

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

In the Matter of the Accusation)	
Against:)	
)	
Wolfram Richard Forster, M.D.)	Case No. 8002014004551
)	
Physician's and Surgeon's)	
Certificate No. C 50765)	
)	
Respondent)	
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DECISION AND ORDER

The attached Stipulated Surrender 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 October 27, 2016.

IT IS SO ORDERED October 20, 2016.

MEDICAL BOARD OF CALIFORNIA

By: _____

Kimberly Kirchmeyer
**Kimberly Kirchmeyer
Executive Director**

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Attorney General of California
2 ALEXANDRA M. ALVAREZ
Supervising Deputy Attorney General
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8 *Attorneys for Complainant*

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

13 **In the Matter of the Accusation Against:**

Case No. 800-2014-004551

14 **WOLFRAM FORSTER, M.D.**
15 **5540 Caminito Herminia**
La Jolla, CA 92037-7221

**STIPULATED SURRENDER AND
DISCIPLINARY ORDER**

16 **Physician's and Surgeon's Certificate**
17 **No. C 50765,**

18 **Respondent.**

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 and is represented in this matter by Kamala D. Harris, Attorney General of the State
24 of California, by Lori Jean Forcucci, Deputy Attorney General.

25 2. Respondent Wolfram Forster, M.D. (Respondent) has elected to represent himself in
26 the above-captioned matter, and has chosen not to exercise his right to be represented by legal
27 counsel at his own expense in this proceeding.

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1 CULPABILITY

2 8. 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 Accusation
4 No. 800-2014-004551, and agrees that he has thereby subjected his Physician's and Surgeon's
5 Certificate No. C 50765 to disciplinary action and hereby surrenders his Physician's and
6 Surgeon's Certificate No. C 50765 for the Board's formal acceptance.

7 9. Respondent further agrees that if he ever petitions for reinstatement of his Physician's
8 and Surgeon's Certificate No. C 50765, or if an accusation is filed against his before the Medical
9 Board of California, all of the charges and allegations contained in Accusation No. 800-2014-
10 004551 shall be deemed true, correct, and fully admitted by Respondent for purposes of any such
11 proceeding or any other licensing proceeding involving Respondent in the State of California or
12 elsewhere.

13 10. Respondent understands that by signing this stipulation he enables the Executive
14 Director of the Medical Board to issue an Order accepting the surrender of his Physician's and
15 Surgeon's Certificate No. C 50765, on behalf of the Board, without further notice to, or
16 opportunity to be heard by, Respondent.

17 CONTINGENCY

18 11. Business and Professions Code section 2224, subdivision (b), provides, in pertinent
19 part, that the Medical Board "shall delegate to its executive director the authority to adopt a . . .
20 stipulation for surrender of a license."

21 12. This Stipulated Surrender of License and Disciplinary Order shall be subject to
22 approval of the Executive Director on behalf of the Medical Board. The parties agree that this
23 Stipulated Surrender of License and Disciplinary Order shall be submitted to the Executive
24 Director for her consideration in the above-entitled matter and, further, that the Executive
25 Director shall have a reasonable period of time in which to consider and act on this Stipulated
26 Surrender of License and Disciplinary Order after receiving it. By signing this stipulation,
27 Respondent fully understands and agrees that he may not withdraw his agreement or seek to

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1 rescind this stipulation prior to the time the Executive Director, on behalf of the Medical Board,
2 considers and acts upon it.

3 13. The parties agree that this Stipulated Surrender of License and Disciplinary Order
4 shall be null and void and not binding upon the parties unless approved and adopted by the
5 Executive Director on behalf of the Board, except for this paragraph, which shall remain in full
6 force and effect. Respondent fully understands and agrees that in deciding whether or not to
7 approve and adopt this Stipulated Surrender of License and Disciplinary Order, the Executive
8 Director and/or the Board may receive oral and written communications from its staff and/or the
9 Attorney General's Office. Communications pursuant to this paragraph shall not disqualify the
10 Executive Director, the Board, any member thereof, and/or any other person from future
11 participation in this or any other matter affecting or involving respondent. In the event that the
12 Executive Director on behalf of the Board does not, in her discretion, approve and adopt this
13 Stipulated Surrender of License and Disciplinary Order, with the exception of this paragraph, it
14 shall not become effective, shall be of no evidentiary value whatsoever, and shall not be relied
15 upon or introduced in any disciplinary action by either party hereto. Respondent further agrees
16 that should this Stipulated Surrender of License and Disciplinary Order be rejected for any reason
17 by the Executive Director on behalf of the Board, Respondent will assert no claim that the
18 Executive Director, the Board, or any member thereof, was prejudiced by its/his/her review,
19 discussion and/or consideration of this Stipulated Surrender of License and Disciplinary Order or
20 of any matter or matters related hereto.

21 **ADDITIONAL PROVISIONS**

22 14. This Stipulated Surrender of License and Disciplinary Order is intended by the parties
23 herein to be an integrated writing representing the complete, final and exclusive embodiment of
24 the agreements of the parties in the above-entitled matter.

25 15. The parties agree that copies of this Stipulated Surrender of License and Disciplinary
26 Order, including copies of the signatures of the parties, may be used in lieu of original documents
27 and signatures and, further, that copies shall have the same force and effect as originals.

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ACCEPTANCE

I have carefully read the above Stipulated Surrender of License and Disciplinary Order. I fully understand the terms and conditions and other matters contained herein. I understand the stipulation and the effect it will have on my Physician's and Surgeon's Certificate No. C 50765. I enter into this Stipulated Surrender of License and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Disciplinary Order of the Medical Board.

DATED: 10-02-16 Wolfram R. Forster, MD
WOLFRAM FORSTER, M.D.
Respondent

ENDORSEMENT

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

Dated: 10.7.16

Respectfully submitted,
KAMALA D. HARRIS
Attorney General of California
ALEXANDRA M. ALVAREZ
Supervising Deputy Attorney General

Lori Jean Forcucci
LORI JEAN FORCUCCI
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 800-2014-004551

1 KAMALA D. HARRIS
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8 *Attorneys for Complainant*

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO August 26 20 16
BY D. Firdaus ANALYST

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

13 In the Matter of the Accusation Against:	Case No. 8002014004551
14 WOLFRAM R. FORSTER, M.D.	ACCUSATION
15 5540 Caminito Herminia La Jolla, CA 92037-7221	
16 Physician's and Surgeon's Certificate No. C 50765,	
17	
18 Respondent.	

19 Complainant alleges:

20 PARTIES

- 21 1. Kimberly Kirchmeyer (Complainant) brings this Accusation solely in her official
22 capacity as the Executive Director of the Medical Board of California.
- 23 2. On or about February 6, 2002, the Medical Board issued Physician's and Surgeon's
24 Certificate No. C 50765 to respondent Wolfram R. Forster, M.D. (Respondent). Physician's and
25 Surgeon's Certificate No. C 50765 was in full force and effect at all times relevant to the charges
26 brought herein and will expire on October 31, 2017, unless renewed.

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1 to exceed one year, placed on probation and required to pay the costs of probation
2 monitoring, be publically reprimanded, or have such other action taken in relation to
3 discipline as the Board deems proper.

4 7. Section 822 of the Code states:

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

9 "(a) Revoking the licentiate's certificate of license.

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

11 "(c) Placing the licentiate on probation.

12 "(d) Taking any other action in relation to the licentiate as the licensing agency
13 in its discretion deems proper.

14 "..."

15 8. Section 824 of the Code provides:

16 "The licensing agency may proceed against a licentiate under either Section
17 820, or 822, or under both sections."

18 9. Section 2234 of the Code states, in pertinent part:

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

22 "..."

23 "(b) Gross negligence.

24 "(c) Repeated negligent acts.

25 "(d) Incompetence.

26 "(e) The commission of any act involving dishonesty or corruption that is
27 substantially related to the qualifications, functions and duties of a physician and
28 surgeon.

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“...”

10. Section 725 of the Code states, in pertinent part:

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

“(b) ...

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

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

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

12. Section 2266 of the Code states, in pertinent part:

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

FIRST CAUSE FOR DISCIPLINE

(Gross Negligence)

13. Respondent has subjected his Physician’s and Surgeon’s Certificate No. C 50765 to discipline under sections 2227 and 2234, as defined by 2234, subdivision (b) of the Code, in that

1 he committed gross negligence in his care and treatment of patients R.W., S.W., A.H., J.V., M.R.,
2 D.Y. and V.B. as more particularly alleged hereinafter:

3 **Patient R.W.**

4 14. On or about November 13, 2013, patient R.W., a 23 year old male, first presented to
5 Respondent for reported chronic pain in his left wrist. Respondent noted that patient R.W. was in
6 excellent general health, that he had some pain in the left wrist, but no other deformity or
7 diminished range of motion.

8 15. On or about November 26, 2013, patient R.W. returned to see Respondent. Patient
9 R.W. did not enter into a pain management agreement with Respondent for prevention of
10 diversion. Respondent prescribed Oxycodone,¹ 20 mg 120 tablets, and Ambien,² 5 mg 30 tablets.

11 16. On or about December 18, 2013, patient R.W. returned to see Respondent.

12 (a) Respondent discontinued patient R.W.'s prescription of Ambien, but prescribed
13 Norco³ 7.5/325 three times per day, representing 22.5 mg MED⁴, for a total of 144.5 mg
14 MED per day. Respondent did not assess risks and/or benefits of diversion, discuss goals
15 and activities with patient R.W. or obtain informed consent based on such a discussion.
16 Patient R.W. provided a biological fluid sample of urine that tested positive for opioids, but
17 Respondent failed to clinically assess whether there was any relevance to patient R.W.'s
18 positive urinalysis test result.

19 ¹ Oxycodone is a Schedule II controlled substance pursuant to Health and Safety Code
20 section 11055, subdivision (b), and a dangerous drug pursuant to Business and Professions Code
21 section 4022. Oxycodone, 20 mg, taken four times per day, is equivalent to a 120 mg Morphine
Equivalent Dose (MED) [see footnote 4, below.]

22 ² Ambien is a brand name for zolpidem, a Schedule IV controlled substance pursuant to
23 Health and Safety Code section 11057, subdivision (d), and a dangerous drug pursuant to
Business and Professions Code section 4022.

24 ³ Norco (an opioid) is a brand name for acetaminophen and hydrocodone bitartrate, a
25 Schedule III controlled substance pursuant to Health and Safety Code section 11056, subdivision
(e), and a dangerous drug pursuant to Business and Professions Code section 4022.

26 ⁴ A MED is a numerical standard against which most opioids can be compared, yielding
27 an "apples to apples" comparison of each medication's potency. Morphine is used as the basis for
28 comparison because it is considered the gold standard for the treatment of pain. Knowing the
MED helps determine if the doses are excessive and is useful if converting from one opioid to
another.

