

1 EDMUND G. BROWN JR., Attorney General
of the State of California
2 THOMAS S. LAZAR
Supervising Deputy Attorney General
3 SAMUEL K. HAMMOND, State Bar No. 141135
Deputy Attorney General
4 110 West "A" Street, Suite 1100
San Diego, CA 92101
5
6 P.O. Box 85266
San Diego, CA 92186-5266
Telephone: (619) 645-2083
7 Facsimile: (619) 645-2061

8 Attorneys for Complainant

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

12 In the Matter of the Accusation Against:

13 MARK STEVEN KOSINS, M.D.
14 647 Camino De Los Mares, Suite 226
San Clemente, CA 92673

15 Physician's and Surgeon's Certificate
16 No. A 25406

17 Respondent.

Case No. 04-2006-176224

OAH No. L-2008030126

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

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

20 PARTIES

21 1. Barbara Johnston (Complainant) is the Executive Director of the Medical
22 Board of California. She brought this action solely in her official capacity and is represented in
23 this matter by Edmund G. Brown Jr., Attorney General of the State of California, by Samuel K.
24 Hammond, Deputy Attorney General.

25 2. Respondent Mark Steven Kosins, M.D. (Respondent), is represented in
26 this proceeding by attorney Raymond J. McMahon, Esq. whose address is 1851 E. First Street,
27 Suite 810 Santa Ana, CA 92705.

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1 CULPABILITY

2 8. Respondent does not contest that at an administrative hearing, complainant
3 could establish a *prima facie* case with respect to the charges and allegations contained in
4 Accusation No. 04-2006-176224, and that he has thereby subjected his Physician's and
5 Surgeon's Certificate No. A 25406 to disciplinary action. Respondent agrees to the bound by the
6 Board's imposition of discipline as set forth in the Disciplinary Order below.

7 9. Respondent agrees that if he ever petitions for early termination or
8 modification of probation, or if the Board ever petitions for termination of probation, all the
9 charges and allegations contained in Accusation No. 04-2006-176224 shall be deemed true and
10 correct and fully admitted by respondent for purposes of that proceeding or any other licensing
11 proceeding involving respondent in the State of California.

12 CONTINGENCY

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

17 11. The parties agree that this Stipulated Settlement and Disciplinary Order
18 shall be null and void and not binding upon the parties unless approved and adopted by the
19 Board, except for this paragraph, which shall remain in full force and effect. Respondent fully
20 understands and agrees that in deciding whether or not to approve and adopt this Stipulated
21 Settlement and Disciplinary Order, the Board may receive oral and written communications from
22 its staff and/or the Attorney General's office. Communications pursuant to this paragraph shall
23 not disqualify the Board, any member thereof, and/or any other person from future participation
24 in this or any other matter affecting or involving respondent. In the event that the Board, in its
25 discretion, does not approve and adopt this Stipulated Settlement and Disciplinary Order, with
26 the exception of this paragraph, it shall not become effective, shall be of no evidentiary value
27 whatsoever, and shall not be relied upon or introduced in any disciplinary action by either party
28 hereto. Respondent further agrees that should the Board reject this Stipulated Settlement and

1 Disciplinary Order for any reason, respondent will assert no claim that the Board, or any member
2 thereof, was prejudiced by its/his/her review, discussion and/or consideration of this Stipulated
3 Settlement and Disciplinary Order or of any matter or matters related hereto.

4 ADDITIONAL PROVISIONS

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

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

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

14 DISCIPLINARY ORDER

15 IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate
16 No. A 25406 issued to respondent Mark Steven Kosins, M.D. is revoked. However, the
17 revocation is stayed and respondent is placed on probation for thirty-five (35) months from the
18 effective date of this Decision on the following terms and conditions.

19 1. PRESCRIBING PRACTICES COURSE Within 60 calendar days of the
20 effective date of this Decision, respondent shall enroll in a course in prescribing practices, at
21 respondent's expense, approved in advance by the Board or its designee. Failure to successfully
22 complete the course during the first 6 months of probation is a violation of probation.

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

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

4 2. MEDICAL RECORD KEEPING COURSE Within 60 calendar days of
5 the effective date of this Decision, respondent shall enroll in a course in medical record keeping,
6 at respondent's expense, approved in advance by the Board or its designee. Failure to
7 successfully complete the course during the first 6 months of probation is a violation of
8 probation.

