

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

**In the Matter of the First Amended Accusation  
Against:**

**MARTIN BENNETT, M.D.**

**Physician's and Surgeon's Certificate  
No. A31783**

**Respondent.**

**No. 17-2012-228710**

**ORDER FOR LICENSE SURRENDER DURING PROBATION**

The above named respondent was placed on four (4) years' probation effective February 10, 2017. Pursuant to the terms and conditions of the probationary order, the respondent elected to surrender his license effective April 6, 2017.

**WHEREFORE, THE ABOVE IS ORDERED** by the Medical Board of California.

So ordered April 27, 2017.

**MEDICAL BOARD OF CALIFORNIA**



**Dev GnanaDev, President**

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

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

In the Matter of the Accusation Against:

**Martin Bennett, M.D.  
P.O. Box 17621  
5805 White Oak Avenue  
Encino, CA 91416-7621**

**Case No. 17-2012-228710**

**Physician's and Surgeon's  
Certificate No. A 31783**

**AGREEMENT FOR  
SURRENDER OF LICENSE**

Respondent.

**TO ALL PARTIES:**

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

1. Complainant, Kimberly Kirchmeyer, is the Executive Director of the Medical Board of California, Department of Consumer Affairs ("Board").

2. Martin Bennett, M.D., ("Respondent") has carefully read and fully understands the effect of this Agreement.

3. Respondent understands that by signing this Agreement he is enabling the Board to issue this order accepting the surrender of license without further process. Respondent understands and agrees that Board staff and counsel for complainant may communicate directly with the Board regarding this Agreement, without notice to or participation by Respondent. The Board will not be disqualified from further action in this matter by virtue of its consideration of this Agreement.

///

///

1           4.       Respondent acknowledges there is current disciplinary action against his  
2 license, that on April 12, 2016, an Accusation was filed against him and on February 10,  
3 2017, a Decision was rendered wherein his license was revoked, with the revocation  
4 stayed, and placed on 4 years' probation with various standard terms and conditions.

5           5.       The current disciplinary action provides in pertinent part, "Following the  
6 effective date of this Decision, if Respondent ceases practicing due to retirement, health  
7 reasons, or is otherwise unable to satisfy the terms and conditions of probation, Respondent  
8 may request voluntary surrender of Respondent's license." (Condition #18).

9           6.       Upon acceptance of the Agreement by the Board, Respondent understands  
10 he will no longer be permitted to practice as a physician and surgeon in California, and  
11 also agrees to surrender his wallet certificate, wall license and D.E.A. Certificate(s).

12           7.       Respondent fully understands and agrees that if Respondent ever files an  
13 application for relicensure or reinstatement in the State of California, the Board shall treat  
14 it as a Petition for Reinstatement of a revoked license in effect at the time the Petition is  
15 filed. In addition, any Medical Board Investigation Report(s), including all referenced  
16 documents and other exhibits, upon which the Board is predicated, and any such  
17 Investigation Report(s), attachments, and other exhibits, that may be generated subsequent  
18 to the filing of this Agreement for Surrender of License, shall be admissible as direct  
19 evidence, and any time-based defenses, such as laches or any applicable statute of  
20 limitations, shall be waived when the Board determines whether to grant or deny the  
21 Petition.  
22

23       ///

24       ///

25       ///

26       ///

27       ///

28       ///

ACCEPTANCE

I, Martin Bennett, M.D., have carefully read the above Agreement and enter into it freely and voluntarily, with the optional advice of counsel, and with full knowledge of its force and effect, do hereby surrender Physician's and Surgeon's Certificate No. A 31783, to the Medical Board of California for its acceptance. By signing this Agreement for Surrender of License, I recognize that upon its formal acceptance by the Board, I will lose all rights and privileges to practice as a Physician and Surgeon in the State of California and that I have delivered to the Board my wallet certificate and wall license.

Martin Bennett  
Martin Bennett, M.D.

3-21-17  
Date

[Signature]  
Attorney or Witness

3-21-17  
Date

[Signature]  
Kimberly Kirschmeyer  
Executive Director  
Medical Board of California

April 6, 2017  
Date

///

///

///

///

///

///

///

///

///

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

**In the Matter of the First Amended )  
Accusation Against: )  
)  
)  
Martin Bennett, M.D. )  
)  
Physician's and Surgeon's )  
Certificate No. A 31783 )  
)  
Respondent )  
\_\_\_\_\_ )**

**Case No. 17-2012-228710**

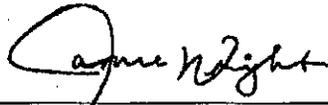
**DECISION**

**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 February 10, 2017.**

**IT IS SO ORDERED: January 12, 2017.**

**MEDICAL BOARD OF CALIFORNIA**



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

1 KAMALA D. HARRIS  
Attorney General of California  
2 JUDITH T. ALVARADO  
Supervising Deputy Attorney General  
3 TAN N. TRAN  
Deputy Attorney General  
4 State Bar No. 197775  
300 So. Spring Street, Suite 1702  
5 Los Angeles, CA 90013  
Telephone: (213) 897-6793  
6 Facsimile: (213) 897-9395  
*Attorneys for Complainant*  
7

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

10 In the Matter of the First Amended Accusation  
11 Against:

Case No. 17-2012-228710

OAH No. 2016041040

12 **Martin Bennett, M.D.**  
13 **15450 Ventura Blvd., Suite 102**  
14 **Sherman Oaks, CA 91403**

**STIPULATED SETTLEMENT AND  
DISCIPLINARY ORDER**

15 **Physician's and Surgeon's Certificate**  
16 **No. A31783,**

17 Respondent.

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

21 PARTIES

22 1. Kimberly Kirchmeyer ("Complainant") is the Executive Director of the Medical  
23 Board of California. She brought this action solely in her official capacity and is represented in  
24 this matter by Kamala D. Harris, Attorney General of the State of California, by Tan N. Tran,  
25 Deputy Attorney General.

26 2. Respondent Martin Bennett, M.D. ("Respondent") is represented in this proceeding  
27 by attorney Peter R. Osinoff, Esq., whose address is: 3699 Wilshire Blvd., 10th Floor, Los  
28 Angeles, CA 90010.



1 CULPABILITY

2 9. Respondent does not contest that at an administrative hearing, complainant could  
3 establish a *prima facie* case with respect to the charges and allegations contained in First  
4 Amended Accusation No. 17-2012-228710, and that he has thereby subjected his Physician's and  
5 Surgeon's Certificate No. A 31783 to disciplinary action.

