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

In the Matter of the Accusation Against: ROY JEROLD LEVIN, M.D. Certificate #A-24866 Respondent.	)	File No: 04-92-22424

DECISION AND ORDER

The attached Stipulation In Settlement, Decision and Order is hereby adopted by the Division of Medical Quality of the Medical Board of California, Department of Consumer Affairs, State of California as its Decision in the above-entitled matter.

This Decision shall become effective on Sept. 23, 1995.

DATED August 24, 1995

DIVISION OF MEDICAL QUALITY
MEDICAL BOARD OF CALIFORNIA

Ira Lubell, M.D.

Ira Lubell, M.D.

DANIEL E. LUNGREN, Attorney General
of the State of California
STEVEN H. ZEIGEN, [State Bar No. 60225]
Deputy Attorney General
Department of Justice
110 West A Street, Suite 1100
P.O. Box 85266
San Diego, California 92186-5266
Telephone: (619) 645-2074

Attorneys for Complainant

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

In the Matter of the Accusation Against: ROY J. LEVIN, M.D. 4030 Birch Street, Ste. 107 Newport Beach, CA 92660 Physician's and Surgeon's Certificate No. A24866 Respondent.	NO. 04-92-22424 STIPULATION IN SETTLEMENT, DECISION AND ORDER

IT IS HEREBY STIPULATED by and between the parties in the above-entitled matter as follows:

1. Dixon Arnett, complainant, is the Executive Officer of the Medical Board of California, Department of Consumer Affairs, State of California, and is represented herein by Daniel E. Lungren, Attorney General of the State of California, by Steven H. Zeigen, Deputy Attorney General.

2. Roy J. Levin, M.D. (hereinafter "respondent") is represented by Joshua Wolff, Esq., Tuverson & Hillyard, 4675 Mac

Arthur Court, Suite 900, Newport Beach, Ca 92660. Respondent has counseled with his attorney regarding this Stipulation, and has carefully read and fully understands its contents.

3. At all times mentioned herein respondent has been licensed by the Medical Board of California, (hereinafter ("Board"), under Physician's and Surgeon's Certificate No.A24866. Said certificate was issued by the Board on August 16, 1972, and is currently in full force and effect.

4. On or about November 21, 1994, complainant, in his official capacity as Executive Officer of the Board, filed Accusation No. 04-92-22424 against respondent. A true and correct copy of said Accusation is attached hereto as Attachment "A" and incorporated by reference as if fully set forth herein.

5. Respondent was served with a copy of said accusation, together with copies of all other statutorily required documents, at his address of record then known to the Board as: 4030 Birch St., Suite 107, Newport Beach, CA 92660. Respondent filed a notice of defense to the charges contained in said accusation, and a hearing on the merits of the allegations was requested.

6. Respondent has carefully read and fully understands the charges and allegations contained in Accusation No. 04-92-22424.

7. Respondent has carefully read and fully understands the contents of this Stipulation in Settlement, Decision and Order.

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8. Respondent is fully aware of his right to a hearing on the charges and allegations contained in Accusation No. 04-92-22424, his right to be represented by an attorney, his right to present witnesses and evidence on his own behalf, his right to cross-examine all witnesses testifying against him, his right to reconsideration, appeal, and all other rights which may be accorded him pursuant to the California Administrative Procedure Act, the California Government Code and the California Code of Civil Procedure.

9. Respondent, hereby freely, knowingly, intelligently and voluntarily waives his right to a hearing on the charges and allegations contained in Accusation No. 04-92-22424, his right to be represented by an attorney, his right to present witnesses and evidence on his own behalf, his right to cross-examine all witnesses testifying against him, his right to reconsideration, appeal, and all other rights which may be accorded him pursuant to the California Administrative Procedure Act, the California Government Code, and the California Code of Civil Procedure, with regard to Accusation No. 04-92-22424.

10. Without admitting the accuracy of ~~the~~ JW all the "facts" alleged in paragraph 8 of accusation no. 04-92-22424, respondent, hereby freely, knowingly and voluntarily admits that during his treatment of patient M.T. he violated various provisions of the medical practice act as stated in paragraphs 9, 10, 11, and 12 of said accusation.

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11. This Stipulation in Settlement, Decision and Order is intended by the parties herein to be an integrated writing memorializing the complete agreement of the parties.

12. This Stipulation in Settlement, Decision and Order shall be subject to the approval of the Division of Medical Quality of the Medical Board of California, Department of Consumer Affairs, State of California. If the Division fails, for any reason, to approve this Stipulation in Settlement, Decision and Order, it shall be of no force and effect for either party.

WHEREFORE, IT IS STIPULATED that the Division may, without further notice or formal proceeding, issue and enter the following order in Case No. 04-92-22424:

ORDER

A. Respondent's Physicians and Surgeons Certificate no. A24866 issued to Roy J. Levin, M.D. is hereby revoked. However, revocation is stayed and respondent is placed on probation for five (5) years upon the following terms and conditions:

1. INCREASED CME. In addition to the yearly requirement of twenty-five hours (25) of continuing education hours, respondent shall take an additional forty (40) hours per year during the period of probation in the area of pain management, medical indications for the prescribing of controlled substances, or related subjects.

