

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

In the Matter of the Accusation Against

Victoria Ann Kumar, M.D.

Physician's and Surgeon's
License No. A60124

Case No. 800-2016-028972

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 August 27, 2020.

IT IS SO ORDERED: July 28, 2020.

MEDICAL BOARD OF CALIFORNIA



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

1 XAVIER BECERRA
Attorney General of California
2 JUDITH T. ALVARADO
Supervising Deputy Attorney General
3 REBECCA L. SMITH
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8
9 **BEFORE THE**
MEDICAL BOARD OF CALIFORNIA
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 800-2016-028972

13 VICTORIA ANN KUMAR, M.D.
4700 Sunset Boulevard
14 Los Angeles, California 90027

OAH No. 2019120942

15 Physician's and Surgeon's Certificate
No. A 60124,

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

16
17 Respondent.

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

21 **PARTIES**

22 1. Christine J. Lally ("Complainant") is the Interim Executive Director of the Medical
23 Board of California ("Board"). She brought this action solely in her official capacity and is
24 represented in this matter by Xavier Becerra, Attorney General of the State of California, by
25 Rebecca L. Smith, Deputy Attorney General.

26 2. Respondent Victoria Ann Kumar, M.D. ("Respondent") is represented in this
27 proceeding by attorney Kevin D. Cauley, whose address is: 624 South Grand Avenue, 22nd Floor,
28 Los Angeles, California 90017-3323.

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

4 **DISCIPLINARY ORDER**

5 IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. A 60124 issued
6 to Respondent Victoria Ann Kumar, M.D. is revoked. However, the revocation is stayed and
7 Respondent is placed on probation for five (5) years on the following terms and conditions.

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

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

14 If Respondent forms the medical opinion, after an appropriate prior examination and a
15 medical indication, that a patient's medical condition may benefit from the use of marijuana,
16 Respondent shall so inform the patient and shall refer the patient to another physician who,
17 following an appropriate prior examination and a medical indication, may independently issue a
18 medically appropriate recommendation or approval for the possession or cultivation of marijuana
19 for the personal medical purposes of the patient within the meaning of Health and Safety Code
20 section 11362.5. In addition, Respondent shall inform the patient or the patient's primary
21 caregiver that Respondent is prohibited from issuing a recommendation or approval for the
22 possession or cultivation of marijuana for the personal medical purposes of the patient and that
23 the patient or the patient's primary caregiver may not rely on Respondent's statements to legally
24 possess or cultivate marijuana for the personal medical purposes of the patient. Respondent shall
25 fully document in the patient's chart that the patient or the patient's primary caregiver was so
26 informed. Nothing in this condition prohibits Respondent from providing the patient or the
27 patient's primary caregiver information about the possible medical benefits resulting from the use
28 of marijuana.

1 2. CONTROLLED SUBSTANCES - ABSTAIN FROM USE. Respondent shall abstain
2 completely from the personal use or possession of controlled substances as defined in the
3 California Uniform Controlled Substances Act, dangerous drugs as defined by Business and
4 Professions Code section 4022, and any drugs requiring a prescription. This prohibition does not
5 apply to medications lawfully prescribed to Respondent by another practitioner for a bona fide
6 illness or condition.

7 Within fifteen (15) calendar days of receiving any lawfully prescribed medications,
8 Respondent shall notify the Board or its designee of the: issuing practitioner's name, address, and
9 telephone number; medication name, strength, and quantity; and issuing pharmacy name, address,
10 and telephone number.

11 3. ALCOHOL - ABSTAIN FROM USE. Respondent shall abstain completely from the
12 use of products or beverages containing alcohol.

13 4. COMMUNITY SERVICE - FREE SERVICES. Within sixty (60) calendar days of
14 the effective date of this Decision, Respondent shall submit to the Board or its designee for prior
15 approval a community service plan in which Respondent shall, within the first two (2) years of
16 probation, provide forty (40) hours of free services (e.g., medical or nonmedical) to a community
17 or non-profit organization. If the term of probation is designated for two (2) years or less, the
18 community service hours must be completed not later than six (6) months prior to the completion
19 of probation.

20 Prior to engaging in any community service, Respondent shall provide a true copy of the
21 Decision(s) to the chief of staff, director, office manager, program manager, officer, or the chief
22 executive officer at every community or non-profit organization where Respondent provides
23 community service and shall submit proof of compliance to the Board or its designee within
24 fifteen (15) calendar days. This condition shall also apply to any change(s) in community service.

25 Community service performed prior to the effective date of the Decision shall not be
26 accepted in fulfillment of this condition.

27 5. EDUCATION COURSE. Within sixty (60) calendar days of the effective date of this
28 Decision, and on an annual basis thereafter, Respondent shall submit to the Board or its designee

1 for its prior approval educational program(s) or course(s) which shall not be less than forty (40)
2 hours per year, for each year of probation. The educational program(s) or course(s) shall be
3 aimed at correcting any areas of deficient practice or knowledge and shall be Category I certified.
4 The educational program(s) or course(s) shall be at Respondent's expense and shall be in addition
5 to the Continuing Medical Education ("CME") requirements for renewal of licensure. Following
6 the completion of each course, the Board or its designee may administer an examination to test
7 Respondent's knowledge of the course. Respondent shall provide proof of attendance for sixty-
8 five (65) hours of CME of which forty (40) hours were in satisfaction of this condition.

9 6. PRESCRIBING PRACTICES COURSE. Within sixty (60) calendar days of the
10 effective date of this Decision, Respondent shall enroll in a course in prescribing practices
11 approved in advance by the Board or its designee. Respondent shall provide the approved course
12 provider with any information and documents that the approved course provider may deem
13 pertinent. Respondent shall participate in and successfully complete the classroom component of
14 the course not later than six (6) months after Respondent's initial enrollment. Respondent shall
15 successfully complete any other component of the course within one (1) year of enrollment. The
16 prescribing practices course shall be at Respondent's expense and shall be in addition to the
17 Continuing Medical Education ("CME") requirements for renewal of licensure.

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

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

26 7. PROFESSIONALISM PROGRAM (ETHICS COURSE) (CONDITION
27 SATISFIED). Within sixty (60) calendar days of the effective date of this Decision, Respondent
28 shall enroll in a professionalism program, that meets the requirements of Title 16, California

1 Code of Regulations (“CCR”) section 1358.1. Respondent shall participate in and successfully
2 complete that program. Respondent shall provide any information and documents that the
3 program may deem pertinent. Respondent shall successfully complete the classroom component
4 of the program not later than six (6) months after Respondent’s initial enrollment, and the
5 longitudinal component of the program not later than the time specified by the program, but no
6 later than one (1) year after attending the classroom component. The professionalism program
7 shall be at Respondent’s expense and shall be in addition to the Continuing Medical Education
8 (“CME”) requirements for renewal of licensure.

9 A professionalism program taken after the acts that gave rise to the charges in the
10 Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board
11 or its designee, be accepted towards the fulfillment of this condition if the program would have
12 been approved by the Board or its designee had the program been taken after the effective date of
13 this Decision.

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

17 8. PSYCHOTHERAPY. Within sixty (60) calendar days of the effective date of this
18 Decision, Respondent shall submit to the Board or its designee for prior approval the name and
19 qualifications of a California-licensed board certified psychiatrist or a licensed psychologist who
20 has a doctoral degree in psychology and at least five years of postgraduate experience in the
21 diagnosis and treatment of emotional and mental disorders. Upon approval, Respondent shall
22 undergo and continue psychotherapy treatment, including any modifications to the frequency of
23 psychotherapy, until the Board or its designee deems that no further psychotherapy is necessary.

