

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

In the Matter of the First Amended)
Accusation Against:)
)
)
ROBERT STEVEN CHARLAP, M.D.) Case No. 04-2012-222192
)
Physician's and Surgeon's)
Certificate No. G85076)
)
Respondent)
_____)

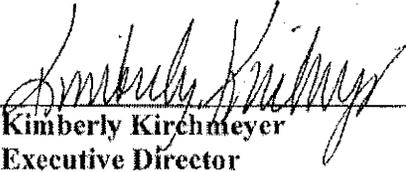
DECISION

The attached Stipulated Surrender of License and 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 December 16, 2016

IT IS SO ORDERED December 9, 2016.

MEDICAL BOARD OF CALIFORNIA

By: 

Kimberly Kirchmeyer
Executive Director

1 KAMALA D. HARRIS
Attorney General of California
2 E. A. JONES III
Supervising Deputy Attorney General
3 BENETH A. BROWNE
Deputy Attorney General
4 State Bar No. 202679
California Department of Justice
5 300 So. Spring Street, Suite 1702
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7 *Attorneys for Complainant*

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

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

Case No. 04-2012-222192

13 **ROBERT CHARLAP, M.D.**
14 12400 Ventura Boulevard, Suite. 523
Studio City, CA 91604-2406

OAH No. 2014110678

15 Physician's and Surgeon's Certificate
16 No. G 85076

**STIPULATED SURRENDER OF
LICENSE AND ORDER**

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 Board
23 of California. She brought this action solely in her official capacity and is represented in this
24 matter by Kamala D. Harris, Attorney General of the State of California, by Beneth A. Browne,
25 Deputy Attorney General.

26 2. Robert Charlap, M.D. (Respondent) is represented in this proceeding by attorney
27 Daniel V. Behesnilian, whose address is 8484 Wilshire Blvd., Suite 700, Beverly Hills, California
28 90211.

1 surrenders his Physician's and Surgeon's Certificate No. No. G 85076 for the Board's formal
2 acceptance.

3 9. Respondent understands that by signing this stipulation he enables the Board to issue
4 an order accepting the surrender of his Physician's and Surgeon's Certificate No. G 85076 without
5 further process.

6 CONTINGENCY

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

17 11. The parties understand and agree that Portable Document Format (PDF) and facsimile
18 copies of this Stipulated Surrender of License and Order, including Portable Document Format
19 (PDF) and facsimile signatures thereto, shall have the same force and effect as the originals.

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

22 ORDER

23 IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. No. G 85076,
24 issued to Respondent Robert Charlap, M.D., is surrendered and accepted by the Medical Board of
25 California.

26 1. The surrender of Respondent's Physician's and Surgeon's Certificate No. and the
27 acceptance of the surrendered license by the Board shall constitute the imposition of discipline
28 against Respondent. This stipulation constitutes a record of the discipline and shall become a part

1 of Respondent's license history with the Medical Board of California.

2 2. Respondent shall lose all rights and privileges as a Physician and Surgeon in
3 California as of the effective date of the Board's Decision and Order.

4 3. Respondent shall cause to be delivered to the Board his pocket license and, if one was
5 issued, his wall certificate on or before the effective date of the Decision and Order.

6 4. If Respondent ever files an application for licensure or a petition for reinstatement in
7 the State of California, the Board shall treat it as a petition for reinstatement. Respondent must
8 comply with all the laws, regulations and procedures for reinstatement of a revoked license in
9 effect at the time the petition is filed, and all of the charges and allegations contained in First
10 Amended Accusation No. 04-2012-222192 shall be deemed to be true, correct and admitted by
11 Respondent when the Board determines whether to grant or deny the petition.

12 5. If Respondent should ever apply or reapply for a new license or certification, or
13 petition for reinstatement of a license, by any other health care licensing agency in the State of
14 California, all of the charges and allegations contained in First Amended Accusation, No. 04-
15 2012-222192 shall be deemed to be true, correct, and admitted by Respondent for the purpose of
16 any Statement of Issues or any other proceeding seeking to deny or restrict licensure.

17 ACCEPTANCE

18 I have carefully read the above Stipulated Surrender of License and Order and have fully
19 discussed it with my attorney, Daniel V. Behesnilian. I understand the stipulation and the effect it
20 will have on my Physician's and Surgeon's Certificate No. G 85076. I enter into this Stipulated
21 Surrender of License and Order voluntarily, knowingly, and intelligently, and agree to be bound
22 by the Decision and Order of the Medical Board of California.

