



New York State Board for Professional Medical Conduct

433 River Street, Suite 303 • Troy, New York 12180-2299 • (518) 402-0863

Antonià C. Novello, M.D., M.P.H., Dr. P.H.
*Commissioner
NYS Department of Health*

Dennis P. Whalen
*Executive Deputy Commissioner
NYS Department of Health*

Dennis J. Graziano, Director
Office of Professional Medical Conduct

William P. Dillon, M.D.
Chair

Michael A. Gonzalez, R.P.A.
Vice Chair

Ansel R. Marks, M.D., J.D.
Executive Secretary

October 17, 2002

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Harry B. Lesch, M.D.
4058 "D" Street
Eureka, CA 95503

RE: License No. 137313

Dear Dr. Lesch:

Enclosed please find **Corrected** Order #BPMC 02-232 of the New York State Board for Professional Medical Conduct. This Order and any penalty provided therein goes into effect July 29, 2002.

If the penalty imposed by the Order is a surrender, revocation or suspension of this license, you are required to deliver to the Board the license and registration within five (5) days of receipt of the Order to Board for Professional Medical Conduct, New York State Department of Health, Hedley Park Place, Suite 303, 433 River Street, Troy, New York 12180.

Sincerely,

Ansel R. Marks, M.D., J.D.
Executive Secretary
Board for Professional Medical Conduct

Enclosure

cc: Sheila Toborg, Esq.
Thorn Gershon Tyman and Bonanni, LLP
5 Wembly Court
New Karner Road
P.O. Box 15054
Albany, NY 12212

NEW YORK STATE DEPARTMENT OF HEALTH
STATE BOARD FOR PROFESSIONAL MEDICAL CONDUCT

IN THE MATTER
OF
HARRY B. LESCH, M.D.
CO-01-12-6163-A

CORRECTED
CONSENT AGREEMENT
AND ORDER
BPMC No. 02-232

HARRY B. LESCH, M.D., (Respondent) states:

That on or about February 9, 1979, I was licensed to practice as a physician in the State of New York, having been issued License No. 137313 by the New York State Education Department.

My current address is 4058 "D" Street, Eureka, CA 95503, and I will advise the Director of the Office of Professional Medical Conduct of any change of my address within thirty (30) days thereof.

I understand that the New York State Board for Professional Medical Conduct has charged me with one (1) specification of professional misconduct.

A copy of the Statement of Charges is annexed hereto, made a part hereof, and marked as Exhibit A.

I do not contest the one (1) specification, in full satisfaction of the charges against me. I, hereby, agree to the following penalty:

Five (5) year suspension of my New York state license to practice medicine, said suspension stayed contingent upon my successful continued participation in the five (5) years probation as set forth in the Stipulated Settlement and Disciplinary Order that was submitted before

the Division of Medical Quality, Medical Board of California, Department of Consumer Affairs, State of California, that is annexed hereto, made a part hereof, and marked as Exhibit "B." That I must satisfy all requirements of the Disciplinary Order as set forth in Exhibit "B." That upon successful completion of the probation as provided in the Stipulated Settlement and Disciplinary Order annexed hereto as Exhibit "B," and my license to practice medicine in the State of California is fully restored without conditions, my license to practice medicine in the State of New York shall be fully restored.

I further agree that the Consent Order for which I, hereby, apply shall impose the following conditions:

That, except during periods of actual suspension, I shall maintain current registration of my license with the New York State Education Department Division of Professional Licensing Services, and pay all registration fees. This condition shall be in effect beginning thirty days after the effective date of the Consent Order and will continue while Respondent possesses his license; and

That I shall fully cooperate in every respect with the Office of Professional Medical Conduct (OPMC) in its administration and enforcement of this Order and in its investigation of all matters regarding Respondent. I shall respond in a timely manner to each and every request by OPMC to provide written periodic verification of Respondent's compliance with the terms of this Order. I shall meet with a person designated by the Director of OPMC as directed. I shall respond promptly and provide any and all documents and information within my control upon the direction of OPMC. This condition shall be in effect beginning upon the effective date of the Consent Order and will continue while I possess my license.

I, hereby, stipulate that any failure by me to comply with such conditions shall constitute misconduct as defined by New York State Education Law §6530(29).

I agree that in the event I am charged with professional misconduct in the future, this agreement and order shall be admitted into evidence in that proceeding.

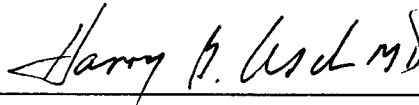
I, hereby, make this application to the State Board for Professional Medical Conduct (the Board) and request that it be granted.

