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

In the Matter of the Accusation Against:	)	
Judith Saperstein Braun, M.D.	)	Case No. 10-2010-207022
Physician's and Surgeon's Certificate No. G26720	)	
Respondent	)	

DECISION

The attached Stipulation 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 February 14, 2013.

IT IS SO ORDERED: January 15, 2013.

MEDICAL BOARD OF CALIFORNIA

Barbara Yaroslavsky, Chair
Panel A

KAMALA D. HARRIS.
Attorney General of California
THOMAS S. LAZAR
Supervising Deputy Attorney General
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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: **JUDITH SAPERSTEIN BRAUN, M.D.** **7946 Ivanhoe Avenue #210** **La Jolla, CA 92037** **Physician's and Surgeon's Certificate No. G26720** Respondent.	Case No. 10-2010-207022 OAH No. 2012040061 **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. Linda K. Whitney (Complainant) is the Executive Director of the Medical Board of California (Board). She is represented in this matter by Kamala D. Harris, Attorney General of the State of California, by Samuel K. Hammond, Deputy Attorney General.

2. Respondent Judith Saperstein Braun, M.D. (Respondent) is represented in this proceeding by attorney Robert W. Frank, Esq., Neil, Dymont, Frank, McFall & Trexler APLC, 1010 Second Avenue, Suite 2500, San Diego, CA 92101-4959.

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3. On or about April 30, 1974, the Board issued Physician's and Surgeon's Certificate No. G26720 to Respondent Judith Saperstein Braun, M.D. The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought in Accusation No. 10-2010-207022 and will expire on April 30, 2014, unless renewed.

JURISDICTION

4. On December 13, 2011, Accusation No. 10-2010-207022 was filed before the Medical Board of California, Department of Consumer Affairs, State of California (Board). A true and correct copy of the Accusation and all other statutorily required documents were properly served on Respondent's address of record on file with the Board: 7946 Ivanhoe Avenue, #210, La Jolla, CA 92037. On or about December 19, 2011, a Notice of Defense was filed on Respondent's behalf by his attorney of record, Robert W. Frank, Esq. A true and correct copy of Accusation is No. 10-2010-207022 attached as Exhibit A and incorporated by reference herein.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 10-2010-207022. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

6. Respondent is fully aware of her 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 her; the right to present evidence and to testify on her own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

7. Having the benefit of counsel, hereby voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

CULPABILITY

8. Respondent agrees that at an administrative hearing, complainant could establish a *prima facie* case with respect to the charges and allegations contained in Accusation No. 10-2010-

207022, and has thereby subjected her Physician's and Surgeon's Certificate No. G26720 to disciplinary action. Respondent further agrees to the Board's imposition of discipline as set forth in the Disciplinary Order below.

9. Respondent agrees that if she ever petitions for an early termination or modification of probation, or if an accusation and/or petition to revoke probation is filed against her before the Medical Board of California, all of the charges and allegations contained in Accusation No. 10-2010-207022, shall be deemed true and correct, and fully admitted by for the purposes of any such proceeding before the Board or any other licensing agency in California.

CONTINGENCY

10. The parties agree that this Stipulated Settlement and Disciplinary Order shall be submitted to the Board for its consideration in the above-entitled matter and, further, that the Board shall have a reasonable period of time in which to consider and act on this Stipulated Settlement and Disciplinary Order after receiving it.

11. The parties agree that this Stipulated Settlement and Disciplinary Order shall be null and void and not binding upon the parties unless approved and adopted by the Board, except for this paragraph, which shall remain in full force and effect. Respondent fully understands and agrees that in deciding whether or not to approve and adopt this Stipulated Settlement and Disciplinary Order, the Board may receive oral and written communications from its staff and/or the Attorney General's office. Communications pursuant to this paragraph shall not disqualify the Board, any member thereof, and/or any other person from future participation in this or any other matter affecting or involving Respondent. In the event that the Board, in its discretion, does not approve and adopt this Stipulated Settlement and Disciplinary Order, with the exception of this paragraph, it shall not become effective, shall not be of evidentiary value whatsoever, and shall not be relied upon or introduced in any disciplinary action by either party hereto. Respondent further agrees that should the Board reject this Stipulated Settlement and Disciplinary Order for any reason, Respondent will assert no claim that the Board, or any member thereof, was prejudiced by its/his/her review, discussion and/or consideration of this Stipulated Settlement and Disciplinary Order or of any matter or matters related hereto.

