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

In the Matter of the Accusation Against:	)	
Monte I. Lieberfarb, M.D.	)	**Case No. 800-2017-035864**
Physician's and Surgeon's Certificate No. G 57801	)	
Respondent	)	

DECISION

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

This Decision shall become effective at 5:00 p.m. on November 13, 2019.

IT IS SO ORDERED November 6, 2019.

MEDICAL BOARD OF CALIFORNIA

By: _____
Christine J. Lally
Deputy Director

XAVIER BECERRA
Attorney General of California
MARY CAIN-SIMON
Supervising Deputy Attorney General
JOSHUA M. TEMPLET
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455 Golden Gate Avenue, Suite 11000
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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 Accusation Against: **MONTE I. LIEBERFARB, M.D.** **641 Meadow Wood Ln** **Willits, CA 95490** **Physician's and Surgeon's Certificate No. G 57801** Respondent.	Case No. 800-2017-035864 **STIPULATED SURRENDER OF LICENSE AND 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. Kimberly Kirchmeyer (Complainant) is the 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, via Joshua M. Templet, Deputy Attorney General.

2. Monte I. Lieberfarb, M.D. (Respondent) is represented in this proceeding by attorney Benjamin J. Fenton, whose address is 1990 S. Bundy Drive, Suite 777, Los Angeles, CA 90025.

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3. On or about July 14, 1986, the Board issued Physician's and Surgeon's Certificate No. G 57801 to Respondent. The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought in Accusation No. 800-2017-035864 and will expire on March 31, 2020, unless renewed.

JURISDICTION

4. Accusation No. 800-2017-035864 (Accusation) 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 April 4, 2019. Respondent timely filed his Notice of Defense contesting the Accusation. A copy of the Accusation is attached as **Exhibit A** and incorporated by reference.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in the Accusation. Respondent also has carefully read, fully discussed with counsel, and understands the effects of this Stipulated Surrender of License and Order.

6. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the 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 understands that the charges and allegations in the Accusation, if proven at a hearing, constitute cause for imposing discipline on his Physician's and Surgeon's Certificate.

9. For the purpose of resolving the Accusation without the expense and uncertainty of further proceedings, Respondent agrees that, at a hearing, Complainant could establish a factual basis for the charges in the Accusation and that those charges constitute cause for discipline.

Respondent hereby gives up his right to contest that cause for discipline exists based on those charges.

10. Respondent understands that by signing this stipulation he enables the Board to issue an order accepting the surrender of his Physician's and Surgeon's Certificate without further process.

CONTINGENCY

11. This stipulation shall be subject to approval by the Board. Respondent understands and agrees that counsel for Complainant and the staff of the Board may communicate directly with the Board regarding this stipulation and surrender, 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 Surrender 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.

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

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

ORDER

IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. G 57801, issued to Respondent Monte I. Lieberfarb, M.D., is surrendered and accepted by the Board.

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

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

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

4. If Respondent ever files an application for licensure or a petition for reinstatement in the State of California, the Board shall treat it as a petition for reinstatement. Respondent must comply with all the laws, regulations, and procedures for reinstatement of a revoked or surrendered license in effect at the time the petition is filed, and all of the charges and allegations contained in Accusation No. 800-2017-035864 shall be deemed to be true, correct, and admitted by Respondent when the Board determines whether to grant or deny the petition.

ACCEPTANCE

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

DATED: 8/6/19

MONTE I. LIEBERFARB, M.D.
Respondent

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

DATED: 7/9/19

BENJAMIN J. FENTON
Attorney for Respondent

ENDORSEMENT

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

DATED: 9/9/2019

Respectfully submitted,

XAVIER BECERRA
Attorney General of California
MARY CAIN-SIMON
Supervising Deputy Attorney General

JOSHUA M. TEMPLET
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 800-2017-035864

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Attorneys for Complainant

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO April 4 2019
BY: ANALYST

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

In the Matter of the Accusation Against:	Case No. 800-2017-035864
Monte I. Lieberfarb, M.D. **641 Meadow Wood Ln.** **Willits, CA 95490** **Physician's and Surgeon's Certificate No. G 57801,** Respondent.	**ACCUSATION**

Complainant alleges:

PARTIES

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

2. On or about July 14, 1986, the Medical Board issued Physician's and Surgeon's Certificate Number G 57801 to Monte I. Lieberfarb, 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 March 31, 2020, unless renewed.

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 unless otherwise indicated.

4. Section 2004 of the Code provides that the Board shall have the responsibility for the enforcement of the disciplinary and criminal provisions of the Medical Practice Act.

5. 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.

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

7. Section 2266 of the Code provides that the failure of a physician and surgeon to maintain adequate and accurate records relating to the provision of patient services constitutes unprofessional conduct.

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FACTS

8. Respondent practices family medicine and was the primary care provider for patient P-1[1] from approximately July 25, 2008 through June 19, 2013. Respondent treated P-1 for chronic medical conditions, including congestive heart failure. P-1 was homeless during most of the time when Respondent treated him.

9. Respondent prescribed P-1 the following narcotic pain medications for chronic pain from past injuries: Oxycodone,[2] Vicodin,[3] Norco,[4] and Percocet.[5] Respondent regularly prescribed P-1 combinations of two of these medications.

