

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

In the Matter of the Accusation Against:)
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)
)
CARMEN PROTESTS GONZALES-NATE, M.D.)
)
Physician's and Surgeon's)
Certificate No. A49248)
)
Respondent)
_____)

Case No. 09-2011-219583

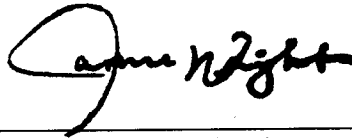
DECISION

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

This Decision shall become effective at 5:00 p.m. on May 29, 2015.

IT IS SO ORDERED: April 30, 2015.

MEDICAL BOARD OF CALIFORNIA



**Jamie Wright, J.D., Chair
Panel A**

1 KAMALA D. HARRIS
Attorney General of California
2 THOMAS S. LAZAR
Supervising Deputy Attorney General
3 JOSEPH F. MCKENNA III
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8 *Attorneys for Complainant*

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

13 In the Matter of the Accusation Against:

Case No. 09-2011-219583

14 **CARMEN GONZALES-NATE, M.D.**
15 **11660 Emerald Drive**
Loma Linda, CA 92354

OAH No. 2014-020902

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

16 **Physician's and Surgeon's Certificate**
17 **No. A 49248,**

Respondent.

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

22 **PARTIES**

23 1. Kimberly Kirchmeyer (Complainant) is the Executive Director of the Medical Board
24 of California. She brought this action solely in her official capacity as such and is represented in
25 this matter by Kamala D. Harris, Attorney General of the State of California, by Joseph F.
26 McKenna III, Deputy Attorney General.

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1 other matter affecting or involving respondent. In the event that the Board does not, in its
2 discretion, approve and adopt this Stipulated Settlement and Disciplinary Order, with the
3 exception of this paragraph, it shall not become effective, shall be of no evidentiary value
4 whatsoever, and shall not be relied upon or introduced in any disciplinary action by either party
5 hereto. Respondent further agrees that should this Stipulated Settlement and Disciplinary Order
6 be rejected for any reason by the Board, respondent will assert no claim that the Board, or any
7 member thereof, was prejudiced by its/his/her review, discussion and/or consideration of this
8 Stipulated Settlement and Disciplinary Order or of any matter or matters related hereto.

9 **ADDITIONAL PROVISIONS**

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

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

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

19 **DISCIPLINARY ORDER**

20 IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. A 49248 issued
21 to respondent Carmen Gonzales-Nate, M.D. (respondent) is revoked. However, the revocation is
22 stayed and respondent is placed on probation for two (2) years from the effective date of this
23 Decision on the following terms and conditions.

24 1. **CONTROLLED SUBSTANCES – MAINTAIN RECORDS AND ACCESS TO**
25 **RECORDS AND INVENTORIES.** Respondent shall maintain a record of all controlled
26 substances ordered, prescribed, dispensed, administered, or possessed by respondent, and any
27 recommendation or approval which enables a patient or patient's primary caregiver to possess or
28 cultivate marijuana for the personal medical purposes of the patient within the meaning of Health

1 and Safety Code section 11362.5, during probation, showing all the following: 1) the name and
2 address of patient; 2) the date; 3) the character and quantity of controlled substances involved;
3 and 4) the indications and diagnosis for which the controlled substances were furnished.

4 Respondent shall keep these records in a separate file or ledger, in chronological order. All
5 records and any inventories of controlled substances shall be available for immediate inspection
6 and copying on the premises by the Board or its designee at all times during business hours and
7 shall be retained for the entire term of probation.

8 2. PRESCRIBING PRACTICES COURSE.

9 Within 60 calendar days of the effective date of this Decision, respondent shall enroll in a
10 course in prescribing practices equivalent to the Prescribing Practices Course at the Physician
11 Assessment and Clinical Education Program, University of California, San Diego School of
12 Medicine (Program), approved in advance by the Board or its designee. Respondent shall provide
13 the program with any information and documents that the Program may deem pertinent.
14 Respondent shall participate in and successfully complete the classroom component of the course
15 not later than six (6) months after respondent's initial enrollment. Respondent shall successfully
16 complete any other component of the course within one (1) year of enrollment. The prescribing
17 practices course shall be at respondent's expense and shall be in addition to the Continuing
18 Medical Education (CME) requirements for renewal of licensure.

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

24 Respondent shall submit a certification of successful completion to the Board or its
25 designee not later than 15 calendar days after successfully completing the course, or not later than
26 15 calendar days after the effective date of the Decision, whichever is later.

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1 3. MEDICAL RECORD KEEPING COURSE.

