

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

In the Matter of the First Amended
Accusation
Against

John Courtney Dozier, M.D.

Physician's and Surgeon's
Certificate No. G46031

Respondent.

Case No. 800-2017-033164

DECISION

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

This Decision shall become effective at 5:00 p.m. on

JUN 19 2020.

IT IS SO ORDERED JUN 12 2020.

MEDICAL BOARD OF CALIFORNIA

By: 
Christine J. Lally
Interim Executive Director

1 XAVIER BECERRA
Attorney General of California
2 STEVEN D. MUNI
Supervising Deputy Attorney General
3 RYAN J. YATES
Deputy Attorney General
4 State Bar No. 279257
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5 P.O. Box 944255
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7

8 *Attorneys for Complainant*

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

14 In the Matter of the First Amended Accusation
Against:

15 **JOHN COURTNEY DOZIER, M.D.**
16 **Box 1726**
Susanville, CA 96130

17 **Physician's and Surgeon's Certificate**

18 **No. G 46031**

19 Respondent.

Case No. 800-2017-033164

OAH No. 2019081063

**STIPULATED SURRENDER OF
LICENSE AND ORDER**

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

23 **PARTIES**

24 1. Christine J. Lally (Complainant) is the Interim Executive Director of the Medical
25 Board of California (Board). She brought this action solely in her official capacity and is
26 represented in this matter by Xavier Becerra, Attorney General of the State of California, by Ryan
27 J. Yates, Deputy Attorney General.

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2. John Courtney Dozier, M.D. (Respondent) is represented in this proceeding by attorney D. Marc Lyde, whose address is: 1600 Humboldt Road, Suite 1, Chico, CA 95928.

3. On or about September 16, 1981, the Board issued Physician's and Surgeon's Certificate No. G 46031 to John Courtney Dozier, M.D. (Respondent). The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought in First Amended Accusation No. 800-2017-033164 and expired on May 31, 2019.

JURISDICTION

4. First Amended Accusation No. 800-2017-033164 was filed before the Board, and is currently pending against Respondent. The First Amended Accusation and all other statutorily required documents were properly served on Respondent on May 16, 2019. The First Amended Accusation was deemed controverted pursuant to Government Code Section 11507 in light of the fact that Respondent timely filed his Notice of Defense contesting the original Accusation No. 800-2017-033164. A copy of First Amended Accusation No. 800-2017-033164 is attached as Exhibit A and incorporated by reference.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in First Amended Accusation No. 800-2017-033164. Respondent also has carefully read, fully discussed with counsel, and understands the effects of this Stipulated Surrender of License and Order.

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

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

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11. For the purpose of resolving the First Amended Accusation without the expense and uncertainty of further proceedings, Respondent agrees that, at a hearing, complainant could establish a *prima facie* case with respect to the charges and allegations contained in First Amended Accusation No. 800-2017-033164 and that those charges constitute cause for discipline. Respondent hereby gives up his right to contest that cause for discipline exists based on those charges.

RESERVATION

CONTINGENCY

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

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

ORDER

IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. G 46031, issued to Respondent John Courtney Dozier, M.D., is surrendered and accepted by the Board.

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

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

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

4.. If Respondent ever files an application for licensure or a petition for reinstatement in the State of California, the Board shall treat it as a petition for reinstatement. Respondent must comply with all the laws, regulations and procedures for reinstatement of a revoked or surrendered license in effect at the time the petition is filed, and all of the charges and allegations contained in First Amended Accusation No. 800-2017-033164 shall be deemed to be true, correct and admitted by Respondent when the Board determines whether to grant or deny the petition.

5. For good cause shown, the Respondent and the Board hereby stipulate and agree that Respondent may apply for reinstatement of his license after two years have elapsed from the effective date of the Decision and Order in this matter pursuant to Business and Professions Code section 2307, subdivision (b)(1).

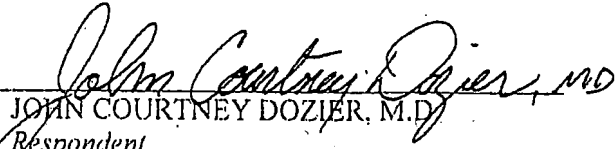
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ACCEPTANCE

I have carefully read the above Stipulated Surrender of License and Order and have fully discussed it with my attorney D. Marc Lyde. I understand the stipulation and the effect it will have on my Physician's and Surgeon's Certificate. I enter into this Stipulated Surrender of License and Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Medical Board of California.

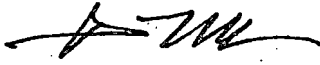
DATED:

March 24, 2020
JOHN COURTNEY DOZIER, M.D.

