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

In the Matter of the Accusation Against:	)	
Keith Robert Swanson, M.D.	)	**Case No. 800-2016-021935**
Physician's and Surgeon's Certificate No. C 34400	)	
Respondent	)	

DECISION

The attached Stipulated Surrender of License 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 23, 2019 **.**

IT IS SO ORDERED December 16, 2019 **.**

MEDICAL BOARD OF CALIFORNIA

Christine J. Lally
Interim Executive Director

XAVIER BECERRA
Attorney General of California
ALEXANDRA M. ALVAREZ
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: **KEITH ROBERT SWANSON, M.D.** **P.O. Box 3** **Genoa, NV 989411** **Physician's and Surgeon's Certificate No. C 34400** Respondent.	Case No. 800-2016-021935 OAH No. 2019030648 **STIPULATED SURRENDER OF LICENSE 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. Christine J. Lally (Complainant) is the Deputy Director of the Medical Board of California (Board). This action was brought by then Complainant Kimberly Kirchmeyer solely in her official capacity.[1] Complainant is represented in this matter by Xavier Becerra, Attorney General of the State of California, by Aaron L. Lent, Deputy Attorney General.

[1] Ms. Kirchmeyer became the Director of the Department of Consumer Affairs on October 28, 2019.

2. Keith Robert Swanson, M.D. (Respondent) is represented in this proceeding by attorney Robert H. Zimmerman, Esq. and Ian A. Scharg, whose address is: 400 University Ave. Sacramento, CA 95825-6502.

3. On or about July 26, 1972, the Board issued Physician's and Surgeon's Certificate No. C 34400 to Keith Robert Swanson, M.D. (Respondent). The Physician's and Surgeon's Certificate No. C 34400 was in full force and effect at all times relevant to the charges brought in Accusation No. 800-2016-021935 and will expire on February 28, 2019, unless renewed.

JURISDICTION

4. Accusation No. 800-2016-021935 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 February 20, 2019. Respondent timely filed his Notice of Defense contesting the Accusation. A copy of Accusation No. 800-2016-021935 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 Accusation No. 800-2016-021935. Respondent also has carefully read, fully discussed with counsel, and understands the effects of this Stipulated Surrender of License and Disciplinary Order.

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

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

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CULPABILITY

8. Respondent understands that the charges and allegations in Accusation No. 800-2016-021935, if proven at a hearing, constitute cause for imposing discipline upon his Physician's and Surgeon's Certificate No. C 34400.

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 agrees that if he ever petitions for reinstatement of his Physician's and Surgeon's Certificate No. C 34400, or if the Board ever petitions for revocation of probation, all of the charges and allegations contained in Accusation No. 800-2016-021935 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 understands that by signing this stipulation he enables the Executive Director of the Medical Board to issue an order accepting the surrender of his Physician's and Surgeon's License No. C 34400 on behalf of the Board, without further notice or opportunity to be heard.

RESERVATION

12. The admissions made by Respondent herein are only for the purposes of this proceeding, or any other proceedings in which the Medical Board of California or other professional licensing agency is involved, and shall not be admissible in any other criminal or civil proceeding.

13. Business and Professions Code section 2224, subdivision (b), provides, in pertinent part, that the Medical Board "shall delegate to its executive director the authority to adopt a stipulation for surrender of a license."

14. This Stipulated Surrender of License and Disciplinary Order shall be subject to approval of the Executive Director on behalf of the Medical Board. The parties agree that this

Stipulated Surrender of License and Disciplinary Order shall be submitted to the Executive Director for her consideration in the above-entitled matter and, further, that the Executive Director shall have a reasonable period of time in which to consider and act on this Stipulated Surrender of License and Disciplinary Order after receiving it. By signing this stipulation, Respondent fully understands and agrees that he may not withdraw his agreement or seek to rescind this stipulation prior to the time the Executive Director, on behalf of the Medical Board, considers and acts upon it.