2. ORAL COMPETENCY EXAMINATION. During the first year of probation respondent shall take an oral competency examination in the area of pain management and the use of analgesics.

Respondent shall bear the cost of such examination, and understands the Division will use two examiners, in respondent's same specialty, both of whom must pass respondent in order for him to be considered as having passed the examination.

3. COST RECOVERY. Respondent shall pay to the Division the sum of $1734.00 as the reasonable costs of the investigation and prosecution of this matter; the sum shall be paid in quarterly (4) installments of $434.50, the first due within thirty (30) days of the effective date of the decision. The total shall be paid in full within one year of the effective date of this decision.

4. OBEY ALL LAWS. Respondent shall obey all federal, state, and local laws, and all rules governing the practice of medicine in California.

5. QUARTERLY REPORTS. Respondent shall submit quarterly declarations under the penalty of perjury on forms provided by the Division, stating whether there has been compliance with all the conditions of probation.

6. PROBATION SURVEILLANCE: Respondent shall comply with the Division's probation surveillance program.

7. INTERVIEWS: Respondent shall appear in person for interviews with the Division's medical consultant upon request at various intervals and with reasonable notice.

8. TOLLING OF PROBATION: The period of probation shall not run during the time respondent is residing or practicing outside the jurisdiction of California. If, during probation, respondent moves out of the jurisdiction of California

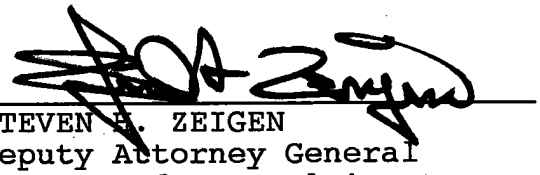
to reside or practice elsewhere, respondent is required to immediately notify the Division in writing of the date of departure, and the date of return, if any.

9. COMPLETION OF PROBATION: Upon successful completion of probation, respondent's certificate will be fully restored.

10. VIOLATION OF PROBATION: If respondent violates probation in any respect, the Division, after giving respondent notice and the opportunity to be heard, may revoke probation and carry out the disciplinary order that was stayed. If an accusation or petition to revoke probation is filed against respondent during probation, the Division shall have continuing jurisdiction until the matter is final, and the period of probation shall be extended until the matter is final.

I concur.

Dated: June 29, 1995.



STEVEN H. ZEIGEN
Deputy Attorney General
Attorney for Complainant

I have carefully read and fully understand the Stipulation and Order set forth above. I understand that in signing this Stipulation I am waiving my right to a hearing on the charges set forth in the Accusation on file in this matter.

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I further understand that in signing this Stipulation the Division of Medical Quality will enter the foregoing order revoking my medical license.

I concur.

Dated: July 18, 1995.

ROY J. LEVIN, M.D.
Respondent

Joshua Wolff, Esq.
Attorney for Respondent

DANIEL E. LUNGREN, Attorney General
of the State of California
SHERRY L. LEDAKIS,
Deputy Attorney General, State Bar No. 131767
Department of Justice
110 West A Street, Suite 1100
Post Office Box 85266
San Diego, California 92186-5266
Telephone: (619) 645-2078

Attorneys for Complainant

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

In the Matter of the Accusation Against: ROY JEROLD LEVIN, M.D. 4030 Birch St., Suite 107 Newport Beach, California 92660 Physician's and Surgeon's License No. A24866 Respondent.	NO. 04-92-22424 ACCUSATION

Complainant Dixon Arnett, as causes for disciplinary action, alleges:

PARTIES

1. Complainant is the Executive Director of the Medical Board of California ("Board") and makes and files this accusation solely in his official capacity.

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LICENSE STATUS

2. On or about August 16, 1972, Physician's and Surgeon's License No. A24866 was issued by the Board to Roy Jerold Levin, M.D. ("respondent"), and at all times relevant herein, said Physician's and Surgeon's License was, and currently is, in full force and effect.

JURISDICTION

3. This accusation is made in reference to the following statutes of the California Business and Professions Code ("Code"):

A. Section 2227 provides that the Board may revoke, suspend for a period not to exceed one year, or place on probation, the license of any licensee who has been found guilty under the Medical Practice Act.

B. Section 2234 provides that unprofessional conduct includes, but is not limited to, the following:

"(b) Gross negligence.

(c) Repeated negligent acts.

(d) Incompetence."

C. Section 725 provides that repeated acts of clearly excessive prescribing or administering of drugs or treatment, repeated acts of clearly excessive use of diagnostic procedures, or repeated acts of clearly excessive use of diagnostic or treatment facilities as determined by the standard of the community of licensees is unprofessional conduct for a physician and surgeon.

