

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

In the Matter of the Accusation Against:)

No. 06-1996-65821

WILLIAM O. LEADER, M.D..)

Physician's and Surgeon's Certificate No.A41125,)

Respondent.)

DECISION AND ORDER

The attached Stipulated Surrender of Certificate is hereby adopted as the Decision and Order of the Division of Medical Quality, Medical Board of California, Department of Consumer Affairs, State of California.

This Decision shall become effective on June 27, 2001 at 5:00 p.m.

Order Dated June 20, 2001

DIVISION OF MEDICAL QUALITY
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS



IRA LUBELL, M.D.
President

1 BILL LOCKYER, Attorney General
of the State of California
2 RICHARD AVILA, State Bar No. 91214
Deputy Attorney General
3 PAUL C. AMENT, State Bar No. 60427
California Department of Justice
4 300 South Spring Street, Suite 1702
Los Angeles, California 90013
5 Telephone: (213) 897-6804
Facsimile: (213) 897-1071

6 Attorneys for Complainant
7

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

11 In the Matter of the Accusation) NO. 06-1996-65821
12 Against:) OAH No.L-1999090218
13)
14 **WILLIAM O. LEADER, M.D.**) **STIPULATED**
822 N. McCadden Place) **SURRENDER OF**
14 Los Angeles, CA 90038) **CERTIFICATE**
15)
Physician and Surgeon's)
16 Certificate No. A-41125)
17 Respondent.)

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

21 1. There is currently on file before the Medical Board
22 of California (hereinafter "Board") a Fourth Amended Accusation
23 in Case Numbers 06-1996-65821, 06-1997-79431, 06-1998-82571, 06-
24 1999-100710, and 06-2000-116641, filed on April 27, 2001,
25 directed against Certificate Number A-41125, held by William O.
26 Leader, M.D. (hereinafter "respondent"). Respondent timely filed
27

1 a Notice of Defense applicable to all pending and prospective
2 charges. Hearing on the charges commenced on January 8, 2001 and
3 recessed on January 18, 2001 at the conclusion of complainant's
4 case-in-chief. On or about February 28, 2001, the Third Amended
5 Accusation was amended to conform the charges to the proof
6 adduced at the hearing. The hearing is calendered to reopen on
7 May 30, 2001. A copy of the Fourth Amended Accusation and
8 Amendment of Accusation to Conform to Proof is attached as joint
9 Exhibit A which is incorporated by reference herein.

10 2. The Complainant, Ron Joseph, brought this action
11 solely in his official capacity as the Executive Director of the
12 Medical Board of California ("Board") and is represented in this
13 matter by Bill Lockyer, Attorney General of the State of
14 California, through Richard Avila, Deputy Attorney General, and
15 Paul C. Ament, Deputy Attorney General.

16 3. At all times relevant herein, respondent has been
17 licensed by the Board under Physician and Surgeon's Certificate
18 Number A-41125.

19 4. Respondent is represented in this matter by
20 Attorneys Leslie H. Abramson, Esq., and Gerald Chaleff, Esq.,
21 acting as co-counsel.

22 5. Respondent and his counsel have fully read and
23 discussed the charges contained in the Fourth Amended Accusation,
24 Numbers 06-1996-65821 et. al., as amended to conform to proof;
25 and respondent understands that, if proven at hearing, the
26 charges would constitute cause for taking disciplinary action
27 against his Physician and Surgeon's Certificate. Respondent has

1 been fully advised of his legal rights and the effects of this
2 Stipulated Surrender of Certificate.

3 6. Respondent and his counsel are aware of each of
4 respondent's rights, including his right to a hearing on the
5 charges, his right to be represented by retained counsel in all
6 proceedings connected with the charges, his right to confront and
7 cross-examine witnesses who would testify against him, his right
8 to testify and to present evidence on his own behalf, as well as
9 to the issuance of subpoenas to compel the attendance of
10 witnesses and the production of documents in both defense and
11 mitigation of the charges, his right to seek reconsideration by
12 the Division and review by the courts, and all other rights which
13 are accorded him under the California Administrative Procedure
14 Act and other applicable laws.

15 7. For the purpose of resolving the Fourth Amended
16 Accusation, Numbers 06-1996-65821 et. al., as amended to conform
17 to proof, without further proceedings, respondent freely,
18 knowingly, intelligently, voluntarily and irrevocably waives and
19 gives up each of the rights set forth at above numbered paragraph
20 6 herein, withdraws his notice of defense, and further agrees
21 that, at a hearing, complainant can establish a factual basis for
22 Causes 1, 4 to 7, 10 to 13, 17 to 19, 22 to 25, 28 to 29, 32 to
23 33, 36 to 38 and 41 of the Fourth Amended Accusation, as amended
24 to conform to proof. Respondent hereby gives up his right to
25 contest the assertion that cause for discipline exists based on
26 said charges and agrees to surrender his Physician and Surgeon's
27 Certificate for the Division's formal acceptance and to pay the

1 sum of \$30,000 to the Division in cost recovery.

2 8. Upon acceptance of the Stipulated Surrender of
3 Certificate by the Division, respondent understands that he will
4 no longer be permitted to practice as a physician and surgeon in
5 California, and agrees to surrender and cause to be delivered to
6 the Division both his license and wallet certificate before the
7 effective date of the decision.

8 9. Respondent fully understands and agrees that if he
9 ever files an application for relicensure or reinstatement as a
10 physician and surgeon in the State of California, the Division
11 shall (a) treat it as a petition for reinstatement, requiring
12 respondent to comply with all the laws, regulations and
13 procedures for reinstatement of a revoked license in effect at
14 the time the petition is filed, and (b) deem Causes 1, 4 to 7, 10
15 to 13, 16 to 19, 22 to 25, 28 to 29, 32 to 33, 36 to 38, and
16 41 presented in the Fourth Amended Accusation, as amended to
17 conform to proof, to be true, correct and admitted by respondent
18 for the purpose of determining whether to grant or deny the
19 petition.

20 10. All admissions, recitals and stipulations
21 contained herein are made solely for the purpose of resolving
22 Case Numbers 09-1996-65821 et. al., and may not be used in any
23 other proceeding, except a license denial or disciplinary
24 proceeding maintained by a state medical board or similar federal
25 or other governmental health care agency. This stipulation shall
26 not be admissible in any criminal or civil proceeding unrelated
27 to the enforcement of the stipulation and decision in this case,

1 nor shall it have any collateral estoppel or res judicata effect
2 in any criminal or civil proceeding unrelated to the enforcement
3 of the stipulation and decision in this case.

4 11. The parties stipulate and agree that the
5 acceptance and endorsement section of the stipulation may be
6 dated and signed by respondent and one of respondent's counsel
7 and transmitted to complainant by facsimile mail, and that said
8 signatures by respondent and respondent's counsel shall make the
9 stipulation binding on both parties subject to the contingency
10 expressed below.

11 12. Respondent agrees that upon his execution of this
12 document, his hearing dates before the Office of Administrative
13 Hearings will be vacated.

14 CONTINGENCY

15 This Stipulated Surrender of Certificate shall be
16 subject to the approval of the Division of Medical Quality.
17 Respondent understands and agrees that Board staff and counsel
18 for complainant may communicate directly with the Division
19 regarding this Stipulated Surrender without notice to or
20 participation by respondent or his counsel. If the Division
21 fails to adopt this Stipulated Surrender as its decision and
22 order, the Stipulated Surrender shall be of no force or effect,
23 it shall be inadmissible in any legal action between the parties,
24 it shall not disqualify the Division from further action in this
25 matter by virtue of its consideration of this Stipulated
26 Surrender, and this matter shall be returned to the calender of
27 the Office of Administrative Hearings for a resumption of the

1 hearing thereon on an expedited basis.

2 ACCEPTANCE

3 I have read the above Stipulated Surrender of my
4 Physician and Surgeon's Certificate. I have fully discussed the
5 terms, conditions and other matters contained therein with my
6 attorney, Leslie H. Abramson. I understand the effect this
7 Stipulated Surrender will have on my Physician and Surgeon's
8 Certificate and agree to be bound thereby. I enter this
9 Stipulated Surrender freely, knowingly, intelligently and
10 voluntarily.

11 DATED: 5/8/01

William Leader
12 WILLIAM O. LEADER, M.D.
Respondent

13 I have read and fully discussed the terms and
14 conditions and other matters contained in the above Stipulated
15 Surrender with respondent, William O. Leader, M.D., and approve
16 of its form and content.

17 DATED: 5-8-01

Leslie H. Abramson
18 LESLIE H. ABRAMSON
Attorney for Respondent

19 ENDORSEMENT

20 The attached Stipulated Surrender of Certificate is
21 respectfully submitted for the consideration of the Division of
22 Medical Quality, Medical Board of California.

23 DATED: 5-8-01

BILL LOCKYER,
Attorney General
PAUL C. AMENT,
Deputy Attorney General
Richard Avila
24 RICHARD AVILA
25 Deputy Attorney General
26 Attorneys for Complainant
27

EXHIBIT A

**Fourth Amended Accusation No. 06-1996-65821
& Amendment of Accusation to Conform to Proof**

1 BILL LOCKYER, Attorney General
of the State of California
2 RICHARD AVILA (State Bar No. 91214)
Deputy Attorney General
3 PAUL C. AMENT (State Bar No. 60427)
California Department of Justice
4 300 South Spring Street, Suite 1702
Los Angeles, California 90013-1233
5 Telephone: (213) 897-6804

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6 Attorneys for Complainant

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

13 In the Matter of the Accusation) Case Nos. 06-1996-65821,
14 Against:) 06-1997-79431,
15) 06-1998-82571
16 **WILLIAM O. LEADER, M.D.**) 06-1999-100710
17 822 N. McCadden Place) OAH No.L-1999090218
18 Los Angeles, California 90038) **FOURTH AMENDED**
19) **ACCUSATION**
20 Physician and Surgeon's Certificate)
21 No. A-41125,)
22)
23 Respondent.)

24 The Complainant alleges:

25 **PARTIES**

26 1. Ron Joseph ("Complainant") brings this Fourth
27 Amended Accusation solely in his official capacity as the Executive
Director of the Medical Board of California (hereinafter the
"Board"). The initial Accusation was filed on July 22, 1999, and
was amended by First Amended Accusation on March 30, 2000, Second
Amended Accusation on July 11, 2000, Third Amended Accusation on
August 18, 2000, corrected for errata on November 17, 2000, and
Amendment of Accusation to Conform to Proof on February 28, 2001.

1 2. On or about August 20, 1984, Physician and Surgeon's
2 Certificate No. A-41125 was issued by the Board to William Leader,
3 M.D. (hereinafter "respondent"). At all times relevant to the
4 charges brought herein, this license has been in full force and
5 effect. Unless renewed, it will expire on March 31, 2000.

6 **JURISDICTION**

7 3. This Third Amended Accusation is brought before the
8 Division of Medical Quality of the Medical Board of California,
9 Department of Consumer Affairs (hereinafter the "Division"), under
10 the authority of the following sections of the Business and
11 Professions Code (hereinafter "Code"), Health and Safety Code, and
12 Welfare and Institutions Code:

13 A. Section 2227 of the Code provides that a
14 licensee who is found guilty under the Medical Practice Act
15 may have his license revoked, suspended for a period not to
16 exceed one year, placed on probation and required to pay the
17 costs of probation monitoring, or such other action taken in
18 relation to discipline as the Division deems proper.

19 B. Section 2234 of the Code provides that
20 unprofessional conduct includes, but is not limited to, the
21 following:

22 (a) Violating or attempting to violate, directly or
23 indirectly, or assisting in or abetting the violation of,
24 or conspiring to violate, any provision of this chapter.

25 (b) Gross negligence.

26 (c) Repeated negligent acts.

27 (d) Incompetence.

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

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

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

14 D. Section 2242, subdivision (a), of the Code
15 provides that prescribing, dispensing, or furnishing dangerous
16 drugs as defined in Section 4022 without a good faith prior
17 examination and medical indication therefor, constitutes
18 unprofessional conduct.

19 E. Section 2241 of the Code provides that unless
20 otherwise provided by this section, the prescribing, selling,
21 furnishing, giving away, or administering or offering to
22 prescribe, sell, furnish, give away, or administer any of the
23 drugs or compounds mentioned in Section 2239 to an addict or
24 habitue constitutes unprofessional conduct.

25 F. Section 2238 of the Code provides that a
26 violation of any federal statute or federal regulation or any
27 of the statutes or regulations of this state regulating

1 dangerous drugs or controlled substances constitutes
2 unprofessional conduct.

3 G. Section 11153, subdivision (a) of the Health
4 and Safety Code provides in pertinent part that a prescription
5 for a controlled substance shall only be issued for a
6 legitimate medical purpose. An order for an addict or
7 habitual user of controlled substances, which is issued not in
8 the course of professional treatment or as part of an
9 authorized narcotic treatment program, for the purpose of
10 providing the user with controlled substances, sufficient to
11 keep him or her comfortable by maintaining customary use, is
12 not a legitimate medical purpose under this statute.

13 H. Section 11156 of the Health and Safety Code
14 provides that no person shall prescribe for or administer, or
15 dispense a controlled substance to an addict or habitual user,
16 or to any person representing himself as such, except as
17 permitted by this division.

18 I. Section 2261 of the Code provides as follows:

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

24 J. Section 2262 of the Code provides, in pertinent
25 part, as follows:

26 "Altering or modifying the medical record of any person,
27 with fraudulent intent, or creating any false medical record,

1 with fraudulent intent, constitutes unprofessional conduct."

2 K. Section 2266 of the Code provides as follows:

3 "The failure of a physician and surgeon to maintain
4 adequate and accurate records relating to the provision of
5 services to their patients constitutes unprofessional
6 conduct."

7 **DRUGS**

8 L. Section 4022 of the Code provides in pertinent
9 part that a "dangerous drug" is any drug which is unsafe for
10 self-medication and includes any drug or device which by
11 federal or state law can be lawfully dispensed only on
12 prescription. At all times relevant herein, the following
13 were classified as dangerous drugs, and as controlled
14 substances as defined herein below:

15 1) Catapres, a trade name for clonidine, a
16 prescribed medication used to treat narcotic withdrawal
17 syndrome, congestive heart failure, menopausal "hot
18 flashes", dysmenorrhea, vascular headache, high blood
19 pressure.

20 2) Chloral Hydrate, a Schedule IV controlled
21 substance, as defined in Health and Safety Code section
22 11057, used to treat anxiety and insomnia.

23 3) Darvon, a trade name for dextropropoxyphene or
24 propoxyphene hydrochloride, a Schedule IV controlled
25 narcotic substance, as defined in Health and Safety Code
26 section 11057, used to relieve pain and suppress cough.

27 4) Desyrel, a trade name for trazodone

1 hydrochloride, a prescription medication used to treat
2 mental depression and anxiety.

3 5) Klonopin, a trade name for clonazepam, a
4 Schedule IV controlled substance, as defined in Health
5 and Safety Code section 11057, used to control seizures.

6 6) Phenergan with codeine, a trade name for
7 promethazine hydrochloride and codeine phosphate, a
8 Schedule V controlled substance, as defined in Health and
9 Safety Code section 11058, used to suppress cough.

10 7) Tegretol, a trade name for carbamazepine, a
11 prescription medication used to control seizures.

12 8) Vicodin, a trade name for acetaminophen with
13 hydrocodone bitartrate or dihydrocodeinone, a Schedule
14 III controlled narcotic substance, as defined in Health
15 and Safety Code section 10056(e)(3), used to relieve pain
16 and suppress cough.

17 9) Vistaril, a trade name for hydroxyzine pamoate,
18 a prescription medication used to treat anxiety, tension
19 and agitation.

20 10) Xanax, a trade name for alprazolam, a Schedule
21 IV controlled substance, as defined in Health and Safety
22 Code section 11057, used to treat nervousness and
23 tension.

24 11) Atarax, a trade name for hydroxyzine
25 hydrochloride, a prescription medication used to treat
26 anxiety and tension.

27 12) Valium, a trade name for Diazepam, a Schedule IV

1 controlled substance as defined in Health and Safety Code
2 section 11057(d)(7), used in the management of anxiety
3 disorders or for the short-term relief of the symptoms of
4 anxiety.

5 13) Tylenol #3, a trade name for Acetaminophen with
6 Codeine, a Schedule III controlled substance as defined in
7 Health and Safety Code section 11056(e)(3), used in the
8 treatment of moderate to severe pain.

9 14) Phenobarbital, a central nervous system
10 depressant and Schedule IV controlled substance as defined in
11 Health and Safety Code section 11057(d)(19), used as a
12 sedative/hypnotic.

13 15) Lortab, a trade name for Hydrocodone, a Schedule
14 III controlled substance as defined in Health and Safety Code
15 section 11056(e)(3) or opioid, used for the relief of moderate
16 to moderately severe pain.

17 16) Lorcet, a trade name for Hydrocodone, a Schedule
18 III controlled substance as defined in Health and Safety Code
19 section 11056(e)(3) or opioid, used for the relief of moderate
20 to moderately severe pain.

21 17) Soma, a trade name for Carisoprodol, a dangerous
22 drug as defined in section 4022 of the Code, used to ease the
23 pain associated with acute musculoskeletal conditions.

24 18) Norco, a trade name for Hydrocodone Bitartrate
25 and Acetaminophen, a Schedule III controlled substance as
26 defined in Health and Safety Code section 11056(e)(3) or
27 opioid, used in the relief of moderate to moderately severe

1 pain.

2 19) Ambien, a Schedule IV controlled substance as
3 defined in Health and Safety Code section 11057(d)(10) and a
4 dangerous drug as defined in section 4022 of the Code, used
5 for short-term treatment of insomnia.

6 20) Ativan, a Schedule IV controlled substance as
7 defined in Health and Safety Code section 11057(d)(19) and a
8 dangerous drug as defined in section 4022 of the Code, also
9 known as Lorazepam, used in the treatment of anxiety disorders
10 and for the short term relief of symptoms of anxiety and
11 depression.

12 21) Claritin, a dangerous drug as defined in section
13 4022 of the Business and Professions Code, used for the relief
14 of nasal and non-nasal symptoms due to infections or
15 irritations.

16 22) Depakote, a dangerous drug as defined in section
17 4022 of the Business and Professions Code, used in the
18 treatment of manic disorders associated with bipolar disorder.

19 23) Elavil, a dangerous drug as defined in section
20 4022 of the Business and Professions Code, also known as
21 Amitriptyline, used to treat symptoms of depression.

22 24) Paxil, a dangerous drug as defined in section
23 4022 of the Business and Professions Code, also known as
24 Paroxetine Hydrochloride, used for the treatment of
25 depression.

26 25) Prilosec, a dangerous drug as defined in section
27 4022 of the Business and Professions Code, used for the short

1 term treatment of an active duodenal ulcer.

2 26) Halcion, a dangerous drug as defined in section
3 4022 of the Business and Professions Code and section
4 1308.14(c)(47) of the Federal Code of Regulations, also known
5 as Triazolam, used to treat insomnia.

6 27) Haldol, a dangerous drug as defined in section
7 4022 of the Business and Professions Code, used to manage
8 manifestations of psychotic disorders.

9 28) Tylenol #4, a Schedule III controlled substance
10 as defined in Health and Safety Code section 11056(e)(3) and
11 a dangerous drug as defined in section 4022 of the Business
12 and Professions Code, also known as Fioricet with Codeine,
13 used to relieve mild to moderate pain.

14 29) Zoloft, a dangerous drug as defined in section
15 4022 of the Business and Professions Code, used to treat
16 depression.

17 30) Zyprexa, a dangerous drug as defined in section
18 4022 of the Business and Professions Code, used to treat
19 manifestations of psychotic disorders.

20 31) Wellbutrin, a dangerous drug as defined in
21 section 4022 of the Business and Professions Code, used to
22 treat depression.

23 32) Amitriptyline, a dangerous drug as defined in
24 section 4022 of the Business and Professions Code, used as an
25 antidepressant with sedative effects.

26 **COST RECOVERY**

27 M. Section 125.3 of the Code provides, in part,

1 that the Division may request the administrative law judge to
2 direct any licentiate found to have committed a violation or
3 violations of the licensing act, to pay the Division a sum not
4 to exceed the reasonable costs of the investigation and
5 enforcement of the case.

6 **MEDI-CAL PARTICIPATION**

7 N. Section 14124.12 of the Welfare and
8 Institutions Code of the State of California provides, in
9 pertinent part, that:

10 (a) Upon receipt of written notice from the Medical
11 Board of California, . . . that a licensee's license has been
12 placed on probation as a result of a disciplinary action, the
13 department may not reimburse any Medi-Cal claim for the type
14 of surgical service or invasive procedure that gave rise to
15 the probation . . . that was performed by the licensee on or
16 after the effective date of probation and until the
17 termination of all probationary terms and conditions or until
18 the probationary period has ended, whichever occurs first.
19 This section shall apply except in any case in which the
20 relevant licensing board determines that compelling
21 circumstances warrant the continued reimbursement during the
22 probationary period of any Medi-Cal claim . . . as so
23 described. In such a case, the department shall continue to
24 reimburse the licensee for all procedures, except for those
25 invasive or surgical procedures for which the licensee was
26 placed on probation.

27 (b) The Medical Board of California . . . shall work in

1 conjunction with the State Department of Health Services to
2 provide all information that is necessary to implement this
3 section. . . .

4
5 **FIRST CAUSE FOR DISCIPLINE**

6 (Gross Negligence)

7 4. Respondent is subject to disciplinary action under
8 section 2234, subdivision (b) of the Code, in that he has committed
9 acts of gross negligence while treating a patient under his care.

10 The circumstances are as follows:

11 A. On or about March 10, 1995, patient E.W.
12 [initials used to protect right of privacy] first presented to
13 respondent, a psychiatrist, complaining of severe back and
14 wrist pain, nervousness, depression, insomnia, two-plus
15 obesity, diarrhea, and a history of high blood pressure.
16 Respondent's documented history on that date notes that E.W.
17 denied using alcohol or illegal drugs, but admitted current
18 use of Catapres, Vicodin and Xanax. Respondent's documented
19 physical examination of that date notes a blood pressure of
20 110/80, and the overall findings as being unremarkable.
21 Respondent's documented assessment notes a plan to evaluate
22 E.W. for panic disorder, major depression, obesity,
23 hypertension, carpal tunnel syndrome, and degenerative disc
24 disease. Respondent's documented treatment for E.W. that day
25 notes prescriptions for Vicodin-ES [i.e., Extra Strength],
26 Lomitil and Xanax.

27 (1) On or about March 24, 1995, or 16 days

1 following E.W.'s first examination by respondent, E.W.
2 returned for a follow-up examination. Respondent's documented
3 history for that day notes that E.W. had been seen by
4 different medical doctors and that she promised to deliver her
5 prior x-rays to respondent. Absent from E.W.'s chart for that
6 day is a signed authorization for the release of her medical
7 records addressed to her other physicians. Respondent's
8 documented treatment of E.W. that day notes prescriptions for
9 Vicodin-ES and Xanax at double the previous dosage strength.

10 B. On or about May 30, 1995, E.W. presented to
11 respondent with a complaint of severe panic attacks with
12 cough. Respondent's documented treatment for E.W. that day
13 notes prescriptions for Phenergan syrup with codeine, Vicodin-
14 ES and Xanax.

15 C. On or about June 9, 1995, or 10 days following
16 her last visit to respondent's medical office, E.W. presented
17 with complaints of continuous, severe back pain, coughing and
18 insomnia. Respondent's documented treatment of E.W. that day
19 notes prescriptions for Phenergan syrup with codeine and
20 Vicodin-ES.

21 E. On or about June 28, 1995, or 19 days following
22 E.W.'s last visit to respondent's medical office, she
23 presented appearing quite depressed and complaining of severe,
24 intermittent back pain. Respondent's documented history notes
25 a disclosure of prior seizures, and E.W.'s request for
26 Klonopin and Darvon, in lieu of Vicodin. Also noted therein
27 is E.W.'s disclosure that Halcion had not relieved her

1 insomnia. Respondent's documented treatment of E.W. that day
2 notes prescriptions for Chloral Hydrate, Darvon N-100 and
3 Klonopin. Respondent's documented plan of that day notes that
4 lumbar spine photos had been ordered.

5 F. On or about July 19, 1995, E.W. presented to
6 respondent with a complaint of depression. Respondent's
7 documented treatment of E.W. that day notes prescriptions for
8 Chloral Hydrate, Desyrel and Vicodin-ES.