1 (b) Respondent did not document patient R.W.'s medical records with a reason for
2 the addition of Norco. Respondent did not document a discussion of goals and activities, or
3 risks and/or benefits of treatment with prescribed medications in patient R.W.'s medical
4 records.

5 17. On or about January 15, 2014, patient R.W. returned to see Respondent.

6 (a) Respondent did not perform a physical examination of patient R.W., and did not
7 order a further urinalysis. Respondent renewed patient R.W.'s prescriptions.

8 (b) Respondent did not document a physical examination or an order for urinalysis in
9 patient R.W.'s medical records.

10 18. On or about February 12, 2014, patient R.W. returned to see Respondent.

11 (a) Respondent prescribed an increased amount of Norco for patient R.W., increasing
12 the prescription to 4 times per day, for a total MED of 152 mg per day.

13 (b) Respondent did not document a reason for the increased dosage of Norco in
14 patient R.W.'s medical records.

15 19. On or about March 13, 2014, patient R.W. returned to see Respondent. Respondent
16 noted a discussion regarding a reduction of patient R.W.'s Oxycodone, but patient R.W. resisted,
17 and Respondent renewed patient R.W.'s medications.

18 20. On or about April 11, 2014, patient R.W. returned to see Respondent.

19 (a) Respondent did not discuss diversion or other negative side effects of the
20 medications with patient R.W. Respondent renewed patient R.W.'s prescriptions.

21 (b) Respondent did not document a discussion regarding diversion or other negative
22 side effects of the medications in patient R.W.'s medical records.

23 21. On or about April 21, 2014, Respondent noted a telephone call with patient R.W.'s
24 mother, who was a physician in the State of Colorado. She stated that patient R.W. did not have
25 chronic pain, and expressed concern about the high dosage of opioids that patient R.W. was
26 receiving. Respondent asked patient R.W.'s mother if he could discuss her call with patient
27 R.W., instead of asking patient R.W. if he could discuss the patient's protected health information
28 with the patient's mother.

1 Patient S.W.

2 22. On or about January 24, 2013, patient S.W., a female, first presented to Respondent.

3 (a) Patient S.W.'s medical records included a form that reported intraductal breast
4 cancer, and irradiation had been scheduled. Previous doctor's visits indicated frequent low
5 back pain with an unknown etiology; frequent migraine headaches (for which she took
6 morphine sulfate, which was no longer effective); and previous treatment for anxiety.
7 Respondent did not perform a physical examination of patient S.W., assess risks and/or
8 benefits of diversion, discuss goals and activities her, or obtain informed consent based on
9 such a discussion, order a urinalysis test, assess her for diversion, or check the Controlled
10 Substance Utilization Review and Evaluation System (CURES). Respondent prescribed
11 Dilaudid 8 mg 60 tablets,⁵ Xanax 2/5 mg 45 tablets,⁶ and Paxil (paroxetine) 20 mg 30
12 tablets.⁷

13 (b) Respondent did not document a physical examination, a discussion of risks and/or
14 benefits of diversion, goals and activities, or informed consent based on such a discussion,
15 assess for diversion, order a urinalysis or a CURES report, in patient S.W.'s medical
16 records.

17 23. On or about February 8, 2013, patient S.W. returned to see Respondent.

18 (a) Respondent did not perform a physical examination of patient S.W. She reported
19 that the Dilaudid was working well, but she could not tolerate Xanax. Respondent

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23 _____
24 ⁵ Dilaudid (an opioid) is a brand name for hydromorphone, is a Schedule II controlled
25 substance pursuant to Health and Safety Code section 11055, subdivision (b), and a dangerous
drug pursuant to Business and Professions Code section 4022.

26 ⁶ Xanax (alprazolam) of the benzodiazepine class is a brand name for alprazolam, a
27 Schedule IV controlled substance pursuant to Health and Safety Code section 11057, subdivision
(d), and a dangerous drug pursuant to Business and Professions Code section 4022.

28 ⁷ Paxil (paroxetine) is an antidepressant, a selective serotonin reuptake inhibitor (SSRI).

1 prescribed Klonopin (clonazepam),⁸ increased Dilaudid 8 mg to 120 tablets, and increased
2 Paxil (paroxetine) 20 mg to 60 tablets. Respondent did not order a urinalysis test or assess
3 patient S.W. for diversion.

4 (b) Respondent did not document a urinalysis test or assessment for diversion in
5 patient S.W.'s medical records.

6 24. On or about March 8, 2013, patient S.W. returned to see Respondent.

7 (a) Patient S.W. reported that the Dilaudid did not last long enough. Respondent
8 prescribed Oxycodone HCL 30 mg 120 tablets, and clonazepam 0.5 mg 90 tablets.
9 Respondent documented that because Medi-Cal does not pay for more than 90 tablets, he
10 wrote two prescriptions. Respondent did not discuss the risks and/or benefits of mixing
11 benzodiazepines with high dose opioids, obtain informed consent, order a urinalysis test, or
12 assess patient S.W. for diversion.

13 (b) Respondent did not document the reason for increasing patient S.W.'s dosage of
14 opiates. did not document an order for a urinalysis test, or assessment for diversion in
15 patient S.W.'s medical records.

16 25. On or about April 3, 2013, patient S.W. returned to see Respondent.

17 (a) Respondent did not perform a physical examination of patient S.W., did not order
18 a urinalysis test, or assess her for diversion. Respondent renewed patient S.W.'s
19 prescriptions.

20 (b) Respondent did not document an order for a urinalysis test or assessment for
21 diversion in patient S.W.'s medical records.

22 26. On or about May 1, 2013, patient S.W. returned to see Respondent.

23 (a) Respondent changed patient S.W.'s Paxil prescription to Effexor 2.5 mg 30
24 tablets,⁹ at the request of the patient's oncologist, and renewed her prescriptions of

25
26 ⁸ Klonopin (clonazepam), a benzodiazepine, is a Schedule IV controlled substance
27 pursuant to Health and Safety Code section 11057, subdivision (d), and a dangerous drug
pursuant to Business and Professions Code section 4022.

28 ⁹ Effexor is an antidepressant, a selective serotonin and norepinephrine reuptake inhibitor.

1 Oxycodone 30 mg 90 tablets, and clonazepam 0.5 mg 90 tablets. Respondent did not order
2 a urinalysis test on patient S.W. or assess her for diversion.

3 (b) Respondent did not document a urinalysis test or assessment for diversion in
4 patient S.W.'s medical records.

5 27. On or about May 29, 2013, patient S.W. returned to see Respondent.

6 (a) Respondent renewed patient S.W.'s prescriptions, including clonazepam
7 (Klonopin) 0.5 mg 90 tablets, and Oxycodone 30 mg 30 tablets plus a second prescription
8 for 30 mg 90 tablets, and Effexor 25 mg 30 tablets. Patient S.W. signed a pain management
9 contract with Respondent. Respondent did not order a urinalysis test on patient S.W. or
10 assess her for diversion.

11 (b) Respondent did not document a urinalysis test or assessment for diversion in
12 patient S.W.'s medical records.

13 28. On or about June 26, 2013, patient S.W. returned to see Respondent.

14 (a) A note indicated that patient S.W.'s oncologist was concerned about patient
15 S.W.'s blood pressure and tachycardia and that she was scheduled for an EKG and
16 echocardiogram. Respondent performed no heart or lung examination on patient S.W., did
17 not order a urinalysis test on patient S.W. or assess her for diversion. Respondent renewed
18 patient S.W.'s prescriptions.

19 (b) Respondent documented no physical examination, no urinalysis test or
20 assessment for diversion in patient S.W.'s medical records.

21 29. On or about July 23, 2013, patient S.W. returned to see Respondent.

22 (a) Respondent did not order a urinalysis test on patient S.W. or assess her for
23 diversion. Respondent renewed patient S.W.'s medication prescriptions.

24 (b) Respondent did not document a urinalysis test or assessment for diversion in
25 patient S.W.'s medical records.

26 30. On or about August 8, 2013, patient S.W. returned to see Respondent. Respondent
27 noted that patient S.W. would be out of town at the time that her medications would be renewed.
28 He noted he would renew the prescription in seven days.

1 31. On or about August 27, 2013, patient S.W. returned to see Respondent. Respondent
2 renewed her prescriptions.

3 32. On or about September 25, 2013, patient S.W. returned to see Respondent.

4 (a) Respondent prescribed Prozac 20 mg 30 tablets, to patient S.W. because Effexor
5 was no longer covered by insurance. Respondent renewed prescriptions for Oxycodone 30
6 mg 120 tablets, and Klonopin (clonazepam) 1.0 mg 90 tablets. Respondent did not order a
7 urinalysis test on patient S.W. or assess her for diversion.

8 (b) Respondent did not document a urinalysis test or assessment for diversion in
9 patient S.W.'s medical records.

10 33. On or about October 23, 2013, patient S.W. returned to see Respondent.

11 (a) Respondent prescribed Prozac 20 mg 30 tablets, Klonopin (clonazepam) 1.0 mg
12 90 tablets, and increased the Oxycodone 30 mg to 150 tablets.¹⁰ Respondent did not order a
13 urinalysis test on patient S.W. or assess her for diversion.

14 (b) Respondent did not document a urinalysis test or assessment for diversion in
15 patient S.W.'s medical records.

16 34. On or about November 20, 2013, patient S.W. returned to see Respondent.

17 (a) Patient S.W. complained of "really bad" knee pain, which Respondent
18 documented as early arthritic changes. Respondent performed no physical examination on
19 patient S.W.'s knees, did not refer her for imaging, and did not refer her to a subspecialist
20 for her complaints of pain. Respondent documented he renewed prescriptions for
21 Oxycodone 30 mg 90 tablets, however Respondent wrote patient S.W. an additional
22 prescription, for Oxycodone 30 mg 60 tablets. He renewed her prescriptions for
23 clonazepam (Klonopin) 1.0 mg 90 tablets, and Prozac 20 mg 30 tablets.¹¹ Respondent did
24 not order a urinalysis test on patient S.W. or assess her for diversion.

25
26 ¹⁰ Oxycodone 30 mg was prescribed in two prescriptions: one for 90 tablets documented
to be paid by insurance, and one for 60 tablets documented to be paid by cash.

27 ¹¹ Prozac (fluoxetine) is a selective serotonin reuptake inhibitor.
28

1 (b) Respondent did not document a physical examination of patient S.W.'s knee,
2 document referrals to imaging or to a specialist, did not document an order for urinalysis,
3 assessment for diversion, or document his prescription of an additional 60 Oxycodone
4 tablets in patient S.W.'s medical records.

