Orders and Disciplinary Guidelines" prior to resuming the practice of medicine.

Respondent's period of non-practice while on probation shall not exceed two (2) years.

Periods of non-practice will not apply to the reduction of the probationary term.

Periods of non-practice for a Respondent residing outside of California will relieve Respondent of the responsibility to comply with the probationary terms and conditions with the

exception of this condition and the following terms and conditions of probation: Obey All Laws; General Probation Requirements; and Quarterly Declarations.

12. COMPLETION OF PROBATION. Respondent shall comply with all financial obligations (e.g., restitution, probation costs) not later than 120 calendar days prior to the completion of probation. Upon successful completion of probation, Respondent's certificate shall be fully restored.

13. VIOLATION OF PROBATION. Failure to fully comply with any term or condition of probation is a violation of probation. If Respondent violates probation in any respect, the Board, after giving Respondent notice and the opportunity to be heard, may revoke probation and carry out the disciplinary order that was stayed. If an Accusation or Petition to Revoke Probation or an Interim Suspension Order is filed against Respondent during probation, the Board shall have continuing jurisdiction until the matter is final and the period of probation shall be extended until the matter is final.

14. LICENSE SURRENDER. Following the effective date of this Decision, if Respondent ceases practicing due to retirement or health reasons or is otherwise unable to satisfy the terms and conditions of probation, Respondent may request to surrender her license. The Board reserves the right to evaluate Respondent's request and to exercise its discretion in determining whether or not to grant the request, or to take any other action deemed appropriate and reasonable under the circumstances. Upon formal acceptance of the surrender, Respondent shall within 15 calendar days deliver Respondent's wallet and wall certificate to the Board or its designee and Respondent shall no longer practice medicine. Respondent will no longer be subject to the terms and conditions of probation. If Respondent re-applies for a medical license, the application shall be treated as a petition for reinstatement of a revoked certificate.

15. PROBATION MONITORING COSTS. Respondent shall pay the costs associated with probation monitoring each and every year of probation, as designated by the Board, which may be adjusted on an annual basis. Such costs shall be payable to the Medical Board of California and delivered to the Board or its designee no later than January 31 of each calendar year.

ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Thomas E. Still. 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: 11/4/19

KAREN MARIE TIERNEY, M.D.
Respondent

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

DATED: 11/4/2019

THOMAS E. STILL
Attorney for Respondent

ENDORSEMENT

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

DATED: Nov. 5, 2019

Respectfully submitted,

XAVIER BECERRA
Attorney General of California
MARY CAIN-SIMON
Supervising Deputy Attorney General

DAVID CARR
Deputy Attorney General
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BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against: **KAREN MARIE TIERNEY, M.D.** 530 Ramona Ave. Monterey, CA 93940 Physician's and Surgeon's Certificate No. G 42421, Respondent.	Case No. 800-2015-015032 **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 July 3, 1980, the Board issued Physician's and Surgeon's Certificate Number G42421 to Karen Marie Tierney, M.D. (Respondent). The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the allegations brought herein and will expire on April 30, 2020, unless renewed.

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JURISDICTION

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

4. 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.

"(f) Approving undergraduate and graduate medical education programs.

"(g) Approving clinical clerkship and special programs and hospitals for the programs in subdivision (f).

"(h) Issuing licenses and certificates under the board's jurisdiction.

"(i) Administering the board's continuing medical education program."

5. Section 2001.1 of the Code provides that the Board's highest priority shall be public protection.

6. Section 2234 of the Code states, in relevant 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.

"(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.

...."

7. Section 2266 of the Code states:

"The failure of a physician and surgeon to maintain adequate and accurate records relating to the provision of services to their patients constitutes unprofessional conduct."

8. 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.

9. The incidents described herein occurred in California.

FIRST CAUSE FOR DISCIPLINE

(Negligence)

10. Respondent has subjected her license to disciplinary action under section 2234(b) and/or 2234(c) in that her care and treatment of Patient One[1] included departures from the standard of care constituting gross negligence and/or, in conjunction with the other departures alleged herein, repeated negligent acts. The circumstances are as follows:

[1] The patients are identified herein as Patient One, Two, Three, Four, and Five to preserve patient confidentiality. The patient's full names will be provided to Respondent in discovery.