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D. Section 2242 provides that a licensee is guilty of unprofessional conduct if he prescribes, dispenses or furnishes dangerous drugs as defined in section 4211 without a good faith prior examination and medical indication therefor.

E. Section 4211 provides that a "dangerous drug" means any drug unsafe for self-medication including any drug which by federal or state law can be lawfully dispensed only on prescription.

F. Section 2238 provides that a violation of any federal statute or federal regulation or any of the statutes or regulations of this state regulating dangerous drugs or controlled substances constitutes unprofessional conduct.

G. California Health and Safety Code section 11156 provides that no person shall prescribe for or administer, or dispense a controlled substance to any addict or habitual user, or to any person representing himself as such, except as permitted by this division.

H. California Health and Safety Code section 11153 provides, in pertinent part, that:

> "(a) A prescription for a controlled substance shall only be issued for a legitimate medical purpose by an individual practitioner acting in the usual course of his or her professional practice. The responsibility for the proper prescribing and dispensing of controlled substances is upon the prescribing practitioner, but a corresponding responsibility rests with the pharmacist who fills the prescription. Except as authorized by this division, the following are not legal prescriptions: (1) an order purporting to be a prescription which is issued not in the usual course of professional treatment or in legitimate and authorized research; or (2) an order for an addict or habitual user of controlled substances, which is issued not in the course of professional

treatment or as part of an authorized methadone maintenance program, for the purpose of providing the user with controlled substances, sufficient to keep him or her comfortable by maintaining customary use.

" . . . "

I. Section 2241 provides that the prescribing, selling, furnishing, giving away, or administering or offering to proscribe, sell, furnish, give away, or administer any of the drugs or compounds mentioned in Section 2239 to an addict or habitue constitutes unprofessional conduct.

J. Section 125.3 provides that in any order issued in resolution of a disciplinary proceeding before any board within the department, the board may request the administrative law judge to direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

DRUGS:

At all times relevant herein the following drugs have been, and currently are, dangerous drugs within the meaning of California Business and Professions Code section 4211, and at all times relevant herein, classified as controlled substances as follows:

4. "Demerol," a brand name for Meperidine, is a Schedule II controlled substance under Health and Safety Code section 11055(b)(1).

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5. "Valium," a brand name for Diazepam, is a Schedule IV controlled substance under Health and Safety Code section 11057(d)(8).

6. "Vicodin," a brand name for Hydrocodone, is a Schedule II controlled substance under Health and Safety Code section 11055(b)(1)(J).

7. "Xanax," a brand name for Alprazolam, is a Schedule IV controlled substance under Health and Safety Code section 11055(d)(1).

CHARGES AND ALLEGATIONS

8. Patient Margaret T.:

A. Respondent was the Director of Emergency Doctor's Office which subsequently changed its name to Physician's Care Walk-In Medical Clinic. The nature of respondent's practice is episodic care.

B. Patient Margaret T. first became a patient of the clinic on April 17, 1987. She continued to be seen there until June 9, 1991. Initially she was seen by physicians other than respondent who were employed by respondent, but the majority of the visits, especially later in her treatment, were with respondent.

C. Margaret T. first saw respondent on January 7, 1988, with complaints of a recent back injury requiring surgery. She also complained that she had had nausea and vomiting for a few days. Respondent diagnosed her condition as acute pharyngitis with sinusitis and herniated disc by history. He ordered Ancef, 1 gram, intramuscularly, (IM) Decadron 6 mg., IM,

Ceclor 250 mg, three times a day, Seldane 60 mg., once per day, Decadron 5/12 pack, 0.75 mg., Flexeril 10 mg., three times per day, Clinoril, four times a day, and Vicodin, every 6 hours as needed for pain.

D. Between January and August of 1987, Margaret T. was seen four times by other physicians at respondent's medical clinic. She was next seen again by respondent on November 11, 1988. She complained of severe pain in her throat and in her left ear. Respondent noted that her tympanic membranes were erythematous and bulging with blood behind them. Respondent diagnosed her condition as acute pharyngitis with left hemorrhagic otitis media. He ordered Demerol 200 mg. IM, Vistaril 100 mg. IM, Decadron 6 mg. IM, Ancef 1 gm. IM, Ceclor 250 mg. three times per day, Seldane 60 mg., twice per day and Decadron 5/12 pack, 0.75 mg.

E. Margaret T. returned to see respondent on November 15, 1988 for a re-check. She stated that her neck and throat still hurt and that her neck was stiff. Respondent diagnosed resolving pharyngitis with otitis media and prescribed Aristocort 20 mg. IM, Demerol 200 mg. IM, Vistaril 100 mg. IM, Norflex 60 mg. IM, and Flexeril 10 mg. three times per day.

F. The patient returned to see respondent the following day complaining of having spasms in her upper back muscles. Respondent diagnosed her with muscle spasms and ordered muscle relaxants.

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G. Margaret T. saw respondent again on February 17, 1988, complaining of an infection in her left thigh. Respondent diagnosed her with unresolved cellulitis of the left thigh. He treated her with an antibiotic.