ADDITIONAL PROVISIONS

12. This Stipulated Settlement and Disciplinary Order is intended by the parties herein to be an integrated writing representing the complete, final and exclusive embodiment of the agreements of the parties in the above-entitled matter.

13. The parties agree that facsimile copies of this Stipulated Settlement and Disciplinary Order, including facsimile signatures of the parties, may be used in lieu of original documents and signatures and, further, that facsimile copies shall have the same force and effect as originals.

14. In consideration of the foregoing admissions and stipulations, the parties agree the Board may, without further notice to or opportunity to be heard by Respondent, issue and enter the following Disciplinary Order:

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. G26720 issued to Respondent Judith Saperstein Braun, M.D., is revoked. However, the revocation is stayed and Respondent is placed on probation for five (5) years from the effective date of this Decision and Disciplinary Order on the following terms and conditions.

1. ACTUAL SUSPENSION As part of probation, Respondent is suspended from the practice of medicine for 30 days beginning the sixteenth (16th) day after the effective date of the decision.

2. MEDICAL RECORD KEEPING COURSE Within 60 calendar days of the effective date of this Decision, Respondent shall enroll in a course in medical record keeping equivalent to the Medical Record Keeping Course offered by the Physician Assessment and Clinical Education Program, University of California, San Diego School of Medicine (Program), approved in advance by the Board or its designee. Respondent shall provide the Program with any information that the Program may deem pertinent. Respondent shall participate in and successfully complete the classroom component of the course not later than six (6) months after initial enrollment. Respondent shall successfully complete any other component of the course within one (1) year of enrollment. The medical record keeping course shall be at Respondent's

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expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

A medical record keeping 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 the Decision.

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

3. PRESCRIBING PRACTICES COURSE Within 60 calendar days of the effective date of this Decision, Respondent shall enroll in a course in prescribing practices equivalent to the Prescribing Practices Course offered by the Physician Assessment and Clinical Education Program, University of California, San Diego School of Medicine (Program), approved in advance by the Board or its designee. Respondent shall provide the Program with any information that the Program may deem pertinent. Respondent shall participate in and successfully complete the classroom component of the course not later than six (6) months after initial enrollment. Respondent shall successfully complete any other component of the course within one (1) year of enrollment. The prescribing practice 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 the Decision. Respondent shall submit a certification of successful completion to the Board or its designee not later than 15 calendar days after successfully completing the course, or not later than 15 calendar days after the effective date of the Decision, whichever is later.

4. PROFESSIONALISM PROGRAM (ETHICS COURSE) Within 60 calendar days of the effective date of this Decision, Respondent shall enroll in a professionalism program, that meets the requirement of Title 16, California Code of Regulations (CCR) section 1358. Respondent shall participate in and successfully complete the program. Respondent shall provide any information and documents the program may deem pertinent. Respondent shall successfully complete the classroom component of the course not later than six (6) months after initial enrollment, and the longitudinal component of the program not later than the time specified by the program, but no later than one (1) year after attending the classroom component. The professionalism program shall be at Respondent's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

A professionalism program 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 program would have been approved by the Board or its designee had the course been taken after the effective date of the Decision.

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

5. EDUCATION COURSE Within 60 calendar days of the effective date of this Decision and on an annual basis, Respondent shall submit to the Board or its designee for its prior approval, an education program(s) or course(s) which shall not be less than 40 hours per year, for each year of probation. The educational program(s) or course(s) shall be aimed at correcting any areas of deficient practice or knowledge and shall be Category 1 certified. The educational program(s) or course(s) shall be at Respondent's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure. Following the completion of each course, the Board or its designee may administer an examination to test Respondent's knowledge of the course. Respondent shall provide proof of attendance for 65 hours of CME of which 40 hours were in satisfaction of this condition.