9 A medical record keeping course taken after the acts that gave rise to the charges
10 in the Accusation, but prior to the effective date of the Decision may, in the sole discretion of the
11 Board or its designee, be accepted towards the fulfillment of this condition if the course would
12 have been approved by the Board or its designee had the course been taken after the effective
13 date of this Decision.

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

17 3. CLINICAL TRAINING PROGRAM Within 60 calendar days of the
18 effective date of this Decision, respondent shall enroll in a clinical training or educational
19 program equivalent to the Physician Assessment and Clinical Education Program (PACE)
20 offered at the University of California - San Diego School of Medicine ("Program").

21 The Program shall consist of a Comprehensive Assessment program comprised of
22 a two-day assessment of respondent's physical and mental health; basic clinical and
23 communication skills common to all clinicians; and medical knowledge, skill and judgment
24 pertaining to respondent's specialty or sub-specialty, and at minimum, a 40 hour program of
25 clinical education in the area of practice in which respondent was alleged to be deficient and
26 which takes into account data obtained from the assessment, Decision(s), Accusation(s), and any
27 other information that the Board or its designee deems relevant. Respondent shall pay all
28 expenses associated with the clinical training program.

1 Based on respondent's performance and test results in the assessment and clinical
2 education, the Program will advise the Board or its designee of its recommendation(s) for the
3 scope and length of any additional educational or clinical training, treatment for any medical
4 condition, treatment for any psychological condition, or anything else affecting respondent's
5 practice of medicine. Respondent shall comply with Program recommendations.

6 At the completion of any additional educational or clinical training, respondent
7 shall submit to and pass an examination. The Program's determination whether or not
8 respondent passed the examination or successfully completed the Program shall be binding.

9 Respondent shall complete the Program not later than six months after
10 respondent's initial enrollment unless the Board or its designee agrees in writing to a later time
11 for completion.

12 Failure to participate in and complete successfully all phases of the clinical
13 training program outlined above is a violation of probation.

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

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

24 5. SUPERVISION OF PHYSICIAN ASSISTANTS During probation,
25 respondent is prohibited from supervising physician assistants.

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

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

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

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

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

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

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

26 All time spent in an intensive training program outside the State of California
27 which has been approved by the Board or its designee shall be considered as time spent in the
28 practice of medicine within the State. A Board-ordered suspension of practice shall not be

1 considered as a period of non-practice. Periods of temporary or permanent residence or practice
2 outside California will not apply to the reduction of the probationary term. Periods of temporary
3 or permanent residence or practice outside California will relieve respondent of the responsibility
4 to comply with the probationary terms and conditions with the exception of this condition and
5 the following terms and conditions of probation: Obey All Laws; Probation Unit Compliance;
6 and Cost Recovery.

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

13 11. FAILURE TO PRACTICE MEDICINE - CALIFORNIA RESIDENT

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

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

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

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

5 13. VIOLATION OF PROBATION Failure to fully comply with any term or
6 condition of probation is a violation of probation. If respondent violates probation in any respect,
7 the Board, after giving respondent notice and the opportunity to be heard, may revoke probation
8 and carry out the disciplinary order that was stayed. If an Accusation, Petition to Revoke
9 Probation, or an Interim Suspension Order is filed against respondent during probation, the Board
10 shall have continuing jurisdiction until the matter is final, and the period of probation shall be
11 extended until the matter is final.

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

23 15. PROBATION MONITORING COSTS Respondent shall pay the costs
24 associated with probation monitoring each and every year of probation, as designated by the
25 Board which but may be adjusted on an annual basis. Such costs shall be payable to the Medical
26 Board of California and delivered to the Board or its designee no later than January 31 of each
27 calendar year. Failure to pay costs within 30 calendar days of the due date is a violation of
28 probation.

