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

In the Matter of the Accusation Against Victoria Ann Kumar, M.D. Physician's and Surgeon's License No. A60124 Respondent.	Case No. 800-2016-028972

DECISION

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

This Decision shall become effective at 5:00 p.m. on August 27, 2020.

IT IS SO ORDERED: July 28, 2020.

MEDICAL BOARD OF CALIFORNIA

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

XAVIER BECERRA
Attorney General of California
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BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against: VICTORIA ANN KUMAR, M.D. 4700 Sunset Boulevard Los Angeles, California 90027 Physician's and Surgeon's Certificate No. A 60124, Respondent.	Case No. 800-2016-028972 OAH No. 2019120942 **STIPULATED SETTLEMENT AND DISCIPLINARY ORDER**

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

PARTIES

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

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

3. On or about May 21, 1996, the Board issued Physician's and Surgeon's Certificate No. A 60124 to Victoria Ann Kumar, M.D. ("Respondent"). That license was in full force and effect at all times relevant to the charges brought in Accusation No. 800-2016-028972, and will expire on October 31, 2021, unless renewed.

JURISDICTION

Accusation No. 800-2016-028972 was filed before the Board, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on December 10, 2019. Respondent timely filed her Notice of Defense contesting the Accusation.

4. A copy of Accusation No. 800-2016-028972 is attached as Exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 800-2016-028972. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

6. Respondent is fully aware of her legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to confront and cross-examine the witnesses against her; the right to present evidence and to testify on her 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.

CULPABILITY

8. Respondent does not contest that, at an administrative hearing, Complainant could establish a prima facie case with respect to the charges and allegations contained in Accusation No. 800-2016-028972 and that she has thereby subjected her license to disciplinary action.

9. Respondent agrees that if she ever petitions for early termination or modification of probation, or if the Board ever petitions for revocation of probation, all of the charges and allegations contained in Accusation No. 800-2016-028972 shall be deemed true, correct and fully admitted by Respondent for purposes of that proceeding or any other licensing proceeding involving Respondent in the State of California.

10. Respondent agrees that her Physician's and Surgeon's Certificate is subject to discipline and she agrees to be bound by the Board's probationary terms as set forth in the Disciplinary Order below.

RESERVATION

11. The admissions made by Respondent herein are only for the purposes of this proceeding, or any other proceedings in which the Medical Board of California or other professional licensing agency is involved, and shall not be admissible in any other criminal or civil proceeding.

CONTINGENCY

12. This stipulation shall be subject to approval by the Medical Board of California. Respondent understands and agrees that counsel for Complainant and the staff of the Medical Board of California may communicate directly with the Board regarding this stipulation and settlement, without notice to or participation by Respondent or her counsel. By signing the stipulation, Respondent understands and agrees that she may not withdraw her agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

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

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

DISCIPLINARY ORDER

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

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

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

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

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

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

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

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

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

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

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

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

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

A prescribing practices 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.

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

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

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

A professionalism program 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 program would have been approved by the Board or its designee had the program been taken after the effective date of this Decision.

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

8. PSYCHOTHERAPY. Within sixty (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 with 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.

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

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

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

treatment that the Board or its designee deems necessary.

If, prior to the completion of probation, Respondent is found to be physically incapable of resuming 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 physically capable of resuming the practice of medicine without restrictions. Respondent shall pay the cost of the medical evaluation(s) and treatment.

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

If Respondent fails to establish a practice with another physician or secure employment in an appropriate practice setting within sixty (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 not resume practice until an appropriate practice setting is established.

If, during the course of the probation, Respondent's practice setting changes and Respondent is no longer practicing in a setting in compliance with this Decision, Respondent shall notify the Board or its designee within five (5) calendar days of the practice setting change. If Respondent fails to establish a practice with another physician or secure employment in an appropriate practice setting within sixty (60) calendar days of the practice setting change, 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 not resume practice until an appropriate practice setting is established.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) It maintains testing sites located throughout California.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Respondent shall pay all worksite monitoring costs.

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

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

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

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

If the worksite monitor resigns or is no longer available, Respondent shall, within five (5) 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 fifteen (15) calendar days. If Respondent fails to obtain approval of a replacement monitor within sixty (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.

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

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

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

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

(2) Increase the frequency of biological fluid testing.

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

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

(1) Issue a cease-practice order;

(2) Order practice limitations;

(3) Order or increase supervision of Respondent;

(4) Order increased documentation;

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

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

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

C. Nothing in this Decision shall be considered a limitation on the Board's authority to revoke Respondent's probation if she has violated any term or condition 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.

16. 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 fifteen (15) calendar days.

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

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

18. 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.

19. 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 ten (10) calendar days after the end of the preceding quarter.

20. 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(b).

Place of Practice

Respondent shall not engage in the practice of medicine in Respondent's or patient's place of residence, 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 thirty (30) calendar days prior to the dates of departure and return.

21. 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.

22. NON-PRACTICE WHILE ON PROBATION. Respondent shall notify the Board or its designee in writing within fifteen (15) calendar days of any periods of non-practice lasting more than 30 calendar days and within fifteen (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 forty (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 eighteen (18) calendar months, Respondent shall successfully complete the Federation of State Medical Boards' 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; Abstain from the Use of Alcohol and/or Controlled Substances; and Biological Fluid Testing.