2 Within 60 calendar days of the effective date of this Decision, respondent shall enroll in a
3 course in medical record keeping equivalent to the Medical Record Keeping Course offered by
4 the Physician Assessment and Clinical Education Program, University of California, San Diego
5 School of Medicine (Program), approved in advance by the Board or its designee. Respondent
6 shall provide the program with any information and documents that the Program may deem
7 pertinent. Respondent shall participate in and successfully complete the classroom component of
8 the course not later than six (6) months after respondent's initial enrollment. Respondent shall
9 successfully complete any other component of the course within one (1) year of enrollment. The
10 medical record keeping course shall be at respondent's expense and shall be in addition to the
11 Continuing Medical Education (CME) requirements for renewal of licensure.

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

17 Respondent shall submit a certification of successful completion to the Board or its
18 designee not later than 15 calendar days after successfully completing the course, or not later than
19 15 calendar days after the effective date of the Decision, whichever is later.

20 4. PROFESSIONALISM PROGRAM (ETHICS COURSE). Within 60 calendar days of
21 the effective date of this Decision, respondent shall enroll in a professionalism program, that
22 meets the requirements of Title 16, California Code of Regulations (CCR) section 1358.
23 Respondent shall participate in and successfully complete that program. Respondent shall
24 provide any information and documents that the program may deem pertinent. Respondent shall
25 successfully complete the classroom component of the program not later than six (6) months after
26 respondent's initial enrollment, and the longitudinal component of the program not later than the
27 time specified by the program, but no later than one (1) year after attending the classroom
28 component. The professionalism program shall be at respondent's expense and shall be in

1 addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

2 A professionalism program taken after the acts that gave rise to the charges in the
3 Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board
4 or its designee, be accepted towards the fulfillment of this condition if the program would have
5 been approved by the Board or its designee had the program been taken after the effective date of
6 this Decision.

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

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

13 6. QUARTERLY DECLARATIONS. Respondent shall submit quarterly declarations
14 under penalty of perjury on forms provided by the Board, stating whether there has been
15 compliance with all the conditions of probation.

16 Respondent shall submit quarterly declarations not later than 10 calendar days after the end
17 of the preceding quarter.

18 7. GENERAL PROBATION REQUIREMENTS.

19 Compliance with Probation Unit

20 Respondent shall comply with the Board's probation unit and all terms and conditions of
21 this Decision.

22 Address Changes

23 Respondent shall, at all times, keep the Board informed of respondent's business and
24 residence addresses, email address (if available), and telephone number. Changes of such
25 addresses shall be immediately communicated in writing to the Board or its designee. Under no
26 circumstances shall a post office box serve as an address of record, except as allowed by Business
27 and Professions Code section 2021(b).

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1 Place of Practice

2 Respondent shall not engage in the practice of medicine in respondent's or patient's place
3 of residence, unless the patient resides in a skilled nursing facility or other similar licensed
4 facility.

5 License Renewal

6 Respondent shall maintain a current and renewed California physician's and surgeon's
7 license.

8 Travel or Residence Outside California

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

12 In the event respondent should leave the State of California to reside or to practice
13 respondent shall notify the Board or its designee in writing 30 calendar days prior to the dates of
14 departure and return.

15 8. INTERVIEW WITH THE BOARD OR ITS DESIGNEE. Respondent shall be
16 available in person upon request for interviews either at respondent's place of business or at the
17 probation unit office, with or without prior notice throughout the term of probation.

18 9. NON-PRACTICE WHILE ON PROBATION. Respondent shall notify the Board or
19 its designee in writing within 15 calendar days of any periods of non-practice lasting more than
20 30 calendar days and within 15 calendar days of respondent's return to practice. Non-practice is
21 defined as any period of time respondent is not practicing medicine in California as defined in
22 Business and Professions Code sections 2051 and 2052 for at least 40 hours in a calendar month
23 in direct patient care, clinical activity or teaching, or other activity as approved by the Board. All
24 time spent in an intensive training program which has been approved by the Board or its designee
25 shall not be considered non-practice. Practicing medicine in another state of the United States or
26 Federal jurisdiction while on probation with the medical licensing authority of that state or
27 jurisdiction shall not be considered non-practice. A Board-ordered suspension of practice shall
28 not be considered as a period of non-practice.

1 In the event respondent's period of non-practice while on probation exceeds 18 calendar
2 months, respondent shall successfully complete a clinical training program that meets the criteria
3 of Condition 18 of the current version of the Board's "Manual of Model Disciplinary Orders and
4 Disciplinary Guidelines" prior to resuming the practice of medicine.

5 Respondent's period of non-practice while on probation shall not exceed two (2) years.

6 Periods of non-practice will not apply to the reduction of the probationary term.

7 Periods of non-practice will relieve respondent of the responsibility to comply with the
8 probationary terms and conditions with the exception of this condition and the following terms
9 and conditions of probation: Obey All Laws; and General Probation Requirements.