24 The psychotherapist shall consider any information provided by the Board or its designee
25 and any other information the psychotherapist deems relevant and shall furnish a written
26 evaluation report to the Board or its designee. Respondent shall cooperate in providing the
27 psychotherapist with any information and documents that the psychotherapist may deem
28 pertinent.

1 Respondent shall have the treating psychotherapist submit quarterly status reports to the
2 Board or its designee. The Board or its designee may require Respondent to undergo psychiatric
3 evaluations by a Board-appointed board certified psychiatrist. If, prior to the completion of
4 probation, Respondent is found to be mentally unfit to resume the practice of medicine without
5 restrictions, the Board shall retain continuing jurisdiction over Respondent's license and the
6 period of probation shall be extended until the Board determines that Respondent is mentally fit
7 to resume the practice of medicine without restrictions.

8 Respondent shall pay the cost of all psychotherapy and psychiatric evaluations.

9 9. MEDICAL EVALUATION AND TREATMENT. Within thirty (30) calendar days
10 of the effective date of this Decision, and on a periodic basis thereafter as may be required by the
11 Board or its designee, Respondent shall undergo a medical evaluation by a Board-appointed
12 physician who shall consider any information provided by the Board or designee and any other
13 information the evaluating physician deems relevant and shall furnish a medical report to the
14 Board or its designee. Respondent shall provide the evaluating physician with any information
15 and documentation that the evaluating physician may deem pertinent.

16 Following the evaluation, Respondent shall comply with all restrictions or conditions
17 recommended by the evaluating physician within fifteen (15) calendar days after being notified
18 by the Board or its designee. If Respondent is required by the Board or its designee to undergo
19 medical treatment, Respondent shall within thirty (30) calendar days of the requirement notice,
20 submit to the Board or its designee for prior approval the name and qualifications of a California
21 licensed treating physician of Respondent's choice. Upon approval of the treating physician,
22 Respondent shall within fifteen (15) calendar days undertake medical treatment and shall
23 continue such treatment until further notice from the Board or its designee.

24 The treating physician shall consider any information provided by the Board or its designee
25 or any other information the treating physician may deem pertinent prior to commencement of
26 treatment. Respondent shall have the treating physician submit quarterly reports to the Board or
27 its designee indicating whether or not Respondent is capable of practicing medicine safely.
28 Respondent shall provide the Board or its designee with any and all medical records pertaining to

1 treatment that the Board or its designee deems necessary.

2 If, prior to the completion of probation, Respondent is found to be physically incapable of
3 resuming the practice of medicine without restrictions, the Board shall retain continuing
4 jurisdiction over Respondent's license and the period of probation shall be extended until the
5 Board determines that Respondent is physically capable of resuming the practice of medicine
6 without restrictions. Respondent shall pay the cost of the medical evaluation(s) and treatment.

7 10. SOLO PRACTICE PROHIBITION. Respondent is prohibited from engaging in the
8 solo practice of medicine. Prohibited solo practice includes, but is not limited to, a practice
9 where: 1) Respondent merely shares office space with another physician but is not affiliated for
10 purposes of providing patient care, or 2) Respondent is the sole physician practitioner at that
11 location.

12 If Respondent fails to establish a practice with another physician or secure employment in
13 an appropriate practice setting within sixty (60) calendar days of the effective date of this
14 Decision, Respondent shall receive a notification from the Board or its designee to cease the
15 practice of medicine within three (3) calendar days after being so notified. Respondent shall not
16 resume practice until an appropriate practice setting is established.

17 If, during the course of the probation, Respondent's practice setting changes and
18 Respondent is no longer practicing in a setting in compliance with this Decision, Respondent
19 shall notify the Board or its designee within five (5) calendar days of the practice setting change.
20 If Respondent fails to establish a practice with another physician or secure employment in an
21 appropriate practice setting within sixty (60) calendar days of the practice setting change,
22 Respondent shall receive a notification from the Board or its designee to cease the practice of
23 medicine within three (3) calendar days after being so notified. Respondent shall not resume
24 practice until an appropriate practice setting is established.

25 11. NOTICE OF EMPLOYER OR SUPERVISOR INFORMATION. Within seven (7)
26 days of the effective date of this Decision, Respondent shall provide to the Board the names,
27 physical addresses, mailing addresses, and telephone numbers of any and all employers and
28 supervisors. Respondent shall also provide specific, written consent for the Board, Respondent's

1 worksite monitor, and Respondent's employers and supervisors to communicate regarding
2 Respondent's work status, performance, and monitoring.

3 For purposes of this section, "supervisors" shall include the Chief of Staff and Health or
4 Well Being Committee Chair, or equivalent, if applicable, when Respondent has medical staff
5 privileges.

6 12. BIOLOGICAL FLUID TESTING. Respondent shall immediately submit to
7 biological fluid testing, at Respondent's expense, upon request of the Board or its designee.
8 "Biological fluid testing" may include, but is not limited to, urine, blood, breathalyzer, hair
9 follicle testing, or similar drug screening approved by the Board or its designee. Respondent shall
10 make daily contact with the Board or its designee to determine whether biological fluid testing is
11 required. Respondent shall be tested on the date of the notification as directed by the Board or its
12 designee. The Board may order Respondent to undergo a biological fluid test on any day, at any
13 time, including weekends and holidays. Except when testing on a specific date as ordered by the
14 Board or its designee, the scheduling of biological fluid testing shall be done on a random basis.
15 The cost of biological fluid testing shall be borne by Respondent.

16 During the first year of probation, Respondent shall be subject to fifty-two (52) to (one-
17 hundred four) 104 random tests. During the second year of probation and for the duration of the
18 probationary term, up to five (5) years, Respondent shall be subject to thirty-six (36) to (one-
19 hundred four) 104 random tests per year. Only if there has been no positive biological fluid tests
20 in the previous five (5) consecutive years of probation, may testing be reduced to one (1) time per
21 month. Nothing precludes the Board from increasing the number of random tests to the first-year
22 level of frequency for any reason.

23 Prior to practicing medicine, Respondent shall contract with a laboratory or service,
24 approved in advance by the Board or its designee, that will conduct random, unannounced,
25 observed, biological fluid testing and meets all of the following standards:

26 (a) Its specimen collectors are either certified by the Drug and Alcohol Testing Industry
27 Association or have completed the training required to serve as a collector for the United
28 States Department of Transportation.

1 (b) Its specimen collectors conform to the current United States Department of
2 Transportation Specimen Collection Guidelines.

3 (c) Its testing locations comply with the Urine Specimen Collection Guidelines published
4 by the United States Department of Transportation without regard to the type of test
5 administered.

6 (d) Its specimen collectors observe the collection of testing specimens.

7 (e) Its laboratories are certified and accredited by the United States Department of Health
8 and Human Services.

9 (f) Its testing locations shall submit a specimen to a laboratory within one (1) business day
10 of receipt and all specimens collected shall be handled pursuant to chain of custody
11 procedures. The laboratory shall process and analyze the specimens and provide legally
12 defensible test results to the Board within seven (7) business days of receipt of the
13 specimen. The Board will be notified of non-negative results within one (1) business day
14 and will be notified of negative test results within seven (7) business days.

15 (g) Its testing locations possess all the materials, equipment, and technical expertise
16 necessary in order to test Respondent on any day of the week.