23
24 DATED: 4/15

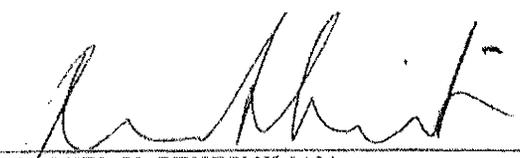
MA [Signature]
ROBERT CHARLAP, M.D.
Respondent

25
26
27 I have read and fully discussed with Respondent Robert Charlap, M.D. the terms and
28 conditions and other matters contained in this Stipulated Surrender of License and Order. I

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approve its form and content.

DATED: 4/15/16


DANIEL V. BEHESNILIAN
Attorney for Respondent

ENDORSEMENT

The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted for consideration by the Medical Board of California of the Department of Consumer Affairs.

Dated: 4/15/2016

Respectfully submitted,
KAMALA D. HARRIS
Attorney General of California
E. A. JONES III
Supervising Deputy Attorney General


BENETH A. BROWNE
Deputy Attorney General
Attorneys for Complainant

LA2013611288
61944765

Exhibit A

First Amended Accusation No. 04-2012-222192

1 KAMALA D. HARRIS
Attorney General of California
2 E. A. JONES III
Supervising Deputy Attorney General
3 BENETH A. BROWNE
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7 *Attorneys for Complainant*

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO *Jan 20 20 15*
BY *[Signature]* ANALYST

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

11 In the Matter of the First Amended Accusation
Against:
12 **ROBERT CHARLAP, M.D.**
13 12400 Ventura Boulevard, Suite. 523
14 Studio City, CA 91604-2406
15 Physician's and Surgeon's Certificate
No. G 85076
16 Respondent.

Case No. 04-2012-222192

**FIRST AMENDED
ACCUSATION**

18 Complainant alleges:

19 **PARTIES**

- 20 1. Kimberly Kirchmeyer (Complainant) brings this First Amended Accusation solely in
21 her official capacity as the Executive Director of the Medical Board of California, Department of
22 Consumer Affairs.
- 23 2. On or about March 12, 1999, the Medical Board of California issued Physician's and
24 Surgeon's Certificate G 85076 to Robert Charlap, M.D. (Respondent). The Physician's and
25 Surgeon's Certificate was in full force and effect at all times relevant to the charges brought
26 herein and will expire on August 31, 2016, unless renewed. On January 6, 2015, an Interim
27 Order of Suspension – No Practice was issued.

28 *///*

1 JURISDICTION

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

5 4. Section 2229 of the Code states, in subdivision (a):

6 "Protection of the public shall be the highest priority for the Division of Medical Quality,¹
7 the California Board of Podiatric Medicine, and administrative law judges of the Medical Quality
8 Hearing Panel in exercising their disciplinary authority."

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

13 6. Section 11529, subdivision (f) of the Government Code states:

14 "In all cases where an interim order is issued, and an accusation is not filed and served
15 pursuant to Sections 11503 and 11505 within 15 days of the date in which the parties to the
16 hearing on the interim order have submitted the matter, the order shall be dissolved.

17 "Upon service of the accusation the licensee shall have, in addition to the rights
18 granted by this section, all of the rights and privileges available as specified in this
19 chapter. If the licensee requests a hearing on the accusation, the board shall provide
20 the licensee with a hearing within 30 days of the request, unless the licensee stipulates
21 to a later hearing, and a decision within 15 days of the date the decision is received
22 from the administrative law judge, or the board shall nullify the interim order
23 previously issued, unless good cause can be shown by the Division of Medical
24 Quality for a delay."

25 ///

26 _____
27 ¹ Pursuant to Business and Professions Code section 2002, the "Division of Medical
28 Quality" or "Division" shall be deemed to refer to the Medical Board of California.

1 7. Section 820 of the Code states:

2 "Whenever it appears that any person holding a license, certificate or permit under this
3 division or under any initiative act referred to in this division may be unable to practice his or her
4 profession safely because the licentiate's ability to practice is impaired due to mental illness, or
5 physical illness affecting competency, the licensing agency may order the licentiate to be
6 examined by one or more physicians and surgeons or psychologists designated by the agency.
7 The report of the examiners shall be made available to the licentiate and may be received as direct
8 evidence in proceedings conducted pursuant to Section 822."

