AUG 2 6 2013

OSTEOPATHIC MEDICAL BOARD OF CALIFORNIA

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

In the Matter of the Second Amended Accusation Against:

Case No. 00-2009-002562

Arnold L. Shinder, D.O. 4201 Green Avenue #B Los Alamitos, CA 90720-3552

OAH No: 2012110529

Osteopathic Physician's and Surgeon's Certificate No. 20A5010

Respondent

DECISION AND ORDER

The attached Stipulated Surrender of License and Disciplinary Order is hereby adopted by the Osteopathic Medical Board of California, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on <u>Leptember 9, 2013</u>.

It is so ORDERED August 26, 2013

FOR THE OSTEOPATHIC MEDICAL BOARD OF CALIFORNIA

DAVID CONNETT, D.O., PRESIDENT

.	W D. H	
1	KAMALA D. HARRIS Attorney General of California	FILED
2	THOMAS S. LAZAR Supervising Deputy Attorney General	
3	TESSA L. HEUNIS Deputy Attorney General	AUG 2 6 2013
4	State Bar No. 241559 110 West "A" Street, Suite 1100	OSTEOPATHIC MEDICAL BOARD OF CALIFORNIA
5	San Diego, CA 92101 P.O. Box 85266	
6	San Diego, CA 92186-5266 Telephone: (619) 645-2074	
7	Facsimile: (619) 645-2061	
8	Attorneys for Complainant	
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10		RE THE L BOARD OF CALIFORNIA
11	DEPARTMENT OF C	CONSUMER AFFAIRS CALIFORNIA
12	STATE OF C	LALIFORNIA
13	In the Matter of the Second Amended	Case No. 00-2009-002562
14	Accusation Against:	OAH No. 2012110529
15	ARNOLD L. SHINDER, D.O. 4201 Green Ave. #B	STIPULATED SURRENDER OF
16	Los Alamitos, CA 90720-3552	LICENSE AND DISCIPLINARY ORDER
17	Osteopathic Physician's and Surgeon's Certificate No. 20A5010	
18	Respondent.	·
19	IT IS HEDEDY STIBLIL A TED AND A CI	
20	IT IS HEREBY STIPULATED AND AGE	CEED by and between the parties in this
21	proceeding that the following matters are true:	· ·
22		<u>TIES</u>
23		s the Executive Director of the Osteopathic
24	Medical Board of California. She brought this ac	
25	represented in this matter by Kamala D. Harris, A	Attorney General of the State of California, by
26	Tessa L. Heunis, Deputy Attorney General.	
27		t) is representing himself in this proceeding and
28	has chosen not to exercise his right to be represen	nted by counsel.
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3. On or about September 9, 1985, the Osteopathic Medical Board of California issued Osteopathic Physician's and Surgeon's Certificate No. 20A5010 to Respondent. The Osteopathic Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought in Second Amended Accusation No. 00-2009-002562 and will expire on August 31, 2014, unless renewed. On October 8, 2012, the immediate suspension of Osteopathic Physician's and Surgeon's Certificate No. 20A5010 was ordered on an ex parte basis. On October 26, 2012, following a noticed hearing, Respondent's license was fully suspended.

JURISDICTION

- 4. On or about July 16, 2012, Accusation No. 00-2009-002562 was filed before the Osteopathic Medical Board of California, Department of Consumer Affairs (Board). A true and correct copy of the Accusation and all other statutorily required documents were properly served on Respondent on or about July 16, 2012. Respondent timely filed his Notice of Defense, contesting the charges in the Accusation.
- 5. On or about November 8, 2012, First Amended Accusation No. 00-2009-002562 was filed before the Board. A true and correct copy of the First Amended Accusation and all other statutorily required documents were properly served on Respondent on or about November 8, 2012. All new charges contained in First Amended Accusation were properly deemed controverted by Respondent without any further pleading being filed by him or on his behalf.
- 6. On or about May 30, 2013, Second Amended Accusation No. 00-2009-002562 was filed before the Osteopathic Medical Board of California (Board), Department of Consumer Affairs, and is currently pending against Respondent. A true and correct copy of the Second Amended Accusation and all other statutorily required documents were properly served on Respondent on or about May 30, 2013. All new charges contained in the Second Amended Accusation were properly deemed controverted by Respondent without any further pleading being filed by him or on his behalf. A true and correct copy of the Second Amended Accusation No. 00-2009-002562 is attached hereto as Exhibit A and hereby incorporated by reference.