5 35. On or about January 15, 2014, patient S.W. returned to see Respondent.

6 (a) Patient S.W. complained of continuous pain at a level six, and was "doing better."
7 Respondent noted that patient S.W. looked well, noted her as stable, but with increased
8 anxiety. Respondent discontinued Prozac and substituted Effexor XR 37.5 mg 30 tablets
9 renewed the other prescriptions, but did not refer patient S.W. to a psychiatrist for further
10 work up, or to a subspecialist for her complaints of pain. Respondent did not order a
11 urinalysis test or assess patient S.W. for diversion.

12 (b) Respondent wrote patient S.W. an additional prescription for Oxycodone 30 mg
13 60 tablets, which he did not document in her medical records. Respondent did not
14 document the reason he discontinued Prozac and replaced it with Effexor, did not document
15 a referral for a psychiatric work up, a referral to a subspecialist for pain, an order for a
16 urinalysis test, or assessment for diversion in patient S.W.'s medical records.

17 36. On or about February 12, 2014, patient S.W. returned to see Respondent.

18 (a) Respondent noted that he would discontinue Effexor because patient S.W. was
19 experiencing nausea, and prescribe Valium¹² 5 mg 30 tablets. He prescribed Clonopin (*sic*)
20 [Klonopin] and Oxycodone.

21 (b) Respondent noted that he advised patient S.W. to take Oxycontin and Valium one
22 to two hours apart, without documenting that he explained the reason for doing so.¹³

23 37. On or about February 26, 2014, Respondent ran his first CURES to determine patient
24 S.W.'s compliance with refilling of medications.

25 ¹² Valium (diazepam) (a benzodiazepine) is a Schedule IV controlled substance pursuant
26 to Health and Safety Code section 11057, subdivision (d), and a dangerous drug pursuant to
Business and Professions Code section 4022.

27 ¹³ Valium and Klonopin (Clonazepam) are both benzodiazepine medications, and taken
28 together with oxycodone can produce respiratory failure.

1 38. On or about March 13, 2014, patient S.W. returned to see Respondent.

2 (a) Patient S.W. complained of pain from her ankles up to her low back. Respondent
3 did not perform an examination of patient S.W.'s feet, legs and low back, and advised her
4 that she had "early arthritis," that her knees were locked, "a possible side effect."
5 Respondent prescribed Oxycodone 30 mg 120 tablets, Klonopin 1.0 mg 90 tablets, and
6 Valium 5 mg 30 tablets. Respondent failed to discuss the physical side effects and risks of
7 combining the two benzodiazepines with an opioid drug with patient S.W. Respondent did
8 not obtain and/or refer patient S.W. to a subspecialist for her complaints of pain.
9 Respondent did not order a urinalysis or assess her for diversion.

10 (b) No adequate physical examination, urinalysis test or assessment for diversion was
11 recorded in patient S.W.'s medical records.

12 39. On or about April 10, 2014, patient S.W. returned to see Respondent.

13 (a) Patient S.W. complained of pain in both ankles, knees and in her upper right arm,
14 shoulder, and lower back. She reported that she had fallen. Respondent noted no fracture,
15 no dislocation and no limitation of motion, but did not order imaging or order a referral for
16 continuing pain. Respondent increased patient S.W.'s prescription of Oxycodone 30 mg to
17 150 tablets, and Valium 5 mg 30 tablets, and Klonopin 1.0 mg 90 tablets, were co-
18 prescribed. Respondent did not order a urinalysis or assess her for diversion.

19 (b) No urinalysis test or assessment for diversion was recorded in patient S.W.'s
20 medical records.

21 40. On or about May 8, 2014, patient S.W. returned to see Respondent.

22 (a) Patient S.W. reported feeling worse during long durations of sitting. Respondent
23 did not perform a physical examination on patient S.W., and renewed her prescriptions.

24 (b) Respondent did not document a physical examination of patient S.W. in her
25 medical records.

26 41. On or about June 5, 2014, patient S.W. returned to see Respondent and he renewed
27 prescriptions of Oxycodone 30 mg 150 tablets, and Valium 5 mg 30 tablets and Klonopin 1.0 mg
28 90 tablets.

1 42. On or about June 27, 2014, patient S.W. returned to see Respondent.

2 (a) Patient S.W. reported to the medical assistant that she continued to experience
3 pain "everywhere." Respondent did not make a written acknowledgment of patient S.W.'s
4 complaint, or perform a physical examination. Respondent failed to obtain and/or refer
5 patient S.W. to a subspecialist for her complaints of pain. Respondent did not order a
6 urinalysis test on patient S.W. or assess her for diversion. Respondent renewed
7 prescriptions for Oxycodone 30 mg 60 tablets, and Valium 5 mg 15 tablets and Klonopin
8 1.0 mg 36 tablets.

9 (b) No urinalysis test or assessment for diversion was recorded in patient S.W.'s
10 medical records.

11 43. On or about July 14, 2014, patient S.W. returned to see Respondent.

12 (a) Patient S.W. reported she continued to experience pain "everywhere."
13 Respondent renewed her prescriptions for Oxycodone 30 mg 150 tablets, Valium 5 mg 30
14 tablets, and Klonopin 1 mg 90 tablets. Respondent did not advise patient S.W. that Valium
15 and Klonopin (Clonazepam) are both benzodiazepine medications, and taken together with
16 Oxycodone can produce respiratory failure and did not obtain and/or refer her to a
17 subspecialist. Respondent did not clinically integrate patient S.W.'s complaints with a plan
18 to renew her prescriptions. Respondent did not order a urinalysis test on patient S.W. or
19 assess her for diversion.

20 (b) Respondent documented no discussion of medication combinations, referral,
21 urinalysis test or assessment for diversion in patient S.W.'s medical records.

22 44. On or about August 12, 2014, September 9, 2014, and October 7, 2014, Respondent
23 returned to see Respondent, complaining of increasing pain at each visit.

24 (a) Respondent renewed her prescriptions for Oxycodone 30 mg 150 tablets, Valium
25 5 mg 30 tablets, and Klonopin 1 mg 90 tablets.

26 (b) Respondent did not document a referral to any specialist in patient S.W.'s
27 medical records.

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1 45. On or about November 4, 2014, patient S.W. returned to see Respondent.

2 (a) Patient S.W. complained of pain in her knees, hips and all of her back, and stated
3 she did not sleep well due to personal problems. She did not want to discuss her anxiety.
4 Respondent did not refer patient S.W. to a psychiatrist, or a subspecialist for her complaints
5 of pain, and no further work up of patient S.W.'s pain was ordered. Respondent did not
6 order a urinalysis test on patient S.W. or assess her for diversion.

7 (b) Respondent did not document a urinalysis test, or assessment for diversion in
8 patient S.W.'s medical records.

9 **Patient A.H.**

10 46. On or about April 29, 2013, patient A.H., a male, first presented to Respondent.

11 (a) A prior medical record showed a history of chronic myelocytic leukemia¹⁴ from
12 September 3, 2012, and that patient A.H. was under the care of an oncologist. Patient
13 A.H.'s medical records did not reflect whether his pain resulted from his leukemia. Patient
14 A.H. had episodes of bilateral kidney stones, and took Oxycodone for pain until he lost
15 insurance coverage. Respondent prescribed a 15 day prescription of Oxycodone 30 mg 120
16 tablets, Percocet¹⁵ 7.5/325 120 tablets, and Xanax 2 mg 30 tablets. Patient A.H.'s MED
17 dosage exceeded 200 mg, but Respondent had no discussion regarding the risks, benefits,
18 and alternatives to an opiate regimen with benzodiazepines and did not obtain the patient's
19 informed consent. Respondent did not order a urinalysis on patient A.H., did not run a
20 CURES report, and did not evaluate patient A.H. for diversion or addiction. Respondent
21 and patient A.H. did not enter into a pain management agreement.

22 (b) Respondent did not document a discussion regarding the risks, benefits, and
23 alternatives to an opiate regimen or document an order for a urinalysis test or assessment
24 for diversion in patient A.H.'s medical records.

25 ¹⁴ Chronic myelocytic myelogenous leukemia is a type of cancer that starts in certain
26 blood-forming cells of the bone marrow.

27 ¹⁵ Percocet is a brand name for oxycodone and acetaminophen, a Schedule II controlled
28 substance pursuant to Health and Safety Code section 11055, subdivision (b), and a dangerous
drug pursuant to Business and Professions Code section 4022.

1 47. On or about May 5, 2013, patient A.H. procured a prescription from another
2 medical provider for Percocet 10/325.

3 48. On or about May 13, 2013, May 31, 2013, June 10, 2013, July 15, 2013 and August
4 21, 2013, patient A.H. returned to see Respondent.

5 (a) From on or about May 13, 2013, through August 21, 2013, Respondent did not
6 perform adequate history and physicals, or adequately assess patient A.H. for effectiveness
7 of treatment. He did not refer patient AH to a subspecialist, order a urinalysis, run a
8 CURES report, or adequately evaluate patient A.H. for diversion or addiction.

9 (b) No urinalysis test, CURES report, assessment for diversion or referral to a
10 subspecialist was recorded in Patient A.H.'s medical records.

11 49. On or about September 9, 2013, Respondent became aware that on September 7,
12 2013, patient A.H. was seen in the Sharp Grossmont Hospital's Emergency Room, where he was
13 assessed as having amnesia and displaying drug seeking behavior. Respondent noted that patient
14 A.H. left the hospital without medical authorization, that Ambien caused sleepwalking, and that
15 patient A.H. cannot be prescribed more medications until September 19, 2013. Respondent
16 further documented that patient A.H. was "upset!" but failed to address behavioral warning signs
17 for possible diversion and/or addiction.

18 (a) On or about September 10, 2013, nine days before Respondent's previously
19 imposed refill deadline, patient A.H. returned to see Respondent. Respondent wrote patient
20 A.H. prescriptions for 100 mg 120 tablets of Tramadol¹⁶, and 350 mg 120 tablets of Soma.
21 Respondent did not order a urinalysis, run a CURES report, or evaluate patient A.H. for
22 diversion and/or addiction. No discussion about patient A.H.'s drug seeking behavior was
23 recorded in the medical record, and no urinalysis test, CURES report, assessment for
24 diversion or referral to a subspecialist was recorded in the medical records.

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27 ¹⁶ Tramadol is a narcotic-like pain reliever. It is used to treat moderate to severe pain. In
28 2013, it was not a controlled substance. It was placed into Schedule IV of the Controlled
Substances Act (CSA) effective August 18, 2014.