9 8. Section 822 of the Code states:

10 "If a licensing agency determines that its licentiate's ability to practice his or her profession
11 safely is impaired because the licentiate is mentally ill, or physically ill affecting competency, the
12 licensing agency may take action by any one of the following methods:

13 "(a) Revoking the licentiate's certificate or license.

14 "(b) Suspending the licentiate's right to practice.

15 "(c) Placing the licentiate on probation.

16 "(d) Taking such other action in relation to the licentiate as the licensing agency in its
17 discretion deems proper.

18 "The licensing agency shall not reinstate a revoked or suspended certificate or license until
19 it has received competent evidence of the absence or control of the condition which caused its
20 action and until it is satisfied that with due regard for the public health and safety the person's
21 right to practice his or her profession may be safely reinstated."

22 9. Section 824 of the Code states: "The licensing agency may proceed against a
23 licentiate under either Section 820, or 822, or under both sections."

24 10. Section 826 of the Code states: "The proceedings under Section 821 and 822 shall be
25 conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division
26 3 of Title 2 of the Government Code, and the licensing agency and the licentiate shall have all the
27 rights and powers granted therein."

28 ///

1 11. Section 2234 of the Code, states:

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

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

7 "(b) Gross negligence.

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

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

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

18 "(d) Incompetence.

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

21 "..."

22 12. Section 2242 of the Code states:

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

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

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

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

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

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

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

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

17 13. Section 2238 of the Code states:

18 "A violation of any federal statute or federal regulation or any of the statutes or regulations
19 of this state regulating dangerous drugs or controlled substances constitutes unprofessional
20 conduct."

21 14. Section 725 of the Code states:

22 "(a) Repeated acts of clearly excessive prescribing, furnishing, dispensing, or administering
23 of drugs or treatment, repeated acts of clearly excessive use of diagnostic procedures, or repeated
24 acts of clearly excessive use of diagnostic or treatment facilities as determined by the standard of
25 the community of licensees is unprofessional conduct for a physician and surgeon, dentist,
26 podiatrist, psychologist, physical therapist, chiropractor, optometrist, speech-language
27 pathologist, or audiologist.

28 "(b) Any person who engages in repeated acts of clearly excessive prescribing or

1 administering of drugs or treatment is guilty of a misdemeanor and shall be punished by a fine of
2 not less than one hundred dollars (\$100) nor more than six hundred dollars (\$600), or by
3 imprisonment for a term of not less than 60 days nor more than 180 days, or by both that fine and
4 imprisonment.

5 "(c) A practitioner who has a medical basis for prescribing, furnishing, dispensing, or
6 administering dangerous drugs or prescription controlled substances shall not be subject to
7 disciplinary action or prosecution under this section.

8 "(d) No physician and surgeon shall be subject to disciplinary action pursuant to this section
9 for treating intractable pain in compliance with Section 2241.5."

10 FIRST CAUSE FOR DISCIPLINE

11 *(Unable to Practice Safely Due to Mental Disorder)*

12 15. Respondent is subject to disciplinary action under section 822 in that he has a mental
13 disorder impairing his ability to practice medicine safely, with due regard for the public health,
14 safety and welfare. The circumstances are as follows:

15 16. During the course of an investigation of Respondent's prescribing practices, many red
16 flags suggested that Respondent himself was impaired due to a medical or mental condition,
17 including possibly substance abuse. Respondent appeared and acted impaired at two subject
18 interviews on May 15, 2013, and June 12, 2013. On June 12, 2013, Respondent agreed to submit
19 to a mental evaluation. On August 7, 2013, at his workplace at a medical marijuana clinic,
20 Respondent appeared under the influence, impaired and unable to practice medicine safely, and
21 was advised to stop seeing patients for the remainder of the day. Respondent subsequently
22 withdrew his agreement to submit to a mental evaluation. He submitted a letter from his treating
23 psychiatrist, Dr. A.R., M.D., dated August 1, 2013, stating Respondent was taking two
24 medications, was safe to practice medicine and did not require a mental status evaluation.

25 17. Eventually, Respondent did provide releases for some of his medical records.
26 Certified copies of Respondent's medical records were obtained from Respondent's psychiatrist
27 and another doctor, both of whom had prescribed Respondent controlled substances. Records
28 included a "contract" in which Respondent agreed to receive a limited amount of Vicodin and

1 agreed to not obtain the medication from another provider.