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

24. 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.

25. 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.

26. 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.

ACCEPTANCE

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

DATED: 4/24/20 Victoria A. Kumar MD

VICTORIA ANN KUMAR, M.D.
Respondent

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

DATED: _____

KEVIN D. CAULEY
Attorney for Respondent

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.

26. 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.

ACCEPTANCE

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

DATED: _____

VICTORIA ANN KUMAR, M.D.
Respondent

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

DATED: 4-24-20

Kevin Cauley

KEVIN D. CAULEY
Attorney for Respondent

ENDORSEMENT

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

DATED: April 24, 2020

Respectfully submitted,

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

REBECCA L. SMITH
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 800-2016-028972

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO Dec 10 2019
BY D. Richards ANALYST

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

In the Matter of the Accusation Against: VICTORIA ANN KUMAR, M.D. 4700 Sunset Blvd. Los Angeles, California 90027 Physician's and Surgeon's Certificate No. A 60124, Respondent.	Case No. 800-2016-028972 **A C C U S A T I O N**

PARTIES

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

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

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JURISDICTION

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

4. Section 2004 of the Code states:

"The board shall have the responsibility for the following:

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

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

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

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

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

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

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

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

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

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.

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

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

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

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

"(d) Incompetence.

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

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

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

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

7. Section 2021 of the Code states:

"...

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

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

"..."

8. Section 2261 of the Code states:

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

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DRUG LAWS

9. Section 2238 of the Code states:

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

10. Section 2239 of the Code states:

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

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

11. Section 4324 of the Code states:

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

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

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

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

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

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

13. Health and Safety Code section 11157 states:

"No person shall issue a prescription that is false or fictitious in any respect."

14. Health and Safety Code section 11170 states:

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

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

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

16. Health and Safety Code section 11175 states:

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

17. Health and Safety Code section 11368 states:

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

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

DRUGS INVOLVED

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

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

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

FACTUAL SUMMARY

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

22. Patient 1[1] is a registered nurse with Kaiser Permanente in Sacramento.

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

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

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

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

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

26. Patient 1 is allergic to acetaminophen with codeine.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

STANDARD OF CARE

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

FIRST CAUSE FOR DISCIPLINE

(Gross Negligence)

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

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

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

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

SECOND CAUSE FOR DISCIPLINE

(Repeated Negligent Acts)

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

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

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

79. Respondent's acts and/or omissions set forth in paragraphs 21 through 78 above, whether proven individually, jointly, or in any combination thereof, constitute repeated acts of negligence in violation of section 2234, subdivision (c), of the Code. Therefore, cause for discipline exists.

THIRD CAUSE FOR DISCIPLINE

(Dishonest Acts)

80. By reason of the facts set forth above in paragraphs 21 through 70, Respondent's license is subject to disciplinary action pursuant to section 2234, subdivision (e), of the Code for dishonest acts.

81. Respondent's acts and/or omissions set forth in paragraphs 21 through 70 above, whether proven individually, jointly, or in any combination thereof, constitute dishonest acts in violation of section 2234, subdivision (e), of the Code. Therefore, cause for discipline exists.

FOURTH CAUSE FOR DISCIPLINE

(Violation of Drug Statutes)

82. By reason of the facts set forth above in paragraphs 21 through 70, Respondent's license is subject to disciplinary action pursuant to section 2238 of the Code for violating drug statutes.

83. Respondent's acts and/or omissions set forth in paragraphs 21 through 70 above, whether proven individually, jointly, or in any combination thereof, constitute drug statute violations in violation of section 2238. Therefore, cause for discipline exists.

FIFTH CAUSE FOR DISCIPLINE

(Misuse of Controlled Substances)

84. By reason of the facts set forth above in paragraphs 21 through 70, Respondent's license is subject to disciplinary action pursuant to section 2239, subdivision (a), of the Code for the misuse of controlled substances.

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

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

SIXTH CAUSE FOR DISCIPLINE

(Illegitimate Prescriptions)

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

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

SEVENTH CAUSE FOR DISCIPLINE

(False/Fictitious Prescriptions)

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

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

EIGHTH CAUSE FOR DISCIPLINE

(Obtaining Prescriptions by Fraud/Deceit)

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

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

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

NINTH CAUSE FOR DISCIPLINE

(Making or Signing False Documents)

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

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

TENTH CAUSE FOR DISCIPLINE

(Forging Prescriptions for Self-Use)

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

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

ELEVENTH CAUSE FOR DISCIPLINE

(Unprofessional Conduct)

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

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

PRAYER

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

1. Revoking or suspending Physician's and Surgeon's Certificate Number A 60124, issued to Victoria Ann Kumar, M.D.;

2. Revoking, suspending or denying approval of Victoria Ann Kumar, M.D.'s authority to supervise physician assistants and advanced practice nurses;

3. Ordering Victoria Ann Kumar, M.D., if placed on probation, to pay the Board the costs of probation monitoring; and

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

DATED: December 10, 2019

CHRISTINE J. LALLY
Interim Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant

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