

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

In the Matter of the Accusation Against:

Phillip Edward Schoenwetter, M.D.

**Physician's and Surgeon's
Certificate No. A 30285**

Respondent.

Case No. 800-2020-064655

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 August 15, 2023.

IT IS SO ORDERED August 8, 2023.

MEDICAL BOARD OF CALIFORNIA



**Reji Varghese
Executive Director**

1 ROB BONTA
Attorney General of California
2 EDWARD KIM
Supervising Deputy Attorney General
3 CHRISTINE FRIAR WALTON
Deputy Attorney General
4 State Bar No. 228421
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Attorneys for Complainant
7

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

12 In the Matter of the Accusation Against:

Case No. 800-2020-064655

13 **PHILLIP EDWARD SCHOENWETTER, M.D.**
14 **222 W. 6th Street, Suite 400**
15 **San Pedro, CA 90731-3345**

16 **Physician's and Surgeon's Certificate**
17 **No. A 30285,**

Respondent.

**STIPULATED SURRENDER OF
LICENSE AND ORDER**

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

20 **PARTIES**

21 1. Reji Varghese (Complainant) is the Interim Executive Director of the Medical Board
22 of California (Board). He brought this action solely in his official capacity and is represented in
23 this matter by Rob Bonta, Attorney General of the State of California, by Christine Friar Walton,
24 Deputy Attorney General.

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

27 3. On or about August 3, 1976, the Board issued Physician's and Surgeon's Certificate
28 No. A 30285 to Respondent. That Physician's and Surgeon's Certificate expired on April 30,

1 2023, and has not been renewed.

2 **JURISDICTION**

3 4. Accusation No. 800-2020-064655 was filed before the Board on February 15, 2023,
4 and is currently pending against Respondent. The Accusation and all other statutorily required
5 documents were properly served on Respondent. Respondent has contested the Accusation. A
6 copy of Accusation No. 800-2020-064655 is attached as Exhibit A and incorporated by reference.

7 **ADVISEMENT AND WAIVERS**

8 5. Respondent has carefully read, and understands the charges and allegations in
9 Accusation No. 800-2020-064655. Respondent also has carefully read, and understands the
10 effects of this Stipulated Surrender of License and Order.

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

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

20 **CULPABILITY**

21 8. Respondent understands that the charges and allegations in Accusation No. 800-2020-
22 064655, if proven at a hearing, constitute cause for imposing discipline upon his Physician's and
23 Surgeon's Certificate.

24 9. For the purpose of resolving the Accusation without the expense and uncertainty of
25 further proceedings, Respondent admits that at a hearing, Complainant could establish a factual
26 basis for the charges in the Accusation and that those charges constitute cause for discipline.
27 Respondent hereby gives up his right to contest that cause for discipline exists based on those
28 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. 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. This Stipulated Surrender of License and Order is intended by the parties herein to be an integrated writing representing the complete, final and exclusive embodiment of the agreement of the parties in this above entitled matter.

13. 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.

14. 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 No. A 30285, issued to Respondent Phillip Edward Schoenwetter, M.D., is surrendered and accepted by the Board.

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 Accusation No. 800-2020-064655 shall be deemed to be true, correct and admitted by Respondent when the Board determines whether to grant or deny the petition.

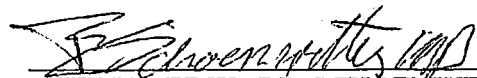
5. Respondent shall pay the agency its costs of investigation and enforcement in the amount of \$20,800.50 prior to issuance of a new or reinstated license.

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 Accusation No. 800-2020-064655 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 Stipulated Surrender of License and Order. 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 voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Medical Board of California.

DATED: 07/13/2023



PHILLIP EDWARD SCHOENWETTER,
M.D.
Respondent

ENDORSEMENT

The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted

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for consideration by the Medical Board of California of the Department of Consumer Affairs.

DATED: July 25, 2023

Respectfully submitted,

ROB BONTA
Attorney General of California
EDWARD KIM
Supervising Deputy Attorney General

Christine Friar Walton

CHRISTINE FRIAR WALTON
Deputy Attorney General
Attorneys for Complainant

Exhibit A

Accusation No. 800-2020-064655

1 ROB BONTA
Attorney General of California
2 JUDITH T. ALVARADO
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3 State Bar No. 155307
300 South Spring Street, Suite 1702
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6 *Attorneys for Complainant*

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

11 In the Matter of the Accusation Against:

Case No. 800-2020-064655

12 **Phillip Edward Schoenwetter, M.D.**
13 **222 W. 6th Street, Suite 400**
San Pedro, CA 90731

A C C U S A T I O N

14 **Physician's and Surgeon's Certificate**
15 **No. A 30285,**

16 **Respondent.**

17
18 **PARTIES**

19 1. Reji Varghese (Complainant) brings this Accusation solely in his official capacity as
20 the Deputy Director of the Medical Board of California, Department of Consumer Affairs
21 (Board).

