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

In the Matter of the First Amended Accusation Against:	
Eric Michael Jacobson, M.D.	Case No. 800-2017-033668
Physician's and Surgeon's Certificate No. G 36315	
Respondent.	

DECISION

The attached Stipulated Surrender of License and Order is hereby adopted as the Decision and Order of the Medical Board of California, Department of Consumer Affairs, State of California.

This Decision shall become effective at 5:00 p.m. on January 3, 2023.

IT IS SO ORDERED December 29, 2022.

MEDICAL BOARD OF CALIFORNIA

Reji Varghese
Deputy Director

ROB BONTA
Attorney General of California
ROBERT MCKIM BELL
Supervising Deputy Attorney General
COLLEEN M. MCGURRIN
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Attorneys for Complainant

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

In the Matter of the First Amended Accusation Against: ERIC MICHAEL JACOBSON, M.D. Behavioral Health Services 576 Hartnell Street, Suite 300 Monterey, CA 93940 Physician's and Surgeon's Certificate Number G 36315 Respondent.	Case No. 800-2017-033668 OAH No. 2021040596 **STIPULATED SURRENDER OF LICENSE AND ORDER**

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

PARTIES

1. William Prasifka (Complainant) is the Executive Director of the Medical Board of California (Board). He brought this action solely in his official capacity and is represented in this matter by Rob Bonta, Attorney General of the State of California, by Colleen M. McGurrin, Deputy Attorney General.

2. ERIC MICHAEL JACOBSON, M.D. (Respondent) is represented in this proceeding by attorney Barry C. Marsh, whose address is Hinshaw, Marsh, Still & Hinshaw, LLP, 12901

Saratoga Avenue, Saratoga, CA 95070-9998.

3. On or about April 24, 1978, the Board issued Physician's and Surgeon's Certificate Number G 36315 to ERIC MICHAEL JACOBSON, 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 First Amended Accusation No. 800-2017-033668 and will expire on April 30, 2024, unless renewed.

JURISDICTION

4. First Amended Accusation No. 800-2017-033668 was filed before the Board, and is currently pending against Respondent. The First Amended Accusation and all other statutorily required documents were properly served on Respondent on March 9, 2022. Respondent timely filed his Notice of Defense contesting the First Amended Accusation. A copy of First Amended Accusation No. 800-2017-033668 is attached as Exhibit A and incorporated by reference.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in First Amended Accusation No. 800-2017-033668. Respondent also has carefully read, fully discussed with counsel, and understands the effects of this Stipulated Surrender of License and 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 First Amended 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 freely, voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

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CULPABILITY

8. Respondent understands that the charges and allegations in First Amended Accusation No. 800-2017-033668, 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 First Amended Accusation without the expense and uncertainty of further proceedings, Respondent agrees that the allegations, if proven by Complainant at a hearing, would establish a factual basis for the charges contained in the First Amended Accusation and that those charges constitute cause for discipline. Respondent hereby gives up and relinquishes his right to contest that cause for discipline exists based on those charges.

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

CONTINGENCY

11. This stipulation shall be subject to approval by the Board. Respondent understands and agrees that counsel for Complainant and the staff of the Board may communicate directly with the Board regarding this stipulation and surrender, 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 Surrender 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.

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

13. 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 Order:

ORDER

IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate Number G 36315, issued to Respondent ERIC MICHAEL JACOBSON, M.D., is surrendered and accepted by the Board, effective December 30, 2022.

1. The surrender of Respondent's Physician's and Surgeon's Certificate and the acceptance of the surrendered license by the Board shall constitute the imposition of discipline against Respondent. This stipulation constitutes a record of the discipline and shall become a part of Respondent's license history with the Board.

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

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

4. If Respondent ever files an application for licensure or a petition for reinstatement in the State of California, the Board shall treat it as a petition for reinstatement. Respondent must comply with all the laws, regulations and procedures for reinstatement of a revoked or surrendered license in effect at the time the petition is filed, and all of the charges and allegations contained in First Amended Accusation No. 800-2017-033668 shall be deemed to be true, correct and admitted by Respondent when the Board determines whether to grant or deny the petition.

5. Respondent shall pay the agency its costs of investigation and enforcement in the amount of $7,747.50, effective January 1, 2022, prior to issuance of a new or reinstated license.

6. If Respondent should ever apply or reapply for a new license or certification, or petition for reinstatement of a license, by any other health care licensing agency in the State of California, all of the charges and allegations contained in First Amended Accusation, No. 800-2017-033668 shall be deemed to be true, correct, and admitted by Respondent for the purpose of any Statement of Issues or any other proceeding seeking to deny or restrict licensure.

ACCEPTANCE

I have carefully read the above Stipulated Surrender of License and Order and have fully discussed it with my attorney Barry C. Marsh. I understand the stipulation and the effect it will

have on my Physician's and Surgeon's Certificate. I enter into this Stipulated Surrender of License and Order freely, voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Medical Board of California.

DATED: 6/22/22

ERIC MICHAEL JACOBSON, M.D.
Respondent

I have read and fully discussed with Respondent ERIC MICHAEL JACOBSON, M.D. the terms and conditions and other matters contained in this Stipulated Surrender of License and Order. I approve its form and content.

DATED: 6/23/2022

BARRY C. MARSH
Attorney for Respondent

ENDORSEMENT

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

DATED: June 24, 2022

Respectfully submitted,

ROB BONTA
Attorney General of California
ROBERT MCKIM BELL
Supervising Deputy Attorney General

Colleen M. McGurrin

COLLEEN M. MCGURRIN
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

First Amended Accusation No. 800-2017-033668

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Attorneys for Complainant

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

In the Matter of the First Amended Accusation Against: ERIC MICHAEL JACOBSON, M.D. Behavioral Health Services 576 Hartnell Street, Suite 300 Monterey, California 93940 Physician's and Surgeon's Certificate Number G 36315, Respondent.	Case No. 800-2017-033668 **FIRST AMENDED ACCUSATION**

PARTIES

1. William Prasifka (Complainant) brings this First Amended Accusation solely in his official capacity as the Executive Director of the Medical Board of California (Board).

2. On April 24, 1978, the Board issued Physician's and Surgeon's Certificate Number G 36315 to Eric Michael Jacobson, M.D. (Respondent). That license was in full force and effect at all times relevant to the charges brought herein and will expire on April 30, 2024, unless renewed.

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JURISDICTION

3. This First Amended 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 22 of the Code provides that "Board" as used in any provisions of this Code, refers to the board in which the administration of the provision is vested, and unless otherwise expressly provided, shall include "committee," "department," "division," "examining committee," and "agency."

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

6. Section 2004 of the Code provides, in pertinent part: The board shall have the responsibility for the following:

> (a) The enforcement of the disciplinary . . . provisions of the Medical Practice Act.
>
> (b) The administration and hearing of disciplinary actions.
>
> (c) Carrying out disciplinary actions appropriate to findings made by a panel or an administrative law judge.
>
> (d) Suspending, revoking, or otherwise limiting certificates after the conclusion of disciplinary actions.
>
> (e) Reviewing the quality of medical practice carried out by physician and surgeon certificate holders under the jurisdiction of the board.
>
> (f) . . . (i).

