

1 XAVIER BECERRA
Attorney General of California
2 ROBERT MCKIM BELL
Supervising Deputy Attorney General
3 TRINA L. SAUNDERS
Deputy Attorney General
4 State Bar No. 207764
California Department of Justice
5 300 So. Spring Street, Suite 1702
Los Angeles, California 90013
6 Telephone: (213) 269-6516
Facsimile: (213) 897-9395
7 *Attorneys for Complainant*

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

13 In the Matter of the Accusation Against:

Case No. 800-2015-018519

14 BROOKE MILLON BARTON, M.D.

A C C U S A T I O N

15 2730 Wilshire Blvd., Suite C20
16 Santa Monica, California 90403

17 Physician's and Surgeon's Certificate G 43306,
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 (Board).

24 2. On September 15, 1980, the Board issued Physician's and Surgeon's Certificate
25 Number G 43306 to Brooke Millon Barton, M.D. (Respondent). That license was in full force
26 and effect at all times relevant to the charges brought herein and will expire on January 31, 2020,
27 unless renewed.

28 //

1 **DISCIPLINARY HISTORY**

2 3. On June 23, 2000, the Executive Director of the Medical Board filed an Accusation
3 against Respondent in the matter entitled: *In the Matter of the Accusation Against Brooke M.*
4 *Barton, M.D.*, Case No. 06-1999-102944. On December 7, 2001, a First Amended Accusation
5 was filed in the matter.

6 4. On or about January 3, 2013, Respondent signed a Stipulated Settlement and
7 Disciplinary Order to resolve the Accusation.

8 5. By means of an order dated March 14, 2003, and effective April 14, 2003, in the case
9 entitled, *In the Matter of the Accusation Against Brooke M. Barton, M.D.*, Case No. 06-1999-
10 102944, the Medical Board of California issued a Decision revoking Dr. Barton's license to
11 practice medicine. The revocation was stayed and her certificate was placed on probation for a
12 period of two years, with certain terms and conditions. A true and correct copy of the Decision is
13 attached hereto as Exhibit A and is incorporated herein by reference as if fully set forth.
14 Respondent's probation was completed on April 14, 2005.

15 **JURISDICTION**

16 6. This Accusation is brought before the Board under the authority of the following
17 laws. All section references are to the Business and Professions Code unless otherwise indicated.

18 7. Section 2227 of the Code states:

19 "(a) A licensee whose matter has been heard by an administrative law judge of the Medical
20 Quality Hearing Panel as designated in Section 11371 of the Government Code, or whose default
21 has been entered, and who is found guilty, or who has entered into a stipulation for disciplinary
22 action with the board, may, in accordance with the provisions of this chapter:

23 "(1) Have his or her license revoked upon order of the board.

24 "(2) Have his or her right to practice suspended for a period not to exceed one year upon
25 order of the board.

26 "(3) Be placed on probation and be required to pay the costs of probation monitoring upon
27 order of the board.

1 “(4) Be publicly reprimanded by the board. The public reprimand may include a
2 requirement that the licensee complete relevant educational courses approved by the board.

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

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

11 8. Section 2234 of the Code, states:

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

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

17 “(b) Gross negligence.

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

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

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

28 “(d) Incompetence.

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

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

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

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

11 9. Section 2242 of the Code states:

12 “(a) Prescribing, dispensing, or furnishing dangerous drugs as defined in Section 4022
13 without an appropriate prior examination and a medical indication, constitutes unprofessional
14 conduct.

15 “(b) No licensee shall be found to have committed unprofessional conduct within the
16 meaning of this section if, at the time the drugs were prescribed, dispensed, or furnished, any of
17 the following applies:

18 “(1) The licensee was a designated physician and surgeon or podiatrist serving in the
19 absence of the patient’s physician and surgeon or podiatrist, as the case may be, and if the drugs
20 were prescribed, dispensed, or furnished only as necessary to maintain the patient until the return
21 of his or her practitioner, but in any case no longer than 72 hours.

22 “(2) The licensee transmitted the order for the drugs to a registered nurse or to a licensed
23 vocational nurse in an inpatient facility, and if both of the following conditions exist:

24 “(A) The practitioner had consulted with the registered nurse or licensed vocational nurse
25 who had reviewed the patient’s records.

26 “(B) The practitioner was designated as the practitioner to serve in the absence of the
27 patient’s physician and surgeon or podiatrist, as the case may be.

28

1 “(3) The licensee was a designated practitioner serving in the absence of the patient’s
2 physician and surgeon or podiatrist, as the case may be, and was in possession of or had utilized
3 the patient’s records and ordered the renewal of a medically indicated prescription for an amount
4 not exceeding the original prescription in strength or amount or for more than one refill.

5 “(4) The licensee was acting in accordance with Section 120582 of the Health and Safety
6 Code.”

7 10. Section 2225.5 of the Code states:

8 “ . . .

9 “(b) (1) A licensee who fails or refuses to comply with a court order, issued in the
10 enforcement of a subpoena, mandating the release of records to the board shall pay to the board a
11 civil penalty of one thousand dollars (\$1,000) per day for each day that the documents have not
12 been produced after the date by which the court order requires the documents to be produced, up
13 to ten thousand dollars (\$10,000), unless it is determined that the order is unlawful or invalid.
14 Any statute of limitations applicable to the filing of an accusation by the board shall be tolled
15 during the period the licensee is out of compliance with the court order and during any related
16 appeals.

17 “ . . .

18 “(d) A failure or refusal of a licensee to comply with a court order, issued in the
19 enforcement of a subpoena, mandating the release of records to the board constitutes
20 unprofessional conduct and is grounds for suspension or revocation of his or her license.

21 “(e) Imposition of the civil penalties authorized by this section shall be in accordance with
22 the Administrative Procedure Act (Chapter 5 (commencing with Section 11500) of Division 3 of
23 Title 2 of the Government Code).

24 “(f) For purposes of this section, “certified medical records” means a copy of the patient’s
25 medical records authenticated by the licensee or health care facility, as appropriate, on a form
26 prescribed by the board.”

27 11. Section 2266 of the Code states:
28

1 “The failure of a physician and surgeon to maintain adequate and accurate records relating
2 to the provision of services to their patients constitutes unprofessional conduct.”