H. Margaret T. returned to see respondent on February 22, 1988, complaining of a painful left thigh. Respondent debrided and dressed an infected wound on the left thigh. He administered Demerol 200 mg. IM, and Vistaril 100 mg. IM for the procedure.

I. The following evening, Margaret T. returned to see respondent. She reported having chills and fever during the day. He prescribed Cipro and sent her home.

J. On March 7, 1989, at 9:50 a.m., the patient returned to see respondent stating that she got her thigh dressing wet and then took it off. There was some swelling on the left leg. Respondent debrided and dressed the wound. He administered Demerol 200 mg. IM, and Vistaril 100 mg. IM, for the procedure.

K. At 10:05 p.m. on March 7, 1989, Margaret T. complained that she had been having severe leg pain all evening. Respondent diagnosed her condition as pain secondary to debridement and administered Demerol 200 mg. IM and Vistaril 100 mg. IM.

L. On March 9, 1989, Margaret T. returned for a wound check. She told respondent that she was still having pain. He diagnosed her condition as healing cellulitis of the left thigh. He administered Demerol 200 mg. IM, Vistaril 100 mg. IM, and

Valium 10 mg. IM. She returned later that evening and received another injection of Demerol 200 mg. IM and Vistaril 100 mg. IM.

M. Respondent saw the patient again on May 3, 1989. She stated that she had a cold and an ear ache. Respondent diagnosed her with acute pharyngitis, and bilateral serous otitis media bulging. He prescribed Decadron 8 mg. IM, Ancef 1 gram IM, Demerol 100 mg. IM, Vistaril 50 mg. IM times two, Fiorinal, and Tylenol #3, one or two every 4 hours as needed for pain, among other drugs.

N. On May 4, 1989, the patient returned to see respondent complaining of severe pain. He diagnosed her as having pain secondary to bulging ear drums. He prescribed Demerol 100 mg. IM and Vistaril 50 mg. IM times two.

O. On May 5, 1989, the patient was seen by J.M., M.D., complaining of a migraine headache. He diagnosed her condition as serous otitis and migraine-like headache. He prescribed Demerol 100 mg. IM, Vistaril 50 mg. IM, Demerol 100 mg. IM, additional after 15 minutes, Vistaril 50 mg. IM, additional after 15 minutes. He noted that the patient had a high tolerance to pain medications and that there was "possible abuse potential here." He called the patient's treating physician (P.O.C., M.D.) and made his office aware of her condition.

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P. On May 11, 1989, Dr. J.M., M.D., discussed Margaret T. with her treating physician, P.O.C., M.D. Dr. P.O.C. recommended that respondent's office not provide Margaret T. with any more narcotics. He suggested that Margaret T.'s behavior was classic "drug seeking behavior" for her and that respondent's office should refer Margaret T. to Dr. P.O.C. for pain management.

Q. On June 22, 1989, Margaret T. saw respondent. She was complaining of a migraine headache with nausea and vomiting which she had had for the past four days. Respondent prescribed Demerol 200 mg. IM, Compazine 10 mg. IM, and to return as needed.

R. On October 6, 1989, the patient was seen by respondent stating that she had received a chiropractic manipulation and thereafter had pain in her neck, and some numbness in her hands and around her mouth. Respondent diagnosed her with acute cervical strain and prescribed Demerol 100 mg. IM, times two, Vistaril 50 mg. IM, times two, Norflex 60 mg. IM, Valium 10 mg. IM, Dolobid 500 mg. twice a day, Vicodin every 6 hours as needed for pain, and Flexeril 10 mg. three times a day.

S. On October 12, 1989, the patient saw respondent stating that she had been in an automobile accident two days earlier and had neck pain. Respondent diagnosed her with acute cervical strain. He prescribed Demerol 100 mg. IM times two, and Vistaril 50 mg.

T. On December 11, 1989, Margaret T. told respondent that she was starting to get a severe headache and muscle spasms. He diagnosed her with acute migraine headache, and cervical

discogenic disease. He prescribed Demerol 100 mg. IM times two, Vistaril 50 mg. times two, Norflex 60 mg. IM and Valium 10 mg. IM.

U. On January 5, 1990, Margaret T. told respondent that she was in severe pain from a headache and a pain in the back of her neck. He diagnosed her condition as acute exacerbation of cervical strain. Respondent ordered Demerol 200 mg. IM, times two, Compazine 10 mg. IM, Norflex 60 mg. IM and Valium 10 mg. IM.

V. On January 8, 1990, Margaret T. told respondent that she had had a severe headache and muscle spasms for two days, and a sore throat. He diagnosed her with acute exacerbation of cervical strain, and prescribed Demerol 100 mg. IM times two, Vistaril 100 mg. IM, Norflex 60 mg. IM, and Valium 10 mg. IM. He also gave her 30 Vicodin to be taken one every four hours for pain.

