BEFORE THE VIRGINIA BOARD OF MEDICINE

IN RE: **JOHN ANDREW GERGEN, M.D.**
License Number: 0101-237304
Case Number: 185102

CONSENT ORDER

JURISDICTION AND PROCEDURAL HISTORY

The Virginia Board of Medicine ("Board") and John Andrew Gergen, M.D., as evidenced by their signatures hereto, in lieu of proceeding to a formal administrative hearing, enter into the following Consent Order affecting Dr. Gergen's license to practice medicine and surgery in the Commonwealth of Virginia.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. John Andrew Gergen, M.D., was issued License Number 0101-237304 to practice medicine and surgery on October 22, 2004, which was summarily suspended by Order of the Board entered April 5, 2019.

2. Dr. Gergen violated Virginia Code §§ 54.1-2915(A)(3), (13), (16), and (17) and 54.1-3408(A) in his care and treatment of Patient I, a 42-year-old female, to whom he continually prescribed Adderall (dextroamphetamine-amphetamine, C-II), Ambien (zolpidem, C-IV), Klonopin (clonazepam, C-IV), and Xanax (alprazolam, C-IV) in various combinations and increasing dosages after knowing or having reason to know of multiple occasions when she was admitted for inpatient treatment due to overdosing on these prescribed medications and without reevaluating her for risk of substance abuse or improper use of her medications. Specifically:

a. On or about October 18, 2016, Patient I, who had a history of adjustment disorder, sedative and hypnotic dependence, stimulant use disorder, and borderline personality disorder, was admitted to a psychiatric unit pursuant to a temporary detention order after overdosing on Xanax, Fioricet

(C-VI), and alcohol. This was Patient I's sixth psychiatric admission since October 2014. The treating provider, in consultation with and agreement by Dr. Gergen, decided to detox her from benzodiazepines and stop further treatment with amphetamines. Despite this treatment plan, Dr. Gergen continued to prescribe Adderall and benzodiazepines to Patient I following her discharge on October 21, 2016.

b. On three separate occasions from March 2017 through July 2017, Patient I was admitted to a psychiatric unit, twice pursuant to temporary detention orders, for overdosing on her medications, exhibiting suicidal ideations, and/or engaging in self-harming behavior. Despite this knowledge, Dr. Gergen continued to prescribe Adderall and benzodiazepines to Patient I during the period between and after these admissions.

c. On or about August 15, 2017, Patient I was admitted to a psychiatric unit after testing positive for amphetamines, barbituates, benzodiazepines, and alcohol. Her boyfriend reported that she drank wine and took four Seroquel (C-VI) tablets, proceeded to hit her head on the wall and slap her face, and then fell on the floor, vomited, and started to have trouble breathing. During a risk assessment, her treating provider noted that she had an "extremely high chronically elevated risk of self-harm due to...misuse and overdose of prescription benzodiazepines, narcotics, [and] hypnotics in conjunction with alcohol abuse" and that she was "unsafe on her previous medication regimen as evident by multiple medical and psychiatric admissions after overdosing." The provider determined that her medication regimen, which had proven to be of high risk in context of her alcohol abuse, should be decreased. Accordingly, the provider prescribed Klonopin 1mg to be taken for the following three nights until an upcoming appointment with Dr. Gergen. The provider also recommended an "aggressive tapering regimen with planned 25% reduction weekly until [Klonopin] is no longer needed." The provider discontinued Adderall for Patient I because it contributed to her sleep disturbance. Despite this treatment decision, following her discharge on August 18, 2017, Dr. Gergen continued Patient I on an

increased dosage of Klonopin rather than tapering her off of the medication as recommended. He also continued to prescribe her Adderall.

d. On or about December 19, 2017, Patient I was admitted to the hospital for polysubstance ingestion, specifically ethanol, Adderall, zolpidem, and Fioricet. Upon admission, she reported that she was having trouble sleeping for the previous two days, so she drank two glasses of wine and took 1.5 tablets of Ambien, along with Fioricet she took earlier in the day. Her boyfriend reported finding an empty two-liter bottle of wine next to her and that she was having trouble breathing. She also reported that since her discharge in August 2017, Dr. Gergen increased her Klonopin dosage from 1mg QHS to 6mg QHS, restarted her on Adderall, and increased her Ambien dosage from 5mg QHS to 10mg QHS. Based on her history of Ambien abuse and current presenting complaints, her treating provider recommended discontinuing Adderall and Ambien, continuing Seroquel and Lyrica, starting melatonin for sleep, and tapering Klonopin from 2mg to cessation over a period of five weeks. Despite this treatment plan, Dr. Gergen continued Patient I on Adderall and increased her dosage after her discharge on December 20, 2017. Further, Dr. Gergen failed to prescribe Klonopin to Patient I at a tapered rate and continued to prescribe her Ambien 10mg daily.

e. During a post-discharge management visit at the hospital on December 28, 2017, Patient I reported that she was continuing to take Adderall and Ambien as well as Klonopin at full dosage. She also reported that she was continuing to consume alcohol. Again, her treating provider recommended discontinuing Adderall and Ambien, continuing Seroquel and Lyrica, and tapering Klonopin from 2mg to cessation over a period of five weeks. The provider noted that at the end of the visit Dr. Gergen was informed of the recommended treatment and agreed to follow those recommendations. Despite this treatment plan, Dr. Gergen ignored the recommendations and continued to prescribe Adderall, Ambien, and Klonopin to Patient I at the same dosage amounts as he had previously prescribed to her.

3. Dr. Gergen violated Virginia Code §§ 54.1-2915(A)(3), (13), (16), and (17) and 54.1-3408(A) in his care and treatment of Patient C, a 31-year-old male, to whom he continually prescribed alprazolam (C-IV) and methylphenidate (C-II), often with early renewals, from October 2016 through October 2018, despite knowing Patient C's history and diagnosis of, as well as concurrent treatment for, substance abuse and addiction. Specifically:

a. Although he documented in his notes that Patient C had a thirteen-year history of polysubstance abuse and an eight-year history of opiate addiction, Dr. Gergen documented, and PMP reports confirm, that he initiated a regimen of alprazolam and methylphenidate, addictive medications with substance abuse potential, without obtaining an adequate or specific medical and drug history. Further, although Patient C reported to Dr. Gergen that his psychiatric drug history included Zoloft, Celexa, Prozac, and Ultram, Dr. Gergen failed to request any of Patient C's prior treatment records regarding these medications, or assess him for conditions for which treatment with alprazolam and methylphenidate would be appropriate. Dr. Gergen also failed to assess Patient C's risk of continued substance abuse and diversion or monitor his use of the medications through urine drug screens or pill counts.

