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

In the Matter of the Accusation Against:	)	
Laura Jean Seed, M.D.	)	**Case No. 800-2015-017881**
Physician's and Surgeon's Certificate No. G 55560	)	
Respondent	)	

DECISION

The attached Proposed Decision 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 April 13, 2018.

IT IS SO ORDERED: March 16, 2018.

MEDICAL BOARD OF CALIFORNIA

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

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

In the Matter of the Accusation Against: LAURA SEED, M.D., Physician's and Surgeon's Certificate No. G55560, Respondent.	Case No. 8002015017881 OAH No. 2017051152

PROPOSED DECISION

Abraham M. Levy, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter in San Diego, California, on January 29 through 31, 2018.

Christine A. Rhee, Deputy Attorney General, Department of Justice, Office of the Attorney General, State of California, represented complainant Kimberly Kirchmeyer, Executive Director of the Medical Board of California (board).

Albert J. Garcia, Attorney at Law, represented respondent Laura Seed, M.D., who was present.

The matter was submitted on January 31, 2018.

PROTECTIVE AND SEALING ORDER

A protective and sealing order was issued with respect to a DVD, which is part of Exhibit 14, and governs the release of this document to the public. A reviewing court, parties to this matter, their attorneys, and a government agency decision maker or designee under Government Code section 11517 may review the item subject to the order, provided that such item is protected from release to the public.

SUMMARY

Complainant alleges that respondent suffers from mental illness affecting her competency and she cannot practice medicine safely as a result. Complainant also alleges that respondent engaged in gross negligence and unprofessional conduct when she accessed over 50 times the Controlled Substance Utilization and Evaluation System (CURES) between August 2012 and November 2015, to review her estranged husband's prescription drug information, without his consent. In addition, respondent, who is a psychiatrist and had a psychiatric practice, did not have an office and saw patients for treatment at various locations, including picnic tables behind a Starbucks, outside at a table behind a public office, a patient's downtown office in the lounge/café, and a patient's home.

Clear and convincing evidence established that respondent engaged in unprofessional conduct, including gross negligence, and she suffers from an impairment that affects her competence to practice medicine safely. Based on the record as whole, respondent is placed on probation with terms and conditions to ensure public protection including the requirement that she be evaluated by a board-approved psychiatrist to determine whether she is fit to practice medicine before she can resume the practice of medicine and that she continue to undergo psychotherapy among other conditions.

FACTUAL FINDINGS

Background and License History

1. On July 29, 1985, the board issued Physician's and Surgeon's Certificate No. G55560 to respondent. The license will expire on August 31, 2018, unless it is renewed or revoked.

2. On March 7, 2017, complainant filed a petition for an ex parte interim suspension order seeking to suspend respondent's license, pursuant to Business and Professions Code section 822, due to a mental illness affecting her competency. On March 10, 2017, after a hearing, an ex parte order was issued suspending respondent's license pending further order or decision. In an order dated March 29, 2017, the parties stipulated that respondent's license will remain suspended pending the issuance of a final Decision and Order on an accusation complainant planned to file and serve upon respondent.

3. On April 28, 2017, complainant filed an accusation against respondent. The accusation alleges that respondent is unable to practice medicine safety due to mental illness based upon the conclusions of Steven A. Ornish, M.D., who examined respondent on behalf of the board on November 14, 2016. The accusation further alleges that respondent committed gross negligence and engaged in unprofessional conduct when she accessed her estranged husband's prescription drug information through the CURES system and when she saw patients for medication management and psychotherapy sessions in public places.

Respondent did not dispute that she accessed her husband's prescription drug information in CURES and that she had met patients in public places.

4. Respondent timely filed a notice of defense, and this hearing followed.

Respondent's Background

5. Respondent graduated from the University of Washington School of Medicine in 1984. She completed her residency in internal medicine at Long Beach Veterans Administration Medical Center in 1985 and completed a residency in adult and adolescent psychiatry at the University of California, Irvine, California School of Medicine. Respondent has been board certified by the American Board of Psychiatry and Neurology since 1991. Respondent is licensed in California, Florida and Hawaii. Respondent has had no prior discipline and no malpractice claims

Most recently, respondent held several locum tenens positions and had a solo practice until her license was suspended in March 2017. As discussed in her testimony, respondent was terminated from two of these locum tenens, one in Napa Valley in June 2016 after three weeks, and one in Florida after one week. These employers did not give her a reason why she was terminated. Respondent is certified in the office based treatment of opioid dependence and able to prescribe Suboxone.

Respondent is recently divorced and the mother of three adult children, ages 19, 25 and 28.

Respondent's Writings and Restraining Orders against Her

RESTRAINING ORDERS AND COMMUNICATIONS WITH S.C.'S LAWYER

6. Respondent and her former husband, S.C., were involved in an acrimonious divorce starting in 2012. On April 14, 2015, S.C. asked for a protective order against respondent and the court issued a Restraining Order After Hearing on this date. Pursuant to this order, respondent was ordered to stay away from S.C. and not have contact with his employer among other terms. The expiration date of this order is April 14, 2020.

Respondent, as she admitted in her interview with Dr. Ornish, repeatedly violated the restraining order when she repeatedly called S.C. She also admitted she violated the restraining order when she placed a small suitcase on the hood of her daughter's car, which was parked outside S.C.'s house. No evidence was offered that respondent was ever charged with violating the order.

On September 1, 2016, S.C.'s divorce lawyer, Cecilia P., filed a request for a Workplace Violence Restraining Order against respondent, which the court granted, after a hearing on August 31, 2016. The expiration date of this order is August 31, 2018. By this order, the court ordered respondent not to harass, molest, strike, stalk, assault or commit

violence against the Ms. P. and three lawyers in her firm; she was further restrained from taking any action to obtain the addresses of these persons and from going to the attorneys' workplace. She was permitted to communicate with one lawyer in the firm by facsimile only.

The order was issued after an extensive hearing in which respondent represented herself. In issuing the restraining order, the court made the following comment, "[Respondent's] testimony reflects intense fixation on the details of the marriage and the dissolution proceeding. She acknowledged 'rage'. Her basic point seems to be that all of her conduct is excused by what has been done to her by her ex-husband and his lawyers. . ." The court described respondent as "an exceedingly angry and volatile person."

7. Among the evidence the court reviewed were documents respondent sent to Ms. P. and her firm. In one letter respondent wrote the following to Ms. P.:

> Take Care Upon Opening you might get anthrax. Watch out might be a bomb in Here For Cecilia de Nogales.

She also wrote on the envelope:

> Me No Like Mexicans.
>
> I like cats. **Not Mexicans** [bold in original]

8. In the letter, respondent disparaged Ms. P.'s Mexican heritage. Respondent told her to go back to Nogales and that Mexicans like her "bleed Americans money." [Emphasis in original]. In her hearing testimony, respondent did not, entirely, disown these comments. She said she learned that respondent was from Nogales, Mexico from the law firm's website and she criticized Ms. P. for being a member of the organization La Raza, a Mexican-American legal advocacy group.

Further, in this letter, respondent referred to Ms. P. as a "witch," a "Mexican witch from hell," "a lying stupid bitch" and a "nut case."

In other documents she sent to Ms. P.'s firm, respondent continued these racist rants and threats against Ms. P. In one such rant she wrote:

> You will go straight to Hell - - [C. P.] do – when your Greedy, embarrassment to all womankind of the USA, die. I hope you die soon. Take [S.C.] with you. You two can dig your own self-centered, greedy dusty graves.

In addition, in this same letter respondent accused her estranged husband of ruining her ability to get full-time work by "playing mind games."

COMMUNICATIONS WITH HQIU INVESTIGATOR ANGELA MCLEAN

9. On September 6, 2016, Angela McLean, an Investigator with the Department of Investigations, Health Quality Investigations Unit (HQIU), sent a certified letter to respondent as part of HQIU's investigation into respondent's behavior. Respondent refused to accept the letter Investigator McLean sent to her. On the envelope of this letter, respondent wrote the following comments:

> A.M. Liar
>
> Who-ever Hired person Needs to be examined
>
> She is a Faker
>
> Faker Bogus Felon
>
> No Credentials but high school
>
> This is a Fake agent. I refuse to accept any mail from this liar convict Felon

10. In her hearing testimony, respondent did not explain why she felt that Investigator McLean was a felon or a faker. She, further, did not disown her comments about Investigator McLean and, in fact, sought to justify them. When asked if she believes she is a "fake agent" she said that she was unsure and she "didn't know" if Investigator McLean was an actual investigator. Respondent added that Investigator McLean "showed up" to make contact with her as part of her investigation with a "person who was a slob." Respondent appeared to reference a second HQIU Investigator, Jose Partida, who accompanied Investigator McLean when they initially contacted her as part of their investigation.