W. On January 22, 1990, Margaret T. returned to see respondent complaining that her neck had started hurting again. He diagnosed her with acute exacerbation of cervical strain and prescribed Demerol 100 mg. IM times two, Vistaril 100 mg. IM, Norflex 60 mg. IM and Valium 10 mg. IM.

X. On January 23, 1990, Margaret T. again told respondent that she was having spasms in the back of her neck and severe headaches. He diagnosed her with acute exacerbation of cervical strain and prescribed Demerol 200 mg. IM, Norflex 60 mg. IM, Valium 10 gm. IM, and Vistaril 100 mg. IM.

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Y. On February 12, 1990, the patient returned to see respondent complaining of severe headaches. His findings revealed tenderness in the area of the posterior neck, and limited anterior posterior movement due to pain, however, she was able to move her arms well. Respondent prescribed Demerol 200 mg. IM, Norflex 60 mg. IM, Valium 10 mg. IM and Vistaril 150 mg. IM.

Z. On February 21, 1990, the patient saw respondent stating that she was having severe headaches with pain in the back of her neck. He diagnosed her condition as acute discogenic cervical disease and prescribed Demerol 200 mg. IM, Norflex 60 mg. IM, Valium 10 mg. IM and Vistaril 150 mg. IM.

AA. On February 22, 1990, the patient told respondent she was going to have an MRI scan performed that day but that she was hurting very badly. Therefore, he ordered Demerol 200 mg. IM, Vistaril 100 mg. IM, and Norflex 60 mg. IM.

BB. On February 28, 1990, at 11:20 a.m., Margaret T. was seen by E.A., M.D. at respondent's office. She told him that she was having a migraine, neck pain, left cheek pain, and an ear ache. He diagnosed her with cervical discogenic disease, vascular headache, possible osteomyelitis, and temporomandibular joint disease associated with headache. He also stated possible addiction danger to Demerol. (emphasis added.)

CC. On February 28, 1990, the patient returned to see Dr. E.A. at 7:40 p.m. complaining of headache, neck and jaw pain. He reviewed the chart and noted that she had received increasing doses of Demerol, Vistaril, Valium and Norflex for a variety of complaints of pain, including tonsillitis, cellulitis, low

backache, root canal, left ear pain, muscle spasm and chiefly headaches. He diagnosed her with being addicted to drugs and Demerol and stated, "This patient must go on IN-patient detox."

DD. On March 5, 1990, the patient saw respondent complaining of a severe headache after having oral surgery performed. Respondent diagnosed her with acute discogenic disease, and pain secondary to the dental procedure. He prescribed Demerol 200 mg. IM, Vistaril 150 mg. IM and Valium 10 mg. IM.

EE. On March 16, 1990, the patient was seen by respondent complaining of severe pain following dental procedures performed earlier that day. She also had a sore throat. Respondent diagnosed her with acute pharyngitis, and prescribed Ancef 1 gm. IM, Decadron 8 mg. IM, Demerol 200 mg. IM, Vistaril 150 mg. IM, Valium 10 mg. IM, Demerol 100 mg. IV, Ceclor 250 mg. three times a day, Seldane 60 mg. twice a day, and Decadron 5/12 pack, 0.75.

FF. On March 17, 1990, the patient told respondent that the pain had returned in the left side of her face and left ear. She also had muscle spasms bilaterally in the back of her neck. Respondent ordered Demerol 200 mg. IM, Vistaril 150 mg. IM, Norflex 60 mg. IM, and Valium 10 mg. IM.

GG. On March 18, 1990, the patient stated that she was having severe pain in the left jawbone. He diagnosed her with acute pain secondary to oral surgical procedures. He prescribed Demerol 250 mg. IM, Vistaril 150 mg. IM, Norflex 60 mg. IM, and Ancef 1 gm. IM.

HH. On March 20, 1990, the patient stated that she had been at the dentist's office all day having oral surgery and was in pain from the oral surgery. He diagnosed her condition as pain secondary to oral surgery, and prescribed Demerol 250 mg. IM, Vistaril 150 mg. IM, Norflex 60 mg. IM, and Valium 10 mg. IM. On this date respondent notes that he realizes she is having an addiction problem.

II. On March 21, 1990, the patient saw respondent complaining of a severe headache and neck ache following oral surgery earlier in the day. He again diagnosed her with pain secondary to dental procedures and prescribed Demerol 250 mg. IM, Vistaril 150 mg. IM, Norflex 60 mg. IM and Valium 10 mg. IM.

JJ. On March 22, 1990, at 2:00 p.m., the patient told respondent that she was having dental work performed at 4:30 p.m. that day, and that she was having pain secondary to allegedly incorrect dental surgery. He diagnosed her with pain secondary to dental procedures and acute cervical strain, and ordered Demerol 200 mg. IM, Vistaril 100 mg. IM and Valium 10 mg. IM. He told her to return after her dental procedure as needed.

KK. Margaret T. returned that same evening at 7:15 p.m. complaining of pain from the dental procedure. Respondent ordered Demerol 250 mg. IM, Vistaril 150 mg. IM, Valium 10 mg. IM, and Norflex 60 mg. IM.