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

9 RESERVATION

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

14 CONTINGENCY

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

25 ///

26 ///

27 ///

28 ///



1 document in the patient's chart that the patient or the patient's primary caregiver was so  
2 informed. Nothing in this condition prohibits Respondent from providing the patient or the  
3 patient's primary caregiver information about the possible medical benefits resulting from the use  
4 of marijuana.

5       2.    CONTROLLED SUBSTANCES- MAINTAIN RECORDS AND ACCESS TO  
6 RECORDS AND INVENTORIES. Respondent shall maintain a record of all controlled  
7 substances ordered, prescribed, dispensed, administered, or possessed by Respondent, and any  
8 recommendation or approval which enables a patient or patient's primary caregiver to possess or  
9 cultivate marijuana for the personal medical purposes of the patient within the meaning of Health  
10 and Safety Code section 11362.5, during probation, showing all the following: 1) the name and  
11 address of patient; 2) the date; 3) the character and quantity of controlled substances involved;  
12 and 4) the indications and diagnosis for which the controlled substances were furnished.

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

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

27       4.    PRESCRIBING PRACTICES COURSE. Within 60 calendar days of the effective  
28 date of this Decision, Respondent shall enroll in a course in prescribing practices equivalent to the

1 Prescribing Practices Course at the Physician Assessment and Clinical Education Program,  
2 University of California, San Diego School of Medicine (Program), approved in advance by the  
3 Board or its designee. Respondent shall provide the program with any information and documents  
4 that the Program may deem pertinent. Respondent shall participate in and successfully complete  
5 the classroom component of the course not later than six (6) months after Respondent's initial  
6 enrollment. Respondent shall successfully complete any other component of the course within  
7 one (1) year of enrollment. The prescribing practices course shall be at Respondent's expense  
8 and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of  
9 licensure.

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

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

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

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

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

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

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

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

27 7. MONITORING - PRACTICE. Within 30 calendar days of the effective date of this  
28 Decision, Respondent shall submit to the Board or its designee for prior approval as a practice

1 monitor(s), the name and qualifications of one or more licensed physicians and surgeons whose  
2 licenses are valid and in good standing, and who are preferably American Board of Medical  
3 Specialties (ABMS) certified. A monitor shall have no prior or current business or personal  
4 relationship with Respondent, or other relationship that could reasonably be expected to  
5 compromise the ability of the monitor to render fair and unbiased reports to the Board, including  
6 but not limited to any form of bartering, shall be in Respondent's field of practice, and must agree  
7 to serve as Respondent's monitor. Respondent shall pay all monitoring costs.

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

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

19 If Respondent fails to obtain approval of a monitor within 60 calendar days of the effective  
20 date of this Decision, Respondent shall receive a notification from the Board or its designee to  
21 cease the practice of medicine within three (3) calendar days after being so notified. Respondent  
22 shall cease the practice of medicine until a monitor is approved to provide monitoring  
23 responsibility.

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

1 preceding quarter.

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

10 In lieu of a monitor, Respondent may participate in a professional enhancement program  
11 equivalent to the one offered by the Physician Assessment and Clinical Education Program at the  
12 University of California, San Diego School of Medicine, that includes, at minimum, quarterly  
13 chart review, semi-annual practice assessment, and semi-annual review of professional growth  
14 and education. Respondent shall participate in the professional enhancement program at  
15 Respondent's expense during the term of probation.

16 8. SOLO PRACTICE PROHIBITION. Respondent is prohibited from engaging in the  
17 solo practice of medicine, except for patients J.E.S., J.S., and P.D. Prohibited solo practice  
18 includes, but is not limited to, a practice where: 1) Respondent merely shares office space with  
19 another physician but is not affiliated for purposes of providing patient care, or 2) Respondent is  
20 the sole physician practitioner at that location.

21 If Respondent fails to establish a practice with another physician or secure employment in  
22 an appropriate practice setting within 60 calendar days of the effective date of this Decision,  
23 Respondent shall receive a notification from the Board or its designee to cease the practice of  
24 medicine within three (3) calendar days after being so notified. The Respondent shall not resume  
25 practice until an appropriate practice setting is established.

26 If, during the course of the probation, the Respondent's practice setting changes and the  
27 Respondent is no longer practicing in a setting in compliance with this Decision, the Respondent  
28 shall notify the Board or its designee within 5 calendar days of the practice setting change. If

1 Respondent fails to establish a practice with another physician or secure employment in an  
2 appropriate practice setting within 60 calendar days of the practice setting change, Respondent  
3 shall receive a notification from the Board or its designee to cease the practice of medicine within  
4 three (3) calendar days after being so notified. The Respondent shall not resume practice until an  
5 appropriate practice setting is established.

6 **STANDARD CONDITIONS**

7 9. NOTIFICATION. Within seven (7) days of the effective date of this Decision, the  
8 Respondent shall provide a true copy of this Decision and Accusation to the Chief of Staff or the  
9 Chief Executive Officer at every hospital where privileges or membership are extended to  
10 Respondent, at any other facility where Respondent engages in the practice of medicine,  
11 including all physician and locum tenens registries or other similar agencies, and to the Chief  
12 Executive Officer at every insurance carrier which extends malpractice insurance coverage to  
13 Respondent. Respondent shall submit proof of compliance to the Board or its designee within 15  
14 calendar days.

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

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

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

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

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

26 13. GENERAL PROBATION REQUIREMENTS.

27 Compliance with Probation Unit

28 Respondent shall comply with the Board's probation unit and all terms and conditions of

1 this Decision.

2 Address Changes

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

8 Place of Practice

9 Respondent shall not engage in the practice of medicine in Respondent's or patient's place  
10 of residence, except that respondent may continue to treat patients J.E.S., J.S., and P.D. at their  
11 homes, unless the patient resides in a skilled nursing facility or other similar licensed facility.

12 License Renewal

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

15 Travel or Residence Outside California

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

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

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

25 15. NON-PRACTICE WHILE ON PROBATION. Respondent shall notify the Board or  
26 its designee in writing within 15 calendar days of any periods of non-practice lasting more than  
27 30 calendar days and within 15 calendar days of Respondent's return to practice. Non-practice is  
28 defined as any period of time Respondent is not practicing medicine in California as defined in

1 Business and Professions Code sections 2051 and 2052 for at least 40 hours in a calendar month  
2 in direct patient care, clinical activity or teaching, or other activity as approved by the Board. All  
3 time spent in an intensive training program which has been approved by the Board or its designee  
4 shall not be considered non-practice. Practicing medicine in another state of the United States or  
5 Federal jurisdiction while on probation with the medical licensing authority of that state or  
6 jurisdiction shall not be considered non-practice. A Board-ordered suspension of practice shall  
7 not be considered as a period of non-practice.