Respondent

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

DATED:

03-25-20
D. MARC LYDE

Attorney for Respondent

ENDORSEMENT

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

DATED:

5/18/20

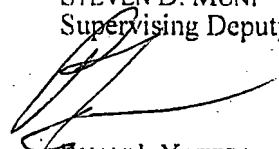
Respectfully submitted,

XAVIER BECERRA

Attorney General of California

STEVEN D. MUNI

Supervising Deputy Attorney General


RYAN J. YATES

Deputy Attorney General

Attorneys for Complainant

EXHIBIT A

1 XAVIER BECERRA
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2 STEVEN D. MUNI
Supervising Deputy Attorney General
3 RYAN YATES
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7 *Attorneys for Complainant*

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO May 16 20 19
BY ANALYST

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

12
13 In the Matter of the First Amended Accusation
Against:

Case No. 800-2017-033164

FIRST AMENDED ACCUSATION

14 John Courtney Dozier, M.D.
15 P.O. Box 1726
Susanville, CA 96130

16 Physician's and Surgeon's Certificate
17 No. G 46031,

18 Respondent.

19
20 Complainant alleges:

21 PARTIES

22 1. Kimberly Kirchmeyer (Complainant) brings this First Amended Accusation solely in
23 her official capacity as the Executive Director of the Medical Board of California, Department of
24 Consumer Affairs (Board).

25 2. On or about September 16, 1981, the Medical Board issued Physician's and
26 Surgeon's Certificate Number G 46031 to John Courtney Dozier, M.D. (Respondent). The
27 Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the
28 charges brought herein and will expire on May 31, 2019, unless renewed.

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4. Section 725 of the Code states:

5. Section 2227 of the Code states:

“(1) Have his or her license revoked 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.

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

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1 agreed to with the board and successfully completed by the licensee, or other matters
2 made confidential or privileged by existing law, is deemed public, and shall be made
3 available to the public by the board pursuant to Section 803.1."

4 6. Section 2234 of the Code, states:

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

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

10 "(b) Gross negligence.

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

15 "(1) An initial negligent diagnosis followed by an act or omission medically
16 appropriate for that negligent diagnosis of the patient shall constitute a single
17 negligent act.

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

23 "(d) Incompetence.

24 "(e) The commission of any act involving dishonesty or corruption which is
25 substantially related to the qualifications, functions, or duties of a physician and
26 surgeon.

27 "(f) Any action or conduct which would have warranted the denial of a
28 certificate.

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

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

9 7. Section 2241 of the Code states:

10 “(a) A physician and surgeon may prescribe, dispense, or administer
11 prescription drugs, including prescription controlled substances, to an addict under his
12 or her treatment for a purpose other than maintenance on, or detoxification from,
13 prescription drugs or controlled substances.

14 “(b) A physician and surgeon may prescribe, dispense, or administer
15 prescription drugs or prescription controlled substances to an addict for purposes of
16 maintenance on, or detoxification from, prescription drugs or controlled substances
17 only as set forth in subdivision (c) or in Sections 11215, 11217, 11217.5, 11218,
18 11219, and 11220 of the Health and Safety Code. Nothing in this subdivision shall
19 authorize a physician and surgeon to prescribe, dispense, or administer dangerous
20 drugs or controlled substances to a person he or she knows or reasonably believes is
21 using or will use the drugs or substances for a nonmedical purpose.

22 “(c) Notwithstanding subdivision (a), prescription drugs or controlled
23 substances may also be administered or applied by a physician and surgeon, or by a
24 registered nurse acting under his or her instruction and supervision, under the
25 following circumstances:

26 “(1) Emergency treatment of a patient whose addiction is complicated by the
27 presence of incurable disease, acute accident, illness, or injury, or the infirmities
28 attendant upon age.

1 “(2) Treatment of addicts in state-licensed institutions where the patient is kept
2 under restraint and control, or in city or county jails or state prisons.

3 “(3) Treatment of addicts as provided for by Section 11217.5 of the Health and
4 Safety Code.

5 “(d)(1) For purposes of this section and Section 2241.5, “addict” means a
6 person whose actions are characterized by craving in combination with one or more
7 of the following:

8 “(A) Impaired control over drug use.

9 “(B) Compulsive use.

10 “(C) Continued use despite harm.

11 “(2) Notwithstanding paragraph (1), a person whose drug-seeking behavior is
12 primarily due to the inadequate control of pain is not an addict within the meaning of
13 this section or Section 2241.5.”

14 8. Section 2242 of the Code states:

15 “(a) Prescribing, dispensing, or furnishing dangerous drugs as defined in
16 Section 4022 without an appropriate prior examination and a medical indication,
17 constitutes unprofessional conduct.

