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

In the Matter of the First Amended Accusation Against: Ronald Alan Popper, M.D. Physician's & Surgeon's Certificate No. A 35734 Respondent.	Case No. 800-2018-044570

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 September 23, 2022.

IT IS SO ORDERED: August 24, 2022.

MEDICAL BOARD OF CALIFORNIA

Richard E. Thorp, M.D., Chair
Panel B

ROB BONTA
Attorney General of California
JUDITH T. ALVARADO
Supervising Deputy Attorney General
CHRISTINE R. FRIAR
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State Bar No. 228421
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Attorneys for Complainant

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

In the Matter of the First Amended Accusation Against: **RONALD ALAN POPPER, M.D.** **317 South Moorpark Road** **Thousand Oaks, CA 91361** **Physician's and Surgeon's Certificate No. A 35734,** Respondent.	Case No. 800-2018-044570 OAH No. 2021080364 **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 Rob Bonta, Attorney General of the State of California, by Christine R. Friar, Deputy Attorney General.

2. Respondent Ronald Alan Popper, M.D. (Respondent) is represented in this proceeding by attorney Raymond J. McMahon, Esq. of Doyle Schafer McMahon, LLP, located at 5440 Trabuco Road, Irvine, CA 92620.

3. On or about August 11, 1980, the Board issued Physician's and Surgeon's Certificate No. A 35734 to Respondent. The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought in First Amended Accusation No. 800-2018-044570, and will expire on October 31, 2023, unless renewed.

JURISDICTION

4. Accusation No. 800-2018-044570 was filed before the Board on May 7, 2021, and was properly served on Respondent along with all other statutorily required documents. Respondent timely filed his Notice of Defense contesting the Accusation.

5. On March 10, 2022, First Amended Accusation No. 800-2018-044570 was filed before the Board, and is currently pending against Respondent. The First Amended Accusation and all other statutorily required documents were properly served on Respondent on March 10, 2022.

6. A copy of First Amended Accusation No. 800-2018-044570 is attached as Exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

7. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in First Amended Accusation No. 800-2018-044570. Respondent has also carefully read, fully discussed with his counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

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

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

CULPABILITY

10. 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 First Amended Accusation No. 800-2018-044570 and that he has thereby subjected his license to disciplinary action.

11. Respondent agrees that if an accusation is ever filed against him before the Board, all of the charges and allegations contained in First Amended Accusation No. 800-2018-044570 shall be deemed true, correct and fully admitted by Respondent for purposes of any such proceeding or any other licensing proceeding involving Respondent in the State of California.

12. Respondent agrees that his Physician's and Surgeon's Certificate is subject to discipline and he agrees to be bound by the Board's imposition of discipline as set forth in the Disciplinary Order below.

CONTINGENCY

13. 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.

14. 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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15. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or opportunity to be heard by the Respondent, issue and enter the following Disciplinary Order:

DISCIPLINARY ORDER

A. PUBLIC REPRIMAND.

IT IS HEREBY ORDERED THAT Physician's and Surgeon's Certificate No. A 35734, issued to Respondent Ronald Alan Popper, M.D., shall be and is hereby publicly reprimanded pursuant to California Business and Professions Code section 2227, subdivision (a)(4). This public reprimand, which is issued in connection with the allegations set forth in First Amended Accusation No. 800-2018-044570, is as follows:

> "You failed to adequately manage the controlled substances prescribed to one patient under your care and treatment, in violation of the Business and Professions Code, as more fully described in First Amended Accusation No. 800-2018-044570."

B. 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.

C. INVESTIGATION/ENFORCEMENT COST RECOVERY.

Respondent is hereby ordered to reimburse the Board its costs of investigation and enforcement, including, but not limited to, expert review, amended accusations, legal reviews, joint investigations, and subpoena enforcement, as applicable, in the amount of $11,313.75 (Eleven thousand three hundred thirteen dollars and seventy-five cents). Costs shall be payable to the Medical Board of California.

Any and all requests for a payment plan shall be submitted in writing by Respondent to the Board.

