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

In the Matter of the Accusation Against:	)	
Robert Alan Mott, M.D.	)	**Case No. 800-2018-046588**
Physician's and Surgeon's Certificate No. G 41724	)	
Respondent	)	

DECISION

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

This Decision shall become effective at 5:00 p.m. on December 26, 2019 **.**

IT IS SO ORDERED December 19, 2019 **.**

MEDICAL BOARD OF CALIFORNIA

Christine J. Lally
Interim Executive Director

XAVIER BECERRA
Attorney General of California
MARY CAIN-SIMON
Supervising Deputy Attorney General
GREG W. CHAMBERS
Deputy Attorney General
State Bar No. 237509
455 Golden Gate Avenue, Suite 11000
San Francisco, CA 94102-7004
Telephone: (415) 510-3382
Facsimile: (415) 703-5480
Attorneys for Complainant

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

In the Matter of the Accusation Against: **ROBERT ALAN MOTT, M.D.** **50 Scenic Drive** **Trinidad, California 95570** **Physician's and Surgeons Certificate No. G41724,** Respondent.	Case No. 800-2018-046588 **STIPULATED SURRENDER OF LICENSE AND ORDER**

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

PARTIES

1. Christine J. Lally (Complainant) is the Interim Executive Director of the Medical Board of California (Board). She brings this action solely in her official capacity and is represented in this matter by Xavier Becerra, Attorney General of the State of California, by Greg W. Chambers, Deputy Attorney General.

2. Robert Alan Mott, M.D. (Respondent) is representing himself in this proceeding and has chosen not to exercise his right to be represented by counsel.

3. On or about March 31, 1980, the Board issued Physician's and Surgeon's Certificate No. G 41724 to Respondent. The Physician's and Surgeon's Certificate was in full force and

effect at all times relevant to the charges brought in Accusation No. 800-2018-046588 and will expire on February 29, 2020, unless renewed.

JURISDICTION

4. Accusation No. 800-2018-046588 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 November 4, 2019. Respondent timely filed his Notice of Defense contesting the Accusation. A copy of Accusation No. 800-2018-046588 is attached as Exhibit A and incorporated by reference.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, and understands the charges and allegations in Accusation No. 800-2018-046588. Respondent also has carefully read, and understands the effects of this Stipulated Surrender of License and Order.

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

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

CULPABILITY

8. Respondent understands that the charges and allegations in Accusation No. 800-2018-046588, if proven at a hearing, constitute cause for imposing discipline upon his Physician's and Surgeon's Certificate, No. G 41724.

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

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

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

CONTINGENCY

11. This stipulation shall be subject to approval by the Board. Respondent understands and agrees that counsel for Complainant and the staff of the Board may communicate directly with the Board regarding this stipulation and surrender, without notice to or participation by Respondent. By signing the stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Surrender and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

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

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

ORDER

IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. G 41724, issued to Respondent Robert Alan Mott, M.D., is surrendered and accepted by the Board.

1. The surrender of Respondent's Physician's and Surgeon's Certificate No. G 41724 and the acceptance of the surrendered license by the Board shall constitute the imposition of discipline against Respondent. This stipulation constitutes a record of the discipline and shall become a part of Respondent's license history with the Board.

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. 800-2018-046588 shall be deemed to be true, correct and admitted by Respondent when the Board determines whether to grant or deny the petition.

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. 800-2018-046588 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.

ACCEPTANCE

I have carefully read the Stipulated Surrender of License and Order. I understand the stipulation and the effect it will have on my Physician's and Surgeon's Certificate No. G 41724. I enter into this Stipulated Surrender of License and Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Medical Board of California.

DATED: 12/2/19

ROBERT ALAN MOTT
Respondent

///

///

///

///

ENDORSEMENT

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

DATED: 12/13/2019

Respectfully submitted,

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

Greg W. Chambers

GREG W. CHAMBERS
Deputy Attorney General
Attorneys for Complainant

21713205.docx

Exhibit A

Accusation No. 800-2018-046588

XAVIER BECERRA
Attorney General of California
MARY CAIN-SIMON
Supervising Deputy Attorney General
GREG W. CHAMBERS
Deputy Attorney General
State Bar No. 237509
455 Golden Gate Avenue, Suite 11000
San Francisco, CA 94102-7004
Telephone: (415) 510-3382
Facsimile: (415) 703-5480
Attorneys for Complainant

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO Nov. 4 20 19
BY A. GERANIA ANALYST

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

In the Matter of the Accusation Against: **ROBERT ALAN MOTT, M.D.** **50 Scenic Drive** **Trinidad, California 95570** **Physician's and Surgeons Certificate No. G41724,** Respondent.	Case No. 800-2018-046588 **ACCUSATION**

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 March 31, 1980, the Board issued Physician's and Surgeon's Certificate No. G 41724 to Respondent. The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought in Accusation No. 800-2018-046588 and will expire on February 29, 2020, unless renewed.

