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

In the Matter of the Accusation Against:	
Raymond Deicken, M.D.	File No. 03-2008-194913
Physician's and Surgeon's Certificate No. G 56007	
Respondent.	

DECISION

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

This Decision shall become effective at 5:00 p.m. on January 5, 2012.

IT IS SO ORDERED December 5, 2011.

MEDICAL BOARD OF CALIFORNIA

By: Shelton Duruisseau
Shelton Duruisseau, Ph.D., Chair
Panel A

KAMALA D. HARRIS
Attorney General of California
JOSE R. GUERRERO
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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: **RAYMOND DEICKEN, M.D.** **197 Carnelian Way** **San Francisco, CA 94131** **Physician's and Surgeon's Certificate No. G 56007** Respondent.	Case No. 03-2008-194913 OAH No. 2011040724 **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. She brought this action solely in her official capacity and is represented in this matter by Kamala D. Harris, Attorney General of the State of California, by Brenda P. Reyes, Deputy Attorney General.

2. Respondent Raymond Deicken, M.D. (Respondent) is represented in this proceeding by attorney Charles Bond, Esq., whose address is: Physicians' Advocates, 821 Bancroft Way Berkeley, CA 94710.

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3. On or about September 16, 1985, the Medical Board of California issued Physician's and Surgeon's Certificate No. G 56007 to Raymond Deicken, 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. 03-2008-194913 and will expire on June 30, 2013, unless renewed.

JURISDICTION

4. Accusation No. 03-2008-194913 was filed before the Medical Board of California (Board), Department of Consumer Affairs, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on July 7, 2010. Respondent timely filed his Notice of Defense contesting the Accusation. A copy of Accusation No. 03-2008-194913 is attached as Exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 03-2008-194913. 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 his legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to be represented by counsel at his own expense; 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.

ACKNOWLEDGMENTS

8. For the purpose of resolving the Accusation without the expense and uncertainty of further proceedings, Respondent agrees to be bound by the Board's imposition of discipline as set

forth in the Disciplinary Order below, without admitting the validity of the Accusation or any allegation made therein.

9. Respondent agrees that if he ever petitions for early termination or modification of probation, or if the Board ever petitions for revocation of probation, all of the charges and allegations contained in Accusation No. 03-2008-194913 shall be deemed true, correct and fully admitted by Respondent for purposes of that proceeding or any other licensing proceeding involving Respondent in the State of California.

RESERVATION

10. The admissions made by Respondent herein are only for the purposes of this proceeding, or any other proceedings in which the Medical Board of California or other professional licensing agency is involved, and shall not be admissible in any other criminal or civil proceeding.

CONTINGENCY

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

12. The parties understand and agree that facsimile copies of this Stipulated Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same force and effect as the originals.

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

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. G 56007 issued to Respondent Raymond Deicken, M.D. is revoked. However, the revocation is stayed and Respondent is placed on probation for five (5) years on the following terms and conditions.

1. ACTUAL SUSPENSION As part of probation, respondent is suspended from the practice of medicine for 60 days beginning the sixteenth (16th) day after the effective date of this decision.

2. EDUCATION COURSE Within 60 calendar days of the effective date of this Decision, and on an annual basis thereafter, respondent shall submit to the Board or its designee for its prior approval educational 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, including treatment of and prescribing for chronic pain, and shall be Category I certified, limited to classroom, conference, or seminar settings. 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 continuing medical education of which 40 hours were in satisfaction of this condition.

3. 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, at respondent's expense, approved in advance by the Board or its designee. Failure to successfully complete the course during the first 6 months of probation is a violation of probation.

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 this 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. ETHICS COURSE Within 60 calendar days of the effective date of this Decision, respondent shall enroll in a course in ethics, at respondent's expense, approved in advance by the Board or its designee. Failure to successfully complete the course during the first year of probation is a violation of probation.

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

Respondent shall submit a certification of successful completion to the Board or its designee not later than 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.