I understand that, in the event that this application is not granted by the Board, nothing contained herein shall be binding upon me or construed to be an admission of any act of misconduct alleged or charged against me, such application shall not be used against me in any way and shall be kept in strict confidence during the pendency of the professional misconduct disciplinary proceeding; and such denial by the Board shall be made without prejudice to the continuance of any disciplinary proceeding and the final determination by the Board pursuant to the provisions of the Public Health Law.

I agree that, in the event the Board grants my application, as set forth herein, an order of the Chairperson of the Board shall be issued in accordance with same. I agree that such order shall be effective upon issuance by the Board, which may be accomplished by mailing, by first class mail, a copy of the Consent Order to me at the address set forth in this agreement, or to my attorney, or upon transmission via facsimile to me or my attorney, whichever is earliest.

I am making this application of my own free will and accord and not under duress, compulsion or restraint of any kind or manner. In consideration of the value to me of the acceptance by the Board of this application, allowing me to resolve this matter without the various risks and burdens of a hearing on the merits, I knowingly waive any right I may have to contest the Consent Order for which I hereby apply, whether administratively or judicially, and ask that the application be granted.

AFFIRMED

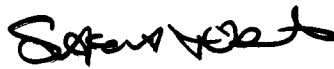


HARRY B. LESCH, M.D.
Respondent

DATED 10/11/02

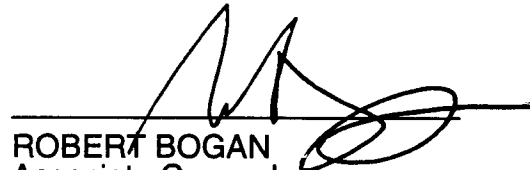
The undersigned agree to the attached application of the Respondent and to the proposed penalty based on the terms and conditions thereof.

DATE: 10/4/02



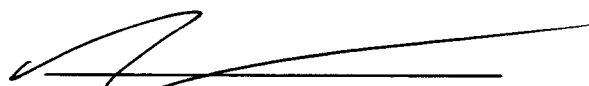
SHEILA TOBORG, Esq.
Attorney for Respondent

DATE: 07 October 2002



ROBERT BOGAN
Associate Counsel
Bureau of Professional Medical Conduct

DATE: 09 October 2002



DENNIS J. GRAZIANO
Director
Office of Professional Medical Conduct

NEW YORK STATE DEPARTMENT OF HEALTH
STATE BOARD FOR PROFESSIONAL MEDICAL CONDUCT

IN THE MATTER
OF
HARRY B. LESCH, M.D.

CONSENT ORDER

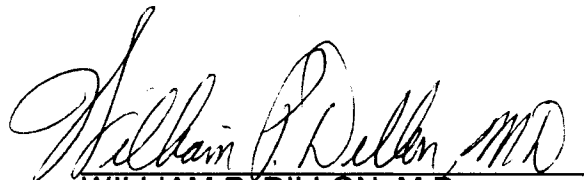
Upon the proposed agreement of **HARRY B. LESCH, M.D.** (Respondent) for Consent Order, which application is made a part hereof, it is agreed to and

ORDERED, that the application and the provisions thereof are hereby adopted; and it is further

ORDERED, that this order shall be effective upon issuance by the Board, which may be accomplished by mailing, by first class mail, a copy of the Consent Order to Respondent at the address set forth in this agreement or to Respondent's attorney by certified mail, or upon transmission via facsimile to Respondent or Respondent's attorney, whichever is earliest.

SO ORDERED.

DATED: 10/14/02


WILLIAM P. DILLON, M.D.
Chair
State Board for Professional
Medical Conduct

MEDICAL BOARD OF CALIFORNIA

I do hereby certify that this document is true and correct copy of the original on file in this office.

Clegg Hamilton 1/02/02
SIGNED DATE

Asst Custodian of Records
TITLE

1. BILL LOCKYER, Attorney General
of the State of California
2. LAWRENCE A. MERCER, State Bar No. 111898
Deputy Attorney General
3. California Department of Justice
455 Golden Gate Avenue, Suite 11000
4. San Francisco, California 94102
Telephone: (415) 703-5539
5. Facsimile: (415) 703-5480
6. Attorneys for Complainant

BEFORE THE
DIVISION OF MEDICAL QUALITY
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:
HARRY B. LESCH, M.D.
517 Third Street, Suite #38
Eureka, CA 95501
Physician's and Surgeon's Certificate no. G-22275
Respondent.

Case No. 12-1999-105366

OAH No. N2001070095

STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER

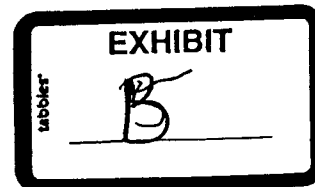
IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-entitled proceedings that the following matters are true:

PARTIES

1. Ron Joseph (Complainant) is the Executive Director of the Medical Board of California. He brought this action solely in his official capacity and is represented in this matter by Bill Lockyer, Attorney General of the State of California, by Lawrence A. Mercer, Deputy Attorney General.