6. NOTIFICATION Prior to engaging in the practice of medicine, the Respondent shall provide a true copy of the Decision(s) and Accusation(s) to the Chief of Staff or the Chief Executive Officer at every hospital where privileges or membership are extended to Respondent, at any other facility where Respondent engages in the practice of medicine, including all physician and locum tenens registries or other similar agencies, and to the Chief Executive Officer at every insurance carrier which extends malpractice insurance coverage to Respondent. Respondent shall submit proof of compliance to the Board or its designee within 15 calendar days.

This condition shall apply to any change(s) in hospitals, other facilities or insurance carrier.

7. SUPERVISION OF PHYSICIAN ASSISTANTS During probation, Respondent is prohibited from supervising physician assistants.

8. OBEY ALL LAWS Respondent shall obey all federal, state and local laws, all rules governing the practice of medicine in California, and remain in full compliance with any court ordered criminal probation, payments and other orders.

9. QUARTERLY DECLARATIONS Respondent shall submit quarterly declarations under penalty of perjury on forms provided by the Board, stating whether there has been compliance with all the conditions of probation. Respondent shall submit quarterly declarations not later than 10 calendar days after the end of the preceding quarter.

10. PROBATION UNIT COMPLIANCE Respondent shall comply with the Board's probation unit. Respondent shall, at all times, keep the Board informed of Respondent's business and residence addresses. Changes of such addresses shall be immediately communicated in writing to the Board or its designee. Under no circumstances shall a post office box serve as an address of record, except as allowed by Business and Professions Code section 2021(b).

Respondent shall not engage in the practice of medicine in Respondent's place of residence. Respondent shall maintain a current and renewed California physician's and surgeon's license.

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Respondent shall immediately inform the Board, or its designee, in writing, of travel to any areas outside the jurisdiction of California which lasts, or is contemplated to last, more than 30 calendar days.

11. INTERVIEW WITH THE BOARD, OR ITS DESIGNEE Respondent shall be available in person for interviews either at Respondent's place of business or at the probation unit office, with the Board or its designee, upon request at various intervals, and either with or without prior notice throughout the term of probation.

12. RESIDING OR PRACTICING OUT-OF-STATE In the event Respondent should leave the State of California to reside or to practice, Respondent shall notify the Board or its designee in writing 30 calendar days prior to the dates of departure and return. Non-practice is defined as any period of time exceeding 30 calendar days in which Respondent is not engaging in any activities defined in Sections 2051 and 2052 of the Business and Professions Code.

All time spent in an intensive training program outside the State of California which has been approved by the Board or its designee shall be considered as time spent in the practice of medicine within the State. A Board-ordered suspension of practice shall not be considered as a period of non-practice. Periods of temporary or permanent residence or practice outside California will not apply to the reduction of the probationary term. Periods of temporary or permanent residence or practice outside California will relieve Respondent of the responsibility to comply with the probationary terms and conditions with the exception of this condition and the following terms and conditions of probation: Obey All Laws; Probation Unit Compliance; and Cost Recovery.

Respondent's license shall be automatically cancelled if Respondent's periods of temporary or permanent residence or practice outside California total two years. However, Respondent's license shall not be cancelled as long as Respondent is residing and practicing medicine in another state of the United States and is on active probation with the medical licensing authority of that state, in which case the two year period shall begin on the date probation is completed or terminated in that state.

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13. FAILURE TO PRACTICE MEDICINE - CALIFORNIA RESIDENT

In the event Respondent resides in the State of California and for any reason Respondent stops practicing medicine in California, Respondent shall notify the Board or its designee in writing within 30 calendar days prior to the dates of non-practice and return to practice. Any period of non-practice within California, as defined in this condition, will not apply to the reduction of the probationary term and does not relieve Respondent of the responsibility to comply with the terms and conditions of probation. Non-practice is defined as any period of time exceeding 30 calendar days in which Respondent is not engaging in any activities defined in sections 2051 and 2052 of the Business and Professions Code.