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ENDORSEMENT

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

DATED: 1/6/09

EDMUND G. BROWN JR., Attorney General
of the State of California

THOMAS S. LAZAR
Supervising Deputy Attorney General



SAMUEL K. HAMMOND
Deputy Attorney General

Attorneys for Complainant

DOJ Matter ID: SD2007801540
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Exhibit A

Accusation No. 04-2006-176224

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO NOVEMBER 13 2007
BY R. H. M. [Signature]

1 EDMUND G. BROWN JR., Attorney General
of the State of California
2 STEVEN V. ADLER,
Supervising Deputy Attorney General
3 RICHARD D. HENDLIN, State Bar No. 76742
Deputy Attorney General
4 California Department of Justice
110 West "A" Street, Suite 1100
5 San Diego, CA 92101
P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 645-2071
7 Facsimile: (619) 645-2061
8 Attorneys for Complainant

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

12 In the Matter of the Accusation Against:

Case No. 04-2006-176224

13 **MARK STEVEN KOSINS, M.D.**
647 Camino De Los Mares, Suite 226
14 San Clemente, CA 92673

ACCUSATION

15 Physician's and Surgeon's Certificate
No. A 25406

16 Respondent.
17

18 Complainant alleges:

19 **PARTIES**

- 20 1. Barbara Johnston ("Complainant") brings this Accusation solely in her
21 official capacity as the Executive Director of the Medical Board of California, Department of
22 Consumer Affairs.
- 23 2. On or about July 10, 1973, the Medical Board of California issued
24 Physician's and Surgeon's Certificate Number A 25406 to MARK STEVEN KOSINS, M.D.,
25 M.D. ("Respondent"). The Physician's and Surgeon's Certificate was in full force and effect at
26 all times relevant to the charges brought herein and will expire on August 31, 2008, unless
27 renewed.

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JURISDICTION

1
2 3. This Accusation is brought before the Division of Medical Quality
3 (“Division”) for the Medical Board of California, Department of Consumer Affairs, under the
4 authority of the following laws. All section references are to the Business and Professions Code
5 unless otherwise indicated.

6 4. Section 2227 of the Code states:

7 “(a) A licensee whose matter has been heard by an administrative law judge of
8 the Medical Quality Hearing Panel as designated in Section 11371 of the Government
9 Code, or whose default has been entered, and who is found guilty, or who has entered into
10 a stipulation for disciplinary action with the division, may, in accordance with the
11 provisions of this chapter:

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

13 “(2) Have his or her right to practice suspended for a period not to exceed
14 one year upon order of the division.

15 “(3) Be placed on probation and be required to pay the costs of probation
16 monitoring upon order of the division.

17 “(4) Be publicly reprimanded by the division.

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

20 “(b) Any matter heard pursuant to subdivision (a), except for warning
21 letters, medical review or advisory conferences, professional competency
22 examinations, continuing education activities, and cost reimbursement associated
23 therewith that are agreed to with the division and successfully completed by the
24 licensee, or other matters made confidential or privileged by existing law, is
25 deemed public, and shall be made available to the public by the board pursuant to
26 Section 803.1.”

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1 5. Section 2234 of the Code states:

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

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

8 "(b) Gross negligence.

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

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

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

21 "(d) Incompetence.

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

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

27 "(g)"

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1 10. On or about March 28, 2005 patient B.D. presented to respondent's
2 office, where he was interviewed by respondent's nurse practitioner, P.C. Patient B.D.
3 complained of a one to two year history of depression and anxiety following the death of
4 his second wife in 2001, and his remarriage in 2003. On the initial evaluation form,
5 patient B.D. described symptoms of severely depressed mood, anxiety, anhedonia (lack of
6 pleasure in daily activities), nighttime insomnia, daytime hypersomnia, multiple daily
7 episodes of uncontrollable crying, hopelessness, guilt, and difficulty concentrating. He
8 also reported that he suffered from hypertension (high blood pressure) and was under the
9 care of Dr. C. Patient B.D. stated that his medication regime was not helping.

10 11. Also on or about March 28, 2005, nurse practitioner P.C.
11 recommended that patient B.D. continue to take his medications, particularly Seroquel, to
12 help with sleep, until seen by respondent. P.C. diagnosed patient B.D. as having
13 Depressive Disorder, not otherwise specified [NOS], the same diagnosis used by Dr. I.R.
14 P.C. recommended a SPECT [single photon emission computed tomography] Scan
15 without indicating why this test was ordered, particularly since an MRI with and without
16 contrast had just been performed by Dr. C.