b. Dr. Gergen failed to appropriately coordinate Patient C's care with concurrent substance abuse treatment providers. At the start of Patient C's treatment, Dr. Gergen documented Patient C's participation in a methadone (C-II) maintenance program, as well as Patient C's later report that he could no longer participate in the program due to financial problems and thus had no access to Suboxone (buprenorphine and naloxone, C-III). However, during his treatment with Dr. Gergen, PMP reports indicate that Patient C received two prescriptions for Suboxone from another provider in May 2018 after not having received any prescriptions for that medication for an extended period of time. Dr. Gergen continued Patient C on his medication regimen without indicating that he appropriately

coordinated care with the concurrent substance abuse treatment provider, that he was aware that Patient C's substance abuse treatment had been reinitiated, or that he was taking substance abuse issues into account when continuing to prescribe Patient C controlled substances with significant abuse potential.

c. Despite knowledge of Patient C's history of substance abuse, PMP reports indicate that Dr. Gergen frequently prescribed for him early refills of alprazolam and methylphenidate. For example, between November 4, 2017, and December 8, 2017, Patient C obtained an eighty-seven day supply of alprazolam, and between June 11, 2018, and July 17, 2018, Patient C obtained an eighty-eight day supply of alprazolam. Also, between October 23, 2017, and November 6, 2017, Patient C obtained a twenty-eight day supply of methylphenidate, and between January 5, 2018, and February 5, 2018, Patient C obtained a fifty-one day supply of methylphenidate.

d. PMP reports show that Dr. Gergen prescribed to Patient C methylphenidate at doses between 50-140mg daily, without documenting a treatment plan with his rationale for prescribing such widely varying dosages, as indicated in the chart below:

Date Filled	Quantity	Drug Name	Days	Dosage
December 5, 2016	270	methylphenidate 10mg	30	90mg daily
January 16, 2017	30	methylphenidate 20mg	10	60mg daily
January 31, 2017	270	methylphenidate 10mg	30	90mg daily
February 27, 2017	270	methylphenidate 10mg	30	90mg daily
March 27, 2017	270	methylphenidate 10mg	30	90mg daily
August 28, 2017	60	methylphenidate 20mg	12	100mg daily
December 1, 2017	35	methylphenidate 20mg	5	140mg daily
December 27, 2017	35	methylphenidate 20mg	7	100mg daily
January 26, 2018	35	methylphenidate 20mg	5	140mg daily
February 27, 2018	65	methylphenidate 10mg	8	81.25mg daily
March 25, 2018	35	methylphenidate 20mg	7	100mg daily
May 20, 2018	35	methylphenidate 20mg	5	140mg daily
August 20, 2018	150	methylphenidate 10mg	30	50mg daily

e. Dr. Gergen prescribed to Patient C two different types of stimulant medications concurrently without documenting his prescribing rationale. According to Dr. Gergen's March 19, 2018, treatment summary, Patient C requested a trial prescription of Adderall as a substitute for his regularly-

prescribed methylphenidate. PMP records show that in March and April 2018, Dr. Gergen wrote prescriptions for Adderall for Patient C, as indicated in the chart below:

Date Written	Date Filled	Quantity	Drug Name	Days	Dosage
March 19, 2018	March 19, 2018	6	Adderall 30mg	3	60mg daily
March 22, 2018	March 22, 2018	6	Adderall 30mg	3	60mg daily
March 25, 2018	March 30, 2018	6	Adderall 30mg	3	60mg daily
April 2, 2018	April 3, 2018	14	Adderall 30mg	7	60mg daily
April 9, 2018	April 9, 2018	14	Adderall 30mg	7	60mg daily

However, PMP records also show that during this course of treatment with Adderall, Dr. Gergen continued to prescribe alprazolam at 6mg daily, and Patient C filled a 100mg-daily, seven-day prescription for methylphenidate written by Dr. Gergen on March 25, 2018.

f. Dr. Gergen continued to prescribe controlled substances with significant abuse potential to Patient C despite receiving information that Patient C was diverting his prescriptions. Dr. Gergen documented that in March 2018, he confronted Patient C about diverting medication because Patient C's "name had come up in the problem of diversion." Patient C told Dr. Gergen that "it is but more theft and then possibly confusion of people using the scripts." Nevertheless, Dr. Gergen did not assess Patient C's risk of diversion but continued to prescribe him controlled substances with the abuse potential.

g. On December 2, 2018, hospital records show that Patient C was admitted to an inpatient psychiatric unit with a diagnosis of acute psychosis with auditory hallucinations, paranoia, methylphenidate toxicity, and Hepatitis C. During his admission, Patient C admitted to swallowing two 10mg methylphenidate tablets and snorting two other 10mg methylphenidate tablets earlier that day. Patient C also stated during the admission that he sometimes injected his medication, had not been taking his alprazolam for three weeks, and admitted to giving away most of his alprazolam to his friends. The treatment team assessed the quantities of alprazolam, which per PMP records Dr. Gergen prescribed at 6mg daily from October 2016 through October 2018, and methylphenidate that Dr. Gergen prescribed

to Patient C as "large," and concluded that Patient C's psychosis was substance-induced or brought on by benzodiazepine withdrawal.

4. Dr. Gergen violated Virginia Code §§ 54.1-2915(A)(3), (13), (16), and (17) and 54.1-3408(A) in his care and treatment of Patient B, a 36-year-old female, to whom PMP reports show he continually prescribed, from September 22, 2016, to August 30, 2018, controlled substances with abuse potential, often with early renewals and frequently in thirty-day supplies, despite knowing Patient B's history and diagnosis of active substance abuse and addiction. Specifically:

a. According to Dr. Gergen's notes, Patient B presented to him in February 2016 with a history of substance abuse, including opiate dependence and "prescription drug abuse." She also had a history of multiple hospitalizations for suicide attempts and manic episodes. Further, Dr. Gergen noted that Patient B had recently been dismissed from the practice of her Suboxone-prescribing physician because he discovered that she was taking outside medications without his approval and that the Suboxone provider stated that Patient B would likely need hospitalization. Nonetheless, Dr. Gergen initiated a regimen of Ambien and clonazepam (C-IV), despite Patient B's risk for substance abuse and drug-seeking behavior, acknowledging that there were "obvious risks in providing medications which might be abused such as benzodiazepines…," and without consulting with her prior Suboxone provider.

