

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

In the Matter of the Accusation)
Against:)
)
)
KATHRYN PAPIER HIRST, M.D.)
)
Physician's and Surgeon's)
Certificate No. A 95063)
)
Respondent)
_____)

Case No. 800-2014-003177

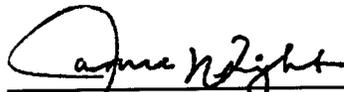
DECISION

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 April 28, 2016.

IT IS SO ORDERED: March 29, 2016.

MEDICAL BOARD OF CALIFORNIA



**Jamie Wright, JD, Chair
Panel A**

1 KAMALA D. HARRIS
Attorney General of California
2 ALEXANDRA M. ALVAREZ
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8 *Attorneys for Complainant*

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

13 In the Matter of the Accusation Against:

14 **KATHRYN PAPIER HIRST, M.D.**
15 **1804 Garnet Avenue, # 163**
San Diego, CA 92109-3352

16 **Physician's and Surgeon's Certificate No.**
17 **A95063,**

18 Respondent.

Case No. 800-2014-003177

OAH No. 2015-081036

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

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 California Administrative Procedure Act and other applicable laws, having been fully advised of
2 same by her attorney of record, Steven H. Zeigen, Esq.

3 7. Having the benefit of counsel, respondent hereby voluntarily, knowingly, and
4 intelligently waives and gives up each and every right set forth above.

5 **CULPABILITY**

6 8. Respondent does not contest that, at an administrative hearing, Complainant could
7 establish a *prima facie* case with respect to the charges and allegations contained in Accusation
8 No. 800-2014-003177 and that she has thereby subjected her Physician's and Surgeon's
9 Certificate No. A95063 to disciplinary action.

10 9. Respondent agrees that if she ever petitions for early termination or modification of
11 probation, or if an accusation and/or petition to revoke probation is filed against her before the
12 Medical Board of California, all of the charges and allegations contained in Accusation No. 800-
13 2014-003177 shall be deemed true, correct and fully admitted by respondent for purposes of any
14 such proceeding, or any other licensing proceeding involving respondent in the State of
15 California.

16 **CONTINGENCY**

17 10. This Stipulated Settlement and Disciplinary Order shall be subject to approval of the
18 Board. The parties agree that this Stipulated Settlement and Disciplinary Order shall be
19 submitted to the Board for its consideration in the above-entitled matter and, further, that the
20 Board shall have a reasonable period of time in which to consider and act on this Stipulated
21 Settlement and Disciplinary Order after receiving it. By signing this stipulation, respondent fully
22 understands and agrees that she may not withdraw her agreement or seek to rescind this
23 stipulation prior to the time the Board considers and acts upon it.

24 11. The parties agree that this Stipulated Settlement and Disciplinary Order shall be null
25 and void and not binding upon the parties unless approved and adopted by the Board, except for
26 this paragraph, which shall remain in full force and effect. Respondent fully understands and
27 agrees that in deciding whether or not to approve and adopt this Stipulated Settlement and
28 Disciplinary Order, the Board may receive oral and written communications from its staff and/or

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

11 **ADDITIONAL PROVISIONS**

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

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

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

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1 **DISCIPLINARY ORDER**

2 IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. A95063 issued to
3 respondent Kathryn Papier Hirst, M.D. (respondent) is revoked. However, the revocation is
4 stayed and respondent is placed on probation for five (5) years on the following terms and
5 conditions.

6 1. CONTROLLED SUBSTANCES – PARTIAL RESTRICTION. Respondent shall
7 immediately surrender any current Drug Enforcement Administration (DEA) permit to the DEA
8 for cancellation and reapply for a new DEA permit limited to the Schedule authorized by this
9 Disciplinary Order. Under this Disciplinary Order, respondent is only authorized to prescribe,
10 administer, dispense or order controlled substances listed in Schedule V of the Act.

11 Respondent may, with prior written consent of the Board or its designee, petition the DEA
12 to add Schedules II, III an IV to her DEA permit after completing one (1) year of probation from
13 the effective date of the Board's Decision.

14 2. CONTROLLED SUBSTANCES – ABSTAIN FROM USE. Respondent shall
15 abstain completely from the personal use or possession of controlled substances as defined in the
16 California Uniform Controlled Substances Act, dangerous drugs as defined by Business and
17 Professions Code section 4022, and any drugs requiring a prescription. This prohibition does not
18 apply to medications lawfully prescribed to respondent by another practitioner for a bona fide
19 illness or condition.

20 Within fifteen (15) calendar days of receiving any lawfully prescribed medications,
21 respondent shall notify the Board or its designee of the: issuing practitioner's name, address, and
22 telephone number; medication name, strength, and quantity; and issuing pharmacy name, address,
23 and telephone number.

24 If respondent has a confirmed positive biological fluid test for any substance (whether or
25 not legally prescribed) and has not reported the use to the Board or its designee, respondent
26 shall receive a notification from the Board or its designee to immediately cease the practice of
27 medicine. The respondent shall not resume the practice of medicine until final decision on an
28 accusation and/or a petition to revoke probation. An accusation and/or petition to revoke

1 probation shall be filed by the Board within fifteen (15) days of the notification to cease practice.
2 If the respondent requests a hearing on the accusation and/or petition to revoke probation, the
3 Board shall provide the respondent with a hearing within thirty (30) days of the request, unless
4 the respondent stipulates to a later hearing. A decision shall be received from the Administrative
5 Law Judge or the Board within fifteen (15) days unless good cause can be shown for the delay.
6 The cessation of practice shall not apply to the reduction of the probationary time period.

7 If the Board does not file an accusation or petition to revoke probation within fifteen (15)
8 days of the issuance of the notification to cease practice or does not provide respondent with a
9 hearing within thirty (30) days of a such a request, the notification of cease practice shall be
10 dissolved.

11 3. ALCOHOL – ABSTAIN FROM USE. Respondent shall abstain completely from the
12 use of products or beverages containing alcohol.

13 If respondent has a confirmed positive biological fluid test for alcohol, respondent shall
14 receive a notification from the Board or its designee to immediately cease the practice of
15 medicine. The respondent shall not resume the practice of medicine until final decision on an
16 accusation and/or a petition to revoke probation. An accusation and/or petition to revoke
17 probation shall be filed by the Board within fifteen (15) days of the notification to cease practice.
18 If the respondent requests a hearing on the accusation and/or petition to revoke probation, the
19 Board shall provide the respondent with a hearing within thirty (30) days of the request, unless
20 the respondent stipulates to a later hearing. A decision shall be received from the Administrative
21 Law Judge or the Board within fifteen (15) days unless good cause can be shown for the delay.
22 The cessation of practice shall not apply to the reduction of the probationary time period.

