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

In the Matter of the Accusation Against:	)	
Ronald Alan Popper, M.D.	)	**Case No. 800-2017-038105**
Physician's and Surgeon's Certificate No. A35734	)	
Respondent	)	

DECISION

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

This Decision shall become effective at 5:00 p.m. on March 6, 2020.

IT IS SO ORDERED February 5, 2020.

MEDICAL BOARD OF CALIFORNIA

By: Kristina Lawson

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

XAVIER BECERRA
Attorney General of California
E. A. JONES III
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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: **RONALD ALAN POPPER, M.D.** 2230 Lynn Road, Suite 101 Thousand Oaks, CA 91360 Physician's and Surgeon's Certificate No. A 35734, Respondent.	Case No. 800-2017-038105 OAH No. 2019050062 **STIPULATED SETTLEMENT 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 Interim Executive Director of the Medical Board of California (Board). She brought this action solely in her official capacity and is represented in this matter by Xavier Becerra, Attorney General of the State of California, by Christine R. Friar, Deputy Attorney General.

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2. Respondent Ronald Alan Popper, M.D. (Respondent) is represented in this proceeding by attorney Raymond J. McMahon of Doyle Schafer McMahon, LLP, located at 5440 Trabuco Road, Irvine, CA 92620.

3. On or about August 11, 1980, the Board issued Physician's and Surgeon's Certificate No. A 35734 to Ronald Alan Popper, M.D. (Respondent). The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought in Accusation No. 800-2017-038105, and will expire on October 31, 2021, unless renewed.

JURISDICTION

4. Accusation No. 800-2017-038105 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 March 28, 2019. Respondent timely filed his Notice of Defense contesting the Accusation.

5. A copy of Accusation No. 800-2017-038105 is attached as Exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

6. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 800-2017-038105. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

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

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

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CULPABILITY

9. Respondent does not contest that, at an administrative hearing, Complainant could establish a *prima facie* case with respect to the charges and allegations contained in Accusation No. 800-2017-038105 and that he has thereby subjected his license to disciplinary action.

10. Respondent agrees that if an accusation is ever filed against him before the Board, all of the charges and allegations contained in Accusation No. 800-2017-038105 shall be deemed true, correct and fully admitted by Respondent for purposes of any such proceeding or any other licensing proceeding involving Respondent in the State of California.

11. Respondent agrees to be bound by the Board's imposition of discipline as set forth in the Disciplinary Order below.

CONTINGENCY

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

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

14. 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 Disciplinary Order:

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DISCIPLINARY ORDER

A. PUBLIC REPRIMAND.

IT IS HEREBY ORDERED THAT Physician's and Surgeon's Certificate No. A 35734, issued to Ronald Alan Popper, M.D., shall be and is hereby publicly reprimanded pursuant to California Business and Professions Code section 2227, subdivision (a)(4). This public reprimand, which is issued in connection with the allegations set forth in Accusation No. 800-2017-038105, is as follows:

"You failed to adequately manage the controlled substances prescribed to one patient under your care and treatment, in violation of the Business and Professions Code, as more fully described in Accusation No. 800-2017-038105."

B. PRESCRIBING PRACTICES COURSE.

IT IS FURTHER ORDERED THAT within sixty (60) calendar days of the effective date of this Decision, Respondent shall enroll in a course in prescribing practices approved in advance by the Board or its designee. Respondent shall provide the approved course provider with any information and documents that the approved course provider may deem pertinent. Respondent shall participate in and successfully complete the classroom component of the course not later than six (6) months after Respondent's initial enrollment. Respondent shall successfully complete any other component of the course within one (1) year of enrollment. The prescribing practices course shall be at Respondent's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

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

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

If Respondent fails to enroll, participate in, or successfully complete the prescribing practices course within the designated time period, Respondent shall receive a notification from the Board or its designee to cease the practice of medicine within three (3) calendar days after being so notified. Respondent shall not resume the practice of medicine until enrollment or participation in the prescribing practices course has been completed. Failure to timely and successfully complete the prescribing practices course outlined above shall constitute unprofessional conduct and is grounds for further disciplinary action.

ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Raymond J. McMahon. I understand the stipulation and the effect it will have on my Physician's and Surgeon's Certificate. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Medical Board of California.

DATED: 12/30/2019

RONALD ALAN POPPER, M.D.
Respondent

I have read and fully discussed with Respondent Ronald Alan Popper, M.D. the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: December 30, 2019

RAYMOND J. MCMAHON, ESQ.
Attorney for Respondent

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ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Medical Board of California.

