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

In the Matter of the Accusation Against: Henry Antonio Braa, M.D. Physician's & Surgeon's Certificate No A 55606 Respondent.	Case No. 800-2017-038160

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 February 11, 2021.

IT IS SO ORDERED January 12, 2021.

MEDICAL BOARD OF CALIFORNIA

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

XAVIER BECERRA
Attorney General of California
JANE ZACK SIMON
Supervising Deputy Attorney General
LAWRENCE MERCER
Deputy Attorney General
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455 Golden Gate Avenue, Suite 11000
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Attorneys for Complainant

BEFORE THE

MEDICAL BOARD OF CALIFORNIA

STATE OF CALIFORNIA

In the Matter of the Accusation Against: **HENRY ANTONIO BRAA, M.D.,** 1150 VETERANS BLVD REDWOOD CITY CA 94063 Physician's and Surgeon's Certificate No. A55606 Respondent.	Case No. 800-2017-038160 **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. William Prasifka (Complainant) is the Executive Director of the Medical Board of California (Board). He brought this action solely in his official capacity and is represented in this matter by Xavier Becerra, Attorney General of the State of California, by Lawrence Mercer, Deputy Attorney General.

2. Respondent Henry Antonio Braa, M.D. (Respondent) is represented in this proceeding by his attorneys Thomas E. Still and Hinshaw, Marsh, Still & Hinshaw, LLP, 12901 Saratoga Avenue, Saratoga, CA 95070.

3. On or about February 7, 1996, the Medical Board issued Physician's and Surgeon's Certificate No. A 55606 to Henry Antonio Braa, M.D. (Respondent). The Physician's and

Surgeon's Certificate was in full force and effect at all times relevant to the charges brought herein and will expire on July 31, 2021, unless renewed.

JURISDICTION

4. Accusation No. 800-2017-038160 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 October 2, 2019. Respondent timely filed his Notice of Defense contesting the Accusation. A copy of Accusation No. 800-2017-038160 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. 800-2017-038160. 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 his 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 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.

CULPABILITY

8. Respondent agrees that, at an administrative hearing, Complainant could establish a *prima facie* case with respect to the charges and allegations contained in Accusation No. 800-2017-038160 and that he has thereby subjected his Physician's and Surgeon's Certificate to disciplinary action. Respondent further agrees to be bound by the Board's imposition of discipline as set forth in the Disciplinary Order below.

CONTINGENCY

9. 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 his counsel. By signing the stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated 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.

10. 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.

11. 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

1. **IT IS HEREBY ORDERED:** that Physician's and Surgeon's Certificate No. A55606 issued to Respondent Henry Antonio Braa, M.D., shall be and is hereby publicly reprimanded pursuant to California Business and Professions Code § 2227(a)(4). This Public Reprimand, which is issued in connection with Respondent's actions as set forth in Accusation No. 800-2017-038160, is as follows:

> You were the physician for Patient 1 in 2011-2013 and Patient 2 in 2013-2015. Patient 1 presented with multiple signs of substance abuse/dependence, including alcohol use/dependence while taking opioid medications, as well as drug seeking behaviors. Patient 2 also demonstrated drug misuse and drug seeking behaviors. While your patient care fulfilled the standard of care in many respects, you did not

establish clear limits and/or refuse to prescribe in the circumstance of suspected drug misuse and did not encourage and/or refer the patients for chemical dependency treatment. Consequently, the Board issues this public reprimand.

2. PRESCRIBING PRACTICES COURSE. Within 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 15 calendar days after successfully completing the course, or not later than 15 calendar days after the effective date of the Decision, whichever is later.

Respondent understands and agrees that failure to successfully complete the course in the stated time may constitute grounds for further discipline.

ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Thomas E. Still. 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: 12-2-2020

HENRY ANTONIO BRAA, M.D.
Respondent

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

HINSHAW, MARSH, STILL & HINSHAW, LLP

DATED: _____

THOMAS E. STILL
Attorneys for Respondent

ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Thomas E. Still. 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: _____

HENRY ANTONIO BRAA, M.D.
Respondent

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

HINSHAW, MARSH, STILL & HINSHAW, LLP

DATED: 12-2-2020

THOMAS E. STILL
Attorneys for Respondent

ENDORSEMENT

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

DATED: December 4, 2020

Respectfully submitted,

XAVIER BECERRA
Attorney General of California
JANE ZACK SIMON
Supervising Deputy Attorney General

LAWRENCE MERCER
Deputy Attorney General
Attorneys for Complainant

Exhibit A

Accusation No. 800-2017-038160

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42447420.docx

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FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO Oct 2 20 19
BY D. Richards ANALYST

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

In the Matter of the Accusation Against:	Case No. 800-2017-038160
Henry Antonio Braa, M.D. 1150 Veterans Blvd Redwood City, CA 94063 **Physician's and Surgeon's Certificate No. A 55606,** Respondent.	**ACCUSATION**

PARTIES

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

2. On or about February 7, 1996, the Medical Board issued Physician's and Surgeon's Certificate No. A 55606 to Henry Antonio Braa, M.D. (Respondent). The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought herein and will expire on July 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 2227 of the Code provides that a licensee who is found guilty under the Medical Practice Act may have his or her license revoked, suspended for a period not to exceed one year, placed on probation and required to pay the costs of probation monitoring, or such other action taken in relation to discipline as the Board deems proper.

5. Section 2234 of the Code, states, in relevant part:

> The board shall take action against any licensee who is charged with unprofessional conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not limited to, the following:
>
> "...."
>
> (c) Repeated negligent acts. To be repeated, there must be two or more negligent acts or omissions. An initial negligent act or omission followed by a separate and distinct departure from the applicable standard of care shall constitute repeated negligent acts.
>
> (1) An initial negligent diagnosis followed by an act or omission medically appropriate for that negligent diagnosis of the patient shall constitute a single negligent act.
>
> (2) When the standard of care requires a change in the diagnosis, act, or omission that constitutes the negligent act described in paragraph (1), including, but not limited to, a reevaluation of the diagnosis or a change in treatment, and the licensee's conduct departs from the applicable standard of care, each departure constitutes a separate and distinct breach of the standard of care."
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> "...."

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FIRST CAUSE FOR DISCIPLINE

(Unprofessional Conduct: Repeated Negligent Acts

Based on the Care Provided to Patient 1)[1]

6. Respondent Henry Antonio Braa, M.D. is subject to disciplinary action under section 2234 [unprofessional conduct] and/or 2234 (c) [repeated negligent acts] based on the care he provided to Patient 1. The circumstances are as follows:

7. Respondent is a primary care provider at Kaiser Permanente (Kaiser) and was at all times related to his care of Patient 1 and 2.

8. Patient 1, a then 48-year-old male, began seeing Respondent in 2011 until the patient's death on August 15, 2013. Patient 1 had multiple chronic illnesses, including, but not limited to: anal fistulas (that had required multiple surgeries), diabetes, diabetic peripheral neuropathy, chronic pancreatitis (dating back to 2009), insomnia, anxiety, optic neuritis, and drug seeking behavior and alcohol dependence (both dating back to 2010). Patient 1 also smoked cigarettes. In 2010, Patient 1 completed an opioid medication agreement with Kaiser. The patient's drug and alcohol dependence were documented in his medical record before Respondent began treating him.

9. According to the Department of Justice Controlled Substance Utilization Review and Evaluation System (CURES),[2] Respondent began prescribing controlled substances to Patient 1 on January 25, 2011. Respondent prescribed the following medications: 4 milligram (mg) hydromorphone[3] (60 pills[#]) and 5 mg methadone[4] (100#)[5].[6] Respondent mainly saw Patient 1

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[1] In order to protect the patient's privacy, their names will not be used and will only be numerically identified. Respondent will learn the names of the patients during discovery.