18 “(b) No licensee shall be found to have committed unprofessional conduct
19 within the meaning of this section if, at the time the drugs were prescribed, dispensed,
20 or furnished, any of the following applies:

21 “(1) The licensee was a designated physician and surgeon or podiatrist serving
22 in the absence of the patient’s physician and surgeon or podiatrist, as the case may be,
23 and if the drugs were prescribed, dispensed, or furnished only as necessary to
24 maintain the patient until the return of his or her practitioner, but in any case no
25 longer than 72 hours.

26 “(2) The licensee transmitted the order for the drugs to a registered nurse or to a
27 licensed vocational nurse in an inpatient facility, and if both of the following
28 conditions exist:

“(A) The practitioner had consulted with the registered nurse or licensed vocational nurse who had reviewed the patient’s records.

“(B) The practitioner was designated as the practitioner to serve in the absence of the patient’s physician and surgeon or podiatrist, as the case may be.

"(3) The licensee was a designated practitioner serving in the absence of the patient's physician and surgeon or podiatrist, as the case may be, and was in possession of or had utilized the patient's records and ordered the renewal of a medically indicated prescription for an amount not exceeding the original prescription in strength or amount or for more than one refill.

"(4) The licensee was acting in accordance with Section 120582 of the Health and Safety Code."

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

FIRST CAUSE FOR DISCIPLINE

(Gross Negligence)

10. Respondent is subject to disciplinary action under sections 2227 and 2234, as defined by section 2234, subdivision (b), of the Code, in that respondent committed gross negligence in his care and treatment of patients A, B, C and D¹. The circumstances are as follows:

Patient A

11. On or about March, 2017, the Medical Board of California (Board) reviewed the prescribing practices of Respondent to deceased patient A. Patient A died of an overdose on June 17, 2012, as a result of Oxycodone intoxication. The Board learned Respondent had prescribed controlled medications, including Oxycodone², to Patient A leading up to her death. A Coroner's Report from the Lassen County Sheriff's Office indicated that Patient A's death was due to

¹ The patients in the Accusation will be referred to as patients A, B, C and D. The identification of the patients will be disclosed to the Respondent during discovery.

² Oxycodone, brand name OxyContin, is a Schedule II controlled substance pursuant to Health and Safety Code section 11055, subdivision (b), and a dangerous drug pursuant to Business and Professions Code section 4022.

1 oxycodone intoxication. Morbid obesity and hypertensive and atherosclerotic cardiovascular
2 disease were other significant conditions.

3 12. Patient A was a 54-year-old female at the time that she started treating with
4 Respondent. At that initial visit she was diagnosed as having hypertension, hypothyroidism,
5 diabetes mellitus type II, depression, morbid obesity and severe degenerative joint disease of the
6 knees. She was taking multiple medications including Metformin³, Synthroid⁴, Cozaar⁵,
7 Atenolol⁶, hydrochlorothiazide⁷, Halcion⁸, Paxil⁹, Celebrex¹⁰, alprazolam¹¹ 1 mg per day and
8 Norco¹² 10 mg 5 per day. Patient A was also on methadone¹³ which was not noted on the initial
9 visit of February 16, 2006¹⁴, but later was noted on her second visit of March 22, 2006. At that
10 second visit it was noted that Patient A was on "methadone tapering off".

11 13. On December 8, 2008, Respondent noted in Patient A's medical record that she had
12 completed a "rehabilitation program for prescription drug addiction." Respondent also noted,

13 ³ Metformin is used to treat high blood sugar levels that are caused by a type of diabetes
14 mellitus or sugar diabetes called type 2 diabetes.

15 ⁴ Synthroid (levothyroxine) treats hypothyroidism (low thyroid hormone) and different
16 types of goiters (enlarged thyroid gland).

17 ⁵ Cozaar (losartan) is used to treat high blood pressure (hypertension) and to help protect
18 the kidneys from damage due to diabetes

19 ⁶ Atenolol, is a medication of the beta blockers type, primarily used to treat high blood
20 pressure and angina.

21 ⁷ Hydrochlorothiazide is used to treat fluid retention (edema) that is caused by congestive
22 heart failure, severe liver disease (cirrhosis), kidney disease, or treatment with a steroid or
23 hormone medicine.

24 ⁸ Halcion is a fast-acting benzodiazepine commonly prescribed for acute insomnia.

25 ⁹ Paxil (paroxetine) is an antidepressant belonging to a group of drugs called selective
26 serotonin reuptake inhibitors (SSRIs). Paroxetine affects chemicals in the brain that may be
27 unbalanced in people with depression, anxiety, or other disorders

28 ¹⁰ Celebrex is a nonsteroidal anti-inflammatory drug used to treat pain or inflammation.