b. Dr. Gergen failed to adequately recognize or take into account Patient B's active substance abuse during the prescribing period, including abuse of the medications he was prescribing for her, when continuing to prescribe to Patient B controlled substances with abuse potential. For example, according to Dr. Gergen's notes, Patient B was hospitalized for overuse of medications and Suboxone withdrawal in or about March 2016. Prior to her hospitalization, Dr. Gergen documented prescribing clonazepam up to 6mg daily to Patient B. After her release from the hospital, Dr. Gergen reduced her clonazepam usage by only 1mg daily. At her next office visit on April 6, 2016, Patient B

was noted to be visibly intoxicated with slurred speech and poor coordination, but denied medication misuse, explaining that she had a hangover from drinking moonshine the night prior. Dr. Gergen documented on that visit prescribing to Patient B alprazolam at 2.5mg daily to replace clonazepam. However, one month later, Dr. Gergen increased Patient B's alprazolam dosage up to 6mg daily, even though she admitted that she misused her benzodiazepine prescription. Dr. Gergen's treatment records also indicate that he continued Patient B on a regimen of Adderall up to 50mg daily and a regimen of tramadol, a C-IV opioid, at 300mg daily for "pain and muscle spasms" without performing any physical examination of Patient B.

c. Dr. Gergen failed to adequately monitor Patient B's medication usage. For example, in a May 11, 2017 progress note, Dr. Gergen's documented plan for "risks of substance abuse" was to "continu[e] counseling and careful medication supervision." However, there is no documentation, either before or after this encounter, regarding specifically how he monitored Patient B's medication usage or that his supervision included a query of the PMP (except for September 21, 2018 and October 14, 2018), urine drug screens, or pill counts.

d. Dr. Gergen allowed Patient B to obtain early refills of medications with substance-abuse potential, as indicated in the chart below:

Date Filled	Quantity	Drug Name	Days	Dosage
December 21, 2016	90	alprazolam 2mg	30	6mg/day
January 6, 2017	7	alprazolam 2mg	7	2mg/day
January 20, 2017	90	alprazolam 2mg	30	6mg/day
February 11, 2017	90	alprazolam 2mg	30	6mg/day
January 21, 2017	21	Adderall 20mg	7	60mg/day
January 27, 2017	90	Adderall 20mg	30	60mg/day
February 8, 2017	36	Adderall 20mg	12	60mg/day
February 20, 2017	90	Adderall 20mg	30	60mg/day
August 27, 2017	120	gabapentin 800mg	30	3200mg/day
August 29, 2017	120	gabapentin 800mg	30	3200mg/day
October 9, 2017	80	gabapentin 400mg	10	3200mg/day
October 9, 2017	60	gabapentin 800mg	15	3200mg/day
August 3, 2018	90	Adderall 30mg	30	90mg/day

August 24, 2018	56	Adderall 15mg	14	60mg/day
September 7, 2018	120	Adderall 15mg	30	60mg/day
September 7, 2018	56	Adderall 15mg	14	60mg/day

e. Dr. Gergen failed to adequately communicate with other providers and concurrently review their treatment of Patient B. For example, Patient B's PMP records show that she was prescribed Hydromet syrup on October 22, 2016 by another provider, and on June 8, 2017, Dr. Gergen documented that Patient B was seeing a pain specialist who was prescribing her tramadol. PMP records show that Patient B filled tramadol prescriptions on December 13, 2016, March 2, 2017, and December 16, 2017, and prescriptions for hydrocodone-acetaminophen (C-II) on July 23, 2017, and July 26, 2017. Despite knowing or having reason to know this information, there is no documentation that Dr. Gergen ever communicated with any of these prescribers regarding coordination of care and Patient B's past and present substance abuse.

f. Dr. Gergen prescribed Patient B multiple benzodiazepines concurrently, as indicated in the chart below:

Date Filled	Quantity	Drug Name	Days	Dosage
March 13, 2017	90	alprazolam 2mg	30	6mg/day
April 6, 2017	90	diazepam 10mg	30	30mg/day
May 9, 2017	90	diazepam 10mg	30	30mg/day
May 11, 2017	90	alprazolam 2mg	30	6mg/day
June 23, 2017	90	clonazepam 2mg	30	6mg/day
July 6, 2017	90	diazepam 10mg	30	30mg/day
October 9, 2017	30	triazolam 0.25mg	30	0.25mg/day
October 9, 2017	30	alprazolam 2mg	10	6mg/day
November 13, 2017	30	triazolam 0.25mg	30	0.25mg/day
November 27, 2017	120	diazepam 10mg	30	40mg/day
September 12, 2018	60	alprazolam 2mg	30	4mg/day
September 24, 2018	60	clonazepam 2mg	30	4mg/day

5. Dr. Gergen violated Virginia Code §§ 54.1-2915(A)(3), (13), (16), (17), and (18) and 54.1-3408(A) in his care and treatment of Patient K, a 47-year-old male, to whom he continuously prescribed combinations of controlled substances with abuse potential between April 2017 and July

2018, without coordinating care, concurrently reviewing treatment, assessing the risk of substance abuse, and re-evaluating after multiple overdoses. Specifically:

a. Dr. Gergen failed to coordinate care with other providers and concurrently review their treatment of Patient K. According to his primary care physician, Patient K has a history of chronic pain and substance abuse. According to PMP reports, Patient K was prescribed Lyrica (C-V), oxycodone-acetaminophen (C-II), and methadone (C-II) by other providers from approximately August 2016 through January 2017. The physician reported that after an overdose in January 2017, she stopped Patient K's chronic narcotics and switched him to non-narcotic pain medication. Despite knowing about Patient K's pain management treatment, Dr. Gergen continuously prescribed tramadol at 300mg daily to Patient K from April 2017 through July 2018 without otherwise meeting any of the requirements of 18 VAC 85-21-60 through -120 of the Regulations Governing Prescribing of Opioids and Buprenorphine.

b. Dr. Gergen continuously prescribed alprazolam at a dosage of 1.5-6mg daily and Ambien at 10mg daily to Patient K without conducting any substance abuse risk assessment, despite information available to him from the PMP that Patient K was simultaneously obtaining prescriptions for Lyrica and oxycodone-acetaminophen from other providers.

c. Dr. Gergen failed to re-evaluate Patient K after multiple overdoses before renewing his prescriptions for controlled substances with abuse potential. According to Patient K's primary care physician, between approximately February 2018 and June 2018, Patient K was admitted to an intensive care unit on two occasions for drug overdoses. The physician reported that during the second admission, Patient K admitted to selling his prescribed medications on the street for methadone. Despite these ICU admissions, Dr. Gergen continued to prescribe alprazolam, Ambien, and tramadol to Patient K.

6. Dr. Gergen violated Virginia Code § 2915(A)(4) and (13) in that he is incompetent to practice and represents a danger to patients and the public. Specifically, throughout the relevant treatment periods for Patients A-L, Dr. Gergen failed to:

a. take appropriate medical histories;

b. conduct thorough physical examinations;

c. perform a risk assessment for patients with substance abuse, attention deficit disorder, or attention deficit hyperactivity disorder;

c. evaluate, concurrently and repeatedly, these patients for risks associated with substance abuse, despite frequent early refills (some without face-to-face visits);

d. mitigate the risk of substance abuse by monitoring medication use with drug screenings, pill counts, or follow up visits;

e. address reports of multiple lost/stolen prescriptions;

f. respond properly to multiple admissions for abuse of medications;

g. respond properly to significant and ongoing signs of abuse of medications;

h. failed to coordinate care with other treatment providers; and/or

i. adhere to treatment plans developed by hospital treatment providers

7. Dr. Gergen violated Virginia Code § 54.1-2915(A)(18) and 18 VAC 85-20-26(C) in that he failed to maintain accurate, legible, and/or complete records for Patients A-L.

8. Dr. Gergen informed the Board that he wishes to retire from the practice of medicine.

CONSENT

John Andrew Gergen, M.D., by affixing his signature to this Consent Order, agrees to the following:

1. I have been advised to seek advice of counsel prior to signing this document;

2. I am fully aware that without my consent, no legal action can be taken against me or my license except pursuant to the Virginia Administrative Process Act, Virginia Code § 2.2-4000 *et seq.*;

3. I acknowledge that I have the following rights, among others: the right to a formal administrative hearing before the Board; and the right to representation by counsel;

4. I waive my right to a formal administrative hearing;

5. I neither admit nor deny the Findings of Fact and Conclusions of Law contained herein but waive my right to contest such Findings of Fact and Conclusions of Law and any sanction imposed hereunder in any future judicial or administrative proceeding in which the Board is a party;

6. I consent to the entry of the following Order affecting my license to practice medicine and surgery in the Commonwealth of Virginia.

ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, with the consent of the licensee, it is hereby ORDERED that the Board accepts the VOLUNTARY PERMANENT SURRENDER of the license of John Andrew Gergen, M.D., to practice medicine and surgery in the Commonwealth of Virginia.

Upon entry of this Consent Order, the license of John Andrew Gergen, M.D., will be recorded as surrendered and no longer current. Dr. Gergen will not be eligible for reinstatement of his license at any future date.

Pursuant to Virginia Code §§ 2.2-4023 and 54.1-2400.2, the signed original of this Order shall remain in the custody of the Department of Health Professions as a public record, and shall be made available for public inspection and copying upon request.

FOR THE BOARD

Jennifer Deschenes, J.D., M.S.
Deputy Executive Director, Discipline
Virginia Board of Medicine

ENTERED: 4/16/19

SEEN ~~AND AGREED TO~~:

John Andrew Gergen, M.D.

COMMONWEALTH OF VIRGINIA
COUNTY/CITY OF Albemarle, TO WIT:

Subscribed and sworn to before me, a notary public in and for the Commonwealth of Virginia at large, on this 15th day of April, 2019.

Notary Public

My commission expires: November 30, 2022

Registration No.: 7620164

TIFFANY BETH EFFINGER
NOTARY PUBLIC
REGISTRATION # 7620164
COMMONWEALTH OF VIRGINIA
MY COMMISSION EXPIRES
11-30-2022

DRAFT

VIRGINIA BOARD OF MEDICINE
PERIMETER CENTER
9960 Mayland Drive, Suite 300
Richmond, Virginia 23233

DATE, TIME & PLACE: On April 5, 2019, at 6:30 a.m., the Board convened by telephone conference call with a quorum of the Board present, and the Board President presiding as Chair, in order to consider whether a practitioner's ability to practice medicine constituted a substantial danger to public health and safety pursuant to Va. Code §54.1-2408.1.

MEMBERS PRESENT:
Kevin O'Connor, M.D., Chair, President
Syed Ali, M.D.
David Archer, M.D.
James R. Arnold, D.P.M.
Lori Conklin, M.D.
Manjit S. Dhillon, M.D.
Alvin Edwards, Ph.D.
Jane Hickey, J.D.
L. Blanton Marchese
Jacob Miller, D.O.
Brenda L. Stokes, M.D.
David Taminger, M.D.
N. Ray Tuck, Jr., D.C.
Kenneth Walker, M.D.
Martha Wingfield

BOARD COUNSEL: Erin Barrett, Assistant Attorney General

STAFF PRESENT:
William L. Harp, M.D., Executive Director
Jennifer L. Deschenes, Deputy Executive Director, Discipline
Jennie F. Wood, Case Manager, Discipline

PARTIES FOR THE COMMONWEALTH:
James Schliessmann, Sr. Assistant Attorney General
J. Michael Parsons & Rebecca Ribley, Adjudication Specialists

MATTER CONSIDERED: **John A. Gergen, M.D., License No.: 0101-237304**

The Board received information from Sr. AAG Schliessmann in order to determine whether Dr. Gergen's ability to practice medicine constituted a substantial danger to public health and safety. Mr. Schliessmann provided details of the case to the Board for its consideration.

DECISION: On a motion by Dr. Miller, and duly seconded by Dr. Tuck, the Board determined that Dr. Gergen's ability to practice constituted a substantial danger to the public health and safety and voted to summarily suspend his license simultaneous with the institution of proceedings for a formal administrative hearing pursuant to Section 54.1-2408.1 of the Code of Virginia.

VOTE: The vote was unanimous.

ADJOURNMENT: The Board adjourned at 6:44 a.m.

A formal hearing is scheduled for May 17, 2019, at 10:00 am for a final determination regarding this pending matter.

Kevin O'Connor, M.D., Chair, President

Date

William L. Harp, M.D.
Executive Director

Date

COMMONWEALTH of VIRGINIA

David E. Brown, D.C.
Director

Department of Health Professions
Perimeter Center
9960 Mayland Drive, Suite 300
Henrico, Virginia 23233-1463

www.dhp.virginia.gov
TEL (804) 367-4400
FAX (804) 527-4475

April 5, 2019

John Andrew Gergen, M.D.
250 Pantops Mountain Road #5107
Charlottesville, VA 22911

UPS OVERNIGHT MAIL

RE: Case Number 185102

Dear Dr. Gergen:

The Virginia Board of Medicine ("Board") received information indicating that you may have violated certain sections of the Virginia Code. Based on the information considered, having determined that your practice poses a substantial danger to the public health and safety, the Board voted to summarily suspend your license to practice medicine and surgery in the Commonwealth of Virginia pending a hearing. Enclosed is the Order of Summary Suspension. Effective immediately, it shall be unlawful for you to practice medicine and surgery or hold yourself out as a licensed medical doctor in the Commonwealth of Virginia.

Attached is a Notice of Formal Administrative Hearing and Statement of Allegations.

For information regarding this type of proceeding, including Frequently Asked Questions regarding Disciplinary Proceedings, directions to the Department of Health Professions Conference Center, instructions for requesting subpoenas, the text of the Administrative Process Act and other statutes and regulations cited herein, and other related information, please see www.dhp.virginia.gov/medicine/medicine_Hearings.htm. If you do not have Internet access, you may request a hard copy of any of this information by calling Jennie F. Wood, Discipline Case Manager at (804) 367-4571.

If you have any questions, you may contact J. Michael Parsons at (804) 367-4678 or michael.parsons@dhp.virginia.gov. Please notify the Board office of your intent to attend this proceeding.

Sincerely,

William L. Harp, M.D.
Executive Director
Virginia Board of Medicine

cc: J. Michael Parsons, Adjudication Specialist, Administrative Proceedings Division
Lorraine B. McGehee, Deputy Director, Administrative Proceedings Division
Division of Enforcement (185102)
James E. Schliessmann, Senior Assistant Attorney General

BEFORE THE VIRGINIA BOARD OF MEDICINE

IN RE: JOHN ANDREW GERGEN, M.D.
License Number: 0101-237304
Case Number: 185102

ORDER OF SUMMARY SUSPENSION

Pursuant to Virginia Code § 54.1-2408.1(A), a quorum of the Board of Medicine ("Board") met by telephone conference call on April 5, 2019, after a good faith effort to convene a regular meeting of the Board had failed. The purpose of the meeting was to receive and act upon information indicating that John Andrew Gergen, M.D., may have violated certain laws and regulations relating to the practice of medicine and surgery in the Commonwealth of Virginia, as more fully set forth in the "Notice of Formal Administrative Hearing and Statement of Allegations," which is attached hereto and incorporated by reference herein.

WHEREUPON, pursuant to its authority under Virginia Code § 54.1-2408.1(A), the Board concludes that a substantial danger to public health or safety warrants this action and ORDERS that the license of John Andrew Gergen, M.D., to practice medicine and surgery in the Commonwealth of Virginia is SUSPENDED. It is further ORDERED that a hearing be convened within a reasonable time of the date of entry of this Order to receive and act upon evidence in this matter.

Pursuant to Virginia Code § 54.1-2400.2, the signed original of this Order shall remain in the custody of the Department of Health Professions as a public record and shall be made available for public inspection or copying on request.

FOR THE BOARD

William L. Harp, M.D.
Executive Director
Virginia Board of Medicine

ENTERED AND MAILED ON: 4/5/2019

1700-1

BEFORE THE VIRGINIA BOARD OF MEDICINE

IN RE: **JOHN ANDREW GERGEN, M.D.**
License Number: 0101-237304
Issue Date: October 22, 2004
Suspension Date: 4/5/2019
Case Number: 185102

NOTICE OF FORMAL ADMINISTRATIVE HEARING AND STATEMENT OF ALLEGATIONS

You are hereby notified that a Formal Administrative Hearing has been scheduled before the Board of Medicine ("Board") regarding your license to practice medicine and surgery in the Commonwealth of Virginia.

TYPE OF PROCEEDING:	This is a formal administrative hearing before a panel of the Board.
DATE AND TIME:	**May 17, 2019** **10:00 A.M.**
PLACE:	Virginia Department of Health Professions Perimeter Center - 9960 Mayland Drive 2nd Floor - Virginia Conference Center Henrico, Virginia 23233

LEGAL AUTHORITY AND JURISDICTION:

1. This formal hearing is being held pursuant to Virginia Code §§ 2.2-4020, 2.2-4024(F), and 54.1-2400(11). This proceeding will be convened as a public meeting pursuant to Virginia Code § 2.2-3700.

2. At the conclusion of the proceeding, the Board is authorized to take any of the following actions:

- Exonerate you;
- Reprimand you;
- Require you to pay a monetary penalty;
- Place you on probation and/or under terms and conditions;
- Continue your license on suspension;
- Suspend your license;
- Revoke your license.

ABSENCE OF RESPONDENT AND RESPONDENT'S COUNSEL:

If you and/or your counsel fail to appear at the formal hearing, the Board may proceed to hear this matter in your absence and may take any of the actions outlined above.

RESPONDENT'S LEGAL RIGHTS:

You have the right to the information on which the Board will rely in making its decision, to be represented by counsel at this proceeding, to subpoena witnesses and/or documents, and to present relevant evidence on your behalf.

COMMONWEALTH'S EXHIBITS:

Enclosed is a copy of the Commonwealth's exhibits that will be distributed to the members of the Board for their review unless an objection is received within the timeframe specified in Section III below and sustained by the Panel Chair or acting Board officer. **These documents are enclosed only with the notice sent by UPS. Please bring these documents with you to the formal hearing.**

FILING DEADLINES:

If you want to submit evidence or use expert witnesses, below are the deadlines for the submission of such evidence or your expert witness list. The deadlines for filing objections, if any, to the exhibits and expert witness list also follow.

I. Exhibit Submission	DEADLINE DATE
Respondent's Submission of Documents for Evidence (including expert witness reports) (Submit 15 copies to Jennie F. Wood, Discipline Case Manager)	**April 19, 2019**
Commonwealth's Deadline to Respond to Respondent's Submission (Addressed to Jennifer L. Deschenes, Deputy Executive Director)	**April 25, 2019**
Respondent's Deadline to Respond to Commonwealth's Objection (Addressed to Jennifer L. Deschenes, Deputy Executive Director)	**April 30, 2019**

II. Expert Witness Identification	DEADLINE DATE
Respondent's Expert Witnesses (Submit, in writing, to Jennifer L. Deschenes, Deputy Executive Director)	**April 19, 2019**
Commonwealth's Deadline to Object to Expert Witness (Submit, in writing, to Jennifer L. Deschenes, Deputy Executive Director)	**April 25, 2019**

The Board has engaged the services of Paul M. Spector, D.O., whose curriculum vitae and written report are included in the exhibits enclosed with this letter. Dr. Spector will be present at the formal hearing to serve as an expert on behalf of the Commonwealth unless an objection is received by April 19, 2019 and sustained by the Panel Chair or acting Board officer.

NOTE: If supplementation of expert witness lists is necessary, parties should transmit such supplement to the Board at least five (5) days in advance of the scheduled administrative proceeding. Objections to expert witnesses submitted on a supplemental list may be made prior to or at the hearing for consideration by the Panel Chair.

III. Objections to Commonwealth's Exhibits	**DEADLINE DATE**
Respondent's Objections to Commonwealth's Exhibits (Submit, in writing, to Jennifer L. Deschenes, Deputy Executive Director)	**April 19, 2019**
Commonwealth's Response to Respondent's Objections (Submit, in writing, to Jennifer L. Deschenes, Deputy Executive Director)	**April 25, 2019**

NOTE: If no objections have been received by April 19, 2019, the exhibits will be distributed to the Board members for their review.

IV. Motions/Continuance Requests	**DEADLINE DATE**
Respondent's Motions (Submit, in writing, to Jennifer L. Deschenes, Deputy Executive Director)	**April 19, 2019**
Commonwealth's Response to Motions (Submit, in writing, to Jennifer L. Deschenes, Deputy Executive Director)	**April 25, 2019**

STATEMENT OF ALLEGATIONS

The Board alleges that:

1. At all times relevant hereto, John Andrew Gergen, M.D., was licensed to practice medicine and surgery in the Commonwealth of Virginia.

2. Dr. Gergen violated Virginia Code §§ 54.1-2915(A)(3), (13), (16), and (17) and 54.1-3408(A) in his care and treatment of Patient I, a 42-year-old female, to whom he continually prescribed Adderall (dextroamphetamine-amphetamine, C-II), Ambien (zolpidem, C-IV), Klonopin (clonazepam, C-IV), and Xanax (alprazolam, C-IV) in various combinations and increasing dosages after knowing or having reason to know of multiple occasions when she was admitted for inpatient treatment due to overdosing on these prescribed medications and without reevaluating her for risk of substance abuse or improper use of her medications. Specifically:

a. On or about October 18, 2016, Patient I, who had a history of adjustment disorder, sedative and hypnotic dependence, stimulant use disorder, and borderline personality disorder, was admitted to a psychiatric unit pursuant to a temporary detention order after overdosing on Xanax, Fioricet (C-VI), and alcohol. This was Patient I's sixth psychiatric admission since October 2014. The treating provider, in consultation with and agreement by Dr. Gergen, decided to detox her from benzodiazepines and stop further treatment with amphetamines. Despite this treatment plan, Dr. Gergen continued to prescribe Adderall and benzodiazepines to Patient I following her discharge on October 21, 2016.

b. On three separate occasions from March 2017 through July 2017, Patient I was admitted to a psychiatric unit, twice pursuant to temporary detention orders, for overdosing on her medications, exhibiting suicidal ideations, and/or engaging in self-harming behavior. Despite this knowledge, Dr. Gergen continued to prescribe Adderall and benzodiazepines to Patient I during the period between and after these admissions.

c. On or about August 15, 2017, Patient I was admitted to a psychiatric unit after testing positive for amphetamines, barbituates, benzodiazepines, and alcohol. Her boyfriend reported that she drank wine and took four Seroquel (C-VI) tablets, proceeded to hit her head on the wall and slap her face, and then fell on the floor, vomited, and started to have trouble breathing. During a risk assessment, her treating provider noted that she had an "extremely high chronically elevated risk of self-harm due to…misuse and overdose of prescription benzodiazepines, narcotics, [and] hypnotics in conjunction with alcohol abuse" and that she was "unsafe on her previous medication regimen as evident by multiple medical and psychiatric admissions after overdosing." The provider determined that her medication regimen, which had proven to be of high risk in context of her alcohol abuse, should be decreased. Accordingly, the provider prescribed Klonopin 1mg to be taken for the following three nights until an upcoming appointment with Dr. Gergen. The provider also recommended an "aggressive tapering regimen with planned 25% reduction weekly until [Klonopin] is no longer needed." The provider discontinued Adderall for Patient I because it contributed to her sleep disturbance. Despite this treatment decision, following her discharge on August 18, 2017, Dr. Gergen continued Patient I on an increased dosage of Klonopin rather than tapering her off of the medication as recommended. He also continued to prescribe her Adderall.

d. On or about December 19, 2017, Patient I was admitted to the hospital for polysubstance ingestion, specifically ethanol, Adderall, zolpidem, and Fioricet. Upon admission, she reported that she was having trouble sleeping for the previous two days, so she drank two glasses of wine and took 1.5 tablets of Ambien, along with Fioricet she took earlier in the day. Her boyfriend reported finding an empty two-liter bottle of wine next to her and that she was having trouble breathing. She also reported that since her discharge in August 2017, Dr. Gergen increased her Klonopin dosage from 1mg QHS to 6mg QHS, restarted her on Adderall, and increased her Ambien dosage from 5mg QHS to 10mg

QHS. Based on her history of Ambien abuse and current presenting complaints, her treating provider recommended discontinuing Adderall and Ambien, continuing Seroquel and Lyrica, starting melatonin for sleep, and tapering Klonopin from 2mg to cessation over a period of five weeks. Despite this treatment plan, Dr. Gergen continued Patient I on Adderall and increased her dosage after her discharge on December 20, 2017. Further, Dr. Gergen failed to prescribe Klonopin to Patient I at a tapered rate and continued to prescribe her Ambien 10mg daily.

e. During a post-discharge management visit at the hospital on December 28, 2017, Patient I reported that she was continuing to take Adderall and Ambien as well as Klonopin at full dosage. She also reported that she was continuing to consume alcohol. Again, her treating provider recommended discontinuing Adderall and Ambien, continuing Seroquel and Lyrica, and tapering Klonopin from 2mg to cessation over a period of five weeks. The provider noted that at the end of the visit Dr. Gergen was informed of the recommended treatment and agreed to follow those recommendations. Despite this treatment plan, Dr. Gergen ignored the recommendations and continued to prescribe Adderall, Ambien, and Klonopin to Patient I at the same dosage amounts as he had previously prescribed to her.

3. Dr. Gergen violated Virginia Code §§ 54.1-2915(A)(3), (13), (16), and (17) and 54.1-3408(A) in his care and treatment of Patient C, a 31-year-old male, to whom he continually prescribed alprazolam (C-IV) and methylphenidate (C-II), often with early renewals, from October 2016 through October 2018, despite knowing Patient C's history and diagnosis of, as well as concurrent treatment for, substance abuse and addiction. Specifically:

a. Although he documented in his notes that Patient C had a thirteen-year history of polysubstance abuse and an eight-year history of opiate addiction, Dr. Gergen documented, and PMP reports confirm, that he initiated a regimen of alprazolam and methylphenidate, addictive medications with substance abuse potential, without obtaining an adequate or specific medical and drug history.

Further, although Patient C reported to Dr. Gergen that his psychiatric drug history included Zoloft, Celexa, Prozac, and Ultram, Dr. Gergen failed to request any of Patient C's prior treatment records regarding these medications, or assess him for conditions for which treatment with alprazolam and methylphenidate would be appropriate. Dr. Gergen also failed to assess Patient C's risk of continued substance abuse and diversion or monitor his use of the medications through urine drug screens or pill counts.

b. Dr. Gergen failed to appropriately coordinate Patient C's care with concurrent substance abuse treatment providers. At the start of Patient C's treatment, Dr. Gergen documented Patient C's participation in a methadone (C-II) maintenance program, as well as Patient C's later report that he could no longer participate in the program due to financial problems and thus had no access to Suboxone (buprenorphine and naloxone, C-III). However, during his treatment with Dr. Gergen, PMP reports indicate that Patient C received two prescriptions for Suboxone from another provider in May 2018 after not having received any prescriptions for that medication for an extended period of time. Dr. Gergen continued Patient C on his medication regimen without indicating that he appropriately coordinated care with the concurrent substance abuse treatment provider, that he was aware that Patient C's substance abuse treatment had been reinitiated, or that he was taking substance abuse issues into account when continuing to prescribe Patient C controlled substances with significant abuse potential.

c. Despite knowledge of Patient C's history of substance abuse, PMP reports indicate that Dr. Gergen frequently prescribed for him early refills of alprazolam and methylphenidate. For example, between November 4, 2017, and December 8, 2017, Patient C obtained an eighty-seven day supply of alprazolam, and between June 11, 2018, and July 17, 2018, Patient C obtained an eighty-eight day supply of alprazolam. Also, between October 23, 2017, and November 6, 2017, Patient C obtained a

twenty-eight day supply of methylphenidate, and between January 5, 2018, and February 5, 2018, Patient C obtained a fifty-one day supply of methylphenidate.

d. PMP reports show that Dr. Gergen prescribed to Patient C methylphenidate at doses between 50-140mg daily, without documenting a treatment plan with his rationale for prescribing such widely varying dosages, as indicated in the chart below:

Date Filled	Quantity	Drug Name	Days	Dosage
December 5, 2016	270	methylphenidate 10mg	30	90mg daily
January 16, 2017	30	methylphenidate 20mg	10	60mg daily
January 31, 2017	270	methylphenidate 10mg	30	90mg daily
February 27, 2017	270	methylphenidate 10mg	30	90mg daily
March 27, 2017	270	methylphenidate 10mg	30	90mg daily
August 28, 2017	60	methylphenidate 20mg	12	100mg daily
December 1, 2017	35	methylphenidate 20mg	5	140mg daily
December 27, 2017	35	methylphenidate 20mg	7	100mg daily
January 26, 2018	35	methylphenidate 20mg	5	140mg daily
February 27, 2018	65	methylphenidate 10mg	8	81.25mg daily
March 25, 2018	35	methylphenidate 20mg	7	100mg daily
May 20, 2018	35	methylphenidate 20mg	5	140mg daily
August 20, 2018	150	methylphenidate 10mg	30	50mg daily

e. Dr. Gergen prescribed to Patient C two different types of stimulant medications concurrently without documenting his prescribing rationale. According to Dr. Gergen's March 19, 2018, treatment summary, Patient C requested a trial prescription of Adderall as a substitute for his regularly-prescribed methylphenidate. PMP records show that in March and April 2018, Dr. Gergen wrote prescriptions for Adderall for Patient C, as indicated in the chart below:

Date Written	Date Filled	Quantity	Drug Name	Days	Dosage
March 19, 2018	March 19, 2018	6	Adderall 30mg	3	60mg daily
March 22, 2018	March 22, 2018	6	Adderall 30mg	3	60mg daily
March 25, 2018	March 30, 2018	6	Adderall 30mg	3	60mg daily
April 2, 2018	April 3, 2018	14	Adderall 30mg	7	60mg daily
April 9, 2018	April 9, 2018	14	Adderall 30mg	7	60mg daily

However, PMP records also show that during this course of treatment with Adderall, Dr. Gergen continued to prescribe alprazolam at 6mg daily, and Patient C filled a 100mg-daily, seven-day prescription for methylphenidate written by Dr. Gergen on March 25, 2018.

f. Dr. Gergen continued to prescribe controlled substances with significant abuse potential to Patient C despite receiving information that Patient C was diverting his prescriptions. Dr. Gergen documented that in March 2018, he confronted Patient C about diverting medication because Patient C's "name had come up in the problem of diversion." Patient C told Dr. Gergen that "it is but more theft and then possibly confusion of people using the scripts." Nevertheless, Dr. Gergen did not assess Patient C's risk of diversion but continued to prescribe him controlled substances with the abuse potential.

g. On December 2, 2018, hospital records show that Patient C was admitted to an inpatient psychiatric unit with a diagnosis of acute psychosis with auditory hallucinations, paranoia, methylphenidate toxicity, and Hepatitis C. During his admission, Patient C admitted to swallowing two 10mg methylphenidate tablets and snorting two other 10mg methylphenidate tablets earlier that day. Patient C also stated during the admission that he sometimes injected his medication, had not been taking his alprazolam for three weeks, and admitted to giving away most of his alprazolam to his friends. The treatment team assessed the quantities of alprazolam, which per PMP records Dr. Gergen prescribed at 6mg daily from October 2016 through October 2018, and methylphenidate that Dr. Gergen prescribed to Patient C as "large," and concluded that Patient C's psychosis was substance-induced or brought on by benzodiazepine withdrawal.

4. Dr. Gergen violated Virginia Code §§ 54.1-2915(A)(3), (13), (16), and (17) and 54.1-3408(A) in his care and treatment of Patient B, a 36-year-old female, to whom PMP reports show he continually prescribed, from September 22, 2016, to August 30, 2018, controlled substances with abuse

potential, often with early renewals and frequently in thirty-day supplies, despite knowing Patient B's history and diagnosis of active substance abuse and addiction. Specifically:

a. According to Dr. Gergen's notes, Patient B presented to him in February 2016 with a history of substance abuse, including opiate dependence and "prescription drug abuse." She also had a history of multiple hospitalizations for suicide attempts and manic episodes. Further, Dr. Gergen noted that Patient B had recently been dismissed from the practice of her Suboxone-prescribing physician because he discovered that she was taking outside medications without his approval and that the Suboxone provider stated that Patient B would likely need hospitalization. Nonetheless, Dr. Gergen initiated a regimen of Ambien and clonazepam (C-IV), despite Patient B's risk for substance abuse and drug-seeking behavior, acknowledging that there were "obvious risks in providing medications which might be abused such as benzodiazepines…," and without consulting with her prior Suboxone provider.

b. Dr. Gergen failed to adequately recognize or take into account Patient B's active substance abuse during the prescribing period, including abuse of the medications he was prescribing for her, when continuing to prescribe to Patient B controlled substances with abuse potential. For example, according to Dr. Gergen's notes, Patient B was hospitalized for overuse of medications and Suboxone withdrawal in or about March 2016. Prior to her hospitalization, Dr. Gergen documented prescribing clonazepam up to 6mg daily to Patient B. After her release from the hospital, Dr. Gergen reduced her clonazepam usage by only 1mg daily. At her next office visit on April 6, 2016, Patient B was noted to be visibly intoxicated with slurred speech and poor coordination, but denied medication misuse, explaining that she had a hangover from drinking moonshine the night prior. Dr. Gergen documented on that visit prescribing to Patient B alprazolam at 2.5mg daily to replace clonazepam. However, one month later, Dr. Gergen increased Patient B's alprazolam dosage up to 6mg daily, even though she admitted that she misused her benzodiazepine prescription. Dr. Gergen's treatment records also indicate that he continued

Patient B on a regimen of Adderall up to 50mg daily and a regimen of tramadol, a C-IV opioid, at 300mg daily for "pain and muscle spasms" without performing any physical examination of Patient B.

c. Dr. Gergen failed to adequately monitor Patient B's medication usage. For example, in a May 11, 2017 progress note, Dr. Gergen's documented plan for "risks of substance abuse" was to "continu[e] counseling and careful medication supervision." However, there is no documentation, either before or after this encounter, regarding specifically how he monitored Patient B's medication usage or that his supervision included a query of the PMP (except for September 21, 2018 and October 14, 2018), urine drug screens, or pill counts.

d. Dr. Gergen allowed Patient B to obtain early refills of medications with substance-abuse potential, as indicated in the chart below:

Date Filled	Quantity	Drug Name	Days	Dosage
December 21, 2016	90	alprazolam 2mg	30	6mg/day
January 6, 2017	7	alprazolam 2mg	7	2mg/day
January 20, 2017	90	alprazolam 2mg	30	6mg/day
February 11, 2017	90	alprazolam 2mg	30	6mg/day
January 21, 2017	21	Adderall 20mg	7	60mg/day
January 27, 2017	90	Adderall 20mg	30	60mg/day
February 8, 2017	36	Adderall 20mg	12	60mg/day
February 20, 2017	90	Adderall 20mg	30	60mg/day
August 27, 2017	120	gabapentin 800mg	30	3200mg/day
August 29, 2017	120	gabapentin 800mg	30	3200mg/day
October 9, 2017	80	gabapentin 400mg	10	3200mg/day
October 9, 2017	60	gabapentin 800mg	15	3200mg/day
August 3, 2018	90	Adderall 30mg	30	90mg/day
August 24, 2018	56	Adderall 15mg	14	60mg/day
September 7, 2018	120	Adderall 15mg	30	60mg/day
September 7, 2018	56	Adderall 15mg	14	60mg/day

e. Dr. Gergen failed to adequately communicate with other providers and concurrently review their treatment of Patient B. For example, Patient B's PMP records show that she was prescribed Hydromet syrup on October 22, 2016 by another provider, and on June 8, 2017, Dr. Gergen documented that Patient B was seeing a pain specialist who was prescribing her tramadol. PMP records

show that Patient B filled tramadol prescriptions on December 13, 2016, March 2, 2017, and December 16, 2017, and prescriptions for hydrocodone-acetaminophen (C-II) on July 23, 2017, and July 26, 2017. Despite knowing or having reason to know this information, there is no documentation that Dr. Gergen ever communicated with any of these prescribers regarding coordination of care and Patient B's past and present substance abuse.

f. Dr. Gergen prescribed Patient B multiple benzodiazepines concurrently, as indicated in the chart below:

Date Filled	Quantity	Drug Name	Days	Dosage
March 13, 2017	90	alprazolam 2mg	30	6mg/day
April 6, 2017	90	diazepam 10mg	30	30mg/day
May 9, 2017	90	diazepam 10mg	30	30mg/day
May 11, 2017	90	alprazolam 2mg	30	6mg/day
June 23, 2017	90	clonazepam 2mg	30	6mg/day
July 6, 2017	90	diazepam 10mg	30	30mg/day
October 9, 2017	30	triazolam 0.25mg	30	0.25mg/day
October 9, 2017	30	alprazolam 2mg	10	6mg/day
November 13, 2017	30	triazolam 0.25mg	30	0.25mg/day
November 27, 2017	120	diazepam 10mg	30	40mg/day
September 12, 2018	60	alprazolam 2mg	30	4mg/day
September 24, 2018	60	clonazepam 2mg	30	4mg/day

5. Dr. Gergen violated Virginia Code §§ 54.1-2915(A)(3), (13), (16), (17), and (18) and 54.1-3408(A) in his care and treatment of Patient K, a 47-year-old male, to whom he continuously prescribed combinations of controlled substances with abuse potential between April 2017 and July 2018, without coordinating care, concurrently reviewing treatment, assessing the risk of substance abuse, and re-evaluating after multiple overdoses. Specifically:

a. Dr. Gergen failed to coordinate care with other providers and concurrently review their treatment of Patient K. According to his primary care physician, Patient K has a history of chronic pain and substance abuse. According to PMP reports, Patient K was prescribed Lyrica (C-V), oxycodone-acetaminophen (C-II), and methadone (C-II) by other providers from approximately August 2016 through

January 2017. The physician reported that after an overdose in January 2017, she stopped Patient K's chronic narcotics and switched him to non-narcotic pain medication. Despite knowing about Patient K's pain management treatment, Dr. Gergen continuously prescribed tramadol at 300mg daily to Patient K from April 2017 through July 2018 without otherwise meeting any of the requirements of 18 VAC 85-21-60 through -120 of the Regulations Governing Prescribing of Opioids and Buprenorphine.

b. Dr. Gergen continuously prescribed alprazolam at a dosage of 1.5-6mg daily and Ambien at 10mg daily to Patient K without conducting any substance abuse risk assessment, despite information available to him from the PMP that Patient K was simultaneously obtaining prescriptions for Lyrica and oxycodone-acetaminophen from other providers.

c. Dr. Gergen failed to re-evaluate Patient K after multiple overdoses before renewing his prescriptions for controlled substances with abuse potential. According to Patient K's primary care physician, between approximately February 2018 and June 2018, Patient K was admitted to an intensive care unit on two occasions for drug overdoses. The physician reported that during the second admission, Patient K admitted to selling his prescribed medications on the street for methadone. Despite these ICU admissions, Dr. Gergen continued to prescribe alprazolam, Ambien, and tramadol to Patient K.

6. Dr. Gergen violated Virginia Code § 2915(A)(4) and (13) in that he is incompetent to practice and represents a danger to patients and the public. Specifically, throughout the relevant treatment periods for Patients A-L, Dr. Gergen failed to:

a. take appropriate medical histories;

b. conduct thorough physical examinations;

c. perform a risk assessment for patients with substance abuse, attention deficit disorder, or attention deficit hyperactivity disorder;

c. evaluate, concurrently and repeatedly, these patients for risks associated with substance abuse, despite frequent early refills (some without face-to-face visits);

d. mitigate the risk of substance abuse by monitoring medication use with drug screenings, pill counts, or follow up visits;

e. address reports of multiple lost/stolen prescriptions;

f. respond properly to multiple admissions for abuse of medications;

g. respond properly to significant and ongoing signs of abuse of medications;

h. failed to coordinate care with other treatment providers; and/or

i. adhere to treatment plans developed by hospital treatment providers

7. Dr. Gergen violated Virginia Code § 54.1-2915(A)(18) and 18 VAC 85-20-26(C) in that he failed to maintain accurate, legible, and/or complete records for Patients A-L.

See Confidential Attachment for the names of the patients referenced above.

(for) William L. Harp, M.D.
Executive Director
Virginia Board of Medicine

4/5/2019
Date