XAVIER BECERRA
Attorney General of California
MATTHEW M. DAVIS
Supervising Deputy Attorney General
MARTIN W. HAGAN
Deputy Attorney General
State Bar No. 155553
600 West Broadway, Suite 1800
San Diego, CA 92101
P.O. Box 85266
San Diego, CA 92186-5266
Telephone: (619) 738-9405
Facsimile: (619) 645-2061

Attorneys for Complainant

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

In the Matter of the First Amended Accusation Against: **JAMES MATTHEW CROWLEY RYAN, M.D.** **10339 Hitching Post Way** **Santee, CA 92071-1657** **Physician and Surgeon's Certificate No. A 136356,** Respondent	Case No. 800-2016-022096 OAH No. 2019031037 **DEFAULT DECISION AND ORDER** [Gov. Code, §11520]

FINDINGS OF FACT

1. On or about December 11, 2018, Complainant Kimberly Kirchmeyer, in her then-official capacity as the Executive Director of the Medical Board of California, Department of Consumer Affairs, filed Accusation No. 800-2016-022096 against James Matthew Crowley Ryan, M.D. (Respondent) before the Medical Board of California. (Exhibit Package in Support of Default Decision and Order (hereinafter "Exhibit Package"), Exhibit 1, Hagan Declaration (Decl.), ¶ 2, Exhibit A.)

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2. On or about May 23, 2015, the Medical Board of California (Board) issued Physician and Surgeon's Certificate No. A 136356 to Respondent. The Physician's and Surgeon's Certificate expired on January 31, 2017, and has not been renewed. (Exhibit Package, Exhibit 1.)

3. On or about December 11, 2018, Dianne Richards, an employee of the Complainant Agency, served by certified mail a copy of Accusation No. 800-2016-022096, Statement to Respondent, Notice of Defense, Request for Discovery, and Government Code sections 11507.5, 11507.6, and 11507.7 to Respondent's address of record with the Board, which was and is 10339 Hitching Post Way, Santee, CA 92071-1657. (Exhibit Package, Exhibit 10, Hagan Decl., ¶ 2, Exhibit A.)

4. On or about January 8, 2019, Respondent, through his attorney, John L. Fleer, Esq., signed and returned a Notice of Defense, requesting a hearing in this matter. A Notice of Hearing; Prehearing and Mandatory Settlement Conference was served by certified mail at Respondent's address of record and it informed him that an administrative hearing in this matter was scheduled to begin on October 28, 2019, at 9:00 a.m., at the Office of Administrative Hearings located in San Diego, California. (Exhibit Package, Exhibit 10, Hagan Decl., ¶¶ 3-4, Exhibits B and C.)

5. On or about September 5, 2019, Dianne Richards, an employee of the Complainant Agency, served by certified mail a copy of First Amended Accusation No. 800-2016-022096, Supplemental Statement to Respondent, Request for Discovery, and Government Code sections 11507.5, 11507.6, and 11507.7 to Respondent's address of record with the Board, which was and is 10339 Hitching Post Way, Santee, CA 92071-1657. (Exhibit Package, Exhibit 10, Hagan Decl., ¶ 6, Exhibit E.)

6. On September 19, 2019, Respondent's counsel sent a letter to OAH-SD indicating that he was withdrawing as counsel of record for Respondent because he had "been unable to locate or communicate with [his] client for some time" and Respondent had "not responded to multiple phone calls, emails, or letters." (Exhibit Package, Exhibit 10, Hagan Decl., ¶ 8, Exhibit G.)

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7. After the filing of the First Amended Accusation on September 5, 2019, and after being advised that Respondent's counsel had withdrawn as attorney of record for Respondent, Complaint, through its counsel, took additional measures to ensure that Respondent was aware of the scheduled hearing date to ensure, among other things, that he was aware of the potential ramifications in not showing up for his hearing. (Exhibit Package, Exhibit 10, Hagan Decl., ¶¶ 9, 15-16, Exhibits H & L.)

8. On or about October 28, 2019, Respondent failed to appear at the properly noticed hearing on the First Amended Accusation and a default was declared pursuant to Government Code section 11520. (Exhibit Package, Exhibit 10, Hagan Decl., ¶ 18, Exhibit O.)

STATUTORY AUTHORITY

9. Service of the Accusation were effective as a matter of law under the provisions of Government Code section 11505, subdivision (c).

10. Business and Professions Code section 118 states, in pertinent part:

> (b) The suspension, expiration, or forfeiture by operation of law of a license issued by a board in the department, or its suspension, forfeiture, or cancellation by order of the board or by order of a court of law, or its surrender without the written consent of the board, shall not, during any period in which it may be renewed, restored, reissued, or reinstated, deprive the board of its authority to institute or continue a disciplinary proceeding against the licensee upon any ground provided by law or to enter an order suspending or revoking the license or otherwise taking disciplinary action against the license on any such ground.