17 (h) Its testing locations are able to scientifically test for urine, blood, and hair specimens
18 for the detection of alcohol and illegal and controlled substances.

19 (i) It maintains testing sites located throughout California.

20 (j) It maintains an automated 24-hour toll-free telephone system and/or a secure on-line
21 computer database that allows Respondent to check in daily for testing.

22 (k) It maintains a secure, HIPAA-compliant website or computer system that allows staff
23 access to drug test results and compliance reporting information that is available 24 hours a
24 day.

25 (l) It employs or contracts with toxicologists that are licensed physicians and have
26 knowledge of substance abuse disorders and the appropriate medical training to interpret
27 and evaluate laboratory biological fluid test results, medical histories, and any other
28 information relevant to biomedical information.

1 (m) It will not consider a toxicology screen to be negative if a positive result is obtained
2 while practicing, even if Respondent holds a valid prescription for the substance.

3 Prior to changing testing locations for any reason, including during vacation or other travel,
4 alternative testing locations must be approved by the Board and meet the requirements above.

5 The contract shall require that the laboratory directly notify the Board or its designee of
6 non-negative results within one (1) business day and negative test results within seven (7)
7 business days of the results becoming available. Respondent shall maintain this laboratory or
8 service contract during the period of probation.

9 A certified copy of any laboratory test result may be received in evidence in any
10 proceedings between the Board and Respondent.

11 If a biological fluid test result indicates Respondent has used, consumed, ingested, or
12 administered to herself a prohibited substance, the Board shall order Respondent to cease practice
13 and instruct Respondent to leave any place of work where Respondent is practicing medicine or
14 providing medical services. The Board shall immediately notify all of Respondent's employers,
15 supervisors and work monitors, if any, that Respondent may not practice medicine or provide
16 medical services while the cease-practice order is in effect.

17 A biological fluid test will not be considered negative if a positive result is obtained while
18 practicing, even if the practitioner holds a valid prescription for the substance. If no prohibited
19 substance use exists, the Board shall lift the cease-practice order within one (1) business day.

20 After the issuance of a cease-practice order, the Board shall determine whether the positive
21 biological fluid test is in fact evidence of prohibited substance use by consulting with the
22 specimen collector and the laboratory, communicating with the licensee, his or her treating
23 physician(s), other health care provider, or group facilitator, as applicable.

24 For purposes of this condition, the terms "biological fluid testing" and "testing" mean the
25 acquisition and chemical analysis of a Respondent's urine, blood, breath, or hair.

26 For purposes of this condition, the term "prohibited substance" means an illegal drug, a
27 lawful drug not prescribed or ordered by an appropriately licensed health care provider for use by
28 Respondent and approved by the Board, alcohol, or any other substance Respondent has been

1 instructed by the Board not to use, consume, ingest, or administer to herself.

2 If the Board confirms that a positive biological fluid test is evidence of use of a prohibited
3 substance, Respondent has committed a major violation, as defined in section 1361.52(a), and the
4 Board shall impose any or all of the consequences set forth in section 1361.52(b), in addition to
5 any other terms or conditions the Board determines are necessary for public protection or to
6 enhance Respondent's rehabilitation.

7 13. SUBSTANCE ABUSE SUPPORT GROUP MEETINGS. Within thirty (30) days of
8 the effective date of this Decision, Respondent shall submit to the Board or its designee, for its
9 prior approval, the name of a substance abuse support group which she shall attend for the
10 duration of probation. Respondent shall attend substance abuse support group meetings at least
11 once per week, or as ordered by the Board or its designee. Respondent shall pay all substance
12 abuse support group meeting costs.

13 The facilitator of the substance abuse support group meeting shall have a minimum of three
14 (3) years experience in the treatment and rehabilitation of substance abuse, and shall be licensed
15 or certified by the state or nationally certified organizations. The facilitator shall not have a
16 current or former financial, personal, or business relationship with Respondent within the last five
17 (5) years. Respondent's previous participation in a substance abuse group support meeting led by
18 the same facilitator does not constitute a prohibited current or former financial, personal, or
19 business relationship.

20 The facilitator shall provide a signed document to the Board or its designee showing
21 Respondent's name, the group name, the date and location of the meeting, Respondent's
22 attendance, and Respondent's level of participation and progress. The facilitator shall report any
23 unexcused absence by Respondent from any substance abuse support group meeting to the Board,
24 or its designee, within twenty-four (24) hours of the unexcused absence.

25 14. WORKSITE MONITOR FOR SUBSTANCE-ABUSING LICENSEE. Within thirty
26 (30) calendar days of the effective date of this Decision, Respondent shall submit to the Board or
27 its designee for prior approval as a worksite monitor, the name and qualifications of one or more
28 licensed physician and surgeon, other licensed health care professional if no physician and

1 surgeon is available, or, as approved by the Board or its designee, a person in a position of
2 authority who is capable of monitoring Respondent at work.

3 The worksite monitor shall not have a current or former financial, personal, or familial
4 relationship with Respondent, or any other relationship that could reasonably be expected to
5 compromise the ability of the monitor to render impartial and unbiased reports to the Board or its
6 designee. If it is impractical for anyone but Respondent's employer to serve as the worksite
7 monitor, this requirement may be waived by the Board or its designee, however, under no
8 circumstances shall Respondent's worksite monitor be an employee or supervisee of the licensee.

9 The worksite monitor shall have an active unrestricted license with no disciplinary action
10 within the last five (5) years, and shall sign an affirmation that he or she has reviewed the terms
11 and conditions of Respondent's disciplinary order and agrees to monitor Respondent as set forth
12 by the Board or its designee.

13 Respondent shall pay all worksite monitoring costs.

14 The worksite monitor shall have face-to-face contact with Respondent in the work
15 environment on as frequent a basis as determined by the Board or its designee, but not less than
16 once per week; interview other staff in the office regarding Respondent's behavior, if requested
17 by the Board or its designee; and review Respondent's work attendance.

18 The worksite monitor shall verbally report any suspected substance abuse to the Board and
19 Respondent's employer or supervisor within one (1) business day of occurrence. If the suspected
20 substance abuse does not occur during the Board's normal business hours, the verbal report shall
21 be made to the Board or its designee within one (1) hour of the next business day. A written
22 report that includes the date, time, and location of the suspected abuse; Respondent's actions; and
23 any other information deemed important by the worksite monitor shall be submitted to the Board
24 or its designee within forty-eight (48) hours of the occurrence.

25 The worksite monitor shall complete and submit a written report monthly or as directed by
26 the Board or its designee which shall include the following: (1) Respondent's name and
27 Physician's and Surgeon's Certificate number; (2) the worksite monitor's name and signature; (3)
28 the worksite monitor's license number, if applicable; (4) the location or location(s) of the

1 worksite; (5) the dates Respondent had face-to-face contact with the worksite monitor; (6) the
2 names of worksite staff interviewed, if applicable; (7) a report of Respondent's work attendance;
3 (8) any change in Respondent's behavior and/or personal habits; and (9) any indicators that can
4 lead to suspected substance abuse by Respondent. Respondent shall complete any required
5 consent forms and execute agreements with the approved worksite monitor and the Board, or its
6 designee, authorizing the Board, or its designee, and worksite monitor to exchange information.