9 G. On or about August 11, 1995, E.W. presented to
10 respondent and informed him that she was scheduled for surgery
11 to correct carpal tunnel syndrome the following Tuesday.
12 Respondent's documented history notes that E.W. complained
13 about the Klonopin and requested Tegretol. Respondent's
14 documented treatment of E.W. that day notes prescriptions for
15 Atarax, Desyrel, Tegretol, Vicodin-ES and Xanax.

16 H. On or about September 27, 1995, E.W. presented
17 to respondent and informed him that her surgery for carpal
18 tunnel syndrome had been postponed. Respondent's documented
19 history notes that E.W. was more depressed, as manifested by
20 loss of energy, lethargy, insomnia and feelings of
21 helplessness and hopelessness. Respondent's history also
22 notes a plus-two anxiety level. Respondent's documented
23 treatment of E.W. for that day notes prescriptions for Chloral
24 Hydrate, Desyrel and Xanax.

25 I. On or about November 15, 1995, E.W. informed
26 respondent that she had been using heroin and was at that time
27 undergoing the 16th day of a 20-day Methadone based

1 detoxification program. Respondent's documented history notes
2 that E.W. requested Darvon for pain. Respondent's documented
3 treatment of E.W. for that day notes prescriptions for
4 Catapres, Chloral Hydrate, Darvon N-100 and Vicodin-ES.

5 J. On or about January 23, 1996, E.W. presented to
6 respondent and informed him that her use of heroin had spanned
7 many years. Respondent's documented history also notes that
8 E.W. expressed an unwillingness to use an antidepressant
9 medication. Respondent's documented treatment of E.W. for
10 that day notes prescriptions for Catapres, Darvon N-100 and
11 Desyrel.

12 K. On or about March 19, 1996, E.W. presented to
13 respondent with complaints of lower back and wrist pain.
14 Respondent's documented history notes that E.W. appeared
15 resistant and refused antidepressant medication, but promised
16 to deliver her x-rays.

17 L. On or about March 23, 1996, respondent's
18 documented treatment of E.W. for that day notes prescriptions
19 for Atarax, Catapres, Chloral Hydrate, Darvon N-100 and
20 Vicodin-ES.

21 M. On or about April 5, 1996, or 12 days following
22 respondent's last prescriptions for E.W., the latter presented
23 to respondent and disclosed more information about her drug
24 abuse problem. Respondent's documented history notes that
25 E.W. appeared depressed, and that she again refused
26 antidepressant medication. Respondent's documented treatment
27 of E.W. for that day notes prescriptions for Atarax, Catapres,

1 Chloral Hydrate and Vicodin-ES.

2 N. On or about April 18, 1996, or 13 days following
3 respondent's last prescriptions for E.W., she presented to
4 respondent with a complaint of severe pain, and a claim that
5 her medication had been stolen. Respondent's documented
6 history also notes that E.W. was no longer taking Methadone,
7 and that she provided more information regarding her seizure
8 history. Also noted therein is E.W.'s failure to deliver her
9 x-rays. Respondent's documented treatment of E.W. for that
10 day notes prescriptions for Chloral Hydrate, Klonopin,
11 Vicodin-ES and Vistaril.

12 O. On or about May 14, 1996, respondent's last
13 documented visit of E.W. to his medical office, respondent
14 noted in E.W.'s chart that she did not appear too depressed.
15 Respondent's documented treatment of E.W. that day notes
16 prescriptions for Chloral Hydrate, Klonopin, Vicodin-ES and
17 Vistaril.

18 P. On or about June 15, 1996, E.W. died. The cause
19 of death was officially noted as heroin intoxication. The
20 autopsy revealed traces of codeine and morphine in E.W.'s
21 heart blood, substances found in Darvon, Vicodin and Phenergan
22 with codeine, all of which are used to lessen the discomfort
23 from the use of heroin. The autopsy of E.W. also revealed the
24 presence of needle track marks on the back of both hands.

25 Q. Overall, respondent prescribed the following
26 controlled substances to E.W:

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	<u>DATE</u>	<u>DRUG</u>	<u>QUANTITY</u>
1			
2	03/10/95	Vicodin-ES 7.5 mg	80
	03/10/95	Xanax 1 mg	90
3	03/24/95	Xanax 2 mg	90
	03/24/95	Vicodin-ES 7.5 mg	80
4	05/30/95	Vicodin-ES 7.5 mg	80
	05/30/95	Xanax 2 mg	90
5	05/30/95	Phenergan/cod. 240 mls.	
	06/09/95	Phenergan/cod. 240 mls.	
6	06/09/95	Vicodin-ES 7.5 mg	80
	06/28/95	Darvon N-100	100
7	06/28/95	Chloral Hyd. 500 mg	30
	06/28/95	Klonopin 2 mg	90
8	07/19/95	Vicodin-ES 7.5 mg	90
	07/19/95	Chloral Hyd. 500 mg	30
9	07/19/95	Desyrel 50 mg	30
	08/11/95	Desyrel 50 mg	30
10	08/11/95	Atarax 50 mg	60
	08/11/95	Tegretol 200 mg	60
11	08/11/95	Vicodin-ES 7.5 mg	100
	08/11/95	Xanax 2 mg	90
12	09/27/95	Xanax 2 mg	100
	09/27/95	Desyrel 100 mg	100
13	09/27/95	Chloral Hyd. 500 mg	30
	11/15/95	Chloral Hyd. 500 mg	60
14	11/15/95	Catapres .3 mg	100
	11/15/95	Darvon N-100	30
15	11/15/95	Vicodin-ES 7.5 mg	100
	01/23/96	Darvon N-100	100
16	01/23/96	Desyral 50 mg.	30
	01/23/96	Catapres .3 mg	100
17	03/23/96	Catapres .3 mg	100
	03/23/96	Atarax 50 mg	30
18	03/23/96	Chloral Hyd. 500 mg	60
	03/23/96	Darvon N-100	20
19	03/23/96	Vicodin-ES 7.5 mg	80
	04/05/96	Vicodin-ES 7.5 mg	100
20	04/05/96	Choral Hyd. 500 mg	60
	04/05/96	Catapres .3 mg	100
21	04/05/96	Atarax 50 mg	30
	04/18/96	Klonopin 2 mg	100
22	04/18/96	Chloral Hyd. 500 mg	60
	04/18/96	Vistaril 50 mg	30
23	04/18/96	Vicodin-ES 7.5 mg	100
	05/14/96	Vicodin-ES 7.5 mg	100
24	05/14/96	Chloral Hyd. 500 mg	60
	05/14/96	Klonopin 2 mg	100
25	05/14/96	Vistaril 50 mg	30

26 R. Respondent has subjected his license to
27

1 discipline in that he failed to do the following in regard to
2 his care of E.W.:

3 (1) Refrain from prescribing narcotic substances to
4 E.W., known to respondent as a heroin addict, while she
5 was undergoing a detoxification program with Methadone;

6 (2) Consult with the physician directing E.W.'s
7 Methadone detoxification program before continuing
8 treatment with narcotic substances, and/or fail to
9 document same;

10 (3) Consult with E.W.'s other physicians who had or
11 were then treating her low back pain, and/or fail to
12 document same;

13 (4) Consult with E.W.'s other physicians who had
14 or were then providing prescription medications to her,
15 and/or fail to document same;

16 (5) Consult with E.W.'s physician who was scheduled
17 to perform carpal tunnel surgery, and/or fail to document
18 same;

19 (6) Obtain imaging studies (i.e., MRI, x-rays) to
20 confirm or rule out the preliminary diagnosis of low back
21 pain secondary to degenerative disc disease prior to
22 continuing prescriptions for Vicodin and Darvon beyond
23 the period when physical and psychological dependency
24 could be expected to take hold, and/or fail to document
25 same.

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1 **SECOND CAUSE FOR DISCIPLINE**

2 (Repeated Negligent Acts)

3 5. Respondent is subject to disciplinary action under
4 section 2234, subdivision (c) of the Code, in that respondent has
5 committed repeated acts of negligence while treating a patient
6 under his care. The circumstances are as follows:

7 A. The facts alleged in above subparagraphs 4.A.
8 to 4.Q. are incorporated by reference herein as if fully set
9 forth.

10 B. The repeated negligent acts are as follows:

11 (1) Respondent failed to refrain from prescribing
12 narcotic substances to E.W., known to him as a heroin addict,
13 while she was undergoing a detoxification program with
14 Methadone;

15 (2) Respondent failed to consult with the physician
16 directing E.W.'s Methadone based detoxification program before
17 continuing treatment with narcotic substances, and/or failed
18 to document same;

19 (3) Respondent failed to consult with E.W.'s other
20 physicians who had or were then providing prescription
21 medications to her, and/or failed to document same;

22 (4) Respondent failed to consult with E.W.'s other
23 physicians who had or were then treating her low back pain,
24 and/or failed to document same;

25 (5) Respondent failed to consult with E.W.'s
26 physician who was scheduled to perform carpal tunnel surgery
27 on her, and/or failed to document same;

1 (6) Respondent failed to obtain imaging studies
2 (i.e., MRI, x-rays) to confirm or rule out the preliminary
3 diagnosis of low back pain secondary to degenerative disc
4 disease prior to continuing prescriptions for Vicodin and
5 Darvon beyond the period when physical and psychological
6 dependence could be expected to take hold, and/or failed to
7 document same.

8 **THIRD CAUSE FOR DISCIPLINE**

9 (Incompetence)

10 6. Respondent is subject to disciplinary action under
11 section 2234, subdivision (d) of the Code, in that respondent has
12 committed acts of incompetence while treating a patient under his
13 care. The circumstances are as follows:

14 A. The facts and expert opinions alleged in above
15 subparagraphs 4.A. to 4.R. are incorporated by reference
16 herein as if fully set forth.

17 **FOURTH CAUSE FOR DISCIPLINE**

18 (Excessive Prescribing)

19 7. Respondent is subject to disciplinary action under
20 sections 725 and 2234 of the Code, in that respondent has committed
21 acts of clearly excessive prescribing of Vicodin and Darvon while
22 treating a patient under his care. The circumstances are as
23 follows:

24 A. The facts alleged in above subparagraphs 4.A.
25 to 4.R. are incorporated by reference herein as if fully set
26 forth.

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FIFTH CAUSE FOR DISCIPLINE

(Prescribing Without Good Faith Examination)

8. Respondent is subject to disciplinary action under sections 2234 and 2242, subdivision (a) of the Code, in that respondent has committed acts of prescribing dangerous drugs without a good faith prior examination and medical indication therefor. The circumstances are as follows:

A. The facts alleged in above subparagraphs 4.A. to 4.R. are incorporated by reference herein as if fully set forth.

SIXTH CAUSE FOR DISCIPLINE

(Prescribing To An Addict)

9. Respondent is subject to disciplinary action under sections 2234, 2238, and 2241 of the Code, as well as Health and Safety Code sections 11153 and 11156, in that respondent prescribed controlled substances for other than a legitimate medical purpose, to wit, for an addict. The circumstances are as follows:

A. The facts alleged in above subparagraphs 4.A. to 4.R. are incorporated by reference herein as if fully set forth.

SEVENTH CAUSE FOR DISCIPLINE

(Gross Negligence)

10. Respondent is subject to disciplinary action under section 2234, subdivision (b) of the Code, in that respondent committed acts of gross negligence while treating a patient under his care. The circumstances are as follows:

1 A. Patient S.M. was admitted to Edgemont Hospital
2 on or about August 5 to 12, 1996, on or about October 18 to
3 28, 1996, on or about November 3 to 15, 1996, and on or about
4 December 24 to 27, 1996. The first three of these
5 hospitalizations resulted in involuntary holds for violent
6 conduct associated with chemical dependency. The third
7 hospitalization followed an emergency stay at Hollywood
8 Presbyterian Hospital from an overdose of heroin. S.M.'s
9 first two discharges from Edgemont were accompanied by
10 diagnoses for Bipolar Disorder, Intermittent Explosive
11 Disorder, Benzodiazepine Dependency, Antisocial Personality,
12 Migraine Headaches, low back pain, and mild right hearing
13 loss. S.M.'s third and fourth discharges from Edgemont were
14 accompanied by diagnoses for Atypical Schizoaffective
15 Disorder, Chronic Pain Syndrome, Cephalgia, Chronic
16 Obstruction Pulmonary Disease, Chronic Upper Back Pain,
17 Migraine Headache, and recent seizure. S.M.'s primary
18 physician at Edgemont, Dr. Freinhar, prescribed Valium 10 mg.
19 tid, Sinequan 300 mg. qhs, Moban [antipsychotic] 25 mg. bid,
20 175 mg qhs,, and Amantadine 100 mg. bid. S.M. was advised to
21 see Dr. Chase for follow-up care. S.M.'s fourth discharge
22 from Edgemont was against medical advice.

23 B. S.M. first saw respondent for medical care on or
24 about January 28, 1997. Respondent noted the names of Dr.
25 Freinhar and Dr. Chase in the patient chart. Respondent also
26 noted complaints of terminal throat cancer, back pain,
27 shoulder pain, neck pain, nightmares and migraines.

1 Respondent diagnosed Adjustment Disorder/Anxiety and Migraine
2 Headaches. A prescription for the Benzodiazepine, Valium 10
3 mg. #100, was given to S.M. for severe anxiety.

4 C. S.M. next saw respondent for treatment on or
5 about February 27, 1997. Respondent noted a continuation of
6 anxiety, insomnia and nervousness. Respondent prescribed
7 Ambien 10 mg. #30 for insomnia, and Valium 10 mg. #100 for
8 severe anxiety. Respondent noted that S.M. was taking 4
9 Valium tablets per day.

10 D. S.M. returned to respondent for treatment on or
11 about March 24, 1997. Respondent noted that Codeine didn't
12 work for S.M., and that the later refused to take Percodan.
13 Respondent prescribed Valium 10 mg. #100 for anxiety, and
14 Vicodin #60 for severe pain.

15 E. S.M. received more treatment from respondent on
16 or about April 1, 1997, after presenting with complaints of
17 insomnia, nervousness and sadness about cancer. Respondent
18 prescribed Phenobarbital 100 mg. #30.

19 F. S.M. was admitted for the fifth time to Edgemont
20 Hospital on or about April 5, 1997. He was placed on a 72
21 hour hold for being a danger to himself. Complaints of
22 decreased energy, appetite, sleep and socialization, as well
23 as violent outbursts, were noted in connection with the
24 ingestion of large quantities of Valium and Phenobarbital.
25 Dr. Freinhar diagnosed Benzodiazepine and Barbiturate Abuse,
26 Bipolar Affective Disorder and Depression. S.M.'s confession
27 of Phenobarbital abuse over a two year period was noted in his

1 hospital chart. S.M. succeeded in avoiding a 14-day hold and
2 discharged himself against medical advice on April 11, 1997.

3 G. On or about the same day, April 11, 1997, S.M.
4 returned to respondent for treatment. Respondent noted S.M.'s
5 hospitalization at Edgemont under the care of Dr. Freinhar,
6 but attributed the hospital stay to a concussion sustained
7 during an assault. Respondent prescribed Valium 10 mg. #45
8 for severe anxiety and Phenobarbital 100 mg. #30.

9 H. S.M. next presented to respondent for treatment
10 on or about April 14, 1997. Respondent noted that S.M. had an
11 addiction problem, but did not specify its cause or nature.
12 Respondent prescribed Valium 10 mg. #60 and Phenobarbital 100
13 mg. #60.

14 I. For the period January 28 to April 14, 1997,
15 there is no indication in respondent's records for S.M. that
16 respondent requested or received S.M.'s records from Edgemont
17 Hospital covering S.M.'s hospitalizations there of August 5 to
18 12, 1996, October 18 to 28, 1996, November 3 to 15, 1996,
19 December 24 to 27, 1996, and April 5 to 11, 1997, or that
20 respondent ever discussed S.M.'s care and treatment at
21 Edgemont with Dr. Freinhar or Dr. Chase.

22 J. S.M. was admitted for the sixth time to Edgemont
23 Hospital on or about April 24, 1997. He was placed on a 72-
24 hour hold for being a danger to himself. The admitting note
25 cited assaultive, threatening behavior, agitated depression
26 and suicidal ideation. On or about April 26 and 28, 1997,
27 S.M. assaulted another patient at the hospital with the result

1 that he was restrained and placed in seclusion. On or about
2 April 30, 1997, a 14-day hold was approved. Upon S.M.'s
3 discharge on or about May 12, 1997, follow-up care with Dr.
4 Chase was recommended and the following diagnoses were made:
5 Atypical Bipolar Disorder, Benzodiazepine and Barbiturate
6 Dependence, and Sociopathic Personality Traits. Prescriptions
7 were given to S.M. for Trilafon [antipsychotic] 32 mg. p.o.
8 qhs 30 day supply, and Valium 10 mg. tid #15 (5-day supply).

9 K. On the same day of S.M.'s discharge from
10 Edgemont, on or about May 12, 1997, S.M. was seen and treated
11 by respondent. Respondent noted that S.M. had been involved
12 in fights with patients and staff at the hospital, and that he
13 had been under Dr. Freinhar's care for 3 years. Respondent
14 also noted that Phenobarbital was aiding S.M.'s sleep.
15 Respondent prescribed Valium 10 mg. #45 and Phenobarbital 100
16 mg. #60. Respondent made no notation in S.M.'s records that
17 he had requested or received S.M.'s records from Edgemont
18 Hospital covering the hospitalization of April 24 to May 12,
19 1997, or that he discussed S.M.'s care and treatment at
20 Edgemont during this period with Dr. Freinhar or Dr. Chase.

21 L. S.M. was admitted for the seventh time to
22 Edgemont Hospital on May 15, 1997. He was placed on a 72-hour
23 hold for threatening his mother. S.M. reported that he was
24 depressed from excessive use of medication. S.M.'s speech was
25 slurred. A urine drug screen was positive for Barbiturates =
26 360 [normal being 1 to 199], Benzodiazepines = 441 [normal
27 being 1 to 199], and THC = 181 [normal being 1 to 99]. S.M.

1 was discharged on May 16, 1997, after Dr. Freinhar lifted the
2 72-hour hold.

3 M. S.M. returned to see respondent on or about May
4 19, 1997. Respondent noted that S.M. was stable. Respondent
5 prescribed the Barbiturate, Phenobarbital 100 mg. #60, and
6 Valium 10 mg. #100. Respondent failed to note that he had
7 requested or received S.M.'s records from Edgemont Hospital
8 covering the hospitalization of May 15 to 16, 1997, or that he
9 had discussed S.M.'s care and treatment at Edgemont during
10 this two-day period with Dr. Freinhar or Dr. Chase.

11 N. S.M. next saw respondent for treatment on or
12 about June 10, 1997. Respondent noted that S.M. was stable,
13 pleasant and sleeping well. Respondent prescribed
14 Phenobarbital 100 mg. #60 and Valium 10 mg. #100. Respondent
15 failed to note that he had requested or received S.M.'s
16 records from Edgemont Hospital covering his treatments there,
17 or that he had discussed S.M.'s care and treatment at Edgement
18 Hospital with Dr. Freinhar or Dr. Chase.

19 O. S.M. returned to see respondent for treatment on
20 or about June 20, 1997. Respondent noted that S.M. had been
21 arrested and jailed for 5 days for assault and trespassing,
22 and was saddened by his cancer condition. Respondent
23 prescribed Phenobarbital 100 mg. #60 and Valium 10 mg. #120.
24 Respondent failed to note that he had requested or received
25 S.M.'s records from Edgemont Hospital covering S.M.'s
26 treatments there, or that he had discussed S.M.'s care and
27 treatment at Edgemont Hospital with Dr. Freinhar or Dr. Chase.

1 P. For the period January 28 to June 20, 1997,
2 there is no indication in respondent's records for S.M. that
3 respondent ever verified the existence of a cancer diagnosis
4 for S.M. through the request and/or receipt of S.M.'s medical
5 records from the primary diagnostician of the cancer
6 condition, or through respondent's own independent examination
7 and laboratory analysis.

8 Q. S. M. returned to see respondent for treatment
9 on or about July 1, 1997. Respondent noted that S.M.'s speech
10 was slurred and that he was falling asleep in the waiting
11 room. Respondent also noted a referral to Dr. Istvar. No
12 prescriptions were noted.

13 R. S.M. returned to see respondent for treatment on
14 or about July 11, 1997. Respondent noted that S.M.'s speech
15 was slurred, that he was citotoxic and complaining about
16 oversleeping. No prescriptions were noted.

17 S. S.M. was admitted for the eighth time to
18 Edgemont Hospital on or about July 15, 1997. He was placed on
19 a 72-hour hold for being a danger to himself. On admission,
20 S.M. presented with slurred speech and appeared sedated. S.M.
21 was in possession of one bottle of Valium 10 mg. and one and
22 one half bottles of Phenobarbital 100 mg. The nursing record
23 noted that S.M. was confused, lethargic and unsteady. An
24 internal medicine consultation disclosed aches and pains,
25 bruising from a series of falls connected with the use of
26 alcohol, Phenobarbital and Valium. A urine drug screen was
27 positive for Barbiturates = 363 [1 to 199 being normal],

1 Benzodiazepines = 372 [1 to 199 being normal], and THC = 192
2 [1 to 99 being normal]. S.M. reported taking 160 mg. of
3 Valium each day plus 200 mg. qhs of Phenobarbital. At
4 discharge, Dr. Freinhar recommended outpatient and inpatient
5 drug rehabilitation, and noted that S.M. insisted on returning
6 to the "outpatient community psychiatrist who prescribed to
7 him these high doses of benzodiazepines and barbiturates."
8 S.M. was discharged with the following diagnoses: Atypical
9 Bipolar Disorder, Benzodiazepine Abuse, Barbiturate Abuse and
10 a history of Polysubstance Abuse.

11 T. S.M. was admitted for the ninth time to Edgemont
12 Hospital on or about July 24, 1997, and was placed on 72-hour hold.
13 On admission, S.M. presented with slurred speech and unsteady
14 gait. A urine drug screen was positive for Barbiturates = 396
15 [1 to 199 being normal], Benzodiazepines = 428 [1 to 199 being
16 normal], and THC = 179 [1 to 99 being normal]. A
17 detoxification program was recommended by Dr. Solof. On
18 discharge, S.M. was diagnosed with Atypical Bipolar Disorder.
19 Prescriptions were given for Valium 10 mg. tid and Trilafon
20 [antipsychotic]. After being referred to Alcoholics
21 Anonymous, S.M. was discharged on August 11, 1997.

22 U. S.M. was admitted for the tenth time to Edgemont
23 Hospital on or about August 13, 1997. S.M. was placed on a
24 72-hour hold for being a danger to himself, and this hold was
25 extended to 14 days. A urine drug screen was positive for
26 Amphetamines = 1007 [1 to 199 being normal], Barbiturates =
27 366 [1 to 199 being normal], Benzodiazepines = 435 [1 to 199

1 being normal], and THC = 159 [1 to 99 being normal]. S. M.
2 was examined by Dr. Westmoreland, a psychiatrist, and then
3 discharged with the following diagnoses: Schizoaffective
4 Disorder-Bipolar Type, Benzodiazepine and Phenobarbital
5 Dependence, Cannabis Dependence, poor compliance with
6 treatment by history, and history of Polysubstance Abuse.
7 Prescriptions were given for Valium 10 mg. qid (one month
8 supply or 120 tablets), Trilafon 8 mg. qhs, Tegretol 200 mg.
9 tid, 400 mg. qhs, and Benadryl 100 mg qhs. A chemical
10 dependency program and follow-up with Dr. Kirshbaum were
11 recommended.

12 V. S.M. returned to respondent for treatment on or
13 about September 2, 1997. Respondent noted that S.M. looked
14 like a "sad vegetable." Respondent prescribed Valium 10 mg.
15 #120 and Phenobarbital 100 mg. #60.

16 W. S.M. next saw respondent for treatment on or
17 about September 9, 1997. Respondent noted that S.M. exhibited
18 slurred speech and complained of insomnia. Respondent
19 diagnosed Adjustment Disorder with Mixed Anxiety and Depressed
20 Mood, questionable General Anxiety Disorder, and Migraine
21 Headaches. Respondent prescribed Dalmane 30 mg. #10.

22 X. S.M. returned to respondent for treatment on or
23 about September 15, 1997. Respondent noted that S.M. had
24 jumped off a second story roof and been admitted at Edgemont
25 Hospital for mental illness. Respondent also noted that S.M.
26 had been over-medicated with Phenobarbital. Respondent
27 reiterated the previous diagnoses in the chart, and prescribed

1 Valium 10 mg. #60 and Phenobarbital 100 mg. #30.

2 Y. S.M. next saw respondent for treatment on or
3 about September 30, 1997. Respondent noted that S.M. had seen
4 Dr. Kirshbaum. Respondent diagnosed S.M.'s condition as
5 Bipolar Disorder.