The filing of bankruptcy by Respondent shall not relieve Respondent of the responsibility to repay investigation and enforcement costs, including expert review costs (if applicable).

D. FUTURE ADMISSIONS CLAUSE.

If Respondent should ever apply or reapply for a new license or certification, or petition for reinstatement of a license, by any other health care licensing action agency in the State of California, all of the charges and allegations contained in First Amended Accusation No. 800-2018-044570 shall be deemed to be true, correct, and admitted by Respondent for the purpose of any Statement of Issues or any other proceeding seeking to deny or restrict license.

E. VIOLATION OF ORDER.

Any violation of the terms of this order shall constitute unprofessional conduct and grounds for further disciplinary action.

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ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Raymond J. McMahon. 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: 5/19/2022

RONALD ALAN POPPER, M.D.
Respondent

I have read and fully discussed with Respondent Ronald Alan Popper, 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: 5/20/2022

RAYMOND J. MCMAHON, ESQ.
Attorney for Respondent

ENDORSEMENT

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

DATED: 5/20/2022

Respectfully submitted,

ROB BONTA
Attorney General of California
JUDITH T. ALVARADO
Supervising Deputy Attorney General
Judith T. Alvarado Digitally signed by Judith T. Alvarado Date: 2022.05.20 11:06:50 -07'00' for
CHRISTINE R. FRIAR
Deputy Attorney General
Attorneys for Complainant

Exhibit A

First Amended Accusation No. 800-2018-044570

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

In the Matter of the First Amended Accusation Against: **RONALD ALAN POPPER, M.D.** **317 South Moorpark Road** **Thousand Oaks, CA 91361** **Physician's and Surgeon's Certificate No. A 35734,** Respondent.	Case No. 800-2018-044570 **FIRST AMENDED ACCUSATION**

PARTIES

1. William Prasifka (Complainant) brings this First Amended Accusation solely in his official capacity as the Executive Director of the Medical Board of California, Department of Consumer Affairs (Board).

2. On or about August 11, 1980, the Board issued Physician's and Surgeon's Certificate Number A 35734 to Ronald Alan Popper, 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 October 31, 2023, unless renewed.

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JURISDICTION

3. This First Amended Accusation is brought before the Board, under the authority of the following laws. All section references are to the Business and Professions 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 pertinent 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:
>
> (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.
>
> ....

COST RECOVERY

6. Section 125.3 of the Code states:

> (a) Except as otherwise provided by law, in any order issued in resolution of a disciplinary proceeding before any board within the department or before the Osteopathic Medical Board, upon request of the entity bringing the proceeding, the administrative law judge may direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.
>
> (b) In the case of a disciplined licensee that is a corporation or a partnership, the order may be made against the licensed corporate entity or licensed partnership.
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> (c) A certified copy of the actual costs, or a good faith estimate of costs where actual costs are not available, signed by the entity bringing the proceeding or its designated representative shall be prima facie evidence of reasonable costs of investigation and prosecution of the case. The costs shall include the amount of investigative and enforcement costs up to the date of the hearing, including, but not limited to, charges imposed by the Attorney General.
>
> (d) The administrative law judge shall make a proposed finding of the amount of reasonable costs of investigation and prosecution of the case when requested pursuant to subdivision (a). The finding of the administrative law judge with regard to costs shall not be reviewable by the board to increase the cost award. The board

may reduce or eliminate the cost award, or remand to the administrative law judge if the proposed decision fails to make a finding on costs requested pursuant to subdivision (a).

(e) If an order for recovery of costs is made and timely payment is not made as directed in the board's decision, the board may enforce the order for repayment in any appropriate court. This right of enforcement shall be in addition to any other rights the board may have as to any licensee to pay costs.

(f) In any action for recovery of costs, proof of the board's decision shall be conclusive proof of the validity of the order of payment and the terms for payment.

(g) (1) Except as provided in paragraph (2), the board shall not renew or reinstate the license of any licensee who has failed to pay all of the costs ordered under this section.