15. The parties agree that this Stipulated Surrender of License and Disciplinary Order shall be null and void and not binding upon the parties unless approved and adopted by the Executive Director on behalf of 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 Surrender of License and Disciplinary Order, the Executive Director and/or 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 Executive Director, 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 Executive Director on behalf of the Board does not, in her discretion, approve and adopt this Stipulated Surrender of License 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 Surrender of License and Disciplinary Order be rejected for any reason by the Executive Director on behalf of the Board, Respondent will assert no claim that the Executive Director, the Board, or any member thereof, was prejudiced by its/his/her review, discussion and/or consideration of this Stipulated Surrender of License and Disciplinary Order or of any matter or matters related hereto.

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ADDITIONAL PROVISIONS

16. This Stipulated Surrender of License 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.

17. The parties agree that copies of this Stipulated Surrender of License 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 and signatures shall have the same force and effect as originals.

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

ORDER

IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. C 34400, issued to Respondent Keith Robert Swanson, M.D., is surrendered and accepted by the Medical Board of California.

1. The surrender of Respondent's Physician's and Surgeon's Certificate No. C 34400 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 Medical Board of California.

2. Respondent shall lose all rights and privileges as a Physician and Surgeon 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. 800-2016-021935 shall be deemed to be true, correct and admitted

by Respondent when the Board determines whether to grant or deny the petition. However, the allegations may be deemed to be true, correct and fully admitted by Respondent solely for the purposes of the Board's determination as to whether to grant or deny the petition and may not be used and are not intended to be admissions in any other proceeding.

5. 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 agency in the State of California, all of the charges and allegations contained in Accusation, No. 800-2016-021935 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 licensure. However, the allegations may be deemed to be true, correct and fully admitted by Respondent solely for the purposes of the Board's determination as to whether to grant or deny the petition and may not be used and are not intended to be admissions in any other proceeding.

ACCEPTANCE

I have carefully read the above Stipulated Surrender of License and Disciplinary Order and have fully discussed it with my attorney Robert H. Zimmerman, Esq. I understand the stipulation and the effect it will have on my Physician's and Surgeon's Certificate No. C 34400. I enter into this Stipulated Surrender of License and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Medical Board of California.

DATED: 11-22-2019

KEITH ROBERT SWANSON, M.D.
Respondent

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

DATED: 11/25/19

ROBERT H. ZIMMERMAN, ESQ.
IAN A. SQUARG, ESQ.
Attorney for Respondent

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ENDORSEMENT

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

DATED: 11-25-19

Respectfully submitted,

XAVIER BECERRA
Attorney General of California
ALEXANDRA M. ALVAREZ
Supervising Deputy Attorney General

AARON L. LENT
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 800-2016-021935

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Attorneys for Complainant

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO Feb. 20 2019
BY Edna Cannon ANALYST

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

In the Matter of the Accusation Against: **Keith Robert Swanson, M.D.** **P.O. Box 3** **Genoa, NV 89411-0003** **Physician's and Surgeon's Certificate No. C 34400,** Respondent.	Case No. 800-2016-021935 **A C C U S A T I O N**

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 26, 1972, the Medical Board issued Physician's and Surgeon's Certificate No. C 34400 to Keith Robert Swanson, 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 February 28, 2021, 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 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, be publicly reprimanded, or have such other action taken in relation to discipline as the Board deems proper.

5. Section 2234 of the Code, states:

"The board shall take action against any licensee who is charged with unprofessional conduct.[1] 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.

". . ."

6. Section 2236 of the Code states:

"(a) The conviction of any offense substantially related to the qualifications, functions, or duties of a physician and surgeon constitutes unprofessional conduct within the meaning of this chapter [Chapter 5, the Medical Practice Act]. The record of conviction shall be conclusive evidence only of the fact that the conviction occurred.

"(b) The district attorney, city attorney, or other prosecuting agency shall notify the Division of Medical Quality of the pendency of an action against a licensee charging a felony or misdemeanor immediately upon obtaining information that the defendant is a licensee. The notice shall identify the licensee and describe the crimes charged and the facts alleged. The

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[1] Unprofessional conduct under California 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.)

prosecuting agency shall also notify the clerk of the court in which the action is pending that the defendant is a licensee, and the clerk shall record prominently in the file that the defendant holds a license as a physician and surgeon.