1 (b) On or about September 18, 2013, one day before Respondent's previously
2 imposed refill deadline, patient A.H. returned to see Respondent. Respondent increased
3 patient A.H.'s dosage of Oxycodone, 60 mg six times per day (480 MED equivalents), and
4 added prescription for Tizanidine.¹⁷ Respondent failed to adequately address the reason for
5 the increase in the dosage of Oxycodone, and stated that Tizanidine was given as a
6 replacement of Soma. Respondent did not order a urinalysis, run a CURES report, or
7 adequately evaluate patient A.H. for diversion and/or addiction. No discussion about
8 patient A.H.'s drug seeking behavior, no urinalysis test, CURES report, assessment for
9 diversion or referral to a subspecialist was recorded in the medical records.

10 50. On or about October 15, 2013, patient A.H. returned to see Respondent. Notes
11 written by a medical assistant stated: "try 20/30 mg methadone in pain now is number eight
12 doesn't last enough!" Respondent wrote, "Oxycodone change to five times per day every two
13 weeks, 300 total amount decreased 60 pills a month try Oxycontin and see if his insurance will
14 cover it." Respondent failed to address behavioral warning signs for possible diversion and/or
15 addiction with patient A.H. and continued to prescribe significant amounts of Oxycodone for
16 patient A.H.

17 51. On or about December 8, 2013, patient A.H. returned to see Respondent.

18 (a) Patient A.H. requested a replacement prescription from Respondent reporting that
19 his medications had accidentally been "washed" by his fiancé.¹⁸ Respondent failed to address
20 behavioral warning signs for possible diversion and/or addiction with patient A.H. and
21 continued to prescribe significant amounts of Oxycodone for patient A.H.

22 (b) Respondent did not document addressing addiction or diversion of medication in
23 patient A.H.'s record.

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26 ¹⁷ Tizanidine is a short-acting muscle relaxer.

27 ¹⁸ Patient A.H. provided a notarized letter regarding the washing of the medicine.
28

1 52. On or about December 16, 2013, patient A.H. returned to see Respondent.
2 Respondent noted that patient A.H.'s insurance company denied the prescriptions for Oxycontin,
3 and Respondent wrote two prescriptions for Oxycodone, for 150 tablets, continuing to prescribe
4 significant amounts of Oxycodone for patient A.H.

5 **Patient J.V.**

6 53. On or about January 10, 2013, patient J.V., a male, first presented to Respondent.

7 (a) The patient intake form reports that patient J.V. had previously been involved in a
8 motor vehicle accident and took Oxycodone 10 mg 4 to 5 times per day. The form included
9 a letter dated August 30, 2013, that referred to a motor vehicle accident, an illegible photo
10 copy of a pill bottle, and photograph of a damaged motor vehicle. Respondent prescribed
11 Oxycodone HCL 30 mg 150 tablets.

12 (b) Respondent did not document his prescription of Oxycodone in patient J.V.'s
13 medical records.¹⁹

14 54. On or about February 6, 2013, patient J.V. returned to see Respondent.

15 (a) Respondent noted that patient J.V.'s regimen with Percocet had been "very
16 successful." Respondent did not make a formal diagnosis of patient J.V.'s medical issues.
17 An unsigned and undated pain management agreement showed patient J.V. was taking
18 Oxycodone, Norco, and Baclofen,²⁰ and it advised physical therapy. Respondent prescribed
19 Percocet 10/325 150 tablets. Respondent did not assess the risks and/or benefits of
20 treatment with the prescribed medicines with patient J.V., or obtain informed consent
21 regarding the risks and/or benefits of the drug regimen.

22 (b) Respondent did not document a formal diagnosis of patient J.V.'s medical issues
23 in his medical records.

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26 ¹⁹ The prescription of Oxycodone appeared in a CURES report in patient J.V.'s file,
27 printed on June 26, 2013.

28 ²⁰ Baclofen is a muscle relaxer and an antispastic agent.

1 55. On or about February 13, 2013, patient J.V. returned to see Respondent.

2 (a) Patient J.V. complained of severe gastrointestinal upset from Percocet.

3 Respondent did not make a formal diagnosis of patient J.V.'s medical issues. However,
4 Percocet was discontinued and APAP Oxycodone 30 mg 150 tablets was prescribed. The
5 prescription of Oxycodone represented a 300% increase in daily dosing.

6 (b) Respondent did not document patient J.V.'s medical records with an adequate
7 rationale for the 300% increase in daily dosing, and did not document a formal diagnosis of
8 patient J.V.'s medical issues in the medical records.

9 56. On or about March 4, 2013, patient J.V. returned to see Respondent.

10 (a) Patient J.V. reported a whiplash injury with neck pain, but he was doing well with
11 the increased dose of Oxycodone. Respondent did not make a formal diagnosis of patient
12 J.V.'s medical issues. Respondent refilled patient J.V.'s prescriptions.

13 (b) Respondent did not document a formal diagnosis of patient J.V.'s medical issues
14 in his medical records.

15 57. On or about April 5, 2013, patient J.V. returned to see Respondent.

16 (a) Respondent did not perform a physical examination of patient J.V., or make a
17 formal diagnosis of his medical issues. Respondent prescribed Oxycodone 30 mg 150
18 tablets, and Norco 10/325 120 tablets, which represented a 400% MED increase in dosage
19 in the last three months, to 250 MED mg per day, without justification.

20 (b) Respondent did not document a rationale or justification for the increased dosage
21 in patient J.V.'s medical records and no physical examination, or formal diagnosis of
22 medical issues was recorded in patient J.V.'s medical records.

23 58. On or about May 8, 2013, patient J.V. returned to see Respondent.

24 (a) An MRI of the cervical spine had been performed, demonstrating minimal
25 degenerative changes, straightening of the normal lordosis, without nerve root
26 impingement, or spinal cord deformity. No physical examination was performed.

27 Respondent made no formal diagnosis of patient J.V.'s medical issues. Respondent did not
28 advise patient J.V. to use heat and ice, or non-steroidal anti-inflammatory medications for

1 his injury, and did not refer him to physical therapy, interventional pain management, or to
2 psychological counseling. Respondent prescribed Oxycodone 30 mg 120 tablets, Norco
3 10.325 120 tablets, and added a prescription for Baclofen 10 mg 90 tablets.

4 (b) Respondent did not document a physical examination, a formal diagnosis, advice
5 to use heat and ice, or non-steroidal anti-inflammatory medications, or a referral to any
6 specialist in patient J.V.'s medical records.

7 59. On or about June 26, 2013, patient J.V. returned to see Respondent.

8 (a) No physical examination was performed. Respondent noted a "urine test for
9 opioids." Respondent did not make a formal diagnosis of patient J.V.'s medical issues. He
10 refilled patient J.V.'s prescriptions for Oxycodone and Norco.

11 (b) No test results and no formal diagnosis of medical issues were recorded in patient
12 J.V.'s medical records.

13 60. On or about July 23, 2013, patient J.V. returned to see Respondent.

14 (a) Patient J.V. reported that he lost the urinalysis referral slip, so no urinalysis test
15 had been obtained. Respondent failed to assess whether there was any clinical relevance to
16 the patient's reluctance to provide a urinalysis sample. No physical examination of patient
17 J.V.'s spine was performed. Respondent neither made, nor recorded, a formal diagnosis of
18 patient J.V.'s medical issues. Respondent refilled patient J.V.'s prescriptions.

19 (b) Respondent did not document a physical examination or formal diagnosis in
20 patient J.V.'s medical records.

21 61. On or about September 16, 2013, patient J.V. returned to see Respondent.

22 (a) No physical examination of patient J.V. was performed, and Respondent noted
23 that "physical therapy with yoga" was painful, and patient J.V. had a "hard time to un-
24 wind" and "needed to relax." Respondent did not make a formal diagnosis of patient J.V.'s
25 medical issues. Respondent prescribed Oxycodone 30 mg 150 tablets, Soma 350 mg 30
26 tablets, and Norco 10/325 90 tablets.

27 (b) Respondent did not document a physical examination or formal diagnosis in
28 patient J.V.'s medical records.

1 62. On or about October 16, 2013, November 13, 2013²¹, November 22, 2013, December
2 20, 2013, patient J.V. returned to see Respondent.

3 (a) Medical records dated on or December 20, 2013, reflected neck and back pain at
4 a level seven. A physical examination was performed. Respondent neither made, nor
5 recorded, a formal diagnosis of patient J.V.'s medical issues. A test result showed positive
6 for opioids. Respondent failed to clinically assess whether there was any relevance to
7 patient J.V.'s positive urinalysis test. Respondent prescribed Oxycodone 30 mg 150 tablets,
8 Soma 350 mg 30 tablets, and Norco 10/325 60 tablets.

9 (b) Respondent documented a positive test result for opioids, however no formal
10 laboratory reports appeared in patient JV's medical records. Respondent did not document
11 the existence of a waiver for in-office urine testing.

12 63. On or about January 17, 2014, patient J.V. returned to see Respondent.

13 (a) No physical examination of patient J.V. was performed. Patient J.V.'s neck pain
14 was at a level eight, and he "refused reduction to Oxy 20 mg." Respondent did not make a
15 formal diagnosis of patient J.V.'s medical issues. Respondent prescribed Oxycodone 30
16 mg, but reduced the number of tablets to 120 tablets. He did not discuss the risks and/or
17 benefits of the prescribed drug regimen, and did not obtain informed consent for the drug
18 regimen. Respondent also noted that patient J.V. was given a list of pain management
19 addiction specialists to consult.

20 (b) Patient J.V.'s medical records do not document a physical examination, a formal
21 diagnosis, a discussion of risks and/or benefits of the prescribed drug regimen, and
22 informed consent regarding risks and/or benefits, the reasons why the addiction specialist
23 list was provided to the patient, or a follow up on the question of patient J.V.'s possible
24 diversion or addiction.

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27 ²¹ On November 13, 2013, Respondent prepared a medical record for patient J.V., but on
28 a later page, noted that he had failed to appear for his appointment and would be charged a failed
appointment fee.

1 64. On or about February 20, 2014, and April 11, 2014, patient J.V. returned to see
2 Respondent and prescriptions were refilled.

3 65. On or about June 6, 2014, patient J.V. returned to see Respondent.

4 (a) Patient J.V. reported chronic pain from his neck to his low back, and inability to
5 sleep. Respondent did not make a formal diagnosis of patient J.V.'s medical issues.

6 Respondent prescribed Oxycodone, Soma and Norco.

7 (b) Respondent recorded no formal diagnosis, no information concerning the pain
8 management addiction specialists, or why the list was originally provided to patient J.V.
9 Respondent did not document a follow up on the question of patient J.V.'s possible
10 addiction.