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ADVISEMENT AND WAIVERS

- 7. Respondent has carefully read, and fully understands the charges and allegations in Second Amended Accusation No. 00-2009-002562. Respondent also has carefully read, and fully understands the effects of this Stipulated Surrender of License and Disciplinary Order.
- 8. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Second Amended Accusation; the right to be represented by counsel, at his own expense; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.
- 9. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

CULPABILITY

- 10. Respondent admits the complete truth and accuracy of each and every charge and allegation in Second Amended Accusation No. 00-2009-002562, agrees that cause exists for discipline and hereby surrenders his Osteopathic Physician's and Surgeon's Certificate No. 20A5010 for the Board's formal acceptance.
- 11. Respondent understands that by signing this stipulation he enables the Board to issue an order accepting the surrender of his Osteopathic Physician's and Surgeon's Certificate No. 20A5010 without further process.

CONTINGENCY

12. This stipulation shall be subject to approval by the Osteopathic Medical Board of California. The parties agree that this Stipulated Surrender of License and Disciplinary Order shall be submitted to the Board for its consideration in the above-entitled matter and, further, that the Board shall have a reasonable period of time in which to consider and act on this Stipulated Surrender of License and Disciplinary Order after receiving it. By signing this stipulation,

Respondent fully understands and agrees that he may not withdraw his agreement or seek to rescind this stipulation prior to the time the Board considers and acts upon it.

13. The parties agree that this Stipulated Surrender of License and Disciplinary Order shall be null and void and not binding upon the parties unless approved and adopted by the Board. except for this paragraph, which shall remain in full force and effect. Respondent fully understands and agrees that in deciding whether or not to approve and adopt this Stipulated Surrender of License and Disciplinary Order, the Board may receive oral and written communications from its staff and/or the Attorney General's Office. Communications pursuant to this paragraph shall not disqualify the Board, any member thereof, and/or any other person from future participation in this or any other matter affecting or involving Respondent. In the event that the Board does not, in its discretion, approve and adopt this Stipulated Surrender of License and Disciplinary Order, with the exception of this paragraph, it shall not become effective, shall be of no evidentiary value whatsoever, and shall not be relied upon or introduced in any disciplinary action by either party hereto. Respondent further agrees that should this Stipulated Surrender of License and Disciplinary Order be rejected for any reason by the Board, Respondent will assert no claim that the Board, or any member thereof, was prejudiced by its/his/her review, discussion and/or consideration of this Stipulated Surrender of License and Disciplinary Order or of any matter or matters related hereto.

ADDITIONAL PROVISIONS

- 14. This Stipulated Surrender of License and Disciplinary Order is intended by the parties herein to be an integrated writing representing the complete, final and exclusive embodiment of the agreements of the parties in the above-entitled matter.
- 15. The parties agree that facsimile copies of this Stipulated Surrender of License and Disciplinary Order, including facsimile signatures of the parties, may be used in lieu of original documents and signatures and, further, that facsimile copies shall have the same force and effect as originals.

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

ORDER

IT IS HEREBY ORDERED that Osteopathic Physician's and Surgeon's Certificate No. 20A5010, issued to Respondent Arnold L. Shinder, D.O., is surrendered and accepted by the Osteopathic Medical Board of California.

- 1. The surrender of Respondent's Osteopathic Physician's and Surgeon's Certificate No. 20A5010 and the acceptance of the surrendered license by the Board shall constitute the imposition of discipline against Respondent. This stipulation constitutes a record of the discipline and shall become a part of Respondent's license history with the Osteopathic Medical Board of California.
- 2. Respondent shall lose all rights and privileges as an Osteopathic Physician and Surgeon in California as of the effective date of the Board's Decision and Order.
- 3. Respondent shall cause to be delivered to the Board his pocket license and, if one was issued, his wall certificate on or before the effective date of the Decision and Order.
- 4. If Respondent ever files an application for licensure or a petition for reinstatement in the State of California, the Board shall treat it as a petition for reinstatement. Respondent must comply with all the laws, regulations and procedures for reinstatement of a revoked license in effect at the time the petition is filed, and all of the charges and allegations contained in Second Amended Accusation No. 00-2009-002562 shall be deemed to be true, correct and admitted by Respondent when the Board determines whether to grant or deny the petition.
- 5. If Respondent should ever apply or reapply for a new license or certification, or petition for reinstatement of a license, by any other health care licensing agency in the State of California, all of the charges and allegations contained in Second Amended Accusation, No. 00-2009-002562 shall be deemed to be true, correct, and admitted by Respondent for the purpose of any Statement of Issues or any other proceeding seeking to deny or restrict licensure.