3
4 **CONTROLLED SUBSTANCE/DANGEROUS DRUGS**

5
6 12. The following medications are controlled substances and dangerous drugs within
7 the meaning of the Health and Safety Code and Business and Professions Code:

8 A. Didrex (benzphetamine) - is a stimulant that is similar to an amphetamine.
9 It is an appetite suppressant that affects the central nervous system.

10 B. Viibryd – is a prescription medication indicated for the treatment of major
11 depressive disorder.

12 C. Dalmane (flurazepam) – is a benzodiazepine. Dalmane is a hypnotic agent
13 used for the treatment of insomnia.

14 D. Halcion (triazolam) – is a central nervous system depressant in the
15 benzodiazepine class. It is generally only used as a sedative to treat insomnia.

16 E. Xanax – (alprazolam) is a benzodiazepine. Alprazolam affects chemicals in
17 the brain that may be unbalanced in people with anxiety. Xanax is used to treat anxiety
18 disorders, panic disorders, and anxiety caused by depression.

19 F. Klonopin (clonazepam) – is a benzodiazepine. It affects chemicals in the
20 brain that may be unbalanced.

21 G. Ambien - (zolpidem) is a sedative, also called a hypnotic. Ambien is used
22 to treat insomnia by affecting chemicals in the brain that may be unbalanced in people
23 with sleep problems or insomnia. The immediate-release tablet is used to help the patient
24 fall asleep when ready to go to bed. The extended-release form, known as Ambien CR,
25
26
27
28

1 has a first layer that dissolves quickly to help the patient fall asleep, and a second layer
2 that dissolves slowly to help the patient stay asleep.

3 H. Revia – is a narcotic drug that blocks the effects of other narcotic
4 medicines and alcohol which is used to treat narcotic drug or alcohol addiction.

5 I. Modafinil (Provigil) - is a controlled substance used in the treatment of
6 narcolepsy and other significant sleep disorders.

7 **FIRST CAUSE FOR DISCIPLINE**

8 (Unprofessional Conduct – Refusal to Comply with Court Order for Patient Records)

9
10 13. Respondent is subject to disciplinary action under Code sections 2234, subdivision
11 (a), and 2225.5, subdivision (b)(1), in that Respondent failed and refused to comply with the Los
12 Angeles Superior Court’s Order for the production of the certified medical records of the five
13 patients whose care was the subject of Medical Board Case No. 800-2015-018519. In Los
14 Angeles Superior Court Case No. BS174337, Respondent was ordered to turn over all records
15 related to five patients, including those four whose care is the subject of the instant action. The
16 records to be turned over to Complainant included certified medical records. The records were to
17 be turned over to the Board, on or before November 12, 2018, but were not. The circumstances
18 are as follows:

19 14. On November 2, 2018, a hearing was held in Department 73 of the Los Angeles
20 Superior Court, on the Board’s Petition for Order to Show Cause and for Order Compelling
21 Respondent to Produce Medical Records. The Petition was granted.

22 15. On November 5, Judge Ongkeko of the Los Angeles Superior Court signed the order
23 requiring Respondent to produce -- among other things -- the medical and billing records related
24 to patients A, B, C, D, and E, in accord with the subpoenas that were issued, on or before
25 November 12, 2018.

26 ///

27 ///

28

1 16. On November 12, 2018, Respondent had not provided any records to the Board, or to any
2 representative of the Board, including the investigator assigned to the matter and the Board's
3 legal representative.

4 17. On December 17, 2018, a case management conference was held in Department 73 of
5 the Los Angeles Superior Court. Respondent failed to appear. An Order to Show Cause re:
6 contempt, returnable on January 3, 2019, was set.

7 18. On December 19, 2018, largely illegible and uncertified patient medical records for
8 the five patients were provided to the Office of the Attorney General. The only set of billing
9 records received were those related to patient D.

10 19. On January 3, 2019, the Contempt hearing on the Order to Show Cause was held. No
11 appearance was made by Respondent. Accordingly, a bench warrant was issued for the arrest of
12 Respondent.

13 20. On January 7, 2019, the Board served Respondent with a subpoena to appear and
14 testify at the Health Quality Investigations Unit (HQIU) Glendale office, on January 28, 2019, at
15 11:30 a.m.

16 21. On January 11, 2019, Respondent produced five record certifications, which she
17 represented, corresponded to the records produced to Complainant's counsel on December 19,
18 2018.

19 22. On January 25, 2018, the HQIU investigator assigned to investigate Respondent's
20 conduct contacted counsel for Respondent and confirmed that Respondent was subpoenaed and
21 would appear for her interview on January 28, 2019, at 11:30 a.m.

22 23. On January 28, 2019, Respondent failed to appear for her Board interview.
23 Respondent never produced sets of legible medical records and to date has not contacted the
24 Board to cooperate with her licensing agency's investigation and to appear for an interview.

25 24. Respondent's conduct, as set forth in paragraphs 10 through 20, inclusive above,
26 constitutes unprofessional conduct pursuant to Code section 2234, subdivision (a), in that
27 Respondent refused to comply with a court order, issued in the enforcement of a subpoena
28

1 mandating the release of medical records of patients A, B, C, D and E, to the Board. As such,
2 cause for discipline exists.

3 **SECOND CAUSE FOR DISCIPLINE**

4 (Gross Negligence)

5 25. Respondent Brooke Millon Barton, M.D. is subject to disciplinary action under
6 sections 2234, subdivision (b) and 2242 in that she inappropriately prescribed controlled
7 substances to five patients without justification and provided poor medical care, such that the
8 health and life of the patients were placed at risk. The medical records related to each of the
9 patients are illegible, such that no subsequent treating physician could review them, to obtain
10 adequate history, assess the care and treatment rendered by Respondent, or provide continuing
11 appropriate care based on the patient's status and treatment. This placed the health and lives of
12 the patients at risk.

13 The patient records were reviewed by a Board retained expert who deemed the records
14 largely illegible, but was able to discern some words and phrases contained therein. The
15 circumstances are as follows:

16 Patient A

17 26. The patient records produced by Respondent spanned the period from February 2012
18 through December 2015 and documented approximately 185 visits. In 2012, this patient was 76
19 years-old. Respondent's notes were largely illegible. Those words and phrases that were
20 discernable, demonstrated that patient A was diagnosed with depression. She underwent a brief
21 mental status examination, which revealed, "depression, poor eye contact, red hair, glasses,
22 overweight, no SI." Patient A's past medical history included the use of Didrex for 10 years. The
23 patient suffered from fibromyalgia and chronic fatigue syndrome.