11 66. On or about July 17, 2014, patient J.V. failed to appear for a scheduled appointment
12 with Respondent. On or about August 20, 2014, Respondent prescribed Oxycodone 30 mg 150
13 tablets, and Norco 10/325 90 tablets.

14 Patient M.R.

15 67. On or about August 14, 2012, patient M.R., a male, first presented to Respondent.

16 (a) Patient M.R. presented with a history of right wrist pain related to a 2007
17 fracture, resulting in an open reduction internal fixation, a small fracture line, mild
18 scoliosis, proximal pole of the scaphoid²² and a small cystic change in his right wrist.
19 Surgery occurred in 2008. Patient M.R. reported that he had been recently diagnosed with
20 Hepatitis C, he was taking Lortab 10 mg 150 tablets per month, and used marijuana.
21 Respondent did not have a discussion with patient M.R. regarding his marijuana use.
22 Respondent prescribed Oxycodone 10 mg 30 tablets, as needed, and Oxycontin 10 mg 60
23 tablets. Respondent did not perform a comprehensive initial history and physical
24 examination on patient M.R., or enter into a pain management agreement with him.²³

25
26 ²² A scaphoid fracture is a break in one of the small bones of the wrist. This type of
fracture occurs most often after a fall onto an outstretched hand.

27 ²³ On May 20, 2013, a pain management agreement was entered.
28

1 Respondent did not order a baseline urinalysis, and did not discuss the risks and/or benefits
2 of the use of opioid prescription drugs with patient M.R.

3 (b) Respondent did not document performance of a comprehensive initial history and
4 physical examination; discussion of patient M.R.'s possession or non-possession of a
5 medical marijuana recommendation; pain management agreement terms; an order of a
6 baseline urinalysis; or a discussion of the risks and/or benefits of the use of opioid
7 prescription drugs in patient M.R.'s medical records.

8 68. On or about October 8, 2012, patient M.R. returned to see Respondent. Patient
9 M.R.'s health insurance declined his prescription of Oxycontin. Respondent prescribed MS
10 Contin²⁴ ER 30 mg 60 tablets, with one refill, and Oxycodone 20 mg immediate relief, 60 tablets.

11 69. On or about November 5, 2012, patient M.R. returned to see Respondent.

12 (a) Respondent did not perform a physical examination of patient M.R.'s right wrist.
13 Respondent recorded that patient M.R. was doing "very well after adjustment."
14 Respondent prescribed MS Contin 30 mg 60 tablets, and Oxycodone immediate release 20
15 mg 60 tablets.

16 (b) Respondent did not document a physical examination of patient M.R.'s right
17 wrist in his medical records.

18 70. On or about December 3, 2012, patient M.R. returned to see Respondent.

19 (a) Respondent did not perform a physical examination of patient M.R. and
20 prescribed MS Contin 30 mg 60 tablets, and increased his dosage of Oxycodone from 20
21 mg 60 tablets to 90 tablets, because patient M.R. reported waking up with pain.

22 Respondent did not discuss the possibility that patient M.R. was developing hyperalgesia.²⁵

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26 ²⁴ MS Contin (morphine) is an opioid pain medication.

27 ²⁵ Opioid-induced hyperalgesia is a state of nociceptive sensitization caused by exposure
28 to opioids. The condition is characterized by a paradoxical response whereby a patient receiving
opioids for the treatment of pain could actually become more sensitive to certain painful stimuli.

1 (b) Respondent did not document any physical examination of patient M.R. in his
2 medical records, or document patient M.R.'s medical records for a discussion of the
3 possibility of developing hyperalgesia.

4 71. On or about December 31, 2012, patient M.R. returned to see Respondent.

5 (a) Respondent did not perform a physical examination of patient M.R., but noted
6 that a form was signed to document a pre-existing condition in patient M.R., and "certified"
7 that patient M.R. had chronic hepatitis C, viral infection, and chronic pain. Respondent
8 prescribed MS Contin 30 mg 60 tablets and Oxycodone from 20 mg 90 tablets.

9 (b) Respondent did not document test results verifying hepatitis C, or document a
10 physical examination of patient M.R. in his medical records.

11 72. On or about January 28, 2013, patient M.R. returned to see Respondent.

12 (a) Respondent did not perform a physical examination, assess patient M.R. for
13 diversion, for side effects, for effectiveness, order a urinalysis, or run a CURES report.
14 Respondent noted that the present regimen appeared satisfactory, that medications would be
15 refilled, and increased patient M.R.'s prescription for Oxycodone from 20 mg to 30 mg 90
16 tablets, and refilled his prescription for MS Oxycontin 30 mg 60 tablets.

17 (b) Respondent did not document a physical examination, assessment for diversion,
18 side effects, or effectiveness, order a urinalysis, a CURES report, or document the reason
19 for his increased prescription of Oxycodone in patient M.R.'s medical records.

20 73. On or about February 25, 2013, patient M.R. returned to see Respondent.

21 (a) Respondent did not perform a physical examination on patient M.R.'s right wrist,
22 and refilled patient M.R.'s previous prescriptions.

23 (b) Respondent did not document a physical examination of patient M.R.'s right
24 wrist in his medical records.

25 74. On or about March 25, 2013, patient M.R. returned to see Respondent. He did not
26 perform a physical examination on patient M.R.'s right wrist, and refilled patient M.R.'s
27 prescriptions.

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1 75. On or about April 9, 2013, Respondent received a positive urinalysis report regarding
2 patient M.R., showing positive results for marijuana and opiates.

3 (a) Respondent did not order further qualitative testing of patient M.R.

4 (b) Respondent did not document an order for further testing in patient M.R.'s
5 medical records.

6 76. On or about April 22, 2013, patient M.R. returned to see Respondent. Respondent
7 refilled patient M.R.'s previous prescriptions.

8 77. On or about May 20, 2013, patient M.R. returned to see Respondent.

9 (a) Respondent increased patient M.R.'s prescription of Oxycontin 10 mg to
10 Oxycontin 30 mg and added Ambien 3.5 mg 30 tablets. Respondent did not discuss the
11 possible interactions of these prescribed substances, or the potentially dangerous
12 combination of benzodiazepines and opioids, or sustained release opioids with patient M.R.
13 Patient M.R. signed a pain management agreement.

14 (b) Respondent did not document a discussion of the interactions of these prescribed
15 substances, or a discussion of the prior urinalysis test result.

16 78. On or about June 17, 2013, patient M.R. returned to see Respondent.

17 (a) Respondent did not assess patient M.R. for diversion, side effects, or
18 effectiveness, did not order another urinalysis, or run a CURES report. Respondent did not
19 discuss the possible interactions of the prescribed substances, or discuss his prior positive
20 urinalysis test with patient M.R. Respondent changed patient M.R.'s prescription to
21 prescribe Klonopin 1 mg 30 tablets, and discontinued Ambien. He renewed prescriptions
22 of MS Contin 30 mg 60 tablets, and Oxycodone 30 mg 90 tablets.

23 (b) Respondent did not document an assessment of patient M.R. for diversion, side
24 effects, or effectiveness, or document orders for another urinalysis test, or CURES report.
25 Respondent did not document a discussion of prescribed drug interactions or the positive
26 urinalysis test result with patient M.R.

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79. On or about July 16, 2013, patient M.R. returned to see Respondent.

(a) Respondent did not perform a physical examination of patient M.R.'s right wrist. Respondent reinstated patient M.R.'s prescription for Ambien, increasing the dosage to 5 mg 30 tablets, and renewed his prescriptions for MS Contin 30 mg 60 tablets, and Oxycodone 30 mg 90 tablets.

(b) Respondent did not document a physical examination of patient M.R.'s right wrist, or the reason for the change in patient M.R.'s medications in his medical records.

80. On or about August 13, 2013, patient M.R. returned to see Respondent.

(a) Respondent did not perform a physical examination of patient M.R.'s right wrist, but wrote that he would taper down patient M.R.'s "Oxy 30" to "Oxy 20" with "no change in number," and prescribed MS Contin 30 mg 60 tablets, and Oxycodone 20 mg 90 tablets.

(b) Respondent did not document a physical examination of patient M.R.'s right wrist or the reason for the change in patient M.R.'s medications in his medical records.

81. On or about September 10, 2013, patient M.R. returned to see Respondent.

(a) Respondent did not perform a physical examination of patient M.R.'s right wrist, but billed patient M.R.'s insurance company for "Office Visit High 40 min." Respondent prescribed MS Contin 30 mg 60 tablets, Oxycodone 20 mg 90 tablets, as recorded in his notes. However, two prescriptions written on that date show:

(1) Oxcodone 15 mg 90 tablets, MS Contin 30 mg 60 tablets, Atenolol 25 mg 30 tablets on prescription number 2268, and

(2) Oxycodone 20 mg 90 tablets, MS Contin 30 mg 60 tablets, on prescription number 2624.

(b) Respondent did not document a physical examination of patient M.R.'s right wrist, the reason for the change in patient M.R.'s medications, or why the medications prescribed in prescription numbers 2268 and 2624 were not reflected in patient M.R.'s medical records.

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1 82. On or about October 8, 2013, patient M.R. returned to see Respondent.

2 (a) Respondent performed no physical examination on patient M.R.'s right wrist, but
3 noted that patient M.R. had a "wrist #3 with medication." Respondent prescribed
4 Oxycodone 15 mg 90 tablets, and MS Contin 30 mg 60 tablets, and Atenolol 25 mg 30
5 tablets. Respondent billed patient M.R.'s insurance company for "Office Visit High 40
6 min" and for an "annual depression screening."

7 (b) Respondent did not document a physical examination of patient M.R.'s right
8 wrist, a depression screening, or results from a depression screening in patient M.R.'s
9 medical records.

10 83. On or about November 5, 2013, patient M.R. returned to see Respondent.

11 (a) Respondent performed no physical examination on patient M.R.'s right wrist, but
12 noted that patient M.R. had a "wrist #2 with medication." Respondent prescribed
13 Oxycodone 15 mg 90 tablets, and MS Contin 30 mg 60 tablets, and Atenolol 25 mg 30
14 tablets and added Klonopin 1.0 mg 30 tablets. Respondent billed patient M.R.'s insurance
15 company for "Office Visit High 40 min."

16 (b) Respondent did not document a physical examination of patient M.R.'s right
17 wrist, or the reason for the change in patient M.R.'s medications in his medical records.

18 84. On or about December 3, 2013, patient M.R. returned to see Respondent.

19 (a) Respondent discontinued patient M.R.'s prescription of Klonopin, and
20 prescribed Lorazepam 1 mg 30 tablets,²⁶ MS Contin 30 mg 60 tablets, Atenolol 25 mg 30
21 tablets, and increased Oxycodone to 20 mg 90 tablets. Respondent did not discuss the
22 interactions of Lorazepam with other medications, including slow released opiates, with
23 patient M.R.