17 12. Also on or about March 28, 2005, P.C. gave patient B.D. a form
18 entitled "To our patients: Regarding the use of off label medication," which B.D. signed
19 affirming that he was told about off label use and common side effects of medications.
20 The form made no mention of Parnate, Effexor or Concerta as medications used
21 individually or together.

22 13. On or about March 30, 2005, patient B.D. was given the Conner's
23 Continuous Performance Test, generally used to test attention, concentration and response
24 speed. There is no indication why this test was ordered.

25 14. On or about March 31, 2005, P.C. referred B.D. to Amen Intake and
26 prescribed Concerta , Provigil, Effexor and Ativan.

27 15. On or about April 11 psychometric evaluations (Beck Depression
28 Inventory, Sheehan Anxiety Scale, Yale-Brown Obsessive Compulsive Scales, etc.) were

1 reported by D.L., Ph.D. Psychometric testing confirmed that B.D. was suffering from
2 symptoms consistent with Major Depressive Disorder.

3 16. On or about May 6, 2005, a SPECT scan report from
4 the Amen Clinic, reported cortical atrophy and hypo-perfusion in the prefrontal, parietal,
5 and temporal cortices of the brain. Dr. Amen suggested a number of herbal and
6 nutritional supplements to consider.

7 17. On or about May 4, 2005, respondent had a neurologist, Dr.
8 P.O'C., evaluate B.D. Dr. O'C. diagnosed B.D. with severe intractable depression,
9 pathological grief, Limbically Augmented Pain Syndrome secondary to marked pathologic
10 grief and recommended antidepressants and intensive psychotherapy.

11 18. There is a note dated April 11, 2005, presumably by respondent that
12 says "will see Friday [April 15] stop Provigil - start Abilify -10 mg at bedtime, See Fri."

13 19. On or about April 13, 2005, patient B.D.'s wife reported to
14 respondent's office that B.D. was very confused, perhaps related to Abilify. Respondent
15 advised B.D. to stop taking the medicine.

16 20. On or about April 15, 2005, respondent first saw B.D. At this time
17 B.D. continued to self-report feeling severely depressed, hopeless, anergic, and
18 anhedonic. Respondent's initial therapeutic intervention was to simplify B.D.'s
19 medication regimen as he deemed he was over medicated, and refer him for intensive
20 psychotherapy with psychologist M.G., Ph.D. Respondent recommended the following
21 medication changes on this date:

22 -Decrease Effexor by half, to 225mg, with the goal of eventually stopping it

23 -Decrease Triazolam by half over a few nights, then stop, as it was not
24 helping with sleep

25 -Stop Provigil and Seroquel

26 -Continue Ativan PRN for anxiety

27 -Continue Lamictal for mood stability

28 -Start Omega fatty acids and vitamins to enhance memory

1 -Start Concerta, a psycho stimulant, to help with decreased concentration
2 and anergia

3 Respondent did not document any consideration that the metoclopramide
4 (Reglan) might be responsible for some or all of the depressive symptoms.

5 21. On or about April 28, 2005, respondent next saw B.D. who
6 continued to complain of depression and uncontrollable crying spells. B.D. did, however,
7 report improved concentration and improvement in tremor. Respondent did not make any
8 medication changes at this time but stated that he made a note to himself to consider
9 alternative antidepressants. Per respondent's records B.D. was off of Effexor at this
10 time, his last dose was taken on April 27, 2005. B.D. was continued on Concerta.

11 22. On or about May 5, 2005, B.D. saw respondent again with the same
12 complaints of anxiety and depression. He was off of Effexor, and respondent instructed
13 him to try and wean off of Klonopin.

14 23. On or about May 9, 2005, respondent first considered the use of
15 Parnate,² an irreversible MAOI, antidepressant, with patient B.D. In addition, respondent
16 instructed B.D. to try and limit his use of Ativan. Respondent continued B.D. on
17 Concerta.

18 24. On or about May 18, 2005, respondent prescribed Parnate as patient
19 B.D. continued to complain of depression, insomnia, tearfulness, hopelessness and
20 anxiety. At this time he was also taking Ativan, Klonopin, Lamictal and Concerta, along
21 with Norvasc, Reglan, Protonix and Zelnorm. The medical record note makes no mention
22 of the possible risk of using Parnate, an MAOI, and sympathomimetics like Concerta in a
23 hypertensive patient with prior abnormal EKG. Nor does it mention the contraindication
24 of using metoclopramide (Reglan) with an MAOI. Although respondent later claimed that
25 B.D. was advised of the necessary dietary restrictions when using an MAOI, and he was
26

27
28 2. Tranylcypramine (Parnate) is an monoamine oxidase inhibitors (MAOIs), the first type
of antidepressant in use, dating back to the 1950's.