5. PROFESSIONAL BOUNDARIES PROGRAM Within 60 calendar days from the effective date of this Decision, respondent shall enroll in a professional boundaries program, at respondent's expense, equivalent to the Professional Boundaries Program, Physician Assessment and Clinical Education Program at the University of California, San Diego School of Medicine ("Program"). Respondent, at the Program's discretion, shall undergo and complete the Program's assessment of respondent's competency, mental health and/or neuropsychological performance, and at minimum, a 24 hour program of interactive education and training in the area of boundaries, which takes into account data obtained from the assessment and from the Decision, Accusation and any other information that the Board or its designee deems relevant. The Program shall evaluate respondent at the end of the training, and the Program shall provide any data from the assessment and training as well as the results of the evaluation to the Board or its designee.

Failure to complete the entire Program not later than six months after respondent's initial enrollment shall constitute a violation of probation unless the Board or its designee agrees in

writing to a later time for completion. Based on respondent's performance in and evaluations from the assessment, education, and training, the Program shall advise the Board or its designee of its recommendation(s) for additional education, training, psychotherapy and other measures necessary to ensure that respondent can practice medicine safely. Respondent shall comply with Program recommendations. At the completion of the Program, respondent shall submit to a final evaluation. The Program shall provide the results of the evaluation to the Board or its designee.

The Program's determination whether or not respondent successfully completed the Program shall be binding.

Failure to participate in and complete successfully all phases of the Program, as outlined above, is a violation of probation.

6. NOTIFICATION Prior to engaging in the practice of medicine, the respondent shall provide a true copy of the Decision and Accusation 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.

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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.

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 DIVISION, 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.

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., 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.

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. Failure to pay costs within 30 calendar days of the due date is a violation of probation.

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ACCEPTANCE

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

DATED: 09-14-2011

RAYMOND DEICKEN, M.D.
Respondent

I have read and fully discussed with Respondent Raymond Deicken, 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: 9/14/11

Charles Bond, Esq.
Attorney for Respondent

ENDORSEMENT

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

Dated: September 15, 2011

KAMALA D. HARRIS
Attorney General of California
JOSE R. GUERRERO
Supervising Deputy Attorney General

BRENDA P. REYES
Deputy Attorney General
Attorneys for Complainant

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Stipulation.rtf

Exhibit A

Accusation No. 03-2008-194913

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

In the Matter of the Accusation Against: **RAYMOND F. DEICKEN, M.D.** **197 Carnelian Way** **San Francisco, CA 94131** **Physician's and Surgeon's Certificate** **No. G 56007** Respondent.	Case No. 03-2008-194913 **A C C U S A T I O N**

Complainant alleges:

PARTIES

1. Linda K. Whitney (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 September 16, 1985, the Medical Board of California issued Physician's and Surgeon's Certificate No. G 56007 to Raymond F. Deicken, 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 June 30, 2011, unless renewed.

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JURISDICTION

3. This Accusation is brought before the Medical Board of California (Board),[1] Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 2004 of the Code states, in pertinent part:

"The board shall have the responsibility for the following:

"(a) The enforcement of the disciplinary and criminal provisions of the Medical Practice Act.

"(b) The administration and hearing of disciplinary actions.

"(c) Carrying out disciplinary actions appropriate to findings made by a panel or an administrative law judge.

"(d) Suspending, revoking, or otherwise limiting certificates after the conclusion of disciplinary actions.

"(e) Reviewing the quality of medical practice carried out by physician and surgeon certificate holders under the jurisdiction of the board."

5. 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, or such other action taken in relation to discipline as the Board deems proper.

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

"The Division of Medical Quality 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 [Chapter 5, the Medical Practice Act].

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[1] The term "board" means the Medical Board of California. "Division of Medical Quality" shall also be deemed to refer to the Board. (Bus. & Prof. Code, § 2002.)

"(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.

"(d) Incompetence.

"(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."

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 provides, in relevant part, that repeated acts of clearly excessive prescribing or administering of drugs as determined by the standard of the community of licensees is unprofessional conduct for a physician and surgeon.

DRUGS

9. The following controlled substances and/or dangerous drugs are involved in this proceeding:

A. **Adderall** is a trade name for amphetamine and dextroamphetamine, a central nervous system stimulant. Amphetamine is a dangerous drug as defined in section 4022 of the Code, and a Schedule II controlled substance as defined by section 11055, subdivision (d) (1) of the Health and Safety Code and a Schedule II controlled substance as defined by section 1308.12 (d) of Title 21 of the Code of Federal Regulations. Adderall is used in the treatment of Attention

Deficit Hyperactivity Disorder (ADHD). Like all amphetamines, it has a high potential for abuse. If used in large doses over long periods of time, it can cause dependence and addiction.