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

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

21 12. LICENSE SURRENDER. Following the effective date of this Decision, if
22 respondent ceases practicing due to retirement or health reasons or is otherwise unable to satisfy
23 the terms and conditions of probation, respondent may request to surrender his or her license.
24 The Board reserves the right to evaluate respondent's request and to exercise its discretion in
25 determining whether or not to grant the request, or to take any other action deemed appropriate
26 and reasonable under the circumstances. Upon formal acceptance of the surrender, respondent
27 shall within 15 calendar days deliver respondent's wallet and wall certificate to the Board or its
28 designee and respondent shall no longer practice medicine. Respondent will no longer be subject

1 to the terms and conditions of probation. If respondent re-applies for a medical license, the
2 application shall be treated as a petition for reinstatement of a revoked certificate.

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

8 ACCEPTANCE

9 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
10 discussed it with my attorney, Raymond J. McMahon, Esq. I understand the stipulation and the
11 effect it will have on my Physician's and Surgeon's Certificate No. A 49248. I enter into this
12 Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree
13 to be bound by the Decision and Order of the Medical Board of California.

14 DATED: 2/13/15 
15 CARMEN GONZALES-NATE, M.D.
Respondent

16 I have read and fully discussed with respondent Carmen Gonzales-Nate, M.D., the terms
17 and conditions and other matters contained in the above Stipulated Settlement and Disciplinary
18 Order. I approve its form and content.

19 DATED: February 13, 2015 
20 RAYMOND J. MCMAHON, ESQ.
Attorney for Respondent

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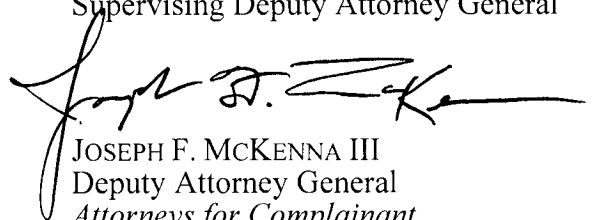
ENDORSEMENT

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

Dated: *March 16, 2015*

Respectfully submitted,

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



JOSEPH F. MCKENNA III
Deputy Attorney General
Attorneys for Complainant

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Doc.No. 71030222

Exhibit A

Accusation No. 09-2011-219583

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JURISDICTION

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

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

5. Section 2234 of the Code states:

“The board shall take action against any licensee who is charged with unprofessional conduct.¹ In addition to other provisions of this article, unprofessional conduct includes, but is not limited to, the following:

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

“(b) Gross negligence.

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

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

“(2) When the standard of care requires a change in the diagnosis, act, or omission that constitutes the negligent act described in paragraph (1), including, but not limited to, a reevaluation of the diagnosis or a change in treatment, and the licensee's conduct departs

¹ Unprofessional conduct has been defined as conduct which breaches the rules or ethical code of the medical profession, or conduct which is unbecoming a member in good standing of the medical profession, and which demonstrates an unfitness to practice medicine. (*Shea v. Board of Medical Examiners* (1978) 81 Cal.App.3d 564, 575.)

1 from the applicable standard of care, each departure constitutes a separate and distinct
2 breach of the standard of care.

3 “(d) Incompetence.

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

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

7 “....”

8 6. Section 2242, subdivision (a) provides:

9 “Prescribing, dispensing, or furnishing dangerous drugs as defined in Section 4022
10 without an appropriate prior examination and a medical indication, constitutes
11 unprofessional conduct.”

12 7. Section 2266 of the Code states:

13 AThe failure of a physician and surgeon to maintain adequate and accurate records
14 relating to the provision of services to their patients constitutes unprofessional conduct.”

15 FIRST CAUSE FOR DISCIPLINE

16 (Gross Negligence)

17 8. Respondent is subject to disciplinary action under sections 2227 and 2234, as defined
18 by section 2234, subdivision (b), of the Code, in that Respondent committed gross negligence in
19 her care and treatment of patients: T.L., C.C., C.H., D.H., A.H., A.L. and J.M., as more
20 particularly alleged hereinafter:

21 INTRODUCTION

22 A. In about December 2010, Respondent commenced providing care and treatment as a
23 psychiatrist to patients at Orchid Court Board and Care (Orchid Court), a facility for the mentally
24 ill located on S. Arrowhead Drive in San Bernardino. Respondent had been introduced to the
25 owner of Orchid Court by SP (Pharmacist SP), a pharmacist at the Loma Linda Health Pharmacy
26 in Loma Linda. Loma Linda Health Pharmacy (Pharmacy) regularly filled prescriptions for
27 psychiatric and other medications for patients at Orchid Court. Respondent provided care and
28 treatment to approximately thirty (30) of Orchid Court’s patients including the patients: T.L.,

1 C.C., C.H., D.H., A.H., A.L. and J.M., named above. Respondent attended to the patients at
2 Orchid Court approximately one day a month. Respondent routinely furnished psychiatric and
3 other medications to these patients by issuing "verbal authorizations" or "verbal orders" for
4 medication refills to Loma Linda Health Pharmacy. Pharmacist SP documented the verbal order
5 on a Prescription Pad for Verbal Orders maintained at the Pharmacy. On occasion, Orchid Court
6 personnel would contact Pharmacist SP when patients were "acting up" or being difficult.
7 Pharmacist SP would contact Respondent who would issue verbal orders for additional
8 medications for the patients. Periodically, Respondent travelled to the Pharmacy to initial or sign
9 on the verbal orders. Although, Respondent prescribed and/or ordered refills for psychiatric and
10 other medications for T.L., C.C., C.H., D.H., A.H., A.L. and J.M., patients over several months,
11 Respondent failed to generate and/or maintain any chart notes of the care and treatment she
12 provided to these patients.²