1 told that the dosage would slowly be increased to a maximum dose of 60 mg/day, this is
2 not documented in his treatment records of that date.

3 25. On May 25, 2005, respondent saw B.D. who was still complaining
4 of crying spells and depression. At this time he was on 40mg of Parnate and had managed
5 to come off of Klonopin. Respondent verbally indicated that he felt the patient was
6 improving and increased the dose of Parnate to 60 mg/day. This is considered the FDA
7 maximum dose of Parnate. It appears that on May 25, B.D. was taking Parnate, Ativan,
8 Lamictal, Concerta, Seroquel, Norvasc, Protonix, Zelnorm, Reglan, and Triazolam.

9 26. On or about June 22, 2005, patient B.D. saw respondent and
10 complained of crying spells, depression, and impaired memory. He was apparently on
11 60mg of Parnate but was off of Lamictal at this time. B.D. was also taking in addition to
12 the Parnate, the following prescribed medications: Concerta, Ativan, Seroquel, Norvasc,
13 Protonix, Zelnorm, Reglan, and Triazolam. Respondent started him on Namenda, although
14 he did not indicate in the medical records why this given.

15 27. On or about June 29, 2005, respondent stated that he got an email
16 from B.D.'s wife stating that B.D. continued to be very depressed, not getting out of bed
17 for two days, crying all day, and unable to perform activities of daily living. At this time
18 B.D. was taking Parnate 30mg every morning and 30mg every afternoon, Ativan 3mg
19 daily, Concerta 36mg daily, and Seroquel 50 mg daily as needed, along with the
20 antihypertensive and GI meds. Respondent indicated that he replied to Mrs. B.D. to try
21 "the tiniest dose of Effexor to nudge him out of his depression," and asked her to give him
22 75mg of Effexor. About two hours later, Mrs. B.D. again emailed respondent stating that
23 she administered the 75mg of Effexor to B.D. and that he was complaining of
24 lightheadedness and feeling warm and clammy. She also stated that she checked his
25 blood pressure and pulse and that they were 159/81, and 77, respectively. Respondent
26 asked her to halve the next dose to 37.5mg. At this time B.D. was still on Parnate.
27 Respondent stated that he did not hear from her again but received a call the next day from
28 San Clemente Hospital stating that B.D. was in the emergency room.

1 28. On or about June 29, 2005, patient B.D. was admitted to San
2 Clemente Hospital with hyperthermia, hypertension and rhabdomyolysis and required
3 intubation and mechanical ventilation in the Intensive Care Unit. His symptoms were
4 considered to be a result of drug-drug interaction between either Parnate (tranylcypromine,
5 a MAOI) and Effexor (venlafaxine, a serotonin and noradrenaline reuptake inhibitor
6 (SNRI)), or Parnate and Concerta (a sympathomimetic stimulant). His symptoms were
7 generally consistent with serotonin syndrome.³

8 29. Respondent committed gross negligence in his care and treatment
9 of patient B.D., which included, but was not limited to the following:

10 A. Respondent's prescribing Effexor (an SSRI), along with Reglan,
11 Concerta (a sympathomimetic stimulant) and Parnate (an MAOI), in a patient with
12 documented hypertension and abnormal EKG, significantly increased the risk of Serotonin
13 Syndrome and cardiovascular hypertensive crisis.

14 B. Respondent took risks with patient B.D.'s life which were not
15 carefully considered and discussed with the patient and his family.

16 C. Respondent failed to provide written informed consent to patient
17 B.D. about the possible interactions and/or consequences of taking a concurrent MAOI,
18 sympathomimetic stimulant, and an SNRI.

19 D. Respondent prescribed Concerta to patient B.D. who had with
20 documented hypertension, without obtaining and/or documenting informed consent.