22 2. On or about August 3, 1976, the Medical Board issued Physician's and Surgeon's
23 Certificate Number A 30285 to Phillip Edward Schoenwetter, M.D. (Respondent). The
24 Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the
25 charges brought herein and will expire on April 30, 2023, unless renewed.

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1 (b) Gross negligence.

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

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

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

14 (d) Incompetence.

15 (e) The commission of any act involving dishonesty or corruption that is
16 substantially related to the qualifications, functions, or duties of a physician and
17 surgeon.

18 (f) Any action or conduct that would have warranted the denial of a certificate.

19 (g) The failure by a certificate holder, in the absence of good cause, to attend
20 and participate in an interview by the board. This subdivision shall only apply to a
21 certificate holder who is the subject of an investigation by the board.

22 7. Unprofessional conduct under section 2234 of the Code is conduct which breaches
23 the rules or ethical code of the medical profession, or conduct which is unbecoming a member in
24 good standing of the medical profession and which demonstrates an unfitness to practice
25 medicine. (*Shea v. Bd. of Medical Examiners* (1978) 81 Cal.App. 3d 564, 575.)

26 8. Section 2238 of the Code states:

27 A violation of any federal statute or federal regulation or any of the statutes or
28 regulations of this state regulating dangerous drugs or controlled substances
constitutes unprofessional conduct.

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.

10. Health and Safety Code section 11170 states:

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

11. Health and Safety Code section 11173 states in relevant part:

(a) No person shall obtain or attempt to obtain controlled substances, or

1 procure or attempt to procure the administration of or prescription for controlled
2 substances, (1) by fraud, deceit, misrepresentation, or subterfuge; or (2) by the
3 concealment of a material fact.

4 (b) No person shall make a false statement in any prescription, order, report,
5 or record, required by this division.

6 12. Health and Safety Code section 11175 states:

7 No person shall obtain or possess a prescription that does not comply with this
8 division, nor shall any person obtain a controlled substance by means of a
9 prescription which does not comply with this division or possess a controlled
10 substance obtained by such a prescription.

11 13. Health and Safety Code section 11180 states:

12 No person shall obtain or possess a controlled substance obtained by a
13 prescription that does not comply with this division.

14 REGULATORY PROVISIONS

15 14. Code of Federal Regulations, title 21, section 1306.04 (b) states:

16 A prescription for [a controlled substance] may not be issued in order for an
17 individual practitioner to obtain controlled substances for supplying the individual
18 practitioner for the purpose of general dispensing to patients.

19 COST RECOVERY

20 15. Business and Professions Code section 125.3 states that:

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

27 (b) In the case of a disciplined licentiate that is a corporation or a partnership,
28 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.

FIRST CAUSE FOR DISCIPLINE

(Gross Negligence)

16. Respondent Phillip Edward Schoenwetter, M.D. is subject to disciplinary action under section 2234, subdivision (b) of the Code in that he was grossly negligent in his treatment of Patient 1.¹ The circumstances are as follows:

17. Since on or before February 1, 2016 and continuing, Respondent has been prescribing controlled substances to Patient 1, who is a close family member.

18. Respondent indicates that Patient 1 suffers from a brain syndrome that is caused by an unspecified viral condition. This illness allegedly causes Patient 1 to suffer from severe headaches. Although there is no indication as to how Respondent arrived at the dosing, Respondent treated Patient 1's headaches with intravenous/intra-arterial injections of morphine, up to 30 mg per day.

¹ The patient is identified herein by number.

1 19. Respondent obtained the injectable morphine by purchasing the narcotic in bulk from
2 a pharmaceutical supplier. He indicated that the controlled substances he purchased were for
3 office use. However, Respondent diverted the controlled substances to Patient 1 and for self-use.

4 20. In addition to morphine, Respondent also purchased for office use and diverted the
5 following controlled substances:

6 Alprazolam;
7 Methadone;
8 Hydrocodone;
9 Tylenol with Codeine (30 mg and 40 mg);
10 Promethazine;
11 Amphetamine Salts;
12 Midazolam;
13 Ketamine;
14 Carisoprodol;
15 Suboxone;
16 Diazepam;
17 Tramadol;
18 Zolpidem; and
19 Testosterone.

20 21. Respondent also wrote prescriptions for controlled substances for Patient 1. The
21 controlled substances include:

22 Hydrocodone;
23 Temazepam;
24 Morphine (30 mg and 15 mg tablets); and
25 Fiorinal.

26 22. Other prescriptions Respondent wrote for Patient 1, without adequate medical
27 indication or lack of documentation, include:

28 Synthroid;

1 Farxiga;
2 Telmisartan;
3 Tadalafil;
4 Clonidine; and
5 Duloxetine.

6 23. Respondent failed to maintain adequate and accurate medical records for Patient 1.
7 This includes: completing and documenting a physical examination; completing and documenting
8 a risk stratification for the administration of opiates to a patient with a history of drug abuse;
9 documentation of a recognized indication for the administration of the medications he prescribed
10 and administered; documentation of a treatment plan; conducting and documenting a periodic
11 review of the course of pain treatment; and referring and documenting a referral to pain
12 management and/or addiction medicine specialists. Respondent failed to document each and
13 every time he administered medication to Patient 1.