(2) Notwithstanding paragraph (1), the board may, in its discretion, conditionally renew or reinstate for a maximum of one year the license of any licensee who demonstrates financial hardship and who enters into a formal agreement with the board to reimburse the board within that one-year period for the unpaid costs.

(h) All costs recovered under this section shall be considered a reimbursement for costs incurred and shall be deposited in the fund of the board recovering the costs to be available upon appropriation by the Legislature.

(i) Nothing in this section shall preclude a board from including the recovery of the costs of investigation and enforcement of a case in any stipulated settlement.

(j) This section does not apply to any board if a specific statutory provision in that board's licensing act provides for recovery of costs in an administrative disciplinary proceeding.

CAUSE FOR DISCIPLINE

(Gross Negligence)

7. Respondent is subject to disciplinary action under Code section 2234, subdivision (b), in that between 2014 and 2019, he committed gross negligence during his care, treatment and management of Patient 1.[1] The circumstances are as follows:

8. According to Respondent's records, Patient 1 initially presented to Respondent, a specialist in sleep medicine, on April 3, 2007,[2] to be evaluated for excessive daytime sleepiness

[1] In order to protect the patient's privacy, the patient is identified in this charging pleading as Patient 1. The true name of the referenced patient is known to Respondent and will be disclosed to him upon his timely Request for Discovery.

[2] The care and treatment Respondent rendered to Patient 1 prior to June 2014, falls outside the applicable statute of limitations in this case. The details are alleged here to provide relevant background information only.

(EDS). At the time, Patient 1 was 31-years-old. His other medical conditions and complaints included anxiety and depression. Respondent diagnosed Patient 1 with probable obstructive sleep apnea (OSA) and narcolepsy. He ordered a sleep apnea study.

9. Patient 1 continued treatment with Respondent for the next eight (8) years. During that time, Respondent documented that Patient 1 was being treated with Klonopin[3] for his anxiety. Respondent also regularly prescribed Patient 1 Xyrem[4] and methylphenidate[5] for his narcolepsy with cataplexy.

10. On or about June 2, 2014, Patient 1 presented to Respondent for care and treatment. Respondent documented Patient 1's medications to include Klonopin and Xyrem. Xyrem was prescribed by Respondent, while another provider prescribed Patient 1 Klonopin. On that date, Respondent also started Patient 1 on Adderall,[6] to replace Patient 1's methylphenidate prescription. Patient 1 reported that Adderall was more effective for him than methylphenidate.

11. Throughout the remainder of 2014, and continuing through 2019, Respondent regularly prescribed Patient 1 Xyrem and central nervous system stimulants, while also documenting Klonopin, or clonazepam, in Patient 1's list of medications.

12. For example, on or about January 22, 2015, Patient 1 presented to Respondent for care and treatment. Respondent documented that Patient 1 was using a CPAP machine for his OSA, and taking Xyrem and Adderall for his narcolepsy with cataplexy and EDS, both prescribed by Respondent. Respondent also documented that Patient 1 was taking Klonopin, Seroquel,[7]

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[3] Klonopin, brand name for clonazepam, is a benzodiazepine and a Schedule IV controlled substance pursuant to Health and Safety Code section 11057, subdivision (d)(7).

[4] Xyrem, brand name for sodium oxybate, is used to treat narcolepsy and is a Schedule III controlled substance.

[5] Methylphenidate, generic for Ritalin, is used to treat narcolepsy and Attention Deficit Disorder, and is a Schedule II, central nervous system (CNS) stimulant.

[6] Adderall, brand name for dextroamphetamine-amphetamine, is a Schedule II, CNS stimulant.

[7] Seroquel, brand name for quetiapine, is an anti-psychotic medication used to treat mood disorders, such as bipolar disorder and schizophrenia. Seroquel is also used to treat insomnia.

Lamicital[8] and Abilify.[9]

13. On or about January 22, 2015, Respondent had Patient 1 sign a "XYREM FACT SHEET" provided by Respondent. The fact sheet states, in pertinent part:

Contraindications

Xyrem is contraindicated in patients being treated with sedative hypnotic agents.