"(c) The clerk of the court in which a licensee is convicted of a crime shall, within 48 hours after the conviction, transmit a certified copy of the record of conviction to the board. The division may inquire into the circumstances surrounding the commission of a crime in order to fix the degree of discipline or to determine if the conviction is of an offense substantially related to the qualifications, functions, or duties of a physician and surgeon.

"(d) A plea or verdict of guilty or a conviction after a plea of nolo contendere is deemed to be a conviction within the meaning of this section and Section 2236.1. The record of conviction shall be conclusive evidence of the fact that the conviction occurred."

7. Section 2239 of the Code states:

"(a) The use or prescribing for or administering to himself or herself, of any controlled substance; or the use of any of the dangerous drugs specified in Section 4022, or of alcoholic beverages, to the extent, or in such a manner as to be dangerous or injurious to the licensee, or to any other person or to the public, or to the extent that such use impairs the ability of the licensee to practice medicine safely or more than one misdemeanor or any felony involving the use, consumption, or self-administration of any of the substances referred to in this section, or any combination thereof, constitutes unprofessional conduct. The record of the conviction is conclusive evidence of such unprofessional conduct.

"(b) A plea or verdict of guilty or a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning of this section. The Division of Medical Quality may order discipline of the licensee in accordance with Section 2227 or the Division of Licensing may order the denial of the license when the time for appeal has elapsed or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4

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of the Penal Code allowing such person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, complaint, information, or indictment."[2]

8. California Code of Regulations, title 16, section 1360, states:

"For the purposes of denial, suspension or revocation of a license, certificate or permit pursuant to Division 1.5 (commencing with Section 475) of the code, a crime or act shall be considered to be substantially related to the qualifications, functions or duties of a person holding a license, certificate or permit under the Medical Practice Act if to a substantial degree it evidences present or potential unfitness of a person holding a license, certificate or permit to perform the functions authorized by the license, certificate or permit in a manner consistent with the public health, safety or welfare. Such crimes or acts shall include but not be limited to the following: Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate any provision of the Medical Practice Act."

FIRST CAUSE FOR DISCIPLINE

(Use of Alcohol in a Dangerous or Injurious Manner)

9. Respondent is subject to disciplinary action under sections 2227 and 2234, as defined by section 2239, of the Code, and California Code of Regulations, title 16, section 1360, in that he has used alcoholic beverages, to the extent, or in such a manner, as to be dangerous or injurious to himself, or to any other person or to the public, as more particularly alleged hereinafter:

A. September 11, 2015, Arrest for Driving Under the Influence of Alcohol/Drugs.

10. On or about September 11, 2015, at approximately 2:33 P.M., a Nevada Highway Patrol (NHP) officer responded to a call reporting a hit and run traffic collision on Highland Drive, in Douglas County, Nevada. The NHP officer observed that a silver Mercedes sedan had sustained major right front damage. The officer additionally observed Respondent, who was the

[2] There is a nexus between a physician's use of alcoholic beverages and his or her fitness to practice medicine, established by the Legislature in section 2239, "in all cases where a licensed physician used alcoholic beverages to the extent or in such a manner as to pose a danger to himself or others." (Watson v. Superior Court (Medical Board) (2009) 176 Cal.App.4th 1407, 1411.)

vehicle's owner and driver of the vehicle, standing near the front of the vehicle, along with a Douglas County Sherriff's deputy. The Sherriff's deputy relayed to the NHP officer that Responded had admitted to him that he had taken medication and consumed a beer earlier that morning.

11. The NHP officer approached Respondent and proceeded to converse with him about the events leading up to the accident. When asked what had happened, Respondent replied that he had "swiped a wall," or words to that effect. Respondent additionally stated that he did not know what was going on. He further stated that he believed that his vehicle was still drivable and that he intended to drive the vehicle to his office, where he would leave it. During the conversation, the NHP officer detected a light alcoholic odor emanating from Respondent.