COMMUNICATIONS WITH S.C. AND HER CHILDREN

11. In 2015, respondent had a series of disturbing communications with her estranged husband and her children. In an email dated June 19, 2015, respondent wrote the following to one of her daughters [email reproduced verbatim]:

> the box of [unintelligible] pants that I left on the front porch while you rummaged thru my house you BRAT. . .???
>
> don't come back, ever, get lost. keep up the bulemia too. you will look like Karen Carpenter soon. of course, she died long before you were born of anorexia. . . but she was a wonderful singer. Of course I ruined your life didn't I? Ruined it. . . from start to almost 24. . . . I am so sad. . . just wait & see. . . just you

> wait little all grown up 23 year old BRAT. have a good life. Find a man who thinks you are problem free. maybe Matt dumped you for a reason... I don't know the reason, there was some reason, now wasn't there...???
>
> & [S.C.] never actually thought I would divorce him... cuz I threatened so many times. so he got even- filed a restraining order against me, because he is scared of almost 60 year old Laura & my stockpile of weapons. . . .
>
> .remember how he fucked a [blacked out] while you were awake [unintelligible word]? that was great parenting... listening to your dad fuck a woman. . . must've have been real fun for you at 4 & 1/2.... years old . . .
>
> . . .can I come to your therapist with you & tell him/her what meds I suggest? Of course not. just go jump off a bridge instead ok? The brooklyn bridge instead ok? the brooklyn bridge is quite tall. Have a nice jump . . . .

12. On July 25, 2015, respondent sent another email to her daughter. In this email respondent wrote:

> Plus tell him tomorrow, Monday, I am calling SD union tribune I hoping [S.C.] gets put in JAIL for theft, lying addiction & perjury.

MAY 31, 2015, COMMUNICATION TO S.C.'S TREATING MEDICAL PROVIDER

13. On May 31, 2015, respondent wrote a letter to Jennifer Lyons, a Physician Assistant, who provided treatment to S.C. Under her professional letterhead, which identified herself as a psychiatrist, she wrote the following to Ms. Lyons:

> . . . I just want to give you a little heads up about [S.C.]. We are going thru a divorce. My estranged spouse is an addict. We both went to the same pain management doctor for awhile, Dr. Michael Moon. . . .
>
> . . . I looked him up on CURES & saw your name. He has been thru many pain docs in the SD area FYI....

Regard looking him up on CURES, respondent admitted that she accessed S.C.'s CURES Patient Profile over 50 times without his consent between August 7, 2012, and November 15, 2015. Respondent used her physician User ID to search S.C.'s records during this time. A certification from the Bureau of Criminal Identification & Investigative

Services, Prescription Drug Monitoring Program, confirms that respondent accessed S.C.'s CURES Patient Profile during this time.

RESPONDENT'S OCTOBER 30, 2017, MEDICAL BOARD COMPLAINT REGARDING THE DOCTOR WHO EVALUATED HER FOR THE MEDICAL BOARD

14. As noted earlier, respondent submitted to an interview with Steven A. Ornish, M.D., to assess whether she had a mental illness that affected her competency to practice medicine safely.[1] Dr. Ornish interviewed respondent on November 14, 2016, and respondent underwent psychological testing at Dr. Ornish's office on November 28, 2016. In a report dated December 29, 2016, Dr. Ornish concluded that respondent cannot practice medicine safely due to mental illness.

On October 30, 2017, respondent filed a complaint against Dr. Ornish relating to his evaluation of her. The complaint is an expression of her rage and anger against Dr. Ornish. Respondent also took particular issue with statements Dr. Ornish made about her, which will be discussed later in this decision.

Respondent's complaint against Dr. Ornish contains multiple handwritten pages with respondent's handwriting in different directions in all the margins. In the complaint, respondent took issue with Dr. Ornish's evaluation of her and attacked him in personal and racial terms. She referred to him several times as a "pervert," "sick," a "Jew," and stated he was "obviously out to get me," apparently because she "is not a Jew." She questioned his qualifications and questioned why he did not identify his cultural background on the Medical Board website as Jewish.

Steven A. Ornish, M.D., Interview with Respondent, His Report and His Conclusions

15. Dr. Ornish has been licensed to practice medicine since 1983 in Texas and since 1985 in California. He is a Diplomate of the American Board of Psychiatry and Neurology with a subspecialty in Forensic (Medical-Legal) Psychiatry. He obtained his medical degree from Southwestern Medical School in Dallas, Texas and completed a residency in psychiatry at the Department of Psychiatry at University of California San Diego (UCSD) School of Medicine. He has his own practice in which he specializes in psychotherapy, psychopharmacology, geriatric and forensic psychiatry. He is a Volunteer Clinical Professor at the Department of Psychiatry at the UCSD School of Medicine. He is the author or coauthor of a number of peer reviewed articles and studies. Dr. Ornish has served an expert evaluator for the Medical Board and the Board of Registered Nursing.

//

[1] Respondent submitted to a mental health exam by Dr. Ornish and a physical health examination by Patrick Yassini, M.D.

DR. ORNISH'S OPINION REGARDING RESPONDENT'S ABILITY TO PRACTICE MEDICINE SAFELY

16. On November 14, 2016, Dr. Ornish interviewed respondent and administered psychological testing, the Minnesota Multiphasic Personality Inventory-2 (MMPI-2) specifically, to respondent on November 28, 2016. Dr. Ornish reviewed a number of records including records obtained through Investigator McLean's investigation. Dr. Ornish prepared a detailed report dated December 29, 2016, which is consistent with his hearing testimony.

After reviewing the results of the MMPI-2, and based on his interview with respondent and the materials he reviewed, Dr. Ornish concluded, as a he wrote in his report, that respondent "will never be able to practice medicine safely." (Emphasis in original.) He testified that the materials he reviewed paint a picture of a highly disturbed person who represents a danger to her patients due to her mental illnesses that affect her ability to practice medicine:

Dr. Ornish stated that respondent has the following mental health diagnoses:

1. Major depressive disorder with anxiety recurrent.

2. Persistent depressive disorder (dysthymia).

3. Iatrogenic prescription opioid and benzodiazepine dependence.

4. Delusional disorder, persecutory type.

5. Mixed personality disorder with borderline, narcissistic, antisocial, histrionic, and sadistic traits (personality disorder not otherwise specified).

17. Among these conditions, Dr. Ornish identified two conditions that affect her ability to practice medicine safely: Major depressive disorder and mixed personality disorder. Dr. Ornish felt that respondent's mixed personality disorder with borderline, narcissistic, antisocial, histrionic and sadistic traits has the greatest impact on her ability to practice medicine at this time and makes her a danger to the extent she continues to practice medicine. Dr. Ornish conceded that his conclusion regarding respondent's purported opioid and benzodiazepine dependence was based on limited information relating to an overlap of medications she received from two of her doctors on one occasion, and as a result, he did not believe that she was impaired on this basis.

Dr. Ornish noted that respondent's mixed personality condition has displayed itself in a variety of disturbing ways including: impulsive, antisocial, harassing and stalking behavior; poor judgment; lack of respect for the court's authority and lack of compliance with multiple restraining orders; a lack of respect for the investigative authority of the

Medical Board with unprofessional and childish behavior in response to the investigator; poor interpersonal boundaries; poor professional boundaries with her patients; and an abuse of the CURES system to satisfy her vendetta against her former husband, S.C. Dr. Ornish stated that persons with mixed personality disorder are resistant to treatment and difficult to treat. He noted that respondent has been in therapy for a number of years, and notwithstanding her treatment, she acted out in disturbing ways.

Dr. Ornish also cited the diagnosis of Depressive Disorder with a delusional disorder, persecutory subtype, as affecting her ability to practice medicine safely. He noted such a condition is treatable with antipsychotic medications, but respondent has not been prescribed these. Related to the diagnosis of this condition Dr. Ornish cited a section from the *Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition* (DSM-5), which reads as follows:

> This subtype applies when the central theme of the delusion involves the individual's belief that he or she is being conspired against, cheated, spied on, followed, poisoned, maliciously maligned, harassed, or obstructed in the pursuit of the long-term goals.

18. Dr. Ornish defined delusional persecutory disorder as an unshakeable false belief despite lack of logic and significant contrary evidence. He denied on cross examination that respondent's writings represented just reactions to the circumstances she was facing as a result of the divorce. Dr. Ornish believed they represented her psychotic state of mind due to the disorganized, rambling and "very psychotic quality" of her writings. Here, as indications of this condition, Dr. Ornish referenced respondent's comments about S.C.'s attorney as a "Mexican witch from hell"; her writing that S.C. ruined her ability to get full-time employment by playing mind games; and respondent's refusal to accept correspondence from the HQIU investigator because she believed she was a "fake" investigator. Dr. Ornish commented that respondent's October 30, 2017, complaint about him to the Medical Board, which he reviewed shortly before the hearing, was another example of respondent's personality/psychotic disorder with disorganized thinking and bizarre and rambling writing.

Related to respondent's functional capacity to work as a doctor, Dr. Ornish quoted respondent's handwritten statement in a document she sent to her husband's attorneys dated April 9, 2016, which was part of the evidence in the restraining order hearing. In this document, respondent described herself in the following terms: "non-functional"; "PTSD (Trauma)"; "Cries Daily"; "Cannot think"; "Cannot focus"; and "Cannot work effectively." Dr. Ornish also emphasized that respondent was terminated from two locum tenens positions in 2016 and 2017 in California and Florida respectively. This indicated to him that she cannot work "real world jobs."