[2] The Controlled Substance Utilization Review and Evaluation System (CURES) is a database of Schedule II, III and IV controlled substance prescription dispensed in California serving the public health, regulatory oversight agencies, and law enforcement.

[3] Hydromorphone, also known by the trade name Dilaudid, is an opioid analgesic. It is a dangerous drug as defined in section 4022 and a Schedule II controlled substance and narcotic as defined in section 11055 of the Health and Safety Code. Hydromorphone is four times as potent as morphine and can produce drug dependence. It has a central nervous system depressant effect.

[4] Methadone is an opioid medication and is used as a pain reliever and as part of drug addiction detoxification and maintenance programs. It is a dangerous drug as defined in Business and Professions Code section 4022 and a Schedule II controlled substance and narcotic as defined in section 11055 of the Health and Safety Code.

[5] Within one month of Respondent's first prescription of methadone, he increased the

(continued...)

for his complaints of chronic anal pain and diabetes control. On several occasions, Respondent also prescribed 5 mg Ambien[7] (60#) and 0.25 mg alprazolam[8] (60#).

10. The majority of interactions between Respondent and Patient 1 were via the Kaiser email system or telephone appointments. Between January 2012 to August 2013, Respondent only had two face-to-face appointments with Patient 1.

11. By March of 2012, Respondent increased Patient 1's Percocet[9] prescription from 60 pills to 90 pills per month.[10] The patient also reported that the methadone was no longer working and requested the addition of a 50 microgram (mcg) fentanyl patch[11] and a trial of morphine.[12] Respondent prescribed 15 mg of morphine (60#) as a trial, but after a few weeks, the patient claimed his pain was not controlled and requested hydromorphone, Percocet, and fentanyl.

12. On or about April 9, 2012, Patient 1 went to the Kaiser Emergency Department (KED) with complaints regarding draining of an anal fistula. The patient reported that he needed

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(...continued)
quantity from 100 to 200 pills.

[6] During Respondent's interview with a Health Quality Unit Investigator on February 28, 2019, Respondent indicated that Patient 1 was already on these doses of hydromorphone and methadone from previous physicians.

[7] Ambien, a trade name for zolpidem tartrate, is indicated for the short-term treatment of insomnia characterized by difficulties with sleep initiation. Dosage adjustment may be necessary when zolpidem tartrate is combined with other central nervous system depressant drugs because of the potentially additive effects. It is a dangerous drug as defined in section 4022 and a Schedule IV controlled substance as defined in Health and Safety Code section 11057.

[8] Alprazolam, also known by the trade name Xanax, is a benzodiazepine used for the management of anxiety disorders for the short-term relief of symptoms. It is a dangerous drug as defined in section 4022 and a Schedule IV controlled substance as defined in Health and Safety Code section 11057. It is a central nervous system depressant.

[9] Percocet is the trade name for oxycodone with acetaminophen, which is a semisynthetic narcotic analgesic with multiple actions qualitatively similar to those of morphine. It is a dangerous drug as defined in section 4022 and is a Schedule II controlled substance as defined by Health and Safety Code section 11055(b)(1). Oxycodone can produce drug dependence of the morphine type and, therefore, has the potential for abuse.

[10] Respondent began prescribing Percocet on February 6, 2012.

[11] The fentanyl patch, also known by the trade name Duragesic, is a transdermal system containing fentanyl, an opioid analgesic used to treat severe pain. It is a central nervous system depressant. It is a dangerous drug as defined in section 4022 and a Schedule II controlled substance as defined in section 11055 of the Health and Safety Code.