11. Respondent began treating Patient One in 1992. Over the next 25 years, Respondent saw Patient One for multiple medical problems, including recurring complaints of migraines, anxiety, sleep disorder, chronic tachycardia, and depression. Respondent's chart notes include a possible diagnosis of "bipolar" but the reference isn't elsewhere corroborated nor any treatment for bipolar disorder described. While the number of actual visits is uncertain due to Respondent's record-keeping, the record of Respondent's prescriptions for Patient One maintained on CURES (Controlled Substance Utilization Review and Evaluation System), the state controlled substance prescriptions database, indicates regular prescriptions by Respondent to Patient One of Klonopin,[2] Phentermine,[3] and Phendimetrazine.[4] Respondent's chart entries do not include a documented plan of treatment or objectives of the drug therapy given to Patient One. Respondent's chart notes regarding her care and treatment of Patient One do not include documented physical examinations or findings supporting Respondent's diagnoses so as to warrant the prescribing of these medications to Patient One.

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[2] Klonopin is a trade name for clonazepam, an anticonvulsant of the benzodiazepine class of drugs. It is a dangerous drug as defined in section 4022 and a schedule IV controlled substance as defined by section 11057 of the Health and Safety Code. It produces central nervous system depression and should be used with caution with other central nervous system depressant drugs. Like other benzodiazapines, it can produce psychological and physical dependence.

The drug summaries provided herein are drawn from the Federal Drug Administration information required for these drugs. These summaries are general descriptions and do not represent adequate drug information or warnings to prescribers or consumers.

[3] Phentermine hydrochloride is a sympathomimetic amine with pharmacologic activity similar to amphetamines. It is a dangerous drug as defined in section 4022 and a schedule IV controlled substance as defined by section 11057 of the Health and Safety Code. It is related chemically and pharmacologically to the amphetamines and the possibility of abuse should be kept in mind when evaluating the desirability of including this drug as part of a weight reduction program. Abuse of amphetamines and related drugs may be associated with intense psychological dependence and severe social dysfunction. It is contraindicated for patients with a history of drug abuse.

[4] Phendimetrazine, an anorectic drug prescribed to control obesity, is related chemically and pharmacologically to the amphetamines. It is a dangerous drug as defined in section 4022 and a Schedule III controlled substance as defined by section 11057 of the Health and Safety Code. Amphetamines and related stimulant drugs have been extensively abused, and the possibility of abuse of phendimetrazine should be kept in mind when evaluating the desirability of including a drug as part of a weight reduction program. Abuse of amphetamines and related drugs may be associated with intense psychological dependence and severe social dysfunction. Manifestations of chronic intoxication with anorectic drugs include severe dermatoses, marked insomnia, irritability, hyperactivity, and personality changes.

12. In a 2018 interview with investigators for the Board, Respondent acknowledged that she was aware that Patient One had been an inpatient in drug detoxification programs prior to and during her period of care with Respondent. The first of those detox programs of which Respondent was aware was intended to treat Patient One's overuse of diazepam[5]; the most recent, in February of 2016, was to take her off Klonopin. In May of 2016, Respondent prescribed diazepam—which is of the same drug class as Klonopin—to Patient One. In that interview, Respondent also acknowledged that she did not regularly confer and coordinate her prescribing to Patient One with the patient's succession of psychiatrists; Respondent instead relied on the representations Patient One offered her as to what medications and dosages she was receiving from other providers and their efficacy. Respondent further admitted that she physically saw Patient One in the office only a few times a year; Respondent instead relied on the assertions Patient One made in the telephonic and e-mail messages she received from Patient One. When questioned about Patient One's recurring problems with substance abuse and whether Respondent had ever sought consultation about Patient One with an addiction medicine specialist or referred Patient One for assessment and treatment by an addition medicine specialist, Respondent stated that Patient One had mental health problems, not an addiction problem. Respondent admitted to Board investigators that it was not her practice to regularly check the CURES database for information about the controlled substances her patients may be receiving from other prescribers. Respondent also acknowledged to Board investigators that she does not obtain urine drug tests of any of her patients for whom she prescribes controlled substances.