7. Section 2220 of the Code provides that the Board may take action against all persons guilty of violating this chapter and shall enforce and administer this article as to physician and surgeon certificate holders, and have all the powers granted in this chapter for these purposes including, investigating complaints from the public that a physician and surgeon may be guilty of unprofessional conduct.

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STATUTORY PROVISIONS

8. Section 2234 of the Code, provides, 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, . . . any provision of this chapter.
>
> (b) Gross negligence.
>
> (c) Repeated negligent acts. To be repeated, there must be two or more negligent acts or omissions. An initial negligent act or omission followed by a separate and distinct departure from the applicable standard of care shall constitute repeated negligent acts.
>
> (1) An initial negligent diagnosis followed by an act or omission medically appropriate for that negligent diagnosis of the patient shall constitute a single negligent act.
>
> (2) When the standard of care requires a change in the diagnosis, act, or omission that constitutes the negligent act described in paragraph (1), including, but not limited to, a reevaluation of the diagnosis or a change in treatment, and the licensee's conduct departs from the applicable standard of care, each departure constitutes a separate and distinct breach of the standard of care.
>
> (d) . . . (e).
>
> (f) Any action or conduct which would have warranted the denial of a certificate.
>
> (g) . . . ."

9. Section 2266 of the Code states: The failure of a physician and surgeon to maintain adequate and accurate records relating to the provision of services to their patients constitutes unprofessional conduct.

COST RECOVERY

10. Effective on January 1, 2022, section 125.3 of the Code was amended to provide as follows:

> (a) Except as otherwise provided by law, in any order issued in resolution of a disciplinary proceeding before any board within the department or before the Osteopathic Medical Board, upon request of the entity bringing the proceeding, the administrative law judge may direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

(b) In the case of a disciplined licensee that is a corporation or a partnership, the order may be made against the licensed corporate entity or licensed partnership.

(c) A certified copy of the actual costs, or a good faith estimate of costs where actual costs are not available, signed by the entity bringing the proceeding or its designated representative shall be prima facie evidence of reasonable costs of investigation and prosecution of the case. The costs shall include the amount of investigative and enforcement costs up to the date of the hearing, including, but not limited to, charges imposed by the Attorney General.

(d) The administrative law judge shall make a proposed finding of the amount of reasonable costs of investigation and prosecution of the case when requested pursuant to subdivision (a). The finding of the administrative law judge with regard to costs shall not be reviewable by the board to increase the cost award. The board may reduce or eliminate the cost award, or remand to the administrative law judge if the proposed decision fails to make a finding on costs requested pursuant to subdivision (a).

(e) If an order for recovery of costs is made and timely payment is not made as directed in the board's decision, the board may enforce the order for repayment in any appropriate court. This right of enforcement shall be in addition to any other rights the board may have as to any licensee to pay costs.

(f) In any action for recovery of costs, proof of the board's decision shall be conclusive proof of the validity of the order of payment and the terms for payment.

(g) (1) Except as provided in paragraph (2), the board shall not renew or reinstate the license of any licensee who has failed to pay all of the costs ordered under this section.

(2) Notwithstanding paragraph (1), the board may, in its discretion, conditionally renew or reinstate for a maximum of one year the license of any licensee who demonstrates financial hardship and who enters into a formal agreement with the board to reimburse the board within that one-year period for the unpaid costs.

(h) All costs recovered under this section shall be considered a reimbursement for costs incurred and shall be deposited in the fund of the board recovering the costs to be available upon appropriation by the Legislature.

(i) Nothing in this section shall preclude a board from including the recovery of the costs of investigation and enforcement of a case in any stipulated settlement.

(j) This section does not apply to any board if a specific statutory provision in that board's licensing act provides for recovery of costs in an administrative disciplinary proceeding.[1]

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[1] Effective January 1, 2022, subdivision (k) of Section 125.3, which exempted physicians and surgeons from paying recovery of the costs of investigation and prosecution by the Board, was repealed.

FIRST CAUSE FOR DISCIPLINE

(Gross Negligence)

11. Respondent Eric Michael Jacobson, M.D. is subject to disciplinary action under section 2234, subdivision (b), in that he committed acts and omissions constituting gross negligence in his care and treatment of Patient A.[2] The circumstances are as follows:

12. On or about September 24, 2013, Patient A, a then 52-year old female, was admitted to Community Hospital of the Monterey Peninsula (CHOMP) complaining of severe anxiety and depression, stating she just wanted to die and did not know how she would do it, "maybe overdose," or cut her wrists. At the time of her admission, she was taking Norco,[3] Remeron,[4] Klonopin,[5] and was started on Seroquel.[6] She acknowledged she was unable "to contract not to overtake her medications" and sometimes took up to 8 Norco a day, which was more than prescribed. She had been taking Klonopin for years but did not feel it was helping her anymore and was willing to decrease it. She reported that the day before her admission, she "took 6

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[2] For privacy reasons, the patient is identified as Patient A, or "the patient." The patient's full name will be disclosed to Respondent upon a timely request for discovery pursuant to Government Code section 11507.6.

[3] Norco, a Schedule II Controlled Substance, is the brand name for the narcotic drug containing a combination of acetaminophen and hydrocodone (an opiate) used to relieve moderate to moderately severe pain. Acetaminophen is a less potent pain reliever that increases the effects of hydrocodone. Other brand names of this medication are Hycet, Lorcet, Lortab 10/325, Lortab 5/325, Lortab 7.5/325, Lortab Elixir, Verdrocet, and Xodol.

[4] Remeron is the brand name for the generic drug mirtazapine, which is an antidepressant and is generally used to treat major depressive disorder. It is still not fully understood the way mirtazapine works. However, it is thought to positively affect communication between nerve cells in the central nervous system and/or restore chemical balance in the brain.

[5] Klonopin, a Schedule IV Controlled Substance, is the brand name for the generic drug clonazepam, which is a benzodiazepine that affects chemicals in the brain that may be unbalanced to treat seizures, certain types of anxiety disorders, and is used to treat panic disorder (including agoraphobia - an irrational and often disabling fear of being out in public) in adults. There is a warning associated with the use of benzodiazepines with opioid drugs that have led to slowed or trouble breathing and death, and advises to get medical help right away if one feels very sleepy or dizzy, has slow, shallow, or trouble breathing, or passes out.

[6] Seroquel is the brand name for the generic drug quetiapine, which is an antipsychotic medicine that works by changing the actions of chemicals in the brain, and is used to treat schizophrenia in adults and children who are at least 13 years old and bipolar disorder (manic depression) in adults and children who are at least 10 years old.

Klonopin [more than prescribed] just because I had so much anxiety I couldn't even take a shower" or get out of bed, although she had been sleeping 12-16 hours a day. She reported a history of alcohol abuse and a prior conviction for driving under the influence of alcohol years earlier. She also had a DUI for driving under the influence of her prescription medications in 2010 and was afraid to drive again, fearful she might be arrested as she had been driving on her medications for years. She reported having racing thoughts of killing herself by taking all of her medications and not wanting to wake up. At that time, her prescribed Klonopin dosage was 1 mg three times a day, although she admitted taking more than prescribed and did not want to do it anymore, was reduced to 0.5 mg two times a day with an additional 0.5 mg as needed for anxiety. She was noted to have psychomotor retardation[7] and was diagnosed with recurrent severe depression.