6 Z. For the period April 15 to September 30, 1997,
7 there is no indication in respondent's records for S.M. that
8 respondent requested or received S.M.'s records from Edgemont
9 Hospital covering his hospitalizations there of April 24 to
10 May 12, 1997, May 15 to 18, 1997, July 15 to 18, 1997, July 24
11 to August 11, 1997, and August 13 to 27, 1997, or that
12 respondent ever discussed S.M.'s care and treatment at
13 Edgemont Hospital with Dr. Freinhar, Dr. Chase, Dr.
14 Westmoreland or Dr. Kirshbaum.

15 AA. S.M. was admitted for the eleventh time to
16 Edgemont Hospital on or about October 7, 1997. He was placed
17 on a 72-hour hold, which was extended to a 14-day hold in a
18 locked unit after he threatened the staff. On admission, S.M.
19 was reported to have been self-medicating himself with 20 mg.
20 Valium doses, and experiencing seizures from a 3 week
21 withdrawal from Phenobarbital. He was treated through a
22 detoxification program under the supervision of Dr. Richard
23 Miller. A urine drug screen was positive for Amphetamines =
24 364 [1 to 199 being normal], Benzodiazepines = 382 [1 to 199
25 being normal], and THC = 179 [1 to 99 being normal]. S.M. was
26 discharged on or about October 14, 1997 with diagnoses of
27 Schizoaffective Disorder-Depressed Type with Acute

1 Exacerbation, Valium Dependence, Phenobarbital Dependence-
2 Early Remission, and Polysubstance Abuse.

3 BB. S.M. returned to respondent for treatment on or
4 about October 16, 1997. Respondent noted S.M.'s recent lock-
5 up and vegetable state. Respondent also noted "no more
6 phenobarbital" and Valium qid. Respondent diagnosed Acute
7 Bipolar I Disorder with Mixed Anxiety and Depressed Mood, and
8 Migraine Headaches. Respondent prescribed Valium 10 mg. #120
9 for severe anxiety.

10 CC. On or about October 19, 1997, respondent noted
11 that S.M.'s mother had reported a phone call wherein S.M.
12 admitted taking 100 tablets of Phenobarbital and 60 tablets of
13 Valium.

14 DD. On or about October 21, 1997, S.M.'s mother
15 discovered her son's dead body. According to the Office of
16 the County Coroner, S.M.'s death was caused by Phenobarbital
17 and Benzodiazepine overdose, and was ruled a suicide.

18 EE. For the period October 1 to October 21, 1997,
19 there is no indication in respondent's records for S.M. that
20 respondent requested or received S.M.'s records from Edgemont
21 Hospital covering his hospitalization of October 7, 1997, or
22 that respondent ever discussed S.M.'s care and treatment at
23 Edgemont Hospital with Dr. Freinhar, Dr. Chase, Dr.
24 Westmoreland, Dr. Kirshbaum or Dr. Miller.

25 FF. **[Extreme Departures from Standard of Practice]**
26 Respondent engaged in extreme departures from the standard of
27 practice in his care and treatment of S.M., as follows:

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1. Respondent failed to formulate an accurate diagnosis for S.M.'s addiction to Phenobarbital and Valium, and failed to develop a competent plan of treatment for these addictions, and/ or failed to document an accurate diagnosis or treatment plan.

2. Respondent failed to provide competent treatment for S.M.'s Affective Disorder, either Schizoaffective Disorder or Atypical Bipolar Disorder, and/or failed to document a competent treatment plan.

3. Respondent not only failed to restrict his prescriptions of narcotics to a narcotics abusing patient, but excessively prescribed Valium and Phenobarbital on or about April 11, 1997, April 14, 1997, and May 12, 1997.

4. Respondent not only failed to restrict his prescriptions of narcotics to a patient with a history of Affective Disorder, including suicidal ideation, but prescribed large doses of Valium and Phenobarbital to the patient from January 29, 1997 to October 16, 1997.

5. Respondent failed to request and review the records of S.M.'s psychiatric and drug dependency hospitalizations predating and contemporaneous with respondent's care and treatment of S.M. from January 29, 1997 to October 16, 1997, and/or failed to document same.

1 EIGHTH CAUSE FOR DISCIPLINE

2 (Repeated Negligent Acts)

3 11. Respondent is subject to disciplinary action under
4 section 2234, subdivision (c) of the Code, in that respondent
5 committed repeated acts of negligence while treating a patient
6 under his care. The circumstances are as follows:

7 A. The facts alleged in above subparagraphs 10.A.
8 thru 10.EE. are incorporated by reference herein as if fully
9 set forth.

10 B. **[Repeat Negligent Acts]** Respondent engaged in
11 repeated negligent acts in his care and treatment of S.M., as
12 follows:

13 1. Respondent failed to formulate an accurate
14 diagnosis for S.M.'s addiction to Phenobarbital and
15 Valium, and failed to develop a competent plan of
16 treatment for these addictions, and/or failed to
17 document an accurate diagnosis or treatment plan.

18 2. Respondent failed to provide competent
19 treatment for S.M.'s Affective Disorder, either
20 Schizoaffective Disorder or Atypical Bipolar
21 Disorder, and/ or failed to document a competent
22 treatment plan.

23 3. Respondent not only failed to restrict his
24 prescriptions of narcotics to a narcotics abusing
25 patient, but excessively prescribed Valium and
26 Phenobarbital on or about April 11 and 14, 1997,
27 and May 12, 1997.

1 4. Respondent not only failed to restrict his
2 prescriptions of narcotics to a patient with a
3 history of Affective Disorder, including suicidal
4 ideation, but prescribed large doses of Valium
5 (i.e., 1160 10 mg. tablets over nine months) and
6 Phenobarbital (i.e., 450 100 mg. tablets over six
7 months) to the patient from January 29 to October
8 16, 1997.

9 5. Respondent failed to request and review
10 the records of S.M.'s psychiatric and drug
11 dependency hospitalizations predating and
12 contemporaneous with respondent's care and
13 treatment of S.M. from January 29 to October 16,
14 1997, and/or failed to document same.

15 NINTH CAUSE FOR DISCIPLINE

16 (Incompetence)

17 12. Respondent is subject to disciplinary action under
18 section 2234, subdivision (d) of the Code, in that respondent has
19 committed acts of incompetence while treating a patient under his
20 care. The circumstances are as follows:

21 A. The facts alleged in above subparagraphs 10.A.
22 thru 10.EE, are incorporated by reference herein as if fully
23 set forth.

24 B. The opinions reached in above subparagraph
25 10.FF., which are indicative of both lack of sound medical
26 judgment and medical knowledge, are incorporated by reference
27 herein as if fully set forth.

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TENTH CAUSE FOR DISCIPLINE

(Excessive Prescribing)

13. Respondent is subject to disciplinary action under sections 725 and 2234 of the Code, in that respondent committed acts of clearly excessive prescribing of Valium and Phenobarbital while treating a patient under his care. The circumstances are as follows:

A. The facts and expert opinions alleged in above subparagraphs 10.A. to 10.FF. are incorporated by reference herein as if fully set forth.

ELEVENTH CAUSE FOR DISCIPLINE

(Prescribing Without Good Faith Examination)

14. Respondent is subject to disciplinary action under sections 2234 and 2242, subdivision (a) of the Code, in that respondent committed acts of prescribing dangerous drugs without a good faith prior examination and medical indication therefor. The circumstances are as follows:

A. The facts and expert opinions alleged in above subparagraphs 10.A. to 10.FF. are incorporated by reference herein as if fully set forth.

TWELFTH CAUSE FOR DISCIPLINE

(Prescribing To An Addict)

15. Respondent is subject to disciplinary action under sections 2234, 2238 and 2241 of the Code, in connection with Health and Safety Code sections 11153 and 11156, in that respondent prescribed controlled substances to an addict for other than a legitimate medical purpose. The circumstances are as follows:

1 A. The facts and expert opinions alleged in above
2 subparagraphs 10.A. to 10.FF. are incorporated by reference
3 herein as if fully set forth.

4 THIRTEENTH CAUSE FOR DISCIPLINE

5 (Gross Negligence)

6 16. Respondent is subject to disciplinary action under
7 section 2234, subdivision (b) of the Code, in that respondent
8 committed acts of gross negligence while treating a patient under
9 his care. The circumstances are as follows:

10 A. In 1988, at age 20, patient S.R. became addicted
11 to heroin. She was first seen by respondent for treatment on
12 or about May 12, 1994. Respondent diagnosed her condition as
13 follows: Adjustment Disorder with Mixed Anxiety and Depressed
14 Mood (DSM 309.28), Panic Disorder with Agoraphobia, Post-
15 Traumatic Stress Disorder, Major Depression Disorder,
16 Depressive Disorder, NOS.

17 B. S.R. was admitted to Queen of Angels Hospital
18 for a drug use related coma on or about and between September
19 14 and 17, 1994, and was treated in the intensive care unit
20 where she was placed on a ventilator. She was diagnosed as an
21 abuser of I.V. drugs and Valium addict. When discharged, she
22 was prescribed Chloral Hydrate for sleep, Valium for anxiety,
23 Tylenol #3 w/Codeine for pain, and Klonopin for seizures. She
24 also was referred to the Bay Area Addiction Research and Drug
25 Treatment Program in Hollywood (hereinafter "BAART") for
26 Methadone treatment.

27 C. S.R. returned to respondent for treatment on or

1 about September 23, 1994. Respondent noted the following in
2 her chart: "Methadone Clinic 65 milligrams. Alcohol Abuse .
3 . . Out of Klonopin." Respondent prescribed Tylenol #3
4 w/Codeine #45 1 prn severe back pain, Chloral Hydrate 500 mg.
5 3 tabs qhs #45, Ketley, 500 mg. 1 qhs #60, and Klonopin 2 mg.
6 1 tid #45 for seizures.

7 D. S.R. next saw respondent for treatment on or
8 about September 24, 1994. Respondent noted that S.R. had been
9 incarcerated in 1994 for possession of heroin. Bipolar
10 Disorder was diagnosed. Respondent prescribed Chloral Hydrate
11 500 mg. #30, noting in the chart that the patient had reported
12 the theft of the prior Chloral Hydrate prescription.

13 E. S.R. returned to respondent for treatment on or
14 about December 13, 1995. Respondent noted in the chart that
15 S.R. had been released from custody in October 1995.
16 Respondent also noted that S.R. had a "heroin problem."
17 Respondent prescribed Valium 10 mg. #100, Darvon N #100 for
18 pain, Chloral Hydrate #100, Tylenol #3 w/Codeine #45 for
19 pain, and Tetracycline #60.

20 F. Records from BAART for S.R. made on or about
21 December 29, 1995, noted new and old track marks on both
22 hands, the upper chest and the tops of both feet.

23 G. On or about January 12, 1996, S.R. was admitted
24 to Queen of Angels Hospital for treatment of a heroin
25 overdose.

26 H. On or about January 23, 1996, S.R. returned to
27 respondent for treatment. Respondent prescribed Chloral

1 Hydrate #50.

2 I. S.R. next saw respondent for treatment on or
3 about February 1, 1996. Respondent noted the following in her
4 chart: "[O]verdosed on heroin and methadone, nearly died. ICU
5 X 2 days. Five and one half days in Cedar Sinai. Bones were
6 aching/was in Phoenix House, Venice . . . R/R meds."
7 Respondent prescribed Chloral Hydrate #30 prn for insomnia,
8 Tylenol #3 w/Codeine #21 for pain, Valium 10 mg. #15 for
9 severe anxiety.

10 J. On or about April 17, 1996, respondent noted in
11 his chart for S.R. that she was residing in the Sober Living
12 House in Pasadena.

13 K. On or about May 21, 1996, respondent noted that
14 S.R. was stable and on diet pills.

15 L. On or about May 22, 1996, respondent noted a
16 telephone prescription of Phen-Fen diet pills for S.R. No
17 weight information on S.R. was noted for this date.

18 M. Records from BAART for S.R. made on or about
19 November 15, 1996, noted new track marks across her lower
20 abdomen and upper buttocks.

21 N. S.R. returned to respondent for treatment on or
22 about November 15, 1996. Respondent noted "twenty-one day
23 methadone detox. Request Valium. Won't need Valium at the
24 end of detox." Respondent prescribed Valium 10 mg. #30,
25 Choral Hydrate #100, and Tylenol #3 w/Codeine #45.

26 O. Records from BAART for S.R. made on or about
27 November 26, 1996, noted degenerative arthritis in the lower

1 back.

2 P. S.R. next saw respondent for treatment on or
3 about November 30, 1996. Respondent noted "numb near right
4 thigh and right knee." X-rays of the lumbosacral spine were
5 ordered. [An x-ray of the same area, taken on December 20,
6 1994, and interpreted by Dr. Weiner, a radiologist, indicated
7 "no abnormality demonstrated."

8 Q. S.R. returned to respondent for treatment on or
9 about December 16, 1996. Respondent noted "end of detox.
10 Methadone." Respondent prescribed Tylenol #3 w/Codeine,
11 Chloral Hydrate 500 mg. #100, Valium 10 mg. #30, and Soma 350
12 mg. #30.

13 R. On or about and between January 14 and April 7,
14 1997, records from BAART showed that S.R. remained on
15 Methadone.

16 S. S.R. returned to respondent for treatment on or
17 about January 14, 1997, February 13, 1997, March 11, 1997, and
18 April 7, 1997. Following each of these visits respondent gave
19 S.R. prescriptions for Tylenol #3 w/Codeine #45, Valium 10 mg.
20 #10, and Chloral Hydrate 500 mg. #100.

21 T. On or about April 16, 1997, S.R. was admitted to
22 Mount Sinai Hospital in Florida for detoxification. She was
23 discharged on May 2, 1997.

24 U. S.R. next saw respondent for treatment on or
25 about May 5, 1997. Respondent noted that S.R. was "stable"
26 and diagnosed Post Traumatic Stress Disorder. Respondent
27 prescribed Tylenol #3 w/Codeine #45, Soma 350 mg. #45,

1 Klonopin 2 mg. #45, Chloral Hydrate #100, and Tigan #60 for
2 nausea.

3 V. On or about May 8, 1997, S.R. was admitted to
4 the Queen of Angels Hospital emergency and intensive care
5 units for abuse of Klonopin 2 mg., Chloral Hydrate 500 mg.,
6 Tylenol #3 w/Codeine, and Soma. [Only 4 tablets of Klonopin
7 were left from the May 5, 1997 prescription of 45 tablets made
8 by respondent; only 34 tablets of Chloral Hydrate were left
9 from the May 5, 1997 prescription of 100 tablets made by
10 respondent; only 5 tablets of Tylenol #3 w/Codeine were left
11 from the May 5, 1997 prescription of 45 tablets made by
12 respondent; and only 25 tablets of Soma were left from the May
13 5, 1997 prescription of 45 tablets made by respondent.] S.R.
14 was evaluated by Dr. Kurlisky, a psychiatrist, who reported
15 that she denied having suicidal thoughts.

16 W. On or about May 10, 1997, S.R. died from a
17 heroin overdose.

18 X. **[Extreme Departures from Standard of Practice]**
19 Respondent engaged in extreme departures from the standard of
20 practice in his care and treatment of S.R., as follows:

21 1. Respondent failed to make an accurate
22 diagnosis of her opiate dependence and abuse of
23 sedative/hypnotic substances, and/or failed to
24 document same.

25 2. Respondent failed to obtain and review the
26 records of her prior and contemporaneous
27 psychiatric and drug dependence hospitalizations,

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and/or failed to document same.

3. Respondent failed to consult with her other treating physicians and mental health counselors who were involved with the treatment of her substance abuse, and/or failed to document same.

4. Respondent failed to discontinue prescribing Valium, Chloral Hydrate and Codeine, even though he was aware of her drug addiction history and Methadone use.

5. Respondent failed to discontinue the excessive prescription of controlled substances to a known drug abuser with a history of drug overdoses and known suicide attempts, such as the suicide attempt of February 1, 1996.

FOURTEENTH CAUSE FOR DISCIPLINE

(Repeated Negligent Acts)

17. Respondent is subject to disciplinary action under section 2234, subdivision (c) of the Code, in that respondent committed repeated acts of negligence while treating a patient under his care. The circumstances are as follows:

A. The facts alleged in above subparagraphs 16.A. to 16.W. are incorporated by reference herein as if fully set forth.

B. **[Repeat Negligent Acts]** Respondent engaged in repeat negligent acts in his care and treatment of S.R., as follows:

1 1. Respondent failed to make an accurate
2 diagnosis of her opiate dependence and abuse of
3 sedative/hypnotic substances, and/or failed to
4 document same.

5 2. Respondent failed to obtain and review the
6 records of her prior and contemporaneous
7 psychiatric and drug dependence hospitalizations,
8 and/or failed to document same.

9 3. Respondent failed to consult with her
10 other treating physicians and mental health
11 counselors who were involved with the treatment of
12 her substance abuse, and/or failed to document
13 same.

14 4. Respondent failed to discontinue
15 prescribing Valium, Chloral Hydrate and Codeine,
16 even though he was aware of her drug addiction
17 history and Methadone use.

18 5. Respondent failed to discontinue the
19 excessive prescription of controlled substances to
20 a known drug abuser with a history of drug
21 overdoses and known suicide attempts, such as the
22 suicide attempt of February 1, 1996.

23 **FIFTEENTH CAUSE FOR DISCIPLINE**

24 (Incompetence)

25 18. Respondent is subject to disciplinary action under
26 section 2234, subdivision (d) of the Code, in that respondent
27 demonstrated incompetence while treating a patient under his care.

1 The circumstances are as follows:

2 A. The facts alleged in above subparagraphs 16.A.
3 to 16.W. are incorporated by reference herein as if fully set
4 forth.

5 B. The opinions reached in above subparagraph
6 16.X., which are indicative of both a lack of sound medical
7 judgment and medical knowledge, are incorporated by reference
8 herein as if fully set forth,

9 SIXTEENTH CAUSE FOR DISCIPLINE

10 (Excessive Prescribing)

11 19. Respondent is subject to disciplinary action under
12 sections 725 and 2234 of the Code, in that respondent committed
13 acts of clearly excessive prescribing of Valium, Chloral Hydrate
14 and Tylenol #3 w/Codeine while treating a patient under his care.
15 The circumstances are as follows:

16 A. The facts and expert opinions alleged in above
17 subparagraphs 16.A. to 16.X. are incorporated by reference
18 herein as if fully set forth.

19 SEVENTEENTH CAUSE FOR DISCIPLINE

20 (Prescribing Without Good Faith Examination)

21 20. Respondent is subject to disciplinary action under
22 sections 2234 and 2242, subdivision (a) of the Code, in that
23 respondent committed acts of prescribing dangerous drugs without a
24 good faith prior examination and medical indication therefor. The
25 circumstances are as follows:

26 A. The facts and expert opinions alleged in above
27 subparagraphs 16.A. to 16.X. are incorporated by reference

1 herein as if fully set forth.

2 **EIGHTEENTH CAUSE FOR DISCIPLINE**

3 (Prescribing To An Addict)

4 21. Respondent is subject to disciplinary action under
5 sections 2234, 2238 and 2241 of the Code, in connection with
6 sections 11153 and 11156 of the Health and Safety Code, in that
7 respondent has prescribed controlled substances for other than a
8 legitimate medical purpose, to wit: for an addict. The
9 circumstances are as follows:

10 A. The facts and expert opinions alleged in above
11 subparagraphs 16.A. to 16.X. are incorporated by reference
12 herein as if fully set forth.

13 **NINETEENTH CAUSE FOR DISCIPLINE**

14 (Gross Negligence)

15 22. Respondent is subject to disciplinary action under
16 section 2234, subdivision (b) of the Code, in that respondent
17 committed acts of gross negligence while treating a patient under
18 his care. The circumstances are as follows:

19 A. Patient M.G. was first seen by respondent for
20 treatment on or about March 25, 1994. Respondent diagnosed
21 Adjustment Disorder and Anxiety. Respondent noted M.G.'s
22 ongoing use of Lortab 7.5 mg. 1 q day and Vicodin-ES.
23 Respondent also noted hypertension and cluster headaches, and
24 M.G.'s treatment by Dr. Harold Weiner with an ace inhibitor.
25 Also noted was Epstein Barr since 1986 and compulsive
26 behavior. The performance of a mental status examination was
27 not documented. No impression was noted. As a treatment

1 plan, respondent simply noted "follow-up prn." Respondent
2 prescribed the following: Lortab 7.5 mg. #100, Sinequan tab
3 #100, Soma 350 mg 1 q day #100.

4 B. M.G. returned to respondent for treatment on or
5 about April 8, 1994. Respondent noted headaches, a review of
6 medical records, the absence of side-effects, and follow-up.
7 Respondent prescribed Lortab 7.5 mg 1 qid #100 and Soma 350 mg
8 1 q day #100. [No notation was made to explain how M.G. had
9 run out of 100 Lortab tablets in 2 weeks.]

10 C. M.G. next saw respondent for treatment on or
11 about April 25, 1995. Respondent prescribed Lortab 7.5 mg
12 #100 and Lorcet 1 tab qid #100. [No reason was noted for
13 giving M.G. two Hydrocodone based narcotics.]

14 D. M.G. returned to respondent for treatment on or
15 about August 25, 1994. Respondent noted a review of
16 medications, the absence of side effects, and discussion of
17 the addictive nature of the medications with M.G. Respondent
18 prescribed Lorcet #100.

19 E. M.G. again saw respondent for treatment on or
20 about August 29, 1994. Respondent prescribed Lorcet #100 tid
21 for severe back pain.

22 F. M.G. returned to respondent for treatment on or
23 about September 20, 1994. Respondent noted the following:
24 "[G]athered info from pharmacy - maybe Vicodin and Soma
25 problem - may be seeing Dr. Ho & Dr. Alsell - will move slowly
26 - he changes doctors when confronted too brusquely."

27 G. M.G. next saw respondent for treatment on or

1 about November 1, 1994. Respondent noted the following:
2 "[S]till trying to evaluate situation properly - I requested
3 he bring me X-rays to show that he actually had lumbar pain -
4 see scripts - explained he cannot continue - will confer with
5 pharmacist to assess situation more accurately." Respondent
6 prescribed Soma 350 mg. 1 tid #100 for lumbar pain, Lorcet prn
7 #100 for severe chronic intractable lumbar pain, Lortab 7.5
8 mg. 1 tid prn #100 for severe chronic intractable lumbar pain.
9 [No follow-up on the requested X-ray was noted.]

10 H. On or about November 1, 1994, respondent issued
11 the following additional prescriptions for M.G: Lortab 7.5 mg
12 tid prn #100 for severe chronic intractable lumbar pain,
13 Lorcet 1 tid prn #100 for severe chronic intractable lumbar
14 pian, and Soma 350 mg. 1 tid #100 for lumbar pain. [No
15 explanation was noted for these duplicate, same day
16 prescriptions.]

17 I. M.G. returned to respondent for treatment on or
18 about February 3, 1995. Respondent noted the following:
19 "[B]ecoming apparent that [M.G.] has been using Lortab, Lorcet
20 and Soma for approx. 13 yrs. - he actually nods out at times -
21 wife is aware of problem - difficulty in dealing with
22 situations - pt's lack of insight and unwillingness to change
23 - many friends are also concerned about situation including
24 pharmacist . . . lack of forthrightness." Respondent then
25 prescribed Soma 350 mg q 4 hrs, 2 q 6 hrs. #100, Lorcet 10 mg
26 q 4-6 hrs prn severe pain #100, and Lortab 7.5 mg 1 q 4-6 hrs
27 prn severe pain #100.

1 J. M.G. returned to respondent for treatment on or
2 about February 22, 1995. Respondent noted Epstein Barr,
3 severe pain, a 20 pound weight loss, and follow-up on a blood
4 test to be forwarded. Respondent repeated the identical
5 prescriptions for Soma, Lorcet and Lortab given on February 3,
6 1995.

7 K. From on or about February 22, 1995 to October
8 13, 1998, respondent continued to prescribe 300 of the same
9 pills to M.G., after each visit, at the rate of twice per
10 month. For example, in September 1996, respondent issued the
11 following prescriptions to M.G: 100 tablets of Hydrocodone or
12 Vicodin 7.5 mg. on September 4th; 100 tablets of Hydrocodone
13 or Vicodin 7.5 mg. on September 6th; 100 tablets of Lortab 10
14 mg on September 18th; 100 tablets of Lorcet 10 mg. on September
15 19th; 100 tablets of Hydrocodone or Vicodin 7.5 mg. on
16 September 24th; and 100 tablets of Lortab 10 mg. on September
17 28th.