7 If the worksite monitor resigns or is no longer available, Respondent shall, within five (5)
8 calendar days of such resignation or unavailability, submit to the Board or its designee, for prior
9 approval, the name and qualifications of a replacement monitor who will be assuming that
10 responsibility within fifteen (15) calendar days. If Respondent fails to obtain approval of a
11 replacement monitor within sixty (60) calendar days of the resignation or unavailability of the
12 monitor, Respondent shall receive a notification from the Board or its designee to cease the
13 practice of medicine within three (3) calendar days after being so notified. Respondent shall
14 cease the practice of medicine until a replacement monitor is approved and assumes monitoring
15 responsibility.

16 15. VIOLETION OF PROBATION CONDITION FOR SUBSTANCE ABUSING
17 LICENSEES. Failure to fully comply with any term or condition of probation is a violation of
18 probation.

19 A. If Respondent commits a major violation of probation as defined by section
20 1361.52, subdivision (a), of Title 16 of the California Code of Regulations, the Board shall take
21 one or more of the following actions:

22 (1) Issue an immediate cease-practice order and order Respondent to undergo a clinical
23 diagnostic evaluation to be conducted in accordance with section 1361.5, subdivision (c)(1), of
24 Title 16 of the California Code of Regulations, at Respondent's expense. The cease-practice
25 order issued by the Board or its designee shall state that Respondent must test negative for at least
26 a month of continuous biological fluid testing before being allowed to resume practice. For
27 purposes of determining the length of time a Respondent must test negative while undergoing
28 continuous biological fluid testing following issuance of a cease-practice order, a month is

1 defined as thirty (30) calendar days. Respondent may not resume the practice of medicine until
2 notified in writing by the Board or its designee that she may do so.

3 (2) Increase the frequency of biological fluid testing.

4 (3) Refer Respondent for further disciplinary action, such as suspension, revocation, or
5 other action as determined by the Board or its designee.

6 B. If Respondent commits a minor violation of probation as defined by section
7 1361.52, subdivision (c), of Title 16 of the California Code of Regulations, the Board shall take
8 one or more of the following actions:

9 (1) Issue a cease-practice order;

10 (2) Order practice limitations;

11 (3) Order or increase supervision of Respondent;

12 (4) Order increased documentation;

13 (5) Issue a citation and fine, or a warning letter;

14 (6) Order Respondent to undergo a clinical diagnostic evaluation to be conducted in
15 accordance with section 1361.5, subdivision (c)(1), of Title 16 of the California Code of
16 Regulations, at Respondent's expense;

17 (7) Take any other action as determined by the Board or its designee.

18 C. Nothing in this Decision shall be considered a limitation on the Board's authority
19 to revoke Respondent's probation if she has violated any term or condition of probation. If
20 Respondent violates probation in any respect, the Board, after giving Respondent notice and the
21 opportunity to be heard, may revoke probation and carry out the disciplinary order that was
22 stayed. If an Accusation, or Petition to Revoke Probation, or an Interim Suspension Order is filed
23 against Respondent during probation, the Board shall have continuing jurisdiction until the matter
24 is final, and the period of probation shall be extended until the matter is final.

25 16. NOTIFICATION. Within seven (7) days of the effective date of this Decision,
26 Respondent shall provide a true copy of this Decision and Accusation to the Chief of Staff or the
27 Chief Executive Officer at every hospital where privileges or membership are extended to
28 Respondent, at any other facility where Respondent engages in the practice of medicine,

1 including all physician and locum tenens registries or other similar agencies, and to the Chief
2 Executive Officer at every insurance carrier which extends malpractice insurance coverage to
3 Respondent. Respondent shall submit proof of compliance to the Board or its designee within
4 fifteen (15) calendar days.

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

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

9 18. OBEY ALL LAWS. Respondent shall obey all federal, state and local laws, all rules
10 governing the practice of medicine in California and remain in full compliance with any court
11 ordered criminal probation, payments, and other orders.

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

15 Respondent shall submit quarterly declarations not later than ten (10) calendar days after
16 the end of the preceding quarter.

17 20. GENERAL PROBATION REQUIREMENTS.

18 Compliance with Probation Unit

19 Respondent shall comply with the Board's probation unit.

20 Address Changes

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

26 Place of Practice

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

1 facility.

2 License Renewal

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

5 Travel or Residence Outside California

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

9 In the event Respondent should leave the State of California to reside or to practice
10 ,Respondent shall notify the Board or its designee in writing thirty (30) calendar days prior to the
11 dates of departure and return.

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

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

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

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

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

9 Periods of non-practice for a Respondent residing outside of California will relieve
10 Respondent of the responsibility to comply with the probationary terms and conditions with the
11 exception of this condition and the following terms and conditions of probation: Obey All Laws;
12 General Probation Requirements; Quarterly Declarations; Abstain from the Use of Alcohol and/or
13 Controlled Substances; and Biological Fluid Testing.

14 23. COMPLETION OF PROBATION. Respondent shall comply with all financial
15 obligations (e.g., restitution, probation costs) not later than one-hundred twenty (120) calendar
16 days prior to the completion of probation. Upon successful completion of probation,
17 Respondent's certificate shall be fully restored.

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

25 25. LICENSE SURRENDER. Following the effective date of this Decision, if
26 Respondent ceases practicing due to retirement or health reasons or is otherwise unable to satisfy
27 the terms and conditions of probation, Respondent may request to surrender his or her license.
28 The Board reserves the right to evaluate Respondent's request and to exercise its discretion in

1 determining whether or not to grant the request, or to take any other action deemed appropriate
2 and reasonable under the circumstances. Upon formal acceptance of the surrender, Respondent
3 shall within 15 calendar days deliver Respondent's wallet and wall certificate to the Board or its
4 designee and Respondent shall no longer practice medicine. Respondent will no longer be subject
5 to the terms and conditions of probation. If Respondent re-applies for a medical license, the
6 application shall be treated as a petition for reinstatement of a revoked certificate.

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

12 ACCEPTANCE

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

18
19 DATED: 4/24/20

Victoria A. Kumar M.D.
20 VICTORIA ANN KUMAR, M.D.
Respondent

21
22 I have read and fully discussed with Respondent Victoria Ann Kumar, M.D. the terms and
23 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.
24 I approve its form and content.

25 DATED: _____

26 KEVIN D. CAULEY
Attorney for Respondent
27
28

1 determining whether or not to grant the request, or to take any other action deemed appropriate
2 and reasonable under the circumstances. Upon formal acceptance of the surrender, Respondent
3 shall within 15 calendar days deliver Respondent's wallet and wall certificate to the Board or its
4 designee and Respondent shall no longer practice medicine. Respondent will no longer be subject
5 to the terms and conditions of probation. If Respondent re-applies for a medical license, the
6 application shall be treated as a petition for reinstatement of a revoked certificate.

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

12 ACCEPTANCE

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

18
19 DATED: _____

20 VICTORIA ANN KUMAR, M.D.
21 Respondent

22 I have read and fully discussed with Respondent Victoria Ann Kumar, M.D. the terms and
23 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.
24 I approve its form and content.