2 18. After receiving a petition to compel a mental evaluation, the Board issued an Order
3 Compelling Respondent to participate in a mental and physical examination. In early December,
4 an investigator coordinated Respondent's mental evaluation with a psychiatrist, Dr. J. Pursuant to
5 the Board's order, the investigator obtained releases for medical records from several of
6 Respondent's doctors and requested and obtained those records.

7 19. Pursuant to the order, the investigator forwarded the evaluator a true and correct copy
8 of a draft report of investigation, attachments pertinent to consideration of Respondent's mental
9 state and his ability to practice medicine safely and any certified updated medical records. These
10 included:

- 11 (1) Order compelling mental and physical examination;
- 12 (2) Redacted investigation report including select attachments listed below;
- 13 (3) Transcripts of interviews with [Respondent] on April 10, 2012, May 15, 2013,
14 June 12, 2013;
- 15 (4) CDs [3] of interviews described above;
- 16 (5) One-page letter from Dr. A.R.;
- 17 (6) CURES report for [Respondent] as a patient [three-year period];
- 18 (7) Certified medical records from Dr. A.R.;
- 19 (8) Certified medical records from P.M., M.D.;
- 20 (9) Certified medical records from A.S., M.D.

21 Updated medical records received from Respondent's doctors were provided to the
22 evaluator.

23 20. On December 16, 2014, Dr. J. evaluated Respondent. Based on his education and
24 expertise and his psychiatric examination of Respondent including detailed history-taking, a
25 formal mental status examination, psychological testing, and urine and hair analysis, Dr. J.
26 concluded that Respondent has psychological conditions which interfere with his ability to safely
27 practice medicine; he is not able to safely practice medicine and represents a danger to the public
28 and his patients. Dr. J. found that Respondent's practice of medicine creates an immediate clear

1 danger to the safety of the community and his license to practice medicine should therefore be
2 immediately suspended.

3 **SECOND CAUSE FOR DISCIPLINE**

4 *(Gross Negligence)*

5 21. Respondent is subject to disciplinary action under section 2234. subdivision (b), in
6 that he was grossly negligent in the care and treatment of three patients. The circumstances are as
7 follows:

8 **Pain Management Clinic**

9 22. In or around January through April of 2012, Respondent operated a pain management
10 clinic on Foothill Boulevard in Sylmar² named "Robert Charlap, M.D." Respondent was
11 approached by a recruiter (an unlicensed individual) who asked Respondent to be the doctor at
12 another pain clinic the recruiter wanted to open in Sylmar. Respondent agreed and became
13 partners with the recruiter.

14 23. The recruiter would arrange for the patients to come to the new Sylmar clinic. The
15 recruiter had drivers who would pick up the patients and bring them to the clinic so that there
16 were no "walk-ins." The patients needed rides to come in to get their pain medication.
17 Respondent only practiced pain management at the new Sylmar clinic. Since Respondent only
18 did pain management, he did not ask the patients about previous treatments received. Respondent
19 assumed there was an understanding that the patients had tried other modalities that did not work.
20 Respondent's role was to provide oxycodone³ to the patients in order to relieve their pain.

21 24. At the new Sylmar clinic, patients would complete a form indicating that they took
22 oxycodone. Almost all patients said, "I need oxycodone 30 mg to relieve my pain." The
23 indication for Respondent's giving the patients oxycodone was that the patients requested it,

24 ² Respondent worked at this clinic three days a week.

25 ³ Oxycodone is a semi-synthetic opioid synthesized from poppy-derived thebaine.
26 (Thebaine, also known as codeine methyl enol ether, is an opiate alkaloid.) Oxycodone is a
27 narcotic analgesic generally indicated for relief of moderate to severe pain. Oxycodone is
28 typically prescribed to manage acute, chronic and cancer-related pain. In addition to tolerance to
pain, oxycodone also causes sedation and respiratory depression.

1 saying that they needed it for their pain.

2 25. At the new Sylmar clinic, Respondent knew that in order to get oxycodone, patients
3 would need one area of specific pain. Respondent would try to focus on the worst area that would
4 require the patient to get pain medicine. Since oxycodone is a schedule II narcotic, pharmacies
5 were stricter with it and would call and want something faxed over. So after writing the pain
6 medication prescription for a patient, Respondent completed a form entitled "Justification for
7 Prescribed Medication (Controlled Substances)." He checked a box indicating what medication
8 he prescribed. The form then stated, "The above named patient is monitored on this medication
9 for the treatment of" and Respondent checked a box indicating a patient condition or pain location
10 that would presumably require pain medication.