Dr. Ornish was asked about a photo respondent sent him on November 22, 2017, after her interview with him. Respondent sent this photo with a narrative statement relating to her

general physical health. The photo depicts a hole in a safe, which respondent indicated S.C. had drilled to steal her pain medications. To this photo, respondent attached a brief narrative to describe the significance of this hole in the safe. Dr. Ornish found her letter concerning because it represented her effort to justify her intrusion into S.C.'s relationship with his doctor, Karim Mansour, M.D., in which she told Dr. Mansour that S.C. was a drug addict and alcoholic. As a result of this intrusion, on July 22, 2015, Dr. Mansour sent respondent a cease and desist letter in which he threatened to contact the Medical Board.

19. Dr. Ornish was also asked to comment on the complaint respondent sent to the board against him. He saw the complaint recently. Dr. Ornish said that the bizarre nature of her complaints about him was another example demonstrating her personality disorder, disorganized thinking, and psychotic disorder.

20. Dr. Ornish addressed the opinions of two clinicians who testified on respondent's behalf: Judith Meyers, Psy.D., and Barbara Parry, M.D. Dr. Meyers evaluated respondent on October 12 and 18, 2017, administered the MMPI-2 test to her, and prepared a report dated October 27, 2017. Dr. Meyers's testimony is summarized below. Dr. Meyers sent respondent's MMPI-2 test results to Alex B. Caldwell, Ph.D., for interpretation and scoring. In a report dated October 23, 2017, Dr. Caldwell prepared a report interpreting the data and attached the raw data to his report. Dr. Ornish also used Dr. Caldwell to interpret the MMPI-2 test results he administered to respondent.

Dr. Ornish disagreed with Dr. Meyers's conclusions as she expressed them in her report. He said Dr. Meyers did not highlight respondent's significant psychopathology and capture her worsening psychopathology. He disagreed with Dr. Meyers's conclusion that respondent has a paranoid personality type profile, and as he believes she has more of a psychotic disorder, which is "quite chronic" and "deeply ingrained." He again cited the letters she wrote to the attorney and Investigator McLean as proof of her psychotic condition. Regardless of his disagreement with Dr. Meyers in these areas, Dr. Ornish testified that "overall" Dr. Meyers's report supports his opinion that respondent has a personality disorder.

Regarding Dr. Parry's opinion, Dr. Ornish acknowledged Dr. Parry, who is respondent's treating psychiatrist, as a well-respected clinician in the field of psychiatry. Dr. Parry testified in this matter and her testimony is summarized below. Dr. Ornish was asked whether he agreed with Dr. Parry's opinion that respondent suffered from Post-Traumatic Stress Disorder (PTSD) due to her eviction from her home in February 2015. Dr. Ornish said that, per the DSM-5, eviction is not the kind of trauma one thinks of when dealing with PTSD unless there were life threatening extenuating circumstances.

On cross examination, Dr. Ornish acknowledged that he misread respondent's responses to true/false questions in critical areas she answered in the MMPI-2. Her responses to these questions were attached to Dr. Caldwell's report. Dr. Ornish incorrectly stated in his testimony that respondent had answered true/false to multiple critical areas in the MMPI-2 when in fact she had not provided such responses. Dr. Ornish said that he

reached his opinion regarding respondent before he read these responses and noted that, nonetheless, Dr. Caldwell's narrative supported his opinion as he previously discussed.

Dr. Ornish also agreed that respondent has never previously been diagnosed with a personality disorder. Dr. Ornish explained that, regardless, Dr. Caldwell's report supported his opinion that respondent's profile indicated a "paranoid trend" that supported his delusional disorder diagnosis. Dr. Ornish acknowledged that he did not emphasize in his report that Dr. Caldwell's profile of respondent suggested that she has a "moderate degree of depression."

Dr. Ornish denied that his repeated questions in his interview with respondent regarding why she violated the restraining order were inappropriate or reflected a bias against her. He explained that he was trying to understand what she was thinking when she violated the order.

DR. ORNISH'S OPINIONS REGARDING RESPONDENT MEETING PATIENTS IN PUBLIC PLACES

21. In her interview with Dr. Ornish, respondent admitted that she was practicing psychiatry with about 15 patients but did not have an office to meet them. Respondent told Dr. Ornish that she saw one patient at Starbucks, one patient at the patient's home, one patient outside a public library, one at a café area downtown, and one patient in the patient's parked car.

Dr. Ornish testified that meeting these psychiatric patients in these makeshift areas represents an extreme departure from the standard of care because it is a boundary violation to treat patients in such makeshift settings. He explained that the doctor/patient relationship requires a treatment frame and when a doctor sees a patient in these situations there is no treatment frame and a high risk for creating an emotional violation exists. As Dr. Ornish noted, it blurs the patient/doctor lines to see patients in such settings. Dr. Ornish added that there were privacy and HIPAA concerns raised by respondent meeting patients in these settings.

Respondent did not dispute this allegation. Based on Dr. Ornish's testimony consistent with the evidence of record, respondent committed an extreme departure from the standard of care with respect to her care and treatment of patients when she held psychotherapy sessions for medication management in public places.

DR. ORNISH'S OPINION REGARDING ACCESSING S.C.'S CURES PATIENT PROFILE

22. Dr. Ornish testified that respondent accessing S.C.'s CURES patient profile to discover the prescription medications he was taking represented a boundary violation, violated S.C.'s privacy rights, intruded into his relationship with his doctor, and constituted unprofessional conduct.

Respondent also did not dispute this allegation. Based on Dr. Ornish's testimony consistent with the record, respondent engaged in unprofessional conduct when she accessed S.C.'s CURES Patient Profile over 50 times without his consent between August 7, 2012, and November 15, 2015, using her physician identification number.

Respondent's Evidence

TESTIMONY OF BARBARA PARRY, M.D.

23. Barbara Parry, M.D., is a Professor of Psychiatry and Director of Research, Women's Mood Disorders Clinic, University of California, San Diego, School of Medicine. Dr. Parry has worked at UCSD since 1985. She has been licensed in California since 1979 and is board certified by the American Board of Psychiatry. She obtained her medical degree from the University of Oklahoma College of Medicine in 1979 and completed her residency in psychiatry at UCLA Neuropsychiatric Institute in 1982 where she was Chief Resident. Dr. Parry is the author/coauthor of many peer reviewed articles and studies in the field of psychiatry.

Dr. Parry has been respondent's treating psychiatrist for the last two years and on average meets her monthly. Progress notes that are part of the record document that she started treating respondent on August 11, 2015, and has treated her on a regular basis up to the time of the hearing. Dr. Parry explained she is "devoted to respondent's well-being" and in this regard oversees her medication management. Respondent also received therapy with Emily K. McCutchan, LMFT, until she retired, and she now sees Roseanne Larson, a therapist, at UCSD.

Dr. Parry diagnosed respondent with PTSD and Reactive Situational Depression, consistent with DSM-5 criteria. She said that respondent's condition is a chronic depression in response to a set of circumstances and is represented by an overreaction to a set of circumstances. The primary symptoms are dysphoria, appetite loss, cognitive disturbance, insomnia and low energy.

PTSD, she noted, is a state of hyperarousal that can change relationships based on a traumatic event. The symptoms include anger and sleep disturbance. Dr. Parry believed that respondent's PTSD was triggered when law enforcement went to her home in February 2015 and forcibly evicted her. The event was very traumatic to respondent. As she noted on cross-examination, respondent "perceived" the event as a threat that could injure her or harm her. Dr. Parry noted on cross-examination that triggers of PTSD can reactivate. Based on her review of the letters respondent wrote, she stated there was no evidence of a delusional disorder because her writings did not represent a distortion of reality. Dr. Parry denied that respondent's writings represented disorganized thinking, irrational thought, or were impulsive. She said they represented her focused anger in response to circumstances.

24. Dr. Parry read Dr. Ornish's report and strongly disagreed with his diagnoses. Further, she pointedly criticized Dr. Ornish concerning *how* he made his diagnoses. In fact,

she was so bothered by Dr. Ornish's diagnoses that she said she is considering referring him to the clinical faculty at UCSD, where Dr. Ornish serves. She added she would not refer any matter to him in the future.

She highlighted that the depressive disorder Dr. Ornish diagnosed was inconsistent with the dysthymia diagnosis he also made. Dr. Parry added that he made the diagnoses based on one visit with respondent and, not over time, and his diagnoses were inconsistent with her observations over a two-year period. Dr. Parry stated that a personality disorder needs to be diagnosed over time because it is a chronic condition. She has not observed respondent have problems maintaining relationships or that she is sadistic. Dr. Parry emphasized what she observed was consistent a diagnosis of reactive depression and represented respondent's disproportionate responses.

Dr. Parry did not feel that respondent is impaired due to mental illness. In this regard, her opinion has evolved over time. On cross-examination, she was asked about a letter she wrote dated August 9, 2016, in which she stated that respondent's symptoms due to mental illness prevented her from functioning optimally at work and interacting with others. Then, on June 13, 2017, Dr. Parry wrote that she sees "no reason she should not be able to continue her practice of medicine. . ." Dr. Parry stated that over the last few months her depression has "much improved."