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25 3. According to the Mayo Clinic website, **serotonin syndrome** is a "rare but potentially
26 life-threatening side effect" of SSRIs. "This condition, characterized by dangerously high
27 levels of serotonin in the brain, can occur when an SSRI interacts with antidepressants called
28 monoamine oxidase inhibitors (MAOIs)." Because of this, SSRIs should not be taken while
 taking any MAOIs or within two weeks of each other. Serotonin syndrome requires immediate
 medical treatment. ([http://www.mayoclinic.com/health/ssris/MH00066.](http://www.mayoclinic.com/health/ssris/MH00066))

1 E. Respondent concurrently prescribed Parnate and Reglan to patient
2 B.D. without documenting whether he considered patient B.D.'s symptoms were the
3 adverse effects of Reglan
4 therapy.

5 **SECOND CAUSE FOR DISCIPLINE**

6 **(Repeated Negligent Acts)**

7 30. Respondent is further subject to disciplinary action under sections
8 2220, 2227 and 2234, as defined by section 2234, subdivision (c) in that he committed
9 repeated negligent acts in his care and treatment of patient B.D., as set forth in Paragraphs
10 8 through 29 inclusive, above, which are incorporated herein by reference as though fully
11 set forth.

12 **THIRD CAUSE FOR DISCIPLINE**

13 **(Incompetence)**

14 31. Respondent is further subject to disciplinary action under Code
15 sections 2220, 2227 and 2234, as defined by Code section 2234 subdivision (d), in that he
16 was incompetent in his care and treatment of patient B.D., as more fully set forth in
17 Paragraphs 8 through 29 inclusive, above, which are incorporated herein by reference as
18 though fully set forth.

19 **FOURTH CAUSE FOR DISCIPLINE**

20 **(General Unprofessional Conduct)**

21 32. Respondent is further subject to disciplinary action under Code
22 sections 2220, 2227 and 2234 for general unprofessional conduct in that he breached the
23 rules of the ethical code of the medical profession, and/or committed acts of conduct
24 which are unbecoming to a member in good standing of the medical profession, and which
25 demonstrate an unfitness to practice medicine, as more fully set forth in paragraphs 8
26 through 29, inclusive, above, which are incorporated herein by reference as though fully
27 set forth.

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1 **FIFTH CAUSE FOR DISCIPLINE**

2 **(Failure to Maintain Adequate and Accurate Medical Records)**

3 33. Respondent is further subject to disciplinary action under Code
4 sections 2220, 2227 and 2234 as defined by Code section 2266 in that he failed to
5 maintain adequate and accurate medical records regarding his provision of medical
6 services to patient B.D. as more fully set forth in paragraphs 8 through 29, inclusive,
7 above, which are incorporated herein by reference as though fully set forth.

8 **DISCIPLINE CONSIDERATIONS**

9 34. To determine the degree of discipline, if any, to be imposed on
10 Respondent, Complainant alleges that on or about October 18, 1984, an Accusation was
11 filed against respondent entitled In the Matter of the Accusation Against Mark Steven
12 Kosins, M.D. before the Medical Board of California, in Case Number D-3260, alleging
13 respondent failed to report suspected child abuse by an associate against three male
14 patients. Effective February 28, 1986, the Board adopted a Proposed Decision suspending
15 respondent's license for 120 days, with said suspension stayed for three years upon terms
16 and conditions. On May 19, 1987, respondent filed a Petition for Termination of
17 Probation. On October 8, 1987, a Decision became effective which granted respondent's
18 Petition for Termination of Probation. Accusation and Decision number D-3260 are now
19 final and are incorporated by reference as if fully set forth.

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1 PRAYER

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

5 1. Revoking or suspending Physician's and Surgeon's Certificate
6 Number A 25406, issued to MARK STEVEN KOSINS, M.D.

7 2. Revoking, suspending or denying approval of MARK STEVEN
8 KOSINS, M.D.'s authority to supervise physician's assistants, pursuant to section 3527 of
9 the Code;

10 3. Ordering MARK STEVEN KOSINS, M.D., if placed on probation,
11 to pay the Division of Medical Quality the costs of probation monitoring; and

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

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15 DATED: November 13, 2007

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17 
18 BARBARA JOHNSTON
19 Executive Director
20 Medical Board of California
21 Department of Consumer Affairs
22 State of California
23 Complainant

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04-2006-176224