13. She was hospitalized at CHOMP until October 4, 2013. During that time, she reported a previous hospitalization for pneumonia and probable methadone overdose, had a history of heroin use many years earlier and had abused methadone and Percocet in the past. She was noted to have a history of polysubstance abuse and benzodiazepine dependence, and was diagnosed with bipolar disorder[8] type II. Cymbalta[9] was added for her depression, and the Klonopin was subsequently increased to 1 mg in the morning and 0.5 mg in the afternoon, with an additional 0.5 mg as needed for anxiety. Her plan, upon discharge, was to be admitted to CHOMP for partial hospitalization, and she would be followed by Respondent on a weekly basis.

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[7] Psychomotor retardation is a generalized slowing of physical and emotional reaction, such as that seen in major depression and in catatonic schizophrenia.

[8] Bipolar disorder, formerly known as manic depression, is a mood disorder that causes radical emotional changes and mood swings, from manic, restless highs to depressive, listless lows. Most bipolar individuals experience alternating episodes of mania and depression.

[9] Cymbalta is the brand name for the generic drug duloxetine, which is a selective serotonin and norepinephrine reuptake inhibitor antidepressant (SSNRI) that affects chemicals in the brain that may be unbalanced in people with depression. Cymbalta is used to treat major depressive disorder in adults and to treat general anxiety disorder in adults and children who are at least 7 years old. It can also be used in adults to treat fibromyalgia (a chronic pain disorder), or chronic muscle or joint pain (such as low back pain and osteoarthritis pain), and to treat pain caused by nerve damage in adults with diabetes (diabetic neuropathy).

14. On or about October 7, 2013, Patient A was admitted to CHOMP for partial hospitalization for outpatient treatment and told a therapist that she had a history of drug and alcohol abuse and nearly died of a heart attack the last time she overdosed.

15. On or about October 9, 2013, the patient told a nurse that she is dependent upon opiates for headaches and benzodiazepines for anxiety and fears. However, they were not helping her to get better. She was hoping to get onto safer medications and decrease her risk of dependency and addiction.

16. On or about October 10, 2013, the patient was seen by Respondent who noted she had a recent driving under the influence case involving her prescription medications and was afraid she would be caught again. He reported she takes "opiate analgesics and benzodiazepines, which are concerning" and that her benzodiazepine dose had been considerably lowered during her hospitalization. She was not requesting to increase it. He noted she was taking 1 mg of clonazepam in the morning – about 2.5 mg daily in divided doses, which was an increase from her discharge dosage. Respondent noted that she was disabled; however, he failed to document any other information regarding her disability. He increased the Cymbalta to determine if it exacerbates or decreases her anxiety, and discontinued mirtazapine 45 mg at bedtime; however, he failed to document the reason this medication was to be discontinued.

17. Respondent next saw the patient on or about October 16, 2013, and included 45 mg of mirtazapine at bedtime; however, he had planned to discontinue this medication on the prior visit according to his documented plan. He further noted that the patient takes a total of about 3 mg of clonazepam a day, which was an increase from the prior visit and the hospital discharge dosage. He decreased Cymbalta with the intent to probably discontinue it.

18. On or about October 21, 2013, the patient told a nurse that she had been hospitalized three times – once for cutting her wrists, and twice for overdoses.

19. On or about October 25, 2013, the patient saw Respondent, who again included 45 mg of mirtazapine at bedtime as part of her medications; however, his plan was to discontinue this medication on October 10. Her anxiety level was the same despite the increase and more consistent dosing of clonazepam and noted that the "initial increase in clonazepam was helpful

for her, but she lost that effect fairly quickly" and she did not feel any better. Respondent, however, failed to consider how the chronic benzodiazepine prescription in a known patient with a past history of alcoholism and drug addiction were actually complicating her difficulties and that the rebound anxiety could well have been a consequence of her long term benzodiazepine addiction. Respondent discontinued the Cymbalta on this visit.

20. On or about October 28, 2013, Respondent saw the patient and again included 45 mg of mirtazapine at bedtime; however, he had planned to discontinue this medication on the October 10 visit according to his documented plan.

21. On or about November 6, 2013, Respondent saw the patient and noted she was taking 1.5 mg of clonazepam twice a day and further documented that the patient's medications included 45 mg of mirtazapine at bedtime, which was to have been discontinued by Respondent in October.[10]

22. The patient saw Respondent again on or about November 15, 2013, who reported her anxiety was 90% better. His plan was to add 50 mg of topiramate[11] at bedtime as a prophylactic medicine for her migraine headaches, to be titrated up to 150 mg with weekly increments, and he would see her when she was discharged from partial hospitalization.

23. On or about November 20, 2013, Respondent saw the patient who was discharged from her partial hospitalization at CHOMP. His plan was to follow her medically upon discharge, and her medications were to remain the same, which included 3 mg of clonazepam daily and Norco; however, he failed to include the recent prescription for topiramate, which he had added on the prior visit, and failed to document the patient's responses to that medication.

24. On or about November 22, 2013, Respondent saw the patient at her first regularly

[10] Respondent's subsequent progress notes continued to include this medication as one of the patient's medications, so it is unclear if was ever discontinued by Respondent on October 10, 2013, as indicated in his treatment plan.

[11] Topiramate, also known by the brand names Qudexy XR Sprinkle, Topamax, Topamax Sprinkle, Trokendi XR, and Topiragena, is a seizure medicine, also called an anticonvulsant, and is used to treat certain types of seizures in adults and children who are at least 2 years old. Some brands of topiramate are also used to prevent migraine headaches in adults and teenagers who are at least 12 years old. These medicines will only prevent migraine headaches or reduce the number of attacks, but will not treat a headache that has already begun.

scheduled outpatient visit who reported that her anxiety "is gone" and that she continued to do quite well after her discharge. He listed her medications; however, he failed to include the prescription for topiramate and failed to document the patient's responses to that medication.

25. On or about December 10, 2013, Respondent saw the patient noting it was her first regularly scheduled outpatient visit; however, the prior visit was the patient's first documented outpatient visit.

26. Respondent saw the patient on or about January 15, 2014, and again noted this was her first regularly scheduled outpatient visit, which had actually occurred almost two months earlier. Her primary complaint was anxiety and that she had been quite sick with nausea, general sedation, and dysphoria[12] after she failed to follow the prescribed titration schedule of the topiramate, and did not want to restart it. He planned to resume the 50 mg of topiramate at bedtime for a week, and try to increase up to 100 mg, but no further.

27. On or about February 13, 2014, Respondent saw the patient and noted he saw the patient "today as her first regularly scheduled outpatient visit" even though that had occurred three months earlier. She reported "daytime tiredness and fatigue with sleepiness and no energy to keep up with things" and that "she wakes up feeling fatigued." He documented that the patient's medications included 1.5 mg of clonazepam two times daily, and 50 mg of topiramate at bedtime and titrating up to 200 mg at bedtime; however, he had decreased the topiramate titration to 100 mg on the prior visit. He further considered decreasing mirtazapine; however, he planned to discontinue this medication in October 2013 and failed to document why there was a discrepancy in the records.

