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

In the Matter of the Accusation Against:	)	
William Tice Vicary, M.D.	)	**Case No. 800-2014-009420**
Physician's and Surgeon's Certificate No. G 30952	)	
Respondent	)	

DECISION

The attached Stipulated Surrender of License and 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 June 30, 2019.

IT IS SO ORDERED March 6, 2019 **.**

MEDICAL BOARD OF CALIFORNIA

By: Kimberly Kirchmeyer
Kimberly Kirchmeyer
Executive Director

XAVIER BECERRA
Attorney General of California
E. A. JONES III
Supervising Deputy Attorney General
EDWARD KIM
Deputy Attorney General
State Bar No. 195729
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300 So. Spring Street, Suite 1702
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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: **WILLIAM TICE VICARY, M.D.** Physician's and Surgeon's Certificate No. G 30952, Respondent.	Case No. 800-2014-009420 OAH No. 2018020487 **STIPULATED SURRENDER OF LICENSE AND 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. Kimberly Kirchmeyer (Complainant) is the Executive Director of the Medical Board of California (Board). She brought this action solely in her official capacity and is represented in this matter by Xavier Becerra, Attorney General of the State of California, by Edward Kim, Deputy Attorney General.

2. William Tice Vicary, M.D. (Respondent) is represented in this proceeding by attorney William G. Moore, whose address is: 9701 Wilshire Blvd., 10th Flr. - PMB #312, Beverly Hills, CA 90212.

3. On or about September 26, 1975, the Board issued Physician's and Surgeon's Certificate No. G 30952 to 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. 800-2014-009420

and will expire on October 31, 2019, unless renewed.

JURISDICTION

4. Accusation No. 800-2014-009420 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 November 1, 2017. Respondent filed his Notice of Defense contesting the Accusation. A copy of Accusation No. 800-2014-009420 is attached as Exhibit A and incorporated by reference.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 800-2014-009420. Respondent also has carefully read, fully discussed with counsel, and understands the effects of this Stipulated Surrender of License and Order.

6. 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.

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

CULPABILITY

8. Respondent does not contest that, at an administrative hearing, Complainant could establish a prima facie case with respect to the charges and allegations contained in the Fourth Cause for Discipline as to patients E.S. and S.K. and Fifth Cause for Discipline as to patient S.K. in Accusation No. 800-2014-009420 and that he has thereby subjected his license to disciplinary action. Respondent hereby gives up his right to contest that cause for discipline exists based on those charges. Respondent understands that by signing this stipulation he enables the Board to issue an order accepting the surrender of his Physician's and Surgeon's Certificate without further

process.

CONTINGENCY

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

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

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

ORDER

IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. G 30952, issued to Respondent WILLIAM TICE VICARY, M.D., is surrendered and accepted by the Board.

1. The surrender of Respondent's Physician's and Surgeon's Certificate and the acceptance of the surrendered license by the Board shall constitute the imposition of discipline against Respondent. This stipulation constitutes a record of the discipline and shall become a part of Respondent's license history with the Board.

2. Respondent shall lose all rights and privileges as a Physician and Surgeon in California as of the effective date of the Board's Decision and Order.

3. Respondent shall cause to be delivered to the Board his pocket license and, if one was issued, his wall certificate on or before the effective date of the Decision and Order.

4. If Respondent ever files an application for licensure or a petition for reinstatement in

the State of California (including of his Physician's and Surgeon's Certificate No. G 30952), the Board shall treat it as a petition for reinstatement. Respondent must comply with all the laws, regulations and procedures for reinstatement of a revoked or surrendered license in effect at the time the petition is filed, and all of the charges and allegations contained in Accusation No. 800-2014-009420 shall be deemed to be true, correct and admitted by Respondent when the Board determines whether to grant or deny the petition.