LL. On March 23, 1990, at 2:15 p.m., the patient told respondent that she was having such a severe headache and pain in her jaw that she was not able to go for a cat scan scheduled for that day. He diagnosed her with acute pain secondary to dental

procedures and acute cervical strain. He prescribed Demerol 250 mg. IM, Vistaril 150 mg. IM, Norflex 60 mg. IM, and Valium 10 mg. IM. She was told to return as needed.

MM. On March 23, 1990, at 7:00 p.m., the patient told respondent that the inside of her mouth was bleeding and that she had pain in her mouth. She was diagnosed with acute pain secondary to dental procedures and acute cervical strain. He prescribed Demerol 250 mg. IM, Vistaril 100 mg. IM, Valium 10 mg. IM, Norflex 60 mg. IM, and Compazine 10 mg. IM. At 8:40 p.m. the patient "over-reacted to analgesics, given 2 amps Narcan, IV."

NN. On April 3, 1990, the patient told respondent that she had been released from the hospital but that she was having severe headaches. She told him that she had had Demerol in the morning at the hospital. He diagnosed her as having acute discogenic disease, and prescribed Demerol 150 mg. IM, and Vistaril 150 mg. IM.

OO. On April 19, 1990, the patient told respondent that she had jerked herself and started having pain in the back of her neck and headaches. Her neurological examination was grossly intact. Respondent diagnosed her with acute cervical sprain and strain and ordered Demerol 200 mg. IM, Vistaril 100 mg. IM, Valium 10 mg. IM, and Norflex 60 mg. IM.

PP. On April 26, 1990, the patient stated that she had a severe headache since yesterday after having spent 2-1/2 hours in a dental chair. Respondent diagnosed her with acute cervical strain and ordered Demerol 200 mg. IM, Vistaril 100 mg. IM, Valium 10 mg. IM, and Norflex 60 mg. IM.

QQ. On May 15, 1990, the patient told respondent that she had being having neck spasms and headaches for one day. He diagnosed her with acute cervical strain - exacerbation. He prescribed Demerol 200 mg. IM, Vistaril 100 mg. IM, Valium 10 mg. IM, and Norflex 60 mg. IM.

RR. On June 1, 1990, at 1:30 p.m., the patient told respondent that she had been having headaches again and was going back for more oral surgery. She apparently came into respondent's office with a Heparin Lock in place. Therefore, respondent injected 100 mg. Demerol and 5 mg. of Compazine through the Heparin Lock. At 3:30 p.m. on this same date, respondent injected Margaret T. with another 150 mg. of Demerol. She told respondent that she had the Heparin Lock because she had scarring from the Demerol injections.

SS. On June 5, 1990, the patient came into respondent's office for a dressing change secondary to a procedure that was done elsewhere. She had a subclavian IV. He diagnosed her with pain secondary to cervical strain. He gave her 100 mg. of Demerol through the subclavian IV at 11:45 a.m. and 150 mg. of Demerol at 7:45 p.m. He also prescribed Xanax with codeine for anxiety.

TT. On June 7, 1990, the patient told respondent that she was having severe pain in her lower back. Respondent gave her Demerol 100 mg. IV, and referred her for counseling and to the Mayo Clinic for evaluation. On this same date, respondent notes that he spoke to P.S., M.D. who was then treating Margaret T. with 100 mg. of Demerol IV in the evenings. Dr. P.S. told

respondent that (respondent) should stop giving Margaret T. any medications without checking with him (Dr. P.S.) first. Respondent documented in her chart, "NO PAIN MEDICATION."

UU. On August 24, 1990, Margaret T. told respondent that she was two months post counseling and had severe migraine headaches. Therefore, he ordered Demerol 150 mg. IM, Compazine 10 mg. IM, and Norflex 60 mg. for an acute migraine headache.

VV. On September 6, 1990, the patient told respondent that she was having a severe migraine headache with vomiting. He ordered Demerol 150 mg. IM, Compazine, 10 mg. IM, Norflex 60 mg. and Valium 10 mg. IM.

WW. Between September 9, 1990, and June 6, 1991, the patient continued to complain to respondent primarily of headaches, and pain in her neck and back. Between these dates, respondent saw the patient 119 times and on the majority of these visits he prescribed large doses of Demerol, Vistaril, Valium and Norflex.

XX. In addition to these pain medications the patient would occasionally receive prescriptions for other pain medications and muscle relaxants such as Vicodin, Flexeril, and Fiorinal.