///

///

JURISDICTION

3. This Accusation is brought before the Board, under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

4. Section 2004 of the Code states:

"The board shall have the responsibility for the following:

"(a) The enforcement of the disciplinary and criminal provisions of the Medical Practice Act.

"(b) The administration and hearing of disciplinary actions.

"(c) Carrying out disciplinary actions appropriate to findings made by a panel or an administrative law judge.

"(d) Suspending, revoking, or otherwise limiting certificates after the conclusion of disciplinary actions.

"(e) Reviewing the quality of medical practice carried out by physician and surgeon certificate holders under the jurisdiction of the board.

"(f) Approving undergraduate and graduate medical education programs.

"(g) Approving clinical clerkship and special programs and hospitals for the programs in subdivision (f).

"(h) Issuing licenses and certificates under the board's jurisdiction.

"(i) Administering the board's continuing medical education program."

5. Section 2227 of the Code provides that a licensee who is found guilty under the Medical Practice Act may have his or her license revoked, suspended for a period not to exceed one year, placed on probation and required to pay the costs of probation monitoring, or such other action taken in relation to discipline as the Board deems proper.

6. Section 2234 of the Code states, in part:

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

"(a) Violating or attempting to violate, directly or indirectly, assisting in or abetting the violation of, or conspiring to violate any provision of this chapter.

"(b) Gross negligence.

"(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."

7. Section 2242(a) of the Code provides that prescribing, dispensing or furnishing dangerous drugs without an appropriate prior examination and a medical indication constitutes unprofessional conduct.

8. 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."

PERTINENT DRUGS

9. **Ambien**, a trade name for zolpidem tartrate, is a non-benzodiazepine hypnotic of the imidazopyridine class. It is a dangerous drug as defined in section 4022 of the Business and Professions Code, and a schedule IV controlled substance as defined by section 11057 of the Health and Safety Code. It is indicated for the short-term treatment of insomnia. It is a central nervous system depressant and should be used cautiously in combination with other central nervous system depressants. Any central nervous system depressant could potentially enhance the CNS depressive effects of Ambien. It should be administered cautiously to patients exhibiting signs or symptoms of depression because of the risk of suicide. Because of the risk of habituation and dependence, individuals with a history of addiction to or abuse of drugs or alcohol should be carefully monitored while receiving Ambien. The recommended dosage for adults is 10 mg. immediately before bedtime.

10. **Carisoprodol,** also known by the trade name SOMA, is a muscle-relaxant and sedative. It is a dangerous drug as defined in section 4022 of the Business and Professions Code, and a schedule IV controlled substance as defined by section 11057 of the Health and Safety Code. Since the effects of carisoprodol and alcohol or carisoprodol and other central nervous

system depressants or psychotropic drugs may be additive, appropriate caution should be exercised with patients who take more than one of these agents simultaneously. Carisoprodol is metabolized in the liver and excreted by the kidneys; to avoid its excess accumulation, caution should be exercised in administration to patients with compromised liver or kidney functions.

11. **Oxycodone** with acetaminophen and oxycodone with aspirin both contain oxycodone, a white odorless crystalline powder derived from the opium alkaloid, thebaine. Oxycodone is a semisynthetic narcotic analgesic with multiple actions qualitatively similar to those of morphine. It is a dangerous drug as defined in section 4022 and a schedule II controlled substance and narcotic as defined by section 11055, subdivision (b)(1) of the Health and Safety Code. Oxycodone can produce drug dependence of the morphine type and, therefore, has the potential for being abused.