23 If the Board does not file an accusation or petition to revoke probation within fifteen (15)
24 days of the issuance of the notification to cease practice or does not provide respondent with a
25 hearing within thirty (30) days of a such a request, the notification of cease practice shall be
26 dissolved.

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1 4. BIOLOGICAL FLUID TESTING. Respondent shall immediately submit to
2 biological fluid testing, at respondent's expense, upon request of the Board or its designee.
3 "Biological fluid testing" may include, but is not limited to, urine, blood, breathalyzer, hair
4 follicle testing, or similar drug screening approved by the Board or its designee. Respondent shall
5 make daily contact with the Board or its designee to determine whether biological fluid testing is
6 required. Respondent shall be tested on the date of the notification as directed by the Board or its
7 designee. The Board may order a respondent to undergo a biological fluid test on any day, at any
8 time, including weekends and holidays. Except when testing on a specific date as ordered by the
9 Board or its designee, the scheduling of biological fluid testing shall be done on a random basis.
10 The cost of biological fluid testing shall be borne by the respondent.

11 During the first year of probation, respondent shall be subject to fifty-two (52) to one
12 hundred and four (104) random tests. During the second year of probation and for the duration of
13 the probationary term, up to five (5) years, respondent shall be subject to thirty-six (36) to one
14 hundred and four (104) random tests per year. Only if there has been no positive biological fluid
15 tests in the previous five (5) consecutive years of probation, may testing be reduced to one (1)
16 time per month. Nothing precludes the Board from increasing the number of random tests to the
17 first year level of frequency for any reason.

18 Prior to practicing medicine, respondent shall contract with a laboratory or service,
19 approved in advance by the Board or its designee, that will conduct random, unannounced,
20 observed, biological fluid testing and meets all the following standards:

- 21 (a) Its specimen collectors are either certified by the Drug and Alcohol Testing
22 Industry Association or have completed the training required to serve as a collector
23 for the United States Department of Transportation.
24 (b) Its specimen collectors conform to the current United States Department of
25 Transportation Specimen Collection Guidelines.
26 (c) Its testing locations comply with the Urine Specimen Collection Guidelines
27 published by the United States Department of Transportation without regard to the
28 type of test administered.

1 (d) Its specimen collectors observe the collection of testing specimens.

2 (e) Its laboratories are certified and accredited by the United States Department of
3 Health and Human Services.

4 (f) Its testing locations shall submit a specimen to a laboratory within one (1)
5 business day of receipt and all specimens collected shall be handled pursuant to
6 chain of custody procedures. The laboratory shall process and analyze the
7 specimens and provide legally defensible test results to the Board within seven (7)
8 business days of receipt of the specimen. The Board will be notified of non-
9 negative results within one (1) business day and will be notified of negative test
10 results within seven (7) business days.

11 (g) Its testing locations possess all the materials, equipment, and technical
12 expertise necessary in order to test respondent on any day of the week.

13 (h) Its testing locations are able to scientifically test for urine, blood, and hair
14 specimens for the detection of alcohol and illegal and controlled substances.

15 (i) It maintains testing sites located throughout California.

16 (j) It maintains an automated twenty-four (24) hour toll-free telephone system
17 and/or a secure on-line computer database that allows the respondent to check in
18 daily for testing.

19 (k) It maintains a secure, HIPAA-compliant website or computer system that
20 allows staff access to drug test results and compliance reporting information that is
21 available twenty-four (24) hours a day.

22 (l) It employs or contracts with toxicologists that are licensed physicians and have
23 knowledge of substance abuse disorders and the appropriate medical training to
24 interpret and evaluate laboratory biological fluid test results, medical histories, and
25 any other information relevant to biomedical information.

26 (m) It will not consider a toxicology screen to be negative if a positive result is
27 obtained while practicing, even if the respondent holds a valid prescription for the
28 substance.

1 Prior to changing testing locations for any reason, including during vacation or other travel,
2 alternative testing locations must be approved by the Board and meet the requirements above.

3 The contract shall require that the laboratory directly notify the Board or its designee of
4 non-negative results within one (1) business day and negative test results within seven (7)
5 business days of the results becoming available. Respondent shall maintain this laboratory or
6 service contract during the period of probation.

7 A certified copy of any laboratory test result may be received in evidence in any
8 proceedings between the Board and respondent.

9 If a biological fluid test result indicates respondent has used, consumed, ingested, or
10 administered to herself a prohibited substance, the Board shall order respondent to cease practice
11 and instruct respondent to leave any place of work where respondent is practicing medicine or
12 providing medical services. The Board shall immediately notify all of respondent's employers,
13 supervisors and work monitors, if any, that respondent may not practice medicine or provide
14 medical services while the cease-practice order is in effect.

15 A biological fluid test will not be considered negative if a positive result is obtained while
16 practicing, even if the practitioner holds a valid prescription for the substance. If no prohibited
17 substance use exists, the Board shall lift the cease-practice order within one (1) business day.

18 After the issuance of a cease-practice order, the Board shall determine whether the positive
19 biological fluid test is in fact evidence of prohibited substance use by consulting with the
20 specimen collector and the laboratory, communicating with the licensee, her treating physician(s),
21 other health care provider, or group facilitator, as applicable.

22 For purposes of this condition, the terms "biological fluid testing" and "testing" mean the
23 acquisition and chemical analysis of a respondent's urine, blood, breath, or hair.

24 For purposes of this condition, the term "prohibited substance" means an illegal drug, a
25 lawful drug not prescribed or ordered by an appropriately licensed health care provider for use by
26 respondent and approved by the Board, alcohol, or any other substance the respondent has been
27 instructed by the Board not to use, consume, ingest, or administer to herself.

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1 If the Board confirms that a positive biological fluid test is evidence of use of a prohibited
2 substance, respondent has committed a major violation, as defined in section 1361.52(a), and the
3 Board shall impose any or all of the consequences set forth in section 1361.52(b), in addition to
4 any other terms or conditions the Board determines are necessary for public protection or to
5 enhance respondent's rehabilitation.

6 5. EDUCATION COURSE. Within sixty (60) calendar days of the effective date of this
7 Decision, and on an annual basis thereafter, respondent shall submit to the Board or its designee
8 for its prior approval educational program(s) or course(s) which shall not be less than forty (40)
9 hours per year, for each year of probation. The educational program(s) or course(s) shall be
10 aimed at correcting any areas of deficient practice or knowledge and shall be Category I certified.
11 The educational program(s) or course(s) shall be at respondent's expense and shall be in addition
12 to the Continuing Medical Education (CME) requirements for renewal of licensure. Following
13 the completion of each course, the Board or its designee may administer an examination to test
14 respondent's knowledge of the course. Respondent shall provide proof of attendance for sixty-
15 five (65) hours of CME of which forty (40) hours were in satisfaction of this condition.