9. Respondent has subjected his license to disciplinary action under California Business and Professions Code sections 2220, 2227 and 2234 on the grounds of unprofessional conduct, as defined by section 2234 (b) of the Code in that he is guilty of gross negligence in the practice of his profession as more particularly alleged hereinafter:

A. Paragraph 8, above, is incorporated by reference and realleged as if fully set forth herein.

B. Respondent is guilty of gross negligence in his care and treatment of patient Margaret T. Said gross negligence includes, but is not limited to, the following:

(1) Respondent failed to document his concerns regarding the patient's drug use;

(2) Respondent failed to document discussing the risks of prolonged drug use such as addiction or dependency with the patient;

(3) Respondent failed to make any diagnosis of chronic pain syndrome, drug or narcotic addiction, or drug abuse;

(4) Respondent's medical records contain notes from other physicians who warned respondent about the patient's drug addiction, and drug seeking behavior. For example, Dr. J.M. noted that the patient had a high tolerance to pain medications and noted possible abuse potential. Dr. J.M. followed up with Margaret T.'s treating physician, Dr. P. O.C., who told Dr. J.M. that he had treated the patient in the past and recommended that no more narcotics be given by Emergency Doctor's Office. She was diagnosed by Dr. E.A. as being addicted to Demerol and he recommended that she go to an inpatient detoxification program. Also, respondent documented that he had spoken to Dr. P.S. who said he (Dr. P.S.) was treating the patient with home care IV Demerol and requested that no more pain medications be given to her by respondent without checking with him (Dr. P.S.) first.

Finally, Dr. W.D. recognized her narcotic dependence, and drug seeking behavior and recommended a drug rehabilitation program. He also mentioned speaking with respondent and telling him not to give her any more IM medications. All of this information is contained in the patient's medical chart. Despite this information, respondent continued to prescribe and administer drugs to Margaret T.

(5) In many of the later visits, the presenting symptoms, physical examinations and findings were very similar. Regardless of the diagnosis, respondent's treatment was the same. Whether respondent diagnosed acute cervical strain, acute cervical discogenic disease, acute neuralgia, or neuralgia, he would usually give Margaret T. Demerol, Vistaril, Norflex, and Valium, without any further work-up, or consultation with other treating physicians;

(6) Respondent gave this patient higher and higher dosages of pain medications which deepened her drug addiction; and

(7) Respondent failed to appropriately treat the patient's drug addiction and drug abuse problem.

10. Respondent has subjected his license to disciplinary action under California Business and Professions Code sections 2220, 2227 and 2234 on the grounds of unprofessional conduct, as defined by section 2234 (c) of the Code in that he is guilty of repeated negligent acts in the practice of his profession as more particularly alleged hereinafter:

A. Paragraph 8, above, is incorporated by reference and realleged as if fully set forth herein.

B. Respondent is guilty of repeated negligent acts in his care and treatment of patient Margaret T. Said negligent acts include, but are not limited to, the following:

(1) Respondent failed to document his concerns regarding the patient's drug use;

(2) Respondent failed to document discussing the risks of prolonged drug use such as addiction or dependency with the patient;

(3) Respondent failed to make any diagnosis of chronic pain syndrome, drug dependence or abuse;

(4) Respondent's medical records contain notes from other physicians who warned about the patient's drug addiction, and drug seeking behavior. For example, Dr. J.M. noted that the patient had a high tolerance to pain medications and noted possible abuse potential. Dr. J.M. followed up with Margaret T.'s treating physician, Dr. P.O.C., who told Dr. J.M. that he had treated the patient in the past and recommended that no more narcotics be given by Emergency Doctor's Office. She was diagnosed by Dr. E. A. as being addicted to Demerol and he recommended that she go to an inpatient detoxification program. Also, respondent documented that he had spoken to Dr. P.S. who said he (Dr. P.S.) was treating the patient with home care IV Demerol and requested that no more pain medications be given to her by respondent without checking with him (Dr. P.S.) first.

Finally, Dr. W.D. recognized her narcotic dependence, and drug seeking behavior and recommended a drug rehabilitation program. He also mentioned speaking with respondent and telling him not to give her any more IM medications. All of this information is contained in the patient's medical chart. Despite this information respondent continued to prescribe and administer drugs to Margaret T.

(5) In many of the later visits, the presenting symptoms, physical examinations and findings were very similar. Regardless of the diagnosis, respondent's treatment was the same. Whether respondent diagnosed acute cervical strain, acute cervical discogenic disease, acute neuralgia, or neuralgia, he would usually give Margaret T. Demerol, Vistaril, Norflex, and Valium, without any further work-up, or consultation with other treating physicians;

(6) Respondent gave this patient higher and higher dosages of pain medications which deepened her drug addiction; and

(7) Respondent failed to appropriately treat the patient's drug addiction and drug abuse problem;

11. Respondent has subjected his license to disciplinary action under California Business and Professions Code sections 2220, 2227 and 2234 on the grounds of unprofessional conduct, as defined by section 2234 (d) of the Code in that he is guilty of incompetence in the practice of his profession as more particularly alleged hereinafter:

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A. Paragraph 8, above, is incorporated by reference and realleged as if fully set forth herein.

