Complainant alleges:

PARTIES

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

2. On or about July 1, 1981, the Medical Board issued Physician's and Surgeon's Certificate Number G45144 to Daniel Headrick, M.D. (Respondent). The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought herein and will expire on June 30, 2017, unless renewed.

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JURISDICTION

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


5. Pursuant to Code section 2001.1, the Board's highest priority is public protection.

6. Section 2004 of the Code states:

   "The board shall have the responsibility for the following:
   
   (a) The enforcement of the disciplinary and criminal provisions of the Medical Practice Act.
   
   (b) The administration and hearing of disciplinary actions.
   
   (c) Carrying out disciplinary actions appropriate to findings made by a panel or an administrative law judge.
   
   (d) Suspending, revoking, or otherwise limiting certificates after the conclusion of disciplinary actions.
   
   (e) Reviewing the quality of medical practice carried out by physician and surgeon certificate holders under the jurisdiction of the board.

   "...

7. Code section 2227, subdivision (a), provides as follows:

   "(a) A licensee whose matter has been heard by an administrative law judge of the Medical Quality Hearing Panel as designated in Section 11371 of the Government Code, or whose default has been entered, and who is found guilty, or who has entered into a stipulation for disciplinary action with the board, may, in accordance with the provisions of this chapter:

   "(1) Have his or her license revoked upon order of the board

   "(2) Have his or her right to practice suspended for a period not to exceed one year upon order of the board.

   "(3) Be placed on probation and be required to pay the costs of probation monitoring upon order of the board."
“(4) Be publicly reprimanded by the board. The public reprimand may include a requirement that the licensee complete relevant educational courses approved by the board.

“(5) Have any other action taken in relation to discipline as part of an order of probation, as the board or an administrative law judge may deem proper.

“(b) Any matter heard pursuant to subdivision (a), except for warning letters, medical review or advisory conferences, professional competency examinations, continuing education activities, and cost reimbursement associated therewith that are agreed to with the board and successfully completed by the licensee, or other matters made confidential or privileged by existing law, is deemed public, and shall be made available to the public by the board pursuant to Section 803.1.”

8. Section 2234 of the Code, states:

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

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

"(b) Gross negligence.

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

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

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

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

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

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

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

9. Section 2266 of the Code states: A 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.

FACTS

10. A.S. was 22 years old with a history of polysubstance abuse since adolescence. He admitted to using opiates, benzodiazepines, sedatives, cannabis, cocaine, amphetamines, hallucinogens and tobacco. CURES activity demonstrated prescriptions for Lorazepam (Ativan) 2mg and Flurazepam (Dalmane) 30 mg within a month of his death on February 23, 2012.

11. Prior to entering Respondent’s clinic, Mission Pacific Coast Recovery Center (MPCRC) at Mission Hospital, A.S. was treated as an outpatient by Dr. G.E., a pain specialist, on February 15, 2012, when he received prescriptions for MS Contin and hydrocodone. The following day, February 16, 2012, he overdosed on multiple medications including MS Contin and Xanax. Pursuant to the provisions of Welfare and Institutions Code section 5150, he was admitted into the Downey Regional Medical Center for involuntary treatment of a mental

1 Individuals are identified by initials to protect their privacy.
2 Lorazepam is a benzodiazepine drug that acts as a sedative and antianxiety agent and is used therapeutically to control seizures.
3 Flurazepam is a benzodiazepine drug used especially in its hydrochloride form to treat insomnia.
disorder, and then transferred to Pacific Hospital, Long Beach under the care of Dr. R.J. While
under the care of Dr. R.J., he was prescribed Alprazolam (Xanax).

12. A.S. was discharged from Pacific Hospital on February 22, 2012, at about 2:00 p.m.
and transported by ambulance to Respondent’s care at MPCRC, arriving at approximately 3:30
p.m.

13. Respondent is the only physician, as well as being the Chief Executive Officer of
MPCRC. Respondent diagnosed A.S. as being dependent on Opiates, Cannabis and
Benzodiazepines with Major Depression and suicidal ideation. A.S. was also diagnosed with
Axis III disorders of lumbar disc disease, T12 compression fracture and leukocytosis, mild.
Respondent’s written notes at 5:15 p.m., on February 22, 2012, did not record any laboratory tests
and he seems to have added "leukocytosis" later with a different pen.

14. In his note dictated February 23, 2012 (subsequent to A.S.’s death), Respondent noted
that A.S. had a positive toxicology screen for Cannabinoids and Opiates.