¹¹ Alprazolam is a benzodiazepine. Alprazolam affects chemicals in the brain that may be
unbalanced in people with anxiety. Alprazolam is used to treat anxiety disorders, panic disorders,
and anxiety caused by depression. Alprazolam is a Schedule IV controlled substance pursuant to
Health and Safety Code section 11057, subdivision (d), and a dangerous drug pursuant to
Business and Professions Code section 4022.

¹² Norco (acetaminophen and hydrocodone) is used to relieve moderate to severe pain.
Norco (hydrocodone) is a Schedule II controlled substance pursuant to Health and Safety Code
section 11055, subdivision (b), and a dangerous drug pursuant to Business and Professions Code
section 4022.

¹³ Methadone is a Schedule II controlled substance pursuant to Health and Safety Code
section 11055, subdivision (c), and a dangerous drug pursuant to Business and Professions Code
section 4022.

¹⁴ Conduct occurring more than seven (7) years from the filing date of this Accusation is
for informational purposes only and is not alleged as a basis for disciplinary action.

1 Patient A was seeing a psychiatrist, Dr. B. in Reno and a counselor Dr. R. in Susanville. At that
2 point the Patient A was only taking Tylenol for pain. Respondent did not list substance abuse as a
3 problem in his problem list.

4 14. On January 12, 2010, Patient A was "worked in early" for "increasing pain with cold,
5 damp weather". Patient A had been using ibuprofen with inadequate pain control. The medical
6 note states "she has had trouble in the past with minor tranquilizers in combination with opiates
7 but she states that her problems were actually more with the minor tranquilizers." The medical
8 note stated Patient A did tolerate Oxycodone reasonably well in the past. The medical note stated
9 Patient A's pain was in the shoulders, low back, hands and the big toes. It also stated, Patient A's
10 "knees are doing relatively well but she has had bilateral knee replacements." Respondent's
11 treatment plan indicated that he would start her back on opiates and "monitor her closely".
12 Respondent reminded Patient A that "since she had only a single kidney that she should avoid
13 nonsteroidal anti-inflammatory drugs as much as possible." Respondent gave her Tramadol 50
14 mg every 4 hours as needed for pain. Respondent also gave her Oxycodone 5/325 one every 6
15 hours as needed for pain not controlled by the Tramadol¹⁵. Respondent indicated he would be
16 checking laboratory studies.

17 15. On February 17, 2010, Respondent discontinued Patient A's Tramadol and placed her
18 on Oxycodone 5mg, two in the morning and two at night. No laboratory results were documented.

19 16. On March 19, 2010, no labs were documented and there was no discussion of the
20 opiate treatment in Respondent's medical note.

21 17. On September 21, 2010, no labs were documented but Respondent performed a back
22 examination, Patient A was started on Alprazolam once again without mention of the prior
23 problems she had with Alprazolam abuse previously noted in 2008 in Respondent's records. The
24 oxycodone was increased to 5 mg 1 or 2 every 6 hours.

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27 ¹⁵ Tramadol is a narcotic-like pain reliever. Tramadol is used to treat moderate to severe
28 pain.

1 18. On February 1, 2011, the patient was seen but there was no back or knee examination.
2 Patient A was given a prescription for 30 day's worth of alprazolam and OxyContin¹⁶.
3 Respondent also gave Patient A 90 days of the same medications via mail order pharmacy. She
4 was to return for re-evaluation in four months.

5 19. June 7, 2011, Respondent noted Patient A's pain was "controlled". There was no back
6 examination and no mention of the continuation of the pain medications. Respondent increased
7 Patient A's prescription for Alprazolam due to stress from a number of "family issues" mainly
8 related to her son.

9 20. On July 7, 2011, Respondent saw Patient A for follow up of spine pain and chronic
10 pain syndrome. Patient A was taking Oxycontin 5 milligrams to be ID. The Alprazolam was
11 decreased to 0.5 mg q6h.

12 21. On September 15, 2011, Respondent saw Patient A in follow-up for hospitalization
13 for dehydration and acute renal failure. Respondent indicated in his medical note that the review
14 of systems was positive for "back pain and joint pain". The musculoskeletal examination was
15 normal without pain. Patient A's psychiatric examination demonstrated appropriate mood and
16 affect. Respondent made a comment regarding the "history of chronic pain due to multiple
17 musculoskeletal problems". In Respondent's treatment plan he did not mention the chronic pain
18 issues or musculoskeletal condition. For the anxiety state Respondent indicated the patient was
19 slightly worse and that he would "change directions for one month." Respondent encouraged
20 restarting of counseling. Alprazolam and Oxycodone continued to be listed on the medication list.