...

Warnings and Precautions

Central Nervous System Depression

Xyrem is a central nervous system (CNS) depressant. Alcohol and sedative hypnotics are contraindicated in patients who are using Xyrem. The concurrent use of Xyrem with other CNS depressants, including but not limited to opioid analgesics, benzodiazepines, sedating antidepressants or antipsychotics, general anesthetics, muscle relaxants, and/or illicit CNS depressants, may increase the risk of respiratory depression, hypotension, profound sedation, syncope, and death. If the use of these CNS depressants in combination with Xyrem is required, dose reduction or discontinuation of one or more CNS depressants (including Xyrem) should be considered. In addition, if short-term use of opioid (e.g., post or perioperative) is required, interruption of treatment with Xyrem should be considered.

...

Abuse and Misuse

Xyrem is a Schedule III controlled substance. The active ingredient of Xyrem, sodium oxybate or gamma-hydroxybutyrate (GHB), is a Schedule I controlled substance. Abuse of illicit GHB, either alone or in combination with other CNS depressants, is associated with CNS adverse reactions, including seizure, respiratory depression, decreases in the level of consciousness, coma, and death. The rapid onset of sedation, coupled with the amnestic features of Xyrem, particularly when combined with alcohol, has proven to be dangerous for the voluntary and involuntary user (e.g., assault victim). Because illicit use and abuse of GHB have been reported, physicians should carefully evaluate patients for a history of drug abuse and follow such patients closely, observing them for signs of misuse or abuse of GHB (e.g., increase in frequency of dosing, drug-seeking behavior, feigned cataplexy)....

....

14. Respondent documented that Patient 1 was advised at the January 22, 2015, visit to skip his Xyrem on nights he takes Seroquel.

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[8] Lamictal, brand name for lamotrigine, is an anti-epileptic medication, also called an anticonvulsant.

[9] Abilify, brand name for aripiprazole, is an antipsychotic medication used to treat the symptoms of psychotic conditions such as schizophrenia and bipolar I disorder.

15. A May 8, 2017, phone message note in Respondent's records states, "The R.N. from Xyrem left a message that [Patient 1] would like to go back on Xyrem again. She cautioned that Xyrem causes depression and also that [Patient 1] is now taking Clonazepam 2X daily." Respondent charted that he would need to see Patient 1 before resuming Xyrem and signed the note.

16. On June 1, 2017, Patient 1 presented to Respondent for care and treatment. Respondent noted that Patient 1 had been hospitalized for 10 days since his last visit for an acute psychotic episode. Patient 1 had been off Xyrem since the hospitalization and reported increased restless sleep and daytime sleepiness. Respondent documented that Patient 1 was prescribed clonazepam, 1 mg. on May 8, 2017, by another provider, with no additional information. Respondent's plan included continuing with the CPAP and Adderall and restarting Patient 1 on Xyrem. Respondent restarted Patient 1 on Xyrem.

17. On March 13, 2018, Patient 1 presented to Respondent for care and treatment. Respondent documented that Patient 1 was using a CPAP machine and Xyrem for his narcolepsy. He also documented that Patient 1 "now takes Clonazepam, Lamicital, and Abilify QAM," in addition to Adderall.

18. On May 15, 2018, Patient 1 presented to Respondent for care and treatment. Respondent documented that Patient 1 was "using CPAP + Clonazepam 2 mg + Xyrem 4.5 gm 2x / HS QHS." In Respondent's medication list for Patient 1, clonazepam is documented as being prescribed on May 15, 2018. Respondent documented that he cautioned Patient 1 on the concurrent use of Xyrem and clonazepam.

19. On August 15, 2018, Patient 1 presented to Respondent for care and treatment. Respondent documented that Patient 1 was taking clonazepam and Xyrem. Again, Respondent also states that he cautioned Patient 1 on their concurrent use.