24 (b) Respondent did not document a discussion of the interactions of Lorazepam with
25 other medications, the reasons for adding Lorazepam or increasing the Oxycodone in
26 patient M.R.'s medical records.

27
28 ²⁶ Lorazepam (Ativan) belongs to a group of drugs called benzodiazepines.

1 85. On or about March 18, 2014, patient M.R. returned to see Respondent. Respondent
2 changed patient M.R.'s medication regimen to Oxycontin 30 mg 60 tablets, added
3 morphine sulfate²⁷ 30 mg 90 tablets, continued Atenolol, 25 mg 60 tablets.

4 86. On or about April 17, 2014, patient M.R. returned to see Respondent. Respondent
5 changed patient M.R.'s medication regimen to Oxycontin 30 mg 90 tablets, and refilled the
6 prescriptions of morphine sulfate 30 mg 90 tablets, and Atenolol, 25 mg 60 tablets.

7 87. On or about May 15, 2014, patient M.R. returned to see Respondent.

8 (a) Patient M.R. was referred to occupational therapy and was told that nothing
9 would be done for him while he awaited referral to orthopedics. Respondent did not
10 perform a physical examination of patient M.R.'s right wrist, refer him to an interventional
11 pain management specialist, run a CURES report, order urinalysis for patient M.R. or
12 discuss the prior positive urinalysis for marijuana. A CVS Pharmacy refill form noted that
13 Respondent authorized three prescription refills for Atenolol 25 mg 60 tablets, beginning
14 July 8, 2014.

15 (b) Respondent did not document a physical examination of patient M.R.'s right
16 wrist, or document the reason for his authorization of three prescription refills for Atenolol
17 25 mg 60 tablets, beginning July 8, 2014, in patient M.R.'s medical records.

18 82. On or about June 17, 2014, patient M.R. returned to see Respondent.

19 (a) Respondent did not perform a physical examination of patient M.R.'s right wrist,
20 but discontinued morphine sulfate ER and added Dilaudid 4 mg 90 tablets.

21 (b) Respondent did not document a physical examination of patient M.R.'s right
22 wrist, or the reason for the change of medications in patient M.R.'s medical records.

23 88. On or about July 10, 2014, patient M.R. returned to see Respondent.

24 (a) Respondent did not perform a physical examination of patient M.R.'s right wrist,
25 but changed patient M.R.'s prescription from morphine sulfate 30 mg extended release, to

26 ²⁷ Morphine Sulfate is an opioid agonist. Opioid agonists bind to the opioid receptors and
27 provide pain relief. Morphine is a pure opioid agonist whose principal therapeutic action is
28 analgesia. Other members of the class known as opioid agonists include substances such as
oxycodone, hydromorphone, fentanyl, codeine, and hydrocodone.

1 morphine sulfate 60 mg and added hydromorphone (Dilaudid)²⁸ 4 mg 90 tablets.

2 Respondent wrote a new prescription for Atenolol, 25 mg 60 tablets, although he had, on
3 May 15, 2014, renewed patient M.R.'s Atenolol prescription beginning July 7, 2014, for
4 three refills.

5 (b) Respondent did not document a physical examination of patient M.R.'s right
6 wrist or the reason for a change in prescribed medications. Respondent did not document
7 the reason he renewed Atenolol 25 mg 60 tablets beginning on July 7, 2014, and wrote a
8 new prescription for the same medication on July 10, 2014.

9 89. On or about August 7, 2014, patient M.R. returned to see Respondent.

10 (a) Respondent did not perform a physical examination of patient M.R.'s right wrist,
11 and wrote prescriptions for Atenolol 25 mg 60 tablets, morphine sulfate, 60 mg 90 tablets,
12 and Dilaudid 4 mg 90 tablets.

13 (b) Respondent did not document patient M.R.'s medical records with the reason he
14 wrote a new prescription of Atenolol, 25 mg 60 tablets, in addition to the three prescription
15 renewals of Atenolol authorized on May 15, 2014.

16 90. On or about September 4, 2014, patient M.R. returned to see Respondent.

17 (a) Respondent did not perform a physical examination of patient M.R.'s right wrist,
18 but noted that patient M.R. had accidentally cut his left hand and had stitches placed at an
19 emergency room. Respondent increased patient M.R.'s Dilaudid to 8 mg 90 tablets and
20 renewed prescriptions for Atenolol 25 mg 60 tablets, and morphine sulfate, 60 mg 90
21 tablets. Respondent did not discuss the combination of benzodiazepines and sustained
22 release opioids, or the combination of other medications with patient M.R.

23 (b) Respondent did not document a physical examination, or the reason he wrote
24 another prescription of Atenolol, 25 mg 60 tablets, in addition to the prescription renewals
25 of Atenolol authorized on May 15, 2014, or why he increased the dosage of Dilaudid in
26 patient M.R.'s medical records.

27
28 ²⁸ Hydromorphone (Dilaudid) is an opioid and a Schedule II controlled substance.

1 91. On or about October 2, 2014, and October 30, 2014, patient M.R. returned to see
2 Respondent. Respondent did not perform physical examinations of patient M.R.'s right wrist and
3 renewed his prescriptions.

4 92. On or about November 27, 2014, Respondent wrote patient M.R. two prescriptions
5 for each of the following: Atenolol 25 mg 60 tablets, and morphine sulfate 30 mg 45 tablets.

6 93. On or about November 28, 2014, patient M.R. returned to see Respondent.
7 Respondent did not perform a physical examination of patient M.R.'s right wrist.

8 94. On or about December 12, 2014, patient M.R. returned to see Respondent.

9 (a) Respondent did not conduct a physical examination on patient M.R.'s right wrist.
10 Respondent noted that an orthopedic consultation occurred, and wrote "can't do anything
11 for now." Respondent noted an intention to taper down patient M.R.'s pain medication and
12 reduce morphine sulfate to every 12 hours and hydromorphone (Dilaudid) to four mg in
13 January, and renewed prescriptions for Atenolol 25 mg 60 tablets, morphine sulfate 60 mg
14 90 tablets, and Dilaudid, 8 mg 90 tablets.

15 (b) Respondent did not document a physical examination of patient M.R. in his
16 medical records.

17 **Patient D.Y.**

18 95. On or about August 14, 2014, patient D.Y., a male, became a patient of Respondent,
19 presenting with mild osteoarthritic changes of the lumbar spine and chronic low back pain, but no
20 significant nerve root impingement, and a transplanted kidney. Respondent did not perform a
21 physical examination of patient D.Y. Patient D.Y. reported that he previously took Norco 10/325,
22 four tablets a day, a 40 MED per day. Patient D.Y. entered into a pain management contract with
23 Respondent on August 14, 2014. Respondent planned to prescribe Oxycodone 20 mg 120 tablets,
24 Oxycontin ER 15 mg 60 tablets, and prescriptions were written on August 21, 2014.

25 96. On or about September 4, 2014, patient D.Y. returned to see Respondent. Oxycontin
26 was discontinued because insurance would not pay for it, and Respondent prescribed an increased
27 dosage of Oxycodone, Oxycodone 30 mg, 120 tablets.

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97. On or about October 2, 2014, patient D.Y. returned to see Respondent.

(a) Patient D.Y.'s medication prescription was renewed. Respondent had no discussion with patient D.Y. regarding diversion or addiction. No urinalysis was performed and no CURES report was run.

(b) Respondent did not document any discussion with patient D.Y. regarding diversion or addiction, or document an order for a urinalysis or CURES report.

98. On or about October 30, 2014, patient D.Y. returned to see Respondent.

(a) Patient D.Y. reported that he would be out of town starting November 11, 2014, and his medicine did not "last long enough." Respondent did not perform an adequate physical examination of patient D.Y. Respondent added morphine sulfate 60 mg 60 tablets to the Oxycodone 30 mg 120 tablets.

(b) Respondent did not document an adequate physical examination of patient D.Y.

99. On or about November 26, 2014, Respondent had a telephone consultation with Patient D.Y., who reported he was out of state. Respondent prescribed Oxycodone 30 mg 120 tablets, and mailed it to the patient on December 2, 2014, to be refilled out of state.

100. On or about December 26, 2014, patient D.Y. returned to see Respondent.

(a) Patient D.Y. complained of low back pain radiating to his left leg. Respondent did not perform an adequate physical examination of patient D.Y. and he prescribed Opana²⁹ ER 20 mg 60 tablets, and Oxycodone 30 mg 90 tablets.

(b) Respondent did not document the reason why he changed patient D.Y.'s medication regimen from morphine sulfate to Opana³⁰ or an adequate physical examination of patient D.Y.

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²⁹ Opana (oxymorphone) is an opioid pain medication and is a Schedule II controlled substance.

³⁰ Opana (oxymorphone hydrochloride) a semi-synthetic opioid analgesic, is a brand name for oxymorphone hydrochloride, is a Schedule II controlled substance pursuant to Health and Safety Code section 11055, subdivision (b), and a dangerous drug pursuant to Business and Professions Code section 4022.

1 101. On or about January 22, 2015, patient D.Y. returned to see Respondent.

2 (a) Patient D.Y. reported increasing back pain, and his medication was not effective.
3 Respondent did not perform an adequate physical examination on patient D.Y. or examine
4 his back. Patient D.Y.'s insurance did not cover Opana but covered Oxycontin.
5 Respondent prescribed Oxycontin ER 80 mg 60 tablets, Atenolol 50 mg 30 tablets, and
6 Oxycodone 30 mg 120 tablets, which represents a MED of 424 mg, an escalating 1000%
7 increase over patient D.Y.'s original prescription level in five months, without
8 corresponding improvement to quality of life. Respondent did not discuss diversion or
9 addiction with patient D.Y.

10 (b) Respondent did not document an adequate physical examination, or any reason
11 why he dramatically increased patient D.Y.'s dosage of medicines, and did not document
12 any discussion with patient D.Y. regarding diversion or addiction.

13 102. On or about March 4, 2015, Respondent ran a CURES report on patient D.Y. which
14 showed that between August 14, 2014 and January 16, 2015, while under Respondent's care,
15 patient D.Y. filled prescriptions for hydrocodone bitartrate/acetaminophen and Carisoprodol
16 (Soma) written by another physician.³¹

17 103. On or about March 19, 2015, patient D.Y. returned to see Respondent.

18 (a) Patient D.Y. reported continued low back pain, and said the medications were
19 effective. Respondent did not perform an adequate physical examination of patient D.Y.
20 Patient D.Y. was asked to provide a urine sample for a urinalysis test, but did not do so.
21 Respondent allowed the urine sample to be provided "another time," and renewed
22 prescriptions for Oxycontin ER 80 mg 60 tablets, Atenolol 50 mg 30 tablets, and
23 Oxycodone 30 mg 120 tablets. Respondent did not have a discussion with patient D.Y.
24 about the medications that were prescribed by the other physician.

