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

In the Matter of the Accusation Against: Thomas Joseph Honrath, M.D. Physician's and Surgeon's Certificate No. G 30053 Respondent.	Case No. 800-2017-037184

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 July 30, 2020.

IT IS SO ORDERED: June 30, 2020.

MEDICAL BOARD OF CALIFORNIA

Ronald H. Lewis, M.D., Chair
Panel A

XAVIER BECERRA
Attorney General of California
MARY CAIN-SIMON
Supervising Deputy Attorney General
DAVID CARR
Deputy Attorney General
State Bar No. 131672
455 Golden Gate Avenue, Suite 11000
San Francisco, CA 94102-7004
Telephone: (415) 510-3380
Facsimile: (415) 703-5480
Attorneys for Complainant

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

In the Matter of the Accusation Against: **THOMAS JOSEPH HONRATH, M.D.** 4700 Hoen Ave. Santa Rosa, CA 95405-7824 Physician's and Surgeon's Certificate No. G 30053 Respondent.	Case No. 800-2017-037184 OAH No. 2019090618 **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.

PARTIES

1. Christine J. Lally (Complainant) is the Interim Executive Director of the Medical Board of California (Board). She brought this action solely in her official capacity and is

represented in this matter by Xavier Becerra, Attorney General of the State of California, by David Carr, Deputy Attorney General.

2. Thomas Joseph Honrath, M.D., is represented in this proceeding by attorney Ronald P. Goldman and the Goldman Law Firm, whose address is: Merchant Bank Building, 55 Main Street, Tiburon, California 94920.

3. On July 7, 1975, the Board issued Physician's and Surgeon's Certificate No. G 30053 to Thomas Joseph Honrath, M.D. (Respondent). The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought in Accusation No. 800-2017-037184, and will expire on June 30, 2020, unless renewed.

JURISDICTION

Accusation No. 800-2017-037184 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 May 13, 2019. Respondent timely filed his Notice of Defense contesting the Accusation.

4. A copy of Accusation No. 800-2017-037184 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. 800-2017-037184. 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 his legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

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. 800-2017-037184, if proven at a hearing, constitute cause for imposing discipline upon his Physician's and Surgeon's Certificate.

9. For the purpose of resolving the Accusation without the expense and uncertainty of further proceedings, Respondent agrees that, at a hearing, Complainant could establish a *prima facie* case with respect to the allegations in the Accusation, and that Respondent hereby gives up his right to contest those charges.

10. Respondent agrees that if he ever petitions for early termination or modification of probation, or if the Board ever petitions for revocation of Respondent's probation, all of the allegations contained in Accusation No. 800-2017-037184 shall be deemed true, correct, and fully admitted by Respondent for purposes of that proceeding or any other professional licensing proceeding involving Respondent in the State of California.

11. Respondent agrees that his Physician's and Surgeon's Certificate is subject to discipline and he agrees to be bound by the Board's 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.

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 his counsel. By signing the

stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

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 30053 issued to Respondent Thomas Joseph Honrath, M.D., is revoked. However, the revocation is stayed and Respondent is placed on probation for 35 months on the following terms and conditions.

1. CONTROLLED SUBSTANCES - TOTAL RESTRICTION. Respondent shall not order, prescribe, dispense, administer, furnish, or possess any controlled substances as defined in the California Uniform Controlled Substances Act.

Respondent shall not issue an oral or written recommendation or approval to a patient or a patient's primary caregiver for the possession or cultivation of marijuana for the personal medical purposes of the patient within the meaning of Health and Safety Code section 11362.5.

If Respondent forms the medical opinion, after an appropriate prior examination and a medical indication, that a patient's medical condition may benefit from the use of marijuana, Respondent shall so inform the patient and shall refer the patient to another physician who, following an appropriate prior examination and a medical indication, may independently issue a medically appropriate recommendation or approval for the possession or cultivation of marijuana for the personal medical purposes of the patient within the meaning of Health and Safety Code

section 11362.5. In addition, Respondent shall inform the patient or the patient's primary caregiver that Respondent is prohibited from issuing a recommendation or approval for the possession or cultivation of marijuana for the personal medical purposes of the patient and that the patient or the patient's primary caregiver may not rely on Respondent's statements to legally possess or cultivate marijuana for the personal medical purposes of the patient. Respondent shall fully document in the patient's chart that the patient or the patient's primary caregiver was so informed. Nothing in this condition prohibits Respondent from providing the patient or the patient's primary caregiver information about the possible medical benefits resulting from the use of marijuana.