All time spent in an intensive training program which has been approved by the Board or its designee shall be considered time spent in the practice of medicine. For purposes of this condition, non-practice due to a Board-ordered suspension or in compliance with any other condition of probation, shall not be considered a period of non-practice.

Respondent's license shall be automatically cancelled if Respondent resides in California and for a total of two years, fails to engage in California in any of the activities described in Business and Professions Code sections 2051 and 2052.

14. COMPLETION OF PROBATION Respondent shall comply with all financial obligations (e.g., cost recovery, restitution, probation costs) not later than 120 calendar days prior to the completion of probation. Upon successful completion of probation, Respondent's certificate shall be fully restored.

15. VIOLATION OF PROBATION Failure to fully comply with any term or condition of probation is a violation of probation. If Respondent violates probation in any respect, the Board, 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, Petition to Revoke Probation, or an Interim Suspension Order is filed against Respondent during probation, the Board shall have continuing jurisdiction until the matter is final, and the period of probation shall be extended until the matter is final.

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16. LICENSE SURRENDER Following the effective date of this Decision, if Respondent ceases practicing due to retirement, health reasons or is otherwise unable to satisfy the terms and conditions of probation, Respondent may request the voluntary surrender of Respondent's license. The Board reserves the right to evaluate Respondent's request and to exercise its discretion whether or not to grant the request, or to take any other action deemed appropriate and reasonable under the circumstances. Upon formal acceptance of the surrender, Respondent shall within 15 calendar days deliver Respondent's wallet and wall certificate to the Board or its designee and Respondent shall no longer practice medicine. Respondent will no longer be subject to the terms and conditions of probation and the surrender of Respondent's license shall be deemed disciplinary action. If Respondent re-applies for a medical license, the application shall be treated as a petition for reinstatement of a revoked certificate.

17. PROBATION MONITORING COSTS Respondent shall pay the costs associated with probation monitoring each and every year of probation, as designated by the Board which may be adjusted on an annual basis. Such costs shall be payable to the Medical Board of California and delivered to the Board or its designee no later than January 31 of each calendar year.

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ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Robert W. Frank, Esq. I understand the stipulation and the effect it will have on my Physician's and Surgeon's Certificate No. G26720. 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, Department of Consumer Affairs, State of California.

DATED: 11/21/2012

JUDITH SAPERSTEIN BRAUN, M.D.
Respondent

I have read and fully discussed with respondent Judith Saperstein Braun, 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: 11-21-12

ROBERT W. FRANK, ESQ.
Attorney for Respondent

ENDORSEMENT

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

DATED: 11/21/12

Respectfully Submitted,

KAMALA D. HARRIS.
Attorney General of California
THOMAS S. LAZAR
Supervising Deputy Attorney General

SAMUEL K. HAMMOND
Deputy Attorney General
Attorneys for Complainant

SKH: cs
SD2010703632

Exhibit A

Accusation No. 10-2010-207022

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FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO December 13, 2011
BY: J. ELCHAK ANALYST

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

In the Matter of the Accusation Against: **JUDITH SAPERSTEIN BRAUN, M.D.** **7946 Ivanhoe Avenue, #210** **La Jolla, CA 92037** **Physician's and Surgeon's Certificate No. G26720** Respondent.	Case No. 10-2010-207022 **ACCUSATION**

Complainant alleges:

PARTIES

1. Linda K. Whitney (hereinafter "Complainant") brings this Accusation solely in her official capacity as the Executive Director of the Medical Board of California, Department of Consumer Affairs.

2. On or about April 30, 1974, the Medical Board of California issued Physician's and Surgeon's Certificate Number G26720 to Judith Saperstein Braun, M.D. (hereinafter "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 April 30, 2012, unless renewed.