DATED: January 6, 2020

Respectfully submitted,

XAVIER BECERRA
Attorney General of California
E. A. JONES III
Supervising Deputy Attorney General

CHRISTINE R. FRIAR
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 800-2017-038105

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FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO March 28, 2019
BY: [illegible] ANALYST

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

In the Matter of the Accusation Against: **RONALD ALAN POPPER, M.D.** 2230 Lynn Road, Suite 101 Thousand Oaks, CA 91360 **Physician's and Surgeon's Certificate No. A 35734,** Respondent.	Case No. 800-2017-038105 **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 August 11, 1980, the Medical Board issued Physician's and Surgeon's Certificate Number A 35734 to Ronald Alan Popper, 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 October 31, 2019, unless renewed.

JURISDICTION

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

4. Section 2227 of the Code states:

"(a) A licensee whose matter has been heard by an administrative law judge of the Medical Quality Hearing Panel as designated in Section 11371 of the Government Code, or whose default has been entered, and who is found guilty, or who has entered into a stipulation for disciplinary action with the board, may, in accordance with the provisions of this chapter:

"(1) Have his or her license revoked upon order of the board.

"(2) Have his or her right to practice suspended for a period not to exceed one year upon order of the board.

"(3) Be placed on probation and be required to pay the costs of probation monitoring upon order of the board.

"(4) Be publicly reprimanded by the board. The public reprimand may include a requirement that the licensee complete relevant educational courses approved by the board.

"(5) Have any other action taken in relation to discipline as part of an order of probation, as the board or an administrative law judge may deem proper.

"(b) Any matter heard pursuant to subdivision (a), except for warning letters, medical review or advisory conferences, professional competency examinations, continuing education activities, and cost reimbursement associated therewith that are agreed to with the board and successfully completed by the licensee, or other matters made confidential or privileged by existing law, is deemed public, and shall be made available to the public by the board pursuant to Section 803.1."

5. Section 2234 of the Code, states:

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

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"...

"(b) Gross negligence.

"..."

CAUSE FOR DISCIPLINE

(Gross Negligence)

6. Respondent is subject to disciplinary action under Code section 2234, subdivision (b), in that he committed gross negligence during his care, treatment and management of Patient 1[1] from May 2012 until her death on June 2, 2013, of acute polypharmacy intoxication. The circumstances are as follows:

7. Patient 1 initially treated with Respondent, a specialist in sleep medicine, in January 2011, for chronic insomnia. At the time, Patient 1 was 40 years old. Her other medical conditions and complaints included: fibromyalgia and chronic pain due to fibromyalgia, restless limb/leg syndrome (RLS), and bipolar disorder. At her initial visit, Patient 1 reported being prescribed Ambien[2] for insomnia, Norco[3] and Fentanyl[4] for pain and Seroquel,[5] Lexapro[6] and Protonix.[7] Respondent treated Patient 1 for insomnia recommending sleep hygiene, weight loss, comprehensive blood work and a sleep study.

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[1] In order to protect the patient's privacy, the patient is identified in this charging pleading as Patient 1. The true name of the referenced patient is known to Respondent and will be disclosed to him upon his timely Request for Discovery.

[2] Ambien, the brand name for Zolpidem Tartrate, is a sedative hypnotic and a Schedule IV controlled substance pursuant to Health and Safety Code section 11057, subdivision (d)(32).

[3] Norco is the brand name for Hydrocodone Bitartrate and Acetaminophen. Hydrocodone is a Schedule II controlled substance pursuant to Health and Safety Code section 11055, subdivision (b)(1)(I)(i).

[4] Fentanyl is an opioid analgesic used as the citrate salt in the induction and maintenance of anesthesia, as an adjunct to anesthesia, in combination with droperidol (or a similar agent) to induce neuroleptanalgesia, and in the management of chronic severe pain. It is 100-fold more potent than morphine and is a Schedule II controlled substance pursuant to Health and Safety Code section 11055, subdivision (b)(1)(I)(i).

[5] Seroquel, brand name for Quetiapine, is an anti-psychotic medication used to treat mood disorders, such as bipolar disorder and schizophrenia. Seroquel is also used to treat insomnia.

[6] Lexapro, brand name for Escitalopram, is a selective serotonin reuptake inhibitor (SSRI) and is used to treat depression and anxiety.