11 **Patient M.A.**

12 26. Between December 21, 2011, and December 21, 2012, M.A. received forty controlled
13 substance prescriptions from fifteen physicians, filled at multiple pharmacies. Most were for
14 Norco.⁴ The doctor-shopping pattern is indicative of drug abuse and/or diversion by M.A.

15 27. On or about February 7, 2012, M.A. saw Respondent at the new Sylmar clinic. M.A.
16 completed a Medical History Form indicating she was presently taking oxycodone 30 m.g. for
17 pain on a regular basis. She complained of lightheadedness or fainting, unusual shortness of
18 breath, cramping pains in legs or feet, back pain (upper, middle or lower is not specified), other
19 joint pain and muscle pain or an injury. A pain drawing has X's marked on the right forearm and
20 line from the middle to lower back at the center. A pain scale has the highest pain level circled,
21 10, marked "Unbearable, worst possible pain."

22 28. Respondent completed a Physician Evaluation Form. He noted no additional history
23 beyond an arm fracture one month prior and low back pain. Information on the progress note

24
25 ⁴ Norco contains a combination of acetaminophen and hydrocodone. Hydrocodone is an
26 opioid pain medication. An opioid is sometimes called a narcotic. Acetaminophen is a less
27 potent pain reliever that increases the effects of hydrocodone. Norco is used to relieve moderate
28 to severe pain. Norco may also be used for purposes not listed in this medication guide.
Hydrocodone can slow or stop one's breathing. Norco should not be used in larger amounts, or
for longer than prescribed. Narcotic pain medicine may be habit-forming, even at regular doses.

1 form contains the entire history and physical information and is scant, consisting of roughly thirty
2 words, and it is largely illegible. A limited physical examination is documented in the medical
3 records. Information included a blood pressure of 145/72; normal heart, lung, upper and lower
4 extremity neurological findings; tenderness to palpitation at the lumbar spine; reduced range of
5 motion of the back; and a negative straight leg raise test. A pain drawing has X's along the back
6 and left forearm.

7 29. Respondent diagnosed low back pain and left arm pain and fracture. Respondent
8 documented ordering x-rays of her lumbar spine. He prescribed #150 oxycodone 30 m.g.,
9 Prilosec,⁵ Colace,⁶ and #60 Norco 10/325. Respondent could not remember why he prescribed
10 both oxycodone and Norco.

11 30. Respondent failed to address any details of M.A.'s current pain, specifics of prior
12 treatments nor rule out a history of prior substance abuse. Respondent failed to discuss M.A.'s
13 use of other medications such as non-steroidal anti-inflammatory drugs. Respondent failed to
14 document goals for treatment and informed consent.

15 31. Although M.A. indicated on the history form that she had lightheadedness, unusual
16 shortness of breath and cramping in her legs or feet, Respondent failed to review or address those
17 symptoms with M.A. Respondent failed to record any history pertinent to either complaint nor
18 address them in any way through his assessments and plans.

19 32. M.A. said she was on oxycodone for pain. A cast on M.A.'s left arm had been
20 applied a month previously. Respondent assumed an orthopedist had applied the cast to M.A.'s
21 forearm but had not given her much pain medication. Respondent thought it was reasonable that
22 the patient continued to have forearm pain a month after her fracture. He did not order an x-ray

23
24 ⁵ Prilosec is a brand name for the drug omeprazole. It is a proton pump inhibitor. It
25 decreases the amount of acid produced in the stomach. It is used to treat symptoms of
26 gastroesophageal reflux disease (GERD) and other conditions caused by excess stomach acid. It
is also used to promote healing of erosive esophagitis (damage to your esophagus caused by
stomach acid).

27 ⁶ Colace is a brand name for the drug docusate. It is a stool softener that makes bowel
28 movements softer and easier to pass. It is used to treat or prevent constipation, and to reduce pain
or rectal damage caused by hard stools or by straining during bowel movements.

1 or request orthopedic review of the area, even though M.A. said her pain was unbearable.

2 33. The purpose of the visit was to show that the patient needed oxycodone. Two
3 difficult to read prescription copies are in the medical records. M.A. filled a prescription written
4 by Respondent for 60 Norco 10/325 on February 7, 2012, at a Target Pharmacy in Palmdale.
5 M.A. filled a prescription written by Respondent to M.A. for 150 oxycodone pills, 30 m.g. on
6 February 16, 2012, at a Costco pharmacy.

7 34. Additional prescriptions from Respondent to M.A. were filled March 29, 2012 (180
8 oxycodone 30 m.g.), and March 30, 2012 (120 Norco 10/325), but Respondent denies writing the
9 prescriptions.

10 35. Respondent admitted that he knew the patients who he saw at his pain clinic were
11 there for oxycodone and he was there to provide it.

12 36. On or about February 7, 2012, Respondent was grossly negligent in his care and
13 treatment of patient M.A., taken singularly or collectively, when he:

14 (1) Failed to establish a good-faith physician-patient relationship;

15 (2) Prescribed outside the usual course of medical care;

16 (3) Failed to conduct a sufficient physical exam to evaluate for and prescribe
17 controlled substances to treat M.A.'s chronic pain;

18 (4) Found an excuse to prescribe oxycodone and Norco to M.A. solely because she
19 requested the medications;

20 (5) Failed to attempt to determine if addiction or diversion was the reason for the
21 request and prescribed controlled substances to a presumed addict;

22 (6) Failed to address M.A.'s complaints of lightheadedness and shortness of breath.

23 **Patient D.B.**

24 37. On or around February 21, 2012, Respondent saw patient D.B.⁷ at the new Sylmar
25 clinic with complaints of low back pain with reference to hypertension (HTN) and insulin-

26 ⁷ A copy of an expired driver's license of D.B. is in the chart but D.B. stated to police that
27 he did not attend an appointment with Respondent but that his wallet had been stolen prior to the
28 initial appointment.

1 dependent diabetes mellitus (IDDM). Medical records are largely illegible but Respondent stated
2 that the records reflect that the pain was from "lifting and work at home" and "no[t]
3 radiculopathy." D.B.'s blood pressure was recorded as 119/72 and pulse at 87 beats per minute.
4 D.B.'s knees and back are noted to be tender to palpation. Respondent interpreted the largely
5 illegible medical records to also say "slight right thoracic scoliosis, flattened lumbar lordosis,
6 range of motion 10-20% and negative straight leg raise." There was no past medical history,
7 social history, family history, review of systems, addiction history or psychiatric history.
8 Respondent diagnosed low back pain. He prescribed #150 oxycodone 30 m.g., Prilosec and
9 Colace. He recommended heat and ice.

10 38. On or about March 28, 2012, D.B. had a follow-up visit. The chart note states,
11 "Follow-up from 2/21. Oxycodone #150 helping low back pain, ice and heat." No further history
12 was obtained. D.B.'s blood pressure (BP) was recorded 147/97 and pulse at 100 beats per
13 minute. Exam of the spine with tenderness and decreased flexibility were noted. In largely
14 illegible writing, Respondent documented "S-shaped curved thoracolumbar [spine]; tender to
15 palpitation, right iliolumbar ligament. Paravertebral muscles [are] tight with slight tenderness to
16 palpitation. Range of motion 10 -- 20 degrees, flattened lumbar lordosis." There was no past
17 medical history, social history, family history, review of systems, addiction history or psychiatric
18 history. Respondent diagnosed thoracolumbar strain and low back pain. Respondent said that
19 D.B. asked him for Phenergan with codeine. Respondent stated he would not provide the
20 medication, however, because he knew that it is a "street drug" and he believed D.B. would abuse
21 it or sell it. Respondent prescribed D.B. oxycodone, 30 m.g., #150. He did not believe that D.B.
22 would abuse or divert oxycodone. Respondent explained that until search warrants were executed
23 at his house and pain clinic, and he was arrested in April of 2012, he had "no idea" that
24 oxycodone was overprescribed or illegally used. He had never heard of an "oxycodone mill."
25 Respondent explained that he trusted patients to comply with the "patient code of ethics" and be
26 honest and open with him. Respondent also recommended ice, heat, and follow-up in a month.

27 ///

28 ///

1 39. Although no medical records correspond, Respondent also signed a prescription for
2 D.B. for #150 oxycodone 30 m.g. on January 17, 2012. The prescription was filled on January
3 18, 2012.

4 40. Although Respondent recorded a minimal history of D.B.'s pain, as described above,
5 he did not address any details of the patient's current pain, specifics of prior evaluation or
6 treatments nor rule out a history of prior substance abuse over his two visits with the patient.
7 Respondent failed to discuss any patient use of other medications such as non-steroidal anti-
8 inflammatory drugs or other controlled substances. Nor did Respondent discuss any non-
9 medication therapies such as physical therapy. While discussing his care and treatment of D.B.,
10 Respondent admitted that he knew that patients were there for oxycodone and he was there to
11 provide that medication. Respondent's documentation fails to reflect goals for treatment or an
12 adequately documented informed consent.