25 DATED: 4-24-20

26 Kevin D. Cauley
27 KEVIN D. CAULEY
28 Attorney for Respondent

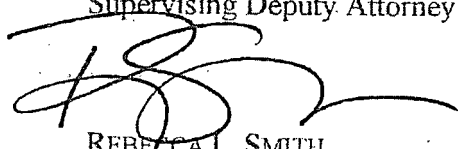
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ENDORSEMENT

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

DATED: April 24, 2020

Respectfully submitted,
XAVIER BECERRA
Attorney General of California
JUDITH T. ALVARADO
Supervising Deputy Attorney General



REBECCA L. SMITH
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 800-2016-028972

1 XAVIER BECERRA
Attorney General of California
2 JUDITH T. ALVARADO
Supervising Deputy Attorney General
3 REBECCA L. SMITH
Deputy Attorney General
4 State Bar No. 179733
California Department of Justice
5 300 South Spring Street, Suite 1702
Los Angeles, California 90013
6 Telephone: (213) 269-6475
Facsimile: (916) 731-2117
7 *Attorneys for Complainant*

8
9 **BEFORE THE**
10 **MEDICAL BOARD OF CALIFORNIA**
11 **DEPARTMENT OF CONSUMER AFFAIRS**
12 **STATE OF CALIFORNIA**

13 In the Matter of the Accusation Against:
14 VICTORIA ANN KUMAR, M.D.
4700 Sunset Blvd.
Los Angeles, California 90027
15 Physician's and Surgeon's Certificate
16 No. A 60124,
17 Respondent.

Case No. 800-2016-028972
A C C U S A T I O N

18
19 **PARTIES**

20 1. Christine J. Lally ("Complainant") brings this Accusation solely in her official
21 capacity as the Interim Executive Director of the Medical Board of California, Department of
22 Consumer Affairs ("Board").

23 2. On or about May 21, 1996, the Board issued Physician's and Surgeon's Certificate
24 Number A 60124 to Victoria Ann Kumar, M.D. ("Respondent"). That license was in full force
25 and effect at all times relevant to the charges brought herein and will expire on October 31, 2021,
26 unless renewed.

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28 ///

1 JURISDICTION

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

5 4. Section 2004 of the Code states:

6 "The board shall have the responsibility for the following:

7 "(a) The enforcement of the disciplinary and criminal provisions of the Medical Practice
8 Act.

9 "(b) The administration and hearing of disciplinary actions.

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

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

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

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

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

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

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

21 5. Section 2227 of the Code states:

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

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

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

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

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

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

7 “(b) Any matter heard pursuant to subdivision (a), except for warning letters, medical
8 review or advisory conferences, professional competency examinations, continuing education
9 activities, and cost reimbursement associated therewith that are agreed to with the board and
10 successfully completed by the licensee, or other matters made confidential or privileged by
11 existing law, is deemed public, and shall be made available to the public by the board pursuant to
12 Section 803.1.”

13 6. Section 2234 of the Code, states:

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

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

19 “(b) Gross negligence.

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

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

25 “(2) When the standard of care requires a change in the diagnosis, act, or omission that
26 constitutes the negligent act described in paragraph (1), including, but not limited to, a
27 reevaluation of the diagnosis or a change in treatment, and the licensee's conduct departs from the

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1 applicable standard of care, each departure constitutes a separate and distinct breach of the
2 standard of care.

3 “(d) Incompetence.

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

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

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

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

14 7. Section 2021 of the Code states:

15 “...

16 “(b) Each licensee shall report to the board each and every change of address within 30
17 days after each change, giving both the old and new address. If an address reported to the board
18 at the time of application for licensure or subsequently is a post office box, the applicant shall
19 also provide the board with a street address. If another address is the licensee's address of record,
20 he or she may request that the second address not be disclosed to the public.

21 “(c) Each licensee shall report to the board each and every change of name within 30 days
22 after each change, giving both the old and new names.

23 “...”

24 8. Section 2261 of the Code states:

25 “Knowingly making or signing any certificate or other document directly or indirectly
26 related to the practice of medicine or podiatry which falsely represents the existence or
27 nonexistence of a state of facts, constitutes unprofessional conduct.”

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1 DRUG LAWS

2 9. Section 2238 of the Code states:

3 "A violation of any federal statute or federal regulation or any of the statutes or regulations
4 of this state regulating dangerous drugs or controlled substances constitutes unprofessional
5 conduct."

6 10. Section 2239 of the Code states:

7 "(a) The use or prescribing for or administering to himself or herself, of any controlled
8 substance; or the use of any of the dangerous drugs specified in Section 4022, or of alcoholic
9 beverages, to the extent, or in such a manner as to be dangerous or injurious to the licensee, or to
10 any other person or to the public, or to the extent that such use impairs the ability of the licensee
11 to practice medicine safely or more than one misdemeanor or any felony involving the use,
12 consumption, or self-administration of any of the substances referred to in this section, or any
13 combination thereof, constitutes unprofessional conduct. The record of the conviction is
14 conclusive evidence of such unprofessional conduct.

15 "(b) A plea or verdict of guilty or a conviction following a plea of nolo contendere is
16 deemed to be a conviction within the meaning of this section. The Medical Board may order
17 discipline of the licensee in accordance with Section 2227 or the Medical Board may order the
18 denial of the license when the time for appeal has elapsed or the judgment of conviction has been
19 affirmed on appeal or when an order granting probation is made suspending imposition of
20 sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal
21 Code allowing such person to withdraw his or her plea of guilty and to enter a plea of not guilty,
22 or setting aside the verdict of guilty, or dismissing the accusation, complaint, information, or
23 indictment."

24 11. Section 4324 of the Code states:

25 "(a) Every person who signs the name of another, or of a fictitious person, or falsely
26 makes, alters, forges, utters, publishes, passes or attempts to pass, as genuine, any prescription for
27 any drugs is guilty of forgery and upon conviction thereof shall be punished by imprisonment

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1 pursuant to subdivision (h) of Section 1170 of the Penal Code, or by imprisonment in a county
2 jail for not more than one year.

3 “(b) Every person who has in his or her possession any drugs secured by a forged
4 prescription shall be punished by imprisonment pursuant to subdivision (h) of Section 1170 of the
5 Penal Code, or by imprisonment in the county jail of not more than one year.”

6 12. Health and Safety Code section 11153 states in pertinent part:

7 “(a) A prescription for a controlled substance shall only be issued for a legitimate medical
8 purpose by an individual practitioner acting in the usual course of his or her professional
9 practice...

10 “(b) Any person who knowingly violates this section shall be punished by imprisonment
11 in the state prison or in a county jail not exceeding one year, or by a fine not exceeding twenty
12 thousand (\$20,000), or by both that fine and imprisonment...”

13 13. Health and Safety Code section 11157 states:

14 “No person shall issue a prescription that is false or fictitious in any respect.”

15 14. Health and Safety Code section 11170 states:

16 “No person shall prescribe, administer, or furnish a controlled substance for himself.”

17 15. Health and Safety Code section 11173, subdivision (a), states:

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

21 16. Health and Safety Code section 11175 states:

22 “No person shall obtain or possess a prescription that does not comply with his division, nor
23 shall any person obtain a controlled substance by means of a prescription which does not comply
24 with this division or possess a controlled substance obtained by such a prescription.”

25 17. Health and Safety Code section 11368 states:

26 “Every person who forges or alters a prescription or who issues or utters an altered
27 prescription, or who issues or utters a prescription bearing a forged or fictitious signature for any
28 narcotic drug, or who obtains any narcotic drug by any forged, fictitious, or altered prescription,

1 or who has in possession any narcotic drug secured by a forged, fictitious, or altered prescription,
2 shall be punished by imprisonment in the county jail for not less than six months nor more than
3 one year, or in the state prison.”

4 DRUGS INVOLVED

5 18. Hydrocodone Bitartrate-Acetaminophen also known by the trade name Vicodin, is a
6 Schedule II controlled substance as defined by section 11055, subdivision (I), of the Health and
7 Safety Code and is a dangerous drug as defined in Section 4022 of the Code.