5. If Respondent should ever apply or reapply for a new license or certification, or petition for reinstatement of a license, by any other health care licensing agency in the State of California, all of the charges and allegations contained in Accusation, No. 800-2014-009420 shall be deemed to be true, correct, and admitted by Respondent for the purpose of any Statement of Issues or any other proceeding seeking to deny or restrict licensure.

6. This Order shall become effective on June 30, 2019.

ACCEPTANCE

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

DATED: _____

WILLIAM TICE VICARY, M.D.
Respondent

I have read and fully discussed with Respondent WILLIAM TICE VICARY, M.D. the terms and conditions and other matters contained in this Stipulated Surrender of License and Order. I approve its form and content.

DATED: _____

WILLIAM G. MOORE
Attorney for Respondent

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ACCEPTANCE

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

DATED: 2/15/19

WILLIAM TICE VICARY, M.D.
Respondent

I have read and fully discussed with Respondent WILLIAM TICE VICARY, M.D. the terms and conditions and other matters contained in this Stipulated Surrender of License and Order. I approve its form and content.

DATED: _____

WILLIAM G. MOORE
Attorney for Respondent

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6. This Order shall become effective on June 30, 2019.

ACCEPTANCE

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

DATED: _____

WILLIAM TICE VICARY, M.D.
Respondent

I have read and fully discussed with Respondent WILLIAM TICE VICARY, M.D. the terms and conditions and other matters contained in this Stipulated Surrender of License and Order. I approve its form and content.

DATED: 2-15-19

WILLIAM G. MOORE
Attorney for Respondent

ENDORSEMENT

The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted for consideration by the Medical Board of California of the Department of Consumer Affairs.

Dated: 2-20-19

Respectfully submitted,

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

EDWARD KIM
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 800-2014-009420

XAVIER BECERRA
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Attorneys for Complainant

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO November 1 2017
BY: B. Vroong ANALYST

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

In the Matter of the Accusation Against: **William Tice Vicary, M.D.** **3575 Cahuenga Blvd. W, Ste. 300** **Los Angeles, CA 90068** **Physician's and Surgeon's Certificate No. G 30952,** Respondent.	Case No. 800-2014-009420 **A C C U S A T I O N**

Complainant alleges:

PARTIES

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

2. On or about September 26, 1975, the Medical Board issued Physician's and Surgeon's Certificate Number G 30952 to William Tice Vicary, M.D. (Respondent). The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought herein and will expire on October 31, 2019, unless renewed.

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JURISDICTION

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

4. Section 2227 of the Code 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, publicly reprimanded, or such other action taken in relation to discipline as the Board deems proper.

5. Section 2234 of the Code, states in pertinent part:

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

"(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.

"(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.

"(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.

"...."

6. 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."

7. 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."

8. Section 725 of the Code states:

"(a) Repeated acts of clearly excessive prescribing, furnishing, dispensing, 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, dentist,

podiatrist, psychologist, physical therapist, chiropractor, optometrist, speech-language pathologist, or audiologist.

"(b) Any person who engages in repeated acts of clearly excessive prescribing or administering of drugs or treatment is guilty of a misdemeanor and shall be punished by a fine of not less than one hundred dollars ($100) nor more than six hundred dollars ($600), or by imprisonment for a term of not less than 60 days nor more than 180 days, or by both that fine and imprisonment.

"(c) A practitioner who has a medical basis for prescribing, furnishing, dispensing, or administering dangerous drugs or prescription controlled substances shall not be subject to disciplinary action or prosecution under this section.

"(d) No physician and surgeon shall be subject to disciplinary action pursuant to this section for treating intractable pain in compliance with Section 2241.5."

FACTUAL BACKGROUND

9. Respondent is a licensed physician and surgeon practicing psychiatry.

Patient G.I.[1]

10. G.I. is a male undercover officer who was first seen by Respondent on April 27, 2015. During the visit, Respondent met with G.I. for approximately 11 minutes, although he wrote in his chart that he spent 30 minutes with the patient. G.I. reported that he had gained weight, was having trouble staying awake, and had borrowed Adderall[2] from a friend in the past and that it "worked like a charm." G.I. confirmed that he would be taking Adderall to help him study. Respondent diagnosed rule out Attention Deficit Disorder (ADD) and prescribed Adderall 20 mg #60 to be taken one bid. G.I. paid $200 cash for the visit.