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

27 A prescribing practices course taken after the acts that gave rise to the charges in the
28 Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board

1 or its designee, be accepted towards the fulfillment of this condition if the course would have
2 been approved by the Board or its designee had the course been taken after the effective date of
3 this Decision.

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

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

10 7. PROFESSIONALISM PROGRAM (ETHICS COURSE). Within sixty (60) calendar
11 days of the effective date of this Decision, respondent shall enroll in a professionalism program,
12 that meets the requirements of Title 16, California Code of Regulations (CCR) section 1358.
13 Respondent shall participate in and successfully complete that program. Respondent shall
14 provide any information and documents that the program may deem pertinent. Respondent shall
15 successfully complete the classroom component of the program not later than six (6) months after
16 respondent's initial enrollment, and the longitudinal component of the program not later than the
17 time specified by the program, but no later than one (1) year after attending the classroom
18 component. The professionalism program shall be at respondent's expense and shall be in
19 addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

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

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

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1 8. PSYCHIATRIC EVALUATION. Within thirty (30) calendar days of the effective
2 date of this Decision, and on whatever periodic basis thereafter may be required by the Board or
3 its designee, respondent shall undergo and complete a psychiatric evaluation (and psychological
4 testing, if deemed necessary) by a Board-appointed board certified psychiatrist, who shall
5 consider any information provided by the Board or designee and any other information the
6 psychiatrist deems relevant, and shall furnish a written evaluation report to the Board or its
7 designee. Psychiatric evaluations conducted prior to the effective date of the Decision shall not
8 be accepted towards the fulfillment of this requirement. Respondent shall pay the cost of all
9 psychiatric evaluations and psychological testing.

10 Respondent shall comply with all restrictions or conditions recommended by the evaluating
11 psychiatrist within fifteen (15) calendar days after being notified by the Board or its designee.

12 Respondent shall not engage in the practice of medicine until notified by the Board or its
13 designee that respondent is mentally fit to practice medicine safely. The period of time that
14 respondent is not practicing medicine shall not be counted toward completion of the term of
15 probation.

16 9. PSYCHOTHERAPY. Within sixty (60) calendar days of the effective date of this
17 Decision, respondent shall submit to the Board or its designee for prior approval the name and
18 qualifications of a California-licensed board certified psychiatrist or a licensed psychologist who
19 has a doctoral degree in psychology and at least five (5) years of postgraduate experience in the
20 diagnosis and treatment of emotional and mental disorders. Upon approval, respondent shall
21 undergo and continue psychotherapy treatment, including any modifications to the frequency of
22 psychotherapy, until the Board or its designee deems that no further psychotherapy is necessary.

23 The psychotherapist shall consider any information provided by the Board or its designee
24 and any other information the psychotherapist deems relevant and shall furnish a written
25 evaluation report to the Board or its designee. Respondent shall cooperate in providing the
26 psychotherapist any information and documents that the psychotherapist may deem pertinent.

27 Respondent shall have the treating psychotherapist submit quarterly status reports to the
28 Board or its designee. The Board or its designee may require respondent to undergo psychiatric

1 evaluations by a Board-appointed board certified psychiatrist. If, prior to the completion of
2 probation, respondent is found to be mentally unfit to resume the practice of medicine without
3 restrictions, the Board shall retain continuing jurisdiction over respondent's license and the period
4 of probation shall be extended until the Board determines that respondent is mentally fit to
5 resume the practice of medicine without restrictions.

6 Respondent shall pay the cost of all psychotherapy and psychiatric evaluations.

7 10. MEDICAL EVALUATION AND TREATMENT. Within thirty (30) calendar days
8 of the effective date of this Decision, and on a periodic basis thereafter as may be required by the
9 Board or its designee, respondent shall undergo a medical evaluation by a Board-appointed
10 physician who shall consider any information provided by the Board or designee and any other
11 information the evaluating physician deems relevant and shall furnish a medical report to the
12 Board or its designee. Respondent shall provide the evaluating physician any information and
13 documentation that the evaluating physician may deem pertinent.

14 Following the evaluation, respondent shall comply with all restrictions or conditions
15 recommended by the evaluating physician within fifteen (15) calendar days after being notified
16 by the Board or its designee. If respondent is required by the Board or its designee to undergo
17 medical treatment, respondent shall within thirty (30) calendar days of the requirement notice,
18 submit to the Board or its designee for prior approval the name and qualifications of a California
19 licensed treating physician of respondent's choice. Upon approval of the treating physician,
20 respondent shall within fifteen (15) calendar days undertake medical treatment and shall continue
21 such treatment until further notice from the Board or its designee.

22 The treating physician shall consider any information provided by the Board or its designee
23 or any other information the treating physician may deem pertinent prior to commencement of
24 treatment. Respondent shall have the treating physician submit quarterly reports to the Board or
25 its designee indicating whether or not the respondent is capable of practicing medicine safely.
26 Respondent shall provide the Board or its designee with any and all medical records pertaining to
27 treatment, the Board or its designee deems necessary.

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1 If, prior to the completion of probation, respondent is found to be physically incapable of
2 resuming the practice of medicine without restrictions, the Board shall retain continuing
3 jurisdiction over respondent's license and the period of probation shall be extended until the
4 Board determines that respondent is physically capable of resuming the practice of medicine
5 without restrictions. Respondent shall pay the cost of the medical evaluation(s) and treatment.

6 11. SOLO PRACTICE PROHIBITION. Respondent is prohibited from engaging in the
7 solo practice of medicine. Prohibited solo practice includes, but is not limited to, a practice
8 where: 1) Respondent merely shares office space with another physician but is not affiliated for
9 purposes of providing patient care, or 2) Respondent is the sole physician practitioner at that
10 location.

11 If respondent fails to establish a practice with another physician or secure employment in an
12 appropriate practice setting within sixty (60) calendar days of the effective date of this Decision,
13 respondent shall receive a notification from the Board or its designee to cease the practice of
14 medicine within three (3) calendar days after being so notified. The respondent shall not resume
15 practice until an appropriate practice setting is established.