Dr. Parry acknowledged on cross examination that she was treating respondent when respondent sent the writings to S.C. and his lawyer but did not tell her she sent them. When asked whether she was concerned about how respondent would react if she testified that respondent was impaired, Dr. Parry stated that she was not. When asked about respondent's complaint against Dr. Ornish, Dr. Parry stated that it represented her anger, symptomatic of her PTSD, because she saw Dr. Ornish as trying to take away her license. Dr. Parry denied that the contents of the letter represented psychosis or a distortion of reality.

TESTIMONY OF STEPHEN R. SHUCHTER, M.D.

25. Stephen R. Shuchter, M.D., is Emeritus Professor of Clinical Psychiatry at UCSD School of Medicine where he served on the faculty for 31 years before he retired. He now has a part-time practice in clinical and forensic psychology. He received his training at Yale University. In the course of his practice Dr. Shuchter treated numerous physicians and was Director of UCSD's Physician Well-Being Committee for 10 years.

Dr. Shuchter was respondent's treating psychiatrist from 2012 to June/July 2015, when Dr. Parry began treating her. He reviewed Dr. Ornish's report and respondent's October 30, 2017, complaint against Dr. Ornish, and he was aware of the charges against her. Dr. Shuchter was also aware that the issue in this matter is whether respondent can practice medicine safely. Respondent called Dr. Shuchter as a percipient treating doctor.

Dr. Shuchter testified that he was treating respondent and also provided marital therapy with her former husband during the 2012 time frame. In 2015, respondent went "off

the deep end," as he put it, when her husband initiated divorce proceedings and had her kicked out of her house. She viewed this as a betrayal and a violation of trust and she felt she was the injured party. Respondent became "irrationally focused" with a great deal of righteous indignation. Her behavior escalated, and during the later period of his treatment of her, and despite his admonitions, she undertook certain actions. Once divorce proceedings started, she changed. She was not able to heed advice or consider any other way to consider anything. As Dr. Shuchter saliently expressed it, the woman he knew disappeared into a terrible state and did things that traumatized a lot of people.

Dr. Shuchter disagreed with Dr. Ornish's diagnoses as contained in his report. Dr. Shuchter believes that respondent had symptoms of Major Depressive Disorder, which turned into a persistent depressive disorder, which he treated. Respondent did not have a delusional disorder or a mixed personality disorder. Dr. Shucter explained when people are traumatized their vigilance "revs up" and they look into their environment to tell them what is wrong. Respondent was on high alert for the possibility that others were out to harm her. She was traumatized and looking for someone who was "going to punch her next", and this included lawyers, investigators, and Dr. Ornish himself.

He explained that, through the mixed personality disorder diagnosis, she was incorrectly depicted as a reflection of her worst behavior and over time respondent's worst behaviors are not what defines her. Here, he again stressed that in 2012 she was a different person in terms of all the behaviors she displayed.

Dr. Shuchter's testimony was fully credible.

TESTIMONY OF JUDITH MEYERS, PSY.D.

26. Judith Meyers, Psy.D., obtained a Doctorate Degree in Clinical Psychology in 1978 from Hahnemann Hospital and Medical Center in Philadelphia. Since 2002 she has worked as a Clinical and Forensic Psychologist.

At the request of respondent's attorney, Dr. Meyers performed a psychiatric evaluation of respondent. In this regard, she administered the MMPI-2 to respondent on October 18, 2017, and reviewed Drs. Ornish's and Parry's reports and board records dated April 28, 2017. Dr. Meyers sent the MMPI-2 to Dr. Caldwell for scoring.

Based on Dr. Caldwell's report and the other information she reviewed, Dr. Meyers agreed with Dr. Ornish's diagnosis that respondent has a mixed personality disorder with histrionic and paranoid features. She did not conclude that respondent had borderline features and she did not agree with Dr. Ornish that respondent has antisocial traits. As she wrote in her report, respondent's "current profile is associated with a character disorder, specifically passive aggressive personality" that can result in '"borderline paranoid projections or exacerbations' in high stress situations."

In her report she explained that respondent tends to meet criticism by being "hyper-rational" and she could have "fixed paranoid beliefs" about an encapsulated interpersonal situation, such as her ex-husband. Dr. Meyers said that respondent has the capacity to maintain boundaries. Dr. Meyers stated that this condition was not a psychotic disorder.

Dr. Meyers stated that according to respondent's MMPI-2 basic profile scale scores respondent's condition has improved since Dr. Ornish administered the MMPI-2 test in November 2016. As she cited the MMPI-2 scores, respondent's depression and histrionic scales came down somewhat; her anxiety scale came down somewhat; and her sensibility and anger scale remained the same. Dr. Meyers cited respondent's "anti-social scale" T score as 66 and respondent's "paranoia" T scale score at 70. Both scores are in the clinical range for evaluation and treatment purposes.

Dr. Meyers stated that she believes respondent can practice medicine safely.

RESPONDENT'S TESTIMONY

27. From 2010 to June 2016, respondent maintained a psychiatric practice in San Diego. In June 2016, she closed her practice and was briefly employed in a locum tenens position in Napa Valley. Respondent said she wanted to get away from San Diego and expected the position to be a permanent move. She worked for three weeks at this position in Napa Valley and was terminated. She was not told why she was terminated but she suspected she was terminated because she spent too long with patients and was behind schedule. Respondent said she was not familiar with the electronic medical records system. Around this time, respondent also was terminated from a locum tenens position in Florida as a staff psychiatrist in a prison after one week.[2,3] Again, this employer did not tell her why she was terminated.

After she left the Napa Valley locum tenens position, respondent traveled for a couple weeks and contacted her former patients. For a brief time, because she did not have an office, she met her patients in public spaces, as noted below. In October 2016 she started seeing patients at an office space in Solana Beach. She then worked in a locum tenens position in Monterrey for a brief time. She told her patients that this was a temporary position and obtained coverage for them in case they had an emergency. Respondent returned to San Diego and continued her psychiatric practice until March 2017, when the interim suspension order was issued.

28. Respondent did not dispute a number of the allegations in the accusation. She did not dispute that she accessed her husband's prescription drug information by accessing his CURES patient profile. She said that accessing CURES was a very foolish decision on

---

[2] The record is unclear when she held the Florida locum tenens position.

[3] According to respondent's CV she held a locum tenens position from January to February 2017 for 4 weeks at clinic for the treatment of eating disorders.

her part; she regrets having done this. She did not dispute that she did not have an office and met patients for a brief time, at most four months, while she was looking for an office. Respondent added she was careful about their confidential information.

Respondent further acknowledged that the contents of the letter she sent to her husband's attorney with "anthrax" and "bomb" references and the email communications to her daughters were nasty and inappropriate, and she regrets now that she sent them. She explained that she felt traumatized and betrayed at the time. She was going through an extremely acrimonious divorce and was in a "stressed state." Respondent noted that she later apologized to the law firm for her letters.

Later in her hearing testimony, however, respondent appeared less remorseful about her communications with her husband's attorney. Respondent stated that while she regrets referring to her former husband's attorney as Mexican, which she said she found in the firm bio, she noted that she was a member of La Raza, "a hard-core pro Mexican" organization. She wondered why the attorney did not go back to Mexico to help her people in Mexico. Respondent added that the attorney was conspiring with her husband to ruin her and her law firm had a financial incentive to do so.

Respondent admitted she repeatedly violated the domestic violence restraining order. She described this conduct as very foolish decisions which she now regrets. Respondent said she did not know what a domestic violence restraining order was, and she had no contact with law enforcement before that time.

However, again later in her testimony, respondent appeared to be less repentant about her conduct, or at the least sought to justify it. She said the restraining order was full of "untruths," was "absurd," and the judges who issued both restraining orders did not treat her fairly and one of these judges had numerous complaints against him. Respondent commented that she cannot believe the judge signed the order when she never owned a gun and is anti-gun. She had trouble understanding why a restraining order was issued against her for yelling at her husband and filing for divorce. Respondent further stated that the restraining order ruined her career because it prevented her from getting a job as a staff psychiatrist at Colinas Women's Prison because she was unable to pass the background screen, and she is angry at the attorneys because she was not hired.

29. Regarding her psychiatric treatment history, respondent stated she has been receiving psychiatric care since 2012. Respondent saw Stephen R. Shuchter, M.D., for two and a half years starting in 2012 for depression and marital problems. After he retired, respondent treated with Dr. Parry. She also received therapy with psychologist, Trish Stanley, Psy.D.; Emily McCuthchan, until she retired in 2015; and now sees therapist Roseanne Larson at UCSD. Respondent sees Ms. Larson every three to four weeks. She takes a number of medications including medications for back problems and for treatment of PTSD.

Respondent testified that she believes she was suffering from PTSD, which was triggered when on February 19, 2015, at 6:30 p.m. two sheriff deputies executed a domestic violence order and told her she had 15 minutes to leave her house. Two of her daughters were home and respondent was getting dressed to go to a book club meeting. The deputies banged on the door and the situation was very scary to her. She had had no interaction with police before that time. Respondent noted that she was allowed to move back into the home in March 2015 and the home was eventually sold.