11. G.I. was next seen on May 21, 2015, a visit that lasted eight minutes. G.I. reported taking one pill and a half. No additional medical information was obtained. Respondent increased G.I.'s Adderall prescription to 30 mg #60.

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[1] Patients are referred to by initials to protect privacy.

[2] Adderall is a mixture of ct-amphetamine and I-amphetamine salts in the ratio of 3:1 and is a central nervous system stimulant. It is a Schedule II controlled substance.

12. G.I. was next seen on February 18, 2016 and reported taking Norco 10/325 for shoulder pain. The patient also reported that he only takes Adderall as needed. Respondent did not query G.I. about his cognition or concentration when not using Adderall. Respondent prescribed Naproxen (a NSAID) and Adderall 30 mg.

13. At no point in the meetings with G.I. did Respondent take any meaningful medical or psychiatric history. He did not inquire about possible mood disorders or cardiovascular problems. He did not take a blood pressure, pulse or weight. Though the patient acknowledged illegally obtaining a drug of abuse for non-medical reasons, Respondent made no inquiry into the patient's substance use history. The patient never reported having ADD or Attention Deficit Hyperactivity Disorder (ADHD), nor did Respondent inquire about any symptoms of ADD or ADHD.

Patient E.S.

14. Patient E.S. is a female undercover officer who was first seen by Respondent on June 5, 2015. Respondent inquired if E.S. had physical medical problems. Respondent asked if there was a family history of substance misuse, but did not directly ask the patient about her history of mental health problems or substance misuse. E.S. told Respondent that she was taking Xanax[3] 2 mg twice a day and Ambien[4] 10 mg every night, and had recently moved from Las Vegas. E.S. reported that the medications were "to balance her out." She did not describe any symptoms that needed balancing, nor did Respondent inquire about current symptoms or any mental health history. E.S. gave the name of the doctor who allegedly was prescribing the medications. Respondent vaguely asked for a release of information (ROI) to verify the medical history, but did not inform the patient that it was necessary for him to have a ROI to verify the history and treatment. Respondent did not tell the patient that he would not provide the prescriptions without verification of an on-going need and prior treatment. Respondent diagnosed "stress/anxiety and insomnia." Respondent did not question whether she had symptoms on a lower dose, when she last took the medications, or whether she had any symptoms during any possible lapse in her

[3] Xanax is a brand name for alprazolam, a benzodiazepine. It is a Schedule IV controlled substance.

[4] Ambien is a brand name for zolpidem, a sedative. It is a Schedule IV controlled substance.

medications. He did not inquire about possible withdrawal symptoms. There was no discussion about the use of chronic Ambien or chronic Xanax. Respondent prescribed Xanax 2 mg #60, to be taken "bid pm anxiety," and Ambien 10 mg #30 to be taken regularly at bedtime. One refill was authorized.

15. E.S. was next seen on July 30, 2015. The visit lasted seven minutes, although Respondent's notes indicated that the meeting was 30 minutes. No information to justify continuing the medications was obtained. There was no inquiry about obtaining the ROI. There was no inquiry about adverse effects. Respondent wrote another prescription for Xanax 2 mg #60 and increased the prescription for Ambien 10 mg to 60 pills.

Patient T.Z.

16. Patient T.Z. is an undercover officer who was seen by Respondent on June 11, 2015. T.Z. reported that he used to take Adderall to stay up at night for his work. He asked Respondent for Adderall so he could stay up late at night. T.Z. reported he used to see a doctor in San Pedro more than a year ago for Adderall. Respondent did not ask T.Z. to sign a ROI. Respondent did not take any history of mental illness, substance abuse or psychiatric symptoms. Respondent did not measure blood pressure, pulse, or weight. Respondent diagnosed T.Z. with "excessive daytime sleepiness." Respondent prescribed Adderall 20 mg #60.