2. CONTROLLED SUBSTANCES - SURRENDER OF DEA PERMIT. Respondent shall, within 30 days of the effective date of this order, provide documentary proof to the Board or its designee that Respondent's DEA permit has been surrendered to the Drug Enforcement Administration for cancellation, together with any state prescription forms and all controlled substances order forms. Thereafter, Respondent shall not reapply for a new DEA permit without the prior written consent of the Board or its designee.

3. EDUCATION COURSE. Within 60 calendar days of the effective date of this Decision, and on an annual basis thereafter, Respondent shall submit to the Board or its designee for its prior approval educational program(s) or course(s) which shall not be less than 40 hours per year, for each year of probation. The educational program(s) or course(s) shall be aimed at correcting any areas of deficient practice or knowledge and shall be Category I certified. The educational program(s) or course(s) shall be at Respondent's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure. Following the completion of each course, the Board or its designee may administer an examination to test Respondent's knowledge of the course. Respondent shall provide proof of attendance for 65 hours of CME of which 40 hours were in satisfaction of this condition.

4. 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.

5. 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

6. NOTIFICATION. Within seven (7) days of the effective date of this Decision, 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.

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

8. 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.

9. 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.

10. GENERAL PROBATION REQUIREMENTS.

Compliance with Probation Unit

Respondent shall comply with the Board's probation unit.

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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.

11. 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.

12. 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.

13. 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.

14. 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,

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.

15. 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 his or her license. The Board reserves the right to evaluate Respondent's request and to exercise its discretion in determining whether 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 his 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.

16. 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, Ronald P. Goldman. 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: 1/8/2020 Thomas Joseph Honrath MD

THOMAS JOSEPH HONRATH, M.D.
Respondent

I have read and fully discussed with Respondent Thomas Joseph Honrath, 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: JAN 9, 2020

RONALD P. GOLDMAN
Attorney for Respondent

ENDORSEMENT

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

DATED: January 9, 2020

Respectfully submitted,

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

DAVID CARR
Deputy Attorney General
Attorneys for Complainant

SF20192000

Exhibit A

Accusation No. 800-2017-037184

XAVIER BECERRA
Attorney General of California
MARY CAIN-SIMON
Supervising Deputy Attorney General
DAVID CARR
Deputy Attorney General
State Bar No. 131672
455 Golden Gate Avenue, Suite 11000
San Francisco, CA 94102-7004
Telephone: (415) 510-3380
Facsimile: (415) 703-5480

Attorneys for Complainant

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

In the Matter of the Accusation Against: **THOMAS JOSEPH HONRATH, M.D.** 4700 Hoen Ave. Santa Rosa, CA 95405 Physician's and Surgeon's Certificate No. G30053, Respondent.	Case No. 800-2017-037184 **ACCUSATION**

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 7, 1975, the Board issued Physician's and Surgeon's Certificate No. G30053 to Thomas Joseph Honrath, M.D. (Respondent). Physician's and Surgeon's Certificate No.

G30053 was in full force and effect at all times relevant to the charges brought herein and will expire on June 30, 2020, 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 (Code) unless otherwise indicated.

4. Section 2227 of the Code states, in pertinent part:

"(a) A licensee whose matter has been heard by an administrative law judge of the Medical Quality Hearing Panel as designated in Section 11371 of the Government Code, or whose default has been entered, and who is found guilty, or who has entered into a stipulation for disciplinary action with the board, may, in accordance with the provisions of this chapter:

"(1) Have his or her license revoked upon order of the board.

"(2) Have his or her right to practice suspended for a period not to exceed one year upon order of the board.

"(3) Be placed on probation and be required to pay the costs of probation monitoring upon order of the board.

"(4) Be publicly reprimanded by the board. The public reprimand may include a requirement that the licensee complete relevant educational courses approved by the board.