2. Respondent Harry B. Lesch, M.D. (Respondent) is represented in this proceeding by attorney Michael Morrison, Esq., whose address is Janssen, Malloy, Needham, Morrison & Reinholtsen, 730 Fifth Street, Eureka, CA 95501.

3. On or about June 30, 2002, the Medical Board of California issued



1 Physician's and Surgeon's Certificate No. G-22275 to Harry B. Lesch, M.D., and said
2 Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the
3 charges.

4 JURISDICTION

5 4. Accusation No. 12-1999-105366 was filed before the Division of Medical
6 Quality, Medical Board of California of the Department of Consumer Affairs, (Division), and is
7 currently pending against Respondent. The Accusation, together with all other statutorily
8 required documents were properly served on Respondent on January 4, 2001, and Respondent
9 timely filed his Notice of Defense contesting the Accusation. A copy of Accusation No.
10 12-1999-105366 is attached as Exhibit A and incorporated herein by reference.

11 ADVISEMENT AND WAIVERS

12 5. Respondent has carefully read, fully discussed with counsel, and
13 understands the charges and allegations in Accusation No. 12-1999-105366. Respondent has
14 also carefully read, fully discussed with counsel, and understands the effects of this Stipulated
15 Settlement and Disciplinary Order.

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

23 7. Respondent voluntarily, knowingly, and intelligently waives and gives up
24 each and every right set forth above.

25 CULPABILITY

26 8. Respondent understands and agrees that the charges and allegations in
27 Accusation No. 12-1999-105366, if proven at a hearing, constitute cause for imposing discipline
28 upon his license to practice medicine in the State of California.

1 stayed and Respondent is placed on probation for five (5) years on the following terms and
2 conditions.

3 Within 15 days after the effective date of this decision the respondent shall
4 provide the Division, or its designee, proof of service that Respondent has served a true copy of
5 this decision on the Chief of Staff or the Chief Executive Officer at every hospital where
6 privileges or membership are extended to Respondent or at any other facility where Respondent
7 engages in the practice of medicine and on the Chief Executive Officer at every insurance carrier
8 where malpractice insurance coverage is extended to Respondent.

9 1. PRESCRIBING PRACTICES COURSE Within six months of the
10 effective date of this decision, Respondent shall enroll in a course in Prescribing Practices,
11 approved in advance by the Division or its designee, and shall successfully complete the course
12 during the first year of probation. The Prescribing Practices Course administered by the
13 University of California, San Diego, Physician Assessment and Clinical Education Program
14 (PACE), shall be deemed approved by the Division in satisfaction of this requirement.

15 2. ETHICS COURSE Within six months of the effective date of this
16 decision, Respondent shall enroll in a course in Ethics approved in advance by the Division or its
17 designee, and shall successfully complete the course during the first year of probation.

18 3. OBEY ALL LAWS Respondent shall obey all federal, state and local
19 laws, all rules governing the practice of medicine in California, and remain in full compliance
20 with any court ordered criminal probation, payments and other orders.

21 4. QUARTERLY REPORTS Respondent shall submit quarterly
22 declarations under penalty of perjury on forms provided by the Division, stating whether there
23 has been compliance with all the conditions of probation.

24 5. PROBATION SURVEILLANCE PROGRAM COMPLIANCE
25 Respondent shall comply with the Division's probation surveillance program. Respondent shall,
26 at all times, keep the Division informed of his business and residence addresses which shall both
27 serve as addresses of record. Changes of such addresses shall be immediately communicated in
28 writing to the Division. Under no circumstances shall a post office box serve as an address of

1 record, except as allowed by Business and Professions Code section 2021(b).

2 Respondent shall, at all times, maintain a current and renewed physician's and
3 surgeon's license.

4 Respondent shall also immediately inform the Division, in writing, of any travel
5 to any areas outside the jurisdiction of California which lasts, or is contemplated to last, more
6 than thirty (30) days.

7 6. INTERVIEW WITH THE DIVISION, ITS DESIGNEE OR ITS
8 DESIGNATED PHYSICIAN(S) Respondent shall appear in person for interviews with the
9 Division, its designee or its designated physician(s) upon request at various intervals and with
10 reasonable notice.