1	6. Respondent shall pay the Board its costs of investigation and enforcement in the		
2	amount of \$38, 058.75 prior to issuance of a new or reinstated license.		
3	<u>ACCEPTANCE</u>		
4	I have carefully read the Stipulated Surrender of License and Disciplinary Order. I fully		
5	understand the stipulation and the effect it will have on my Osteopathic Physician's and		
6	Surgeon's Certificate No. 20A5010. I enter into this Stipulated Surrender of License and		
7	Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the		
8	Decision and Order of the Osteopathic Medical Board of California.		
9	\mathcal{A}		
10	DATED: 4-13-13		
11	ARNOLD L. SHINDER, D.O. Respondent		
12			
13	<u>ENDORSEMENT</u>		
14	The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted		
15	for consideration by the Osteopathic Medical Board of California of the Department of Consumer		
16	Affairs.		
17	Dated: 7 26 (13 Respectfully submitted,		
18	KAMALA D. HARRIS Attorney General of California		
19	THOMAS S. LAZAR Supervising Deputy Attorney General		
20			
21	Meuris		
22	Tessa L. Heunis Deputy Attorney General		
23	Attorneys for Complainant		
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II			

Exhibit A

Second Amended Accusation No. 00-2009-002562

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1 2 3 4 5 6 7 8 9	KAMALA D. HARRIS Attorney General of California THOMAS S. LAZAR Supervising Deputy Attorney General TESSA L. HEUNIS Deputy Attorney General State Bar No. 241559 110 West "A" Street, Suite 1100 San Diego, CA 92101 P.O. Box 85266 San Diego, CA 92186-5266 Telephone: (619) 645-2074 Facsimile: (619) 645-2061 Attorneys for Complainant	MAY 3 0 2013 OSTEOPATHIC MEDICAL BOARD OF CALIFORNIA
10		RE THE
11	DEPARTMENT OF C	BOARD OF CALIFORNIA ONSUMER AFFAIRS
12	STATE OF C	CALIFORNIA
13	In the Matter of the Second Amended	Case No. 00-2009-002562
14	Accusation Against:	
15	ARNOLD L. SHINDER, D.O. 4201 Green Ave #B	SECOND AMENDED ACCUSATION
16	Los Alamitos, CA 90720-3552	
17	Osteopathic Physician's and Surgeon's Certificate No. 20A5010	
18	Respondent.	
19		
20	Complainant alleges:	
21		RTIES
22	Angelina M. Burton (Complainant)	brings this Second Amended Accusation solely in
23	her official capacity as the Executive Director of	f the Osteopathic Medical Board of California,
24	Department of Consumer Affairs (Board).	
25	2. On or about September 9, 1985, the	Board issued Osteopathic Physician's and
26	Surgeon's Certificate Number 20A5010 to ARN	OLD L. SHINDER, D.O. (Respondent). The
27	Osteopathic Physician's and Surgeon's Certifica	te was in full force and effect at all times relevant
28	to the charges brought herein and will expire on	August 31, 2012, unless renewed. On October 8,
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Second Amended Accusation (00-2009-002562)

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Osteopathic Physician's and Surgeon's Certificate Number 20A5010 and, following a noticed hearing on October 26, 2012, Respondent remains suspended from the practice of medicine as of the date of the filing of this Second Amended Accusation.

PRIOR DISCIPLINARY ACTION

2012, an Interim Order of Suspension was issued immediately suspending Respondent's

3. On or about May 31, 2001, in a case entitled "In the Matter of the Accusation Against: Arnold Shinder, D.O.," OAH Case Number L2001030345, Osteopathic Medical Board Case No. 00-12, the Board issued a decision and order in which Respondent's Osteopathic Physician's and Surgeon's Certificate No. 20A5010 was revoked. The revocation was stayed and Respondent was placed on probation for a period of five (5) years with certain terms and conditions.

JURISDICTION

- 4. This Second Amended Accusation is brought before the Board under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.
- 5. Section 3600 of the Code states that the law governing licentiates of the Board is found in the Osteopathic Act and in Chapter 5 of Division 2, relating to medicine.
 - 6. Section 3600-2 of the Code states:

"The Osteopathic Medical Board of California shall enforce those portions of the Medical Practice Act identified as Article 12 (commencing with Section 2220), of Chapter 5 of Division 2 of the Business and Professions Code, as now existing or hereafter amended, as to persons who hold certificates subject to the jurisdiction of the Osteopathic Medical Board of California, however, persons who elect to practice using the term or suffix "M.D." as provided in Section 2275 of the Business and Professions Code, as now existing or hereafter amended, shall not be subject to this section, and the Medical Board of California shall enforce the provisions of the article as to persons who make the election. After making the election, each person so electing shall apply for renewal of his or her

certificate to the Medical Board of California, and the Medical Board of California shall issue renewal certificates in the same manner as other renewal certificates are issued by it."

7. Section 2227 of the Code states:

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

- "(1) Have his or her license revoked upon order of the board.
- "(2) Have his or her right to practice suspended for a period not to exceed one year upon order of the board.
- "(3) Be placed on probation and be required to pay the costs of probation monitoring upon order of the board.
- "(4) Be publicly reprimanded by the board. The public reprimand may include a requirement that the licensee complete relevant educational courses approved by the board.
- "(5) Have any other action taken in relation to discipline as part of an order of probation, as the board or an administrative law judge may deem proper.