[12] Morphine sulfate is a dangerous drug as defined in section 4022, a Schedule II controlled substance and narcotic as defined by section 11055, subdivision (b)(1) of the Health and Safety Code. It is used in patients who require a potent opioid analgesic for relief of moderate to severe pain. Morphine can produce drug dependence and has a potential for being abused. Tolerance and psychological and physical dependence may develop upon repeated administration.

intravenous controlled substances because he was out of hydromorphone and "I don't want to drink vodka to deal with the pain." The medical record from the KED reports that Patient 1 was "smiling, laughing, joking in NAD [no apparent distress]." The physician did not find any evidence of an anal fistula or open abscess. The physician believed Patient 1 showed signs of narcotic dependence and drug-seeking behavior so did not provide IV medications. The physician offered to provide Patient 1 with non-narcotic pain relief but Patient 1 refused and checked himself out against medical advice.

13. On or about May 10, 2012, Respondent referred Patient 1 to the Chronic Pain Program (CPP). This was Respondent's first referral of Patient 1 to the program, but the third referral made on the patient's behalf. The CPP rejected Patient 1 from the program because his diabetes was not controlled which might be aggravating his pain. CPP would accept Patient 1 into the program only if he was able to get his diabetes under control.

14. Over the next seven months, Respondent increased Patient 1's fentanyl patch from 75 mcg to 100 mcg. During this same period, Patient 1 regularly requested early refills of all of his medications for various excuses (i.e. travel for work, lost, or stolen). Respondent granted the refill requests every time; however, it is almost impossible to determine how much the patient was getting at any one time because the quantities were different for all the prescriptions. The patient also reported overusing the hydromorphone.[13]

15. On or about January 8, 2013, Patient 1 went to the KED for abdominal pain. He was found to have a liver mass and admitted to the ICU. The discharging physician wrote, "Etiology could be sec [secondary] to IV drug abuse 3 to 4 weeks ago as he reported his friend injecting powdered Dilaudid mixed with water 3 to 4 weeks ago in his rt [right] forearm." Patient 1 was discharged home with a PICC line for in-home antibiotics infusions for the next six weeks.

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[13] On September 5, 2012, Patient 1 was seen by another physician requesting early refills of his medications because he was leaving town and Respondent was out of the office. The physician only refilled the Percocet and noted that Patient 1 smelled of alcohol during the appointment. Two days later, Patient 1 saw yet another physician claiming he hit his head four days earlier and needed a refill of the hydromorphone and fentanyl. The doctor did not see any signs or symptoms of a head injury and noted that Patient 1 received a seven-day supply of these two medications two days ago.

16. On or about March 24, 2013, Patient 1's surgeon saw him for possible anal abscesses and noted that Patient 1 pulled out his PICC line and relapsed in his alcohol use.

17. Once again, on or about April 17, 2013, Patient 1 requested early refills of his medications because they were stolen. The clinic physician refused to provide the patient hydromorphone because he believed Patient 1 was drug seeking. The physician did offer to prescribe clonidine to prevent withdrawal, but Patient 1 refused. Over the next several days, Patient 1 continued to email Respondent requesting refills of his medications and that he reported the stolen medications to the police. Respondent asked him to bring the police report to their next appointment on April 19, 2013.

18. On or about April 19, 2013, Respondent saw Patient 1 but Patient 1 did not bring in the police report. Respondent did not discuss with Patient 1 any of the prior drug-seeking concerns noted by the other Kaiser physicians, the use of alcohol, or the admission that he had been injecting powdered hydromorphone. Respondent prescribed 60 pills of hydromorphone and told him to "make it last." Finally, Patient 1 reported that he drank a "fifth of alcohol for the pain and stress." Respondent documented in the progress note that he reminded the patient of his chronic pancreatitis.

19. On or about April 22, 2013, Patient 1 emailed Respondent again asking for early refills of his medications since Respondent did not fill all the medications he claimed were stolen. The patient also reported he had to "replace some with a nurse friend who only had Norco to spare." According to CURES, Respondent prescribed both the Percocet (60#) and hydromorphone (100#) as Patient 1 requested in his April 22, 2013 email to Respondent.