Patient P.P.

17. Patient P.P. is a female undercover officer that was seen by Respondent on September 14, 2015. Respondent asked about general medical problems, family history of substance misuse, but not about P.P.'s history of substance misuse. The patient information sheet indicated daily alcohol use. P.P. reported she drinks two glasses of wine to help her sleep, but Respondent made no inquiry if this was in fact daily or more sporadically. P.P. further reported buying Adderall in Mexico and using Adderall to help wake her up in the morning. She also reported taking her husband's Adderall to have more energy and continued use of Adderall from Mexico. Respondent told P.P. that Adderall is highly regulated, and then suggested symptoms for her to endorse. P.P. endorses them, but there is no further inquiry about the nature of her symptoms. Respondent did not provide any warnings about the side effects or the dangers of using motor vehicles while both

fatigued and using stimulants. Respondent diagnosed rule out ADD and prescribed Adderall 20 mg #60.

Patient M.L.

18. Patient M.L. is a male undercover officer that was seen by Respondent on December 18, 2015. On the patient information sheet, M.L. reported drinking 10 drinks of alcohol per week and using drugs "socially." M.L. requests medication to help him stay up at night. M.L. listed his age as sixty-one. M.L. also reported taking a friend's Adderall 30 mg. Respondent asks if M.L. has ever seen a psychiatrist and if he has any medical problems. Respondent did not inquire about M.L.'s substance abuse history, even with the information of excessive alcohol use and "social" drug use on the patient history form. Respondent warned of symptoms of adrenergic toxidrome, however, he provided no other warnings about the long term effect of amphetamine use. Respondent diagnosed "shift work fatigue" and prescribed Adderall 30 mg #30.

Patient S.K.

19. Patient S.K., a 50-year-old male at the time, began treating with Respondent in or about 2004. He died on November 30, 2014 from an accidental overdose of cocaine and hydrocodone, and perhaps other substances. Over the course of the many years S.K. was seen by Respondent, Respondent received letters from S.K.'s medical insurance companies on many occasions stating that S.K. was receiving a large number of prescriptions from multiple providers. For example, in September 2009, Well Point Next Rx wrote to Respondent that S.K. was receiving 10 or more prescriptions in a quarter, from three different providers. At the time, S.K. was receiving 15 different medications: Xanax 2 mg, Soma[5] 350 mg, hydrocodone/APAP[6] 10/325, tramadol[7] 50 mg, dronabinol[8] 5 mg, Adderall 20 mg, Vyvanse[9] 40 mg, Klonopin[10] 2 mg,

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[5] Soma is a brand name for carisoprodol, a muscle relaxer. It is a Schedule IV controlled substance.

[6] Hydrocodone is an opioid pain medication. It is a Schedule II controlled substance. APAP is acetaminophen.

[7] Tramadol is a narcotic-like pain reliever. It is a Schedule IV controlled substance.

[8] Dronabinol is a cannabinoid and is used to treat nausea and vomiting caused by chemotherapy. It is a Schedule III controlled substance.

[9] Vyvanse is a brand name for lisdexamfetamine, an amphetamine. It is a Schedule II controlled substance.

[10] Klonopin is a brand name for clonazepam, a benzodiazepine. It is a Schedule IV

(continued...)