12. While speaking to the NHP officer, Respondent admitted to consuming a beer earlier that day. Respondent additionally admitted to that he had taken Paxil[3] for depression, and had taken a dosage for the first time, at or about 8:00 A.M., that morning. During the questioning, the NHP officer observed that Respondent was leaning back and forward, while sitting on the front bumper of the NHP patrol car. Respondent additionally appeared jittery and uneasy, and his eyes were bloodshot and watery.

13. The NHP officer administered a series of Field Sobriety Tests (FSTs) which Respondent was unable to complete as explained and demonstrated. Respondent was placed under arrest, and his vehicle was towed. Respondent was then transported to the Douglas County Sherriff's Department substation in Stateline, Nevada.

14. After arriving at the Douglas County Sherriff's Department substation, at approximately 3:44 P.M., the arresting NHP officer read Respondent the Nevada Implied Consent Warning and asked him if he consented to a chemical test. Respondent first stated, "no, I'll go for a breath test," or words to that effect. The NHP officer interpreted Respondent's answer to be

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[3] Paroxetin is the generic name for the drug Paxil. Paroxetine is an antidepressant belonging to a group of drugs called selective serotonin reuptake inhibitors (SSRIs). Paroxetine affects chemicals in the brain that may be unbalanced in people with depression, anxiety, or other disorders. Paroxetine is a dangerous drug pursuant to Business and Professions Code section 4022.

ambiguous and asked Respondent again if he consented to a chemical test. Respondent provided a second unclear answer. The NHP officer asked Respondent a third time if he consented to a chemical test. Respondent stated, "no," or words to that effect. The NHP officer replied that he was going to apply for a court order to do a blood draw. Respondent replied that he would consent to a blood draw, or words to that effect. The NHP officer replied to Respondent that if he did not want to have his blood drawn, he did not have to go through with it. He then asked Respondent if he understood him. Respondent replied that he did understand that officer. The NHP officer asked Respondent if he consented to a chemical test. Respondent replied, "No, I'll do that breath test," or words to that effect.

15. Due to Respondent's ambiguous consent, the NHP officer obtained a warrant to chemically test him. Respondent's blood was drawn and his BAC level was subsequently determined to be 0.022 and 0.020 at retest. After Respondent's blood was drawn, Respondent submitted to a breathalyzer test, which Revealed Respondent's BAC to be 0.020 and 0.019 at retest.

16. On or about November 9, 2015, The Washoe County Sheriff's Office, Forensic Science Division, submitted a forensic report with a complete analysis of the September 11, 2015, blood draw on Respondent. Although Respondent had previously stated to law enforcement that

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he had only taken Paroxetin, the blood test results revealed that Respondent had tested positive for Nordiazepam[4](66 ng/mL),[5] Oxycodone[6] (99 ng/mL), and Zolpidem[7](42 ng/mL).

17. On or about November 15, 2015, a Criminal Complaint was filed against Respondent in the matter of *The State of Nevada vs. Keith Robert Swanson*, Justice Court of Tahoe Township, County of Douglass, State of Nevada Case No. 15-CR-0698. Count one (1) charged Respondent with a violation of NRS 484C.110(2)(a), (2)(b), (2)(c), and/or (3) and DCC 10.04.030, driving or being in actual physical control of a vehicle while being under the combined influence of an intoxicating liquor and a controlled substance, a misdemeanor. Count two (2) charged Respondent with a violation of NRS 484E.050 and DCC 10.04.030, failure to give immediate notice of a collision, a misdemeanor. Count three (3) NRS 484E.050 and DCC 10.04.030, duty to give information and render aid, a misdemeanor.