24 27. Respondent prescribed an antidepressant medication, Viibryd to Patient A, as well as
25 Dalmane and Didrex 50 mg once twice a day #120, Cytomel, Halcion, Seroquel and Xanax.

26 28. On November 5, 2015, Respondent noted "A/P [Assessment/Plan] grief, some meds."

27 29. Patient A's records contain no documentation of monitoring body weight/BMI, vital
28 signs, or EKGs. There is no documentation indicating informed consent was obtained from the

1 patient. Respondent's rationale for long-term prescribing of benzphetamine and triazolam, is
2 absent from the record, as is any plan to eventually taper the dose of these medications.

3 30. Respondent prescribed benzphetamine, an amphetamine-type compound
4 recommended for short-term treatment for obesity in combination with a structured program of
5 diet and exercise. This medicine is recommended for short-term use only, from several weeks to
6 a maximum of six months, and must be used with extra caution in the elderly. Per patient A's
7 records, she received this medication at the age of 76 years, and was prescribed the medication
8 over a two to three-year time period, without justification. The patient's medical records reveal
9 no record of any monitoring of the patient's body weight/BMI, diet and exercise schedule.

10 31. Patient A was also prescribed triazolam, a sleeping medication that is recommended
11 for short-term use (10 days). She was prescribed the medication on a long-term basis, despite its
12 use requiring extra care in the elderly. The patient was prescribed twice the recommended
13 maximum dose for an adult. At the same time, she was prescribed alprazolam, which is also a
14 benzodiazepine and substantially increases the risk of over sedation, intoxication, as well as falls
15 and accidents, especially in the elderly. These medications were prescribed without a clear
16 rationale for combining prescriptions for two benzodiazepines and stimulant medications.

17 32. In her care of patient A, Respondent committed gross negligence by failing to avoid
18 unnecessary and unsafe prescribing of multiple controlled substances without adequate safety
19 monitoring in an elderly patient.

20 Patient B

21 33. Respondent produced the medical records for patient B from January 2012 through
22 December 2016. There are approximately 29 documented visits. Patient B was 80 years-old in
23 2012.

24 34. Patient B's medical records are largely illegible. The information that can be
25 extracted from the medical records is: "A/P sleep apnea sleep disorder Dx MVP, HX child
26 abuse." The following medications are listed in the patient medical record: Seroquel, Ambien 10
27 mg, Provigil 200 mg. There is a later note that includes a mental status examination and which
28

1 states, "no depression, no anxiety, tried stimulant." The record also includes prescriptions for
2 Seroquel 100 mg, Klonopin, Risperadal 3 mg #90, and Zolpidem 10 mg #90.

3 35. Respondent prescribed multiple controlled substances in the benzodiazepine class in
4 combination with other sleep medications to patient B, an elderly man. Alprazolam, clonazepam
5 and zolpidem are all sedative medications which can be addictive and can be abused by patients.
6 Despite prescribing these medications, Respondent failed to document patient B's vital signs.

7 36. Respondent prescribed these sleeping medications to patient B on a long-term basis.
8 The medications are recommended for short-term use and must be used with extra care in the
9 elderly. Instead of decreasing the dosage, as should be done in the case of the elderly,
10 Respondent prescribed high dosages to patient B. The excessive quantity of tablets being
11 prescribed to an elderly patient without clear documentation of medical need or safety monitoring
12 is dangerous. Respondent prescribed in a manner that placed the patient at risk for over sedation
13 and at unnecessary risk of potential harm. Further, Respondent did not have a plan to taper and
14 eventually discontinue the patient's use of these medications.

15 37. In her care of patient B, Respondent committed gross negligence by failing to avoid
16 unnecessary and unsafe prescribing of multiple controlled substances without adequate safety
17 monitoring in an elderly patient.

18 Patient C

19 38. The patient records produced by Respondent for patient C spanned the 4-year period
20 from February 2012 through January 6, 2016 and documented approximately 66 visits. In 2012,
21 this patient was 52 years-old. Respondent's notes are largely illegible. Those words and phrases
22 that were discernable, demonstrated that patient C's chief complaint was "trouble connecting." A
23 mental status examination was documented, "+depression, withdrawn, +suicidal ideation no
24 plan." CPT code for major depression was identified with, "P/[plan] Zoloft, Revia, Antabuse,
25 R/O Medicaid." Prescribed medications included Xanax, Lamictal, modafinil, Abilify, Prozac,
26 and Phentermine.

27 39. On April 25, 2012, Respondent documented a treatment plan. The assessment stated,
28 patient C was doing better with increased Abilify, increased Lamictal, increased Prozac."

1 40. On August 17, 2012, Respondent recommended that patient C be excused from work
2 ½ day per week until further notice.

3 41. On May 25, 2013, Respondent noted, “exercise not yet diet going well. “

4 42. On June 5, 2013, Respondent noted that on exam that patient C was not depressed, no
5 suicidal ideation.

6 43. On July 1, 2013, Respondent documented, “A/P follow alcohol food depression stable
7 on meds” and “A continues more social less depressed.”

8 44. On September 17, 2014, Respondent documented, “A/P mood stable.”

9 45. The medical record entry of October 22, 2014, contained a prescription copy listing
10 various lab results.

11 46. The medical record entry of March 11, 2015, mentions BMI and references, “excited
12 about bariatric surgery.”

13 47. On November 4, 2015, Respondent documented that blood pressure check was too
14 low, the patient gained 20 pounds in a year to 240, and her BMI was 40.

15 48. Patient C was prescribed benzphetamine from 2012 through 2015, which is far
16 beyond the recommended duration. Respondent did not document a clinical justification for this.
17 The listed treating diagnosis of this patient was major depression. Although BMI is mentioned
18 twice in the record, there is no indication that the Respondent was treating this patient for obesity
19 or another eating disorder. There is no ongoing documentation of the patient’s weight over time.
20 There is no off label clinical indication for prescribing benzphetamine in a high dosage over an
21 extended period.

22 49. In July of 2012, Respondent began to also prescribe modafinil to patient C.
23 Modafinil is a medication used to treat sleep disorders. There is no evidence that the patient
24 underwent a diagnostic sleep evaluation or an acceptable documented rationale for the prescribing
25 of modafinil, or for prescribing this drug in combination with benzphetamine.