15. Respondent wrote orders at 5:30 p.m. for A.S.’s inpatient detoxification and inpatient
rehabilitation. Vital signs were ordered, and orders were left that Respondent was to be notified
if there were alterations in A.S.’s vital signs. "Detoxification medications" were ordered including
Phenobarbital 4 30 mg every 3 hours for moderate withdrawal symptoms and Buprenorphine 5 2
mg every 3 hours as needed for withdrawal symptoms to start "now". In addition, “as needed”
medications were ordered including Quetiapine (Seroquel) 6 25 mg every 3 hours as needed for
agitation and Ondansetron (Zofran) 7 4 mg as needed for nausea and vomiting. Respondent also
wrote medication orders for Lyrica 8 25 mg three-four times daily; Elavil 9 25 mg at bedtime;

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4 Phenobarbital is a long-acting barbiturate used as a sedative.
5 Buprenorphine is a semisynthetic opioid drug used in its hydrochloride form in
combination with naloxone for long-term treatment of addiction to opioids such as heroin.
6 Quetiapine is an antipsychotic drug that acts as an antagonist of multiple
neurotransmitters, including serotonin and norepinephrine, and is used in its fumarate form to
treat schizophrenia and bipolar disorder.
7 Ondansetron is used to relieve vomiting.
8 Lyrica is an anti-convulsant.
9 Elavil is a tricyclic antidepressant that inhibits serotonin and noradrenaline reuptake,
which is used for major depression and depression in the elderly, less commonly for chronic
migraines and insomnia, and as an adjunct for patients with chronic pain.
Zoloft\textsuperscript{10} 50 mg at bedtime; Lidoderm patch\textsuperscript{11} at 6 pm; Toradol\textsuperscript{12} 60 mg IM ("now") then 30 mg IM four times daily; Robaxin\textsuperscript{13} 1,500 mg four times daily; Catapress\textsuperscript{14} 0.1 mg four times daily if his systolic pressure was above 100, and; Librium\textsuperscript{15} 10 mg twice a day.

16. Respondent also requested an EKG and laboratory tests, including a complete blood count, chemistry metabolic panel, urine drug screen and Breathalyzer.

17. A.S. was interviewed by the admitting nurse at 5:00 p.m., who documented his explanation of his earlier overdose. The nurse reported that A.S. stated: "I did not try to kill myself. I was in so much pain that I took too many pills." He reported to the nurse that his overdose was 10 tablets of 2 mg Xanax and 40 tablets of MS Contin. He reported that he had used Xanax 3 tabs daily for two years.

18. The nurse listed A.S.'s many drugs of abuse at his initial evaluation. His mood was recorded as neutral and the nursing check-list of mental status dimensions were unremarkable. His vital signs were within normal ranges and he was allowed to keep his regular clothes and luggage. There is no notation of his clothes and luggage being searched.

19. The laboratory test ordered by Respondent showed a slightly elevated white blood cell count of 12.5 thousand. The metabolic panel was normal. The urinalysis was normal. The urine toxicology screen was positive for Cannabis and Opiates, but surprisingly negative for benzodiazepines. The EKG was normal.

20. A.S.'s vital signs were taken at 9:00 p.m. and again at 11:00 p.m. on February 22, 2012. The record reflects that he received his evening medications and that he reported his back pain as improved.

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\textsuperscript{10} Zoloft is a selective-serotonin reuptake inhibitor commonly prescribed as an antidepressant.
\textsuperscript{11} Lidoderm suppresses automaticity of ventricular cells, decreasing diastolic depolarization and increasing the ventricular fibrillation threshold.
\textsuperscript{12} Toradol is a pain medication.
\textsuperscript{13} Robaxin is a skeletal muscle relaxant.
\textsuperscript{14} Catapress is used to treat hypertension and high blood pressure.
\textsuperscript{15} Librium is an antianxiety medication.
21. A.S.'s ordered, night-time medications were recorded as given, included Lyrica at 5:00 p.m., and 10:00 p.m., Librium at 5:00 p.m., Elavil at 9:00 p.m., Phenobarbital at 9:00 p.m., Sertraline at 9:00 p.m. and Buprenorphine at 11:00 p.m.