B. **Dilaudid** is a trade name for hydromorphone hydrochloride. It is a dangerous drug as defined in section 4022 of the Code, and a Schedule II controlled substance as defined by section 11055, subdivision (d) of the Health and Safety Code, and a Schedule II controlled substance as defined by Section 1308.12 (d) of Title 21 of the Code of Federal Regulations. Dilaudid is a hydrogenated ketone of morphine and is a narcotic analgesic. Its principal therapeutic use is relief of pain. Psychic dependence, physical dependence, and tolerance may develop upon repeated administration of narcotics; therefore, Dilaudid should be prescribed and administered with caution. Physical dependence, the condition in which continued administration of the drug is required to prevent the appearance of a withdrawal syndrome, usually assumes clinically significant proportions after several weeks of continued use. Side effects include drowsiness, mental clouding, respiratory depression, and vomiting. The usual starting dosage for injections is 1-2 mg. The usual oral dose is 2 mg. every two to four hours as necessary. Patients receiving other narcotic analgesics, anesthetics, phenothiazines, tranquilizers, sedative-hypnotics, tricyclic antidepressants and other central nervous system depressants, including alcohol, may exhibit an additive central nervous system depression. When such combined therapy is contemplated, the use of one or both agents should be reduced.

C. **Darvocet** is a trade name for propoxyphene and acetaminophen, a mild narcotic analgesic recommended for relief of mild to moderate pain. It is a dangerous drug as defined in former section 4022 of the Code, a Schedule IV controlled substance and narcotic as defined by section 11057(c)(2) of the Health and Safety Code, and a Schedule IV controlled substance as defined by Section 1308.14 of Title 21 of the Code of Federal Regulations. Higher than recommended dosages can produce psychic and sometimes physical dependence. It must be used with caution in conjunction with other central nervous system depressants, including alcohol.

D. **Methadone** is a synthetic narcotic analgesic with multiple actions quantitatively similar to those of morphine. It is a dangerous drug as defined in section 4022 of the Code, a Schedule II controlled substance and narcotic as defined by section 11055, subdivision (c) of the

Health and Safety Code, and a Schedule II controlled substance as defined by Section 1308.12 (c) of Title 21 of the Code of Federal Regulations. Methadone can produce drug dependence of the morphine type and, therefore, has the potential for being abused. Psychic dependence, physical dependence, and tolerance may develop upon repeated administration of Methadone, and it should be prescribed and administered with the same degree of caution appropriate to the use of morphine. Methadone should be used with caution and in reduced dosage in patients who are concurrently receiving other narcotic analgesics. The usual adult dosage is 2.5 mg. to 10 mg. every three to four hours as necessary for severe acute pain.

E. **OxyContin** is a trade name for oxycodone hydrochloride controlled-release tablets. Oxycodone is a white odorless crystalline powder derived from the opium alkaloid, thebaine. It is a pure agonist opioid whose principal therapeutic action is analgesia. Oxycodone is a dangerous drug as defined in section 4022 and a Schedule II controlled substance and narcotic as defined by section 11055, subdivision (b)(1) of the Health and Safety Code. OxyContin, like all opioid analgesics, should be started at 1/3 to 1/2 of the usual dosage in patients who are concurrently receiving other central nervous system depressants including sedatives or hypnotics, tranquilizers, and alcohol because respiratory depression, hypotension, and profound sedation or coma may result.

FACTS

10. At all times relevant to this matter, respondent practiced medicine in and about San Francisco, California.

PATIENT T.C.[2]

11. In or about 1991, respondent began working as a psychiatrist at the San Francisco Veterans Affairs Medical Center (SFVAMC). On or about October 31, 2005, following an ad hoc committee finding that his prescribing practices for Schedule II opiates was inappropriate, respondent voluntarily agreed not to prescribe Schedule II opiates in his clinical assignment providing outpatient psychiatric services at the SFVAMC.