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JURISDICTION

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

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

5. Section 2234 of the Code states:

"The Division of Medical Quality shall take action against any licensee who is charged with unprofessional conduct.[1] In addition to other provisions of this article, unprofessional conduct[2] includes, but is not limited to, the following:

"(a) Violating or attempting to violate, directly or indirectly, assisting in or abetting the violation of, or conspiring to violate any provision of this chapter [Chapter 5, the Medical Practice Act].

"(b) Gross negligence.

"(c) Repeated negligent acts. To be repeated, there must be two or more negligent acts or omissions. An initial negligent act or omission followed by a separate and distinct departure from the applicable standard of care shall constitute repeated negligent acts.

"(1) An initial negligent diagnosis followed by an act or omission medically appropriate for that negligent diagnosis of the patient shall constitute a single negligent act.

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[1] California Business and Professions Code section 2002, as amended and effective January 1, 2008, provides that, unless otherwise expressly provided, the term "board" as used in the State Medical Practice Act (Cal. Bus. & Prof. Code. §§2000, et. seq.) means the "Medical Board of California," and references to the "Division of Medical Quality" and "Division of Licensing" in the Act or any other provision of law shall be deemed to refer to the Board.

[2] Unprofessional conduct has been defined as 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. (*Shea v. Board of Medical Examiners* (1978) 81 Cal.App.3d 654.)

"(2) When the standard of care requires a change in the diagnosis, act, or omission that constitutes the negligent act described in paragraph (1), including, but not limited to, a reevaluation of the diagnosis or a change in treatment, and the licensee's conduct departs from the applicable standard of care, each departure constitutes a separate and distinct breach of the standard of care.

"...

"(e) The commission of any act involving dishonesty or corruption which is substantially related to the qualifications, functions, or duties of a physician and surgeon.

"(f) Any action or conduct which would have warranted the denial of a certificate."

"..."

6. Section 2238 of the Code states:

"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."

7. Section 2261 of the Code states:

"Knowingly making or signing any certificate or other document directly or indirectly related to the practice of medicine or podiatry which falsely represents the existence or nonexistence of a state of facts, constitutes unprofessional conduct."

8. Section 2262 of the Code states, in pertinent part:

"Altering or modifying the medical record of any person, with fraudulent intent, or creating any false medical record, with fraudulent intent, constitutes unprofessional conduct."

9. Section 2242 of the Code states:

"(a) Prescribing, dispensing, or furnishing dangerous drugs as defined in Section 4022 without an appropriate prior examination and a medical indication, constitutes unprofessional conduct.

"(b) No licensee shall be found to have committed unprofessional conduct within the meaning of this section if, at the time the drugs were prescribed, dispensed, or furnished, any of the following applies:

"(1) The licensee was a designated physician and surgeon or podiatrist serving in the absence of the patient's physician and surgeon or podiatrist, as the case may be, and if the drugs were prescribed, dispensed, or furnished only as necessary to maintain the patient until the return of his or her practitioner, but in any case no longer than 72 hours.

"(2) The licensee transmitted the order for the drugs to a registered nurse or to a licensed vocational nurse in an inpatient facility, and if both of the following conditions exist:

"(A) The practitioner had consulted with the registered nurse or licensed vocational nurse who had reviewed the patient's records.

"(B) The practitioner was designated as the practitioner to serve in the absence of the patient's physician and surgeon or podiatrist, as the case may be.

"(3) The licensee was a designated practitioner serving in the absence of the patient's physician and surgeon or podiatrist, as the case may be, and was in possession of or had utilized the patient's records and ordered the renewal of a medically indicated prescription for an amount not exceeding the original prescription in strength or amount or for more than one refill.

"(4) The licensee was acting in accordance with Section 120582 of the Health and Safety Code."

10. Section 2266 of the Code states: "The failure of a physician and surgeon to maintain adequate and accurate records relating to the provision of services to their patients constitutes unprofessional conduct."