11 7. TOLLING FOR OUT-OF-STATE PRACTICE, RESIDENCE OR IN-
12 STATE NON-PRACTICE In the event Respondent should leave California to reside or to
13 practice outside the State or for any reason should Respondent stop practicing medicine in
14 California, Respondent shall notify the Division or its designee in writing within ten (10) days of
15 the dates of departure and return or the dates of non-practice within California. Non-practice is
16 defined as any period of time exceeding thirty (30) days in which Respondent is not engaging in
17 any activities defined in Sections 2051 and 2052 of the Business and Professions Code. All time
18 spent in an intensive training program approved by the Division or its designee shall be
19 considered as time spent in the practice of medicine. A Board-ordered suspension of practice
20 shall not be considered as a period of non-practice. Periods of temporary or permanent residence
21 or practice outside California or of non-practice within California, as defined in this condition,
22 will not apply to the reduction of the probationary order.

23 8. COMPLETION OF PROBATION Upon successful completion of
24 probation, Respondent's certificate shall be fully restored:

25 9. VIOLATION OF PROBATION If Respondent violates probation in any
26 respect, the Division, after giving Respondent notice and the opportunity to be heard, may revoke
27 probation and carry out the disciplinary order that was stayed. If an accusation or petition to
28 revoke probation is filed against Respondent during probation, the Division shall have continuing

1 jurisdiction until the matter is final, and the period of probation shall be extended until the matter
2 is final.

3 10. COST RECOVERY The Respondent is hereby ordered to reimburse the
4 Division the amount of \$2,947.00 payment due for costs. Respondent shall pay \$1,000.00 within
5 one year of the effective date of this decision for its costs incurred in this matter. He shall pay
6 \$1000.00 before the end of his second year of probation and shall pay the balance of \$947.00
7 prior to the end of his third year of probation. Failure to reimburse the Division's cost of
8 investigation and prosecution shall constitute a violation of the probation order. The filing of
9 bankruptcy by the Respondent shall not relieve the Respondent of his responsibility to reimburse
10 the Division for these costs.

11 11. PROBATION COSTS Respondent shall pay the costs associated with
12 probation monitoring each and every year of probation, as designated by the Division, which are
13 currently set at \$2,488.00, but may be adjusted on an annual basis. Such costs shall be payable
14 to the Division of Medical Quality and delivered to the designated probation surveillance
15 monitor no later than October 1st of each calendar year. Failure to pay costs within 30 days of the
16 due date shall constitute a violation of probation.

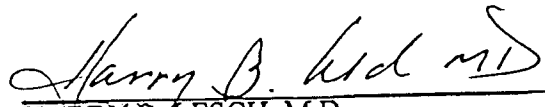
17 12. LICENSE SURRENDER Following the effective date of this decision, if
18 Respondent ceases practicing due to retirement, health reasons or is otherwise unable to satisfy
19 the terms and conditions of probation, Respondent may voluntarily tender his certificate to the
20 Board. The Division reserves the right to evaluate the Respondent's request and to exercise its
21 discretion whether to grant the request, or to take any other action deemed appropriate and
22 reasonable under the circumstances. Upon formal acceptance of the tendered license,
23 Respondent will not longer be subject to the terms and conditions of probation.

24
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26
27
28

ACCEPTANCE


1
2 I have carefully read the above Stipulated Settlement and Disciplinary Order and
3 have fully discussed it with my attorney, Michael Morrison, Esq. I understand the stipulation
4 and the effect it will have on my Physician's and Surgeon's Certificate. I enter into this
5 Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree
6 to be bound by the Decision and Order of the Division of Medical Quality, Medical Board of
7 California.

8 DATED: 1 October 2001.

9
10 
11 HARRY B. LESCH, M.D.
Respondent

12
13 I have read and fully discussed with Respondent Harry B. Lesch, M.D., the terms
14 and conditions and other matters contained in the above Stipulated Settlement and Disciplinary
15 Order. I approve its form and content.

16 DATED: 10/1/01

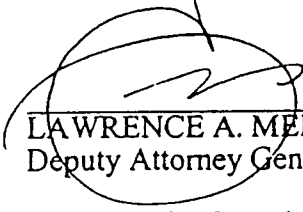
17
18 
19 MICHAEL MORRISON, ESQ.
Attorney for Respondent

1 ENDORSEMENT

2 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully
3 submitted for consideration by the Division of Medical Quality, Medical Board of California of
4 the Department of Consumer Affairs.

5
6 DATED: October 9, 2001.