18 L. On or about August 19, 1998, M.G. informed
19 respondent that he was taking 30 to 55 pills per day. On or
20 about the same date, M.G. told Riverside Sheriffs that
21 respondent would prescribe controlled substances for him
22 without conducting a physical examination.

23 M. **[Extreme Departures from Standard of Practice]**

24 Respondent engaged in extreme departures from the standard of
25 practice in his care and treatment of M.G., as follows:

- 26 1. Respondent prescribed narcotic substances
27 to M.G. without good faith prior examination or

1 medical indication therefor, and/or failed to
2 document a good faith prior examination or medical
3 indication therefor.

4 2. Respondent failed to consult with M.G.'s
5 other treating physicians to coordinate his care
6 and treatment, and/or failed to document same.

7 3. Respondent failed to refer M.G. to
8 physicians specializing in internal medicine and
9 orthopedics, in order to verify the cause or causes
10 of his intractable lower back pain complaints, and
11 or failed to document same.

12 4. Respondent failed to discontinue or
13 restrict the prescriptions of Lortab and Lorcet,
14 both of which contain the narcotic Hydrocodone,
15 when their use by M.G. reached a potentially
16 addictive level.

17 5. Respondent excessively prescribed Lortab
18 and Lorcet on November 1, 1994 and September 1996.

19 6. Respondent failed to diagnose M.G.'s
20 addiction to opiates, but only diagnosed Adjustment
21 Disorder with Anxiety and Depressive Disorder and
22 then failed to treat these conditions with anti-
23 anxiety or anti-depressant medications, and/or
24 failed to document same.

25 **TWENTIETH CAUSE FOR DISCIPLINE**

26 (Repeated Negligent Acts)

27 23. Respondent is subject to disciplinary action under

1 section 2234, subdivision (c) of the Code, in that respondent
2 engaged in repeated acts of negligence while treating a patient
3 under his care. The circumstances are as follows:

4 A. The facts alleged in above subparagraphs 22.A.
5 to 22.L. are incorporated by reference herein as if fully set
6 forth.

7 B. **[Repeated Negligent Acts]** Respondent engaged in
8 repeated negligent acts in his care and treatment of M.G., as
9 follows:

10 1. Respondent prescribed narcotic substances
11 to M.G. without good faith prior examination or
12 medical indication therefor, and/or failed to
13 document a good faith prior examination or medical
14 indication therefor.

15 2. Respondent failed to consult with M.G.'s
16 other treating physicians to coordinate his care
17 and treatment, and/or failed to document same .

18 3. Respondent failed to refer M.G. to
19 physicians specializing in internal medicine or
20 orthopedics, in order to verify the cause or causes
21 of his intractable lower back pain complaints,
22 and/or failed to document same.

23 4. Respondent failed to discontinue or
24 restrict the prescriptions for Lortab and Lorcet,
25 both of which contain the narcotic Hydrocodone,
26 when their use by M.G. reached a potentially
27 addictive level.

1 5. Respondent excessively prescribed Lortab
2 and Lorcet on November 1, 1994 and September 1996.

3 6. Respondent failed to diagnose M.G.'s
4 addiction to opiates, but only diagnosed Adjustment
5 Disorder with Anxiety and Depressive Disorder and
6 then failed to treat these conditions with anti-
7 anxiety or anti-depressant medications, and/or
8 failed to document same.

9 **TWENTY-FIRST CAUSE FOR DISCIPLINE**

10 (Incompetence)

11 24. Respondent is subject to disciplinary action under
12 section 2234, subdivision (d) of the Code, in that respondent has
13 demonstrated incompetence while treating a patient under his care.

14 The circumstances are as follows:

15 A. The facts alleged in above subparagraphs 22.A.
16 to 22.L. are incorporated by reference herein as if fully set
17 forth.

18 B. The opinions reached in above subparagraph
19 22.M., which are indicative of both lack of sound medical
20 judgment and medical knowledge, are incorporated by reference
21 herein as if fully set forth.

22 **TWENTY-SECOND CAUSE FOR DISCIPLINE**

23 (Excessive Prescribing)

24 25. Respondent is subject to disciplinary action under
25 sections 725 and 2234 of the Code, in that respondent committed
26 acts of clearly excessive prescribing of Lortab and Lorcet while
27 treating a patient under his care. The circumstances are as

1 follows:

2 A. The facts and expert opinions alleged in above
3 subparagraphs 22.A. to 22.M. are incorporated by reference
4 herein as if fully set forth.

5 **TWENTY-THIRD CAUSE FOR DISCIPLINE**

6 (Prescribing Without Good Faith Examination)

7 26. Respondent is subject to disciplinary action under
8 sections 2234 and 2242, subdivision (a) of the Code, in that
9 respondent prescribed dangerous drugs without a good faith prior
10 examination and medical indication therefor. The circumstances are
11 as follows:

12 A. The facts and expert opinions alleged in above
13 subparagraphs 22.A. to 22.M. are incorporated by reference
14 herein as if fully set forth.

15 **TWENTY-FOURTH CAUSE FOR DISCIPLINE**

16 (Prescribing To An Addict)

17 27. Respondent is subject to disciplinary action under
18 sections 2234, 2238 and 2241 of the Code, in connection with
19 sections 11153 and 11156 of the Health and Safety Code, in that
20 respondent prescribed controlled substances to an addict for other
21 than a legitimate medical purpose. The circumstances are as
22 follows:

23 A. The facts and expert opinions alleged in above
24 subparagraphs 22.A. to 22.M. are incorporated by reference
25 herein as if fully set forth.

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1 TWENTY-FIFTH CAUSE FOR DISCIPLINE

2 (Gross Negligence)

3 28. Respondent is subject to disciplinary action under
4 section 2234, subdivision (b) of the Code, in that respondent
5 committed acts of gross negligence while treating a patient under
6 his care. The circumstances are as follows:

7 A. On or about September 1, 1998, patient E.Z., an
8 investigator working undercover for the Medical Board,
9 accompanied the formerly identified patient M.G. to
10 respondent's medical office. During this visit, respondent
11 asked E.Z. to state his complaint, whereupon E.Z. stated that
12 he had no complaint. E.Z. then indicated that he wanted
13 respondent to give him some "Norco" because it made him feel
14 good. Respondent informed E.Z. that Norco was for pain and
15 that he couldn't prescribed it except for pain. E.Z. asked
16 respondent if he would prescribe it for him if E.Z. claimed he
17 was in pain. Respondent stated that he would not, but then
18 gave E.Z. a prescription for Norco 1-325 #60 q 6 hrs prn
19 severe pain, and advised him not to return to his office.
20 Respondent did not examine E.Z., or take a medical history.
21 Respondent noted the making of the Norco prescription, as well
22 as the performance of a "psychological evaluation" resulting
23 in a diagnosis of Adjustment Disorder/Anxiety.

24 B. E.Z. returned to respondent's office on or about
25 October 13, 1998. During this visit, respondent asked E.Z. if
26 he still had pain, and if he had brought the X-ray previously
27 requested. E.Z. stated that he did not have back pain but

1 just wanted a prescription for Norco. Respondent reminded
2 E.Z. about his admonition not to return to the clinic and that
3 he would not prescribe without a medical indication or X-ray.
4 Respondent then handed E.Z. his chart and had E.Z. leave the
5 office. For this visit, respondent noted that he had
6 conducted 20 to 30 minutes of psychotherapy with E.Z.

7 C. **[Extreme Departures from Standard of Practice]**

8 Respondent engaged in extreme departures from the standard of
9 practice in his care and treatment of E.Z., as follows:

10 1. Respondent failed to obtain a history
11 prior to prescribing a narcotic, Norco, and/or
12 failed to document same.

13 2. Respondent failed to perform a mental
14 status examination prior to prescribing a narcotic,
15 Norco, and/or failed to document same.

16 3. Respondent failed to perform a physical
17 examination prior to prescribing a narcotic, Norco,
18 and/or failed to document same.

19 4. Respondent failed to consult with E.Z.'s
20 treating physician prior to prescribing a narcotic,
21 Norco, and/or failed to document same.

22 **TWENTY-SIXTH CAUSE FOR DISCIPLINE**

23 (Repeated Negligent Acts)

24 29. Respondent is subject to disciplinary action under
25 section 2234, subdivision (c) of the Code, in that respondent
26 engaged in repeated acts of negligence while treating a patient
27 under his care. The circumstances are as follows:

1 A. The facts alleged in above subparagraphs 28. A.
2 to 28.B. are incorporated by reference herein as if fully set
3 forth.

4 B. **[Repeated Negligent Acts]** Respondent engaged in
5 repeated negligent acts in his care and treatment of E.Z., as
6 follows:

7 1. Respondent failed to obtain a history
8 prior to prescribing a narcotic, Norco, and/or
9 failed to document same.

10 2. Respondent failed to perform a mental
11 status examination prior to prescribing a narcotic,
12 Norco, and/or failed to document same.

13 3. Respondent failed to perform a physical
14 examination prior to prescribing a narcotic, Norco,
15 and/or failed to document same.

16 4. Respondent failed to consult with E.Z.'s
17 treating physician prior to prescribing a narcotic,
18 Norco, and/or failed to document same.

19 **TWENTY-SEVENTH CAUSE FOR DISCIPLINE**

20 (Incompetence)

21 30. Respondent is subject to disciplinary action under
22 section 2234, subdivision (d) of the Code, in that respondent
23 demonstrated incompetence while treating a patient under his care.
24 The circumstances are as follows:

25 A. The facts alleged in above subparagraphs 28.A.
26 to 28.B. are incorporated by reference herein as if fully set
27 forth.

1 B. The opinions reached in above subparagraph
2 28.C., which indicate both a lack of sound medical judgment
3 and medical knowledge, are incorporated by reference herein as
4 if fully set forth.

5 **TWENTY-EIGHTH CAUSE FOR DISCIPLINE**

6 (Excessive Prescribing)

7 31. Respondent is subject to disciplinary action under
8 sections 725 and 2234 of the Code, in that respondent excessively
9 prescribed Norco while treating a patient under his care. The
10 circumstances are as follows:

11 A. The facts and expert opinions alleged in above
12 subparagraphs 28.A. to 28.C. are incorporated by reference
13 herein as if fully set forth.

14 **TWENTY-NINTH CAUSE FOR DISCIPLINE**

15 (Prescribing Without Good Faith Examination)

16 32. Respondent is subject to disciplinary action under
17 sections 2234 and 2242, subdivision (a) of the Code, in that
18 respondent prescribed a dangerous drug without a good faith prior
19 examination and medical indication therefor. The circumstances are
20 as follows:

21 A. The facts and expert opinions alleged in above
22 subparagraphs 28.A. to 28.C. are incorporated by reference
23 herein as if fully set forth.

24 **THIRTIETH CAUSE FOR DISCIPLINE**

25 (Making False Statements)

26 33. Respondent is subject to disciplinary action under
27 section 2261 of the Code, in that respondent made false statements

1 regarding a patient under his care. The circumstances are as
2 follows:

3 A. The facts alleged in above subparagraphs 28.A.
4 (i.e., performance of psychological evaluation on September 1,
5 1998) and 28.B. (i.e., performance of 20 to 30 minutes of
6 psychotherapy on October 13, 1998) are incorporated by
7 reference herein as if fully set forth.

8 **THIRTY-FIRST CAUSE FOR DISCIPLINE**

9 (Alteration of Medical Records)

10 34. Respondent is subject to disciplinary action under
11 section 2262 of the Code, in that respondent created a false
12 medical record with fraudulent intent. The circumstances are as
13 follows:

14 A. The facts alleged in above subparagraphs 28.A.
15 (i.e., performance of psychological evaluation on September 1,
16 1998) and 28.B. (i.e., performance of 20 to 30 minutes of
17 psychotherapy on October 13, 1998) are incorporated by
18 reference herein as if fully set forth.

19 **THIRTY-SECOND CAUSE FOR DISCIPLINE**

20 (Failure to Maintain Adequate Records)

21 35. Respondent is subject to disciplinary action under
22 section 2266 of the Code, in that respondent failed to maintain
23 adequate and accurate records relating to the provision of services
24 to a patient. The circumstances are as follows:

25 A. The facts alleged in above subparagraphs 28.A.
26 (i.e., performance of psychological evaluation on September 1,
27 1998) and 28.B. (i.e., performance of 20 to 30 minutes of

1 psychotherapy on October 13, 1998) are incorporated by
2 reference herein as if fully set forth.

3 THIRTY-THIRD CAUSE FOR DISCIPLINE

4 (Gross Negligence)

5 36. Respondent is subject to disciplinary action under
6 section 2234, subdivision (b) of the Code, in that respondent
7 committed acts of gross negligence while treating a patient under
8 his care. The circumstances are as follows:

9 A. On or about April 4, 1996, patient E.D., who had
10 a history of psychiatric hospitalizations and substance abuse,
11 first presented to respondent. Respondent diagnosed Bipolar
12 Affective Disorder (hereinafter "BAD"), Agoraphobia, Panic
13 Disorder, Post-Traumatic Stress Disorder (hereinafter "PTSD")
14 and Migraine. Respondent prescribed Halcion 25 mg #30,
15 Fioricet w/codeine #45 and Valium 10 mg. #60.

16 B. On or about April 23, 1996, E.D. returned to
17 respondent for follow-up. Respondent noted that E.D. was
18 "stable" but facing possible criminal charges for "interfering
19 with a flight attendant." Also noted were the drugs Xanax and
20 Serzone in connection with a Dr. Sandler. Respondent
21 prescribed Halcion 25 mg #30, Fioricet w/codeine #45 and
22 Valium 10 mg. #60.

23 C. On or about April 26, 1996, respondent ordered
24 the following prescriptions for E.D. to be issued at the Rite
25 Aid Pharmacy: Triazolam 25 mg. #30, Fioricet w/codeine #60
26 and Diazepam [Valium] 10 mg. #60.

27 D. On or about May 13, 1996, Triazolam 25 mg. #30

1 and Valium 10 mg. #60 were dispensed to E.D. at the Rite Aid
2 Pharmacy.

3 E. On or about May 21, 1996, E.D. was arrested in
4 New York for possession of controlled substances.

5 F. On or about June 25, 1996, E.D. presented to
6 respondent, who noted a seven year history of "anxiety
7 attacks." Respondent diagnosed Adjustment Disorder with Mixed
8 Anxiety and Depressed Mood or Depression Disorder, NOS.
9 Respondent prescribed Xanax .5 mg. #100, Halcion .25 mg. #50,
10 Fioricet w/codeine #45, Valium 10 mg. #60 and Phenergan
11 w/codeine 16 oz.

12 G. On or about June 28, 1996, an original
13 prescription from respondent for Xanax .5 mg. #120 was issued
14 to E.D. at the Garfield Pharmacy. [Thus from June 25 to 28,
15 1996, respondent made an average of 33 tablets of Xanax .5 mg.
16 available to E.D. for daily consumption.]

17 H. On or about July 3, 1996, respondent issued the
18 following telephone prescriptions for E.D: Xanax .5 mg. #60,
19 Fioricet w/codeine #45, Halcion .25 mg. #30, Valium 10 mg.
20 #60. [Thus from June 25 to July 3, 1996, respondent made an
21 average of 24 tablets of Xanax .5 mg. available to E.D. for
22 daily consumption.]

23 I. On or about July 11, 1996, E.D. presented to
24 respondent with a complaint of insomnia. Respondent diagnosed
25 Adjustment Disorder and Depressive Disorder, NOS. Respondent
26 prescribed Xanax 1 mg. #100, Valium 10 mg. #100 and Fioricet
27 w/codeine #45.

1 J. On or about July 16, 1996, E.D. was sentenced to
2 serve 30 days in jail for the incident involving the flight
3 attendant.

4 K. On or about August 17, 1996, E.D. was admitted
5 to the Silver Hill Hospital in Connecticut. He was diagnosed
6 with Bipolar 1 Disorder. His eight year history of substance
7 abuse involving alcohol, crack cocaine, benzodiazepines and
8 Fioricet was documented. E.D.'s Bipolar Disorder was
9 successfully treated with Depakote, Lithium Carbonate and
10 Tegretol.

11 L. On or about September 3, 1996, while E.D. was
12 still a patient at Silver Hill Hospital, respondent issued a
13 telephone prescription of Robitussin AC, a cough medicine with
14 codeine 240 mg., for E.D. [There is no indication in the
15 records that this prescription was issued in consultation with
16 E.D.'s treating physician at Silver Hill Hospital.]

17 M. On or about October 19, 1996, E.D. was
18 transferred from Silver Hill Hospital to The Cottage, a
19 partial hospitalization program.

20 N. On or about November 28, 1996, E.D. was
21 transferred from The Cottage to the outpatient department of
22 Silver Hill Hospital.

23 O. On or about November 29, 1996, respondent
24 received a letter from Lee Merak of MEDCO Managed Care
25 Corporated, warning that respondent's contemporaneous
26 prescriptions of the sedative hypnotics, Valium and Xanax,
27 were duplicative and clinically unnecessary, and suggesting

1 that one of these drugs be discontinued. Respondent answered
2 this letter in writing, stating in part that "my patient and
3 I will decide, at our leisure, what action to take next."

4 P. On or about December 3, 1996, Dr. Sheehy of the
5 Silver Hill Hospital documented that E.D. had tested positive
6 on a urine test for barbiturates, benzodiazepines, opiates and
7 cocaine. Dr. Sheehy also noted that E.D. disclosed receiving
8 Fioricet and Xanax from a physician in California.

9 Q. On or about December 21, 1996, respondent wrote
10 the following prescriptions for E.D: Valium 10 mg. #60,
11 Fioricet w/codeine #45 and Triazolam .25 mg. #50.

12 R. On or about January 27, 1997, E.D. presented to
13 respondent, who noted E.D.'s use of Lithium 900 mg. and
14 Fioricet. Respondent prescribed Xanax 1 mg. #100, Valium 10
15 mg. #100, Fioricet w/codeine and Halcion .25 mg. #60.

16 S. On or about January 27, 1997, respondent
17 authorized a prescription for Valium 10 mg. #60 for E.D. at
18 the Mickey Fine Pharmacy.

19 T. On or about February 7, 1997, respondent
20 authorized the following prescriptions for E.D. from the Rite
21 Aid Pharmacy: Xanax 2 mg. #63, Valium 2 mg. #60, Ambien 10 mg.
22 #30 and Fioricet w/codeine #100. [Thus from January 27 to
23 February 7, 1997, respondent made an average of 9 tablets of
24 Xanax 1 mg., 9 tablets of Valium 10 mg. and 9 tablets of
25 Fioricet w/codeine available to E.D. for consumption on a
26 daily basis.]

27 U. On or about February 9, 1997, E.D. was arrested

1 after an auto accident for being under the influence of
2 controlled substances, as shown by a urine test. Respondent's
3 records for E.D. contain a copy of the laboratory report on
4 the urine test showing that at the time of the incident
5 excessive levels of barbiturates, benzodiazepines and opiates
6 were in E.D.'s system. [From January 27 to February 9, 1997,
7 respondent made an average of 9 tablets of Xanax 1 mg., 9
8 tablets of Valium and 9 tablets of Fioricet w/codeine
9 available to E.D. for consumption on a daily basis.]

10 V. On or about February 28, 1997, E.D. presented to
11 respondent, who noted dry mouth and slurred speech.
12 Respondent also noted the manifestation of a "quick temper"
13 and "suicidal" thinking. Respondent prescribed Elavil 25 mg.
14 #60, Phenergan w/codeine 480 mg., Klonopin 2 mg. #60 and Paxil
15 20 mg. #45.

16 W. On or about March 3, 1997, respondent wrote a
17 letter to E.D.'s attorney, Mr. Murphy, stating that the serum
18 levels found in E.D.'s urine sample taken following the auto
19 accident of February 9, 1997, as noted in the Long Beach
20 Toxicology Report of February 11, 1997, "should not cause
21 intoxication." [This laboratory report showed 3.9 ugs/ml of
22 morphine, 1.9 ugs/ml of codeine, 1.2 ugs/ml of carbamazepine
23 and 1.4 ugs/ml of butalbital.]

24 X. On or about March 3, 1997, respondent issued a
25 prescription to E.D. for Promethazine w/codeine 90 mg., which
26 was filled at the Rite Aid Pharmacy the next day.

27 Y. On or about March 12, 1997, respondent diagnosed

1 E.D. with BAD, migraine, PTSD, Panic Disorder and left
2 armplesia, and noted a history of cocaine and amphetamine
3 dependence.

4 Z. On or about March 16, 1997, E.D. was admitted to
5 The Meadows in Arizona for treatment of his mental disorder
6 and addictions. E.D. was diagnosed with Cocaine Dependence;
7 Alcohol Dependence; Sedative Hypnotic Dependence (i.e., Xanax,
8 Klonopin, Ambien); BAD; Panic Disorder without Agoraphobia;
9 PTSD; Borderline Personality Disorder Traits; and Nerve Injury
10 - Left Arm, resolved. Respondent noted that at the Meadows,
11 E.D. received prescriptions for Depakote 6 pills per day,
12 Lithium 6 pills per day, Xanax, Valium, Tegretol x 2, Paxil 20
13 mg. #28 and Ambien 10 mg. #4.

14 AA. On or about March 25, 1997, while E.D. was
15 still under another physician's care at The Meadows,
16 respondent authorized prescriptions for E.D. of Elavil 25 mg.
17 #21, Klonopin 2 mg. #28 and Phenergan w/codeine 480 mg.
18 Separate prescriptions for the codeine syrup were made for
19 each of the ensuing two days.

20 BB. On or about April 3, 1997, respondent requested
21 that E.D. be retained at The Meadows until late April 1997.
22 On or about the same date, respondent wrote a letter to the
23 judge in E.D.'s pending criminal case, wherein respondent
24 represented that he had treated E.D. as often as three times
25 per week during the later part of February and early March
26 1997, though respondent's records show that he provided
27 treatment to E.D. during this period at the rate of once per

1 week.

2 CC. On or about April 21, 1997, the Meadows agreed
3 in writing to pay respondent \$25 per week to provide E.D. with
4 26 treatment sessions as part of its aftercare program.

5 DD. On or about April 28, 1997, E.D. was discharged
6 from The Meadows for not following the rules. E.D. was
7 discharged with the following prescriptions: Desyrl 125 mg.
8 #4, Depakote 500 mg. #7, Effexor 50 mg. #8, Elavil 150 mg. #5,
9 Buspar 10 mg. #16 and Tegretol 100 mg. #13. E.D. then
10 transferred to Serenity Springs in Newport Beach, California.

11 EE. On or about May 5, 1997, E.D. was sentenced to
12 3 years probation for possessing narcotic drugs when arrested
13 on May 21, 1996. E.D. faxed a letter to respondent requesting
14 prescriptions. Respondent prescribed the following drugs for
15 E.D: Xanax 1 mg. #18, Fioricet w/codeine #8, Prilosec 20 mg.
16 #30, Desyrel #12, Tegretol 200 mg. #12, Depakote 500 mg. #12
17 and Elavil 100 mg. #5.

18 FF. On or about May 9, 1997, respondent issued the
19 following telephone prescriptions for E.D. to Simon's
20 Pharmacy: Xanax 1 mg. #84, Acetamenophen w/codeine 60 mg. #28,
21 Claritin 10 mg. #14 and Triazalam .25 mg. #14.

22 GG. On or about May 19, 1997, respondent entered
23 the following comments in E.D.'s medical file: "stopped Li,"
24 "Hypomanic," "angry," "Brotman psych Hosp.," "backed into a
25 parked car > trial pending," "Meadows > Serenity Springs >
26 kicked out." Respondent diagnosed BAD, PTSD and Panic
27 Disorder. Respondent prescribed Elavil 100 mg. #15, Depakote

1 500 mg. #60, Desyrel 50 mg. #45.

2 HH. On or about May 31, 1997, respondent issued
3 telephone prescriptions for E.D. at the Marvin Pharmacy as
4 follows: Xanax 1 mg. #84, Tylenol w/codeine #29,
5 Carbamazepine #45, Trazadone 50 mg. #45, Amitriptyline 100 mg.
6 #15 and Depakote 500 mg. #60.

7 II. On or about June 11, 1997, respondent issued
8 telephone prescriptions for E.D. at Simon's Pharmacy as
9 follows: Triazolam .25 mg. #15, Xanax 1 mg. #75 and Fioricet
10 w/codeine #28.

11 JJ. On or about June 12, 1997, the Rite Aid
12 Pharmacy filled the following prescriptions issued by
13 respondent for E.D: Xanax 1 mg. #150, Fioricet w/codeine #28,
14 Desyrel 50 mg. #45 and Halcion .25 mg. #25. [From June 11 to
15 12, 1997, respondent made 225 tablets of Xanax 1 mg. available
16 to E.D.]