[2] The patients are referred to by their initials in this document to protect their privacy. Respondent knows the identities of the patients and can confirm them through discovery.

12. In November 2005, T.C. was a patient at the SFVAMC receiving treatment for chronic pain. On or about November 21, 2005, respondent saw T.C. at her home. T.C. was at the time on a medical leave from work due to Hepatitis C. She reported complaints of severe chronic pain in the lower back, abdominal pain, and spasms in the upper and lower extremities bilaterally; migraine headaches; fibromyalgia; and, depression and anxiety secondary to multiple failed Hepatitis C treatments. T.C. told respondent that she was dissatisfied with the chronic pain treatment she was receiving from her SFVAMC physician and nurse practitioner, who she complained continued to prescribe short-acting oxycodone and non-steroidal anti-inflammatory medications despite T.C. reporting that this regimen was not effective. Respondent agreed to provide "private" treatment (i.e., outside the SFVAMC) for T.C.'s chronic pain; he agreed to see T.C. at her home; he agreed not to discuss his treatment of T.C. with opiate pain medications with her SFVAMC physicians; and, he agreed not to document his opiate medication prescribing in T.C.'s SFVAMC records. Respondent prepared a separate set of progress notes documenting his private treatment of T.C.[3] At this first visit, respondent documented a history and physical examination of T.C. and he prescribed OxyContin 40 mg., 1 tablet every 6 hours for severe pain; and, Dilaudid 4 mg., 1 tablet every 6 hours as needed for breakthrough pain. Respondent continued to see T.C. privately for chronic pain treatment one to three times per month until on or about September 2, 2006.

13. On December 16, 2005, T.C. complained of continuing severe pain and respondent increased OxyContin to one tablet every 4 hours, and he increased Dilaudid to one tablet every 4 hours for breakthrough pain. On January 3, 2006, T.C. reported increased breakthrough pain and requested an increase in Dilaudid. Respondent increased Dilaudid to 2 tablets every 4 hours.

14. On April 17, 2006, T.C. complained of acute worsening of her pain severity and duration. Respondent increased OxyContin to two tablets every 4 hours. On April 26, 2006, the

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[3] During the Medical Board investigation, respondent produced copies of his private notes for the patients alleged in this Accusation. Many of the notes state they were "reconstructed" due to the theft in December 2006, of respondent's computer which contained his notes. Hereinafter, these notes will be referred to as respondent's "private notes" to distinguish them from SFVAMC progress notes.

patient complained of ongoing lethargy, fatigue, and cognitive dulling from the opiate medications. Respondent decreased OxyContin to 10 tablets per day and he prescribed Adderall, 20 mg., once a day.

15. On or about May 10, 2006, respondent began seeing T.C. at SFVAMC psychiatric outpatient services for depression and anxiety. In a SFVAMC progress note of May 30, 2006, respondent wrote that T.C.'s chronic pain was being managed by the Women's Clinic. He did not mention his private treatment of T.C. for chronic pain.

16. Respondent continued T.C. on the regimen of OxyContin, Dilaudid, and Adderall through his last documented private visit on September 2, 2006. Respondent noted on this date that T.C. planned to wean herself off opiates gradually over the next several months. In an Addendum to the progress note of September 2, 2006, dated November 12, 2007, respondent noted that he would not follow-up with the patient's opiate tapering progress because T.C. reported that she was referred by her internist to a medical group specializing in rapid opiate detoxification.

17. At no time during his private chronic pain treatment of T.C. from November 2005 to September 2006, did respondent consult with T.C.'s other treating physicians regarding treatment of T.C.'s chronic pain. Nor did respondent document in T.C.'s SFVAMC records that he was treating T.C. for chronic pain and prescribing opiate medications. At his physician interview with the Medical Board on September 3, 2009, respondent indicated that he was aware during the time he provided private treatment to T.C. that she continued to receive prescriptions for oxycodone from her SFVAMC physician.