13. Respondent prescribed the weight-control medications Phendimetrazine and Phentermine to Patient One over a period of years. These medications bear associated risks, including cardiovascular implications and the potential for habituation and abuse. Respondent's chart for Patient One contains information indicating that at the time Respondent was prescribing

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[5] Diazepam is a psychotropic drug for the management of anxiety disorders or for the short-term relief of the symptoms of anxiety. It is a dangerous drug as defined in section 4022 and a Schedule IV controlled substance as defined by section 11057 of the Health and Safety Code. Diazepam can produce psychological and physical dependence and it should be prescribed with caution particularly to addiction-prone individuals because of the predisposition of such patients to habituation and dependence.

these medications to Patient One, the patient had high cholesterol, was being prescribed medication for rapid heart beat (tachycardia), and had been in treatment for substance abuse disorder. Respondent's chart entries do not establish any objective goals for the obesity treatment nor document cardiologic testing beyond the routine heart examination at Patient One's annual physical examination. Respondent's chart list of medications prescribed to Patient One comprises two pages of handwritten entries and crossed-out deletions, few of the entries bearing any date or explanatory notes as to why the medication was added or discontinued at that time. These two pages appear to be the only physician notes of visits spanning the 24 years of Respondent's treatment of Patient One. The first page of the two ostensibly begins when Respondent first saw Patient One; the patient's age is listed as "21." The "21 is then hand-modified to appear to read "22," then again to read "23." That much-altered number is then crossed out in favor of the number "24", penned in adjacent to the old series. That in turn is crossed out and "25" written alongside. That enumeration of years continues in order through the entry "45", with the page's other numerous entries added or crossed, evidently at each successive visit.

14. Respondent has subjected her license to disciplinary action for unprofessional conduct in that her failure to more frequently directly meet with and assess a patient with multiple physical and mental issues was a departure from the standard of care constituting gross negligence in violation of section 2234(b) and/or in conjunction with the other departures alleged herein, repeated negligent acts in violation of section 2234(c).

SECOND CAUSE FOR DISCIPLINE

(Negligence)

15. The allegations of paragraphs 11 through 13 above are incorporated by reference as if set out in full. Respondent's license is subject to disciplinary action in that her prescribing of controlled substances to a patient known to be at risk for substance abuse without adequate monitoring was a departure from the standard of care constituting gross negligence in violation of section 2234(b) and/or in conjunction with the other departures alleged herein, repeated negligent acts in violation of section 2234(c).

THIRD CAUSE FOR DISCIPLINE

(Negligence)

16. The allegations of paragraphs 11 through 13 above are incorporated by reference as if set out in full. Respondent's license is subject to disciplinary action in that her failure to perform appropriate cardiovascular examinations of Patient One while prescribing Phentermine and Phendimetrazine to her was a departure from the standard of care constituting gross negligence in violation of section 2234(b) and/or in conjunction with the other departures alleged herein, repeated negligent acts in violation of section 2234(c).

FOURTH CAUSE FOR DISCIPLINE

(Failure to Maintain Accurate Records)

17. The allegations of paragraphs 11 through 13 above are incorporated by reference as if set out in full. Respondent's license is subject to disciplinary action in that her failure to maintain adequate and accurate records relating to the provision of services to Patient One constitutes unprofessional conduct under section 2266.

FIFTH CAUSE FOR DISCIPLINE

(Negligence)

18. Respondent has subjected her license to disciplinary action under section 2234(b) and/or 2234(c) in that her care and treatment of Patient Two included departures from the standard of care constituting gross negligence and/or, in conjunction with the other departures alleged herein, repeated negligent acts. The circumstances are as follows:

19. Respondent first saw Patient Two at an office visit on February 9, 2015. Respondent's medical records indicate that Patient Two's chief complaint was of chronic back pain, for which she had been prescribed Carisoprodol[6], Diazepam, and Hydrocodone[7] by a prior

[6] Carisoprodol is a muscle-relaxant and sedative. It is a dangerous drug as defined in section 4022 and a Schedule IV controlled substance as defined by section 11057 of the Health and Safety Code. Since the effects of carisoprodol and alcohol or carisoprodol and other central nervous system depressant or psychotropic drugs may be additive, appropriate caution should be exercised with patients who take more than one of these agents simultaneously.