In October 2015, due to her mental health condition and back and eye problems, she filed for Social Security disability. Respondent wanted disability for a short period of time, and she noted she was having problems with her home life. She recalled telling Dr. Parry that she was having problems concentrating. Respondent said she told Dr. Parry this in the hope that she could have disability for a short term to help her financially. Respondent quickly noted that work was a good outlet for her. Social Security sent her to a psychiatrist who said her mental health condition did not preclude her from working. She appealed two levels of the administrative review process and then gave up.

30. Respondent also was asked to address the contents of the October 30, 2017, complaint she filed with the board against Dr. Ornish and her written comments on the envelope regarding Investigator McLean.

Respondent did not regret filing a complaint against Dr. Ornish in which she referred to Dr. Ornish as a "pervert." She felt that Dr. Ornish treated her unfairly, was prosecutorial towards her, and inappropriately referred to her as "frigid" sexually in his report, although as Dr. Ornish stated he copied this language from a large paragraph from Dr. Caldwell's report interpreting respondent's MMPI-2 test results. Respondent felt that Dr. Ornish deliberately wrote negative things about her. When she talked about Dr. Ornish at one point in the hearing, respondent became visibly angry.

Respondent said that the board selected Dr. Ornish because he has a tendency to write negative reports and the board is trying to make it look like it is doing its job by getting bad doctors off the street. She said she is not included in bad doctors "like Dr. Nasser." She described her conduct as yelling at her husband, sending nasty emails, and putting a bag on a car in violation of the restraining order.

Regarding her comments about Dr. Ornish's Jewish heritage, she said that his general arrogant attitude had some connection to his being from "the Chosen People." She then said that her sentiment was not due to his Jewish heritage, but because he was an unfair evaluator.

Respondent also did not regret referring to Investigator McLean as a fake investigator and a felon, among other things. Respondent said she was unsure whether Investigator McLean was an actual investigator and she showed up, apparently before a court proceeding relating to her divorce, with a "slob." Respondent was referring, again apparently, to another HQIU Investigator, Jose Partida, who accompanied Investigator McLean. She

acknowledged that she filed a complaint against Investigator McLean because she found her "extremely unprofessional."

31. Respondent testified that she is committed to the practice of clinical psychiatry and to helping her clients. She recognized that the board had legitimate concerns about her, and she said she has learned her lesson. In the future she will think before she acts. Respondent said her divorce was finalized in August 2017 and she is eager to return to the practice of medicine. If placed on probation, respondent said she would abide by terms and conditions imposed by the board, including continuing to undergo treatment with Dr. Parry and not practicing medicine until a board approved psychiatrist has evaluated her.

32. With notable exceptions, respondent's testimony was credible. Her testimony regarding her commitment to the practice of psychiatry appeared heartfelt. She appeared to accept responsibility for improperly accessing her husband's prescription drug information through the CURES system and for meeting patients in makeshift locations. Regardless of her negative attitude towards the board and two HQIU Investigators who were acting on the board's behalf, she appeared willing to accept the board's oversight should she be placed on probation.

However, respondent's testimony that she learned her lesson and will think before she acts in the future is undercut by the contents of her October 30, 2017, complaint against Dr. Ornish and her hearing testimony. The contents of her complaint against Dr. Ornish were, as noted, an expression of her unfocused and volatile anger, which she continued to display in the hearing when she talked about her grievance against Dr. Ornish. Her comments about Dr. Ornish's ethnicity are inexcusable and, fundamentally, she misinterpreted Dr. Ornish's role in the reference she found offensive. Dr. Ornish was quoting a large section from Dr. Caldwell's report interpreting her MMPI-2 scores. Similarly, her gratuitous reference to an HQIU Investigator as a "slob" at the hearing also represented her unfocused anger. Such displays call into question whether she in fact learned her lesson, whether she can accept oversight if she is placed on probation, and whether she can exercise the appropriate judgment necessary to practice psychiatry, which is the fundamental question that needs to be addressed in this decision.

RESPONDENT'S OTHER EVIDENCE

33. Respondent submitted letters of support from 15 persons including several patients, one of whom, Raquel Wilkins, testified. A second patient, Kristen J. Peace, was available to testify, but the parties stipulated to the contents of the letter she wrote on respondent's behalf with the further stipulation that respondent informed Ms. Peace of the charges against her and that respondent expressed remorse to her about her behavior.

In a letter dated April 5, 2017, James F. Kilgalen, LCSW-C, stated that respondent provided psychiatric services to patients at his office in Maryland from September 2006 to August 2009. He described her as capable and competent and would recommend her psychiatric skills for either outpatient or inpatient treatment.

In a letter dated January 4, 2017, Mark Zetin, M.D., stated that he has known respondent since they attended a psychiatric residency together in 1986. He described her as a bright, energetic, dedicated psychiatrist.

In a letter dated April 3, 2017, Dan Zolezzi, an attorney and one of respondent's patients, described her as kind and helpful and stated he hopes that she will be able to have her license reinstated soon.

In a letter dated April 4, 2017, Katherine Grayson, MFT, stated that she has known respondent for over 50 years and is respondent's friend. She has benefited many times from respondent's help answering questions about psychiatric issues related to her work as a licensed therapist.

In a letter dated April 13, 2017, Amy Newell, LMFT, stated she has known respondent both personally and professionally since 1978 when they attended college together. She described respondent as thoughtful, competent, generous, and knowledgeable. Ms. Newell is impressed with respondent's professionalism towards her and respondent's own patients.

In a letter dated November 4, 2015, Jennifer Hagman, M.D., an associate professor of psychiatry at the University of Colorado, School of Medicine, stated that she has known respondent since 1986 when they were residents at the University of California Irvine. She described respondent as a dedicated and compassionate psychiatrist.

In a letter dated April 17, 2017, Raquel Wilkins, who was respondent's patient, described her as a caring, talented and professional psychiatrist and a positive force in her life. Ms. Wilkins testified in this hearing and added that she received treatment from respondent at a park and public area, and she had no concerns about issues relating to confidentiality because respondent would stop their discussions when people were near. She stated that she benefited from seeing respondent.

In a letter dated April 9, 2017, Brandon A. Van Noord, M.D., stated that he is respondent's pain management doctor. He described his prescription of controlled substances to her and stated that he has seen no evidence of addiction or drug seeking behavior on respondent's part.

In an undated letter, R. Gasper stated that respondent has been his treating doctor since 2010. This individual said that respondent has helped him and prevented him from going down a dark path. Not being able to treat with respondent has been devastating.

In an undated letter, R. Moore wrote that respondent has been his doctor for over two years. He described her as patient and caring and always available by phone. He hopes that she will have her ability to practice medicine restored.

In a letter dated March 20, 2017, Vicki Meyer wrote that respondent has been her psychiatrist for about eight years. She described respondent as kind, caring, and professional, and stated respondent has helped her. She also hopes that respondent's ability to practice medicine will be restored soon.

In a letter dated March 22, 2017, Kristen J. Pearce wrote that respondent has been her psychiatrist for about four years. She described respondent as kind, compassionate, professional, and respectful. She said that respondent has helped and empowered her in many ways. Ms. Pearce would like to continue to treat with respondent in the future.

In an email dated March 28, 2017, Billy Santiago, Jr., wrote that he has been respondent's patient since 2011. He described respondent as "awesome" and stated she helped get him out of a very dark place in his life. He said that it is a tremendous hardship on him not being able to get medications she prescribes. Mr. Santiago would like to see respondent able to practice again so she can help him.

In a letter dated July 12, 2017, Emily K. McCuthan, LMFT, wrote that she and respondent had several patients in common over the last three years. These patients were pleased with respondent for psychopharmacology treatment of their mental health issues. They described respondent to Ms. McCuthan as unusually caring and willing to spend time with them. She described respondent as a highly skilled, competent physician.

Respondent testified that she informed the patients who wrote letters on her behalf that their identities would be made public. The statements made by respondent's patients are deemed credible to the extent they describe respondent as a caring and dedicated psychiatrist. The statements from other individuals are credible to the same extent. Dr. Hagman's statements is given little weight because she wrote her letter on November 4, 2015, before the accusation was filed.

34. Respondent also submitted documentation that she has successfully completed CME on various topics between January 2016 and January 2018.

35. In addition, respondent submitted a report from Patrick R. Yassini, M.D., which he electronically signed on January 9, 2017. Dr. Yassini wrote this report after he conducted a voluntary physical examination of respondent on November 17, 2017, at HQIU's request. In his report, he identified Anxiety, and PTSD, among her medical conditions. He stated that respondent "has no untreated physical illness or condition impacting her ability to engage in the practice of medicine." It is not clear from his report, as respondent argued, that Dr. Yassini specifically found that she does not have a mental health condition that impacts her ability to practice medicine safely.

The Parties' Arguments Regarding Expert Testimony and Evaluation of Expert Testimony

36. Complainant argued that Dr. Ornish's testimony should be accepted over Dr. Parry's testimony because as a forensic psychiatrist he was an independent evaluator and his

opinion that respondent has a mixed personality disorder and delusional disorder was based on the evidence of record. Further, respondent's condition does not meet the DSM-5 criteria for PTSD and Dr. Schucter had not diagnosed respondent with PTSD. In contrast to Dr. Ornish, Dr. Parry's opinions were biased because as respondent's treating physician she has a vested interest in protecting respondent's well-being. Dr. Meyers's evaluation was based on limited information and should not be credited, but nonetheless her opinion that respondent has a personality disorder is consistent with Dr. Ornish's opinion.

