

**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 D. Lawson, J.D., Chair
Panel B**

1 XAVIER BECERRA
Attorney General of California
2 MATTHEW M. DAVIS
Supervising Deputy Attorney General
3 JASON J. AHN
Deputy Attorney General
4 State Bar No. 253172
600 West Broadway, Suite 1800
5 San Diego, CA 92101
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6 San Diego, CA 92186-5266
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8 *Attorneys for Complainant*

9
10 **BEFORE THE**
11 **MEDICAL BOARD OF CALIFORNIA**
12 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

13 In the Matter of the Accusation Against:

14 **WAYNE STEWART TRUE, M.D.**
15 **8881 Fletcher Pkwy Ste. 105**
La Mesa, CA 91942-3132

16 **Physician's and Surgeon's Certificate**
17 **No. G 62330**

18 Respondent.

Case No: 800-2017-035816

OAH No. 2018100368

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

19
20 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
21 entitled proceedings that the following matters are true:

22 **PARTIES**

23 1. Kimberly Kirchmeyer (Complainant) is the Executive Director of the Medical Board
24 of California (Board). She brought this action solely in her official capacity and is represented in
25 this matter by Xavier Becerra, Attorney General of the State of California, by Jason J. Ahn,
26 Deputy Attorney General.

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

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

8 **JURISDICTION**

9 4. On September 6, 2018, Accusation No. 800-2017-035816 was filed before the Board,
10 and is currently pending against Respondent. The Accusation and all other statutorily required
11 documents were properly served on Respondent on September 6, 2018. Respondent timely filed
12 his Notice of Defense contesting the Accusation.

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

15 **ADVISEMENT AND WAIVERS**

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

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

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

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

11 **ADDITIONAL PROVISIONS**

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

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

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

21 **DISCIPLINARY ORDER**

22 1. **PUBLIC REPRIMAND.**

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

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

1 Accusation No. 800-2017-035816.

2 2. EDUCATION COURSE. Within 60 calendar days of the effective date of this
3 Decision, Respondent shall submit to the Board or its designee for its prior approval educational
4 program(s) or course(s) which shall not be less than forty (40) hours, to be completed within nine
5 (9) months of effective date of this order. The educational program(s) or course(s) shall be aimed
6 at correcting any areas of deficient practice or knowledge and shall be Category I certified. The
7 educational program(s) or course(s) shall be at Respondent's expense and shall be in addition to
8 the Continuing Medical Education (CME) requirements for renewal of licensure. Following the
9 completion of each course, the Board or its designee may administer an examination to test
10 Respondent's knowledge of the course. Respondent shall provide proof of attendance for 65
11 hours of CME of which 40 hours were in satisfaction of this condition.

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

21 A prescribing practices course taken after the acts that gave rise to the charges in the
22 Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board
23 or its designee, be accepted towards the fulfillment of this condition if the course would have
24 been approved by the Board or its designee had the course been taken after the effective date of
25 this Decision.

26 Respondent shall submit a certification of successful completion to the Board or its
27 designee not later than 15 calendar days after successfully completing the course, or not later than
28 15 calendar days after the effective date of the Decision, whichever is later.

1 4. MEDICAL RECORD KEEPING COURSE. Within 60 calendar days of the effective
2 date of this Decision, Respondent shall enroll in a course in medical record keeping approved in
3 advance by the Board or its designee. Respondent shall provide the approved course provider
4 with any information and documents that the approved course provider may deem pertinent.
5 Respondent shall participate in and successfully complete the classroom component of the course
6 not later than six (6) months after Respondent's initial enrollment. Respondent shall successfully
7 complete any other component of the course within one (1) year of enrollment. The medical
8 record keeping course shall be at Respondent's expense and shall be in addition to the Continuing
9 Medical Education (CME) requirements for renewal of licensure.

10 A medical record keeping course taken after the acts that gave rise to the charges in the
11 Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board
12 or its designee, be accepted towards the fulfillment of this condition if the course would have
13 been approved by the Board or its designee had the course been taken after the effective date of
14 this Decision.

15 Respondent shall submit a certification of successful completion to the Board or its
16 designee not later than 15 calendar days after successfully completing the course, or not later than
17 15 calendar days after the effective date of the Decision, whichever is later.

18 5. FAILURE TO COMPLY.

19 Any failure by Respondent to comply with the terms and conditions of the Disciplinary
20 Order set forth above shall constitute unprofessional conduct and grounds for further disciplinary
21 action.

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1 ACCEPTANCE

2 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
3 discussed it with my attorney, Scott D. Buchholz, Esq. I understand the stipulation and the effect
4 it will have on my Physician's and Surgeons Certificate. I enter into this Stipulated Settlement
5 and Disciplinary Order voluntarily, knowingly, and intelligently, and fully agree to be bound by
6 the Decision and Order of the Medical Board of California.