20. Between June and August 2013, Patient 1 entered an alternative medicine program in Southern California to treat his chronic pain and to reduce or eliminate his use of controlled substance. Before Patient 1 left for the program, he requested six weeks' worth of medications claiming the program required this.

21. On June 24, 2013, Respondent filled Percocet (180#), hydromorphone (300#), and 100 mcg fentanyl (10 patches).

22. According to CURES reports, Patient 1 received Xanax, Valium,[14] Suboxone,[15] and hydromorphone from another physician on July 15, 2013. That same day, Patient 1 emailed Respondent reporting that he was no longer taking hydromorphone, no longer drinking alcohol, and was weaning off of fentanyl, but that he needed two weeks' worth of Percocet.

23. On or about July 19, 2018, a Kaiser Medical Assistant (MA) talked to Patient 1's father about the request for Percocet. The MA requested that Patient 1 provide a release so Kaiser staff could speak with representatives from the rehabilitation center. Patient 1's father advised the MA that Patient 1 should no longer be on any controlled substances.

24. On or about August 13, 2013, Patient 1 and Respondent had a telephone appointment. Patient 1 reported that he had been kicked out of the program when they found marijuana in his property. He further asserted that they took all of his controlled substances and destroyed them when he entered the program. He stated the Suboxone only helped with withdrawal but did not control his pain. He further advised that he obtained hydromorphone and Percocet from two different Southern California Kaiser doctors when he left the rehabilitation facility. Respondent wrote, "It seems that he cannot function well without some type of pain relief of aggressive degree, according to what he presents to me in his history, as in the past." Respondent wrote prescriptions for hydromorphone (100#), Percocet (60#), and fentanyl (10 patches). The following day, Respondent referred Patient 1 to the San Francisco Chronic Pain Program.

25. On or about August 15, 2013, Patient 1 died from septic and cardiogenic shock, acute renal failure-end stage renal disease, diabetic ketoacidosis, and metabolic and respiratory acidosis.

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[14] Valium is the trade name for diazepam and is used for the short-term relief of the symptoms of anxiety and management of anxiety disorders. It is a dangerous drug as defined in section 4022 and a Schedule IV controlled substance as defined by Health and Safety Code section 11057. Diazepam can produce psychological and physical dependence and it should be prescribed with caution particularly to addiction-prone individuals (such as drug addicts and alcoholics) because of the predisposition of such patients to habituation and dependence.

[15] Suboxone is a trade name for a combination of buprenorphine and naloxone. Buprenorphine is an opioid medication that relieves drug cravings without giving the same high as other opioid drugs and naloxone blocks the effects of opioid medication that can lead to opioid abuse. It is used to treat narcotic addiction. It is a dangerous drug as defined in section 4022 and a Schedule III controlled substance.

26. Respondent departed from the standard of care based on his failure to refer the patient to a substance abuse program given multiple red flags that the patient not only suffered from chronic pain but also a possible substance abuse disorder.

SECOND CAUSE FOR DISCIPLINE

(Unprofessional Conduct: Repeated Negligent Acts Based on the Care Provided to Patient 2)

27. Respondent is subject to disciplinary action under section 2234 [unprofessional conduct] and/or 2234 (c) [repeated negligent acts] based on the care he provided to Patient 2. The circumstances are as follows:

28. Respondent took over the care as Patient 2's primary care provider on January 4, 2013. Patient 2, a then 35-year-old male, had multiple chronic conditions including, but not limited to: Attention Deficit Hyperactivity Disorder (ADHD), chronic back pain following failed microdiscectomy, an arachnoid cyst, and depression. At the time Patient 2 began seeing Respondent, Patient 2 was taking Ambien and Vyvanse, [16] prescribed by his psychiatrist. During Patient 2's initial appointment with Respondent, Patient 2 complained of dizziness for the previous five days, and Respondent diagnosed him with vertigo. Patient 2 also reported that he had numbness, tingling, and discomfort radiating down his lower back into his left leg. During the physical examination of Patient 2's back and spinal area, Respondent noted that the patient had full range of motion, did not find any tenderness, palpable spasms, pain, or motion issues, and his gait appeared normal. Respondent filled prescriptions for 10 mg Ambien (30#), 50 mg Vyvanse (100#), and 20 mg Cymbalta.[17] Respondent also referred Patient 2 to the Physical Medicine Rehabilitation Department and ordered a head and back MRI.[18]