7 BILL LOCKYER, Attorney General
8 of the State of California

9
10 
11 LAWRENCE A. MERCER
12 Deputy Attorney General

13 Attorneys for Complainant

14 DOJ Docket Number: 03573160-sf1999ad105366
15 Stipulation 9/24/01

Exhibit A

Accusation No. 12-1999-105366

1 BILL LOCKYER, Attorney General
of the State of California
2 LAWRENCE A. MERCER, State Bar No. 111898
Deputy Attorney General
3 California Department of Justice
455 Golden Gate Avenue, Suite 11000
4 San Francisco, California 94102
Telephone: (415) 703-5539
5 Facsimile: (415) 703-5480

6 Attorneys for Complainant

7
8 **BEFORE THE**
9 **DIVISION OF MEDICAL QUALITY**
10 **MEDICAL BOARD OF CALIFORNIA**
11 **DEPARTMENT OF CONSUMER AFFAIRS**
12 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:
13 HARRY B. LESCH, M.D.
14 517 Third Street, #38
Eureka, CA 95501
15 Physician's and Surgeon's Certificate No.
G-22275
16
17 Respondent.

Case No. 12-1999-105366
A C C U S A T I O N

18
19 Complainant alleges:

20 **PARTIES**

- 21 1. Ron Joseph ("Complainant") brings this Accusation solely in his official
22 capacity as the Executive Director of the Medical Board of California, Department of Consumer
23 Affairs.
24 2. On or about April 21, 1971, the Medical Board of California issued
25 Physician's and Surgeon's Certificate Number G-22275 to Harry B. Lesch, M.D. ("Respondent").
26 The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the
27 charges brought herein and will expire on June 30, 2002, unless renewed.

28 //

JURISDICTION

1
2 3. This Accusation is brought before the Division of Medical Quality,
3 Medical Board of California ("Division"), under the authority of the following provisions of
4 law:

5 4. Section 2227 of the Business and Professions Code¹ ("Code") provides
6 that a licensee who is found guilty under the Medical Practice Act may have his or her license
7 revoked, suspended for a period not to exceed one year, placed on probation and required to pay
8 the costs of probation monitoring, or such other action taken in relation to discipline as the
9 Division deems proper.

10 5. Section 2234 of the Code states:

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

14 "(a) Violating or attempting to violate, directly or indirectly, or assisting in or
15 abetting the violation of, or conspiring to violate, any provision of this
16 chapter [Chapter 5, the Medical Practice Act].

17 "(b) Gross negligence.

18 "(c) Repeated negligent acts.

19 "(d) Incompetence."

20 6. Section 725 of the Code provides that repeated acts of clearly excessive
21 prescribing or administering of drugs or treatment, repeated acts of clearly excessive use of
22 diagnostic or treatment facilities as determined by the standard of the community of licensees is
23 unprofessional conduct.

24 //

25 //

26
27 1. All statutory references are to the Business and Professions Code unless otherwise
28 specified.

1 7. Section 2242(a) of the Code states: "Prescribing, dispensing, or
2 furnishing dangerous drugs as defined in section 4022 without a good faith prior examination
3 and medical indication therefor, constitutes unprofessional conduct."

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

7 9. Section 14124.12 of the Welfare and Institutions Code states:

8 "(a) Upon receipt of written notice from the Medical Board of California,
9 the Osteopathic Medical Board of California, or the Board of Dental Examiners of
10 California, that a licensee's license has been placed on probation as a result of a
11 disciplinary action, the department may not reimburse any Medi-Cal claim for the
12 type of surgical service or invasive procedure that gave rise to the probation,
13 including any dental surgery or invasive procedure, that was performed by the
14 licensee on or after the effective date of probation and until the termination of all
15 probationary terms and conditions or until the probationary period has ended,
16 whichever occurs first. This section shall apply except in any case in which the
17 relevant licensing board determines that compelling circumstances warrant the
18 continued reimbursement during the probationary period of any Medi-Cal claim,
19 including any claim for dental services, as so described. In such a case, the
20 department shall continue to reimburse the licensee for all procedures, except for
21 those invasive or surgical procedures for which the licensee was placed on
22 probation."

23 COST RECOVERY

24 10. Section 125.3 of the Code states, in pertinent part, that the Board may
25 request the administrative law judge to direct a licensee found to have committed a violation or
26 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
27 and enforcement of the case.

28 DRUGS

 11. Effexor is a trade name for venlafaxine hydrochloride, an antidepressant.
It is a dangerous drug as defined in section 4022 of the Code.

 12. Hydrocodone APAP is a combination of acetaminophen and codeine
phosphate. It is a dangerous drug as defined in section 4022 of the Code, a schedule III
controlled substance and narcotic as defined by section 11056, subdivision (e) of the Health and
Safety Code, and a Schedule III controlled substance as defined by Section 1308.13 (e) of Title
21 of the Code of Federal Regulations.

1 13. Klonopin is a trade name for clonazepam, an anticonvulsant of the
2 benzodiazepine class of drugs. It is a dangerous drug as defined in section 4022 of the Code, a
3 Schedule IV controlled substance as defined by section 11057 of the Health and Safety Code,
4 and a Schedule IV controlled substance as defined by Section 1308.14 of Title 21 of the Code of
5 Federal Regulations. It produces central nervous system depression and should be used with
6 caution with other central nervous system depressant drugs.