28. On or about March 27, 2014, Respondent saw the patient and noted she was taking 1 mg of clonazepam twice a day; however, she had been taking 1.5 mg twice a day at the last visit. On this visit, he planned to decreased clonazepam to 1 mg in the morning and 1.5 mg at bedtime for two weeks, and if there was no increase in her anxiety, he would reduce it to 1 mg twice a day.

[12] Dysphoria is defined as a mood of general dissatisfaction, restlessness, depression, and anxiety; a feeling of unpleasantness or discomfort.

29. On or about April 24, 2014, Respondent saw the patient again who was experiencing a lot of anxiety and stated that "her family thinks she sleeps too much during the day." Respondent, however, failed to correlate patient and family reports and clinical observations of excessive sedation in the patient who was taking benzodiazepines along with opiates and other psychiatric medications. His plan was to increase her clonazepam to 1.5 mg twice a day or 1 mg three times a day.

30. On or about June 5, 2014, the patient saw Respondent who reported she was not doing well, was crying all the time, and felt very depressed, and was still taking 3 mg of clonazepam a day along with Norco as well as her other medications. He added venlafaxine XR[13] to her medications.

31. On or about August 20, 2014, the patient saw Respondent and told him she was very depressed and very anxious. She had tremors that are persistent and worsen at times when she was more nervous. She was taking 3 mg of the benzodiazepine clonazepam while taking two pills of Norco at a time 1-3 times a day.[14] She told Respondent that her "children tell her that she is overmedicated and that this is a problem" and reported that she "fell in the kitchen. She got up at night quickly, went to the kitchen, and fell." She was very worried, very anxious, and very apprehensive. Respondent, however, failed to correlate patient and family reports and clinical observations of excessive sedation in the patient who was taking benzodiazepines along with opiates and other psychiatric medications. He thought this was probably a syncopal[15] episode and

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[13] Venlafaxine XR, is the generic name of the brand name drug Effexor XR, is a selective serotonin and norepinephrine reuptake inhibitor (SNRIs), is an antidepressant that affects chemicals in the brain that may be unbalanced in people with depression and is used to treat major depressive disorder, anxiety, and panic disorder. The XR stands for extra release tablets or capsules.

[14] Throughout Respondent's care and treatment of the patient up to this point, she had been taking the opiate Norco and the benzodiazepine clonazepam, which can lead to slowed or trouble breathing and death. One should get medical help right away if they feel very sleepy or dizzy, have slow, shallow, or trouble breathing, or passes out.

[15] Syncopal means relating to syncope, which is a transient (and usually sudden) loss of consciousness, accompanied by an inability to maintain an upright posture.

added 5 mg of aripiprazole[16] to her medications. He further failed to consider how the chronic benzodiazepine prescription in a patient with a known history of alcoholism and drug addiction were actually complicating her difficulties and that the rebound anxiety could well have been a consequence of her long term benzodiazepine addiction.

32. On or about September 25, 2014, Respondent saw the patient again who reported that she is sluggish during the day and "feels very sluggish and tired, particular in the mornings, and it seems like a hangover from her drugs." Respondent noted that the patient would let him know in 5 to 6 days how she is doing; however, there is no progress note or entries regarding any phone call from the patient in the chart.

33. According to the patient's Controlled Substance Utilization Review & Evaluation System (CURES)[17] report, on October 13, 2014, she filled a prescription for 120 tabs of 350 mg carisporodol[18] from provider DMK, and 90 tabs of 1 mg of clonazepam from different provider NBR two days later. On October 21, she filled a prescription for 180 tabs of Norco from provider DMK. On October 29, 2014, the patient filled a prescription for 180 tabs of 0.5 mg of clonazepam from Respondent even though she had filled 90 tabs of 1 mg of clonazepam from provider NBR's prescription 14-days earlier.

34. Respondent saw the patient on or about October 31, 2014, and made some minor changes to her medications; however, he failed to include carisporodol in the patient's medications list, which she filled on October 13, 2014.

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[16] Aripiprazole is the generic name of the brand name drug Abilify, which is an antipsychotic medicine that is used to treat the symptoms of psychotic conditions such as schizophrenia and bipolar I disorder (manic depression) and is also used together with other medicines to treat major depressive disorder in adults.

[17] CURES is a database of Schedule II, III and IV controlled substance prescriptions dispensed in California serving the public health, regulatory oversight agencies, and law enforcement. CURES 2.0 is committed to reducing prescription drug abuse and diversion without affecting legitimate medical practice or patient care.

[18] Carisoprodol is the generic name for the Schedule IV Controlled Substance also known by the brand name drugs Soma and Vanadom, which is a muscle relaxer that blocks pain sensations between the nerves and the brain. It is used together with rest and physical therapy to treat skeletal muscle conditions such as pain or injury and should only be used for short periods (up to two or three weeks) because there is no evidence of its effectiveness in long term use, and most skeletal muscle injuries are generally of short duration.

35. In November 2014, she filled prescriptions for the 120 tablets of carisporodol and 180 tablets of Norco from provider DMK.

36. On December 5, 2014, the patient filled prescriptions for 90 tabs of 1 mg of clonazepam from Respondent, 120 tabs of carisporodol, and 240 tabs of Norco from provider DMK on other dates that month, and another 180 tabs of 0.5 mg of clonazepam from Respondent on December 19.

37. On January 6, 2015, the patient filled another prescription for 90 tabs of clonazepam from Respondent, and 120 tabs of carisporodol from provider DMK. She further filled 120 tabs of Norco, and another 240 tabs of Norco from provider DMK later that month.

38. On or about February 5, 2015, Respondent saw the patient again who was still taking two tabs of Norco 1-2 times a day while taking up to 3 mg of clonazepam. He noted she had some skin lesions of her face, which were red and raised, and looked as if they had been picked on. He made no changes to her medications.

39. On or about February 6, 2015, Respondent reportedly received a fax from UnitedHealthcare alerting him that the patient had filled a prescription for clonazepam from another physician while obtaining them from him from July through October 2014; however, Respondent failed to document this in the patient's chart or in the next progress note, and there is no copy of this fax in the patient's certified records. Respondent further failed to run a CURES report to determine what controlled substances the patient had been receiving from other providers, and failed to have or document any discussion with the patient regarding what other prescriptions she was obtaining from other providers.

40. In February 2015, the patient filled prescriptions for 120 tabs of carisporodol and 240 tabs of Norco from provider DMK.

41. In March 2015, the patient filled prescriptions for 90 tabs of clonazepam from Respondent, and 120 tabs of carisporodol and 240 tabs of Norco from provider DMK.

42. In April 2015, the patient filled prescriptions for 90 tabs of clonazepam from

Respondent, 120 tabs of 30 mg oxycodone hydrochloride,[19] 120 tabs of carisoprodol, and 240 tabs of Norco from provider DMK.

43. On or about May 6, 2015, Respondent saw the patient, noting he last saw her on December 5, 2014; however, according to the progress notes, he had seen the patient on February 5, 2015. Respondent lists the patient's medications; however, it does not include carisoprodol or the opiate oxycodone HCL. He noted that the patient did not have a primary care physician or a therapist, and she relies on him to talk about things.