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8. Section 2234 of the Code states:

"The Division of Medical Quality¹ shall take action against any licensee who is charged with unprofessional conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not limited to, the following:

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¹ California Business and Professions Code section 2002, as amended and effective January 1, 2008, provides that, unless expressly provided, the term "board" as used in the State Medical Practice Act (Bus. & Prof. Code, §§ 2000, et seq.) means the "Medical Board of California," and references to the "Division of Medical Quality "and "Division of Licensing" in the Act or any other provision of law shall be deemed to refer to the Board.

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

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- "(e) The commission of any act involving dishonesty or corruption which is substantially related to the qualifications, functions, or duties of a physician and surgeon.
 - "(f) Any action or conduct which would have warranted the denial of a certificate.

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9. Section 2236 of the Code states:

"(a) The conviction of any offense substantially related to the qualifications, functions, or duties of a physician and surgeon constitutes unprofessional conduct within the meaning of this chapter [Chapter 5, the Medical Practice Act]. The record of conviction shall be conclusive evidence only of the fact that the conviction occurred.

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"(c) ... The division may inquire into the circumstances surrounding the commission of a crime in order to fix the degree of discipline or to determine if the conviction is of an offense substantially related to the qualifications, functions, or duties of a physician and surgeon.

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10. Section 2239 of the Code states:

"(a) The use or prescribing for or administering to himself or herself, of any controlled substance; or the use of any of the dangerous drugs specified in Section 4022, or of alcoholic beverages, to the extent, or in such a manner as to be dangerous or injurious to the licensee, or to any other person or to the public, or to the extent that such use impairs the ability of the licensee to practice medicine safely or more than one misdemeanor or any felony involving the use, consumption, or self-administration of any of the substances referred to in this section, or any combination thereof, constitutes unprofessional conduct.

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² Uniform Controlled Substances Act.

- 11. Section 2238 of the Code states that a violation of any federal statute or federal regulation or any of the statutes or regulations of this state regulating dangerous drugs or controlled substances constitutes unprofessional conduct.
- 12. Section 2261 of the Code states that knowingly making or signing any certificate or other document directly or indirectly related to the practice of medicine or podiatry which falsely represents the existence or nonexistence of a state of facts, constitutes unprofessional conduct.
 - 13. Section 2262 of the Code states:

"Altering or modifying the medical record of any person, with fraudulent intent, or creating any false medical record, with fraudulent intent, constitutes unprofessional conduct.

"In addition to any other disciplinary action, the Division of Medical Quality or the California Board of Podiatric Medicine may impose a civil penalty of five hundred dollars (\$500) for a violation of this section."

14. Section 2266 of the Code states:

"The failure of a physician and surgeon to maintain adequate and accurate records relating to the provision of services to their patients constitutes unprofessional conduct."

- 15. Section 11152 of the Health and Safety Code states that no person shall write, issue, fill, compound, or dispense a prescription that does not conform to Division 10 of that Code. ²
 - 16. Section 11153 of the Health and Safety Code states:
 - "(a) A prescription for a controlled substance shall only be issued for a legitimate medical purpose by an individual practitioner acting in the usual course of his or her professional practice. The responsibility for the proper prescribing and dispensing of controlled substances is upon the prescribing practitioner, but a corresponding responsibility rests with the pharmacist who fills the prescription. Except as authorized by this division, the following are not legal prescriptions: (1) an order purporting to be a prescription which is issued not in the usual course of professional treatment or in

legitimate and authorized research; or (2) an order for an addict or habitual user of controlled substances, which is issued not in the course of professional treatment or as part of an authorized narcotic treatment program, for the purpose of providing the user with controlled substances, sufficient to keep him or her comfortable by maintaining customary use.

"(b) Any person who knowingly violates this section shall be punished by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code, or in a county jail not exceeding one year, or by a fine not exceeding twenty thousand dollars (\$20,000), or by both that fine and imprisonment.

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- 17. Section 11157 of the Health and Safety Code states that no person shall issue a prescription that is false or fictitious in any respect.
- 18. Section 11171 of the Health and Safety Code states that no person shall prescribe, administer, or furnish a controlled substance except under the conditions and in the manner provided by Division 10 of that Code.
 - 19. Section 11173 of the Health and Safety Code states:
 - "(a) No person shall obtain or attempt to obtain controlled substances, or procure or attempt to procure the administration of or prescription for controlled substances, (1) by fraud, deceit, misrepresentation, or subterfuge; or (2) by the concealment of a material fact.
 - "(b) No person shall make a false statement in any prescription, order, report, or record, required by this division.