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[16] Vyvanse is a central nervous system stimulant used to treat ADHD in adults and children. It is a dangerous drug as defined in section 4022 and a Schedule II controlled substance as defined by Health and Safety Code section 11055. Vyvanse is habit forming and should be used with caution in persons with alcohol or substance abuse issues. Stimulants can also cause strokes, heart attacks, and sudden death in people with high blood pressure, heart disease, or a heart defect.

[17] Cymbalta is the trade name for duloxetine and is a selective serotonin and norepinephrine reuptake inhibitor antidepressant (SSNRI). It is used to treat major depressive disorder and general anxiety disorder. It may also be used to treat fibromyalgia, chronic muscle or joint pain, diabetic neuropathy, and pain caused by nerve pain. It is a dangerous drug as

(continued...)

29. On or about March 5, 2013, Patient 2 began emailing Respondent requesting a stronger muscle relaxer for back spasms because the trial of baclofen[19] previously prescribed was not working. Patient 2 specifically requested Soma. Respondent prescribed 350 mg Soma[20] (30#) after the patient rejected suggestions for valium and prednisone.

30. On or about May 20, 2013, Respondent increased Patient 2's Soma prescription from 30 pills to 90 pills for 30 days. Respondent also referred Patient 2 to the Chronic Pain Program (CPP). Within one month, Respondent increased the Soma to 100 pills.

31. Between June 4, 2013 to July 9, 2014, Patient 2 reported that he lost his controlled substance medications on six occasions. Respondent replaced the lost medications without any discussion except to remind Patient 2 to be careful with his medications.

32. On or about July 24, 2013, Patient 2 requested Respondent fill the Soma prescription for 30 days rather than 20 days in order to save money; however, Respondent was already prescribing for 30 days.

33. While Patient 2 attended the CPP, the CPP physician was responsible for prescribing Patient 2's pain management medications; however, Patient 2 still emailed Respondent on several occasions to request refills or alterations to his prescriptions. For example, on or about August 7, 2013, Patient 2 tried to refill the Soma prescription but the CPP physician prescribed another muscle relaxer a few days earlier. Then, on or about August 8, 2013, Respondent refilled 90 pills of Soma based on emails from Patient 2 that the other muscle relaxer was not working well.

(...continued)
defined by section 4022.

[18] Following the MRI, Respondent referred Patient 2 to a neurologist. The neurologist reported that the arachnoid cyst was asymptomatic and should be left alone. Additionally, the MRI revealed "small disc herniation lateralized" to the left side. The neurosurgeon offered to perform a left L5-S1 discectomy to possibly relieve Patient 2's discomfort.

[19] Baclofen is a muscle relaxant and antispastic. It is a dangerous drug as defined in section 4022.

[20] Soma is the trade name or carisoprodol, which is a muscle-relaxant and sedative. It is a dangerous drug as defined in section 4022. Since the effects of Soma and alcohol or Soma and other central nervous system depressants or psychotropic drugs may be addictive, appropriate caution should be exercised with patients who take more than one of these agents simultaneously.

34. On or about August 14, 2013, Patient 2's CPP physician added Norco[21] for ten days, despite writing that opioids were not recommended for Patient 2. The CPP physician also recommended that Soma be stopped and be replaced with tizanidine.[22]

35. On August 21, 2013, Patient 2 withdrew from the CPP because it did not work with his job schedule.

36. On or about September 4, 2013, Respondent saw Patient 2 for an assessment of his lower back pain. Under the assessment and plan portion, Respondent wrote the he prescribed 15 mg of morphine sulfate (90 pills for 45 days).