[7] Protonix, brand name for Pantoprazole, is used to treat certain stomach and esophagus problems, such as acid reflux.

8. At Patient 1's next visit, Respondent started her on Mirapex[8] for the treatment of RLS, which can cause insomnia.

9. Patient 1 returned to Respondent on March 21, 2011. Patient 1 reported that her insomnia was not improved and Respondent referred her to cognitive behavioral therapy for insomnia. Respondent also substituted Ambien with Lorezepam[9] for her insomnia due to her reports of associated anxiety.

10. Respondent next saw Patient 1 on June 21, 2011. Her insomnia and anxiety had not improved. Respondent restarted her on Ambien, in addition to the Lorezepam. Patient 1 had not participated in any cognitive behavior therapy and was again instructed to do so.

11. Patient 1 did not return to Respondent until March 20, 2012. In the interim, she reported having a gastric resection. She had not followed up with cognitive behavioral therapy for insomnia and her medication list then showed her as being prescribed: Restoril,[10] Ambien, Savella,[11] Seroquel and Norco. Respondent discontinued the Restoril and started Patient 1 on Clonazepam.[12]

12. Respondent saw Patient 1 again on April 24, 2012. She reported that her anxiety, depression and fatigue were worse. Respondent continued her on Clonazepam and started her on Horizant.[13] Patient 1 continued to take Norco and Seroquel.

13. On May 24, 2012, Patient 1 returned to Respondent. At that time, she was taking Ambien, in addition to Norco, Clonazepam and Seroquel. Respondent stopped prescribing Horizant, due to minimal effect, and a prescription was placed for Xyrem.[14]

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[8] Mirapex, brand name for Pramipexole, is used to treat Parkinson's disease and RLS.

[9] Lorazepam is a benzodiazepine and a Schedule IV controlled substance pursuant to Health and Safety Code section 11057, subdivision (d)(9).

[10] Restoril, brand name for Temazepam, is a benzodiazepine and is a Schedule IV controlled substance pursuant to Health and Safety Code section 11057, subdivision (d)(29).

[11] Savella, a selective serotonin and norepinephrine reuptake inhibitor (SNRI) is used to treat fibromyalgia.

[12] Clonazepam, generic for Klonopin, is a benzodiazepine and a Schedule IV controlled substance pursuant to Health and Safety Code section 11057, subdivision (d)(7).

[13] Horizant is used to treat RLS.

[14] Xyrem, brand name for Sodium Oxybate, is used to treat narcolepsy and is a Schedule III controlled substance.

14. Patient 1's health insurance company denied Respondent's request for authorization for the prescription of Xyrem for the "off label" use of insomnia. Respondent then submitted an appeal and the prescription was approved. Respondent claims Patient 1 was extensively counseled regarding the risks of Xyrem, in particular in combination with her psychotropic, hypnotic and narcotic medications.

15. In a letter dated August 7, 2012, from the pharmacy distributing Xyrem to Respondent, the pharmacy raised concerns that Patient 1 was also taking Ambien, which is contraindicated, and Norco, Seroquel and Klonopin (Clonazepam), in conjunction with Xyrem.

16. Patient 1 continued on Norco, Clonazepam, Seroquel and Xyrem until December 12, 2012, when Patient 1 switched insurance companies and her new carrier denied her prescription for Xyrem. Again, Respondent appealed the denial and the prescription was subsequently approved.

17. Respondent continued to treat and prescribe to Patient 1 up until her final visit on May 14, 2013. At that time, Patient 1 was taking Xyrem, Clonazapam, Norco and Seroquel. Patient 1 reported sleeping through the night, but that she was fatigued and depressed.

18. On June 2, 2013, Patient 1 passed away from acute polypharmacy intoxication (drug overdose) with Norco and Ambien listed as the cause of death.

19. On June 12, 2013, Respondent prescribed Patient 1 Xyrem.

20. According to the standard of care within the medical community, prescribing Xyrem is contraindicated in a patient who is also taking sedative hypnotics/central nervous system depressants.

21. Respondent committed an extreme departure of care, and, thus, gross negligence, when he prescribed Xyrem to Patient 1 who was taking numerous other sedative hypnotics at the time, including Clonazapem, Seroquel, and Norco.

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PRAYER

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

1. Revoking or suspending Physician's and Surgeon's Certificate Number A 35734, issued to Ronald Alan Popper, M.D.;

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

3. Ordering Ronald Alan Popper, 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: March 28, 2019

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

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