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- 20. Section 11174 of the Health and Safety Code states that no person shall, in connection with the prescribing, furnishing, administering, or dispensing of a controlled substance, give a false name or false address.
 - 21. Section 11175 of the Health and Safety Code states:

"No person shall obtain or possess a prescription that does not comply with this division, nor shall any person obtain a controlled substance by means of a prescription

which does not comply with this division or possess a controlled substance obtained by such a prescription."

- 22. Section 11180 of the Health and Safety Code states that no person shall obtain or possess a controlled substance obtained by a prescription that does not comply with Division 10 of that Code.
 - 23. Section 4022 of the Code states, in pertinent part:

"'Dangerous Drug' or 'dangerous device' means any drug or device unsafe for self use in humans or animals, and includes the following:

"(a) Any drug that bears the legend: 'Caution: federal law prohibits dispensing without prescription,' 'Rx only,' or words of similar import.

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- "(c) Any other drug or device that by federal or state law can be lawfully dispensed only on prescription or furnished pursuant to Section 4006."
- 24. Title 21, United States Code Controlled Substances Act, section 843, states:
 - "(a) Unlawful acts

"It shall be unlawful for any person knowingly or intentionally --

...

"(3) to acquire or obtain possession of a controlled substance by misrepresentation, fraud, forgery, deception, or subterfuge;

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- 25. Title 21, United States Code Controlled Substances Act, section 844, states:
 - "(a) Unlawful acts; penalties

"It shall be unlawful for any person knowingly or intentionally to possess a controlled substance unless such substance was obtained directly, or pursuant to a valid prescription or order, from a practitioner, while acting in the course of his professional practice, or except as otherwise authorized by this subchapter or subchapter II of this chapter. ...

- 26. Unprofessional conduct under Business and Professions Code section 2234 is conduct which breaches the rules or ethical code of the medical profession, or conduct which is unbecoming to a member in good standing of the medical profession, and which demonstrates an unfitness to practice medicine.³
- 27. Section 125.3 of the Code states, in pertinent part, that the Board may request the administrative law judge to direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

FIRST CAUSE FOR DISCIPLINE

(Conviction of a Crime)

- 28. Respondent is subject to disciplinary action under sections 2227 and 2234, as defined by section 2236, subdivision (a), of the Code, in that he has been convicted of a crime substantially related to the qualifications, functions, or duties of a physician and surgeon. The circumstances are as follows.
- 29. On or about April 26, 2013, in the case entitled *People of the State of California v.*Arnold Louis Shinder, Superior Court of California, County of Orange, Case No. 12WF2044, respondent was convicted on his plea of guilty to one count of Penal Code section 459-460, subdivision (a) (burglary, first degree), a felony, for which he was sentenced to three years' formal probation and 363 days' jail, suspended, on terms and conditions.
 - 30. The facts which gave rise to the conviction are as follows:
- (a) At all relevant times, T.C. was both a neighbor and a patient of respondent, and had legitimate prescriptions for Hydrocodone/APAP⁴ and Carisoprodol⁵ tablets, respectively.

³ Shea v. Board of Medical Examiners, (1978) 81 Cal.App.3d 564, 575.

⁴ Hydrocodone/APAP is a combination of a narcotic (hydrocodone) and a non-narcotic (acetaminophen). It is a schedule III controlled substance under the Controlled Substances Act (CSA). Hydrocodone, when legally prescribed for a legitimate medical purpose, is typically used for the relief of mild to moderate pain and can be habit-forming. Hydrocodone is also known by its brand names *Vicodin®*, *Norco®* and *Lortab®*.

⁵ Carisoprodol is a Schedule IV drug under the Uniform Controlled Substances Act and is prescribed by doctors in the U.S. as a muscle relaxant. Recreational users of carisoprodol, better (continued...)

- (b) Respondent, who was aware of T.C.'s prescriptions and medications, frequently asked for, and received, Hydrocodone/APAP and/or Carisoprodol tablets from T.C.
- (c) In addition to the tablets he was given by T.C., Respondent also unlawfully broke into and entered T.C.'s apartment on several occasions in order to steal and, in fact, stole, T.C.'s Hydrocodone/APAP and/or Carisoprodol tablets.
- (d) On or about April 19, 2012 and April 20, 2012, Respondent was captured on video on a hidden camera, entering T.C.'s apartment and taking Hydrocodone/APAP and/or Carisoprodol tablets from inside T.C.'s bedroom. Respondent was arrested and charged with two felony counts of violating Penal Code section 459-460, subdivision (a) (burglary; first degree).
- (e) On or about April 26, 2013, Respondent pleaded guilty to one count of felony burglary in the first degree with the other charge being dismissed against him.