26 50. Modafinil and benzphetamine have a risk of abuse. Respondent only checked the
27 patient’s blood pressure on occasion. There are no other documented vital signs in patient C’s
28 medical record. No EKG was performed.

1 51. Respondent prescribed alprazolam to patient C for an extended period of time.

2 52. Respondent documented three cursory mental status examinations. No informed
3 consent was obtained from the patient for the medications prescribed. There was no evidence of
4 appropriate treatment planning in the medical record.

5 53. In her care of patient C, Respondent committed gross negligence by
6 overprescribing multiple controlled substances for an extended period of time without appropriate
7 clinical indications and without documenting adequate safety monitoring of the patient.

8 **THIRD CAUSE FOR DISCIPLINE**

9 (Failure to Maintain Adequate Records)

10 54. Respondent is subject to disciplinary action under Business and Professions Code
11 section 2266 in that she failed to maintain adequate and accurate records in her care and treatment
12 of all four patients identified in the instant Accusation. The circumstances are as follows:

13 Patient D

14 55. Respondent first saw patient D on February 9, 2013. She treated the patient through
15 February 27, 2014. There are ten recorded medical visits. With the exception of the entry for the
16 first visit, which is duplicated in typewritten form, the medical records are largely illegible. The
17 information that can be deduced from the records includes that the patient was diagnosed with
18 panic disorder. Respondent prescribed Prozac 20 mg and Xanax to patient D.

19 56. On February 9, 2013, the patient was prescribed alprazolam 1 mg #60.

20 57. Three days after filling his first prescription, patient D filled a prescription for 120
21 tablets of alprazolam. There is no note in the medical record indicating the justification for this.

22 58. Approximately one week after that, patient D was prescribed an additional 90 tablets
23 of alprazolam.

24 59. In March of 2013, patient D filled prescriptions for 180 tablets of alprazolam. The
25 prescriptions were written by Respondent.

26 60. In April of 2013, patient D filled prescriptions for 400 tablets of alprazolam. The
27 prescriptions were written by Respondent.

28

1 61. Patient D was prescribed high dosages of alprazolam. Alprazolam is potentially
2 highly addictive. The patient was prescribed 1 mg twice per day at the outset of treatment. The
3 dose was escalated to 1 mg four times a day (120 tablets in 30 days), a daily dose of 4 mg. At
4 that dosage the medication can cause serious over sedation and symptoms of intoxication.
5 Potential risks of high dose alprazolam include respiratory depression, accidents, and death.

6 62. The medical record does not show that the patient was warned of the risks associated
7 with taking this medication at the dosages prescribed, including the risk of addiction, the risks
8 associated with the combining the medication with other drugs or alcohol, and informed consent
9 was not obtained. No warnings regarding use were given. There is no clinical evidence of any
10 treatment plan to eventually taper and discontinue the medication, or of a consideration of
11 substituting it with a less addictive and safer alternative.

12 63. Paragraphs 15 through 50, inclusive, above are incorporated herein by reference as if
13 fully set forth.

14 64. Respondent failed to maintain legible records that documented pertinent and required
15 information related to the care and treatment of six patients. Her records were scant, illegible,
16 and incomplete.

17 **PRAYER**

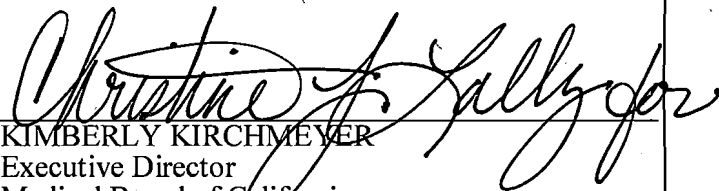
18 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
19 and that following the hearing, the Medical Board of California issue a decision:

- 20 1. Revoking or suspending Physician's and Surgeon's Certificate Number G 43306,
21 issued to Brooke Millon Barton, M.D.;
- 22 2. Revoking, suspending or denying approval of her authority to supervise physician
23 assistants and advanced practice nurses;
- 24 3. Ordering her to pay the Board civil penalties in the amount of \$10,000 for her failure
25 and refusal to comply with the Board's requests for the certified medical records of patients A, B,
26 C, D, and E;
- 27 4. If placed on probation, ordering her to pay the Board the costs of probation
28 monitoring; and

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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

DATED: March 15, 2019



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

Complainant

LA2019600570
53265966.docx

EXHIBIT A

H

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

In the Matter of the Accusation Against:)

BROOKE M. BARTON, M.D.)

File No. 06-1999-102944

Physician's and Surgeon's)
Certificate No. G43306)

Respondent.)
_____)

DECISION

The attached Stipulated Settlement and Disciplinary Order is hereby adopted as the Decision and Order of the Division of Medical Quality 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 14, 2003.

IT IS SO ORDERED March 14, 2003.

MEDICAL BOARD OF CALIFORNIA

By: *Lorie G. Rice*
Lorie G. Rice, Chair
Panel A
Division of Medical Quality

1 BILL LOCKYER, Attorney General
of the State of California
2 E. A. JONES III, State Bar No. 71375
Deputy Attorney General
3 California Department of Justice
300 So. Spring Street, Suite 1702
4 Los Angeles, CA 90013
Telephone: (213) 897-2543
5 Facsimile: (213) 897-1071

6 Attorneys for Complainant

7
8 **BEFORE THE**
DIVISION OF MEDICAL QUALITY
MEDICAL BOARD OF CALIFORNIA
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the Accusation Against:

11 BROOKE M. BARTON, M.D.
12 530 Wilshire Boulevard, Suite 209
13 Santa Monica, California 90401

14 Physician and Surgeon's Certificate No. G43306

15 Respondent.

Case No. 06-99-102944

OAH No. L-2000120142

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

16
17 In the interest of a prompt and speedy settlement of this matter, consistent with the
18 public interest and the responsibility of the Division of Medical Quality, Medical Board of
19 California of the Department of Consumer Affairs, the parties hereby agree to the following
20 Stipulated Settlement and Disciplinary Order which will be submitted to the Division for
21 approval and adoption as the final disposition of the First Amended Accusation.

22 PARTIES

23 1. Ron Joseph (Complainant) is the Executive Director of the Medical Board
24 of California. He brought this action solely in his official capacity and is represented in this
25 matter by Bill Lockyer, Attorney General of the State of California, by E. A. Jones III, Deputy
26 Attorney General.

