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

12 In the Matter of the Accusation Against:

Case No. 800-2016-025383

13 **Stephen Alan Baskin, M.D.**
14 **2999 Regent St, Ste. 422**
Berkeley, CA 94705

ACCUSATION

15 **Physician's and Surgeon's Certificate**
16 **No. A 35451,**

17 Respondent.

18
19 Complainant alleges:

20 **PARTIES**

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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 (Board).

25 2. On or about July 1, 1980, the Medical Board issued Physician's and Surgeon's
26 Certificate Number A 35451 to Stephen Alan Baskin, M.D. (Respondent). The Physician's and
27 Surgeon's Certificate was in full force and effect at all times relevant to the charges brought
28 herein and will expire on May 31, 2020, unless renewed.

JURISDICTION

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

4 4. Section 2004 of the Code states:

5 “The board shall have the responsibility for the following:

6 “(a) The enforcement of the disciplinary and criminal provisions of the Medical Practice
7 Act.

8 “(b) The administration and hearing of disciplinary actions.

9 “(c) Carrying out disciplinary actions appropriate to findings made by a panel or an
10 administrative law judge.

11 “(d) Suspending, revoking, or otherwise limiting certificates after the conclusion of
12 disciplinary actions.

13 “(e) Reviewing the quality of medical practice carried out by physician and surgeon
14 certificate holders under the jurisdiction of the board.

15 “(f) Approving undergraduate and graduate medical education programs.

16 “(g) Approving clinical clerkship and special programs and hospitals for the programs in
17 subdivision (f).

18 “(h) Issuing licenses and certificates under the board's jurisdiction.

19 “(i) Administering the board's continuing medical education program.”

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

24 6. Section 2234 of the Code, states:

25 “The board shall take action against any licensee who is charged with unprofessional
26 conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not
27 limited to, the following:
28

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

3 “(b) Gross negligence.

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

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

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

14 “(d) Incompetence.

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

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

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

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

25 7. Section 2228 of the Code states:

26 “The authority of the board or the California Board of Podiatric Medicine to discipline a
27 licensee by placing him or her on probation includes, but is not limited to, the following:
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1 “(a) Requiring the licensee to obtain additional professional training and to pass an
2 examination upon the completion of the training. The examination may be written or oral, or
3 both, and may be a practical or clinical examination, or both, at the option of the board or the
4 administrative law judge.

5 “(b) Requiring the licensee to submit to a complete diagnostic examination by one or more
6 physicians and surgeons appointed by the board. If an examination is ordered, the board shall
7 receive and consider any other report of a complete diagnostic examination given by one or more
8 physicians and surgeons of the licensee’s choice.

9 “(c) Restricting or limiting the extent, scope, or type of practice of the licensee, including
10 requiring notice to applicable patients that the licensee is unable to perform the indicated
11 treatment, where appropriate.

12 “(d) Providing the option of alternative community service in cases other than violations
13 relating to quality of care.

14 8. Section 2242 of the Code states, in pertinent part:

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

18 9. Section 2266 of the Code states: “The failure of a physician and surgeon to maintain
19 adequate and accurate records relating to the provision of services to their patients constitutes
20 unprofessional conduct.”

21 10. Section 11190 of the Health and Safety Code sets forth the information that is
22 required to be documented in a record by every practitioner, other than a pharmacist, who
23 prescribes or administers a controlled substance classified in Schedule II.

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FACTS

11. At all times relevant to this matter, Respondent was a licensed psychiatrist practicing in Berkeley, California.

12. Respondent saw Patient A,¹ a 32-year old male, on five occasions between January to May 2016.

13. On January 13, 2016, Respondent first saw Patient A for treatment for Attention Deficit Hyperactivity Disorder (ADHD).² Respondent interviewed Patient A, utilizing a 22 question "ADD Screening Test for Adults." Respondent did not obtain a history of present illness, review of systems, pertinent past childhood history, relevant past injury, prior medical treatment, past and current medication, or social and family history other than noting Patient A's sister was diagnosed with ADHD and is now being treated with Dexedrine.³ Respondent did not discuss treatment plan or past substance abuse.

14. Respondent diagnosed Patient A with ADHD and social anxiety disorder and issued a prescription for #120 Dexedrine 5 mg. Respondent did not obtain Patient A's blood pressure or pulse; did not obtain an EKG; and did not obtain information on Patient A's prior or current medications prior to prescribing Dexedrine to Patient A. Respondent did not document in Patient A's medical record what was prescribed or dosage amount to Patient A on this first visit. Respondent's handwritten medical notes are illegible and incoherent.

15. Patient A was seen by Respondent on February 16, 2016. Respondent did not document any discussion regarding side effects of Dexedrine, or regarding the evolving treatment plan. Respondent issued a prescription for #60 Dexedrine 10 mg.

¹ The patient is designated in this document as Patient A to protect the patient's privacy. Respondent knows the name of the patient and can confirm the patient's identity through discovery.

² Patient A found Respondent on the internet. On Respondent's website, Respondent is described as a psychiatrist who specializes in the evaluation, diagnosis and treatment of ADHD, Depression, Bipolar Disorder and Anxiety Disorders.

³ Dexedrine is a stimulant used to treat ADHD. It is a Schedule II controlled substance as defined by section 11055, subdivision (b) of the Health and Safety Code and is a dangerous drug as defined in Business and Professions Code section 4022.