17 KK. On or about June 25, 1997, E.D. presented to
18 respondent, who noted that E.D. was "stable, pleasant, no se
19 [side effects]." Billing records show that respondent faxed
20 the following prescriptions to New York for E.D: Desyrel 50
21 mg. #45, Fioricet w/codeine #28, Elavil 100 mg. #15, Tegretol
22 200 mg. #45, Depakote 250 mg. #60 and Halcion .25 mg. #45.

23 LL. On or about June 25, 1997, respondent noted a
24 prescription to E.D. of Xanax 1 mg. 5 qd [each day]. [From
25 June 11 to 25, 1997, respondent made an average of 15 tablets
26 of Xanax 1 mg. available to E.D. for consumption on a daily
27 basis.]

1 MM. On or about July 14, 1997, respondent issued
2 the following telephone prescriptions for E.D. to the Garfield
3 Pharmacy: Xanax 1 mg. #75, Fioricet w/codeine #28, Tegretol
4 200 mg. #45, Depakote 250 mg. #60, Desyrel 50 mg. #45, Halcion
5 .25 mg. #15 and Amitriptyline 100 mg. #15.

6 NN. On or about July 18, 1997, E.D. presented to
7 respondent, who diagnosed BAD, PTSD, Panic Disorder, migraine,
8 and a history of cocaine/amphetamine dependence. Respondent
9 prescribed Fioricet w/codeine #45, Valium 10 mg. #30 and
10 Lorazepam 2 mg. #30.

11 OO. On or about July 25, 1997, E.D. was arrested
12 for battery.

13 PP. On or about August 5, 1997, respondent issued
14 the following prescriptions for E.D: Xanax 1 mg. #70, Fioricet
15 w/codeine #28, Elavil 100 mg. #15, Depakote 250 mg. #60, Paxil
16 10 mg. #45 and Tegretol 200 mg. #45.

17 QQ. On or about September 9, 1997, respondent
18 diagnosed BAD, PTSD, Panic Disorder and migraine for E.D.
19 Respondent issued the following prescriptions to E.D., which
20 were filled at Rexall Long Drugs: Xanax 1 mg. #70, Fioricet
21 w/codeine #28, Elavil 100 mg. #15, Depakote 250 mg. #60, Paxil
22 10 mg. #45 and Tegretol 200 mg. #45. Respondent also billed
23 for 30 minutes of psychotherapy, though there is no indication
24 in E.D.'s chart that this service was provided.

25 RR. On or about September 10, 1997, respondent
26 issued a telephone prescription for E.D. of Fioricet
27 w/codeine.

1 SS. On or about September 22, 1997, respondent
2 issued the following telephone prescriptions for E.D. to the
3 Garfield Pharmacy: Xanax 1 mg. #105, Fioricet w/codeine #42
4 and Halcion .25 mg. #21. Respondent also billed for 30
5 minutes of psychotherapy, though there is no indication in
6 E.D.'s chart that this service was provided.

7 TT. On or about October 2, 1997, respondent noted
8 a 7-day renewal of prescriptions for E.D. by telephone order,
9 as follows: Xanax 1 mg. #35, Fioricet w/codeine # 14 and
10 Halcion .25 mg. #8. Respondent also noted a 30 minute
11 psychotherapy session on E.D.'s outpatient form, though there
12 is no description in E.D.'s chart of such a session.

13 UU. On or about October 17, 1997, respondent noted
14 a 14-day renewal of prescriptions for E.D. by telephone order
15 to Thrifty Pharmacy, as follows: Xanax 1 mg. #70 (5 per day),
16 Fioricet w/codeine #28 and Halcion .25 mg 1 qhs #14.
17 Respondent diagnosed BAD, and noted that E.D. was stable.

18 VV. On or about October 30, 1997, respondent issued
19 telephone orders for prescriptions of Xanax and Halcion for
20 E.D. to Thrifty Pharmacy on Sunset Boulevard in Los Angeles,
21 and also issued telephone orders to the Manhattan Plaza
22 Pharmacy in New York City for E.D. of the following: Xanax 1
23 mg. 5 qd #70, Fioricet w/codeine #28, Depakote 250 mg. x 6
24 [refills], Tegretol x 3 [refills], Desyrel x 3 [refills],
25 Elavil 100 mg. 1 qhs and Halcion .25 mg. #15. The latter
26 prescriptions were filled the next day.

27 WW. On or about November 12, 1997, respondent

1 issued telephone orders for the following prescriptions for
2 E.D. to the Garfield Pharmacy: Xanax 1 mg. #21 x 5 [refills],
3 Fioricet w/codeine #28, Elavil 100 mg. #21 x 1 [refill] and
4 Halcion #21.

5 XX. On or about December 2, 1997, respondent noted
6 renewals for the following prescriptions for E.D. ordered from
7 Rite Aid in Los Angeles: Xanax 1 mg. #105 x 5 [refills],
8 Fioricet w/codeine #42, Elavil 100 mg. #21 x 1 [refill] and
9 Halcion .25 mg. #21.

10 YY. On or about December 5, 1997, E.D. was admitted
11 involuntarily to Gracie Square Hospital in New York City,
12 following his arrest for inappropriate touching of a girl on
13 a high school campus and subsequent observation at Bellevue
14 Hospital, where he was described as "agitated, not
15 cooperative, with pressured speech, bizarre behavior and
16 anxious mode." E.D. was medicated with Librium, Depakote,
17 Thiamine, Klonopin, Haldol and Cogentin.

18 ZZ. On or about December 10, 1997, E.D. was
19 discharged from Gracie Square Hospital against medical advice.
20 The diagnoses on discharge were Bipolar 1 Disorder without
21 psychotic features, most recent episode mixed; Alcohol Abuse,
22 episodic; Cocaine Abuse, episodic. E.D. was discharged with
23 the following 10-day supply of medications: Depakote 750 mg.
24 bid, Haldol 2 mg. bid, bed; Klonopin 1 mg. tid; Cogentin 1 mg.
25 bid, bed. A referral and treatment plan were sent to
26 respondent, which included a recommendation of follow-up
27 laboratory testing for liver function, Depakote level and

1 complete blood count.

2 AAA. On or about January 8, 1998, respondent noted
3 a telephone renewal of prescriptions for E.D. to Simon's
4 Discount Pharmacy, as follows: Xanax 1 mg. #105 x 5 [refills],
5 Fioricet w/codeine bid #42, Halcion .25 mg. #21, Elavil 100
6 mg. #21 and Prilosec 20 mg. #21. Respondent diagnosed BAD,
7 PTSD, Panic Disorder, migraine and drug abuse. [The
8 medications used at Gracie Square Hospital to treat E.D.'s
9 Bipolar Disorder, i.e., Depakote and Haldol, were not renewed;
10 nor was follow-up laboratory testing for liver function,
11 Depakote level, or complete blood count prescribed and/or
12 documented.]

13 BBB. On or about January 27, 1998, respondent noted
14 Depakote 250 mg. x 3[refills], "D/C Haldol, D/C Cogentin."
15 Copies of prescriptions for Haldol 5 mg. #30 and Cogentin 2
16 mg. #100 were placed in E.D.'s chart. Respondent noted the
17 renewal of the following "Gracie Square" medications: Klonopin
18 1 mg. #105 x 5[refills], Halcion .25 mg. #21 x 4[refills] and
19 Loritab Plus #62. [No diagnosis was documented to
20 substantiate the Loritab prescription.]

21 CCC. On or about January 28, 1998, respondent
22 issued prescriptions for Loritab 10 - 500 #42 [which is
23 composed of 10 mg. Hydrocodone and 500 mg. Acetaminophen].

24 DDD. On or about March 12, 1998, respondent issued
25 the following prescriptions for E.D: Xanax 1 mg. #150,
26 Fioricet w/codeine #63, Elavil 50 mg. #30, Haldol 5 mg. #30
27 and Halcion .25 mg. #21.

1 EEE. On or about March 13, 1998, the Garfield
2 Pharmacy noted the following prescriptions from respondent for
3 E.D: Xanax 1 mg. #105, Elavil 50 mg. #21, Haldol 5 mg. #21
4 and Halcion .25 mg. #21.

5 FFF. On or about March 18, 1998, respondent
6 prescribed Fioricet w/codeine #42 to E.D. for severe pain.

7 GGG. On or about May 4, 1998, respondent diagnosed
8 E.D. as having BAD, PTSD and Panic Disorder. Respondent
9 described E.D. as "stable." Respondent placed a copy of a
10 letter, dated May 4, 1998, that he had provided for E.D.'s
11 court case, in E.D.'s medical record. In this letter,
12 respondent stated that he was treating E.D. for tendonitis
13 lumbar spine (726.90) and migraine with Fioricet w/codeine and
14 Xanax 1 mg. (5 per day), and that E.D. was unable to perform
15 physical labor. Respondent issued telephone prescriptions for
16 E.D. to Marvin's Pharmacy, as follows: Xanax 1 mg. #105 and
17 Halcion .25 mg. #21. Respondent also issued telephone
18 prescriptions for E.D. to Consumer Pharmacy, as follows: Xanax
19 1 mg. #105, Halcion .25 mg. #21, Elavil 50 mg. #30, Wellbutrin
20 75 mg. #60, Fioricet w/codeine #63. [Thus, on May 4, 1998,
21 respondent prescribed 210 tablets of Xanax 1 mg. to E.D.]

22 HHH. On or about May 28, 1998, respondent
23 prescribed the following drugs for E.D: Xanax 1 mg. #105,
24 Fioricet w/codeine #63, Desyrel 50 mg. #60, Elavil 50 mg. #30
25 and Halcion .25 mg. #21. [From May 4 to 28, 1998, respondent
26 made an average of 9 tablets of Xanax 1 mg. available to E.D.
27 for consumption on a daily basis.]

1 III. On or about June 30, 1998, respondent issued
2 telephone orders for the following prescriptions for E.D. to
3 the Garfield Pharmacy: Xanax 1 mg. #105, Fioricet w/codeine
4 #100, Desyrel 50 mg. #42, Elavil 50 mg. #21 and Halcion .25
5 mg. #30.

6 JJJ. On or about August 17, 1998, respondent noted
7 that E.D. was "doing well" and performing "community service -
8 graffiti." Respondent also noted a Duragesic 100 ugs patch
9 [i.e., fentanyl transdermal system for chronic pain; fentanyl
10 being an oral opiate analgesic]. Respondent prescribed
11 Halcion .25 mg. #21, Wellbutrin 75 mg. #60, Ativan 1 mg. #105,
12 Vicodin ES #63 [7.5 mg. Hydrocodone and 750 mg. Acetaminophen]
13 and Elavil 50 mg. #30.

14 KKK. On or about September 29, 1998, respondent
15 diagnosed Panic Disorder, but noted that E.D. was "stable" and
16 "pleasant." Respondent prescribed Vicodin ES #63, Depakote
17 250 mg. #180 (3 per day), Desyrel 50 mg. #50 (2 per day) and
18 Halcion .25 mg. (1 prn).

19 LLL. On or about October 21, 1998, respondent noted
20 that E.D. had been on Xanax for two years without side
21 effects. Respondent diagnosed E.D. with Panic Disorder.
22 Respondent prescribed Xanax 2 mg. #105, Desyrel 50 mg. #60,
23 Immodium #30, Halcion .25 mg. #21, Vicodin ES #63 and Zyprexa
24 10 mg. #21. Respondent also issued telephone prescriptions
25 for E.D. to the Consumer Discount Pharmacy, as follows: Xanax
26 2 mg. #100 and Zyprexa 5 mg. #60. [Thus on this date
27 respondent prescribed 205 tablets of Xanax 1 mg. to E.D.]

1 MMM. On or about November 5, 1998, respondent noted
2 a review of E.D.'s medications and a finding of no side
3 effects. E.D. was described as being stable. Respondent
4 prescribed Wellbutrin 75 mg. #60, Halcion .25 mg. #21, Vicodin
5 ES #63 and Depakote 250 mg. #180.

6 NNN. On or about November 20, 1998, E.D. was
7 admitted to The Menninger Clinic in Kansas on a voluntary
8 basis, following an incident with a stewardess on an airline
9 flight. E.D. was hospitalized for acute intoxication. A
10 urine test proved positive for cocaine. Wellbutrin was
11 discontinued. E.D.'s intake of benzodiazepines, Vicodin and
12 Depakote were systematically reduced.

13 OOO. On or about December 7, 1998, E.D. was
14 discharged from the hospital and admitted to the Clinic's
15 residential program. E.D. was discharged from the program
16 three days later when a drug screen came back positive for
17 cocaine. By this date, E.D.'s intake of psychotropic
18 medications had been reduced, and he was receiving Klonopin 1
19 mg. bid as needed. The diagnoses at discharge included
20 Polysubstance Dependence; Bipolar Disorder, Mixed; Depression,
21 recurrent; PTSD, chronic, delayed; Panic Disorder without
22 Agoraphobia; Mixed Personality Disorder with Borderline
23 Features.

24 PPP. On or about December 18, 1998, respondent
25 noted "R/R meds, stable, negative ses [side effects]."
26 Respondent diagnosed E.D. with BAD. Respondent issued
27 telephone orders for prescriptions for E.D. to the Garfield

1 Pharmacy, as follows: Xanax 2 mg. #100, Zoloft 50 mg. #30,
2 Desyrel #30, Immodium 2 mg. #30, Halcion .25 mg. #30 and
3 Fioricet w/codeine #63. [No prescription for a mood stabilizer
4 was documented as having been ordered and/or provided.]

5 QQQ. On or about January 11, 1999, respondent
6 prescribed Xanax 2 mg. #105 for E.D.

7 RRR. On or about January 13, 1999, respondent noted
8 that E.D. was "stable and pleasant." Respondent prescribed
9 Zyprexa 10 mg. #30, Vicodin ES #63, Xanax 2 mg. #105 and
10 Halcion .25 mg. #21, which were filled at Marvin's Pharmacy.
11 Respondent also issued telephone prescriptions for E.D. to the
12 Consumer Discount Pharmacy for the following: Zyprexa 10 mg.
13 #30, Halcion .25 mg #21, Xanax 2 mg. #105, Vicodin ES #63 and
14 Depakote 250 mg. #180. Respondent also issued telephone
15 prescriptions for E.D. to the Garfield Pharmacy for the
16 following: Zyprexa 10 mg. #30, Halcion .25 mg. #21, Vicodin ES
17 #63 and Xanax 2 mg. #105. [Thus on this date respondent
18 provided E.D. with 315 tablets of Xanax 2 mg., 189 tablets of
19 Vicodin ES, and 63 tablets of Halcion .25 mg.]

20 SSS. On or about January 26, 1999, respondent noted
21 that E.D. was without side effects and appeared "stable and
22 pleasant." Respondent prescribed Xanax 2 mg. #105, Vicodin ES
23 #63 and Halcion .25 mg. #21. [From January 13 to 26, 1999,
24 respondent provided E.D. with 420 tablets of Xanax 2 mg., an
25 average of 30 tablets per day.]

26 TTT. On or about February 5, 1999, respondent noted
27 that E.D. has lost 15 pounds and was manifesting a mid-life

1 crisis, but remained stable and without side effects.
2 Respondent prescribed Klonopin 2 mg. #105, Vicodin ES #63,
3 Halcion .25 mg. #21 and Lomotil #45. Respondent also issued
4 telephone prescriptions for E.D. to Consumer Discount Pharmacy
5 for Klonopin 2 mg. #105 and Lomotil #45. Respondent also
6 issued a telephone prescription for E.D. to Garfield Pharmacy
7 for Vicodin #100.

8 UUU. On or about March 5, 1999, respondent reviewed
9 E.D.'s medications and found no side effects. Respondent
10 described E.D. as being stable and pleasant. Respondent
11 prescribed Vicodin ES #63, Klonopin 2 mg. #105, Halcion .25
12 mg. #21 and Lomotil #45.

13 VVV. On or about March 15, 1999, E.D. was seen at
14 respondent's office by Dr. Raymond Reynolds. E.D. claimed
15 that his medications had been mistakenly thrown away, and
16 requested refills. Dr. Reynolds prescribed Vicodin ES #90,
17 Halcion .25 mg. #30, Klonopin 2 mg. #150 and Lomotil #60.

18 WWW. On or about April 1, 1999, E.D. was admitted
19 to Cedars Sinai Medical Center for emergency treatment of a
20 possible drug overdose. E.D. reported taking 8 tablets of
21 Percocet 250 mg. for back pain and 6 tablets of Halcion .25
22 mg. on March 31, 1999. Later than day, E.D. went into cardiac
23 arrest (i.e., pulseless, apneiac, cyanotic). E.D. was treated
24 for aspiration pneumonia and anoxic encephalopathy.

25 XXX. On or about April 12, 1999, E.D. was admitted
26 to the Thaliens Mental Health Center for detoxification on a
27 14-day involuntary hold.

1 YYY. On or about April 19, 1999, E.D. was
2 transferred to The Menninger Clinic for treatment of drug
3 dependance. E.D.'s speech was slurred, which Dr. Eaton
4 indicated was due to diparthia and dysphonia secondary to
5 anoxia from cardiac arrest. Neuropsychological testing
6 performed on April 28, 1999 showed mild to moderate deficits
7 in general intellectual functioning, speech, expressive
8 language, all aspects of memory and learning, lateral manual
9 speed and dexterity. Repeat testing on July 9, 1999, showed
10 improvements in neuro-cognitive functioning. E.D. was
11 discharged on July 16, 1999, to return to Los Angeles for
12 legal proceedings.

13 ZZZ. On or about July 27, 1999, respondent noted
14 that E.D. was "pleasant and stable." Respondent prescribed
15 Xanax 2 mg. #120, Halcion .25 mg. #30, Fioricet w/codeine #100
16 and Lomotil #60. Respondent noted receiving a telephone call
17 from E.D.'s mother, during which the latter informed
18 respondent of E.D.'s recent stay at Menninger and promised to
19 report respondent to the medical authorities if he treated
20 E.D. again.

21 AAAA. On or about August 1, 1999, E.D. was seen at
22 Cedars Sinai. E.D. reported using alcohol and drugs, the
23 latter received from a physician in Los Angeles. E.D. was
24 noted as displaying extremely inappropriate behavior,
25 agitation and confusion. E.D. was admitted to the Thaliens
26 Psychiatric Unit but suffered a respiratory arrest and was
27 transferred to the medical emergency room, where he was

1 intubated and then placed in the intensive care unit. After
2 being stabilized E.D. was returned to the psychiatric unit on
3 August 3, 1999. Dr. Park noted that a SPECT Scan revealed a
4 "bilateral frontal lobe impairment as a result of his overdose
5 in 1999." E.D. was diagnosed with BAD, mixed; Status Post-
6 Polysubstance Overdose; Abuse and Dependence - Opiates,
7 Benzodiazepines, Alcohol; and Respiratory Arrest, secondary to
8 polysubstance overdose.

9 **BBBB. [Extreme Departures from Standard of Practice]**

10 Respondent engaged in extreme departures from the standard of
11 practice in his care and treatment of E.D., as follows:

12 1. Respondent failed to consistently prescribe a
13 mood stabilizer, such as Lithium or other anti-convulsant
14 medication, to a patient with Bipolar Disorder, and/or
15 failed to document same.

16 2. Respondent failed to obtain therapeutic blood
17 level monitoring of medications along with blood tests
18 for liver function, electrolytes and complete blood
19 count, and/or failed to document same.

20 3. Respondent over-prescribed benzodiazepines and
21 narcotic pain medications to a patient with a documented
22 history of long-term alcohol and drug abuse problems.

23 4. Respondent continued to over-prescribe
24 controlled substances to a patient following the
25 patient's completion of drug rehabilitation programs at
26 various facilities, as well as after the Menninger
27 Clinic, which contributed to the patient's respiratory

1 arrest and resulting brain damage.

2 5. Respondent failed to obtain or attempt to obtain
3 information (i.e., records, consultations) from the
4 treating psychiatrists and other physicians involved in
5 the patient's drug rehabilitation programs at Silver Hill
6 Hospital in Connecticut, the Meadows in Arizona, Serenity
7 Springs in Newport Beach, Gracie Square Hospital in New
8 York, the Menninger Clinic in Kansas, or the Thaliens
9 Psychiatric Unit in Los Angeles, and/or failed to
10 document same.

11 6. Respondent failed to adequately and accurately
12 document in the progress notes for the patient the
13 conditions being treated and the effects of the
14 psychotropic medications prescribed for said conditions.

15 7. Respondent treated a patient with Bipolar
16 Disorder, Anxiety Disorder and poly-substance dependence
17 with large dosages of benzodiazepines and narcotics over
18 a three year, three month period.

19 **THIRTY-FOURTH CAUSE FOR DISCIPLINE**

20 (Repeated Negligent Acts)

21 37. Respondent is subject to disciplinary action under
22 section 2234, subdivision (c) of the Code, in that respondent
23 engaged in repeated acts of negligence while treating a patient
24 under his care. The circumstances are as follows:

25 A. The facts and expert opinions alleged in above
26 numbered subparagraphs 36.A. to 36.AAAA are incorporated by
27 reference herein as if fully set forth.

1 B. Respondent engaged in repeated departures from
2 the standard of practice in his care and treatment of E.D., as
3 follows:

4 1. Respondent failed to consistently
5 prescribe a mood stabilizer, such as Lithium or
6 other anti-convulsant medication, to a patient with
7 Bipolar Disorder, and/or failed to document same.

8 2. Respondent failed to obtain therapeutic
9 blood level monitoring of medications along with
10 blood tests for liver function, electrolytes and
11 complete blood count, and/or failed to document
12 same.

13 3. Respondent over-prescribed benzodiazepines
14 and narcotic pain medications to a patient with a
15 documented history of long-term alcohol and drug
16 abuse problems.

17 4. Respondent continued to over-prescribe
18 controlled substances to a patient following the
19 patient's completion of drug rehabilitation
20 programs at various facilities, as well as after
21 the Menninger Clinic, which contributed to the
22 patient's respiratory arrest and resulting brain
23 damage.

24 5. Respondent failed to obtain or attempt to
25 obtain information (i.e., records, consultations)
26 from the treating psychiatrists and other
27 physicians involved in the patient's drug

1 rehabilitation programs at Silver Hill Hospital in
2 Connecticut, the Meadows in Arizona, Serenity
3 Springs in Newport Beach, Gracie Square Hospital in
4 New York, the Menninger Clinic in Kansas, or the
5 Thaliens Psychiatric Unit in Los Angeles, and/or
6 failed to document same.

7 6. Respondent failed to adequately and
8 accurately document in the progress notes for the
9 patient the conditions being treated and the
10 effects of the psychotropic medications prescribed
11 for said conditions.

12 7. Respondent prescribed large dosages of
13 benzodiazepines and narcotics over a three year,
14 three month period to a Bipolar, poly-substance
15 dependent patient.

16 8. Respondent coded psychotherapy sessions
17 performed on September 9, 22 and October 2, 1997
18 [see above numbered subparagraphs 36.QQ., 36.SS.
19 and 36.TT.] for billing purposes, though
20 respondent's records show that only telephone
21 renewals for medication were performed.

22 9. Respondent presented to the patient's
23 lawyer in a pending criminal case a letter for use
24 in court, wherein respondent represented that the
25 serum levels noted in a laboratory report connected
26 to the patient's arrest were not intoxicating,
27 though the laboratory report showed high levels of

1 morphine, codeine, carbamazepine and butalbital
2 [see above numbered subparagraph 36.W: March 3,
3 1997].

4 10. Respondent represented to a judge in the
5 patient's pending criminal case that the patient
6 was receiving treatment three times a week in
7 February and March 1997, though respondent's
8 records show that respondent treated the patient
9 only once a week during this period [see above
10 numbered subparagraph 36.BB: April 3, 1997].

11 11. Respondent presented to the patient's
12 lawyer in a pending case a letter for use in court,
13 wherein respondent stated that he was treating the
14 patient for tendonitis lumber spine (726.90), which
15 disabled the patient from doing physical labor,
16 though respondent's records fail to show
17 confirmation of this condition through examination,
18 diagnostic testing, or referral to physicians in
19 internal medicine or orthopedics [see above
20 numbered subparagraph 36.GGG: May 4, 1998].

21 **THIRTY-FIFTH CAUSE FOR DISCIPLINE**

22 (Incompetence)

23 38. Respondent is subject to disciplinary action under
24 section 2234, subdivision (d) of the Code, in that respondent
25 demonstrated incompetence while treating a patient under his care.
26 The circumstances are as follows:

27 A. The facts alleged in above numbered subparagraphs

1 36.A. to 36.AAAA. are incorporated by reference herein as if
2 fully set forth.