27 2. Respondent Brooke M. Barton, M.D. (Respondent) is represented in this
28 proceeding by attorney Alan I. Kaplan, whose address is 1925 Century Park East, Suite 500, Los

1 Angeles, California 90067-2706.

2 3. On or about September 15, 1980, the Medical Board of California issued
3 Physician and Surgeon's Certificate No. G43306 to Brooke M. Barton, M.D. (Respondent). The
4 Certificate was in full force and effect at all times relevant to the charges brought in Accusation
5 No. 06-99-102944 and will expire on January 31, 2004, unless renewed.

6 JURISDICTION

7 4. First Amended Accusation No. 06-99-102944 was filed before the
8 Division of Medical Quality (Division) for the Medical Board of California, Department of
9 Consumer Affairs, and is currently pending against Respondent. The First Amended Accusation
10 and all other statutorily required documents were properly served on Respondent on December 7,
11 2001. Respondent timely filed her Notice of Defense contesting the Accusation. A copy of First
12 Amended Accusation No. 06-99-102944 is attached as exhibit A and incorporated herein by
13 reference.

14 ADVISEMENT AND WAIVERS

15 5. Respondent has carefully read, fully discussed with counsel, and
16 understands the charges and allegations in the First Amended Accusation No. 06-99-102944.
17 Respondent has also carefully read, fully discussed with counsel, and understands the effects of
18 this Stipulated Settlement and Disciplinary Order.

19 6. Respondent is fully aware of her legal rights in this matter, including the
20 right to a hearing on the charges and allegations in the First Amended Accusation; the right to be
21 represented by counsel at her own expense; the right to confront and cross-examine the witnesses
22 against her; the right to present evidence and to testify on her own behalf; the right to the
23 issuance of subpoenas to compel the attendance of witnesses and the production of documents;
24 the right to reconsideration and court review of an adverse decision; and all other rights accorded
25 by the California Administrative Procedure Act and other applicable laws.

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

28 ////

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

CULPABILITY

8. Bases upon evidence she believes supports her position, respondent denies the allegations in the First Amended Accusation No. 06-99-102944. Respondent agrees that complainant could establish a prima facie case at a hearing. Respondent chooses not to defend the case and agrees to be bound by the disciplinary order herein.

RESERVATION

9. The agreements made by Respondent herein are only for the purposes of this proceeding, or any other proceedings in which the Division of Medical Quality, Medical Board of California, or other professional licensing agency is involved, and shall not be admissible in any other criminal or civil proceeding.

CONTINGENCY

10. This stipulation shall be subject to approval by the Division of Medical Quality. Respondent understands and agrees that counsel for Complainant and the staff of the Medical Board of California may communicate directly with the Division regarding this stipulation and settlement, without notice to or participation by Respondent or her counsel. By signing the stipulation, Respondent understands and agrees that she may not withdraw her agreement or seek to rescind the stipulation prior to the time the Division considers and acts upon it. If the Division 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 Division shall not be disqualified from further action by having considered this matter.

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

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

////

1 **DISCIPLINARY ORDER**

2 IT IS HEREBY ORDERED that Physician and Surgeon's Certificate No. G43306
3 issued to Respondent Brooke M. Barton, M.D. is revoked. However, the revocation is stayed
4 and Respondent is placed on probation for two (2) years on the following terms and conditions.

5 Within 15 days after the effective date of this decision the respondent shall
6 provide the Division, or its designee, proof of service that respondent has served a true copy of
7 this decision on the Chief of Staff or the Chief Executive Officer at every hospital where
8 privileges or membership are extended to respondent or at any other facility where respondent
9 engages in the practice of medicine and on the Chief Executive Officer at every insurance carrier
10 where malpractice insurance coverage is extended to respondent.

11 1. **EDUCATION COURSE** Within ninety (90) days of the effective date of
12 this decision, and on an annual basis thereafter, respondent shall submit to the Division or its
13 designee for its prior approval an educational program or course to be designated by the Division
14 or its designee which shall be aimed at correcting any areas of deficient practice or knowledge
15 which shall not be less than 25 hours per year, for each year of probation. This program shall be
16 in addition to the Continuing Medical Education (CME) requirements for re-licensure.
17 Following the completion of each course, the Division or its designee may administer an
18 examination to test respondent's knowledge of the course. Respondent shall provide proof of
19 attendance for 50 hours of continuing medical education of which 25 hours were in satisfaction
20 of this condition and were approved in advance by the Division or its designee.

21 2. **PHYSICIAN PRESCRIBING** Within sixty (60) days of the effective date
22 of this decision, respondent is hereby ordered to enroll in the University of California San Diego
23 Physician Assessment and Clinical Education (PACE) Program Physician Prescribing Course,
24 and shall successfully complete the course within 180 days of the effective date of this order.
25 Failure to successfully and timely complete the course shall constitute a material breach of this
26 order.

27 3. **PSYCHOTHERAPY** Respondent shall continue psychotherapy treatment
28 for the period of probation with treating psychotherapist Dr. Martha Kirkpatrick, M.D., or until

1 the Division or its designee deems that no further psychotherapy is necessary. Respondent shall
2 have the treating psychotherapist submit quarterly status reports to the Division or its designee.
3 The Division or its designee may require respondent to undergo psychiatric evaluations by a
4 psychiatrist mutually acceptable to the Division and respondent. If, prior to the termination of
5 probation, respondent, after notice and an opportunity to be heard, is found not to be mentally fit
6 to resume the practice of medicine without restrictions, the Division shall retain continuing
7 jurisdiction over the respondent's license and the period of probation shall be extended until the
8 Division determines that the respondent is mentally fit to resume the practice of medicine
9 without restrictions. The respondent shall pay the cost of the therapy and evaluations.

10 If the treating psychotherapist resigns or is no longer available, respondent shall,
11 within fifteen (15) days, move to have a new treating psychotherapist appointed, through
12 nomination by respondent and approval by the Division or its designee.

13 4. MONITORING Within thirty (30) days of the effective date of this
14 decision, respondent shall submit to the Division or its designee for its prior approval a plan of
15 practice in which respondent's practice shall be monitored for the first year of probation by Dr.
16 Raymond J. Friedman, M.D., Ph.D., who shall provide periodic reports to the Division or its
17 designee.