FIRST CAUSE FOR DISCIPLINE

(Gross Negligence/Repeated Negligent Acts/Incompetence)

18. Respondent's certificate to practice medicine is subject to disciplinary action for unprofessional conduct under Business and Professions Code sections 2234 (a) (general unprofessional conduct); and/or 2234 (b) (gross negligence); and/or 2234 (c) (repeated negligent acts); and/or 2234 (d) (incompetence) arising from his care and treatment of patient T.C. including, but not limited to, the following acts or omissions:

A. Respondent intentionally concealed from T.C.'s SFVAMC treating physicians that he was treating T.C. for chronic pain, including his prescribing of Schedule II opiate medications; and/or,

B. Respondent failed to consult with or to refer T.C. to a pain management specialist for appropriate treatment of her chronic pain; and/or,

C. Respondent failed to coordinate treatment of T.C.'s chronic pain with her treating physician at the SFVAMC, and/or he failed to document his chronic pain treatment of T.C. in the SFVAMC medical record; and/or,

D. Respondent prescribed excessive amounts of OxyContin and Dilaudid to the patient while aware that the patient continued to receive prescriptions for oxycodone from her chronic pain treating physician at the SFVAMC.

SECOND CAUSE FOR DISCIPLINE

(Dishonesty)

19. Respondent's certificate to practice medicine is subject to disciplinary action for unprofessional conduct under Business and Professions Code section 2234 (e) (dishonesty) arising from respondent's intentional concealment of his chronic pain treatment and opiate medication prescribing to T.C. from T.C.'s health care providers at the SFVAMC.

PATIENT R.W.

20. On January 5, 2006, respondent saw R.W., a 61-year-old man, at the SFVAMC with complaints of intermittent depression and anxiety related to his Hepatitis C condition and severe chronic pain. Respondent noted that R.W. was being treated for his chronic pain with sustained action morphine with adjunctive oxycodone for breakthrough pain.

21. Respondent saw R.W. at the SFVAMC on February 1, 2006, at which time R.W. complained that his SFVAMC primary care physician (PCP) refused to prescribe OxyContin for his chronic pain. R.W. explained that his PCP had switched him from OxyContin to morphine sulfate controlled-release and was not receptive to discussing a medication change even though R.W. had advised him that OxyContin provided superior pain relief. Respondent documented that he encouraged R.W. to request changing his pain medication regimen with his PCP.

22. Also on February 1, 2006, respondent saw R.W. at his home and agreed to privately treat R.W.'s chronic pain with opiate pain medications. Respondent prepared separate notes for his private treatment. Respondent agreed to see R.W. at his home; he agreed not to discuss his treatment of R.W. with opiate pain medications with his SFVAMC physicians; and, he agreed not to document his opiate medication prescribing in R.W.'s SFVAMC records. On this date, respondent documented a history that included Hepatitis C with liver cirrhosis, HTN, diabetes, severe chronic pain, and depression related to interferon treatments for Hepatitis C; and, he documented a physical examination. Respondent noted that R.W.'s chronic abdominal and spinal pain appeared to be multifactorial and likely the result of neuropathic and inflammatory components. Respondent prescribed OxyContin 80 mg., 1 table every 8 hours for severe pain. Respondent told R.W. to titrate the dose to 2 tablets every 8 hours to achieve as close to a pain free state as possible. Respondent also prescribed Dilaudid 4mg., 1 tablet every 4-6 hours as needed for breakthrough pain.

23. On February 15, 2006, respondent saw R.W. privately and renewed the prescriptions for OxyContin and Dilaudid. Respondent also saw R.W. on this date at the SFVAMC but did not document his opiate medication prescribing for R.W.'s chronic pain.

24. Respondent next saw R.W. at the SFVAMC on April 17, 2006, and noted that R.W. was taking morphine for chronic pain. Respondent also saw R.W. privately on this date. R.W. told respondent that OxyContin was expensive and that he could not afford to continue using it. Respondent discontinued OxyContin and prescribed Methadone 10 mg., 5 tablets every 8 hours for severe pain. To reduce lethargy and cognitive dulling, respondent discontinued Dilauded and prescribed Codeine 60 mg., 2 tablets every 4-6 hours for breakthrough pain, and Adderall XR 25 mg., 1 caplet every 12 hours.