SECOND CAUSE FOR DISCIPLINE

(Violation of Drug Statutes)

- 31. Respondent is further subject to disciplinary action under sections 2227 and 2234, as defined by Section 2238, of the Code, in that he violated federal statutes or regulations and/or statutes or regulations of this State regulating dangerous drugs or controlled substances, to wit, sections 11152, 11153, 11157, 11171, 11173, 11174, 11175 and 11180 of the Health and Safety Code, and Title 21, United States Code Controlled Substances Act, sections 843 and 844, as more particularly alleged hereinafter.
 - 32. Respondent has a sister, R.K., who is married to Respondent's brother-in-law, A.K.
- 33. Respondent is married to F.S., but has been separated from her since approximately October, 2007.
- 34. On or about the dates listed in column B of Table 1, below, Respondent wrote and filled one or more prescriptions for the controlled substance and strength listed in columns C and ////

known by its brand name, Soma, usually seek its potentially heavy sedating, relaxant, and anxiolytic effects. Also, because of its potentiating effects on narcotics, it is often abused in conjunction with many opioid drugs.

D, respectively, in quantities listed in column E, purportedly for the persons listed in column A of Table 1, below:

Table 1:

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<u>A</u>	В	С	<u>D</u>	E
F.S.	3/19/2008	Apap/Hydrocodone Bitartrate	500 mg – 10 mg	60
	6/3/2008	Apap/Hydrocodone Bitartrate	325 mg – 10 mg	90
	6/21/2008	Apap/Hydrocodone Bitartrate	325 mg – 10 mg	90
	7/02/2008	Apap/Hydrocodone Bitartrate	325 mg – 10 mg	90
	7/16/2008	Apap/Hydrocodone Bitartrate	325 mg – 10 mg	90
	8/08/2008	Apap/Hydrocodone Bitartrate	325 mg – 10 mg	90
	8/29/2008	Apap/Hydrocodone Bitartrate	325 mg – 10 mg	90
F.S. contd.	1/28/2009	Apap/Hydrocodone Bitartrate	325 mg – 10 mg	120
	2/23/2009	Apap/Hydrocodone Bitartrate	325 mg – 10 mg	120
	3/17/2009	Apap/Hydrocodone Bitartrate	325 mg – 10 mg	120
	4/09/2009	Apap/Hydrocodone Bitartrate	325 mg – 10 mg	120
	5/02/2009	Apap/Hydrocodone Bitartrate	325 mg – 10 mg	120
	5/26/2009	Apap/Hydrocodone Bitartrate	325 mg – 10 mg	120
	6/18/2009	Apap/Hydrocodone Bitartrate	325 mg – 10 mg	120
	8/03/2009	Apap/Hydrocodone Bitartrate	325 mg – 10 mg	120
	8/27/2009	Apap/Hydrocodone Bitartrate	325 mg – 10 mg	120
	9/22/2009	Apap/Hydrocodone Bitartrate	325 mg – 10 mg	120
	10/22/2009	Apap/Hydrocodone Bitartrate	325 mg – 10 mg	120
	11/16/2009	Apap/Hydrocodone Bitartrate	325 mg – 10 mg	120
	12/14/2009	Apap/Hydrocodone Bitartrate	325 mg – 10 mg	120
	1/11/2010	Apap/Hydrocodone Bitartrate	325 mg – 10 mg	120

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$_{1}\parallel$	A			D 100	E
~ '	R.K.	5/14/2008	Propoxyphene Napsylate and Acetaminophen ⁶	650 mg – 100 mg	60
2 3		6/04/2008	Apap/Propoxyphene Napsylate	650 mg – 100 mg	60
4		6/18/2008	Apap/Propoxyphene Napsylate	650 mg – 100 mg	60
5		9/11/2008	Apap/Hydrocodone Bitartrate	325 mg – 10 mg	90
6		10/06/2008	Apap/Hydrocodone Bitartrate	325 mg – 10 mg	90
7		11/07/2008	Apap/Hydrocodone Bitartrate	325 mg – 10 mg	120
8		11/29/2008	Apap/Hydrocodone Bitartrate	325 mg – 10 mg	120
8		11/29/2008	Alprazolam	0.5 mg	60
9	·	1/20/2009	Apap/Hydrocodone Bitartrate	325 mg – 10 mg	120
10		2/14/2009	Apap/Hydrocodone Bitartrate	325 mg – 10 mg	120
11		3/10/2009	Apap/Hydrocodone Bitartrate	325 mg – 10 mg	120
12	R.K. contd.	4/6/2009	Apap/Hydrocodone Bitartrate	325 mg – 10 mg	120
13		5/7/2009	Apap/Hydrocodone Bitartrate	325 mg – 10 mg	120
14		6/2/2009	Apap/Hydrocodone Bitartrate	325 mg – 10 mg	.120
16		8/25/2009	Apap/Hydrocodone Bitartrate	325 mg – 10 mg	120
17		7/18/2009	Apap/Hydrocodone Bitartrate	325 mg – 10 mg	120
18		8/11/2009	Apap/Hydrocodone Bitartrate	325 mg – 10 mg	120
19		9/4/2009	Apap/Hydrocodone Bitartrate	325 mg – 10 mg	120
20	A.K.	4/03/2008	Apap/Propoxyphene Napsylate	650 mg 100 mg	12
21		10/02/2008	Apap/Hydrocodone Bitartrate	325 mg – 10 mg	100
22		10/28/2008	Apap/Hydrocodone Bitartrate	325 mg – 10 mg	120
23		11/24/2008	Apap/Hydrocodone Bitartrate	325 mg – 10 mg	120
24		12/19/2008	Apap/Hydrocodone Bitartrate	325 mg – 10 mg	120
		1/13/2009	Apap/Hydrocodone Bitartrate	325 mg – 10 mg	120
25		1/13/2009		323 mg – 10 mg	120