11. Government Code section 11506 states, in pertinent part:

> (c) The respondent shall be entitled to a hearing on the merits if the respondent files a notice of defense, and the notice shall be deemed a specific denial of all parts of the accusation not expressly admitted. Failure to file a notice of defense shall constitute a waiver of respondent's right to a hearing, but the agency in its discretion may nevertheless grant a hearing.

12. California Government Code section 11520 states, in pertinent part:

> (a) If the respondent either fails to file a notice of defense or to appear at the hearing, the agency may take action based upon the respondent's express admissions or upon other evidence and affidavits may be used as evidence without any notice to respondent.

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13. Pursuant to its authority under Government Code section 11520, the Board finds Respondent is in default. The Board will take action without further hearing and, based on Respondent's express admissions by way of default and the evidence before it, contained in Exhibits 1 through 12 finds that the allegations in First Amended Accusation No. 800-2016-022096 are true.

DETERMINATION OF ISSUES

14. Based on the foregoing findings of fact, Respondent James Matthew Crowley Ryan, M.D., has subjected his Physician and Surgeon's Certificate No. A 136356 to discipline.

15. A copy of the First Amended Accusation and the related documents and Declaration of Service are included as part of the Default Exhibit Package.

16. The agency has jurisdiction to adjudicate this case by default.

17. The Medical Board of California is authorized to revoke Respondent's Physician and Surgeon's Certificate based upon the following violations alleged in the First Amended Accusation:

FIRST CAUSE FOR DISCIPLINE

(Sexual Abuse, Misconduct, or Relations with a Patient)

18. Respondent has subjected his Physician's and Surgeon's Certificate No. A 136356 to disciplinary action under sections 2227 and 726, as defined by 726, subdivision (a), of the Code, in that he engaged in an act of sexual contact with Patient A, as more particularly alleged hereinafter:

Patient A[1]

19. On or about March 2, 2016, Patient A had her first psychiatric appointment with respondent at the Achieve Medical Center which is a medical group made up of multiple physicians. During her appointment, they discussed her diagnosis, medication, and her marital issues. At the end of the visit, respondent asked Patient A if she was the patient of another physician in the group. When she told him that she did not have an assigned physician, he

[1] The patients referenced in this document are designated as "Patient A," "Patient B," and "Patient C," in order to protect their privacy.

remarked he would be keeping her all to himself. He then gave Patient A his private cell phone number and asked her to come back in one week. (Exhibit Package, Exhibit 3, Patient A Decl., ¶ 2; Exhibit 12, Partida Decl., ¶ 4.)

20. On or about March 9, 2016, Patient A had a follow up appointment with respondent regarding her medication. During her appointment, Patient A and respondent discussed her marriage problems. Respondent then voluntarily shared with her details about his personal marriage problems and his personal issues in raising his daughter. When Patient A confessed to him about an extramarital affair she had, respondent told her that she should have more affairs. (Exhibit Package, Exhibit 3, Patient A Decl., ¶ 3; Exhibit 12, Partida Decl., ¶ 4.)

21. Towards the end of the session, respondent told Patient A that she would be snatched up in no time, that she has a beautiful smile, and that she needed to leave her husband. When Patient A was leaving, respondent gave her a tight hug. This visit lasted for about an hour. (Exhibit Package, Exhibit 3, Patient A Decl., ¶ 3; Exhibit 12, Partida Decl., ¶ 4.)

22. On or about March 10, 2016, Patient A sent respondent a text message to ask if she could take some Ativan.[2] Respondent asked Patient A to give him a call. When she called, he instead talked about her leaving her husband and how her husband was the cause of her issues. This phone call lasted about twenty-four (24) minutes. (Exhibit Package, Exhibit 3, Patient A Decl., ¶ 4; Exhibit 12, Partida Decl., ¶ 4.)

23. Between March 11 and March 14, 2016, respondent and Patient A exchanged text messages. In one text message, dated March 14, 2016, respondent wrote her the following: "Sorry… just saw this… I'll prescribe a bottle of happiness…what flavor would you like? ;)." (Exhibit Package, Exhibit 3, Patient A Decl., ¶ 5; Exhibit A; Exhibit Package, Exhibit 12, Partida Decl., ¶¶ 4-5, Exhibit A.)

24. On or about March 16, 2016, Patient A went to her third appointment with respondent. He began the session by telling Patient A that her husband had called the office to

[2] Ativan is a brand name for Lorazepam, 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. It belongs to a group of drugs called benzodiazepines.

complain about him being inappropriate. Respondent then talked about her leaving her husband. Respondent told her what a beautiful person she is and then asked her if he could hold her hand. (Exhibit Package, Exhibit 3, Patient A Decl., ¶ 6; Exhibit Package, Exhibit 12, Partida Decl., ¶ 4.)