25. On May 18, 2006, respondent saw R.W. both at the SFVAMC and privately. In his private notes, respondent documented that R.W. reported that he no longer needed Codeine for breakthrough pain. At the patient's request, respondent changed the Methadone dosing to 6 tablets every 12 hours, and the Adderall dosing to 2 caplets every morning. In an Addendum to his private note, dated April 14, 2008, respondent wrote that R.W. continued to pick up his

morphine refills at the SFVAMC because R.W. believed that if he did not do so his PCP would doubt the legitimacy and/or severity of his chronic pain complaints. Respondent further wrote that, "However, RCW did not actually take MS Contin along with his private prescriptions for opiates but disposed of the accumulated MS Contin pills by flushing them down the toilet, which was witnessed by this writer during this home visit."

26. Respondent next saw R.W. privately on June 14, 2006. Respondent continued the patient's medication regimen of Methadone and Adderall. In an Addendum to his private note of this date, dated April 14, 2008, respondent wrote that R.W. had given him permission to document "both opiate and non-opiate aspects of his pain treatment in his SFVAMC medical record," but that R.W. continued to refuse permission for respondent to discuss "any issues involving opiates" with R.W.'s PCP. Respondent also saw R.W. on this date at the SFVAMC and documented that R.W. had started on a methadone regimen which replaced morphine, and that he was prescribed methadone "60 mg. qd." In fact, respondent had been prescribing 120 mg. of methadone daily since May 18, 2006. Respondent documented that he had discussed with R.W. "beginning" Adderall adjunctively to potentiate opiate analgesia, and that the patient was prescribed "Adderall 20 mg qd." In fact, respondent began prescribing Adderall on April 17, 2006, and the patient had been prescribed 50 mg. daily since May 18, 2006.

27. On July 12, 2006, respondent saw R.W. at the SFVAMC and noted that R.W. was prescribed methadone 60 mg. every 12 hours and Adderall 50 mg. every morning. Respondent also saw R.W. privately and documented the continued prescribing of Methadone and Adderall. Respondent saw R.W. at the SFVAMC and privately in August and September 2006, and continued the patient on Methadone and Adderall.

28. Respondent saw R.W. at the SFVAMC on October 13, 2006. Respondent documented that R.W.'s PCP had been notified that R.W. was on a methadone trial "through a private M.D." in order to obtain evidence that methadone was more effective for R.W.'s pain than morphine. Respondent noted that R.W. continued to periodically receive his morphine prescription from the SFVAMC.

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29. Respondent last saw R.W. privately on November 1, 2006. Respondent noted that R.W. had been reassigned to a new PCP at the SFVAMC and that R.W. planned to request a referral for a pain consultation at the SFVAMC. Respondent prescribed Methadone and Adderall at this visit.

30. At no time during his private chronic pain treatment of R.W. from February 2006 to November 2006, did respondent consult with R.W.'s PCP regarding treatment of R.W.'s chronic pain. Not until June 14, 2006, did respondent begin documenting in R.W.'s SFVAMC records that R.W. was being prescribed Methadone and Adderall to treat his chronic pain. Respondent, nevertheless, failed to document his prescribing of these medications in R.W.'s "current medications," list in the SFVAMC record. The SFVAMC records indicate the R.W. continued to receive prescriptions for morphine and oxycodone throughout the time respondent privately prescribed to R.W.

THIRD CAUSE FOR DISCIPLINE

(Gross Negligence/Repeated Negligent Acts/Incompetence)

31. Respondent's certificate to practice medicine is subject to disciplinary action for unprofessional conduct under Business and Professions Code sections 2234 (a) (general unprofessional conduct); and/or 2234 (b) (gross negligence); and/or 2234 (c) (repeated negligent acts); and/or 2234 (d) (incompetence) arising from his care and treatment of patient R.W. including, but not limited to, the following acts or omissions:

A. Respondent intentionally concealed from R.W.'s SFVAMC treating physicians that he was treating R.W. for chronic pain, including his prescribing of Schedule II opiate medications; and/or,

B. Respondent failed to consult with or to refer R.W. to a pain management specialist for appropriate treatment of his chronic pain; and/or,

C. Respondent failed to coordinate treatment of R.W.'s chronic pain with his treating physicians at the SFVAMC, and/or he failed to document all of his chronic pain treatment of T.C. in the SFVAMC medical record; and/or,

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D. Respondent prescribed excessive amounts of Methadone to the patient while aware that the patient continued to receive prescriptions for morphine and oxycodone from his PCP at the SFVAMC.