⁶ Propoxyphene Napsylate and Acetaminophen is commonly prescribed under its brand name, Darvocet N-100, and is a schedule IV narcotic under the Controlled Substances Act.

A	В	C	D	E
	1/20/2009	Alprazolam'	1 mg	100
	2/10/2009	Apap/Hydrocodone Bitartrate	325 mg – 10 mg	120
	3/5/2009	Apap/Hydrocodone Bitartrate	325 mg – 10 mg	120
•	3/31/2009	Apap/Hydrocodone Bitartrate	325 mg – 10 mg	120
	4/23/2009	Alprazolam	1 mg	100
	4/28/2009	Apap/Hydrocodone Bitartrate	325 mg – 10 mg	120
	5/21/2009	Apap/Hydrocodone Bitartrate	325 mg – 10 mg	120
	6/15/2009	Apap/Hydrocodone Bitartrate	325 mg – 10 mg	120
	7/8/2009	Apap/Hydrocodone Bitartrate	325 mg – 10 mg	120
	7/31/2009	Apap/Hydrocodone Bitartrate	325 mg – 10 mg	120
	8/24/2009	Apap/Hydrocodone Bitartrate	325 mg – 10 mg	120
	8/24/2009	Alprazolam	1 mg	90
	9/21/2009	Apap/Hydrocodone Bitartrate	325 mg – 10 mg	120

- 35. In an interview conducted by the Medical Board as part of its investigation into this matter, F.S. stated that she had no knowledge of any of the prescriptions in her name as listed in Table 1, above, and had never received nor taken any of the drugs obtained pursuant to those prescriptions.
 - 36. Respondent has no patient charts and/or treatment records for F.S.
- 37. All the prescriptions issued in the name of R.K. and A.K. were filled at the Costco store located at 5401, Katella Avenue, Cypress, CA 90630 ("the Costco pharmacy"), and picked up by Respondent in person.

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⁷ Alprazolam (commonly sold under the brand name, Xanax,) is one of the most widely-used of the class Benzodiazepines, which are classified as schedule IV depressants under the Controlled Substances Act. Benzodiazepines are a class of drugs that produce central nervous system (CNS) depression and that are most commonly used to treat insomnia and anxiety. There is the potential for dependence on and abuse of benzodiazepines particularly by individuals with a history of multi-substance abuse.

- 38. On or about October 1, 2009, Respondent went to the Costco pharmacy to fill a prescription in the name of A.K. When the pharmacist spoke to Respondent about the prescription for A.K., Respondent identified himself as "Arnold Keller."
- 39. In an interview conducted by the Medical Board as part of its investigation into this matter, Respondent's sister, R.K., stated that neither she nor her husband, A.K., had ever received or taken any of the drugs purportedly prescribed to them and filled in their names as listed in Table 1, above. Respondent's sister, R.K., further informed the Medical Board that Respondent had visited her and her husband, A.K., the night before their scheduled interview with the Medical Board, and asked them to claim, falsely, that the prescriptions were genuine and that the medication had been for them.
- 40. In response to a request by the Medical Board for the patient charts of R.K. and A.K., Respondent produced "Volume 2" of records purportedly related to his treatment and care of R.K. and A.K., respectively. Said records purport to pass off the fraudulently-issued and/or -filled prescriptions, listed in their names in Table 1, above, as genuine and medically-indicated and are false.
- 41. At all relevant times during the investigation into this matter, Respondent informed the Board and/or Investigator Jia Li and/or Supervising Investigator Glenda Finley that he mislaid "Volume 1" of the patient records for both A.K. and R.K., respectively, for the period prior to January, 2009, and that said records cannot be located.