Valium[11] 10 mg, and Ambien 10 mg, all prescribed by Respondent. A similar letter was received in November 2009. In March 2011, Well Point Next Rx wrote Respondent another letter about S.K.'s prescriptions. At the time, S.K. was taking Xanax 2 mg, Soma 350 mg, hydrocodone/APAP 10/325, tramadol 50 mg, dronabinol 5 mg, Adderall 20 mg, Vyvanse 40 mg, tizanidine[12] 4 mg, Klonopin 2 mg, Valium 10 mg, and Ambien 10 mg, all prescribed by Respondent. Anthem Blue Cross wrote to Respondent in May 2012 about S.K.'s use of controlled substances. Anthem Blue Cross wrote to Respondent again in September 2012 about S.K.'s use of controlled substances. Anthem Blue Cross wrote to Respondent again in October 2012 about S.K.'s use of controlled substances. Anthem Blue Cross wrote to Respondent in 2013 that S.K. was receiving controlled substance prescriptions from three different physicians. Although Respondent was no longer prescribing opioids to S.K. at this point in time, he still prescribed Soma, Adderall, and Valium. In 2014, Respondent began prescribing Sonata[13] and Restoril[14] to S.K.

20. The bulk of Respondent's office chart reflects pharmacy refill requests. They are primarily for benzodiazepines and other gabaergic sedatives, opioids, and Celebrex (an NSAID). There are also multiple prescriptions for Adderall and Vyvanse that are hand written. In the 120 days prior to S.K.'s death, Respondent had written at a minimum for the following quantities of controlled substances: Valium 10 mg # 270; Sonata 10 mg #180; Klonopin 2 mg #180; and Adderall 30 mg #180.

21. Respondent began prescribing dangerous controlled medications before ever recording a single patient visit. Very few visits were memorialized with progress notes. Very few prescriptions of controlled substances are recorded. Respondent did not maintain records of the

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(...continued)
controlled substance.

[11] Valium is a brand name for diazepam, a benzodiazepine. It is a Schedule IV controlled substance.

[12] Tizanidine is a short-acting muscle relaxer.

[13] Sonata is brand name for zaleplon, a hypnotic. It is a Schedule IV controlled substance.

[14] Restoril is brand name for temazepam, a benzodiazepine. It is a Schedule IV controlled substance.

controlled substances he was prescribing. Even when there are progress notes, the quantities of medications and number of refills are not indicated.

22. In an interview with the Board, Respondent acknowledged he was seeing S.K. informally and prescribing controlled substances without doing an examination or obtaining a history. Respondent referred to this practice as "covering." There is nothing in Respondent's records to justify any psychiatric diagnosis other than severe polysubstance abuse and chronic pain.

Patient I.V.

23. Patient I.V. was a long-time patient of Respondent. She first began treating with Respondent at the Hollywood Sunset Free Clinic in 1988 when she was thirty-three years old. She had been referred to Respondent by another therapist. I.V. reported problems with anger and acting out. Respondent's recorded history is minimal. He diagnosed anxiety and depression. It is unclear how he reached that diagnosis, or what it would correspond to in the Diagnostic and Statistical Manual of Mental Disorders (DSM). Respondent then prescribed Elavil[15] 25 mg.

24. On September 11, 1992, Respondent began prescribing Prozac[16] 20 mg. Noting that I.V. could not afford Prozac, on September 18, 1992, Respondent prescribed lithium 300 mg. No premedication lab studies were ordered. Over the years, Respondent continued to prescribe combinations of Prozac, lithium, and Elavil, as well as other controlled substances, such as Ambien, Klonopin, Ritalin,[17] and Vicodin.

25. I.V. was seen on April 15, 2011, at which time Respondent added a diagnosis of musculoskeletal pain. He continued a prescription for Vicodin ES, with no quantity noted. Respondent also prescribed Zoloft (an antidepressant) 50 mg per day, Geodon (an antipsychotic) 80 mg at bedtime, Neurontin (an anti-epileptic medication) 1200 mg at bedtime, Elavil 150 mg at bedtime, Seroquel (an antipsychotic) 400 mg at bedtime, and Klonopin 2 mg at a.m. and bedtime.

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[15] Elavil is a brand name for amitriptyline, an anti-depressant.

[16] Prozac is a brand name for fluoxetine, a serotonin reuptake inhibitors (SSRI) antidepressant.