22. The records note that A.S. was able to go to sleep with no further distress. At the bottom of this page in the medical records the time is written as 3:30 (a.m. is presumed) and the hours slept is noted as “8” and “slept through the night.” In light of the fact that A.S. was discovered dead at 6:20 a.m., it is difficult to see how this record could be accurate.

23. Further troubling is the fact that Lyrica, Robaxin, Clonidine, and Librium were noted as having been administered at 7:00 a.m. on February 23, 2012, after A.S. was found dead.

24. Nurses discovered A.S. lying "supine" in his bed with rigor mortis about 6:20 a.m., according to the records. However, the dictated record of Dr. G.M., who came from the Emergency Department of Mission Hospital to assist in resuscitation efforts, observed that A.S. had "obvious lividity with pooling of the blood in the anterior aspect of the body . . . .” Dr. G.M. also noted that: "The sheets were wet indicated [sic] that there was fluid there, which may have been either vomitus from which he aspirated and the fluid was noted on his face and eyes." This evidence indicates a seizure.

25. The sheriff's records indicate that A.S. was found in a supine position with evidence that he had been turned from the prone position. No evidence of extra pills was found in A.S.'s room, nor signs of trauma. According to the Orange County Sheriff-Coroner the cause of death was "[a]cute poly drug intoxication due to combined effects of buprenorphine, sertraline, norsertraline, bupropion, anitriptyline, lidocaine chlordiazepoxide, methocarbamol and tetrahydrocannabinol.” It was noted that none of the substances were at toxic levels. Furthermore, examination of A.S.’s heart revealed left ventricular enlargement but no evidence of atherosclerosis.

26. Notably absent in the coroner’s toxicology report were metabolites of Lorazapam, Flurazepam, Alprazolam and Phenobarbital, some of which A.S. had reportedly received within the prior 24-36 hours.

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DANIEL HEADRICK, M.D. (ACCUSATION NO. 800-2013-000822)
FIRST CAUSE FOR DISCIPLINE
(Unprofessional conduct – repeated negligent acts)

27. By reason of the matters set forth above in paragraphs 14 through 26, incorporated herein by this reference, Respondent, Daniel Headrick, M.D., is subject to disciplinary action under section 2234, subdivision (c), in that he engaged in unprofessional conduct constituting repeated negligent acts. The circumstances are as follows:

28. Respondent’s use of multiple medications was unsupported by the medical records since withdrawal from Opiates or Benzodiazepines was not demonstrated, nor was insomnia or pain consistently proven. There was no indication for prescribing Zoloft since a diagnosis of Major Depression was excluded due to drug abuse. Elavil is an obsolete medication with many problematic adverse effects. Phenobarbital is similarly a medication belonging to an earlier generation of physicians due to its risks. The interacting side effects of these many medications are unpredictable. Thus, Respondent’s use of multiple medications with unpredictable consequences constitutes negligence.

29. Respondent’s simultaneous administration of sedatives such as Phenobarbital, Lyrica and Librium with the opiate Buprenorphine is contraindicated due to the risk of respiratory arrest and constitutes negligence.

30. Respondent’s simultaneous ordering of 10 medications without a record of symptoms supporting a diagnosis, together with the high risk of adverse effects for these medications constitutes negligence.

31. Respondent ordered vital signs for A.S. only when he was awake, although he was a new patient. This failure to order vital signs every two hours constitutes negligence, and taken together with other negligent acts as set forth above, constitutes repeated negligent acts.

SECOND CAUSE FOR DISCIPLINE
(Failure to Maintain Adequate and Accurate Records)

32. By reason of the matters set forth above in paragraphs 14 through 31, incorporated herein by this reference, Respondent is subject to disciplinary action under section 2266 in that he
failed to maintain adequate and accurate medical records for patient A.S. The circumstances are as follows:

33. Respondent is the Chief Operating Officer, owner and only physician at MPCRC and bears responsibility for system deficiencies and individual documentation errors of the nursing staff, as well as his own lack of appropriate documentation.

34. Respondent failed to maintain adequate and accurate medical records for A.S., which constitutes a violation of section 2266.

PRAYER

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

1. Revoking or suspending Physician's and Surgeon's Certificate Number G45144, issued to Daniel Headrick, M.D.;
2. Revoking, suspending or denying approval of his authority to supervise physician assistants, pursuant to section 3527 of the Code;
3. Ordering Daniel Headrick, M.D., if placed on probation, to pay the Board the costs of probation monitoring; and
4. Taking such other and further action as deemed necessary and proper.

DATED: October 19, 2016

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