FIRST CAUSE FOR DISCIPLINE

(Gross Negligence)

11. Respondent is subject to disciplinary action under sections 2227 and 2234, as defined by section 2234, subdivision (b), of the Code, in that Respondent committed gross negligence in her care and treatment of patient L.L., as more particularly alleged below:

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A. In or about 2003, patient L.L. then a 34-year old female and a physician, started seeing Respondent for anxiety, and was prescribed 10 mg. Prozac.[3] Patient L.L. was seen by Respondent on numerous occasions in 2004, 2005, 2006, and 2007. During this time period, Respondent failed to obtain and/or document an adequate history of patient L.L.'s present illness, failed to obtain and/or document a psychiatric history, a medical history or a mental status examination, and failed to generate and/or document a diagnostic impression or treatment plan.[4]

B. In or about 2008, Respondent continued to see patient L.L. on a regular basis. On or about January 9, 2008, Respondent prescribed Clonazepam[5] 0.25 mg. for patient L.L. but wrote the prescription in the name of the patient's husband, S.M. On or about December 10, 2008, Respondent prescribed Klonopin,[6] 0.25 mg. for patient L.L. but again wrote the prescription in the name of S.M.[7]

C. During 2008, Respondent continued to prescribe controlled substances and dangerous drugs for patient L.L. without obtaining and/or documenting an adequate history of patient L.L.'s present illness, without obtaining and/or documenting a psychiatric history, a medical history and a mental status examination, and without generating and/or documenting a diagnostic impression and a treatment plan.

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[3] Prozac is a brand name for fluoxetine, and a dangerous drug pursuant to Business and Professions Code section 4022.

[4] Reference to Respondent's acts or omissions related to patient L.L., that are outside the applicable statute of limitations (Bus. & Prof. Code, section 2230.5) are provided for informational purposes only, and are not alleged as grounds for discipline.

[5] 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.

[6] Klonopin is a brand name for clonazepam 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.

[7] In her summary of care statement submitted to the Board's investigator in about May 2011, respondent indicated that she wrote the prescriptions in S.M.'s name because patient L.L. "was extremely concerned about pharmacy records showing she had been prescribed such medications because she was certain at the time that she was going to be named in a malpractice suit and that somebody would incorrectly and unjustly try and link the medication use to the perceived surgical mistake."

D. In or about 2009, Respondent continued to see patient L.L. on a regular basis. On or about June 10, 2009, July 15, 2009, and August 19, 2009, Respondent prescribed Citalopram[8] 20 mg. for patient L.L. but wrote the prescription in the name of S.M. Respondent also prescribed the following medications for patient L.L. in the name of the patient's mother, A.L.: On or about December 2, 2009, she prescribed Ambien,[9] 10 mg., on or about December 4, 2009, Citalopram 20 mg. and Clonazepam, 0.25 mg., and on or about December 29, 2009, she prescribed Citalopram 20 mg.

E. During 2009, Respondent continued to prescribe controlled substances and dangerous drugs for patient L.L without obtaining and/or documenting an adequate history of patient L.L.'s present illness, without obtaining and/or documenting a psychiatric history, medical history and a mental status examination, and without generating and/or documenting a diagnostic impression and a treatment plan.

F. In or about 2010, Respondent continued to see patient L.L. on a regular basis, and she continued to prescribe Citalopram, 20 mg. and Clonazepam, 0.5 mg for patient L.L. Respondent also continued to prescribe Citalopram and Clonazepam for patient L.L. in A.L.'s name.

G. During 2010, Respondent continued to prescribe controlled substances and dangerous drugs for patient L.L without obtaining and/or documenting an adequate history of patient L.L.'s present illness, without obtaining and/or documenting a psychiatric history, medical history and a mental status examination, and without generating and/or documenting a diagnostic impression and a treatment plan.

H. On or about March 30, 2011, Respondent terminated her physician-patient relationship with patient L.L.

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[8] Citalopram which is also known by the brand name Celexa, is a dangerous drug pursuant to Business and Professions Code section 4022. It is an antidepressant.

[9] Ambien, is a brand name for zolpidem tartrate, 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.