Respondent argued that Dr. Ornish displayed a deep bias against her and questioned Dr. Ornish's competence because he misinterpreted respondent's answers to critical area questions in the MMPI-2. Respondent emphasized Dr. Parry's concerns regarding how Dr. Ornish reached his opinions regarding respondent.

Respondent, further, argued that Dr. Ornish acted as an advocate and "hired gun", not an independent evaluator as exemplified when he underlined "never" in his report when he found that respondent would "never be able to practice medicine safely." Respondent's counsel also noted Dr. Ornish's initial opinion that respondent was engaging in drug seeking behavior when there was an overlap in prescriptions she obtained from two doctors as an expression of this bias. Dr. Ornish retracted this opinion during the course of this testimony. Dr. Ornish also drew an unfair inference that because she was terminated from the locum tenens positions she lacked the ability to practice medicine safely.

37. All three experts were thoughtful and thorough in their evaluations of the record and it is difficult to sort out their respective opinions, or reconcile them. In resolving the conflict in their testimony, their opinions have been weighed based on the factual foundations for their opinions, the reasons for their opinions, and their qualifications and believability. California courts have repeatedly underscored that an expert's opinion is only as good as the facts and reasons upon which that opinion is based. (*Kennemur v. State of California* (1982) 133 Cal.App.3d 907, 924.)

The fundamental issue here is whether respondent has a mental health condition that affects her ability to competently practice medicine safely. In this regard, the evidence shows that respondent has a mixed personality disorder that affects her ability to practice medicine safely and for this reason Dr. Ornish's opinion is credited over the opinions of Dr. Parry and Dr. Meyers.

Dr. Ornish's opinion that respondent has a mixed personality disorder is supported by the results of two MMPI-2 tests administered to respondent in 2016 and 2017 by Drs. Ornish and Meyers and scored by Dr. Caldwell. Dr. Meyers agreed with Dr. Ornish's opinion that respondent has a mixed personality disorder, though Dr. Ornish and Meyers disagreed whether respondent displayed certain features of her personality disorder, specifically whether her profile indicated that she has antisocial features. Regardless, respondent's personality disorder, as her actions on multiple occasions demonstrated, has caused her to act impulsively and with raw anger. Respondent admitted as much when she testified in the hearing that she learned her lesson and in the future will now think before she acts.

However, her capacity for impulsive actions calls into question her ability to make sound judgments, which is the fundamental concern regarding her ability to practice safely.

Similarly, Dr. Ornish's opinion that respondent has a mental health condition that affects her ability to practice medicine safely is credited over Dr. Parry's opinion to the contrary. Ordinarily, the opinion of a treating doctor is owed deference due to the treating doctor's relationship to the patient, but Dr. Parry's opinion here conflicts with the record and her own opinion about respondent's functional capacity due to mental illness. On August 9, 2016, Dr. Parry believed that respondent was not able to practice medicine due to depression. Dr. Parry's opinion also conflicts with respondent's own statement in April 2016 where she described herself as unable to function. In addition, at the hearing Dr. Parry could only testify vaguely that respondent's condition has improved over the last three months.

With this noted, Dr. Parry's opinion that respondent has a remediable mental health condition is credited over Dr. Ornish's opinion that respondent will never be able to practice medicine safely again due to her personality disorder. In this regard, Dr. Parry's opinion is supported by Dr. Shuchter's credible testimony that he observed respondent become a different person in 2015 after she was evicted from her home. This would suggest that whatever the source of respondent's mental state, her condition is not the product of an unmovable and fixed character condition and she is amenable to treatment.

The Parties' Arguments Regarding the Degree of Discipline

38. In their closing arguments, both parties addressed the issue of the degree of discipline they believe should be imposed.

Complainant asked that respondent's license be revoked because she is not able to practice medicine safely and her condition represents a danger to the public. In the alternative, complainant asked that should a probationary term be deemed appropriate, respondent should be placed on a term of probation for no less than five years with the following conditions: she should not practice until a board approved psychiatrist has evaluated her and found that she can practice medicine safely; she should be required to continue psychiatric therapy; respondent should have billing and practice monitors; she should be required to take professional boundaries and education courses; and she should be prohibited from having a solo practice.

Respondent argued that respondent's license should not be revoked and that she should be placed on probation. If she is placed on probation, she would accept that she should not practice until a board approved psychiatrist has evaluated her and found that she can practice medicine safely; she agreed that she should be required to continue psychiatric therapy; and she should be required to take a professional boundaries course.

//

LEGAL CONCLUSIONS

Burden and Standard of Proof

1. Complainant bears the burden of proof of establishing that the charges in the accusation are true.

2. The standard of proof required in this proceeding is "clear and convincing evidence." (*Ettinger v. Board of Medical Quality Assurance* (1982) 135 Cal.App.3d 853, 856.) The obligation to establish charges by clear and convincing evidence is a heavy burden. It requires a finding of high probability; it is evidence so clear as to leave no substantial doubt, or sufficiently strong evidence to command the unhesitating assent of every reasonable mind. (*Christian Research Institute v. Alnor* (2007) 148 Cal.App.4th 71, 84.)

3. Because the main purpose of license discipline is to protect the public, patient harm is not required before the board can impose discipline. It is far more desirable to impose discipline on a physician before there is patient harm than after harm has occurred. Prevention of future harm is part of public protection. (*Griffiths v. Superior Court* (2002) 96 Cal.App.4th 757, 772-773.)

Relevant Statutes Concerning Whether Respondent Has a Mental Health Condition Affecting Competency

4. Business and Professions Code section 822 provides as follows:

> If a licensing agency determines that its licentiate's ability to practice his or her profession safely is impaired because the licentiate is mentally ill, or physically ill affecting competency, the licensing agency may take action by any one of the following methods:
>
> (a) Revoking the licentiate's certificate or license.
>
> (b) Suspending the licentiate's right to practice.
>
> (c) Placing the licentiate on probation.
>
> (d) Taking such other action in relation to the licentiate as the licensing agency in its discretion deems proper.
>
> The licensing agency shall not reinstate a revoked or suspended certificate or license until it has received competent evidence of the absence or control of the condition which caused its action and until it is satisfied that with due regard for the public health

> and safety the person's right to practice his or her profession may be safely reinstated

Cause Exists to Impose Discipline or Take Action Under Section 822

5. Clear and convincing evidence established that respondent is impaired because she has a mental health condition affecting her competency to practice medicine safely.

Applicable Statutes Regarding Causes to Impose Discipline

6. Business and Professions Code section 2227, subdivision (a), states:

> A licensee whose matter has been heard by an administrative law judge of the Medical Quality Hearing Panel as designated in Section 11371 of the Government Code, or whose default has been entered, and who is found guilty, or who has entered into a stipulation for disciplinary action with the board, may in accordance with the provisions of this chapter:
>
> (1) Have his or her license revoked upon order of the board.
>
> (2) His or her right to practice suspended for a period not to exceed one year upon order of the board.
>
> (3) Be placed on probation and be required to pay the costs of probation monitoring upon order of the board.
>
> (4) Be publicly reprimanded by the board. The public reprimand may include a requirement that the licensee complete relevant educational courses approved by the board.
>
> (5) Have any other action taken in relation to the discipline as part of an order of probation, as the board or an administrative law judge may deem proper.

7. Under Business and Professions Code section 2234, the board shall take action against a licensee charged with unprofessional conduct. Grounds for unprofessional conduct include, but are not limited to, gross negligence (subdivision (b)).

The Standard of Care and Gross Negligence

8. Medical providers must exercise that degree of skill, knowledge, and care ordinarily possessed and exercised by members of their profession under similar circumstances. (*Powell v. Kleinman* (2007) 151 Cal.App.4th 112, 122.) Because the standard of care is a matter peculiarly within the knowledge of experts, expert testimony is

required to prove or disprove that a medical practitioner acted within the standard of care unless negligence is obvious to a layperson. (*Johnson v. Superior Court* (2006) 143 Cal.App.4th 297, 305.)

9. "Gross negligence" long has been defined in California as either a "want of even scant care" or "an extreme departure from the ordinary standard of conduct." (*Gore v. Board of Medical Quality Assurance* (1980) 110 Cal.App.3d 184, 195-198; *City of Santa Barbara v. Superior Court* (2007) 41 Cal.4th 747, 753-754.)

Cause Exists to Impose Discipline on Respondent's License

10. Cause exists under Business and Professions Code section 2234, subdivision (b), to impose discipline under the First Cause for Discipline. Clear and convincing evidence established that respondent engaged in gross negligence with respect to her care and treatment of patients when she held psychotherapy sessions for medication management in public places.

11. Cause exists under Business and Professions Code section 2234 to impose discipline under the Second Cause for Discipline. Clear and convincing evidence established that respondent engaged in conduct which breaches the rules or ethical code of the medical profession, or conduct which is unbecoming a member in good standing of the medical profession, and which demonstrates unfitness to practice medicine, in violation of Business and Professions Code section 2234, when she accessed S.C.'s CURES Patient Profile over 50 times without his consent between August 7, 2012, and November 15, 2015, using her physician identification number.