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

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

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

14 Periods of non-practice will relieve Respondent of the responsibility to comply with the  
15 probationary terms and conditions with the exception of this condition and the following terms  
16 and conditions of probation: Obey All Laws; and General Probation Requirements.

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

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

28 18. LICENSE SURRENDER. Following the effective date of this Decision, if

1 Respondent ceases practicing due to retirement or health reasons or is otherwise unable to satisfy  
2 the terms and conditions of probation, Respondent may request to surrender his or her license.  
3 The Board reserves the right to evaluate Respondent's request and to exercise its discretion in  
4 determining whether or not to grant the request, or to take any other action deemed appropriate  
5 and reasonable under the circumstances. Upon formal acceptance of the surrender, Respondent  
6 shall within 15 calendar days deliver Respondent's wallet and wall certificate to the Board or its  
7 designee and Respondent shall no longer practice medicine. Respondent will no longer be subject  
8 to the terms and conditions of probation. If Respondent re-applies for a medical license, the  
9 application shall be treated as a petition for reinstatement of a revoked certificate.

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

15       ///

16       ///

17       ///

18       ///

19       ///

20       ///

21       ///

22       ///

23       ///

24       ///

25       ///

26       ///

27       ///

28       ///

ACCEPTANCE

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

DATED: 10-13-16   
Martin Bennett, M.D.  
Respondent

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

DATED: 10/14/16   
Peter R. Osinoff  
Attorney for Respondent

ENDORSEMENT

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

Dated: 10/14/16 Respectfully submitted,  
KAMALA D. HARRIS  
Attorney General of California  
JUDITH T. ALVARADO  
Supervising Deputy Attorney General

  
TAN N. TRAN  
Deputy Attorney General  
Attorneys for Complainant

**Exhibit A**

**First Amended Accusation No. 17-2012-228710**

1 KAMALA D. HARRIS  
Attorney General of California  
2 JUDITH T. ALVARADO  
Supervising Deputy Attorney General  
3 TAN N. TRAN  
Deputy Attorney General  
4 State Bar No. 197775  
California Department of Justice  
5 300 So. Spring Street, Suite 1702  
Los Angeles, CA 90013  
6 Telephone: (213) 897-6793  
Facsimile: (213) 897-9395  
7 *Attorneys for Complainant*

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

11 In the Matter of the First Amended Accusation  
12 Against:

Case No. 17-2012-228710

13  
14 **Martin Bennett, M.D.**  
15 **15450 Ventura Blvd., Suite 102**  
**Sherman Oaks, CA 91403**

**FIRST AMENDED ACCUSATION**

16 **Physician's and Surgeon's Certificate**  
17 **No. A31783,**

18 Respondent.

19  
20 Complainant alleges:

21 **PARTIES**

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

25 2. On or about November 23, 1977, the Medical Board of California issued Physician's  
26 and Surgeon's Certificate Number A 31783 to Martin Bennett, 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 brought herein and will expire on July 31, 2017, unless renewed.

JURISDICTION

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

4. Section 2004 of the Code states:

"The board shall have the responsibility for the following:

"(a) The enforcement of the disciplinary and criminal provisions of the Medical Practice Act.

"(b) The administration and hearing of disciplinary actions.

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

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

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

"(f) Approving undergraduate and graduate medical education programs.

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

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

"(i) Administering the board's continuing medical education program."

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

6. Section 2234 of the Code, states:

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

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  
8 for 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 that 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  
21 the 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 ///

26 ///

27 ///

28 ///

1           7.     Section 2241 of the Code states:

2           "(a) A physician and surgeon may prescribe, dispense, or administer prescription drugs,  
3 including prescription controlled substances, to an addict under his or her treatment for a purpose  
4 other than maintenance on, or detoxification from, prescription drugs or controlled substances.

5           "(b) A physician and surgeon may prescribe, dispense, or administer prescription drugs or  
6 prescription controlled substances to an addict for purposes of maintenance on, or detoxification  
7 from, prescription drugs or controlled substances only as set forth in subdivision (c) or in Sections  
8 11215, 11217, 11217.5, 11218, 11219, and 11220 of the Health and Safety Code. Nothing in this  
9 subdivision shall authorize a physician and surgeon to prescribe, dispense, or administer  
10 dangerous drugs or controlled substances to a person he or she knows or reasonably believes is  
11 using or will use the drugs or substances for a nonmedical purpose.

12           "(c) Notwithstanding subdivision (a), prescription drugs or controlled substances may also  
13 be administered or applied by a physician and surgeon, or by a registered nurse acting under his  
14 or her instruction and supervision, under the following circumstances:

15           "(1) Emergency treatment of a patient whose addiction is complicated by the presence of  
16 incurable disease, acute accident, illness, or injury, or the infirmities attendant upon age.

17           "(2) Treatment of addicts in state-licensed institutions where the patient is kept under  
18 restraint and control, or in city or county jails or state prisons.

19           "(3) Treatment of addicts as provided for by Section 11217.5 of the Health and Safety  
20 Code.

21           "(d)(1) For purposes of this section and Section 2241.5, "addict" means a person whose  
22 actions are characterized by craving in combination with one or more of the following:

23           "(A) Impaired control over drug use.

24           "(B) Compulsive use.

25           "(C) Continued use despite harm.

26           "(2) Notwithstanding paragraph (1), a person whose drug-seeking behavior is primarily due  
27 to the inadequate control of pain is not an addict within the meaning of this section or Section  
28 2241.5."

1           8.     Section 2242 of the Code states:

2           "(a) Prescribing, dispensing, or furnishing dangerous drugs as defined in Section 4022  
3 without an appropriate prior examination and a medical indication, constitutes unprofessional  
4 conduct.

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

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

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

14           "(A) The practitioner had consulted with the registered nurse or licensed vocational nurse  
15 who had reviewed the patient's records.

16           "(B) The practitioner was designated as the practitioner to serve in the absence of the  
17 patient's physician and surgeon or podiatrist, as the case may be.

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

22           "(4) The licensee was acting in accordance with Section 120582 of the Health and Safety  
23 Code."

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

27     ///

28     ///



1 September 1, 2009, consists of approximately 25 pages of documentation. Subsequent visits  
2 typically consist of approximately 12-17 pages of documentation.

3 13. The patient is treated for low back pain, attention deficit and insomnia at most, if not  
4 all visits. Treatment consists typically of Adderall, Ambien, and Hydrocodone (Norco).<sup>2</sup> Interval  
5 history for each visit typically consists of an individual statement listing of each symptom with  
6 respective symptom relief by chosen medication. Exam does not change significantly from visit  
7 to visit.