THIRD CAUSE FOR DISCIPLINE

(Self Administration of Controlled Substances)

- 42. Respondent is further subject to disciplinary action under sections 2227 and 2234, as defined by section 2239, subdivision (a), of the Code, in that he has administered controlled substances to himself, as more particularly alleged hereinafter:
- 43. Paragraphs 30 through 41, above, are hereby incorporated by reference and realleged as if fully set forth herein.

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44. Respondent administered various controlled substances to himself including, but not limited to, Hydrocodone/APAP, Propoxyphene Napsylate and Acetaminophen, APAP/Propoxyphene Napsylate and/or Carisoprodol tablets.

FOURTH CAUSE FOR DISCIPLINE

(Use of Dangerous Drugs to an Extent or in a Manner Dangerous to the Licensee, Others, or the Public)

45. Respondent is further subject to disciplinary action under sections 2227 and 2234, as defined by section 2239, subdivision (a), of the Code, in that he has used dangerous drugs to an extent or in a manner, dangerous to himself or another person, or to the public, or to an extent that such use impaired his ability to practice medicine safely, as more particularly described in paragraphs 29 through 44, above, which are hereby incorporated by reference and realleged as if fully set forth herein.

FIFTH CAUSE FOR DISCIPLINE

(Acts of Dishonesty or Corruption) .

- 46. Respondent is further subject to disciplinary action under sections 2227 and 2234, as defined by section 2234, subdivision (e), of the Code, in that he committed acts of dishonesty or corruption as more particularly alleged hereinafter.
- 47. Paragraphs 29 through 41, above, are hereby incorporated by reference and realleged as if fully set forth herein.
- 48. As part of its investigation into this matter, the Medical Board conducted interviews with Respondent on or about August 25, 2010 and November 1, 2011. At both interviews, Respondent falsely informed the Board that the prescriptions for R.K. and A.K. were genuine and medically-indicated when, in truth and in fact, they were not.

SIXTH CAUSE FOR DISCIPLINE

(Making False Statements)

49. Respondent is further subject to disciplinary action under sections 2227 and 2234, as defined by section 2261 of the Code, in that he knowingly made or signed a certificate or other

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document directly or indirectly related to the practice of medicine which falsely represented the existence or nonexistence of a state of facts, as more particularly described in paragraphs 32 through 41, above, which are hereby incorporated by reference and realleged as if fully set forth herein.

SEVENTH CAUSE FOR DISCIPLINE

(Failure to Maintain Adequate and Accurate Medical Records)

50. Respondent is further subject to disciplinary action under sections 2227 and 2234, as defined by section 2266, of the Code, in that he failed to maintain adequate and accurate records in regard to his care and treatment of R.K. and A.K., as more particularly described in paragraphs 32 through 41, above, which are hereby incorporated by reference and realleged as if fully set forth herein.

SEVENTH CAUSE FOR DISCIPLINE

(General Unprofessional Conduct)

51. Respondent is subject to disciplinary action under sections 2227 and 2234, as defined by section 2234, in that he has engaged in conduct which breaches the rules or ethical code of the medical profession, or conduct which is unbecoming of a member in good standing of the medical profession, and which demonstrate an unfitness to practice medicine, as more particularly described in paragraphs 29 through 50, above, which are hereby incorporated by reference and realleged as if fully set forth herein.

DISCIPLINE CONSIDERATIONS

52. To determine the degree of discipline, if any, to be imposed on Respondent,
Complainant alleges that on or about May 31, 2001, in a prior disciplinary action entitled "In the
Matter of the Accusation Against: Arnold Shinder, D.O." before the Board in Osteopathic
Medical Board Case No. 00-12, Respondent's license was revoked, the revocation was stayed,
and Respondent was placed on probation for a period of five (5) years with certain terms and
conditions. That decision is now final and is hereby incorporated by reference as if fully set forth
herein.

PRAYER

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

- 1. Revoking or suspending Osteopathic Physician's and Surgeon's Certificate Number 20A5010, issued to Respondent ARNOLD L. SHINDER, D.O.;
- Revoking, suspending or denying approval of Respondent ARNOLD L. SHINDER,
 D.O.'s, authority to supervise physician's assistants, pursuant to section 3527 of the Code;
- 3. Ordering Respondent ARNOLD L. SHINDER, D.O., to pay the Osteopathic Medical Board of California the reasonable costs of the investigation and enforcement of this case pursuant to Business and Professions Code section 125.3 and, if placed on probation, the costs of probation; and
 - Taking such other and further action as deemed necessary and proper.

DATED: May 30, 2013

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ANGELINA M. BURTON

Osteopathic Medical Board of California
Department of Consumer Affairs

State of California

Complainant