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

In the Matter of the First Amended Accusation Against:	)	
DOUGLAS PETER MURPHY, M.D.	)	Case No. 800-2014-003156
Physician's and Surgeon's Certificate No. A65282	)	
Respondent	)	

DECISION

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

This Decision shall become effective at 5:00 p.m. on October 11, 2018.

IT IS SO ORDERED: September 11, 2018.

MEDICAL BOARD OF CALIFORNIA

Kristina Lawson, JD, Chair
Panel B

XAVIER BECERRA
Attorney General of California
JANE ZACK SIMON
Supervising Deputy Attorney General
MACHAELA M. MINGARDI
Deputy Attorney General
State Bar No. 194400
455 Golden Gate Avenue, Suite 11000
San Francisco, CA 94102-7004
Telephone: (415) 510-3489
Facsimile: (415) 703-5480
Attorneys for Complainant

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

In the Matter of the Accusation Against: **DOUGLAS PETER MURPHY, M.D.** 1551 Bishop Street, Suite A150 San Luis Obispo, CA 93401-4635 Physician's and Surgeon's Certificate No. A65282 Respondent.	Case No. 800-2014-003156 OAH No. 2018010461 **STIPULATED SETTLEMENT AND DISCIPLINARY ORDER**

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

PARTIES

1. Kimberly Kirchmeyer (Complainant) is the Executive Director of the Medical Board of California (Board). She brought this action solely in her official capacity and is represented in this matter by Xavier Becerra, Attorney General of the State of California, by Machaela M. Mingardi, Deputy Attorney General.

2. Respondent Douglas Peter Murphy, M.D. (Respondent) is represented in this proceeding by attorney Mark B. Connely, Esq., whose address is: 1319 Marsh Street, Second Floor, San Luis Obispo, CA 93401.

3. On or about May 22, 1998, the Board issued Physician's and Surgeon's Certificate No. A65282 to Douglas Peter Murphy, M.D. (Respondent). The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought in Accusation No. 800-2014-003156, and will expire on May 31, 2020, unless renewed.

JURISDICTION

4. A First Amended Accusation (hereinafter "Accusation"), No. 800-2014-003156, was filed before the Board, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on September 21, 2016. Respondent timely filed his Notice of Defense contesting the Accusation.

5. A copy of Accusation No. 800-2014-003156 is attached as Exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

6. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 800-2014-003156. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

7. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

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

CULPABILITY

9. Respondent understands and agrees that the charges and allegations in Accusation No. 800-2014-003156, if proven at a hearing, constitute cause for imposing discipline upon his Physician's and Surgeon's Certificate.

10. For the purpose of resolving the Accusation without the expense and uncertainty of further proceedings, Respondent agrees that, at a hearing, Complainant could establish a factual basis for the charges in the Accusation, and that Respondent hereby gives up his right to contest those charges.

11. Respondent agrees that his Physician's and Surgeon's Certificate is subject to discipline and he agrees to be bound by the Board's probationary terms as set forth in the Disciplinary Order below.

CONTINGENCY

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

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

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

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. A65282 issued to Respondent Douglas Peter Murphy, M.D., is revoked. However, the revocation is stayed and Respondent is placed on probation for three (3) years on the following terms and conditions:

1. EDUCATION COURSE. Within 60 calendar days of the effective date of this Decision, and on an annual basis thereafter, Respondent shall submit to the Board or its designee for its prior approval educational programs or courses which shall not be less than 40 hours per year, for each year of probation. The educational programs or courses shall be aimed at correcting any areas of deficient practice or knowledge, including patient evaluation and monitoring, and shall be Category I certified. The educational programs or courses shall be at Respondent's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure. Following the completion of each course, the Board or its designee may administer an examination to test Respondent's knowledge of the course. Respondent shall provide proof of attendance for 65 hours of CME of which 40 hours were in satisfaction of this condition.