8 14. A lumbar spine x-ray is ordered on September 2, 2010 with normal results. Massage  
9 was ordered on January 20, 2011. On June 8, 2011, the patient had an EKG and is noted to have  
10 a shortened PR interval of 108. There is no evidence of further cardiac workup or referral.

11 15. There is no evidence of referral to physical therapy for back pain. There is no  
12 evidence of referral to an orthopedic specialist. No MRI was ordered for prolonged low back  
13 pain. Musculoskeletal pain is only treated with narcotic medication. There is no evidence of  
14 referral for a sleep disorder. There is no evidence of counseling for sleep hygiene. There are no  
15 listed lab results for insomnia, and no labs for preventative purposes (e.g. cholesterol, etc.).

16 16. Respondent's medical records failed to follow standard documentation format (e.g.  
17 "SOAP" format, i.e. subjective, objective, assessment, and plan). As a result, Respondent's notes  
18 are cumbersome, and difficult to follow and interpret.

19 17. Respondent failed to attempt any other non-pharmaceutical treatments in lieu of  
20 narcotic medications. Respondent also failed to adequately work up the diagnosis of chronic back  
21 pain for this patient over a prolonged period of time. Although Respondent referred the patient to  
22 massage, there are no reports as to the success or failure of this recommendation. There is no  
23 evidence that the patient was referred to physical therapy, to a pain specialist, orthopedic  
24 specialist, or rheumatologist after failure of treatment. There is no evidence of consideration of a  
25 differential diagnosis.

26 ///

27 \_\_\_\_\_  
28 <sup>2</sup> All of these medications are controlled substances with potential for addiction.

1 18. Respondent also failed to adequately work up the diagnosis of insomnia, and he failed  
2 to perform a trial of sleep hygiene for the patient. Moreover, Respondent failed to order a  
3 cholesterol screening test as part of his preventative exam for the patient.

4 19. Taken altogether, Respondent's treatment of H.E.K. represents an extreme departure  
5 from the standard of care.

6 Patient R.B.

7 20. R.B. (or "patient") was a 50-year-old female patient who treated with Respondent  
8 beginning on or about February 2003 to about 2014. Records indicate that the patient presented  
9 to Respondent on February 24, 2003, for "hurt Rt side hurt due to fall." The patient is noted to  
10 have right hip and right leg pain after a "fall on concrete steps." The pain was noted to be  
11 intermittent and moderate in severity.

12 21. The patient is seen approximately every 2-3 weeks, and is treated with painkillers  
13 Vicodin and Soma. Valium (a sedative) was also prescribed, although indication therefore was  
14 not documented. The exam is illegible or missing on multiple occasions. On several occasions,  
15 subjective complaints consist only of a listed chief complaint without pertinent positives,  
16 pertinent negatives, and associated factors of history of present illness. A contract for pain  
17 management was also signed on September 28, 2004.

18 22. Valium indication, which apparently was for sleep, is not documented until  
19 November 4, 2004- more than 20 months after the first visit, despite the patient returning on  
20 average of 1-2 times per month. An MRI of the right hip was ordered on March 30, 2006- three  
21 years after the first visit, and the results from the MRI are clinically unremarkable. The patient  
22 was referred to a pain specialist on May 18, 2006. Despite this referral, Respondent continues to  
23 prescribe narcotic pain relievers to the patient.

24 ///

25 ///

26 ///

27 ///

28 ///

1           23. Up until late 2009/mid-2010, the progress notes Respondent uses for this patient are  
2 single page, template form, with complaint, exam, diagnosis, and plan.<sup>3</sup> Interval history for each  
3 visit typically consists only of an individual statement listing of each symptom with respective  
4 symptom relief by chosen medication. The exam does not change significantly from visit to visit.  
5 X-rays for the patient's right wrist, right tibia, and right hip were ordered on February 24, 2003  
6 with normal results.

7           24. The first time a diagnosis of anxiety was documented was in May 2010, although  
8 Valium had been prescribed since 2003. On August 10, 2011, Respondent prescribes  
9 hydrocodone 325 mg with quantity 120 and 3 refills. Assuming maximum dosage usage of 4-6  
10 pills per day, this 480 total tablet prescription would represent a minimum of a 80-120 day  
11 supply. Despite this, Respondent renews the hydrocodone 5 weeks later for a quantity of 120  
12 with 4 refills (minimum of 100-150 day supply).

13           25. On November 15, 2011, Respondent prescribes diazepam<sup>4</sup> with a quantity of 50 and  
14 three refills. Assuming a maximum dosage usage of 4 pills per day, this 200 total tablet  
15 prescription would represent a minimum of a 50 day supply. Despite this, Respondent renews  
16 diazepam 2 weeks later for a quantity of 50 with four refills (minimum 60 day supply). Similar  
17 excessive prescribing patterns occur on May 30, 2013 (60 tabs, 2 refills), and June 7, 2013 (60  
18 tabs, 3 refills).

19           26. Respondent failed to follow standard documentation format in a SOAP format after  
20 May 17, 2010, and also documented illegibly before September 19, 2009. As a result, his notes  
21 are difficult to follow and interpret. Specifically, Respondent failed to adequately document  
22 history and physicals, including pertinent positives and negatives, and he failed to document an  
23 indication for prescribing Valium for 20 months.

24 ///

25 ///

26           <sup>3</sup> In mid 2010, Respondent changes his documentation methods. With a few exceptions,  
27 all patients' charts which were reviewed contained similar and/or almost identical information.

28           <sup>4</sup> First marketed as Valium, diazepam is a highly-addictive benzodiazepine often used to  
treat anxiety.

1           27. Respondent also failed to attempt any other non-pharmaceutical treatments in lieu of  
2 narcotic medications on a multiple and consistent basis, overprescribed narcotic medications, and  
3 failed to adequately work up a condition of chronic pain over a prolonged period of time.<sup>5</sup>

4           28. Taken altogether, Respondent's treatment of R.B. represents an extreme departure  
5 from the standard of care.

6           Patient C.A.

7           29. C.A. (or "patient") was a 23-year-old male who treated with Respondent from  
8 approximately March 2012 to September 2014.<sup>6</sup> The patient is treated for anxiety, low back pain,  
9 attention deficit, and chronic cough at most, if not all visits. Treatment consists typically of  
10 Adderall, Xanax, Phenergan with codeine syrup, and Hydrocodone (Norco), all of which are  
11 controlled substances with a high potential for addiction.