13 41. On or about February 21, 2012, and March 28, 2012, Respondent was grossly
14 negligent in his care and treatment of patient D.B., taken singularly or collectively, when he:

15 (1) Failed to obtain an adequate history and to conduct more than a superficial
16 physical examination before prescribing oxycodone to the patient;

17 (2) Failed to establish a good-faith physician-patient relationship;

18 (3) Prescribed outside the usual course of medical care;

19 (4) Failed to obtain informed consent;

20 (5) Found an excuse to prescribe oxycodone to the patient solely because D.B.
21 requested it.

22 **Patient C.C.**

23 42. On or about February 1, 2012, Respondent saw patient C.C. at his new Sylmar pain
24 clinic. A single progress note indicates that C.C. fell carrying a heavy box on stairs and injured
25 his low back. Respondent failed to record additional history of the duration, specific
26 characteristics, evaluation or prior treatments of the pain. C.C. indicated that oxycodone helped
27 his back pain, but Respondent failed to note when C.C. had taken it, what the dose was, or how
28 long C.C. took it. The physical exam notes a BP of 178/121, normal cardiac exam, a clear lung

1 exam and a back exam with what appears to be decreased range of motion and tenderness to
2 palpation at L1 through L2. Upper extremities were tender to palpation and there was a negative
3 straight leg raise. Even though C.C. had circled his knees on the pain chart, Respondent did not
4 evaluate them since C.C. did not verbally complain of pain in his knees.

5 43. Respondent diagnosed low back pain and another illegible line which he described as
6 "forearm pains, to see his private doctor for that." Respondent explained that he did not know the
7 cause of C.C.'s forearm pains and he just wanted to treat C.C.'s low back pain because he did not
8 have time to evaluate anything but his low back pain. Respondent prescribed OxyContin,
9 Prilosec, Colace, and a tennis elbow brace. He recommended that C.C. go to a gym and see a
10 trainer for a home exercise program but he did not recommend any specific exercises.
11 Respondent ordered lumbar spine x-rays although he did not note that in the chart.

12 44. Respondent told C.C. to recheck his blood pressure on his own. Respondent said it
13 may be a false reading and to see someone else if he needed to because, Respondent said, "I don't
14 treat blood pressure." Respondent did not recheck the blood pressure or consider that C.C. might
15 have taken something that elevated his blood pressure.

16 45. Respondent did not prescribe a trial of non-opiate medication "because they were
17 coming to me for pain medicine, for oxycodone. That's why they were coming to me. They tried
18 other modalities and they were coming there to try the oxycodone to relieve their pain. It wasn't
19 like I was prescribing ibuprofen. You can get Advil over-the-counter."

20 46. On or about March 1, 2012, Respondent had another appointment with C.C. for back
21 pain. A minimal history was recorded including low back pain without any interval history of
22 what treatments were tried and which were effective. Again, the exam is notable for an elevated
23 blood pressure of 144/102, tenderness to palpation at the L4-L5 level and reduced range of
24 motion of the back. No cardiac or pulmonary exam is noted. Respondent diagnosed C.C. with
25 lumbosacral (L-S) strain and low back pain. Respondent prescribed an increased number of
26 oxycodone, 30 m.g., #180. Respondent recommended ice and heat. Respondent's sole reference
27 to C.C.'s elevated blood pressure is a note next to the abnormal value saying "return to PMD
28 [primary doctor]."

1 patient M.A., taken singularly or collectively, when he:

2 (1) Failed to establish a good-faith physician-patient relationship;

3 (2) Prescribed outside the usual course of medical care;

4 (3) Failed to conduct a sufficient physical exam to evaluate for and prescribe
5 controlled substances to treat M.A.'s chronic pain;

6 (4) Found an excuse to prescribe oxycodone and Norco to M.A. solely because she
7 requested the medications;

8 (5) Failed to attempt to determine if addiction or diversion was the reason for the
9 request and prescribed controlled substances to a presumed addict;

10 (6) Failed to address M.A.'s complaints of lightheadedness and shortness of breath.

11 **Patient D.B.**

12 52. The facts and circumstances as alleged in paragraphs 37 through 40 are incorporated
13 here as if fully set forth.