20. Respondent continued to prescribe Patient 1 Xyrem.

21. On or about January 28, 2019, Respondent obtained a CURES[10] Report for Patient 1.

[10] The Controlled Substance Utilization Review and Evaluation System (CURES) stores Schedule II, III, IV, and V controlled substance prescription information reported as dispensed in

The Report shows consistent concurrent prescriptions for clonazepam and Xyrem throughout 2018. The Xyrem was prescribed by Respondent.

22. A CURES Report for Patient 1 obtained by Respondent on June 10, 2019, shows consistent concurrent prescriptions for clonazepam and Xyrem continuing through the first half of 2019. Again, Respondent prescribed the Xyrem.

23. Pursuant to the standard of care within the medical community, prescribing Xyrem is contraindicated in a patient who is also taking sedative hypnotics/central nervous system depressants. Xyrem was approved for the use of narcolepsy in 2002, with the following warning listed on the initial approval:

> CONTRAINDICATIONS: **Sodium oxybate is contraindicated in patients being treated with sedative hypnotic agents.** Sodium oxybate is contraindicated in patients with succinic semialdehyde dehydrogenase deficiency. This rare disorder is an inborn error of metabolism variably characterized by mental retardation, hypotonia, and ataxia. WARNINGS SEE BOXED WARNING Due to the rapid onset of its CNS depressant effects, sodium oxybate should only be ingested at bedtime, and while in bed. For at least 6 hours after ingesting Sodium oxybate, patients must not engage in hazardous occupations or activities requiring complete mental alertness or motor coordination, such as operating machinery, driving a motor vehicle, or flying an airplane. When patients first start taking Xyrem® or any other sleep medicine, until they know whether the medicine will still have some carryover effect on them the next day, they should use extreme care while driving a car, operating heavy machinery, or performing any other task that could be dangerous or requires full mental alertness. The combined use of alcohol (ethanol) with sodium oxybate may result in potentiation of the central nervous system-depressant effects of sodium oxybate and alcohol. Therefore, patients should be warned strongly against the use of any alcoholic beverages in conjunction with sodium oxybate. **Sodium oxybate should not be used in combination with sedative hypnotics or other CNS depressants.** (Emphasis added.) https://www.accessdata.fda.gov/drugsatfda_docs/label/2002/21196lbl.pdf last accessed 3/7/19.

24. Respondent committed an extreme departure of care, and, thus, gross negligence pursuant to section 2234, subdivision (b), of the Code, when he prescribed Xyrem to Patient 1 who was taking sedative hypnotics at the time, specifically clonazepam. As such, cause for discipline exists.

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California. Health care practitioners authorized to prescribe, order, administer, furnish, or dispense Schedule II, III, or IV controlled substances, and pharmacists, may access the electronic history of controlled substances dispensed to an individual under the practitioner or pharmacist's care.

DISCIPLINARY CONSIDERATIONS

25. To determine the degree of discipline, if any, to be imposed on Respondent Ronald Alan Popper, M.D., Complainant alleges that on or about March 6, 2020, in a prior disciplinary action titled *In the Matter of the Accusation Against: Ronald Alan Popper, M.D.*, before the Medical Board of California, in Case Number 800-2017-038105, Respondent's license was publically reprimanded for "fail[ing] to adequately manage the controlled substances prescribed to one patient under your care and treatment, in violation of the Business and Professions Code, as more fully described in Accusation No. 800-2017-038105." Respondent was also ordered to take a prescribing practices course. That Decision is now final and is incorporated by reference as if fully set forth herein.

PRAYER

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

1. Revoking or suspending Physician's and Surgeon's Certificate Number A 35734, issued to Respondent Ronald Alan Popper, M.D.;

2. Revoking, suspending or denying approval of Respondent Ronald Alan Popper, M.D.'s authority to supervise physician assistants and advanced practice nurses;

3. Ordering Respondent Ronald Alan Popper, M.D., to pay the Board the costs of the investigation and enforcement of this case, and if placed on probation, the costs of probation monitoring; and

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

DATED: MAR 10 2022

WILLIAM PRASIFKA
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant