

**COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
BEFORE THE STATE BOARD OF MEDICINE**

PROHIBITION
2019 DEC 13 AM 11:00

**Commonwealth of Pennsylvania
Bureau of Professional and
Occupational Affairs**

Department of State

v.

File No.:

19-49-003344

**Abby Melissa Irwin, M.D.,
Respondent**

CONSENT AGREEMENT AND ORDER

PARTIES

The Commonwealth of Pennsylvania, Department of State, Bureau of Professional and Occupational Affairs ("Commonwealth") and **Abby Melissa Irwin, M.D.** ("Respondent") stipulate as follows in settlement of the above-captioned case.

APPLICABLE LAW

1. This matter is before the State Board of Medicine ("Board") pursuant to the Medical Practice Act of 1985, act of December 20, 1985, P.L. 457, No. 112, ("Act"), *as amended*, 63 P.S. §§ 422.1-422.53; the Medical Care Availability and Reduction of Error ("MCARE") Act, Act of March 20, 2002, P.L. 154, No. 13, *as amended*, 40 P.S. §§ 1303.101-1303.910; and/or the Act of July 2, 1993, P.L. 345, No. 48 ("Act 48"), *as amended*, 63 P.S. §§ 2201-2207.

LICENSURE STATUS

2. At all relevant and material times, Respondent held a license to practice as a medical physician and surgeon in the Commonwealth of Pennsylvania, license no. MD453761, which was originally issued on January 7, 2015, and which expired on December 31, 2018.

STIPULATED FACTS

3. The Respondent admits that the following allegations are true:

a. Absent additional Board action, Respondent's license may be continually reactivated, renewed, or reinstated upon the filing of the appropriate documentation and payment of the necessary fees.

b. Respondent's last known office address, as on file with the Board, is 1007 Helene Lane, Lewisburg, PA 17837.

c. The Commonwealth has reason to believe that Respondent's current address is 153 Victoria Lane, Lewisburg, Pennsylvania 17837-9219.

d. At all relevant and material times, Respondent was authorized to practice as a physician and surgeon in the State of California, certificate number A 109129.

e. By Decision dated June 13, 2019, at Case No. 800-2016-024914, the Medical Board of California ("California Board"), adopted, as a Decision and Order, a Stipulated Surrender of License and Order, in which Respondent admitted to certain violations of the California Business and Professions Code and agreed to surrender her California Physician's and Surgeon's Certificate, No. A 109129.

f. A true and correct copy of the California Board's June 13, 2019 Decision is attached as **Exhibit A** and is incorporated by reference.

AUTHORITY OF THE BOARD

4. The Board is authorized to suspend or revoke, or otherwise restrict Respondent's license under Sections 41 and 42 of the Act, 63 P.S. §§ 422.41 & 422.42; or impose a civil penalty and costs of investigation under Section 908 of the MCARE Act, 40 P.S. §§ 1303.908, and Section 5(b)(4) and 5(b)(5) of Act 48, 63 P.S. §§ 2205(b)(4) and 2205(b)(5), because Respondent had a license or other authorization to practice the profession suspended, revoked, refused or otherwise disciplined by the proper licensing authority of another state in violation of Section 41(4) of the Act at, 63 P.S. § 422.41(4).

PROPOSED ORDER

5. The parties, intending to be legally bound, consent to the issuance of the following Order in settlement of this matter:

a. The Board finds that it is authorized to suspend or revoke, or otherwise restrict Respondent's license under Sections 41 and 42 of the Act, 63 P.S. §§ 422.41 & 422.42; or impose a civil penalty and costs of investigation under Section 908 of the MCARE Act, 40 P.S. §§ 1303.908, and Section 5(b)(4) and 5(b)(5) of Act 48, 63 P.S. §§ 2205(b)(4) and 2205(b)(5), because Respondent had a license or other authorization to practice the profession suspended, revoked, refused or otherwise disciplined by the proper licensing authority of another state in violation of Section 41(4) of the Act at, 63 P.S. § 422.41(4).

VOLUNTARY SURRENDER

b. The Board hereby accepts, the **VOLUNTARY SURRENDER** of all licenses, registrations, certificates, approvals, permits or authorizations issued by the Board (hereinafter referred to collectively as "authorizations to practice the profession") to Respondent at the time this Consent Agreement is adopted;

c. Respondent's voluntary surrender constitutes a reportable disciplinary action and has the legal effect of a revocation of Respondent's authorizations to practice the profession. This action is reportable to entities including, but not limited to , the National Practitioner Data Bank, the licensing authority of any state or jurisdiction, governmental entities including federal and state agencies, and any private or public health care facility;

d. Respondent shall, within ten (10) days of the effective date of the Board's Order, surrender Respondent's current wall certificate (if issued) and wallet card issued by the Board (or notarized affidavit of their loss or destruction) by mailing them to:

Mark R. Zogby
Prosecuting Attorney
Bureau of Professional and Occupational Affairs
P.O. Box 69521
Harrisburg, PA 17106-9521

or by delivering them in person at:

Bureau of Professional and Occupational Affairs
One Penn Center
2601 North 3rd St.
Harrisburg, Pennsylvania

e. Upon the effective date of this Consent Agreement and Order, Respondent shall cease and desist from any conduct requiring authorizations to practice the profession;

f. Unless ordered to do so by an appropriate court of competent jurisdiction, the Board shall not consider an application for reinstatement from voluntary surrender or for the issuance of any other authorizations to practice the profession issued by the Board until at least five (5) years have elapsed from the effective date of the voluntary surrender.

g. This Order constitutes disciplinary action by the Board and shall be reported to other licensing authorities and any applicable national licensing databank as a disciplinary action by the Board;

h. This case shall be deemed settled and discontinued upon the Board issuing an Order adopting this Consent Agreement.

ADMISSIBILITY OF CONSENT AGREEMENT IN FUTURE PROCEEDINGS

6. Respondent agrees that this Consent Agreement and Order shall be admitted into evidence, without objection, in any proceeding before the Department of State.

ACKNOWLEDGMENT OF NOTICE AND WAIVER OF HEARING

7. Respondent acknowledges the filing of an Order to Show Cause in this matter. Respondent knowingly and voluntarily waives the right to an administrative hearing in this matter and the following rights related to that hearing: to be represented by counsel; to present witnesses and testimony in defense or in mitigation of any sanction that may be imposed for a violation; to cross-examine witnesses and to challenge evidence presented by the Commonwealth; to present legal arguments by means of a brief; and to take an appeal from any adverse final decision.

ACKNOWLEDGMENT OF RIGHT TO ATTORNEY

8. Respondent acknowledges the right to consult with and be represented by private legal counsel of Respondent's choosing and at Respondent's expense when reviewing, considering and accepting the terms of this Consent Agreement. To the extent that Respondent is not represented by legal counsel, Respondent has knowingly elected to proceed without the assistance of legal counsel.

WAIVER OF CLAIMS

9. Should the Board vote not to adopt the Order proposed in this Consent Agreement, the presentation and consideration of this Consent Agreement shall not prejudice the Board or any of its members from further participation in the adjudication of this matter. Respondent expressly waives the right to raise any claims or issues, including any and all constitutional claims or issues, which may arise or have arisen during the review, presentation and deliberation of this Consent Agreement. These claims or issues include, but are not limited to, bias, the commingling of prosecutorial and adjudicative functions by the Board or its counsel, and the Board, in its discretion, recommending a different sanction based upon the facts set forth in the Consent Agreement. If a hearing is subsequently held, neither this Consent Agreement nor the proposed terms of settlement may be admitted into evidence and any facts, averments, and allegations contained in the Consent Agreement must be proven at a hearing unless otherwise separately stipulated.

LIMITS ON MODIFICATION OF ORDER

10. Respondent agrees not to seek modification of the Order adopting and implementing this Consent Agreement without first obtaining the express written permission from the prosecution division. Any modification is at the sole discretion of the Board.

AGREEMENT NOT BINDING UNTIL APPROVED

11. This Consent Agreement is between the Commonwealth and Respondent. The Office of General Counsel has approved this Consent Agreement as to form and legality. The disciplinary provisions of this Consent Agreement do not take effect unless and until the Board issues an order adopting this Consent Agreement.

ENTIRE AGREEMENT

12. This Consent Agreement contains the entire agreement between the parties. There are no other terms, obligations, covenants, representations, statements, or conditions, oral or otherwise, of any kind whatsoever concerning this agreement.

ENTIRE AGREEMENT

13. This Consent Agreement contains the entire agreement between the parties. There are no other terms, obligations, covenants, representations, statements, or conditions, oral or otherwise, of any kind whatsoever concerning this agreement.

AGREEMENT DOES NOT PREVENT FUTURE DISCIPLINE

14. Nothing in this Order shall preclude the prosecution division of the Department of State from filing charges, or the Board from imposing disciplinary or corrective measures, for violations or facts not contained in this Consent Agreement.

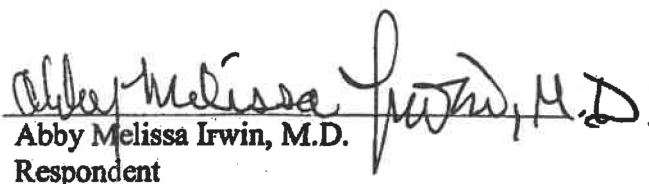
VERIFICATION OF FACTS AND STATEMENTS

15. Respondent verifies that the facts and statements set forth in this Consent Agreement are true and correct to the best of Respondent's knowledge, information and belief. Respondent understands that the statements in this Consent Agreement are made subject to the criminal penalties of 18 Pa. C.S. § 4904 relating to unsworn falsification to authorities.



Mark R. Zogby
Prosecuting Attorney

DATED: 11/22/19



Abby Melissa Irwin, M.D.
Respondent

DATED: 11/20/19

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

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

Abby Melissa Irwin, M.D.

**Physician's and Surgeon's
Certificate No. A 109129**

Respondent

Case No. 800-2016-024914

DECISION

**The attached Stipulated Surrender of License and Order is hereby
adopted as the Decision and Order of the Medical Board of California,
Department of Consumer Affairs, State of California.**

This Decision shall become effective at 5:00 p.m. on June 20, 2019.

IT IS SO ORDERED June 13, 2019.

MEDICAL BOARD OF CALIFORNIA

**By: 
Kimberly Kirchmeyer
Executive Director**

1 XAVIER BECERRA
Attorney General of California
2 MATTHEW M. DAVIS
Supervising Deputy Attorney General
3 LEANNA E. SHIELDS
Deputy Attorney General
4 State Bar No. 239872
600 West Broadway, Suite 1800
5 San Diego, CA 92101
P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 738-9401
7 Facsimile: (619) 645-2061

8 *Attorneys for Complainant*

9
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. 800-2016-024914

14 **ABBY MELISSA IRWIN, M.D.**
115 Farley Circle, Suite 304
15 Lewisburg, PA 17837-9252

**STIPULATED SURRENDER OF
LICENSE AND ORDER**

16 **Physician's and Surgeon's Certificate No.**
17 **A 109129,**

Respondent.

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

22 **PARTIES**

23 1. Kimberly Kirchmeyer (Complainant) is the Executive Director of the Medical Board
24 of California (Board). She brought this action solely in her official capacity and is represented in
25 this matter by Xavier Becerra, Attorney General of the State of California, by LeAnna E. Shields,
26 Deputy Attorney General.

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1 2. Abby Melissa Irwin, M.D. (Respondent) is represented in this proceeding by attorney
2 James R. Rogers, Esq., whose address is 11230 Sorrento Valley Road, Suite 105, San Diego,
3 California 92121.

4 3. On or about August 27, 2009, the Board issued Physician's and Surgeon's Certificate
5 No. A 109129 to Respondent. The Physician's and Surgeon's Certificate was in full force and
6 effect at all times relevant to the charges brought in Accusation No. 800-2016-024914, and
7 expired on May 31, 2017, and has not been renewed.

8 **JURISDICTION**

9 4. On February 20, 2019, Accusation No. 800-2016-024914 was filed before the Board,
10 and is currently pending against Respondent. A true and correct copy of Accusation No. 800-
11 2016-024914 and all other statutorily required documents were properly served on Respondent on
12 April 8, 2019. Respondent filed her Notice of Defense. A true and correct copy of Accusation
13 No. 800-2016-024914 is attached hereto as Exhibit A and incorporated by reference as if fully set
14 forth herein.

15 **ADVISEMENT AND WAIVERS**

16 5. Respondent has carefully read, fully discussed with counsel, and fully understands the
17 charges and allegations in Accusation No. 800-2016-024914. Respondent also has carefully read,
18 fully discussed with counsel, and fully understands the effects of this Stipulated Surrender of
19 License and Order.

20 6. Respondent is fully aware of her legal rights in this matter, including the right to a
21 hearing on the charges and allegations in the Accusation; the right to confront and cross-examine
22 the witnesses against her; the right to present evidence and to testify on her own behalf; the right
23 to the issuance of subpoenas to compel the attendance of witnesses and the production of
24 documents; the right to reconsideration and court review of an adverse decision; and all other
25 rights accorded by the California Administrative Procedure Act and other applicable laws.

26 7. Having the benefit of counsel, Respondent voluntarily, knowingly, and intelligently
27 waives and gives up each and every right set forth above.

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CULPABILITY

8. Respondent does not contest that, at an administrative hearing, Complainant could establish a prima facie case with respect to the charges and allegations contained in Accusation No. 800-2016-024914, that she has thereby subjected her Physician's and Surgeon's Certificate No. A 109129 to disciplinary action, and hereby surrenders her Physician's and Surgeon's Certificate No. A 109129 for the Board's formal acceptance.

9. Respondent agrees that if she files a petition for reinstatement or relicensure, or an accusation and/or petition to revoke probation is filed against her before the Medical Board of California, all of the charges and allegations contained in Accusation No. 800-2016-024914 shall be deemed true, correct, and fully admitted by Respondent for purposes of any such proceeding or any other licensing proceeding involving Respondent in the State of California.

10. Respondent understands that by signing this stipulation she enables the Board to issue an order accepting the surrender of her Physician's and Surgeon's Certificate No. A 109129 without notice to, or opportunity to be heard by, Respondent.

CONTINGENCY

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

12. Respondent understands that, by signing this stipulation, she enables the Executive Director of the Board to issue an order, on behalf of the Board, accepting the surrender of her Physician's and Surgeon's Certificate No. A 109129 without further notice to, or opportunity to be heard by, Respondent.

13. This Stipulated Surrender of License and Disciplinary Order shall be subject to the approval of the Executive Director on behalf of the Board. The parties agree that this Stipulated Surrender of License and Disciplinary Order shall be submitted to the Executive Director for her consideration in the above-entitled matter and, further, that the Executive Director shall have a reasonable period of time in which to consider and act on this Stipulated Surrender of License and Disciplinary Order after receiving it. By signing this stipulation, respondent fully understands

1 and agrees that she may not withdraw her agreement or seek to rescind this stipulation prior to the
2 time the Executive Director, on behalf of the Medical Board, considers and acts upon it.

3 14. 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 15. 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 16. 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 such copies shall have the same force and effect as originals.

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17. In consideration of the foregoing admissions and stipulations, the parties agree the Executive Director of the Board may, without further notice to or opportunity to be heard by Respondent, issue and enter the following Disciplinary Order on behalf of the Board:

ORDER

IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. A 109129, issued to Respondent Abby Melissa Irwin, M.D., is surrendered and accepted by the Medical Board of California.

1. The surrender of Respondent's Physician's and Surgeon's Certificate and the acceptance of the surrendered license by the Board shall constitute the imposition of discipline against Respondent. This stipulation constitutes a record of the discipline and shall become a part of Respondent's license history with the Board.

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

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

4. If she ever applies for licensure or petitions for reinstatement in the State of California, the Board shall treat it as a new application for licensure. Respondent must comply with all the laws, regulations and procedures for licensure in effect at the time the application or petition is filed, and all of the charges and allegations contained in Accusation No. 800-2016-024914 shall be deemed to be true, correct and fully admitted by Respondent when the Board determines whether to grant or deny the application or petition.

5. If Respondent should ever apply or reapply for a new license or certification, or petition for reinstatement of a license, by any other health care licensing agency in the State of California, all of the charges and allegations contained in Accusation, No. 800-2016-024914 shall be deemed to be true, correct, and fully admitted by Respondent for the purpose of any Statement of Issues or any other proceeding seeking to deny or restrict licensure.

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III

ACCEPTANCE

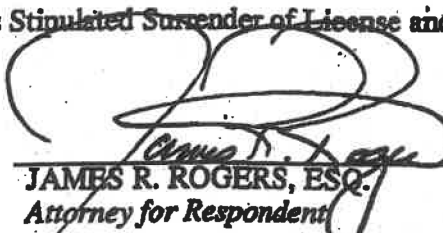
I have carefully read the above Stipulated Surrender of License and Order and have fully discussed it with my attorney, James R. Rogers, Esq., and I fully understand the stipulation and the effect it will have on my Physician's and Surgeon's Certificate No. A 109129. I enter into this Stipulated Surrender of License and Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Medical Board of California.

DATED: 5/16/19


ABBY MELISSA IRWIN, M.D.
Respondent

I have read and fully discussed with Respondent Abby Melissa Irwin, M.D. the terms and conditions and other matters contained in this Stipulated Surrender of License and Order. I approve its form and content.

DATED: 5/16/19


JAMES R. ROGERS, ESQ.
Attorney for Respondent

ENDORSEMENT

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

Dated: 5-31-19

Respectfully submitted,

XAVIER BECERRA
Attorney General of California
MATTHEW M. DAVIS
Supervising Deputy Attorney General


LEANNA E. SHIELDS
Deputy Attorney General
Attorneys for Complainant

Exhibit A

Accusation No. 800-2016-024914

1 XAVIER BERCERRA
Attorney General of California
2 MATTHEW M. DAVIS
Supervising Deputy Attorney General
3 LEANNA E. SHIELDS
Deputy Attorney General
4 State Bar No. 239872
600 West Broadway, Suite 1800
5 San Diego, CA 92101
P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 738-9401
7 Facsimile: (619) 645-2061

8 *Attorneys for Complainant*

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO Feb 20 20 19
BY SARA P. BORDO ANALYST

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

14 In the Matter of the Accusation Against:

Case No. 800-2016-024914

15 ABBY MELISSA IRWIN, M.D.
115 Farley Circle, Suite 304
16 Lewisburg, PA. 17837-9252

ACCUSATION

17 Physician's and Surgeon's Certificate
18 No. A 109129,

Respondent.

21 Complainant alleges:

22 PARTIES

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

26 2. On or about August 7, 2009, the Medical Board issued Physician's and Surgeon's
27 Certificate No. A 109129 to Abby Melissa Irwin, M.D. (Respondent). The Physician's and
28 Surgeon's Certificate expired on May 31, 2017, and has not been renewed.

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 (Code) unless otherwise indicated.

4. Section 2227 of the Code states:

"(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."

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FIRST CAUSE FOR DISCIPLINE

(Gross Negligence)

9. Respondent has subjected her Physician's and Surgeon's Certificate No. A 109129 to disciplinary action under sections 2227 and 2234, as defined by 2234, subdivision (b), of the Code, in that she committed gross negligence in her care and treatment of Patients A, B and C,¹ as more particularly alleged hereinafter:²

Patient A

10. On or about 2013, through on or about 2016, Respondent treated Patient A for, among other things, adult attention deficit hyperactivity disorder and depression.

11. From on or about 2013, through on or about 2016, Respondent prescribed several controlled substances to Patient A, including, but not limited to, diazepam³ and Adderall.⁴

12. During the period from on or about September 9, 2014, through on or about November 20, 2016, according to the Controlled Substance Utilization Review and Evaluation System⁵ (CURES) report for Patient A, Respondent issued seven (7) prescriptions for 60 tablets of diazepam (10 mg), two per day, to Patient A.

¹ To protect the privacy of all patients involved, patient names have not been included in this pleading. Respondent is aware of the identity of the patients referred to herein.

² Conduct occurring more than seven (7) years from the filing date of this Accusation is for informational purposes only and is not alleged as a basis for disciplinary action.

³ Diazepam, brand name Valium, is a 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. Diazepam is a benzodiazepine commonly used to treat anxiety. Diazepam is also indicated for treatment of withdrawal and seizures.

⁴ Adderall is a brand name for dextroamphetamine and amphetamine, a Schedule II controlled substance pursuant to Health and Safety Code section 11055, subdivision (d), and a dangerous drug pursuant to Business and Professions Code section 4022. It is an amphetamine salts used for attention-deficit hyperactivity disorder and narcolepsy. Adderall carries a black box warning indicating that it has high abuse potential.

⁵ The Controlled Substance Utilization Review and Evaluation System (CURES) is a program operated by the California Department of Justice (DOJ) to assist health care practitioners in their efforts to ensure appropriate prescribing of controlled substances, and law enforcement and regulatory agencies in their efforts to control diversion and abuse of controlled substances. (Health & Saf. Code, § 11165.) California law requires dispensing pharmacies to report to the DOJ the dispensing of Schedule II, III, and IV controlled substances as soon as reasonably possible after the prescriptions are filled. (Health & Saf. Code, § 11165, subd. (d).) It is important to note that the history of controlled substances dispensed to a specific patient based on the data contained in CURES is available to a health care practitioner who is treating that patient. (Health & Saf. Code, § 11165.1, subd. (a).)

1 13. During the period from on or about September 10, 2015, through on or about May 29,
2 2016, according to the CURES report for Patient A, Respondent issued eight (8) prescriptions for
3 124 tablets of Adderall (20 mg), four per day, to Patient A.

4 14. Respondent's medical records for Patient A do not indicate any mental status or
5 physical examination was performed by Respondent prior to prescribing diazepam and Adderall
6 to Patient A.

7 15. Respondent's medical records for Patient A do not adequately indicate the quantities
8 and dosages of the prescriptions for Adderall, a Schedule II controlled substance, issued to Patient
9 A.

10 16. Respondent committed gross negligence in her care and treatment of Patient A, which
11 included, but is not limited to, failing to perform a mental status or physical examination of
12 Patient A prior to prescribing potentially addictive medication, Adderall, to Patient A.

13 Patient B

14 17. On or about 2013, through on or about 2016, Respondent treated Patient B for, among
15 other things, anxiety, attention deficit disorder, depression and fibromyalgia.

16 18. From on or about 2013 through on or about 2016, Respondent prescribed several
17 controlled substances to Patient B, including, but not limited to, clonazepam,⁶ alprazolam,⁷
18 Adderall,⁸ and zolpidem.⁹

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21
22 ⁶ Clonazepam, brand name Klonopin, is a Schedule IV controlled substance pursuant to Health and Safety
23 Code section 11057, subdivision (d), and a dangerous drug pursuant to Business and Professions Code section 4022.
It is an anti-anxiety medication in the benzodiazepine family.

24 ⁷ Alprazolam, brand name Xanax, is a Schedule IV controlled substance pursuant to Health and Safety Code
25 section 11057, subdivision (d), and a dangerous drug pursuant to Business and Professions Code section 4022.
Alprazolam is a short-acting benzodiazepine, high doses of alprazolam are indicated for panic disorder and severe
generalized anxiety disorder.

26 ⁸ See Footnote 4, above.

27 ⁹ Zolpidem, brand name Ambien, is a Schedule IV controlled substance pursuant to Health and Safety Code
28 section 11057, subdivision (d), and a dangerous drug pursuant to Business and Professions Code section 4022.
Zolpidem is a sedative commonly used to treat insomnia.

1 19. During the period from on or about September 27, 2013, through on or about July 17,
2 2016, according to the CURES report for Patient B, Respondent issued sixty (60) prescriptions
3 for Adderall to Patient B. The prescriptions were issued monthly and varied in quantity and
4 strength, ranging between thirty (30) and ninety (90) tablets per prescription, and 20 mg to 30 mg
5 in strength.

6 20. During the period from on or about September 27, 2013, through on or about
7 September 1, 2016, according to the CURES report for Patient B, Respondent issued fifty-four
8 (54) prescriptions for clonazepam to Patient B. The prescriptions were issued monthly and varied
9 in quantity and strength, ranging between sixty (60) and ninety (90) tablets per prescription, and 1
10 mg to 2 mg in strength.

11 21. During the period from on or about June 24, 2014, through on or about August 14,
12 2016, according to the CURES report for Patient B, Respondent issued twenty-eight (28)
13 prescriptions for Xanax to Patient B. The prescriptions were issued monthly and prescribed
14 ninety (90) tablets of Xanax (1 mg), three per day, to Patient B.

15 22. According to Respondent's medical records for Patient B, on or about September 27,
16 2013, Patient B reported to have lost his medications or believed his medications had been stolen.
17 Respondent then issued new prescriptions to Patient B for Adderall, clonazepam and Remeron.¹⁰

18 23. According to Respondent's medical records for Patient B, on or about January 15,
19 2014, Patient B reported experiencing increased anxiety. Respondent then verbally contacted
20 Patient B's pharmacy and issued a prescription for sixty (60) tablets of clonazepam, increasing
21 the dose from 1 mg to 2 mg, and issued another prescription for ninety-six (96) tablets of
22 Adderall (20 mg), to Patient B.

23 24. According to Respondent's medical records for Patient B, on or about April 7, 2014,
24 Patient B reported an unexpected death in the family. Respondent then issued a prescription for
25 ///

26
27 ¹⁰ Remeron is the brand name for mirtazapine, a dangerous drug pursuant to Business and Professions Code
28 section 4022, commonly used to treat depression.

1 thirty (30) tablets of Adderall XR¹¹ (20 mg); thirty (30) tablets of Adderall (30 mg); sixty (60)
2 tablets of Clonazepam (2 mg), and Remeron, to Patient B.

3 25. According to Respondent's medical records for Patient B, on or about September 29,
4 2014, Patient B reported his roommate had stolen his medications. Respondent then issued a
5 prescription for sixty (60) tablets of Adderall (30 mg), two per day, to Patient B.

6 26. According to Respondent's medical records for Patient B, no further records were
7 prepared or maintained by Respondent after Patient B's visit on September 29, 2014.

8 27. According to CURES, Respondent continued prescribing Adderall, clonazepam, and
9 alprazolam, to Patient B through 2016.

10 28. Respondent's medical records for Patient B do not adequately record a mental status
11 examination, diagnosis, and treatment plan for Patient B. Respondent's medical records for
12 Patient B do not adequately document changes in symptoms, Patient B's response to treatment,
13 changes in treatment plan, medications, or rationale for changes in prescriptions.

14 29. Respondent's medical records for Patient B do not adequately indicate the quantities
15 and dosages of the prescriptions for Adderall, a Schedule II controlled substance, issued to Patient
16 B.

17 30. Respondent committed gross negligence in her care and treatment of Patient B, which
18 included, but is not limited to, failing to document her rationale for simultaneously prescribing
19 two separate benzodiazepines, Xanax and Clonazepam, to Patient B, or monitor for adverse side
20 effects or signs of dependence.

21 **Patient C**

22 31. Respondent did not maintain any medical records for Patient C.

23 32. During the period from on or about April 17, 2014, through on or about January 19,
24 2016, according to the CURES report for Patient C, Respondent issued eighteen (18)
25 prescriptions for Ambien¹² to Patient B. The prescriptions were issued approximately once per
26 month, each prescribing thirty (30) tablets of Ambien (10 mg), one per day, to Patient C.

27 ¹¹ Adderall XR is the extended release version of Adderall. See Footnote 4, above.

28 ¹² Ambien is the brand name for zolpidem. See Footnote 9, above.