12           30. Interval history for each visit typically consists of individual statements listing of  
13 each symptom with respective symptom relief by chosen medication. The exam does not change  
14 significantly from visit to visit. A lumbar spine x-ray was ordered on March 27, 2014, without  
15 significant clinical results. There is no evidence of referral to physical therapy for back pain.  
16 There is no evidence of referral to an orthopedic specialist. No MRI was ordered for prolonged  
17 low back pain. Musculoskeletal pain is only treated with narcotic medication. There is no  
18 evidence in this patient's past medical history verifying attention deficit disorder, nor is there any  
19 initial evaluation from Respondent for attention deficit. There was no workup regarding the  
20 cause of the patient's chronic cough, and the cough is merely treated with cough syrup.

21           31. Review of CURES shows that on September 21, 2011, Respondent prescribed  
22 hydrocodone 325 mg with quantity 60 and two refills. Assuming the maximum dosage usage of  
23 4-6 pills per day, this 180 total tablet prescription would represent a minimum of a 30-45 day  
24

25           <sup>5</sup> Interestingly, prescribing patterns indicate that Respondent was treating this patient for  
26 chronic pain, but in 2010 Respondent signed a disability statement for this patient for "irritable  
27 bowel syndrome," *not* for chronic pain.

28           <sup>6</sup> Specifically, progress notes from March 22, 2012 through September 30, 2014, for this  
patient were available for review. However, CURES reports indicate that this patient may have  
been treated earlier, back in 2011.

1 supply. Despite this, Respondent renewed the hydrocodone prescription 9 days later for a  
2 quantity of 60 with three refills (minimum 40-60 day supply).

3 32. On June 6, 2013, Respondent prescribed hydrocodone 325 mg with quantity 120 and  
4 two refills. Assuming maximum dosage usage of 4-6 pills per day, this 360 total tablet  
5 prescription would represent a minimum of a 60-90 day supply. Despite this, Respondent  
6 renewed the hydrocodone prescription one month later for a quantity of 120 with three refills  
7 (minimum 80-120 day supply).

8 33. Similar excessive prescribing patterns occur on August 5, 2013 (120 tablets, 4 refills)  
9 with refill one month later, October 16, 2013 (75 tabs, 3 refills), November 4, 2013 (75 tabs, 4  
10 refills), November 27, 2013 (75 tabs, 5 refills), January 3, 2014 (75 tabs, 2 refills), January 17,  
11 2014 (75 tabs, 3 refills), February 25, 2014 (60 tabs, 3 refills), March 12, 2014 (75 tabs, 5 refills).

12 34. On September 21, 2011, Respondent prescribed alprazolam<sup>7</sup> with quantity 50 and 2  
13 refills. Assuming maximum dosage usage of 3 pills per day, this 150 total tablet prescription  
14 would represent a minimum of a 50 day supply. Despite this, Respondent renewed the  
15 alprazolam prescription nine days later for a quantity of 50 with 3 refills (minimum 67 day  
16 supply). On June 6, 2013, Respondent prescribed alprazolam with quantity 60 and 3 refills.  
17 Assuming maximum dosage usage of 3 pills per day, this 240 total tablet prescription would  
18 represent a minimum of an 80 day supply. Despite this, Respondent renewed alprazolam one  
19 month later for a quantity of 60 with 4 refills (minimum 100 day supply).

20 35. Similar excessive prescribing patterns occur on August 5, 2013 (60 tabs, 5 refills)  
21 with refill one month later, October 16, 2013 (30 tabs, 3 refills), November 4, 2013 (30 tabs, 4  
22 refills), November 18, 2013 (30 tabs, 5 refills), January 3, 2014 (30 tabs, 2 refills), January 17,  
23 2014 (30 tabs, 3 refills).

24 36. Respondent also failed on a multiple basis to document his progress notes in a  
25 standard format and in a manner that is difficult to interpret and cumbersome to review, failed to  
26

27  
28 <sup>7</sup> Also known as "Xanax," alprazolam is often used to treat anxiety and panic attacks.

1 attempt any other non-pharmaceutical treatments in lieu of narcotic medications on a multiple and  
2 consistent basis, failed to adequately work up the condition of chronic pain over a prolonged  
3 period of time, failed to work up the diagnosis of cough and only prescribed narcotic cough  
4 syrup, and prescribed amphetamines without assessment for attention deficit.

5 37. Taken altogether, Respondent's treatment of C.A. represents an extreme departure  
6 from the standard of care.

7 Patient N.B.

8 38. N.B.<sup>8</sup> (or "patient") was a 23-year-old female who treated with Respondent from  
9 approximately September 2011 to October 2013.<sup>9</sup> The patient filled out a pain questionnaire on  
10 her first visit and stated that she had back pain "x 3 years." The patient also claims to have taken  
11 Adderall, Promethazine with codeine, and Norco in the past. The patient stated that she had not  
12 had previous physical therapy, specialist referral, or imaging tests. Consent for chronic opioid  
13 therapy is noted on the first visit. A contract for long-term controlled substance therapy for  
14 chronic pain is also signed on the first visit.

15 39. The patient is treated for anxiety, low back pain, attention deficit, and chronic cough  
16 at most, if not all visits. Treatment consists typically of Adderall, Xanax, Phenergan with codeine  
17 syrup, and hydrocodone (Norco). Interval history for each visit typically consists of an individual  
18 statement listing of each symptom with respective symptom relief by chosen medication. The  
19 exam does not change significantly from visit to visit.

20 40. A chest x-ray was ordered on January 26, 2012, with normal results. A  
21 Comprehensive Medical Examination was performed on September 13, 2011, and the patient's  
22 history consists of listing of chief complaints with respective symptom relief of current

23  
24 <sup>8</sup> The instant case against Respondent was initiated by a consumer complaint by a police  
25 officer who stopped N.B. and her boyfriend, L.R. During their investigation, police officers  
26 observed that L.R. had numerous prescription pills from Respondent. The police officer became  
27 suspicious of drug-related activity and notified the Board, prompting the instant investigation  
28 against Respondent.

<sup>9</sup> Specifically, progress notes from September 13, 2011 through October 22, 2013, for this  
patient were available for review. However, CURES reports indicate that this patient may have  
been treated by Respondent on other dates as well.

1 medication. Norco, Xanax, Phenergan with codeine were prescribed. There is no evidence of  
2 referral to physical therapy for back pain. There is no evidence of referral to an orthopedic  
3 specialist. No MRI was ordered for prolonged low back pain. Musculoskeletal pain is only  
4 treated with narcotic medication. There is no workup regarding the cause of chronic cough, and  
5 the cough is merely treated with cough syrup.