44. In May 2015, the patient filled prescriptions for 90 tabs of clonazepam from Respondent, 120 tabs of carisporodol, 180 tabs of 15 mg of oxycodone HCL, and 240 tabs of Norco from provider DMK.

45. In June 2015, the patient filled prescriptions for 90 tabs of clonazepam from Respondent, 120 tabs of carisporodol, and 150 tabs of oxycodone HCL from provider DMK.

46. On or about June 17, 2015, Respondent saw the patient noting he last saw her on December 5, 2014; however, according to the progress notes, he had seen her in February and May 2015. During this visit, Respondent noted that the patient was "already impaired cognitively and feels sluggish during the day" and lists her medications; however, the list does not include the oxycodone or carisoprodol even though she filled the carisoprodol the day before, and filled a prescription for 180 tabs of oxycodone on May 21, 2015. Respondent failed to explore the patient's drug addiction, alcohol abuse disorder, make any comments about rehabilitation or participation in a twelve-step program. The patient reported that one of her sons was using her heroin, which she had used in the past; however, Respondent failed to explore whether the patient might be using recreational or illicit drugs or any other substances she may have been taking.

47. In July 2015, the patient filled prescriptions for 90 tabs of clonazepam from Respondent, 240 tabs of Norco, 120 tabs of oxycodone HCL, 120 tabs of carisporodol, another

[19] Oxycodone Hydrochloride (HCL) is the generic name for the Schedule II controlled substance also known by the brand names Oxaydo, OxyContin, Oxyfast, Roxicodone, RoxyBond, Xtampza ER, which is an opioid pain medication sometimes called a narcotic used to treat moderate to severe pain. The extended-release form of oxycodone is for around-the-clock treatment of pain and should not be used on an as-needed basis for pain. This drug has a high potential for abuse which may lead to severe psychological or physical dependence.

240 tabs of Norco from provider DMK, and another 90 tabs of 1 mg of clonazepam from a different provider MAB.

48. In August 2015, the patient filled prescriptions for 120 tabs of oxycodone HCL, 120 tabs of carisporodol, 240 tabs of Norco from provider DMK, and 90 tabs of clonazepam from provider MAB.

49. In September 2015, the patient filled prescriptions for 120 tabs of oxycodone HCL, 120 tabs of carisporodol, 240 tabs of Norco from provider DMK, and 90 tabs of clonazepam from provider MAB.

50. In October 2015, the patient filled prescriptions for 120 tabs of oxycodone HCL, 120 tabs of carisporodol, 240 tabs of Norco from provider DMK, and 90 tabs of clonazepam from provider MAB.

51. On and through September 1, 2015, and November 3, 2015, Respondent saw the patient and made minor adjustments to her medications including adding a prescription for metformin[20] for off label metabolic syndrome and weight loss associated with medications and lifestyle. Respondent listed the patient's current medications; however, the list does not include oxycodone or carisoprodol that had been prescribed by another provider.[21]

52. In November 2015, the patient filled prescriptions for 120 tabs of oxycodone HCL, 120 tabs of carisoprodol, 240 tabs of Norco from provider DMK, another 20 tabs of Norco from a physician's assistant, and 90 tabs of clonazepam from Respondent.

53. In December 2015, the patient filled prescriptions for 90 tabs of 30 mg of oxycodone HCL and 240 tabs of Norco from provider DMK.

54. On or about January 8, 2016, the patient saw Respondent again who reported that she

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[20] Metformin is the generic name for the brand name drugs Fortamet, Glucophage, Glucophage XR, Glumetza, and Riomet, which is an oral diabetes medicine that helps control blood sugar levels and is used together with diet and exercise to improve blood sugar control in adults with type 2 diabetes mellitus. However, it is not for treating type 1 diabetes.

[21] In fact, Respondent never included the opiate oxycodone HCL as part of the patient's medications throughout the rest of his treatment of her up to the last progress note the Board obtained dated May 30, 2018. He also failed to include the controlled substance carisoprodol in the patient's medications up to the last refill of this prescription on January 12, 2016.

had fractured her left ankle around Thanksgiving when she fell and tripped over something; however, he failed to document any additional information about how or why she fell and if it was related to sedation from her medications. In addition, he failed to correlate patient and family reports and clinical observations of excessive sedation in the patient who was taking benzodiazepines along with opiates and other psychiatric medications.

55. In January 2016, the patient filled prescriptions for 90 tabs of 30 mg oxycodone HCL, 120 tabs of carisoprodol, 240 tabs of Norco from provider DMK, and 90 tabs of clonazepam from Respondent.

56. In February 2016, the patient filled a prescription for 90 tabs of clonazepam from Respondent, and 90 tabs of 30 mg of oxycodone HCL from provider DMK.

57. In March 2016, the patient filled prescriptions for 240 tabs of Norco, and 90 tabs of 30 mg oxycodone HCL from provider DMK.

58. On or about March 16, 2016, Respondent saw the patient who was still taking Norco two tablets 1 to 2 times a day as needed, 1 mg of clonazepam in the morning and an additional 1-2 mg daily for what the patient calls "panic attacks." He noted that the patient showed some signs of psychomotor slowing and was anhedonic.[22]

59. In April 2016, the patient filled prescriptions for 90 tabs of clonazepam from Respondent, 180 tabs of Norco, and 90 tabs of 30 mg of oxycodone HCL from provider DMK.

60. In May 2016, the patient filled prescriptions for 90 tabs of clonazepam from Respondent, 180 tabs of Norco, and 90 tabs of 30 mg of oxycodone HCL from provider DMK.

61. In June 2016, the patient filled prescriptions for 120 tabs of Norco and 90 tabs of 30 mg of oxycodone HCL from provider DMK.

62. On or about June 20, 2016, the patient saw Respondent again, who stated she felt very depressed and does not feel like doing anything. She reported that she was sleeping well at night,

[22] Anhedonic relates or refers to anhedonia, which is defined as a loss of the capacity to experience pleasure and the inability to gain pleasure from normally pleasurable experiences. Anhedonia is a core clinical feature of depression, schizophrenia, and some other mental illnesses.

but was staying in bed until 3 p.m., not sleeping. Respondent noted that the patient had psychomotor retardation, was hypersomnolent,[23] and had vegetative and retarded features of depression. Even though the patient had been noted to have psychomotor retardation on several visits, he felt it was "more of a cognitive slowing than a physical slowing;" however, he did state that at the time the patient appeared to be a little bit overly intoxicated, sluggish and stumbles around a little bit. She had not been taking the aripiprazole for two weeks due to insurance coverage issues, so part of Respondent's plan was to replace that with a trial of lithium carbonate.[24]

63. In July 2016, the patient filled prescriptions for 120 tabs of Norco, 90 tabs of 30 mg of oxycodone HCL from provider DMK, and 90 tabs of 1 mg of clonazepam from Respondent.

64. In August 2016, the patient filled prescriptions for 120 tabs of Norco and 90 tabs of 30 mg of oxycodone HCL from provider DMK, and 120 tabs of 1 mg clonazepam from Respondent.