7 14. Lithobid is a trade name for lithium carbonate used in the treatment of
8 manic episodes of manic depressive illness. It is a dangerous drug as defined in section 4022 of
9 the Code.

10 15. Neurontin (gabapentin capsules) is used in the treatment of partial
11 seizures. It is a dangerous drug as defined in section 4022 of the Code.

12 16. Nortriptyline Hydrochloride (also known by the trade name Pamelor), a
13 tricyclic antidepressant, is a dangerous drug within the meaning of Business and Professions
14 Code section 4022.

15 17. Trazodone Hydrochloride is an antidepressant and is a dangerous drug
16 with the meaning of Business and Professions Code section 4022.

17 18. Welbutrin is a trade name for bupropion hydrochloride, an antidepressant
18 of the aminoketone class. It is a dangerous drug within the meaning of Business and Professions
19 Code section 4022.

20 19. Xanax is a trade name for alprazolam tablets. Alprazolam is used for the
21 management of anxiety disorders or for the short-term relief of the symptoms of anxiety. It is a
22 dangerous drug as defined in section 4022 of the Code, a Schedule IV controlled substance and
23 narcotic as defined by section 11057, subdivision (d) of the Health and Safety Code, and a
24 Schedule IV controlled substance as defined by Section 1308.14 (c) of Title 21 of the Code of
25 Federal Regulations.

26 20. Zoloft is a trade name for sertraline hydrochloride, an antidepressant. It is a
27 dangerous drug as defined by section 4022 of the Code.

28 //

FIRST CAUSE FOR DISCIPLINE

(Inappropriate Prescribing and/or Failure to Maintain Records)

21. The conduct herein described occurred while respondent was in active practice as a physician and surgeon specializing in psychiatry in Mendocino and Humboldt Counties, California.

22. Respondent is subject to disciplinary action under section 2234 of the Code through sections 725 and/or 2242(a) and/or through section 2266 of the Code in that the respondent inappropriately and excessively prescribed controlled substances and dangerous drugs to his wife for several years, and failed to maintain medical or drug records. The circumstances are as follows:

A. From 1997 through 1999, respondent prescribed the following controlled substances and/or dangerous drugs for his wife, L.J.:

<u>DATE</u>	<u>Rx #</u>	<u>DRUG</u>	<u>QUANTITY</u>	<u>DOSAGE UNIT</u>
4/12/97	97 1040 1460	Alprazolam	90	5 mg
4/12/97	97 1040 1446	Klonopin tabs	270	1 mg
5/19/97	97 1400 0910	Nortriptyline caps	180	50 mg
6/16/97	97 1670 0200	Alprazolam	270	1 mg
6/16/97	97 1670 0195	Clonazepam tabs	270	2 mg
6/23/97	97 1740 8013	Zoloft	180	100 mg
9/30/97	97 1670 0200	Alprazolam	270	1 mg
9/30/97	97 1040 1446	Klonopin	270	1 mg
10/4/97	97 2780 0511	Clonazepam tabs	360	2 mg
10/4/97	97 2780 0534	Lithobid tablets	270	300 mg
10/4/97	97 2780 0557	Trazodone HCl tabs	90	150 mg
10/24/97	97 2970 2684	Lithobid tablets	360	300 mg
1/12/98	98 0130 7456	Alprazolam tabs	90	1 mg
1/12/98	98 0130 7444	Clonazepam tabs	90	2 mg
1/12/98	98 0130 7465	Effexor	180	75 mg