8 19. Acetaminophen-Codeine Phosphate also known by the trade name Tylenol-Codeine,
9 is a Schedule III controlled substance as defined by section 11056, subdivision (e), of the Health
10 and Safety Code and is a dangerous drug as defined in Section 4022 of the Code.

11 20. Diazepam also known by the trade name Valium, is a Schedule IV controlled
12 substance as defined by section 11057, subdivision (d)(9), of the Health and Safety Code and is a
13 dangerous drug as defined in Section 4022 of the Code.

14 FACTUAL SUMMARY

15 21. Respondent is a nephrologist with Kaiser Permanente in Los Angeles.

16 22. Patient 1¹ is a registered nurse with Kaiser Permanente in Sacramento.

17 23. On November 2, 2016, Patient 1 injured her shoulder while working and sought pain
18 management treatment at Kaiser Permanente in Sacramento. Patient 1's treating physicians
19 refused to prescribe pain medication for Patient 1 as a result of the large number of controlled
20 substance prescriptions prescribed by Respondent in Southern California as set forth in Patient 1's
21 CURES² Report.

22 24. Patient 1 has never sought medical treatment from Respondent and Respondent was
23 not Patient 1's treating physician.

24 ///

25 ¹ For privacy purposes, the patients in this Accusation are referred to as Patients 1 and 2, with the
26 identity of the patients disclosed to Respondent in discovery.

27 ² CURES is the Controlled Substance Utilization Review and Evaluation System which stores
28 Schedule II, III and IV controlled substance prescription information reported as dispensed in California.
Prescribers authorized to prescribe, order, administer, furnish, or dispense Schedule II, III, or IV controlled
substances, and pharmacists, may access CURES data for patient care purposes.

1 25. Patient 1 never sought or filled pain medication prescriptions prescribed by
2 Respondent.

3 26. Patient 1 is allergic to acetaminophen with codeine.

4 27. A review of Patient 1's CURES Report reflects that from August 30, 2010 to October
5 21, 2016, Respondent prescribed at least 95 prescriptions for controlled substances to Patient 1
6 and that all of the prescriptions were filled at CVS Pharmacy 9527, located at 12100 Ventura
7 Boulevard, Studio City, California.

8 28. On August 2, 2010, Respondent prescribed 30 tablets of Hydrocodone-
9 Acetaminophen (10 mg/500 mg) with one refill for Patient 1. On August 30, 2010, the
10 prescription was filled at CVS Pharmacy 9527.

11 29. On October 1, 2010, Respondent phoned in a prescription to CVS Pharmacy 9527 for
12 30 tablets of Hydrocodone-Acetaminophen (10 mg/500 mg) with one refill for Patient 1. The
13 prescription was filled that same day and the refill was filled on October 30, 2010.

14 30. On December 15, 2010, Respondent prescribed 30 tablets of Hydrocodone-
15 Acetaminophen (10 mg/500 mg) with one refill for Patient 1. The prescription was filled that
16 same day at CVS Pharmacy 9527 and the refill was filled on January 13, 2011 at CVS Pharmacy
17 9527.

18 31. On February 21, 2010, Respondent authorized two refills of 30 tablets of
19 Hydrocodone-Acetaminophen (10 mg/500 mg) for Patient 1. The prescriptions were filled on
20 February 21, 2011 and March 21, 2011 at CVS Pharmacy 9527.

21 32. On April 22, 2011, Respondent authorized two refills of 30 tablets of Hydrocodone-
22 Acetaminophen (10 mg/500 mg) for Patient 1. The prescriptions were filled on April 22, 2011
23 and May 23, 2011 at CVS Pharmacy 9527.

24 33. On June 27, 2011, Respondent phoned in a prescription to CVS Pharmacy 9527 for
25 30 tablets of Hydrocodone-Acetaminophen (10 mg/500 mg) with one refill for Patient 1. The
26 prescription was filled that same day and the refill was filled on July 27, 2011.

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28 ///

1 34. On August 30, 2011, Respondent authorized two refills of 30 tablets of Hydrocodone-
2 Acetaminophen (10 mg/500 mg) for Patient 1. The prescriptions were filled on August 30, 2011
3 and September 28, 2011 at CVS Pharmacy 9527.

4 35. On November 2, 2011, Respondent authorized three refills of 30 tablets of
5 Hydrocodone-Acetaminophen (10 mg/500mg) for Patient 1. The prescriptions were filled on
6 November 2, 2011, November 30, 2011 and December 28, 2011 at CVS Pharmacy 9527.

7 36. On January 27, 2012, Respondent authorized three refills of 30 tablets of
8 Hydrocodone-Acetaminophen (10 mg/500 mg) for Patient 1. The prescriptions were filled on
9 January 30, 2012, February 29, 2012 and March 28, 2012 at CVS Pharmacy 9527.

10 37. On April 26, 2012, Respondent authorized two refills of 30 tablets of Hydrocodone-
11 Acetaminophen (10 mg/500 mg) for Patient 1. The prescriptions were filled on May 1, 2012 and
12 May 30, 2012 at CVS Pharmacy 9527.

13 38. On June 27, 2012, Respondent authorized three refills of 30 tablets of Hydrocodone-
14 Acetaminophen (10 mg/500 mg) for Patient 1. The prescriptions were filled on July 3, 2012,
15 August 1, 2012 and August 28, 2012 at CVS Pharmacy 9527.

16 39. On September 26, 2012, Respondent phoned in a prescription to CVS Pharmacy 9527
17 for 30 tablets of Hydrocodone-Acetaminophen (10 mg/500 mg) with three refills for Patient 1.
18 The prescription was filled that same day and the refills were filled on October 22, 2012,
19 November 17, 2012 and December 6, 2012.

20 40. On January 8, 2013, Respondent filled out a prescription form to CVS Pharmacy
21 9527 for 30 tablets of Hydrocodone-Acetaminophen (10 mg/500 mg) with two refills for Patient
22 1. The prescription was filled on January 10, 2013 and the refills were filled on January 13, 2013
23 and February 27, 2013.

24 41. On March 29, 2013, Respondent phoned in a prescription to CVS Pharmacy 9527 for
25 30 tablets of Hydrocodone-Acetaminophen (10 mg/500 mg) for Patient 1. The prescription was
26 filled that same day.

27 42. On April 29, 2013, Respondent faxed a Request for New Prescription for Controlled
28 Substance to CVS Pharmacy 9527 for 30 tablets of Hydrocodone-Acetaminophen (10 mg/500

1 mg) with two refills for Patient 1. The prescription was filled that same day and the refills were
2 filled on May 19, 2013 and June 5, 2013.

3 43. On June 28, 2013, Respondent filled out a prescription form to CVS Pharmacy 9527
4 for 30 tablets of Hydrocodone-Acetaminophen (10 mg/500 mg) with two refills for Patient 1.
5 The prescription was filled that same day and the refills were filled on June 23, 2013 and August
6 14, 2013.

7 44. On September 12, 2013, Respondent faxed a Request for New Prescription for
8 Controlled Substance to CVS Pharmacy 9527 for 30 tablets of Hydrocodone-Acetaminophen (10
9 mg/500 mg) with two refills for Patient 1. The prescription was filled that same day and the
10 refills were filled on September 27, 2013 and October 9, 2013.

11 45. On November 14, 2013, Respondent faxed a Request for New Prescription for
12 Controlled Substance to CVS Pharmacy 9527 for 30 tablets of Hydrocodone-Acetaminophen (10
13 mg/500 mg) with two refills for Patient 1. The prescription was filled on November 15, 2013 and
14 the refills were filled on December 6, 2013 and December 24, 2013.