21 22. November 9, 2011, Respondent treated Patient A for chronic conditions including
22 chronic pain. Respondent noted Patient A was reported to be functional on present analgesic
23 regimen without adverse effects or non-compliance or diversion. Respondent indicated he would
24 no longer give 30-day bridging prescriptions. Medications were listed multiple times (Alprazolam
25 X3 oxycodone X4). Respondent indicated Patient A was being weaned off of opiates by the
26 psychiatrist. Respondent indicated that Patient A's daughter was managing her regimen.

27 ¹⁶ Oxycodone, brand name OxyContin, is a Schedule II controlled substance pursuant to
28 Health and Safety Code section 11055, subdivision (b), and a dangerous drug pursuant to
Business and Professions Code section 4022.

1 23. On March 27, 2012, Respondent saw Patient A for follow up of chronic conditions.
2 Respondent noted that Patient A was being weaned off her benzodiazepines and she was being
3 followed by Dr. B. in Reno, and she admitted to overuse of benzodiazepines, which led to a
4 family intervention four weeks before. Respondent also noted that Patient A was being weaned
5 off her oxycodone by her psychiatrist and she admits to overuse of prescription opiates.

6 24. On June 17, 2012, Patient A died. The coroner's report findings stated that the death
7 of Patient A was due to oxycodone intoxication. Morbid obesity and hypertensive and
8 atherosclerotic cardiovascular disease were other significant conditions.

9 25. Respondent committed gross negligence in his care and treatment of Patient A, which
10 included, but are not limited to, the following:

11 (a) Respondent departed from the standard of care by failing to coordinate Patient
12 A's care with the psychiatrist or a pain specialist; and,

13 (b) Respondent departed from the standard of care by failing to closely monitor
14 Patient A with a known history of substance abuse with Alprazolam and oxycodone; and

15 (c) Respondent departed from the standard of care by failing to keep organized
16 accurate and legible medical records and his lacking of reference to his own medical records; and

17 (d) Respondent departed from the standard of care by trusting Patient A with 960.5
18 mg oxycodone in one month due to her known history of substance abuse; and

19 (e) Respondent departed from the standard of care by restarting the prescription of
20 Patient A's alprazolam without consulting a psychiatrist or reviewing the prior medical records
21 regarding the prior overuse of alprazolam.

22 26. On or around September 7, 2017, the MBC received an anonymous complaint against
23 Respondent. The complaint alleged Respondent prescribed controlled medications to patients who
24 were not taking them. It was also alleged that when a patient's urine drug screen showed that the
25 patient had not taken the prescribed medication, Respondent continued to prescribe medications
26 to that patient. CURES reports were obtained on Respondent's prescribing. In Respondent's care
27 and treatment of patients B, C, and D departures from the standard of care were identified as
28 follows:

1 Patient B

2 27. Patient B saw Respondent for the first time on April 5, 2012. Patient B was seen for
3 follow up with chronic problems which included tobacco use disorder, long term use of
4 anticoagulants, other aneurysm of unspecified site, peripheral vascular disease, chronic pain
5 syndrome, gastroesophageal reflux and insomnia. Respondent did not perform a complete history
6 and physical. Patient B's assessment for the chronic pain syndrome was from prior right femur
7 fracture with open reduction and internal fixation (ORIF)¹⁷ with intra-medullary rod years ago.
8 Patient B presented at the visit with a chronically draining open wound on the right hip also
9 chronic chest wall pain from prior sternotomy for vascular procedures. Respondent's medical
10 records indicated there was fair control with MS Contin and oxycodone. The specific exact
11 dosages were not listed. Respondent conducted an examination of patient B's chest which showed
12 multiple surgical scars over the anterior chest wall and the midline sternotomy scar. A
13 musculoskeletal examination showed a deep open wound at the lateral aspect of right hip with no
14 significant drainage, surrounding erythema, or induration. Respondent's conclusion was patient B
15 suffered from chronic pain which was multifactorial that left patient B disabled for most physical
16 work. Respondent noted patient B was to continue with the present analgesic regimen and follow
17 up in six weeks. Respondent also prescribed Neurontin¹⁸ and Protonix¹⁹. Patient B was followed
18 every two to four months with minimal physical examinations of his hips or chest.

19 28. On March 20, 2013 patient B was on morphine sulfate 400 mg per day and
20 oxycodone 240 mg per day. Patient B was reportedly functional on the analgesic regimen without
21 adverse effects or evidence of non-compliance or diversion.