16 If, during the course of the probation, the respondent's practice setting changes and the
17 respondent is no longer practicing in a setting in compliance with this Decision, the respondent
18 shall notify the Board or its designee within five (5) calendar days of the practice setting change.
19 If respondent fails to establish a practice with another physician or secure employment in an
20 appropriate practice setting within sixty (60) calendar days of the practice setting change,
21 respondent shall receive a notification from the Board or its designee to cease the practice of
22 medicine within three (3) calendar days after being so notified. The respondent shall not resume
23 practice until an appropriate practice setting is established.

24 12. NOTICE OF EMPLOYER OR SUPERVISOR INFORMATION. Within seven (7)
25 days of the effective date of this Decision, respondent shall provide to the Board the names,
26 physical addresses, mailing addresses, and telephone numbers of any and all employers and
27 supervisors. Respondent shall also provide specific, written consent for the Board, respondent's

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1 worksite monitor, and respondent's employers and supervisors to communicate regarding
2 respondent's work status, performance, and monitoring.

3 For purposes of this section, "supervisors" shall include the Chief of Staff and Health or
4 Well Being Committee Chair, or equivalent, if applicable, when the respondent has medical staff
5 privileges.

6 13. SUBSTANCE ABUSE SUPPORT GROUP MEETINGS. Within thirty (30) days of
7 the effective date of this Decision, respondent shall submit to the Board or its designee, for its
8 prior approval, the name of a substance abuse support group which she shall attend for the
9 duration of probation. Respondent shall attend substance abuse support group meetings at least
10 once per week, or as ordered by the Board or its designee. Respondent shall pay all substance
11 abuse support group meeting costs.

12 The facilitator of the substance abuse support group meeting shall have a minimum of three
13 (3) years experience in the treatment and rehabilitation of substance abuse, and shall be licensed
14 or certified by the state or nationally certified organizations. The facilitator shall not have a
15 current or former financial, personal, or business relationship with respondent within the last five
16 (5) years. Respondent's previous participation in a substance abuse group support meeting led by
17 the same facilitator does not constitute a prohibited current or former financial, personal, or
18 business relationship.

19 The facilitator shall provide a signed document to the Board or its designee showing
20 respondent's name, the group name, the date and location of the meeting, respondent's
21 attendance, and respondent's level of participation and progress. The facilitator shall report any
22 unexcused absence by respondent from any substance abuse support group meeting to the Board,
23 or its designee, within twenty-four (24) hours of the unexcused absence

24 14. WORKSITE MONITOR FOR SUBSTANCE-ABUSING LICENSEE. Within thirty
25 (30) calendar days of the effective date of this Decision, respondent shall submit to the Board or
26 its designee for prior approval as a worksite monitor, the name and qualifications of one (1) or
27 more licensed physician and surgeons, other licensed health care professionals if no physician and

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1 surgeon is available, or, as approved by the Board or its designee, a person in a position of
2 authority who is capable of monitoring the respondent at work.

3 The worksite monitor shall not have a current or former financial, personal, or familial
4 relationship with respondent, or any other relationship that could reasonably be expected to
5 compromise the ability of the monitor to render impartial and unbiased reports to the Board or its
6 designee. If it is impractical for anyone but respondent's employer to serve as the worksite
7 monitor, this requirement may be waived by the Board or its designee, however, under no
8 circumstances shall respondent's worksite monitor be an employee or supervisee of the licensee.

9 The worksite monitor shall have an active unrestricted license with no disciplinary action
10 within the last five (5) years, and shall sign an affirmation that he or she has reviewed the terms
11 and conditions of respondent's disciplinary order and agrees to monitor respondent as set forth by
12 the Board or its designee.

13 Respondent shall pay all worksite monitoring costs.

14 The worksite monitor shall have face-to-face contact with respondent in the work
15 environment on as frequent a basis as determined by the Board or its designee, but not less than
16 once per week; interview other staff in the office regarding respondent's behavior, if requested by
17 the Board or its designee; and review respondent's work attendance.

18 The worksite monitor shall verbally report any suspected substance abuse to the Board and
19 respondent's employer or supervisor within one (1) business day of occurrence. If the suspected
20 substance abuse does not occur during the Board's normal business hours, the verbal report shall
21 be made to the Board or its designee within one (1) hour of the next business day. A written
22 report that includes the date, time, and location of the suspected abuse; respondent's actions; and
23 any other information deemed important by the worksite monitor shall be submitted to the Board
24 or its designee within forty-eight (48) hours of the occurrence.

25 The worksite monitor shall complete and submit a written report monthly or as directed by
26 the Board or its designee which shall include the following: (1) respondent's name and
27 Physician's and Surgeon's Certificate number; (2) the worksite monitor's name and signature;
28 (3) the worksite monitor's license number, if applicable; (4) the location or location(s) of the

1 worksite; (5) the dates respondent had face-to-face contact with the worksite monitor; (6) the
2 names of worksite staff interviewed, if applicable; (7) a report of respondent's work attendance;
3 (8) any change in respondent's behavior and/or personal habits; and (9) any indicators that can
4 lead to suspected substance abuse by respondent. Respondent shall complete any required
5 consent forms and execute agreements with the approved worksite monitor and the Board, or its
6 designee, authorizing the Board, or its designee, and worksite monitor to exchange information.

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

16 15. VIOLATION OF PROBATION CONDITION FOR SUBSTANCE ABUSING
17 LICENSEES. Failure to fully comply with any term or condition of probation is a violation of
18 probation.

19 A. If respondent commits a major violation of probation as defined by section 1361.52,
20 subdivision (a), of Title 16 of the California Code of Regulations, the Board shall take one or
21 more of the following actions:

- 22 (1) Issue an immediate cease-practice order and order respondent to undergo a
23 clinical diagnostic evaluation to be conducted in accordance with section 1361.5,
24 subdivision (c)(1), of Title 16 of the California Code of Regulations, at
25 respondent's expense. The cease-practice order issued by the Board or its
26 designee shall state that respondent must test negative for at least one (1) month of
27 continuous biological fluid testing before being allowed to resume practice. For
28 purposes of the determining the length of time a respondent must test negative

1 while undergoing continuous biological fluid testing following issuance of a cease-
2 practice order, a month is defined as thirty (30) calendar days. Respondent may
3 not resume the practice of medicine until notified in writing by the Board or its
4 designee that she may do so.

5 (2) Increase the frequency of biological fluid testing.

6 (3) Refer respondent for further disciplinary action, such as suspension,
7 revocation, or other action as determined by the Board or its designee. (Cal. Code
8 Regs., tit. 16, § 1361.52, subd. (b).)

9 B. If respondent commits a minor violation of probation as defined by section 1361.52,
10 subdivision (c), of Title 16 of the California Code of Regulations, the Board shall take one or
11 more of the following actions:

12 (1) Issue a cease-practice order;

13 (2) Order practice limitations;

14 (3) Order or increase supervision of respondent;

15 (4) Order increased documentation;

16 (5) Issue a citation and fine, or a warning letter;

17 (6) Order respondent to undergo a clinical diagnostic evaluation to be conducted
18 in accordance with section 1361.5, subdivision (c)(1), of Title 16 of the California
19 Code of Regulations, at respondent's expense;

20 (7) Take any other action as determined by the Board or its designee. (Cal. Code
21 Regs., tit. 16, § 1361.52, subd. (d).)

22 C. Nothing in this Decision shall be considered a limitation on the Board's authority to
23 revoke respondent's probation if she has violated any term or condition of probation. (See Cal.
24 Code Regs., tit. 16, § 1361.52, subd. (e).) If respondent violates probation in any respect, the
25 Board, after giving respondent notice and the opportunity to be heard, may revoke probation and
26 carry out the disciplinary order that was stayed. If an Accusation, or Petition to Revoke
27 Probation, or an Interim Suspension Order is filed against respondent during probation, the Board

28 ////

1 shall have continuing jurisdiction until the matter is final, and the period of probation shall be
2 extended until the matter is final.

3 16. NOTIFICATION. Within seven (7) days of the effective date of this Decision, the
4 respondent shall provide a true copy of this Decision and Accusation to the Chief of Staff or the
5 Chief Executive Officer at every hospital where privileges or membership are extended to
6 respondent, and to the Chief Executive Officer at every insurance carrier which extends
7 malpractice insurance coverage to respondent. Respondent shall submit proof of compliance to
8 the Board or its designee within fifteen (15) calendar days.

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

10 17. SUPERVISION OF PHYSICIAN ASSISTANTS. During probation, respondent is
11 prohibited from supervising physician assistants.

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

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

18 Respondent shall submit quarterly declarations not later than ten (10) calendar days after
19 the end of the preceding quarter.

20 20. GENERAL PROBATION REQUIREMENTS.

21 Compliance with Probation Unit

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

24 Address Changes

25 Respondent shall, at all times, keep the Board informed of respondent's business and
26 residence addresses, email address (if available), and telephone number. Changes of such
27 addresses shall be immediately communicated in writing to the Board or its designee. Under no

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1 circumstances shall a post office box serve as an address of record, except as allowed by Business
2 and Professions Code section 2021(b).

3 License Renewal

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

6 Travel or Residence Outside California

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

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

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

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

27 In the event respondent's period of non-practice while on probation exceeds eighteen (18)
28 calendar months, respondent shall successfully complete a clinical training program that meets

1 the criteria of Condition 18 of the current version of the Board’s “Manual of Model Disciplinary
2 Orders and Disciplinary Guidelines” prior to resuming the practice of medicine.

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

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

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

8 23. COMPLETION OF PROBATION. Respondent shall comply with all financial
9 obligations (e.g., restitution, probation costs) not later than one hundred and twenty (120)
10 calendar days prior to the completion of probation. Upon successful completion of probation,
11 respondent’s certificate shall be fully restored.

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

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

Exhibit A

Accusation No. 800-2014-003177

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*

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO April 7, 2015
BY: J. KELCHAK ANALYST

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

13 In the Matter of the Accusation Against:

Case No. 800-2014-003177

14 **KATHRYN PAPIER HIRST, M.D.**
15 **200 W. Arbor Drive, MC 0851**
San Diego, CA 92103-0851

ACCUSATION

16 **Physician's and Surgeon's Certificate No.**
17 **A95063,**

18 Respondent.

19
20 Complainant alleges:

21 **PARTIES**

22 1. Kimberly Kirchmeyer (Complainant) brings this Accusation solely in her official
23 capacity as the Executive Director of the Medical Board of California, Department of Consumer
24 Affairs, and not otherwise.

25 2. On or about April 21, 2006, the Medical Board of California issued Physician's
26 and Surgeon's Certificate Number A95063 to Kathryn Papier Hirst, M.D. (respondent). The
27 Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the
28 charges and allegations brought herein and will expire on March 31, 2016, unless renewed.

JURISDICTION

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

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

10 5. Section 2234 of the Code states:

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

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

18 “...

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

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

24 “...”

25 6. Unprofessional conduct under section 2234 of the Code is conduct which
26 breaches the rules or ethical code of the medical profession, or conduct which is unbecoming
27 to a member in good standing of the medical profession, and which demonstrates an unfitness
28 to practice medicine. (*Shea v. Board of Medical Examiners* (1978) 81 Cal.App.3d 564, 575.)

1 7. Section 2236 of the Code states:

2 “(a) The conviction of any offense substantially related to the
3 qualifications, functions, or duties of a physician and surgeon constitutes
4 unprofessional conduct within the meaning of this chapter [Chapter 5, the
5 Medical Practice Act]. The record of conviction shall be conclusive
6 evidence only of the fact that the conviction occurred.

7 “(b) The district attorney, city attorney, or other prosecuting
8 agency shall notify the Division of Medical Quality¹ of the pendency of an
9 action against a licensee charging a felony or misdemeanor immediately
10 upon obtaining information that the defendant is a licensee. The notice
11 shall identify the licensee and describe the crimes charged and the facts
12 alleged. The prosecuting agency shall also notify the clerk of the court in
13 which the action is pending that the defendant is a licensee, and the clerk
14 shall record prominently in the file that the defendant holds a license as a
15 physician and surgeon.

16 “(c) The clerk of the court in which a licensee is convicted of a
17 crime shall, within 48 hours after the conviction, transmit a certified copy
18 of the record of conviction to the board. The division may inquire into the
19 circumstances surrounding the commission of a crime in order to fix the
20 degree of discipline or to determine if the conviction is of an offense
21 substantially related to the qualifications, functions, or duties of a
22 physician and surgeon.

23 “(d) A plea or verdict of guilty or a conviction after a plea of nolo
24 contendere is deemed to be a conviction within the meaning of this section

25

26 ¹ California Business and Professions Code section 2002, as amended and
27 effective January 1, 2008, provides that, unless otherwise expressly provided, the term
28 “board” as used in the State Medical Practice Act (Bus. & Prof. Code, §§ 2000, *et seq.*)
 means the “Medical Board of California,” and references to the “Division of Medical
 Quality” and “Division of Licensing” in the Act or any other provision of law shall be
 deemed to refer to the Board.

1 and Section 2236.1. The record of conviction shall be conclusive
2 evidence of the fact that the conviction occurred.”

3 8. Section 2237 of the Code states:

4 “(a) The conviction of a charge of violating any federal statutes or
5 regulations or any statute or regulation of this state, regulating dangerous
6 drugs or controlled substances, constitutes unprofessional conduct. The
7 record of the conviction is conclusive evidence of such unprofessional
8 conduct. A plea or verdict of guilty or a conviction following a plea of
9 nolo contendere is deemed to be a conviction within the meaning of this
10 section.

11 “(b) Discipline may be ordered in accordance with Section 2227
12 or the Division of Licensing may order the denial of the license when the
13 time for appeal has elapsed, or the judgment of conviction has been
14 affirmed on appeal, or when an order granting probation is made
15 suspending the imposition of sentence, irrespective of a subsequent order
16 under the provisions of Section 1203.4 of the Penal Code allowing such
17 person to withdraw his or her plea of guilty and to enter a plea of not
18 guilty, or setting aside the verdict of guilty, or dismissing the accusation,
19 complaint, information, or indictment.”

20 9. Section 2238 of the Code states:

21 “A violation of any federal statute or federal regulation or any of
22 the statutes or regulations of this state regulating dangerous drugs or
23 controlled substances constitutes unprofessional conduct.”

24 10. Section 2239 of the Code states:

25 “(a) The use or prescribing for or administering to himself or
26 herself, of any controlled substance; or the use of any of the dangerous
27 drugs specified in Section 4022, or of alcoholic beverages, to the extent,
28 or in such a manner as to be dangerous or injurious to the licensee, or to

1 any other person or to the public, or to the extent that such use impairs the
2 ability of the licensee to practice medicine safely or more than one
3 misdemeanor or any felony involving the use, consumption, or self
4 administration of any of the substances referred to in this section, or any
5 combination thereof, constitutes unprofessional conduct. The record of
6 the conviction is conclusive evidence of such unprofessional conduct.

7 “...”

8 11. Section 2261 of the Code states:

9 “Knowingly making or signing any certificate or other document
10 directly or indirectly related to the practice of medicine or podiatry which
11 falsely represents the existence or nonexistence of a state of facts,
12 constitutes unprofessional conduct.”

13 12. Section 11153 of the Health and Safety Code states:

14 “(a) A prescription for a controlled substance shall only be issued
15 for a legitimate medical purpose by an individual practitioner acting in the
16 usual course of his or her professional practice. The responsibility for the
17 proper prescribing and dispensing of controlled substances is upon the
18 prescribing practitioner, but a corresponding responsibility rests with the
19 pharmacist who fills the prescription. Except as authorized by this
20 division, the following are not legal prescriptions: (1) an order purporting
21 to be a prescription which is issued not in the usual course of professional
22 treatment or in legitimate and authorized research; or (2) an order for an
23 addict or habitual user of controlled substances, which is issued not in the
24 course of professional treatment or as part of an authorized narcotic
25 treatment program, for the purpose of providing the user with controlled
26 substances, sufficient to keep him or her comfortable by maintaining
27 customary use.

28 “...”

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13. Section 11170 of the Health and Safety Code states:

“No person shall prescribe, administer, or furnish a controlled substance for himself.”

14. Section 11173 of the Health and Safety Code states:

“(a) No person shall obtain or attempt to obtain controlled substances, or procure or attempt to procure the administration of or prescription for controlled substances, (1) by fraud, deceit, misrepresentation, or subterfuge; or (2) by the concealment of a material fact.

“(b) No person shall make a false statement in any prescription, order, report, or record, required by this division.

“...”

15. Section 11368 of the Health and Safety Code states:

“Every person who forges or alters a prescription or who issues or utters an altered prescription, or who issues or utters a prescription bearing a forged or fictitious signature for any narcotic drug, or who obtains any narcotic drug by any forged, fictitious, or altered prescription, or who has in possession any narcotic drug secured by a forged, fictitious, or altered prescription, shall be punished by imprisonment in the county jail for not less than six months nor more than one year, or in the state prison.”

16. Section 1360, title 16, of the California Code of Regulations states:

“For the purposes of denial, suspension or revocation of a license, certificate or permit pursuant to Division 1.5 (commencing with Section 475) of the code, a crime or act shall be considered to be substantially related to the qualifications, functions or duties of a person holding a license, certificate or permit under the Medical Practice Act if to a substantial degree it evidences present or potential unfitness of a person holding a license, certificate or permit to perform the functions authorized

1 by the license, certificate or permit in a manner consistent with the public
2 health, safety or welfare. Such crimes or acts shall include but not be
3 limited to the following: Violating or attempting to violate, directly or
4 indirectly, or assisting in or abetting the violation of, or conspiring to
5 violate any provision of the Medical Practice Act.”

6 **FIRST CAUSE FOR DISCIPLINE**

7 **(Prescribing or Administering a Controlled Substance to Oneself)**

8 17. Respondent has subjected her Physician's and Surgeon's Certificate No. A95063
9 to disciplinary action under sections 2227 and 2234, as defined by section 2239, subdivision
10 (a), of the Code, in that she has used, prescribed and/or administered to herself controlled
11 substances, as more particularly alleged hereinafter:

12 (a) On or about February 7, 2014, respondent was interviewed
13 by Drug Enforcement Administration (DEA) Diversion Investigator A.R.
14 and Homeland Security Investigations Special Agent K.L. about
15 circumstances involving the theft of a prescription pad and the writing of
16 fraudulent prescriptions to obtain controlled substances. Respondent
17 admitted during the interview that, in or around November 2013, she took
18 the prescription pad of Nurse Practitioner K.P. (whom she supervised) and
19 wrote two (2) prescriptions for hydrocodone for personal use. Respondent
20 further stated that she did this without Nurse Practitioner K.P.'s
21 knowledge. In truth and fact, in or around November 2013, respondent
22 stole Nurse Practitioner K.P.'s prescription pad and wrote herself two (2)
23 prescriptions for a controlled substance, hydrocodone, quantity sixty (60),
24 forged Nurse Practitioner K.P.'s signature on each prescription, and dated
25 the prescriptions "11/18/13" and "11/22/13." During the same interview,
26 respondent also admitted that she had used the names of her father (R.W.),
27 mother (M.W.), and sister (K.W.), to fraudulently obtain numerous
28 prescriptions for controlled substances for her own personal use. In truth

1 and fact, between on or about May 29, 2011, and on or about November
 2 25, 2013, respondent wrote the following thirty-eight (38) fraudulent
 3 prescriptions for controlled substances by issuing them falsely in the
 4 names of R.W., M.W., and K.W.:

Date Filled	Patient Name	Controlled Substances	Schedule	Quantity
5-29-2011	M.W.	Lorazepam	IV	30
6-19-2011	M.W.	Alprazolam	IV	20
9-30-2011	K.W.	Hydrocodone	III	20
10-22-2011	M.W.	Alprazolam	IV	30
12-04-2011	M.W.	Alprazolam	IV	30
4-29-2012	M.W.	Hydrocodone	III	30
5-01-2012	M.W.	Hydrocodone	III	30
5-05-2012	M.W.	Hydrocodone	III	30
5-10-2012	M.W.	Hydrocodone	III	30
5-14-2012	M.W.	Hydrocodone	III	30
5-17-2012	M.W.	Lorazepam	IV	30
5-17-2012	M.W.	Hydrocodone	III	15
5-21-2012	M.W.	Hydrocodone	III	60
5-29-2012	M.W.	Hydrocodone	III	60
6-02-2012	M.W.	Oxycodone	II	60
6-06-2012	M.W.	Hydrocodone	III	60
6-10-2012	M.W.	Lorazepam	IV	20
6-11-2012	M.W.	Hydrocodone	III	30
6-14-2012	M.W.	Hydrocodone	III	180
6-20-2012	M.W.	Hydrocodone	III	180
6-24-2012	K.W.	Hydrocodone	III	60
6-25-2012	R.W.	Hydrocodone	III	60
6-27-2012	K.W.	Hydrocodone	III	60
6-29-2012	R.W.	Hydrocodone	III	120
7-01-2012	M.W.	Lorazepam	IV	20
12-12-2012	M.W.	Hydrocodone	III	60
12-16-2012	R.W.	Hydrocodone	III	60
12-17-2012	M.W.	Hydrocodone	III	60
2-19-2013	R.W.	Hydrocodone	III	60
2-21-2013	M.W.	Hydrocodone	III	60
3-01-2013	R.W.	Hydrocodone	III	60
3-05-2013	M.W.	Hydrocodone	III	60
3-07-2013	R.W.	Hydrocodone	III	60
3-13-2013	M.W.	Diazepam	IV	30
6-14-2013	K.W.	Diazepam	IV	90
11-25-2013	K.W.	Diazepam	IV	45
11-25-2013	R.W.	Hydrocodone	III	60
11-25-2013	R.W.	Diazepam	IV	30

1 (b) On or about February 7, 2014, during the same interview
2 with Investigator A.R. and Special Agent K.L., respondent admitted that
3 she had been addicted to opioids for at least five and a half (5 ½) years
4 and that at one point, she had become "heavily addicted" to hydrocodone
5 and had been taking thirty (30) to forty (40) 10 mg tablets per day.
6 Following a relapse in or around November 2013, respondent stated she
7 entered the Betty Ford Clinic on November 26, 2013, and was receiving
8 in-patient treatment for opioid addiction and would be discharged on
9 February 23, 2014. At the conclusion of her interview with Investigator
10 A.R. and Special Agent K.L., on or about February 7, 2014, respondent
11 voluntarily surrendered for cause her DEA registration number
12 BH9759614.

13 (c) On or about September 4, 2014, respondent was
14 interviewed by Division of Investigation's Health Quality Investigation
15 Unit Investigator T.H. about her opioid addiction, the circumstances
16 involving the theft of a prescription pad, and the writing of fraudulent
17 prescriptions to obtain controlled substances. Respondent initially
18 explained that in 2008 she began using opiate medications prescribed to
19 her by her doctor due to post-operative pain, and that she noticed she
20 enjoyed the high that came from taking the drugs. In 2009, respondent
21 diverted her husband's prescription of hydrocodone for her own personal
22 use and, without his knowledge, she stated that she took the drugs in a
23 recreational manner. During 2010 and 2011, respondent continued her
24 use of opiate medications due to severe ligament pain, and also during a
25 hospitalization following surgery where she was given very high doses of
26 oxycodone. Respondent stated, after her hospitalization, that she still had
27 an extra supply of opiate medications which she continued to take because
28 she enjoyed the feeling the drugs gave her and they helped her to

1 “de-stress.” Respondent then admitted to Investigator T.H. that, in or
2 around 2012, she “crossed the line” and began prescribing controlled
3 substances under the names of her father (R.W.), mother (M.W.), and
4 sister (K.W.) for her own self-use. In truth and fact, respondent routinely
5 picked up prescriptions for controlled substances at pharmacies that she
6 had fraudulently prescribed under the names of R.W., M.W., and K.W. for
7 her own self-use. In or around November 2013, respondent stated that it
8 had become “too risky” to continue to call in prescriptions under the
9 names of R.W., M.W., and K.W., so she took Nurse Practitioner K.P.’s
10 prescription pad and, without her knowledge, respondent forged Nurse
11 Practitioner K.P.’s signature on two (2) prescriptions for hydrocodone
12 under respondent’s name. On or about November 25, 2013, respondent
13 picked up a prescription for Diazepam which she had written under
14 K.W.’s name at a local pharmacy. Due to an automated call from the
15 pharmacy made to K.W. regarding the status of the prescription, K.W.
16 called respondent and confronted her about K.W.’s discovery of the
17 fraudulent prescription. The next day, on or about November 26, 2013,
18 respondent checked into the Betty Ford Clinic for ninety (90) days of in-
19 patient treatment for opioid dependence.

20 **SECOND CAUSE FOR DISCIPLINE**

21 **(Felony Conviction Involving the Use, Consumption, or Self-Administration of**
22 **Controlled Substances)**

23 18. Respondent has further subjected her Physician’s and Surgeon’s Certificate No.
24 A95063 to disciplinary action under sections 2227 and 2234, as defined by section 2239,
25 subdivision (a), of the Code, in that she has been convicted of a felony involving the use,
26 consumption or self-administration of controlled substances, as more particularly alleged
27 hereinafter:

28 (a) Paragraph 17, above, is hereby incorporated by reference

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as if fully set forth herein.

(b) On or about April 15, 2014, the San Diego County District Attorney's Office filed a criminal complaint against respondent in the matter of *The People of the State of California v. Kathryn Hirst*, Superior Court Case No. SCD-255314. The criminal complaint charged the respondent with committing four (4) felonies:

(1) Two (2) counts of violation of Health and Safety Code Section 11173, subdivision (a), wherein, on or about November 18, 2013, and November 22, 2013, she did unlawfully obtain and attempt to obtain, and procure and attempt to procure, the administration of and prescription for controlled substances, to wit: hydrocodone, by fraud, deceit, misrepresentation, subterfuge and by concealment of a material fact; and

(2) Two (2) counts of violation of Penal Code Section 459, wherein, on or about November 18, 2013, and November 22, 2013, she did unlawfully enter a building with the intent to commit a felony.