"(5) Have any other action taken in relation to discipline as part of an order of probation, as the board or an administrative law judge may deem proper.

"..."

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

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

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

"(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.

"..."

6. Section 2266 of the Code provides that failure to maintain adequate and accurate records relating to the medical services provided to patients constitutes unprofessional conduct by a physician and surgeon.

7. The acts alleged herein occurred in California.

FIRST CAUSE FOR DISCIPLINE
(Gross Negligence)

8. Respondent has subject his Physician's and Surgeon's Certificate No. G30053 to disciplinary action under sections 2227 and 2234(b), in that his care and treatment of Patients A and B[1] included extreme departures from the standard of care, constituting gross negligence. The circumstances are as follows:

[1] To ensure patient confidentiality, the subject patients are identified herein as Patients A, B, and C. The patients' names will be disclosed to Respondent upon request.

Patient A

9. Respondent began treating Patient A on or about July 10, 2009.[2] Patient A had a history of fibromyalgia, insomnia, chronic anxiety, and stress. To treat Patient A's chronic pain and insomnia, Respondent had attempted trials of the drugs Cymbalta;[3] Lyrica;[4] Celexa[5] and other selective Serotonin re-uptake inhibitors; Restoril;[6] Lunesta;[7] Viibryd;[8] and Flexeril.[9]

10. As of an office visit date on or about July 16, 2014, Respondent's prescriptions for patient A, then a forty-six-year old woman, included oxycodone;[10] carisoprodol;[11] triazolam;[12] oxazepam;[13] and alprazolam.[14] Respondent's notes indicate that Patient A was taking approximately 90 to 105 milligrams (mg) of oxycodone daily for fibromyalgia, while also taking 1,400 mg of carisoprodol tablets daily. Patient A was also taking 8 mg of alprazolam daily and .50 mg of triazolam and 60 mg of oxazepam at night.

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[2] Conduct occurring more than seven (7) years from the filing date of this Accusation is for informational purposes only and is not alleged as a basis for disciplinary action.

[3] Duloxetine (Cymbalta®) is a nerve pain medication and antidepressant.

[4] Pregabalin (Lyrica®) is a medication used to treat nerve and muscle pain. It is a schedule V controlled substance as defined by Health and Safety Code section 11058 and a dangerous drug as defined in section 4022.

[5] Citalopram (Celexa®) is a selective serotonin reuptake inhibitor (SSRI) and an antidepressant. It is a dangerous drug as defined by section 4022.

[6] Temazepam (Restoril®) a benzodiazepine, is a centrally acting hypnotic-sedative that is a Schedule IV controlled substance pursuant to Health and Safety Code section 11057, subdivision (d) and a dangerous drug as defined in section 4022.

[7] Eszopiclone (Lunesta®) is a sedative and a dangerous drug as defined by section 4022.

[8] Vilazodone (Viibryd®) is an antidepressant and a dangerous drug as defined by section 4022.

[9] Cyclobenzaprine (Flexeril®) is a muscle relaxant and a dangerous drug as defined by section 4022.

[10] Oxycodone HCL (trade name OxyContin) is an opioid analgesic. It is a Schedule II controlled substances pursuant to Health and Safety Code section 11055, subdivision (b) and a dangerous drug as defined by section 4022.

[11] Carisoprodol (Soma®) is a muscle relaxant. It is a dangerous drug as defined by section 4022. The effects of carisoprodol and alcohol or carisoprodol and other central nervous system depressants may be additive; appropriate caution should be exercised with patients who take more than one of these agents simultaneously.

[12] Triazolam (Halcion®) a benzodiazepine, is a centrally acting hypnotic-sedative that is a Schedule IV controlled substance pursuant to Health and Safety Code section 11057, subdivision (d). It is a dangerous drug as defined by section 4022.

[13] Oxazepam, a benzodiazepine, is a centrally acting hypnotic-sedative that is a Schedule IV controlled substance pursuant to Health and Safety Code section 11057, subdivision (d). It is a dangerous drug as defined by section 4022.

[14] Alprazolam (Xanax®), a benzodiazepine, is a centrally acting hypnotic-sedative that is a Schedule IV controlled substance pursuant to Health and Safety Code, section 11057, subdivision (d). It is a dangerous drug as defined by section 4022.