FIRST CAUSE FOR DISCIPLINE

(Unprofessional Conduct: Gross Negligence, Repeated Negligent Acts; and/or Excessive Prescribing Without an Appropriate Medical Examination/Medical Indication; and/or Inadequate Medical Record Keeping in the care provided to Patient #1)

12. Respondent Robert Alan Mott, M.D. is subject to disciplinary action under sections 2234, and/or 2234(b), and/or 2234(c); and/or 2266 of the Code in that Respondent committed unprofessional conduct amounting to gross negligence, and/or repeated negligent acts, in the care and treatment of Patient #1,[1] and/or excessively dispensed dangerous drugs without medical indication, and/or failed to maintain adequate and accurate records for Patient #1. The circumstances are as follows:

13. On or about January 30, 2019, Respondent prescribed to Patient #1, Ambien, 10 mg., #30, without examination and without maintaining accurate and adequate records regarding the prescribing.

14. On or about February 4, 2019, Respondent prescribed Patient #1, Oxycodone, 10 mg./325mg., #90, without examination and without maintaining accurate and adequate records regarding the prescribing.

[1] The patient is identified herein as Patient #1 to preserve confidentiality. The name of this patient and all other persons referenced in the Accusation will be provided to Respondent in discovery.

15. On or about February 28, 2019, Respondent prescribed to Patient #1, Carisoprodol, 10 mg./325mg., #60, without examination and without maintaining accurate and adequate records regarding the prescribing.

SECOND CAUSE FOR DISCIPLINE
(Unprofessional Conduct Regarding Co-Worker #1)

16. Respondent Robert Alan Mott, M.D. is subject to disciplinary action under section 2234 of the Code in that Respondent committed unprofessional conduct regarding Co-Worker #1. The circumstances are as follows:

17. Between January 1, 2016, and November 28, 2018, Respondent's words and actions, including unwelcome comments and unwanted touching, created an environment within the workplace that interfered with the ability of Co-Worker #1 to perform her duties and contributed to or caused harassment in that workplace.

THIRD CAUSE FOR DISCIPLINE
(Unprofessional Conduct Regarding Co-Worker #2)

18. Respondent Robert Alan Mott, M.D. is subject to disciplinary action under section 2234 of the Code in that Respondent committed unprofessional conduct regarding Co-Worker #2. The circumstances are as follows:

19. On or about August 3, 2018, while at work at Seaview Rehabilitation and Wellness Center, Respondent's unwelcome touching of Co-Worker #2 created an environment within the workplace that interfered with the ability of Co-Worker #2 to perform her duties and contributed to or caused harassment in that workplace.

FOURTH CAUSE FOR DISCIPLINE
(Unprofessional Conduct Regarding Co-Worker #3)

20. Respondent Robert Alan Mott, M.D. is subject to disciplinary action under section 2234 of the Code in that Respondent committed unprofessional conduct regarding Co-Worker #3. The circumstances are as follows:

21. On or about June 18, 2018, while at work at Seaview Rehabilitation and Wellness Center, Respondent cornered Co-Worker #3 in a patient's room, requiring Co-Worker #3 to duck under Respondent's arm in order to leave the room. There was no patient in the room.

22. On or about June 18, 2018, while at work, Respondent's unwelcome touching of Co-Worker #3, caused another co-worker to state, "Dr. Mott, what are you doing?"

23. Respondent's unwanted actions and touching created an environment within the workplace that interfered with the ability of Co-Worker #3 to perform her duties and contributed to or caused harassment in that workplace.

DISCIPLINARY CONSIDERATIONS

24. To determine the degree of discipline, if any, to be imposed on Respondent, Complainant alleges that on or about December 12, 2005, in a prior disciplinary action entitled *In the Matter of the Accusation Against Robert Alan Mott, M.D.* before the Medical Board of California, in Case Number 02-2004-160404, Respondent's license was revoked, stayed, and placed on five years' probation with terms and conditions for gross negligence and criminal conviction for driving under the influence. That decision is now final and is incorporated by reference as if fully set forth herein.

25. Additionally, Complainant alleges that on or about December 14, 2012, in a prior disciplinary action entitled *In the Matter of the Accusation Against Robert Alan Mott, M.D.* before the Medical Board of California, in Case Number 12-2010-211243, Respondent's license was revoked, stayed, and placed on five years' probation with terms and conditions for criminal conviction, misdemeanor battery, and failure to maintain accurate medical records. That decision is now final and is incorporated by reference as if fully set forth herein.

PRAYER

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

1. Revoking or suspending Physician's and Surgeon's Certificate No. G 41724 issued to Robert Alan Mott, M.D.;

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

3. Ordering Robert Alan Mott, 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: November 4, 2019

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