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27 ³¹ Carisoprodol (Soma) a muscle relaxant, has been added as a Schedule IV controlled
28 substances since December 12, 2011.

1 (b) Respondent did not document an adequate physical examination of patient D.Y.,
2 a discussion with patient D.Y.'s regarding addiction, or diversion, and did not document a
3 discussion about the medications that were prescribed by the other physician.

4 104. On or about May 14, 2015, patient D.Y. returned to see Respondent.

5 (a) Patient D.Y. complained of continued low back pain. Respondent did not
6 perform a physical examination on patient D.Y. He noted he would "try to taper opioids."
7 Respondent renewed patient D.Y.'s prescriptions for Oxycontin ER 80 mg 60 tablets,
8 Atenolol 50 mg 30 tablets, and Oxycodone 30 mg 120 tablets. Respondent did not make a
9 further attempt to obtain a urine sample.

10 (b) Respondent did not document further attempts to obtain a urine sample or an
11 adequate physical examination of patient D.Y.

12 105. On or about May 14, 2015, patient D.Y. returned to see Respondent.

13 (a) Patient D.Y. complained of continued low back pain. Respondent did not
14 perform an adequate physical examination of patient D.Y. Respondent renewed patient
15 D.Y.'s prescriptions for Oxycontin ER 80 mg 60 tablets, Atenolol 50 mg 30 tablets, and
16 Oxycodone 30 mg 120 tablets. Respondent did not make a further attempt to obtain a urine
17 sample.

18 (b) Respondent did not document further attempts to obtain a urine sample, or an
19 adequate physical examination of patient D.Y.

20 106. On or about May 29, 2015, Respondent ran a CURES report on patient D.Y. which
21 showed that between January 16, 2015, and April 26, 2015, while under Respondent's care,
22 patient D.Y. filled prescriptions for Carisoprodol written by another physician.

23 107. On or about June 2, 2015, patient D.Y. returned to see Respondent. Patient D.Y.
24 complained of continued low back pain, reporting that his pain level was unchanged. Patient
25 D.Y. was asked to provide a urine sample for a urinalysis test, but reported he was unable to
26 provide a sample. No physical examination was performed on patient D.Y. Respondent renewed
27 patient D.Y.'s prescriptions for Oxycontin ER 80 mg 60 tablets, Atenolol 50 mg 30 tablets, and
28 Oxycodone 30 mg 120 tablets.

1 108. On or about June 3, 2015, patient D.Y. provided a urine sample for analysis. The
2 report showed that prescribed medications tested negative in patient D.Y.'s system, but
3 medications that Respondent had not prescribed tested positive.

4 **Patient V.B.**

5 109. On or about December 4, 2012, patient V.B., a male, first presented to Respondent.

6 (a) Patient V.B. complained of pain in his neck, low back, and knee, at a level of 8 to
7 9/10, and presented MRIs of his cervical and lumbar spine, and knee, which demonstrated
8 mild degenerative changes, and mild disk height reduction in the spine. The knee was not
9 severely degenerated or deranged. Patient V.B. reported taking Oxycodone, Oxycontin 80
10 mg 180 tablets (representing 700 MED equivalents per day) for effective pain relief, plus
11 Opana. He requested an additional prescription of Oxycodone, 30 mg 90 tablets.

12 Respondent did not take patient V.B.'s vital signs, or perform a physical examination.
13 Respondent prescribed Oxycontin ER 80 mg 180 tablets, and Oxycodone 30 mg 180
14 tablets.

15 (b) Respondent did not document patient V.B.'s vital signs, a physical examination, a
16 discussion of why patient V.B. concurrently took two extended release opiates, or why he
17 "does not want to return to" his previous physician.

18 110. On or about December 31, 2012, patient V.B. returned to see Respondent.

19 (a) Respondent prescribed Oxycontin 80 mg 180 tablets, Oxycodone 30 mg 180
20 tablets, and Oxycodone 40 mg 60 tablets.

21 (b) Respondent did not document the reason for prescribing the medications, or the
22 reason for adding Oxycodone 40 mg to patient V.B.

23 111. On or about January 30, 2013, patient V.B. returned to see Respondent.

24 (a) Patient V.B. reported increased pain. Respondent discussed the possibility of
25 degenerative joint disease with patient V.B., but did not refer him to a subspecialist.
26 Respondent did not run a CURES report, or evaluate patient V.B. for diversion. A CURES
27 report would have shown that patient V.B. was receiving multiple prescriptions for
28 controlled substances from multiple health care providers. Respondent prescribed

1 Oxycontin 80 mg 180 tablets, Oxycodone 30 mg 240 tablets, and Oxycodone 40 mg 60
2 tablets.

3 (b) Respondent did not document discussion of addiction or diversion, an evaluation
4 for addiction or diversion, referral to a subspecialist, or ordering a CURES report.

5 112. On or about February 7, 2013, patient V.B. returned to see Respondent. Respondent
6 did not perform a physical examination on patient V.B., and stated that he was doing well under
7 the "presently established program." Respondent prescribed Oxycontin 80 mg 180 tablets,
8 Oxycodone 30 mg 240 tablets (quadrupling the number of tablets prescribed), and Oxycodone 40
9 mg 60 tablets, and referred him for hip x-rays.

10 113. On or about March 27, 2013, patient V.B. returned to see Respondent. No further
11 discussion occurred in regard to the referral for hip x-rays. Respondent renewed his prescriptions.

12 114. On or about April 24, 2013, patient V.B. returned to see Respondent. No further
13 discussion occurred in regard to the referral for hip x-rays. Respondent discontinued the
14 prescription for Oxycodone 40 mg, but did not document the reason for changing the prescription.
15 Respondent prescribed Oxycontin 80 mg 180 tablets, and increased the number of Oxycodone 30
16 mg from 240 tablets to 320 tablets.

17 115. On or about May 22, 2013, patient V.B. returned to see Respondent. No further
18 discussion occurred in regard to the referral for hip x-rays. Respondent documented the increase
19 in need of controlled substances was very concerning and the patient "clearly fits the designation
20 of being addicted." He wrote that his office was not qualified to treat and rehabilitate the patient,
21 who was given a list of addiction specialists. Respondent prescribed Oxycodone 30 mg 160
22 tablets and Oxycontin 80 mg 90 tablets.

23 116. On or about June 5, 2013, patient V.B. returned to see Respondent. Respondent did
24 not perform a physical examination of patient V.B., and renewed his prescriptions of Oxycodone
25 30 mg 160 tablets and Oxycontin 80 mg 90 tablets.

26 117. Respondent was grossly negligent and committed extreme departures from the
27 standard of care in his care and treatment of patients R.W., S.W., A.H., J.V., M.R., D.Y. and
28 V.B., which include, but are not limited to the following:

1 **Patient R.W.**

2 118. From on or about November 13, 2013, to on or about April 21, 2014, Respondent
3 failed to adequately prepare, follow and document a plan that included all of the following: an
4 appropriate prior physical examination (“a good faith physical examination”); assessment of the
5 benefits of treatment; informed consent of the patient based on the benefits and risks of treatment;
6 periodic review of treatment; adjustment of patient treatment; and prevention of diversion for
7 Patient R.W.

8 119. From on or about November 13, 2013, to on or about April 21, 2014, Respondent
9 failed to order and/or obtain appropriate consultation with any subspecialist for patient R.W.

10 **Patient S.W.**

11 120. From on or about January 24, 2013, to on or about November 4, 2014, Respondent
12 failed to adequately prepare, follow and document a plan that included all of the following: an
13 appropriate prior physical examination (“a good faith physical examination”); assessment of the
14 benefits of treatment; informed consent of the patient based on the benefits and risks of treatment;
15 periodic review of treatment; adjustment of patient treatment; and prevention of diversion for
16 patient S.W.

17 121. From on or about January 24, 2013, to on or about November 4, 2014, Respondent
18 failed to order and/or obtain a consultation with any subspecialist for patient S.W.

19 **Patient A.H.**

20 122. From on or about April 29, 2013, to on or about December 16, 2013, Respondent
21 failed to adequately prepare, follow and document a plan that included all of the following: an
22 appropriate prior physical examination (“a good faith physical examination”); assessment of the
23 benefits of treatment; informed consent of the patient based on the benefits and risks of treatment;
24 periodic review of treatment; adjustment of patient treatment; and prevention of diversion for
25 patient A.H.

26 **Patient J.V.**

27 123. From on or about January 10, 2013, to on or about August 20, 2013, Respondent
28 failed to adequately prepare, follow and document a plan that included all of the following: an

1 appropriate prior physical examination (“a good faith physical examination”); assessment of the
2 benefits of treatment; informed consent of the patient based on the benefits and risks of treatment;
3 periodic review of treatment; adjustment of patient treatment; and prevention of diversion for
4 patient J.V.

5 124. From on or about January 10, 2013, to on or about August 20, 2014, Respondent
6 failed to appropriately follow up and order referrals for the patient when the suspect signs of
7 addiction were present for patient J.V.

8 **Patient M.R.**

9 125. From on or about August 14, 2012, to on or about December 12, 2014, Respondent
10 failed to adequately prepare, follow and document a plan that included all of the following: an
11 appropriate prior physical examination (“a good faith physical examination”); assessment of the
12 benefits of treatment; informed consent of the patient based on the benefits and risks of treatment;
13 periodic review of treatment; adjustment of patient treatment; and prevention of diversion for
14 patient M.R.

15 **Patient D.Y.**

16 126. From on or about August 14, 2014, to on or about June 3, 2015, Respondent failed to
17 adequately prepare, follow and document a plan that included all of the following: an appropriate
18 prior physical examination (“a good faith physical examination”); assessment of the benefits of
19 treatment; informed consent of the patient based on the benefits and risks of treatment; periodic
20 review of treatment; adjustment of patient treatment; and prevention of diversion for patient D.Y.

21 **Patient V.B.**

22 127. From on or about December 4, 2012, to on or about June 5, 2013, Respondent failed
23 to adequately prepare, follow and document a plan that included all of the following: an
24 appropriate prior physical examination (“a good faith physical examination”); assessment of the
25 benefits of treatment; informed consent of the patient based on the benefits and risks of treatment;
26 periodic review of treatment; adjustment of patient treatment; and prevention of diversion for
27 patient V.B.

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1 135. Respondent prescribed significant increased daily doses of Oxycodone to patient A.H.
2 without adequate justification.