13 Some time prior to November 3, 2011, the California State Department of Health Services
14 conducted an audit of the Pharmacy. The audit revealed, among other things, that Respondent
15 was furnishing medications for Orchid Court patients, including T.L., C.C., C.H., D.H., A.H.,
16 A.L. and J.M., patients, without generating any chart notes on the patients and without a
17 documentation of the medical necessity for the medications. After the audit, Pharmacist SP
18 requested Respondent submit signed prescription orders on her prescription pad to replace the
19 verbal orders for the patients. Respondent refused. Instead, Respondent submitted to Pharmacist
20 SP, a list of dates on which she indicated she provided services to patients at Orchid Court.
21 Respondent did not identify any patients on the list.³ Respondent terminated her association with
22 Orchid Court on or after December 2012.

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26 ² Respondent produced one chart note for patient A.L. on the care and treatment she
provided to the patient on or about April 18, 2011.

27 ³ At the physician's interviews on December 11, 2012 and March 13, 2013, Respondent
28 stated that the above-named patients could not have been her patients because the patients were
Medi-Cal patients and she was not a Medi-Cal provider.

1 Patient T.L.

2 B. On or about January 27, 2011, Respondent commenced providing care and treatment
3 as a psychiatrist to patient T.L. On this date, Respondent prescribed and/or ordered the refill of
4 the following medications for patient T.L.: 30 tablets of Temazepam 30 mg⁴ with three (3) refills,
5 30 tablets of Depakote ER 500 mg⁵ with three (3) refills and 30 tablets of Zyprexa 20 mg⁶ with
6 three (3) refills. Respondent furnished these medications to patient T.L. without obtaining and
7 documenting any history of the patient's illness, without performing and/or documenting a
8 thorough physical examination of the patient, and without arriving at a diagnosis for the patient.

9 C. On or about April 20, 2011, Respondent prescribed and/or authorized refills of
10 31 tablets of Temazepam 30 mg, 31 tablets of Depakote 500 mg and 31 tablets of Zyprexa 20 mg,
11 all with three (3) refills, for patient T.L., and on or about May 2, 2011, Respondent added a
12 prescription for 30 tablets of Zyprexa 10 mg for the patient.⁷ Thereafter, every three (3) months,
13 Respondent prescribed and/or authorized refills of the Temazepam, Zyprexa and Depakote
14 medications at the same strength, quantity and dosage, each medication with three (3) refills, for
15 patient T.L. On or about July 14, 2011, Respondent prescribed and/or authorized refills of the
16 Temazepam, Depakote, Zyprexa 20 mg and Zyprexa 10 mg medications for patient T.L. And, on
17 or about October 10, 2011, Respondent prescribed and/or authorized refills of the Temazepam,
18 Depakote, Zyprexa 20 mg and Zyprexa 10 mg, medications for patient T.L.

19 D. Respondent continuously prescribed and/or ordered refills of psychiatric medications
20 for patient T.L. over approximately a seven (7) month period without obtaining and documenting

21 _____
22 ⁴ Temazepam is a Schedule IV controlled substance under Health and Safety Code under
23 section 11057(d) (29) of the Health and Safety Code and is a dangerous drug under section 4022
24 of the Business and Professions Code. It is used for management of anxiety disorder.

25 ⁵ Depakote, Divalproex Sodium, is dangerous drug under Business and Professions Code
26 section 4022. It is indicated for treatment of manic episodes associated with bipolar disorder, and
27 is also indicated for monotherapy or adjunctive therapy in patients with complex partial seizures.

28 ⁶ Zypreza, Olanzipine, is a psychotropic agent and a dangerous drug under Business and
Professions Code section 4022. It is indicated for the treatment of schizophrenia.

⁷ On or about April 22, 2011, another Orchid Court physician issued a verbal order for
Depakote 500 mg, Zypreza 15 mg and Klonopin 0.5 mg for patient T.L.

1 a history of the patient's mental illness, without performing and/or documenting any physical
2 examination of the patient, and without any documentation of an assessment of how the patient
3 was functioning on the medications she was furnishing to the patient.