6 41. Review of CURES shows that on October 11, 2011, Respondent prescribed  
7 hydrocodone 325 mg with quantity 60 and two refills. Assuming the maximum dosage usage of  
8 4-6 pills per day, this 180 total tablet prescription would represent a minimum of a 30-45 day  
9 supply. Despite this, Respondent renewed the hydrocodone prescription 9 days later for a  
10 quantity of 60 with three refills (minimum 40-60 day supply). On November 23, 2011, only one  
11 month later, Respondent prescribed hydrocodone 325 mg with quantity 60 and 4 refills.  
12 Assuming the maximum dosage usage of 4-6 pills per day, this 300 total tablet prescription would  
13 represent a minimum of a 50-75 day supply. Despite this, Respondent renewed the hydrocodone  
14 prescription 13 days later for a quantity of 60 with 5 refills (minimum 60-90 day supply). Similar  
15 excessive prescribing patterns occur on February 27, 2012 (60 tabs, 5 refills), August 16, 2012  
16 (60 tabs, 2 refills), August 28, 2012 (60 tabs, 3 refills), October 11, 2012 (60 tabs, 4 refills),  
17 October 25, 2012 (60 tabs, 5 refills), June 18, 2013 (70 tabs, 4 refills), July 3, 2013 (70 tabs, 5  
18 refills).

19 42. On October 11, 2011, Respondent prescribed alprazolam with a quantity of 30 and 2  
20 refills. Assuming maximum dosage usage of 3 pills per day, this 90 total tablet prescription  
21 would represent a minimum of a 30 day supply. Despite this, Respondent renewed the  
22 alprazolam prescription 13 days later for a quantity of 30 with 3 refills (minimum 40 day supply).  
23 On November 23, 2011, only one month later, Respondent prescribed alprazolam with a quantity  
24 of 30 and 4 refills. Assuming the maximum usage of 3 pills per day, this 150 total tablet  
25 prescription would represent a minimum of a 50 day supply. Despite this, Respondent renewed  
26 the alprazolam prescription 13 days later for a quantity of 30 with 5 refills (minimum 60 day  
27 supply). Similar excessive prescribing patterns occur on February 27, 2012 (30 tabs, 2 refills),  
28 March 12, 2012 (30 tabs, 3 refills), April 16, 2012 (30 tabs, 4 refills), April 30, 2012 (30 tabs, 5

1 refills), August 16, 2012 (30 tabs, 2 refills), August 28, 2012 (30 tabs, 3 refills), October 11, 2012  
2 (30 tabs, 4 refills), and October 25, 2012 (30 tabs, 5 refills).

3 43. Respondent also failed on a multiple basis to document his progress notes in a  
4 standard format and in a manner that is difficult to interpret and cumbersome to review, failed to  
5 attempt any other non-pharmaceutical treatments in lieu of narcotic medications on a multiple and  
6 consistent basis, failed to adequately work up the condition of chronic pain over a prolonged  
7 period of time, failed to work up the diagnosis of cough and only prescribed narcotic cough  
8 syrup.

9 44. Taken altogether, Respondent's treatment of N.B. represents an extreme departure  
10 from the standard of care.

11 Patient N.V.

12 45. N.V. (or "patient") was a 23-year-old female who treated with Respondent from  
13 approximately March 2011 to February 2014.<sup>10</sup>

14 46. Diagnostic criteria for attention deficit/hyperactivity disorder questionnaire is filled  
15 out by the patient on June 4, 2012 and May 14, 2013. Besides the questionnaire, in template  
16 form, there are no details regarding onset of attention deficit symptoms, including a patient-  
17 initiated chief complaint. There is no indication in the progress notes as to the reason why this  
18 template was used.

19 47. The Adderall template was filled out for the first time on August 6, 2013, and  
20 continued to be used with two future visits. There is no evidence of treatment for attention  
21 deficit. Interval history for each visit typically consists of an individual statement listing of each  
22 symptom with respective symptom relief by chosen medication. Exam does not change  
23 significantly from visit to visit.

24 48. The patient is treated for anxiety, low back pain, and chronic cough at most, if not all  
25 visits. Treatment consists typically of Adderall, Xanax, Phenergen with codeine syrup, and

26 <sup>10</sup> Specifically, progress notes from March 26, 2011 through February 20, 2014, for this  
27 patient were available for review. However, CURES reports indicate that this patient may have  
28 been treated by Respondent on other dates as well.

1 hydrocodone (Norco). A chest x-ray was ordered on November 16, 2011, with normal results.  
2 There is no evidence of referral to physical therapy for back pain. There is no evidence of referral  
3 to an orthopedic specialist. No MRI was ordered for prolonged back pain. Musculoskeletal pain  
4 was only treated with narcotic medication. There was no workup regarding the cause of the  
5 chronic cough, and it is merely treated with cough syrup.

6 49. Review of CURES shows that on November 1, 2011, Respondent prescribed  
7 hydrocodone 325 mg with quantity 60 and three refills. Assuming the maximum dosage usage of  
8 4-6 pills per day, this 240 total tablet prescription would represent a minimum of a 40-60 day  
9 supply. Despite this, Respondent renewed the hydrocodone prescription 15 days later for a  
10 quantity of 60 with four refills (minimum 50-75 day supply). Thirteen days later, Respondent  
11 again renewed this prescription for a quantity 60 with 5 refills (minimum 60-90 day supply).  
12 Similar excessive prescribing patterns occur on April 18, 2013 (80 tabs, 2 refills), April 30, 2013  
13 (80 tabs, 3 refills), May 14, 2013 (80 tabs, 4 refills), May 28, 2013 (80 tabs, 5 refills), August 6,  
14 2013 (80 tabs, 2 refills), August 19, 2013 (80 tabs, 3 refills), October 21, 2013 (75 tabs, 2 refills),  
15 November 2, 2013 (75 tabs, 3 refills), December 2, 2013 (75 tabs, 4 refills), December 16, 2013  
16 (75 tabs, 5 refills), February 20, 2014 (75 tabs, 2 refills), and March 5, 2014 (75 tabs, 3 refills).

17 50. On November 1, 2011, Respondent prescribed alprazolam with a quantity of 30 and 3  
18 refills. Assuming maximum dosage usage of 3 pills per day, this 120 total tablet prescription  
19 would represent a minimum of a 40 day supply. Despite this, Respondent renewed the  
20 alprazolam prescription 15 days later for a quantity of 30 with 4 refills (minimum 50 day supply).  
21 Thirteen days later, Respondent again renewed this prescription for a quantity of 30 with 5 refills  
22 (minimum 60 day supply). Similar excessive prescribing patterns occur on April 18, 2013 (60  
23 tabs, 4 refills), November 2, 2013 (30 tabs, 3 refills), December 2, 2013 (30 tabs, 4 refills),  
24 December 16, 2013 (30 tabs, 5 refills), February 20, 2014 (30 tabs, 2 refills), and March 5, 2014  
25 (30 tabs, 3 refills).