FOURTH CAUSE FOR DISCIPLINE

(Dishonesty)

32. Respondent's certificate to practice medicine is subject to disciplinary action for unprofessional conduct under Business and Professions Code section 2234 (e) (dishonesty) arising from respondent's intentional concealment of his chronic pain treatment and opiate medication prescribing to R.W. from R.W.'s PCP at the SFVAMC.

PATIENT M.G.

33. On March 14, 2007, respondent saw M.G., a 55 year-old-woman with a diagnosis of schizoaffective disorder, at the SFVAMC. M.G. reported that she had severe pain over the past week and that Vicodin prescribed by her SFVAMC PCP was not adequately controlling her pain. Respondent documented that he provided M.G. with reading material on chronic pain treatments, including information on methadone, morphine and OxyContin. M.G. indicated she would discuss the need for stronger pain medications with her PCP.

34. Respondent also saw M.G. privately at her home on March 14, 2007. Respondent documented a history and physical examination. M.C. complained of severe pain with associated muscle stiffness and tremor in her upper extremities; joint pain involving all 4 extremities; chronic lower back pain; and, chronic leg and ankle pain and swelling. Respondent agreed to provide private chronic pain treatment to M.G. Respondent advised M.G. to discontinue Vicodin and he prescribed Methadone 10 mg. orally every 8 hours for severe pain. M.G. was advised that if Methadone was not effective or if she experienced uncomfortable side effects, she should try Morphine sustained release tablets, 30 mg., 1 tablet every 8 hours. Respondent prepared separate notes for his private treatment. M.G. agreed that respondent could briefly mention her chronic pain treatment with him in her SFVAMC record; however, respondent agreed not to document his prescribing of Methadone and morphine in M.G.'s SFVAMC records.

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35. On March 28, 2007, respondent saw M.G. at the SFVAMC. M.G. reported that she had tried morphine and developed a rash, and that methadone had caused nausea. The patient reported that her pain was well controlled with oxycodone prescribed by her PCP at the SFVAMC.

36. Respondent saw M.G. on April 17, 2007, at the SFVAMC. M.G. reported that she developed nightmares from the oxycodone and had to discontinue the medication. M.G. further reported that her PCP advised her to double her Vicodin dose, which she did but continued to have pain. M.G. stated that she tried her partner's Darvocet tablets and found them to be effective in treating her pain. Respondent noted that Darvocet is not available through the VA and that M.G. planned to obtain a private prescription for the medication. Respondent saw M.G. privately that same day and noted that he advised M.G. that it was illegal to use her partner's Darvocet and that this conduct also violated her agreement with respondent. Respondent advised M.G. to seek a referral for a pain consultation. Respondent noted that he would no longer see M.G. privately due to her violation of their agreement. Respondent prescribed Darvocet-N, NTE 600 mg., 30 day supply with 3 refills, on an interim basis until M.G. could be seen for a pain consultation. Respondent did not document his prescribing of Darvocet to M.G. in M.G.'s SFVAMC records.

FIFTH CAUSE FOR DISCIPLINE

(Gross Negligence/Repeated Negligent Acts)

37. Respondent's certificate to practice medicine is subject to disciplinary action for unprofessional conduct under Business and Professions Code sections 2234 (a) (general unprofessional conduct); and/or 2234 (b) (gross negligence); and/or 2234 (c) (repeated negligent acts) arising from his care and treatment of patient M.G. including, but not limited to, the following acts or omissions:

A. Respondent intentionally concealed from M.G.'s SFVAMC treating physician that he was prescribing to M.G. for treatment of her chronic pain, including his prescribing of Schedule II opiate medications; and/or,

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B. Respondent failed to consult with or to refer M.G. to a pain management specialist for appropriate treatment of her chronic pain; and/or,

C. Respondent failed to coordinate treatment of M.G.'s chronic pain with her treating physician at the SFVAMC and/or he failed to document all of his prescribing to M.G. in the SFVAMC medical record.