18. On March 7, 2016, Respondent pled Guilty and was convicted to Count one (1), driving or being in actual physical control of a vehicle while being under the combined influence of an intoxicating liquor and a controlled substance, in violation of NRS 484C.110(2)(a), (2)(b),

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[4] Nordiazepam is the generic name for the drugs Nordaz, Stilny, Madar, Vegesan, and Calmday, and is a member of the benzodiazepine family. Nordiazepam is among the longest lasting (longest half-life) benzodiazepines and is used for amnesic, anticonvulsant, anxiolytic, muscle relaxant, and sedative purposes. Nordiazepam is a Schedule IV controlled substance pursuant to Code of Federal Regulations Title 21 section 1308.14(c) and Health and Safety Code section 11057, subdivision (d), and a dangerous drug pursuant to Business and Professions Code section 4022.

[5] "ng/ml" stands for nanograms per milliliter. It is used by labs as a unit of measure (of density) for test results. Specifically, it is used for drug testing results.

[6] Oxycodone is the generic name for Oxycontin, Roxicodone, and Oxecta. This drug carries a high risk for addiction and dependence and can cause respiratory distress and death when taken in high doses or when combined with other substances, especially alcohol. Oxycodone is a short acting opioid analgesic used to treat moderate to severe pain. Oxycodone is a Schedule II controlled substance pursuant to Code of Federal Regulations Title 21 section 1308.12. Oxycodone is a dangerous drug pursuant to California Business and Professions Code section 4022 and is a Schedule II controlled substance pursuant to California Health and Safety Code section 11055(b).

[7] Zolpidem Tartrate is the generic name for Ambien. Zolpidem Tartrate is a sedative and hypnotic used for short term treatment of insomnia. Zolpidem Tartrate is a Schedule IV controlled substance pursuant to Code of Federal Regulations Title 21 section 1308.14(c). It is a Schedule IV controlled substance pursuant to Health and Safety Code section 11057, subdivision (d), and a dangerous drug pursuant to Business and Professions Code section 4022.

(2)(c), and/or (3) and DCC 10.04.030. Counts two (2) and three (3) were dismissed. Respondent was sentenced to:

a. Pay fines, fees and assessments totaling $900.00 due by bail forfeit;

b. Enroll in and successfully complete any DUI school program that had been approved or certified by any state;

c. Attend one (1) Victim Impact Panel presentation sponsored by either Mothers Against Drunk Driving (MADD) or the Tahoe Justice Court and shall file proof of attendance with the Court;

d. Complete forty-eight (48) hours of successful Community Service while wearing distinctive garb, with any non profit, secular charitable organization;

e. 90-day revocation of Respondent's drivers' license by the Department of Motor Vehicles; and

f. All proofs of completion, attendance, and payments must be filed with the Court by 9:30 A.M. on September 6, 2016.

B. October 15, 2015, Arrest for Driving Under the Influence of Alcohol/Drugs

19. On or about September 16, 2015, the NHP completed and submitted an Officer's Certification of Cause and Notice of Revocation and/or Suspension form (NRS Chapters 483 & 484C) with the Nevada Department of Motor Vehicles. The filing of this form resulted in a temporary suspension of Respondent's drivers' license and denied the issuance of a temporary drivers' license or permit, pending the results of Respondent's September 11, 2015, blood test.

20. On or about October 15, 2015, at approximately 9:25 A.M., a Douglas County Sheriff's Department deputy responded to a call of a silver Jeep sport utility vehicle failing to stay within its travel lane. The reporting motorist added that the vehicle had almost caused a traffic accident.

21. At approximately 9:30 A.M., an off duty Douglas County Fire Department employee called the local dispatch to report that he found an unconscious male subject slumped over the steering wheel of a silver Jeep sport utility vehicle, located approximately in the left hand turn lane on north bound US Highway 395 at Mica Drive, in Douglas County, Nevada. The driver in

question was later determined to be Respondent. The caller approached the vehicle and woke up Respondent after several attempts and attempted to engage in conversation. Respondent replied, "I'm just waiting for the light," or words to that effect. The caller informed the Respondent that he had missed several traffic light cycles, and was concerned for Respondent's welfare. Respondent replied, "I'm fine," or words to that effect, and drove away from the scene.