15 46. On January 20, 2014, Respondent phoned in a prescription to CVS Pharmacy 9527
16 for 30 tablets of Hydrocodone-Acetaminophen (10 mg/325 mg) with two refills for Patient 1.
17 The prescription was filled that same day and the refills were filled on February 8, 2014 and
18 February 22, 2014.

19 47. On March 17, 2014, Respondent faxed a Request for New Prescription for Controlled
20 Substance to CVS Pharmacy 9527 for 30 tablets of Hydrocodone-Acetaminophen (10 mg/325
21 mg) with two refills for Patient 1. The prescription was filled that same day and the refills were
22 filled on April 1, 2014 and April 16, 2014.

23 48. On May 2, 2014, Respondent wrote a prescription to Patient 1 for 30 tablets
24 Hydrocodone-Acetaminophen (10 mg/325 mg) with one refill and 6 tablets of Bactrim DS with
25 no refills. The prescription was filled on May 5, 2014 and the refill of 30 tablets of
26 Hydrocodone-Acetaminophen (10 mg/325 mg) was filled on May 26, 2014.

27 49. On June 18, 2014, Respondent faxed a Request for New Prescription for Controlled
28 Substance to CVS Pharmacy 9527 for 30 tablets of Hydrocodone-Acetaminophen (10 mg/325

1 mg) with two refills for Patient 1. The prescription was filled on June 20, 2014 and the refills
2 were filled on July 4, 2014 and July 28, 2014.

3 50. On August 25, 2014, Respondent phoned in a prescription to CVS Pharmacy 9527 for
4 30 tablets of Hydrocodone-Acetaminophen (10 mg/325 mg) with two refills for Patient 1. The
5 prescription was filled that same day and the refills were filled on September 12, 2014 and
6 October 1, 2014.

7 51. On October 27, 2014, Respondent phoned in a prescription to CVS Pharmacy 9527
8 for 40 tablets of Acetaminophen-Codeine Phosphate (300 mg/60 mg) with two refills for Patient
9 1. The prescription was filled that same day and the refills were filled on November 16, 2014 and
10 December 2, 2014.

11 52. On December 22, 2014, Respondent faxed a Request for New Prescription for
12 Controlled Substance to CVS Pharmacy 9527 for 40 tablets of Acetaminophen-Codeine
13 Phosphate (300 mg/60 mg) with two refills for Patient 1. The prescription was filled that same
14 day and the refills were filled on February 3, 2015 and February 21, 2015.

15 53. On January 13, 2015, Respondent faxed a prescription to CVS Pharmacy 9527 for 50
16 tablets of Acetaminophen-Codeine Phosphate (300 mg/30 mg) with one refill for Patient 1. The
17 prescription was filled that same day and the refill was filled on February 20, 2015.

18 54. On March 27, 2015, Respondent faxed a Request for New Prescription for Controlled
19 Substance to CVS Pharmacy 9527 for 40 tablets of Acetaminophen-Codeine Phosphate (300
20 mg/60 mg) with two refills for Patient 1. The prescription was filled that same day and the refills
21 were filled on April 22, 2015 and May 7, 2015.

22 55. On May 29, 2015, Respondent faxed a Request for New Prescription for Controlled
23 Substance to CVS Pharmacy 9527 for 40 tablets of Acetaminophen-Codeine Phosphate (300
24 mg/60 mg) with two refills for Patient 1. The prescription was filled that same day and the refills
25 were filled on June 15, 2015 and July 6, 2015.

26 56. On July 27, 2015, Respondent faxed a Request for New Prescription for Controlled
27 Substance to CVS Pharmacy 9527 for 40 tablets of Acetaminophen-Codeine Phosphate

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1 (300 mg/60 mg) with two refills for Patient 1. The prescription was filled that same day and the
2 refills were filled on August 17, 2015 and September 6, 2015.

3 57. On October 9, 2015, Respondent faxed a Request for New Prescription for Controlled
4 Substance to CVS Pharmacy 9527 for 40 tablets of Acetaminophen-Codeine Phosphate (300
5 mg/60 mg) with two refills for Patient 1. The prescription was filled that same day and the refills
6 were filled on October 26, 2015 and November 16, 2015.

7 58. On December 8, 2015, Respondent phoned in a prescription to CVS Pharmacy 9527
8 for 40 tablets of Acetaminophen-Codeine Phosphate (300 mg/60 mg) with 1 refill for Patient 1.
9 The prescription was filled that same day and the refill was filled on December 26, 2015.

10 59. On January 15, 2016, Respondent wrote a prescription to Patient 1 for 50 tablets
11 Lisinopril-Hydrochlorothiazide with four refills and 40 tablets of Acetaminophen-Codeine
12 Phosphate (300 mg/60 mg) with two refills. The prescription was filled on January 17, 2014 and
13 the refills of 40 tablets of Acetaminophen-Codeine Phosphate (300 mg/60 mg) were filled on
14 February 2, 2016 and February 11, 2016.

15 60. On February 26, 2016, Respondent faxed a Request for New Prescription for
16 Controlled Substance to CVS Pharmacy 9527 for 45 tablets of Acetaminophen-Codeine
17 Phosphate (300 mg/60 mg) with two refills for Patient 1. The prescription was filled that same
18 day and the refills were filled on March 14, 2016 and March 31, 2016.

19 61. On April 21, 2016, Respondent faxed a Request for New Prescription for Controlled
20 Substance to CVS Pharmacy 9527 for 45 tablets of Acetaminophen-Codeine Phosphate (300
21 mg/60 mg) with two refills for Patient 1. The prescription was filled that same day and the refills
22 were filled on May 7, 2016 and May 24, 2016.

23 62. On June 6, 2016, Respondent faxed a Request for New Prescription for Controlled
24 Substance to CVS Pharmacy 9527 for 45 tablets of Acetaminophen-Codeine Phosphate (300
25 mg/60 mg) with two refills for Patient 1. The prescription was filled that same day and the refills
26 were filled on July 3, 2016 and July 22, 2016.

27 63. On August 10, 2016, Respondent faxed a Request for New Prescription for
28 Controlled Substance to CVS Pharmacy 9527 for 45 tablets of Acetaminophen-Codeine

1 Phosphate (300 mg/60 mg) with two refills for Patient 1. The prescription was filled that same
2 day and the refills were filled on September 1, 2016 and September 17, 2016.

3 64. On September 30, 2016, Respondent wrote a prescription to Patient 1 for 20 tablets of
4 Compazine with one refill and 40 tablets of Acetaminophen-Codeine Phosphate (300 mg/60 mg)
5 with 1 refill. The prescription was filled on October 2, 2016 and the refill of 40 tablets of
6 Acetaminophen-Codeine Phosphate (300 mg/60 mg) was filled on October 21, 2016.

7 65. Following her inability to obtain pain medication for her shoulder injury, Patient 1
8 contacted Respondent regarding her use of Patient 1's identity to obtain prescriptions for
9 controlled substances. Respondent stated that she did not believe that Patient 1 would mind if she
10 used Patient 1's identity to fill the prescriptions for controlled substances.

11 66. Patient 1 did not give Respondent permission to use her identity to prescribe and fill
12 controlled substance prescriptions. Patient 1 reported Respondent's conduct to Kaiser
13 Permanente.