2. PRESCRIBING PRACTICES COURSE. Within 60 calendar days of the effective date of this Decision, Respondent shall enroll in a course in prescribing practices approved in advance by the Board or its designee. Respondent shall provide the approved course provider with any information and documents that the approved course provider may deem pertinent. Respondent shall participate in and successfully complete the classroom component of the course not later than six (6) months after Respondent's initial enrollment. Respondent shall successfully complete any other component of the course within one (1) year of enrollment. The prescribing practices course shall be at Respondent's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

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

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

3. MEDICAL RECORD KEEPING COURSE. Within 60 calendar days of the effective date of this Decision, Respondent shall enroll in a course in medical record keeping approved in advance by the Board or its designee. Respondent shall provide the approved course provider with any information and documents that the approved course provider may deem pertinent. Respondent shall participate in and successfully complete the classroom component of the course not later than six (6) months after Respondent's initial enrollment. Respondent shall successfully complete any other component of the course within one (1) year of enrollment. The medical record keeping course shall be at Respondent's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

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

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

4. PROFESSIONALISM PROGRAM (ETHICS COURSE). Within 60 calendar days of the effective date of this Decision, Respondent shall enroll in a professionalism program, that meets the requirements of Title 16, California Code of Regulations (CCR) section 1358.1. Respondent shall participate in and successfully complete that program. Respondent shall provide any information and documents that the program may deem pertinent. Respondent shall successfully complete the classroom component of the program not later than six (6) months after Respondent's initial enrollment, and the longitudinal component of the program not later than the time specified by the program, but no later than one (1) year after attending the classroom component. The professionalism program shall be at Respondent's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

A professionalism program taken after the acts that gave rise to the charges in the

Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board or its designee, be accepted towards the fulfillment of this condition if the program would have been approved by the Board or its designee had the program been taken after the effective date of this Decision.

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

5. MONITORING - PRACTICE/BILLING. Within 30 calendar days of the effective date of this Decision, Respondent shall submit to the Board or its designee for prior approval as a practice monitor(s), the name and qualifications of one or more licensed physicians and surgeons whose licenses are valid and in good standing, and who are preferably American Board of Medical Specialties (ABMS) certified. A monitor shall have no prior or current business or personal relationship with Respondent, or other relationship that could reasonably be expected to compromise the ability of the monitor to render fair and unbiased reports to the Board, including but not limited to any form of bartering, shall be in Respondent's field of practice, and must agree to serve as Respondent's monitor. Respondent shall pay all monitoring costs.

The Board or its designee shall provide the approved monitor with copies of the Decision(s) and Accusation(s), and a proposed monitoring plan. Within 15 calendar days of receipt of the Decision(s), Accusation(s), and proposed monitoring plan, the monitor shall submit a signed statement that the monitor has read the Decision(s) and Accusation(s), fully understands the role of a monitor, and agrees or disagrees with the proposed monitoring plan. If the monitor disagrees with the proposed monitoring plan, the monitor shall submit a revised monitoring plan with the signed statement for approval by the Board or its designee.

Within 60 calendar days of the effective date of this Decision, and continuing throughout probation, Respondent's practice shall be monitored by the approved monitor. Respondent shall make all records available for immediate inspection and copying on the premises by the monitor at all times during business hours and shall retain the records for the entire term of probation.

If Respondent fails to obtain approval of a monitor within 60 calendar days of the effective

date of this Decision, Respondent shall receive a notification from the Board or its designee to cease the practice of medicine within three (3) calendar days after being so notified. Respondent shall cease the practice of medicine until a monitor is approved to provide monitoring responsibility.

The monitor(s) shall submit a quarterly written report to the Board or its designee which includes an evaluation of Respondent's performance, indicating whether Respondent's practices are within the standards of practice of medicine, and whether Respondent is practicing medicine safely, billing appropriately or both. It shall be the sole responsibility of Respondent to ensure that the monitor submits the quarterly written reports to the Board or its designee within 10 calendar days after the end of the preceding quarter.