65. On or about August 29, 2016, Respondent saw the patient and noted she was last seen on July 7, 2016, by a nurse practitioner in his absence; however, there is no progress note in the patient's chart documenting that visit. Respondent noted that the patient "really feels no better with the medication", was inactive, avoiding social contact and her sleep was impaired. She was still taking clonazepam 1 mg in the morning and 1-2 mg for "overwhelming anxiety." He, however, failed to consider how the chronic benzodiazepine prescription in this patient were actually complicating her difficulties and that the rebound anxiety and insomnia could have been

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[23] Hypersomnolent is excessive sleeping or sleepiness, as in any of a group of sleep disorders.

[24] Lithium carbonate is a medication that is used to treat manic-depressive disorder (bipolar disorder) and works to stabilize the mood and reduce extremes in behavior by restoring the balance of certain natural substances (neurotransmitters) in the brain. Some of the benefits of continued use of this medication include decreasing how often manic episodes occur and decreasing the symptoms of manic episodes such as exaggerated feelings of well-being, feelings that others wish to harm you, irritability, anxiousness, rapid/loud speech, and aggressive/hostile behaviors.

a consequence of her long-term benzodiazepine addiction. He added 40 mg of Latuda[25] to her medications, and increased the dosage to 80 mg with all other medications to remain the same.

66. In September 2016, the patient filled prescriptions for 120 tabs of Norco and 90 tabs of 30 mg of oxycodone HCL from provider DMK, and 32 tabs[26] of 1 mg of clonazepam from Respondent.

67. On or about September 21, 2016, Respondent saw the patient who stated that "she feels a little physically shaky;" however, he failed to determine why the patient was feeling physically shaky and if it was a response to her medications or something else. He further failed to document why the patient required an additional eight-day early supply of the benzodiazepine clonazepam when she had filled a supply of 120 tabs of 1 mg tablets on August 29, 2016.

68. In October 2016, the patient filled prescriptions for 120 tabs of Norco and 90 tabs of 30 mg of oxycodone HCL from provider DMK, and 32 tabs of clonazepam from Respondent.

69. In November 2016, the patient filled prescriptions for 120 tabs of 1 mg clonazepam from Respondent, 120 tabs of Norco, and 90 tabs of 30 mg oxycodone HCL from provider DMK.

70. In December 2016, the patient filled prescriptions for 120 tabs of 1 mg of clonazepam from Respondent.

71. In January 2017, the patient filled prescriptions for 120 tabs of Norco and 90 tabs of 30 mg of oxycodone HCL from provider DMK, and 120 tabs of 1 mg of clonazepam from Respondent.

72. On or about January 6, 2017, Respondent saw the patient and noted she was last seen on November 29, 2016; however, there is no progress note in the patient's chart for that visit. On this visit, the patient reported high levels of anxiety and excessive daytime sleepiness and fatigue despite sleeping 10-12 hours a night. He, however, failed to consider how the chronic

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[25] Latuda is the brand name for the generic drug lurasidone, which is an antipsychotic medicine that works by changing the effects of chemicals in the brain. It is used to treat schizophrenia in adults and teenagers who are at least 13 years old. It is also used to treat episodes of depression associated with bipolar disorder (bipolar depression) in adults and children who are at least 10 years old.

[26] The patient had filled a 30-day prescription for 120 tabs of 1 mg of clonazepam from Respondent on August 29, 2016.

benzodiazepine prescription in this patient with a known past history of alcoholism and drug addiction were actually complicating her difficulties and that her rebound anxiety could well have been a consequence of her long term benzodiazepine addiction. She reported that she snores at night and inquired about possibly having sleep apnea,[27] but had never had a sleep study; however, Respondent failed to refer her for a consultation for a sleep study to determine if she had sleep apnea. He again noted that her "medications do not appear to be working well" and his assessment was that the patient's medications were currently ineffective. He started her on a trial of 1 mg of Rexulti[28] at bedtime, decreased the Latuda with the intention to discontinue it, fully discontinued venlafaxine XR, and increased the mirtazapine from 15 mg to 30 mg at bedtime as an antidepressant; however, he had planned to discontinue this medication in October 2013.

73. In February 2017, the patient filled prescriptions for 120 tabs of Norco and 90 tabs of 30 mg of oxycodone HCL from provider DMK, and 120 tabs of clonazepam from Respondent.

74. On or about February 23, 2017, the patient saw Respondent again who listed venlafaxine XR 75 mg as part of the patient's current medications; however, Respondent had planned to fully discontinue this medication on the prior visit. Respondent reported that the patient "is not doing well, maybe worse. She cries all the time" and is "very depressed." He increased the mirtazapine to 45 mg at bedtime and added 100 mg of trazodone[29] at bedtime with potential to increase it to 300 mg as needed.

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[27] Sleep apnea is a condition in which breathing stops for more than ten seconds during sleep and is a major, though often unrecognized, cause of daytime sleepiness. It can have serious negative effects on a person's quality of life and is thought to be considerably underdiagnosed in the United States.

[28] Rexulti is the brand name of the generic drug brexpiprazole, which is an antipsychotic medication that works by changing the actions of chemicals in the brain. It is used to treat the symptoms of schizophrenia and is also used together with other medications to treat major depressive disorder in adults.

[29] Trazodone is the generic name of the brand name drugs Desyrel, Desyrel Dividose, and Oleptro, which is an antidepressant that belongs to a group of drugs called selective serotonin reuptake inhibitors (SSRIs) that works by helping to restore the balance of a certain natural chemical (serotonin) in the brain that may be unbalanced in people with depression. It is used to treat major depressive disorder and may help to improve one's mood, appetite, and energy level as well as decrease anxiety and insomnia related to depression.

75. In March 2017, the patient filled prescriptions for 120 tabs of Norco and 90 tabs of 30 mg of oxycodone HCL from provider DMK, and 120 tabs of clonazepam from Respondent.

76. On or about March 16, 2017, the patient saw Respondent, who was not doing well and has been more depressed and is not getting out of the house very often. He noted that she is "not responsive to [her] current medication regimen" and failed to note that the patient's current medications included 300 mg of trazodone, which he had added on the prior visit. He increased the mirtazapine to 60 mg at bedtime. He discontinued Rexulti for a trial of 1.5 mg of Vraylar[30] for a week to increase to 3 mg.

77. In April 2017, the patient filled prescriptions for 120 tabs of Norco and 90 tabs of 30 mg of oxycodone HCL from provider DMK.

78. On or about April 19, 2017, Respondent saw the patient and noted she was last seen on November 29, 2016; however, according to the progress notes, Respondent had seen the patient in January, February and March 2017, and there is no progress note for the November visit in the patient's chart. Respondent listed venlafaxine XR 75 mg as part of the patient's current medications; however, he had planned to fully discontinue this medication in January. Respondent's progress note for this visit is identical to the progress note from February, including his plan, and he failed to include trazodone in the patient's current medications, which he had added during the February visit.

79. In May 2017, the patient filled prescriptions for 120 tabs of Norco and 90 tabs of 30 mg of oxycodone HCL from provider DMK, and 60 tabs of 5 mg diazepam[31] from Respondent.

80. On or about May 11, 2017, the patient saw Respondent, who noted she was last seen on April 2, 2017; however, she had actually been seen on April 19, 2017, according to the

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[30] Vraylar is the brand name for the generic drug cariprazine, which is an antipsychotic medication that affects chemicals in the brain and is used to treat schizophrenia in adults and is also used to treat manic or mixed episodes in adults with bipolar disorder type I.

