

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

1 XAVIER BECERRA
Attorney General of California
2 E. A. JONES III
Supervising Deputy Attorney General
3 CHRISTINE R. FRIAR
Deputy Attorney General
4 State Bar No. 228421
California Department of Justice
5 300 South Spring Street, Suite 1702
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7 *Attorneys for Complainant*

8
9 **BEFORE THE**
MEDICAL BOARD OF CALIFORNIA
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

13 **RONALD ALAN POPPER, M.D.**

14 2230 Lynn Road, Suite 101
Thousand Oaks, CA 91360

15 Physician's and Surgeon's Certificate
16 No. A 35734,

17 Respondent.

Case No. 800-2017-038105

OAH No. 2019050062

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

18
19
20 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
21 entitled proceedings that the following matters are true:

22 **PARTIES**

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

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

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

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

11 CONTINGENCY

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

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

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

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

8 ACCEPTANCE

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

14
15 DATED: 12/30/2019

Ronald A Popper
16 RONALD ALAN POPPER, M.D.
17 Respondent

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

21
22 DATED: December 30, 2019

Raymond J. McMahon
23 RAYMOND J. MCMAHON, ESQ.
24 Attorney for Respondent

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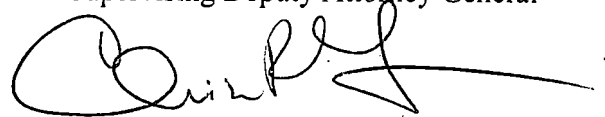
ENDORSEMENT

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

1 XAVIER BECERRA
Attorney General of California
2 JUDITH T. ALVARADO
Supervising Deputy Attorney General
3 CHRISTINE R. FRIAR
Deputy Attorney General
4 State Bar No. 228421
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7 *Attorneys for Complainant*

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO MARCH 28, 2019
BY: [Signature] ANALYST

8
9 **BEFORE THE**
MEDICAL BOARD OF CALIFORNIA
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12
13 In the Matter of the Accusation Against:

Case No. 800-2017-038105

14 **RONALD ALAN POPPER, M.D.**
2230 Lynn Road, Suite 101
15 Thousand Oaks, CA 91360

A C C U S A T I O N

16 **Physician's and Surgeon's Certificate**
No. A 35734,

17
18 Respondent.

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20 Complainant alleges:

21 **PARTIES**

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

25 2. On or about August 11, 1980, the Medical Board issued Physician's and Surgeon's
26 Certificate Number A 35734 to Ronald Alan Popper, M.D. (Respondent). The Physician's and
27 Surgeon's Certificate was in full force and effect at all times relevant to the charges brought
28 herein and will expire on October 31, 2019, unless renewed.

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4. Section 2227 of the Code states:

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

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

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

5. Section 2234 of the Code, states:

///

1 "...

2 "(b) Gross negligence.

3 "...."

4 **CAUSE FOR DISCIPLINE**

5 **(Gross Negligence)**

6 6. Respondent is subject to disciplinary action under Code section 2234, subdivision (b),
7 in that he committed gross negligence during his care, treatment and management of Patient 1¹
8 from May 2012 until her death on June 2, 2013, of acute polypharmacy intoxication. The
9 circumstances are as follows:

10 7. Patient 1 initially treated with Respondent, a specialist in sleep medicine, in January
11 2011, for chronic insomnia. At the time, Patient 1 was 40 years old. Her other medical
12 conditions and complaints included: fibromyalgia and chronic pain due to fibromyalgia, restless
13 limb/leg syndrome (RLS), and bipolar disorder. At her initial visit, Patient 1 reported being
14 prescribed Ambien² for insomnia, Norco³ and Fentanyl⁴ for pain and Seroquel,⁵ Lexapro⁶ and
15 Protonix.⁷ Respondent treated Patient 1 for insomnia recommending sleep hygiene, weight loss,
16 comprehensive blood work and a sleep study.

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19 ¹ In order to protect the patient's privacy, the patient is identified in this charging pleading
20 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.

21 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).

22 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).

23 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
24 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).

25 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.

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

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

1 8. At Patient 1's next visit, Respondent started her on Mirapex⁸ for the treatment of
2 RLS, which can cause insomnia.

3 9. Patient 1 returned to Respondent on March 21, 2011. Patient 1 reported that her
4 insomnia was not improved and Respondent referred her to cognitive behavioral therapy for
5 insomnia. Respondent also substituted Ambien with Lorezepam⁹ for her insomnia due to her
6 reports of associated anxiety.

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

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

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

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

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23 ⁸ Mirapex, brand name for Pramipexole, is used to treat Parkinson's disease and RLS.
24 ⁹ Lorazepam is a benzodiazepine and a Schedule IV controlled substance pursuant to
25 Health and Safety Code section 11057, subdivision (d)(9).

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

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

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

32 ¹³ Horizant is used to treat RLS.

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

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

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

9 16. Patient 1 continued on Norco, Clonazepam, Seroquel and Xyrem until December 12,
10 2012, when Patient 1 switched insurance companies and her new carrier denied her prescription
11 for Xyrem. Again, Respondent appealed the denial and the prescription was subsequently
12 approved.

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

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

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

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

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

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1 PRAYER

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

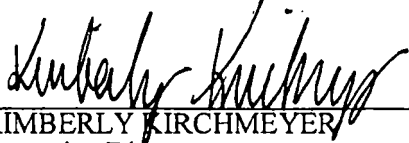
4 1. Revoking or suspending Physician's and Surgeon's Certificate Number A 35734,
5 issued to Ronald Alan Popper, M.D.;

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

8 3. Ordering Ronald Alan Popper, M.D., if placed on probation, to pay the Board the
9 costs of probation monitoring; and

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

11
12 DATED: March 28, 2019


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

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