3 B. The opinions reached in above numbered
4 subparagraphs 36.BBBB. and 37.B., which indicate both a lack
5 of sound medical judgment and medical knowledge, are
6 incorporated by reference herein as if fully set forth.

7 **THIRTY-SIXTH CAUSE FOR DISCIPLINE**

8 (Prescribing To An Addict)

9 39. Respondent is subject to disciplinary action under
10 sections 2234, 2238 and 2241 of the Code, in connection with
11 sections 11153 and 11156 of the Health and Safety Code, in that
12 respondent prescribed controlled substances to an addict for other
13 than a legitimate medical purpose. The circumstances are as
14 follows:

15 A. The facts and expert opinions alleged in above
16 subparagraphs 36.A. to 36.BBBB. and 37.B. are incorporated by
17 reference herein as if fully set forth.

18 **THIRTY-SEVENTH CAUSE FOR DISCIPLINE**

19 (Excessive Prescribing)

20 40. Respondent is subject to disciplinary action under
21 sections 725 and 2234 of the Code, in that respondent committed
22 acts of clearly excessive prescribing of benzodiazepines and
23 narcotics while treating a patient under his care. The
24 circumstances are as follows:

25 A. The facts and expert opinions alleged in above
26 numbered subparagraphs 36.A. to 36.BBBB. are incorporated by
27 reference herein as if fully set forth.

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THIRTY-EIGHTH CAUSE FOR DISCIPLINE

(Prescribing Without Good Faith Examination)

41. Respondent is subject to disciplinary action under sections 2234 and 2242, subdivision (a) of the Code, in that respondent committed acts of prescribing dangerous drugs without a good faith prior examination and medical indication therefor. The circumstances are as follows:

A. The facts and expert opinions alleged in above numbered subparagraphs 36.A. to 36.BBBB. are incorporated by reference herein as if fully set forth.

THIRTY-NINTH CAUSE FOR DISCIPLINE

(Making False Statements)

42. Respondent is subject to disciplinary action under section 2261 of the Code, in that respondent made false statements regarding a patient under his care. The circumstances are as follows:

A. The facts alleged in above numbered subparagraph 37.B. (i.e., performance of psychotherapy sessions on September 9 and 22, and October 2, 1997) are incorporated by reference herein as if fully set forth.

B. The facts alleged in above numbered subparagraph 37.B. (i.e., respondent's letters of March 3 and April 3, 1997, and May 4, 1998, in connection with the patient's legal cases) are incorporated by reference herein as if fully set forth.

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FORTIETH CAUSE FOR DISCIPLINE

(Alteration of Medical Records)

43. Respondent is subject to disciplinary action under section 2262 of the Code, in that respondent created a false medical record with fraudulent intent. The circumstances are as follows:

A. The facts alleged in above numbered subparagraph 37.B. (i.e., performance of psychotherapy sessions on September 9 and 22, and October 2, 1997) are incorporated by reference herein as if fully set forth.

B. The facts alleged in above numbered subparagraph 37.B. (i.e., respondent's letters of March 3 and April 3, 1997, and May 4, 1999, in connection with the patient's legal cases) are incorporated by reference herein as if fully set forth.

FORTY-FIRST CAUSE FOR DISCIPLINE

(Failure to Maintain Adequate Records)

44. Respondent is subject to discipline under section 2266 of the Code, in that respondent failed to maintain adequate and accurate records relating to the provision of services to a patient. The circumstances are as follows:

A. The facts and expert opinions alleged at above numbered subparagraphs 36.A. to 36.BBBB and 37.B. are incorporated by reference herein as if fully set forth.

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1 FORTY-SECOND CAUSE FOR DISCIPLINE

2 (Dishonesty)

3 45. Respondent is subject to discipline under section
4 2234, subdivision (e) of the Code, in that respondent has engaged
5 in acts of dishonesty in connection with his treatment of patients
6 under his care. The circumstances are as follows:

7 A. The facts and expert opinions alleged in above
8 numbered subparagraphs 28.A., 28.B., and 37.B.8-10 are
9 incorporated by reference herein as if fully set forth.

10 FORTY-THIRD CAUSE FOR DISCIPLINE

11 (General Unprofessional Conduct)

12 46. Respondent is subject to discipline under section
13 2234 of the Code, in that respondent has engaged in general
14 unprofessional conduct in his treatment of patients under his care.
15 The circumstances are as follows:

16 A. The facts and expert opinions set forth in above
17 numbered paragraphs 4 to 45 are incorporated by reference herein as
18 if fully set forth.

19 FORTY-FOURTH CAUSE FOR DISCIPLINE

20 (Gross Negligence)

21 47. Respondent is subject to discipline under section
22 2234, subdivision (b) of the Code, in that respondent committed
23 acts of gross negligence in disclosing confidential patient
24 information in a public proceeding for the purpose of defending
25 himself against a petition for interim order of suspension. The
26 circumstances are as follows:

27 A. On or about July 14, 2000, in O.A.H. Case No. L-

1 2000070071, a public, ex parte hearing on a petition for
2 interim order of suspension filed against respondent by the
3 Board was conducted before the Hon. H. Stuart Waxman,
4 Administrative Law Judge.

5 B. On or about July 21, 2000, in O.A.H. Case No. L-
6 2000070071, the Hon. H. Stuart Waxman, Administrative Law
7 Judge, issued an interim order prohibiting respondent from
8 prescribing any and all medication to patients, pending a
9 noticed hearing and decision on the petition scheduled for
10 hearing on August 1, 2000.

11 C. O.A.H. Case No. L-2000070071 presented all of
12 the causes for discipline raised in the then pending Second
13 Amended Accusation in Case Nos. 06-1996-65821, 06-1997-79531,
14 06-1998-82571 and 06-1999-100710.

15 D. On or about July 28, 2000, in O.A.H. Case No. L-
16 2000070071, respondent, through his attorney, filed
17 declarations and letters from his patients in opposition to
18 the petition for interim order of suspension. None of these
19 patient declarations and letters, which were signed by the
20 patients using their full names, were accompanied by a written
21 informed consent form signed by the patient, authorization for
22 release of medical information signed by the patient, or
23 similar documentation establishing a waiver of the patient's
24 right to the privacy of the patient's medical history or
25 current medical condition.

26 E. Many of these patient declarations and letters
27 revealed essentially private, highly personal medical

1 information, as well as comments directed to the charges of
2 overprescribing medication presented in the petition for
3 interim order of suspension, and the interim order issued on
4 July 21, 2000 prohibiting respondent from prescribing any and
5 all medications to patients. The following patient
6 declarations and letters, and their relevant content, were
7 publicly disclosed by respondent:

8 1. Patient N.W., dated July 26, 2000,
9 disclosed serious mental and physical
10 illnesses.

11 2. Patient J.J., dated July 25, 2000,
12 disclosed a history of delusions.

13 3. Patient C.L., dated July 25, 2000,
14 disclosed serious mental illnesses;
15 medications prescribed by respondent to
16 patient; knowledge of the existing prohibition
17 against prescribing; and an assertion that
18 respondent did not overprescribe medication.

19 4. Patient B.V., dated July 27, 2000,
20 asserted no overprescribing of medication by
21 respondent.

22 5. Patient F.A., dated July 27, 2000,
23 disclosed serious mental and physical
24 illnesses; and previous medication taken.

25 6. Patient N.W., dated July 27, 2000,
26 disclosed history of delusions, criminal
27 involvement and drug abuse; and knowledge of

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the existing prohibition against prescribing.

7. Patient B.W., dated July 25, 2000, disclosed knowledge of the existing prohibition against prescribing; and an assertion that respondent did not overprescribe medication.

8. Patient M.S., dated July 25, 2000, disclosed mental disorders; medications prescribed by respondent to patient; and an assertion that respondent did not overprescribe medication.

9. Patient P.F., dated July 25, 2000, disclosed psychological problems and physical disabilities.

10. Patient J.S., dated July 27, 2000, disclosed serious mental disorders; medication prescribed by respondent to patient; and knowledge of the existing prohibition against prescribing.

11. Patient A.M., [undated], disclosed serious mental illness; medications prescribed by respondent to patient; and an assertion that respondent did not overprescribe medication.

12. Patient A.P., dated July 27, 2000, disclosed a serious mental illness.

13. Patient P.G., dated July 27, 2000,

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disclosed a serious physical problem.

14. Patient W.H., dated July 25, 2000, disclosed serious mental illness; medication prescribed by respondent to patient; and an assertion that respondent did not overprescribe medication.

15. Patient D.T., dated July 25, 2000, disclosed serious mental illness; medications prescribed by respondent to patient and patient's three sons; and an assertion that respondent did not overprescribe medication.

16. Patient D.D., dated July 26, 2000, disclosed serious mental and physical problems; and medication prescribed by respondent to patient.

17. Patient S.R., dated July 25, 2000, disclosed serious mental illnesses involving delusions; medications prescribed by respondent to patient; and an assertion that respondent did not overprescribe medication.

18. Patient R.F., dated July 26, 2000, disclosed serious mental illnesses; medications prescribed by respondent to patient; and an assertion that respondent did not overprescribe medication.

19. Patient W.M., dated July 26, 2000, disclosed medication prescribed by respondent

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to patient; and an assertion that respondent did not overprescribe medication.

20. Patient S.D., dated July 25, 2000, disclosed a serious mental disorder and physical disorders; and an assertion that respondent did not overprescribe medication.

21. Patient G.H., dated July 26, 2000, disclosed a serious mental disorder; and medication prescribed by respondent to patient.

22. Patient J.S., dated July 26, 2000, disclosed physical problem; medication prescribed by respondent to patient; and an assertion that respondent prescribed medication based only on examination and medical indication.

23. Patient J.L., dated July 24, 2000, disclosed serious mental and physical problems; and assertion that respondent did not overprescribe medication.

24. Patient G.B., dated July 24, 2000, disclosed receipt of medication from respondent.

25. Patient D.L., dated July 27, 2000, disclosed physical illness; medication prescribed by respondent to patient; and an assertion that respondent did not

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overprescribe medication.

26. Patient G.C., dated July 27, 2000, disclosed medication prescribed by respondent to patient for specific condition.

27. Patient M.M., dated July 27, 2000, asserted that respondent prescribes medication moderately.

28. Patient C.H., dated July 27, 2000, disclosed receipt of medication from respondent.

29. Patient L.W., dated July 27, 2000, disclosed need for medication from respondent for self and boyfriend.

30. Patient S.B., dated July 24, 2000, disclosed serious mental and physical illnesses; medications prescribed by respondent to patient; and an assertion that respondent did not overprescribe medication.

31. Patient N.B., dated July 25, 2000, disclosed serious mental illness; and assertion that respondent prescribed medication with care.

32. Patient J.H., dated July 25, 2000, asserted that respondent did not overprescribe medication.

33. Patient R.L., dated July 24, 2000, disclosed medication prescribed by respondent

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to patient; and an assertion that respondent did not overprescribe medication.

34. Patient T.W., dated July 25, 2000, disclosed receipt of medication from respondent.

35. Patient C.M., dated July 27, 2000, disclosed receipt of medication from respondent.

36. Patient S.W., dated July 27, 2000, disclosed medication received from respondent for mental health.

37. Patient B.V., dated July 28, 2000, disclosed severe mental illness; medication prescribed by respondent for patient; and an assertion that respondent did not authorize refills of the prescriptions issued.

38. Patient D.E., dated July 27, 2000, disclosed mental problem; medication prescribed by respondent to patient; and assertion that respondent did not overprescribe medication.

39. Patient J.B., dated July 29, 2000, asserts that respondent did not overprescribe medication.

40. Patient T.P., dated July 27, 2000, disclosed family dysfunction and serious physical problems; knowledge of the existing

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prohibition against prescribing; and an assertion that respondent did not overprescribe medication.

41. Patient M.B., dated July 27, 2000, disclosed serious mental illness; and an assertion that respondent did not overprescribe medication.

42. Patient J.F., [no date], disclosed learning disability and physical illnesses; medication prescribed by respondent.

43. Patient J.T., dated July 27, 2000, disclosed serious mental illness; and assertion that respondent did not overprescribe medication. [Note: appears written in response to list of questions]

44. Patient J.D., dated July 26, 2000, disclosed knowledge of the existing prohibition against prescribing.

45. Patient L.M., dated July 25, 2000, disclosed medications prescribed for serious mental conditions; and an assertion that respondent did not overprescribe medication.

46. Patient J.C., dated July 26, 2000, disclosed receipt of medication from respondent.

47. Patient N.W., dated July 25, 2000, disclosed knowledge of the existing

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prohibition against prescribing; and an assertion that respondent did not overprescribe medication.

48. Patient D.B., dated July 25, 2000, disclosed physical injury.

49. Patient J.F., dated July 25, 2000, disclosed receipt of prescription from respondent.

50. Patient J.M., dated July 25, 2000, disclosed mental illness.

51. Patient E. P-B., dated July 24, 2000, disclosed mental illness; medication prescribed to patient by respondent.

52. Patient J.S., dated July 25, 2000, disclosed physical illness; and an assertion that respondent did not overprescribe medication.

53. Patient R.C., dated July 25, 2000, disclosed serious mental illness.

54. Patient T.B., dated July 25, 2000, makes assertion that respondent does not overprescribe medication.

55. Patient B.T., dated July 24, 2000, makes assertion that respondent does not overprescribe medication.

56. Patient I.G., dated July 25, 2000, disclosed receipt of medication from

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respondent.

57. Patient T.L., [undated], disclosed serious mental illness; knowledge of existing prohibition against prescribing.

58. Patient P.J., dated July 26, 2000, disclosed serious mental and physical illnesses; medication prescribed to patient by respondent; and an assertion that respondent did not overprescribe medication.

59. Patient G.S., dated July 26, 2000, disclosed severe psychiatric problems; medications prescribed to patient by respondent.

60. Patient J.P., dated July 26, 2000, disclosed mental problems; knowledge of existing prohibition against prescribing; and an assertion that respondent did not overprescribe medication.

61. Patient R.H., dated July 26, 2000, makes assertion that respondent did not overprescribe medication.

62. Patient K.G., [undated], disclosed neurological and mental disorders; and makes an assertion that respondent did not overprescribe medication.

63. Patient V.P., dated July 26, 2000, disclosed receipt of medications from

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respondent.

64. Patient A.H., dated July 26, 2000, disclosed mental illnesses.

65. Patient J.K., dated July 26, 2000, disclosed medication prescribed to patient by respondent; and an assertion that respondent did not overprescribe medication.

66. Patient R.W., dated July 26, 2000, makes assertion that respondent did not overprescribe medication.

67. Patient A.T., dated July 26, 2000, makes assertion that respondent did not overprescribe medication.

68. Patient S.W., dated July 27, 2000, makes assertion that respondent did not overprescribe medication.

69. Patient S.K., dated July 27, 2000, disclosed medications prescribed to patient by respondent.

70. Patient R.D., dated July 26, 2000, disclosed chronic illnesses; knowledge of existing prohibition against prescribing; and an assertion that respondent did not overprescribe medication.

F. [Extreme Departures From The Standard Of Practice] Respondent engaged in extreme departures from the standard of practice in the care and treatment of each of the

1 patients identified in above subparagraphs E.1. through E.70,
2 as follows:

3 1. The patient declarations and letters cited
4 at above subparagraphs E.1. through E.70. show
5 that respondent, or his agents acting in his
6 behalf, discussed the pending allegations
7 presented in the petition for interim order of
8 suspension with said patients.

9 2. The patient declarations and letters cited
10 at above subparagraphs E.1 through E.70 show
11 that respondent, or his agents acting in his
12 behalf, solicited the help of said patients in
13 providing the declarations and letters for use
14 in defense of the pending allegations
15 presented in the petition for interim order of
16 suspension, and publicly disclosed said
17 declarations and letters.

18 3. The patient declarations and letters cited
19 at above subparagraphs E.1 through E.70 show
20 that respondent, or his agents acting in his
21 behalf, received and publicly disclosed said
22 declarations and letters, including those that
23 respondent and/or his agents did not solicit,
24 for use in his defense of the pending
25 allegations presented in the petition for
26 interim order of suspension, and did so
27 without the benefit of signed informed consent

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forms or waivers of the right to privacy from
said patients.

FORTY-FIFTH CAUSE FOR DISCIPLINE

(Repeated Negligent Acts)

48. Respondent is subject to disciplinary action under section 2234, subdivision (c) of the Code, in that respondent repeatedly committed acts of negligence in disclosing confidential patient information in a public proceeding for the purpose of defending himself against a petition for interim order of suspension. The circumstances are as follows:

A. The facts and opinions stated in above numbered paragraph 47 are incorporated by reference herein as if fully set forth.

FORTY-SIXTH CAUSE FOR DISCIPLINE

(Incompetence)

49. Respondent is subject to disciplinary action under section 2234, subdivision (d) of the Code, in that respondent disclosed confidential patient information in a public proceeding for the purpose of defending himself against a petition for interim of order of suspension. The circumstances are as follows:

A. The facts and opinions stated in above numbered paragraph 47 are incorporated by reference herein as if fully set forth.

FORTY-SEVENTH CAUSE FOR DISCIPLINE

(General Unprofessional Conduct)

50. Respondent is subject to disciplinary action under section 2234, subdivision (a) of the Code, in that respondent,

1 while prohibited from prescribing any and all medications to
2 patients through an interim order, violated said order. The
3 circumstances are as follows:

4 A. The facts set forth in above numbered
5 subparagraphs 47.A. through 47.C. are incorporated by
6 reference herein as if fully set forth.

7 B. On or about August 10, 2000, in O.A.H. Case No.
8 L-2000070071, the Hon. H. Stuart Waxman, Administrative Law
9 Judge, issued an interim order prohibiting respondent from
10 prescribing any and all medications to patients until a
11 practice monitor, approved by the Division or its designee,
12 had commenced the performance of his/her duties.

13 C. As of August 17, 2000, a monitor had not been
14 approved by the Division or its designee.

15 D. On or about August 15, 2000, respondent
16 admittedly wrote out prescriptions for Lorcet and Soma for the
17 same patient, and had the prescriptions signed by another
18 physician and surgeon (i.e., Dr. Keith S. Ditman).

19 E. The prescriptions for Lorcet and Soma referred
20 to at above subparagraph 50.D. were presented to a pharmacist
21 familiar with respondent's prescriptions to the patient, as
22 well as the fact that respondent's prescribing privilege had
23 been suspended. The pharmacist contacted respondent that same
24 day and respondent admitted that he had written the
25 prescriptions for Lorcet and Soma, and had Dr. Ditman sign
26 them.

27 F. By ordering the above mentioned prescriptions

1 for Lorcet and Soma, filling out the prescription slips for
2 them, and having Dr. Ditman sign them, respondent violated or
3 attempted to violate, directly or indirectly, or assisted in
4 or abetted the violation of the Division's interim order
5 prohibiting respondent from prescribing medication.

6 [The FORTY-EIGHTH thru the SEVENTY-SEVENTH Causes for
7 Discipline are stated in Complainant's Amendment of Accusation To
8 Conform to Proof, filed on February 28, 2001, and are incorporated
9 by reference herein as if fully set forth.]

10 SEVENTY-EIGHTH CAUSE FOR DISCIPLINE

11 (Gross Negligence)

12 51. Respondent is subject to disciplinary action under
13 section 2234, subdivision (b) of the Code, in that respondent
14 engaged in multiple extreme departures from the standard of
15 practice in the care and treatment of a patient. The circumstances
16 are as follows:

17 A. On or about October 31, 1990, W.M. was admitted
18 to the Kaiser Permanente Hospital in West Los Angeles
19 following a suicide attempt. She was diagnosed with chronic
20 depression and a history of long-term abuse of L.S.D. was
21 noted.

22 B. On or about March 20, 1992, W.M. was treated at
23 Kaiser Permanente Hospital in West Los Angeles for depression
24 and cocaine use. Anti-depressant medications were prescribed
25 for W.M.

26 C. On or about August 24, 1996, W.M. was evaluated
27 by a physician at Kaiser Permanente Hospital in West Los

1 Angeles and was considered as having a problem with Xanax
2 (i.e., benzodiazepine) abuse.

3 D. On or about and between October 3 to 9, 1999,
4 W.M. was treated at Kaiser Permanente Hospital in West Los
5 Angeles for delirium and hepatitis from Vicodin and Xanax
6 overuse. W.M. was instructed not to take any more narcotics
7 and benzodiazepines. Librium 10 mg. one tablet each day as
8 needed for anxiety was prescribed.

9 E. W.M.'s first visit to respondent for medical
10 attention occurred on or about February 2, 1998. Respondent
11 noted W.M.'s report of a five year history of panic attacks,
12 prior use of Xanax and prior treatment by Dr. Kenyon and Dr.
13 Zec. Respondent's initial diagnosis was panic disorder with
14 agoraphobia. Respondent prescribed Xanax 2 mg. #60 for severe
15 anxiety, and billed W.M. \$75 for the initial clinical
16 psychiatric evaluation. Respondent did not document a reason
17 for prescribing a 2 mg. dose of Xanax rather than a lesser
18 dose. A letter addressed to respondent from Dr. Kenyon, dated
19 February 3, 1998, stated that W.M. was suffering from severe
20 panic disorder for which she was taking Xanax 1 mg. 3 times a
21 day.

22 F. On or about March 17, 1998, W.M. returned to
23 respondent. Respondent documented that W.M. was "pleasant" but
24 that the panic attacks "felt like jumping out of car." A
25 major depressive disorder, single episode was diagnosed, and
26 a diagnosis of panic disorder without agoraphobia was
27 documented. Anti-depressant medications were listed on the

1 progress note, but respondent only prescribed Xanax 1 mg. #60
2 for severe anxiety. Respondent did not document a reason for
3 reducing the dose of Xanax by half. Respondent billed W.M.
4 \$100 for an initial clinical psychiatric evaluation.
5 Respondent did not consult, and/or document an attempt to
6 consult, with Dr. Zec about W.M.'s prior treatment; he did not
7 attempt to request W.M.'s medical records from Dr. Kenyon or
8 Dr. Zec; and/or respondent failed to document an attempt to
9 request W.M.'s medical records from Dr. Kenyon and Dr. Zec.

10 G. On or about June 1, 1998, W.M. returned to
11 respondent for treatment. Respondent reviewed and renewed her
12 medications and found no side effects. Respondent noted that
13 she appeared "stable" and "pleasant," but diagnosed major
14 depression, single episode, and panic disorder without
15 agoraphobia. Respondent prescribed Ativan 1 mg. #60 for severe
16 anxiety. Ativan, like Xanax, is a benzodiazepine.

17 H. On or about July 17, 1998, W.M. returned to
18 respondent for treatment. Respondent noted information
19 concerning W.M.'s parents. The same diagnoses were cited by
20 respondent. Xanax 1 mg. #60 was prescribed for severe anxiety.
21 Respondent billed \$60 for a 20 to 30 minute session of
22 psychotherapy with medications.

23 I. On or about August 6, 1998, respondent repeated
24 the existing diagnoses but cited "migraine" as an additional
25 condition. Xanax 1 mg. #30 was prescribed for severe anxiety.
26 Vicodin ES #30, a narcotic analgesic, was prescribed for
27 severe pain. Respondent did not document the bases for his

1 diagnosis of migraine or severe pain, or the reason for
2 prescribing a narcotic analgesic prior to attempting to
3 address the pain with a non-narcotic analgesic. Respondent did
4 not document a referral for a physical evaluation of the pain
5 complaint. W.M. was billed \$60 for 20 to 30 minutes of
6 psychotherapy with medications. Respondent documented that
7 W.M.'s medications were reviewed with no side effects, and
8 that she was "stable" and "pleasant."

9 J. On or about September 3, 1998, W.M. returned to
10 respondent for treatment. Respondent documented the same
11 diagnoses and described W.M. as "stable" and "pleasant."
12 Xanax 1 mg. #60 was again prescribed for severe anxiety.
13 Respondent billed W.M. \$60 for 20 to 30 minutes of
14 psychotherapy with medication.

15 K. On or about October 1, 1998, respondent saw W.M.
16 and found her "stable" and "pleasant," and diagnosed major
17 depression, panic disorder and migraine. No side effects from
18 medication were found. Xanax 1 mg. #60 was prescribed for
19 severe anxiety. Respondent billed \$60 for 20 to 30 minutes of
20 psychotherapy with medications. No physical findings or
21 history of evaluation and treatment were documented in the
22 progress note for this date to support the migraine diagnosis.

23 L. On or about October 29, 1998, respondent
24 examined W.M. and found her "stable" and "pleasant," and
25 diagnosed major depression, panic disorder and migraine. No
26 side effects from the medication were found. Xanax 1 mg. #60
27 was prescribed for severe anxiety. Respondent billed \$60 for

1 20 to 30 minutes of psychotherapy with medications. No
2 physical findings or history of evaluation and treatment were
3 documented in the progress note for this date to support the
4 migraine diagnosis.