1 33. During the period from on or about April 15, 2014, through on or about April 27,
2 2015, according to the CURES report for Patient C, Respondent issued eleven (11) prescriptions
3 for ninety (90) tablets of alprazolam (2 mg), three per day, to Patient C.

4 34. On or about July 9, 2015, August 25, 2015, and October 29, 2015, according to the
5 CURES report for Patient C, Respondent issued three (3) prescriptions for sixty (60) tablets of
6 alprazolam (2 mg), two per day, to Patient C.

7 35. On or about January 19, 2015, March 12, 2015, and April 17, 2015, according to the
8 CURES report for Patient C, Respondent issued three (3) prescriptions for sixty (60) tablets of
9 Adderall (20 mg), two per day, to Patient C.

10 36. On or about July 26, 2014, according to the CURES report for Patient C, Respondent
11 issued a prescription for ninety (90) tablets of Valium¹³ (10 mg), to Patient C.

12 37. On or about October 27, 2014, November 26, 2014, and January 19, 2015, according
13 to the CURES report for Patient C, Respondent issued three (3) prescriptions for twelve (12) to
14 fourteen (14) capsules of Librium¹⁴ (25 mg), to Patient C.

15 38. On or about January 19, 2015, according to the CURES report for Patient C,
16 Respondent issued a prescription for ninety (90) tablets of oxycodone,¹⁵ to Patient C.

17 39. On or about January 21, 2015, according to pharmacy records for Patient C,
18 Respondent issued a prescription for ninety (90) tablets of Flexeril,¹⁶ to Patient C.

19 ///

20
21 ¹³ Valium is the brand name for diazepam. See Footnote 3, above.

22 ¹⁴ Librium is the brand name for chlordiazepoxide. Librium is a Schedule IV controlled substance pursuant
23 to Health and Safety Code section 11057, subdivision (d), and a dangerous drug pursuant to Business and Professions
Code section 4022. Librium is a benzodiazepine, commonly used to treat anxiety and withdrawal.

24 ¹⁵ Oxycodone is a Schedule II controlled substance pursuant to Health and Safety Code section 11055,
25 subdivision (b), and a dangerous drug pursuant to Business and Professions Code section 4022. When properly
26 prescribed and indicated, it is used for the treatment of moderate to moderately severe pain. The Drug Enforcement
Administration (DEA) has identified opioids, such as oxycodone, as a drug of abuse. (Drugs of Abuse, DEA
Resource Guide (2015 Edition), at p. 43.)

27 ¹⁶ Flexeril is the brand name for cyclobenzaprine, a dangerous drug pursuant to Business and Professions
28 Code section 4022. Flexeril is a muscle relaxant, commonly used to treat muscle pain.

1 40. On or about February 15, 2015 and March 14, 2015, according to pharmacy records
2 for Patient C, Respondent issued prescriptions for sixty (60) tablets of Clonidine,¹⁷ to Patient C.

3 41. On or about November 8, 2016, December 7, 2016, January 3, 2017 and March 6,
4 2017, according to pharmacy records for Patient C, Respondent issued prescriptions for 120
5 tablets of Neurontin¹⁸ (300 mg), to Patient C.

6 42. Respondent committed gross negligence in her care and treatment of Patient C, which
7 included, but were not limited to, the following:

- 8 (a) Respondent failed to perform a mental status and/or physical examination of
9 Patient C prior to prescribing potentially addictive medications to Patient C;
10 (b) Respondent failed to document her rationale for prescribing large quantities of
11 Xanax to Patient C, or her rationale for prescribing Valium and Librium, while
12 also prescribing Xanax, to Patient C;
13 (c) Respondent failed to maintain adequate and accurate medical records pertaining
14 to her care and treatment provided to Patient C; and
15 (d) Respondent failed to maintain adequate and accurate medical records pertaining
16 to her prescribing Schedule II controlled substances to Patient C.

17 **SECOND CAUSE FOR DISCIPLINE**

18 **(Repeated Negligent Acts)**

19 43. Respondent has further subjected her Physician's and Surgeon's Certificate No.
20 A 109129 to disciplinary action under sections 2227 and 2234, as defined by 2234, subdivision
21 (c), of the Code, in that she committed repeated negligent acts in her care and treatment of
22 Patients A, B and C, as more particularly alleged hereinafter:

- 23 (a) Paragraphs 10 through 42, above, are hereby incorporated by reference and
24 realleged as if fully set forth herein;

25
26 ¹⁷ Clonidine is a dangerous drug pursuant to Business and Professions Code section 4022. Clonidine is
27 commonly used to treat high blood pressure, attention deficit hyperactivity disorder, anxiety and withdrawal.

28 ¹⁸ Neurontin, brand name for gabapentin, is a dangerous drug pursuant to Business and Professions Code
section 4022. Neurontin is commonly used to treat nerve pain and seizures.