If the monitor resigns or is no longer available, Respondent shall, within 5 calendar days of such resignation or unavailability, submit to the Board or its designee, for prior approval, the name and qualifications of a replacement monitor who will be assuming that responsibility within 15 calendar days. If Respondent fails to obtain approval of a replacement monitor within 60 calendar days of the resignation or unavailability of the monitor, Respondent shall receive a notification from the Board or its designee to cease the practice of medicine within three (3) calendar days after being so notified. Respondent shall cease the practice of medicine until a replacement monitor is approved and assumes monitoring responsibility.

In lieu of a monitor, Respondent may participate in a professional enhancement program approved in advance by the Board or its designee that includes, at minimum, quarterly chart review, semi-annual practice assessment, and semi-annual review of professional growth and education. Respondent shall participate in the professional enhancement program at Respondent's expense during the term of probation.

6. NOTIFICATION. Within seven (7) days of the effective date of this Decision, the Respondent shall provide a true copy of this Decision and Accusation to the Chief of Staff or the Chief Executive Officer at every hospital where privileges or membership are extended to Respondent, at any other facility where Respondent engages in the practice of medicine, including all physician and locum tenens registries or other similar agencies, and to the Chief

Executive Officer at every insurance carrier which extends malpractice insurance coverage to Respondent. Respondent shall submit proof of compliance to the Board or its designee within 15 calendar days.

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

7. SUPERVISION OF PHYSICIAN ASSISTANTS AND ADVANCED PRACTICE NURSES. During probation, Respondent is prohibited from supervising physician assistants and advanced practice nurses.

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

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

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

10. GENERAL PROBATION REQUIREMENTS.

Compliance with Probation Unit

Respondent shall comply with the Board's probation unit.

Address Changes

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

Place of Practice

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

License Renewal

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

Travel or Residence Outside California

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

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

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

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

In the event Respondent's period of non-practice while on probation exceeds 18 calendar

months, Respondent shall successfully complete the Federation of State Medical Boards's Special Purpose Examination, or, at the Board's discretion, a clinical competence assessment program that meets the criteria of Condition 18 of the current version of the Board's "Manual of Model Disciplinary Orders and Disciplinary Guidelines" prior to resuming the practice of medicine.

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

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

Periods of non-practice for a Respondent residing outside of California will relieve Respondent of the responsibility to comply with the probationary terms and conditions with the exception of this condition and the following terms and conditions of probation: Obey All Laws; General Probation Requirements; Quarterly Declarations; Abstain from the Use of Alcohol and/or Controlled Substances; and Biological Fluid Testing.

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

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

15. LICENSE SURRENDER. Following the effective date of this Decision, if Respondent ceases practicing due to retirement or health reasons or is otherwise unable to satisfy the terms and conditions of probation, Respondent may request to surrender his or her license. The Board reserves the right to evaluate Respondent's request and to exercise its discretion in determining whether or not to grant the request, or to take any other action deemed appropriate and reasonable under the circumstances. Upon formal acceptance of the surrender, Respondent

shall within 15 calendar days deliver Respondent's wallet and wall certificate to the Board or its designee and Respondent shall no longer practice medicine. Respondent will no longer be subject to the terms and conditions of probation. If Respondent re-applies for a medical license, the application shall be treated as a petition for reinstatement of a revoked certificate.

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

ACCEPTANCE

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

DATED: 6-11-18

DOUGLAS PETER MURPHY, M.D.
Respondent

I have read and fully discussed with Respondent Douglas Peter Murphy, M.D. the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: 6/11/18

MARK B. CONNELY, ESQ.
Attorney for Respondent

ENDORSEMENT

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

Dated: 7/9/2018

Respectfully submitted,

XAVIER BECERRA
Attorney General of California
JANE ZACK SIMON
Supervising Deputy Attorney General

MACHAELA M. MINGARDI
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 800-2014-003156

KAMALA D. HARRIS
Attorney General of California
JANE ZACK SIMON
Supervising Deputy Attorney General
MACHAELA M. MINGARDI
Deputy Attorney General
State Bar No. 194400
455 Golden Gate Avenue, Suite 11000
San Francisco, CA 94102-7004
Telephone: (415) 703-5696
Facsimile: (415) 703-5480
Attorneys for Complainant