7
8 DATED: October 02, 2010

Wayne Stewart True 110
9 WAYNE STEWART TRUE, M.D.
Respondent

10
11 I have read and fully discussed with Respondent Wayne Stewart True, M.D. the terms and
12 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.
13 I approve its form and content.

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15 DATED: 10/2/14

Scott D. Buchholz
16 SCOTT D. BUCHHOLZ, ESQ.
Attorney for Respondent

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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

1 XAVIER BECERRA
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Supervising Deputy Attorney General
3 JASON J. AHN
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8 *Attorneys for Complainant*

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO September 16 2018
Ray Winger ANALYST

10 **BEFORE THE**
11 **MEDICAL BOARD OF CALIFORNIA**
12 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

13 In the Matter of the Accusation Against:

Case No. 800-2017-035816

14 **Wayne Stewart True, M.D.**
15 **8881 FLETCHER PKWY STE 105**
LA MESA CA 91942-3132

A C C U S A T I O N

16 **Physician's and Surgeon's Certificate**
17 **No. G 62330,**

18 Respondent.

19
20 Complainant alleges:

21 **PARTIES**

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

25 2. On or about February 16, 1988, the Medical Board issued Physician's and Surgeon's
26 Certificate No. G 62330 to Wayne Stewart True, M.D. (Respondent). The Physician's and
27 Surgeon's Certificate was in full force and effect at all times relevant to the charges brought
28 herein and will expire on June 30, 2019, unless renewed.

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4. Section 2227 of the Code states:

“(1) Have his or her license revoked 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.

“(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.

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1 5. Section 2234 of the Code, states:

2 "The board shall take action against any licensee who is charged with unprofessional
3 conduct. In addition to other provisions of this article, unprofessional conduct includes, but
4 is not limited to, the following:

5 "...

6 "(b) Gross negligence.

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

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

12 "(2) When the standard of care requires a change in the diagnosis, act, or omission
13 that constitutes the negligent act described in paragraph (1), including, but not limited to, a
14 reevaluation of the diagnosis or a change in treatment, and the licensee's conduct departs
15 from the applicable standard of care, each departure constitutes a separate and distinct
16 breach of the standard of care.

17 "..."

18 6. Section 2266 of the Code states:

19 "The failure⁴ of a physician and surgeon to maintain adequate and accurate records relating
20 to the provision of services to their patients constitutes unprofessional conduct."

21 7. Unprofessional conduct under Business and Professions Code section 2234 is conduct
22 which breaches the rules or ethical code of the medical profession, or conduct which is
23 unbecoming a member in good standing of the medical profession, and which demonstrates an
24 unfitness to practice medicine. (*Shea v. Board of Medical Examiners* (1978) 81 Cal.App.3d 564,
25 575.)

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1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Gross Negligence)**

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

7 9. Respondent was Patient A's primary care physician between 1992 until February
8 2012.² Patient A had a history of systemic lupus erythematosus (SLE)³, severe asthma, peripheral
9 neuropathy⁴, chronic back pain, anxiety, depression and Post-traumatic stress disorder (PTSD).

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

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

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

18 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.

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

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

23 ⁵ Diazepam is a Schedule IV controlled substance pursuant to Health and Safety Code
24 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.

25 ⁶ APAP, also known as Acetaminophen, is a less potent pain reliever that increases the
26 effects of hydrocodone. Hydrocodone is a Schedule II controlled substance pursuant to Health
27 and Safety Code section 11055, subdivision (b)(1)(I), and a dangerous drug pursuant to Business
28 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.

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

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

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

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

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

14 16. For management of Patient A's asthma, without regular clinic visits, Respondent
15 authorized injections of Depo-testosterone⁸ to Patient A on or about August 24, 2011, September
16 8, 2011, September 23, 2011, October 7, 2011, October 21, 2011, November 4, 2011, December
17 23, 2011, and January 20, 2012. Respondent utilized chronic oral corticosteroids⁹ without use of
18 inhaled corticosteroids, long-acting beta-agonists¹⁰, anticholinergic¹¹ inhalers, or a leukotriene
19 receptor antagonist.¹²

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21 _____
22 ⁸ Depo Testosterone is a drug used to support normal male development such as muscle
23 growth, facial hair, and deep voice.

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

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

27 ¹¹ Anticholinergics are medications that prevent the muscle bands around the airways
28 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.

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

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

6 **SECOND CAUSE FOR DISCIPLINE**

7 **(Repeated Negligent Acts)**

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

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

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

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

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

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

23 (f) Respondent failed to conduct a periodic review of the pain treatment plan and failed
24 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 corticosteroids¹³ without use of inhaled corticosteroids, long-acting beta-agonists¹⁴, anticholinergic¹⁵ 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.

1 **PRAYER**

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

4 1. Revoking or suspending Physician's and Surgeon's Certificate Number G 62330,
5 issued to Wayne Stewart True, M.D.;

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

8 3. Ordering Wayne Stewart True, M.D., if placed on probation, to pay the Board the
9 costs of probation monitoring; and

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

11
12 DATED: September 6, 2018


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