[17] Ritalin is a brand name for methylphenidate, a central nervous system stimulant. It is a Schedule II controlled substance.

I.V. was next seen on May 20, 2011. Respondent indicated that I.V. was sleeping 8 to 9 hours with pills. Respondent discontinued the Vicodin and prescribed Zoloft 200 mg per day, Geodon 80 mg at bedtime, Elavil 150 mg at bedtime, Seroquel 800 mg at bedtime, and Klonopin 2 mg at a.m. and bedtime. I.V. was next seen on June 17, 2011, at which time Respondent started her on Cymbalta (an anti-depressant) 60 mg per day and prescribed Geodon 80 mg at bedtime, Elavil 150 mg at bedtime, Seroquel 800 mg at bedtime, and Klonopin 2 mg at a.m. and bedtime.

Patient S.S.

26. Patient S.S., a 49-year-old male at the time, began seeing Respondent in 2006. On February 28, 2006, Respondent issued a medical marijuana recommendation for chronic lumbar pain. There is a note indicating that S.S. had a problem with alcohol in the past, but had not used alcohol for 10 years. It also indicated that he used LSD, speed and "oxy" along with marijuana. Respondent saw S.S. once per year to renew the marijuana recommendations: on July 31, 2007; July 30, 2008; July 13, 2009; July 13, 2010; July 11, 2011; and July 12, 2012. Each visit resulted in a marijuana recommendation. On July 12, 2012, Respondent also prescribed Relafen[18] and Restoril. There are no notes reflecting non-pharmacologic approaches to pain or insomnia with this patient or if the patient was seen by a new primary care physician.

FIRST CAUSE FOR DISCIPLINE

(Gross Negligence – Patients G.I., E.S., T.Z., P.P., M.L., S.K., and I.V.)

27. Respondent's license is subject to disciplinary action under section 2234, subdivision (b), of the Code in that he committed gross negligence in his care and treatment of patients G.I., E.S., T.Z., P.P., M.L., S.K., and I.V. The circumstances are as follows:

28. Complainant refers to and, by this reference, incorporates paragraphs 9 through 25, above, as though set forth fully herein.

29. The standard of care requires a physician to make a good faith effort to obtain information necessary to establish whether or not a patient suffers from an illness or disorder.

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[18] Relafen is a brand name for nabumetone, a NSAID.

30. The standard of care requires a physician to treat actual or potential medical conditions with effective treatments.

31. The standard of care provides that a physician should not prescribe addictive controlled medications without a good faith basis or medical indication. The prescription of dependence-causing medications requires very careful monitoring and avoidance of creating further dependency, impairment or diversion of medications into the illicit market. A physician monitors for dangerous side effects, particularly where drug-drug interactions amplify adverse effects.

32. The standard of care requires that a physician keep timely, accurate and legible records of all patient interactions and prescribed medications.

33. Prior to starting lithium, the standard of care requires a physician to assess pregnancy status, CBC, renal and thyroid function. After starting lithium, thyroid and renal function need to be regularly monitored, along with the serum level of lithium.

34. The standard of care provides that a physician should only prescribe opioid pain medications for short periods of time, after a full physical examination of the lesion or pathology.

35. Respondent's treatment of patients G.I., E.S., T.Z., P.P., M.L., S.K., and I.V., as set forth above in paragraphs 9 through 25, includes the following acts and/or omissions which constitute gross negligence:

a. With respect to G.I., E.S., T.Z., P.P., M.L., and S.K., Respondent prescribed medications with a high potential for abuse without a good faith examination and medical need. Respondent failed to take a valid history and diagnose a medical condition for which the controlled substances were provided.

b. With respect to G.I., M.L., and S.K., Respondent prescribed medications with a high potential for abuse to a patient with a history of illegal use, without a good faith history regarding the patient's prior substance misuse.

c. With respect to T.Z. and M.L., Respondent failed to warn the patient about the dangers of chronic amphetamine use, including driving while under the influence.