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

In the Matter of the First Amended Accusation Against: **Douglas Peter Murphy, M.D.** 1551 Bishop St., Ste. A150 San Luis Obispo, CA 93401 Physician's and Surgeon's Certificate No. A65282, Respondent.	Case No. 800-2014-003156 **FIRST AMENDED ACCUSATION**

Complainant alleges:

PARTIES

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

2. On or about May 22, 1998, the Medical Board issued Physician's and Surgeon's Certificate Number A65282 to Douglas Peter Murphy, M.D. (Respondent). The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought herein and will expire on May 31, 2018, unless renewed.

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JURISDICTION

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

4. Section 2227 of the Code provides that a licensee who is found guilty under the Medical Practice Act may have his or her license revoked, suspended for a period not to exceed one year, placed on probation and required to pay the costs of probation monitoring, or 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. In addition to other provisions of this article, unprofessional conduct includes, but is not limited to, the following:

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

"(b) Gross negligence.

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

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

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

"(d) Incompetence.

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

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

"(g) The practice of medicine from this state into another state or country without meeting the legal requirements of that state or country for the practice of medicine. Section 2314 shall not apply to this subdivision. This subdivision shall become operative upon the implementation of the proposed registration program described in Section 2052.5.

"(h) The repeated failure by a certificate holder, in the absence of good cause, to attend and participate in an interview by the board. This subdivision shall only apply to a certificate holder who is the subject of an investigation by the board."

6. Section 2266 of the Code states: "The failure of a physician and surgeon to maintain adequate and accurate records relating to the provision of services to their patients constitutes unprofessional conduct."

FIRST CAUSE FOR DISCIPLINE

(Unprofessional Conduct: Incompetence and/or Repeated Negligent Acts related to the care of Patient G.R.)

7. Respondent is subject to disciplinary action under sections 2234 and/or 2234(c) and/or 2234(d) in that Respondent was incompetent and/or committed repeated negligent acts in the care and treatment of Patient G.R. The circumstances are as follows:

8. Respondent treated Patient G.R. during two separate periods of time, with the first period beginning in March 2005 and ending around February 2007. The second period of treatment began in August 2009 and ended when Patient G.R. killed himself on March 23, 2013 at the age of 65.

9. In August 2009, Respondent began prescribing Patient G.R. Clonazepam[1] and Venlafaxine[2]. In November 2009, Respondent added Buproprion (Wellbutrin)[3]. In a letter

[1] Clonazepam is a benzodiazepine and a central nervous system depressant. It is a dangerous drug as defined in section 4022 and a Schedule IV controlled substance as defined by section 11057 of the Health and Safety Code.

[2] Venlafaxine, trade name Effexor, is an antidepressant. It is a dangerous drug as defined in section 4022.

[3] Buproprion, trade name Wellbutrin, is an antidepressant. It is a dangerous drug as defined in section 4022.

written to the San Luis Obispo Coroner's Office, Respondent stated that he added Buproprion to address sexual side effects. Patient G.R. was being treated for insomnia, however, a common side effect of Buproprion is to cause insomnia or aggravate pre-existing insomnia.

10. Despite the addition of Buproprion, Respondent did not see Patient G.R. for two months. The record of Patient G.R.'s 20-minute January 26, 2010 visit with Respondent does not reflect significant symptoms of anxiety and does not indicate a plan to prescribe Lorazepam (Ativan)[4]. However, a fax prescription form with the same date indicates Respondent prescribed Patient G.R. Ativan. The progress note indicates a plan to taper off Venlafaxine, but the clinical rationale is not given. The records fail to state a rationale for these changes in medication treatment.

11. Close monitoring and follow-up are the standard of care during anti-depressant tapering since it may be associated with adverse effects, changes in depressive or anxious symptoms, and changes in insomnia. Despite the tapering of Venlafaxine and starting a new medication, Lorazepam, the next scheduled follow-up visit was to be in two months.