25. When she replied, "Yes," respondent held her hand, leaned in, told her that she is beautiful, that she has beautiful lips, that she needs to leave her husband, and that he loved how curvy she is. (Exhibit Package, Exhibit 3, Patient A Decl., ¶ 6; Exhibit Package, Exhibit 12, Partida Decl., ¶ 4.)

26. At the end of this session, respondent extended his arms out to request a hug. When they hugged, respondent looked down at Patient A and kissed her on the lips. While they kissed, he had his arms around her waist. He told her that he loved her lips and body, that she was beautiful, and that he did not want her to leave. The appointment lasted longer than one hour. (Exhibit Package, Exhibit 3, Patient A Decl., ¶ 6; Exhibit Package, Exhibit 12, Partida Decl., ¶ 4.)

27. Later in the evening, Patient A went back to the clinic to see her therapist, M.H. Upon her arrival, she saw respondent who asked if she was there to see him. She told him she was there to see M.H. After her appointment with M.H., respondent came out to the public waiting area and escorted her into his office. While walking towards his office, he said out loud their need to go over her medication. Once they walked in and the door was closed, he told her he had to say that, so that no one would get suspicious. He then grabbed Patient A by her waist and started to kiss her. He told her to keep quiet, so that no one would hear them. (Exhibit Package, Exhibit 3, Patient A Decl., ¶ 7; Exhibit Package, Exhibit 12, Partida Decl., ¶ 4.)

28. After they stopped kissing, respondent went to sit behind his desk. He told her that he was behind on his charting. When she asked if he could continue being her doctor and help her with her medication, he stated he will give her whatever she wanted. He then continued kissing her and the appointment lasted for an hour. (Exhibit Package, Exhibit 3, Patient A Decl., ¶ 7; Exhibit Package, Exhibit 12, Partida Decl., ¶ 4.)

29. On or about March 21, 2016, Patient A went to see respondent at the clinic because she was not feeling good. On this visit, respondent hosted Patient A in an office different than the one in which he provided his previous four (4) sessions. This new office was located in the

corner, was more secluded, and had a couch in it. (Exhibit Package, Exhibit 3, Patient A Decl., ¶ 8; Exhibit Package, Exhibit 12, Partida Decl., ¶ 4.)

30. When she entered the new office, she told him that she had not been feeling well because of leaving her husband and that she was now living with her sister. Patient A had anxiety and wanted to discuss her medication. Respondent instead told her that she did not give him a hug and walked over to her. He then gave her a hug and a kiss. While they kissed, respondent held her by the waist, moved his hands up to her breasts, and rubbed her breasts. (Exhibit Package, Exhibit 3, Patient A Decl., ¶ 8; Exhibit Package, Exhibit 12, Partida Decl., ¶ 4.)

31. Thereafter, Patient A sat down on the couch and respondent sat in his chair that was pulled up next to the couch. While sitting next to her, he rubbed her thighs, opened her shirt, and looked down her shirt. He lifted up her shirt and exposed her bra. He again rubbed Patient A's breasts. He then suddenly got up and walked over to the door to lock it. He returned and rubbed her breasts, thighs, and her vagina on the outside of her jeans. He continued to fondle her breasts and vagina for a few minutes. He told her she is beautiful and that he loved touching her. (Exhibit Package, Exhibit 3, Patient A Decl., ¶ 8; Exhibit Package, Exhibit 12, Partida Decl., ¶ 4.)

32. When Patient A told respondent that she needed her medications increased and needed something for her anxiety, he told her he would give her Ativan and Xanax,[3] but that he could not give both medications on the same date, and that he will put two (2) different dates on these medications. When she said she would pick up the second prescription on a subsequent visit, respondent told her he wanted her to return in two (2) days. Respondent then resumed kissing Patient A, lifted up her blouse, pulled down her bra, and sucked on her breasts and nipples. The session lasted for an hour and a half. (Exhibit Package, Exhibit 3, Patient A Decl., ¶ 8; Exhibit Package, Exhibit 12, Partida Decl., ¶ 4.)

33. At the end of the session, they exchanged their emails. On the same night, Patient A emailed respondent a picture of herself dressed in a low-cut bra. In his email back to her, respondent stated, "Looking amazing!" He did not tell her that sending half-naked photographs

[3] Xanax is a brand name for alprazolam (a benzodiazepine), 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.

of herself to her psychiatrist was an inappropriate thing. (Exhibit Package, Exhibit 3, Patient A Decl., ¶ ¶ 8-9, Exhibits B & C; Exhibit Package, Exhibit 12, Partida Decl., ¶ 4.)