[7] Hydrocodone w/APAP (hydrocodone with acetaminophen) tablets are produced by several drug manufacturers under trade names such as Vicodin, Norco or Lortab. Hydrocodone bitartrate is semisynthetic narcotic analgesic, a dangerous drug as defined in section 4022 and a

treating physician. Respondent's chart notes do not reflect a comprehensive back examination, a detailed history, or any indication that she considered possible treatment modalities for Patient Two's back pain other than drug therapy. The chart contains the results of an MRI study from 2004 that shows a bulging disc that may be the cause of Patient Two's pain, but Respondent's chart notes do not make her assessment clear. Respondent's chart entries do not include a plan of care for Patient Two's back pain. Apparently based on Patient Two's representation that the drug combination she had been receiving had been effective, Respondent prescribed Carisoprodol, Diazepam, and Hydrocodone to Patient Two at this initial visit. While there is a signed drug agreement in the chart, there is no indication that Respondent discussed with Patient Two the increased risks attending this combination of drugs. In her patient information form, Patient Two states that she does drink alcoholic beverages but no quantity or frequency is specified; in a later e-mail to Respondent, Patient Two stated she drinks "hardly at all...some champagne perhaps a couple of times per week." The signed pain agreement states that Patient Two will not drink alcohol while she is being prescribed these drugs, a necessary precaution based on the potentiating effect of alcohol in combination with drugs which can cause fatal respiratory depression. Respondent's chart notes do not reflect any focused conversation with Patient Two's regarding the increased danger of consuming alcohol while taking this combination of drugs.

20. While only three office visits are documented in Respondent's chart notes for the period between the first office visit in February, 2015, through March 2017, Respondent prescribed the same combination of Carisoprodol, Diazepam, and Hydrocodone to Patient Two at monthly intervals throughout that period. The written pain agreement given to Patient Two expressly provides that "You will need to see your doctor at least quarterly (unless other arrangements are made)...." There is no documentation of any modification of Respondent's prescribing of controlled substances to Patient Two over the two-year period, nor any regular review of the efficacy or collateral effects of treatment by these prescribed drugs.

Schedule II controlled substance and narcotic as defined by section 11055 of the Health and Safety Code. Repeated administration of hydrocodone may result in psychic and physical dependence.

21. Respondent's chart entries for her first visit with Patient Two includes a list of medications labeled "recent" and a separate, unlabeled list with some overlap of the drugs presented. The chart notes for the third recorded visit on March 23, 2017, do not state whether this visit was a routine examination, an annual physical, or a visit to address a more recent medical issue. There is an appended patient questionnaire, suggesting an annual physical undertaken, although Respondent's chart notes do not reflect a lengthy examination. While Respondent had continued to prescribe the trio of controlled substances throughout the two years preceding this visit, there are no regular notes referring to the list of medications nor discussion of the efficacy of the prescriptions in treating the unstated condition for which the drugs are being prescribed, merely the conclusory assertion that Patient Two is "stable on meds."

22. Respondent has subjected her license to disciplinary action for unprofessional conduct in that her failure to consider alternative treatments prior to prescribing controlled substances to Patient Two was a departure from the standard of care constituting gross negligence in violation of section 2234(b) and/or in conjunction with the other departures alleged herein, repeated negligent acts in violation of section 2234(c).

SIXTH CAUSE FOR DISCIPLINE

(Negligence)

23. The allegations of paragraphs 19 through 21 above are incorporated by reference as if set out in full. Respondent's license is subject to disciplinary action in that her failure to adequately inform Patient Two of the risks attending the combination of medications she prescribed to Patient Two was a departure from the standard of care constituting gross negligence in violation of section 2234(b) and/or in conjunction with the other departures alleged herein, repeated negligent acts in violation of section 2234(c).

SEVENTH CAUSE FOR DISCIPLINE

(Failure to Maintain Accurate Records)

24. The allegations of paragraphs 19 through 21 above are incorporated by reference as if set out in full. Respondent's license is subject to disciplinary action in that her failure to maintain

adequate and accurate records relating to the provision of services to Patient Two constitutes unprofessional conduct by application of section 2266.