12. Respondent next saw Patient G.R. for 20 minutes on April 1, 2010. The record does not reflect what if any changes in sexual functioning occurred with the discontinuation of Venlaflaxine. Patient G.R. reported that he has been "hit and miss" on Bubproprion.

13. Respondent next saw Patient G.R. for 20 minutes on June 21, 2010. Respondent's records are partially illegible. The portion of the record that is legible reflects that Patient G.R.'s primary care physician (PCP) prescribed Patient G.R. Restoril (Temazepam[5]) for sleep. This is incorrect. Prescription records show that Patient G.R.'s PCP had prescribed him Triazolam[6]. Despite Patient G.R.'s need for additional sleep medication, Respondent rated his insomnia the

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[4] Lorazepam, trade name Ativan, is a psychotropic drug for the management of anxiety disorders. It is a dangerous drug as defined in section 4022 and a Schedule IV controlled substance as defined by section 11057 of the Health and Safety Code.

[5] Temazepam, trade name Restoril, is a hypnotic agent. It is indicated for the short-term treatment of insomnia, generally 7 to 10 days only. It is a dangerous drug as defined in section 4022 and a Schedule IV controlled substance as defined by section 11057 of the Health and Safety Code.

[6] Triazolam, is a benzodiazepine and a central nervous system depressant. It is used to treat severe insomnia and indicated for short term use only. It is a dangerous drug as defined in section 4022 and a Schedule IV controlled substance as defined by section 11057 of the Health and Safety Code.

same as the prior visit ("1-2"). Respondent fails to note any inquiry into the nature or the severity of Patient G.R.'s insomnia or the reason why he received an additional prescription for Restoril from his PCP on top of the Lorazepam that Respondent was already prescribing. There is no record that Respondent checked CURES (the Department of Justice Controlled Substance Utilization Review and Evaluation System) or took any other steps to verify the medication prescribed to Patient G.R. There is no record that Respondent consulted with Patient G.R.'s PCP to see why both physicians were treating the same problem and/or to coordinate care as required by the standard of care.

14. Respondent next saw Patient G.R. three months later on September 10, 2010. The records reflect that Patient G.R. is having a "very challenging year" in business and can't sleep because of the stress. The treatment plan was to increase the dose of Triazolam from .25 mg to one or two tablets at bedtime, to add over-the-counter Benadryl (Diphenhydramine) as needed for sleep, and to follow-up six months later. The records do not reflect how much Ativan Patient G.R. was taking at bedtime nor do they reflect any care coordination with Patient G.R.'s PCP who was prescribing the Triazolam.

15. Moreover, the medical records provide little information about Patient G.R.'s psychiatric condition at the time. His insomnia was being treated with three medications: Lorazepam, Triazolam, and Diphenhydramine. At the same time, Respondent continued to prescribe Bubproprion, even though it may cause insomnia or worsen pre-existing insomnia. Despite the presence of worsening insomnia and changes in medication, the next follow-up appointment was to be in six months. Moreover, Respondent never referred Patient G.R. to a sleep specialist or a sleep clinic to assess other possible causes of Patient G.R.'s chronic and worsening insomnia.

16. Respondent next saw Patient G.R. for 20 minutes on December 20, 2010 because the Patient reported he "hit a bit of a stumble." The record notes that the patient is off of Buproprion and "feeling so good" without it. The record does not indicate the state of the patient's insomnia or anxiety, even though medications were changed at the prior visit. The record provides no information as to how much Triazolam, Lorazepam, or Benadryl the patient is using, even though

the dosages were flexible. The treatment plan adds a trial of Lexapro without explanation. Fax prescription forms in the file show a prescription for Celexa (Citalopram[7]) and Lorazepam.

17. Respondent next saw Patient G.R. on January 26, 2011. Respondent notes that there was a misunderstanding with the patient about Buproprion and that the patient did not know he was supposed to still be taking it. The treatment plan was to continue Celexa and resume Buproprion. The rationale for restarting Buproprion is not explained, especially considering the patient's previous statement that he was "feeling so good" without it. The justification for treatment with two anti-depressants is not provided, especially considering the lack of target symptoms.