34. On or about March 22, 2016, when respondent and Patient A spoke on the phone, he told her that her husband called the office to make a formal complaint and that the owners of the clinic were going to speak with respondent and the malpractice insurance. When Patient A called respondent and left him a message thereafter, he did not return her phone call. (Exhibit Package, Exhibit 3, Patient A Decl., ¶ 11, Exhibit Package, Exhibit 12, Partida Decl., ¶ 4.)

35. On or about March 24, 2016, S.I., M.D., the Medical Director of Achieve Medical Center ("Medical Director") met with respondent to discuss the formal complaint submitted by Patient A's husband. The Medical Director instructed respondent not to have any more contact with Patient A and informed him that her case would be transferred to another physician. (Exhibit Package, Exhibit 12, Partida Decl., ¶ 8.)

SECOND CAUSE FOR DISCIPLINE

(Gross Negligence)

36. Respondent has further subjected his Physician's and Surgeon's Certificate No. A 136356 to disciplinary action under sections 2227 and 2234, as defined by section 2234, subdivision (b), of the Code, in that he was grossly negligent in his care and treatment of Patient A, Patient B, and Patient C, as more particularly alleged hereinafter:

Patient A

37. Paragraphs 19 through 35, above, are hereby incorporated by reference and realleged as if fully set forth herein.

Patient B

38. On or about March 25, 2016, Patient B went to her first appointment with respondent. Respondent greeted Patient B with a hug which she felt was "too long" and uncomfortable. She told respondent then that she did not like being touched due to having been previously a victim of sexual assault. During the appointment, Patient B cried and shared with respondent the details of her history as a victim of sexual assault and her panic attacks. (Exhibit Package, Exhibit 3, Patient B Decl., ¶ 2; Exhibit Package, Exhibit 12, Partida Decl.; Exhibit D [incident report].)

39. On or about April 28, 2016, Patient B had her second appointment with respondent. Patient B sat on the couch and respondent sat in his chair. Respondent sat very close to her and their knees were touching. As they began to talk, he reached out, took her hands between his, and rubbed them softly. Patient B felt uncomfortable with his touch, so she began using her hands as if to gesture while speaking in order to get her hands out of his. Soon, respondent began rubbing Patient B's thighs with his hands. While rubbing them, he told her, "You're a good person, I want to make you feel better." He was rubbing the inside and outside of her thigh from knee to high-mid thigh. (Exhibit Package, Exhibit 3, Patient B Decl., ¶ 3; Exhibit Package, Exhibit 12, Partida Decl., Exhibit D [crime incident report].)

40. When Patient B asked respondent about her medication options for her panic attacks and anxiety, he responded, "Honey, I'll prescribe whatever you want," while holding her hand with one hand and rubbing her arm with the other. (Exhibit Package, Exhibit 3; Patient B Decl., ¶ 3, Exhibit Package, Exhibit 12, Partida Decl., Exhibit D [crime incident report].)

41. Prior to the first appointment, Patient B had received three (3) months' supply of Clonazepam[4] at 6 mg per day (270 pills of 2 mg dosage) on or about February 20, 2018, and 30 pills of 10 mg Diazepam[5] on or about February 29, 2016, from M.W., M.D., respondent's colleague at the clinic. On or about March 9, 2016, respondent, during coverage for his colleague, M.W., M.D. and prior to his first appointment with Patient B, prescribed her Lorazepam[6] (90 pills of 1 mg dosage). There was no progress note to document the rationale for adding a third benzodiazepine to her regimen. The same Lorazepam was refilled on April 7,

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[4] Clonazepam 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. It is an anti-anxiety medication in the benzodiazepine family.

[5] Diazepam 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.

[6] Lorazepam 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.

2016, and Zaleplon[7] (30 pills of 10 mg dosage), a benzodiazepine-like hypnotic, was added to the prescription by respondent with two (2) additional refills. On April 20, 2016, respondent added Alprazolam[8] (28 pills of 1 mg dosage), and one (1) week later on April 27, 2016, he additionally prescribed Patient B Alprazolam (60 pills of 2 mg dosage). (Exhibit Package, Exhibit 6, John Raiss, M.D., Decl., ¶ 7, Exhibit C, at p. 3.)

42. During the second appointment on April 28, 2016, respondent randomly talked about himself and his exercise routine. He showed Patient B pictures of himself without a shirt on. He told her she did not need to work out because she had a perfect body. (Exhibit Package, Exhibit 3, Patient B Decl., ¶ 3, Exhibit Package, Exhibit 12; Partida Decl., ¶ 9, Exhibit D [crime incident report].)