[31] Diazepam is the generic name for the brand name of valium, which is a benzodiazepine, which affects chemicals in the brain that may be unbalanced in people with anxiety and is used to treat anxiety disorders, alcohol withdrawal symptoms, or muscle spasms and is sometimes used with other medications to treat seizures.

patient's chart. The patient reported she has taken up to 6 mg of clonazepam a day, more than the prescribed and maximum dosage[32] a day, and "claims compliance with all medications" despite taking more clonazepam than prescribed. He further noted that the patient had taken 5 mg of diazepam and "got fairly quick relief from that drug"; however, it is unclear where the patient obtained this medication as Respondent's plan for this visit was to discontinue clonazepam for a trial of diazepam. Respondent further listed venlafaxine XR 75 mg as part of the patient's current medications and his plan to increase it to 150 mg in the morning; however, he had planned to fully discontinued this medication in January according to his documented plan. Additionally, Respondent failed to include trazodone to the list of the patient's current medications even though he had added it to her medication regimen in February 2017.

81. On or about May 17, 2017, Respondent claims the patient sent him an e-mail stating that her new regimen had not helped her tremors and shaking, and she felt dizzy all the time. Respondent claims he replied that she may be experiencing withdrawals from Klonopin (clorazepam) and that she should increase the valium (diazepam) to 5 mg three times a day; however, there are no e-mails contained in the certified records provided to the Board.

82. On or about May 31, 2017, Respondent saw the patient who reported that she was not doing well, was very depressed and was dizzy upon rising. He noted that "the patient's medications, particularly trazodone, may be contributing to her dizziness" as well as her low blood pressure, and had significant psychomotor retardation and was as bad or worse than the last time he saw her. Respondent, however, failed to consider how the chronic benzodiazepine prescription and opiate use were actually complicating her difficulties and that her dizziness could have been a consequence of the use of benzodiazepines and opiates. His plan was to increase the venlafaxine XR to 150 mg every morning; however, he had planned to fully discontinue this medication in January according to his documented plan. He also documented that the patient's current medications included clonazepam, which he planned to discontinue for a trial of diazepam at the prior visit, and he failed to document the patient's further response to the trial of diazepam

[32] The Physician's Desk Reference (PDR) specifies that 4 mg of the benzodiazepine clonazepam is the maximum dosage per day for treatment of panic disorder.

from the prior visit.

83. In June 2017, the patient filled prescriptions for 120 tabs of Norco and 90 tabs of 30 mg of oxycodone HCL from provider DMK, and 60 tabs of 0.5 mg of diazepam and 120 tabs of 1 mg of clonazepam from Respondent; however, his plan at the last visit was to discontinue the clonazepam for a trial of diazepam.

84. In July 2017, the patient filled prescriptions for 120 tabs of 30 mg oxycodone HCL, 120 tabs Norco from provider DMK and 120 tabs of 1 mg clonazepam from Respondent.

85. Respondent claims that the patient's mother e-mailed him on July 26, 2017, that the valium was not working well. The patient wanted to go back on clonazepam instead, and that he responded that he would call in a prescription to the pharmacy and that she should stop taking the valium and restart clonazepam 1 mg twice a day; however, there is no e-mail in the certified records the Board obtained.

86. In August 2017, the patient filled prescriptions for 120 tabs of tabs of 30 mg of oxycodone HCL from provider DMK, and 120 tabs of clonazepam and 30 tabs of 20 mg of methyphenidate hydrochloride [33] from Respondent.

87. On or about August 29, 2017, the patient saw Respondent again, who noted that on June 26, 2017, the patient was seen by a nurse practitioner in his absence; however, there is no progress note in the patient's chart for that visit. Respondent further noted that the patient had sent him an e-mail last week about her condition; however, there is no e-mail included in the patient's chart obtained by the Board. He further documented that the patient's current medications included clonazepam, which he planned to discontinue for a trial of diazepam at the May visit, and he failed to explain the discrepancy in his progress note. The patient asked about stimulants and discussed augmenting her medications. His plan was to add 20 mg of

[33] Methyphenidate hydrochloride (HCL) is the generic name for the Schedule II controlled substance brand name drugs Adhansia XR, Aptensio XR, Concerta, Cotempla XR-ODT, Jornay PM, Metadate CD, Metadate ER, Methylin, QuilliChew ER, Quillivant XR, Relexxii, Ritalin, Ritalin LA, which is a central nervous system stimulant and affects chemicals in the brain and nerves that contribute to hyperactivity and impulse control and is used to treat attention deficit disorder (ADD), attention deficit hyperactivity disorder (ADHD), and narcolepsy and may also be used for purposes not listed in this medication guide.

methyphenidate HCL extended-release in the morning for the patient's refractory depression.

88. In September 2017, the patient filled prescriptions for 120 tabs of 30 mg of oxycodone HCL from provider DMK, and 120 tabs of clonazepam from Respondent.[34]

89. On or about October 3, 2017, Respondent saw the patient again and noted her current medications included clonazepam, which he planned to discontinue for a trial of diazepam at the May visit, and 300 mg of venlafaxine XR every morning which he had fully planned to discontinue in January according to his documented plan. Respondent's plan on this visit was to discontinue Ritalin, as it was not effective, and to add 10 mg of doxepin[35] at bedtime for sleep.

90. On or about November 6, 2017, Respondent saw the patient and documented her current medications included clonazepam, which he planned to discontinue for a trial of diazepam in May, and 300 mg of venlafaxine XR every morning which he had planned to fully discontinue this medication in January, according to his documented plan.

91. Respondent claims that the patient's mother e-mailed him on November 8, 2017, stating that the patient's doctor (DMK) who had been prescribing the patient the opioids Norco, cardisopodol and oxycodone HCL, "asked if you could state in her files that 'clonazepam and opioids for her the benefits outweigh the risks.'" There is no e-mail in the certified patient records provided to the Board. He asserts this was the first time the patient mentioned this provider; however, if he had run a CURES report on the patient when he was notified in February 2016 that the patient had filled prescriptions for Klonopin from another provider while receiving the same medication from him, he would have seen that this physician had been prescribing large quantities of opiates and other controlled substances to the patient. Additionally, Respondent was aware on several occasions that the patient was taking more benzodiazepines than prescribed, but

[34] This is the last month that the patient's CURES report covers that the Board obtained in the course of the investigation.

[35] Doxepin also known as sinequan or other generic names, is a tricyclic antidepressant that affects chemicals in the brain that may be unbalanced to treat depression or anxiety and is used to treat symptoms of depression and/or anxiety associated with alcoholism, psychiatric conditions, or manic-depressive conditions.

failed to run a CURES report at those times to determine if the patient was receiving additional medications from other providers.

92. On or about January 11, 2018, Respondent saw the patient again and documented that her current medications included clonazepam and 300 mg of venlafaxine XR every morning, both of which he had previously planned to discontinue; however, he failed to document an explanation for the discrepancies. He also included that the patient was taking 1 mg of varenciline[36] twice daily; however, this medication was not listed as one of the patient's current medications on the last five visits.

93. On or about May 30, 2018, Respondent saw the patient who was not doing well due to multiple stressors in her life and "really does not want any more medications" and "takes quite a few." Respondent made no changes to her medications and gave her a referral to a therapist.