37. On or about January 3, 2014, Patient 2 saw Respondent for an appointment regarding pain control and refills of both the morphine and Norco. Patient 2 reported he was taking four to five pills of morphine a day. Respondent wrote in the progress note that Patient 2 should not be taking both morphine and Norco at the same time, that Patient 2 was taking more morphine than he should have, the patient should only take the medications as prescribed, and not to adjust the dosage without first discussing it with Respondent. Despite documenting that Patient 2 should not be taking morphine and Norco at the same time, Respondent continued to prescribe Norco.

38. Over the next several months, Patient 2 continued to request an increase in the Soma dosage to allow four pills per day. Respondent finally denied the patient's request on April 1, 2014, stating that Patient 2 should only be taking one pill of Soma per day.

39. On or about April 17, 2014, Patient 2 met with Respondent for medication management. Patient 2 reported that he was taking four Soma pills per day, and three to four Norco per day. Even though Respondent advised Patient 2 on April 1, 2014 that he should only be taking one Soma per day, he continued to prescribe 100 pills for 30 days (approximately three

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[21] Norco is the trade name for acetaminophen and hydrocodone. Norco tablets contain five to 10 mg of hydrocodone bitartrate and 350 to 550 mg of acetaminophen. Acetaminophen is a non-opiate, non-salicylate analgesic and antipyretic. Hydrocodone bitartrate is a semisynthetic narcotic analgesic and a dangerous drug as defined in section 4022. Norco is a schedule II controlled substance as defined by Health and Safety Code section 11055. Repeated administration of hydrocodone over a course of several weeks may result in psychic and physical dependence.

[22] Tizanidine is a short-acting muscle relaxer. It is a dangerous drug as defined by section 4022.

pills per day). Respondent also increased Patient 2's Norco from 60 to 90 pills for 30 days, and prescribed morphine (150#), Vyvanse, and Wellbutrin.[23]

40. By September 17, 2014, Respondent began refilling 200 pills of Soma for Patient 2 to last for 25 to 50 days (amounting to four to eight to pills per day depending on the dosage instructions).

41. Between February 24, 2014 through September 29, 2015, Patient 2 made at least 13 requests for early refills of his various controlled substances from Respondent because he was traveling. Respondent granted the requests.

42. On or about October 2, 2015, Respondent had a telephone appointment with Patient 2 regarding his most recent early refill request. Respondent told Patient 2 that he should not be taking more than three to four Soma pills per day. There was also discussion about a disruption caused by Patient 2's partner at Respondent's medical office that same day. According to Respondent, the partner was picking up an early refill prescription for Patient 2 while also complaining that Respondent was over-medicating Patient 2. Respondent wrote: "I explained to the patient that I was trying to help him with his chronic pain issue that seems to be usually apparently under fairly good control, which he reiterated, and that I did not feel comfortable with the threats and behavior of his partner here today." Another physician took over Patient 2's care after this conversation.

43. Respondent departed from the standard of care based on his failure to take appropriate action following evidence of Patient's 2's misuse of his controlled substances. Respondent failed to set limits with the patient after reporting lost medications and requesting early refills. Respondent also failed to consider that Patient 2 was also taking two other habit-forming medications (Ambien and Vyvanse) along with the other addictive controlled substance medications he prescribed.

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[23] Wellbutrin, the trade name for bupropian hydrochloride, is an antidepressant. It is a dangerous drug as defined by section 4022.

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 55606, issued to Henry Antonio Braa, M.D.;

2. Revoking, suspending or denying approval of Henry Antonio Braa, M.D.'s authority to supervise physician assistants and advanced practice nurses;

3. Ordering Henry Antonio Braa, 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: October 2, 2019

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

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