1	1/12/98	98 0130 7478	Nortriptyline	360	25 mg
2	2/5/98	98 0361 0423	Alprazolam	270	2 mg
3	2/5/98	98 0361 0348	Effexor	180	100 mg
4	2/5/98	97 2780 0557	Trazodone HCl tablets	90	150 mg
5	3/27/98	98 0130 7456	Alprazolam tabs	90	1 mg
6	3/27/98	98 0130 7444	Clonazepam tabs	90	2 mg
7	3/27/98	98 013 7465	Effexor	180	75 mg
8	3/27/98	98 013 07478	Nortriptyline	360	25 mg
9	4/10/98	878082	Codeine Phosphate/ APAP	30	.00060- 30 mg
10	4/15/98	98 0361 0423	Alprazolam	270	2 mg
11	4/15/98	98 0361 0348	Effexor	180	100 mg
12	4/15/98	97 2780 0557	Trazodone HCl tablets	90	150 mg
13	4/18/98	878921	Codeine Phosphate/ APAP	60	.00030- 300 mg
14	4/21/98	98 1111 1774	Acetaminophen/ Codeine tab	100	30 mg
15	5/5/98	881188	Prochlorperazine maleate		5 mg
16	5/18/98	878921	Codeine Phosphate/ APAP	60	300 mg
17	5/28/98	884235	Hydrocodone bitartrate/AP	60	.0005- 500 mg.
18	5/28/98	884235	Hydrocodone bitartrate/AP	60	.0005- 500 mg.
19	10/5/98	712612	Codeine phosphate/ APAP	15	.00030- 300 mg
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1	10/14/98	714597	Alprazolam	90	2 mg
2	10/14/98	714596	Clonazepam	120	1 mg
3	06/29/99	16269525	Serzone	90	100 mg
4	7/19/99	16270240	Serzone	28	200 mg
5	8/08/99	773589	Serzone	120	100 mg
6	8/17/99	775218	Wellbutrin	60	150 mg
7	9/9/99	779432	Wellbutrin	102	100 mg
8	9/10/99	779615	Alprazolam	102	2 mg
9	10/26/99	788375	Alprazolam	180	2 mg
10	11/17/99	779615	Alprazolam	102	2 mg
11	12/21/99	798781	Neurontin	21	300 mg
12	12/31/99	779615	Alprazolam	102	2 mg
13	1/14/00	788375	Alprazolam	180	2 mg
14	3/22/00	788375	Alprazolam	180	2 mg
15	7/9/00	836301	Hydrocodone Bitartrate/ APAP	30	.0005- 500 mg
16					
17	7/9/00	836300	Zoloft	200	100 mg
18	7/14/00	836301	Hydrocodone Bitartrate/ APAP	30	.0005- 500 mg
19					

20 B. The standard of practice is for a psychiatrist to use
21 benzodiazepines and opiates with caution in patients with a history of substance abuse and to
22 monitor such patients' use of medications for abuse. L.J. has admitted that she is a long time
23 abuser of alcohol and opiates. She has gone through at least seven drug and alcohol
24 rehabilitation programs in the past fifteen years. Respondent was and is fully aware of his wife's
25 abuse of alcohol and controlled substances. He was also aware, or should have been aware, that
26 she was receiving prescriptions concurrently from other physicians. Nevertheless, there is no
27 documentation that he was monitoring L.J.'s use of multiple benzodiazepines and other
28 dangerous drugs, nor is there documentation that there was a medical indication for the multiple

1 concurrent prescriptions of diazepines and other dangerous drugs.

2 C. In the course of his prescribing for L.J., respondent engaged in
3 excessive prescribing, either by exceeding the conventional dose range for the prescribed
4 medication or by prescribing drugs of the same class, e.g. benzodiazepines, concurrently. While
5 some therapies appeared consistent with a treatment strategy for treatment-resistant depression,
6 respondent did order and/or did not record baseline renal or thyroid function tests, nor did he
7 document any plan to monitor L.J. for potential hepatic toxicity as required by the standard of
8 care.

9 D. Respondent failed to maintain any medical records for treatment
10 of his wife, L.J.. The standard of practice is for a psychiatrist to document an initial psychiatric
11 assessment and treatment plan and to document each outpatient visit with a progress note
12 recording patient complaints, objective findings, an assessment of the response to treatment and
13 any revisions in diagnosis or treatment plan. There is no documentation by respondent of an
14 initial psychiatric assessment of L.J., a treatment plan, progress notes or laboratory results
15 monitoring her response to the various prescribed drugs.

16 SECOND CAUSE FOR DISCIPLINE

17 (Gross Negligence/Negligence/Incompetence)

18 23. Paragraphs 21 and 22 are incorporated herein by reference as if fully set
19 forth.

20 24. Respondent is subject to disciplinary action under section 2234 (b), (c)
21 and/or (d) in that the respondent's acts of prescribing controlled substances and/or dangerous
22 drugs to his wife L.J. over a period of years without examination, monitoring and careful records,
23 particularly taking into account respondent's knowledge of her abuse of opiates and alcohol,
24 constituted gross negligence and/or repeated acts of negligence and/or incompetence.

25 THIRD CAUSE FOR DISCIPLINE


26 (Unprofessional Conduct/Multiple Role Relationships)

27 25. Paragraphs 21 and 22 are incorporated herein by reference as if fully set
28 forth.

1 3. Ordering Harry B. Lesch, M.D. to pay the Division of Medical Quality the
2 reasonable costs of the investigation and enforcement of this case, and, if placed on probation,
3 the costs of probation monitoring;

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

5 DATED: January 4, 2001.

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9 _____
10 RON JOSEPH
11 Executive Director
12 Medical Board of California
13 Department of Consumer Affairs
14 State of California

15 Complainant

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03573160-SF2000AD1296
2Accusation.wpt 9/28/00
LAM: 12/26/00

MEDICAL BOARD OF CALIFORNIA

I do hereby certify that this document is true and correct copy of the original on file in this office.