18 If the monitor resigns or is no longer available, respondent shall, within fifteen
19 (15) days, move to have a new monitor appointed, through nomination by respondent and
20 approval by the Division or its designee.

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

24 6. QUARTERLY REPORTS Respondent shall submit quarterly
25 declarations under penalty of perjury on forms provided by the Division, stating whether there
26 has been compliance with all the conditions of probation.

27 7. PROBATION SURVEILLANCE PROGRAM COMPLIANCE
28 Respondent shall comply with the Division's probation surveillance program. Respondent shall,

1 at all times, keep the Division informed of her business and residence addresses which shall both
2 serve as addresses of record. Changes of such addresses shall be immediately communicated in
3 writing to the Division. Under no circumstances shall a post office box serve as an address of
4 record, except as allowed by Business and Professions Code section 2021(b).

5 Respondent shall, at all times, maintain a current and renewed physician's and
6 surgeon's license.

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

10 8. INTERVIEW WITH THE DIVISION, ITS DESIGNEE OR ITS
11 DESIGNATED PHYSICIAN(S) Respondent shall appear in person for interviews with the
12 Division, its designee or its designated physician(s) upon request at various intervals and with
13 reasonable notice.

14 9. TOLLING FOR OUT-OF-STATE PRACTICE, RESIDENCE OR IN-
15 STATE NON-PRACTICE In the event respondent should leave California to reside or to
16 practice outside the State or for any reason should respondent stop practicing medicine in
17 California, respondent shall notify the Division or its designee in writing within ten (10) days of
18 the dates of departure and return or the dates of non-practice within California. Non-practice is
19 defined as any period of time exceeding thirty (30) days in which respondent is not engaging in
20 any activities defined in Sections 2051 and 2052 of the Business and Professions Code. All time
21 spent in an intensive training program approved by the Division or its designee shall be
22 considered as time spent in the practice of medicine. A Board-ordered suspension of practice
23 shall not be considered as a period of non-practice. Periods of temporary or permanent residence
24 or practice outside California or of non-practice within California, as defined in this condition,
25 will not apply to the reduction of the probationary order.

26 10. COMPLETION OF PROBATION Upon successful completion of
27 probation, respondent's certificate shall be fully restored.

28 11. VIOLATION OF PROBATION If respondent violates probation in any

1 respect, the Division, after giving respondent notice and the opportunity to be heard, may revoke
2 probation and carry out the disciplinary order that was stayed. If an accusation or petition to
3 revoke probation is filed against respondent during probation, the Division shall have continuing
4 jurisdiction until the matter is final, and the period of probation shall be extended until the matter
5 is final.

6 12. COST RECOVERY The respondent is hereby ordered to reimburse the
7 Division the amount of \$7500.00 within ninety (90) days of the effective date of this decision for
8 its investigative and prosecution costs. Failure to reimburse the Division's cost of investigation
9 and prosecution shall constitute a violation of the probation order, unless the Division agrees in
10 writing to payment by an installment plan because of financial hardship. The filing of
11 bankruptcy by the respondent shall not relieve the respondent of her responsibility to reimburse
12 the Division for its investigative and prosecution costs.

13 13. PROBATION COSTS Respondent shall pay the costs associated with
14 probation monitoring each and every year of probation, as designated by the Division, which are
15 currently set at \$2488.00, but may be adjusted on an annual basis. Such costs shall be payable to
16 the Division of Medical Quality and delivered to the designated probation surveillance monitor
17 no later than January 31 of each calendar year. Failure to pay costs within 30 days of the due
18 date shall constitute a violation of probation.

19 14. LICENSE SURRENDER Following the effective date of this decision, if
20 respondent ceases practicing due to retirement, health reasons or is otherwise unable to satisfy
21 the terms and conditions of probation, respondent may voluntarily tender her certificate to the
22 Board. The Division reserves the right to evaluate the respondent's request and to exercise its
23 discretion whether to grant the request, or to take any other action deemed appropriate and
24 reasonable under the circumstances. Upon formal acceptance of the tendered license, respondent
25 will not longer be subject to the terms and conditions of probation.

26 ACCEPTANCE

27 I have carefully read the above Stipulated Settlement and Disciplinary Order and
28 have fully discussed it with my attorney, Alan I. Kaplan. I understand the stipulation and the

01/31/03 12:52

1 effect it will have on my Physician and Surgeon's Certificate. I enter into this Stipulated
2 Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be
3 bound by the Decision and Order of the Division of Medical Quality, Medical Board of
4 California.

5 DATED: 1/31/03

6
7 
8 **BROOKE M. BARTON, M.D.**
9 Respondent

10 I have read and fully discussed with Respondent Brooke M. Barton, M.D. the
11 terms and conditions and other matters contained in the above Stipulated Settlement and
12 Disciplinary Order. I approve its form and content.

13 DATED: 1/31/03


14
15 
16 **ALAN I. KAPLAN**
17 Attorney for Respondent

18 **ENDORSEMENT**

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

22 DATED: 1/31/2003

23 **BILL LOCKYER, Attorney General**
24 of the State of California

25 
26 **E. A. JONES III**
27 Deputy Attorney General
28 Attorneys for Complainant

BIB 1/31/03

Exhibit A

First Amended Accusation No. 06-99-102944

1 BILL LOCKYER, Attorney General
of the State of California
2 MARK T. ROOHK, State Bar No. 132698
Deputy Attorney General
3 California Department of Justice
300 South Spring Street, Suite 1702
4 Los Angeles, California 90013
Telephone: (213) 897-2568
5 Facsimile: (213) 897-1071
6 Attorneys for Complainant

7
8
9 **BEFORE THE**
10 **DIVISION OF MEDICAL QUALITY**
11 **MEDICAL BOARD OF CALIFORNIA**
12 **DEPARTMENT OF CONSUMER AFFAIRS**
13 **STATE OF CALIFORNIA**

14 In the Matter of the Accusation Against:

Case No. 06-99-102944

15 BROOKE M. BARTON, M.D.
16 1502 Wilshire Boulevard
17 Suite 305
18 Santa Monica, California 90403-5559

FIRST AMENDED ACCUSATION

19 Physician and Surgeon's certificate No. G 43306

20 Respondent

21 Complainant alleges:

22 PARTIES

23 1. Ron Joseph ("Complainant") brings this first amended accusation solely in
24 his official capacity as the Executive Director of the Medical Board of California, Department of
25 Consumer Affairs.