5 M. On or about November 25, 1998, respondent
6 examined W.M. and entered the same findings in the progress
7 note for this date as in the previous one. Xanax 1 mg. #60
8 was prescribed for severe anxiety. W.M. was billed \$60 for 20
9 to 30 minutes of psychotherapy with medication. No physical
10 findings or history of evaluation and treatment were
11 documented in the progress note for this date to support the
12 migraine diagnosis.

13 N. On or about December 17, 1998, respondent
14 examined W.M. and noted that she had "dysmenorrhea" but was
15 "stable" and "pleasant." The prior diagnoses was restated.
16 Xanax 1 mg. #60 and Vicodin ES #30 were prescribed. W.M. was
17 billed \$60 for 20 to 30 minutes of psychotherapy with
18 medications. No physical findings or history of evaluation and
19 treatment were documented in the progress note for this date
20 to support the migraine diagnosis.

21 O. On or about January 5, 1999, respondent examined
22 W.M. and noted that her father had died at age 63 and that her
23 mother was 77. The same diagnoses were noted, minus the
24 migraine diagnosis. Respondent did not document the reason
25 for excluding migraine from the diagnoses. Xanax 1 mg. #60
26 was prescribed for severe anxiety. Vicodin ES #60 was
27 prescribed for severe pain. Respondent did not explain the

1 reason for prescribing Vicodin ES, a narcotic analgesic, for
2 pain, in lieu of a less addictive analgesic medication.

3 P. On or about February 8, 1999, according to
4 respondent's billing records, W.M. presented to respondent for
5 treatment. Xanax 1 mg. #60 was prescribed for severe anxiety
6 and Vicodin ES #30 was prescribed for severe pain.
7 Respondent's records for this date did not contain a progress
8 note, or any other description or explanation of the
9 examination conducted and findings made. W.M. was billed \$60
10 for 20 to 30 minutes of psychotherapy with medications.

11 Q. On or about March 2, 1999, according to
12 respondent's billing records, W.M. was seen by Dr. Reynolds at
13 respondent's clinic. The same diagnoses is noted in the
14 billing note. Dr. Reynolds prescribed Xanax 1 mg. #60 for
15 severe anxiety and Vicodin #60 for severe pain. Respondent's
16 records do not contain a progress note or any other writing
17 for this date, to explain the reasons for the prescriptions or
18 the nature of the treatment provided. No reason is documented
19 for the increase in quantity of Vicodin from 30 to 60 tablets.
20 W.M. was billed \$60 for this visit.

21 R. On or about March 29, 1999, respondent saw W.M.
22 and reviewed her medications. Respondent noted that she was
23 "stable" and "pleasant." Xanax 1 mg. #75 was prescribed, but
24 respondent did not document a reason for this increase in
25 tablets from the previous level of 60 tablets. Vicodin ES # 30
26 was prescribed, but again respondent did not document a
27 confirmed diagnosis for the use of this narcotic analgesic

1 prescription. W.M. was charged \$60 for 20 to 30 minutes of
2 psychotherapy with medications. W.M. was given a follow-up
3 appointment in 28 days. April 25, 2001.

4 S. On or about April 14, 1999, or 16 days following
5 her last visit to respondent, W.M. returned to respondent's
6 clinic for treatment. Respondent reviewed her medications and
7 found no side effects. Respondent described W.M. as "stable"
8 and "pleasant." The same diagnoses were documented, as was a
9 complaint of menstrual pain. Xanax 1 mg. #75 was prescribed,
10 as was Vicodin ES #30. Respondent did not document whether
11 W.M.'s return to the clinic on this date, **just two weeks**
12 **following her last visit**, and the increased dosages of Xanax
13 and Vicodin ES were considered as being indicative of a
14 tolerance and dependency to Xanax and Vicodin. W.M. was
15 billed \$60 for 20 to 30 minutes of psychotherapy with
16 medications.

17 T. On or about May 10, 1999, W.M. returned to
18 respondent, who documented menstrual and headache pain.
19 Vicodin ES #30 and Xanax 1 mg. #100 were prescribed.
20 Respondent did not document a reason for increasing the
21 quantity of Xanax from 75 to 100 tablets, nor document a
22 consideration of possible growing tolerance and dependency on
23 the medication.

24 U. On or about and between March 2 and June 7,
25 1999, a period of approximately 90 days, respondent provided
26 prescriptions to W.M. authorizing her receipt of 310 tablets
27 of Xanax 1 mg. and 150 tablets of Vicodin ES.

1 V. On or about June 8, 1999, W.M. returned to
2 respondent for treatment. Xanax 1 mg. #100 and Vicodin ES #30
3 were prescribed based on the same diagnoses of major
4 depression and panic disorder. W.M. was billed \$60 for 20 to
5 30 minutes of psychotherapy with medications.

6 W. On or about July 7, 1999, respondent prescribed
7 Xanax 1 mg. #100 and Vicodin ES #60 for W.M. Respondent did
8 not document a reason for increasing the quantity of Vicodin
9 ES from 30 to 60 tablets. W.M. was described as pleasant and
10 stable. Respondent did not document any consideration of the
11 possibility that W.M. was developing a tolerance to and
12 growing dependence upon the narcotic, Vicodin ES.

13 X. On or about August 6, 1999, W.M. signed an
14 authorization for Dr. Kenyon to release her medical records to
15 respondent, indicating that respondent had made no effort or
16 failed to document his attempt to obtain W.M.'s records from
17 her prior treating physician for 18 months. In his progress
18 note for this date, respondent noted "labs; Vic. ES x 1 yr. On
19 it x few years. Menstrual pain, Migraine. Pharmacy-Mikie,
20 Edgemont; pleasant." The same diagnoses were cited. Xanax 1
21 mg. #100 and Vicodin ES #60 were prescribed. No physical
22 findings or history of evaluation and treatment were
23 documented in the progress note for this date to support the
24 migraine diagnosis and menstrual pain complaint.

25 Y. On or about August 9, 1999, W.M. signed an
26 authorization for Kaiser Permanente to release her medical
27 records to respondent. The Kaiser records for W.M. found in

1 respondent's medical file on the patient show that on August
2 24, 1996, Dr. Schwartz noted that W.M. had five different
3 prescription numbers for Xanax and that he repeatedly
4 attempted to inform her that he would not refill a
5 prescription for this controlled substance.

6 Z. On or about September 8, 1999, W.M. returned to
7 respondent for treatment. In the progress note for this visit,
8 respondent noted "labs check, X-rays . . . pleasant,
9 negative...**illegal drugs**...Pain-menstrual and Migraine." The
10 prior diagnoses were restated. Xanax 1 mg. #100 and Vicodin
11 ES #60 were prescribed. No physical findings or history of
12 evaluation and treatment were documented in the progress note
13 for this date to support the migraine diagnosis and menstrual
14 pain complaint.

15 AA. On or about and between January 5 to October
16 12, 1999, approximately 270 days, respondent prescribed 420
17 tablets of Vicodin ES to W.M.

18 BB. On or about October 13, 1999, respondent saw
19 W.M. and found her "pleasant" and "stable." The same
20 diagnoses were restated. Xanax 1 mg. #100 was prescribed.
21 Vicodin ES was not prescribed, and respondent did not document
22 a reason for discontinuing the narcotic. This visit followed
23 W.M.'s hospitalization at Kaiser Permanente of October 3 to 9,
24 1999, for medical complications from the abuse of Xanax and
25 Vicodin, during which time she alleges she telephoned
26 respondent to inform him of her condition.

27 CC. On or about November 5, 1999, respondent saw

1 W.M. at his clinic and noted "+ labs. + H/S. Change Xanax to
2 Librium 10 x 3. Pleasant. Stable." The same diagnoses were
3 restated. Librium 10 mg. #100 was prescribed. Respondent did
4 not note a reason for discontinuing the Xanax, and starting
5 Librium.

6 DD. On or about November 9, 1999, W.M. returned to
7 respondent at his clinic. Respondent noted a review of the
8 Librium and no side effects, but issued a prescription for
9 Xanax 1 mg. #100. Respondent did not document any
10 consideration that W.M.'s return to the clinic **after just four**
11 **days** may have been indicative of her dependency on Xanax.

12 EE. On or about December 2, 1999, respondent saw
13 W.M. at his clinic and prescribed Xanax 1 mg. #100. She was
14 given a follow-up appointment in 28 days.

15 FF. On or about December 16, 1999, according to a
16 prescription record and an undated note immediately following
17 the progress note of December 2, 1999, respondent saw W.M. and
18 added a new diagnosis, i.e., Adjustment Disorder with Mixed
19 Anxiety and Depressed Mood. Respondent also noted that W.M.
20 was a "night owl." Ambien 10 mg. #30 for insomnia and Xanax
21 1 mg. #100 were prescribed.

22 GG. On or about January 5, 2000, respondent saw
23 W.M. at his clinic and prescribed Ambien 10 mg. #30 and Xanax
24 1 mg. #100.

25 HH. On or about January 26, 2000, respondent saw
26 W.M. at his clinic and prescribed Desyrel 100 mg. #30, a
27 substance which can be used as a sleeping medication, Vicodin

1 ES #30 and Xanax 1 mg. #100. W.M. was given an appointment to
2 return in 28 days.

3 II. On or about February 14, 2000, respondent saw
4 W.M. at his clinic and noted the following: "D/C Vic. Desyrel
5 doesn't work. R/R meds. -S/E, Stable. Pleasant." The prior
6 diagnoses were restated. Xanax 1 mg. #100 was prescribed.
7 Respondent did not note a reason for increasing the dosage of
8 Xanax. W.M. was given an appointment to return in 28 days.

9 JJ. On or about February 24, 2000, respondent saw
10 W.M. at his clinic and prescribed Serzone 100 mg.#30, an anti-
11 depressant, and Xanax 1 mg. #100. Respondent did not note a
12 reason for W.M.'s return for treatment 10 days after her last
13 visit, or a reason for a renewal of the Xanax prescription.

14 KK. On or about and between January 5 and February
15 24, 2000, respondent wrote four prescriptions of Xanax 1 mg.
16 #100 for W.M., enabling her to have 400 tablets of Xanax 1
17 mg., or twice her normal dosage, for this two month-plus
18 period. Respondent did not document any reason for this
19 doubling in the quantity of Xanax prescribed to W.M.

20 LL. On or about March 7, 2000, respondent saw W.M.
21 at his clinic. Respondent noted that W.M. was having a "bad
22 day" because her Social Security had been canceled. The prior
23 diagnoses were restated. No medications were prescribed.

24 MM. On or about March 23, 2000, W.M. returned to
25 see respondent, who prescribed Xanax 1 mg. #100.

26 NN. On or about April 21, 2000, W.M. returned to
27 see respondent, who prescribed Xanax 1 mg. #100.

1 OO. On or about May 23, 2000, W.M. returned to see
2 respondent, who prescribed Ativan 2 mg. #100.

3 PP. On or about June 27, 2000, W.M. returned to see
4 respondent, who prescribed Ambien 10 mg.#30, Ativan 2 mg. #100
5 and Xanax 1 mg. #100. Respondent did not document an
6 explanation for the prescription of two benzodiazepines at the
7 same time for the same condition (i.e., anxiety).

8 QQ. From on or about October 13, 1999 (a few days
9 following W.M.'s hospitalization for hepatitis from Xanax or
10 benzodiazepine and Vicodin abuse), through June 27, 2000,
11 respondent prescribed 1100 tablets of Xanax 1 mg. and 200
12 tablets of Ativan 2 mg., both benzodiazepines, to W.M.

13 RR. On or about July 26, 2000, W.M. returned to see
14 respondent, who documented that he explained his restriction
15 from practice, the patient's panic, his referral to "Drs.
16 G/K," and the patient being reassured. On this date,
17 respondent's authority to issue prescriptions was suspended by
18 virtue of an ex parte interim order issued by Administrative
19 Law Judge H. Stuart Waxman on July 21, 2000 [Exhibit 6
20 herein]. On this date, according to W.M., respondent
21 personally asked W.M. to write a letter on his behalf, and
22 respondent's receptionist, Beth, gave W.M. the materials to
23 write the letter. W.M. observed other patients writing letters
24 in support of respondent at the same time and then turning
25 them over to Beth for proof reading and correction. W.M.
26 observed that these patients were not allowed to schedule an
27 appointment or leave the clinic until their letters were

1 accepted by Beth to her satisfaction. Under these
2 circumstances, W.M. felt compelled to write a letter
3 supporting respondent, in order to schedule a follow-up
4 appointment and leave the clinic. In her letter, dated July
5 26, 2000, which respondent used to defend against interim
6 suspension [see Exhibit 10 and numbered paragraph 47.E.19.,
7 Forty-Fourth Cause For Discipline, both of which are
8 incorporated by reference herein as if fully set forth] W.M.
9 disclosed the medication that respondent had been prescribing
10 for her, and asserted that respondent had not overprescribed
11 medication to her.

12 SS. On or about August 21, 2000, W.M. returned to
13 see respondent at his clinic. Respondent's progress note for
14 this date indicates that respondent again explained his
15 prescribing restriction to W.M., reassured her, referred her
16 to Dr. Ditman, and discontinued Ativan. On the same progress
17 note is a written statement by Dr. Ditman, indicating zero
18 meds. However, two prescriptions were issued to W.M. on this
19 date, one for Ambien 10 mg. #30 and one for Xanax 1 mg. #100.
20 The prescriptions were written on Dr. Ditman's prescription
21 pad with his signature, but the actual prescription orders
22 were in writing similar to that of respondent.

23 TT. On or about September 21, 2000, W.M. saw
24 respondent at his clinic. On this date, H.W. received a
25 prescription for Xanax 1 mg. #100. The prescription was
26 written on Dr. Ditman's prescription pad with his signature,
27 but the actual prescription order was in writing similar to

1 that of respondent's prior prescriptions for W.M.

2 UU. On or about October 23, 2000, W.M. saw
3 respondent at his clinic. Respondent, whose restriction of
4 prescribing had been temporarily stayed by a superior court,
5 prescribed Xanax 1 mg. #100.

6 VV. On or about November 20, 2000, W.M. was seen by
7 respondent at his clinic. Respondent prescribed Xanax 1 mg.
8 #100 and Chloral Hydrate 150 cc for insomnia.

9 WW. On or about December 20, 2000, W.M. saw
10 respondent at his clinic. Respondent and Dr. Ditman both made
11 written entries in the progress note for this date. In
12 respondent's medical file for W.M. are two unsigned
13 prescriptions written on Dr. Ditman's prescription blank
14 forms, one for Xanax 1 mg. #100 and one for Chloral Hydrate
15 150 cc, both in handwriting similar to respondent's. On or
16 about this same date, W.M. had a prescription signed by Dr.
17 Ditman for Xanax 1 mg. #100 filled at a pharmacy.

18 XX. On or about January 23, 2001, W.M. visited
19 respondent's clinic. No progress note appears in respondent's
20 records for the patient for this visit.

21 YY. On or about December 25, 2001, W.M. made the
22 following statement: She was addicted to Xanax when she
23 followed the advice of a fellow addict and sought out
24 respondent to replace Dr. Kenyon, who had lost his license, as
25 her physician. Her first visit to respondent lasted only a
26 few minutes and no physical examination was performed. She
27 would see respondent on a monthly basis for a few minutes.

1 Her longest visit with respondent during the entire period
2 that she was his patient lasted no longer than ten (10)
3 minutes. She alleged that she telephoned respondent in
4 October 1999 to inform him about her hospitalization for
5 delirium and hepatitis from possible drug abuse, including
6 Xanax abuse. During November 2000, she informed respondent
7 that she was addicted to Xanax and wished to quit taking it.
8 On three separate occasions she received prescriptions from
9 respondent in his writing and was told by respondent to take
10 them to Dr. Ditman, who was located in the same building, for
11 his signature, which she did.

12 **ZZ. [Extreme Departures from Standard of Practice]**

13 Respondent engaged in extreme departures from the standard of
14 practice in his care and treatment of W.M., as follows:

15 1. By proceeding to treat a psychiatric
16 patient without performing an initial
17 evaluation consistent with the standard of
18 practice.

19 2. By failing to make an accurate diagnosis
20 of the patient's substance abuse problem and
21 depressive disorder.

22 3. By failing to prescribe antidepressant
23 medication for the major depression diagnosed
24 for the period March 17, 1998 through December
25 2, 1999.

26 4. By failing to consult with and request the
27 patient's medical records from her prior and

1 current treating physicians, especially from
2 Kaiser Permanente after August 8, 1999.

3 5. By prescribing a narcotic, Vicodin ES,
4 without first exploring the effectiveness of
5 non-narcotic, non-addictive modes of treatment
6 and without substantiating through diagnostic
7 techniques or history of previous evaluation
8 and treatment the physical causes of the
9 patient's pain complaints during the period
10 August 6, 1998 through October 2, 1999; and/or
11 failing to document same.

12 6. By formulating diagnoses of Migraine and
13 menstrual pain, and prescribing a narcotic
14 analgesic to treat them, without confirming
15 the diagnoses through available diagnostic
16 techniques or obtaining a history of previous
17 evaluations and treatment; and/or failing to
18 document same.

19 7. By prescribing Xanax in increasing
20 quantities from February 2, 1998 through
21 October 1, 1999, without considering whether
22 the patient had developed a tolerance to the
23 medication and become habitually dependent or
24 addicted to it; and/or failing to document
25 same.

26 8. By continuing to prescribe Xanax after
27 being informed that the patient had

1 indications of abuse in 1996, had been
2 hospitalized in October 1999 for delirium and
3 hepatitis attributed to its overuse, had been
4 addicted to it at least since November 2000,
5 and had a history of abusing illegal
6 substances (i.e., L.S.D., cocaine).

7 9. By increasing the prescriptions of Xanax 1
8 mg. from 200 tablets a month to 400 tablets a
9 month during the period January 5 through
10 February 24, 2000 without a medical indication
11 therefor; and/or failing to document same.

12 10. By prescribing Xanax 1 mg. #100 and Ativan
13 2 mg. #100, two benzodiazepines, on June 27,
14 2000, contrary to the assessment of the
15 patient being stabile and pleasant, and
16 without any indication of a medical necessity
17 therefor; and/or failing to document the
18 latter.

19 11. By writing prescription orders for
20 controlled substances for the patient over the
21 signature of his colleague while prohibited
22 from doing so by the Medical Board through an
23 interim order.

24 12. By soliciting a **psychiatric** patient,
25 reliant on prescriptions written by him for
26 controlled substances, to which she was either
27 habitually dependent or addicted, to write a

1 letter publicly revealing her confidential
2 psychiatric disorder and treatment for the
3 purpose of using it to contest an interim
4 order suspending respondent's authority to
5 write prescriptions; and by allowing his
6 receptionist to proof read and correct the
7 letter and convey the impression that further
8 medical treatment (i.e., prescriptions of
9 narcotics and benzodiazepines) would be
10 withheld unless the letter was written to the
11 satisfaction of the receptionist.

12 **SEVENTY-NINTH CAUSE FOR DISCIPLINE**

13 (Repeated Negligent Acts)

14 52. Respondent is subject to disciplinary action under
15 section 2234, subdivision (c) of the Code, in that respondent
16 engaged in repeated acts of negligence while treating a patient
17 under his care. The circumstances are as follows:

18 A. The facts and expert opinions stated in above
19 numbered subparagraphs 51.A. to 51.ZZ. are incorporated by
20 reference herein as if fully set forth.

21 B. Respondent engaged in repeated departures from
22 the standard of practice in his care and treatment of W.M., as
23 follows:

24 1. By failing to make an accurate diagnosis
25 of the patient's substance abuse problem.

26 2. By proceeding to treat a psychiatric
27 patient without performing an initial

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evaluation consistent with the standard of practice.

3. By failing to prescribe anti-depressant medication for the major depression diagnosed for the period March 17, 1998 through December 2, 1999.

4. By failing to consult with and request the patient's medical records from her prior and current treating physicians, especially from Kaiser Permanente after August 8, 1999.

5. By prescribing a narcotic, Vicodin ES, without first exploring the effectiveness of non-narcotic, non-addictive modes of treatment and without substantiating, through diagnostic techniques and a history of previous evaluations and treatment, the physical causes of the patient's pain complaints during the period August 6, 1998 through October 2, 1999; and/or failing to document same.

6. By formulating diagnoses of Migraine and menstrual pain, and prescribing a narcotic analgesic to treat them, without confirming the diagnoses through available diagnostic techniques and a history of previous evaluations and treatment; and/or failing to document same.

7. By prescribing Xanax in increasing

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quantities from February 2, 1998 through October 1, 1999, without considering whether the patient had developed a tolerance to the medication and become habitually dependent or addicted to it; and/or failing to document same.

8. By continuing to prescribe Xanax after being informed that the patient had indications of abuse in 1996, had been hospitalized in October 1999 for delirium and hepatitis attributed to its overuse, had been addicted to it at least since November 2000, and had a history of abusing illegal substances (i.e., L.S.D., cocaine).

9. By increasing the prescriptions of Xanax 1 mg. from 200 tablets a month to 400 tablets a month during the period January 5 through February 24, 2000, without a medical indication therefor; and/or failing to document same.

10. By prescribing Xanax 1 mg. #100 and Ativan 2 mg. #100, two benzodiazepines, on June 27, 2000, contrary to the assessment of the patient being stabile and pleasant, and without any indication of a medical necessity therefor; and/or failing to document the latter.

1 11. By writing prescription orders for the
2 patient over the signature of his colleague
3 while prohibited from doing so by the Medical
4 Board through an interim order.

5 12. By soliciting a **psychiatric** patient,
6 reliant on prescriptions written by him for
7 controlled substances, to which she was either
8 habitually dependent or addicted, to write a
9 letter publicly revealing her confidential
10 psychiatric disorder and treatment for the
11 purpose of using it to contest an interim
12 order suspending respondent's authority to
13 write prescriptions; and by allowing his
14 receptionist to proof read and correct the
15 letter and convey the impression that further
16 medical treatment (i.e., prescriptions of
17 narcotics and benzodiazepines) would be
18 withheld unless the letter was written to the
19 satisfaction of the receptionist.

20 **EIGHTIETH CAUSE FOR DISCIPLINE**

21 (Incompetence)

22 53. Respondent is subject to disciplinary action under
23 section 2234, subdivision (d) of the Code, in that respondent
24 demonstrated incompetence while treating a patient under his care.

25 The circumstances are as follows:

26 A. The facts stated in above numbered paragraph 51
27 are incorporated by reference herein as if fully set forth.

1 B. The expert opinions reached in subparagraph ZZ
2 of above numbered paragraph 51, which indicate a lack of
3 medical knowledge and medical judgment, are incorporated by
4 reference herein as if fully set forth.

5 **EIGHTY-FIRST CAUSE FOR DISCIPLINE**

6 (Prescribing to Addict/Habitual User)

7 54. Respondent is subject to discipline under sections
8 2234, 2238, and 2241 of the Code, in connection with sections 11153
9 and 11156 of the Health and Safety Code, in that respondent
10 prescribed controlled substances to an addict or habitual user for
11 other than a legitimate medical purpose. The circumstances are as
12 follows:

13 A. The facts and expert opinions stated in above
14 numbered paragraph 51 are incorporated by reference herein as
15 if fully set forth.

16 **EIGHTY-SECOND CAUSE FOR DISCIPLINE**

17 (Excessive Prescribing)

18 55. Respondent is subject to disciplinary action under
19 sections 725 and 2234 of the Code, in that respondent committed
20 acts of clearly excessive prescribing of benzodiazepines and
21 narcotics while treating a patient under his care. The
22 circumstances are as follows:

23 A. The facts and expert opinions stated in above
24 numbered paragraph 51 are incorporated by reference herein as
25 if fully set forth.

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EIGHTY-THIRD CAUSE FOR DISCIPLINE

(Prescribing Without Exam/Indication)

56. Respondent is subject to disciplinary action under sections 2234 and 2242, subdivision (a) of the Code, in that respondent committed acts of prescribing dangerous drugs without a good faith prior examination and medical indication therefor. The circumstances are as follows:

A. The facts and expert opinions stated in above numbered paragraph 51 are incorporated by reference herein as if fully set forth.

EIGHTY-FOURTH CAUSE FOR DISCIPLINE

(Inadequate Records)

57. Respondent is subject to disciplinary action under section 2266 of the Code, in that respondent failed to maintain adequate and accurate records relating to the provision of services to a patient. The circumstances are as follows:

A. The facts and expert opinions stated at subparagraphs F., I., K. L., M., N., O., P., Q., R., S. T., W., X., Z., BB., CC., DD., KK., PP., and XX of above numbered paragraph 51 are incorporated by reference herein as if fully set forth.