The Proper Measure of Discipline

12. The primary purpose of disciplinary action is to protect the public. (Bus. & Prof. Code, § 2229, subd. (a).) The Medical Practice Act emphasizes that the board should "seek out those licensees who have demonstrated deficiencies in competency and then take those actions as are indicated, with priority given to those measures, including further education, restrictions from practice, or other means, that will remove those deficiencies." (Bus. & Prof. Code, § 2229, subd. (c).) However, "[w]here rehabilitation and protection are inconsistent, protection shall be paramount." (Bus. & Prof. Code, § 2229, subd. (c).)

The board's Manual of Model Disciplinary Orders and Disciplinary Guidelines (12th Edition 2016) states:

> The Board expects that, absent mitigating or other appropriate circumstances such as early acceptance of responsibility, demonstrated willingness to undertake Board-ordered rehabilitation, the age of the case, and evidentiary problems, Administrative Law Judges hearing cases on behalf of the Board and proposed settlements submitted to the Board will follow the

> guidelines, including those imposing suspensions. Any proposed decision or settlement that departs from the disciplinary guidelines shall identify the departures and the facts supporting the departure.

For both of the disciplinary violations established relating to respondent's conduct, the board's disciplinary guidelines provide for a minimum penalty of a stayed revocation with a probationary period of five years with terms and conditions including education courses, practice monitoring, and a prohibition on solo practice, and a maximum penalty of revocation. Although not discipline, the board's disciplinary guidelines for a mental illness provide for a penalty range of stayed revocation, five years' probation with terms and conditions including psychiatric evaluation and psychotherapy, practice monitoring, a prohibition on solo practice, and a maximum penalty of revocation.

Disposition Regarding the Degree of Discipline

13. The question that now needs to be addressed is whether respondent's mental health condition makes her impaired to such an extent that she is unable to practice medicine safely and requires revocation of her license. The conduct that has led to the causes for discipline does not, as opposed to her mental illness, suggest that revocation of her license is necessary to protect the public. In this regard, she accepted responsibility for her conduct and has had no prior history of discipline.

As found, respondent's mental health condition has led her to behave in impulsive and angry ways and calls into question her ability to make sound judgments. Her harsh "nasty," as she put it, communications with her former husband's attorney and her children showed this. At the hearing respondent appeared to understand that she behaved impulsively when she testified that she learned her lesson and in the future will think before she acts. Her October 30, 2017, complaint to the board regarding Dr. Ornish appears to be an example of her acting before she thinks. While she has the right to file a complaint and it is accepted that she may have concerns about how Dr. Ornish reached his conclusions about her mental health, her complaint was filled with unnecessary rants about Dr. Ornish and his Jewish heritage. Her unnecessary comment at the hearing about an HQIU Investigator who accompanied Investigator McLean had a harsh tone similar to her harsh comments about Dr. Ornish and reflected her volatile rage at the circumstances she faces. Her statements about Dr. Ornish and the Investigator suggest that she has an impairment which may affect her sound judgment.

With these reservations about her capacity noted, respondent has shown a commitment to her own treatment and therapy and it appears that, overall, she is moving past the circumstances of her divorce, which is now final. Drs. Parry and Shuchter credibly described respondent as a patient amenable to treatment, and they have faith in her capacity to practice medicine safely. Although Dr. Parry's testimony that respondent does not have an impairment that affects her ability to practice medicine safely was not credited over Dr. Ornish's contrary opinion, her opinion that Dr. Parry can help ensure respondent's well-

being and capacity to make sound judgments was taken into account in rendering this decision. Respondent, moreover, appeared willing to accept the board's oversight if she is placed on probation and continue treatment with Dr. Parry. Respondent also credibly described herself as committed to the well-being of her patients, and patients substantiated her sentiment in letters and testimony on her behalf. Considering the evidence of record as a whole, it is determined that a period of probation with specific terms and conditions will ensure public protection. These terms and conditions include requirements that respondent not practice until she undergoes a psychiatric evaluation and the board notifies her that she is fit to practice safely, that she continue psychotherapy with a board-approved psychiatrist and/or psychologist, as appropriate, that she have a practice monitor, and that she take a professional boundaries course. Considering these terms and conditions and the nature of the practice of psychiatry it is not necessary for public protection purposes that respondent be prohibited from having a solo practice.

ORDER

Certificate No. G55560 issued to respondent Laura Seed is revoked. However, the revocation is stayed, and respondent is placed on probation for five years from the effective date of this Decision on the following terms and conditions:

1. Psychiatric Evaluation-Condition Precedent

Within 30 calendar days of the effective date of this Decision, and on whatever periodic basis thereafter may be required by the board or its designee, respondent shall undergo and complete a psychiatric evaluation (and psychological testing, if deemed necessary) by a board-appointed board certified psychiatrist, who shall consider any information provided by the board or designee, including a copy of this Decision, and any other information the psychiatrist deems relevant, and shall furnish a written evaluation report to the board or its designee. Psychiatric evaluations conducted prior to the effective date of the Decision shall not be accepted towards the fulfillment of this requirement. Respondent shall pay the cost of all psychiatric evaluations and psychological testing.

Respondent shall comply with all restrictions or conditions recommended by the evaluating psychiatrist within 15 calendar days after being notified by the board or its designee.

Respondent shall not engage in the practice of medicine until notified by the board or its designee that respondent is mentally fit to practice medicine safely. The period of time that respondent is not practicing medicine shall not be counted toward completion of the term of probation.

2. Psychotherapy

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

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

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

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

3. Professional Boundaries Program

Within 60 calendar days from the effective date of this Decision, respondent shall enroll in a professional boundaries program approved in advance by the board or its designee. Respondent, at the program's discretion, shall undergo and complete the program's assessment of respondent's competency, mental health and/or neuropsychological performance, and at minimum, a 24 hour program of interactive education and training in the area of boundaries, which takes into account data obtained from the assessment and from the Decision(s), Accusation(s) and any other information that the board or its designee deems relevant. The program shall evaluate respondent at the end of the training and the program shall provide any data from the assessment and training as well as the results of the evaluation to the board or its designee.

Failure to complete the entire program not later than six (6) months after respondent's initial enrollment shall constitute a violation of probation unless the board or its designee agrees in writing to a later time for completion. Based on respondent's performance in and evaluations from the assessment, education, and training, the program shall advise the board or its designee of its recommendation(s) for additional education, training, psychotherapy and other measures necessary to ensure that respondent can practice medicine safely.

Respondent shall comply with program recommendations. At the completion of the program, respondent shall submit to a final evaluation. The program shall provide the results of the evaluation to the board or its designee. The professional boundaries program shall be at respondent's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

The program has the authority to determine whether or not respondent successfully completed the program.

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

4. Monitoring - Practice

Within 30 calendar days of the effective date of this Decision, respondent shall submit to the board or its designee for prior approval as a practice monitor, the name and qualifications of one or more licensed physicians and surgeons whose licenses are valid and in good standing, and who are preferably American Board of Medical Specialties (ABMS) certified. A monitor shall have no prior or current business or personal relationship with respondent, or other relationship that could reasonably be expected to compromise the ability of the monitor to render fair and unbiased reports to the board, including but not limited to any form of bartering, shall be in respondent's field of practice, and must agree to serve as respondent's monitor. Respondent shall pay all monitoring costs.

The board or its designee shall provide the approved monitor with copies of the Decision and Accusation, and a proposed monitoring plan. Within 15 calendar days of receipt of the Decision, Accusation, and proposed monitoring plan, the monitor shall submit a signed statement that the monitor has read the Decision and Accusation, fully understands the role of a monitor, and agrees or disagrees with the proposed monitoring plan. If the monitor disagrees with the proposed monitoring plan, the monitor shall submit a revised monitoring plan with the signed statement for approval by the board or its designee.

Within 60 calendar days of the effective date of this Decision, and continuing throughout probation, respondent's practice shall be monitored by the approved monitor. Respondent shall make all records available for immediate inspection and copying on the premises by the monitor at all times during business hours and shall retain the records for the entire term of probation.

If respondent fails to obtain approval of a monitor within 60 calendar days of the effective date of this Decision, respondent shall receive a notification from the board or its designee to cease the practice of medicine within three (3) calendar days after being so

notified. Respondent shall cease the practice of medicine until a monitor is approved to provide monitoring responsibility.

The monitor shall submit a quarterly written report to the board or its designee which includes an evaluation of respondent's performance, indicating whether respondent's practices are within the standards of practice of medicine, and whether respondent is practicing medicine safely, billing appropriately or both. It shall be the sole responsibility of respondent to ensure that the monitor submits the quarterly written reports to the board or its designee within 10 calendar days after the end of the preceding quarter.

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

In lieu of a monitor, respondent may participate in a professional enhancement program approved in advance by the board or its designee, that includes, at minimum, quarterly chart review, semi-annual practice assessment, and semi-annual review of professional growth and education. Respondent shall participate in the professional enhancement program at respondent's expense during the term of probation.