26 51. Respondent failed to follow standard documentation format (e.g. SOAP) with this  
27 patient. As a result, his notes are cumbersome, and difficult to follow and interpret. Respondent  
28 failed to establish treatment goals and failed to attempt any other non-pharmaceutical treatments

1 in lieu of narcotic medications. Respondent failed to adequately work up the diagnosis of chronic  
2 back pain in this patient, and failed to adequately pursue non-narcotic options for chronic pain  
3 and chronic cough. There is no evidence that the patient was referred to physical therapy. There  
4 were no MRIs. There was no referral to a pain specialist, orthopedic specialist, or rheumatologist  
5 after failure of treatment. Also, there is no evidence of consideration of a differential diagnosis.

6 52. Taken altogether, Respondent's treatment of N.V. represents an extreme departure  
7 from the standard of care.

8 Patient L.R.

9 53. L.R.<sup>11</sup> (or "patient") was a 24-year-old male who treated with Respondent from  
10 approximately February 2011 to October 2013. The patient is treated for low back pain, attention  
11 deficit, and anxiety at most, if not all visits. Treatment consists typically of Adderall, alprazolam,  
12 and hydrocodone (Norco). Interval history for each visit typically consists of an individual  
13 statement listing of each symptom with respective symptom relief by chosen medication. Exam  
14 does not change significantly from visit to visit.

15 54. Results for chest x-ray and lumbar spine series on April 11, 2011, are normal. A  
16 "Comprehensive Medical Exam" was performed on May 9, 2011. No labs were ordered and/or  
17 performed. A template for attention deficit was filled out on September 21, 2011. There is no  
18 evidence of a referral to physical therapy for back pain. There is no evidence of referral to an  
19 orthopedic specialist. No MRI was ordered for prolonged back pain, and musculoskeletal pain  
20 was only treated with narcotic medication.

21 55. The first visit also contained a one-page questionnaire, apparently filled out by the  
22 patient, who stated that he had back pain for over a year, on and off. In the questionnaire, the  
23 patient does not list previous medications, nor any history of a blood test, imaging, physical  
24

25 \_\_\_\_\_  
26 <sup>11</sup> The instant case against Respondent was initiated by a consumer complaint by a police  
27 officer who stopped L.R. and his companion N.B. During their investigation, police officers  
28 observed that L.R. had numerous prescription pills from Respondent. The police officer became  
suspicious of drug-related activity and notified the Board, prompting the instant investigation  
against Respondent.

1 therapy, or specialists. "Consent for chronic opioid therapy" is noted on the first visit. A contract  
2 for long-term controlled substance therapy for chronic pain is signed on the first visit.

3 56. Review of CURES shows that on July 11, 2011, Respondent prescribed hydrocodone  
4 325 mg with quantity 60 and four refills. Assuming the maximum dosage usage of 4-6 pills per  
5 day, this 300 total tablet prescription would represent a minimum of a 50-75 day supply. Despite  
6 this, Respondent renewed the hydrocodone prescription 8 days later for a quantity of 60 with five  
7 refills (minimum 60-90 day supply). Ten days later, Respondent again renewed this prescription.

8 57. On August 22, 2011, Respondent prescribed hydrocodone 325 mg with quantity 60  
9 and two refills. Assuming the maximum dosage usage of 4-6 pills per day, this 180 total tablet  
10 prescription would represent a minimum of a 30-45 day supply. Despite this, Respondent  
11 renewed the hydrocodone prescription 9 days later for a quantity of 60 with three refills  
12 (minimum 40-60 day supply). Twenty one days later, Respondent renewed this prescription for a  
13 quantity of 60 and 4 refills (50-75 day supply).

14 58. On July 11, 2011, Respondent prescribed alprazolam with a quantity of 60 and 2  
15 refills. Assuming a maximum dosage usage of 3 pills per day, this 180 total tablet prescription  
16 would represent a minimum of 60 day supply. Despite this, Respondent renewed the alprazolam  
17 prescription eight days later for a quantity of 60 with 3 refills (minimum 80 day supply). Ten  
18 days later, Respondent again renewed this prescription for 60 tablets, 4 refills (100 day supply,  
19 minimum). In less than eighteen days, Respondent prescribed a total of 720 tablets, which is  
20 equivalent to a minimum of a 240 day supply. Similar excessive prescribing occurred on August  
21 8, 2011 (60 tabs, 5 refills), August 22, 2011 (60 tabs, 6 refills), August 31, 2011 (60 tabs, 7  
22 refills), and September 21, 2011 (60 tabs, 8 refills).

23 59. On August 16, 2012, the patient is noted to have been coughing. Treatment consists  
24 of exclusively Phenergan with codeine syrup. There was no work up regarding the cause of the  
25 chronic cough, and it is merely treated with cough syrup. Respondent failed to follow standard  
26 documentation format (e.g. SOAP) with this patient. As a result, his notes are cumbersome, and  
27 difficult to follow and interpret. Respondent failed to establish treatment goals and failed to  
28 attempt any other non-pharmaceutical treatments in lieu of narcotic medications. Respondent

1 failed to adequately work up the diagnosis of chronic back pain in this patient, and failed to  
2 adequately pursue non-narcotic options for chronic pain and chronic cough. Also, Respondent  
3 failed to order a cholesterol screening test as part of this patient's preventative exam.

4 60. Taken altogether, Respondent's treatment of L.R. represents an extreme departure  
5 from the standard of care.

6 Patient D.E.

7 61. D.E.<sup>12</sup> (or "patient") was a 22-year-old female who treated with Respondent from  
8 approximately August 2009 to April 2014.

9 62. The patient's health history indicated that she had anxiety, depression, loss of sleep,  
10 sweats, ear discharge, ringing of the ears, bleeding between periods, and menstrual pain, as well  
11 as pain in the arms, back, neck, and shoulders. The patient also had a history of seizures and had  
12 a seizure episode on August 3, 2009. Hypokalemia is also noted.

13 63. The patient is treated for low back pain and insomnia at most, if not all visits.  
14 Treatment consists typically of Xanax and hydrocodone (Norco).

15 64. Interval history for each visit typically consists of an individual statement listing of  
16 each symptom with respective symptom relief by chosen medication. The exam does not change  
17 significantly from visit to visit.