12. Respondent committed gross negligence in her care and treatment of patient L.L., which included, but was not limited to, the following:

A. On or about January 9, 2008, Respondent prescribed Clonazepam 0.25 mg. for patient L.L. but wrote the prescription in the name of the patient's husband, S.M.

B. On or about December 10, 2008, Respondent prescribed Clonazepam 0.25 mg. for patient L.L. but wrote the prescription in the name of the patient's husband, S.M.

C. On or about June 10, 2009, Respondent prescribed Citalopram, 20 mg. for patient L.L. but wrote the prescription in the name of the patient's husband, S.M.

D. On or about July 15, 2009, Respondent prescribed Citalopram, 20 mg. for patient L.L. but wrote the prescription in the name of the patient's husband, S.M.

E. On or about August 19, 2009, Respondent prescribed Citalopram, 20 mg. for patient L.L. but wrote the prescription in the name of the patient's husband, S.M.

F. In or about December, 2009, Respondent prescribed Zolpidem, 10 mg., Citalopram 20 mg., and Clonazepam, 0.25 mg., for patient L.L. but wrote the prescription in the name of the patient's mother, A.L.

G. In or about January, 2010, Respondent prescribed Citalopram, 20 mg., for patient L.L. but wrote the prescription in the name of the patient's mother, A.L.

H. In or about February, 2010, Respondent prescribed Citalopram 20 mg., for patient L.L. but wrote the prescription in the name of her mother, patient A.L.

I. In or about March, 2010, Respondent prescribed Clonazepam, 0.5 mg., and Citolopram, 20 mg., for patient L.L. but wrote the prescription in the name of the patient's mother, A.L.

J. In or about April, 2010, Respondent prescribed Citalopram 20 mg., for patient L.L. but wrote the prescription in the name of the patient's mother, A.L.

K. In or about May, 2010, Respondent prescribed Citolopram, 20 mg., for patient L.L. but wrote the prescription in the name of the patient's mother, A.L.

L. In or about July, 2010, Respondent prescribed Citolopram, 20 mg., for patient L.L. but wrote the prescription in the name of the patient's mother, A.L.

M. In or about August, 2010, Respondent prescribed Citolopram, 20 mg., for patient L.L. but wrote the prescription in the name of the patient's mother, A.L.

N. During 2008 and 2009, Respondent wrote prescriptions for controlled substances and dangerous drugs to S.M. without appropriate prior medical examination and without medical indication, as required by section 2242, subdivision (a) of the Code.

O. During 2009 and 2010, Respondent wrote prescriptions for controlled substances and dangerous drugs to A.L. without appropriate prior medical examination and without medical indication, as required by section 2242, subdivision (a) of the Code.

SECOND CAUSE FOR DISCIPLINE

(Repeated Negligent Acts)

13. Respondent is further subject to disciplinary action under sections 2227 and 2234, as defined by section 2234, subdivision (c), of the Code, in that she committed repeated negligent acts in her care and treatment of patient L.L., as more particularly alleged hereinafter.

A. Paragraphs 11 (A) through 11 (H) above, are hereby incorporated by reference and re-alleged as if fully set forth herein.

B. Paragraphs 12 (A) through 12 (O) above, are hereby incorporated by reference and re-alleged as if fully set forth herein.

C. During 2008, Respondent prescribed controlled substances and dangerous drugs for patient L.L. without obtaining and/or documenting an adequate history of patient L.L.'s present illness, without obtaining and/or documenting a psychiatric history, a medical history and a mental status examination, and without generating and/or documenting a diagnostic impression and a treatment plan.

D. During 2009, Respondent prescribed controlled substances and dangerous drugs for patient L.L without obtaining and/or documenting an adequate history of patient L.L.'s present illness, without obtaining and/or documenting a psychiatric history, medical history and a mental status examination, and without generating and/or documenting a diagnostic impression and a treatment plan.

E. During 2010, Respondent prescribed controlled substances and dangerous drugs for patient L.L without obtaining and/or documenting an adequate history of patient L.L.'s present illness, without obtaining and/or documenting a psychiatric history, medical history and a mental status examination, and without generating and/or documenting a diagnostic impression and a treatment plan.