EIGHTH CAUSE FOR DISCIPLINE

(Negligence)

25. The allegations of paragraphs 19 through 21 above are incorporated by reference as if set out in full. Respondent's license is subject to disciplinary action in that her failure to establish a clear plan of care for Patient Two while prescribing an opiate and a benzodiazepine in combination was a departure from the standard of care constituting gross negligence in violation of section 2234(b) and/or in conjunction with the other departures alleged herein, repeated negligent acts in violation of section 2234(c).

NINTH CAUSE FOR DISCIPLINE

(Negligence)

26. Respondent has subjected her license to disciplinary action under section 2234(b) and/or 2234(c) in that her care and treatment of Patient Three included departures from the standard of care constituting gross negligence and/or, in conjunction with the other departures alleged herein, repeated negligent acts. The circumstances are as follows:

27. Patient Three reinstated Respondent as her primary care physician in 2013 after a hiatus of more than 10 years. In the period in which she had initially treated Patient Three, Respondent had treated her primarily for anxiety; in the intervening years until she began seeing Respondent again, Patient Three developed multiple additional health concerns, including melanoma and thyroid cancer, diabetes, hypertension, irritable bowel syndrome, tardive dyskinesia, coronary artery disease, hernia repair, trigeminal neuralgia, and migraine headaches, and had undergone four surgical spine surgeries. Respondent attributes Patient Three's stated dependence on Alprazolam[8] to the pain associated with the spine surgeries; Patient Three had

[8] Alprazolam (trade name Xanax) is a psychotropic analogue of the benzodiazepine class of central nervous system-active compounds. Xanax is used for the management of anxiety disorders or for the short-term relief of the symptoms of anxiety. It is a dangerous drug as defined in section 4022 and a schedule IV controlled substance and narcotic as defined by section 11057, subdivision (d) of the Health and Safety Code. Xanax has a central nervous system depressant effect and patients should be cautioned about the simultaneous ingestion of alcohol

been receiving prescriptions for Alprazolam and Percocet[9] in combination from a prior treating physician.

28. The first office visit of Respondent's new period of care of Patient Three occurred on April 25, 2013. Respondent's chart entries for this and successive contacts with Patient Three are unclear as to whether they reflect an actual office visit or some less direct contact. Most of the interactions between Respondent and Patient Three documented in the medical record are e-mail communications. Information reflecting Respondent's physical examination of Patient Three appears in notes for only two dates over the next two and a half years; the chart notes do not reflect an examination focused on the physical causes which Patient Three asserts as the shifting sources of her chronic pain. There is no documentation of a focused history included in the medical record. While Respondent appears to suspect a psychological component to much of Patient Three's pain, as implied in some of the many e-mails between Respondent and Patient Three, the issue is not further explored in the medical record. Information relating to Respondent's prescribing of controlled substances—in continuing the Alprazolam and Percocet she understood to have been prescribed by a prior treating physician, and the addition of Klonopin as well--is entered erratically, with little reference to the clinical basis for the prescribing or the goals of the drug therapy administered. While Respondent ostensibly believed that Patient Three was being concurrently seen by a battery of other physicians, including a pain specialist, Respondent appears to have assumed responsibility for prescribing controlled substances to Patient Three for her complaints of chronic pain. There is no record of discussions between Respondent and Patient Three regarding the goals of treatment. There is no pain management agreement between Patient Three and Respondent in the medical record.

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and other CNS depressant drugs during treatment with Xanax. Addiction-prone individuals should be under careful surveillance when receiving alprazolam.

[9] Percocet, a trade name for a combination of oxycodone hydrochloride and acetaminophen, is a semisynthetic narcotic analgesic with multiple actions qualitatively similar to those of morphine. It is a dangerous drug as defined in section 4022 and a schedule II controlled substance and narcotic as defined by section 11055, subdivision (b)(1)(N) of the Health and Safety Code. Oxycodone can produce drug dependence of the morphine type and, therefore, has the potential for being abused. Repeated administration of Percocet may result in psychic and physical dependence.