1 16. Patient A was next seen by Respondent on March 17, 2016. On this visit, Patient A
2 requested a letter from Respondent to support Patient A's leave of absence from work.
3 Respondent wrote the letter to Patient A's employer, confirming his evaluation of Patient A and
4 diagnosis of ADHD. There are no medical records for this visit. Respondent issued a prescription
5 for #60 Dexedrine 10 mg to Patient A on this date.

6 17. Patient A was next seen by Respondent on April 28, 2016. The medical record for
7 this visit states Patient A's plans to travel to India on June 1, 2016 for one month. Respondent did
8 not obtain Patient A's blood pressure or pulse, side effects of medication, or document any
9 evolving treatment plan to properly monitor Patient A's care and treatment for ADHD.

10 18. Patient A attempted to fill his prescription for Dexedrine prior to his departure to
11 India but was unsuccessful in contacting Respondent. Respondent's office manager, R.G., who is
12 an unlicensed assistant, obtained a controlled substance form that was pre-signed by Respondent,
13 filled out the Dexedrine prescription for Patient A, and instructed Patient A to drive to R.G.'s
14 home to pick up the prescription. R.G. told Patient A that the prescription would be left in R.G.'s
15 mailbox and Patient A was instructed to leave payment for the prescription in the mailbox when
16 Patient A picked up the prescription.

17 19. There are no medical records of Patient A's last visit on May 25, 2016. There is a
18 prescription for #120 Dexedrine 10 mg dated May 25, 2016 that was not filled by the pharmacy
19 until July 11, 2016.

20 20. At the Board interview on January 30, 2018, Respondent corroborated his office
21 assistant, R.G.'s statement to the Board, that Respondent left pre-signed controlled substance
22 forms for R.G., to later fill out and refill patient prescription requests. Respondent also admitted
23 he did not check the Controlled Substance Utilization Review and Evaluation System (CURES)
24 or even know its existence when Respondent treated Patient A.

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1 FIRST CAUSE FOR DISCIPLINE

2 **(Unprofessional Conduct: Gross Negligence and/or Repeated Negligent Acts and/or**
3 **Incompetence and/or Prescribing without Appropriate Prior Exam/Medical Indication)**

4 21. Respondent is subject to disciplinary action under sections 2234(b) and/or 2234(c),
5 and/or 2234(d), and/or 2242 of the Code in that Respondent's overall conduct, acts and
6 omissions, with regards to Patient A constitute gross negligence, and/or repeated negligent acts,
7 and/or incompetence, and/or prescribing without an appropriate prior examination and a medical
8 indication, as more fully described herein below.

9 a. Respondent failed to properly assess, evaluate, diagnose, and treat Patient A
10 who presented to Respondent for treatment for ADHD.

11 b. Respondent failed to obtain a history of present illness, review of systems,
12 pertinent past childhood history, relevant past injury, prior medical treatment, past and current
13 medication, or adequate social or family history;

14 c. Respondent prescribed and dispensed controlled substance without an
15 appropriate prior medical examination and medical indication.

16 d. Respondent failed to document that informed consent was obtained and that the
17 patient was informed of the risks and benefits of the controlled substance prescribed.

18 e. Respondent failed to monitor and manage Patient A for ADHD, which
19 included, but was not limited to, obtaining an EKG, monitoring the patient's blood pressure,
20 pulse, and any side effects experienced from the prescribed medication.

21 f. Respondent demonstrated a complete lack of knowledge about the existence,
22 requirements, and review of CURES in his treatment of Patient A.

23 g. Respondent issued pre-signed prescription forms for Schedule II controlled
24 substances that were later filled out by his office manager to refill prescriptions.

25 h. Respondent failed to supervise his office manager, an unlicensed assistant, who
26 received and refilled Patient A's prescription request and instructed Patient A to pick up the
27 controlled substance prescription left in the mailbox of the unlicensed assistant's home.
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1 **SECOND CAUSE FOR DISCIPLINE**

2 **(Unprofessional Conduct: Failure to Maintain Adequate and Accurate Records)**

3 22. Respondent is subject to disciplinary action under section 2266 of the Code in that
4 Respondent failed to maintain adequate and accurate records of Patient A, as more fully described
5 herein below.

6 a. Respondent's records are incomplete, illegible, and inadequate and fail to
7 document a comprehensive and complete controlled substance medication history, medication
8 and dosage prescribed, and evolving treatment plan for Patient A.

9 b. Respondent failed to document Patient A's March 17, 2016 medical visit.

10 c. Respondent failed to document Patient A's May 25, 2016 medical visit.

11
12 **PRAYER**

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

15 1. Revoking or suspending Physician's and Surgeon's Certificate Number A 35451,
16 issued to Stephen Alan Baskin, M.D.;

17 2. Revoking, suspending or denying approval of Stephen Alan Baskin, M.D.'s authority
18 to supervise physician assistants and advanced practice nurses;

19 3. Ordering Stephen Alan Baskin, M.D., if placed on probation, to pay the Board the
20 costs of probation monitoring; and

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

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23 DATED: July 19, 2018
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25 KIMBERLY KIRCHMEYER
26 Executive Director
27 Medical Board of California
28 Department of Consumer Affairs
State of California
Complainant

SF2018200619