THIRD CAUSE FOR DISCIPLINE

(Acts or Dishonesty or Corruption)

14. Respondent is further subject to disciplinary action under sections 2227 and 2234, as defined by section 2234, subdivision (e) of the Code, in that Respondent committed act or acts of dishonesty or corruption by writing prescriptions for controlled substances and dangerous drugs for patient L.L. in the names of the patient's mother and husband, as more particularly alleged in Paragraphs 11, 12 and 13, above, which are hereby incorporated by reference and realleged as if fully set forth herein.

FOURTH CAUSE FOR DISCIPLINE

(Violation of Drug Statutes)

15. Respondent is further subject to disciplinary action under sections 2227 and 2234, as defined by section 2238 and section 2242, subdivision (a), of the Code, in that Respondent wrote prescriptions for controlled substances and dangerous drugs for S.M. and A.L. without appropriate prior medical examination and without medical indication particularly in paragraphs 11, 12, 13 and 14, above, which are hereby incorporated by reference and realleged as if fully set forth herein.

FIFTH CAUSE FOR DISCIPLINE

(False Representations)

16. Respondent is further subject to disciplinary action under sections 2227 and 2234, as defined by section 2261, of the Code, in that Respondent signed documents that falsely represented the existence or non-existence of a state of facts, in that Respondent wrote prescriptions for controlled substances and dangerous drugs for patient L.L. in the names the

patient's mother and husband, as more particularly alleged in paragraphs 11, 12, 13, 14 and 15, above, which are hereby incorporated by reference and re-alleged as if fully set forth herein.

SIXTH CAUSE FOR DISCIPLINE

(Creation of False Medical Records With Fraudulent Intent)

17. Respondent is further subject to disciplinary action under sections 2227 and 2234, as defined by section 2262, of the Code, in that Respondent created false medical records with fraudulent intent in that, in that Respondent wrote prescriptions for controlled substances and dangerous drugs for patient L.L in the names of the patient's mother and husband, as more particularly alleged in paragraphs 11, 12, 13, 14 and 15, above, which are hereby incorporated by reference and re-alleged as if fully set forth herein.

SEVENTH CAUSE FOR DISCIPLINE

(Prescribing Dangerous Drugs Without Appropriate Examination and Medical Indication)

18. Respondent is further subject to disciplinary action under sections 2227 and 2234, as defined by section 2242, of the Code, in that Respondent prescribed dangerous drugs to S.M. and A.L. without an appropriate prior examination and medical indication, as more particularly alleged in paragraphs 11, 12, 13, 14 and 15, above, which are hereby incorporated by reference and re-alleged as if fully set forth herein.

EIGHTH CAUSE FOR DISCIPLINE

(Failure to Maintain Adequate and Accurate Medical Records)

19. Respondent is further subject to disciplinary action under sections 2227 and 2234, as defined by section 2266, of the Code, in that Respondent failed to maintain adequate and accurate records regarding her care and treatment of patient L.L., as more particularly alleged hereinafter in Paragraphs 11, 12, 13, 14 and 15, above, which are hereby incorporated by reference and realleged as if fully set forth herein.

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NINTH CAUSE FOR DISCIPLINE

(General Unprofessional Conduct)

20. Respondent has further subjected his license to disciplinary action under section 2234, of the Code in that Respondent engaged in conduct which breached the rules or ethical code of the medical profession or which was unbecoming a member in good standing of the medical profession as more particular alleged paragraphs 11 through 19, above, which are incorporated herein by reference as if realleged as though fully set forth.

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 G26720, heretofore issued to Respondent Judith Saperstein Braun, M.D.;

2. Revoking, suspending or denying approval of Respondent Judith Saperstein Braun, M.D.'s authority to supervise physician's assistants, pursuant to section 3527 of the Code;

3. Ordering Respondent Judith Saperstein Braun, M.D., to pay the Board the costs of probation monitoring, if placed on probation; and

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

DATED: December 13, 2011

LINDA K. WHITNEY
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant