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

In the Matter of the Accusation Against:	)	
Wayne Stewart True, M.D.	)	**Case No. 800-2017-035816**
Physician's and Surgeon's Certificate No. G 62330	)	
Respondent	)	

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 December 18, 2019.

IT IS SO ORDERED November 18, 2019.

MEDICAL BOARD OF CALIFORNIA

By: Kristina Lawson
Kristina D. Lawson, J.D., Chair
Panel B

XAVIER BECERRA
Attorney General of California
MATTHEW M. DAVIS
Supervising Deputy Attorney General
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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:	Case No. 800-2017-035816
WAYNE STEWART TRUE, M.D. **8881 Fletcher Pkwy Ste. 105** **La Mesa, CA 91942-3132**	OAH No. 2018100368
Physician's and Surgeon's Certificate No. G 62330	**STIPULATED SETTLEMENT AND DISCIPLINARY ORDER**
Respondent.	

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, by Jason J. Ahn, Deputy Attorney General.

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2. Respondent Wayne Stewart True, M.D., (Respondent) is represented in this proceeding by attorney Scott D. Buchholz, Esq., whose address is: 101 W. Broadway, Suite 1400 San Diego, CA 92101-8122.

3. On or about February 16, 1988, the Board issued Physician's and Surgeon's Certificate No. G 62330 to Wayne Stewart True, M.D. (Respondent). The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought in Accusation No. 800-2017-035816, and will expire on June 30, 2021, unless renewed.

JURISDICTION

4. On September 6, 2018, Accusation No. 800-2017-035816 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 September 6, 2018. Respondent timely filed his Notice of Defense contesting the Accusation.

5. A copy of Accusation No. 800-2017-035816 is attached as Exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

6. Respondent has carefully read, fully discussed with counsel, and fully understands the charges and allegations in Accusation No. 800-2017-035816. Respondent has also carefully read, fully discussed with counsel, and fully understands the effects of this Stipulated Settlement and Disciplinary Order.

7. 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.

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

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CULPABILITY

9. 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. 800-2017-035816, a copy of which is attached hereto as Exhibit A, and that he has thereby subjected his Physician's and Surgeon's Certificate No. G 62330 to disciplinary action.

10. Respondent agrees that if an accusation is ever filed against him before the Medical Board of California, all of the charges and allegations contained in Accusation No. 800-2017-035816 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.

11. Respondent agrees that his Physician's and Surgeon's Certificate No. G 62330 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

12. This stipulation shall be subject to approval by the Medical Board of California. Respondent understands and fully 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.

13. The parties agree that this Stipulated Settlement and Disciplinary Order shall be null and void and not binding upon the parties unless approved and adopted by the Board, except for this paragraph, which shall remain in full force and effect. Respondent fully understands and agrees that in deciding whether or not to approve and adopt this Stipulated Settlement and Disciplinary Order, the Board may receive oral and written communications from its staff and/or

the Attorney General's Office. Communications pursuant to this paragraph shall not disqualify the Board, any member thereof, and/or any other person from future participation in this or any other matter affecting or involving Respondent. In the event that the Board does not, in its discretion, approve and adopt this Stipulated Settlement and Disciplinary Order, with the exception of this paragraph, it shall not become effective, shall be of no evidentiary value whatsoever, and shall not be relied upon or introduced in any disciplinary action by either party hereto. Respondent further agrees that should this Stipulated Settlement and Disciplinary Order be rejected for any reason by the Board, Respondent will assert no claim that the Board, or any member thereof, was prejudiced by its/his/her review, discussion and/or consideration of this Stipulated Settlement and Disciplinary Order or of any matter or matters related hereto.

ADDITIONAL PROVISIONS

14. This Stipulated Settlement and Disciplinary Order is intended by the parties herein to be an integrated writing representing the complete, final, and exclusive embodiment of the agreements of the parties in the above-entitled matter.

15. The parties agree that copies of this Stipulated Settlement and Disciplinary Order, including copies of the signatures of the parties, may be used in lieu of original documents and signatures and, further, that such copies shall have the same force and effect as originals.

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

DISCIPLINARY ORDER

1. PUBLIC REPRIMAND.

IT IS HEREBY ORDERED that Respondent, Wayne Stewart True, M.D., holder of Physician's and Surgeon's Certificate No. G 62330, shall be and hereby is Publicly Reprimanded pursuant to Business and Professions Code section 2227. This Public Reprimand, which is issued in connection with the allegations as set forth in Accusation No. 800-2017-035816, is as follows:

Between September 2011 through February 2012, Respondent departed from the standard of care when prescribing controlled substances to Patient A, as more fully described in

Accusation No. 800-2017-035816.

2. EDUCATION COURSE. Within 60 calendar days of the effective date of this Decision, 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, to be completed within nine (9) months of effective date of this order. 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 65 hours of CME of which 40 hours were in satisfaction of this condition.

3. 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.

4. MEDICAL RECORD KEEPING COURSE. Within 60 calendar days of the effective date of this Decision, Respondent shall enroll in a course in medical record keeping 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 medical record keeping course shall be at Respondent's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

A medical record keeping 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.

5. FAILURE TO COMPLY.

Any failure by Respondent to comply with the terms and conditions of the Disciplinary Order set forth above 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, Scott D. Buchholz, Esq. I understand the stipulation and the effect it will have on my Physician's and Surgeons Certificate. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and fully agree to be bound by the Decision and Order of the Medical Board of California.

DATED: October 02, 2019

WAYNE STEWART TRUE, M.D.
Respondent

I have read and fully discussed with Respondent Wayne Stewart True, 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: 10/2/19

SCOTT D. BUCHHOLZ, 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: October 3, 2019

Respectfully submitted,

XAVIER BECERRA
Attorney General of California
MATTHEW M. DAVIS
Supervising Deputy Attorney General

JASON J. AHN
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 800-2017-035816

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Attorneys for Complainant

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO 2 December 10 2018
BY [illegible] ANALYST

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

In the Matter of the Accusation Against: **Wayne Stewart True, M.D.** **8881 FLETCHER PKWY STE 105** **LA MESA CA 91942-3132** **Physician's and Surgeon's Certificate No. G 62330,** Respondent.	Case No. 800-2017-035816 **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 February 16, 1988, the Medical Board issued Physician's and Surgeon's Certificate No. G 62330 to Wayne Stewart True, 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 June 30, 2019, 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 (Code) unless otherwise indicated.

4. 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."

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5. 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:

". . .

"(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.

". . . ."

6. Section 2266 of the Code states:

"The failure of a physician and surgeon to maintain adequate and accurate records relating to the provision of services to their patients constitutes unprofessional conduct."

7. Unprofessional conduct under Business and Professions Code section 2234 is conduct which breaches the rules or ethical code of the medical profession, or conduct which is unbecoming a member in good standing of the medical profession, and which demonstrates an unfitness to practice medicine. (*Shea v. Board of Medical Examiners* (1978) 81 Cal.App.3d 564, 575.)

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FIRST CAUSE FOR DISCIPLINE

(Gross Negligence)

8. Respondent has subjected his Physician's and Surgeon's Certificate No. G62330 to disciplinary action under sections 2227 and 2234, as defined by section 2234, subdivision (b), of the Code, in that he committed gross negligence in his care and treatment of Patient A,[1] as more particularly alleged hereinafter:

9. Respondent was Patient A's primary care physician between 1992 until February 2012.[2] Patient A had a history of systemic lupus erythematosus (SLE)[3], severe asthma, peripheral neuropathy[4], chronic back pain, anxiety, depression and Post-traumatic stress disorder (PTSD).

10. Between on or about September 9, 2011 to on or about February 23, 2012, Respondent prescribed the following controlled substances to Patient A:

Filled	Drug Name	Quantity	Prescriber
09-09-11	Diazepam[5] 10 mg	90	Respondent
09-13-11	APAP/Hydrocodone[6] 325/10	240	Respondent

[1] References to "Patient A" are used to protect patient privacy.

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

[3] Systemic Lupus Erythematosus (SLE) is an autoimmune disease, meaning that the immune system of the body mistakenly attacks healthy tissue.

[4] Peripheral neuropathy refers to the conditions that result when nerves that carry messages to and from the brain and spinal cord from and to the rest of the body are damaged or diseased.

[5] Diazepam is a Schedule IV controlled substance pursuant to Health and Safety Code section 11057, subsection (d)(9), and a dangerous drug pursuant to Business and Professions Code section 4022. When properly prescribed and indicated, Diazepam is generally used to treat anxiety disorders, alcohol withdrawal symptoms, or muscle spasms.

[6] APAP, also known as Acetaminophen, is a less potent pain reliever that increases the effects of hydrocodone. Hydrocodone is a Schedule II controlled substance pursuant to Health and Safety Code section 11055, subdivision (b)(1)(I), and a dangerous drug pursuant to Business and Professions Code section 4022. APAP Hydrocodone (Vicodin®, Lortab® and Norco®) is a hydrocodone combination of hydrocodone bitartrate and Acetaminophen which was formerly a Schedule III controlled substance pursuant to Health and Safety Code section 11056, subdivision

(continued...)

Filled	Drug Name	Quantity	Prescriber
09-13-11	Morphine Sulfate[7] 30 mg	60	Respondent
10-28-11	APAP/Hydrocodone 325/10	240	Respondent
10-29-11	Diazepam 10 mg	90	Respondent
11-9-11	Morphine Sulfate 30 mg	60	Respondent
11-14-11	Morphine Sulfate 30 mg	60	Respondent
12-15-11	APAP/Hydrocodone 325/10	240	Respondent
12-15-11	Morphine Sulfate 30 mg	60	Respondent
12-22-11	Morphine Sulfate 30 mg	60	Respondent
12-30-11	Diazepam 10 mg	90	Respondent
01-17-12	APAP/Hydrocodone 325/10	240	Respondent
01-18-12	Diazepam 10 mg	90	Respondent
01-20-12	Morphine Sulfate 30 mg	60	Respondent
02-23-12	APAP/Hydrocodone 325/10	240	Respondent
02-23-12	Morphine Sulfate 30 mg	60	Respondent

(...continued)
(e), and a dangerous drug pursuant to Business and Professions Code section 4022. On August 22, 2014, the DEA published a final rule rescheduling hydrocodone combination products (HCP's) to schedule II of the Controlled Substances Act, which became effective October 6, 2014. Schedule II controlled substances are substances that have a currently accepted medical use in the United States, but also have a high potential for abuse, and the abuse of which may lead to severe psychological or physical dependence. When properly prescribed and indicated, HCP's are used for the treatment of moderate to severe pain. In addition to the potential for psychological and physical dependence there is also the risk of acute liver failure which has resulted in a black box warning being issued by the Federal Drug Administration (FDA). The FDA black box warning provides that "[a]cetaminophen has been associated with cases of acute liver failure, at times resulting in liver transplant and death. Most of the cases of liver injury are associated with use of the acetaminophen at doses that exceed 4000 milligrams per day, and often involve more than one acetaminophen containing product."

[7] Morphine Sulfate extended release (MS Contin®) is a strong prescription pain medication and a Schedule II controlled substance pursuant to Health and Safety Code section 11055, subdivision (b)(1)(L) and a dangerous drug pursuant to Business and Professions Code section 4022.

11. On or about August 8, 2011, Patient A was seen in the emergency department at Sharp Grossmont Hospital for "slurred speech" reported by Patient A's wife. After the evaluation, it was concluded that Patient A may have had a speech alteration from a "possible medication effect."

12. Respondent prescribed the above controlled substances without regular physician reassessment of Patient A.

13. Respondent failed to have and/or failed to document having an established treatment plan with stated goals and objectives for Patient A's long-term opiate use.

14. Without regular reassessment of suicide risk, Respondent augmented prescribed opiates and simultaneously prescribed benzodiazepines to Patient A, a patient with anxiety and major depression.

15. Respondent failed to conduct a periodic review of the pain treatment plan and failed to conduct regular monitoring to detect possible substance abuse and/or drug diversion.

16. For management of Patient A's asthma, without regular clinic visits, Respondent authorized injections of Depo-testosterone[8] to Patient A on or about August 24, 2011, September 8, 2011, September 23, 2011, October 7, 2011, October 21, 2011, November 4, 2011, December 23, 2011, and January 20, 2012. Respondent utilized chronic oral corticosteroids[9] without use of inhaled corticosteroids, long-acting beta-agonists[10], anticholinergic[11] inhalers, or a leukotriene receptor antagonist.[12]

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[8] Depo Testosterone is a drug used to support normal male development such as muscle growth, facial hair, and deep voice.

[9] Corticosteroids are used to provide relief for inflamed areas of the body.

[10] Beta Agonists are medications that relax muscles of the airways, which widen the airways and result in easier breathing.

[11] Anticholinergics are medications that prevent the muscle bands around the airways from tightening.

[12] Leukotriene receptor antagonists are among the most prescribed drugs for the management of asthma, used both for treatment and prevention of acute asthmatic attacks.

17. Respondent committed gross negligence in his care and treatment of Patient A, which included, but was not limited to, the following:

(a) Without regular reassessment of suicide risk, Respondent augmented prescribed opiates and simultaneously prescribed benzodiazepines to Patient A, a patient with anxiety and major depression.

SECOND CAUSE FOR DISCIPLINE

(Repeated Negligent Acts)

18. Respondent has further subjected his Physician's and Surgeon's Certificate No. G62330 to disciplinary action under sections 2227 and 2234, as defined by section 2234, subdivision (c), of the Code, in that he committed repeated negligent acts in his care and treatment of Patient A, as more particularly alleged herein.

(a) Paragraphs 8 through 17, above, are hereby incorporated by reference and realleged as if fully set forth herein.

(b) Respondent committed repeated negligent acts which included, but were not limited to, the following:

(c) Respondent prescribed above controlled substances without regular physician reassessment of Patient A;

(d) Respondent failed to have and/or failed to document having an established treatment plan with stated goals and objectives for Patient A's long-term opiate use;

(e) Without regular reassessment of suicide risk, Respondent augmented prescribed opiates and simultaneously prescribed benzodiazepines to Patient A, a patient with anxiety and major depression;

(f) Respondent failed to conduct a periodic review of the pain treatment plan and failed to conduct regular monitoring to detect possible substance abuse and/or drug diversion; and

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(g) For management of Patient A's asthma, Respondent utilized chronic oral corticosteroids[13] without use of inhaled corticosteroids, long-acting beta-agonists[14], anticholinergic[15] inhalers, or a leukotriene receptor antagonist.[16]

THIRD CAUSE FOR DISCIPLINE

(Failure to Maintain Adequate and Accurate Records)

19. Respondent has further subjected his Physician's and Surgeon's Certificate No. G62330 to disciplinary action under sections 2227 and 2234, as defined by section 2266, of the Code, in that respondent failed to maintain adequate and accurate records regarding his care and treatment of Patient A, as more particularly alleged in paragraphs 8 through 18, above, which are hereby incorporated by reference and realleged as if fully set forth herein.

FOURTH CAUSE FOR DISCIPLINE

(General Unprofessional Conduct)

20. Respondent has further subjected his Physician's and Surgeon's Certificate No. G62330 to disciplinary action under sections 2227 and 2234 of the Code, in that he has engaged in conduct which breaches the rules or ethical code of the medical profession, or conduct which is unbecoming to a member in good standing of the medical profession, and which demonstrates an unfitness to practice medicine, as more particularly alleged in paragraphs 8 through 19, above, which are hereby incorporated by reference as if fully set forth herein.

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[13] Corticosteroids are used to provide relief for inflamed areas of the body.

[14] Beta Agonists are medications that relax muscles of the airways, which widen the airways and result in easier breathing.

[15] Anticholinergics are medications that prevent the muscle bands around the airways from tightening.

[16] Leukotriene receptor antagonists are among the most prescribed drugs for the management of asthma, used both for treatment and prevention of acute asthmatic attacks.

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 G 62330, issued to Wayne Stewart True, M.D.;

2. Revoking, suspending or denying approval of Wayne Stewart True, M.D.'s authority to supervise physician assistants and advanced practice nurses;

3. Ordering Wayne Stewart True, 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: September 6, 2018

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