11. From November of 2014 through August of 2015, Respondent saw Patient A about every 4 months and continued to prescribe her oxycodone, carisoprodol, triazolam, oxazepam, and alprazolam.

12. On August 24, 2015, Patient A saw Respondent to review her medication regimen. Patient A complained of pain, stress, and chronic insomnia. Patient A had not seen a pain specialist. She was taking approximately 6 to 8 mg of alprazolam tablets daily with no side effects. She also reported that she had fallen three or four times in the last eight months. Respondent continued to prescribe her oxycodone, carisoprodol, triazolam, oxazepam, and alprazolam.

13. From on or about September 23, 2015 through January 23, 2016, Patient A received regular monthly refills of 180 tablets of oxycodone, 120 tablets of carisoprodol, 60 tablets of oxazepam, 60 tablets of triazolam, and 240 tablets of alprazolam.

14. On or about January 27, 2016, Patient A saw Respondent for a follow up visit. Respondent's medical records for this visit indicate that Patient A had signed a pain contract and that a current CURES[15] report had been reviewed. Neither a pain contract nor a CURES report are found in Respondent's records for Patient A. Patient A submitted to a drug screen and the results were consistent with the medications she was prescribed. Patient A refilled her medications twice more, in February and March, before her death on May 12, 2016.

15. Respondent committed gross negligence in his care and treatment of Patient A which includes, but is not limited to, prescribing multiple controlled substances at high doses for long periods of time when the efficacy of the medications for this patient was not clinically established.

Patient B

16. As of December 17, 2014, Patient B, a then fifty-four-year old woman, was seeing Respondent and receiving prescriptions for oxycodone, lorazepam,[16] and temazepam. Patient B

[15] The Controlled Substance Utilization Review and Evaluation System (CURES) is a database of Schedule II, III, and IV controlled substance prescriptions dispensed in California.

[16] Lorazepam (Ativan®), a benzodiazepine, is a centrally acting hypnotic-sedative that is a Schedule IV controlled substance pursuant to Health and Safety Code, section 11057, subdivision (d).

had chronic back pain. Patient B underwent a laminectomy in 2006 and numerous medications had been prescribed for her pain, including ibuprofen, Lidoderm[17] patches, Celebrex,[18] diclofenac,[19] etodolac,[20] Naprosyn, and hydrocodone.[21] She was also tried on Fentanyl patches,[22] hydromorphone,[23] and Lyrica by one of her previous physicians.

17. On January 20, 2015, Patient B saw Respondent to review her medications. Patient B reported having muscle spasms and pain, for which she was taking 60 mg tablets of oxycodone every three hours. Respondent's records note that Patient B told him that she had a caregiver who had previously stolen some of her pain medication and she needed a refill, despite having received 480 tablets on or about January 12, 2015. Respondent prescribed 100 tablets of lorazepam, 480 tablets of oxycodone, and 30 capsules of temazepam. Patient B refilled these prescriptions in February, March, and again in early April, 2015.

18. On April 30, 2015, Patient B saw Respondent for a follow up visit. Patient B reported that she had been in a car accident a month prior, and that she had not been taking her sleeping pills or tranquilizers. Respondent gave Patient B an oxycodone prescription, which was filled on or about May 8, 2015 and June 6, 2015.

19. On June 18, 2015, Patient B saw Respondent and complained of joint pain, and pain in both hips, knees, and shoulders. Respondent gave Patient B an oxycodone prescription, which was filled on or about August 3, 2015.

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[17] Lidoderm patches contain lidocaine, which is a local anesthetic. It is a dangerous drug as defined by section 4022.

[18] Celecoxib (trade name Celebrex) is a non-steroidal anti-inflammatory drug (NSAID). It is a dangerous drug as defined by section 4022.

[19] Diclofenac (trade name Voltaren) is a NSAID and a dangerous drug as defined by section 4022.

[20] Etodolac is a NSAID and a dangerous drug as defined by section 4022.