18. Respondent next saw Patient G.R. on March 8, 2011. Patient G.R. noted a lot of business stress, increased anxiety and early awakening. The treatment plan was to increase Celexa to 40 mg. The target symptoms for increasing the dosage are not stated in the record. The record does not reflect the patient's mood or effects of restarting Buproprion. There is no information about how much Triazolam and Lorazepam are being used. The records fail to indicate the clinical rationale for the medical treatment.

19. Respondent next saw Patient G.R. on May 13, 2011. The medical records fail to describe how Lorazepam and Triazolam are being used, how Patient G.R. responded to the increase in Celexa from the last visit, or any of the patient's symptoms related to mood, sleep or anxiety. At this point, Respondent is prescribing Patient G.R. Celexa, Wellbutrin, Lorazepam and Triazolam.

20. Respondent next saw Patient G.R. five months later on October 10, 2011. The record is minimal regarding this visit.

21. Respondent next saw Patient G.R. four months later on January 6, 2012. The record is very brief but states that Patient G.R. reported, "the inevitable has occurred" and "work stress." Family interviews with the Medical Board indicate that at this time Patient G.R.'s lifelong business was finally coming to an end as he had long feared.

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[7] Citalopram, trade name Celexa, is a selective serotonin reuptake inhibitor (SSRI) used in the treatment of depression. It is a dangerous drug as defined in section 4022.

22. Respondent next saw Patient G.R. for 20 minutes on April 6, 2012. The records are again very brief and contain little information. The treatment plan was to add Trazodone for sleep even though no sleep problems are reported or described, and even though Respondent is already prescribing Lorazepam and Triazolam for sleep.

23. Respondent next saw Patient G.R. on June 18, 2012. The record is sparse as to this visit, stating that his mood is "fine." There is no information as to how much and how often Patient G.R. is using Trazodone and Triazolam. The list of current medications does not include Trazodone, yet there is no indication of why or when this medication was stopped. The Beck Depression Inventory, a 21-question, multiple choice self report inventory used to measure the severity of depression, indicated Patient G.R. produced a score of 8 at this time, out of a possible 63. A score of 8 is considered to be minimal depression.

24. Respondent next saw Patient G.R. four months later on October 15, 2012. The medical record for this visit does not provide any information as to the patient's anxiety, sleep, stressors or changes in his psychosocial situation. Again, there is no indication as to how Trazodone and Triazolam are being used. The Beck Depression Inventory indicates Patient G.R. produced a score of 12 at this time, without further indication as to the reason for this increase. Patient G.R.'s mood is again noted as "fine." The treatment plan was to take Patient G.R. off of Celexa and start him on Lexapro[8], due to heart problems associated with long-term use of Celexa.

25. A fax prescription form dated October 15, 2012 indicates that at this time, Respondent prescribed Patient G.R. Lexapro, Wellbutrin SR, Ativan, Triazolam, and Trazodone. Trazodone had been changed from "as needed" to routine use without explanation. Respondent instructed Patient G.R. to return in six months. The standard of care necessitates that a patient taking five psychiatric medications with changes in medication return for a follow-up visit sooner than six months.

26. On Saturday, March 23, 2013, Patient G.R. killed himself. Moments before his death he told his wife that he felt like he was "in the Twilight Zone." His wife reported that he seemed

[8] Lexapro is a trade name for Escitalopram Oxalate and is an SSRI used in the treatment of depression. It is a dangerous drug as defined in section 4022.

confused and not like himself leading up to his suicide. Patient G.R. had agreed to call Respondent on Monday to check with him about his new medication, rather than waiting until his scheduled appointment in April.