3 **Patient J.V.**

4 136. Respondent increased patient J.V.'s medications to 400% over baseline MED
5 equivalents without justification.

6 137. Respondent failed to clinically assess whether there was any relevance regarding
7 patient J.V.'s positive urinalysis test result.

8 **Patient M.R.**

9 138. Respondent failed to have an appropriate discussion with patient M.R. regarding his
10 positive urinalysis test results for marijuana, at any time during patient M.R.'s treatment.

11 139. Respondent prescribed a dangerous combination of benzodiazepines and sustained
12 release opioids to patient M.R. that was not justified by physical findings and the potential danger
13 of the drug interactions was not discussed with patient M.R.

14 **Patient D.Y.**

15 140. In January 2015, Respondent prescribed escalating dosages of medications to patient
16 D.Y. which ultimately represented an approximate 1000% MED increase, for a non-specific
17 lumbar disc degeneration.

18 **Patient V.B.**

19 141. Respondent prescribed doses of Oxycodone of high MEDs per day to patient V.B. for
20 mild disk degeneration and mild tricompartmental degeneration of the knee.

21 **FOURTH CAUSE FOR DISCIPLINE**

22 **(The Commission of any Act Involving Dishonesty or Corruption**
23 **Substantially Related to the Qualifications, Functions and Duties of a Physician)**

24 142. Respondent has further subjected his Physician's and Surgeon's Certificate
25 No. C 50765 to discipline under sections 2227 and 2234, as defined by 2234, subdivision
26 (e) of the Code, in that he has committed acts of dishonesty and corruption, as more
27 particularly alleged in paragraphs 13 through 127, above, which are hereby incorporated
28 by reference and realleged as if fully set forth herein:

1 143. Respondent is a physician who trained and worked as a radiologist until he
2 retired. Thereafter, in or about July of 2011, Respondent returned to the practice of
3 medicine, opening a solo practice in the specialty of pain management. In or about 2013,
4 Respondent closed his solo practice and took employment at an entity known as "House
5 Calls, Inc."

6 144. On or about April 14, 2014, the Medical Board of California (Board), through its
7 Consumer Complaint Unit, received a consumer complaint asserting that Respondent was
8 excessively prescribing opioids to a patient, and a tape recorded interview was conducted by a
9 Health Quality Investigation Unit investigator, and District Medical Consultant.

10 **Respondent's Contact With the DEA**

11 145. On or about October 14, 2015, Respondent and his attorney attended the first session
12 of Respondent's Medical Board subject interview regarding his practices in prescribing controlled
13 substances. The first portion of that interview was conducted by Health Quality Enforcement
14 (HQIU) Investigator A.M. Investigator A.M. asked Respondent whether the DEA had ever
15 contacted him, and Respondent answered, "no."

16 146. Respondent had been contacted by the DEA on three occasions:

17 (a) In and about Spring of 2013, Respondent was prescribing medication to patient
18 S.C. On or about April 23, 2013, S.C. was arrested and incarcerated, and mentioned
19 Respondent in a telephone conversation recorded by the police.³² Following up on this
20 information, on April 29, 2013, a DEA Special Agent telephoned Respondent to discuss
21 patient S.C.'s upcoming medical appointment.

22 (b) On or about May 1, 2013, DEA Special Agents met with Respondent at his
23 office to further discuss his prescribing of controlled substances.

24 _____
25 ³² During his incarceration, patient S.C. was trying to find someone to loan him money to
26 pay bail, and telephoned his mother to request a loan. In a recorded telephone conversation,
27 patient S.C. referred to his upcoming office visit to Respondent as a future source of income,
28 stating that if the money was loaned to him, he could repay that loan on May 1, because on that
day he would again go to see Respondent to obtain additional prescriptions.

1 (c) On or about May 20, 2013, DEA Special Agents met with Respondent,
2 discussed his patients, and advised Respondent to perform complete physical examinations,
3 use the CURES system, use pain management agreements, and obtain patients' medical
4 records, and X-Rays and MRIs before prescribing medications.

5 **Respondent's Changes to Medical Records**

6 147. On or about December 3, 2015, Respondent and his attorney attended the second
7 session of Respondent's subject interview. Respondent brought and used original patient records
8 to support his statements regarding the care and treatment he provided to his patients. However,
9 when discussing Patient V.B., Respondent's original records dated April 24, 2012, and December
10 4, 2012, those medical records were found to contain information that was not on previously
11 produced subpoenaed copies.

12 148. On or about December 3, 2015, the District Medical Consultant (DMC) found that the
13 subpoenaed records might be incomplete, and reviewed the original records brought by
14 Respondent. The DMC noted that patient V.B.'s July 3, 2012, medical record showed only an
15 examination for blood pressure. Respondent's counsel said that his photocopy of that medical
16 record did not show a note for blood pressure. Patient V.B.'s July 3, 2012, medical records were
17 found to contain information that was not on the previously subpoenaed record.

18 **Respondent's Charge for Services Not Performed**

19 149. On or about October 8, 2013, patient M.R. presented for an office visit with
20 Respondent. Respondent performed no physical examination on patient M.R.'s right wrist, but
21 noted that patient M.R. had a "wrist #3 with medication." Respondent prescribed Oxycodone 15
22 mg 90 tablets, and MS Contin 30 mg 60 tablets, and Atenolol 25 mg 30 tablets. Respondent
23 billed patient M.R.'s insurance company for "Office Visit High 40 min" and for an "annual
24 depression screening." Respondent did not document a physical examination of patient M.R.'s
25 right wrist, or a depression screening, and no records concerning a depression screening were
26 included in patient M.R.'s medical records.

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1 **FIFTH CAUSE FOR DISCIPLINE**

2 **(Failure to Maintain Accurate and Adequate Medical Records)**

3 150. Respondent has further subjected his Physician's and Surgeon's Certificate No.
4 C 50765 to disciplinary action under sections 2227 and 2234, as defined by section 2266, of the
5 Code, in that he failed to maintain accurate and adequate medical records in his care and
6 treatment of patients R.W., S.W., A.H., J.V., M.R., D.Y., and V.B., as more particularly alleged
7 in paragraphs 13 through 149, above, which are hereby incorporated by reference and realleged as
8 if fully set forth herein.

9 **SIXTH CAUSE FOR DISCIPLINE**

10 **(Excess Prescribing)**

11 151. Respondent has further subjected his Physician's and Surgeon's Certificate No.
12 C 50765 to disciplinary action under sections 2227 and 725, as defined by section 725 of the
13 Code, in that he prescribed excessively to patients R.W., S.W., A.H., J.V., M.R., D.Y., and V.B.,
14 as more particularly alleged in paragraphs 13 through 150, above, which are hereby incorporated
15 by reference and realleged as if fully set forth herein.

16 **SEVENTH CAUSE FOR DISCIPLINE**

17 **(General Unprofessional Conduct)**

18 152. Respondent has further subjected his Physician's and Surgeon's Certificate No.
19 C 50765 to disciplinary action under sections 2227 and 2234, of the Code, in that he has engaged
20 in conduct which breaches the rules or ethical code of the medical profession, or conduct which is
21 unbecoming to a member in good standing of the medical profession, and which demonstrates an
22 unfitness to practice medicine, in his care and treatment of patients R.W., S.W., A.H., J.V., M.R.,
23 D.Y., and V.B., as more particularly alleged in paragraphs 13 through 151, above, which are
24 hereby incorporated by reference and realleged as if fully set forth herein.

25 **EIGHTH CAUSE FOR DISCIPLINE**

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

27 153. Respondent has further subjected his Physician's and Surgeon's Certificate No.
28 C 50765 to disciplinary action under sections 2227 and 2234, as defined by section 2234,

1 subdivision (a), of the Code, in that he has violated a provision or provisions of the Medical
2 Practice Act, in his care and treatment of patients R.W., S.W., A.H., J.V., M.R., D.Y., and V.B.,
3 as more particularly alleged in paragraphs 13 through 152, above, which are hereby incorporated
4 by reference and realleged as if fully set forth herein.

5 **CAUSE OF ACTION UNDER THE BUSINESS AND PROFESSIONS CODE**

6
7 **(Respondent's Ability to Safely Practice his Profession is Impaired Due to a
Personality Disorder/Mental Disorder)**

8 154. Respondent has subjected his Physician's and Surgeon's Certificate No. C 50765 to
9 action under sections 820 and 822 of the Code, in that he has a personality disorder/mental
10 disorder that impairs his ability to practice medicine in a safe manner, as more particularly
11 alleged in paragraphs 13 through 153, above, which are hereby incorporated by reference and
12 realleged as if fully set forth herein:

13 155. On or about January 5, 2016, Respondent signed a voluntary consented to a mental
14 health examination. The examination was conducted by a psychiatrist, Alan Abrams, M.D.
15 Respondent was reported to suffer from a personality disorder/mental disorder that impairs his
16 ability to practice in a safe manner, and to represent an immediate threat to the health and safety
17 of the patients and a danger to the public.

18 156. On or about March 26, 2016, Dr. Abrams reported that while a personality disorder is
19 not often an impairing mental condition, in Respondent's case, it is. Respondent's unwillingness
20 to consider his practice methods critically is the result of this personality disorder.

21 157. By 2011, Respondent had taken 14 hours of pain management training. At that time,
22 Respondent established himself as a specialist in pain management with minimal training, which
23 strongly supports a grandiose sense of self-importance.

24 158. Dr. Abrams further noted Respondent's lack of apparent concern after the DEA
25 warning, opining that "[t]his level of 'willful ignorance' is very dangerous in a medical practice
26 of any sort, but particularly where dangerous controlled substances are prescribed in large
27 quantities." Dr. Abrams further opined that Respondent's personality disorder impairs his ability
28 to see the larger public health issues/dangers of excessive prescribing, and he is quite intelligent

1 and clever, and his personality disorder will cause him to continue to practice as he sees in his
2 best interests, and to offer pretext rationalizations, corrections or adjustments in his practice if he
3 feels he can outmaneuver and/or outsmart others.

4 **PRAYER**

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

7 1. Revoking or suspending Physician's and Surgeon's Certificate No. C 50765, issued to
8 Respondent Wolfram R. Forster, M.D.;

9 2. Revoking, suspending or denying approval of Respondent Wolfram R. Forster,
10 M.D.'s authority to supervise physician assistants, pursuant to section 3527 of the Code;

11 3. Ordering Respondent Wolfram R. Forster, M.D., if placed on probation, to pay the
12 Board the costs of probation monitoring;

13 4. Taking action as authorized by section 822 of the code, as the Board, in its discretion,
14 deems reasonable and proper, and

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

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17 DATED: August 26, 2016


KIMBERLY KIRCHMEYER
Executive Director
Medical Board of California
State of California
Complainant

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