5. Notification

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

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

6. Supervision of Physician Assistants and Advanced Practice Nurses

During probation, respondent is prohibited from supervising physician assistants and advanced practice nurses.

7. Obey All Laws

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

8. Quarterly Declarations

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

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

9. General Probation Requirements

Compliance with Probation Unit

Respondent shall comply with the board's probation unit.

Address Changes

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

Place of Practice

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

License Renewal

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

Travel or Residence Outside California

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

In the event respondent should leave the State of California to reside or to practice respondent shall notify the board or its designee in writing 30 calendar days prior to the dates of departure and return.

10. Interview with the board or its Designee

Respondent shall be available in person upon request for interviews either at respondent's place of business or at the probation unit office, with or without prior notice throughout the term of probation.

11. Non-practice While on Probation

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

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

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

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

Periods of non-practice for a respondent residing outside of California, will relieve respondent of the responsibility to comply with the probationary terms and conditions with the exception of this condition and the following terms and conditions of probation: Obey All Laws; General Probation Requirements; Quarterly Declarations.

12. Completion of Probation

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

13. Violation of Probation

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

14. License Surrender

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

15. Probation Monitoring Costs

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

DATED: February 28, 2018

DocuSigned by:
Abraham Levy
C84194237D2243C...

ABRAHAM M. LEVY
Administrative Law Judge
Office of Administrative Hearings

XAVIER BECERRA
Attorney General of California
ALEXANDRA M. ALVAREZ
Supervising Deputy Attorney General
CHRISTINE A. RHEE
Deputy Attorney General
State Bar No. 295656
600 West Broadway, Suite 1800
San Diego, CA 92101
P.O. Box 85266
San Diego, CA 92186-5266
Telephone: (619) 738-9455
Facsimile: (619) 645-2061

Attorneys for Complainant

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO April 28 2017
BY Robyn Fitzwater ANALYST

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

In the Matter of the Accusation Against: **LAURA SEED, M.D.** **731 South Highway 101** **Suite 1E Room 11** **Solana Beach, CA 92075-2629** **Physician's and Surgeon's Certificate No. G55560,** Respondent.	Case No. 8002015017881 **A C C U S A T I O N**

Complainant alleges:

PARTIES

1. Kimberly Kirchmeyer (Complainant) brings this Accusation solely in her official capacity as the Executive Director of the Medical Board of California.

2. On or about July 29, 1985, the Medical Board issued Physician's and Surgeon's License No. G55560 to Laura Seed, M.D. (Respondent). The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought herein and will expire on August 31, 2018, unless renewed.

///

3. On March 10, 2017, an *ex parte* Interim Suspension Order was issued immediately suspending Respondent's Physician's and Surgeon's Certificate No. G55560 and prohibiting Respondent from practicing medicine in the State of California pending a noticed hearing. On March 29, 2017, Respondent signed a Stipulation of the Parties re: Interim Suspension Order and Order, keeping the *ex parte* Interim Suspension Order in effect. Respondent remains suspended from the practice of medicine as of the date of the filing of this Accusation.

JURISDICTION

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

5. Section 2227 of the Code states:

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

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

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

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

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

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

"(b) Any matter heard pursuant to subdivision (a), except for warning letters, medical review or advisory conferences, professional competency examinations,

continuing education activities, and cost reimbursement associated therewith that are agreed to with the board and successfully completed by the licensee, or other matters made confidential or privileged by existing law, is deemed public, and shall be made available to the public by the board pursuant to Section 803.1."

6. Section 2234 of the Code, states:

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

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

"(b) Gross negligence.

"..."

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

8. Section 822 of the Code states:

"If a licensing agency determines that its licentiate's ability to practice his or her profession safely is impaired because the licentiate is mentally ill, or physically ill affecting competency, the licensing agency may take action by any one of the following methods:

"(a) Revoking the licentiate's certificate or license.

"(b) Suspending the licentiate's right to practice.

"(c) Placing the licentiate on probation.

"(d) Taking such other action in relation to the licentiate as the licensing agency in its discretion deems proper.

"The licensing section shall not reinstate a revoked or suspended certificate or license until it has received competent evidence of the absence or control of the

condition which caused its action and until it is satisfied that with due regard for the public health and safety the person's right to practice his or her profession may be safely reinstated."

SECTION 822 CAUSE FOR ACTION

(Mental Illness Affecting Competency)

9. Respondent is subject to action under section 822 of the Code in that her ability to practice medicine safely is impaired due to mental illness affecting competency, as more particularly alleged hereinafter:

10. On or about November 2, 2015, the Medical Board's Central Complaint Unit received a complaint from S.C.,[1] alleging that Respondent repeatedly accessed his CURES[2] information without his consent, and that Respondent repeatedly violated a restraining order with him and has harassed his legal counsel.

11. Between August 2012 and November 2015, Respondent accessed S.C.'s CURES Patient Profile over fifty times without his consent and without a legitimate purpose to do so.

12. On or about November 14 and 29, 2016, Respondent attended a mental examination with Steven A. Ornish, M.D. (Dr. Ornish). Dr. Ornish's examination included taking Respondent's medical, psychosocial and developmental history, and her past and current psychiatric history and treatment.

13. During Dr. Ornish's examination of Respondent, Respondent stated the following:

a. Respondent admitted to accessing S.C.'s CURES report in 2011 and stated that she reviewed it without S.C.'s permission to see what prescriptions he was taking.

b. Respondent admitted to repeatedly violating the restraining order with S.C. Respondent said she knew she had violated the restraining order, but did not think it was a big deal. Respondent also confirmed that she violated the restraining order with S.C. by putting a small suitcase of her daughter's belongings on her daughter's car

[1] Initials are used to protect the witness's privacy.

[2] The Controlled Substance Utilization Review and Evaluation System (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.

which was parked at S.C.'s home. Respondent acknowledged that at the time, the five-year restraining order was in effect, and that she was not supposed to be within "a football field" of S.C.'s home.

c. Respondent admitted to sending S.C.'s attorneys an envelope on which she handwrote that the envelope contained anthrax or a bomb.

d. Respondent stated that she had a small psychiatric practice of approximately 15 patients, and that she sees approximately two patients per week for one-hour medication monitoring and psychotherapy sessions. Respondent said that she practices general, adult, and adolescence psychiatry, and also treats opioid users with Suboxone.[3] She said she did not have an office and saw her patients at various locations, including picnic tables behind a Starbucks, outside at a table behind a public library, at a patient's downtown office building in the lounge/café area, and at a patient's home.

14. Based upon his examination of Respondent and the psychological tests performed, Dr. Ornish diagnosed Respondent with the following illnesses that affect her ability to practice medicine: (1) major depressive disorder with anxiety, recurrent; (2) persistent depressive disorder (dysthymia); (3) iatrogenic prescription opioid and benzodiazepine dependence; (4) delusional disorder, persecutory type; and (5) mixed personality disorder with borderline, narcissistic, antisocial, histrionic, and sadistic traits (personality disorder not otherwise specified). Dr. Ornish further opined that Respondent's history with depression coupled with her severe mixed personality disorder with borderline, narcissistic, antisocial, histrionic, and sadistic traits affects her ability to safely practice medicine.

FIRST CAUSE FOR DISCIPLINE

(Gross Negligence)

15. Respondent has subjected her Physician's and Surgeon's Certificate No. G55560 to disciplinary action under sections 2227 and 2234, as defined by section 2234, subdivision (b), of

[3] Suboxone is a combination of buprenorphine and naloxone. Buprenorphine is a Schedule V controlled substance pursuant to Health and Safety Code section 11058, subdivision (d).

the Code, in that she committed gross negligence in her care and treatment of patients which included, but was not limited to, the following:

a. Paragraphs 10 through 13, above, are hereby incorporated by reference as if fully set forth herein; and

b. Respondent saw her patients for medication management and psychotherapy sessions in public places which is highly inappropriate and unprofessional, reflecting extremely poor professional boundaries and showing a lack of sensitivity to confidentiality and privacy issues.

SECOND CAUSE FOR DISCIPLINE

(General Unprofessional Conduct)

16. Respondent has further subjected her Physician's and Surgeon's Certificate No. G55560 to disciplinary action under sections 2227 and 2234 of the Code, in that she has engaged in conduct which breaches the rules or ethical code of the medical profession, or conduct which is unbecoming to a member in good standing of the medical profession, and which demonstrates an unfitness to practice medicine, as more particularly alleged in paragraphs 10 through 13, and 15, above, which are hereby incorporated by reference and re-alleged 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 License No. G55560, issued to Respondent Laura Seed, M.D.;

2. Revoking, suspending or denying approval of Respondent Laura Seed, M.D.'s authority to supervise physician assistants, pursuant to section 3527 of the Code, and advanced nurse practitioners;

3. Ordering Respondent Laura Seed, M.D., if placed on probation, to pay the Board the costs of probation monitoring;

///

///

4. Taking action authorized by section 822 of the Code as the Medical Board of California, in its discretion, deems necessary and proper; and

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

DATED: April 28, 2017

KIMBERLY KIRCHMEYER
Executive Director
Medical Board of California
State of California
Complainant

SD2017704174
81614521.docx