d. With respect to M.L., Respondent failed to obtain any meaningful

cardiovascular history or perform an EKG in a sixty-one-year-old, with no medical records, when prescribing amphetamines without a compelling reason.

e. With respect to S.K and I.V., Respondent's record keeping failed to identify the controlled substances prescribed, quantities, or refills, justification for the medications, and/or reasoning behind starting, stopping, or increasing medication. There is no meaningful history or charting.

f. With respect to S.K., Respondent failed to monitor the patient for adverse effects of medication or diversion and failed to recognize and address signs of misuse and abuse.

g. With respect to S.K., Respondent failed to coordinate lethal amounts of medications with other prescribers of lethal amounts of medications.

h. With respect to I.V., Respondent failed to obtain information to support his diagnoses and treatment.

i. With respect to I.V., Respondent prescribed lithium without any monitoring.

j. With respect to I.V., Respondent prescribed opioid medications without any history or examination of the alleged injury or site of pain.

36. Respondent's acts and/or omissions as set forth in paragraph 35, above, whether proven individually, jointly, or in any combination thereof, constitute gross negligence, pursuant to section 2234, subdivision (b), of the Code. Therefore, cause for discipline exists.

SECOND CAUSE FOR DISCIPLINE

(Repeated Negligent Acts - Patients G.I., E.S., T.Z., P.P., M.L., S.K., I.V., and S.S.)

37. Respondent's license is subject to disciplinary action under section 2234, subdivision (c), of the Code in that he committed repeated negligent acts in his care and treatment of patients G.I., E.S., T.Z., P.P., M.L., S.K., I.V., and S.S. The circumstances are as follows:

38. Complainant refers to and, by this reference, incorporates paragraphs 9 through 26, above, as though set forth fully herein.

39. Respondent's treatment of patients G.I., E.S., T.Z., P.P., M.L., S.K., I.V, and S.S., as set forth above in paragraphs 9 through 26, includes the following acts and/or omissions which constitute repeated negligent acts:

a. The allegations of the First Cause for Discipline are incorporated by reference as if fully set forth herein.

b. With respect to G.I., T.Z., P.P., and M.L., Respondent did not provide to the patient the black box warning for Adderall regarding sudden death.

c. With respect to G.I., Respondent prescribed naproxen without a good faith examination.

d. With respect to S.S., Respondent failed to obtain more information about the patient's chronic pain and insomnia.

e. With respect to S.S., Respondent failed to record the number of Restoril pills or the number of refills prescribed.

f. With respect to S.S., Respondent failed to explore the patient's drug use or potential for substance abuse.

g. With respect to S.S., Respondent failed to determine the identity of the patient's new primary care physician and request updated records.

h. With respect to S.S., Respondent failed to provide informed consent for the Relafen and Restoril.

i. With respect to S.S., Respondent failed to provide suggestions regarding non-pharmacological treatments of chronic pain or insomnia.

40. Respondent's acts and/or omissions as set forth in paragraph 39, above, whether proven individually, jointly, or in any combination thereof, constitute repeated negligent acts, pursuant to section 2234, subdivision (c), of the Code. Therefore, cause for discipline exists.

THIRD CAUSE FOR DISCIPLINE

(Prescribing Without an Appropriate Exam - Patients G.I., E.S., T.Z., P.P., M.L., S.K., I.V., and S.S.)

41. Respondent's license is subject to disciplinary action under section 2242 of the Code, in that Respondent prescribed dangerous drugs to patients G.I., E.S., T.Z., P.P., M.L., S.K., I.V., and S.S. without an appropriate prior examination or medical indication therefore. The circumstances are as follows:

42. The allegations of the First Cause for Discipline are incorporated by reference as if fully set forth herein.

43. The allegations of the Second Cause for Discipline are incorporated by reference as if fully set forth herein.

44. Respondent's acts and/or omissions as set forth in paragraphs 42 through 43, above, whether proven individually, jointly, or in any combination thereof, constitute prescribing without an appropriate prior examination or medical indication, pursuant to section 2242 of the Code. Therefore, cause for discipline exists.