22. Shortly after, a responding Douglas County Sherriff's deputy located an unoccupied Jeep sports utility vehicle parked in the parking lot behind Tahoe Orthopedics and Sports Medicine, located in Carson City, Nevada. While searching the area for the driver of the vehicle, the deputy observed Respondent approach him. While walking towards him, the Deputy observed Respondent to appear to have an unsteady gait and stumbled several times.

23. Respondent identified himself to the deputy and conversed with him. During the conversation, Respondent stated that the Jeep was a replacement for "his other wrecked car," or words to that effect. Respondent additionally admitted that he had driven himself to work, "a few minutes ago," or words to that effect. During the conversation, the deputy could smell a strong odor of alcohol on Respondent's breath. The deputy further observed that Respondent's speech was slurred and his word usage was disordered. Respondent volunteered to the deputy that he had taken an Ambien at 11:00 P.M. the night before, however, he was unable to sleep and had been awake since 3:30 A.M. The deputy asked Respondent when he had last consumed alcoholic beverages. Respondent replied that he had consumed alcohol the night before.

24. Due to Respondent displaying signs and symptoms of driving a vehicle under the influence of alcohol and/or drugs, the deputy administered a series of FST's which Respondent was unable to complete as explained and demonstrated. Following the FST's, Respondent submitted to a breathalyzer test, which revealed Respondent's BAC to be 0.13. Respondent additionally stated that he had planned on seeing patients that day. He continued to deny consuming alcohol, but stated that he drank Nyquil in addition to the Ambien on the previous night, at 3:30 A.M.

25. Respondent was then arrested for driving under the influence of alcohol and/or drugs, a violation of NRS 484C.010, a misdemeanor.

26. On or about July 18, 2018, Respondent was interviewed by a Board Investigator. During the interview, Respondent admitted that he may have taken oxycodone, Ambien, and Ativan, on or about September 10, 2015, prior to his September 11, 2015, arrest.

27. While Respondent was being questioned about his October 15, 2015, arrest, Respondent admitted to the Board Investigator that he had gone to work with the original intention of treating patients.

SECOND CAUSE FOR DISCIPLINE

(Conviction of a Crime Substantially Related to the Qualifications, Functions, or Duties of Physician and Surgeon)

28. Respondent is further subject to disciplinary action under sections 2227 and 2234, as defined by section 2236, of the Code, and California Code of Regulations, title 16, section 1360, in that he has been convicted of a crime, to wit: violation of Douglas County Code (DCC) 10.04.030, incorporating Nevada Revised Statutes (NRS) 484C.110(2)(a), (2)(b)5 (2)(c) and/or (3) (Driving or being in actual physical control of a vehicle while being under the combined influence of an intoxicating liquor and a controlled substance), which is substantially related to the qualifications, functions or duties of a physician and surgeon, as more particularly alleged in paragraphs 9 through 27, above, which are hereby realleged and incorporated by reference as if fully set forth herein.

THIRD CAUSE FOR DISCIPLINE

(General Unprofessional Conduct)

29. Respondent is further subject to disciplinary action under sections 2227 and 2234, as defined by section 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 a member in good standing of the medical profession, and which demonstrates an unfitness to practice medicine, as more particularly alleged in paragraphs 9 through 28, above, which are hereby realleged and incorporated by reference as if fully set forth herein.

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FOURTH CAUSE FOR DISCIPLINE

(Violation of the State Medical Practice Act)

30. Respondent is further subject to disciplinary action under sections 2227 and 2234, as defined by section 2234, subdivision (a), of the Code, and California Code of Regulations, title 16, section 1360, in that he has violated a provision or provisions of the Medical Practice Act, as more particularly alleged in paragraphs 9 through 30, above, which are hereby realleged and 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 No. C 34400, issued to Keith Robert Swanson, M.D.;

2. Revoking, suspending or denying approval of Keith Robert Swanson, M.D.'s authority to supervise physician assistants and advanced practice nurses;

3. Ordering Keith Robert Swanson, 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: February 20, 2019

KIMBERLY KIRCHMEYER
Executive Director
Medical Board of California
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Complainant

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