[21] Hydrocodone/APAP (trade names Vicodin and Norco) is a combination of hydrocodone bitartrate and acetaminophen. Hydrocodone/APAP was formerly a Schedule III controlled substance, pursuant to Health and Safety Code section 11056, subdivision (e). On August 22, 2014, the Drug Enforcement Agency (DEA) published a final rule rescheduling hydrocodone combination products to Schedule II of the Controlled Substances Act, which became effective October 6, 2014. It is a dangerous drug as defined by section 4022.

[22] Fentanyl transdermal (trade name Duragesic) patch is a Schedule II controlled substance pursuant to Health and Safety Code section 11055, subdivision (c) and a dangerous drug as defined by section 4022.

[23] Hydromorphone is a Schedule II controlled substances pursuant to Health and Safety Code section 11055, subdivision (b) and a dangerous drug as defined by section 4022.

20. On August 17, 2015, Patient B saw Respondent and was given a prescription for oxycodone which was filled on or about September 2, 2015.

21. On September 9, 2015, Patient B saw Respondent and complained of right hip pain for the past four weeks. Patient B had gone to the hospital for a CT scan which was negative. She reported that the compounded pain cream and oxycodone prescribed were not effectively managing her pain. Respondent gave Patient B a referral to an orthopedist and gave her an oxycodone refill.

22. On September 29, 2015, Patient B saw Respondent to review test results. Respondent gave Patient B another oxycodone prescription, among other medications. Patient B received refills of oxycodone on October 1, 2015 and October 30, 2015.

23. On November 10, 2015, Patient B saw Respondent and complained of neck pain. She told Respondent that her current medications were not helping; she requested a referral for physical therapy. Respondent gave her the referral and an oxycodone refill. He noted that Patient B had signed a pain contract and her CURES report was consistent with her prescribed medications. Respondent's medical records do not contain any pain contract or CURES report for Patient B.

24. On November 24, 2015, December 23, 2015, January 22, 2016, and February 19, 2016, Patient B obtained refills as prescribed by Respondent for 480 tablets of oxycodone, or approximately 16 tablets (480 mg.) daily.

25. On March 2, 2016, Patient B saw Respondent and complained of joint pain, right toe pain, and chronic lower back pain. She told Respondent that she had seen a pain specialist who recommended an implanted stimulator. Respondent gave Patient B an oxycodone prescription, which was filled on or about March 17, 2016.

26. On March 21, 2016, Patient B saw Respondent to review previously ordered labs. Respondent gave Patient B an oxycodone prescription, which was filled on or about April 15, 2016.

27. On May 3, 2016, Patient B saw Respondent for an office visit. Respondent noted that Patient B had previously failed trials of Oxycontin and Fentanyl to control her pain. He gave

Patient B an oxycodone refill and wrote a new prescription for methadone[24] with the hopes it would better treat her pain. He also gave her a cardiology referral. Patient B filled the oxycodone prescription on or about May 13, 2016.

28. On May 17, 2016, Patient B saw Respondent for a follow up. She told Respondent she had not tried methadone and had plans to see a pain specialist to consider an implant. Respondent gave Patient B an oxycodone prescription, which she filled on or about June 11, 2016 and July 8, 2016.

29. On June 9, 2016, Patient B saw Respondent for contact dermatitis. Patient B told Respondent that she saw a pain specialist and was being evaluated for an implanted stimulator, with the goal to taper off narcotics.

30. On July 19, 2016, Patient B saw Respondent for more dermatological issues. She reported that the pain specialist was giving her a test run before placing the implant. Respondent gave Patient B an oxycodone prescription.

31. On August 4, 2016, Patient B saw Respondent and reported that she was delaying the procedure to place the nerve stimulator in her back to January, after she had recovered from foot surgery. She was still taking 60 mg of oxycodone every three hours. Respondent gave Patient B an oxycodone prescription, which was filled on or about August 6, 2016.

32. Patient B's CURES report indicates that on or about August 24, 2016, September 30, 2016, November 1, 2016, and December 23, 2016, Patient B filled prescriptions written by Respondent for 30 tablets of 0.25 mg alprazolam. Respondent's records fail to document these new prescriptions or any associated medical indications.

33. Pharmacy records indicate that on or about January 12, 2017 and February 24, 2017, Patient B filled prescriptions for 90 tablets of 0.50 mg alprazolam. Respondent's records fail to document the medical indication for increasing the dose for this medication.