94. Apparently, Respondent continued to see the patient in October 2018, and was not doing well, but was not forthcoming why she had failed to see him in the intervening time. He saw her again in November.

95. She reportedly saw him again in December 2018, was anxious and depressed and reported some confusion over her medication dosage as she had started Saphris[37] and when the dosage was increased, she was taking more than prescribed. She again reported having trouble taking more clonazepam than was prescribed. His plan was to reconsider reducing it after the holidays; however, he failed to consider that this was suggestive of tolerance and addiction as well as rebound anxiety.

96. He reportedly saw her again in February and March 2019.

97. On or about April 18, 2019, the patient saw Respondent again and reported stopping

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[36] Verenicline is the generic name of the brand name drug known as Chantix, which is a prescription medication used to treat smoking addiction. This medication is the first approved nicotinic receptor partial agonist.

[37] Saphris is the brand name for the generic drug asenapine, which is an antipsychotic medication and works by changing the actions of chemicals in the brain. Sublingual tablets are used to treat schizophrenia in adults, and bipolar I disorder in adults and children who are at least 10 years old and may be used alone. In adults, it may be used in conjuction with lithium or valproate.

all of her medication 4 -5 days before because she did not feel they were working. She reported, once again, that she been taking up to 6 mg of clonazepam a day, more than prescribed and the maximum daily dose allowed, and the abrupt cessation had caused withdrawal symptoms. She was shaky, crying, anxious, dysphoric, and depressed. He continued the prescription for clonazepam and she missed her next scheduled appointment.

98. On or about May 2, 2019, Respondent saw the patient who was still anxious and had troubled sleeping. He added Zoloft[38] for her anxiety and appears to have continued her other medications, including the clonazepam.

99. On May 30, 2019, the patient saw Respondent and noted she was still anxious and had trouble sleeping. He prescribed her another medication and asked that she report on its effectiveness in one week; however, it does not appear that the patient did this or if she did it was not documented in the patient's chart.

100. On or about July 19, 2019, the patient was admitted to the CHOMP inpatient unit for severe depression and alcohol abuse leading to an inability to care for herself. She was actively suicidal and had quit eating and started drinking alcohol due to significant life stressors. She was subsequently discharged on August 4, 2019, and was seen by Respondent a few days later.

101. Respondent reportedly saw the patient again on September 4, 2019, and she was depressed, anxious, and having trouble coping. When he reviewed her medications, it was clear the patient had not been taking her medications as prescribed.

102. Throughout the time Respondent treated the patient she was taking opiates while he prescribed the benzodiazepine clonazepam. The long-term use of benzodiazepines can lead to dose escalation and worsening of the underlying condition. When asked if he had any concerns that the patient was taking opiates and benzodiazepines at the same time, Respondent stated that he had "concerns in general combining opiates with benzodiazepines" but the patient was on a

[38] Zoloft is the brand name for the generic drug sertraline, which is an antidepressant belonging to a group of drugs called selective serotonin reuptake inhibitors (SSRIs), and affects chemicals in the brain that may be unbalanced in people with depression, panic, anxiety, or obsessive-compulsive symptoms. It is used to treat depression, obsessive-compulsive disorder, panic disorder, anxiety disorders, post-traumatic stress disorder (PTSD), and premenstrual dysphoric disorder (PMDD).

relatively low dose of clonazepam and "she never experienced or evidenced any sedation or drug interaction." Respondent, however, had documented that the patient's children were concerned that she was overmedicated, had shown signs of psychomotor retardation, dizziness, was hypersomnolent, had vegetative and retarded features of depression, was fatigued frequently and had excessive daytime sleepiness. He had also documented that at times the patient appeared to be a little bit overly intoxicated, sluggish and stumbles around a little bit, among other things. Further, Respondent was well aware that the patient had been combining benzodiazepines with opiates throughout his care and treatment often taking more than prescribed.

103. When Respondent was asked if he was familiar with DMK and his general prescribing practices, he acknowledged that he was aware DMK prescribed excessive quantities of opiates.

104. Respondent's acts and omissions constitute gross negligence in his care and treatment to Patient A when he:

A. Continued long-term prescriptions of the benzodiazepine clonazepam to the patient with a known history of alcohol and substance abuse, and had admitted to taking more than prescribed;

B. Prescribed the benzodiazepine clonazepam to a patient who is also taking opiates and had a known history of alcohol and substance abuse;

C. Failed to correlate patient and family reports and clinical observations of excessive sedation while prescribing the benzodiazepine clonazepam in conjunctions with other psychiatric medications in a patient who was also taking opiates; and

D. Failed to adequately diagnose and investigate the patient's history of alcohol and substance abuse and include this in both his prescribing and treatment plans.

SECOND CAUSE FOR DISCIPLINE

(Repeated Negligent Acts)

105. Respondent Eric Michael Jacobson, M.D. is subject to disciplinary action under section 2234, subdivision (c), in that he committed acts and omissions constituting repeated negligent acts in his care and treatment of Patient A. The circumstances are as follows:

106. Paragraphs 12 through 103, above, inclusive are incorporated by reference as if fully set forth herein.

107. Respondent committed acts and omissions constituting repeated negligent acts in his care and treatment to Patient A when he:

A. Continued long-term prescriptions of the benzodiazepine clonazepam to the patient with a known history of alcohol and substance abuse, and had admitted to taking more than prescribed;

B. Prescribed the benzodiazepine clonazepam to a patient who is also taking opiates and had a known history of alcohol and substance abuse;

C. Failed to correlate patient and family reports and clinical observations of excessive sedation while prescribing the benzodiazepine clonazepam in conjunctions with other psychiatric medications in a patient who was also taking opiates; and

D. Failed to adequately diagnose and investigate the patient's history of alcohol and substance abuse and include this in both his prescribing and treatment plans.

THIRD CAUSE FOR DISCIPLINE

(Failure to Maintain Adequate and Accurate Records)

108. Respondent Eric Michael Jacobson, M.D. is subject to disciplinary action under section 2266, in that he failed to maintain adequate and accurate records in his care and treatment of Patient A. The circumstances are as follows:

109. Paragraphs 12 through 103, above, inclusively are incorporated by reference as if fully set forth herein.

DISCIPLINARY CONSIDERATIONS

110. To determine the degree of discipline, if any, to be imposed on Respondent Eric Michael Jacobson, M.D., Complainant alleges that in a prior disciplinary action entitled *In the Matter of the Accusation Against Eric Michael Jacobson, M.D.*, Case Number 800-2014-009435, Respondent's license was publically reprimanded, effective May 9, 2018, for repeated negligent acts and failure to maintain adequate and accurate records in his care and treatment of a single patient. That decision is now final and is incorporated by reference as if fully set forth herein.

PRAYER

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

1. Revoking or suspending Physician's and Surgeon's Certificate Number G 36315, issued to Respondent Eric Michael Jacobson, M.D.;

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

3. Ordering him to pay the Board reasonable costs of investigation and prosecution incurred after January 1, 2022;

4. If placed on probation, ordering him to pay the Board the costs of probation monitoring; and

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

DATED: MAR 0 9 2022

WILLIAM PRASIFKA
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California

Complainant

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