22 29. On October 16, 2013, patient B was seen by the Respondent for chronic conditions
23 including peripheral vascular disease, chronic pain syndrome and right hip pain. Patient B
24 indicated that his medications had been stolen when he was assaulted. Although patient B

25
26 ¹⁷ ORIF is the abbreviation for a procedure called open reduction internal fixation which
is meant to repair compound bone fractures or severe breaks.

27 ¹⁸ Neurontin is a medication used to help manage certain epileptic seizures and relieve
pain for some conditions, such as shingles.

28 ¹⁹ Protonix (pantoprazole sodium) is a proton pump inhibitor (PPI) used to treat
gastroesophageal reflux disease and a history of erosive esophagitis.

1 complained of back pain, Respondent did not conduct a back examination. Respondent's medical
2 record stated that patient B's chronic pain syndrome was worse due to his vascular compromise
3 and the MS Contin was increased to 130 mg four times a day. Patient B was told to stop using
4 methamphetamine. Respondent did not make any changes to the opiates patient B was prescribed.

5 30. On February 12, 2014, patient B was seen by the Respondent for chronic conditions
6 and for anxiety. Respondent did not perform a physical examination. Patient B still had chronic
7 chest pain and right hip pain. Patient B reported that he had increased anxiety due to the decrease
8 in the pain medication. Respondent prescribed Diazepam for patient B's chest pain and shortness
9 of breath causing anxiety.

10 31. On October 9, 2014, patient B was seen by the Respondent and was going to slowly
11 taper his oxycodone down to six or seven per day as tolerated. Patient B's morphine intake was to
12 be reduced to 160 mg twice a day. There was no further reduction in patient B's medication until
13 April 17, 2015, when patient B was on 590 morphine milligram equivalents per day. Respondent
14 performed a minimal physical examination. Respondent noted patient B had tenderness in his
15 lower back. Respondent's plan was to decrease patient B's use of opioids by ten percent.

16 32. On August 7, 2015, patient B was seen by the Respondent with a notation that his
17 medication had been reduced from 560 to 530 morphine milligrams equivalents per day.
18 Respondent did not conduct a back or hip examination. Respondent noted patient B's tapering of
19 medication was to continue.

20 33. On January 26, 2016, patient B was seen by the Respondent for chronic pain
21 syndrome. Patient B was seen after a long absence and there was no explanation for the long
22 absence noted by Respondent. Patient B's drug screen that day showed the presence of
23 methamphetamine. Patient B stated that his medications had been stolen. Patient B was on 115
24 mg morphine sulfate extended-release per day plus oxycodone 30 mg 6 per day.

25 34. On March 31, 2016, patient B was seen by the Respondent for follow-up of chronic
26 pain syndrome with chest pain and right arm pain. Patient B was taking morphine sulfate
27 extended-release 100 mg twice a day and oxycodone 30 mg six times per day. Patient B's urine
28 drug screens in February 2016 showed methamphetamine and also opiates that were not

1 prescribed by Respondent. Respondent noted that patient B continued to be non-compliant with
2 his prescriptions. Respondent did not change Patient B's prescription.

3 35. On June 29, 2017, patient B was seen by the Respondent for a chronic pain syndrome.
4 Respondent's physical examination showed that when the patient elevated his arms above the
5 shoulders his hands turned pale and caused more pain after five seconds. Respondent's
6 musculoskeletal examination showed both hands were warm although the right arm radial and
7 ulnar pulses could not be felt. Respondent's back examination showed mild tenderness to
8 palpation over the lower back and upper back. Respondent's assessment was patient B continued
9 to have significant amount of pain for multiple sites including his arms and hips as well as his
10 back, and his arm pain might be vascular in etiology. Patient B's hip and spine pain were felt to
11 be most likely due to multiple traumas over many years. Respondent did not order imaging of
12 patient B's hips. Respondent reviewed a consultation note from a pain management specialist in
13 which a tapering program was recommended. Respondent continued Morphine at 45 mg
14 extended-release twice a day and Oxycodone was to be decreased from 15 mg four times a day to
15 10 mg 4 times a day. Patient B was to be rechecked again in 3 months. Patient B was to continue
16 diazepam 5 mg twice a day.

17 36. On July 3, 2017, patient B's urine drug screen again showed a heroin metabolite. The
18 last opiate prescription from Respondent to patient B was prescribed in September of 2017. There
19 was no specific chart note addressing the finding of heroin in the drug screens.