43. At the end of the session, respondent told her to give him a hug. She briefly hugged him and pulled away, but he pulled her back in and rubbed her back. She made several attempts to push him away, but he continued to pull her in towards him. Patient B felt frozen with fear. Respondent's hug lasted for about a minute and a half. Patient B's session lasted for an hour even though it was scheduled for only fifteen (15) minutes. (Exhibit Package, Exhibit 3, Patient B Decl., ¶ 3, Exhibit Package, Exhibit 12; Partida Decl., ¶ 9, Exhibit D [crime incident report].)

44. Respondent did not maintain any medical records of Patient B.[9] (Exhibit Package, Exhibit 6, John Raiss, M.D., Decl., ¶ 7, Exhibit C, at p. 3, 10-11; Exhibit Package, Exhibit 12, Partida Decl., at ¶¶ 10-15; Exhibit Package, Exhibit 7, at ¶¶ 2-3.)

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[7] Zaleplon 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.

[8] Alprazolam is a benzodiazepine, 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.

[9] The First Amended Accusation erroneously states "Respondent did not maintain any medical records for Patient C" when, in fact, there were no medical records for Patient B. The First Amended Accusation correctly states Respondent committed gross negligence as to Patient B in "[f]ailing to document with progress notes his patient care and prescription of controlled substances for Patient B, or alternatively, taking from the clinic and destroying Patient B's medical records." (Exhibit Package, Exhibit 2, First Amended Accusation, at ¶¶ 52-53.)

45. On the next day, Patient B told her husband and her friend about what happened. (Exhibit Package, Exhibit 3, Patient B Decl., ¶¶ 4-5.)

46. Three (3) days later, on or about May 2, 2016, Patient B went to the Chula Vista Police Department (CVPD) to make a report of respondent's behavior during her appointment. Soon thereafter, respondent was placed on an administrative leave at his clinic. (Exhibit Package, Exhibit 3, Patient B Decl., ¶¶ 4-5; Partida Decl., ¶¶ 8-9, Exhibit D [crime incident report].)

47. On or about May 8, 2016, respondent left a handwritten birthday note for his wife on a piece of paper in which he stated, in summary: (1) that he wanted to tell her something that cannot be discussed electronically, (2) that he provides psychiatric services to the secret agents of the CIA, (3) that he was being mistreated by the psychiatry community, (4) that he was trying to pull strings with the Medical Board, (5) that Patient C is "the highest rated assassin" of the government, (6) that respondent is "the best psych" that the U.S. government has and "the only one [available] to fix their agents," (7) that he was required to legally change his last name because his connections to the medical profession have to be severed, and (8) that he will have another identity which he cannot disclose to her. Finally, he added in his note to his wife that she should not discuss what he wrote to her in any text or email. (Exhibit Package, Exhibit 11, ¶ 8, Exhibit B.)

48. Afterwards, respondent moved out of California to Arizona to live and work. (Exhibit Package, Exhibit 11, ¶ 12, Exhibit B; Exhibit Package, Exhibit 5, Patient C Deposition at pp. 34-35 [referencing move to Arizona].)

Patient C

49. In the spring of 2016, Patient C had an appointment with a female psychiatrist at respondent's clinic. When Patient C arrived for her appointment, she was instead seen by respondent. Respondent gave her a prescription for Prazosin,[10] Zoloft,[11] and Xanax. Respondent

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[10] Prazosin is a sympatholytic medication that is used to treat high blood pressure, anxiety, and posttraumatic stress disorder (PTSD).

[11] Zoloft is a brand name for sertraline (an antidepressant of the selective serotonin reuptake inhibitor class), which is used to treat depression, obsessive-compulsive disorder, panic disorder, anxiety disorders, PTSD, and premenstrual dysphoric disorder.

and Patient C exchanged phone numbers. About one month after their appointment, respondent and Patient C started a dating relationship that lasted for about six (6) months. During their relationship, respondent helped Patient C purchase a motorcycle by co-signing her loan for the motorcycle. He also paid around $1,200 for her motorcycle parts. (Exhibit Package, Exhibit 5, Patient C Deposition, at pp. 11-16; Exhibit Package, Exhibit 10, Hagan Decl., ¶ 19, Exhibit P [Respondent's Response to Form Interrogatory 21]; Exhibit Package, Exhibit 11, ¶ 6.)

50. Between February 2016 and January 2017, respondent wrote nine (9) prescriptions, for Patient C, for controlled substances including Adderall,[12] Alprazolam,[13] and Vyvanse,[14] which included a period of time after the end of Patient C and respondent's dating relationship:

Date	Controlled Substance	Amount
2/27/2016	Alprazolam .5 mg	15 pills
3/11/2016	Adderall 20 mg	60 pills
4/1/2016	Vyvanse 40 mg	23 pills
4/1/2016	Vyvanse 40 mg	7 pills
4/18/2016	Adderall 20 mg	60 pills
4/29/2016	Adderall 20 mg	60 pills
4/30/2016	Alprazolam 1 mg	30 pills
1/30/2017	Alprazolam 1 mg	30 pills
1/30/2017	Adderall ER 20 mg	60 pills

[12] Adderall is a brand name for dextroamphetamine and amphetamine, a Schedule II controlled substance pursuant to Health and Safety Code section 11055, subdivision (d), and a dangerous drug pursuant to Business and Professions Code section 4022. It is an amphetamine salts used for attention-deficit hyperactivity disorder and narcolepsy.