EIGHTY-FIFTH CAUSE FOR DISCIPLINE

(Unprofessional Conduct)

58. Respondent is subject to disciplinary action under section 2234 of the Code, in that respondent engaged in general unprofessional conduct by writing prescription orders for a patient while prohibited from so doing by interim order. The circumstances

1 are as follows:

2 A. The facts and expert opinions stated at
3 subparagraphs SS., TT., YY. and ZZ. of above numbered
4 paragraph 51 are incorporated by reference herein as if fully
5 set forth.

6 **EIGHTY-SIXTH CAUSE FOR DISCIPLINE**

7 (Making False Statements)

8 59. Respondent is subject to disciplinary action under
9 section 2261 of the Code, in that respondent made false statements
10 regarding a patient under his care. The circumstances are as
11 follows:

12 A. The facts alleged in subparagraphs D., F., H.,
13 I., J., K., L., M., N., R., S., V. and YY. of above numbered
14 paragraph 51 (i.e., claims of performance of psychiatric
15 evaluations and/or 20 to 30 minute psychotherapy sessions for
16 billing purposes when respondent never treated W.M. for longer
17 than ten (10) minutes) are incorporated by reference herein as
18 if fully set forth.

19 **EIGHTY-SEVENTH CAUSE FOR DISCIPLINE**

20 (Alteration of Medical Records)

21 60. Respondent is subject to disciplinary action under
22 section 2262 of the Code, in that respondent created false medical
23 records with fraudulent intent. The circumstances are as follows:

24 A. The facts alleged in above numbered paragraph 59
25 are incorporated by reference herein as if fully set forth.

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1 EIGHTY-EIGHTH CAUSE FOR DISCIPLINE

2 (Dishonesty)

3 61. Respondent is subject to disciplinary action under
4 section 2234, subdivision (e) of the Code, in that respondent has
5 engaged in acts of dishonesty in connection with his treatment of
6 a patient. The circumstances are as follows:

7 A. The facts alleged in above numbered paragraph 59
8 are incorporated by reference herein as if fully set forth.

9 EIGHTY-NINTH CAUSE FOR DISCIPLINE

10 (Convictions of Crimes)

11 62. Respondent is subject to disciplinary action under
12 sections 2234, 2236 and 2237 of the Code, in that respondent has
13 been convicted of multiple offenses for violating a state law
14 regulating dangerous drugs or controlled substances while engaged
15 in the practice of medicine. The circumstances are as follows:

16 A. Section 2236 of the Code provides that it is
17 unprofessional conduct for a physician and surgeon to be
18 convicted of a criminal offense which is substantially related
19 to the qualifications, functions, or duties of a physician and
20 surgeon.

21 B. Section 2237 of the Code provides that it is
22 unprofessional conduct for a physician and surgeon to be
23 convicted of a criminal offense involving a violation of any
24 state or federal statute or regulation concerned with
25 dangerous drugs or controlled substances, and that a record of
26 conviction for such a violation shall be conclusive evidence
27 of unprofessional conduct.

1 C. Section 2237 of the Code provides further that
2 disciplinary action may be ordered "when the time for appeal
3 has elapsed, or the judgment of conviction has been affirmed
4 on appeal, or when an order granting probation is made
5 suspending the imposition of sentence. . . ."

6 D. Rule 31 of the California Rules of Court
7 provides that a notice of appeal shall be filed with the clerk
8 of the superior court within 60 days after the rendition of
9 the judgment.

10 E. Section 1466 of the Penal Code provides for
11 appeal to the appellate department of the superior court of
12 any misdemeanor conviction.

13 F. Section 11156 of the Health and Safety Code of
14 California provides that no person shall prescribe for or
15 administer, or dispense a controlled substances to an addict
16 or habitual user, or to any person representing himself as
17 such, except as permitted by statute.

18 G. On or about July 27, 2000, in People v. William
19 Leader, Case No. 0CR01126 of the Municipal Court of Los
20 Angeles County, respondent was charged with sixteen counts of
21 violating section 11156 of the Health and Safety Code during
22 his care and treatment of two patients, S.M. and E.D., which
23 are the same patients previously identified in the instant
24 pleading. (See Seventh [S.M.] and Thirty-Third [E.D.] Causes
25 for Discipline)

26 H. On or about January 22, 2001, in People v.
27 William Leader, Case No 0CR01126 of the Superior Court of Los

1 Angeles County, the criminal complaint against respondent was
2 amended, and two of the sixteen counts were dismissed in the
3 interest of justice. A trial by jury then commenced.

4 I. On or about January 31, 2001, in People v.
5 William Leader, Case No. 0CR01126 of the Superior Court of Los
6 Angeles County, the jury returned guilty verdicts on the
7 remaining fourteen counts of violating section 11156 of the
8 Health and Safety Code.

9 I. On or about February 5, 2001, in People v.
10 William Leader, Case No. 0CR01126 of the Superior Court of Los
11 Angeles County, the Hon. Josh M. Fredricks, Judge of the
12 Superior Court, entered a judgment of conviction against
13 respondent on each of the fourteen counts of violating section
14 11156 of the Health and Safety Code upon which the jury had
15 reached a verdict of guilty. On the same date, a judgment of
16 sentence was entered by Judge Fredricks, ordering respondent
17 to serve consecutive one year terms in the county jail for
18 each of five convictions, or five years total. Sentence on
19 the remaining nine convictions was suspended. Bail on appeal
20 was granted.

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1 PRAYER

2 **WHEREFORE**, the complainant requests that a hearing be
3 held on the matters herein alleged, and that following the hearing,
4 the Division issue a decision:

5 1. Revoking or suspending Physician and Surgeon's
6 Certificate Number A-41125, heretofore issued to respondent William
7 O. Leader, M.D.;

8 2. As to the Eighty-Ninth Cause For Discipline, revoking
9 or suspending Physician and Surgeon's Certificate Number A-41125,
10 heretofore issued to respondent William O. Leader, M.D., when the
11 time for appeal has elapsed, or the judgment of conviction has been
12 affirmed on appeal, or when an order granting probation is made
13 suspending the imposition of sentence.

14 3. Revoking, suspending or denying approval of
15 respondent's authority to supervise physician's assistants,
16 pursuant to section 3527 of the Code;

17 4. Ordering respondent to pay the Division the
18 reasonable costs of the investigation and enforcement of this case
19 and, if placed on probation, the costs of probation monitoring;

20 5. Taking such other and further action as the Division
21 deems necessary and proper.

22 DATED: April 27, 2001

23
24 Ron Joseph (R.A.)
25 Ron Joseph
26 Executive Director
27 Medical Board of California
Department of Consumer Affairs
State of California
Complainant

1 BILL LOCKYER, Attorney General
of the State of California
2 RICHARD AVILA, State Bar No. 91214
Deputy Attorney General
3 PAUL E. AMENT, State Bar No. 60427
Deputy Attorney General
4 California Department of Justice
300 South Spring Street, Suite 1702
5 Los Angeles, California 90013-1233
Telephone: (213) 897-6804

6 Attorneys for Complainant
7

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

11 In the Matter of the Accusation Against:) Case Nos. 06-1996-65821,
) 06-1997-79431,
12 **WILLIAM O. LEADER, M.D.**) 06-1998-82571,
822 N. McCadden Place) 06-1999-100710
13 Los Angeles, CA 90038) OAH No.L-1999090218
)
14 Physician's and Surgeon's Certificate No. A41125,) **AMENDMENT OF ACCUSATION**
) **TO CONFORM TO PROOF**
15 Respondent.)
16

17
18 **TO RESPONDENT AND COUNSEL FOR RESPONDENT:**

19 1. Pursuant to section 11507 of the Government Code, complainant hereby amends the
20 Third Amended Accusation to conform to proof based upon the completed testimony of witnesses,
21 especially Timothy E. Botello, M.D., presented from January 8 through 18, 2001, during the
22 presentation of complainant's case-in-chief at the administrative hearing, which is scheduled to
23 resume on March 12, 2001 with the commencement of respondent's case-in-chief.

24 A. The following Causes For Discipline augment and further specify the
25 existing Third Amended Accusation, beginning with the Forty-Eighth Cause For
26 Discipline, designated as number "48" below:
27

1 **PATIENT E.W:**

2 48. Respondent is subject to disciplinary action, in that respondent engaged in an
3 extreme departure from the standard of practice and incompetence, in violation of section 2234,
4 subds. (b)[Gross Negligence] and (d)[Incompetence] of the Code, by failing to obtain a medical
5 history from E.W. when she first presented to respondent on March 10, 1995, prior to prescribing
6 Vicodin ES for the use of E.W.

7 49. Respondent is subject to disciplinary action, in that respondent engaged in an
8 extreme departure from the standard of practice and incompetence, in violation of section 2234,
9 subds. (b)[Gross Negligence], (c) [Repeated Negligent Acts] and (d)[Incompetence] of the Code, by
10 failing to obtain a medical history from E.W. when she presented to respondent on March 24, 1995,
11 prior to prescribing Vicodin ES for the use of E.W.

12 50. Respondent is subject to disciplinary action, in that respondent demonstrated
13 incompetence, in violation of section 2234, subd. (d)[Incompetence] of the Code, by declaring under
14 penalty of perjury in a signed statement presented to the Board in defense of a petition for an interim
15 order of suspension [Exhibit "8"] that he never requested E.W.'s records from her prior and current
16 physicians because they had never requested his records on E.W. from him.

17 51. Respondent is subject to disciplinary action, in that respondent engaged in two
18 extreme departures from the standard of practice and twice demonstrated incompetence, in violation
19 of section 2234, subds. (b)[Gross Negligence], (c)[Repeated Negligent Acts] and (c)[Incompetence]
20 of the Code, by prescribing 180 Xanax tablets to E.W. from March 10 through 24, 1995, and
21 doubling the dose thereof on March 24, 1995, without medical indication, which also twice violated
22 sections 725 [Excessive Prescribing] and 2242, subd. (a)[Prescribing Without Medical Indication]
23 of the Code.

24 52. Respondent is subject to disciplinary action, in that respondent engaged in two
25 extreme departures from the standard of practice and twice demonstrated incompetence, in violation
26 of section 2234, subds. (b)[Gross Negligence], (c)[Repeated Negligent Acts] and (d)[Incompetence],
27 by prescribing 160 Vicodin ES tablets to E.W. from March 10 through 24, 1995, which also violated

1 sections 725[Excessive Prescribing] and 2242, subd. (a)[Prescribing Without Medical Indication]
2 of the Code.

3 53. Respondent is subject to disciplinary action, in that respondent engaged in an
4 extreme departure from the standard of practice and incompetence, in violation of section 2234,
5 subds. (b)[Gross Negligence] and (d)[Incompetence] of the Code, by failing to refer E.W. to a
6 medical specialist (e.g., internist, cardiologist, orthopedic surgeon) after respondent documented that
7 from March 10 through 24, 1995, E.W. presented with symptoms of high blood pressure, severe
8 diarrhea, severe anxiety, and severe intractable lower back pain.

9 54. Respondent is subject to disciplinary action, in that respondent prescribed a
10 controlled substance to E.W. without a prior good faith examination or medical indication therefor,
11 in violation of section 2242, subd. (a) of the Code, by prescribing Vicodin ES to E.W. on May 30,
12 1995, for "severe, chronic, intractable pain secondary to lumbar disc" without first obtaining a
13 confirmed diagnosis of the condition as required under the standard of practice.

14 55. Respondent is subject to disciplinary action, in that respondent prescribed a
15 controlled substance to E.W. without a prior good faith examination or medical indication therefor,
16 in violation of section 2242, subd. (a) of the Code, by prescribing Catapres 0.03 mg. 100 tablets for
17 E.W.'s hypertension on May 30, 1995, more than three times the amount previously prescribed,
18 without documenting an elevated blood pressure or alternative diagnosis, which also violated section
19 725[Excessive Prescribing] of the Code.

20 56. Respondent is subject to disciplinary action, in that respondent prescribed a
21 controlled substance to E.W. without a prior good faith examination or medical indication therefor,
22 in violation of section 2242, subd. (a) of the Code, by prescribing Catapres 0.03 mg. 100 tablets for
23 E.W.'s hypertension on June 9, 1995, or 200 tablets of Catapres from May 30 through June 9, 1995,
24 without documenting an elevated blood pressure or alternative diagnosis, which also violated section
25 724[Excessive Prescribing] of the Code.

26 57. Respondent is subject to disciplinary action, in that respondent engaged in two
27 extreme departures from the standard of practice and twice demonstrated incompetence, in violation

1 of section 2234, subs. (b)[Gross Negligence], (c)[Repeated Negligent Acts] and (c)[Incompetence]
2 of the Code, by prescribing 160 Vicodin ES tablets, 180 Xanax 2 mg. tablets, 200 Catapres tablets
3 and 16 oz. Of Phenergan with Codeine to E.W. from May 30 through June 9, 1995, which also
4 violated sections 725[Excessive Prescribing] and 2242, subd. (a)[Prescribing Without Medical
5 Indication] of the Code.

6 58. Respondent is subject to disciplinary action, in that respondent twice prescribed
7 a controlled substance to E.W. without a prior good faith examination or medical indication therefor,
8 in violation of section 2242, subd. (a)[Prescribing Without Medical Indication] of the Code, by
9 prescribing Darvon and Vicodin, similar narcotic substances, on June 28 and July 19, 1995, for the
10 use of E.W. without confirming a diagnosis for the prescriptions.

11 59. Respondent is subject to disciplinary action, in that respondent prescribed
12 Klonopin 2 mg., a benzodiazepine-like substance, and Xanax 2 mg., a benzodiazepine, to E.W. on
13 June 28 and July 19, 1995, without confirming a diagnosis for said prescriptions, in violation of
14 section 2242, subd. (a) of the Code.

15 60. Respondent is subject to disciplinary action, in that respondent engaged in two
16 extreme departures from the standard of practice and incompetence, in violation of section 2234,
17 subs. (b)[Gross Negligence], (c)[Repeated Negligent Acts] and (d)[Incompetence] of the Code, by
18 prescribing Darvon, Vicodin, Klonopin and Xanax to E.W. on June 28 and July 19, 1995.

19 **PATIENT S.M:**

20 61. Respondent is subject to disciplinary action, in that respondent engaged in an
21 extreme departure from the standard of practice and incompetence, in violation of section 2234,
22 subs. (b)[Gross Negligence] and (d)[Incompetence] of the Code, by prescribing 340 tablets of
23 Valium 10 mg. and 180 tablets of Phenobarbital to S.M. from May 13 through September 9, 1997,
24 which also violated sections 725[Excessive Prescribing], 2242, subd. (a)[Prescribing Without
25 Medical Indication], 2238 and 2241[Prescribing to an Addict/Habitue] of the Code.

26 62. Respondent is subject to disciplinary action, in that respondent engaged in an
27 extreme departure from the standard of practice and incompetence, in violation of section 2234,

1 subds. (b)[Gross Negligence] and (d)[Incompetence] of the Code, by billing for the performance of
2 psychotherapy with S.M. on June 10, June 24 and September 2, 1997, contrary to respondent's
3 treatment records for said dates, which also violated sections 2266[Adequate and Accurate Records],
4 2261[False Statements] and 2262[Alteration of Medical Records] of the Code.

5 63. Respondent is subject to disciplinary action, in that respondent demonstrated
6 incompetence, in violation of section 2234, subdivision (d) of the Code, by proceeding to treat S.M.,
7 a psychiatric patient, without performing an initial evaluation of the patient consistent with the
8 standard of practice.

9 **PATIENT E.D.:**

10 64. Respondent is subject to disciplinary action, in that respondent engaged in an
11 extreme departure from the standard of practice and incompetence, in violation of section 2234,
12 subds. (b)[Gross Negligence] and (d)[Incompetence] of the Code, by prescribing 380 Xanax tablets
13 to E.D. from June 25 through July 11, 1996, which also violated sections 725[Excessive Prescribing]
14 and 2242, subd. (a)[Prescribing Without Medical Indication] of the Code.

15 65. Respondent is subject to disciplinary action, in that respondent engaged in an
16 extreme departure from the standard of practice and incompetence, in violation of section 2234,
17 subds. (b)[Gross Negligence] and (d)[Incompetence] of the Code, by prescribing 135 Fioricet with
18 Codeine tablets [a narcotic substance] to E.D. from June 25 through July 11, 1996, which also
19 violated sections 725[Excessive Prescribing] and 2242, subd.(a)[Prescribing Without Medical
20 Indication] of the Code.

21 66. Respondent is subject to disciplinary action, in that respondent engaged in an
22 extreme departure from the standard of practice and incompetence, in violation of section 2234,
23 subds. (b)[Gross Negligence] and (d)[Incompetence] of the Code, by prescribing 163 Xanax tablets,
24 100 Valium tablets and 200 Tylenol with Codeine tablets [a narcotic] to E.D. from January 24
25 through February 7, 1997, which also violated sections 725[Excessive Prescribing] and 2242, subd.
26 (a)[Prescribing Without Medical Indication] of the Code.

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1 -67. Respondent is subject to disciplinary action, in that respondent engaged in an
2 extreme departure from the standard of practice and incompetence, in violation of section 2234,
3 subds. (b)[Gross Negligence] and (d)[Incompetence] of the Code, by prescribing Phenergan with
4 Codeine, a narcotic substance, three times and Klonopin 2 mg. 148 tablets to E.D. from February 21
5 through March 7, 1997, which also violated sections 725[Excessive Prescribing] and 2242, subd.
6 (a)[Prescribing Without Medical Indication] of the Code.

7 68. Respondent is subject to disciplinary action, in that respondent engaged in an
8 extreme departure from the standard of practice and incompetence, in violation of section 2234,
9 subds. (b)[Gross Negligence] and (d)[Incompetence] of the Code, by prescribing 300 tablets of
10 Xanax to E.D. from June 11 through 26, 1997, which also violated sections 725[Excessive
11 Prescribing], 2242, subd. (a)[Prescribing Without Medical Indication], 2238 and 2241[Prescribing
12 to an Addict/Habitue] of the Code.

13 69. Respondent is subject to disciplinary action, in violation of sections
14 2266[Adequate and Accurate Records], 2261[False Statements] and 2262[Alteration of Medical
15 Records] of the Code, by billing for the performance of psychotherapy with E.D. on September 9,
16 September 22, October 2, October 17 and October 30, 1997, and January 8 and December 18, 1998,
17 contrary to respondent's treatment records for said dates.

18 70. Respondent is subject to disciplinary action, in violation of section
19 2266[Adequate and Accurate Records], 2261[False Statements] and 2262[Alteration of Medical
20 Records] of the Code, by writing a letter on May 4, 1998, stating that E.D. had severe tendinitis of
21 the lumbar spine, which was unsupported by any documentation of a confirmed diagnosis for said
22 condition in respondent's medical records for E.D.

23 71. Respondent is subject to disciplinary action, in that respondent engaged in an
24 extreme departure from the standard of practice and incompetence, in violation of section 2234,
25 subds. (b)[Gross Negligence] and (d)[Incompetence] of the Code, by prescribing Lortab, a narcotic
26 substance, to E.D. on January 27, 1998, which also violated section 2242, subdivision (a)[Prescribing
27 Without Medical Indication], 2238 and 2241[Prescribing to an Addict/Habitue] of the Code.

1 72. Respondent is subject to disciplinary action, in that respondent engaged in an
2 extreme departure from the standard of practice and incompetence, in violation of section 2234,
3 subs. (b)[Gross Negligence] and (d)[Incompetence] of the Code, by prescribing 255 Xanax tablets
4 and 147 Tylenol with Codeine tablets to E.D. from March 12 through 18, 1998, which also violated
5 sections 725[Excessive Prescribing], 2242, subd. (a)[Prescribing Without Medical Indication], 2238
6 and 2241[Prescribing to an Addict/Habitue] of the Code.

7 73. Respondent is subject to disciplinary action, in that respondent engaged in an
8 extreme departure from the standard of practice and incompetence, in violation of section 2234,
9 subs. (b)[Gross Negligence] and (d)[Incompetence] of the Code, by prescribing 315 Xanax tablets
10 and 187 Codeine tablets to E.D. from May 4 through 28, 1998, which also violated sections
11 725[Excessive Prescribing], 2242, subd. (a)[Prescribing Without Medical Indication], 2238 and
12 2241[Prescribing to an Addict/Habitue] of the Code.

13 74. Respondent is subject to disciplinary action, in that respondent engaged in an
14 extreme departure from the standard of practice and incompetence, in violation of section 2234,
15 subs. (b)[Gross Negligence], (c)[Repeated Negligent Acts] and (d)[Incompetence] of the Code, by
16 prescribing Fentanyl [a narcotic substance], Vicodin [a narcotic substance], Codeine [a narcotic
17 substance] and Xanax to E.D. from August 31 through November 5, 1998, which also violated
18 sections 725[Excessive Prescribing], 2242, subd. (a)[Prescribing Without Medical Indication], 2238
19 and 2241[Prescribing to an Addict/Habitue] of the Code.

20 75. Respondent is subject to disciplinary action, in that respondent engaged in an
21 extreme departure from the standard of practice and incompetence, in violation of section 2234,
22 subs. (b)[Gross Negligence], (c)[Repeated Negligent Acts] and (d)[Incompetence] of the Code, by
23 prescribing Xanax, Vicodin, Klonopin and Codeine to E.D. from January 11 through July 27, 1999,
24 which also violated sections 725[Excessive Prescribing], 2242, subd. (a)[Prescribing Without
25 Medical Indication], 2238 and 2241[Prescribing to an Addict/Habitue] of the Code.

26 76. Respondent is subject to disciplinary action, in that respondent engaged in an
27 extreme departure from the standard of practice and incompetence, in violation of section 2234,

1 subs. (b)[Gross Negligence] and (d)[Incompetence] of the Code, by failing to prescribe mood
2 stabilizing medication to E.D. for his Bipolar Affective Disorder from February 15 through July 27,
3 1999.

4 77. Respondent is subject to disciplinary action, in that respondent engaged in an
5 extreme departure from the standard of practice and incompetence, in violation of section 2234,
6 subs. (b)[Gross Negligence] and (d)[Incompetence] of the Code., by prescribing Depakote and
7 Tegretol to E.D. from February 21, 1997 through January 13, 1999, without performing substance
8 level, liver function and blood count tests to assess the therapeutic/toxic effects of the medications.

9 B. The following further modifications are made to the Third
10 Amended Accusation:

11 1. At page 78, numbered paragraph 37.B.10. of the
12 Third Amended Accusation, the allegation that respondent departed
13 from the standard of practice by falsely representing in a letter
14 intended to be used in a court proceeding that he provided treatment
15 to E.D. three times per week in late February and early March 1997
16 has been clarified by respondent's subsequently filed declaration
17 [Exhibit "8"] which identifies previously undated progress notes, and
18 therefore this particular allegation is withdrawn as a factor supporting
19 the Thirty-Fourth, Thirty-Ninth, Fortieth and Forty-Second Causes
20 for Discipline.

21 2. At page 39, numbered paragraphs 16.X.1., 16.X.2.,
22 and 16.X.3. (within the Thirteenth Cause for Discipline [Gross
23 Negligence]) are withdrawn. (The corresponding allegations in
24 paragraphs 17.B.1., 17.B.2, and 17.B.3. are **not** withdrawn.)
25 Paragraphs 16 X.4. and 16X.5. are **not** withdrawn.

26 3. At page 40, in paragraph 16.X.4., the words "Chloral
27 Hydrate" are withdrawn.

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4. At page 41, in paragraph 17.B.4., the words "Chloral Hydrate" are withdrawn.

5. At page 46, paragraph 22.M.2. is withdrawn. (The corresponding allegations in paragraph 23.B.2. are **not** withdrawn.)

6. At page 47, paragraph 22.M.3. is withdrawn. (The corresponding allegations in paragraph 23.B.3. are **not** withdrawn.)

7. At page 47, paragraph 22.M.4. is withdrawn. (The corresponding allegations in paragraph 23.B.4. are **not** withdrawn.)

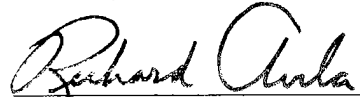
8. At page 47, paragraph 22.M.6. is withdrawn.

9. At pages 48 through 49, paragraph 23.B.6. is withdrawn.

10. At page 49, paragraph 24 is withdrawn.

DATED: February 27, 2001.

BILL LOCKYER
Attorney General



RICHARD AVILA
Deputy Attorney General
PAUL E. AMENT
Deputy Attorney General

Attorneys for Complainant