- 1 (b) Respondent failed to maintain adequate and accurate medical records pertaining
2 to her prescribing Schedule II controlled substances, Adderall, to Patient A;
3 (c) Respondent failed to maintain adequate and accurate medical records pertaining
4 to her prescribing Schedule II controlled substances, Adderall, to Patient B; and
5 (d) Respondent failed to maintain adequate and accurate medical records pertaining
6 to her care and treatment provided to Patient B.

7 **THIRD CAUSE FOR DISCIPLINE**

8 **(Prescribing Without an Appropriate Prior Examination or Medical Indication)**

9 44. Respondent has further subjected her Physician's and Surgeon's Certificate No.
10 A 109129 to disciplinary action under sections 2227, and 2234, as defined by 2242, of the Code,
11 in that she prescribed, dispensed, or furnished dangerous drugs as defined in section 4022 without
12 an appropriate medical indication, in her care and treatment of Patients A and C, as more
13 particularly alleged in paragraphs 10 through 16, and 31 through 42, above, which are hereby
14 incorporated by reference and realleged as if fully set forth herein.

15 **FOURTH CAUSE FOR DISCIPLINE**

16 **(Failure to Maintain Adequate and Accurate Records)**

17 45. Respondent has further subjected her Physician's and Surgeon's Certificate No.
18 A 109129 to disciplinary action under sections 2227 and 2234, as defined by 2266, of the Code,
19 in that she failed to keep adequate and accurate medical records in her care and treatment of
20 Patients A, B and C, as more particularly alleged in paragraphs 10 through 43, above, which are
21 hereby incorporated by reference and realleged as if fully set forth herein.

22 **FIFTH CAUSE FOR DISCIPLINE**

23 **(Violations of the Medical Practice Act)**

24 46. Respondent has further subjected her Physician's and Surgeon's Certificate No.
25 A 109129 to disciplinary action under sections 2227 and 2234, as defined by 2234, subdivision
26 (a), of the Code, in that she committed a violation or violations of a provision or provisions of the
27 Medical Practice Act in her care and treatment of patients A, B and C, as more particularly

28 ///

1 alleged in paragraphs 10 through 45, above, which are hereby incorporated by reference and
2 realleged as if fully set forth herein.

3 **PRAYER**

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

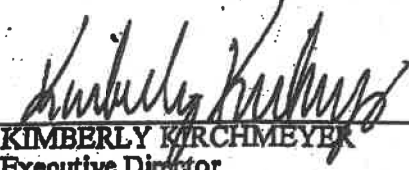
6 1. Revoking or suspending Physician's and Surgeon's Certificate No. A 109129, issued
7 to Respondent Abby Melissa Irwin, M.D.;

8 2. Revoking, suspending or denying approval of Respondent Abby Melissa Irwin,
9 M.D.'s authority to supervise physician assistants and advanced practice nurses;

10 3. Ordering Respondent Abby Melissa Irwin, M.D., if placed on probation, to pay the
11 Board the costs of probation monitoring; and

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

13
14 DATED:
15 February 20, 2019


16 KIMBERLY KIRCHMEYER
17 Executive Director
18 Medical Board of California
19 Department of Consumer Affairs
20 State of California
21 Complainant

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**COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
BEFORE THE STATE BOARD OF MEDICINE**

**Commonwealth of Pennsylvania
Bureau of Professional and
Occupational Affairs**

v.

**Abby Melissa Irwin, M.D.,
Respondent**

File No.:

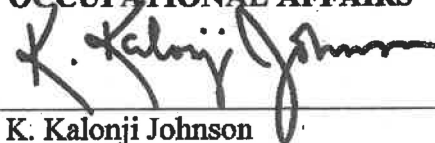
19-49-003344

ORDER

AND NOW, this 17th day of December 2019, the **STATE BOARD OF MEDICINE** ("Board") approves and adopts the foregoing Consent Agreement and incorporates the terms of paragraph 5, which shall constitute the Board's Order and is now issued in resolution of this matter.

This Order shall take effect immediately.

**BUREAU OF PROFESSIONAL AND
OCCUPATIONAL AFFAIRS**



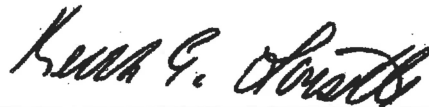
K. Kalonji Johnson
Acting Commissioner

For the Commonwealth:

For the Respondent:

Date of mailing:

**BY ORDER:
STATE BOARD OF MEDICINE**



Keith E. Loiselle
Chair

Mark R. Zogby, Esquire
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P. O. Box 69521
Harrisburg, PA 17106-9521

Abby Melissa Irwin, M.D..
153 Victoria Lane
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December 18, 2019