26 2. On or about September 15, 1980, the Medical Board of California issued
27 physician and surgeon's certificate Number G 43306 to Brooke M. Barton, M.D. ("Respondent").
28 The physician and surgeon's certificate was in full force and effect at all times relevant to the
charges brought herein and will expire on January 31, 2004, unless renewed.

1 JURISDICTION

2 3. This First Amended Accusation is brought before the Division of Medical
3 Quality, Medical Board of California ("Division"), under the authority of the following sections
4 of the Business and Professions Code ("Code").

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

9 5. Section 2234 of the Code states:

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

13 "(a) Violating or attempting to violate, directly or indirectly, or assisting in or
14 abetting the violation of, or conspiring to violate, any provision of this chapter [Chapter
15 5, the Medical Practice Act].

16 "(b) Gross negligence.

17 "(c) Repeated negligent acts.

18 "(d) Incompetence.

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

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

23 6. Section 725 of the Code provides:

24 "Repeated acts of clearly excessive prescribing or administering of
25 drugs or treatment, repeated acts of clearly excessive use of diagnostic procedures,
26 or repeated acts of clearly excessive use of diagnostic or treatment facilities as
27 determined by the standard of the community of licensees is unprofessional
28 conduct for a physician and surgeon"

1 7. The following medications are dangerous drugs within the meaning of
2 Business and Professions Code section 4022 and, where indicated, controlled substances within
3 the meaning of Health and Safety Code sections 11055, 11056, and 11057:

- 4 A. APAP with codeine, a Schedule III controlled substance as defined in
5 Health and Safety Code section 11056.
- 6 B. *Dexedrine*, a trade name for dextroamphetamine sulfate, a Schedule II
7 controlled substance as defined in Health and Safety Code section 11055.
- 8 C. *Fioricet*, a trade name for butalbital, acetaminophen, and caffeine, a
9 Schedule III controlled substance as defined in Health and Safety Code
10 section 11056.
- 11 D. *Fiorinal*, a trade name for butalbital, aspirin, and caffeine, a Schedule III
12 controlled substance as defined in Health and Safety Code section 11056.
- 13 E. Hydrocodone, a Schedule III controlled substance as defined in Health and
14 Safety Code section 11056.
- 15 F. *Klonopin*, a trade name for clonazepam, a Schedule IV controlled
16 substance as defined in Health and Safety Code section 11057.
- 17 G. *Soma*, a trade name for carisoprodol.
- 18 H. *Tylenol #4*, a trade name for acetaminophen and codeine, a Schedule III
19 controlled substance as defined in Health and Safety Code section 11056.
- 20 I. *Vicodin*, a trade name for acetaminophen with hydrocodone bitartrate, a
21 Schedule III controlled substance as defined in Health and Safety Code
22 section 11056.
- 23 J. *Xanax*, a trade name for alprazolam, a Schedule IV controlled substance as
24 defined in Health and Safety Code section 11057.

25 8. Section 822 of the Code states, in pertinent part, that the Board may
26 revoke or suspend a license or place the licensee on probation if it determines that her ability to
27 practice her profession safely is impaired because the licensee is mentally ill, or physically ill
28 affecting competency.

1 APAP), Fiorinal, Fioricet, Klonopin, Xanax, Dexedrine, and Soma. Many of the drugs
2 prescribed are in the same pharmaceutical families, and many of those were prescribed
3 simultaneously, with respondent providing patient L.H. with enough different
4 medications to allow the patient to make her own decisions about which one to take, and
5 how much to take, at any given time. On one occasion in 1998, respondent prescribed
6 Methylprednisolone, an adrenocortical steroid, allegedly for the patient's dog. During
7 1999, respondent also prescribed Synthroid, a thyroid medication, on several occasions,
8 and allowed the patient to increase the dosage, without ordering or performing any blood
9 tests. Respondent's office records for the patient are unclear and inconsistent regarding
10 the number and frequency of prescriptions, and the manner and extent to which the
11 patient was using medication. Respondent and the patient rarely discussed the
12 medication regimen during the weekly therapy sessions. Instead, respondent often
13 discussed her own personal issues, and as patient L.H. was an attorney, respondent also
14 asked her for legal advice, as well as referrals to other attorneys.

15 C. In 1998 and again in 1999, respondent placed the patient on
16 disability, the first time because of tension headaches, the second time because the patient
17 was otherwise unable to meet her financial obligations. During this second disability, in
18 or around September 1999, respondent and the patient discussed admission to a hospital
19 to get off some, most, or all of her medications. Patient L.H. agreed to do this.
20 Respondent instructed the patient to admit herself through the emergency room, which
21 she understood to be faster and easier than going through the standard admission process.
22 A dispute arose between respondent and the patient over the actual purpose of the
23 admission: respondent noted that the patient had made a specific suicide threat (she had
24 threatened to "eat her boyfriend's gun"), and that she should be admitted on that basis, as
25 well as for a slow tapering of medications; the patient noted that she had made no such
26 threat, that rather she had only expressed concern about how many and which drugs
27 would be involved in the detoxification and was worried about how she would react to
28 such a drastic change, and that it was respondent who had suggested the patient claim to

1 be a suicide risk in order to expedite admission. This dispute caused a delay in the
2 hospitalization.

3 D. Patient L.H. was finally hospitalized, with the assistance of both
4 her brother and respondent, at UCLA's NeuroPsychiatric Institute ("NPI") on or about
5 October 5, 1999. Respondent's admitting diagnosis included documentation of the
6 suicidal threat, the history of depression, and the substance abuse. Upon admission, the
7 patient was noted as taking the following medications: Fiorinal, Tylenol with codeine.
8 Imitrex, Xanax, olanzapine, amitriptyline, phenobarbital, Prozac, Dexedreine, Effexor,
9 Synthroid, Cytomel, Soma, and Klonopin. Respondent placed patient L.H. on a 72 hour
10 hold and instructed the NPI staff to begin tapering of several of these, including Prozac.
11 The patient was noted by nursing staff to be agitated and angry, denied the need to be
12 hospitalized, and was especially resentful towards respondent, who she accused of going
13 through and stealing her personal items and of tricking her into going into the hospital.

