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STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
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BY ANALYST

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

12 In the Matter of the Accusation Against:

Case No. 800-2015-019101

13 **Bryan Charles Doonan, M.D.**
360 San Miguel Drive, Suite 107
Newport Beach, CA 92660

A C C U S A T I O N

14 **Physician's and Surgeon's Certificate**
No. A 78014,

15 Respondent.

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18 Complainant alleges:

19 **PARTIES**

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

23 2. On or about February 22, 2002, the Medical Board issued Physician's and Surgeon's
24 Certificate Number A 78014 to Bryan Charles Doonan, M.D. (Respondent). The Physician's and
25 Surgeon's Certificate was in full force and effect at all times relevant to the charges brought
26 herein and will expire on November 30, 2017, unless renewed.

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1 JURISDICTION

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

5 4. Section 2004 of the Code states:

6 "The board shall have the responsibility for the following:

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

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

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

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

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

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

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

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

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

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

25 6. Section 2234 of the Code, states:

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

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

3 (b) Gross negligence.

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

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

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

14 (d) Incompetence.

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

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

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

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

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1 7. Section 2242 of the Code states:

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

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

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

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

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

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

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

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

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

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1 9. Section 725 of the Code states:

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

8 "(b) Any person who engages in repeated acts of clearly excessive prescribing or
9 administering of drugs or treatment is guilty of a misdemeanor and shall be punished by a fine of
10 not less than one hundred dollars (\$100) nor more than six hundred dollars (\$600), or by
11 imprisonment for a term of not less than 60 days nor more than 180 days, or by both that fine and
12 imprisonment.

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

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

18 FIRST CAUSE FOR DISCIPLINE

19 (Gross Negligence – 3 Patients)

20 10. Respondent is subject to disciplinary action under section 2234, subdivision (b), of
21 the Code for the commission of acts or omissions involving gross negligence in the care and
22 treatment of patients M.M., T.F., and D.P.¹ The circumstances are as follows:

23 Patient M.M.

24 11. Patient M.M. (or "patient") is a male who treated with Respondent from about 2011
25 to 2016.² Respondent treated the patient with prescriptions for Xanax 2 mg twice a day, Valium
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27 ¹ The patients are identified by initial to protect their privacy.

28 ² These are only approximate dates, based on the records available for review.

1 10 mg in the evening, and Testosterone injections of 200 mg intramuscularly every two weeks.³
2 The patient's past medical history indicates a history of alcohol abuse, and his medical records
3 show a single blood testosterone level of 1422 ng/dl performed on October 1, 2012, as well as
4 prescriptions for simultaneous usage of Xanax and Valium, with continuing alcohol use.

5 12. Respondent prescribed testosterone to the patient without existing laboratory
6 evidence of the presence of low testosterone blood levels, and respondent did not routinely check
7 the blood testosterone levels for patients receiving testosterone injections.⁴

8 13. Respondent also prescribed Xanax and Valium at doses too high for a patient, who
9 had a history of alcohol abuse, and without any documentation that respondent had first inquired
10 about the patient's current alcohol use/abuse. Also, respondent did not have prior and current
11 medical records which indicated medical justification for prescribing controlled substances.⁵
12 These acts and omissions in the treatment of patient M.M. constituted an extreme departure from
13 the standard of care.

14 Patient T.F.

15 14. Patient T.F. (or "patient") is a male who treated with Respondent from about 2012 to
16 2014.⁶ Respondent treated the patient for depression, anxiety, and low testosterone levels.
17 Respondent prescribed Androgel 1%, 4 pumps in the morning, Xanax, and Lexapro.
18 Respondent's medical records for this patient do not contain blood testosterone levels or an
19 evaluation of the patient's depression and anxiety. Respondent's nurse practitioner mentioned the
20 need to order blood PSA and testosterone levels, but these were not ordered.

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23 ³ These prescriptions are all dangerous drugs/controlled substances with potentially
24 addictive traits and side effects, if used improperly and/or overused.

25 ⁴ Respondent claimed that he had inherited patient M.M. from a previous physician who
26 diagnosed the patient with low testosterone. However, records to support this claim have not
27 been provided.

26 ⁵ Respondent did diagnose the patient with anxiety and insomnia on April 21, 2011.
27 Respondent did not again refer to the diagnosis of anxiety in his records and only once again to
28 insomnia, on September 22, 2016, although he continued to prescribe Xanax and Valium to the
29 patient.

⁶ Again, these are only approximate dates, based on the records available for review.

1 acts and omissions in the treatment of patient T.F. constituted a simple departure from the
2 standard of care.

3 21. The facts and circumstances set forth in paragraphs 19 and 20, above, constitute
4 repeated negligent acts, in violation of section 2234, subdivision (c) of the Code. Therefore,
5 cause for discipline exists.

6 THIRD CAUSE FOR DISCIPLINE

7 (Prescribing Without Exam/Indication)

8 22. By reason of the facts and allegations set forth in the First and Second Causes for
9 Discipline above, Respondent is subject to disciplinary action under section 2242 of the Code, in
10 that Respondent prescribed dangerous drugs to patients M.M., T.F., and D.P. without an
11 appropriate prior examination or medical indication therefor.

12 FOURTH CAUSE FOR DISCIPLINE

13 (Excessive Prescribing)

14 23. By reason of the facts and allegations set forth in the First and Second Causes for
15 Discipline above, Respondent is subject to disciplinary action under section 725 of the Code, in
16 that Respondent excessively prescribed dangerous drugs to patients M.M., T.F., and D.P.

17 FIFTH CAUSE FOR DISCIPLINE

18 (Inadequate Records)

19 24. By reason of the facts and allegations set forth in the First and Second Causes for
20 Discipline above, Respondent is subject to disciplinary action under section 2266 of the Code, in
21 that Respondent failed to maintain adequate and accurate records of his care and treatment of
22 patients M.M., T.F., and D.P.

23 PRAYER

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

26 1. Revoking or suspending Physician's and Surgeon's Certificate Number A 78014,
27 issued to Bryan Charles Doonan, M.D.;

1 2. Revoking, suspending or denying approval of Bryan Charles Doonan, M.D.'s
2 authority to supervise physician assistants and advanced practice nurses;

3 3. Ordering Bryan Charles Doonan, M.D., if placed on probation, to pay the Board the
4 costs of probation monitoring; and

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

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7 DATED: JULY 20, 2017


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

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