34. On March 14, 2017, Patient B saw Respondent for an office visit. Patient B complained of right flank pain and reported that she had fallen a week prior while on a hike.

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[24] Methadone is an opiate and a Schedule II controlled substance pursuant to Health and Safety Code section 11055, subdivision (c). It is a dangerous drug as defined by section 4022.

Respondent told Patient B to follow up with her pain specialist as needed, and gave her refills for oxycodone and alprazolam. Respondent noted that Patient B was given 90 tablets of 0.50 mg alprazolam for anxiety and restlessness. No further work up regarding Patient B's anxiety was documented.

35. Pharmacy records indicate that on or about March 27, 2017 and April 25, 2017, Patient B refilled prescriptions for 480 tablets of oxycodone, and that on or about April 12, 2017 and April 25, 2017, Patient B filled prescriptions for 30 tablets of 0.25 mg alprazolam.

36. On May 15, 2017, Patient B saw Respondent for a follow up. Patient B was recovering from foot surgery and was still seeing the pain specialist. Respondent gave Patient B an oxycodone prescription, which was filled on or about May 24, 2017.

37. Pharmacy records indicate that on or about May 15, 2017, Patient B filled a prescription for 90 tablets of 0.5 mg alprazolam. Respondent's records fail to document this prescription.

38. On June 21, 2017, Patient B saw Respondent for an office visit. Patient B was still seeing the pain specialist, but still had not been able to reduce the amount of oxycodone she was taking. Respondent documented that he gave Patient B an alprazolam refill.

39. From June 23, 2017 through December 11, 2017, Respondent continued to prescribe oxycodone and alprazolam for Patient B without any documented visits.

40. On December 14, 2017, Patient B saw Respondent for a medication follow up. Patient B had gotten a lumbar nerve implant on or about September 21, 2017, which was helping, though Patient B reported she was still in pain. Patient B wanted to discuss tapering her oxycodone with Respondent. Respondent suggested that Patient B reduce her dose by 10% every two weeks, and that she should follow up with him via e-mail in two weeks. Respondent gave Patient B refills for alprazolam and oxycodone.

41. Respondent committed gross negligence in the care and treatment of Patient B, which includes, but is not limited to, the failure to periodically review and document Patient B's treatment and progress related to her anxiety.

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SECOND CAUSE FOR DISCIPLINE
(Repeated Negligent Acts)

42. Respondent has further subjected his Physician's and Surgeon's Certificate No. G30053 to disciplinary action under sections 2227 and 2234, as defined by section 2234, subdivision (c), of the Code, in that he committed repeated negligent acts in the care and treatments of Patients A and B, as more particularly alleged hereinafter:

Patient A

43. Paragraphs 9 through 15, above, are hereby incorporated by reference and re-alleged as if fully set forth herein. Respondent committed additional repeated negligent acts in the care and treatment of Patient A which includes, but is not limited to, the following:

a. Respondent failed to perform and document adequate physical examinations of Patient A; and

b. Respondent failed to periodically review and consult on Patient A's treatment and progress.

Patient B

44. Paragraphs 16 through 41, above, are hereby incorporated by reference and re-alleged as if fully set forth herein. Respondent committed additional repeated negligent acts in the care and treatment of Patient B which includes, but is not limited to, the following:

a. Respondent failed to perform and document an adequate history and examination for Patient B relating to her anxiety; and

b. Respondent failed to adequately advise and/or document Patient B's informed consent regarding the risks of polypharmacy, specifically the interactions caused by mixing opioids with benzodiazepines.

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THIRD CAUSE FOR DISCIPLINE
(Repeated Negligent Acts)

Patient C

45. Respondent began treating Patient C as her primary care physician on or about February 25, 2009. Patient C had full body arthritis and joint pain. Patient C took her medications in liquid form because she could not swallow pills.

46. As of December 5, 2014, Respondent was prescribing Patient C, then a fifty-six-year old woman, a monthly liquid preparation of oxycodone in which 240 10 mg tablets were dissolved. According to Patient C's CURES report, this liquid preparation was filled on or about December 5, 2014, December 19, 2014, December 31, 2014, February 9, 2015, March 6, 2015, March 18, 2015, and March 30, 2015.