Cliff. Hammond / 1/02/02
SIGNED DATE

Asst. Custodian of Records
TITLE

1 BILL LOCKYER, Attorney General
of the State of California
2 LAWRENCE A. MERCER, State Bar No. 111898
Deputy Attorney General
3 California Department of Justice
455 Golden Gate Avenue, Suite 11000
4 San Francisco, California 94102
Telephone: (415) 703-5539
5 Facsimile: (415) 703-5480

6 Attorneys for Complainant

7
8 **BEFORE THE**
9 **DIVISION OF MEDICAL QUALITY**
10 **MEDICAL BOARD OF CALIFORNIA**
11 **DEPARTMENT OF CONSUMER AFFAIRS**
12 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

12 HARRY B. LESCH, M.D.
13 517 Third Street, #38
14 Eureka CA 95501
15 Physician and Surgeon's License No. G-22275
16 Respondent.

Case No. 12 1999 105366

OAH No. N 2001 070095

NOTICE OF HEARING
[Gov. Code § 11509]

Hearing: Monday, October 1, 2001

17
18 YOU ARE HEREBY NOTIFIED that a hearing in this matter will commence on
19 Monday, October 1, 2001 at 9:00 AM and will continue on a day-to-day basis, as necessary
20 through Tuesday, October 2, 2001 before an Administrative Law Judge at

21 **Office of Administrative Hearings**
22 **1515 Clay Street, Suite 206, Oakland, California 94612.**

23 The hearing will be conducted before the Division of Medical Quality, Medical
24 Board of California, Department of Consumer Affairs by an Administrative Law Judge of the
25 Office of Administrative Hearings, upon the charges made in Accusation Number 12 1999
26 105366 served upon you.

27 If you object to the place of hearing, you must notify the presiding officer within
28 ten (10) days after this notice is served on you. Failure to notify the presiding officer within ten

1 (10) days will deprive you of a change in the place of hearing.

2 You may be present at the hearing. You have the right to be represented by an
3 attorney at your own expense. You are not entitled to the appointment of an attorney to represent
4 you at public expense. You are entitled to represent yourself without legal counsel. You may
5 present any relevant evidence, and will be given full opportunity to cross-examine all witnesses
6 testifying against you. You are entitled to the issuance of subpoenas to compel the attendance of
7 witnesses and the production of books, documents, or other things by applying to the Office of
8 Administrative Hearings, 1515 Clay Street, Suite 206, Oakland, California 94612; telephone:
9 (510) 622-2722.

10 INTERPRETER: Pursuant to section 11435.20 of the Government Code, the
11 hearing shall be conducted in the English language. If a party or a party's witness does not
12 proficiently speak or understand the English language and before commencement of the hearing
13 requests language assistance, an agency subject to the language assistance requirement in section
14 11435.15 of the Government Code shall provide a certified interpreter or an interpreter approved
15 by the administrative law judge conducting the proceedings. The cost of providing the
16 interpreter shall be paid by the agency having jurisdiction over the matter if the administrative
17 law judge or hearing officer so directs, otherwise by the party for whom the interpreter is
18 provided. If you or a witness require the assistance of an interpreter, ample advance notice of
19 this fact should be given to the Office of Administrative Hearings so that appropriate
20 arrangements can be made.

21 CONTINUANCES: Under section 11524 of the Government Code, the agency
22 may grant a continuance, but when an administrative law judge of the Office of Administrative
23 Hearings has been assigned to the hearing, no continuance may be granted except by him or her
24 or by the presiding Administrative Law Judge for good cause. When seeking a continuance, a
25 party shall apply for the continuance within ten (10) working days following the time the party
26 discovered or reasonably should have discovered the event or occurrence which establishes good
27 cause for the continuance. A continuance may be granted for good cause after the ten (10)
28 working days have lapsed only if the party seeking the continuance is not responsible for and has

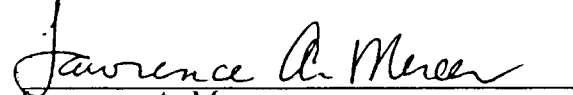
1 made a good faith effort to prevent the condition or event establishing the good cause.

2 Continuances are not favored. If you need a continuance, immediately write or
3 call the Office of Administrative Hearings, 1515 Clay Street, Suite 206, Oakland, California
4 94612; telephone: (510) 622-2722.

5 DATED: July 11, 2001

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BILL LOCKYER, Attorney General
of the State of California



Lawrence A. Mercer
Deputy Attorney General

Attorneys for Complainant

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