20 37. Respondent committed gross negligence in his care and treatment of patient B, which
21 included, but are not limited to, the following:

22 (a) Paragraphs 26 through 35, above, are hereby incorporated by reference as if
23 fully set forth herein; and,

24 (b) Respondent departed from the standard of care by failing to document prior
25 treatment with opiates, failing to contact the patient's prior physician regarding this patient, and
26 failing to note the red flags in the patient;

1 (c) Respondent departed from the standard of care by failing to react to the
2 methamphetamine use with a change in the treatment plan at least to include urine drug screens
3 on every visit;

4 (d) Respondent departed from the standard of care by delaying over two years in
5 obliging the patient to see a pain management specialist; and

6 (e) Respondent departed from the standard of care by failing to examine the
7 patient's pain generators.

8 Patient C

9 38. Patient C was a 56 year-old female who saw Respondent on October 3, 2013, with
10 diagnoses of chronic pain syndrome due to previously established degenerative disc disease and
11 degenerative joint disease of the lumbar spine as well as chronic left knee pain. In Respondent's
12 medical record there was no documentation of a review of the prior imaging studies to support
13 these diagnoses. Respondent did not review patient C's prior treatments for the chronic pain other
14 than opiates. Respondent conducted a physical examination of the lumbar spine and the left knee
15 but no range of motion was recorded for either of those body parts. Patient C also had hepatitis C,
16 hormone replacement therapy, hyperlipidemia, dermatitis and cardiac arrhythmia. Patient C was
17 on high dose opiate therapy approximately 600 MME (morphine milligram equivalents) per day.

18 39. On July 2, 2014, patient C was seen by the Respondent. In the medical records
19 Respondent indicated that based on patient C's pain questionnaire, patient history, review of
20 systems and physical examination the patient was functional on the present analgesic regimen
21 without adverse effects. Respondent reviewed patient C's CURES report. Respondent indicated
22 that patient C would undergo regular monitoring to evaluate the success of these interventions
23 and to avoid adverse outcomes. Respondent also mentioned that attempts would be made to
24 reduce medication when appropriate. There was no mention of periodic drug screening in patient
25 C's medical record.

26 40. By August 3, 2014, patient C's medication was at 1870 MME.

27 41. On May 8, 2017, Respondent initiated a drug screening on patient C.

28 42. Eventually by February 12, 2018, patient C's medication was decreased to 645 MME.

1 43. Respondent committed gross negligence in his care and treatment of patient C, which
2 included, but are not limited to, the following:

3 (a) . Paragraphs 38 through 42, above, are hereby incorporated by reference as if
4 fully set forth herein; and,

5 (a) Respondent departed from the standard of care by failing to consult with an
6 orthopedic specialist or pain management specialist regarding the patient's spinal pain and left
7 knee pain requiring high doses of opiates.

8 Patient D

9 44. Patient D initially saw Respondent on October 20, 2013, with a diagnosis of low
10 back pain from a prior failed back surgery. Patient D was a patient with high opiate therapy due to
11 the back pain. Patient D also had significant chronic obstructive pulmonary disease (COPD).
12 Patient D had peripheral artery disease, atherosclerosis cardiovascular disease and a history of
13 radiation exposure. Respondent's plan was to continue high-dose opiate therapy and to recheck in
14 two months to review and discuss his opiate therapy contract at that time. In Respondent's
15 medical records there was no discussion of patient D's COPD and respiratory compromise which
16 could be worsened by high-dose opiate therapy. Patient D's prior treatment with opiates was not
17 clearly specified. In Respondent's medical records there was no discussion of the previous
18 imaging studies performed on patient D. Respondent did not obtain a pulmonary consultation at
19 the onset of patient D's treatment with high dose opiates. Respondent did not obtain a pain
20 management or orthopedic consultation for patient D.

21 45. By April 1, 2014, patient D was taking 2670 MME per day.

22 46. By April 24, 2018, patient D was taking 547.5 MME per day.

23 47. Respondent committed gross negligence in his care and treatment of patient D, which
24 included, but are not limited to, the following:

25 (a) Paragraphs 44 through 46, above, are hereby incorporated by reference as if
26 fully set forth herein; and,
27
28

1 (b) Respondent departed from the standard of care by failing to initiate opiate
2 reduction in a more timely fashion and also following this patient with high dosages of opiates at
3 four months intervals; and

4 (c) Respondent departed from the standard of care by failing to obtain a pain
5 management, orthopedic, or pulmonary medicine consultation for the patient.

6 48. Respondent's conduct, as described above, constitutes gross negligence in the
7 practice of medicine in violation of section 2234(b) of the Code and thereby provides cause to
8 discipline Respondent's license.