4 Patient C.C.

5 E. On or about December 21, 2010, Respondent commenced providing care and
6 treatment as a psychiatrist to patient C.C. On this date, Respondent failed to obtain and document
7 a history of the patient's mental illness and failed to perform and/or document a physical
8 examination of the patient. Nonetheless, Respondent prescribed and/or authorized refills of the
9 following medications for patient C.C.: 31 tablets of Trazadone 150 mg,⁸ 31 tablets of Ambien
10 10 mg,⁹ 31 Navane 10 mg,¹⁰ 31 tablets of Depakote 250 mg, 31 tablets of Zyprexa 10 mg,
11 31 tablets of Artane 5 mg¹¹ and 31 tablets Thorazine 100 mg.¹² Respondent ordered three
12 (3) refills for each of these medications.

13 F. Thereafter, every three (3) months, Respondent prescribed and/or authorized refills of
14 these same seven (7) psychiatric and other medications at the same strength, quantity and dosage,
15 each with three (3) refills, for patient C.C.¹³ On or about March 24, 2011, Respondent authorized
16 refills of the Trazadone, Ambien, Navane, Depakote, Zyprexa, Artane and Thorazine for patient
17 C.C. On or about July 8, 2011, Respondent again prescribed and/or authorized refills of the

18 _____
19 ⁸ Trazadone is an antidepressant and a dangerous drug under Business and Professions
Code section 4022. It is indicated for treatment of major depression.

20 ⁹ Ambien, zolpidem tartrate, is a non-benzodiazepine hypnotic and a Schedule IV
21 controlled substance under Health and Safety Code section 11057(d)(32) and a dangerous drug
22 under Business and Professions Code section 4022. It is indicated for short term treatment of
insomnia.

23 ¹⁰ Navane is a dangerous drug under Business and Professions Code section 4022. It is
indicated for management of manifestations of psychotic disorders.

24 ¹¹ Artane is a dangerous drug under Business and Professions Code 4022. It is indicated
25 as an adjunct in the treatment of all forms of Parkinsonism.

26 ¹² Thorazine is a dangerous drug under Business and Professions Code 4022. It is
indicated for management of manifestations of psychotic disorders.

27 ¹³ On or about March 14, 2011, Respondent authorized a prescription for Navane 5 mg
28 for patient C.C., however.

1 Trazadone, Ambien, Navane, Depakote, Zyprexa, Artane and Thorazine medications for patient
2 C.C. And, on or about October 1, 2011, Respondent again authorized refills of the Trazadone,
3 Ambien, Navane, Depakote, Zyprexa, Artane and Thorazine for patient C.C.

4 G. Respondent continuously prescribed and/or ordered refills of psychiatric medications
5 for patient C.C. over approximately a ten month period without obtaining and documenting a
6 history of the patient's mental illness, without performing and/or documenting any physical
7 examination of patient C.C., and without any documentation of an assessment of how the patient
8 was functioning on the medications Respondent was furnishing.

9 Patient C.H.

10 H. On or about December 16, 2010, Respondent commenced providing care and
11 treatment as a psychiatrist to patient C.H. On this date, Respondent prescribed and/or authorized
12 the refill of Geodon 80 mg¹⁴ and Depakote 250 mg, each with three (3) refills, for patient C.H.
13 On or about December 23, 2010, Respondent also prescribed Zyprexa 15 mg and Benadryl, an
14 antihistamine, for patient C.H. Respondent prescribed and/or authorized these medications for
15 patient C.H. without obtaining and documenting a history of the patient's mental illness, without
16 performing and/or documenting she performed a physical examination of the patient, and without
17 documenting a medical necessity for the medications. Thereafter, every three (3) months,
18 Respondent prescribed and/or authorized refills of these same four (4) psychiatric and other
19 medications at the same strength, quantity and dosage, each with three (3) refills, for patient C. H.

20 I. On or about April 22, 2011, Respondent prescribed and/or authorized refills of
21 Geodon, Depakote, Zypreza and Benadryl for patient C.H. On or about July 14, 2011,
22 Respondent prescribed and/or authorized refills of Geodon, Depakote, Zypreza, and Benadryl for
23 patient C.H. And, on or about September 10, 2011, Respondent prescribed and/or authorized
24 refills of the Geodon, Depakote, Zypreza and Benadryl medications for patient C.H. Respondent
25 continuously prescribed and/or ordered refills of psychiatric medications for patient C.H. without
26

27 ¹⁴ Geodon, ziprasidone hydrochloride, is an antipsychotic agent and a dangerous drug
28 under Business and Professions Code section 4022. It is indicated for the treatment of
schizophrenia.

1 obtaining and documenting a history of the patient's mental illness, without performing and/or
2 documenting any physical examination of the patient, and without any documentation of an
3 assessment of how patient C.H. was functioning on the medications Respondent was furnishing.

4 Patient D.H.

5 J. On or about December 15, 2010, Respondent commenced providing care and
6 treatment as a psychiatrist to patient D.H. On this date, Respondent failed to obtain and
7 document a history of the patient's mental illness and failed to perform and/or document a
8 physical examination of the patient. However, Respondent prescribed and/or authorized refills of
9 the following medications for patient D.H.: Lexapro 10 mg,¹⁵ Depakote 500 mg, Seroquel
10 200 mg,¹⁶ Cogentin 1 mg¹⁷ and Zyprexa 10 mg. On or about December 23, 2010, Respondent
11 prescribed and/or ordered refills of Zyprexa 10 mg, Depakote 500 mg and Trazadone 150 mg (all
12 with three (3) refills) for patient D.H. Respondent failed to document any justification for
13 prescribing and/or authorizing refills of these medications.