47. On or about April 9, 2015, Patient C saw Respondent for medication refills. Patient C told Respondent she had to refill her oxycodone prescription early because she was going on a trip out of town. Patient C also reported that her compounding pharmacy told her to change the prescription from 240 to 400 tablets. Respondent noted that Patient C had diffuse osteoarthritis and a herniated disc, which was controlled by oxycodone. Respondent wrote Patient C a prescription for 400 10 mg tablets of oxycodone, which was filled on or about the same day.

48. Patient C's CURES report shows that Patient C received oxycodone refills on or about April 26, 2015 and May 18, 2015, each prescription for 400 tablets.

49. Patient C's CURES report shows that Patient C received an oxycodone refill on or about May 26, 2015 for 800 tablets. Respondent's records fail to document why the quantity for Patient C's prescription was doubled.

50. On July 6, 2015, Patient C saw Respondent for an office visit. Patient C was applying for state disability because her osteoarthritis had gotten worse, affecting her ability to work. Patient C told Respondent she still had pain, despite taking the oxycodone. Respondent noted that she had obvious deformities of her fingers, primarily in her joints.

51. Patient C's CURES report shows that Patient C received an oxycodone refill on or about May 26, 2015 for 800 tablets. Again, Respondent's records fail to document why Patient C's prescription was doubled from 400 to 800 tablets.

52. Patient C's CURES report shows that Patient C received another oxycodone refill on or about August 16, 2015 for 400 tablets, and another refill on or about September 7, 2015 for 200 tablets.

53. On September 22, 2015, Patient C saw Respondent for an office visit. Patient C reported she was filing for permanent disability. She said the osteoarthritis was affecting her hands, knees, neck, back, and that she occasionally had sciatica in her legs. Respondent did a physical exam and gave Patient C a prescription for 200 tablets of oxycodone to be taken every three hours as needed for pain.

54. Patient C's CURES report shows that Patient C received an oxycodone refill from Respondent on or about September 25, 2015 for 200 tablets, and another refill on or about October 2, 2015 for 400 tablets.

55. On November 10, 2015, Patient C saw Respondent for an office visit. Respondent noted that Patient C had signed a pain contract and that her CURES report had been reviewed. Respondent's records fail to include a copy of Patient C's pain contract or CURES. Respondent gave Patient C a prescription for 200 tablets of oxycodone, which was filled on or about September 25, 2015.

56. Patient C's CURES report shows that she received another oxycodone refill on or about October 2, 2015, written by Respondent, for 400 tablets.

57. On December 8, 2015, Patient C saw Respondent and complained of hand pain. Respondent diagnosed tendinitis and gave Patient C a wrist splint. He also gave Patient C an oxycodone refill.

58. Pharmacy records show that Patient C received oxycodone refills on or about December 9, 2015, December 21, 2015, January 9, 2016, and January 25, 2016, written by Respondent, for 400 tablets each.

59. On or about February 4, 2016, Patient C saw Respondent for a medication follow up visit. Patient C reported that she took 15 milliliters (mL) of liquid oxycodone every two to five hours, and took none at night. Respondent's plan was to have Patient C continue her current pain medication regimen until she could see a pain specialist.

60. Pharmacy records show that Respondent authorized oxycodone refills, each for 400 tablets, for Patient C on or about February 19, 2016, March 11, 2016, and March 28, 2016.

61. On April 12, 2016, Patient C saw Respondent for an office visit. She told Respondent that she had been trying to see a pain specialist and knew that she had to stop taking oxycodone. Respondent noted that Patient C could not do much physically with her arms because of her hand and wrist arthritis, and that her feet were deformed from arthritis as well. Respondent gave her an oxycodone refill.

62. Pharmacy records show that Patient C received oxycodone refills on or about April 13, 2016 and April 30, 2016, written by Respondent, for 400 tablets each.

63. On May 11, 2016, Patient C saw Respondent for an office visit. She reported that she had seen a pain specialist and declined injections in her neck and back, and that her pain specialist wanted Respondent to continue to prescribe her pain medications. Respondent reviewed an x-ray showing Patient C's osteoarthritis.