9 **SECOND CAUSE FOR DISCIPLINE**

10 **(Repeated Acts of Negligence)**

11 49. Respondent is subject to disciplinary action under sections 2227 and 2234, as defined
12 by section 2234, subdivision (c), of the Code, in that he committed repeated negligent acts in his
13 care and treatment of Patients A, B, C, and D.

14 **Patient A**

15 50 Paragraphs 11 through 25, as more particularly alleged above, are hereby
16 incorporated by reference and realleged as if fully set forth herein.

17 51. Respondent committed acts of repeated negligence in his care and treatment of patient
18 A, which includes, but are not limited to, the following:

19 (a) Respondent departed from the standard of care by failing to conduct a complete
20 initial medical history and physical; and

21 (b) Respondent departed from the standard of care by failing to discuss the risks
22 and benefits of treatment of pain with opiates as demonstrated by the lack of documentation of
23 informed consent; and

24 (c) Respondent departed from the standard of care by poorly monitoring and record
25 keeping to account for the actual amounts of Alprazolam the patient was taking.

26 **Patient B**

27 52. Paragraphs 27 through 37, as more particularly alleged above, are hereby
28 incorporated by reference and realleged as if fully set forth herein.

1 53. Respondent committed acts of repeated negligence in his care and treatment of patient
2 B, which included, but are not limited to, the following:

3 (a) Respondent departed from the standard of care by failing to consider other
4 treatments such as physical therapy or stress reduction to treat this patient's chronic pain.

5 Patient C

6 54. Paragraphs 38 through 43, as more particularly alleged above, are hereby
7 incorporated by reference and realleged as if fully set forth herein.

8 55. Respondent committed acts of repeated negligence in his care and treatment of patient
9 C, which included, but are not limited to, the following:

10 (a) Respondent departed from the standard of care by failing to document prior
11 treatments and prior imaging studies in the patient;

12 (b) Respondent departed from the standard of care by failing to perform an
13 adequate physical examination of patient C's lumbar spine and left knee;

14 (c) Respondent departed from the standard of care by failing to initiate drug
15 screening on the patient until May 8, 2017; and

16 (d) Respondent departed from the standard of care by failing to document a more,
17 complete examination of the patient's back and left knee.

18 Patient D

19 56. Paragraphs 44 through 47, as more particularly alleged above, are hereby
20 incorporated by reference and realleged as if fully set forth herein.

21 57. Respondent committed acts of repeated negligence in his care and treatment of patient
22 D, which included, but are not limited to, the following:

23 (a) Respondent departed from the standard of care by failing to document the prior
24 treatments and prior imaging studies from the patient.

25 58. Respondent's conduct, as described above, constitutes repeated acts of negligence in
26 the practice of medicine in violation of section 2234(c) of the Code and thereby provides cause to
27 discipline Respondent's license.

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1 **THIRD CAUSE FOR DISCIPLINE**

2 **(Excessive Prescribing)**

3 59. Respondent is subject to disciplinary action under section 725 of the Code, in that
4 respondent excessively overprescribed in his care and treatment of patients B, C and D as more
5 particularly alleged in paragraphs 28 through 48 above, which are hereby incorporated by
6 reference and realleged as if fully set forth herein.

7 **FOURTH CAUSE FOR DISCIPLINE**

8 **(Furnishing Drugs to an Addict)**

9 60. Respondent is subject to disciplinary action under sections 2227 and 2234, as defined
10 by section 2241, of the Code, in that respondent prescribed controlled substances and dangerous
11 drugs to patient A, whom he knew or reasonably should have known was using or would be using
12 the controlled substances and dangerous drugs for a nonmedical purpose, as more particularly
13 alleged in paragraphs 11 through 24 above, which are hereby incorporated by reference and
14 realleged as if fully set forth herein.

15 **FIFTH CAUSE FOR DISCIPLINE**

16 **(Prescribing Controlled Substances Without Prior Appropriate Examination)**

17 61. Respondent is subject to disciplinary action under sections 2227 and 2234, as defined
18 by section 2242, of the Code, in that respondent prescribed controlled substances without an
19 appropriate prior examination and a medical indication in his care and treatment of patient A, as
20 more particularly alleged in paragraphs 11 through 24 above, which are hereby incorporated by
21 reference and realleged as if fully set forth herein.

22 **SIXTH CAUSE FOR DISCIPLINE**

23 **(Failure to Maintain Complete and Accurate Medical Records)**

24 62. Respondent is subject to disciplinary action under sections 2227 and 2234, as defined
25 by section 2266, of the Code, in that respondent failed to maintain adequate and accurate records
26 regarding his care and treatment of patient A, as more particularly alleged in paragraphs 11
27 through 24 above, which are hereby incorporated by reference and realleged as if fully set forth
28 herein.

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


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

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