14 K. Thereafter, Respondent continued to prescribe and/or authorize refills of psychiatric
15 and other medications at the same strength, quantity and at the same dosage, each with three
16 (3) refills, for patient D.H. every three (3) months. On or about April 22, 2011, Respondent
17 prescribed and/or authorized the refill of Lexapro, Depakote, Seroquel, Cogentin, and Zyprexa
18 medications for patient D.H. On or about July 14, 2011, Respondent again prescribed and/or
19 authorized the refill of the Lexapro, Depakote, Seroquel, Cogentin and Zyprexa medications for
20 patient D.H. And, on or about October 11, 2011, Respondent again prescribed and/or authorized
21 the Lexapro, Depakote, Seroquel, Cogentin and Zyprexa medications for patient D.H.

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23
24 ¹⁵ Lexapro, escitalopram oxadate, is a dangerous drug under Business and Professions
25 Code section 4022. It is indicated for the treatment of acute major depression and acute
generalized anxiety disorder.

26 ¹⁶ Seroquel, quetiapine fumarate, is an antipsychotic drug and is a dangerous drug under
27 Business and Professions Code section 4022. It is indicated for the treatment of schizophrenia.

28 ¹⁷ Cogentin, bztropine, is a dangerous drug under Business and Professions Code
section 4022. It is indicated for the treatment of Parkinson Disease.

1 L. Respondent continuously prescribed and/or ordered refills of psychiatric medications
2 for patient D.H. without obtaining and documenting a history of the patient's mental illness,
3 without performing and/or documenting any physical examination of the patient, and without any
4 documentation of an assessment of how patient D.H. was functioning on the medications
5 Respondent was furnishing.

6 Patient A.H.

7 M. On or about December 23, 2010, Respondent commenced providing care and
8 treatment as a psychiatrist to patient A.H. On this date, Respondent failed to obtain and
9 document a history of patient A.H.'s mental illness, failed to perform and/or document a physical
10 examination of the patient and failed to arrive at and/or note she arrived at a diagnosis for the
11 patient. However, Respondent prescribed and/or authorized refills of Zyprexa 10 mg, Depakote
12 500 mg and Trazadone 150 mg, all with three (3) refills for patient A.H. Thereafter, every three
13 (3) months, Respondent prescribed and/or authorized refills of these same psychiatric medications
14 in the same strength, quantity and dosage, each with three (3) refills, for patient A.H.

15 N. On or about April 22, 2011, Respondent prescribed and/or authorized refills of
16 Zyprexa, Depakote and Trazadone medications for patient A.H. Respondent also prescribed
17 and/or authorized refills of Zyprexa, Depakote and Trazadone medications for patient A.H. on or
18 about July 14, 2011. And, on or about October 11, 2011, Respondent prescribed and/or
19 authorized Zyprexa, Depakote and Trazadone for patient A.H. At no time during the period of
20 treatment did Respondent obtain and document a history of the patient's mental illness. Further,
21 Respondent failed to perform and or document she performed a physical examination of patient
22 A.H. during the period of treatment, and failed to perform and or document she performed an
23 assessment of patient A.H. to determine how the patient was functioning on the medications she
24 was furnishing to the patient.

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1 Patient A.L.

2 O. On or about December 10, 2010,¹⁸ Respondent commenced providing care and
3 treatment as a psychiatrist to patient A.L. On this date, Respondent failed to obtain and document
4 a history of patient A.L.'s mental illness, failed to perform and/or document a physical
5 examination of the patient and failed to arrive at and/or note she arrived at a diagnosis for the
6 patient. However, Respondent prescribed and/or authorized refills of 31 tablets of Trazadone
7 50 mg with three refills for patient A.L. On or about December 15, 2010, Respondent prescribed
8 and/or authorized refills of the following medications, each with three (3) refills, for patient A.L.:
9 31 tablets of Topamax, 100 mg,¹⁹ 31 tablets of Seroquel 300 mg, 31 tablets of Cogentin 1 mg and
10 31 tablets of Effexor 150 mg.²⁰ Respondent failed to document any justification for providing
11 these drugs for patient A.L.

12 P. Thereafter, every three (3) months, Respondent prescribed and/or authorized refills of
13 these same psychiatric medications at the same strength, quantity and dosage, each with three (3)
14 refills, for patient A.L. On or about April 20, 2011, Respondent prescribed and/or authorized
15 refill of the Topamax, Seroquel, Cogentin, Effexor and Trazadone medications for patient A.L.
16 On or about July 8, 2011, Respondent again prescribed and/or authorized refill of the Topamax,
17 Seroquel, Cogentin, Effexor and Trazadone medications for patient A.L. And, on or about
18 October 12, 2011, Respondent prescribed and/or authorized refill of the Topamax, Seroquel,
19 Cogentin, Effexor and Trazadone medications for patient A.L. With the exception of the single
20 chart note on April 18, 2011, Respondent failed to perform and or document she performed a
21 physical examination of patient A.L. during the period of treatment. Moreover, during the period
22 of treatment, Respondent failed to perform and or document she performed an assessment of
23

24 ¹⁸ At the physician's interview on or about December 11, 2012, Respondent stated she
25 started providing care and treatment to patient A.L. on April 18, 2011. She produced a one-page
"Initial Psychiatric Evaluation" note of the patient dates April 18, 2011.

26 ¹⁹ Topamax, topiramate, is an antiepileptic drug and a dangerous drug under Business and
27 Professions Code section 4022. It is indicated as an adjunct therapy in the treatment of seizures.

28 ²⁰ Effexor, venlafaxine hydrochloride, is an antidepressant and a dangerous drug under
Business and Professions Code section 4022. It is indicated for the treatment of depression.

1 patient A.L. to determine how the patient was functioning on the medications Respondent was
2 furnishing.

3 Patient J.M.

4 Q. On or about December 11, 2010, Respondent commenced providing care and
5 treatment as a psychiatrist to patient J.M. Respondent failed to obtain and document a history of
6 patient J.M.'s mental illness, failed to perform and/or document a physical examination of the
7 patient and failed to arrive at and/or note she arrived at a diagnosis for the patient. However, on
8 this date, Respondent prescribed and/or authorized refills of 31 tablets of Trazadone 150 mg,
9 31 tablets of Cogentin 1 mg and Haldol 10 mg,²¹ each prescription with three (3) refills, for
10 patient J.M. On or about December 15, 2010, Respondent prescribed and/or authorized refills for
11 31 tablets of Risperidone 2 mg²² and 31 tablets of Prozac 20 mg,²³ each with three (3) refills for
12 patient J.M. Respondent failed to document any justification for providing these drugs for patient
13 J.M.

14 R. Thereafter, every three (3) months, Respondent prescribed and/or authorized refills of
15 these same psychiatric medications at the same strength, quantity and dosage, with three (3)
16 refills of each prescription, for patient J.M. On or about April 20, 2011, Respondent prescribed
17 and/or authorized the Risperidone, Prozac, Haldol, Cogentin and Trazadone medications for
18 patient J.M. On or about July 8, 2011, Respondent again prescribed and/or authorized the
19 Risperidone, Prozac, Haldol, Cogentin and Trazadone medications for patient J.M. And, on or
20 about October 12, 2011, Respondent prescribed and/or authorized the Risperidone, Prozac,
21 Haldol, Cogentin and Trazadone medications for patient J.M. At no time during the period of
22 treatment did Respondent obtain and document a history of the patient's mental illness. Further,

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24 ²¹ Haldol, a brand of haloperidol, is a dangerous drug under Business and Professions
Code section 4022. It is indicated for use in the management of the manifestations of psychotic
disorders.

25 ²² Risperdone is an antipsychotic agent and a dangerous drug under Business and
26 Professions Code section 4022. It is indicated for use in the management of the manifestations of
psychotic disorders.

27 ²³ Prozac, fluoxetine hydrochloride, is a dangerous drug under Business and Professions
28 Code section 4022. It is indicated for management of anxiety.

1 Respondent failed to perform and or document she performed a physical examination of patient
2 J.M. during the period of treatment, and failed to perform and or document she performed an
3 assessment to determine how patient J.M. was functioning on the medications Respondent was
4 furnishing.

5 9. Respondent committed gross negligence in her care and treatment of patients: T.L.,
6 C.C., C.H., D.H., A.H., A.L. and J.M., which included, but was not limited to, the following:

7 Patient T.L.

8 A. Between about January 27, 2011, and about October 10, 2011, Respondent repeatedly
9 prescribed and/or authorized refills of Temazepam, Zyprexa and Depakote medications for
10 patient T.L. without obtaining and documenting a history of the patient's mental illness, without
11 performing and/or documenting any physical examination of the patient, and without any
12 documentation of an assessment of how patient T.L. was functioning on the medications.

13 Patient C.C.

14 B. Between about December 21, 2010, and about October 1, 2011, Respondent
15 repeatedly prescribed and/or authorized refills of Trazadone, Ambien, Navane, Zyprexa,
16 Depakote, Artane and Thorazine medications for patient C.C. without obtaining and documenting
17 a history of the patient's mental illness, without performing and/or documenting any physical
18 examination of the patient, and without any documentation of an assessment of how patient C.C.
19 was functioning on the medications.