64. Pharmacy records show that Patient C received oxycodone refills on or about May 16, 2016, May 27, 2016, and June 8, 2016, written by Respondent, for 400 tablets each.

65. Over a year later, on August 10, 2017, Patient C saw Respondent for an office visit. Patient C had been going to a pain specialist who had been prescribing her oxycodone, but she found the last two visits stressful and was requesting a referral for another pain specialist. Patient C also reported that she was running out of her oxycodone. Respondent told Patient C that he would cover her pain medication refills until she found a new specialist.

66. Pharmacy records show that Patient C received oxycodone refills on or about September 1, 2017 and September 12, 2017, written by Respondent, for 400 tablets each.

67. On September 18, 2017, Patient C saw Respondent for a medication follow-up visit. Patient C reported taking 20 mL of oxycodone six times daily. Patient C was trying to lower her

dose. Respondent prescribed oxycodone, 10 mg/0.5 mL, three teaspoons every three hours as needed for pain. Respondent wrote out a tapering plan for oxycodone, and advised Patient C to go down one dose a week until she got down to three doses every 24 hours.

68. Pharmacy records show that Patient C received oxycodone refills on or about September 22, 2017 and October 2, 2017, written by Respondent, for 400 tablets each.

69. On October 23, 2017, Patient C saw Respondent for a medication follow-up. Patient C reported having a flare up of her right back pain. She had been tapering off oxycodone, but because of the pain, she was taking five doses daily and needed a refill. Respondent prescribed 2,000 mL of 20 mg/mL oxycodone, three teaspoons taken five times daily. Pharmacy records show Patient C received an oxycodone refill on or about October 26, 2017 for 400 tablets.

70. On November 6, 2017, Patient C saw Respondent for a medication follow-up. Patient C reported that she was continuing to taper down her oxycodone dose, taking five doses in the daytime and one at night. Respondent gave Patient C a refill, and pharmacy records show Patient C filled an oxycodone prescription on or about November 6, 2017 for 400 tablets.

71. Pharmacy records show that Patient C obtained oxycodone refills on or about November 6, 2017, November 15, 2017, and November 25, 2017, written by Respondent, for 400 tablets each.

72. On December 6, 2017, Patient C saw Respondent for an office visit. Patient C reported that she was trying to taper her medication and had cut down from 25 to 30 mL per dose to 15 to 20 mL per dose. She was still taking five doses during the daytime and one or two at night. Respondent gave Patient C an oxycodone refill, which was filled on or about December 6, 2017 for 400 tablets.

73. Respondent has subjected his license to disciplinary action for unprofessional conduct, in that his failure to appropriately conduct a periodic review and evaluation of Patient C's oxycodone use, which includes but is not limited to verifying the actual amount of medication Patient C received, was an act of negligence which, considered in light of the additional negligent acts alleged against Respondent, was a repeated negligent act constituting unprofessional conduct by application of section 2234(c).

FOURTH CAUSE FOR DISCIPLINE
(General Unprofessional Conduct)

74. Respondent has further subjected his Physician's and Surgeon's Certificate No. G30053 to disciplinary action under sections 2227 and 2234 of the Code in that he committed general unprofessional conduct, as more particularly alleged in paragraphs 9 through 73, above, which are hereby incorporated by reference and re-alleged as if fully set forth herein.

FIFTH CAUSE FOR DISCIPLINE
(Failure to Maintain Adequate Records)

75. Respondent has further subjected his Physician's and Surgeon's Certificate No. G30053 to disciplinary action under sections 2266 of the Code in that his failure to maintain adequate and accurate records relating to the care afforded Patients A, B, and C, as more particularly alleged in paragraphs 9 through 73, above, which are hereby incorporated by reference and re-alleged as if fully set forth herein, constitutes unprofessional conduct.

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 No. G30053, issued to Respondent Thomas Joseph Honrath, M.D.;

2. Revoking, suspending or denying approval of Respondent Thomas Joseph Honrath, M.D.'s authority to supervise physician assistants, pursuant to section 3527 of the Code, and advanced practice nurses;

3. Ordering Respondent Thomas Joseph Honrath, M.D., if placed on probation, to pay the Board the costs of probation monitoring; and

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

DATED: May 13, 2019

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