29. The amount of pain medication Respondent prescribed to Patient Three increased the following year. Patient Three presented multiple physical setbacks or adverse circumstances, arising on a regular basis, which Respondent believed justified increases in the amount of controlled substances she received from Respondent. Patient Three told Respondent in an e-mail that her pain would likely diminish after a series of Botox injections from another of her treating physicians, but the amount of pain medication Respondent prescribes to her remains at the same level after the injections. References in Patient Three's medical record indicate that other of her treating physicians recommended reducing the amount of controlled substances Patient Three was receiving, or substitutions for the opiate or benzodiazepine; Patient Three was unwilling and Respondent continued to prescribe Klonopin, Percocet, and Alprazolam, with no documented discussion of the risks or benefits of these medications over time. In apparent response to an e-mail request in which Patient Three stated that she was told by a former physician that she should be taking medication for her Adult Attention Deficit Disorder, in September 2015 Respondent prescribed Adderall[10] for Patient Three, apparently without a physical examination or discussion with, or referral to, a specialist.

30. In March of 2016, Patient Three saw a gastroenterologist for various complaints, including the need for follow-up on lab tests showing elevated liver enzymes. The gastroenterologist opined, in her report provided to Respondent, that the liver test results may have been caused by the combination of the two glasses of wine Patient Three drinks daily to help her sleep and the acetaminophen in the Klonopin Respondent had been prescribing for her. Respondent was aware of Patient Three's alcohol use since at least September 2015, when Patient Three discussed her use of wine as a soporific—allegedly at the recommendation of another treating physician—in an e-mail note to Respondent. There is no indication in the medical record that Respondent availed herself of this opportunity to re-evaluate her prescribing to Patient Three of controlled substances that interact with alcohol. As revealed by the CURES database,

[10] Adderall, a trade name for a single-entity amphetamine product. It is a dangerous drug as defined in section 4022 and a schedule II controlled substance as defined by section 11055 of the Health and Safety Code. Adderall is indicated for Attention Deficit Disorder with Hyperactivity and for Narcolepsy; its use is counter-indicated for individuals with indications or a history of substance abuse.

Respondent continued to regularly prescribe Klonopin, Percocet, and Alprazolam to Patient Three for the two and a half years covered by the medical records reviewed.

31. Respondent has subjected her license to disciplinary action for unprofessional conduct in that her failure to perform an appropriate examination prior to prescribing controlled substances to Patient Three was a departure from the standard of care constituting gross negligence in violation of section 2234(b) and/or in conjunction with the other departures alleged herein, repeated negligent acts in violation of section 2234(c).

TENTH CAUSE FOR DISCIPLINE

(Negligence)

32. The allegations of paragraphs 27 through 30 above are incorporated by reference as if set out in full. Respondent's license is subject to disciplinary action in that her failure to appropriately monitor Patient Three's chronic pain by adequate in-person assessments while prescribing controlled substances to her was a departure from the standard of care constituting gross negligence in violation of section 2234(b) and/or in conjunction with the other departures alleged herein, repeated negligent acts in violation of section 2234(c).

ELEVENTH CAUSE FOR DISCIPLINE

(Negligence)

33. The allegations of paragraphs 27 through 30 above are incorporated by reference as if set out in full. Respondent's license is subject to disciplinary action in that her failure to fully evaluate Patient Three's substance abuse risk factors while prescribing readily abused opiate and benzodiazepine medications to her was a departure from the standard of care constituting gross negligence in violation of section 2234(b) and/or in conjunction with the other departures alleged herein, repeated negligent acts in violation of section 2234(c).

TWELFTH CAUSE FOR DISCIPLINE

(Failure to Maintain Accurate Records)

34. The allegations of paragraphs 27 through 30 above are incorporated by reference as if set out in full. Respondent's license is subject to disciplinary action in that her failure to maintain

adequate and accurate records relating to her provision of services to Patient Three constitutes unprofessional conduct by application of section 2266.

THIRTEENTH CAUSE FOR DISCIPLINE

(Negligence)

35. The allegations of paragraphs 27 through 30 above are incorporated by reference as if set out in full. Respondent's license is subject to disciplinary action in that her failure to establish and periodically review an adequate plan of care for a chronic-pain patient for whom Respondent was prescribing controlled substances was a departure from the standard of care constituting gross negligence in violation of section 2234(b) and/or in conjunction with the other departures alleged herein, repeated negligent acts in violation of section 2234(c).