14 67. On December 27, 2016, the Board received a Business and Professions Code section
15 805 Health Facility/Peer Review Reporting Form from Southern California Permanente Medical
16 Group ("SCPMG") stating that on December 2, 2016, Respondent admitted to having an
17 addiction problem and that her staff privileges, membership or employment were summarily
18 suspended.

19 68. Respondent admitted that she began using hydrocodone in 2004 for its effect on her
20 mood and energy level and that she obtained the narcotic by writing prescriptions to others for her
21 own use.

22 69. In addition to using Patient 1's identity to self-prescribe, Respondent also used the
23 identity of Patient 2, her significant other, to self prescribe. Patient 2 was not Respondent's
24 patient. Respondent's employer confirmed that Patient 2 never had an in-person office visit with
25 Respondent.

26 70. A review of Patient 2's CURES Report reflects that from February 14, 2012 to
27 January 16, 2017, Respondent prescribed at least 128 prescriptions for controlled substances to
28 Patient 2, specifically acetaminophen-codeine phosphate and diazepam.

1 STANDARD OF CARE

2 71. The standard of care for physicians practicing in California is to demonstrate
3 professionalism, ethical behavior and to provide safe patient care. Diversion of opioids and other
4 controlled substances for personal use poses a risk to patient health, safety and welfare, as well as
5 the health and well-being of the physician diverting such medications.

6 FIRST CAUSE FOR DISCIPLINE

7 (Gross Negligence)

8 72. Respondent is subject to disciplinary action under section 2234, subdivision (b), of
9 the Code, in that she engaged in gross negligence with respect to Patients 1 and 2. Complainant
10 refers to and, by this reference, incorporates herein, paragraphs 21 through 71, above, as though
11 fully set forth herein. The circumstances are as follows:

12 73. Using Patient 1's identity, Respondent self-prescribed controlled substances for
13 herself.

14 74. Using Patient 2's identity, Respondent self-prescribed controlled substances for
15 herself.

16 75. Respondent's acts and/or omissions set forth in paragraphs 21 through 74 above,
17 whether proven individually, jointly, or in any combination thereof, constitute gross negligence in
18 violation of section 2234, subdivision (b), of the Code. Therefore, cause for discipline exists.

19 SECOND CAUSE FOR DISCIPLINE

20 (Repeated Negligent Acts)

21 76. Respondent is subject to disciplinary action under section 2234, subdivision (c), of
22 the Code, in that she engaged in repeated acts of negligence with respect to Patients 1 and 2.
23 Complainant refers to and, by this reference, incorporates herein, paragraphs 21 through 75,
24 above, as though fully set forth herein. The circumstances are as follows:

25 77. Using Patient 1's identity, Respondent self-prescribed controlled substances for
26 herself.

27 78. Using Patient 2's identity, Respondent self-prescribed controlled substances for
28 herself.

1 controlled substances in violation of section 2239, subdivision (a), of the Code. Therefore, cause
2 for discipline exists.

3 **SIXTH CAUSE FOR DISCIPLINE**

4 **(Illegitimate Prescriptions)**

5 86. By reason of the facts set forth above in paragraphs 21 through 70, Respondent's
6 license is subject to disciplinary action pursuant to Health and Safety Code section 11153 for
7 prescribing illegitimate prescriptions for controlled substances.

8 87. Respondent's acts and/or omissions set forth in paragraphs 21 through 70 above,
9 whether proven individually, jointly, or in any combination thereof, constitute prescribing
10 illegitimate prescriptions for controlled substances in violation of Health and Safety Code section
11 11153. Therefore, cause for discipline exists.

12 **SEVENTH CAUSE FOR DISCIPLINE**

13 **(False/Fictitious Prescriptions)**

14 88. By reason of the facts set forth above in paragraphs 21 through 70, Respondent's
15 license is subject to disciplinary action pursuant to Health and Safety Code section 11157 for
16 issuing false/fictitious prescriptions for controlled substances.

17 89. Respondent's acts and/or omissions set forth in paragraphs 21 through 70 above,
18 whether proven individually, jointly, or in any combination thereof, constitute issuing
19 false/fictitious prescriptions for controlled substances in violation of Health and Safety Code
20 section 11157. Therefore, cause for discipline exists.

21 **EIGHTH CAUSE FOR DISCIPLINE**

22 **(Obtaining Prescriptions by Fraud/Deceit)**

23 90. By reason of the facts set forth above in paragraphs 21 through 70, Respondent's
24 license is subject to disciplinary action pursuant to Health and Safety Code sections 11173 and
25 11175 for obtaining/procuring prescriptions for controlled substances by fraud/deceit.

26 91. Respondent's acts and/or omissions set forth in paragraphs 21 through 70 above,
27 whether proven individually, jointly, or in any combination thereof, constitute

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1 obtaining/procuring prescriptions for controlled substances by fraud/deceit in violation of Health
2 and Safety Code sections 11173 and 11175. Therefore, cause for discipline exists.

3 **NINTH CAUSE FOR DISCIPLINE**

4 **(Making or Signing False Documents)**

5 92. By reason of the facts set forth above in paragraphs 21 through 70, Respondent's
6 license is subject to disciplinary action pursuant to section 2261 of the Code for knowingly
7 making or signing documents directly or indirectly related to the practice of medicine which
8 falsely represented the existence or nonexistence of a state of facts.

9 93. Respondent's acts and/or omissions set forth in paragraphs 21 through 70 above,
10 whether proven individually, jointly, or in any combination thereof, constitute knowingly making
11 or signing documents directly or indirectly related to the practice of medicine which falsely
12 represented the existence or nonexistence of a state of facts in violation of section 2261 of the
13 Code. Therefore, cause for discipline exists.

14 **TENTH CAUSE FOR DISCIPLINE**

15 **(Forging Prescriptions for Self-Use)**

16 94. By reason of the facts set forth above in paragraphs 21 through 70, Respondent's
17 license is subject to disciplinary action pursuant to section 4324 of the Code and Health and
18 Safety Code sections 11170 and 11368 for forging prescriptions for self-use.

19 95. Respondent's acts and/or omissions set forth in paragraphs 21 through 70 above,
20 whether proven individually, jointly, or in any combination thereof, constitute forging
21 prescriptions for self-use in violation of section 4324 of the Code and Health and Safety Code
22 sections 11170 and 11368. Therefore, cause for discipline exists.

23 **ELEVENTH CAUSE FOR DISCIPLINE**

24 **(Unprofessional Conduct)**

25 96. By reason of the facts set forth above in paragraphs 21 through 70, Respondent's
26 license is subject to disciplinary action pursuant to section 2234 of the Code for engaging in
27 unprofessional conduct.

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1 97. Respondent's acts and/or omissions set forth in paragraphs 21 through 70 above,
2 whether proven individually, jointly, or in any combination thereof, constitute unprofessional
3 conduct in violation of section 2234 of the Code. Therefore, cause for discipline exists.

4 PRAYER

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

- 7 1. Revoking or suspending Physician's and Surgeon's Certificate Number A 60124,
8 issued to Victoria Ann Kumar, M.D.;
- 9 2. Revoking, suspending or denying approval of Victoria Ann Kumar, M.D.'s authority
10 to supervise physician assistants and advanced practice nurses;
- 11 3. Ordering Victoria Ann Kumar, M.D., if placed on probation, to pay the Board the
12 costs of probation monitoring; and
- 13 4. Taking such other and further action as deemed necessary and proper.

14
15 DATED: December 10, 2019

16 
17 CHRISTINE J. LALLY
18 Interim Executive Director
19 Medical Board of California
20 Department of Consumer Affairs
21 State of California
22 Complainant

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