[13] Alprazolam is a benzodiazepine, 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.

[14] Vyvanse is a brand name for lisdexamfetamine, a Schedule II controlled substance pursuant to Health and Safety Code section 11055, subdivision (d), and a dangerous drug pursuant to Business and Professions Code section 4022.

(Exhibit Package, Exhibit 6, John Raiss, M.D., Exhibit B, at pp. 9-10, & Exhibit D, at pp. 6-7.)

51. There were no progress notes by respondent to justify these prescriptions. During her sworn statement at a deposition on a later date, Patient C stated she had no knowledge of how any of these medications were prescribed to her. (Exhibit Package, Exhibit 6, John Raiss, M.D., Decl., ¶ 9, Exhibit D, at pp. 6-7; Exhibit Package, Exhibit 5, Patient C Deposition, at pp. 19-21; Exhibit Package, Exhibit 11, at ¶ 13.)

52. During the period of above prescriptions, respondent's wife found in his room a receipt for Vyvanse, prescribed for Patient C by respondent. (Exhibit Package, Exhibit 11, ¶ 6, Exhibit A.)

53. The Controlled Substance Utilization Review and Evaluation Systems (CURES) report for respondent from November 9, 2014 to November 9, 2017, shows respondent received prescriptions for Amphetamine Salt Combo including for Adderall.[15] (Exhibit Package, Exhibit 6, John Raiss, M.D., Decl., Exhibit D, at pp. 8-10; Exhibit Package, Exhibit 11, ¶ 3 [referencing Adderall prescription].)

Gross Negligence

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

a. Committing sexual misconduct by engaging in sexual contact with Patient A. (Exhibit Package, Exhibit 6, John Raiss, M.D. Decl., ¶ 5, Exhibit B, at pp. 11-12);

b. Engaging in telephonic, email, and/or text message correspondence with sexual overtones with Patient A. (Exhibit Package, Exhibit 6, John Raiss, M.D., Decl., ¶ 5, Exhibit B, at pp. 12-13); and

c. Advising Patient A to have extramarital affairs. (Exhibit Package, Exhibit 6, John Raiss, M.D. Decl., ¶ 5, Exhibit B, at pp. 12-13.)

[15] Adderall is a brand name for dextroamphetamine and amphetamine, a Schedule II controlled substance pursuant to Health and Safety Code section 11055, subdivision (d), and a dangerous drug pursuant to Business and Professions Code section 4022. It is an amphetamine salts used for attention-deficit hyperactivity disorder and narcolepsy.

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

a. Violating Patient B's boundaries by ignoring her express request that he not touch her because of her history as a victim of sexual assault, and rubbing her hands, her back, and her inner upper thighs close to her groin area. (Exhibit Package, Exhibit 6, John Raiss, M.D. Decl., ¶ 7, Exhibit C, at p. 9);

b. Engaging in other unprofessional behaviors by showing Patient B photos of himself without a shirt on for no medical reason and stating, "Honey, I'll prescribe whatever you want," while holding her hand and rubbing her arm. (Exhibit Package, Exhibit 6, John Raiss, M.D., Decl., ¶ 7, Exhibit C, at pp. 9-10);

c. Excessively prescribing multiple high-dose benzodiazepines to Patient B without a scientific rationale. (Exhibit Package, Exhibit 6, John Raiss, M.D. Decl., ¶ 7, Exhibit C, at p. 10); and

d. Failing to document with progress notes his patient care and prescription of controlled substances for Patient B, or alternatively, taking from the clinic and destroying Patient B's medical records. (Exhibit Package, Exhibit 6, John Raiss, M.D. Decl., ¶ 7, Exhibit C, at pp. 10-11.)

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

a. Prescribing controlled substances to Patient C without any diagnostic rationale or by leaving progress notes to justify the prescriptions on multiple occasions. (Exhibit Package, Exhibit 6, John Raiss, M.D. Decl., ¶ 9, Exhibit D, at p. 8); and

b. Diverting for self-use, the controlled substances he prescribed for Patient C. (Exhibit Package, Exhibit 6, John Raiss, M.D. Decl., ¶ 9, Exhibit D, at pp. 9-10; see also, Exhibit Package, Exhibit 11, ¶¶ 3-5, 14 [discussing abuse of stimulants].)