SIXTH CAUSE FOR DISCIPLINE

(Dishonesty)

38. Respondent's certificate to practice medicine is subject to disciplinary action for unprofessional conduct under Business and Professions Code section 2234 (e) (dishonesty) arising from respondent's intentional concealment of his chronic pain treatment and opiate medication prescribing to M.G. from M.G.'s treating physician at the SFVAMC.

PATIENT R.D.

39. In July 2006, respondent had been treating patient R.D., a 67-year-old man, at the SFVAMC for several months for depression and panic attacks, for which respondent was prescribing, among other medications, mirtazapine (an antidepressant) and lorazeoam (an anti-anxiety drug). R.D. also suffered from chronic pain secondary to multiple herniated lumbar discs and was under treatment with another SFVAMC physician. His chronic pain medications included morphine and oxycodone. On July 26, 2006, respondent saw R.D. and prescribed Adderall XR 20 mg. twice a day for ADHD symptoms. In a progress note of November 30, 2006, respondent noted that R.D. had decided to discontinue taking Adderall due to concerns about it abuse potential and unknown long term effects from taking the drug on a daily basis.

40. On April 11, 2007, respondent saw R.D. at the SFVAMC. R.D. reported increased lumbar pain and stress from divorce proceedings resulting in an increase in the frequency and severity of his panic attacks. Respondent documented discussion of ADHD and noted that R.D. had elected to live with his ADHD symptoms. Respondent wrote in the progress notes that he had "provided support and information about treatment approaches to ADHD." Respondent prescribed Adderall-XR 20 mg., 2 caplets per day to help R.D. concentrate and focus on the divorce proceedings. R.D. expressed concern that non-psychiatric clinicians could review the

psychiatric treatment notes and learn of the Adderall prescription. Respondent agreed not to document his prescribing of Adderall in R.D.'s SFVAMC records. Respondent prepared private notes documenting this prescribing.

41. On May 17, 2007, respondent saw R.D. at the SFVAMC. Respondent again noted discussion of ADHD, that R.D. had elected to live with his ADHD symptoms, and that he provided support and information. Respondent again prescribed Adderall but did not document this in the SFVAMC records. Respondent prepared private notes documenting the prescribing. Respondent noted in his private records that this was the final private prescription for Adderall that he would give R.D. as he could not continue such prescribing without documenting it in R.D.'s SFVAMC records.

SEVENTH CAUSE FOR DISCIPLINE

(Gross Negligence/Repeated Negligent Acts)

42. Respondent's certificate to practice medicine is subject to disciplinary action for unprofessional conduct under Business and Professions Code sections 2234 (a) (general unprofessional conduct); and/or 2234 (b) (gross negligence); and/or 2234 (c) (repeated negligent acts) arising from his care and treatment of patient R.D. including, but not limited to, the following acts or omissions:

A. Respondent intentionally concealed from R.D.'s other treating physicians at the SFVAMC that he prescribed Adderall to R.D. on April 11 and May 17, 2007; and/or,

B. Respondent failed to document in the SFVAMC that he had prescribed Adderall to R.D. on April 11 and May 17, 2007.

EIGHTH CAUSE FOR DISCIPLINE

(Dishonesty)

43. Respondent's certificate to practice medicine is subject to disciplinary action for unprofessional conduct under Business and Professions Code section 2234 (e) (dishonesty) arising from respondent's intentional concealment of his prescribing of Adderall to R.D. from R.D.'s other treating physicians at the SFVAMC.

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NINTH CAUSE FOR DISCIPLINE

(Failure to Maintain Adequate and Accurate Records)

44. The allegations of the First through Eighth Causes for Discipline, above, are incorporated herein by reference as if fully set forth.

45. Respondent's certificate to practice medicine is subject to disciplinary action for unprofessional conduct under Business and Professions Code sections 2234 and 2266 for failure to maintain adequate and accurate records.

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 56007, issued to Raymond F. Deicken, M.D.;

2. Prohibiting respondent from supervising physician assistants pursuant to section 3527 of the Code;

3. Ordering respondent, if placed on probation, to pay the Medical Board of California the costs of probation monitoring; and,

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

DATED: July 7, 2010

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

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