FOURTEENTH CAUSE FOR DISCIPLINE

(Negligence)

36. Respondent has subjected her license to disciplinary action under section 2234(b) and/or 2234(c) in that her care and treatment of Patient Four included departures from the standard of care constituting gross negligence and/or, in conjunction with the other departures alleged herein, repeated negligent acts. The circumstances are as follows:

37. Patient Four was 87-years old when she first saw Respondent at her medical office on January 26, 2012. Respondent's chart entries pertaining to this initial visit and the other four office visits she had with Patient Four do not clearly present the reason for the visits nor any assessment or treatment plan; the office visit notes are on otherwise blank sheets of paper with Patient Four's name written at the top and notes jotted around the page. It appears that Respondent crossed out old notes and added new information over time without tying that information to specific dates or contextual reference. Respondent treated Patient Four for her then-identified conditions, including diabetes, mild dementia, and macrocytic anemia. Respondent continued as Patient Four's primary care physician until Patient Four's death two years later.

38. In treating Patient Four's diabetes, Respondent apparently relied on the results of laboratory testing from 2011. There is no indication in the record that Respondent administered

or recommended annual flu and pneumonia vaccinations to Patient Four. Respondent treated Patient Four's anemia as a Vitamin B12 deficiency, without apparent consideration of other possible causes. Respondent gave Patient Four a series of Vitamin B12 injections but Patient Four's blood test results did not improve.

39. In February 3, 2014, Patient Four was seen in a local hospital's emergency department for shortness of breath; she was immediately admitted as an inpatient for "general organ failure." After consultation between the emergency department physician and Respondent, Patient Four was admitted to hospice. According to the CURES database information, Respondent prescribed medications for Patient Four in hospice, including Pentobarbital.[11] Respondent's medical records for Patient Four contain no reference to this prescription nor do they reflect findings following any examination of Patient Four by Respondent that would warrant this prescription. Respondent told Board investigators that it was not unusual for Respondent to prescribe a "comfort pack" for hospice patients, at the hospice nurse's direction. Patient Four died in hospice from cardiopulmonary arrest on February 23, 2014.

40. Respondent has subjected her license to disciplinary action for unprofessional conduct in that her failure to perform an appropriate examination prior to prescribing Pentobarbital to Patient Four was a departure from the standard of care constituting gross negligence in violation of section 2234(b) and/or in conjunction with the other departures alleged herein, repeated negligent acts in violation of section 2234(c).

FIFTEENTH CAUSE FOR DISCIPLINE

(Negligence)

41. The allegations of paragraphs 37 through 39 above are incorporated by reference as if set out in full. Respondent's license is subject to disciplinary action in that her failure to provide appropriate preventative care for diabetic Patient Four was a departure from the standard of care constituting gross negligence in violation of section 2234(b) and/or in conjunction with the other departures alleged herein, repeated negligent acts in violation of section 2234(c).

[11] Pentobarbital (trade name "Nembutal") is a short-acting barbiturate used in anesthesia and as a short term treatment for insomnia. It is a dangerous drug as defined in section 4022 and a schedule II controlled substance as defined by section 11055 of the Health and Safety Code.

SIXTEENTH CAUSE FOR DISCIPLINE

(Failure to Maintain Accurate Records)

42. The allegations of paragraphs 37 through 39 above are incorporated by reference as if set out in full. Respondent's license is subject to disciplinary action in that her failure to maintain adequate and accurate records relating to the provision of services to Patient Four constitutes unprofessional conduct by application of section 2266.

SEVENTEENTH CAUSE FOR DISCIPLINE

(Negligence)

43. The allegations of paragraphs 37 through 39 above are incorporated by reference as if set out in full. Respondent's license is subject to disciplinary action in that her failure to appropriately evaluate and manage Patient Four's macrocytic anemia was a departure from the standard of care constituting gross negligence in violation of section 2234(b) and/or in conjunction with the other departures alleged herein, repeated negligent acts in violation of section 2234(c).