THIRD CAUSE FOR DISCIPLINE

(Repeated Negligent Acts)

57. Respondent has further subjected his Physician's and Surgeon's Certificate No. A 136356 to disciplinary action under sections 2227 and 2234, as defined by section 2234, subdivision (c), of the Code, in that he was repeatedly negligent in his care and treatment of Patient A, Patient B, and Patient C, as more particularly alleged in paragraphs 18 through 56, above, and which are hereby incorporated by reference and realleged as if fully set forth herein.

58. In addition to the above, respondent committed negligent acts in his care and treatment of Patient C, which included, but was not limited to, the following:

a. Dating Patient C, a former patient, a month after the alleged end of physician-patient relationship. (Exhibit Package, Exhibit 6, John Raiss, M.D. Decl., ¶ 9, Exhibit D, at p. 10.)

FOURTH CAUSE FOR DISCIPLINE

(Prescribing Without Proper Examination)

59. Respondent has further subjected his Physician's and Surgeon's Certificate No. A 136356 to disciplinary action under sections 2227 and 2234, as defined by section 2242, of the Code, in that he prescribed, dispensed, or furnished dangerous drugs as defined in section 4022 without an appropriate prior examination and a medical indication, in his care and treatment of Patient B and Patient C, as more particularly alleged in paragraphs 38 through 53 and paragraphs 55 and 56, above, which are hereby incorporated by reference and realleged as if set forth herein. (Exhibit Package, Exhibit 6, John Raiss, M.D., Decl., at ¶¶ 7, 9; Exhibit C, at p. 11, and Exhibit D, at p. 8.)

FIFTH CAUSE FOR DISCIPLINE

(Failure to Maintain Adequate and Accurate Medical Record)

60. Respondent has further subjected his Physician's and Surgeon's Certificate No. A 136356 to disciplinary action under sections 2227 and 2234, as defined by section 2266, of the Code, in that he failed to maintain adequate and accurate records regarding his care and treatment of Patient B and Patient C, as more particularly alleged in paragraphs 38 through 53 and

paragraphs 55 and 56, above, which are hereby incorporated by reference and realleged as if fully set forth herein.

SIXTH CAUSE FOR DISCIPLINE

(Discipline, Restriction, or Limitation Imposed by Another State)

61. Respondent has further subjected his Physician's and Surgeon's Certificate No. A 136356 to disciplinary action under sections 2227 and 2234, as defined by sections 141, 2305, 820 and 821, of the Code, in that Respondent has been disciplined by another state for conduct that would have been grounds for discipline in California, as more particularly alleged herein.

62. On or about October 24, 2016, the Arizona Medical Board issued License No. 53075 to respondent for the practice of allopathic medicine. (Exhibit Package, Exhibit 8 [indicating licensed date of October 24, 2016].)

63. The Arizona Medical Board initiated case number MD-19-0084A against respondent after receiving information indicating that the Medical Board of California had issued Accusation No. 800-2016-022096 alleging, among other things, inappropriate sexual misconduct with three patients. (Exhibit Package, Exhibit 8, Interim Findings of Fact, Conclusions of Law and Order for Summary Suspension of License (hereinafter "Suspension Decision," Interim Fact 3.)

64. During an investigational interview with Arizona Medical Board staff on February 15, 2019, respondent denied all allegations documented in the Accusation. Respondent reported to Arizona Medical Board staff that during the time period covered in the Accusation, he was experiencing delirium that affected his ability to recall specific events. (Exhibit Package, Exhibit 8, Suspension Decision, Interim Fact 4.)

65. The Arizona Medical Board Executive Director issued an Interim Order to require respondent to complete a psychosexual evaluation with a Board-approved provider to evaluate respondent's competency to practice medicine. Respondent failed to schedule the evaluation within fourteen (14) days as required by the Interim Order. (Exhibit Package, Exhibit 8, Suspension Decision, Interim Fact 5.)

66. Based on respondent's failure to comply with the Interim Order, respondent was offered an Interim Consent Agreement for Practice Restriction ("Practice Restriction").

Respondent refused to enter into the Practice Restriction and informed Arizona Medical Board staff that he did not intend to comply with the Interim Order. (Exhibit Package, Exhibit 8, Suspension Decision, Interim Facts 6-7.)

67. As a result of respondent's failure to comply with the Arizona Medical Board's Interim Order and his subsequent failure to agree to a practice restriction, the Arizona Medical Board suspended respondent's license based on his unprofessional conduct in violation of A.R.S. section 32-1401(27)(s) ["Violating a formal order, probation, consent agreement or stipulation issued or entered into by the board or it's executive director...] and the Arizona Medical Board's Interim Findings of Fact and Conclusions of Law that "the public health, safety or welfare imperatively requires emergency action." (A.R.S. § 32-1451 (D).) (Exhibit Package, Exhibit 8, Suspension Decision, Interim Conclusions of Law and Order.)