(c) On or about June 12, 2014, respondent was convicted of two (2) felonies – one count of Health and Safety Code Section 11173, subdivision (a), and one count of Penal Code Section 459. The San Diego County Superior Court sentenced respondent to felony probation to court for three (3) years and, the court stayed ninety (90) days of custody pending respondent's successful completion of probation. As part of respondent's plea bargain agreement if, after eighteen (18) months on probation she had successfully completed her probation conditions and committed no same or similar crimes, respondent's felony convictions would be reduced to misdemeanors. As part of respondent's probation, she was ordered to perform numerous conditions including, but not limited to, the following:

///

1 (1) pay approximately two thousand two hundred and sixty-
2 four (\$2,264) dollars in fines;

3 (2) perform one hundred (100) hours of volunteer work
4 service;

5 (3) attend and successfully complete a substance
6 abuse/cognitive behavior counseling program (if directed by the probation
7 officer);

8 (4) complete a program of residential treatment and after-care
9 (if directed by the probation officer);

10 (5) do not knowingly use or possess alcohol (if directed by the
11 probation officer);

12 (6) attend self-help meetings;

13 (7) do not knowingly use or possess any controlled substances
14 without a valid prescription; and

15 (8) submit to any chemical test of blood, breath or urine for
16 testing for the use of controlled substances and/or alcohol when required
17 by the probation officer.

18 **THIRD CAUSE FOR DISCIPLINE**

19 **(Conviction of an Offense Substantially Related to the Qualifications, Functions or Duties**
20 **of a Physician and Surgeon)**

21 19. Respondent has further subjected her Physician's and Surgeon's Certificate No.
22 A95063 to disciplinary action under sections 2227 and 2234, as defined by section 2236,
23 subdivision (a), of the Code, in that she has been convicted of an offense substantially related to
24 the qualifications, functions, or duties of a physician, as more particularly alleged in paragraphs
25 17 and 18, above, which are hereby incorporated by reference and realleged as if fully set forth
26 herein.

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1 **FOURTH CAUSE FOR DISCIPLINE**

2 **(Drug Related Conviction)**

3 20. Respondent has further subjected her Physician's and Surgeon's Certificate No.
4 A95063 to disciplinary action under sections 2227 and 2234, as defined by section 2237,
5 subdivision (a), of the Code, in that she has been convicted of a charge of violating a statute or
6 regulation of this state regulating dangerous drugs or controlled substances as more particularly
7 alleged in paragraphs 17 and 18, above, which are hereby incorporated by reference and
8 realleged as if fully set forth herein.

9 **FIFTH CAUSE FOR DISCIPLINE**

10 **(Violation of Statutes Regulating Dangerous Drugs and Controlled Substances)**

11 21. Respondent has further subjected her Physician's and Surgeon's Certificate No.
12 A95063 to disciplinary action under sections 2227 and 2234, as defined by section 2238 of the
13 Code, in that respondent has violated state statutes regulating dangerous drugs and controlled
14 substances, including, but not limited to, section 2239 of the Code; and Health and Safety
15 Code section 11153, subdivision (a) [unlawful controlled substance prescriptions]; Health and
16 Safety Code section 11170 [prescribing controlled substances for self-use]; Health and Safety
17 Code section 11173, subdivisions (a) and (b) [obtaining prescription by fraud/deceit]; and
18 Health and Safety Code section 11368 [obtaining a narcotic by a forged prescription] as more
19 particularly alleged in paragraphs 17 and 18, above, which are hereby incorporated by
20 reference and realleged as if fully set forth herein.

21 **SIXTH CAUSE FOR DISCIPLINE**

22 **(Dishonesty or Corruption)**

23 22. Respondent has further subjected her Physician's and Surgeon's Certificate No.
24 A95063 to disciplinary action under sections 2227 and 2234, as defined by sections 2234,
25 subdivision (e), of the Code, in that she has engaged in an act or acts of dishonesty or corruption
26 substantially related to the qualifications, functions, or duties of a physician, as more
27 particularly alleged in paragraphs 17 and 21, above, and paragraph 23, below, which are hereby
28 incorporated by reference and realleged as if fully set forth herein.

1 **SEVENTH CAUSE FOR DISCIPLINE**

2 **(Signing a Document that Falsely Represents the Existence**
3 **or Non-Existence of a State of Facts)**

4 23. Respondent has further subjected her Physician's and Surgeon's Certificate No.
5 A95063 to disciplinary action under sections 2227 and 2234, as defined by section 2261, of the
6 Code, in that respondent signed documents falsely represented the existence or non-existence of
7 a state of facts, as more particularly alleged in paragraph 17, above, which is incorporated by
8 reference and realleged as if fully set forth herein.

9 **EIGHTH CAUSE FOR DISCIPLINE**

10 **(Violation of a Provision or Provisions of the Medical Practice Act)**

11 24. Respondent has further subjected her Physician's and Surgeon's Certificate No.
12 A95063 to disciplinary action under sections 2227 and 2234, as defined by section 2234,
13 subdivision (a), in that she violated a provision or provisions of the Medical Practice Act, as
14 more particularly alleged in paragraphs 17, 18, 19, 20, 21, 22, and 23, above, which are
15 hereby incorporated by reference and realleged as if fully set forth herein.

16 **NINTH CAUSE FOR DISCIPLINE**

17 **(Unprofessional Conduct)**

18 25. Respondent has further subjected her Physician's and Surgeon's Certificate No.
19 A95063 to disciplinary action under sections 2227 and 2234 of the Code, in that she has
20 engaged in conduct which breaches the rules or ethical code of the medical profession, or
21 conduct which is unbecoming to a member in good standing of the medical profession, and
22 which demonstrates an unfitness to practice medicine, as more particularly alleged in
23 paragraphs 17, 18, 19, 20, 21, 22, 23, and 24, above, which are hereby incorporated by
24 reference and realleged as if fully set forth herein.

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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:

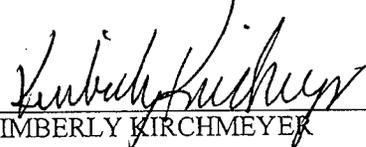
1. Revoking or suspending Physician's and Surgeon's Certificate Number A95063, issued to respondent Kathryn Papier Hirst, M.D.;

2. Revoking, suspending or denying approval of respondent Kathryn Papier Hirst, M.D.'s authority to supervise physician assistants, pursuant to section 3527 of the Code;

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

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

DATED: April 7, 2015


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