10. Respondent also prescribed P-1 medications for his anxiety and depression, including Ativan[6] and Paxil.[7] Respondent regularly prescribed P-1 combinations of one or both of these medications concurrently with narcotic pain medication.

11. Respondent continued to prescribe these medications to P-1 through the patient's last visit, on June 19, 2013. On June 20, 2013, P-1 committed suicide. His cause of death was acute oxycodone and ethanol toxicity.

12. During Respondent's care of P-1, the patient exhibited factors that placed him at risk of a detrimental outcome from long-term therapy with controlled substances. These risk factors included, among other things:

A. P-1 had a history of methamphetamine abuse.

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[1] The patient is designated in this document as patient P-1 to protect his privacy. Respondent knows the name of the patient and can confirm his identity through discovery.

[2] Oxycodone is an opioid analgesic.

[3] Vicodin, a trade name for hydrocodone bitartrate with acetaminophen, is an opioid analgesic. Vicodin tablets are available in strengths of 300 mg of acetaminophen and between 5 mg and 10 mg of hydrocodone bitartrate.

[4] Norco, a trade name for hydrocodone bitartrate with acetaminophen, is an opioid analgesic. Norco tablets are available in strengths of 325 mg of acetaminophen and between 5 mg and 10 mg of hydrocodone bitartrate.

[5] Percocet, a trade name for oxycodone hydrochloride with acetaminophen, is an opioid analgesic. Percocet tablets are available in strengths of 325 mg of acetaminophen and between 2.5 mg and 10 mg of oxycodone hydrochloride.

[6] Ativan, a trade name for lorazepam, is a benzodiazepine. It is a psychotropic drug used to treat anxiety.

[7] Paxil, a trade name for paroxetine, is a selective serotonin reuptake inhibitor. It is a psychotropic drug used to treat depression and anxiety, among other disorders.

B. P-1 had a history of alcohol abuse, and he continued to struggle with his drinking while Respondent treated him.

C. P-1 reported traumatic brain injury from a past beating.

D. P-1 had a history of being homeless, and he was homeless during much of the time when Respondent treated him.

E. P-1 failed to use the controlled substances that Respondent prescribed to him as directed. For example, at his October 23, 2009 visit, P-1 reported that he was using up to four tablets of Norco per day for his chronic leg pain, although he had been prescribed Norco for use only three times per day. Also, on October 11, 2012, P-1 reported that he had increased his use of Percocet to three tablets at bedtime, although he had been prescribed Percocet for use only two times per day. And on January 23, 2013, P-1 stated that he had been using inordinate amounts of his prescribed Norco, Percocet, and Ativan.

F. P-1 was concurrently being treated for anxiety and depression, and Respondent documented at his January 23, 2013 visit that P-1 "relates to thoughts of suicide and depression."

G. P-1 was prescribed a combination of narcotics and a combination of narcotics and benzodiazepines.

13. These factors placed P-1 at high risk for abuse or misuse of or addiction to controlled substances. Respondent's prescribing and documentation do not reflect that he conducted an adequate assessment of the risks to P-1 from the long-term use of controlled substances, based on these factors.

14. Respondent documented discussing with the patient, during multiple visits, his need to cease drinking alcohol, particularly in combination with his prescribed medications. Respondent also documented warning the patient at his February 6, 2013 visit that he could easily overdose if he continued to drink alcohol while using Ativan. However, Respondent did not document informing P-1 of the fundamental risks of the narcotics and benzodiazepines he prescribed, including combinations thereof.

15. Respondent's prescribing and documentation do not reflect that he adapted his treatment plan based on P-1's response to the prescribed medications, such as increased function or decreased pain. For example, on August 11, 2010, Respondent increased P-1's dose of Norco without documenting a reason for the change. More broadly, between 2010 and 2013, Respondent increased P-1's dosages of narcotics without documenting positive outcomes supporting continued or increased prescribing and despite the risk factors exhibited by P-1 noted above.

CAUSE FOR DISCIPLINE

(Unprofessional Conduct: Gross Negligence, Repeated Negligent Acts, Inadequate Records)

16. Respondent is guilty of unprofessional conduct and subject to disciplinary action under section 2234, subdivision (b) (gross negligence), (c) (repeated negligent acts), and/or section 2266 (inadequate records) of the Code in that Respondent was grossly negligent, committed repeated negligent acts, and/or failed to maintain adequate records in the practice of medicine by engaging in the conduct described above, including but not limited to the following:

A. Respondent failed to adequately assess and document the risks to P-1 of long-term use of a combination of narcotics and the risks of combining narcotics with Ativan, a benzodiazepine;

B. Respondent failed to document obtaining informed consent from the patient for his treatment by adequately informing the patient of the risks of these medications; and

C. Respondent did not base his prescribing to P-1 on an ongoing assessment of P-1's response to the medications and failed to tailor his treatment of P-1 based on positive and negative findings.

PRAYER

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

1. Revoking or suspending Physician's and Surgeon's Certificate Number G 57801, issued to Respondent;

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

3. Ordering Respondent, 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: April 4, 2019

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

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