20 Patient C.H.

21 C. Between about December 16, 2010, and about September 10, 2011, Respondent
22 repeatedly prescribed and/or authorized refills of Geodon, Zyprexa, Depakote and Benadryl
23 medications for patient C.H. without obtaining and documenting a history of the patient's mental
24 illness, without performing and/or documenting any physical examination of the patient, and
25 without any documentation of an assessment of how patient C.H. was functioning on the
26 medications.

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1 Patient D.H.

2 D. Between about December 15, 2010, and about October 11, 2011, Respondent
3 repeatedly prescribed and/or authorized refills of Lexapro, Zyprexa, Depakote, Seroquel and
4 Cogentin medications for patient D.H. without obtaining and documenting a history of the
5 patient's mental illness, without performing and/or documenting any physical examination of the
6 patient, and without any documentation of an assessment of how patient D.H. was functioning on
7 the medications.

8 Patient A.H.

9 E. Between about December 23, 2010, and about October 11, 2011, Respondent
10 repeatedly prescribed and/or authorized refills of Zyprexa, Depakote and Trazadone medications
11 for patient A.H. without obtaining and documenting a history of the patient's mental illness,
12 without performing and/or documenting any physical examination of the patient, and without any
13 documentation of an assessment of how patient A.H. was functioning on the medications.

14 Patient A.L.

15 F. Between about December 10, 2010, and about October 12, 2011, Respondent
16 repeatedly prescribed and/or authorized refills of Topamax, Seroquel, Cogentin, Effexor and
17 Trazadone medications for patient A.L. without obtaining and documenting a history of the
18 patient's mental illness, without performing and/or documenting any physical examination of the
19 patient, and without any documentation of an assessment of how patient A.L. was functioning on
20 the medications.

21 Patient J.M.

22 G. Between about December 11, 2010, and about October 12, 2011, Respondent
23 repeatedly prescribed and/or authorized refills of Risperidone, Prozac, Haldol, Cogentin and
24 Trazadone medications for patient J.M. without obtaining and documenting a history of the
25 patient's mental illness, without performing and/or documenting any physical examination of the
26 patient, and without any documentation of an assessment of how patient J.M. was functioning on
27 the medications.

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1 SECOND CAUSE FOR DISCIPLINE

2 (Repeated Negligent Acts)

3 10. Respondent is further subject to disciplinary action under sections 2227 and 2234, as
4 defined by section 2234, subdivision (c), of the Code, in that she committed repeated negligent
5 acts in her care and treatment of patients: T.L., C.C., C.H., D.H., A.H., A.L. and J.M., as more
6 particularly alleged in paragraphs 8 and 9, above, which are hereby incorporated by reference and
7 realleged as if fully set forth herein.

8 THIRD CAUSE FOR DISCIPLINE

9 (Incompetence)

10 11. Respondent is further subject to disciplinary action under sections 2227 and 2234, as
11 defined by section 2234, subdivision (d), of the Code, in that she demonstrated incompetence in
12 her care and treatment of patients: T.L., C.C., C.H., D.H., A.H., A.L. and J.M., as more
13 particularly alleged in paragraphs 8 and 9, above, which are hereby incorporated by reference and
14 realleged as if fully set forth herein.

15 FOURTH CAUSE FOR DISCIPLINE

16 (Prescribing without an Appropriate Prior Exam)

17 12. Respondent is further subject to disciplinary action under sections 2227 and 2234, as
18 defined by section 2242, of the Code, in that she prescribed and/or authorized psychiatric and
19 other medications to patients: T.L., C.C., C.H., D.H., A.H., A.L. and J.M., without performing an
20 appropriate prior examination and a documentation of medical indication, as more particularly
21 alleged in paragraphs 8 and 9, above, which are hereby incorporated by reference and realleged as
22 if fully set forth herein.

23 FIFTH CAUSE FOR DISCIPLINE

24 (Failure to Maintain Adequate and Accurate Medical Records)

25 13. Respondent is further subject to disciplinary action under sections 2227 and 2234, as
26 defined by section 2266 of the Code, in that Respondent failed to maintain adequate and accurate
27 records regarding her care and treatment of patients: T.L., C.C., C.H., D.H., A.H., A.L. and J.M.,

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1 as more particularly alleged in paragraphs 8 through 12, above, which are incorporated by
2 reference and realleged as if fully set forth herein.

3 PRAYER

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

- 6 1. Revoking or suspending Physician's and Surgeon's Certificate Number A 49248,
7 issued to Respondent CARMEN GONZALES-NATE, M.D.;
- 8 2. Revoking, suspending or denying approval of Respondent CARMEN GONZALES-
9 NATE, M.D.'s authority to supervise physician assistants, pursuant to section 3527 of the Code;
- 10 3. Ordering Respondent, CARMEN GONZALES-NATE, M.D. to pay the Medical
11 Board of California the costs of probation if placed on probation; and
- 12 4. Taking such other and further action as deemed necessary and proper.

13
14 DATED: August 23, 2013


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

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18 SKH:
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