B. Respondent is guilty of incompetence in his care and treatment of patient Margaret T. Said incompetence included, but was not limited to, the following:

(1) Respondent failed to document his concerns regarding the patient's drug use;

(2) Respondent failed to document discussing the risks of prolonged drug use such as addiction or dependency with the patient;

(3) Respondent failed to make any diagnosis of chronic pain syndrome, drug dependence or abuse;

(4) Respondent's medical records contain notes from other physicians who warned him about the patient's drug addiction, and drug seeking behavior. For example, Dr. J.M. noted that the patient had a high tolerance to pain medications and noted possible abuse potential. Dr. J.M. followed up with Margaret T.'s treating physician, Dr. P.O.C., who told Dr. J.M. that he had treated the patient in the past and recommended that no more narcotics be given to Margaret T. by Emergency Doctor's Office. She was diagnosed by Dr. E.A. as being addicted to Demerol and he recommended that she go to an inpatient detoxification program. Also, respondent documented that he had spoken to Dr. P.S. who said he (Dr. P.S.) was treating the patient with home care IV Demerol and requested that no more pain medications be given to her by respondent without checking with him first.

Finally, Dr. W.D. recognized her narcotic dependence, and drug seeking behavior and recommended a drug rehabilitation program. He also mentioned speaking with respondent and telling him not to give her any more IM medications. All of this information is contained in the patient's medical chart. Despite this information, respondent continued to prescribe and administer drugs to Margaret T.

(5) In many of the later visits, the presenting symptoms, physical examinations and findings were very similar. Regardless of the diagnosis, respondent's treatment was the same. Whether respondent diagnosed acute cervical strain, acute cervical discogenic disease, acute neuralgia, or neuralgia, he would usually give Margaret T. Demerol, Vistaril, Norflex, and Valium, without any further work-up, or consultation with other treating physicians;

(6) Respondent gave this patient higher and higher dosages of pain medications which deepened her drug addiction; and

(7) Respondent failed to appropriately treat the patient's drug addiction and drug abuse problem.

12. Respondent has subjected his license to disciplinary action under California Business and Professions Code sections 2220, 2227 and 2234 on the grounds of unprofessional conduct, as defined by section 725 of the Code in that he has committed repeated acts of clearly excessive prescribing of medications and treatments in the practice of his profession as more particularly alleged hereinafter:

A. Paragraph 8, above, is incorporated by reference and realleged as if fully set forth herein.

B. Respondent is guilty of clearly excessive prescribing in his care and treatment of patient Margaret T. Said clearly excessive prescribing included, but was not limited to, the following:

(1) Respondent prescribed clearly excessive amounts of pain medications to Margaret T., including Demerol, Vistaril and Valium.

13. Respondent has subjected his license to disciplinary action under California Business and Professions Code sections 2220, 2227, and 2234 on the grounds of unprofessional conduct as defined by section 2242 of the Code in that he prescribed, dispensed, or furnished dangerous drugs without a good faith prior examination and medical indication therefor, as more particularly alleged hereinafter:

A. Respondent prescribed Demerol, Vistaril, and Valium for Margaret T. without a good faith prior examination and medical indication therefor.

14. Respondent has further subjected his license to disciplinary action under California Business and Professions Code sections 2220, 2227, 2234 and 2234(a) on the grounds of unprofessional conduct, as defined by section 2238, in that he has violated state statutes regulating dangerous drugs or controlled substances, as more particularly alleged hereinafter:

A. Paragraph 8, above, is incorporated by reference and realleged as if fully set forth herein.

B. Respondent has violated California Health and Safety Code section 11156 in that he prescribed, administered and/or dispensed controlled substances to an habitual user as more particularly alleged in paragraph 8 above.

C. Respondent has violated California Health and Safety Code section 11153 in that he has issued illegal prescriptions; or made an order for an addict or habitual user of controlled substances, which was not issued in the course of professional treatment or as part of an authorized methadone maintenance program, for the purpose of providing Margaret T. with controlled substances, sufficient to keep her comfortable by maintaining her customary usage, as more particularly alleged in paragraph 8 above.

15. Respondent has further subjected his license to disciplinary action under California Business and Professions Code sections 2220, 2227, 2234 and 2234(a) on the grounds of unprofessional conduct, as defined by section 2241, in that he has prescribed, sold, furnished, given away, or administered or offered to proscribe, sell, furnish, give away, or administer any of the drugs or compounds mentioned in Section 2239 to an addict or habitue, as more particularly alleged hereinafter:

A. Paragraph 8, above, is incorporated by reference and realleged as if fully set forth herein.

B. Respondent provided controlled substances to Margaret T., an addict.

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PRAYER

WHEREFORE, complainant requests that the Board hold a hearing on the matters alleged herein, and that following said hearing, the Board issue a decision:

1. Revoking or suspending Physician's and Surgeon's License Number A24866, heretofore issued to respondent Roy Jerold Levin, M.D.;

2. Granting the board its costs in the investigation and prosecution of this case; and

3. Taking such other and further action as the Board deems appropriate to protect the public health, safety and welfare.

DATED: November 17, 1994

Dixon Arnett
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California

Complainant

JM
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