14 24. Respondent also failed to maintain a narcotic log for the controlled substances he
15 administered to Patient 1.

16 25. Respondent's acts and/or omissions as set forth in paragraphs 17 through 24,
17 inclusive, above, whether proven individually, jointly, or in any combination thereof, constitute
18 gross negligence pursuant to section 2234, subdivision (b) of the Code. Therefore, cause for
19 discipline exists.

20 **SECOND CAUSE FOR DISCIPLINE**

21 **(Repeated Negligent Acts)**

22 26. Respondent Phillip Edward Schoenwetter, M.D. is subject to disciplinary action
23 under 2234, subdivision (c) of the Code in that he engaged in repeated negligent acts in his
24 treatment of Patient 1. The circumstances are as follows:

25 27. The facts and allegations set forth in the First Cause for Discipline are incorporated
26 herein by reference as if fully set forth.

27 28. Each of the alleged acts of gross negligence set forth in the First Cause for Discipline,
28 above, are also negligent acts.

1 **THIRD CAUSE FOR DISCIPLINE**

2 **(Unprofessional Conduct - Self Prescribing)**

3 29. Respondent Phillip Edward Schoenwetter, M.D. is subject to disciplinary action
4 under section 2234 of the Code and Health and Safety Code section 11170 in that he prescribed
5 controlled substances and other medications for self-use. The circumstances are as follows:

6 30. Since on or before February 1, 2016 and continuing, Respondent has been prescribing
7 controlled substances and other medications for his personal use.

8 31. The controlled substances include Alprazolam and Adderall.

9 32. Other medications that Respondent prescribed for self-use include:

10 Finasteride;

11 Candesartan;

12 Ivermectin;

13 Norolotropin; and

14 Tadalafil.

15 33. Respondent's acts and/or omissions as set forth in paragraphs 19, and 30 through 32,
16 above, whether proven individually, jointly, or in any combination thereof, constitute the self-
17 prescribing of controlled substances in violation of Health and Safety code section 11170 and the
18 prescribing of medication for self-use, all of which constitutes unprofessional conduct pursuant to
19 section 2234 of the Code. Therefore, cause for discipline exists.

20 **FOURTH CAUSE FOR DISCIPLINE**

21 **(Unprofessional Conduct - Prescribing for Fraudulent Purposes)**

22 34. Respondent Phillip Edward Schoenwetter, M.D. is subject to disciplinary action
23 under section 2234 of the Code, Health and Safety Code sections 11173, 11175, and 11180, and
24 Code of Federal Regulations, title 21, section 1306.04 (b), in that he prescribed for fraudulent
25 purposes. The circumstances are as follows:

26 35. The facts and allegations set forth in the First and Third Causes for Discipline are
27 incorporated herein by reference as if fully set forth.

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1 **FIFTH CAUSE FOR DISCIPLINE**

2 **(Unprofessional Conduct - Violation of Drug Statutes)**

3 36. Respondent Phillip Edward Schoenwetter, M.D. is subject to disciplinary action
4 under sections 2234 and 2238 of the Code in that he violated federal and state prescribing
5 statutes. The circumstances are as follows:

6 37. The facts and allegations set forth in the First, Third, and Fourth Causes for
7 Discipline are incorporated herein by reference as if fully set forth.

8 **SIXTH CAUSE FOR DISCIPLINE**

9 **(Unprofessional Conduct - Failure to Maintain Adequate and Accurate Medical Records)**

10 38. Respondent Phillip Edward Schoenwetter, M.D. is subject to disciplinary action
11 under sections 2234 and 2266 of the Code in that he failed to maintain adequate and accurate
12 medical records, medication logs, and drug logs for Patient 1. The circumstances are as follows:

13 39. The facts and allegations set forth in the First Cause for Discipline are incorporated
14 herein by reference as if fully set forth.

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1 PRAYER

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

- 4 1. Revoking or suspending Physician's and Surgeon's Certificate Number A 30285,
5 issued to Respondent Phillip Edward Schoenwetter, M.D.;
- 6 2. Revoking, suspending or denying approval of Respondent Phillip Edward
7 Schoenwetter, M.D.'s authority to supervise physician assistants and advanced practice nurses;
- 8 3. Ordering Respondent Phillip Edward Schoenwetter, M.D., to pay the Board the costs
9 of the investigation and enforcement of this case, and if placed on probation, the costs of
10 probation monitoring; and
- 11 4. Taking such other and further action as deemed necessary and proper.

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13 DATED: FEB 15 2023

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15 REJI VARGHESE
16 Deputy Director
17 Medical Board of California
18 Department of Consumer Affairs
19 State of California
20 Complainant

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