EIGHTEENTH CAUSE FOR DISCIPLINE

(Negligence)

44. Respondent has subjected her license to disciplinary action under section 2234(b) and/or 2234(c) in that her care and treatment of Patient Five included departures from the standard of care constituting gross negligence and/or, in conjunction with the other departures alleged herein, repeated negligent acts. The circumstances are as follows:

45. Respondent had been treating Patient Five for some years until the patient moved out of the area. After her return, Patient Five resumed care with Respondent at an office visit on January 13, 2014, with her stated concern at the time being undesired weight gain. Respondent noted that Patient Five had been prescribed Phentermine in the past without incident; Respondent prescribed Phentermine for Patient Five at this initial visit. Respondent's chart notes do not describe a clinical workup for obesity, nor is there any indication that Respondent explored possible lifestyle changes with Patient Five to promote weight loss. Respondent's chart entries

are unclear, consisting mainly of notes on an otherwise blank page, some crossed out and others apparently added over time, with some dates appended to some entries.

46. In her interview with Board investigators, Respondent stated her belief that Patient Five's weight control and described anxiety were attributable to what Respondent believed was long-standing Attention Deficit Disorder. In April of 2014, Respondent continued the Phentermine and added the amphetamine Adderall; Respondent told the investigators that Adderall had been Patient Five's "prior long-term ADD medication." There is no documentation in the medical record that Respondent performed any meaningful evaluation of Patient Five for Attention Deficit Disorder, nor that Respondent attempted to rule out other possible causes of her reported anxiety. There is no indication that Respondent reviewed the risks and benefits of Adderall with Patient Five prior to prescribing Adderall for her. E-mails from Respondent to Patient Five in April 2014 voice Respondent's concern about prescribing the Adderall and Phentermine in combination, yet she continued to prescribe both while asking the patient to closely monitor her pulse and blood pressure at home.

47. The following year, Respondent certified to an educational institution that Patient Five is permanently disabled by Attention Deficit Disorder, citing 2005 as the year of initial diagnosis, apparently based on Patient Five's e-mail assertion of that fact to Respondent. Respondent's medical records for Patient Five reveal no psychological or clinical testing to establish a diagnosis of Attention Deficit Disorder. There is no indication in Respondent's medical record that Patient Five was seeing a psychiatrist for Attention Deficit Disorder at any time during the period from April 2014 through January 2018, while Respondent was prescribing Adderall for Patient Five.

48. Respondent has subjected her license to disciplinary action for unprofessional conduct in that her failure to perform an appropriate clinical workup to establish a diagnosis of Attention Deficit Disorder prior to prescribing Adderall to Patient Five for that condition was a departure from the standard of care constituting gross negligence in violation of section 2234(b) and/or in conjunction with the other departures alleged herein, repeated negligent acts in violation of section 2234(c).

NINETEENTH CAUSE FOR DISCIPLINE

(Negligence)

49. The allegations of paragraphs 45 through 47 above are incorporated by reference as if set out in full. Respondent's license is subject to disciplinary action in that her failure to adequately monitor a patient to whom Respondent was prescribing Adderall was a departure from the standard of care constituting gross negligence in violation of section 2234(b) and/or in conjunction with the other departures alleged herein, repeated negligent acts in violation of section 2234(c).

TWENTIETH CAUSE FOR DISCIPLINE

(Negligence)

50. The allegations of paragraphs 45 through 47 above are incorporated by reference as if set out in full. Respondent's license is subject to disciplinary action in that her prescribing Phentermine for Patient Five to treat obesity without an adequate clinical evaluation to establish the causes of, and consider alternative therapies for, the condition was a departure from the standard of care constituting gross negligence in violation of section 2234(b) and/or in conjunction with the other departures alleged herein, repeated negligent acts in violation of section 2234(c).

TWENTY-FIRST CAUSE FOR DISCIPLINE

(Failure to Maintain Accurate Records)

51. The allegations of paragraphs 45 through 47 above are incorporated by reference as if set out in full. Respondent's license is subject to disciplinary action in that her failure to maintain adequate and accurate records relating to the provision of services to Patient Five constitutes unprofessional conduct by application of section 2266.

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 G 42421, issued to Karen Marie Tierney, M.D.;

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

3. Ordering Karen Marie Tierney, 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: June 22, 2018

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

SF2018200580