68. On or about March 28, 2019, the Arizona Medical Board issued a Complaint and Notice of Hearing setting respondent's Arizona Medical Board matter for hearing at 9:00 a.m. on May 2, 2019. Respondent did not appear for the hearing nor did any representative appear on his behalf and the matter convened in his absence at approximately 9:15 a.m., at which time staff for the Arizona Medical Board presented its case against respondent. According to the Findings of Fact, Conclusions of Law and Order (License Revocation) issued after the hearing, which were adopted by the Arizona Medical Board on July 12, 2019, the following was alleged:

> "Through the [Arizona Medical Board] Complaint, the Board alleges that Dr. Ryan committed unprofessional conduct by failing to comply with a Board Order. More specifically, the Board received information showing that Dr. Ryan may not be safe to practice and it issued an Interim Order requiring him to undergo a psychosexual evaluation. After Dr. Ryan made clear that he would not comply with the Order, the Board offered him the opportunity to resolve the matter through a consent agreement. Dr. Ryan was unwilling to do so, and the Board determined that an emergency existed and summarily suspended his license." (See Arizona Medical Board's Findings of Fact, Conclusions of Law and Order, Findings of Fact No. 6, at pp. 1-2.)

(Exhibit Package, Exhibit 9, License Revocation, Findings of Fact No. 6, at pp. 1-2.)

69. According to the Findings of Fact, Conclusions of Law and Order (License Revocation) issued after the hearing, which was adopted by the Arizona Medical Board on July 12, 2019, a true and correct copy of which is attached hereto as Attachment B, and incorporated

by reference as if fully set forth herein, the following conclusions of law were made, in pertinent part:

> "Dr. Coffer [the Arizona Medical Board's expert] provided credible testimony showing that the Board's decision to require Dr. Ryan to undergo the psychosexual evaluation was appropriate considering California's allegations against him and the information the Board staff learned during its investigations interview. She also provided credible testimony that multiple factors show that Dr. Ryan may not be safe to practice.
>
> "The Board offered Dr. Ryan the opportunity to surrender his license or to enter into practice restriction agreement in lieu of undergoing the psychosexual evaluation. Because Dr. Ryan may be unsafe to practice, it was appropriate for the Board [to] summarily suspend his license when he failed to avail himself of these options. See ARIZ. REV. STAT. § 32-1451(D).
>
> "The Board presented clear and convincing evidence showing that it was justified in ordering Dr. Ryan to undergo the psychosexual evaluation. Because Dr. Ryan has failed to comply with the Interim Order requiring that evaluation, he has committed unprofessional conduct under ARIZ. REV. STAT. section 32-1401(27)(s).
>
> "Because Dr. Ryan has committed an act of unprofessional conduct, the Board has authority to discipline his license. ARIZ. REV. STAT. § 32-1451(M).
>
> "Considering Dr. Ryan's failure to appear at this hearing, his failure to appear at the March 7, 2019, Board meeting, that the Board has previously afforded him the opportunity to surrender his license, and that there is credible evidence showing that he may not be safe to practice, revocation is appropriate in this case." (See Arizona Medical Board's Findings of Fact, Conclusions of Law and Order (License Revocation), Conclusions of Law Nos. 7-11, at pp. 5-6.)

(Exhibit Package, Exhibit 9, License Revocation, Conclusions of Law Nos. 7-11, at pp. 5-6.)

70. On or about July 12, 2019, the Arizona Medical Board issued its order "revoking James Ryan MD's License No. 53075 for the practice of allopathic medicine in the State of Arizona. Respondent did not petition for a rehearing or review of the revocation order before the Arizona Medical Board and the revocation order became final on August 16, 2019. (Exhibit Package, Exhibit 9 [indicating Board Action of Revocation on August 16, 2019].)

71. Respondent's conduct and the action of the Arizona Medical Board, as set forth in paragraphs 48 through 57, above, and as set forth in the Arizona Medical Board's Suspension Decision and License Revocation constitute cause for discipline in the State of California pursuant to sections 141, 2305, 820 and 821 of the Code.

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SEVENTH CAUSE FOR DISCIPLINE

(Unprofessional Conduct)

72. Respondent has further subjected his Physician's and Surgeon's Certificate No. A 136356 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 a member in good standing of the medical profession, and which demonstrates an unfitness to practice medicine, as more particularly alleged in paragraphs 72 through 71, above, which are hereby incorporated by reference and realleged as if fully set forth herein.

ORDER

IT IS SO ORDERED that Physician and Surgeon's Certificate No. A 136356, heretofore issued to Respondent James Matthew Crowley Ryan, M.D., is revoked.

Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

This Decision shall become effective on January 31, 2020.

It is so ORDERED January 3, 2020

FOR THE MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS

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