18 65. On August 30, 2009, an X-ray of the knee was taken and was negative. X-rays of the  
19 lumbar and cervical spine were also ordered which showed a slight narrowing of C4-C5, and  
20 suggested evidence of muscular spasm. EEG and CT scans of the brain were also normal, except  
21 for mild sinus disease.

22 66. Review of CURES shows that on September 22, 2011, Respondent prescribed  
23 hydrocodone 325 mg with quantity 60 and 4 refills. Assuming a maximum dosage usage of 4-6  
24 pills per day, this 300 total tablet prescription would represent a minimum of 50-75 day supply.  
25 Despite this, Respondent renewed the hydrocodone prescription 3 weeks later for a quantity of 60  
26 with 5 refills (minimum 60-90 day supply), then again renewed the hydrocodone prescription 3

27 <sup>12</sup> This patient filed a consumer complaint with the Board alleging that Respondent  
28 refused to see her (i.e. D.E.) for anything other than filling her prescription.

1 weeks later for a quantity of 60 with 6 refills (minimum 70-105 day supply), then renewed the  
2 hydrocodone prescription 2 weeks later for a quantity of 60 with 7 refills (minimum 80-120 day  
3 supply) and then renewed another refill 3 weeks later. Within a two and a half month period, the  
4 patient is given a prescription with refills equivalent to 1560 tablets, or 260-390 day supply.

5 67. On September 22, 2011, Respondent prescribed alprazolam with a quantity of 60 and  
6 4 refills. Assuming maximum dosage usage of 4 pills per day, this 300 total tablet prescription  
7 would represent a minimum of a 50 day supply. Despite this, Respondent renewed the  
8 alprazolam prescription three weeks later for a quantity of 60 with 5 refills (90 day supply).  
9 Respondent then renewed it again 3 weeks later for a quantity of 60 with 6 refills (105 day  
10 supply), then renewed it again 2 weeks later for a quantity of 60 with 7 refills (120 day supply),  
11 and then renewed another refill 3 weeks later. Within a two and a half month period, this patient  
12 was given a prescription with refills equivalent to 1560 tablets, or 390 day supply.

13 68. Similar patterns of excessive prescribing are also noted for September 10, 2011 to  
14 November 21, 2011, February 23, 2012 to March 27, 2012, August 13, 2012 to October 15, 2012,  
15 April 4, 2013 to April 16, 2013, June 19, 2013 to July 15, 2013, and January 20, 2014 to February  
16 14, 2014.<sup>13</sup>

17 69. There was no evidence of a referral to physical therapy for back pain, nor was there  
18 evidence of a referral to an orthopedic specialist. No MRI had been ordered for reported  
19 prolonged low back pain. Musculoskeletal pain is only treated with narcotic medication. There  
20 was no evidence of a referral to a specialist for the patient's sleep disorder, and there is no  
21 evidence of counseling for sleep hygiene. There were no lab results for insomnia, cholesterol, or  
22 other preventative exams.

23 70. Respondent failed to follow standard documentation format (e.g. SOAP) with this  
24 patient. As a result, his notes are cumbersome, and difficult to follow and interpret. Respondent  
25 also failed to attempt any other non-pharmaceutical treatments in lieu of narcotic medications,  
26 and overprescribed narcotic medications to this patient, as illustrated above. Also, Respondent

27 <sup>13</sup> The records also showed that a drug screen was ordered on January 15, 2014, and that  
28 the results were positive for benzodiazepines, opiates, and marijuana.

1 failed to adequately work up the diagnosis of chronic back pain, failed to adequately work up the  
2 diagnosis of insomnia, nor did he adequately pursue preventative treatments such as cholesterol  
3 screening tests and other preventative exams.

4 71. Taken altogether, Respondent's treatment of D.E. represents an extreme departure  
5 from the standard of care.

6 SECOND CAUSE FOR DISCIPLINE

7 (Repeated Negligent Acts- 7 Patients)

8 72. Respondent is subject to disciplinary action under section 2234, subdivision (c), of  
9 the Code in that he committed repeated negligent acts in his care of patients H.E.K., R.B., C.A.,  
10 N.B., N.V., L.R., and D.E. The circumstances are as follows:

11 73. The facts and circumstances alleged in the First Cause for Discipline above, are  
12 incorporated by reference as if set forth in full herein.

13 THIRD CAUSE FOR DISCIPLINE

14 (Prescribing Without Exam/Indication)

15 74. By reason of the facts and allegations set forth in the First Cause for Discipline above,  
16 Respondent is subject to disciplinary action under section 2242 of the Code, in that Respondent  
17 prescribed dangerous drugs to patients H.E.K., R.B., C.A., N.B., N.V., L.R., and D.E. without an  
18 appropriate prior examination or medical indication therefor.

19 FOURTH CAUSE FOR DISCIPLINE

20 (Excessive Prescribing)

21 75. By reason of the facts and allegations set forth in the First Cause for Discipline above,  
22 Respondent is subject to disciplinary action under section 725 of the Code, in that Respondent  
23 excessively prescribed dangerous drugs to patients H.E.K., R.B., C.A., N.B., N.V., L.R., and  
24 D.E.

25 FIFTH CAUSE FOR DISCIPLINE

26 (Inadequate Records)

27 76. By reason of the facts and allegations set forth in the First Cause for Discipline above,  
28 Respondent is subject to disciplinary action under section 2266 of the Code, in that Respondent

1 failed to maintain adequate and accurate records of his care and treatment of patients H.E.K.,  
2 R.B., C.A., N.B., N.V., L.R., and D.E.

3 SIXTH CAUSE FOR DISCIPLINE

4 (Prescribing to an Addict-Patients N.B., L.R., and D.E.)

5 77. Respondent is subject to disciplinary action under section 2241 of the Code in that  
6 Respondent prescribed to patients N.B., L.R., and D.E. controlled substances, who had signs of  
7 addiction.

8 78. The facts and circumstances in paragraphs 38 through 44, paragraphs 53 through 60,  
9 and paragraphs 61 through 71 are incorporated by reference as if set forth in full herein.

10 PRAYER

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

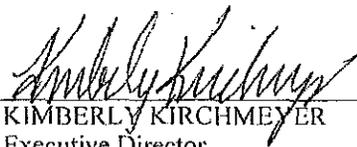
13 1. Revoking or suspending Physician's and Surgeon's Certificate Number A31783,  
14 issued to Martin Bennett, M.D.

15 2. Revoking, suspending or denying approval of Martin Bennett, M.D.'s authority to  
16 supervise physician assistants, pursuant to section 3527 of the Code;

17 3. Ordering Martin Bennett M.D. to pay the Medical Board of California, if placed on  
18 probation, the costs of probation monitoring; and

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

20  
21 DATED: April 12, 2016

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