14 E. During the next three days, patient L.H. continued expressing
15 resentment and anger towards respondent. At the same time, the patient's brother was
16 encountering difficulty in dealing with respondent, and discussed the situation with NPI
17 administration. Because similar concerns and complaints previously had been expressed
18 to the administration regarding respondent, the medical director instructed the adult
19 psychiatric director to look into the situation regarding patient L.H. The director decided
20 to request a consultation from Dr. K., a psychiatrist on staff with special training in
21 psycho-pharmacology.

22 F. On or about October 8, 1999, Dr. K. reviewed patient L.H.'s chart,
23 noted all the medications being prescribed, and went to speak to the patient directly. The
24 patient informed Dr. K. that she wanted to get off many of her medications, especially the
25 narcotics, but wanted to continue taking Prozac. Patient L.H. admitted making the
26 previous suicide attempt almost 10 years earlier, but denied making any suicide threat to
27 respondent, and reiterated that the reason she thought she was in the hospital was to get
28 off the excessive medications.

1 G. While Dr. K. was with patient L.H. discussing her care, respondent
2 came down the hallway, entered the room, and in a very-dramatic manner introduced
3 herself, presented her education and credentials, and demanded from Dr. K. her
4 credentials and what made her qualified to provide a medication consultation. During the
5 subsequent discussion, all of which occurred in front of patient L.H., respondent
6 attempted to intimidate Dr. K. and accused her of "stealing" her patient.

7 H. Subsequently, due to several circumstances, including the wishes
8 of patient L.H. and the concerns by NPI administration and staff over respondent's
9 behavior, the care of patient L.H. was transferred to Dr. K.

10 I. Respondent has subjected her license to discipline in that:

11 i) She was clearly oblivious to how her encounter with Dr. K in
12 front of patient L.H., including dramatics, intimidation, and accusations, might
13 affect the patient, especially given the circumstances of her hospitalization and her
14 then current condition; and

15 ii) Her overall care of patient L.H., including but not limited to
16 the excessive and unsafe prescribing of multiple and redundant medications, her
17 discussion of personal issues and requests for legal advice during therapy, and the
18 circumstances and events leading up to and during the patient's October 5, 1999
19 hospitalization at NPI, constitutes an extreme departure from the standard of care.
20

21 SECOND CAUSE FOR DISCIPLINE

22 (Repeated Negligent Acts)

23 11. Respondent is subject to disciplinary action under section 2234,
24 subdivision (c) of the Code in that she has committed repeated acts of negligence in her care and
25 treatment of a patient. The circumstances are as follows:

26 A. Paragraph 10, subparagraphs (A)-(H), are incorporated by
27 reference as if set forth in full.
28

1 B. Respondent has subjected her license to discipline in that:

2 i) She prescribed multiple medications to a patient with a history
3 of both addiction and overdose in an excessive and unsafe manner, effectively
4 allowing the patient to choose both the frequency and amount of the dosage;

5 ii) She committed boundary violations by discussing her personal
6 life with the patient, and soliciting both her advice and referrals for legal matters;

7 iii) She was clearly oblivious to how her encounter with Dr. K in
8 front of patient L.H., including dramatics, intimidation, and accusations, might
9 affect the patient, especially given the circumstances of her hospitalization and her
10 then current condition; and

11 iv) Her office records for this patient are incomplete,
12 inconsistent, and inaccurate regarding medications.

13
14 THIRD CAUSE FOR DISCIPLINE

15 (Excessive Prescribing)

16 12. Respondent is subject to disciplinary action under section 725 of the Code
17 in that she has engaged in repeated acts of clearly excessive prescribing. The circumstances are
18 as follows:

19 A. Paragraph 10, subparagraphs (A)-(H), are incorporated by
20 reference as if set forth in full.

21
22 FOURTH CAUSE FOR DISCIPLINE

23 (Mental Illness)

24 13. Respondent is subject to disciplinary action under section 822 in that she
25 suffers from a debilitating mental illness which affects and impairs her ability to practice
26 medicine competently. The circumstances are as follows:

27 A. During the latter half of 1999, respondent's colleagues, co-
28 workers, and patients began noticing bizarre changes in her behavior. These included

1 symptoms of extreme paranoia, unusual increase in energy including her rate of speech,
2 flights of thought, increased lack of inhibition, and disregard of several aspects of her
3 practice and business. This behavior occurred during approximately the same time as the
4 hospitalization of patient L.H. at NPI.

5 B. On or about March 13, 2000, the Division issued an Order
6 compelling respondent to undergo a mental examination. Respondent complied with the
7 Order. The examination occurred on May 3, 2000, and was conducted by Brian P. Jacks,
8 M.D., a board-certified psychiatrist.

9 C. As a result of that examination, Dr. Jacks made the following
10 diagnosis: Axis I Bipolar Disorder. He noted several Axis III physical disorders, as well
11 as several Axis IV psychosocial stressors. He further noted that "at the present time,
12 [respondent] is hypomanic, by which is meant that she has an expansive elevated mood,
13 some grandiosity, pressured speech, flight of ideas, and emotional lability. [] She has
14 gone through periods of recurrent mania, the last apparently [in 1999] at which time [she]
15 bordered on the psychotic. . . [She] is in massive denial of the psychiatric problems that
16 she has and is in a paranoid state. [] As far as her ability to practice medicine now, . . . she
17 is functioning only marginally. [T]he nature of a manic depressive illness is cyclical and
18 recurrent, and it is to be expected that manic episodes will occur which, from the recent
19 past history, may border on the psychotic. *During those times of her manic excitement,*
20 *she would not be fit or competent to practice [emphasis added]."* Dr. Jacks recommended
21 both psychiatric treatment and supervision or monitoring, "to ensure proper clinical
22 judgment and that her psychiatric illness is not clouding or coloring [that] judgment."
23
24
25
26
27
28


1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

PRAAYER

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

1. Revoking or suspending physician and surgeon's certificate Number G43306, issued to Brooke M. Barton, M.D.;
2. Revoking, suspending or denying approval of respondent's authority to supervise physician's assistants, pursuant to section 3527 of the Code;
3. Ordering Brooke M. Barton, M.D. to pay the Medical Board of California, if placed on probation, the costs of probation monitoring;
4. Taking such other and further action as deemed necessary and proper.

DATED: December 7, 2001



RON JOSEPH
Executive Director
Medical Board of California
Department of Consumer Affairs

State of California
Complainant

03573160-LA2000AD0184
2Accusation.wpt 5/3/00