27. In sum, Respondent is guilty of unprofessional conduct and subject to disciplinary action under section 2234, and/or 2234(c), and/or 2234(d) of the Code in that Respondent was incompetent and/or committed repeated negligent acts in the practice of medicine regarding his treatment of Patient G.R., including but not limited to the following:

A. Respondent failed to conduct and/or document complete mental status examinations, including symptoms or signs of anxiety, agitation or motor manifestations, confusion or thought constriction, preoccupations or obsessions, and thought content, energy level, work performance or relationship issues, and/or;

B. Respondent failed to conduct and/or document an assessment for alcohol or drug use, and/or;

C. Respondent failed to conduct and/or document an assessment for access to weapons and/or weapons in the home, and/or;

D. Respondent failed to conduct and/or document a discussion with Patient G.R. regarding when or how to contact the Respondent in an emergency, and/or;

E. Respondent failed to obtain and/or document a referral to or consultation with a sleep specialist or clinic to assess other possible causes of Patient G.R.'s chronic insomnia, and/or;

F. Respondent failed to provide follow-up in a timely manner. The standard of care requires that Respondent provide timely follow-up when there are changes in symptoms, changes in treatment, or changes in psychosocial stressors, that may affect a patient's psychiatric condition. Monitoring of treatment is especially important when medications are changed or when multiple medications for the same clinical indication are used. Respondent failed to provide timely follow-up on numerous occasions, including, but not limited to, when he implemented a major change in medication treatment on January 26, 2010, but did not follow-up with Patient G.R. for two months.

G. Respondent failed to appropriately monitor the Major Depressive Disorder, the Generalized Anxiety Disorder and chronic insomnia he diagnosed in Patient G.R.

H. Respondent failed to coordinate treatment with Patient G.R.'s other health care providers as required by the standard of care.

I. Respondent failed to properly assess and diagnose Patient G.R., based on the scant medical records kept by Respondent. The medical records do not reflect the information necessary to support the diagnosis of Major Depressive Disorder, Recurrent, Moderate Severity and of Generalized Anxiety Disorder. The records do not show that relevant clinical laboratory tests were obtained, nor do they contain sufficient descriptions in the clinical history or the systems for accurate assessment and treatment planning.

SECOND CAUSE FOR DISCIPLINE

(Unprofessional Conduct: Incompetence and/or Failure to Maintain Adequate and Accurate Records related to the care of Patient G.R.)

28. Paragraphs 7 through 27 above are incorporated as if fully set forth herein.

29. Respondent is subject to disciplinary action under sections 2234 and/or 2266 in that Respondent was incompetent and/or failed to maintain adequate and accurate medical records in the care and treatment of Patient G.R.

30. As detailed above, Respondent failed to maintain adequate and accurate medical records for Patient G.R. throughout his treatment of this patient. Respondent's medical records regarding Patient G.R. are sparse and often illegible. This is particularly concerning because Respondent had recently completed a Medical Record Keeping Course as required by his 2007 probation in a Medical Board disciplinary action, as specified below.

DISCIPLINARY CONSIDERATIONS

31. To determine the degree of discipline, if any, to be imposed on Respondent Douglas Peter Murphy, M.D., Complainant alleges that on or about November 5, 2007, in a prior disciplinary action entitled In the Matter of the Accusation Against Douglas Peter Murphy, M.D. before the Medical Board of California, in Case Number 08-2004-158376, Respondent's license was revoked, revocation stayed during a five-year probation, for gross negligence, repeated

negligent acts, and failure to maintain adequate and accurate records. Respondent was required to complete courses in Medical Record Keeping, Ethics, Professional Boundaries, an Educational Program, and a Clinical Training Program such as the Physician Assessment and Clinical Education Program (PACE). That decision is now final and is incorporated by reference as if fully set forth herein.

PRAYER

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

1. Revoking or suspending Physician's and Surgeon's Certificate Number A65282, issued to Douglas Peter Murphy, M.D.;

2. Revoking, suspending or denying approval of Douglas Peter Murphy, M.D.'s authority to supervise physician assistants, pursuant to section 3527 of the Code;

3. Ordering Douglas Peter Murphy, M.D., if placed on probation, to pay the Board the costs of probation monitoring; and

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

DATED: September 21, 2016

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

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