14 53. On or about February 21, 2012, and March 28, 2012, Respondent was negligent in his
15 care and treatment of D.B., taken singularly or collectively, when he:

16 (1) Failed to obtain an adequate history and to conduct more than a superficial
17 physical examination before prescribing oxycodone to the patient;

18 (2) Failed to establish a good-faith physician-patient relationship;

19 (3) Prescribed outside the usual course of medical care;

20 (4) Failed to obtain informed consent;

21 (5) Found an excuse to prescribe oxycodone to the patient solely because D.B.
22 requested it.

23 **Patient C.C.**

24 54. The facts and circumstances alleged in paragraphs 42 to 47 are incorporated here as if
25 fully set forth.

26 55. On or about February 1, March 1 and April 4, 2012, Respondent was negligent in his
27 care and treatment of patient C.C., taken singularly or collectively, when he:

28 (1) Failed to establish a good-faith physician-patient relationship;

- 1 (2) Prescribed outside the usual course of medical care;
- 2 (3) Failed to conduct a sufficient physical exam to evaluate for and prescribe
- 3 controlled substances to treat C.C.'s chronic pain;
- 4 (4) Found an excuse to prescribe oxycodone to C.C. solely because he requested the
- 5 medication;
- 6 (5) Failed to attempt to determine if addiction or diversion was the reason for the
- 7 request and prescribed controlled substances to a presumed addict;
- 8 (6) Failed to address and manage C.C.'s elevated blood pressure.

9 **FOURTH CAUSE FOR DISCIPLINE**

10 *(Prescribing Without Medical Indication)*

11 56. Respondent is subject to disciplinary action under section 2242, subdivision (a), in
12 that he prescribed dangerous drugs to patients without an appropriate prior examination and a
13 medical indication, thereby committing unprofessional conduct. The circumstances are as
14 follows:

15 57. The facts and circumstances as alleged in paragraphs 22 through 35, 37 through 40,
16 and 42 through 47 are incorporated here as if fully set forth.

17 **FIFTH CAUSE FOR DISCIPLINE**

18 *(Excessive Prescribing)*

19 58. Respondent is subject to disciplinary action under section 725 in that he engaged in
20 repeated acts of clearly excessive prescribing drugs by prescribing controlled substances without
21 a medical basis to do so. The circumstances are as follows:

22 59. The facts and circumstances as alleged in paragraphs 22 through 35, 37 through 40,
23 and 42 through 47 are incorporated here as if fully set forth.

24 **SIXTH CAUSE FOR DISCIPLINE**

25 *(General Unprofessional Conduct)*

26 60. Respondent is subject to disciplinary action under section 2234 in that he committed
27 general unprofessional conduct. The circumstances are as follows:

28 61. The facts and circumstances alleged in paragraphs in paragraphs 15 through 59 are

1 incorporated here as if fully set forth.

2 **DISCIPLINE CONSIDERATIONS**

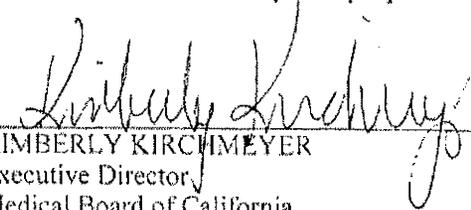
3 62. To determine the degree of discipline, if any, to be imposed on Respondent,
4 Complainant alleges that on or about June 12, 2003, in a prior disciplinary action entitled *In the*
5 *Matter of the Accusation Against Robert Charlap, M.D.* before the Medical Board of California,
6 in Case Number 17-2001-122308. Respondent's license was revoked, the revocation was stayed
7 and he was placed on probation for three years. The basis for his discipline was his preparation of
8 numerous nerve conduction test reports without having the necessary training or knowledge to do
9 so, where the tests were not indicated and where report conclusions were directly contrary to the
10 raw data interpreted. The Board's decision is now final and is incorporated by reference as if
11 fully set forth.

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 G 85076,
16 issued to Robert Charlap, M.D.;
- 17 2. Revoking, suspending or denying approval of Robert Charlap, M.D.'s authority to
18 supervise physician assistants, pursuant to section 3527 of the Code;
- 19 3. Ordering Robert Charlap, M.D., if placed on probation, to pay the Medical Board of
20 California the costs of probation monitoring; and
- 21 4. Taking such other and further action as deemed necessary and proper.

22
23 DATED: January 20, 2015


24 KIMBERLY KIRCHMEYER
25 Executive Director,
26 Medical Board of California
27 Department of Consumer Affairs
28 State of California
Complainant

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