FOURTH CAUSE FOR DISCIPLINE

(Excessive Prescribing – Patients G.I., E.S., T.Z., P.P., M.L., S.K., and I.V.)

45. Respondent's license is subject to disciplinary action under section 725 of the Code, in that Respondent excessively prescribed drugs to patients G.I., E.S., T.Z., P.P., M.L., S.K., and I.V. The circumstances are as follows:

46. The allegations of the First Cause for Discipline are incorporated by reference as if fully set forth herein.

47. Respondent's acts and/or omissions as set forth in paragraph 46, above, whether proven individually, jointly, or in any combination thereof, constitute excessive prescribing, pursuant to section 725 of the Code. Therefore, cause for discipline exists.

FIFTH CAUSE FOR DISCIPLINE

(Inadequate Record Keeping – Patients G.I., E.S., T.Z., P.P., M.L., S.K., I.V., and S.S.)

48. Respondent's license is subject to disciplinary action under section 2266 of the Code in that he failed to maintain adequate records concerning the care and treatment of patients G.I., E.S., T.Z., P.P., M.L., S.K., I.V., and S.S. The circumstances are as follows:

49. The allegations of the First Cause for Discipline are incorporated by reference as if fully set forth herein.

50. The allegations of the Second Cause for Discipline are incorporated by reference as if fully set forth herein.

51. Respondent's acts and/or omissions as set forth in paragraphs 49 through 50, above,

whether proven individually, jointly, or in any combination thereof, constitute failure to maintain adequate and accurate records, pursuant to section 2266 of the Code. Therefore, cause for discipline exists.

DISCIPLINARY CONSIDERATIONS

52. To determine the degree of discipline, if any, to be imposed on Respondent, Complainant alleges that on or about April 10, 1998, in a prior disciplinary action entitled, *In the Matter of the Accusation Against: William Tice Vicary, M.D.*, before the Medical Board of California, Case No. 17-96-62136, Respondent's license was placed on probation for three years with, among other things, the requirement of an ethics course. In 1990, Respondent was engaged by Erik Menendez's attorney to serve as a treating and forensic psychiatrist. Respondent later rewrote pages of his clinical notes deleting potentially damaging material, knowing that his rewritten notes would be provided to prosecutors and used in court as though they were originals. Respondent's license was disciplined for knowingly making a document related to the practice of medicine that falsely represented the existence or nonexistence of a state of facts. That decision is now final and is incorporated by reference as if fully set forth herein.

53. To determine the degree of discipline, if any, to be imposed on Respondent, Complainant further alleges that on or about June 29, 2012, in a prior disciplinary action entitled, *In the Matter of the Accusation Against: William Tice Vicary, M.D.*, before the Medical Board of California, Case No. 02-2008-194534, Respondent's license was placed on probation for 35 months with, among other things, requirements of an education course, prescribing practices course, and ethics course. Respondent treated a patient who concurrently worked for him as a psychological assistant, and repeatedly prescribed dangerous drugs without obtaining a patient history, conducting an initial physical examination or subsequent periodic examinations, and failed to monitor the patient's progress. Respondent's license was disciplined for gross negligence, repeated negligent acts, incompetence, and record keeping. That decision is now final and is incorporated by reference as if fully set forth herein.

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PRAYER

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

1. Revoking or suspending Physician's and Surgeon's Certificate Number G 30952, issued to William Tice Vicary, M.D.;

2. Revoking, suspending or denying approval of William Tice Vicary, M.D.'s authority to supervise physician assistants and advanced practice nurses;

3. Ordering William Tice Vicary, M.D., if placed on probation, to pay the Board the costs of probation monitoring; and

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

DATED: November 1, 2017

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

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